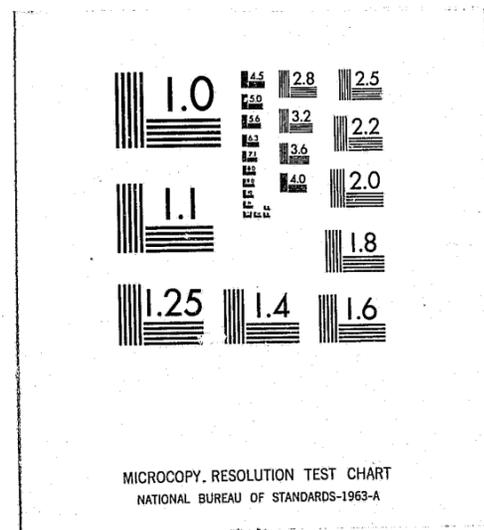


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ARSON-FOR-PROFIT: ITS IMPACT ON STATES AND LOCALITIES

NCJRS

APR 28 1980

HEARINGS

BEFORE THE

ACQUISITIONS
SUBCOMMITTEE ON

INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

DECEMBER 14 AND 15, 1977

Printed for the use of the Committee on Governmental Affairs



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✓ ARSON - A CRIME THAT LOST PROMINENCE

ARSON COMMITTEE REPORT
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

Presented
at the
INTERNATIONAL ASSOCIATION OF FIRE CHIEFS'

104TH ANNUAL CONFERENCE
SEPTEMBER 1977 - 25TH THRU 29TH

at
DENVER, COLORADO

ARSON COMMITTEE
1976-1977

Dan J. Carpenter, Chairman.....	SOUTHEASTERN
Chief V. Paul Leddy.....	NEW ENGLAND
Chief Robert Dunphy.....	MISSOURI VALLEY
Chief John Bunk.....	GREAT LAKES
Chief George Williams.....	EASTERN
Fire Marshal Albro Rile.....	SOUTHWESTERN
Vacant.....	CANADIAN
Vacant.....	WESTERN

67280

ARSON - A CRIME THAT LOST PROMINENCE!

INTRODUCTION

The spirit of the common law implies that arson is a crime against the security of a dwelling house as such and not against property⁽¹⁾ although Webster defines arson as the malicious or fraudulent burning of property. For the purpose of this article, we shall use Webster's definition.

Many state statutes have been written which make buildings other than dwellings subject to the provisions of arson laws. These changes according to Kennedy's statement are:

"Arson was originally confined to dwellings and nearby buildings. It is now extended to all manner of structures. Where it formerly pertained only to the habitation of man, it now covers property. Once it was limited to burning the house of another; now one may be convicted if he burns his own property."⁽²⁾

While there have been many variations of this definition, the malicious intent to burn prevails, in most states, as a predominant requirement in bringing forth a charge of arson.

In forty-six (46) states, the general statutes divide arson into different levels or degrees of arson. In other states, they may be covered under existing laws. Some specific examples are:

The Hawaii Penal Code does not have a separate arson statute and the offense is covered under provisions dealing with "Criminal damage to property."

Massachusetts divides arson into four categories. (Class A, felony is punishable by death or life imprisonment; Class B, by imprisonment for 10 to 20 years; Class C, by 5 to 10 years; and Class D, by 2 1/2 to 5 years.)

The Montana Criminal Code has arson provisions somewhat similar to the Model Penal Code.

"The North Carolina Arson law is unusual because each type of property is covered by a separate statute. A more conventional approach is taken in the "Model Penal Code" published by the American Law Institute. (The maximum punishment under this act is usually ten years, although the repeated offender may be given a fifteen year sentence.)⁽³⁾

HISTORY OF ARSON

From the earliest days, arson was recognized as a common law felony and at one time, the punishment was death by burning. From Blackstone's Commentaries on the Laws of England:

"Arson, ab ardendo (from burning), is the malicious and wilful burning the house or outhouse of another man. This is an offense of very great malignity, and much more pernicious to the public than simple theft; because first, it is an offense against that right of habitation, which is acquired by the law of nature as well as by the laws of society; next, because of the terror and confusion that necessarily attend it; and lastly, because in simple theft the thing stolen only changes its master but still remains

in esse for the benefit of the public, whereas by burning the very substance is absolutely destroyed. It is also frequently more destructive than murder, atrocious as it is, seldom extends beyond the felonious act designed; whereas fire too frequently involves in the common calamity persons unknown to the incendiary, and not intended to be hurt by them, and friends as well as enemies."⁽⁴⁾

During the time of Henry II, arsonist when found guilty were assessed one hand and one foot and banished from the country.

SPECIFIC PROBLEMS

Since most fire service personnel and law enforcement officers agree that arson was and is a serious crime, it would appear that the two agencies would be able to employ a common method to rectify the situation. Unfortunately, the inability to work together effectively only adds to the problem. It is because of this lack of effective communication and solving of arson cases that a research project, defining the basic views of the International Association of Fire Chiefs and the International Association of Chiefs of Police Arson Committees was undertaken. It was and is felt that such research may help enlighten both agencies regarding the problem involved. Therefore, this research project is intended to reinforce rather than separate their respective goals to counter the growing arson problems.

Not only may such research be informative to the respective agencies involved, it is hoped that it may serve as a catalyst to develop a more effective solution in meeting the increase in arson and incendi-

ary fires.

Although members of the fire service have, for many years, cooperated with state and local law enforcement agencies during the initial investigative stages of determining what may be suspicious fires, this procedure has proven less than satisfactory. This is primarily attributable to a lack of understanding and awareness of the problems created by each organization to define its' individual responsibilities.

Recently, this problem has been compounded by an increase in incendiary fires and a positive correlation in monetary losses.

In contrast to the fire incidents difficult to prevent are the fires set on purpose. In 1971, among fires reported to the National Fire Protection Association, about 7% were classified as incendiary; an additional 17% were of unknown origin. In many large cities, fire chiefs believe that almost half of all fires in their experience have been deliberately set.

The number of arson fires have increased 285 percent in the last ten year period in the United States. In addition to this increase of incendiary or suspicious building fires, the American Insurance Association estimates arson claims paid by association members involves 21 percent of all claims and 40 to 50 percent of all fire losses. Furthermore, approximately 1,000 people including firefighters, die in fires believed to have been set by arsonists every year.⁽⁵⁾

In passing the National Fire Prevention and Control Act of 1974, Congress declared that something must be done to reduce fire losses. The National Fire Prevention and Control Administration was created to assist Congress in meeting this objective. It was clearly stated, how-

ever, that fire prevention and control were considered to be a state and local responsibility.

Most members of the fire service agree with this approach. Further, most agree that if something is to be done to control the increasing losses from incendiary fires, this also must be accomplished primarily through the efforts of the fire service.

Fire service and law enforcement agencies need to redefine their roles to more effectively meet the problems related to arson fires. A better understanding and a closer coordination between the two organizations is needed. Further failure to adapt to this new role will only result in a degradation of the fire service's traditional role of preventing and suppressing fires. Many times, higher officials of state and local government, who supervised both police and fire functions, are best able to promote inter-service cooperation. City and County Managers can be instrumental in encouraging fire and police cooperation. Also, a closer working relationship with the judicial system is needed to combat this problem. (6)

Through the efforts of the National Fire Prevention and Control Administration, and because of the capabilities of the Battelle Laboratories in Columbus, Ohio, a report was developed outlining the nine (9) most serious areas needing immediate corrective action. During this meeting it was agreed by the majority of those present that the fire service and related groups must take a policy position in favor of reclassifying the crime of arson from a Part II Crime Report under the Uniform Crime Reporting Program to a Part I Crime. Generally, it was agreed that this is an important issue which should be brought to the

attention of the International Association of Chiefs of Police for their consideration. It was the general consensus within this group that it appears that the increasing burdens which are being placed upon the fire service by both the professional/semi-professional, and amateur arsonist are indeed creating situations far beyond the capabilities of most fire departments. We need the strong support and cooperation of the members of the law enforcement profession to counter this evergrowing crime. As an example of our dilemma, we were lead to believe that the implementation of arson, as a Part I Crime in the Uniform Crime Report, would increase the level of awareness on the part of our citizens. However, we now find that regardless of perceived benefits, the citizens' awareness would make, the Honorable Director of the Federal Bureau of Investigation has determined that arson will not, in fact, be carried as a Part I Crime Reporting Program.

While it is true that the law requires that arson remain a crime, there is no endorsement to reclassify this to enable the public to be better informed. The prospect of the implementation of arson as a Part I Crime would greatly enhance the efforts of those in the field of fire protection. If it is not reclassified, arson may result in an even wider separation between those respective agencies responsible for its control. Arson is unique in that it is the only felony for which every state has, under our present laws, created a specific law enforcement and/or regulatory agency which is charged with the responsibility of investigating a single offense.

While arson has created the necessity for a large expenditure of time, money and resources, very little has been done to require fire-

fighters to report or accurately record pertinent and reliable information. Most laws clearly state that this requirement be met. This requirement is essentially the responsibility of both the International Association of Fire Chiefs and the International Association of Chiefs of Police. Through this process firefighters and law enforcement officers will acquire a mutual respect for the problems associated with each other's individual responsibility. Once the communication problem is resolved, both agencies could, jointly and individually, begin to develop mandatory requirements which could ultimately be implemented at a local level.

While many of our politicians, citizens and educators are concerned with the growing arson problem, they cannot understand how a crime of such significance doesn't receive the prominence it apparently warrants. How, they reason, can insurance premiums continually be increased to the point where it is now costing the average property owner 50% of his annual insurance policy? Why does a crime that costs billions of dollars and cause the death or injury of thousands of citizens continue to exist? The answer is complex and involves many facets. Because of the complexity of the problem, it becomes one that behooves those involved not to expound upon the subject.

The firefighter may not be alert or he may be untrained in recognizing arson. He has been called perhaps at 2:00 A.M., many times in sub-zero weather, to respond to a fire in a neighborhood that may easily have as many suspicious or incendiary incidents in a single night as it does "truly accidental" fires. The firefighter often perceives his purpose as "only to save lives and extinguish the fire".

The fire officer is obligated to complete extensive paper work and reports even on fires of natural origin. The officer must also listen to complaints from the firefighters "when they are cleaning up the debris" so the fire can be thoroughly investigated. The officer knows, from experience, that even if the fire is determined to have been set, the follow-up investigation will probably never result in a conviction. In some neighborhoods, witnesses refuse to testify, even when they have actually seen the arsonist commit the crime.

When the fire investigator is called for a follow-up, "if" he is called, he may not be allowed sufficient time to conduct a professional and thorough investigation. This may be attributable to negligence on his part, or the part of his superiors, in that he has other fires to investigate which are "easier" to determine. He may also have others which are considered "more important" because of circumstances surrounding them such as multiple fatalities or serious injury. In some cases, a suspicious fire in a prominent neighborhood brings pressure to bear upon the investigator to determine the cause and ignore "less prominent" fires. This may be attributed to the fact that the news media is greatly concerned with "sensational stories" with large dollar loss and with major industrial fires that may cost the jobs of many people. In addition, the investigator may feel that the fire chief probably doesn't even realize the magnitude of the problem of incendiary fires in the community. The chief may also be unconcerned that the investigator is overworked, undertrained and underpaid.

It is not unusual to find a fire chief who remembers "really fighting the big ones" when he was "a smoke eater". He may be reminiscing of

the "good ole days" when no one was insistent on reducing costs, preventing fires and satisfying politicians with balanced budgets. He often feels intense pressure to refrain from making budgetary requests for equipment to adequately do the job....rather, he should just get the job done! He is also caught in the position of being expected to reflect a favorable public image and not create new problems.

The police officer faces yet another problem. In many cases, he may not have been called because no clue was found and no one spent the time necessary to conduct a thorough investigation of the fire scene, when it could have been of value. This places the police officers in a difficult position because no time was appropriately spent interviewing witnesses to determine what may be known regarding the circumstances surrounding the fire. It is he who must now accept the responsibility to gather the tidbits of evidence that may still be available....evidence which hasn't been destroyed, moved, or contaminated either by the fire, the firefighters, the spectators, or in some cases, even the perpetrators. It is he who is now in the unenviable situation of being responsible for securing these "valuable clues". It is he, in most cases, who must be able to convince the district attorney that a valid case exists which will ultimately result in a conviction. According to Moll:

"Both the police and fire services can legitimately claim authority in arson cases, but each service may rationalize that the responsibility belongs to the other. Neither is prepared in most jurisdictions to devote the resources needed to achieve identification, arrest, and conviction rates at all commensurate with those of other crimes." (7)

The District Attorney is also in a precarious situation. He must try to insure that justice is administered. Yet, he may be wary of introducing a case based solely on "circumstantial evidence". He is often presented little or no physical evidence and even less explanation of its value regarding the case. Often the evidence is scanty and, due to the workload of the police officer, or work schedule of the fire investigator, little assistance can be received from this source. The District Attorney is primarily a lawyer and cannot be expected to be familiar with all situations. He may consider himself lucky if he is fortunate enough to obtain an "expert" whom the court will acknowledge as such, to define the significance of the evidence.

In this society, the jury is a group of "peers" selected from the general public to judge a person as guilty or not guilty of a crime. By randomly selecting such a body of people, it is assured that some, if not all, of the jury may not understand the testimony of the technical expert. They may not understand completely the true significance of the evidence and sometimes they don't understand the technical terminology which is used. Some members of the jury resent being called to serve as jurist. If the evidence is not readily visible and adequately understood, they justifiably cannot find the defendant "guilty". The insurance company will pay the victim and this is justification enough to cause the jurist to magnify any "doubt".

If a crime lab technician is introduced to present the significance of the evidence, he must be constantly aware of the possible repercussions regarding his testimony. Therefore, he may only be able to state the "limits" or "range" of the evidence. Many times he is limited to testify-

ing as to what did "not" cause the fire since excellerants may be present which are "normal" to the situation due to the nature of the occupany.

The Judge, as with the District Attorney, cannot be expected to be an expert in all areas. Therefore, it would only be wistful thinking to expect him to understand all facets of fire investigation and the subsequent lab report. Of course, he is at liberty to pursue the information. However, the court docket is always crowded and some concessions must be made in the interest of time. It is much easier to explain a crime such as homicide, especially when the evidence is much more direct and logic follows suit. He is often called upon to make a ruling about something with which he has relatively little experience. Without consciously allowing politics to enter into the situation, he must be ever mindful that election time is inevitable.

The insurance company adjuster is acutely aware of the possibility of a law suit if accusations are made that cannot be substantiated. He may be faced with libel, slander and personal injury suits. Therefore, he may be hesitant to prosecute in a civil case even though there is a good case, unless he has "proof positive". In addition to the problems of legality, the executive may be faced with a case that involves many hours of investigation, coordination and courtroom testimony without success.

The newspaper reporter may be most anxious to report an "exciting" or "news worthy" fire, but unable to devote the time and space necessary to presenting the "follow-up" investigation. This may not be an indication of callousness on the part of the paper, but the "name of the game" for the reporter is sensationalism.

The general public is aware of the existence of arson, but few think it effects them since everyone believes that those with whom he is associated wouldn't commit an act such as arson. Therefore, most people have little reason for concern with the problem. They appear to feel it is a fire department problem or a police problem and nothing for them to worry about.

Why is arson a crime without the prominence it is believed to deserve? Because, those who are aware of the problem are hesitant to take the necessary steps to correct it. The few who have, were confronted with negative facts, evidence, investigations, attitudes and opinions that wouldn't stand up in court. Budgetary appropriations make it impossible to place the necessary emphasis on arson so that something positive can be done to correct the problem. Financial allowances and apathetic attitudes of governmental policy makers and the general public must change before we can approach the problem and rectify the situation satisfactorily.

IDENTIFICATION OF PROBLEMS RELATED TO THE FIRE SERVICE

In the past, fire department personnel have been charged with the responsibility of conducting an investigation to determine the origin and cause of suspicious or undetermined fires. They have also been expected to cooperate with law enforcement personnel in furthering their investigation. It has become increasingly evident that closer coordination between the two departments will be necessary if we are to follow a course of action which will result in a successful conclusion.

Often, investigators are the recipients of statements from fire-

fighters or spectators and are unable to pass the information to the proper person because of conflicting tour-of-duty hours or other assignments. Fire departments seldom receive a copy of the police report. This report could provide the fire department with the necessary information to determine if they are in possession of other related information.

Some governmental units place the responsibility of arson investigation within the jurisdiction of the fire department. However, where a fire is set during the commission of another crime, both agencies are reported to work cooperatively to bring the case to a successful conclusion.

A study was conducted by Captain William C. Alletto, Chicago Fire Department, in 1968 on arson investigation. This data indicated cities that have incorporated the "fire-police concept" of investigation. A more recent study shows that of twenty (20) departments who answered questions after having tried the police-fire concept, all but one reported that this concept has proven more effective than a single approach. In one case, the fire department felt that the concept was working while the police department felt it was not effective. From the data collected, it is apparent that no uniform method of investigation has been developed and it is also evident that a need for renewed emphasis towards a solution for the increasing rate of incendiary fires should require the attention of both police and fire agencies. Data also suggests that law enforcement agents are concerned with the arson problem, since this crime is rising at a faster rate than most others. However, according to arrest data supplied by the Federal Bureau of Investigation, the percentage of estimated incendiary crimes that are cleared by arrest are at a much lower rate than are most other major crimes. If the number of incendiary crimes

really is underestimated, then the rate of convictions for this crime is as low as one percent. (8)

Arsonists are seldom caught and when they are, they are seldom prosecuted. This is due to a lack of evidence and other reasons too numerous to mention. Admittedly, many suspected arson cases are inadequately probed because most fire departments, particularly volunteer units, lack the knowledge, manpower and legal authority to pursue the investigation to its conclusion. This is not to imply that either firefighters or law enforcement personnel are not dedicated to bringing the criminals who employ these methods to justice. They certainly are!

We are continually confronted with the fact that we may have failed to investigate, coordinate and cooperate with all agencies involved in order to obtain vital information. This information may have been necessary to the arrest or conviction of those suspected of the crime. In effect, we wonder if we have conducted a thorough and professional investigation! Based on statistics contained in this paper, the answer is emphatically "No!"

Incendiary fires are increasing at a much more rapid rate than is the arrest for such fires. The number of arrests leading to convictions has increased from 38 percent to only 44 percent. Over the entire United States arrest for incendiary type fires, during the past four years, has remained at 4.5 percent. Investigative training efforts are especially difficult when they cross departmental service lines. In Philadelphia every newly promoted police detective takes a special fire department training session. This would be an asset for policemen everywhere. Suburban and rural areas are the ones with the poorest conviction records

and the fastest growing incendiary crime rates. Nationwide, there is a need for three times the current number of arson investigators to provide the services that larger cities are already providing. (9)

Arson and unlawful burning are and will continue to be an increasing problem. This problem is not generally recognized unless a thorough investigation, by trained personnel, is conducted of all fires to accurately determine the cause and origin. Without this determination, the exact extent of the problem is difficult, if not impossible, to determine. It is my opinion that only through support of legislative action providing the legal authority and responsibility for fire service personnel to investigate, detect and arrest arsonists can the problem be identified and overcome.

THE FIRE DEPARTMENTS' RESPONSIBILITY

Most crimes reported to the police have been reported by the person who has been victimized or have seen the offense committed. Therefore, arson crimes may be somewhat different. Arson and incendiary fires are often detected by an observant and alert firefighter and reported to the senior officer on the fire scene. The officer then determines what needs to be done. It is, therefore, the fire officers' responsibility for making the crime "known to the police".

There are many conditions for civilians to avoid reporting a crime they may have witnessed. They can generally be classified as the unwillingness of the victim or observers to report it to official sources or the degree of visibility of the crime. (Neither of these situations would normally be present in an investigation to determine the cause and origin

of a fire by a qualified fire officer. So, other considerations must be applied.)

Experts in criminology and police science offer somewhat different reasons for the concealment of offenses. It is conceivable that some of these reasons prevail in most crimes. I will discuss my views in comment, after each item, of how these may apply individually to the problem at hand in reporting the crime of arson.

(1) "The offense may be known only to the person committing it."

This is frequently the case in many arson fires since they are often determined to be accidental or "cause unknown" or "undetermined".

(2) "Relatives of friends of the offender may not report it."

This is particularly true in arson cases where a relative or friend may be co-conspirator of the crime.

(3) "Fear of annoyance or publicity prevents others from reporting it."

Normally, this should have no effect.

(4) "Some people are too ignorant or indifferent to report."

Unfortunately, this is probably the situation in many fire investigations. Although this situation can be remedied through training and education, few fire departments and law enforcement agencies have time, money or personnel to do so.

Selin lists the following reasons for non-reporting of violations of the criminal code:

(1) "Offense may be of a private nature, such as blackmail, sex, abortion."

It is not common that this situation would occur in incendiary type fires for the usual reasons. However, because of the inaccuracy of statistical data available and a lack of the necessary empirical information to confirm this statement, it is possible that these elements may prevail in arson fires.

- (2) "The injured party may not wish the offense to be discovered."

This is probably the most common reason for arson fires not being reported to the police. In many situations, particularly when they involve juveniles, they are covered or not reported at all. Many fires may not be reported because of confusion which exists in many volunteer fire departments regarding insurance claims and damages.

- (3) "Inconvenience of reporting to the police and possibly testifying in court are too much."

Many members of volunteer fire departments throughout the nation are ill-prepared or ill-qualified to testify in court. There is, also, an inherent fear in many people regarding being called to testify against someone they know. They fear reprisal by the accused or being made appear foolish by the defense attorney. Furthermore, in many situations, the accused may be a respected member of the community whereby the knowledge of this individual knowing who his accuser was, is sometimes enough to create fear in even the best intentioned person.

- (4) "Public opinion does not favor the enforcement of certain laws, such as gambling and prohibition." (9)

Regardless of how much damage may be caused as a result of an incendiary fire, it is difficult to gain support of public opinion for this crime. Last year, nationally, it is estimated that approximately 21 percent of the resulting property damages were caused by premediated set fires. Employment of the same guidelines suggest a 20 to 25 percent annual increase in arson. Figures indicate that arson cost insurance companies approximately \$1.2 billion in 1975 and some fire officials are projecting almost \$2 billion in direct loss in 1976. Other losses which may be related indicate an irretrievable loss of employment opportunity, business failures, insurance premium income, endangerment costs, extra police and court expense, etc., amounting to \$10 to \$15 billion. (10)

- (5) "Some offenses are of a nature hardly reportable by offenders themselves, such as carrying concealed weapons, traffic violations, disorderly conduct, vagrancy."

Arson is a crime that involves little skill as the weapon used is legally carried,.....and readily avail-

able. There is no known court which classifies a match as an illegal weapon. A match is frequently the method the offender used to avoid apprehension.

- (6) "In times of crisis, changes in public sentiment cause an increased or decreased reportability." (11)

This is probably true because of a seemingly widespread public attitude that arson is not done by the average citizen but by the crime syndicate and those who operate within it. Most people would more than likely be surprised to learn that much arson is committed by normally law-abiding citizens who are in financial trouble and see a fire as a quick solution to their problem. (12)

IDENTIFICATION OF PROBLEMS RELATED TO LAW ENFORCEMENT

To access this problem, criminological literature has been reviewed and various members of the Arson Committees of the International Association of Fire Chiefs and the International Association of Chiefs of Police have been contacted. A review of the survey suggest that the fire service is not alone in the search for a solution to the increasing rate of incendiary fires. In correspondence with Dan Econ, Past President of the International Association of Arson Investigators and a member of the International Association of Chiefs of Police Arson Committee, he states:

"This is a unique type of crime that requires the expertise of both the police and fire services in the special type investigations required for the crime of arson....From past experience with such a combination of resources, I can state that it has produced better results than in those jurisdictions where the police or fire service "go at it independently"...the police are weak in examination of the fire

scenes and recognizing a "corpus delicti" but are strong in the criminal investigation aspects required in the case. The fire services are, on the other hand, strong in the examination of fire scenes and recognizing the corpus delicti, but are weak in the criminal investigation aspects. Utilization of a combination of police and fire service investigators presents the best possible resource for investigating the crime of arson because the two compliment each other. (13)

This concept must receive equal support from both fire and law enforcement agencies if it is to function adequately. Until such time as accurate statistical data regarding arson and incendiary fires is provided by the fire service to the law enforcement agencies, and a procedure acceptable to the Federal Bureau of Investigation, then WE CANNOT expect them to support the reclassification of arson as a Part I crime.

While it is true "that arson is not uniformly reported to law enforcement agencies", it is also true that even when it is reported to them, many law enforcement agencies either do not know how to proceed with this type of investigation, or else they are unable to devote the man-hours necessary to bring the case to a successful conclusion. One of the primary recommendations made by the Uniform Crime Reporting Agencies "is that you have to investigate a fire to determine that a fire has taken place".

Most fire departments are required by state statutes to determine the cause and origin of all fires, regardless of whether or not they may be suspicious. In those instances where they deem the cause to be

of a suspicious nature, or if incendiary nature, it appears that it would be a simple matter to establish an adequate reporting procedure (on a local level) to cause further investigation by law enforcement agencies. On the surface, it would appear that this would result in a far more accurate and uniform reporting procedure than is presently employed in the recognition of various other crimes. As an example, the victim of a robbery, rape, burglary or almost any other crime must be reported by the victim.

"When criminal statistics are used in assessing the "true" incidence of criminality valid criticisms may indeed be raised about the methods of collecting criminal statistics... The statistics about crime and delinquency are probably the most unreliable and the most difficult of all social statistics." (14)

I see no problem in requiring a paid, or even volunteer fire department investigator, reporting that a crime has taken place and that the crime was arson. (15)

The Uniform Crime Report has established procedures and guidelines to properly report all crime. At the present time, the procedure only allows Law Enforcement agencies to use this process in reporting those crimes by those police agencies which choose to report. I cannot understand why this must be restricted to only the use of or by law enforcement authorities. Proper reporting guidelines could and should be established for the use of fire departments to report crimes of arson. It would appear that if the Uniform Crime Report does what it was intended to do and Law Enforcement Agencies were concerned as they claim to be,

this practice would have already been in effect. Are they not the leaders in the field? Intent on the accumulation of accurate reporting data, or only a collection agency for what is sent them by Law Enforcement Agencies in a haphazard manner.

The basic purpose of the Uniform Crime Report program is to provide a resource of information whereby the number of incidents which occur and the cost of each incident is brought out to the general public.

If all cases of arson were reported under the Uniform Crime Report as a Part I Crime, then the city fathers and community leaders, as well as the general public would become aware of its' overall impact in our community. Only then will our citizens recognize the need for increased attention to the magnitude of the problem. Only then will they realize they are paying one-third of every insurance dollar to support the arsonists. Only then will we all realize that the Crime of Arson is going to require our money to be spent before the arson fires occur. Only then will improved training programs and technological advancement be possible. And.....only then will the arsonist be convicted!

I would like to take this opportunity to express my appreciation to the members of both committees for their response to the questionnaire. I feel it is important that Fire Chiefs be made aware of and understand why, arson was not reclassified as a Part I Crime.

I, therefore, enclose the following information toward this objective: (See Appendix A.)

While I respect the recommendations of the International Association of Chiefs of Police's Resolutions Committee, many if not all of their fears, could be overcome with the crime of arson being reclassified.

"The official position of the International Association of Chiefs' of Police is that arson should not be a Part I Crime at this time."

"In September the Arson Committee presented a resolution to the Uniform Crime Report Committee for the Resolutions Committee to upgrade arson to the Index Offense."

"Resolutions Committee recommended defeat and in fact the Resolution was defeated by the full membership and the Association."

- Lack of police personnel trained in arson investigation.
- The accompanying fear that whatever investigation was conducted would be long after the fact, following extinguishment of the fire.
- Conclusion would be based primarily on observations made by firefighters.
- Approximately 85 percent of all firefighters serve in a voluntary capacity. This fact, although complimentary to those who volunteer, results in substandard reporting, and substandard investigation into the cause of fire.
- There is presently no uniform system of reporting and analyzing fire statistics.
- Local legislation designating authority to investigate fires is not uniform.
- The firefighters appear to be seeking the reclassification from a commercial standpoint with the insurance industry as

the principle benefactor.

- The Uniform Crime Report rule, in many instances, would probably disallow the scoring of arson such as when a murder, burglary, or larceny also occurred within the same incident.

"In every instance when the individual unlawfully enters a building and commits a felony arson, the crime of burglary is now scored. In the event that arson was included as an Index Offense at 08 in the hierarchy, the exact same scoring would occur, i.e., burglary."

- There is insufficient evidence that arson meets the total requirement of seriousness, frequency of occurrence and likelihood of being reported to the police.

Since other members of the International Association of Chiefs' of Police and International Association of Fire Chiefs Arson Committee disagree on some of the answers to the questions asked in correspondence dated February 21, 1977. I will summarize the major points of contention. Then, I will offer my comments on their validity.

"The firefighters appear to be seeking the reclassification from a commercial standpoint with the insurance industry as the principle benefactor."

This is obviously not the case since the National Fire Protection Association has attempted to show that arson is everyone's problem. Certainly, the insurance companies gain no "commercial" advantages equal to the sacrifice of a human life. Furthermore, the insurance companies have simply been raising the cost of insurance for the consumer, which now accounts for approximately one-third (1/3) to one-half (1/2)

in support of the arsonists, of every insurance dollar spent.

"The UCR hierarchy rule in many instances would probably disallow the scoring of arson such as when a murder, burglary or larceny also occurred within the same incident.

In every instance when an individual unlawfully enters a building and commits a felony arson, the crime of burglary is now scored. In the event that arson was included as an Index Offense at 08 in the hierarchy, the exact same scoring would occur, i.e., burglary."

In the event arson were reclassified as a Part I Crime, it is possible that if the severity of damage on a cost per incident basis were a factor, the crime of arson could well be considered as the #2 crime in our nation. This would then place arson in its' true perspective that of being only second in significance, to the crime of murder.

"There is insufficient evidence that arson meets the total requirements of seriousness, frequency of occurrence and likelihood of being reported to the police."

Even with the meager evidence available through the National Fire Protection Association, it is apparent to all who recognize the problem that arson most certainly is of sufficient seriousness, frequency and occurrence. Even without accurate statistics, the apparently correct losses estimated by the National Fire Protection Association are sufficient to imply an evident laxity in our concern for safety from fire deaths.

JOINT PERSONNEL IN INVESTIGATING

"The importance of attempting to determine the true cause of a fire cannot be overemphasized. In general, fires are assumed to be accidental until proven to be otherwise. It is always well, however, to be watchful for conditions that may arouse

suspicion as to the origin of the fire. Determining the origin and cause of fire is the responsibility of everyone in a position to observe the facts - starting with the responding firefighters and carrying through the courts in cases where arson is involved." (16)

The general attitude of many firefighters toward the recognition of incendiary fires and the preservation of evidence, is inconsistent with the responsibilities toward developing a case for prosecution. While many firefighters feel their efforts to preserve evidence is not appreciated, a similar number of law officers believe that a great deal of evidence has probably been destroyed by careless firefighters long before the arrival of the investigator.

In these instances, both the police and fire departments are ridiculed by the public. Furthermore, in some isolated cases, the political ideology dictates attitudes of support for one department or the other thereby reinforcing the misunderstanding of both agencies toward their individual responsibility.

In view of the confusion and inconsistency of responsibility, many fires become classified as of "unknown origin" or are mistakenly attributed to "unknown causes". Because of the less-than-perfect system of reporting fires, many fires, some of them perhaps arson, are never reported by local authorities to state and national record keeping agencies. (17)

I firmly believe that the police and fire department are doing a far better job of the investigation of arson cases than those that would criticize their efforts, in terms of professionalism and service. I, also, believe that we can confidently compare our efforts with those of any similar type operation in the United States. This is not to say that we are always efficient in our work. As with any large organization, there

are individuals who are willing to let others carry the load.

SOLUTIONS

While I am not convinced that the reclassification of Arson as a Part I Crime would produce the results which may be expected by the Fire Service, I do believe it could and would serve to bring about many advantages not now provided. The statistics used here are attempts to provide indicators to allow conclusions to be drawn regarding the extent of crime and the characteristic of the offenders, two conclusions are often reached:

- (1) "The crime rate is higher than it should be," and; (2) "the crime rate has continued to increase since World War II. The student of crime, and the entire public, will continue to be reminded periodically that the crime rate for the current year is higher than that of previous years. Newspapers report as news the releases of the annual Uniform Crime Reports. We are reminded by the FBI that our crime rate continues to increase sharply. Once we know that the crime rate is increasing, we are expected to experience collective alarm. The reader is not usually, however, given the additional information that no one is certain what the criminal statistics mean. They may mean only that law enforcement procedures change from year to year. The crime rate may not reflect the actual amount of crime so much as it does the way in which police departments operate and change their operations." (18)

ARSON - NEED TO RECLASSIFY AS A PART I OFFENSE

The seven Part I offenses in the Uniform Crime Reports are: Criminal homicide; Forcible rape; Robbery; Aggravated assault; Burglary-breaking or entering; Larceny - theft; and Motor vehicle theft. Arson is not a Part I Offense, but we believe it should be.

In order to compare the dollar value in losses of four Part I Offenses that are designated as crimes against property, their average dollar value loss per offense is compared with those attributed to an incendiary and suspicious fire.

The following comparisons are exhibited. It is presented with the expectation it may offer one tangible reason for the necessity to re-classify arson from a Part II to a Part I Offense in the Uniform Crime Reports.

A commentary is also made regarding arson arrests and the relative position of arrests of fraud fire setters.

LATEST FIGURES FROM N.F.P.A. - for year 1975

144,100 incendiary fires - causing an estimated loss of \$633,900,000.;

Average value loss for each incendiary fire - \$4,399.;

137,300 fires of unknown cause - an estimated loss of \$1,249,300,000.;

Average value loss for each fire of unknown cause - \$9,099.;

According to the FBI Uniform Crime Reports, the total determined arrests for arson in 1975 - 14,589;

14,589 arrests + 144,100 known incendiary fires = 10% arson cases cleared by arrest;

ROBBERY - 1975 - from UNIFORM CRIME REPORTS

Estimated total of 464,970 robbery offenses in the United States, for a total of \$154,000,000.;

Average value loss in each robbery incident - \$331.;

BURGLARY - 1975 - from UNIFORM CRIME REPORTS

Estimated total of 3,252,100 burglaries;

Victims of burglaries suffered in loss of \$1.4 billion in 1975.

Residential losses - \$925 million;

Non-residential losses - \$446 million;

In 1975, the average dollar loss per burglary was \$422.

LARCENY-THEFT - 1975 - from UNIFORM CRIME REPORTS

In 1975, there were 5,977,700 offenses of larceny-theft;

The average value of property stolen in larceny-theft in 1975 was \$166.;

MOTOR VEHICLE THEFT - 1975 from UNIFORM CRIME REPORTS

In 1975, 1,000,500 motor vehicles were reported stolen;

The 1975 motor vehicle theft rate was 2% higher than in 1974;

In 1975, the average value of stolen motor vehicles - \$1,457.;

1975 F.B.I. Uniform Crime Reports

Total arrests for arson in 1975 - 14,589.

Under age 15 - 4,904 - 33.6%

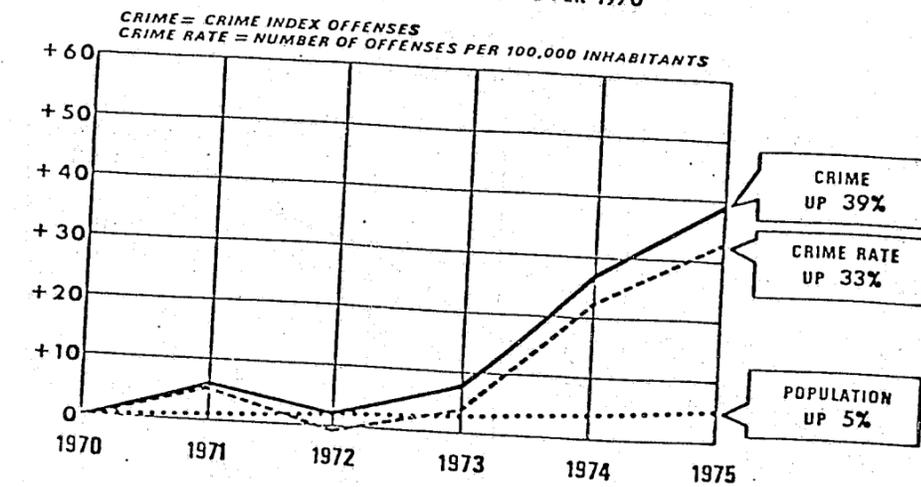
Under age 18 - 7,727 - 53%

18 and over - 6,862 - 47%

Age Bracket	No. of Arrests	Percentage
10 & under	1,423	9.7
11 - 12	1,246	8.5
13 - 14	2,235	15.3
15 - 17	2,823	19.3
18 - 20	1,803	12.4
21 - 24	1,368	9.4
25 - 29	1,112	7.6
30 - 34	794	5.4
35 - 39	522	3.6
40 - 44	456	3.1
45 - 49	293	2.0
50 - 54	223	1.5
55 - 59	153	1.0
60 - 64	60	.4
65 & over	71	.5
Not known	7	.05

CRIME AND POPULATION

1970 - 1975
PERCENT CHANGE OVER 1970



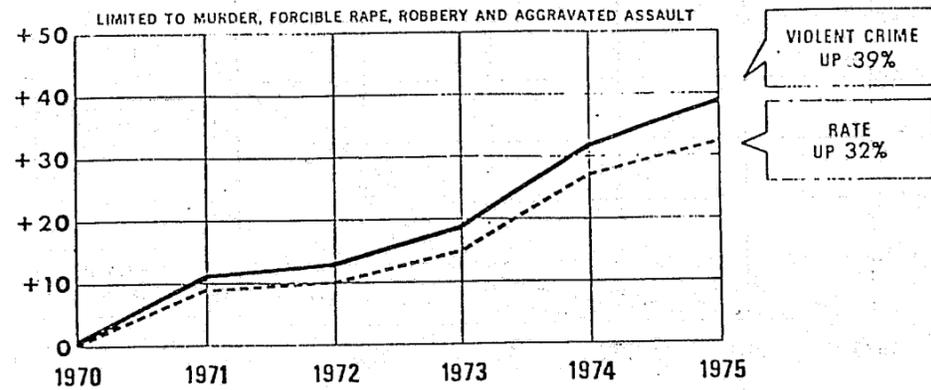
THE RELATIVE POSITION OF ARRESTS OF FRAUD FIRE SETTERS

In my opinion, the arrest figures shown are indicative of the premise that only a few "king of the fire setters", the fraud fire setters, are being arrested.

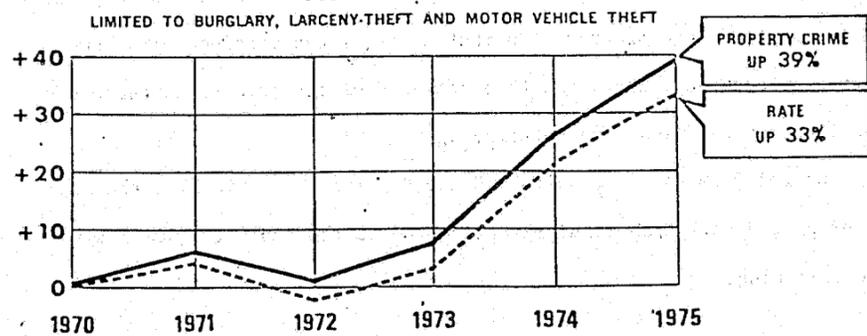
Experience has shown that most fraud fire setters probably fall within the age bracket of either 30 to 64 or 35 to 64. If we assume these presumptions, we note the arrest figures indicate 17% of the 14,589 arrests for arson were in the 30 to 64 age bracket, and only 11.6% in the 35 to 64 age bracket. On that basis, I can conclude with some degree of accuracy, that less than one-half of the arrests in those percentiles may be fraud fire setters. (19)

Charts from the 1975 Uniform Crime Reports are typical of the kind of graphic description regularly presented to the public. (See above and following.)

CRIMES OF VIOLENCE
1970 - 1975
PERCENT CHANGE OVER 1970



CRIMES AGAINST PROPERTY
1970 - 1975
PERCENT CHANGE OVER 1970



High crime rates are frequently used by law enforcement agencies to justify the need for additional personnel and more equipment. Crime rates obviously cannot be drastically reduced without jeopardizing further appropriations. (20) Based on this assessment of crime, it would appear that by accepting arson as a Part I Crime, law enforcement agencies throughout the nation would benefit. This is particularly true since even with the meager statistical data now available through the National Fire Protection Association, law enforcement agencies may be assured of a substantial increase in what would probably be classified as "crime against property". Of course, crime against person, such as murder, as in our discussion thus far, is already classified by police and would, therefore, not be expected to increase.

It is understandable that the F.B.I. and Law Enforcement Agencies resist the reclassification of arson as a Part I Crime. It is not uniformly reported to them. Nevertheless, I do not feel this to be adequate justification to allow the trend to continue nor to allow arson to remain in its present status. Many of the crimes which are Part I Crimes are not uniformly reported. One can seldom insure "uniform reporting". In fact, only thirty-six (36) states reported "uniformly" as of January 1, 1976. (21)

Because of this situation, I agree with Mr. Clarence E. Kelley, Director of the F.B.I., in his observation that "Arson is not uniformly reported throughout the country." However, I am also in agreement with others who are becoming increasingly disturbed over the refusal of Mr. Kelley not to reclassify arson as a Part I Crime under the Uniform Crime Reporting Program. Lack of uniformity in the reporting of arson

fires is the primary reason given for Mr. Kelley's decision.

I have had the privilege of serving as Chairman of the Arson Committee for the International Association of Fire Chiefs. In this capacity, I was invited to participate at a five (5) day seminar at the Battelle Institute in Columbus, Ohio. On that occasion, I joined with many others to voice great concern over our nation's arson problem.

The National Fire Prevention and Control Administration is presently conducting a research project to determine the differences between investigative procedures on a local level. Upon completion, they will make recommendations to improve our individual programs. I will confine my recommendations to the problem of reporting and non-reporting of arson fires. However, until these other programs to determine the "best method" are finalized whereby uniform procedures may be implemented, it will be difficult to provide a format which should be applicable to all situations. A clearer understanding by fire service personnel of the problem and importance of their reporting suspicious and incendiary fires to law enforcement officers may help to achieve the reclassification of arson to the status of a Part I Crime. This should not present firefighters with a problem of any great magnitude since it is common practice, and in many states a law, that before a fire can be classified as an arson or incendiary fire, all accidental causes of the fire must be eliminated.

SUMMARY

In a letter to Mr. Roger Freeman, Moderator of the symposium held at Battelle Labs, Mr. Kelley explained the reasons for his lack of

support of the request:

"In 1930 a research group felt it necessary to limit the number of crimes that would comprise Part I offenses so they would not burden law enforcement officials with complex record-keeping systems. They then devised a set of criteria which a Part I Crime should meet. Those criteria are:

1. A Part I Crime would need to occur anywhere in the country.
2. A Part I Crime would need to occur with sufficient frequency that counting it would be worthwhile.
3. A Part I Crime would be most likely reported to a law enforcement agency.

In their recent review of arson to determine the feasibility of placing it in the Part I Crime category, the staff of the Federal Bureau of Investigation decided that arson is NOT uniformly reported to law enforcement officials throughout the country.

To this,.....we will all probably agree....., ARSON IS NOT UNIFORMLY REPORTED THROUGHOUT THE COUNTRY.

However, with the final decision not to place arson in the Part I category, "I disagree!". The situation can only deteriorate with time. NOW, perhaps while we continue to encourage the reclassification of the crime of arson, we can also begin to make amends for past ambiguities and devise a uniform reporting system. If there is to be a significant improvement in the procedures now employed in arson investigation, there

must be a shift in where and how we place the responsibility, education and money to combat this growing menace.

Since we have finally begun to research the problem, to seek better ways to overcome our preconceived notions of the past, we must consider all the circumstances that have resulted in a less than 1% conviction rate nationwide. Not only those that will not make someone look bad or hurt someone's feelings, but even those that may change old ways, old procedures and old customs. It is no longer enough to simply accept things just because they have "always been that way", but to seek better ways to guarantee that a complete and thorough change will be developed and to admit to ourselves that our present system is not working and that the reason it's not working is not because we don't know why..... It's because we won't admit or can't admit why.

APPENDIX A

1. Primary job function of respondent:
POLICE OFFICER 4 ; FIRE OFFICER 5 ;
2. Do you think arson should be listed as a Part I Crime by the F.B.I.?
POLICE OFFICER: FIRE OFFICER:
Yes 3 ; No 1 ; Yes 5 ; No 0 ;
3. Do you think the field of arson investigation would benefit from arson being listed as a Part I Crime?
POLICE OFFICER: FIRE OFFICER:
Yes 3 ; No 1 ; Yes 5 ; No 0 ;
4. If arson were listed as a Part I Crime, would this effect you, or your profession in general, in terms of actual job responsibilities?
POLICE OFFICER: FIRE OFFICER:
Yes 3 ; No 1 ; Yes 1 ; No 3 ; No response 1 ;
5. If arson were listed as a Part I Crime, on whom do you feel the burden of responsibility for arson investigation would fall?
POLICE OFFICER: FIRE OFFICER:
Policeman 2 ; Policeman 1 ;
Fireman 0 ; Fireman 1 ;
Both 2 ; Both 3 ;
6. Whom do you think should have the responsibility for the investigation of arson?
POLICE OFFICER: FIRE OFFICER:
Policeman 1 ; - felony Policeman 0 ;
Fireman 0 ; - causation Fireman 2 ;
Both 3 ; Both 3 ;

7. In what ways do you feel the reporting system for arson could be improved so as to reflect fairly accurately, (in relation to how other crimes) are reported, the frequency, location, and overall magnitude of arson?

Police Officer:

Fire Officer:

(See attachment #1)

(See attachment #1)

8. Taking all factors into consideration, do you support efforts to get arson listed as a Part I Crime?

Police Officer:

Fire Officer:

Yes 3 ; No 1 ;

Yes 5 ; No 0 ;

Why?

Why?

Yes. Law Enforcement Agencies would play a more positive role in the investigation and prosecution of arson.

Yes. Arson is way up and climbing. Time to list arson as a Part I Crime and let all know we have a serious problem, particular law enforcement agencies and the courts.

No. Will not improve situation. Only better training and more specific assignment of responsibility will help.

Yes. It is a very serious crime and the prosecution demands the police be involved.

It would be treated as the concern it has become.

Yes. Is needed to place responsibility on police for investigating and maintaining record keeping system on arson.

Yes. To gain more accurate and complete national statistics on arson. This would allow us to gain more knowledge and establish better ways to combat arson.

"I advocate experimentation with a Task Force Concept where in a team of investigators composed of police, fire and state fire marshal and insurance industry representative will work the serious arson investigations under leadership of the respective district attorney's office

Yes. All (7) reasons listed in ARSON: AMERICA'S MALIGNANT CRIME.

Reliable statistics would be available.

Motive- Potential pay-off.

Yes. I have been urging this for many years.

Yes. However, I don't think that change can be made until reporting problems are resolved.

7. Police Officer: (Attachment #1)

1. Since evidence of arson is so often destroyed by the fire, many times, it's difficult to identify arson. Owners of property destroyed by arson are at least partially compensated by insurance and in the absence of evidence are generally content to accept the fire as legitimate. Victims of organized crime related arson may not be prepared to complain. Many fire departments are volunteer, and while they may be expert in fighting the fire, they seldom are expert in identifying evidence of arson.

For these and other reasons, I feel that any significant importance in reporting will be extremely difficult to achieve.

2. Fire departments, state fire marshal's offices, the insurance industry and all other agencies involved in the investigation and reporting of arson should be required to report cases of known arson to state and national crime information centers.

This is already being done by law enforcement agencies when reporting crimes, and I feel it would not be too difficult to implement the reporting of arson, by other than law enforcement agencies, into this program.

The Fire Marshal's Office in Georgia is classified as a law enforcement agency and as such we subscribe to the GCIC/NCIC Crime Reporting Service by reporting the cases of suspected arson that we investigate.

3. Fire services to detect arson and report all incidents of incendiary and suspicious fires to police for reporting system on arson.

7. Fire Officers: (Attachment #2)

1. Solicit assistance from each state fire marshal's office to have them request of all insurance companies in their jurisdiction to file a simple, standard form on each arson or suspicious fire and send to fire marshal's office.

2. I feel it should be mandated that all suspicious fires be reported to the police and investigated to the point where arson is proven or ruled out.

3. All known cases of arson should be reported to the police by the fire department with the investigation being done by the fire department. Also, loss reported by fire department.

4. Motive- potential pay-off.

5. No immediate suggestions.

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END