

ARSON FOR PROFIT

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## ARSON FOR PROFIT

WEDNESDAY, SEPTEMBER 10, 1980

U.S. SENATE,  
SUBCOMMITTEE ON CRIMINAL JUSTICE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 11 a.m., in room 2228, Dirksen Senate Office Building, Senator Joseph R. Biden, Jr., presiding.

Present: Senator Biden.

Staff present: Mark Gitenstein, chief counsel; Diane Clarke, counsel; Edna Panaccione, chief clerk, and Barbara Parris, research assistant.

Senator BIDEN. The hearing will come to order.

I apologize to our witnesses for the delay, and I appreciate your indulgence. Under the Senate rules, the Judiciary Committee, or any subcommittee of the Judiciary Committee, which this is, is not able to meet if and when the full committee is in executive session. The full Judiciary Committee has been meeting since 9:30 this morning. Under the rules, we would not have been able to meet even 5 minutes earlier than we are now. So I appreciate your indulgence.

Senator Glenn was to be the leadoff witness today, but all of us have multiple responsibilities. There is a very important piece of legislation before the Foreign Relations Committee relating to the transfer of nuclear technology and fuel to India. He has an interest in that, also, and he is unable to lead off as our witness, although he will speak, before the hearing is closed, on behalf of this legislation.

I have a brief opening statement, and then we will hear from the witnesses. We will complete the remainder of the hearing as rapidly as we can.

### OPENING STATEMENT OF SENATOR BIDEN

This is a legislative hearing as opposed to an investigative hearing. It is being conducted by the Subcommittee on Criminal Justice to examine S. 252, the Anti-Arson Act of 1979, which was introduced and promulgated primarily by Senator Glenn of Ohio. Senator Glenn first introduced legislation concerning the problems of arson for profit—that is, the intentional burning of property for its insurance value—during the latter part of the 95th Congress. Since that time, there have been extensive investigative hearings conducted by the Committee on Governmental Affairs.

Those hearings, in my opinion, demonstrated that arson is present in rural as well as urban areas and that it can and does destroy homes, motor vehicles, stores, factories, and farms in every part of the country.

Those hearings also showed that it is the Nation's fastest growing crime, rising at a rate of approximately 25 percent annually, and that it is virtually out of the control of law enforcement.

For example, in 1977, there were several hundred thousand instances of arson across the country, a statistic that does not include fires of suspicious origin. To translate that into a more demonstrative statistic the Ohio Insurance Institute estimates that in the State of Ohio there are an average of four arson fires set each hour of every day. In my home State of Delaware, there were 16,000 fires between June 1978 and June 1979, causing a direct loss of \$6 million.

More actual dollars are lost to arson than just about any other single crime. In 1978, insurance companies paid out nearly \$2 billion in losses attributed to arson. And I need not tell you that these amounts are paid out in several ways. Insurance companies pay them out, and all of us pay out. Insurance companies are not charitable organizations. Obviously, these losses are made up by every other insured in the country. Each incident of arson caused an average loss of \$6,433 compared with \$1,741 for car theft, \$499 for the average burglary, and \$388 for robbery. Now, I hope that these figures are not read out of context, that robbery is the best bargain at \$388, and arson is you best buy at \$6,433.

Sometimes, statistics are misleading. Keep in mind the admonition of Benjamin Disraeli when he said, "There are three kinds of lies—lies, damned lies, and statistics." These are sort of the third kind of lies. However, they do not belie the fact that arson is an overwhelming problem.

I have before me a more extensive statement which I had planned on reading had time permitted, but I will conclude my opening statement by reemphasizing that this is a legislative hearing. It is the vehicle through which we will hopefully get this bill to the floor of the U.S. Senate this year so that it can be acted upon by the U.S. Senate, and hopefully by the Congress as a whole, and signed into law by the President of the United States.

We have a distinguished panel of witnesses today. Because there are so many and time is so short, not just in terms of today, but in terms of the legislative calendar, I would ask the indulgence of the witnesses, most of whom have been able to testify on this matter before the Governmental Affairs Committee, not to feel compelled to make the record all over again. We have the record made as to the intensity and the scope of the problem.

I would like us to focus today on those specific areas of contention that all the witnesses are aware exist, the primary areas of concern. I have read the statements of the witnesses who have submitted statements, and there is no need to go into detail on your statements.

Please take for granted, which I know is hard to do when you are thinking of any Senator or Congressman, that I in fact do understand the issue, that I have some knowledge of it, that I have done my homework, and I am anxious to get to the root of whether or not we can have a workable bill come out of this subcommittee. If you keep that in mind, and keep your statements to 8 minutes apiece, we will be able to get this hearing underway and get to questions and rebuttal.

[The prepared statements of Senators Biden and Glenn follow:]

PREPARED STATEMENT OF SENATOR BIDEN

Senator Glenn first introduced legislation concerning the problems of arson for profit—the intentional burning of property for its insurance value—during the latter part of the 95th Congress. Since that time, there have been extensive investigative hearings conducted by the Committee on Governmental Affairs.

Those hearings demonstrated that arson is present in rural as well as urban areas, and that it can and does destroy homes, motor vehicles, stores, factories and farms in every part of the country.

Those hearings also showed that it is the Nation's fastest growing crime, rising at the rate of approximately 25 percent annually and that it is virtually out of the control of law enforcement.

For example, in 1977 there were several hundred thousand instances of arson across the country. A statistic that does not include fires of suspicious origin. To translate that into a more demonstrative statistic, the Ohio Insurance Institute estimates that in the State of Ohio, there are an average of four (4) arson fires set each hour of every day. And in my home State of Delaware, there were 16,000 fires between June 1978-79 causing a direct loss of \$6 million.

More actual dollars are lost to arson than just about any other single crime. In 1978 insurance companies paid out nearly 2 billion dollars for losses attributed to arson. Each incident of arson caused an average loss of \$6,433 compared with \$1,741 for car theft, \$499 for burglary and \$388 for robbery. Indirect losses amount to \$12 billion per year; and insurance companies estimate that 25 percent of every person's home insurance dollar pays for arson.

We are dealing with a crime that combines the elements of low risk and high potential for financial profit.

It has been documented that professional arsonists, "torches", earn as much as \$300,000 per year, tax free; that insurance companies indiscriminately overinsure and settle property insurance claims without investigation; and, that the arrest rate for arson is the lowest of all major crimes. It comes as no surprise that, as a consequence, arson for profit has become a regular source of income for organized crime. It is estimated that one organized crime arson ring made \$500 million between 1969-75.

It is clear that a primary motive for committing arson is insurance fraud. When that motive is combined with the common knowledge that law enforcement agencies historically have been, and are, weak in arson detection, investigation and prosecution a ludicrous situation results.

The more difficult circumstance to accept is the fact that unless something is done to alter this history, we can be relatively certain that approximately 10,000 people will be injured and that 1,000 people, including 45 firefighters will lose their lives this year in fires that were labeled arson for profit.

Many experts feel that the apparent inability of law enforcement agencies to deal effectively with the problem of arson for profit results from the absence of a unified, coordinated effort. This hearing, a year after the others, will examine whether organizations which have responded to the need for coordination, since those hearings, are hindered in their efforts without the passage of S. 252 which seeks to provide that unity and coordination.

The bill would create a two (2) year anti-arson interagency committee of representatives of nine (9) Federal agencies concerned with arson, designed to establish and coordinate prevention, training, detection and community awareness programs.

The bill also makes arson a part 1 crime in the uniform crime reports compiled and published by the FBI—the first permanent change in the part 1 category of crime index offenses since its inception in 1930. It means that local law enforcement agencies will use a common definition of arson, treat it as a major offense, and record the volume, trend, rate, clearance, and profile of persons arrested, rather than merely arrest information recorded for part 2 crimes.

The bill will also compel applicants seeking insurance for property in high risk neighborhoods to enumerate all prior instances within the past ten (10) years where property they held was destroyed by fire, a significant addition to the fair (fair access to insurance requirements) plan which insures property in redlined neighborhoods.

Moreover, under certain conditions, insurers will be able to establish procedures to cancel or not renew coverage of any risk eligible under the fair plan upon 5 days notice to any policyholders, and would be immune from State stat-

utes which prevent the release of confidential information by insurance companies to other companies and law enforcement agencies about fair plan applicants who are suspected arsonists.

Since this legislation was introduced some of its provisions have been implemented by the executive branch and some changes have been made in the bureaucratic structure of the Federal Government. For example, the National Fire Prevention and Control Administration is now the United States Fire Administration, of the Federal Emergency Management Agency; arson has been temporarily included as a part I offense by the FBI; and LEAA and other Federal agencies have undertaken a \$42 million war on arson program.

We will review the bill with these changes in mind.

Finally, I would like to personally compliment my colleague, Senator Glenn, for his tireless efforts in focusing public attention on the crime of arson.

#### PREPARED STATEMENT OF SENATOR JOHN GLENN

Mr. Chairman, I am pleased to be before the Subcommittee on Criminal Justice to testify on a subject of great and increasing national importance. Arson has become a veritable epidemic, terrorizing neighborhoods, undermining federal programs and policies, destroying homes and businesses, and eroding job opportunities and municipal tax bases. After briefly summarizing our legislative efforts in this area, my testimony will address some of the specific provisions of S. 252, a bill to coordinate the Federal anti-arson effort.

We began our legislative efforts in July, 1977, with the introduction of S. 1882, the Arson Control Assistance Act of 1977. The portion of this bill which later became law requires the FBI to classify arson as a major crime in its criminal statistics reporting. In December, 1977, the Committee on Governmental Affairs Subcommittee on Intergovernmental Relations conducted hearings on the problem of arson-for-profit and examined its impact on States and localities. In August and September, 1978, the Committee on Governmental Affairs Permanent Subcommittee on Investigations held hearings chaired by Senators Percy and Nunn, on the role of insurance companies in arson-for-profit. In January, 1979, we introduced S. 252, the Anti-Arson Act of 1979. The Subcommittee on Intergovernmental Relations conducted hearings on this bill in April and May of last year. During those hearings, Senator Kennedy, Chairman of the Senate Judiciary Committee, submitted a written statement for the record both supporting S. 252 and pledging early and prompt consideration of the bill after it was ordered reported by the Government Affairs Committee.

Those subcommittees conducted a total of eight full days of legislative hearings on the arson problem. In focusing national attention on the enormity of the arson epidemic plaguing our land, those hearings demonstrated that arson has become this Nation's fastest growing and costliest crime. During the hearings, testimony revealed that arson has increased an estimated 400 percent over the past decade, represents roughly one-fourth of all fires, causes about 10,000 deaths per year, and results in insurance losses ranging from \$1.5 to \$3 billion annually. These losses, of course, are passed on to homeowners, businesses and other insurance holders in the form of higher fire insurance premiums. Congresswoman Mary Rose Oaker cited the following statistics on arson in her testimony:

"In Ohio, four arson fires are set each hour according to the Ohio Insurance Institute. This problem in our State mirrors the national figures. In 1978, the State of Ohio totaled a reported \$139,561,730 loss in property damage, as well as 1,846 injuries and 258 deaths due to fires. Cuyahoga County in 1978 suffered a reported \$19,548,826 loss in property damage, 471 personal injuries and 36 deaths, all fire-related.

"In the city of Cleveland, statistics indicated that between 1967 and 1977, fires set by arsonists or vandals rose from 875 to 1,737. Likewise, in 1977, the fire losses in the county equaled nearly \$20 million worth. Officials feel it safe to assume that more than half of these losses can be attributed to have been by arson. Thus, arson rose in my city by 50 percent in the past decade."

There was also testimony that organized crime has become increasingly involved in arson-for-profit activities. The hearings underscored the need to permanently upgrade arson to a "Part I" crime in the Uniform Crime Report so that



the FBI can continue to gather uniform crime statistics on arson under a reliable reporting system. Finally, the hearings clearly demonstrated that arson is undermining America's efforts to revitalize and rehabilitate her inner-city neighborhoods.

For all these reasons, it is imperative that this Nation find an effective means to deal with our burgeoning arson problem. I believe that S. 252 provides just such a vehicle, and I strongly recommend it to the Subcommittee today.

S. 252 would provide a framework to coordinate the anti-arson efforts of Federal agencies and would ensure that resources and research results would be more readily delivered to State and local governmental units. Comptroller General Elmer Staats stated, in his testimony before the Committee on Governmental Affairs Permanent Subcommittee on Investigations, that "there has been no Federal commitment for a coordinated and concerted effort at helping States and local communities deal with the arson problem through research or training and funding for State and local investigators and prosecutors."

S. 252 would statutorily establish a Federal, interagency committee, to explicitly deal with this problem. And because the bill mandates that that committee be dissolved after two years, we need not fear that it would create yet another permanent layer of government. Moreover, all expenses of the committee would come from existing agencies.

While I recognize the Carter Administration's efforts in this area and commend those Federal agencies which have recently stepped up their anti-arson programs, there is still no statutory means of ensuring a coordinated, Federal anti-arson effort with a report to Congress. At present, there are 16 or more Federal agencies conducting arson-related activities. The sheer number of those agencies, all of which have diverse missions, clearly demonstrates the need for effective coordination. Moreover, creation of a Federal, interagency anti-arson committee would avoid duplicative or inconsistent efforts by those 16 Federal agencies. It would also ameliorate jurisdictional controversies among them and encourage maximum use of their respective resources and expertise.

I would like to address, briefly, some remaining features of S. 252.

Under present law, the FBI is required to classify arson as a "Part I" crime in its Uniform Crime Reports. However, this requirement is only temporary and has been extended each year only being included as part of the Department of Justice Authorization bill. S. 252 would require the FBI to permanently classify arson as a major crime. This would not only obviate the necessity of annual extensions, but would also encourage local jurisdictions to standardize their arson reporting and conform it to the manner in which they report other crimes. The arson statistics gathered by the FBI under their uniform reporting system are invaluable in helping us to recognize and understand the major problem areas within our anti-arson effort. These statistics also assist Federal, State, and local governments to shape and direct their anti-arson programs. Moreover, the reporting requirement contained in S. 252 would provide the Congress with the consensus advice of all agencies involved for future consideration.

S. 252 also would make anti-arson research and training a permanent part of the Fire Administration's mission. It is vital that the Fire Administration expand its research and development of techniques and equipment in arson prediction, prevention, and control. The development of such promising techniques as "arson predictors" are essential if we are to combat the sophisticated techniques employed by the professional "torch."

Finally, S. 252 would require private insurers, before issuing Fair Plan insurance policies, to obtain, evaluate, and if appropriate, share with law enforcement agencies certain information supplied by applicant. In my opening statement before the Subcommittee on Intergovernmental Affairs hearing on April 26, 1979, I stated:

"The Federal Riot Reinsurance Act of 1968 basically works through 26 States to provide insurance to inner-city properties. This is a very well-intended program that has provided essential insurance coverage to inner-city areas that otherwise probably would have been unavailable.

"I strongly support the program. However, I feel that it has been exploited and subverted by absentee landlords and real estate speculators. It is often not honest, low income residents of inner cities who are utilizing FAIR plans, but rather fast writeoff absentee speculators and real estate hustlers who easily obtain coverage, and often without scrutiny, using bogus sales of property to artificially escalate insurance coverage and proceed to torch these properties, and then collect insurance proceeds.

"We had extensive testimony on that. This is certainly not the economic stability intended by the 1968 Act. To the contrary, it is contributing to local communities' economic weakness. There are several ways to combat this, not all at the Federal level. On a broad level and not restricted to FAIR plans, in 1976, Ohio was the first of 16 States to grant immunity from civil actions and from criminal prosecution to companies sharing arson-related information with law enforcement authorities. Further, related to FAIR plans, I propose in S. 252 that prior to the issuance of FAIR plan policies, the insurer obtain and evaluate information with respect to the policyholder which includes a listing of real property in which there exists an insurable interest over the past 10 years.

"This gives a track record on which to judge people. The insurer, when he believes arson was involved, may request further information from the State insurance authority. State insurance authorities, when there is reasonable cause, would be able to waive State law preventing such release of information."

Mr. Chairman, progress is being made in our national fight against arson. Foremost, perhaps, is increased public awareness that arson is a deadly, billion-dollar crime which is rapidly proliferating in our cities and rural areas. State legislators, law enforcement officials, fire fighters, and prosecutors are beginning to understand the severity of the arson problem as well as its impact on their jurisdictions. However, because they are ill-equipped to deal with the problem alone, they are reaching out to the Federal Government for assistance. A number of Federal agencies have begun to respond. There are signs that these agencies are beginning to coordinate their anti-arson efforts. The FBI, for its part, is beginning to put together reliable arson statistics from the data submitted by State and local government units.

I am presently working with Ohio State Senator Charles Butts of Cleveland, a dozen other public officials, and corporate representatives on a National Legislative Conference on Arson. The purpose of this conference is to provide legislators with information on the arson problem, current activity, and legislative options of which they need to be aware in order to take appropriate legislative action. This conference is scheduled for this December in Cleveland. I am confident that it will provide many State and local officials with some good ideas for fighting arson. By working together, at all levels of government, we can begin cutting arson's growth rate and the disastrous impact it has on many lives in this country.

But what we have done so far has not been sufficient. Effectively combatting and controlling the arson problem requires much more. What is needed is a federally coordinated effort. We need to plan a national strategy and to assist State and local governments in their anti-arson efforts. That is why I am here today and why I introduced S. 252.

Mr. Chairman, thank you and the members of the Subcommittee for the opportunity to testify this morning. I also want to thank the cosponsors of S. 252 and our colleagues in the House of Representatives for their excellent efforts and support.

I am very pleased that the Subcommittee has invited a distinguished fire fighter from Ohio to testify before the Subcommittee. Eugene Jewell, the Chief of the Ohio State Arson Bureau and Chairman of the Ohio Blue Ribbon Committee, has testified before the Subcommittee on Governmental Affairs concerning the arson problem in Ohio and is an expert in the arson area and I am sure he will make a valuable contribution to this Subcommittee's hearings. I am also pleased that the Subcommittee has invited John S. Pyle, an Assistant U.S. Attorney for the Northern District of Ohio. Mr. Pyle is presently in the process of developing a detailed arson manual for prosecutors. I am certain that Mr. Pyle's testimony will also prove valuable to the Subcommittee.

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Senator BIDEN. Now, our first witness, as I said, was to have been Senator Glenn.

Our next witnesses are to appear as a panel of experts, and I would like to call them forward now: Robert B. Smith, director of government affairs, National Fire Protection Association, and executive secretary of the Fire Marshals Association of North America, and James E. Jones, Jr., government affairs representative of the Alliance of American Insurers.

Gentlemen, would you please come forward?

Welcome to the hearing. If we could proceed in the order in which I asked you to come forward, I think that might best facilitate the proceedings.

Mr. Smith, before you begin, I should point out that you come very highly recommended from a number of sources, including a very important one to me, the State of Delaware. Chief Ben Roy, who has been very deeply concerned about this problem in legislation in our State, and Lou Amabili, who runs our fire school, both think you are about the hottest thing going, and I am anxious to hear what you have to say. I understand you are appearing in support of the legislation.

#### PANEL OF ANTIARSON EXPERTS:

STATEMENTS OF ROBERT B. SMITH, DIRECTOR OF GOVERNMENT AFFAIRS, NATIONAL FIRE PROTECTION ASSOCIATION, AND EXECUTIVE SECRETARY, FIRE MARSHALS ASSOCIATION OF NORTH AMERICA, AND JAMES E. JONES, JR., GOVERNMENT AFFAIRS REPRESENTATIVE, ALLIANCE OF AMERICAN INSURERS

Mr. SMITH. Thank you. With your comments, Mr. Chairman, and your emphasis on brevity, maybe I should just say it is nice to be here and leave, but I am afraid I will have to do a bit more than that.

I am here today representing both the National Fire Protection Association and also a particular section of NFPA, the Fire Marshals Association of North America, as I also serve as its executive secretary.

Very briefly, in the way of background, may I indicate that the National Fire Protection Association organized in 1896 as a nonprofit, voluntary membership organization, has grown to become the primary public advocate for fire safety. The Fire Marshals Association of North America, a section of NFPA, represents those particular fire officials serving at the State, county and local, municipal level, charged with the responsibility for fire cause determination.

In April 1979, both the NFPA and the Fire Marshals Association testified before the Senate Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, regarding the then proposed provisions of S. 252. Both organizations expressed their support for this bill, and at that time discussed suggested changes to the bill in order to enhance its effectiveness. This position of support continues, and we are pleased to note that our suggestions of April 1979 have been generally included in the committee print of October 10, 1979, made available to us for comments at this hearing.

While expressing a position of strong support for S. 252, we do desire to make the following brief comments.

The fire service has the sole responsibility for initial fire cause determination. We desire to emphasize this very basic fact as it relates to the provisions of the bill concerning establishment of future subcommittees where we feel it is extremely important to have appropriate representation by experienced and qualified fire investigation representatives.

While emphasizing our support of the authorization and direction given by this bill to both the Federal Bureau of Investigation and

the U.S. Fire Administration, we have concerns that without the authorization of funds to be appropriated to these agencies for these important mandated activities, a fulfillment of the intent of the bill may be lost through the very recognized present pressures placed upon the Federal budget.

We applaud the general thrust of the proposed bill, which emphasizes the very practical and, we feel, cost-effective need within government for coordination of effort in the field of arson control, and also the much-needed commonsense approach of providing Federal Government support and assistance to existing State and local agencies already having mandated responsibilities in the arson control area.

This approach to the national arson problem, it is our belief, will greatly assist in the reduction of this crime.

In closing, the National Fire Protection Association and the Fire Marshals Association of North America would like to recognize Senator Glenn for his continuing concerns and supportive efforts in the field of arson control, and we offer both our support and assistance to you as chairman and to this committee in its deliberations on this bill.

Thank you, Senator.

Senator BIDEN. Thank you, Mr. Smith.

Mr. Jones?

Mr. JONES. Good morning, Senator.

My name is James E. Jones, Jr. I am a governmental affairs representative of the Alliance of American Insurers, a major association of 135 property and casualty insurance companies. I have been designated to testify today on behalf of the property and casualty insurance industry—the American Insurance Association, a trade association representing 152 insurers, writing property and casualty insurance; the National Association of Independent Insurers, a property and casualty insurance trade association of over 500 members and subscriber companies; the National Association of Mutual Insurance Cos., a trade association of 1,150 property and casualty mutual insurance companies; the State Farm Insurance Co., a large insurer of property insurance; and the Alliance of American Insurers as well. These insurance groups represent over 90 percent of the written premium value for property insurance.

Senator Biden, we appreciate this opportunity to appear before your subcommittee in support of S. 252, the Anti-Arson Act of 1979, and urge Congress to move swiftly to enact this legislation into law.

I will summarize our statement and request that the complete text be recorded in the subcommittee hearing record.

Senator BIDEN. I should have indicated that both your statements will be put in the record as if read in full, following your oral testimony.

Mr. JONES. The property and casualty insurance industry has been in the thick of the fight in attempting to control the malignant crime of arson. The industry has been actively involved in studying the scope of arson, its causes and effects and the development of strategies and resources to help control the deadly consequences of arson and arson for profit.

Arson has been identified as a killer, a crime of vengeance, and also a crime of thrill-seeking and greed, as well as a crime for profit. Each year, deliberately set fires cost in the neighborhood of \$1.5 to \$2 bil-

lion in direct property loss damage alone. Law enforcement departments, fire services, and insurance officials all agree that it is a burgeoning problem, but it is difficult to assess accurately its broad economic impact and its demoralizing effect on people, businesses, and communities.

While arson apparently is increasing, it is difficult to pinpoint total losses and to collect meaningful, supportable data. The financial impact of arson is twofold, direct cost, structure and content, and indirect cost, losses of jobs, taxes, et cetera.

In the United States, destructive fires take more lives, injure more people, and destroy more property per capital than anywhere else in the industrialized world, and arson fires are responsible for an increasingly significant portion of that total.

The U.S. Fire Administration has estimated that total direct and indirect property losses from fire exceed \$15 billion a year.

The industry supports a major aim of S. 252, marking arson, a permanent part I crime under the Federal Bureau of Investigation's uniform crime reports. Arson presently is classified as a part I crime under the UCR compiled by the FBI on a temporary, year-to-year authority. The present requirement for the FBI to list arson as a part I crime expires September 30 of this year.

The recognized source of statistics for all crimes in the United States is the uniform crime reports compiled by the FBI. Crime-fighting efforts and priorities of States and municipalities are based on statistics aggregated in these Federal reports, which rank all crimes in two categories, part I and part II offenses. Under this classification system, the most serious offenses are those crimes which receive the greater amount of law enforcement agencies' attention. The crimes classified as part I include the following: Criminal homicide, forceable rape, robbery, aggravated assault, burglary, breaking and entering, larceny, motor vehicle theft, and arson on a year-to-year basis as it is today.

Arson, prior to being classified as a part I crime, was treated as a part II crime, along with such miscellaneous offenses as disorderly conduct, loitering and curfew violations, counterfeiting, vandalism, gambling, and drunkenness.

At present, the only information currently reported to the FBI by municipalities for part II offenses is for the number of arrests. The statistics compiled for part I offense, however, include volume, trend, rate, clearances, persons arrested, persons charged, and the nature of the respective offense. These are the essential statistics reported to the FBI by local police agencies. This information reported for arson as a part I crime places it in its proper perspective relative to the other major part I crimes.

In our opinion, the immediate significance of arson being classified as a part I crime is to generate pressure on police departments to become more directly concerned with the arson problem. Arson being designated as a part I offense, on a permanent basis, would enable law enforcement agencies to rationally revise program priorities leading to a relocation of resources to deal with arson relative to other major part I crimes.

The classification of arson as a part I crime, in our opinion, assists in resolving the jurisdictional dispute which arises between fire and

police departments nationwide. The lack of essential coordination and joint assistance that often occurs between police and fire departments is evidenced in many communities throughout the Nation. Changing arson to a part I major crime permanently would provide a critical pressure point on local municipalities to coordinate the work of fire and police departments.

We are confident that if arson were permanently classified as a part I crime, the increased factual reporting about arson would exert an important influence on the public, legislators, prosecutors, judges, and the insuring industry to develop more attention and resources to combat the seriousness and high cost of arson.

Police and fire authorities would become more aware of arson and more involved in coping with its unchecked and cancerous growth. This would promote cooperation and answer questions of jurisdictional responsibility, encouraging better relations among fire departments, police departments, private industry, and others.

Permanent classification of arson could encourage the Federal Government to develop and support antiarson programs to a greater degree.

S. 252 creates a Federal Agency Committee on Arson Control, which will coordinate preventive and after-the-fact effects to combat arson. Because of the importance of the work being done by the NAIC and other insurance trade associations in the arson field, we suggest that the committee include private insurance industry underwriting expertise and NAIC representatives on the proposed Federal Arson Committee. Insurance industry representatives would provide an insight for the committee into how various proposals would affect the ongoing efforts of the NAIC and the individual insurers.

The insurance industry faces many problems in insuring high-risk properties, and we think it is important that the Arson Control Committee have the benefit of insurance experts with the background and experience to bring a better understanding of these issues to the committee.

Our hands too often have been tied by requirements of immediate payment of losses, destruction of evidence, threats of libel suits, and other factors which have made it difficult for us to refuse payment, even when we suspect there was arson.

This bill also provides that the committee could establish subcommittees or working groups to accomplish its objectives. Membership in such subcommittees would not be restricted to members of the committee. We believe this could be an invaluable provision for the committee, enlisting experts in the field of arson prevention and control on the local and State levels, as well as from the industry and general public.

We urge establishment of subcommittees comprised of such interdisciplinary membership. The industry strongly supports the creation of the Interagency Committee on Arson Control and believes that its existence should not be restricted to a 2-year period as enunciated in this bill.

Antiarson efforts, including those of the Federal Government, must assume a position of permanency, since the arson problem will be with us for a long time.

Section 7(c) of this bill would permit insurers to establish procedures, subject to the approval of State insurance authorities, for the cancellation or renewal of any FAIR plan risk upon 5 days' notice to the policyholder.

The industry notes the Federal Insurance Administration has established a list of underwriting prerogatives, which permit FAIR plans to cancel coverage upon 5 days' written notice if certain conditions exist in relation to the property. We urge all State FAIR plans to adopt these recommendations.

We support this provision in that we believe that there must be a framework providing the insured safeguards, such as adequate notice and the right to appeal.

Again, I want to express our support for the legislation. Since its introduction in 1979, the insurance industry, in cooperation with our State regulators, has made much progress in meeting the challenge of arson. We feel that many of the purposes of S. 252 are and can, however, be secured by State action.

In conclusion, Senator, we strongly support the major provisions of S. 252, and urge that with some modification, the measure be enacted as quickly as possible. We are confident that once this step is taken, we will at least have the weapon that can tilt the balance against the arsonist.

We believe that the insurance industry is united in a major effort to prevent, identify, and prosecute persons committing arson crimes.

The industry would recommend that this subcommittee vote S. 252 out as soon as possible, with recommendations to the full Judiciary Committee to take immediate action to move this legislation in order that the Senate may act during this session.

Senator Biden, we appreciate having the opportunity of presenting our views in support of the bill. We would be pleased to respond to questions.

Senator BIDEN. Thank you very much, gentlemen.

Let me begin, Mr. Jones, with a fairly fundamental question that goes beyond the scope of the bill to its intent. Obviously the testimony and the evidence presented to the Congress as a whole thus far seems to be that arson is a burgeoning crime, not because of vengeance, revenge, or a desire to murder or kill—although it has that byproduct, but because of the desire to collect on insurance.

I do not know this for a fact, but I have been told, that England has a provision in its law that requires that in order for an insured to collect on property insurance, the insured would have to rebuild the structure on the same spot. It would seem to me that it would fundamentally impact upon arson for profit. If you burn down the tenement you own in a red-line district, or you burn down your business that is not going well, and you can only use the money that you get from the insurer to rebuild that business, wouldn't that have a very pronounced effect upon the desire to burn it down in the first place?

I do not know whether it is true. I do not know whether there are constitutional limitations. I do not know, since the Federal Government underwrites a lot of various insurance policies in various places, whether we can only do it where the Federal Government is involved. But I wonder if you, and then Mr. Smith, if you are so inclined, could each respond to that broad question.

Mr. JONES. Senator, this is not a new idea in America. The alliance and the other trade associations have been discussing the possibility of this taking place. There are restrictions in some States of this taking place, and I do not have the exact restrictions, but there are some laws that are in place that restrict, in some instances, this being the case.

Senator BIDEN. Restrict what? Restrict the suggestion I made from being law, or restrict your use of funds received from insurance claims for any use other than rebuilding the property?

Mr. JONES. Restricting the mandate that the funds be used to rebuild on the same edifice.

Senator BIDEN. Well, let me ask the question another way because it is something that neither of you would have expected I would ask; and I am now telling all the other witnesses that I am going to ask you the same question, so start off your testimony by responding to that question first.

But I wonder if we can separate the issue a little bit and not talk about whether it can be done, but answer the second part. If that were the law, do you believe it would impact on arson for profit, and if so, in what way?

I would like each of you to answer that one.

Mr. JONES. If an individual burns his own property, and it can be proven, we certainly are not going to pay the claim.

Senator BIDEN. No, no. It does not matter how it is done, what is done. If, in fact, the insurance policy said—if there were a law that said the only type of fire insurance policy that could be written on a piece of property would be one that would say:

In order to collect on this policy, you must use the funds to put them back into the property, to reconstruct what had been destroyed. You cannot use them to go off and start a new business somewhere else or buy another automobile or go on vacation, or take care of distributing it to members of your family. You must use it for that particular facility.

Mr. JONES. I understand the question, and as I say, it has been discussed. The point is that if someone burns your property down by arson, and you as an individual may decide that you want to move, you want to move to California or wherever, that you just would not be happy in that particular area anymore, some discussion has shown that it presents perhaps a social problem of mandating an individual to do something that he may not want to do. Now, there is a possibility that if this were law that it may stop arson and it may not, because in many arson cases, the individual whose property has been burned down through arson is not the culprit.

Senator BIDEN. I understand that. Don't we agree, though, that we are talking about arson for profit here. We are not talking about arson for retribution, arson out of anger, arson to commit murder, arson to do bodily harm, arson for revenge. We are talking about arson for profit. Would that not be a disincentive to plan an arson for profit? It would not end arson. It would not stop arson. But would it not impact upon arson for profit?

Mr. JONES. It possibly would have an impact.

Senator BIDEN. Is there any way it would not have an impact? I mean, I cannot conceive of a circumstance, except maybe a remote exception where you want a new physical plant on the same spot, but by and large, it seems to me to bring a screeching halt—



Mr. JONES. Are you saying that even if the individual did not want to build anyway, he would not receive the proceeds?

Senator BIDEN. That is right. He says, "I do not want to go back. I do not want to build. I do not want to go back to that neighborhood." You say, "OK, fine. If you do not want to go back to the neighborhood, you do not collect on the insurance."

Mr. JONES. It would have an impact, but what magnitude is something else.

Senator BIDEN. Mr. Smith, what do you think?

Mr. SMITH. With your assumptions, sir, I think it would have a very strong impact.

Senator BIDEN. The assumption being that we could legally do it.

Mr. SMITH. That you could legally do it. And there are some other problems here that might enter into the fact. With preexisting buildings sometimes, you are not legally allowed to rebuild. But with all those assumptions as they are, I think that the main thing you are shooting for, would this have an effect on arson for profit, I think that it very definitely would have a strong effect on it. It would take a good deal of the incentive out of the business.

I might like to point out to you, though, that I know of at least one State at this time that is also considering State legislation to provide for, in the insurance payment, a fund of a certain percent of a payment that would go to the municipality or the jurisdiction in which the fire occurred, to be held there until that property was completely secured or taken care of.

Senator BIDEN [continuing]. Until all taxes were paid on the property or efforts were made to clear the property, et cetera.

Mr. SMITH. And the property made safe or brought back into code.

Senator BIDEN. I think that makes sense. I do not want to take the focus completely off of this bill and I have many more questions for you; but I guess the point I should make, and was, in my opening statement, is that I think this bill is a very positive step forward, and I am anxious to see it move. But we tend up here at the Federal level, sitting up here on this bench, to talk about declaring wars on crime, wars on arson. I do not think there is any realistic hope that there will be a fundamental alteration in arson for profit as a consequence of this bill being passed. I think it will be very helpful, I think it will be positive, I think it should move forward, and I think it will be a very useful step. However, I doubt whether it is going to have a fundamental impact, although we are trying to do the same type of thing with drugs and a number of other areas where, if you just bring the heat of light, not fire, on these issues, it tends to bring it into focus, and it tends to get people to pay much more attention.

Those five bells mean I have 7 minutes to run over to the floor and vote, and I will be right back. I can tell you now the two questions I am going to ask you, so you can be thinking about the answers.

Mr. Jones, the National Association of Insurance Commissioners developed a model insurance application requiring all applicants to disclose any previous arson involvement, and this would go beyond the FAIR plan requirement. And I know of at least one trade organization on record as opposing this model application. I wonder if you could comment on that and also talk to us a little bit about red-lining generally. Will moving from 30 to 5 days have any impact upon

the initial reason for redlining legislation; will it give excuses for mortgagers and insurance companies to move out of these areas?

Furthermore, in section (c) it says that:

This Act is amended by inserting "(a) Immediately before notice" and by striking out "written under the plan" and inserting the following: "written under the plan except that, subject to the approval of the State insurance authority, the insurer may establish procedures for the cancellation or nonrenewal of any risk eligibility under the plan upon 5 days' notice to any policy holder."

I would like to entertain the prospect of amending that to add the following sentence, that it would read:

Under any plan upon 5 days' notice to any policy holder, based upon a finding that the insurable interest of this policy holder is a demonstrable arson risk.

I wonder whether both of you could talk about that when I return.

We will recess for 7 minutes.

[Short recess.]

Senator BIDEN. So, gentlemen, have you had time to contemplate my question, and if you have, maybe you could tell me what you think.

Mr. Smith?

Mr. SMITH. Jim, do you want to go first?

Mr. JONES. I do not want to, Bob, but—[Laughter.] I guess, Senator, that our problem with your amendment is a little like the situation we have now, of being able to prove arson. How do you prove if an individual is a demonstrative individual? How do we determine, how do we prove that? Some of the problems that we have now, in determining whether an individual is an arsonist or not—we try to underwrite up front, where we can, if we have suspicions, to deny coverage. But here, we are already on a risk, and we are talking about getting off of it. And how do we do this? How do we define it?

Senator BIDEN. Well, this is only one of the ways that it could be done, and as you can see by the fact that my staff gave you copies which are merely penciled in, there is no formal amendment. I do not have an amendment but it would be based upon the information that would already be required in the act.

And right now, as I understand it, the Federal Insurance Administration regulations presently take into account suspicion of arson, and I would think the manner in which that determination is arrived at would be sufficient. But I do not want to belabor the point. I am anxious to hear what else you may have to say and I would also request that at the close of this hearing you discuss this with your people and get back to the committee, because I am not sure I want to go forward with it at all; but I do want you to have time to consider whether or not it would be something you would support.

Mr. JONES. Senator, I would just like to mention that I am due in Chicago right now, at a property insurance committee meeting, where there will be about 15 technical people, and I am flying out tonight to be there tomorrow. I would like to take this question to our people and bring back an answer to your staff early next week.

Senator BIDEN. Fine. We will leave the record open until then. We certainly will not have an opportunity to write the report on this by that time anyway, so we will be anxious to hear what you have to say and what your people think.

[The material referred to above appears in the appendix.]

Senator BIDEN. Mr. Smith, what do you think?

Mr. SMITH. Senator, I would like to point out, first of all, that NFPA, although oftentimes associated as an insurance organization, is not an insurance organization, and I think this question—

Senator BIDEN. By the way, just so you know, I am fully aware of that.

Mr. SMITH. Yes; I do not want you to think, and I do not think it is our place, to speak for the insurance industry. I think the question has a great deal to do with them, but I think we have problems with the practical standpoint and maybe the legal standpoint. I know that there have been frustrations with members of the fire service who have gotten some type of information indicating that a property was in trouble, and maybe very suspect as far as a fire occurrence in the future and the near future is concerned, and when you try to pass this information on to maybe the insurer, they say, "Well, what can we do?"

Now, this proposal would look like it would speak to that, but then we have the legal problem of trying to really figure out what demonstrative—how would we really legally define that word, and what would serve as evidence as far as this risk is concerned. We might end up making the problem just that much more difficult to try to prove, to do something about.

Senator BIDEN. I am not sure you are wrong. But my concern is that, as one who the insurance industry and the mortgage banking industry has not been particularly crazy about because of my view about redlining in the first instance, it goes back to that concern. I would hate to see this well-intended legislation used as an excuse to diminish the coverage or to diminish the prospect of providing mortgages in areas that do fall within the category that the legislation refers to. I am not maligning or suggesting that any particular insurance company or any particular mortgage banker would use this, or attempt to use this, as a loophole in the existing redlining legislation. But I am raising the question, and at a minimum, I feel very strongly that there will be legislative history attached to this legislation, putting the burden upon the insurer and the insurance commissioner in the State to indicate that it is not for any reason other than the concern as it relates to arson, whether or not there would be a matter of proof required.

I realize this is not the firefighters' concern, and I am not suggesting it should be; but it is the insurance companies' concern, and it is my concern as a U.S. Senator. Therefore, Mr. Jones, I would appreciate your bringing it up with your folks tomorrow, and get back to us as soon as you possibly can.

I have a question for you, Mr. Smith. I realize that the National Fire Protection Association is responsible for safety codes and standards and that the entire industry tends to follow the guidelines in your yearly manual. But what, if anything, has the National Fire Protection Association done concerning nonincendiary-related standards? Have you recommended minimum standards on training of insurance underwriters, or claims inspectors or investigators? Have you gotten into the standards business as it relates to the capabilities of those who are determining whether or not the objective standard you set relating to the incendiary capability of a particular dwelling is met. Do you understand my question?

Mr. SMITH. I think so. Senator, I think there are a number of areas that we could touch upon here in which NFPA has played quite a large part.

First of all, as you know, we do develop the national fire codes, which of course, the fact that we develop them has nothing to do with them becoming law; they have to be enacted at the local or State level. But certainly, if a property first of all meets the requirement of these national standards—

Senator BIDEN. But you see, that is the whole point. The question of whether or not they meet the requirement depends upon an individual making that judgment. And if the individual making the judgment either is not smart enough or is not trained to know whether or not the standard is met, then the standard is of little value.

Mr. SMITH. OK. Let me go on, if I could. With that as a background, we have the standards that do set some pretty good guidelines as far as building protection, structure protection, is concerned. We also, within the past few years, for the fire service have provided national professional qualification standards for members of the fire service. This, starts off with the firefighters, and in this particular interest that we have today, includes among others the fire inspectors, the fire investigator, the public fire education officer.

Now, it is our hope that these standards will be adopted at the State level—

Senator BIDEN. Are they written, compiled standards that are available?

Mr. SMITH. Yes, sir. These are performance standards, and these are being used in some jurisdictions now and at some State levels. Three States have been certified after a trial project here—

Senator BIDEN. This subcommittee would be very anxious and would appreciate very much if you would send us a copy for the record of those standards.

Mr. SMITH. We would be very happy to.

I think this is an important step. It leads to uniformity, it leads to many things.

Senator BIDEN. I could not agree with you more. You have done quite a job in my State; and as you know, the backbone of fire protection in my State, more than, I think, any other State in the Union, is the volunteer firemen, which sounds unusual to people in larger States. But with the exception of one municipality (which has 85,000 people, and are contesting whether or not they have that many under the census), there is not any place else in the State that is anything other than volunteer, totally volunteer. They are outstanding firefighters and your outfit has been very, very helpful in contributing to that quality.

At any rate, I have a number of other questions. What I am going to do is ask if you could give us your opinion and answer these questions in writing as soon as you can, to help us move this along.

Mr. SMITH. I would be happy to.

[The questions referred to above and responses of Mr. Smith appear in the appendix.]

Senator BIDEN. Thank you, gentlemen. I appreciate your time.

Mr. JONES. Senator, I have a request. I have a statement here from the American Insurance Association, as well as the National Associa-

tion of Independent Insurers that I would request be put in the hearing record. It includes some technical information, but the statements are on top.

Senator BIDEN. All right, fine. I keep getting letters from taxpayers, telling me how much it costs to print each page, and how much that typist down there collects through her organization, so I have decided to be a good conservative and try to limit how much we spend on that.

So, we will print the statement, but we will probably not print all the other material.

Mr. JONES. I understand, and I agree with your position.

Thank you, Senator.

Senator BIDEN. Thank you.

[The material referred to above appears in the appendix.]

[The prepared statements of Messrs. Smith and Jones follow:]

#### PREPARED STATEMENT OF ROBERT B. SMITH

Mr. Chairman, my name is Robert B. Smith, I am Director of Government Affairs for the National Fire Protection Association (NFPA). I am here today representing both the National Fire Protection Association and also a particular Section of the NFPA, the Fire Marshals Association of North America, as I also serve as this organizations Executive Secretary.

Very briefly, in the way of background, may I indicate that the National Fire Protection Association, organized in 1896 as a non-profit voluntary membership organization, has grown to become the primary public advocate for fire safety. The Fire Marshals Association of North America membership represents those fire officials serving at the state, county, and municipal level charged with the responsibility for fire cause determination.

In April of 1979, both the National Fire Protection Association and the Fire Marshals Association of North America testified before the Senate Subcommittee on Intergovernmental Relations, Committee on Governmental Affairs, regarding the then proposed provisions of S. 252. Both organizations expressed their support for this bill, and at that time, discussed suggested changes to the bill in order to enhance its effectiveness. This position of support continues and we are pleased to note that our suggestions of April 1979 have been generally included in the Committee Print of October 10, 1979, made available to us for comments at this hearing.

While expressing a position of strong support for S. 252, we do desire to make the following comments:

The fire service has the sole responsibility for initial fire cause determination. We desire to emphasize this very basic fact as it relates to provisions of the bill concerning establishment of future Subcommittees where we feel it is extremely important to have appropriate representation by experienced and qualified fire investigation representatives.

While emphasizing our support of the authorization and direction given by this bill to both the Federal Bureau of Investigation and the United States Fire Administration, we have concerns that without the authorization of funds to be appropriated to these agencies for these important mandated activities, a fulfillment of the intent of the bill may be lost through the recognized present pressures placed upon the Federal budget.

We applaud the general thrust of this proposed bill which emphasizes the very practical and cost-effective need within government for coordination of effort in the field of arson control, and the much needed common sense approach of providing Federal Government support and assistance to existing state and local agencies already having mandated arson control responsibilities. This approach to the national arson problem, it is our belief, will greatly assist in the reduction of this crime.

In closing, the National Fire Protection Association and the Fire Marshals Association of North America would like to recognize Senator Glenn for his continuing concerns and supportive efforts in the field of arson control and we offer both our support and any assistance that we may provide to this subcommittee in its deliberations on this bill.

## PREPARED STATEMENT OF JAMES E. JONES, JR.

My name is James E. Jones, Jr. I am a governmental affairs representative of the Alliance of American Insurers, a major association of property and casualty insurance companies. Our member companies provide both personal and commercial lines of insurance protection in all 50 states and the District of Columbia. We appreciate the opportunity to appear before the Subcommittee, in order to comment, and urge strong support for S. 252, the Anti-Arson Act of 1979.

The Alliance of American Insurers, along with its member companies, has been in the thick of the fight in attempting to control the malignant crime of arson. The Alliance and the Property Loss Research Bureau (PLRB), have been actively involved in studying the scope of arson, its causes and effects and the development of strategies and resources to help control the deadly consequences of arson and arson for profit.

Arson has been identified as a killer, a crime of vengeance and also a crime of thrillseeking and grief, as well as a crime for profit. Each year, deliberately-set fires cost in the neighborhood of \$1.5 to \$2 billion in direct property loss damage alone. Law enforcement departments, fire services and insurance officials all agree that it is a burgeoning problem, but it is difficult to accurately assess its broad economic impact and its demoralizing effect on people, businesses and communities.

While arson apparently is increasing, it is difficult to pinpoint total losses and to collect meaningful, supportable data. The financial impact of arson is two-fold: direct cost (structures and content) and indirect cost (loss of jobs, taxes, etc.). In the United States, destructive fire take more lives, injure more people and destroy more property per capita than anywhere else in the industrialized world, and arson fires are responsible for an increasingly significant portion of that total. The United States Fire Administration (USFA) estimates that total direct and indirect property losses from fire exceed \$15 billion a year.

The Alliance supports Senate bill 252, which would classify arson as a Part I crime—permanently—and establish a federal interagency committee to control arson and to help coordinate federal and local anti-arson programs.

As you well know, Mr. Chairman, Senator John Glenn introduced S. 252 during the first session of the 96th Congress. S. 252 is a revision of S. 1882, the Arson Control Assistance Act of 1977, introduced during the first session of the 95th Congress.

We feel very much a part of S. 252 for we have worked with Senator Glenn and his staff in an effort to enact effective legislation to help control the crime of arson. The Alliance and the other major segments of the insurance industry are not a "Johnny-Come-Lately" in the fight against arson crimes. (See Appendix)

Arson presently is classified as a Part I crime under the Uniform Crime Reports (UCR) compiled by the Federal Bureau of Investigation (FBI) on a temporary year-to-year authority. The present requirement for the FBI to list arson as a Part I crime in their Uniform Crime Reports expires September 30, 1980.

## THE IMPORTANCE OF PERMANENTLY CLASSIFYING ARSON AS A PART I OFFENSE

The recognized source of statistics for all crimes in the United States is the Uniform Crime Reports (UCR) compiled by the Federal Bureau of Investigation. Crime fighting efforts and priorities of states and municipalities are based on statistics aggregated in these federal reports, which rank all crimes into two categories—Part I and Part II offenses. Under this classification system, the most serious offenses are those crimes which receive the greater amount of the law enforcement agencies' attention. The crimes classified as Part I include the following: criminal homicide, forceable rape, robbery, aggravated assault, burglary (breaking and entering), larceny-death, motor vehicle theft and arson on a year-to-year basis.

Arson prior to being classified as a Part I crime was treated as a Part II crime, along with such miscellaneous offenses as disorderly conduct, loitering and curfew violations, counterfeiting, vandalism, gambling and drunkenness. If an individual steals a bicycle, he is guilty of committing a Part I crime. However, if that same person schemes to torch a skyscraper for profit which causes substantial economic loss and destruction, he would, if apprehended, only be guilty of committing a minor Part II offense. This was the situation for arson crime when classified as a Part II offense!

At present, the only information currently reported to the FBI by municipalities for Part II offenses, is for the number of arrests. The statistics compiled for Part I offenses, however, include volume, trend, rate, clearances, persons arrested, persons charged and the nature of the respective offense. These are the essential statistics reported to the FBI by local police agencies. This information reported for arson as a Part I crime places it in its proper perspective relative to the other major (Part I) crimes.

In our opinion, the immediate significance of arson being classified as a Part I crime is to generate pressure on police departments to become more directly concerned with the arson problem. Arson being designated as a Part I offense, on a permanent basis, would enable law enforcement agencies to rationally revise program priorities leading to a relocation of resources to deal with arson relative to other major Part I crimes.

The classification of arson as a Part I crime, in our opinion, assists in resolving the jurisdictional dispute which arises between fire and police departments nationwide. The lack of essential coordination and joint assistance that often occurs between police and fire departments is evidenced in many communities throughout the nation. Changing arson to a Part I major crime permanently would provide a critical pressure point on local municipalities to coordinate the work of fire and police departments.

It is important to note that law enforcement officials contend they consider Part I and Part II crimes with equal seriousness. The difference being, as stated previously, that statistics compiled for Part I offenses include data on volume, trend, rate, clearances, persons arrested, persons charged and the nature of the offense by territory. These types of statistics are extremely valuable in coping with the arson problem especially from an enforcement standpoint.

We are confident that if arson were permanently classified as a Part I offense that:

1. The increased factual reporting about arson would exert an important influence on the public, legislators, prosecutors, judges and the insuring industry to develop more attention and resources to combat the seriousness and high cost of arson.
2. Police and fire authorities would become more aware of arson and more involved in coping with its unchecked and cancerous growth. This would promote cooperation and answer questions of jurisdictional responsibility, encouraging better relations among fire departments, police departments, private industry and others.
3. Permanent classification of arson also could encourage the Federal government to develop and support anti-arson programs to a greater degree.

#### UNDERWRITING PROBLEMS

Section 7 of this bill, entitled the Federal Insurance Administration, helps to correct a problem concerning underwriting restrictions placed on insurers in attempting to obtain necessary information on FAIR Plan insurance applications (as a consequence of existing laws, i.e. Unfair Claims Practices Act, Valued Policy Laws, Privacy Act of 1974, Freedom of Information Act and the use of Blind Trusts).

In a recent report "Arson-for-Profit: More Could Be Done to Reduce It" (5/31/78) the General Accounting Office (GAO) discusses the extent to which the Federal Riot Reinsurance Program, which is administered through the Federal Insurance Administration (FIA), actually provides incentives for arson-related insurance fraud. In that report, GAO concluded that arson is and has now reached epidemic proportions in some urban areas. It is increasing at a rate that could exceed 25 percent annually, while the total number of arson losses is now equal to or greater than the total number of burglary and auto theft losses! In particular, the GAO Report found:

Certain Fair Access to Insurance Requirement Plans (FAIR) are overinsuring some properties, creating incentives for arson-for-profit. In such cases, insurance is provided at inflated market values or at values in excess of property value based on replacement costs.

FAIR Plan managers believe they need greater underwriting authority from the Federal Insurance Administration to deny or limit insurance coverage to high risk property owners. The Federal Insurance Administration (FIA) oversees these plans (i.e. underwriting criteria/procedures) through its review of eligibility for federal riot reinsurance.

Although there are certainly valid reasons for refusing coverage altogether, almost every FAIR Plan is providing such insurance when requested.

The above findings, in part, are due to restrictions placed upon the FAIR Plans by the FIA and state insurance departments.

According to GAO, "FAIR Plan officials believe that the character and attitude of the (potential) insured be considered in the Plan's determination to grant coverage. Such information could include the owners' history of fires, their personal or business financial condition, tax arrearages and other (possible) moral hazard factors."

Section 7 of S. 252 helps to correct the above criticism.

#### INTERAGENCY COMMITTEE ON ARSON CONTROL

In our opinion, an interagency committee on arson control to coordinate federal anti-arson programs is very much needed. We support Section 2 entitled "Interagency Committee on Arson Control." When organizations or people are not organized together on common goals or objectives, they tend to work at cross purposes with each other—each going off in their own separate direction accomplishing very little. However, when the direction is organized, and objectives coordinated, greater results are accomplished.

We agree there is an effective role to be played by the following federal agencies in controlling arson: Office of the Attorney General; Postmaster General; United States Fire Administration; Internal Revenue Service; Law Enforcement Assistance Administration; Federal Bureau of Investigation; Secretary of the Treasury; Bureau of Alcohol, Tobacco and Firearms; and Federal Insurance Administration.

It is imperative, in our opinion, that the above agencies develop and implement a comprehensive and coordinated federal strategy and methodology for improving assistance to state and local governments for the prevention, detection and control of arson. It appears only logical that these federal agencies would perform the following functions: (1) Coordinate anti-arson training and education programs established within the federal government; (2) Coordinate federal grants to state and local governments; (3) Coordinate federal research and development relating to arson; and (4) Gather and compile statistical data.

#### CONCLUSION

Permanent classification of arson as a Part I offense will provide information presently being sought on the incidence of arson. It will enable the criminal justice system to place arson in its proper perspective and assist in measuring the extent, distribution and impact of arson. It will provide the means for accurate and timely nationwide identification and analysis of arson problems, assist in resetting priorities on a real world basis to reflect the true impact of arson crime upon society and the economy at large, develop solutions and enable the progress of arson control programs undertaken by law enforcement, fire services and insurance industry personnel to be effectively monitored.

We believe that the insurance industry is united in a major effort to prevent, identify and prosecute persons committing arson crimes.

The Alliance of American Insurers recommends that this subcommittee vote S. 252 out as soon as possible with recommendations to the full Judiciary Committee to take immediate action to move this legislation in order that the Senate may act during this session.

We appreciate having the opportunity of presenting our views in support of this bill.

We would be pleased to answer questions. Thank you.  
Attachment.

#### INSURANCE INDUSTRY ATTACKS ARSON PROBLEM

For many years, the property and casualty insurance industry has been well known for its collective and individual company efforts for loss control in all areas, including the crime of arson. However, in recent years the growth of arson has accelerated. Responding to this alarming trend, the insurance industry early in 1978 undertook development of a new attack on the problem: a broad, long-range program to control the malignant crime of arson.



This accelerated effort included nearly 40 separate recommendations by the industry for action, compiled in a document entitled "Target : Arson." One recommendation from that report was the organization of the Insurance Committee for Arson Control. The Committee, formed in late 1978, is composed of the property-casualty insurance industry's major trade associations, plus unified insurance companies. The main function of the committee is to coordinate the insurance industry's effort to combat arson. It serves as a catalyst for arson control efforts by the industry and others and as a liaison with government agencies and state and local groups.

The Committee's broad plan of action includes: Working with trade associations to strengthen state legislation affecting arson control; Stimulating the development and support of local and state task forces; Increasing public awareness of the arson problem and practical solutions; Developing education and training programs; Examining and improving industry proceedings related to arson; and Improving the collection of informational data regarding arson.

The major activities of the Insurance Committee for Arson Control are carried out through subcommittees and through the trade associations and individual companies which are members of the committee. In its first year of operation, the committee moved forward in a number of important areas such as supporting vital arson control legislation, expanding public relations efforts, assisting in the forming of community task forces and undertaking new efforts to collect information about arson fires and losses.

#### BETTER ARSON INFORMATION

The insurance industry has undertaken new efforts to collect information about arson fires and losses. The industry has taken steps to code and report arson losses for a statistical purpose through the property claims service of the American Insurance Association. Through the Property Insurance Loss Register (PILR), the industry for the first time will have a computerized register of property loss history. This information will be vital in helping to determine whether further investigation is necessary in the case of any given loss. The data is vital to the insurance industry, giving them the new tools they need to control arson losses. The PILR system is expected to help law enforcement officials locate the adjuster handling a claim.

Subscribers to the Property Insurance Loss Register include over 400 insurance companies representing approximately 90 percent of the United States property insurance premiums.

#### ALL-INDUSTRY RESEARCH ADVISORY COUNCIL (AIRAC)

Through the All-Industry Research Advisory Council (AIRAC), research efforts are beginning in other areas. Work is starting on a profile of the arsonist to identify the arsonist and how he works. This information, plus that from early warning systems such as is now in place in New Haven, Connecticut, will begin to help prevent arson fires. The AIRAC arson committee also is researching the impact of federal and state laws on arson control, including punitive damage action and reporting immunity statutes.

#### INTERNAL EFFORTS

The property and casualty insurance industry is taking a hard look at itself and what it must do. New educational and training programs on arson detection are being developed for agents and salespeople, underwriters and claims personnel. These programs will focus on identification of arson or arson-prone situations, preservation of evidence, prosecution techniques and internal company procedures. An important section of this training includes procedures for coordinating efforts among the governmental agencies and private organizations. The industry has also been cooperating with defense attorneys and prosecuting attorneys in the development of training programs within these special areas.

Through a newly formed underwriting subcommittee, the Insurance Committee for Arson Control will be looking for the key indicators of potential arson: over-insurance, duplicated policies and records of previous losses, trying to identify characteristics of a property which indicate high risk of arson and how to exercise special care in reviewing these properties.

1. *Insurance Crime Prevention Institute (ICPI)*, Westport, Connecticut. Their primary job is to investigate and seek prosecution of fraud in connection with property and casualty insurance claims including arson. The Insurance Crime Prevention Institute is a nationwide organization supported by 350 property-casualty insurance carriers writing the majority of the property and casualty insurance written in the United States. ICPI's thrust is to stop fraud on insureds by investigating a wide range of crimes, including, but not limited to: arson fraud, larceny, obtaining money by false pretenses, forgery, perjury, false swearing, subordination, using the mails to defraud and ambulance chasing. Arrests resulting from ICPI investigations:

Casualty fraud:	Property fraud
1978: 619-----	339
1979: 798-----	391

The conviction rate of ICPI's prepared cases is 94 percent.

2. *Insurance Claims Service, Inc.*, Chicago, Illinois. Their primary objective is to determine cause and origin of loss and to collect the necessary evidence for insurance companies' use in defending "fraudulent claims" in civil actions. ICS special agents investigate individual fire scenes in order to develop evidence of arson. The Insurance Claims Services special agents handle approximately 24 cases per year. ICS has a current membership of 37 companies, and anticipates a membership of 100 by the end of the current calendar year.

3. *INS Investigations Bureau, Inc.*, New York, New York. Their objectives are, we believe, identical to those of Insurance Claims Services. They have offices in the East, Southeast, Midwest and along the Pacific coast.

4. *National Automobile Theft Bureau (NATB)*, Palos Hills, Illinois. NATB is a crime prevention organization supported by more than 500 property/casualty insurance companies to provide assistance to law enforcement agencies, insurers and the public. NATB's objective is to prevent and reduce theft and fire losses arising from ownership or use of automobiles. The Bureau assembles and disseminates reports on stolen automobiles and assists duly constituted authorities in their identification and recovery.

5. *Property Insurance Loss Register (PILR)*, Rahway, New Jersey. PILR is a computerized register of fire losses of \$500 or more which have occurred within the previous five years. Currently, 420 insurance companies which write 90 percent of the nation's fire insurance premiums are subscribers to the PILR system.

Basically, when a user files a report, the register searches its data bank to obtain the loss histories of all individuals and/or properties involved in the loss in question. If the system finds a match, the user receives other reported claims and information which bears similarities to the claim under investigation, thus establishing a possible pattern of fraud.

We have been told that a total of 466 combination of searches can be made and that the various searches have been given individual weights. When the total weights exceed a certain threshold, output will be produced. PILR is under the aegis of the American Insurance Association.

6. *Property Loss Research Bureau*, Chicago, Illinois. Their principal activity is to discourage fraud, especially arson fraud. The incidence of arson is reaching an all-time high and is believed to be growing, by some estimates, at a rate of 20 percent or more per year.

To accomplish this objective, PLRB personnel, experts in the detection and investigation of arson fraud, participate in many arson seminars sponsored by various fire marshals and educational institutions nationwide.

They also join in the PLRB loss managers conference and conduct arson seminars regularly for member companies and independent adjusters. Fire and police service representatives are frequently invited to attend these seminars. Additionally, PLRB arson experts are invited by universities and colleges to lecture on courses in arson detection and investigation. PLRB contributes materials, principally through the International Association of Arson Investigators, for use by the fire services in training personnel to investigate incendiary fires.

PLRB personnel also have been extensively involved in preparing the insurance industry's model legislation to reduce arson. The model arson penal bill is intended to revise inadequate and possibly antiquated state penal provisions pertaining to arson. The industry's model arson-reporting immunity statute is intended to facilitate cooperation between the property and casualty insurance

industry and law enforcement authorities in reporting and investigating incendiary fires and subsequent prosecutions. In conjunction with these activities, PLRB arson experts attend state arson advisory committee meetings to bring together law enforcement agencies, fire services, prosecutors' officers and the insurance industry to exert the cooperative efforts necessary to achieve success in the control and suppression of arson.

#### INSURANCE INDUSTRY ARSON RESOURCES (PARTIAL LISTING)

##### *Insurance Committee for Arson Control*

The committee publishes a national directory, "Arson Control: How and Why, Who, What, Where" which is available for \$25. This directory contains information on arson task forces, generally background on national organizations, a state-by-state directory of arson control organizations, sample speech texts, and a copy of "Target: Arson." This directory is updated regularly.

##### *Aetna Life & Casualty*

Aetna's Community Arson Awareness Program (CAAP) is a five piece anti-arson kit designed for use by community groups and other organizations concerned with safeguarding their neighborhoods.

Aetna also distributes a 15-minute film, "Winning the War on Arson," which highlights the Seattle Arson Task Force and New Haven's Early Warning System.

##### *Alliance of American Insurers*

The Alliance has assembled an Arson Information Kit, consisting of various educational materials on arson, copies of the Model Arson Penal Law and the Model Arson Reporting Immunity Law, and guidelines on how to establish an arson award program and an arson task force.

##### *Allstate Insurance Company*

Allstate has published a community action guide, "Put the Heat on the Arsonist," which offers details on organizing a community anti-arson program. Allstate will provide community programs with pamphlets, fact sheets, posters, and a slide presentation for speakers. Allstate can also arrange a loan of Fire Information Field Investigation (FIFI) training kits for fire departments.

##### *Factory Mutual System*

The Factory Mutual System publishes a pocket guide to arson investigation which includes information on the various stages of an alarm.

##### *Foremost Insurance Company*

Foremost Insurance Company's "Fire Hurts" program includes brochures and related information regarding mobile home arson.

##### *Insurance Crime Prevention Institute*

ICPI has available "Anatomy of an Arson," a training film on the cause and origin of set fires.

##### *Industrial Insurance Company*

IRI publishes a pamphlet, "Arson Alert," which discusses how to protect property against arson.

##### *Hartford Insurance Company*

The Hartford has developed an arson news media kit for the U.S. Fire Administration to be used by local and state arson task forces.

##### *Professional Insurance Agents*

The Professional Insurance Agents publish an arson awareness program, "Be Concerned \* \* \*, Don't Get Burned," which includes public service announcements, booklets, posters and speeches.

##### *State Farm Fire and Casualty Company*

State Farm has produced three anti-arson booklets; "Touched Off by Human Hands" for firefighters, "The Iceberg Crime" for police officers, and "Verdict: Guilty of Burning" for prosecutors.

##### *National Automobile Theft Bureau*

The NATB has a "Manual for Investigating Auto Fires" and a slide training film available for insurance adjusters and law enforcement officers.

Senator BIDEN. Our next panel is made up of Richard Strother, who is our first witness representing the Administration. He is the Associate Administrator of the U.S. Fire Administration, Federal Emergency Management Agency, and is Chairman of the Federal Emergency Management Agency Arson Task Force. He is responsible for coordinating all Federal arson prevention control activities. Prior to joining the U.S. Fire Administration, Mr. Strother was a senior partner in an educational and architectural planning firm in Massachusetts and taught at the Harvard Graduate School of Education.

As Associate Administrator, he is responsible for a broad range of research development assistance programs and is the author of "Report to Congress: The Federal Role in Arson Prevention Control." He will testify about the Federal role.

Our second witness is Mr. Paul Zolbe. He is the section chief for the uniform crime reporting programs of the Federal Bureau of Investigation. He entered on duty with the Federal Bureau of Investigation in 1965; in 1972, he was transferred to the Federal Bureau of Investigation headquarters, where he assumed his duties with the uniform crime reporting program. In 1976, he became section chief, with the responsibility for the overall management of the uniform crime reporting. He holds graduate and undergraduate degrees from several universities and has previously testified on the issues of classifying arson as a part I crime in the uniform crime report. He is with us today to discuss crime reporting.

Gentlemen, welcome, and try, if you would, to keep to the 8-minute unofficial rule. We will start with Mr. Strother.

#### **PANEL OF FEDERAL EXPERTS:**

#### **STATEMENTS OF RICHARD STROTHER, ASSOCIATE ADMINISTRATOR, U.S. FIRE ADMINISTRATION, FEDERAL EMERGENCY MANAGEMENT AGENCY, AND PAUL ZOLBE, SECTION CHIEF, UNIFORM CRIME REPORTING PROGRAMS, FBI**

Mr. STROTHER. Senator, it is a privilege to appear before you to testify on behalf of the administration on S. 252, related to coordination of arson prevention and control activities, particularly at the Federal level.

The charts on either side reinforce the statistics that you have read and that have been expressed by others, on the seriousness of the crime, particularly the amount of devastation that has been done to the Nation by arson.

In your State, we looked into our Arson Resource Center, and found that the statistics there showed that over 16,000 fires occurred in Delaware, approximately 483 of those were incendiary, with a loss of more than \$6 million in 1979. And, interestingly enough, as you peruse through the statistics, only 51 convictions were obtained from all those fires. So arson is a serious problem, particularly in your State.

We have worked closely with Lou Amabili, who you mentioned earlier, and the Delaware State Fire School. We have recently completed an "Arson Guide for Volunteer Fire Departments."

I think what we are seeing on the Federal level, and the insurance companies' figures back this up, is that increasingly arson is becoming popular in the suburbs and in rural areas. That is an area that

often is overlooked in some of our arson prevention and control activities.

The Federal Government in the "Report to Congress: The Federal Role in Arson Prevention and Control" has taken the issue of coordination as the important element related to stopping arson. The arson task force concept, whether at the Federal, State, or local level is essential to stopping arson.

Over the past year, there have been a number of coordination activities at the Federal level, between the Law Enforcement Assistance Administration, the Federal Bureau of Investigation, the Department of Alcohol, Tobacco and Firearms, in the Internal Revenue Service, and the U.S. Postal Service. Two operations, Operation Emerald, which took place in New York State, and Operation Takoma, which took place in Seattle, both broke up large arson rings due to coordination and cooperation among these prosecution agencies.

The Federal Insurance Administration has been working closely with the National Association of Insurance Commissioners, and with the U.S. Fire Administration to revise their procedures to take the economic incentives out of arson and to restrict the opportunities for the arsonist. FIA has been particularly successful in Massachusetts. Arson was running approximately 40 percent of all payments in the Massachusetts FAIR plan, and when they got tough on the arsonists, the arsonists left for other markets. Massachusetts has reduced the arson percentage 10 to 15 percent.

In the overall arson prevention and control effort, the removal of economic incentives to arson falls under the responsibility of the Department of Housing and Urban Development, ACTION, and other community and housing-oriented programs.

In line with that, I think one of the things we are beginning to see is that due to congressional leadership and the focus that has been at the Federal level, the interest in preventing and controlling arson is increasing. For example, this year the American Bar Association, the young lawyer's division, had arson as a key element at their national conference. Two other sections of the ABA which had been marginally interested in the issue have adopted arson as a major area of concern. The preservation groups, the Conservancy Group, the National Trust, are becoming interested in preventing and controlling arson. And again, HUD is just beginning in these areas, but we are starting to see the concern move out, largely in response to the interest and the pressure which was exerted several years ago. We know with LEAA funding being cut, that that leadership potential is not going to be maintained, and the other agencies are going to have to pick up and move into that area to make sure that that impetus continues.

Senator BIDEN. Will the Fire Administration do that?

Mr. STROTHER. With the resources we have available, we will. We have been, with LEAA, very successful in providing that leadership.

We know the Department of Housing and Urban Development, through their community development block grants, has made available moneys through their \$4 billion program going to over 500 cities, to use those funds for antiarson efforts. These are discretionary funds, and they are given as block grants, but HUD has modified the regulations so that these funds can be used for antiarson activities, and this is the result of an interagency activity that occurred—

Senator BIDEN. How much evidence is there that they have opted to do that?

Mr. STROTHER. We tried to look at that, and HUD was unable to give me specific examples in the time available when I asked them. HUD has on file some documents indicating that communities plan to do arson activities under the CDBG moneys, but I don't have those figures for you. It is certainly something we can try to get.

Senator BIDEN. I would appreciate it later. I know you will not be able to get those in time, but to be blunt with you, I would be surprised if arson efforts took even 2 percent of those moneys. In terms of priorities in which the communities are going to allocate those dollars, I would be dumfounded if they made any real effort in the arson area.

Anyway, I would appreciate those numbers.

Senator BIDEN. I am not questioning your motivation, but let us be realistic. Isn't the fact of the matter that you do not have the resources available, so that area, if they do not come to a screeching halt, is certainly going to slow down precipitously. Wouldn't you say that?

Mr. STROTHER. One could not quarrel with that argument.

Senator BIDEN. So, we agree that there are really essentially two ways to deal with arson for profit; one is to be very highhanded, as I alluded to earlier, and say, "You had better rebuild the same structure, or you do not get your money," which has a lot of problems, I acknowledge; or the other is to focus attention and coordinate efforts. I find in my limited experience of 8 years as a U.S. Senator and 2 years as a local official that "coordinating effort" translates into one word: money. States do not seem to be really interested in coordinating anything unless there is money attached to the coordination of that. And we have just said that we have not got any money, because the only outfit that was really coming up with any real dollars was LEAA, and you are absolutely right, that is basically altered.

The next thing left is attention, drawing public attention to this. And I am obviously leading you into a boxed canyon, I hope. As a practical matter, the only thing left to do is to continue to highlight it and to give whatever tools, as difficult as they may be, to the agencies. And having said all that, I do not understand why you are against the bill.

As I look out there as a realistic, hard-baked politician, what else is there that is going to be done to focus this? I mean, if this bill does not pass, if this bill does not go forward, there is nothing else, really, on the agenda in the Congress, there is nothing else coming forward, you do not have any money, and with the exception of dedicated people like yourself who know the area and know the business, its focus is going to disappear. You know, when you do not have any money, you are not going to find the States as anxious to talk to you. So why don't you support this bill?

Mr. STROTHER. I think that we agree that we have a need for leadership and for coordination. I know the President has requested that a special report be prepared for him within the month on what results have been achieved from the existing programs. I know last spring a national arson strategy was declared and arson, along with drugs from Southwest Asia, were declared as the two crime issues.

Senator BIDEN. I want to make it clear that the fact that I chair both those subcommittees and still support the President are not the

only reason why they have been declared the two issues; there are substantive reasons for that.

Mr. STROTHER. The administration believes that the existing authority, the existing legislation, and the coordination and cooperation that is occurring at this time under that existing authority is enough and opposes Senator Glenn's bill on the grounds that that existing authority is adequate at this time.

Senator BIDEN. I am putting you in a tough spot. If I said to you—and this is back to playing lawyer for a minute—"We are going in the courtroom in 3 minutes, and I have to sum up to the jury. I have one best shot." Give me your single strongest argument why not. What is the real reason? What is the single strongest argument you have against this legislation?

Mr. STROTHER. That the existing legislation and authority is adequate to achieve coordination.

Senator BIDEN. I see.

Mr. STROTHER. Senator, on the other part of your question about the history of replacement costs, the representative from the Federal Insurance Administration mentioned that back in the Depression, there was a form that was attached to farm insurance policies, called the "farm form," and in that form, if you did not rebuild your barn on the site on which it was burned, even if you wanted to move it to the back 40 acres, there was an amount of money that was taken off the insurance you collected as a disincentive to arson. He also told me that Pete Hudson, who was the past president of the National Association of Insurance Commissioners and currently, the Indiana insurance commissioner, has worked with the FAIR plan in that State so that there is a provision similar to the one that you are considering in the FAIR plan where actual cash value is given if you rebuild on site and only market value is given if you take the money and go away.

I am also aware—though not being an attorney and not being really in this area myself—that there are some legal restrictions on what the contract between the insurer and the insured is, and what the insurer can require of the insured in terms of what the insured does with the money once he gets it.

Senator BIDEN. I am sure that is probably true. But tell me about the barn experience again. Has it worked, have barn burnings diminished?

Mr. STROTHER. Apparently, it worked back in the depression enough so that it was adopted as a general policy in the depression when there were a lot of barn burnings, that if you relocated the barn, you had less insurance.

Senator BIDEN. That is helpful to us. We will pursue that.

Mr. STROTHER. Senator, I have some comments on your bill that the agencies have provided for me, and I would be glad to share them with you or provide them to staff, as you prefer.

Senator BIDEN. I do not want to cut you off, but I think it would be useful, because you are available and you have been so cooperative, if your staff and mine sat down and went into detail of the provisions of the bill that present the most problems. I think we are fairly well aware of what most of them are, and you have indicated them in your testimony. Unless there is a broad policy statement you would like to make, I would like to move on, if that is all right.

But again, we will not move forward and make this up until we physically sit down with you on that.

Mr. STROTHER. Fine.

Senator BIDEN. Now, let us hear from the FBI.

Mr. ZOLBE. Senator, with your permission, I would like to read our statement, insofar as it is relatively short.

Senator BIDEN. Fine.

Mr. ZOLBE. I welcome this opportunity to appear before your subcommittee to explain the FBI's position on Senate bill 252 relative to the uniform crime reporting program.

One segment of the legislation deals with reclassification of the offense of arson from the part I category in the UCR program to the crime index category.

As the subcommittee may be aware, amendments to the Department of Justice authorization bills, during the most recent fiscal years, mandated the UCR program to reclassify arson. The initial effort in this regard occurred in October 1978, and the FBI immediately embarked on a research program to fulfill the mandate of collecting arson statistics from the law enforcement community under the aegis of the Crime Index.

Arson offense information was solicited from the UCR constituency beginning in May 1979. Because this was a seminal data collection effort and dealt with a crime not totally familiar to all law enforcement agencies, the information received during 1979 may not prove as valuable as we would wish. Our efforts in arson data collection continue, and it is hoped, within a few years, the level of accuracy and validity of the information provided by law enforcement will be of value in analyzing this serious crime.

Senator BIDEN. I apologize for doing this to you. There is another vote on right now. Let me go vote, and you can complete your statement when I come back.

[A short recess was taken.]

Senator BIDEN. Please continue, Mr. Zolbe. I apologize.

Mr. ZOLBE. I initially mentioned, Senator, that by virtue of amendments placed upon the Department of Justice authorization bills, we embarked upon a program to collect arson data.

The data collection methodology, the cooperative spirit between the law enforcement community, and the fire services community, and the necessary liaison among the various Federal agencies with an interest in the arson problem are now in place. With the passage of this legislation, the crime of arson will assume a permanent place in the Crime Index.

Because of the uniqueness of arson crimes, the UCR program continues to have concern over the propriety of arson as a part of the Crime Index. However, with the full cooperation of the fire services and law enforcement throughout the Nation, information on the crime of arson will enjoy the same level of credibility as that of other crimes which have historically comprised the Crime Index.

We have, over the last few years, appeared before various congressional committees regarding this particular legislation. In each of those appearances, it was suggested that consideration be given to developing a study on the crime of arson which the administration has opposed.



Precedent, within the UCR effort, exists in the form of other special studies—"Law Enforcement Officers Killed," "Bomb Summary," and "Assaults on Federal Officers." These special purpose publications were initiated in response to identifiable but unique problems in the criminal statistics area which could not be efficiently addressed by the basic UCR program.

The legislation in question today calls for just such a special study to be conducted by the FBI. While the UCR program has, thus far, been able to absorb the expenditure of resources necessary to collect limited arson data within the Crime Index, necessary resources do not exist for handling a special study.

The present collection of arson data is handled through an already established network of law enforcement agencies. To conduct a special study on the crime of arson would logically necessitate going well beyond the law enforcement aspect of this crime and would require additional resources to mount what is considered to be, by the UCR staff, an ambitious undertaking.

Later this month, the annual publication, "Crime in the United States," will be issued. This will be the first year that arson data, of a very limited nature, will appear. There are serious questions as to the significance of the information we have collected in 1979 in this initial effort. We wish to assure this subcommittee, however, that our concerted efforts will continue in order that we may enhance our data collection techniques. It is anticipated that within the foreseeable future, the Crime Index, which will include the crime of arson, can provide useful information to all of those with an interest in the Nation's crime problem.

Senator BIDEN. Thank you very much. Let me ask you two questions, but before I do, I want to understand the basic premise upon which your position rests.

The first thing you say to us is that the present compilation techniques do not give us a very accurate picture of the degree to which arson is a threat or the extent to which the crime is committed. It is not a very accurate measure now, is it?

Mr. ZOLBE. At this point in time, no, sir.

Senator BIDEN. And, as I understand the second point, absent this legislation, you are upgrading and updating or altering your techniques for gathering information which you hope will change that situation so that you will begin to get accurate, detailed information.

Mr. ZOLBE. Well, that will come with time. Time is, of course, our enemy at this point. We began collecting arson data from law enforcement through the cooperation of the fire services in 1979. In 1979, 8,528 law enforcement agencies provided us with in excess of 6 months of data, which is not a full year experience. We have total contributors in UCR well over 15,000. However, the 8,500 that have given us at least a partial year's data represent 61 percent of the American population. So that data is totally incomplete, and we are only publishing it to indicate—

Senator BIDEN. What is likely to change, though, as time passes, that is going to make that better?

Mr. ZOLBE. Well, we are firmly convinced that law enforcement in the fire service community will foster a cooperative spirit, that we

will get better information as time goes on, because they share the responsibility in many areas.

Senator BIDEN. But in light of the fact that the States indicated they needed financial help through LEAA money in order to enter into this cooperative spirit, and they are not going to get that money, I wonder whether it is more a false hope than a substantive prospect that this cooperation is going to come.

Mr. ZOLBE. Senator, you make an excellent point. At the very outset of our appearance before a subcommittee such as this, discussing the arson issue, we at that time suggested that rather than put arson into the Crime Index and in fact impact on an already existing statistical series, that we address the issue through a special study. This would determine the nature, extent and seriousness of arson, such as in the special programs that I spoke of in our testimony today—"Law Enforcement Officers Killed," "Bomb Summary," et cetera. The result, of course, we both know, was that the amendment to the DOJ authorization bill made arson a part of the Crime Index. We were left with no other avenue than to proceed in that vein to collect the statistics.

Senator BIDEN. I am not being critical of what you have done thus far. I am trying to pursue how we go from here realistically.

There is not really any argument at the Bureau that arson is a "biggie", is there? I mean, there is no one sitting down there and saying, "Well, arson really is in the category of"—I cannot even think of something—but in the category of something minor. I mean, it is considered a class A operation, big money, big dollars, big losses, big crime.

Mr. ZOLBE. Yes, sir. And we have become involved in many other areas rather than just collecting statistics, as I am sure you are aware.

Senator BIDEN. Yes. And in light of the fact that, because of the work of both you witnesses and others who have testified, we recognize this to be a major problem of the United States of America, it seems to me that it is often difficult to explain to the American people why the Federal Bureau of Investigation, the most respected law enforcement agency in the world—at least, in our country—somehow decided it is not happening on their watch—you know, "It did not happen on my watch." Let me put it another way. I wonder why the FBI has not come to us and said, "Look, we need more money. We need to put arson up there in that category. We do not have the facilities to do it now under our existing data collection techniques, and we want more money for that collection facility for the purpose of including arson, just like we do robbery."

Mr. ZOLBE. When we have gone forward with budget requests, we have asked for money in the area of arson. Now, arson is not in and of itself a Federal crime.

Senator BIDEN. I know that.

Mr. ZOLBE. It is one of the crimes that can lead to an investigation under the interstate transportation and aid of racketeering, which we address very strongly.

Senator BIDEN. Are there other crimes in the index that are not per se Federal crimes? I mean, don't you catalog—or maybe I should ask you, do you catalog murder when it is not a Federal crime?

Mr. ZOLBE. Well, sir, the uniform crime reporting program, the data collection methodology, does not collect Federal crimes per se. It only gets its information from city, county, and State law enforcement. Federal crimes necessarily are not in there.

Senator BIDEN. Well, then, I misunderstood you. I thought you were making the point, when you said that arson is not a Federal crime per se—I guess I jumped the gun—I thought you were about to say therefore, it does not rise to the level or the categorization or the juridical point that it should be kept, just like murder or any other crime. Let me ask it another way. What is the difference between the FBI publishing fairly accurate statistics on murder, on rape, on robbery, on auto theft? Why does not arson fit into that same category?

Mr. ZOLBE. The UCR program was initiated by the International Association of Chiefs of Police in 1930, and they attempted to select out just a small group of crimes that would act as indicators, an index, if you will.

Senator BIDEN. Now, I am going to stop you as you go. What was the rationale for selecting the crimes? They wanted to get the ones that were the worst crimes, right?

Mr. ZOLBE. The basic rationale was the timeliness of reporting and the likelihood of becoming known to law enforcement.

Senator BIDEN. But I mean, they did not put purse snatching on that list.

Mr. ZOLBE. Well, sir, purse snatching would be in there as a sub-category to larceny.

Senator BIDEN. True. So what is not in there?

Mr. ZOLBE. Well, such things as embezzlement, fraud, simple assault; prior to 1979, arson. All other crimes exclusive of those seven crimes which were articulated earlier by Mr. Jones—murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft.

Senator BIDEN. Now, back to the point. Why were those crimes the seven picked?

Mr. ZOLBE. For the basic reason that they would in all likelihood come to the attention of law enforcement in a timely manner.

Senator BIDEN. I see. So you are suggesting that the other crimes, some of them that we have mentioned that were left out, were not likely to come to the attention of law enforcement in a timely manner, and so statistically, it would be difficult—

Mr. ZOLBE. Very difficult.

Senator BIDEN. I see.

Mr. ZOLBE. Arson tends to fall into that category, and as you may recall, was part of our rationale in opposing arson as a part of that Crime Index and our suggestion that we address it as a special study as opposed to putting it into an area that is difficult to assess.

Senator BIDEN. I guess you are aware that although that may be the rationale, that is not the general view. I mean, most people think the reason why you do not put fraud in but you put rape in is because societal values indicate that rape is a more heinous crime than fraud. I mean, that is what the folks think. Maybe the experts do not think that, but go out on the stump and walk around—a county fair or a downtown sidewalk or at one of those barn burnings—and you will

find that they assume that the FBI places emphasis on those crimes which society believes to be the worst crimes that are committed. And, although you have explained the rationale, which relates to the ability to be able to gather those statistics in a timely fashion, the perception differs. But at any rate, I do not want to belabor the point, because you have answered my question, and you have cleared up something on my part. I, quite frankly, operated under that illusion also.

Does the FBI provide help to the States now in the compilation of these figures, or are you a receptacle?

Mr. ZOLBE. I like to feel that we do both.

Senator BIDEN. How do you provide the help now? I mean, what do you do to help them amass the figures in the first place?

Mr. ZOLBE. We conduct training classes throughout the country. We have a cadre of agents who travel about the country to the various States and hold regional seminars for the entire UCR program, where we discuss definitions, methodology. We assist them in computing crime rates for their individual cities. We assist those States who have their own State UCR program in publishing the data in a way that will be meaningful for legislators, academia, and those with an interest in the problem.

Senator BIDEN. In the experience in my State and, from what I understand in others, there is not as much cooperation as might be hoped for within the States, intrastate, between the fire protection agencies and the police agencies. That is understandable. One of the things this bill attempts to do, by putting arson into part I of your categories, is focus attention and raise it to the level, in the eyes of law enforcement agencies, of other crimes that are statistically easier to gather. I wonder if you could comment on whether the difficulty in gathering, in a timely fashion, the information concerning arson relates to the noncooperative nature of the agencies that have jurisdiction to deal with the subject matter, or whether it relates to the nature of the crime itself.

Do you understand what I am saying?

Mr. ZOLBE. Yes, sir, I do. And your first point very well could be contributory. We lack that line of communication between fire marshal and the chief of police or the group of chiefs of police that would receive information from the fire marshal, because the law enforcement agency has to provide its data for its own unique jurisdiction, or it would lose its significance to the people of that city or town. So that could be contributory, but I think that is minimal.

Our concern over arson not being timely reported is in the investigation aspect of the crime. If your automobile is stolen, you know that relatively quickly; if your wallet is lifted, you are immediately aware of it. This is generally true in the areas of rape, robbery, and so forth. These crimes are timely in nature, in terms of discovery. Whereas in the case of arson, there are times it is immediately apparent, but in a vast number of cases, it takes a long period of investigation and some forensic work to firmly insure the fact that it was an arson.

Senator BIDEN. I appreciate your testimony. It has been enlightening. We will proceed to mark up this bill, and, Mr. Strother, we will work with your staff, looking at the suggestions you may have relating to the bill, beyond the obvious recommendation which is elimination of the bill at this point.

Thank you very much for being so candid. We appreciate it.  
[The prepared statements of Mr. Strother and Mr. Zolbe follow:]

PREPARED STATEMENT OF RICHARD R. STROTHER

My name is Richard R. Strother. I am Associate Administrator of the United States Fire Administration (USFA), Federal Emergency Management Agency (FEMA). I am responsible for coordinating arson prevention and control activities and have authored the "Report to Congress on Arson: The Federal Role in Arson Prevention and Control." I have been requested to speak for HUD, Justice, ATF, and the FIA.

Despite the significant anti-arson programs at the Federal, State and local level, arson still remains the fastest growing crime in America. The answer to why arson is still growing rests with five key problems:

A. The narrowness of traditional roles and responsibilities does not encourage the coordination and cooperation which arson prevention and control requires.

B. High gain (profits) and low risk of apprehension and incarceration are associated with the arson crime.

C. The complexity of the crime makes it difficult to recognize and prevent arson-for-profit schemes.

D. Psychologically motivated arson is on the increase.

E. There is a lack of widespread dissemination of effective anti-arson programs.

The key to arson prevention and control is coordination—coordination at the Federal, State, and local level among police, fire, judicial, housing, insurance, community, and public education groups and agencies.

It is this issue, coordination and cooperation, that the bill, S. 252, "The Anti-Arson Act of 1979," addresses and to which this testimony is directed.

As a result of Congressional and public attention to the arson problem, Federal agencies have initiated a series of cooperative anti-arson projects.

The Law Enforcement Assistance Administration (LEAA) has funded USFA to provide technical assistance to states and cities to establish arson task forces.

USAF, the Federal Bureau of Investigation (FBI), and the Bureau of Alcohol, Tobacco and Firearms (ATF), with the financial assistance of LEAA, are providing seminars on arson investigation throughout the country.

USAF and Federal Insurance Administration (FIA) have worked with National Association of Insurance Commissioners (NAIC) and have developed an anti-arson provision for insurance applications in high risk neighborhoods.

ACTION and LEAA are supporting community arson demonstration projects.

The Department of Housing and Urban Development (HUD) and USFA are working together to direct HUD community revitalization programs toward anti-arson objectives.

ATF, FBI, the Internal Revenue Service (IRS) and the United States Postal Service (USPS) are cooperating on arson investigations and prosecution.

The United States Forest Service (USFS) and USFA are working on rural arson prevention projects in Oregon, Oklahoma and Arkansas.

A Federal inter-agency coordinating meeting is held bi-monthly at the U.S. Fire Administration. The purpose of this meeting is to exchange information on anti-arson initiatives and to keep each agency aware of the activities of the other agencies.

Bi-monthly, LEAA holds a meeting with those agencies most concerned with the arson training efforts—FBI, ATF, and USFA.

Several Federal agencies are involved in the fight against arson. Many of these agencies are mentioned in S. 252. I would like to spend a moment describing their anti-arson initiatives to give you a full picture of Federal action in this area.

FEDERAL EMERGENCY MANAGEMENT AGENCY

*U.S. Fire Administration (USFA)*

USFA is the principal coordinating agency for Federal arson prevention and control efforts.

The arson task force assistance program is providing technical assistance, supported by LEAA, to states and cities to establish arson task forces.

The National Fire Academy offers courses in Arson Investigation and Arson Detection to the fire service, police, and prosecutors. These courses are being developed with the support of LEAA. Additionally, a course has been developed with the National College of District Attorneys to train prosecutors in arson prosecution.

Proto-type arson early warning systems have been developed to identify patterns of arson-for-profit. Pilot projects are underway in Boston, Knoxville, New Haven, New York, Phoenix, San Francisco, and Seattle. The arson early warning system was instrumental in exposing a major arson ring in Chicago recently.

An Arson Resource Center has been established as a national reference center to provide arson prevention and control information to arson specialists as well as the general public. The Center publishes an Arson Resource Exchange Bulletin to promote the exchange of new information and techniques in preventing and controlling arson.

A Juvenile Firesetter Counseling Program based on a successful program in Los Angeles County, California, has been established, and training is being conducted nationwide. In Bolingbrook, Illinois, 98 percent of those youths who are counselled using this program have not set further fires.

USFA is working with the American Bar Association, Young Lawyer's Division, The Conservatory Group, and the National Trust for Historic Preservation to support state and local anti-arson programs.

#### *Federal Insurance Administration (FIA)*

FIA has revised its regulations governing FAIR Plans to discourage arson-for-profit. FIA and USFA have worked closely with the National Association of Insurance Commissioners and have developed an anti-arson provision in the insurance application which will be used in arson-prone neighborhoods.

#### DEPARTMENT OF JUSTICE

##### *Law Enforcement Assistance Administration (LEAA)*

An Arson Unit was established within LEAA.

An interagency agreement was signed with the U.S. Fire Administration regarding the roles of the two agencies in arson prevention and control.

Transfer of funds, primarily for training, was made to USFA, the FBI, and ATF.

Funds have been provided to the National Bureau of Standards (NBS) to develop performance standards for arson accelerant detectors.

LEAA conceived and awarded a grant for the preparation of an arson-for-profit training manual.

LEAA developed a training course for prosecutors through a grant to the National College of District Attorneys.

Funds were made available to state UCR systems to accommodate reporting of arson as a Part I crime.

A program Model report on Arson Control and Prevention was published.

Assistance grants of approximately \$9,000,000 were awarded to 34 state, county, and municipal entities.

##### *Federal Bureau of Investigation (FBI)*

Organized crime arson-for-profit rings have been investigated and successfully prosecuted under the FBI's Anti-Arson Program and this effort is continuing.

Supported by LEAA funding over a eight-month period which ended June 29, 1980, the FBI has conducted 175 arson training sessions for law enforcement officials throughout the country.

Supported by LEAA fundings, the FBI hosted a National Symposium on Economic Arson at the FBI Academy, Quantico, Virginia.

The FBI holds periodic in-service training for its own agents on arson.

The FBI forensic laboratory examines physical evidence in arson cases submitted to it by State, local and Federal agencies, and provides agent-examiners to testify as expert witnesses at trial concerning scientific findings.

The Uniform Crime Reports (UCR) has initiated efforts to include arson as a Part I crime.

Research on the psychological profile of the adult arsonist is being conducted at Quantico.

#### DEPARTMENT OF THE TREASURY

##### *Bureau of Alcohol, Tobacco and Firearms (ATF)*

Law enforcement agencies in 26 Task Force Cities are being assisted in selected arson investigations related to commercial and industrial arson and in arson involving interstate and foreign commerce.

Supported by LEAA funding, arson-for-profit seminars are being conducted in selected cities nationwide.

Laboratory assistance for analyzing arson crime scene evidence is provided to law enforcement agencies.

Organized crime arson-for-profit rings are being investigated.

#### *Internal Revenue Service (IRS)*

IRS investigates and cooperates in the prosecution of persons who fail to report taxable income received from committing arson.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Through its Community Development Block Grant (CDBG) Program, HUD has supported local anti-arson activities in the following areas:

- Local arson strike forces;
- Building seal-up campaigns;
- Code enforcement;
- Fire facilities and equipment;
- Anti-arson efforts by community groups; and
- Building demolition.

A letter of understanding has been signed between HUD and USFA which facilitates USFA participation in HUD's Crime Prevention Programs including HUD's "Handbook for Neighborhood Commercial Revitalization" (to be published late Fall 1980) which will include a chapter on technical assistance to community organizations that want to attack arson at the local level.

#### U.S. POSTAL SERVICE (USPS)

USPS is pursuing investigation of violations of mail fraud statutes which relate to arson-for-profit.

#### ACTION

ACTION and LEAA have developed a five million dollar Urban Crime Prevention Program, which includes supporting neighborhood anti-arson demonstration projects.

#### DEPARTMENT OF COMMERCE

##### *National Bureau of Standards*

Reports on the psychology of firesetters have been issued.

A fire arson investigation manual has been developed.

Standards for accelerant detection instruments are being developed to promote more effective presentation of arson evidence.

#### DEPARTMENT OF AGRICULTURE

##### *U.S. Forest Service (USFS)*

A strategy to reduce arson by forest firesetters has been developed.

A chapter on investigation of arson committed in forests or wildlands has been included in a handbook on fire prevention.

USFA believes that the cooperation among the Federal Agencies has enhanced our capabilities and greater results have been achieved than would have been possible under separate agency actions.

The programs which I have identified have and will continue to produce productive results which have made a good dent in the Nation's arson problem.

These results have been achieved by the agencies under their existing authority without the creation of a legislatively mandated interagency coordinating body. Accordingly, the Administration believes that the Bill is unnecessary and opposes its enactment.

We firmly endorse the concept of coordinated and collaborative action by Federal Agencies warning against arson, not only against arson-for-profit, but all categories of arson. Even though the estimates of economic losses due to arson-for-profit are placed as high as 40 percent of all intentionally set fires, arson-for-profit encompasses less than 20 percent of all incidents. Arson related to vandalism, revenge, and crime-concealment account for a larger and very grim percentage of the crime.

Thank you for the opportunity to offer these comments. I'll be glad to answer any questions you may have.

## PREPARED STATEMENT OF PAUL A. ZOLBE

I welcome this opportunity to appear before your Subcommittee to explain the FBI's position on Senate Bill 252 relative to the Uniform Crime Reporting (UCR) Program.

One segment of the legislation deals with reclassification of the offense of arson from the Part I category of crimes in the UCR Program to the Crime Index category. As the Subcommittee may be aware, amendments to the Department of Justice Authorization Bills, during the most recent fiscal years, mandated the UCR Program to reclassify arson. The initial effort in this regard occurred in October, 1978; and the FBI immediately embarked on a research program to fulfill the mandate of collecting arson statistics from the law enforcement community under the aegis of the Crime Index.

Arson offense information was solicited from the UCR constituency beginning in May, 1979. Because this was a seminal data collection effort and dealt with a crime not totally familiar to all law enforcement agencies, the information received during 1979 may not prove as valuable as we would wish. Our efforts in arson data collection continue; and it is hoped, within a few years, the level of accuracy and validity of the information provided by law enforcement will be of value in analyzing this serious crime.

The data collection methodology, the cooperative spirit between the law enforcement community, and the fire services community, and the necessary liaison among the various Federal agencies with an interest in the arson problem are now in place. With the passage of this legislation, the crime of arson will assume a permanent place in the Crime Index.

Because of the uniqueness of arson crimes, the UCR Program continues to have concern over the propriety of arson as a part of the Crime Index. However, with the full cooperation of the fire services and law enforcement throughout the Nation, information on the crime of arson will enjoy the same level of credibility as that of other crimes which have historically comprised the Crime Index.

We have, over the last few years, appeared before various Congressional committees regarding this particular legislation. In each of those appearances, it was suggested that consideration be given to developing a study on the crime of arson, which the Administration has opposed. Precedent, within the UCR effort, exists in the form of other special studies: Law Enforcement Officers Killed, Bomb Summary, and Assaults on Federal Officers. These special purpose publications were initiated in response to identifiable, but unique, problems in the criminal statistics area which could not be efficiently addressed by the basic UCR Program.

The legislation in question today calls for just such a special study to be conducted by the FBI. While the UCR Program has, thus far, been able to absorb the expenditure of resources necessary to collect limited arson data within the Crime Index necessary resources do not exist for handling a special study.

The present collection of arson data is handled through an already established network of law enforcement agencies. To conduct a special study on the crime of arson would logically necessitate going well beyond the law enforcement aspect of this crime and would require additional resources to mount what is considered to be, by the UCR staff, an ambitious undertaking.

Later this year, the annual publication, "Crime in the United States," will be issued. This will be the first year that arson data, of a very limited nature, will appear. There are serious questions as to the significance of the information we have collected in 1979 in this initial effort. We wish to assure this Subcommittee, however, that our concerted efforts will continue in order that we may enhance our data collection techniques. It is anticipated that within the foreseeable future, the Crime Index, which will include the crime of arson, can provide useful information to all of those with an interest in the Nation's crime problem.

I hope these comments regarding the FBI's position on Senate Bill 252 have been of benefit to the Subcommittee. It has been a longstanding commitment of the FBI to support the most responsible data collection efforts within the law enforcement profession and to constructively resist crime and all of its ramifications.

Senator BIDEN. In the interest of time and so nobody gets shut out, I am going to ask the entire remaining witness list, which is a total of



four people—we had it broken down into two panels—to come forward at the same time.

The first witness would be Mr. Eugene Jewell. He is presently in his 14th year as chief of the arson bureau of the State fire marshals office. He has been involved in fire service for 35 years. He is a former member of the faculty of Columbus Technical Institute, and is a past member of the board of directors of the International Association of Arson Investigators. For the past 5 years, he has chaired a Blue Ribbon Arson Committee of the Ohio FAIR plan. In 1975, he was a member of the National Symposium on Arson, held in Washington, D.C. He is a national lecturer on arson and fire management.

Welcome, Mr. Jewell. I might add, coincidentally, he is from Ohio.

Next, Mr. John Pyle. Mr. Pyle possesses both local and Federal experience in arson prosecution. From 1974 to 1978, he was assistant county prosecutor in Cleveland. Since 1978, he has been an assistant U.S. attorney for the Northern District of Ohio. He is assigned to coordinate Federal, State and private sector antiarson efforts and he assists in the Greater Cleveland Crime Prevention Committee. Last year, he participated in a 1-day arson-training seminar for 160 Ohio prosecutors, drafting an "Arson Handbook" for them. He will share his experiences with us this morning. He is also from Ohio.

Next is Mr. LeRoy Troske. He has been a senior claims officer for the St. Paul Fire & Marine Insurance Co. since 1977; he is primarily responsible for claims on property, automobile and inland marine risks. He also specializes in studying the causes and effects of arson. He is currently chairman of the Minnesota Insurance Advisory Committee on Arson, which is associated with the International Association of Arson Investigators. Before assuming this position, he worked with the General Adjustment Bureau of St. Paul for 23 years. He has helped develop an arson information award program, a fire department postcard notification program to alert local departments to possible arson incidents and several education seminars for adjusters, underwriters, agents, and fire personnel.

And our last, but certainly not least, witness on the list today is Mr. J. R. Birmingham. He will deliver a statement on behalf of John Barracato, a former deputy chief fire marshal of the city of New York, and manager of the Aetna Life & Casualty arson fraud unit. Mr. Birmingham is an investigator in the arson fraud unit. Prior to his insurance company employment, which began in 1966 as a property claim representative, he was fire chief for 4 years and served 13 years in the Garden City, N.Y., Fire Department, in other positions. During those years, he was employed, in Nassau County, at the New York Fire Service Academy as deputy chief and was responsible for instructing paid and volunteer firemen in fire investigation and prevention. He will undoubtedly be a positive addition to these hearings.

Gentlemen, welcome. If I could ask you to give your statements in the order in which you were called, and then I will direct questions to all of you, if that is agreeable.

I am sorry to hold you through your lunch.

Mr. Jewell?

PANEL OF STATE AND INDUSTRY OFFICIALS:

STATEMENTS OF EUGENE JEWELL, CHIEF, OHIO STATE ARSON BUREAU, STATE FIRE MARSHALS OFFICE; JOHN PYLE, ASSISTANT U.S. ATTORNEY, NORTHERN DISTRICT OF OHIO; LeROY TROSKE, SENIOR CLAIMS OFFICER, ST. PAUL FIRE & MARINE INSURANCE CO., AND J. R. BIRMINGHAM, INVESTIGATOR, AETNA LIFE & CASUALTY INSURANCE CO.

MR. JEWELL. Mr. Chairman, as chief of the arson bureau, division of the State fire marshals office of the State of Ohio, it is a pleasure for me to once again appear before the U.S. Senate to testify on the crime of arson and to lend support to the Anti-Arson Act, Senate bill S. 252.

Since I last appeared in May of 1979, the crime of arson has continued to increase and to be a devastation to the arson investigator, who by this time must feel like the drowning victim going down for the third time. After a decade or more of fighting one losing battle after another in the war against arson, the local investigator would welcome reinforcements. The problem of saturation is now being magnified by another enemy, which I am sure you are familiar with, inflation.

Although efforts at identifying both the number of fires and the amount of arson throughout the land are far too premature to even establish a basis of information, the problem of total involvement and budgetary matters has already threatened its accuracy. Whether mandatory or voluntary by statute, no system can be effective without total commitment. Every fire, police, and insurance agency must be involved in reporting of arson before the magnitude of our problem can be realized. If the partial results of the unknown are staggering, surely, the truth will scare us to death.

Saturation occurs when there is more arson than there are arson investigators to investigate the crime. In 1979, the crime of arson increased over 20 percent—that is, in Ohio. In 1978, there still were more than 48 percent of the known incendiary fires that were never investigated. There simply were not enough investigators to do the job.

Inflation has increased both the cost of equipment and operating expenses to the extent that time-consuming, scientific arson investigation needed to accomplish a successful conviction is almost impossible, and indeed, arson investigators are threatened daily with the loss of their jobs because of departmental cutbacks, a result of budgetary problems. Fire and police administrators feel that suppression is more necessary than the investigation when it comes to budgetary problems.

Realistically, the only answer to arson prevention is the sure and certain knowledge that all fires will be reported and that all arson will be investigated and convictions will be a certainty.

One small example of inflation is the inflated cost of the supersensitive hydrocarbon indicator, a necessary scientific aid in arson investigation. That equipment has risen from \$260 to \$1,200 since 1964.

On education, much has been done recently to provide basic training for police, fire, and insurance personnel in the area of arson detection. It must be remembered, however, that as in the reporting of

fires, the responsibility for education falls largely to a volunteer effort. An incentive must be provided to reward arson investigators for the years of experience, the college degrees, and the horrendous overtime experienced by that expert, not to mention the hazardous duty involved. The need to be current in fire science education, explosives, chemistry, fire, building, and criminal codes, and so on, consumes much of the investigator's off-time, and this education should be within his financial resources.

The arson task force is becoming a viable weapon, especially in the area of organized crime. The local department can hardly afford the manpower or specialized equipment needed by large-scale investigation. The task force can overcome jurisdictional boundaries and end the age-old problem of jealousy that hampers and even destroys many investigations.

The Cambridge, Ohio, Holiday Inn arson case that killed 10 and injured 83 required thousands of man-hours by local, State, and Federal agencies to bring the arsonist to trial and a successful conviction. Arson control requires the full and coordinated efforts of the fire service, law enforcement agencies, criminal justice personnel, the insurance industry, and the community, and only total cooperation between local, State, and Federal governments can extinguish the flames of saturation and inflation. Congressional support through the passage of the Arson Control Act will lend strength and finances that will encourage the arson investigator to greater tasks of education and investigation. We have begun to show what working together can accomplish.

Thank you for the opportunity to testify here today, and I shall be happy to respond to any questions you may have.

Senator BIDEN. Thank you, Mr. Jewell.

Mr. Pyle?

Mr. PYLE. Mr. Chairman, my remarks will be very brief. As you know from my introduction, I am an assistant U.S. attorney for the Northern District of Ohio. In 1978, I joined the staff of Mr. James Williams, who is our U.S. attorney. Mr. Williams gave me a general type of mandate, to do what could be done, utilizing the full force and authority of his office, to combat arson in northern Ohio.

I am appearing today not as a spokesman for the administration, but as a person who has a little practical experience. And I say to you, sir, that in considering what the Federal Government can do to combat arson, I think that we have to consider and analyze the question of why in the past, we, in law enforcement and in the insurance industry, have been somewhat less than successful in combating this problem.

I ask you, sir, to consider the very unique nature of this crime, as I am sure you have, that arson is much different than other crimes. When a fire is set, there is no indication that this is necessarily a crime. Fires, by law, are presumed to be accidental in nature. I ask you to consider the fact that in arson investigations, unlike other crimes, there are many people with different investigative skills and responsibilities involved. In an arson investigation, arson for profit particularly, you will have a need for firefighters, for chemists, for accountants, for insurance people, for interrogation experts, and so forth.

Successful prosecutions require the pooling of resources of these many people. No one investigator has all these skills.

Senate bill 252 addresses itself to the need for pooling of resources for coordination, for training, and for greater scrutiny in the issuance of FAIR plan insurance.

In Ohio, we have sought to coordinate efforts, often informally. We have sought to provide training. Included in those efforts was a seminar program sponsored by the U.S. Attorney's Office in conjunction with another group, called the Greater Cleveland Crime Prevention Committee. And I am going to supply your counsel, sir, with a copy of the handbook that was prepared in conjunction with that seminar and has been since distributed to prosecutors from throughout the country who have requested copies.

Senator BIDEN. Fine. Thank you very much.

Mr. PYLE. I want to close, sir, by saying that regardless of the future of Senate bill 252, the fact that it has been introduced, the fact that you are conducting hearings today and have conducted hearings and are reported in the press, those factors alone have encouraged local firefighters and investigators and local/municipal city councilmen who have the funding strengths for their cities. Those efforts are appreciated and will be remembered.

Thank you, sir.

Senator BIDEN. Thank you.

Mr. Troske?

Mr. TROSKE. Senator Biden, thank you for the opportunity of appearing. For the sake of brevity, I will not read my statement, but rather, let it be admitted in the record.

Senator BIDEN. All the statements will be included in the record following the oral testimony.

Mr. TROSKE. It is evident that much has been written and much has been said about the problem. I am here as an individual company, not only to extend our appreciation, but also to, for the record, assure you that this is a problem that has been of concern to the individual insurance companies for some years.

You commented earlier several times about what we believe is the major impact of this bill, or the efforts of Senator Glenn and the rest of you in this effort, and that is the area of visibility. It has put a problem high on the mantle where it can no longer be shunted to the side, either through lack of resource or other reasons, and must be given its full direction, not only by the firefighters, the investigators, the FBI, or whoever, but it does give it visibility.

I believe we have accomplished more in the last 2 years in my own company in this effort than we have in the previous 30.

We have one other area to address, and that is the area of affordability and availability, which I believe is a problem for every policyholder in the United States. This effort and the effort of all of us combined can continue to certainly keep insurance, we hope, profitable, but also keep it affordable and available.

Thank you for the opportunity.

Senator BIDEN. Thank you.

Mr. Birmingham?

Mr. BIRMINGHAM. Thank you, Senator.

It is an honor, Mr. Chairman, to be testifying in support of your efforts to control one of our Nation's most costly and destructive crimes.

My name is Rod Birmingham. I am an investigator in the fraud and arson unit at the Aetna Life & Casualty. I have worked for Aetna since 1966 and have spent my recent career helping formulate the policies and day-to-day operating procedures under which the fraud and arson unit operates.

I have conducted more than 1,000 fire prevention and causation investigations, both as a firefighter and in connection with my work at Aetna.

I am appearing today to present the testimony of John Barracato, who is the manager of the fraud and arson unit, who is currently in California, testifying in a criminal trial.

I do ask, of course, that the full text of Mr. Barracato's testimony be included in the record.

Senator BIDEN. It will be.

Mr. BIRMINGHAM. Thank you.

We believe the legislation before you makes an important start in dealing with arson comprehensively and effectively. S. 252 emphasizes coordinated Federal efforts, assistance to local and State agencies, better training, and uniform data collection. Those are practical priorities that deserve immediate attention.

Section 4 of this bill, which would permanently establish arson as a part I crime under the FBI's uniform reporting system, is crucial if our Nation is to plan and evaluate arson control strategies intelligently. Without adequate reporting, arson will always be a phantom crime. We will always be left to guess at the number of arson cases nationwide, the extent of damage, and the number of persons arrested and convicted.

At Aetna Life, we are using internal data collection systems to refine and improve our antiarson program. That program is built on three central efforts to confront arson directly.

First, the fraud and arson unit gives prompt, individualized attention to fire claims when arson is suspected. We made sure our field office personnel have prompt access to suitable experts and other assistance so they can get laboratory analyses, access to property and financial records, onsite interviews, and other documentation. This is important when fraudulent activity is involved because it establishes evidence justifying a claim denial.

It is also important when our policyholder is the innocent victim of revenge-motivated arson, vandalism, pyromania, or other kinds of arson. By investigating immediately, we can make a settlement without waiting weeks or months for local officials to make an official determination of the nature of the crime.

Our second priority is training. In our first year, the fraud and arson unit has held 45 training sessions at Aetna field offices nationwide. We conducted and assisted in 60 seminars for law enforcement agencies, fire departments, insurance industry groups, and public task forces. We published an award-winning, 43-page training manual that is now in its fourth printing, with requests from outside groups arriving at the rate of about 500 a week.

Our third priority is public education. We have undertaken extensive efforts to draw media attention to this issue, to encourage civic and business groups to emphasize arson prevention, to inform municipal leaders, and to get business organizations involved.

Aetna has contributed well over half a million dollars to promising arson control efforts in key locations. These grants have included \$226,000 to New York City, \$140,000 to the California District Attorneys' Association, and \$97,500 to the city of New Haven.

Mr. Chairman, we are proud of our antiarson program at Aetna. Based on what I have seen, it is an unparalleled attempt to deal with the complexities of the arson problem. We intend to build on our commitment and to improve out investigative programs, our training techniques, and our public education efforts.

I have to emphasize that this is a crime of the magnitude that requires an organized government response. At Aetna, we are reminded almost daily that we cannot begin to meet the equipment, training, and information needs of local and State fire officials, of community groups or prosecutors. In city after city, dedicated people are struggling on their own, with inadequate resources and little support. Without the kind of help envisioned in S. 252—to set standards, to give direction, and to reinforce local and private initiatives—Aetna's work will, at best, be little more than a stopgap measure.

I would like to make a few more comments, if I may, based on the testimony. The average arson loss reported to the Aetna during the last 12 months was \$112,000. We decided at Aetna that unless we knew the nature and extent of the challenge we faced, we would not be able to plan intelligent response. It is disturbing to realize that the efforts to establish a countrywide, uniform reporting of arson as a major crime may be abandoned, and that police and fire officials will lose immediate impetus to pursue arsonists vigorously. We can expect that real world priorities will be readjusted toward more visible, clearly defined crimes.

Arson investigations and investigators are usually handled by local fire officials, who are nearly always understaffed, inadequately trained, and poorly equipped. I know firsthand that these men are extraordinarily dedicated, but they need support and direction of the kind contemplated in the legislation before you. I mentioned before that we have published a 43-page training manual, and a copy has been submitted for the record.

Thank you, Mr. Chairman. I will answer any questions.

Senator BIDEN. Thank you.

Mr. Jewell, you have been around for a while in this business, and you are well-respected. You began your testimony in a way that was echoed by the three remaining witnesses and everyone I have heard speak about arson, about the need for cooperation, training, et cetera.

My question for you is, in your experience, why don't the States and cities do their part? Why are we sitting here? I am told by every company in America, and almost every individual in America, that they want the Federal Government to do less, they want the Federal Government to get out of their hair, and 35 States have surpluses and the Federal Government has a deficit. In your experience with human nature and your being out there in the field, why is it they are looking to us? I mean, why are you sitting here—besides my asking you and John Glenn writing the bill—why is it we are here, instead of in the city hall of Columbus, or instead of the State legislature in Albany? Why? Do you have an answer?

Mr. JEWELL. In the last 4 years, Senator, we have increased my investigative staff by 100 percent. Arson has increased over 200 percent in that length of time. We have started a task force operation—this is not a new thing. The International Association of Arson Investigators has been working on this since 1957—

Senator BIDEN. I know, but you just finished saying nothing happened until the Federal Government did something. My question is, "Why?" I thought you said in the last 2 years more had been done than in the previous 30 years, and it was 2 years ago—

Mr. JEWELL. That was not my statement, but it is true that because of a public awareness program we created that got the Federal Government interested.

Senator BIDEN. I know that, but why didn't you get the city council interested? Why didn't you get the State legislature and the Governor interested?

Why is it that the Governor of the State of Delaware, and the Governor of the State of Ohio, and the Governor of the State of New York and the Governor of the State of California probably have not mentioned the word "arson" in their entire terms.

Mr. JEWELL. Well, I cannot speak for your Governor, but I can speak for mine, and I can speak for the last two. I will say that they—

Senator BIDEN. I cannot speak for mine, either.

Mr. JEWELL [continuing]. Have both put forth a tremendous effort as far as arson is concerned.

Senator BIDEN. Have they gone to the State legislatures to ask for money?

Mr. JEWELL. Yes, sir.

Senator BIDEN. They have?

Mr. JEWELL. They have, and they are doing it right now, and it still will not be enough. They have reorganized the State fire marshals office, redirected the insurance tax money that was in the general fund, and redirected it directly into the fire marshal—and incidentally, we are going to have to ask for an increase in that to be designated only for arson investigation and arson education. That is in the process right now.

Senator BIDEN. Were you getting any LEAA money for arson?

Mr. JEWELL. Yes, sir. I wrote the original grant request in 1971, the first one for arson.

Senator BIDEN. By the way, I really have no quarrel with you. I am really trying to understand this. Do you think your State will pick up the money that is not going to come in for LEAA now?

Mr. JEWELL. They have picked it up. The Federal Government paid for two arson chemists and built one laboratory. We have built two more laboratories and an arson investigator training laboratory since that time. Well, I will correct that. The Federal Government funded the physical plant, and the State of Ohio paid for it. Since that time, we now have a chief chemist and six chemists working in there. This will give you some idea. This was 1972, when we started in a basement storeroom with a borrowed gas chromatograph, and this was last year. This is the amount of business. They are talking around the United States that they can only get a 2 percent conviction rate, because arson is such a terrible crime. We have statistics that will show that last year our conviction rate was 60 percent in the State of Ohio, a little bit better than 60 percent.

Senator BIDEN. In your experience traveling around the country, lecturing, are there other States that are as progressive as you have been on this?

Mr. JEWELL. Other States are sending their people to us to train their forensic chemists and their investigators. We are training them in the facility that the Federal Government helped us build.

Senator BIDEN. All right. Roughly how much did that facility cost?

Mr. JEWELL. Well, we built the building. You built the laboratories inside of it, and those laboratories, I would say, probably have close to \$1 million in them.

Senator BIDEN. And roughly, what is the State's budget; do you have any idea of the whole State budget?

Mr. JEWELL. I think it was \$17 billion.

Senator BIDEN. And it was \$1 million the Federal Government came up with. If the Federal Government stops tomorrow and says, "Hey, look, we are not going to be able to influence it, we are not going to be involved in it; we are out. We are out of the business. We are not going to pass this. We are not going to put pressure on the FBI. We are out," what will happen to the movement to stop arson for profit, in your expert opinion—not just in your State?

Mr. JEWELL. I think we will be inundated. We are practically inundated right now by the crime of arson, and I think we will be completely—as I said, we are going down for the third time, because nobody really knows how great this problem is.

Senator BIDEN. I promise this is the last question along this line, but I am trying to see how we go beyond this bill——

Mr. JEWELL. We are going to go ahead. As I said before, even if the fellow needs to dig a hole and does not have a shovel and does it with his hands, the arson investigator is still going to be out there, working.

Senator BIDEN. No, no, I am not questioning that. I am not questioning the dedication or the intensity of the feeling. I guess what I am saying is that I sit here and I wonder how the city of Akron or Delaware, Ohio—did you know there was a Delaware, Ohio?

Mr. JEWELL. Oh, yes, sir.

Senator BIDEN. How the city of Delaware, Ohio, is going to be any more or less concerned about arson based upon what the Federal Government says. Isn't it really going to emphasize, isn't this concern going to emanate from the mayor of Delaware, Ohio, standing up and saying, the number one crime, or the number two crime, or the increase in crime is arson? I mean, the folks in my city do not listen to what the Federal Government is saying; it is not going to make any difference. It is only going to make a real difference, it seems to me, based upon what the mayor says, what the prosecutor says, and what the city council says. That is what the local paper reports. There is not even a Delaware reporter here, for example, and that goes to my lack of importance, but it also speaks to the issue.

Isn't that what is going to happen?

Mr. JEWELL. Well, of course, I am anticipating that much more will happen from this bill than just somebody saying the Federal Government says arson is important. I am anticipating that there will be funding for training, that the Federal agencies will be able to get more actively involved, for instance. You know, we are 22 men against



the world. My favorite expression is that I will send in one arson investigator and surround them.

How many FBI agents are there—33,000 or something like that—I do not really know, but—

Senator BIDEN. My favorite expression is, "We will send in the Federal Government to mess it up." What are we going to do with the Federal Government—

Mr. JEWELL. Of course, investigators working in the field do not feel that way. We work together no matter what the—I do not want to say what the politics at the top does—

Senator BIDEN. I know. Let me say it another way. I am very, very deeply involved in trying to eliminate international drug traffic. I sit on the Intelligence Committee, the Foreign Relations Committee, and this committee. It is a multibillion dollar, about \$60 billion a year, business. Estimates range all the way from \$20 to \$40 billion of that funneled into legitimate business—and I am not being smart when I say this—to owning insurance companies, banks, automobile agencies. I am not kidding about it, and we are trying to get the FBI more involved in that.

We also say that there are somewhere in excess of \$200 billion in computer fraud that occurs in this country. Ask a prosecutor how he handles a computer fraud case. He needs not just an accountant, but he needs a Ph. D. accountant from the Wharton School or some other fine university; he needs to have investigators who understand the banking system, and it goes on and on.

Now, here we are where we are requiring a Federal law enforcement agency to deal with the problem of national and international magnitude in terms of the modus operandi in which that crime is committed. These major fraud cases are almost impossible to pursue in a city, because they do not happen within the city. There is a terminal in New York, and there is a guy in Los Angeles, and there are two people out in the Caribbean at a bank, and there is someone at a Swiss bank account. So even if the States wanted to devote all of their efforts, they physically could not do it; there is no way they could do it. The State of New York has one of the best police departments in America, in my opinion. What is the State of New York going to do? Are they going to go to Sicily to break up the labs with the heroin that is going to head their way, or are they going to go into Afghanistan and on their way, pick up the hostages in Iran, when they are going to eradicate the poppy fields? They cannot do it.

However, arson for profit is different. A significant portion of that crime is carried out by a local torch; a guy in the city, in the town, in the place, who goes out and torches the property because Charlie Schmedlap—and I hope there is no Schmedlap out there—picks up and say, "Hey, I am hurting." Or, Charlie decides he knows how to set it.

We do not have enough money to cover crimes that clearly are international and national in scope. Why should the States not be the ones who are saying, "My city is burning down." "Memphis is ablaze." "Columbus is ablaze." Why don't we say we expect the State legislators to have a little bit of steel in their backbone and stand up and say, "Hey, folks, we need more money for those investigations." Why the Federal Government? I would like anybody to respond to that.

Mr. TROSKE. If you do not mind my interjecting, Senator Biden, it is the same as if the corporation president establishes that the accountability for 1981 will be such-and-such an item. Everyone's attention is focused to that item.

There has been an effort underway for many, many years to reclassify arson as a part I crime, and each year it has been turned down. What we are saying is that it would be difficult for many to get up and say that major crime in their city has gone down in the last year, if they were to put in some of these crimes that need measuring.

Senator BIDEN. Good point.

Mr. TROSKE. That is where we see the need for the Federal Government, to set the priority, because every State and every municipality has its priorities and limited resources. So no, we do not want you to go in and investigate every crime, but we do want you to give us the opportunity to get aid in the other areas to help investigate crime.

Senator BIDEN. Would anyone else like to comment on that?

Mr. BIRMINGHAM. Yes. I was fortunate enough to be asked to give a training seminar to a group in a city, that will go unnamed, in the northeastern part of this country. Police, fire, city officials, as well as civic organizations were invited. I had gone through the training session and opened it up to questions and answers, and the civic groups wanted to know why their mayor thought there was no arson problem in that particular city, when they described fire after fire after fire that occurred in the course of the past few weeks prior to my training seminar. Of course, they did not have an answer for them. The mayor of that city says, "There is no arson problem in my city," yet the civic groups say it is burning down. They tell me, secondhand, that it is because there is no Federal money involved; therefore, it will not be a priority in his administration. That is one of many examples.

Mr. PYLE. Sir, on a prosecutor's level, a county prosecutor will inevitably give priority to the crimes of murder, rape, and robbery. No question about it. In cities like Cleveland, that are swamped by those crimes, those are the priorities that the county prosecutor gives.

So in our city, Cleveland, Ohio, which is a proud industrial city which has sent a lot of tax money down here in the past, we are a little bit financially embarrassed now, when we are coming to you, sir, because we need the money for things like arson and for special programs. Going to city hall will get you nowhere.

Senator BIDEN. By the way, I do not have any argument about the major cities of America and the problems they are having, but I do find it fascinating that, with several exceptions—to be specific, with 13 exceptions—every State in America has a surplus. It is interesting that while politicians in both parties are out campaigning, they campaign against two things, their opponent and the Federal Government, and they want it all to do less. I suspect at cocktail parties, you guys talk about the Federal Government doing less; but I never have anybody come down here and say, "Federal Government, do less." You all come down—you, in an editorial sense—all come down and say, "Do more. We want you to do more."

I guess the point I am trying to make and I have already made is that there are certain things we can do that the States cannot do, and certain things the States can do and we cannot do.

It would seem to me that the focus would be on the Federal Government doing well what it can do and others cannot do, and focusing on those things, and leaving the rest to the cities. Narcotics in your city of Cleveland, if I recall correctly, accounts for about 62 percent of all the violent crime. You cannot handle that by yourself. Now, maybe we should be doing more in narcotics, and you should be doing more in arson, for example. As long as we do not make distinctions as to who can do what best, we end up in this piecemeal approach.

I concur that we need this bill. I concur that it does just what you said, Mr. Troske. It focuses attention. But I want the record to show that the chairman of the board may say, "Here it is," but then for policy to be followed out, the department head had better go out and sell the product; he had better sell the policy. We cannot sell the policy. One of the biggest things the Federal Government has done is overpromise in an attempt to please. We cannot deliver—hear me—we cannot deliver on the arson solution from this level. It cannot happen from this level.

I agree with you, sir, Mr. Birmingham, the mayors and the Governors and the legislators would like to say—to use the expression again that they use in the southern part of my State—"Didn't happen on my watch, boy." They want to be able to keep saying that.

I will conclude this hearing, since there are two of you from Ohio, with a little story that you may appreciate, to add a little bit of levity into this serious hearing.

I spoke before the Cleveland City Club, a very prestigious organization, back in 1974. I was a replacement for a man who was indicted the day before, named John Ehrlichmann. Some Democrat with a sense of humor said, "Let us invite this guy, Biden." This is a fairly establishment organization, as you know.

So I went out and I spoke, and I gave a rousing speech, and for whatever reason—maybe because of what was in the lunch, or whatever—it was well received. They stood up and clapped, and it is always a packed, televised event.

After, a distinguished retired Ohio judge—I do not honestly know whether he is still alive—came forward. He walked with the aid of a cane and was obviously not in very good health. He came forward and he said, "Son, that was a fine speech. Where are you from?"

I said, "Wilmington, Delaware."

He said, "I asked you, where are you from?"

I assumed the gentleman was hard of hearing. I had been informed as he was walking up that he was a retired judge, so I assumed he was hard of hearing. I said, "Wilmington, Delaware, sir."

He said, "No, I asked you, where are you from?"

So I screamed at the top of my lungs, "Your Honor, I am from Wilmington, Delaware."

He said, "Boy, you can't be a Senator and represent Wilmington and Delaware both." And I looked at him. He said, "Now, where are you from, Wilmington, Ohio or Delaware, Ohio? Which is it?" [Laughter.]

Senator BIDEN. As you can see, I made a tremendous impact on him. He thought this young speaker who came forward was a State senator from Ohio, filling in for a man who was indicted and convicted.

I have had better luck in Ohio since then. I hope you have better luck in your antiarson efforts. I promise you that, with the leadership of Senator Glenn and the help of this subcommittee, we will try our best to continue to do what I think we all agree on here on this panel, that the Federal Government still does do some good things, and if it does not promote an antiarson campaign, your folks will not do it; it flat-out will not happen. You can talk about it and the States can beat their breasts about it, but I think it should be noted that it just will not rise to a level of importance because, in part, you and the States are not the chairman of the board.

We have got to get this Congress to focus on it, we have got to get the administration to focus on it—and they have, to a significant degree. We have got to keep in front of it, because the curve is moving in an exponential fashion. I just do not see how we are going to do much unless we really focus attention on it. I do not think it is insignificant, and I do not suggest you fellows do either, that the administration has focused for the first time in the history of crime prevention on two crimes. At the top of the list for special attention are international drug trafficking and arson. They have been picked out. It is not accidental. It is not coincidental. They are, along with computer fraud, probably the three single most important crimes, in a massive sense, that are being committed today and the ones we have the greatest difficulty doing anything about.

I commend you all for your efforts and also both of your insurance companies. I do not think I have a policy with either one of you, so I can say it—both of your insurance companies have been, I think, leaders in the field of dealing with this question. You are to be complimented on that.

I will conclude by asking you the same indulgence I asked the other witnesses, and that is, I will submit to you each a series of two or three questions that I would like very much for you to answer, as rapidly as you can, for us for the record.

In closing, Senator Glenn has indicated that he is not going to be able to make it. His lack of presence here should not be read as a changed interest. He is one who is leading the fight against the transfer of fuel to India, and he is still involved in that in the Foreign Relations Committee, and will not be able to appear.

[The prepared statements of Messrs. Jewell, Williams, Troske, Birmingham, and Barracato follow:]

#### PREPARED STATEMENT OF EUGENE L. JEWELL

As Chief of the Arson Bureau, Division of State Fire Marshal's Office, State of Ohio, it is a pleasure for me to once again appear before the U.S. Senate, to testify on the Crime of Arson and to lend support to the Anti-Arson Act (S-252).

Since I last appeared in May of 1979, the crime of arson has continued to increase and to be a devastation to the arson investigator, who by this time must feel like the drowning victim going down for the third time. After a decade or more of fighting one losing battle after another in the war against arson, the local investigator would welcome reinforcements. The problem of saturation is now being magnified by another enemy, inflation.

Although efforts at identifying both the number of fires and the amount of arson, throughout the land are far too premature to even establish a basis of information, the problem of total involvement and budgetary matters has already threatened its accuracy. Whether mandatory or voluntary by statute, no system can be effective without total commitment. Every fire, police and insurance agency must be involved in the reporting of arson before the magnitude of our

problem can be realized. If partial results of unknown are staggering "the Truth will scare us to death".

Saturation occurs when there is more arson than there are arson investigators to investigate the crime. In 1979, the crime of arson increased over 20 percent. As in 1978, there was still more than 40 percent of the known incendiary fires that were never investigated. There simply were not enough investigators to do the job.

Inflation has increased both the cost of equipment and the operating expenses to the extent that time consuming, scientific arson investigation, needed to accomplish a successful conviction, is almost impossible and indeed, arson investigators are threatened daily with loss of their jobs because of departmental cutbacks, a result of budgetary problems. Fire and police administrators feel that suppression is more necessary than investigation when it comes to budgetary problems. Realistically, the only answer to arson prevention is the sure and certain knowledge that all fires will be reported, all arson will be investigated and convictions will be certain.

One small example of inflation is the inflated cost of the super-sensitive hydrocarbon indicator, a necessary scientific aid in arson investigation. That equipment has risen from \$260 to \$1200 in 1964.

Education: Much has been done recently to provide basic training for police, fire and insurance personnel in the area of arson detection. It must be remembered however, that as in the reporting of fires, the responsibility falls largely to a volunteer effort. An incentive must be provided to reward arson investigators for the years of experience, the college degrees and the horrendous overtime experienced by that expert, not to mention the hazardous duty involved. The need to be current in fire science education, explosives, chemistry, fire, building and criminal codes, etc. consumes much of the investigator's off time and this education should be within his financial resources.

Investigation: The arson task force is becoming a viable weapon, especially in the area of organized crime. The local department can hardly afford the manpower or specialized equipment needed for many large scale investigations. The task force can overcome jurisdictional boundaries and end the age-old problem of jealousy that hampers or destroys many investigations. The Cambridge, Ohio, Holiday Inn Arson Case that killed 10 and injured 83, required thousands of man-hours by local, state and federal agencies to bring the arsonist to trial and a successful conviction.

Arson control requires the full and coordinated efforts of the fire service, law enforcement agencies, criminal justice personnel, the insurance industry and the community. Only total cooperation between local, state and federal governments can extinguish the flames of saturation and inflation. Congressional support through the passage of the Arson Control Act (S. 252) will lend strength and finances that will encourage the arson investigator to greater tasks of education and investigation. We have begun to show what working together can accomplish.

Thank you for the opportunity of testifying here today.

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#### PREPARED STATEMENT OF JOHN PYLE

I am John Pyle, Assistant United States Attorney for the Northern District of Ohio. From 1974 until 1978 I served as an Assistant County Prosecutor in Cleveland, Ohio. My duties included the prosecution of arson cases. In 1978 I joined the staff of United States Attorney James R. Williams. Mr. Williams assigned me the responsibility to utilize the full force and authority of the United States Attorney's Office in coordinating federal, state and private sector resources to combat arson in Northern Ohio.

In carrying out this mandate, I have been involved in federal prosecutions of arsonists, training programs, community relations and participating in organizations such as the Professional Advisory Committee of the International Association of Arson Investigators which are involved in the fight against arson. This year I was awarded the Attorney General's Special Commendation Award for my work in these areas.

It is an honor for me to have been invited to testify before this subcommittee concerning my experience as it relates to the provisions of Senate Bill 252. I am not testifying as a spokesperson for the Department of Justice. The Department has done research concerning the Bill on a nationwide basis. I will necessarily refrain from discussing cases which are currently under investigation or in

litigation. My remarks are limited to my own experience as a state and federal prosecutor in Northern Ohio.

In considering the question of what the federal government can do to prevent and deter the crime of arson, it is essential to analyze the question of why arson cases have been so difficult to investigate and prosecute.

Arson is a unique crime for several reasons. A successful arson-for-profit investigation and prosecution requires the pooling of the investigative resources of a variety of persons who have different investigative responsibilities and skills. A robbery or burglary investigation can be successfully conducted by one detective who has no unusual training or experience. On the other hand, a complete arson-for-profit investigator would be a person who has experience as a firefighter, a chemist, a building inspector, a policeman, an interrogation expert, a real estate agent, a banker, an accountant, an insurance person and a prosecutor. No single investigator has all these qualifications. The investigative skills of many people must be pooled and focused on the prosecution of an arsonist. Because of the number of persons who may be involved in an arson-for-profit investigation, an investigation may become fragmented and disjointed. There is often no clear plan and objectives for the investigation and no single person who has the responsibility for directing the investigation to meet the requirements of a successful trial.

The problem in pooling investigative resources is created by the nature of the crime itself. Arson is different from other crimes in that at the time the crime is committed, that is, at the time the fire is set, it is not immediately apparent to anyone that a crime has been committed. An arson fire is fought like any other fire. The firefighters are more concerned about extinguishing the fire than developing evidence of a crime. After a fire is extinguished, fire investigators assume the responsibility for determining the cause and origin of the fire. Only when a determination is made that a fire was intentionally set does the investigation of who set the fire begin. Unfortunately the time gap between the discovery of a fire and the determination of its cause may hamper the investigation of suspects.

Similarly, the investigation of the scene of a suspicious fire is different from the investigation of other crime scenes. Arson investigators are oriented to investigate for evidence of cause and origin and not the development of trace evidence such as fingerprints which may connect a suspect with the fire. However, even the most knowledgeable and experienced fire scene investigators cannot be as thorough as they are trained to be because of the time pressures they are working under.

Arson-for-profit cases combine the problems of street crime cases such as eyewitness identification and white collar crime, such as developing documentary evidence of motive. In theory, a prosecuting attorney is in a position to direct the necessary investigative resources towards the goal of successful prosecutions. A prosecutor knows or should know what must be done at the investigative level of a case in order to prove guilt. In reality, prosecutors who are swamped by cases of murder, robbery and rape find it difficult to become adequately involved in providing guidance to investigators and utilizing the grand jury to develop evidence.

The trials of arson cases present unique problems for a prosecutor. Developing the testimony of expert fire scene investigators and chemists is a skill which few prosecutors develop. Arson-for-profit cases are often based on the testimony of a "torch" or co-conspirator. In many states, the law provides that a conviction cannot be based on the testimony of an accomplice unsupported by other evidence. Prosecutors have the burden of developing that "other evidence" in order for the case to be decided by a jury.

Arson investigators and prosecutors share the frustration of the insurance industry concerning the instances of buildings being over-insured. Law enforcement personnel know that if the potential for profit was minimized, the crime of arson would be reduced. Law enforcement personnel also recognize the demands on the insurance industry to provide adequate levels of insurance for property owners in all locations.

Manpower, training and coordination are essential for effective arson prosecutions. In the past, these ingredients have been lacking in many jurisdictions.

With an understanding of why arson has been a difficult crime to investigate and prosecute, the potential for effective federal involvement in efforts to combat arson can be analyzed.

Senate Bill 252 is directed at the need for coordination in the areas of training and record keeping, as well as greater scrutiny in the issuance of FAIR Plan fire insurance. For the past two years much has been done in the Northern

District of Ohio in the areas of training and coordination of federal, state and private sector resources. Also, in Ohio, the Ohio FAIR Plan Underwriting Association has been involved revising its underwriting policies and procedure within the present statutory requirements in order to prevent properties from being over insured.

In Cleveland, Special Agents of the FBI and the Bureau of Alcohol, Tobacco and Firearms have worked with the Cleveland Police and Fire Arson Units in the investigation of property owners who have had long histories of arson fires in their buildings. The County Prosecutor and the United States Attorney have had little difficulty in deciding which cases should be investigated locally and which should go federally. Cases which involve extensive grand jury investigation, utilization of the witness protection program, extensive surveillance and undercover work will typically be prosecuted under applicable federal statutes.

The Greater Cleveland Crime Prevention Committee, a coalition of representatives of federal and state law enforcement agencies and representatives of the insurance industry has been formed and meets regularly to discuss problems relating to arson. The committee publishes a bi-monthly newsletter which is distributed throughout the state and serves as a forum for the exchange of arson information by investigators and prosecutors.

The need for better training of investigators and prosecutors has been addressed in Northern Ohio. In the past there has been virtually no specialized arson training for prosecutors. In 1979 the United States Attorney's Office joined with the Greater Cleveland Crime Prevention Committee in sponsoring an intensive one day arson training seminar for prosecutors from throughout Northern Ohio. In conjunction with the seminar, an "Arson Handbook for Ohio Prosecutors" was prepared for the one hundred sixty participants in the seminar and has since been distributed to prosecutors from throughout the country who have requested copies. The seminar was an example of how effective training can be provided at minimal cost. Senator John Glenn was the keynote luncheon speaker at the training program.

In 1979 the National College of District Attorneys added a course on arson prosecution to its curriculum. It is clear that the need for special training of prosecutors has been recognized and is being met.

Training programs for investigators have also been sponsored by the FBI, ATF, the State Arson Bureau, individual fire departments, associations of insurance investigators. I have been invited to speak at many of these training programs, and have sought to provide guidance to investigators based on what I have observed in previous arson investigations.

Despite the fact that there is overlapping jurisdiction in Ohio among local police departments, the State Fire Marshal's Office and the federal agencies, there has been little duplication of effort and conflict. There are of course problems in easing the flow of information from one agency to another, but there is the commitment to minimize this problem.

In Northern Ohio, representatives of the insurance industry have displayed a desire to work with law enforcement agencies. In 1978 the Ohio Legislature enacted legislation providing for immunity for insurance companies to provide records upon request to state law enforcement officials. Officials of the Ohio FAIR Plan have sought to prevent over-insurance of properties by requiring proof of purchase price of properties be submitted with applications for insurance. By limiting the level of insurance to the amount of money the insured has invested in a property, the profit can be taken out of arson.

Arson will continue to be a problem in the cities of Northern Ohio. Vengeance and thrill fires represent the majority of arson fires in Northern Ohio. Arson for profit can significantly be reduced. More manpower, more training and more coordination are the keys to achieving this goal.

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#### PREPARED STATEMENT OF LEROY TROSKE

I'm Lee Troske. I'm a senior claims officer for St. Paul Fire and Marine Insurance Company, a property-liability insurer. We are the largest subsidiary of The St. Paul Companies, Inc.—a financial services firm headquartered in Saint Paul, Minnesota.

We're here this morning to testify on behalf of S. 252, the Anti-Arson Act of 1979, and to share with you some of our company's anti-arson efforts.

S. 252 was introduced because the arson drama is a nationwide production being played out in every city in this country.

As we at the The St. Paul see it, the arson drama has five leading characters whose needs must be addressed if we are to make any headway against arson.

One is public apathy. People need to be made more aware that its their money, their neighborhoods, their security that is being threatened by arson.

Two, the first service, local fire departments need to be better equipped as arson investigators and detectors.

Three, investigative personnel, the police departments. They also need to be better equipped as arsonist bloodhounds.

Four, the prosecutors. Generally, they're reluctant to vigorously prosecute arson cases—the national won/lost record is only about 3 percent. But some localities are able to do better. Improved training and support for arson prosecutors is one of the reasons. In Saint Paul, such an effort raised the city's prosecution rate to a respectable 15 percent in 1979 and to 23 percent so far in 1980.

And five, the insurance companies. They're accused of being the arsonists' paymaster. But insurers need to have their hands untied in handling arson claims.

S. 252, a hard-hitting, comprehensive package, contains provision pertinent to each and every one of the arson drama players.

The St. Paul supports passage of the bill for the following reasons:

First, the bill coordinates the efforts of the many and diverse federal agencies involved in anti-arson efforts. This is a recognition that the problem is a national one, and worthy of focused, concentrated, organized federal attention.

Second, it reinforces the essential expanded training for the investigation and prosecution of arson. Fire and police departments in a position to take advantage will be better able to protect their communities from the misery of arson.

Third, by amending the Urban Property Protection and Reinsurance Act, S. 252 minimizes FAIR Plans' roles as dumping grounds for properties most inviting to the arsonists' match.

The fourth and major reason The St. Paul supports adoption of S. 252—it permanently classifies arson as a Part I crime. It is this action that will affect each and every of the arson players mentioned.

While we support adoption of S. 252, The St. Paul is aware that we can't dump the arson problem in the federal government's lap and walk away. The federal government can't and shouldn't be expected to be a lone gunman against arson. Arson is everybody's problem.

Arson has burned The St. Paul. In 1978, St. Paul Fire and Marine paid \$235 million in fire losses and claims handling expense. If approximately 5 percent were arson for profit, and we believe that's a good estimate, then The St. Paul incurred \$11.7 million loss because of arson. And between 1975 and 1978, fires in Minnesota known to be caused by arson increased 50.2 percent.

This in part is why The St. Paul has made concerted efforts to develop and promote anti-arson activities.

A quick run-through of what The St. Paul has done or is doing in response to the need for greater public arson awareness would reveal:

That we've printed thousands of inventory brochures with a special arson message. These are distributed during the Saint Paul Fire Department's regular inspection of Saint Paul homes.

That we've funded the Minnesota Arson Reward Program with \$5000 and that we've also assisted in funding similar reward programs in over 15 states.

That we continue to encourage state and local task forces to create awareness and a cooperative anti-arson effort among fire, police, insurance and community organizations.

That we are funding a juvenile crime prevention program in the Dayton's Bluff area of Saint Paul. Because school authorities are familiar with our interest and activities in arson prevention, they included arson vandalism in the program.

In response to the needs of fire and investigative personnel and local prosecutors, The St. Paul:

Has created a "special investigative unit" in Boston as a pilot program. The unit has specially trained investigators to work in cooperation with law enforcement agencies where immunity laws permit.

Has underwritten tuition costs for Saint Paul fire and police personnel to attend crime-related seminars.

Has funded the arson investigation van used by the Saint Paul Fire Department. The van is equipped with special detection devices and room to interview witnesses. It appears at every fire the Department is called to.



And, in our own bailiwick as insurers, The St. Paul:

- Provides space, staff time and support for meetings of the Minnesota Insurance Advisory Committee on Arson,

- Distributes material to all field claim offices on their responsibility to recognize arson and to investigate fires for factual causes of loss information,

- Has held six arson fraud seminars for over 350 company claim employees during March and April of 1980,

- Has provided funds and staff support to the American Insurance Association to create the Property Insurance Loss Register.

And currently in the works is a \$70,000 arson prevention communications campaign as a pilot project in Saint Paul.

What the St. Paul is doing is a mere drop in the arson prevention bucket. S. 252 adds much, much more.

With continued federal attention and stepped up local and private industry attention, the arson drama will close its run before it becomes a full-scale national tragedy.

#### PREPARED STATEMENT OF ROD BIRMINGHAM

It's an honor, Mr. Chairman, to be testifying in support of your efforts to control one of our nation's most costly and destructive crimes. My name is Rod Birmingham. I am an investigator in the Fraud and Arson Unit at the Aetna Life & Casualty Company. I have worked for Aetna since 1966, and have spent my recent career helping formulate the policies and day-to-day operating procedures under which the Fraud and Arson Unit operates. I have conducted more than 1,000 fire prevention and causation investigations, both as a firefighter and in connection with my work at Aetna.

I am appearing today to present the testimony of John Barracato, the manager of the Fraud and Arson Unit, who is in California today testifying in a criminal trial. I ask that the full text of Mr. Barracato's testimony be included in the record, and I would appreciate the opportunity to summarize it briefly.

We believe the legislation before you makes an important start in dealing with arson comprehensively and effectively. S. 252 emphasizes coordinated federal efforts, assistance to state and local agencies, better training uniform data collection. Those are practical priorities that deserve immediate attention. Section 4 of this bill, which would permanently establish arson as a Part I crime under the FBI's uniform reporting system, is crucial if our nation is to plan and evaluate arson control strategies intelligently. Without adequate reporting, arson will always be a phantom crime. We will always be left to guess at the number of arson cases nationwide, the extent of damage, and the number of persons arrested and convicted.

At Aetna Life & Casualty, we are using internal data collection systems to refine and improve our anti-arson program. That program is built on three central efforts to confront arson directly.

First, the Fraud and Arson Unit gives prompt, individualized attention to fire claims where arson is suspected. We make sure our field office personnel have prompt access to suitable experts and other assistance so they can get laboratory analyses, access to property and financial records, on-site interviews and other documentation. This is important when fraudulent activity is involved because it establishes evidence justifying a claim denial. But it's also important when our policyholder is the innocent victim of revenge-motivated arson, vandalism, pyromania or other kinds of arson. By investigating immediately, we can make a settlement without waiting weeks or months for local fire officials to make an official determination of the nature of the arson committed.

Our second priority is training. In our first year, the Fraud and Arson Unit held 45 training sessions at Aetna field offices nationwide. We conducted and assisted in 60 seminars for law enforcement agencies, fire departments, insurance industry groups and public task forces. We published an award-winning, 43-page training manual that is now in its fourth printing, with requests from outside groups arriving at the rate of about 500 a week.

Our third priority is public education. We have undertaken extensive efforts to draw media attention to this issue; to encourage civic and business groups to emphasize arson prevention; to inform municipal leaders, and to get business organizations involved. Aetna has contributed well over half a million dollars to promising arson control efforts in key locations. These grants have included \$226,000 to New York City, \$140,000 to the California District Attorneys Association and \$97,500 to the City of New Haven.

Mr. Chairman, we are proud of our anti-arson program at Aetna. Based on what I have seen, it is an unparalleled attempt to deal with the complexities of the arson problem. We intend to build on our commitment and to improve our investigative programs; our training techniques and our public education efforts.

But I have to emphasize that this is a crime of the magnitude that requires an organized government response. At Aetna, we are reminded almost daily that we cannot begin to meet the equipment, training and information needs of local and state fire officials, of community groups or prosecutors. In city after city, dedicated people are struggling on their own with inadequate resources and little support.

Without the kind of help envisioned in S. 252—to set standards, to give direction, and to reinforce local and private initiatives—Aetna's work will, at best, be little more than a stop gap measure.

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PREPARED STATEMENT OF JOHN S. BARRACATO

My name is John Barracato. I am the manager of the Fraud and Arson Unit at Aetna Life & Casualty, and a former deputy chief-fire marshal for New York City. I have worked nearly all my adult life to stop the senseless, deliberate destruction of homes, business, and human lives by arson. I know from personal experience that it is truly the weakest, the poorest and the most vulnerable segments of our society who pay for arson—in lost jobs, in the life of their family members, in destroyed homes and in their very hopes for a better life.

So it is gratifying to see that you and others at the highest levels of government are addressing the issue. The legislation before you deals forthrightly with the practical problems of arson control. By emphasizing coordinated federal efforts, assistance to state and local agencies and uniform data collection, S. 252 makes a crucial start in meeting the arson problem effectively.

I don't want to repeat numbers that you've heard before. But I do want to reinforce the testimony of others concerning the seriousness of the problem. As a young fireman, and later as a fire investigator, I saw suffering that makes the dollar values assigned to arson seem trivial. In my present job, I am reminded, almost on a daily basis, that the arson problems I saw in New York are far from unique. Across the nation, businesses, homes, churches, retail stores, and the very fabric of our cities are being left in charred ruins.

At Aetna, we are building a response to the problem around the Fraud and Arson Unit that I head. Last year, our unit received more than 1,000 calls from Aetna field representatives reporting major fire claims where the losses were expected to be \$25,000 or more. Of those calls, 42 percent involved suspected arson, at a loss countrywide of \$51.5 million. In calls where arson was the identified cause, the accelerants and deliberate efforts to cause damage had their effect. The average insurance loss was \$112,000—compared to \$98,000 for non-arson calls. Fraud was suspected in well over one-third of the arson cases. Seven persons died last year as a result of arson cases reported to my unit.

I'd like to take a moment to stress that the ability to compile statistics like these is crucial to almost everything else we do in regard to arson. We decided at Aetna that unless we knew the nature and extent of the challenge we faced, we wouldn't be able to plan an intelligent response; we would have no way to document the significance of our work either inside or outside the company and we wouldn't be able to evaluate the effectiveness of our program.

Our reporting and data system is not perfect. As a matter of fact, we are making a number of changes in it now. But I want to emphasize the value of statistical reporting because the same principles apply with regard to the national arson problem. It is grimly disturbing to realize that the efforts to establish countrywide, uniform reporting of arson as a major crime may be abandoned. If legislation establishing arson as a Part I crime in the reporting system of the FBI lapses, arson will always be a phantom crime. We will be left to guess at the number of arson cases countrywide, the extent of the damage, and the number of persons arrested and convicted. Moreover, police and fire officials will lose immediate impetus to pursue arsonists vigorously. We can expect that real-world priorities would be readjusted toward more visible, clearly defined crimes.

Obviously, it will take considerable effort and several years to develop reporting procedures that are workable for volunteer firefighters as well as big city

investigators. But the difficulties are, in themselves, testimony to the need for a better cooperation, consistent standards and uniform procedures. Section 4 of S. 252 would lay the foundation for such progress by permanently establishing arson as a Part I crime and by instituting special investigative efforts.

I'd like to describe some of the activities that have resulted from Aetna's determination to confront the arson problem directly. I am submitting an advance copy of the annual report describing the work my unit undertook during the past year. But I'd like to draw your attention particularly to three central priorities in our campaign against arson.

First, as a division of Aetna's Claim Department, the Fraud and Arson Unit gives prompt, individualized attention to major fire cases where arson is involved. In most cases, there is not evidence of fraudulent activity by the policyholder and we can proceed immediately with a settlement. In this way, innocent victims of revenge-motivated arson, vandalism, pyromania and other kinds of arson can be compensated without having to wait weeks or even months for local fire officials to make an official determination on the nature of the arson committed.

If arson fraud is suspected, documentation and investigative work begins immediately. In such cases, we make sure our field office personnel have prompt access to suitable experts and other assistance they may need in collecting evidence quickly and thoroughly.

On the basis of laboratory reports, on site investigations, interviews research of financial and property records and other inquiries, we have gathered proof justifying the denial of more than \$7 million in fraudulent fire claims since the Fraud and Arson Unit was created. I'm proud of our investigative accomplishments. On the basis of what I have observed, our efforts are unique in the insurance industry.

At the same time, I have to tell you that we cannot do all that we'd like to do. It has not always been possible to track convoluted financial and ownership documents. And by necessity, we focus our investigative efforts on suspected fraud cases. They represent less than one-third of the major arson losses reported to our Unit last year. The other arson investigations are usually handled by local fire officials who are nearly always understaffed, inadequately trained and poorly equipped. I know first-hand that these men are extraordinarily dedicated. But they need support and direction of the kind contemplated in the legislation before you.

At Aetna, our second major priority is training. We want to prepare insurance claim representatives and, to the extent possible, front-line firefighters and police officers, to recognize arson and to preserve evidence of intentionally set fires. We aren't trying to develop a cadre of highly skilled investigators, but to teach those who arrive first at the scene of a fire to identify suspicious circumstances and to call for outside specialists when that is appropriate.

Our training program last year included 45 training sessions at Aetna field offices nationwide, 11 sessions for field management trainees studying at the home office and a special one-week course for selected field and home office personnel, other insurance representatives and fire training officers. In addition, Aetna personnel have been guest speakers or advisors for 60 seminars sponsored by law enforcement agencies, fire departments, insurance industry groups, state arson advisory councils and community arson task forces.

We published an award-winning, 43-page training manual last December that covers basic elements of fire and arson investigation. The book was intended primarily for use within our own company, but it generated almost immediate interest from government and law enforcement groups, fire control agencies and insurance industry representatives. The book is now in its fourth printing, with requests arriving at more than 500 a week from outside groups.

The impressive demand for the training manual reflects the scarcity of practical training materials from other sources. And the constant demand for training services indicates the lack of organized technical assistance.

We will continue to make our training materials and classroom services as freely available as possible. But I want to emphasize that this is a crime of the magnitude that calls for an organized government response. Without that kind of help—to set standards, to give direction and reinforce local and private initiatives—the work that Aetna can do will, at best, be a stop gap measure.

Our third anti-arson priority is public education. For many middle and upper income families, arson continues to be an "invisible" problem removed from day-to-day worries and interests. So we are making a deliberate effort to draw media attention to this issue; to convince civic and fraternal groups to adopt it

as a community service priority; to inform municipal leaders, and to get business organizations involved. Our company produced a 15-minute public service film, two videotapes, detailed background materials for the news media, and five major press releases. Last year, I personally discussed arson on 52 radio and television programs countrywide.

Aetna has contributed well over half a million dollars to promising demonstration efforts in key locations. These grants include \$226,000 to New York City for a "landlord contact" arson prevention project; \$140,000 to the California District Attorneys' Association for prosecutor training manuals and seminars; \$97,500 to the City of New Haven for a computer-based early warning system; \$63,000 to develop anti-arson handbooks for municipal officials; a total of \$38,000 for projects in Seattle and San Francisco, and additional contributions to arson reward funds in 13 states and jurisdictions.

In addition, we are trying to help neighborhoods directly affected by arson to help themselves. A kit of how-to leaflets, posters and cards describing proven anti-arson strategies have been enthusiastically received by community leaders in all parts of the country. More than 2,000 groups have asked for materials and advice on developing a "Community Arson Awareness Program."

It has been gratifying for us to find that inner city residents want our arson awareness materials. But it's also sobering because we simply don't have the resources to provide the technical assistance that is needed or all the materials that could be put to good use. In many cases, neighborhood leaders and local fire officials are struggling on their own to implement desperately needed educational and follow-up programs.

By authorizing arson research, community education and training materials, S. 252 makes a vitally important beginning in establishing an appropriate federal role in the fight against arson.

We are dealing, Mr. Chairman, with one of the nation's most destructive and costly crimes. It is crucial that our government responds with programs and reforms that are equal to the challenge. If we falter in our efforts to adopt appropriate federal legislation, we will send a demoralizing signal to neighborhood residents, firefighters, law enforcement and business representatives. We can expect a dismally steady climb in arson statistics, and numbing repetition of the human tragedies they reflect. A host of economic, social and family problems would be intensified by the failure to deal realistically with the arson challenge.

Aetna Life & Casualty will maintain its commitment to deal with arson as a priority concern at all levels of the corporation. I think we have already made important progress, but we intend to refine and improve our investigative programs, our public information efforts and our training techniques. Aetna stands ready to cooperate as fully as possible with this subcommittee and with law makers at other levels of government in efforts to formulate workable legislative programs.

I will be pleased to answer any questions you have.

Senator BIDEN. I thank you all for your indulgence. The hearing is adjourned.

[Whereupon, at 1:50 p.m., the subcommittee was adjourned.]

## APPENDIX

### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF JAMES E. JONES, JR.

*Question 1.* As you know, S. 252 primarily focuses on the role of the Federal Government in arson prevention. It has been said and documented, particularly by the Permanent Subcommittee on Investigations, that insurance companies have not initiated antiarson programs to the best of their abilities and that in several ways insurance companies encourage arson.

You have mentioned the recently established Property Loss Research Bureau and expanded public relations efforts of insurance companies in your testimony. But I am especially interested in learning of specific internal changes that your organization and the majority of insurance companies have made.

Answer. We would like to submit for your consideration in connection with the report of the Senate Permanent Subcommittee on Investigations the alliance response to that report. We believe that our reply set to rest many of the unduly critical charges made by the subcommittee. [Note: Alliance of American Insurers' March 5, 1979 letter to Senator Sam Nunn.]

I would also like to call to your attention the following reports by the Comptroller General of the United States, requested by Senators Nunn and Percy:

(d) "Federal Authority and Coordination for Arson-Related Crimes" GGD-78-47 (18156-B-171019—April 5, 1978).

(b) "Are Federal Programs Adequate to Deal With Arson Problems?" DSAD-78-88, April 24, 1978).

(c) "Arson-For-Profit: More Could Be Done To Reduce It" (CED) 78-121, May 31, 1978).

*Question 1(a).* For example: What types of selection, hiring, and training is given to claims adjusters and investigators?

Answer. The alliance on July 17, 1979, surveyed 35 of their member companies in order to determine the arson control activities in which they were engaged. We believe the survey results respond to your query. [Note: "Arson Control Activities Questionnaire."]

*Question 1(d).* What is the ratio of investigators to other insurance personnel? How many hours of training are they receiving? What is the curriculum? Do you feel that the industry needs more investigators?

Answer. I do not understand your question concerning the ratio of investigators to other insurance personnel. The insurance industry hires a variety of persons engaged in different occupations. The industry hires the number of people required to perform the many functions of investigations, claim settlements, underwriting, sales, administration, loss prevention, et cetera.

There are approximately 120,000 insurance adjusters available in this country. Approximately 50,000 are independent contractors and approximately 70,000 are direct employees of insurers.

The job of the adjuster is not only to determine the value of a given loss, but also to determine the cause and origin of a fire loss. Each adjuster may also be considered an investigator.

We do feel there is a need for more investigators.

In conjunction with your question, attached you will find the industry recommendations on the training and education of personnel relating to arson control efforts. [Note "Chapter 2 Training and Education."]

*Question 1(b).* Have insurance companies begun to routinely conduct site inspections? Claims inspections?

Answer. Company procedures vary, but no company inspects all property prior to issuing the policy. The reasons are the cost of preinspection—a cost which policyholders must ultimately pay—and the fact that agents, as an important service to their policyholders, bind coverage immediately in many situations to insure prompt coverage.

Most companies provide for preinspection of certain risks. They inspect prior to coverage those risks which involve a special hazard, an unusually high amount of coverage, or other conditions such as advanced age of the building.

Companies preinspect certain classes of property such as manufacturing and commercial or tenant-occupied dwellings. Some companies inspect all commercial properties prior to binding coverage or immediately after insuring the risk.

Some companies require the agent to physically visit the property and submit photographs of the location before binding the coverage.

The following factors influence the decision of an insurer to research the background of an applicant for fire insurance.

Farm property: The newness of ownership and the value and location of property.

In the decision to research the applicant's background, some companies use a specific amount of coverage as a trigger level, amounts such as \$50,000, \$100,000 and upward.

Commercial property: Each factor listed influences the decision to research the applicant's background:

- (a) Newness of ownership;
- (b) Value of property;
- (c) Location of property; and
- (d) Type of use.

A Dun and Bradstreet report on each applicant for commercial fire insurance is ordered by some companies.

Private home: The value and location of a private home influences the decision to research the applicant's background. The newness of ownership or type of use is also an influencing factor.

The following factors influence the decision to conduct a physical inspection of each property fire loss.

a. Size of loss.—The limits set by insurers that would trigger inspections generally vary in all three categories of farm, commercial, and private home properties.

Other factors which influence the decision to inspect are the adjusters' reports, the relationship of contents to value, and individual suspicious features of the loss.

Most companies do not use a dollar amount as a criterion for conducting interviews. It depends upon the individual case. Generally, all arson fraud or suspicious cases are investigated, and interviews are usually conducted during the investigations.

Some companies require police and fire interviews on all cases. Others require fire interviews on all cases over \$1,000, some set limits which require interviews—\$250 and \$5,000—but adjusters can conduct interviews for any loss.

*Question 1(c).* Have any members of your organization done a cost-effective study on inspections?

*Answer.* To my knowledge, a cost-effective study on inspections has not been performed. We are confident, however, that to inspect each and every property insured would not be cost effective. The industry does inspect properties which are suspected of being high risk. We take a variety of actions in order to screen out the high-risk and the arson-prone properties. But with all our precautions, there are those arson-prone properties which evade our best efforts and are insured.

If we did not exercise extreme caution in an effort to control arson fraud, the problem would be many times worse than it is today.

*Question 1(d).* Has your industry developed a reliable procedure to avoid property overinsurance? Is there an independent check done on underwriters so that they do not overinsure property merely to make bigger commissions?

*Answer.* One of the most confusing problems for underwriters and adjusters is value determination. Court decisions dating back to the 1800's show that value determination has been a major source of litigation. [Note "Value Determination."]

Companies do check to determine if property is overinsured.

*Question 1(c).* Do your member companies routinely or periodically require that property owners notify insurers when serious hazards occur or health code violations start? If not, why not?

*Answer.* It is my understanding that the standard fire policy requires an insured to inform the insurer when the insured property has become more of a

hazard. Two State arson task forces and the U.S. Fire Administration have recommended that methods be developed for notifying companies when buildings they insure incur serious housing, health, fire, and safety code violations.

The industry does not believe that a program for the mandatory reporting of code violations to insurers can be efficiently, effectively, or equitably applied. [Note "Code Violations".]

*Question 2.* In your testimony, you also mentioned private companies such as the Insurance Claims Service and INS Investigations Co. Are these new companies? Has arson-for-profit spun off a new type of industry—determining cause and origin of loss? It seems as though many of the organizations involved in fighting fraud activities are involved in the fight after the fraud had, in many instances, been allowed to occur. Wouldn't it seem better advised to concentrate on arson prevention?

Answer. Insurance Claims Services [ICS] was formed in July, 1979, and became operative in October. Previously, the service now provided by ICS was done in part by the Property Loss Research Bureau [PLRB]. The PLRB was incorporated in 1947.

The INS Investigations Bureau, Inc. [INS], is a spinoff from the General Adjustment Bureau [GAB], which dates back to the early 1900's. INS came into being about 1974.

You could say ICS and INS are new organizations but are providing services which were performed by prior organizations.

Arson-for-profit has not spun off a new industry—determining cause and origin of losses.

The insurance industry is very diversified and covers all the necessary issues and concerns. We believe that it is important to control or fight arson-for-profit after the fact as well as concentrating on prevention. The industry is significantly engaged in both objectives.

*Question 3.* You have also told us about the Insurance Crime Prevention Institute and its successful 94 percent conviction rate for fraud. Could you tell us how many of those arrests and convictions are for arson? Or are the majority of those arrests and convictions for other types of insurance frauds?

Answer. We have made personal contact with the Insurance Crime Prevention Institute [ICPI] in order to secure the information you requested. However, due to vacation schedules and the time restraints involved in responding to your questions, we are not able to respond to your specific question of how many of the arrests and convictions were for arson.

In our opinion, the majority of the arrests and convictions were for other types of insurance frauds.

As you know, the number of arsonists who are actually apprehended and convicted is an embarrassment to our entire criminal justice system. In a report prepared by the Stanford Research Institute [SRI], it was found that the conviction rate for arson is only 1 percent of those charged. That is like a license to steal.

According to the National Fire Protection Association, of the 144,000 incendiary and suspicious fires involving buildings which occurred in 1975, only 18,600 persons were arrested for arson, or about 13 percent. Examining the NFPA statistics, we find that fewer than 200 firebugs nationwide may have been successfully prosecuted and convicted for arson from a potential universe of 144,000 occurrences, in 1975! That represents a conviction rate of less than two-tenths of 1 percent. From what I am able to learn, the national arrest and conviction record for arson fraud has not improved that much since the SIR and NFPA reports.

*Question 4.* The National Association of Insurance Commissioners has developed a model insurance application requiring all applicants to disclose any previous arson involvement. This model application would apply to all types of property insurance and is therefore broader than the reform of the FAIR [Fair Access to Insurance Requirement] plan application which you endorsed in S. 252. However, I have read that the Alliance of American Insurers has gone on record as opposing this model application. Why?

Answer. The Alliance objected to the original draft of the National Association of Insurance Commissioners [NAIC] model insurance application because it was mandated and inspections were mandatory. We favor a voluntary application and inspection requirement. However, the NAIC has decided to reconsider the

original model application draft and has deferred action on its Antiarson application model bill until December 1980.

*Question 5.* You also endorsed the immunity provision contained in S. 252. It is my understanding that 37 States presently have information exchange immunity statutes. Have you found them to be helpful? Please provide statistics.

Answer. Presently, 40 States have enacted immunity statutes. The following States should be added: Kentucky, Alaska, and Pennsylvania.

Yes, we have found the immunity statutes most helpful, and will be more encouraged when all jurisdictions have enacted the model arson reporting immunity law and other States have brought their laws closer to conformance to the model. [Note exhibit VII—Arson Reporting Immunity Survey, a survey conducted by the NAIC of law enforcement officials in the States with immunity laws is on file with the committee.]

Attachments.



March 5, 1979

The Honorable Sam Nunn  
Chairman  
Permanent Subcommittee on Investigations  
of the Committee on Governmental Affairs  
United States Senate  
101 Russell Senate Office Building  
Washington, D.C. 20510

Dear Mr. Chairman:

The Alliance of American Insurers supported the hearings launched by the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs which were conducted August 23, 24 and September 13, 14, 1978. We believe that such congressional hearings are necessary in order to focus attention on the serious crime of arson and arson-for-profit. We applaud your investigative efforts in this area.

The Alliance of American Insurers is a major national trade association of more than a hundred property and casualty insurance companies. Our member companies provide a full range of property and casualty insurance coverages in the fifty states and the District of Columbia.

The Alliance feels the Staff Study of the Insurance Industry in Dealing With Arson-For-Profit is unduly critical of the insurance industry. Moreover, the press release Staff Study Cites Insurance Industry "Laxity" in Rise in Arson For Profit is in our opinion surprising and very disappointing. The full report agrees, to some extent, with recommendations that we submitted in our statement which we filed with the Senate Permanent Subcommittee on Investigations, October 6, 1978.

The Alliance is convinced that a maximum effort must be put forth in promoting public understanding. There is a great deal of public awareness about the arson problem but very little understanding on the part of the public about the insurer's role or the role of the insurance industry. Insurance has become a convenient scape goat for the media and for those who would seek simplistic solutions to arson problems.

It is important to understand that insurance companies are really caught in the middle on most arson claims. Consider this: on the one hand consumer groups and regulators demand that we pay claims quickly, but on the other we are criticized for not resisting arson claims. It is most difficult to satisfy everyone when you are trying to deal with a suspicious claim.

Again, on the one hand we are told to make better use of our underwriting judgment before we insure arson-prone properties. But FAIR Plan (Fair Access to Insurance Requirements) programs and the so-called red-lining regulations leave the insurer very few options. For the most part we are prohibited from checking into the backgrounds of applicants. This dichotomy of interests between consumer demands and the insurer's legitimate arson control efforts -- which after all are also in the consumer's interest -- stems from a general lack of understanding about how the insurance mechanism works -- and how it is required to work.

It is imperative that insurers promote that understanding through public relations and through educational and informational programs which we are doing. The media, the public, and government officials must be told in no uncertain terms that insurers are only one of the many interests responsible for controlling the arson problem. But, insurers cannot do it alone. The education campaign is the responsibility of government as well.

We must explain that the growth in arson cases is a product of a whole mosaic of social and economic ills which afflict the inner city -- the lack of jobs, substandard housing, prohibitive fuel and energy costs, regressive tax practices, rising crime rates, inability of landlords to collect rents and the high rate on home loan defaults under federal subsidy schemes for housing.

It is not easy for insurers to check an applicant's backgrounds with the restrictions placed on insurance companies by the requirements of Unfair Claims Practices Acts, Valued Policy Laws, Privacy Act of 1974, and the Freedom of Information Act.

Nor is it easy to obtain evidence of arson, since much of the evidence has been altered or destroyed by law enforcement or fire fighting officials, by the time the adjuster arrives at the fire scene.

It is difficult to develop improved statistical information on the incidents of arson when there is an absence of reliable statistics on the number of incidents, the economic losses and social impact of the crime of arson. This absence, coupled with the drought of research into behavioral and social characteristics of the arsonist, severely limits both public and private sector attempts to deal effectively with this crime.

To improve the available information basis the Alliance vigorously supported the efforts of Senator John Glenn and Representative John F. Seiberling, Jr., during the 95th Congress, to designate arson as a Part I offense for reporting purposes in the FBI's Uniform Crime Reports. This effort was partially successful but it is imperative that Congress acts again to make this compilation available on a permanent basis.

We also support S. 252, the "Anti-Arson Act of 1979", introduced by Senator Glenn, which would combine into an interagency committee the nine federal agencies which presently have involvement in anti-arson efforts. The bill would also make permanent the requirement that the Federal Bureau of Investigation classify the offense of arson as a Part I crime in its Uniform Crime Reports.

Permanent classification would do two things:

One, it would stimulate police and fire authorities to become more involved in the pursuit of the arsonist. It would encourage them to reset their priorities on a real-world basis which reflects the true documented impact of arson on their communities.

And two, permanent classification would for the first time provide us with meaningful statistics on the true volume of arson, the number of persons arrested and the number of convictions, as well as other important trends.

It is difficult to provide better trained adjusters to identify evidence of arson when nearly all studies of the arson problem point to the lack of trained professional investigators. To meet this demand, the insurance industry is making an effort to provide specific training programs tailored to the needs of the insurance industry personnel concerned with arson, such as insurance underwriters, claims personnel, adjusters, loss control consultants and insurance agents.

The insurance industry is now coordinating their efforts with Lieutenant Governor Tom O'Neill of Massachusetts for the sponsorship of a national forum on arson control.

This national forum would bring together all the disciplines which are involved and needed to help control arson. This would be a highly diverse group, consisting of public agencies, business interests, consumer organizations, fire services, law enforcement agencies, prosecutors, and the federal, state and local governments.

There are roles and responsibilities for everyone in the control of arson. No one group individually can bring this gigantic problem under control; but it can be done with the coordinated effort of everyone and the cooperation of all the disciplines involved.

It serves no useful purpose and is unfair to make one segment -- the insurance industry -- the scapegoat, in the failure to control arson. We realize as much as anyone that we have a role to play in helping to solve and control the vicious crime of arson and arson-for-profit but, as stated, we cannot do it by ourselves.

The Alliance and its affiliate, the Property Loss Research Bureau (PLRB) have provided extensive research into arson problems. The document "Target: Arson" provides specific recommendations for controlling arson. An arson information kit has also been produced by the Alliance and PLRB.

The records will show that we have never denied that tighter standards on precoverage risk inspection are needed, nor have we ever absolved the industry of any blame for the arson problem. However, we have insisted repeatedly that no one group can do the job of controlling arson alone.

Recognizing that each involved organization or agency has special strengths and responsibilities for arson control, we acknowledge the following seven areas as being of major concern in controlling arson:

1. Jurisdiction and Operational Structures;
2. Training and Education;
3. Statistics, Data Collection and Research;
4. Legislative and Regulatory (Administrative) initiatives;
5. Public Relations and Public Awareness;
6. Funding; and
7. Establishment by the insurance industry of an All-Industry Committee for Arson Control.

In spite of the harsh criticism against us in the report, the Alliance will fully support your efforts and objectives to reduce arson in the United States.

Sincerely,

James E. Jones, Jr.  
Government Affairs Representative

JEG:fmh  
Copies also sent to: Members of the Subcommittee

ARSON CONTROL ACTIVITIES QUESTIONNAIREBackground

The request for arson control activities information was stimulated by a request from the U. S. Fire Administration. Public Law 95-422, dated October 5, 1978, directed the U. S. Fire Administration to develop programs and to assist states in local jurisdictions to improve measures for arson prevention and control. The Federal Emergency Management Agency (FEMA), which oversees the U. S. Fire Administration, is developing an information base for the resources involved in contributing to the prevention and control of arson. FEMA, on a national basis, recognizing that the insurance companies are playing a major role in combating the arson problem, wishes to include in its information base the various individual company initiatives which are being taken. Although FEMA proposed querying insurers individually about their activities, the Alliance proposed that the association inquire of the companies on FEMA's behalf and convey the resulting information on an aggregate rather than individual company basis.

Summary of Responses

On July 17, 1979, an Arson Control Activities Questionnaire was submitted to the Claims Committee, the Property Loss Committee, and the Property Insurance Committee. Thirty-five companies responded to the questionnaire.

The priority which the insurance industry gives to arson control is reflected in the growing number of arson activities engaged in by the companies. Almost all the companies surveyed indicated their support for and participation in training programs and local awareness programs. Half were involved in one or more state arson task forces.

The results indicate a focus primarily on training for claims personnel provided to large extent outside of the company. Training courses and other material are provided by insurance industry associations, rather than developed internally. Companies are, however, beginning to incorporate arson control into standard internal training.

Companies actively support many local and state programs through funding and in kind services. Procedures for granting funds are in general informal. Most companies encourage employee participation in these local and in national organizations.

Specific ResponsesArson Control training provided for underwriting and claims personnel.

Number of responses: 34

Companies providing training outside the company: 28

Companies providing internal training: 15

Companies providing no special training: 4

Almost all of the responding companies indicated that their employees regularly attend training programs related to arson control outside of the company. Although many respondents did not identify the type of program the employees attended, those who did mentioned programs or conferences conducted by the insurance industry, the state arson task forces, local colleges or universities, the International Association of Arson Investigators, the Battelle Institute, and the National Safety Council. A clear preference was expressed for training programs conducted by the insurance industry itself.

The vast majority of employees receiving training were claims personnel and adjusters. Only four companies mentioned outside training programs for underwriters.

Many of the internal training programs were incorporated into regular introductory training review procedures. Several companies mentioned that in addition to the training programs, they reproduce and circulate literature on arson control and have incorporated sections related to arson in both claims and underwriting procedures manuals.

Corporate activities undertaken with state and local arson task forces, including any stated company policy with regard to verification of cause and origin with state and local fire officials.

Number of responses: 32  
 Companies urging adjusters to verify cause and origin with police and fire officials: 26  
 Companies participating in task forces: 15

All companies responding to this question indicated that they routinely cooperate with authorities in reporting and investigating fires. Formal procedures varied, but the thrust in all cases was the same. All companies indicated that they abided by state reporting laws and even if they did not have procedures for cooperation did report information on all losses to authorities.

Twenty-six companies specifically urge their adjusters and investigators to cooperate with police and fire officials to verify cause and origin with them and to report losses. Fifteen of these companies mentioned by name active participation in state and local task forces as part of their policy of cooperation.

Funding of local programs and equipment.

Number of responses: 30  
 Companies indicating support for some programs: 26  
 Companies providing no support: 4

These results indicate that companies are shifting from the traditional support for training programs into broader funding involvement in local and state programs. However, procedures are still very informal.

Thirteen companies said their major participation was through support of one or more statewide arson task forces including arson tip award programs and sponsorship of local programs approved by the state task force. Only one company said it funded local programs through its FAIR Plan participation.

Of those companies which did not mention participation in statewide arson task forces, five companies said they consider all requests and fund those local programs with merit. One of these companies placed a specific limit on funding amounts (\$100 through \$500).

A second group of companies (6) described their support as limited to the funding of training and investigation programs sponsored by local police, fireman and investigators. The primary forms of support were payment or provision of printing, tuition, travel, room and food costs. Only one company mentioned buying equipment for local investigators.

General information brochures provided on arson control relating to buildings, automobiles and other property, including discussions, guidelines and references and company manuals.

Number of responses: 32

Companies publishing their own material for policyholder or public

distribution: 2 (one more considering)

Companies with materials in company manuals: 7

Responses to this question indicate that Alliance membership, in large part, depends on the trade association and other industry organizations to publish material on arson control. The most frequently mentioned source of materials was the Alliance and specifically the Arson Information Kit. Seven companies have material on arson control in their company training and procedures manual and three more publish newsletters in which they frequently have articles on arson control. Several companies also maintain a library of arson materials.

Other arson control activities, including sponsorship of employees membership or attendance in related groups.

Number of responses: 34

Answers to this question varied greatly.

Five companies indicated that they specifically encouraged participation in related activities. Aside from involvement in state arson task forces, of which fourteen companies cited membership, companies also mentioned membership in numerous organizations such as the Property Loss Research Bureau and the International Association of Arson Investigators.

## CHAPTER 2: TRAINING AND EDUCATION

Nearly all studies of the arson problem point to the lack of trained professional investigators. Specific training programs tailored to the needs of other personnel concerned with arson, such as insurance underwriters, claims personnel, adjusters, loss control consultants and agents, prosecutors, and on-scene firefighters, also appear to be inadequate.

The following recommendations address the need for better trained and qualified arson investigators and the lack of adequate training programs in place to fill this need. They also focus on the fact there is little opportunity for personnel other than investigators to learn the basics in initial detection of arson, preservation of evidence, prosecution techniques, etc. as needed in their particular roles.

Recommendation One (2.1)

It is recommended that arson investigators of state and local law enforcement agencies and police and fire officials assigned responsibility for arson control be provided opportunities by government for training and education. State and local governments have the principal responsibility for improving education of their personnel. Assistance of various kinds may be obtained from the National Fire Prevention and Control Administration, the Law Enforcement Assistance Administration and, perhaps, other federal government sources.

The NFPCA has established a pilot educational and training program for arson investigators.



Recommendation Two (2.2)

National or state associations representing such groups as prosecuting attorneys, fire chiefs, arson investigators, and police officials also should be encouraged to develop and/or participate in arson education programs appropriate to their memberships.

The insurance industry, through such qualified organizations as the Property Loss Research Bureau, the College of Insurance and the Insurance Institute of America, should develop appropriate arson education programs and courses for insurance company personnel who may become involved in arson situations either before or after the fire. Such personnel would include agents and sales personnel, loss control consultants, underwriters and adjusters and claims personnel. Programs should focus on such basics as identification of arson or arson-prone situations, preservation of evidence, and other procedures.

Recommendation Three (2.3)

Colleges and universities should be encouraged to increase the emphasis on the crime of arson. Appropriate curricula for emphasis on the practical as well as theoretical techniques of arson detection, investigation and prosecution include criminal justice, police administration, fire protection and law school curricula.

Recommendation Four (2.4)

Professionalism among arson investigators through education and training should be encouraged. The Joint Council of National Fire Service Organiza-

tions, an organization representing about a dozen fire service associations and sponsored by the National Fire Protection Association, the International Association of Arson Investigators and other appropriate agencies, both public and private should give consideration to the creation of educational and training opportunities to achieve this end.

Recommendation Five (2.5)

The Insurance All-Industry Committee for Arson Control (see Recommendation 7.1), in cooperation with other insurance and professional organizations, should work to establish seminars designed to increase cooperation among all groups interested in the crime of arson. These seminars would serve as a complement to the Model Arson Task Force approach to be developed as a guide for local agencies in coordinating their efforts in detection, apprehension and prosecution in arson cases. (See Recommendation 1.2).

VALUE DETERMINATIONPurpose:

Perhaps one of the most perplexing problems facing both underwriters in setting coverage limits for a risk and claim adjusters in assessing damages is value determination. Value determination is not a new task in the property insurance business; court decisions from the 1800's show that value determination has been the source of much litigation between insurers and insureds. This section will attempt to demonstrate the problems faced by insurers in setting coverage and in settling claims due to circumstances which distort the concept of indemnification and give rise to incidents of arson fraud.

Background:

One aspect of this problem would appear to be the lack of a definition of value in the insurance contract. The 1943 New York standard fire insurance policy says the policy will pay ". . . to the extent of the actual cash value of the property at the time of loss." All jurisdictions do not follow one definition of actual cash value because the case law in the various states has interpreted that standard in many different ways.

Theoretically, the solution should be indemnification to the property owner for the loss sustained. However, state laws and court decisions have not always served to enforce the true meaning of indemnification, that is, to restore the insured to the same position the insured enjoyed prior to the fire loss. In too many instances these factors have contributed to windfall settlements to policyholders. Recognition of such enrichments by unscrupulous policyholders

has often led after the purchase of fire coverage, to arson fraud. This is particularly true in a situation where the fair market value of a structure (i.e. what a buyer would be willing to pay for a structure a moment in time prior to the fire) is substantially less than what it would cost to replace or repair that structure. Another factor which unintentionally increases the potential for arson fraud is the desire of insurers to provide to policyholders a level of coverage sufficient to enable the policyholder to rebuild following a fire.

Valued policy laws, existing in nineteen states, tend to increase the arson problem by requiring insurers to pay the policy limits in the event of a total loss and limit experimentation with the NCPI Optional Loss Settlement Endorsement. For example, property owners who see the fair market value of their structures diminishing can, in a valued policy jurisdiction, be drawn to arson to protect their investments. Additionally, the requirement of mortgagees that fire coverage be provided for the full amount of the mortgage (i.e. reflecting the mortgage on the property, both structure and land) can encourage arson fraud in valued policy states when the value of the structure is negligible in comparison to the value of the land.

What is the answer? What standard for setting values can insurers use to discourage arson fraud but at the same time provide the insured with adequate coverage? There are several standards which can be used, but no one standard can be universally applied. It is, therefore, the industry's position that, instead of searching for a universal standard, each individual risk must be evaluated in light of various factors existing in relation to such risk to insure adequate coverage without encouraging arson fraud. An examination of the various standards of value determination will demonstrate the difficulty of adopting any one method as a universal standard.

A. Fair Market Value (fmv) vs. Actual Cash Value (acv)

Neither of these standards can be uniformly used as a measure of valuation to guarantee indemnification since the measure of what a willing buyer would pay for a structure prior to a fire (i.e. fmv) and the traditional concept of acv (replacement cost less depreciation) are in many instances unrelated to what it would cost to repair substantial damage to that structure and thereby indemnify the insured.

The application of an fmv standard in setting coverage and adjusting claims would often prevent a policyholder from making adequate repairs for a partial loss or replacing the structure in the event of a total loss if fmv is less than acv. For example, a structure with an acv of \$100,000 but an fmv of only \$25,000 could conceivably suffer a partial fire loss where the cost to repair the damage (even when employing commonly used, but functionally equivalent, materials and methods as opposed to materials of like kind and quality) greatly exceeds the coverage afforded when the fmv standard is used in setting coverage; coverage of \$25,000 would clearly be inadequate in such a situation to allow the insured to rebuild. Also, while the meaning of fmv in relation to a total loss situation might be clear, there is some question as to how that standard would be applied in adjusting a partial loss. Moreover, universal application of a market value standard would distort the rating process since most rates and premiums are now developed with the understanding that the limit of liability will be replacement cost less depreciation; it would be impossible to develop relationships between replacement cost less depreciation and market value which will hold true in all cases. On the other hand, FMV can exceed replacement cost on an economically or aesthetically desirable property and can create an arson for profit hazard.

If the traditional acv standard or replacement standard is universally used, adequate coverage would be realized, but arson fraud would be encouraged where fmv is low or negligible due to a scarcity of willing buyers. The insurance industry might find itself being called upon to finance the rebuilding of many structures which have minimal market values.

B. Development of Yardsticks of Valuation

The problem of selecting representative structures, assigning values to them and then using those values as guidelines in determining the value of another structure lies in the fact that no two structures are exactly alike and that, even if two or three similar structures are found, there are usually differences in the physical condition of those structures and in the amount and degree of physical improvements to those structures.

C. Use of the NCPI Urban Revitalization Clause (Optional Loss Settlement Endorsement)

This concept encourages the owner-occupiers of 1 to 4 family structures to rebuild their homes by offering them repair or replacement coverage up to the policy limits if they rebuild on the same site within a certain time and the smallest of the policy limits, fmv or replacement cost less depreciation if they fail to do so. This concept would be inadequate if employed as a universal standard in that 1) since this coverage is purchased at the option of the insured, it will not be purchased by an individual intending to commit arson fraud; 2) the concepts of replacement cost less depreciation and fmv must still be reckoned with; and, 3) this clause could not be used as designed in states with valued policy laws because such laws mandate coverage (a) to the extent of the policy limits in the event of a total loss and

(b) in the amount of the loss up to the policy limits for any partial loss. Moreover, the NCPI clause was not intended for application to the multiple-family dwelling and commercial structures where the arson problem is most serious and where value determination and reconstruction cost factors are most complex.

D. Broad Evidence Rules (Multiple Family Dwellings and Commercial Risks)

In determining the value of buildings at the time of loss, the broad evidence rule utilizes such criteria as 1) assessed value of improvements to the property, 2) market value of the property, 3) the three-year rental income of the property, 4) the replacement cost of the building less depreciation, and 5) obsolescence in the uses to which the building could be put. It has been suggested that the use of these criteria in setting coverage for multiple-family dwellings and commercial properties would have a positive effect on the problem of overvaluation.

It is the industry's opinion that the broad evidence rule could be used by underwriters as a discretionary alternative to traditional methods of computing insurable values. It should be noted, however, that the concepts of replacement cost less depreciation and fmv would be a part of value computation under this method of valuation. Also, the rating base used by the industry does not relate to the broad evidence rule.

It could be said that the use of this standard, due to its consideration of several relevant factors in setting maximum coverage, would help enable the insured to determine the insurable value of his structure. However, due to the volatility of values in the present real estate market, the value

set under the broad evidence rule during the underwriting process might soon after be inaccurate as an indication of true value; insurers would have to review on a regular basis the criteria used to determine value under the rule in order to keep the coverage in line with the various value adjustments. The industry is concerned that the use of the broad evidence rule in the underwriting process might establish a valued policy; it is urged that legislation requiring the use of the broad evidence rule explicitly provide that its use would not establish a valued policy.

Current Activities:

The industry has been responding to the value determination problem by instituting educational and training programs for underwriting, claims and loss prevention personnel to reinforce the indemnity concept and to demonstrate how the use of a particular value determination standard in specific situations can either discourage or unintentionally provide incentives for arson. More prudent underwriting techniques have been instituted throughout the industry to permit the underwriter to make an accurate assessment of what coverage limits would best protect the policyholder through indemnification. The industry is presently involved in the development of new application forms which would, among other functions, seek to determine the price paid by the applicant for the property, the uses to which the property is put, the method used by the applicant in establishing insurable value and the identity of all mortgagees and parties with an insurable interest. With such data, insurers could better determine the reliability of the applicant's estimates of value and the amount of coverage which would indemnify the applicant in the event of a total loss. Such applications would indicate to the insurer the need for physical inspections of certain risks if the values of those risks were



not adequately established to the insurer's satisfaction through the data provided on the completed application.

The industry is supportive of efforts to establish cancellation laws in the various states which would enable insurers to cancel policies upon five days written notice in the event certain conditions exist in relation to the structure, some of which are indicative of declining values

Additionally, the industry has begun offering the Optional Loss Settlement Endorsement to the owner-occupiers of 1 to 4 family structures to permit them to rebuild following a loss and to discourage abandonment by limiting coverage in the event the owner chooses not to rebuild

Insurers are making every effort to address the issue of value determination, and the industry offers the following recommendations which it believes will discourage overvaluation and the commission of arson fraud.

Recommendations:

- a) The industry must continue to support educational and training programs for all insurance personnel involved in the underwriting and claims handling processes to improve their skills in determining insurable values through the indemnification concept;
- b) such programs should be expanded to agents, brokers and other parties having direct contact with the policyholder;
- c) the insurance industry, through its agents, brokers and sales people should explain value determination to applicants for insurance and claimants under existing policies.
- d) lending institutions should recognize that mortgage requirements resulting in excessive fire insurance coverage create a moral hazard con-

ductive to arson, and the insurance industry should make efforts to determine if, through cooperation with lending institutions, some plan for the proper evaluation of each mortgaged structure, independent of land value, can be worked out;

e) legislators in states having valued policy laws should be urged to reevaluate the desirability of retaining such statutes in light of the potential they create for arson fraud;

f) to the extent that an insured structure has not experienced unusual or erratic changes in market value, use or obsolescence since the time coverage limits were last established, the standard for value used in adjusting a loss should be the same standard used in establishing the amount of insurance;

g) insurers should be free to determine the method of valuation to be used in setting coverage limits and in adjusting a loss so that the goal of indemnifying policyholders can be attained;

h) the industry should actively pursue rating and form innovations in the area of valuation to adequately indemnify insureds seeking to repair partially damaged buildings and replace destroyed property without creating incentives for arson.

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## CODE VIOLATIONS

### PURPOSE:

Thus far, two state arson task forces (Massachusetts and Connecticut) and the United States Fire Administration have recommended that methods be developed for notifying insurers when buildings they insure incur serious housing, health, fire and safety code violations. This section will explore the practicality of implementing such a program.

### BACKGROUND:

Research on the arson problem has revealed that many structures, which fall victim to arson fraud, are permitted to fall into general disrepair to the extent of incurring serious code violations prior to the arson. Given this profile, insurance companies would seemingly benefit if some means of communicating to them the existence of such code violations were devised. The insurer would be able to then determine if a particular risk should be cancelled or renewed. Moreover, to the extent that code violations on arson prone structures would be reported to insurers resulting in termination of coverage, arson fraud would be prevented thereby benefitting the entire community. Anti-arson groups have therefore suggested that insureds and/or municipalities be responsible for reporting to the insurer code violations as soon as they are incurred.

While the concept has merit, there are inherent problems in enforcing such requirements. A major problem is that few policyholders would report such violations to their carriers if such violations would adversely affect them.

If municipalities were required to report code violations to the insurers, the concept would probably be rendered ineffective because:

- (a) there is no uniformity among municipalities as to what constitutes a code violation and how serious a particular violation is (i.e. what is a serious violation in one jurisdiction might be minor or no violation whatsoever in another jurisdiction);
- (b) the effectiveness of many individual code enforcement authorities in large municipalities in inspecting for violations is questionable, and code enforcement activities in the areas outside major metropolitan areas are often lacking;
- (c) the questions of the coordination and dissemination of such code violation data for each municipality have not been addressed nor is it certain that those tasks could be accomplished since 1) most major municipalities divide the responsibility for declaring code violations between the local health, building and fire departments and 2) an efficient means for identifying and notifying the proper insurer of code violations on a particular building has yet to be developed.

#### CURRENT ACTIVITIES:

The foregoing does not suggest that the insurance industry has closed the door to the possibility of using code violation data to prevent arson fraud. To the extent that certain code violations might justify the imposition of certain condition charges added to the standard premium by the insurer, the industry is responding appropriately through the implementation of prudent underwriting standards and procedures. Additionally, the industry is making use of policy provisions and local cancellation laws to determine if the existence

of a particular violation is a justification for cancellation or nonrenewal. The industry is also encouraging the adoption by each state of 5-day cancellation laws which spell out certain grounds (some of which constitute code violations) upon which an insurer can cancel a policy upon 5-days notice to the insured.

Insofar as code violations come to the attention of the insurer, either during the underwriting process or during the term of the policy, the industry is using such knowledge in determining the insurability of individual risks. However, the industry recognizes that any attempt to mandate the reporting of various code violations to the insurer will, due to a lack of uniformity of code standards among various jurisdictions, necessitate that insurers inspect every reported violation to determine if a particular violation is serious enough to warrant cancellation of coverage. Such widespread inspections, particularly in jurisdictions with exceptionally rigid building codes, will not very often result in a determination by the insurer that a risk is arson prone, and the cost of such inspections will have to be borne by both the insurer and the insured. Moreover, insureds whose properties are located in areas with such rigid codes might find that their properties get cited for a multitude of code violations, most if not all of which are not reflective of a greater arson fraud risk. Nonetheless, such properties will be subjected to extensive if not frequent inspections while arson prone properties in areas with lax codes and/or lax enforcement of those codes will never be so subjected.

#### Recommendations:

The industry therefore does not believe that a program for the mandatory reporting of code violations to insurers can be efficiently, effectively or equitably applied. Even if a successful program could be implemented, we believe such implementation would have to come from the individual municipalities

since they are the only entities in the position to cite and report building conditions which constitute violations.

One approach deserving of attention is the arson early warning system which can be used to predict the susceptibility of a structure to arson-for-profit in order to enable a municipality to develop an anti-arson strategy. Such systems are predicated upon the observation that structures most susceptible to arson share certain characteristics in regard to such things as tax arrearages, depressed fair market values relative to replacement costs, frequent changes of ownership and code violations. Information regarding these areas of interest can be computerized so that the arson-prone structures can be identified permitting the municipality to select a proper arson-preventative strategy such as the reporting of code violations to insurers. The city of New Haven, Connecticut, has developed a pilot program of this nature to prevent arson occurrences; this program required a tremendous commitment from the various municipal agencies including the code enforcement authorities.

In the way of additional recommendations, we offer the following:

- (a) municipalities should commit themselves to a program of regular code inspections for every building within their jurisdictions, and a clarification of the standards used by each municipality in determining the existence of such violations would be needed by each insurer;
  - (b) state legislatures should enact laws allowing municipalities to obtain the name of the insurer from the named insured and requiring municipalities to report code violations (such as, but not limited to, those suggested by the FIA Regulations as grounds for five-day cancellation of FAIR Plan risks).
- We would suggest the following statutory enabling language:
- "The owner of a residential or commercial structure shall, upon the written (registered mail) request of

any municipal code enforcement official, disclose in writing by registered mail (1) the name and address of the company insuring the property against loss or damage by fire, (2) the amount of insurance provided, and (3) the applicable policy number. Such request shall be made by the appropriate code enforcement authority upon the service, by such authority upon the owner of a structure, of such a code violation, and such code enforcement authority shall promptly notify the company insuring the property, by registered mail, of the nature of such violation."

State legislatures should also look into the possibility of requiring insureds to notify their insurers of such violations.

- (c) such legislation should also enable insurers to have access to some code violation index mechanism to determine if a particular code violation has been cured;
- (d) such legislation should contain a provision allowing the insured to appeal cancellations prompted by a code violation, provided such appeal does not interfere with the cancellation.

QUESTIONS OF SENATOR BIDEN AND RESPONSES OF ROBERT SMITH

*Question 1:* You testified that your organization has developed qualification standards (performance standards) for firefighters. Would you please provide us with a copy of those standards?

Answer: The National Fire Protection Association, in conjunction with the National Professional Qualifications Board, established by the Joint Council of National Fire Service Organizations, has produced the following national professional qualification standards: NFPA 1001, "Fire Fighter Professional Qualifications"; NFPA 1002, "Standard for Fire Apparatus Driver/Operator Professional Qualifications"; NFPA 1003, "Standard for Airport Fire Fighter Professional Qualifications"; NFPA 1021, "Fire Officer Professional Qualifications"; NFPA 1031, "Professional Qualifications for Fire Inspector, Fire Investigator, and Fire Prevention Education Officer"; and, NFPA 1041, "Standard for Fire Service Instructor Professional Qualifications."

Although all of these professional qualifications standards are very important since they develop the performance objectives for the starting fireman through officer rank, I feel the professional qualification standard, NFPA 1031 entitled "Fire Inspector, Fire Investigator, and Fire Prevention Education Officer Professional Qualifications" are most germane to the interest of your committee. I have enclosed a copy of this standard and other professional qualifications standards for the Fire Service for your committee's study. It is important in reviewing NFPA 1031 to fully understand the criteria and guidelines enumerated on pages i through vi.

The National Professional Qualifications Board submitted its final report on a three-State pilot testing project to the Joint Council of National Fire Service Organizations on August 11, 1980. The purpose of this pilot program was to determine the feasibility of accrediting state agencies to conduct a certification program using the national professional qualifications standards. The report was accepted and the pilot testing of this program has come to a successful conclusion. The States of Iowa, Oklahoma, and Oregon, participants in the pilot test program, are the first three States accredited by the Joint Council of National Fire Service Organizations.

If you have further questions or desire additional information regarding the professional qualifications standards process, please don't hesitate to contact me.

*Question 2:* Has your organization insisted that fair access to insurance requirements (FAIR) plan insured property meet the same safety standards as those published in your yearly manual on fire codes and hazards? Please explain.

Answer: The National Fire Protection Association stands firmly behind all of the standards developed through the NFPA voluntary consensus development process. However, it must be understood that the NFPA does not have the authority or responsibility within itself to statutorily mandate the use of its standards in a given jurisdiction. The formal adoption and subsequent enforcement of NFPA codes and standards is a responsibility of the federal, state, or local jurisdiction having authority for code adoption. NFPA, therefore, can in no way "insist" or mandate the use of NFPA codes and standards by States' fair plan insurance programs.

NFPA does very actively publicize the availability of its codes and standards program for jurisdictional adoption and is supportive in every way that it can be in seeing that appropriate use of these voluntary consensus standards are made by federal, state, and local authorities. For the committee's information, I have enclosed a booklet briefly describing the efforts and activities of NFPA as the public advocate for fire safety. I have also enclosed a recent press release briefly indicating the 1979 fire statistics as compiled by our association. Your committee, I am certain, will be interested in these figures and the trends indicated regarding arson.

Enclosure.

#### DEATH DOWN, INJURIES UP FROM FIRE IN 1979

There were fewer deaths from fire in 1979 than in 1978, but injuries increased. So reports the National Fire Protection Association (NFPA) in its annual survey of fire loss in the United States.

Writing in Fire Journal, Michael J. Karter, Jr., senior NFPA statistician reports that 7,780 civilians died in an estimated 2,845,500 fires to which the public fire service responded—a 4.3 percent decrease. On the other hand 31,325 civilians (persons who are not fire fighters on duty), were injured, an increase of 5.1 percent over 1978.



Property damage from fire showed a dramatic increase over last year. There was an estimated \$5.75 billion in property damage, a 27.8-percent increase. Although not adjusted for inflation, the increase is still well above the prevailing rate of inflation. The rise is attributable in part to a dramatic increase in large loss fires. Losses from these fires, defined as causing more than \$500,000 damage, increased 40.3 percent in 1979 over 1978.

Of the 7,780 fatalities in fires in 1979, 5,765 (74.0 percent of the total) died in residential fires. This figure remains consistently high year after year, according to NFPA.

Fire of suspicious or incendiary origin has been an NFPA concern for many years. While 1979 saw a 7.1 percent decrease in the number of such fires in structures, the dollar losses increased 24.5 percent from 1978 to \$1.328 billion. Arson accounted for 14.3 percent of all structure fires and 26.8 percent of all property loss from structure fires.

Also, NFPA estimates there were 63,500 incendiary or suspicious vehicle fires, an increase of 32.3 percent from 1978. Resulting damage totaled \$167 million.

The fire loss survey is conducted annually to provide information and identify trends that NFPA and others use to develop codes and standards, fire protection planning, as well as fire safety education programs. The data for the survey figures were gathered from 2,800 fire departments protecting 82 million people, or 37 percent of the U.S. population.

The bimonthly Fire Journal is the primary information reference to the 32,000 members of NFPA, an independent, nonprofit advocate for fire safety.

#### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF RICHARD STROTHER

*Question 1:* Your statement outlined several Federal antiarson programs and it indicated that LEAA played a major role. If LEAA no longer has money to award antiarson grants, is there a Federal agency willing to implement LEAA's efforts? Would that agency be willing to coordinate other agencies and establish training programs independently of a formal Interagency Arson Committee?

*Answer:* The answer to both parts of question 1 is yes. Public Law 95-422, which amended the Federal Fire Prevention and Control Act of 1974, directed the U.S. Fire Administration to assume responsibilities which would provide a focus on Federal antiarson programs. The U.S. Fire Administration has undertaken these responsibilities gladly and has been collaborating and coordinating arson prevention and control programs not only with the Law Enforcement Assistance Administration (LEAA) but with the other Federal agencies having arson concerns, as well as with States, local jurisdictions, and the private sector.

Under the aegis of the U.S. Fire Administration, a Federal arson task force has held, since March of this year, four bimonthly meetings at the U.S. Fire Administration. The purpose of the Federal arson task force is to exchange information and help coordinate Federal arson prevention and control activities and programs. These meetings are producing not only a healthy exchange of information but also an enhancement of Federal efforts.

We have moved beyond simple coordination to initiating joint interagency programs to remove economic incentives to arson and to improve law enforcement operations. Some examples which include joint activities not only among Federal agencies but also nongovernmental organizations are:

The U.S. Fire Administration, Federal Insurance Administration, National Association of Insurance Commissioners' arson task force, and the Insurance Committee for Arson Control are working together to arrive at revisions and refinements of FAIR plan underwriting regulations to address the arson problem.

The Federal Bureau of Investigation (FBI), Bureau of Alcohol, Tobacco and Firearms (ATF), Internal Revenue Service, and the U.S. Postal Service's joint arson strike force cooperative work focalizing on organized arson-for-profit rings.

ATF and FBI making available to local jurisdictions its expertise in forensic laboratory analysis of evidence and to serve as expert witnesses in prosecution of arsonists.

ATF providing a national response capability through establishment of four specialized teams of investigators located in the Midwest, Northeast, Southeast, and Western regions of the United States. These specialized teams are capable of providing a 24-hour response. These teams work through the assistance and cooperation of other Federal, State, and local agencies.

**Question 2:** If the U.S. Fire Administration (USFA) controlled antiarson programs, would there be a reallocation of USFA budgetary funds to reflect that added responsibility?

**Answer:** The answer to question 2 is, also, yes. However, I must respectfully call attention to the following factors:

LEAA's fiscal year 1980 budget allocation to arson projects amounted to approximately \$10 million with no funds appropriated for fiscal year 1981.

The U.S. Fire Administration's 1980 fiscal year budget allocation to arson was \$1,283,000 and for fiscal year 1981 it is \$1,382,000.

With the fiscal year 1981 amount, the U.S. Fire Administration is proceeding with the four types of programs directed under section 5 of S. 252.

Section 3 of S. 252 directs LEAA to develop and provide support for programs, equipment, research laboratories, and development of educational programs and materials for prosecutors in State and local governments. This, the U.S. Fire Administration will be unable to do with its present resources.

**Question 3:** Would you please provide this committee with detailed information about farm forms and State fair access to insurance requirements (FAIR) plan insurance which pays insurance coverage contingent upon the insured's to rebuild on the site? That is, how long has it been in effect? How successful has it been? Has it reduced arsons?

**Answer:** The concept of a rebuilding endorsement is one which calls for varying amounts of indemnification under an insurance contract depending upon the property owner's intention to rebuild the property at the same site or not.

This concept was incorporated in the farm forms of the 1930's which were used in rural areas, and which preceded the development of the standard fire policy in 1943. It has been recently revised as a possible tool to confront the problem of fraudulent arson, since one of the targets of arsonists is a building whose market value is less than the cost to rebuild it. This type of moral hazard can invite the owner to have the property burned for the insurance money and to take the proceeds out of the community.

To counter this, proposals have been forwarded to make available enough coverage to rebuild a structure if the owner rebuilds at the same or nearby site, and to provide lesser coverage to those who refuse to rebuild. Fraudulent arsonists are generally not interested in neighborhood stability and the requirement to rebuild in order to receive anything more than market value in the event of a loss can serve as a disincentive to use arson as a route to profit.

The Illinois FAIR plan in 1978 proposed the use of an urban revitalization clause which would have used actual cash value and 60 percent of actual cash value as the two sides of the indemnification formula. The Federal Insurance Administration (FIA) testified before the Illinois Legislature in favor of the clause, but, to FIA's knowledge, it has never been implemented.

Similarly, in 1977, Insurance Commissioner Hudson of Indiana urged the adoption by the Indiana FAIR plan of a rebuilding clause, available to owner-occupied risks, which made actual cost of repair and market value the alternative ends of the formula. The FAIR plan incorporated the concept into its formula, but an FIA examination of the FAIR plan in mid-1978 pointed up that the FAIR plan had not yet adopted the program, and to FIA's knowledge, still has not adopted it.

In October of 1978, FIA discussed with the National Association of Insurance Commissioners (NAIC) and representatives of the insurance industry a proposed rebuilding endorsement (attached) which FIA urged to be adopted by the various States. Since that time, the National Committee on Property Insurance, the insurance industry organization which coordinates the activities of the States FAIR plans, has developed an optional loss settlement endorsement (a modified version of the rebuilding endorsement) which the NAIC, in June, adopted at the recommendation of the NAIC arson task force. It must now be adopted by the individual States which have the regulatory authority over insurance matters within their jurisdictions.

Aside from the use of alternative amount of indemnification, companies already have the right, under the standard fire policy, to rebuild a property in lieu of making a cash settlement. The policy states:

"It shall be the option of this company to repair, rebuild, or replace the property destroyed or damaged with other of like, kind, and quality."

This option, however, is not widely exercised. The Republic Insurance Co. of Dallas has used this forced rebuilding option in Detroit with apparent success.

since, in the company's view, it discourages both arsonists and crooked public adjusters who inflate loss estimates.

In summary, there has not been enough experience to evaluate its success in reducing arson. The rebuilding endorsement concept has been recognized as a potentially valuable weapon in the battle against fraudulent arson. However, the process of adoption by those responsible for implementing such a concept has been disappointingly slow, except for isolated instances such as in Detroit, where certain versions of the concept have been tried.

*Question 4:* Please send data from the Department of Housing and Urban Development (HUD) concerning the percentage of its funds which are allocated for anti-arson programs.

*Answer:* I regret that the answer to question 4, is unavailable at this time. The Department of Housing and Urban Development (HUD) has informed me that because block grant funds to approximately 600 communities across the Nation are involved, problems are associated with obtaining data on the percentage of HUD funds allocated for anti-arson programs. Robert C. Embry, Assistant Secretary for Community Planning and Development, I was informed, will be forwarding HUD's response to your question 4. I believe this information will be forwarded to you within a few days.

*Question 5:* At the hearing you mentioned that the administration has requested a report on Federal antiarson successes. Would you please send me a copy of that report when it is completed?

*Answer:* A report is being prepared, at the request of the White House, updating progress in antiarson programs and activities subsequent to the issuance of the August 1979 "Report to the Congress Arson: The Federal Role in Arson Prevention and Control." This update report is due in mid October. We shall be happy to forward a copy to you thereafter.

Enclosure:

PROPOSAL DISCUSSED ON OCTOBER 24, 1978, WITH NAIC AND INSURANCE  
INDUSTRY REPRESENTATIVES

ENDORSEMENT

In consideration of the rate and premium charged, this policy is made subject to the following provisions:

1. In the event of loss or damage, by a peril insured against, to the building or buildings covered in this policy:

a. If the loss or damage from a peril insured against is not repaired or replaced by the insured for the same occupancy and used within twelve (12) months of the date of such damage, at or within 500 feet of the site where the building stood immediately prior to the loss, the amount of recovery shall be determined on an actual cash value basis.

b. If the loss or damage from a peril insured against is repaired or replaced by the insured for the same occupancy and use within twelve (12) months of the date of such damage at or within 500 feet of the site where the building stood immediately prior to the loss, the liability of this company shall not exceed the lesser of:

(1) the amount of insurance applying to the damaged or destroyed building structure,

(2) the cost of repairs (being the costs determined by the use of building materials required by current building code to meet basic standards of safe and sanitary occupancy eliminating obsolete, antique or other unusual construction in replacing or repairing damaged property caused by the perils insured against) of that part of the building structure damaged or destroyed.

2. This company shall not be liable under this policy, including this endorsement, for a greater proportion of any loss than the amount of this policy applying to the property to which this endorsement applies, bears to the total amount of other insurance on such property against the peril(s) involved.

QUESTIONS OF SENATOR BIDEN AND RESPONSES OF PAUL A. ZOLBE

*Question 1:* Now that arson was included in the Uniform Crime Reports as a part I crime in 1979, do you have any rough statistics on the extent of arson in the country, its geographical distribution, etc.?

Answer: In the annual publication, "Crime in the United States—1979," which was released on September 24, 1980, limited statistical data on the crime of arson was included. This data reflects the information collected in 1979 and represents only a partial year's information. Requests for arson data were made to local law enforcement agencies in May, 1979. Background information and aggregate data are presented commencing on Page 34. Other tables throughout the publication also list arson information collected during 1979.

*Question 2:* Why do you have serious questions as to the significance of the data collected?

Answer: The FBI's concern over the significance of arson data collected thus far has two bases. First, not all law enforcement agencies are, as yet, capable of gathering arson statistics. The lines of communication have yet to be developed between local law enforcement and their counterpart, fire service agencies. Our experience, to date, indicates that as time transpires the cooperative spirit between law enforcement and the fire services increases and therefore has a direct effect on data collection. Secondly, we are not fully confident that those responsible for completing the Uniform Crime Reporting reporting forms are fully cognizant of the definitions and standards of the Uniform Crime Reporting Program. We have persons responsible for training local law enforcement personnel, and every effort is being made to fulfill our training commitments, particularly in the area of arson data collection. This perceived problem will be resolved with the passage of time. As I am sure you can appreciate, the first results in any new data collection project are frequently less than accurate, but with continued vigor on the part of both the submitters and collectors a meaningful product evolves.

*Question 3:* If your department has felt that arson was a serious crime, why has the Federal Bureau of Investigation not come to Congress on its own and asked for money to study arson instead of waiting for the legislative process to mandate your data collection mechanism?

Answer: The FBI has expanded basic commitments in the areas of investigation, forensic examination, and training affiliated with the arson problem. Funding for these responsibilities has become a part of the FBI's budget.

In the area of data collection regarding arson, the necessary resources to do so have been absorbed on a year-to-year basis within the FBI's annual budget. Noting that arson has been designated a crime index offense through annual congressional action by way of amendment to the Department of Justice authorization bills, it was deemed precipitous to request funding for a mandate that conceivably could be a short duration. The data collection mechanism for arson has now been commingled with the basic uniform crime reporting program. Should S. 252 be enacted, that portion dealing with the reclassification of arson should have little or no influence on expenditure of current resources. That portion of the bill directing the FBI to provide a special arson report will, however, impact greatly on our resources. A special arson report will address issues that far transcend basic uniform crime reporting data collection. A special report, to be effective, must focus on the motivating factors of arson such as revenge, retribution, profit, etc. Also, such a publication would attempt to profile perpetrators and identify causality factors. To acquire the necessary information to accomplish the aforementioned goals, as well as other aims, entities within our society beyond law enforcement would necessarily be queried. Further, a more specialized staff than is presently available to uniform crime reporting would be needed. It is for the foregoing reasons that additional resources would be required by the FBI should S. 252 be enacted.

The FBI's reticence in requesting monies to accomplish the specialized report has been deemed improper until such time as S. 252 is enacted.

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#### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF EUGENE JEWELL

*Question 1:* It has been said that frequently there is competition between police and fire officials concerning their antiarson roles. Is this true and what can be done about it?

Answer: I believe this problem is improving because of the task force effort. Cleveland and Toledo are working police and fire officers together as standard operating procedures while at least six Ohio task forces combine police, fire, and other agencies together at some time during the investigation.

*Question 2:* I'm told that the antiarson program in Dayton-Montgomery County is proving quite successful at coordinating a number of formerly separate activities? Can you describe its activities? Could these activities have been initiated in Dayton without Federal assistance? What will happen to your program if LEAA funds are not provided for the second year of your program?

*Answer:* The "county-wide arson task force report" from Montgomery County Task Force answers most of your needs. It is suggested that they may attempt to gain funds from the insurance industry or by charging individual fire departments for their services. Our statutory obligations would not allow us to participate in this.

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#### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF JOHN PYLE

*Question 1:* You have testified that you have experience as both a local and a Federal prosecutor. Have you noticed a difference between local prosecutors and Federal prosecutors in the gathering of arson evidence, cooperation with investigators, willingness to prosecute, and conviction rates? Would you please describe that difference?

*Answer:* The primary difference between State and Federal prosecutions of arson cases is in the resources available to Federal prosecutors in major investigations. State prosecutors must give priority to crimes of violence such as murder, robbery, and rape. Federal prosecutors can target a property owner who has had a pattern of arson fires in his properties but has evaded prosecution. Aside from the advantage of time and investigative manpower, Federal prosecutors have the following additional advantages in arson cases: (a) Use of the witness protection program to protect informants; (b) authority to use consensual monitoring and wiretaps (some States prohibit one or both of these investigative techniques); and (c) the fact that there is no accomplice testimony rule in Federal law. Under the laws of some States the testimony of a torch together with some evidence of insurance motive is insufficient to allow a case to be decided by a jury.

I have observed no significant difference in the cooperativeness and willingness to prosecute between State and Federal prosecutors. Federal prosecutors have a slightly higher rate of conviction. I would attribute the higher rate of conviction to the investigative resources available to Federal prosecutors and the discretion exercised by Federal prosecutors in deciding which cases to indict.

*Question 2:* Do you think that insurance companies should make the payment of fire insurance claims contingent upon rebuilding the property?

*Answer:* I do not believe that standard fire insurance policies should make the payment of the proceeds of the policy contingent on rebuilding the property. Most properties are underinsured to the extent that they are not insured for replacement value. Most people cannot afford to pay the high premiums for replacement value policies.

However, it is reasonable to allow insurance companies to write replacement value policies with the provision that the insured rebuild. Ohio recently enacted a legislation which has this effect. A copy of that statute is enclosed.

[The statute is on file with the committee.]

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#### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF LEROY A. TROSKE

*Question 1:* You have given us a description of your company's programs and they are to be commended. But did these programs begin as a result of congressional investigations?

*Answer:* The beginnings of our company's antiarson activities predates congressional investigations. However, the inquiries did highlight the increasing volatility of the arson problem and, thus, helped spur expanded development of our antiarson efforts.

*Question 2:* You have described arson investigation training courses—presumably given to investigators outside of local fire and police departments. How successful have these programs been and would you advocate greater reliance on independent investigators, particularly in light of the Congressional criticism of insurance company investigators.

Answer: Arson education programs are needed for a wide variety of groups that have a role to play in solving the arson problem. While insurance industry personnel make up one such group, there are also information needs that must be met for fire fighters, police investigators, prosecutors and the public in general. We believe that the program that we, as an insurance company, have instituted for our employees has been very successful to date. More can and will be done. Congressional criticism to the contrary, however, we do not see the role of the insurance company adjuster as that of an arson investigator. An adjuster is not qualified, trained nor, in most instances, have legal authority to conduct that type of investigation. We do believe that it is the responsibility of our company claims personnel to know the telltale signs of potential arson claims and, thus, be able to recognize if a potential arson situation exists at a fire scene. Then, if the characteristics of an arson claim exists, the cause of loss investigation should be conducted by independent investigators who have the expertise to conduct an effective investigation.

*Question 3:* Do you think that insurance companies should make the payment of fire insurance claims contingent upon the rebuilding of property?

Answer: The requirement that claim payment be contingent upon rebuilding of property may well have a material effect on the reduction of arson for profit claims. We do believe, however, that a strict interpretation of this requirement would place undue burden on many property owners and could impair the individual rights of property ownership. Insurance policies providing replacement cost coverage do allow for the difference between the actual cash value loss and the replacement cost value loss to be held until such time as the property is replaced. Thus, where it is appropriate and applicable, insurance companies already have the ability to influence the rebuilding of property.

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#### QUESTIONS OF SENATOR BIDEN AND RESPONSES OF J. R. BIRMINGHAM

*Question 1:* You have given us a description of your company's programs and they are to be commended. But did these programs begin as a result of congressional investigations?

Answer: Aetna Life & Casualty has for many years acted aggressively and effectively in investigating and resisting arson-for-profit claims. However, the work of the Senate Permanent Subcommittee on Investigations refocused attention on the arson problem. The subcommittee is at least partially responsible for some aspects of our current antiarson program, particularly including that portion of our activities which involves the maintenance of very specific statistics about the incidence of arson, the effectiveness of our response, etc.

*Question 2:* You have described arson investigation training courses—presumably given to investigators outside of local fire and police departments. How successful have these programs been and would you advocate greater reliance on independent investigators, particularly in light of the congressional criticism of insurance company investigators.

Answer: Aetna has invested a considerable effort in giving or sponsoring training courses for arson investigators. These courses have been made available to law enforcement officials, private citizens' groups, and insurance company claim personnel, including both our own employees and the employees of some of our competitors. We believe that our training programs have been well worthwhile. In view of the different degrees of proof required in criminal and civil proceedings, we think it's essential that training in arson detection be given to insurance company representatives as well as to law enforcement officers.

*Question 3:* Do you think that insurance companies should make the payment of fire insurance claims contingent upon the rebuilding of property?

Answer: The possibility that the payment of fire insurance claims should be made contingent upon the rebuilding of property is a proposal which is currently under consideration by Aetna Life & Casualty. There's no doubt that such a provision, if it were universally implemented, would provide a certain deterrent to arson for profit. But we have not yet made a judgment whether such a rebuilding provision would be the most effective deterrent, even if it could be universally implemented.

## Additional Submission of James E. Jones, Jr.

During the Anti-Arson hearing held September 10th by your Subcommittee, you asked for the Alliance position on your proposed amendment to Section 7 (B) (c) of S.292, the Anti-Arson Act.

You propose to amend Section (c) which presently reads "written under the plan, except that subject to the approval of the State insurance authority, the insurer may establish procedures for the cancellation or nonrenewal of any risk eligible under the plan upon 5 days notice to any policyholder, and by adding the following phrase "based upon a finding that an insurable interest of the policyholder is a demonstrable arson risk."

It is our opinion that your proposed amendment would have too limiting of an effect on the ability to cancel a risk upon five days' written notice. The requirement that there be a "demonstrable arson risk" is so subjective that the administrative and the legal procedures required to uphold the finding would take too much time and would destroy the objective of the legislation.

A major condition today which would allow cancellation on a five-day written notice is evidence of "constructive abandonment." For instance, if a landlord has allowed a significant percentage of his property to become vacant, or if he allows his taxes to go unpaid or allows the building condition to deteriorate to the point that numerous code violations are present, the landlord has shown evidence of constructively abandoning the property.

Arson experts agree that a hired torch is not always necessary to achieve the property owner's arson-for-profit scheme. Too many times, a landlord can allow his property to deteriorate knowing full well that he is inviting a condition that will generate a juvenile or vandal arson fire or even fire by consciously neglecting the property.

Our trouble is with the term "demonstrable." What is the definition of demonstrable? Does the fact that one of the enumerated constructive abandonment conditions are found to exist indicate a demonstrable arson risk?

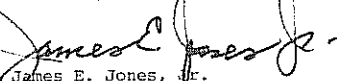
The Federal Insurance Administration agrees that a five-day notice of cancellation authority is needed for FAIR Plan business to control arson-for-profit loss. Also, the Illinois legislature has recently enacted legislation (Senate bill 1993) amending that state's cancellation law by providing the authority to cancel where conditions evidencing "constructive abandonment" are found to exist. This is the law in Illinois today.

In view of the above, we would strongly urge you not to pursue the amendment.

If we may be of additional help, please contact me.

Thank you.

Sincerely,

  
James E. Jones, Jr.  
Governmental Affairs Representative

## Additional Prepared Statements

Prepared Statement of Congressman John J. Moakley

It is a special pleasure for me to present testimony on S. 252 to the Senate Subcommittee on Criminal Justice. I view this hearing as another major step towards passage of the provisions of the "Anti-Arson Act of 1979". It concerns me, Mr. Chairman, that very little legislative action has been taken to address the problem of arson and arson-for-profit since the Senate Subcommittee on Intergovernmental Relations held hearings in April 1979.

As you know, I have introduced a similar bill, H.R. 2211, in the House; however, to date, no hearings have been held and none are scheduled. Therefore, I am particularly pleased to see a greater momentum occurring in the Senate.

My involvement in arson-related legislation can be traced to early in the 94th Congress when I introduced a resolution to establish a Select Committee on Arson. Arson-for-profit was at that time and continues to be a massive and costly problem eating away at the core of urban America. For many reasons, I recognized the infeasibility and delay that could result from the select committee approach, so I decided to join your colleague, Senator John Glenn (D-OH), in his effort by introducing this legislation in the House.

I recognize that there are many problems which must be ironed out in this legislation; however, this is the only mechanism being considered in Congress to attempt to address the problem, and I feel that it fully deserves the support of all of us here today.



Arson in the United States has once again shown itself to be virulently national in scope and our efforts toward eliminating it insufficient, although in the right direction. In 1979, there was a 1.7% increase in incendiary structure fires and a 32.3% increase in incendiary and suspicious fires in vehicles. It is believed that the increase in automobile fires is a result of the increasing costs of gasoline, the decreasing value of large cars and their subsequent lack of a resale market. Arson in structure fires, however, dominates the attention of those who are working to combat the problem. We are finding that not only residential dwellings, but historic buildings are increasingly being victimized. Unfortunately, although we know that arson is rapidly increasing, we recognize that it is difficult to pinpoint losses and to collect meaningful, supportable data.

The "Anti-Arson Act of 1979", if enacted, would offer us a great opportunity to begin to treat the arson epidemic. As you know, the focus of this legislation is two-fold. It redefines the crime of arson as a Title I offense, thereby encouraging a Federal investigation and prosecution effort where in the past there has been only minimal, haphazard and lackadaisical Federal efforts at prosecution. Secondly, it attempts to provide for a sounder, more well-coordinated Federal policy and methodology in combating one of the most rapidly accelerating social diseases in America today.

I commend agencies such as the U.S. Fire Administration for their efforts and financial support of anti-arson activities within many of our states. In my own state of Massachusetts, federal monies

have been effectively used to develop better methods to predict, and in some cases prevent, the burning of sites which could be considered to be prime targets. While the efforts of the Federal government in anti-arson activities have been felt in a demonstrated reduction of the number of suspicious fires during 1979, the overall problem continues to be serious and escalating.

Recent research completed by Urban Education Systems in my district in Massachusetts has identified an array of types of arson which affect virtually every area of our nation. UES categorizes these as: "stop loss fires", set in deteriorating neighborhoods to "bail out" owners of failing businesses and failing residential properties; "parcel creation fires", in which fires are set to remove obstacles to development; "gentrification fires", which are set to displace low income tenants from areas which are becoming valuable as inner city land increases in value; "historical structure fires" set to negate the impact of historical designation and a category including all other types.

During the past few years, it has become evident that different types of arson respond to differing kinds of anticrime efforts; abandoned building fires have a different history and very different cure from insurance fraud fires. The former requires an understanding of the economic antecedents to abandonment and to target municipal and federal resources toward the alleviation of that problem. On the other hand, insurance fraud fires require changes in underwriting policies, disclosure acts and a continuation of the law enforcement efforts which are beginning to show that arson can be prosecuted successfully.

Arson expends our resources, costs us an exorbitant amount of insurance dollars, wastes our tax revenues and kills people. If we are going to have an impact on this crime, we must implement anti-arson legislation in Congress and expand the efforts, not only of some Federal agencies, but the efforts begun by many community organizations across our country as they increase neighborhood participation and teach citizens how to detect incipient situations.

The efforts of the Fire Administration during the past four years to undertake the fight against arson are laudable. The participation of LEAA and other agencies of government have been sincere and important. The Congress, both the House and Senate, have seen a growing proliferation of arson-related legislation. What I see, Mr. Chairman, is the need for a coordinated approach which I feel S. 252 would begin to develop. Strong and effective laws are needed to combat arson as a crime and to make arson-for-profit more difficult and less attractive.

The test of how we as a nation respond to the presence of the arsonist in our midst will depend on how creative elements of the Federal bureaucracy, the insurance community, Congressional leadership and state and local governments are in developing a coordinated, decisive and effective public policy. With this approach, we may eliminate this crime and in terms of human life, tax dollar loss and the destruction of neighborhoods, it could be well worth the effort.

Thank you again, Mr. Chairman, for giving me the opportunity to present this statement.

STATEMENT BY THE HONORABLE JOSEPH P. ADDABBO  
BEFORE THE CRIMINAL JUSTICE SUBCOMMITTEE OF  
THE SENATE JUDICIARY COMMITTEE.

Gentlemen:

Thank you for giving me the opportunity to submit a statement here today on one of the most serious and pressing national issues this country faces today-arson. But before I go on with my brief statement I would like to take this opportunity to commend this Committee for the outstanding work it has done on this issue, with special thanks to Chairman Biden and Senator Glenn.

As we all know, the act of arson has reached epidemic proportions all across this nation. It is a vicious and utterly senseless crime which knows no regional boundary, striking in major cities or small rural towns. It is a crime that destroys property and ruins neighborhoods. It maims and kills innocent men and women of every age.

The statistics which support our claims of the nature and scope of this problem are voluminous and quite revealing. Each year arson claims the lives of nearly 1,000 Americans and injures ten times that number. Each year the direct property damage from it is estimated at \$1.3 billion, a figure that is comparable to losses due to other major crimes such as larceny-theft (\$1.1 billion) or burglary (\$ 1.4 billion). However, I don't believe it is necessary to pour over countless statistics to impress upon this Committee the seriousness of the problem. Those of us who have ever made a visit to the South Bronx in New York City, or visited burned out sections of Los Angeles, know the score.

What is urgently needed to stem the rising tide of arson is a broad based national policy. I am confident that a cohesive national

policy, integrating all levels of government, together with the assistance and cooperation of the private sector and various local community organizations, will reduce the incidence of arson related fires and the death and destruction it brings in this country. By increasing the likelihood of an arsonist being caught and convicted, we can transform literally overnight, a low risk crime into a high risk one. We can accomplish this monumental task by giving all three levels of government the necessary tools-education, technical assistance, legal means, etc. to effectively deal with arson. ✓

I believe H.R. 2265, a bill which I introduced in the House and one which is identical to Senator Glenn's bill, S. 252, gives us a good foundation for developing the cohesive national policy needed to attack the crime of arson and I urge the Committee to give it serious consideration. ^

The legislation which we have proposed, "The Arson Control Act of 1979," would establish an Interagency Committee on Arson Control for one year to coordinate Federal anti-arson programs, and would amend various provisions of the law relating to programs for arson investigation, prevention, and detection, as well as for other purposes.

Briefly, the Act contains seven sections, the first of which announces the title of the bill. Section 2 outlines the duties and stipulates the membership of the Interagency Committee on Arson Control. The members who will serve on the Committee have been chosen because of their interest and expertise in the area of arson detection and prevention control. The Committee would consist of the following persons or their designees:

1. The Attorney General.
2. The Director of the Federal Bureau of Investigation.

3. The Postmaster General.
4. The Secretary of the Treasury.
5. The Administrator of the National Fire Prevention and Control Administration.
6. The Administrator of the Federal Insurance Administration.
7. The Director of the Bureau of Alcohol Tobacco and Firearms.
8. The Commissioner of the Internal Revenue Service.
9. The Director of the Law Enforcement Assistance Administration.

The focus of the Committee would be centered upon five basic duties. The first would be to implement a comprehensive and coordinated Federal strategy and methodology for improving assistance to State and local governments for the prevention, detection, and control of arson.

The second area of responsibility would be the coordination of anti-arson training and educational programs established within the Federal Government. Thirdly, it would coordinate Federal grants to States and localities for arson prevention, detection, and control programs, and fourthly, coordinate Federal research and development relating to arson prevention, detection, and control. Its fifth area of interest would be to gather and compile statistical data relating to the aforementioned areas. In addition to all these duties, the Committee would annually review each agency's report of the executive branch with respect to its efforts in providing training, educational programs, grants, and other Federal assistance to State and local governments that aid in the cooperation and coordination of Federal anti-arson efforts.

Section 3 of the Act deals specifically with the role the Law Enforcement Assistance Administration would play, by amending Section 301 (b) of the Omnibus Crime Control and Safe Streets Act of 1968 by calling for the agency to develop and provide support for programs,

equipment, research laboratories and development of educational programs and materials for prosecutors in State and local governments.

Continuing, Section 4 also amends the Safe Streets Act of 1968 by authorizing and directing the FBI to permanently classify arson as a Part 1 crime in its Uniform Crime Reports, as well as calling for the Bureau to develop and implement a special investigation program for arson and make public the results.

Section 5 deals with the role of the National Fire Prevention and Control Administration. According to the Act, the administrator of the USFA would be authorized and directed to conduct research for the development, testing and evaluation of techniques and equipment for use by law enforcement and fire service agencies for arson protection, prevention, and control.

The Director would also be required to develop and establish educational and training materials and programs for dissemination to fire service and law enforcement communities, enabling them to establish and maintain their own programs. In addition, the USFA would develop educational materials designed for local community awareness programs on arson, and gather, analyze, publish and disseminate information related to the prevention, prediction, occurrence and control of arson. Finally, Section 5 authorizes \$5 million in appropriations to the USFA for programmatic efforts in arson prevention and control.

Turning to Section 6, the Bureau of Alcohol, Tobacco and Firearms is directed to assist the Interagency on Arson Control by providing access to personnel and laboratory facilities for research in detection and prevention of arson.

Finally, Section 7 of the Act is directed to the Federal Insurance

Administration and calls for amending the Urban Property Protection and Reinsurance Act of 1968 to require insurers to obtain and evaluate information on the past ten years of prospective policy holders that might be arson-related. In addition, the amendment would authorize state insurance authorities to waive provisions of state laws applicable to the release of information to insurers so they could determine whether the prospective policy holder is an acceptable risk.

That gentlemen, in brief, is what the proposed Arson Control Act of 1979 hopes to accomplish. This legislation is long overdue and urgently needed to assist all levels of government in the fight against arson. Without it, billions of dollars of property will be destroyed, thousands of Americans will be left homeless and hundreds of people will be killed. I have always firmly believed that there is no problem too big, no obstacle too great, if a unified effort is made to address the problem. Arson is such a problem and it needs our unified bi-partisan support to put the risk back in arson, a risk which could prevent senseless destruction in our cities and towns. I urge you to give it your utmost attention and consideration and I thank you again for the opportunity to present my views to you today.



## Prepared Statement of Louis J. Amabili

My name is Louis J. Amabili, of Dover, Delaware, Director of the Delaware State Fire School which provides fire service training to volunteer, paid, industrial and federal fire departments; and, fire safety training to agency, institutional, and industrial personnel. I am a former member of the National Commission on Fire Prevention and Control. For the past seven years, I have been President of the International Society of Fire Service Instructors, and on their behalf represented more than 3,000 members in every State of the Union. As Director of the Delaware State Fire School, I am extremely honored to have the opportunity to provide comments on Senate Bill 252 which would establish an Interagency Committee on Arson Control to Coordinate Federal Anti-Arson Programs and to amend various provisions of the law relating to programs for Arson Investigation Prevention and Detection.

It should be pointed out at this time that the Fire Service of America fought long and hard for the establishment of the National Fire Prevention and Control Administration which is now called the United States Fire Administration. The purpose and intent of creating this agency was to have a federal focus for all fire related matters. While arson is certainly a multi-jurisdictional problem, we strongly believe that the United State Fire Administration should be charged with the lead role in the federal effort to coordinate the arson problem. While we are not opposed to the Interagency Committee on Arson Control, we strongly feel that the legislation should reflect the importance of the role to be played by the United State Fire Administration.

If the United States Fire Administration is to be charged with this lead role as it should be, we believe that the monies allocated for arson prevention and control in other agencies should be allocated to the Fire Administration. At the present time, the Fire Administration is providing a long awaited support service

to state and local fire agencies. However, their budget is already over-taxed. For the Fire Administration to venture into the role of coordinating the arson effort, they should receive a budget increase not less than \$5,000,000.

In a detailed review of Proposed Senate 252, we find other areas worthy of comment.

Section 2 (a) - "The Committee shall consist of the following persons or their designees whose positions are compensated at a rate of pay not less than ...."

It is difficult to support this position because it is unclear as to the requirement for members of the Committee to be Schedule IV - federal employees. If the concept is to maintain a high level decision maker on the Committee, we suggest that this rationale be incorporated within the provisions of the legislation.

Line 17(5) - The Administrator of the (National Fire Prevention and Control Administration) should read United State Fire Administration.

Section 2 (b) (1) - It is felt that a definition of prevention, detection and control of arson (Line 7) should be incorporated within the scope of the draft.

Section 301 (b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended. I raised the question as to the provision for training personnel in the use of such purchased equipment under this provision. Further, there does not seem to be a prescribed method for making these detection laboratories reasonably available to local government, fire service, investigators charged with the responsibility of arson investigation. This availability consideration should be specifically stated in the intent of the legislation.

The provisions of the legislation that deal with the uniform crime reports (Lines 9-18) cause some concern. It is felt that the special investigations conducted by the FBI for HUD on arson fires in HUD financed housing may be in conflict with local and state investigative agencies. It should be specified that the FBI should coordinate said investigations with the state and local agencies having jurisdiction.

In Section 5 (a) reference should be made to the United States Fire Administration a part of the Federal Emergency Management Agency.

Probably the most important portion of this entire legislation deals with data collection. It is difficult to entirely agree with the specification for classification of arson as a Part I crime for it to be reported in the Uniform Crime Reporting System. Recognition must be given to the availability of data from other established reporting sources in both the private and public sectors. The data collection systems of the American Insurance Association and the National Fire Protection Association are extremely vital elements of our national data gathering effort. Both of these private sector systems along with the data collection efforts of most States feed directly into the National Fire Incident Reporting System of the United States Fire Administration. We feel it is this NFIRS system of the United States Fire Administration that should be the lead system for the collection of data on arson incidents. By so doing, we would insure that the Uniform Crime Reporting System does not superimpose additional reporting requirements on states and municipalities that are currently providing a useful level of data.

In closing, Mr. Chairman, I would like once again to thank you for providing me the opportunity to comment on Senate 252. As Director of the Delaware State Fire School, I will be pleased to provide additional comments and clarification as required.

Arson is a problem that does not neatly fit into the responsibilities of a single federal, state or local agency. Coordinated interagency approaches within all three levels of government are necessary to have an impact on the crime of arson.

Law enforcement, fire, prosecution, insurance, and other interests have a direct impact on the incidence and impact of arson. Any arson effort that does not coordinate all these efforts cannot be successful. Many local jurisdictions including Dayton have been successful in establishing such an interagency coordinated effort. We, therefore, applaud the efforts of the federal government to coordinate its efforts in the area of arson prevention and control.

Many jurisdictions have been slow to recognize the impact of arson on their communities. The federal government has been leading the way in educating and providing support to local communities for arson control. Our efforts to establish a multi-jurisdictional, interagency approach to arson control in Dayton would not have been possible without assistance from several federal agencies.

The federal assistance that the Dayton Fire Department has received during the past year has allowed us to:

1. Establish a County-Wide Arson Investigation Unit:

The City of Dayton coordinates an Arson Investigation Unit that responds to all calls for assistance from the 22 fire department jurisdictions within the county. The unit is made up of Fire Investigators, Police Detective, Sheriff Detective, and a Deputy County Prosecutor.

The County-Wide approach has allowed us to develop a coordinated multi-jurisdictional approach which we feel is the most cost-effective approach.

2. Establish an Arson Evidence Analysis Capability:

The City of Dayton has transferred a portion of the grant award to the Miami Valley Regional Crime Lab in order to allow them to purchase the necessary equipment to establish an arson evidence analysis capability. This lab will service all the jurisdictions within the Miami Valley Regional Area.

Prior to this capability, extensive delays were incurred in the processing of evidence due to the fact that all physical evidence had to be sent to the State of Ohio Arson Lab for analysis. Turn-around time on evidence at the State lab could range up to 6 months. The regional lab has alleviated this problem.

3. Provide Training for the Montgomery County Prosecutor:

The grant has also allowed us to allocate funds for the proper training of the Prosecutor.

Prior to the formation of the Arson Investigation Unit, there was no one in the Prosecutor's Office who was familiar with the problems associated with arson investigation or prosecution.

Since the formation of the unit, an Assistant County Prosecutor has been assigned to handle all arson cases which has allowed the investigators to develop a working relationship with the single Prosecutor who can counsel them throughout the case preparation process.

4. Provide Training for Investigators:

The grant has provided travel funds to send members of the Arson Investigation Unit to various advanced training courses in order to develop their skills as regional experts.

Unit personnel in turn share the knowledge gained at these training sessions with other area Police and Fire Investigators through an annual 80 hour Investigator Training Course and regular monthly training sessions.

5. Purchase Equipment:

The grant has enabled us to purchase vehicles and equip them with multi-frequency radios in order to accommodate the various frequencies involved with an interagency, multi-jurisdictional effort. Other equipment incidental to the documentation, preservation, and presentation of evidence was purchased.

6. Develop a Public Education/Awareness Program:

Funds from the grant are now being utilized to initiate a public education campaign. One of the critical ingredients in any arson prevention strategy is a large scale media exposure program to heighten the awareness of the public to the magnitude and impact of the crime.

7. Initiate Arson Patrols:

The grant contains funds for the City of Dayton to initiate arson patrols in targeted high incident neighborhoods. Cars are provided by the Dayton Fire Department with related operating costs coming from the grant funds.

In addition to the foregoing items which would not have been possible to implement without the assistance of federal funds, the Montgomery County Arson Abatement effort has benefited enormously from further federal help from the Bureau of Alcohol, Tobacco and Firearms. The local A.T.F. staff in Dayton has provided a great deal of assistance on cases of mutual jurisdiction. Formal lines of cooperation have been adopted with daily exchanges of information and planning on various cases.

The local A.T.F. bureau has also put at the disposal of the local arson unit, resources that were beyond the normal capability of the unit to obtain. The Montgomery County experience has been one of total local-federal cooperation from which both parties have derived benefits.

The crime of arson extends beyond political jurisdictions and we feel the only effective means of attack is an interagency, multi-jurisdictional effort similar to the one we have formed in Montgomery County. This effort has been possible solely on the basis of financial and cooperative support provided at the federal level. We would urge that this support be continued.

S. 252 as currently written thus clearly constitutes a much needed move in the direction of greater Federal action to combat arson. But it is only a first step. The City of New York therefore recommends the following amendments to the bill, which we believe will considerably strengthen its impact on arson reduction:

1) In Section 5, a larger authorization should be provided to the United States Fire Administration for the purpose of assisting local governments in the establishment and maintenance of arson control programs. Section 5 (b) of S. 252 as originally introduced authorized the appropriation of \$5 million to the United States Fire Administration for arson research and control, yet this provision was unfortunately amended out of the bill by the Senate Committee on Governmental Affairs. It is the City's hope that the Judiciary Committee will not only reinstate Section 5 (b) but will also increase the amount of the authorization. Considering the cost of arson--over \$2 billion in indirect economic losses each year--\$5 million is a very modest sum for arson prevention and control.

2) In Section 2, the Secretary of the Department of Housing and Urban Development should be included on the Interagency Committee on Arson Control. Because arson is so closely related to housing problems, HUD could play a valuable role on the coordinating committee.

3) In Section 7, there should be a requirement that all applicants for fire insurance include on a prescribed application form the names and addresses of corporate officers and of shareholders known to hold more than a specified percentage (perhaps 15%) of any class of outstanding shares. The same reporting requirements should be imposed upon corporate mortgagees. These requirements would aid in the identification and investigation of professional arsonists and their clients.

4) There should be an explicit recommendation for the establishment of regional law enforcement task forces, in which local prosecutors and United States Attorneys would work together on the problem of arson. Such task forces would especially be useful in combatting arson-for-profit rings which often operate in several cities throughout a region.

The Judiciary Committee might also want to consider providing for reduced insurance rates for properties on which there is no history of fire and look into the possibility of including deductibles in FAIR policies.

While we hope the Committee will seriously consider all of these suggestions, the most important is the recommendation for a larger authorization for grants to local anti-arson programs. Federal funds have been and can continue to be of great assistance to localities' efforts to combat arson. In part with Federal aid, New York City's Arson Strike Force has been able to set up several programs which have resulted in major improvements in arson prevention:

--Federal Law Enforcement Assistance Administration (LEAA) funds have enabled Strike Force staff to assembled sophisticated arson risk prediction index to identify arson-prone buildings and neighborhoods in the City. This index will be a principal component of a "Landlord Contact" program which will be funded by Aetna Life and Casualty. In targeted areas, the owners of at-risk buildings will be interviewed by a special team of fire marshals trained to aid concerned landlords by providing information on low-interest loans and mortgages and other forms of assistance. In the event that the landlord is hostile or indifferent to the future of the building, efforts may be initiated to place the property under the control of a court appointed administrator. Such landlords will also be advised that any fires in their building will be thoroughly investigated.



Statement of Thomas A. Martin, Coordinator, the City of New York  
Arson Strike Force

I appreciate this opportunity to present the views of the City of New York on S. 252, the Anti-Arson Act of 1979. The City strongly endorses S. 252 and urges its adoption by this Committee and the Congress as a major step in the ongoing war against arson, a war which the City Arson Strike Force--of which I am Coordinator--has been waging for the last two years. Every year arson is responsible for more than 1,000 deaths, 10,000 injuries, and over \$2 billion in property losses nationwide. The problem is particularly acute in New York. Last year alone more than 10,000 buildings in New York City were partially or wholly destroyed by fires determined to have been caused by arson. These fires left hundreds of deaths and injuries, close to \$100 million worth of property damage, and many ruined neighborhoods. Over the past ten years in the South Bronx alone, 30,000 buildings have been destroyed by arson. Yet few of these crimes led to arrests (less than 8 percent in 1979), and of those arrested only a fraction were convicted.

S. 252's passage would help insure a reduction in arson fires and an increase in the number of arsonists apprehended and convicted. By establishing an interagency committee on arson control at the Federal level, the bill would bring order and coordination to the variety of Federal programs designed to improve techniques for the prevention, detection, and control of arson. By making arson a Part I crime, S. 252 would bring the FBI more fully into the anti-arson effort on a permanent basis. By requiring greater scrutiny of FALK plan applicants for fire insurance, the Anti-Arson Act of 1979 will surely reduce the large number of fires set for insurance purposes.

--LEAA has also provided funds for the creation of a computerized Information Analysis System to aid law enforcement agencies and prosecutors in the investigation of arson-for-profit.

--In an effort to involve communities directly in the fight against arson, the Arson Strike Force has received Federal and private funding for a Community Outreach Unit which will serve communities throughout the City as an information clearinghouse for arson data and information on arson-related issues. The Outreach Unit is also running pilot arson prevention programs in two Brooklyn neighborhoods.

--Programs begun with Federal funding have enabled the Strike Force to generate funding from private sources for additional programs. For example, the American Insurance Association has recently made \$500,000 available to the City for a program designed to increase the number of vacant building seal-ups and to increase the participation of small and minority contractors in seal-up work.

But with the impending demise of LEAA, the Arson Strike Force is threatened with severe reductions in Federal funding. It would indeed be tragic if our programs were cut back or eliminated just as they are starting to have an impact on arson prevention. A funding cut will also mean that other cities will not be able to receive the grants necessary to start their own anti-arson programs. It is imperative that Federal anti-arson programs receive sufficient funding if the incidence of arson in the nation is to be significantly reduced.

Thank you once again, Mr. Chairman, for allowing me to enter this testimony into the record of your Committee's deliberations. I close with the hope that S. 252 will soon become law in order to give communities across the country a fighting chance in the war against arson.

Prepared Statement of Int'l. Assoc. of Firefighters

This is to submit for the consideration of the Subcommittee on Criminal Justice of the Senate Judiciary Committee, the views of the International Association of Fire Fighters, representing 175,000 members nationally, on S 252, the Antiarson Act of 1979.

Over the past few years, several factors have combined to heighten the public's awareness of the crime of arson. Losses in life have grown to tragic proportions. Currently, an estimated 1,000 people die and another 10,000 are injured each year in arson fires. Arson has also become the nation's costliest crime, with total annual losses, direct and indirect, exceeding an estimated 15 billion dollars.

The social and economic impacts of the spiralling arson rate have become enormous. Whole neighborhoods of our nation's cities have been destroyed by fire, with arson experts estimating that 50 percent of all building fires are purposely set. Arson has raised home owner insurance premiums higher and higher, and insurance companies currently estimate that up to 25 percent of every home insurance bill goes to pay for arson. City tax bases have been eroded and local and Federal rehabilitation efforts have been undermined.

Responding to a critical situation, localities have begun to develop and initiate various antiarson programs. Nonetheless, skyrocketing arson rates continue throughout the country. Arson has long ceased to be a local problem -- it has become a national tragedy. The epidemic proportions of arson in the United States today, demonstrate the need for a Federal initiative and Federal support in the fight against arson.

Various factors have contributed to the growing national arson rate. Many of them stem from a general lack of public awareness and professional training in the area of arson prevention, which could be remedied most effectively through a concerted national effort. Currently, there are several arson prevention programs in the United States which hold great promise.

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We need to validate the effectiveness and applicability of existing programs and to develop new programs where they are needed.

Another contributing factor to the high arson rate in this country is an overall lack of training in fire investigation and arson detection. Line fire personnel generally have little training in these areas. Furthermore, prosecutors have been reluctant to accept arson cases because of an inadequate understanding of the seriousness of our arson problem, and judges have tended to take a casual attitude towards sentencing for the crime of arson. As a result, the crime of arson has the lowest conviction rate of all serious crimes. We need to refine the skills and increase the awareness of all professionals whose work impacts on the investigation of and conviction for the crime of arson.

An improved and better coordinated Federal strategy would greatly assist State and local governments in the training of personnel and in developing the necessary expertise to bring arson under control in this country. The Antiarson Act of 1979 would go a long way in alleviating the national arson problem and in eliminating the various factors that have contributed to that problem.

The Act would provide the needed coordination of efforts by creating a Federal Interagency Committee on Arson Control. The Committee would provide assistance to State and local governments in developing and implementing a comprehensive strategy in the prevention, detection and control of arson. The Committee would coordinate arson training and education programs and arson prevention research, and assist in the development of local technical capabilities and expertise.

To create a national focus for arson prevention and to increase public awareness of the problem, the legislation authorizes the classification of arson as a major crime in the FBI's uniform reports on a permanent basis, and directs the Bureau to set up and carry out a special investigation pro-

gram for the crime of arson.

One of the major motivating factors behind our high arson rates is profit. Generally, current insurance underwriting practices tend to encourage arsonists in many ways -- for instance -- they permit the overinsurance of property and they neglect the arson history of property owners. The Anti-arson Act of 1979 recognizes the significant role that profit plays, and therefore amends the Urban Property & Reinsurance Act of 1968, by providing that prior to the issuance of FAIR insurance policies, the property owner must list those properties which he owns and their arson history, if any. A pattern of owner related arsons would disqualify the prospective policy holder. Such changes are absolutely necessary and are a step in the right direction for the alleviation of our national arson problem.

The proposed legislation also addresses the need for assistance to State and local governments in the development of the technical capabilities and expertise for the investigation of arson. As currently written, the bill gives specific authority to the Law Enforcement Assistance Agency (LEAA) to provide grants for purchasing equipment and establishing laboratories. Although we are in total agreement with the goals of this provision, we do feel that there is a need for a clarification of the role that the U.S. Fire Administration will play in the investigation of arson.

In their efforts to initiate antiarson programs, localities have experienced some controversy over the roles and responsibilities of the various agencies involved in the investigation of arson. Such jurisdictional controversies can become bitter, and must be avoided on the national level. Our feeling has always been that all arson prevention and control programs, including investigation programs, fall within fire service jurisdiction. The Antiarson Act should make it clear that the U.S. Fire Administration must have the final responsibility and ultimate jurisdiction in carrying out any arson research, education, training and investigation programs. This would

keep such programs within the appropriate jurisdiction and at the same time it would prevent a costly duplication of efforts.

Finally, the legislation authorizes \$5 million for the U.S. Fire Administration to initiate a research program to develop, test and evaluate techniques and equipment in arson prediction, prevention and control. We feel that this sum is a very minimal one for carrying out these responsibilities.

Arson is a deadly, expensive and contagious plague. Although various local efforts have been initiated, the need continues for a totally coordinated national effort that encompasses research, training, investigation, insurance considerations, and all the various factors contributing to our nation's arson problem. The Antiarson Act goes a long way in meeting that need.

The International Association of Fire Fighters is pleased to see the introduction of the Antiarson Act and we support this legislation, in the hopes that arson can finally be brought under control in this country. We would hope that the members of this Subcommittee will add their support to this legislation.

Prepared Statement of National Association of Insurance  
Commissioners

Mr. Chairman and members of the Subcommittee, this statement is submitted to you on behalf of the Arson Task Force of the National Association of Insurance Commissioners, commonly known as the NAIC. The NAIC is the oldest voluntary association of state officials in the nation, having its inception in 1871. The membership of the NAIC includes the chief insurance regulatory official of each of the 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

The objectives of the NAIC are (1) to promote uniformity in legislation affecting insurance, (2) to encourage uniformity in the departmental rulings under the insurance laws of the several states, (3) to disseminate information of value to insurance supervisory officials in the performance of their duties, (4) to establish means to fully protect the interest of policyholders, and (5) to preserve to the several states and United States possessions the regulation of the business of insurance. To achieve these purposes the NAIC utilizes an extensive committee system and has permanent staff located in two offices.

Representing the NAIC Arson Task Force, we appreciate this opportunity to provide you with information about the role, objectives and accomplishments of insurance regulators in anti-arson efforts. As insurance regulators for a major state such as Pennsylvania, we are aware that arson fraud adversely affects insurance rates which we approve and that we have the authority to help create the legislative and regulatory climate for effective anti-arson efforts.

In recent years, arson has annually claimed over 800 lives and caused over \$1,000,000,000 in direct property damages. It is one of America's fastest growing crimes, and because it is difficult to detect and prosecute, conviction

rates are low. In addition to the direct costs, arson contributes to the disintegration of neighborhoods and entire cities through the destruction of housing stock and potentially viable commercial properties. For good reason, arson in America has been termed a destructive malignancy.

Arson to defraud insurance companies, or arson-for-profit, is a significant part of the arson problem, especially in terms of property losses. Every American pays for this crime as a policyholder and as a taxpayer.

In recent years, the public has become aware of the problem because of industry education programs, congressional hearings, federal reports, seminars, and greatly increased national and local media attention. Real legislative progress has been made at the state level. For example, arson reporting immunity legislation has been enacted in 37 states. Tax lien legislation has been enacted in some states. State FAIR plans are beginning to exercise increased underwriting prerogatives and short term cancellation rules to prevent abuse by arsonists. Local arson task forces have been created, and large arson rings have been smashed with significant media coverage.

Recognizing the need for action by insurance regulators, NAIC established an Arson Task Force in June 1979 to "make recommendations to the NAIC by December 1979 on specific actions that insurance regulators can take to combat arson," and the Insurance Commissioner of Pennsylvania was appointed to act as Chairman of the NAIC Arson Task Force. He invited the Commissioner of Delaware, the Commissioner of Illinois, the Director of Ohio, and the Superintendent of the New York Insurance Department to serve on the Task Force. In addition, an advisory committee was constituted to assist the Task Force, which includes representatives of the four major national insurance trade associations (NAII, AIA, the Alliance, and NAMIC), the United States Fire Administration, the Federal Insurance Administration, the National



Association of District Attorneys, the International Association of Arson Investigators, the Insurance Federation of Pennsylvania, and a representative of a citizens' neighborhood revitalization organization.

This statement will focus on the efforts of the NAIC Arson Task Force and the action NAIC has taken on the recommendations of its Arson Task Force.

Recognizing that arson was a much studied subject, the Task Force elected to review expeditiously existing studies and to act quickly through recommendations to NAIC. The Task Force commenced its work by reviewing USFA's report to Congress (then in draft), a February 1979 study by the staff of the United States Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, and a draft arson task force report from the state of New Jersey. Based upon the deliberations of the advisory committee and Task Force, a set of action items was established. The Task Force narrowed its recommendations to 12, which it presented to the NAIC with the nearly unanimous support of the Task Force members and advisory committee on December 1, 1979. NAIC warmly received the report and accepted all but two of the recommendations, which have since received further consideration. These two recommendations, a model bill to require special anti-arson applications for arson-prone risks in selected areas of each state, and tax lien legislation, will be discussed later. The following is a summary of the ten recommendations which NAIC accepted in December 1979.

The Arson Task Force recommended that NAIC and the insurance industry should consider the practicability and contents of a model policy provision requiring insureds to notify insurers when they are cited for certain categories of code violations. The Task Force found two problems with such a policy provision: which code violations should be the subject of the provision, and how are insurance companies to receive the information and verify it from local government?

Studies on arson have been able to isolate indicators which point to the likelihood of arson, for example, several fires during a year's time, high vacancy in a tenant-occupied building, failure to pay taxes promptly, or a pattern of plumbing, heating, or electrical violations. We think it is now possible to list the code violations to be included in such a policy provision.

On the administrative issue, it will be difficult, considering the multiplicity of code jurisdictions and recordkeeping methods, to discover either a failure to report or inaccurate reporting. Even so, a policy provision could be useful in denying a claim after a fire has occurred.

The Arson Task Force also recommended that NAIC review charges that owners of properties contemplating arson are able to obtain insurance from surplus lines carriers when good underwriting practices would not permit it. Some commentators have charged that arsonists are turning from FAIR plans, which are tightening their underwriting, to surplus lines carriers. The USFA has conducted a study of this issue, and the NAIC Task Force, with the participation of the advisory committee, will carefully review this study.

The Task Force recommended that all states should adopt the NAIC Unfair Claims Settlement Practices Model Regulation, in place of any other unfair trade or claims practices regulations in effect. These measures require, among other consumer protections, payment of claims within a specified period of time after the filing of the proof of loss (e.g. 30 days). The NAIC model, already adopted by some states including Pennsylvania, provides for delays for adjusters if they need more time to investigate suspicious claims.

As regulators, we have the responsibility to protect insurance policyholders from undue harassment or unjustifiable delays. We also recognize that this policy must be tempered with enough flexibility to permit insurers

to investigate suspicious fires, when they have good evidence that a fire may have been intentionally set. The NAIC model provides such flexibility by permitting additional periods of time (in Pennsylvania 45 days) to conduct investigations if the insured is notified of the delay.

Despite broad agreement that the NAIC model provides sufficient flexibility for investigation, some adjusters continue to be uneasy about the possibility of Insurance Department punishment if they delay paying claims, even for good reason. As will be discussed in more detail later, the NAIC Arson Task Force has recommended amendments to the NAIC regulations to make more clear to adjusters the flexibility they have.

NAIC is monitoring the industry in its efforts to train adjusters in recognizing possible cases of arson-for-profit, but the NAIC has not recommended particular training. Correspondence from industry sources indicates that the industry trade associations and companies are making substantial efforts in training adjusters. Should these efforts cease or taper off, the Arson Task Force might recommend that NAIC urge commissioners to consider mandatory training for adjusters. In the meantime, it would appear that the industry is responding effectively to charges that adjusters have not been sufficiently trained to recognize suspicious fires.

We don't expect every adjuster to be a highly trained and specialized arson investigator, although at least one company has so trained all of its adjusters. Instead, the most cost effective approach would appear to be two-tiered: one tier of adjusters who handle all kinds of cases but who are trained to at least recognize a suspicious or incendiary fire, and a second tier of arson investigation specialists who would be called in to gather the evidence and determine the exact cause of the fire.

Based upon an Arson Task Force recommendation, NAIC supports revisions to FAIR plan regulations (by the FIA for qualifying plans, and by state insurance commissioners for non-qualifying plans) to provide for shorter cancellation periods when properties are found to possess characteristics indicating a high likelihood of arson. New FIA regulations have gone into effect governing qualifying FAIR plans which grant more underwriting discretion, and which permit shorter cancellation periods if a property, for example, has a high vacancy rate. We support these additional prerogatives for FAIR plans.

Thirty-seven states now have arson reporting immunity legislation, and the NAIC Arson Task Force recommended that the other states should adopt some form of this legislation. All of these laws require insurance companies to supply information to law enforcement agencies, and the companies are immunized from civil and criminal liability when they do so. Some states have gone further and require law enforcement to supply information to, and to testify for, insurance companies. The Task Force recommended enactment of arson reporting immunity laws, but specifically refused to take a position on whether law enforcement agencies should be required to supply information to insurance companies.

The Arson Task Force has also surveyed the insurance commissioners in the states with such legislation and other relevant state officials to determine their experience under the arson reporting immunity laws. The survey results are attached as an exhibit.

The Arson Task Force endorsed the National Committee on Property Insurance's Urban Revitalization Clause Task Force report, which was also presented to NAIC at its December 1979 meeting. The revitalization clause report set forth a provision to be used in FAIR plans to encourage rebuilding on the site of a fire loss. Under the clause, a policyholder who rebuilds on

the site would obtain replacement cost, but only market value if he takes his proceeds and sells or abandons the property. We believe that urban revitalization will be encouraged, and arson-for-profit will be discouraged because the windfall profit aspect will be taken out of the recovery for a person who does not rebuild on the site of his loss. This should have a major impact on arson rings which, for obvious reasons, prefer to maximize profits by abandoning or selling fire-damaged premises after the policy proceeds are paid.

The Arson Task Force is also considering special cancellation rules, like those recently adopted for FAIR plans, to be applied to the voluntary market. This will require some further study after experience is obtained on the short term rules now in effect in some FAIR plans.

Based upon an Arson Task Force recommendation, NAIC encourages participation of insurance companies in the Property Insurance Loss Register (PILR). I am advised that a significant majority of companies already participates, and we believe the remaining companies should join the system. As a regulator, I am encouraged that the administrators of PILR have adopted a very enlightened and practical attitude toward policyholders' privacy interest in the system. For example, a policyholder may review and correct information about himself in the system. This should go a long way toward defusing criticisms that PILR infringes on personal privacy, while providing the benefits of making complete loss history information available before adjustment.

The Task Force held a public hearing in Philadelphia last spring to receive comments on three specific proposals: the special anti-arson application model law, a tax lien model law, and amendments to the NAIC model Unfair Claims Settlement regulations to make clear to adjusters that they have the flexibility provided in the regulations. NAIC took action on all of these issues in June 1980.

#### Applications

The special anti-arson application model bill, which we proposed to NAIC in December 1979, responds to consistent criticisms of the insurance industry and FAIR plans that over-insurance occurs because insurance coverage is granted without sufficient underwriting information or even a cursory inspection of the property to determine its condition. While this criticism may have some validity, the cost of requiring inspections in every case would, we are informed, be prohibitive. Further, agents and policyholders are adamant in their belief that binding authority must be preserved. An appropriate and, we think, very effective compromise of these competing interests was the special anti-arson application model bill which the NAIC Arson Task Force recommended to NAIC in December 1979, and which NAIC requested we study further.

The special anti-arson application model bill would require the insurance commissioner in the state adopting the law to go through a fact finding process, including hearings, to determine the types of properties and the areas of the state which are arson-prone. Through research on the arson problem, we are now able to list factors about a property which together form a "profile" of the typical arson-prone property. Examples of these factors are obvious neglect, a series of smaller fires over a one or two year period, failure to pay taxes, multiple transactions using straw parties and inflated values, and a frequency of fires in other properties owned by the owners of the property in question. But the arson problem is not exactly the same in every state.

To further focus efforts, the commissioner would also determine the parts of the state which are particularly arson-prone. Such distinction between territories would, we believed, sustain attack as being discriminatory or as being "redlining" because the special treatment accorded these areas benefits those living in the areas (through prevention of destruction due to

arson). The distinction between areas would also be defensible because it would be based upon rational fact finding and a public purpose unrelated to income or race. The Task Force's community group representative fully supported this approach.

Under the application proposal, the commissioner determines the types of properties and the parts of the state which are arson-prone. He would then require that all companies doing business in those areas use an application form which calls for the loss history of the property and its owners, all parties with any interest in the property, a summary of recent transactions and other information which will help underwriters to determine whether the risk can be written. In all cases, this application would be signed by the applicant. The insurer, after it obtains the application and grants coverage, would be required to do an inspection within a reasonable period of time (no more than 120 days following the binding). If the policy is written, a claim is made, and the adjuster discovers that material misrepresentation has occurred in the application, this would be grounds to deny the claim.

At the Task Force's public hearing and thereafter, the model bill was supported by a representative of NAIL, a Philadelphia inner city community leader, and federal government representatives. Serious objections were raised by the speakers from other segments of the insurance industry. A majority of states on the Task Force continue to favor the bill.

The portion of the industry opposing the model bill presents as an alternative the development of a two-tier application form, similar to life insurance applications. Uniform predetermined answers to the questions on the first tier application would trigger an additional questionnaire. Under this alternative, the forms would be available for review and their use mandated by insurance commissioners. The Insurance Committee for Arson Control

(ICAC) and the insurance trade associations have represented to the Task Force that such applications will be available to the Arson Task Force by early this fall. The Task Force will then be in a position to hold a public hearing on the two-tier application and deliberate on the merits of the two-tier application, vis-a-vis the Arson Task Force's earlier anti-arson application proposal.

NAIC has directed the Arson Task Force to report on the relative merits of the two-tier application versus the anti-arson application proposal, and to recommend to NAIC at the December 1980 meeting a specific model bill to prevent arson through regulation of applications.

#### Tax Lien Legislation

In June 1980, NAIC adopted the model tax lien bill proposed by the Task Force. Approximately one-half dozen states have enacted some form of tax lien legislation, which generally requires insurers to pay over loss proceeds to local governments which have liens against policyholders for unpaid taxes. An almost equal number of states are now considering similar legislation.

A tax lien bill was passed and vetoed in Pennsylvania by former Governor Shapp. After reviewing the materials which led to the veto, we are convinced, that the bill was vetoed in Pennsylvania because it denied due process of law in that it required insurers to pay over proceeds (property) of the policyholder to a local government without a prior opportunity for the policyholder to contest the validity of the lien. Some bills in some states establish a partial escrow, and I believe that the NAIC Arson Task Force draft model resolves the issue by simply requiring insurers to pay the proceeds of a policy into an escrow account if the policyholder cannot obtain certification from all relevant governments that he owes no taxes.



Our model also responds to complaints of cost by insurers in states which require the insurer to obtain proof that no taxes are owed. Clearly, it is easier for a policyholder to obtain such information, but the law should, as our draft model does, set forth a designated official in each taxing jurisdiction who is to provide information on back taxes in a timely fashion, with minimal fees.

In summary, the NAIC Arson Task Force tax lien model bill requires policyholders to supply insurance companies with proof that no taxes are owed. If taxes are owed, the insurance company simply pays the proceeds into an interest bearing escrow account. When the policyholder has exhausted all of his appeals, the taxing jurisdiction may go to the escrow account and take out the portion owed to it. The remainder would then automatically be paid over to the policyholder and the account would be closed. Our model answers due process questions, provides insurers a simple and timely procedure for paying losses, and does not burden policyholders with undue responsibilities.

#### Claims Practices

NAIC received an amendment to its Unfair Claims Settlement Practices Model Regulation which clearly grants adjusters additional time in cases of suspicious claims. The amendment provides:

Where there is a reasonable basis supported by specific information available for review by the insurance regulatory authority that the first party claimant has fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements [of this subsection]. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

This language provides some explanatory language in the model regulations to reassure adjusters that when they have specific evidence of arson, they

will not be punished by the Insurance Department for delaying payment of the claim for a period of time which is necessary for further investigation. At the same time, policyholders continue to be protected from unjustifiable delay in paying claims by the requirements that insurers have verifiable information of arson and that insurance departments have access to this information.

#### Summary

The deliberations of the NAIC Arson Task Force have provided state insurance regulators, the insurance industry, community leaders, and federal officials an opportunity to sit down together to work cooperatively for achievement of a common goal: the reduction of arson-for-profit. NAIC actions based upon our recommendations reflect a consensus of the state regulators, the insurance industry, and community groups, and therefore represent a significant part of the fight against arson.

## EXHIBIT I

ARSON REPORTING IMMUNITY SURVEYBackground of Law

1. When did your arson reporting immunity law go into effect in your state? When did information begin to flow under the law? List all agencies in your state (including an official, title, and telephone number) which receive information under the arson reporting immunity law.

1979-- ### ### ### ### / State Fire Marshal-- ###,### ### ### ///  
 1978-- ### // law enforcement-- ### ///  
 1977-- /// 1976-- / fire department-- ### ###  
 attorney general-- ### //  
 previous info flow-- /// federal agency-- ###  
 info flow immediately-- /// district attorney-- ###  
 info flow shortly after enactment-- ### //  
 info flow upon request-- /// county fire chiefs-- //  
 not begun to flow-- //

2. How are responsibilities for arson investigation and law enforcement divided among public agencies in your state?

State Fire Marshal-- ### ### ### ### //  
 local fire or police dept.-- ### ### ### ###  
 full-time arson investigators-- //  
 attorney general-- ///  
 Bureau of Investigation-- /

Experience Under Law

3. What is the type and volume of information which you receive under the arson reporting immunity law? What resources (man hours, computer time, etc.) does it take to process this information? Do you have adequate personnel and funding to make effective use of the law?

dollar amount of insurance, amount of loss, past losses, premium raised prior to fire?, estimated property value, premium payment record, policy changes, statements, proofs of loss

info on request-- /// PILR-- // volume depends on  
 ins. co. provides info-- /// case-- //  
 Nat'l Fire Incident Reporting System-- / results slim-- ### //  
 power to subpoena-- /

computerization-- / adequate-- ////  
 info filed manually-- // inadequate-- ###

approx. 25 forms per week-- / full-time work by investigators-- /  
 35% of 1 secretary's time-- / 8 hours per week-- /  
 10 hours per week-- /

4. Have you found insurance companies to be cooperative in providing claim and insurance policy data to your office when requested?

yes-- ### ### ### ### ### // no-- / yes & no-- //

5. If not already mandated by law, do you believe insurance companies should automatically report all suspicious fire losses and all fire losses over certain monetary thresholds, perhaps \$5000, to your office or another state or local office?

yes-- ### ### ### / no-- /  
already mandated-- ### ### // PILR-- //  
\$5000 too high-- ### /

6. What are the procedures for receiving and processing information?

ins. co. provides info to authorized agency, investigator-- ### /  
PILR-- ///  
info available upon request-- ///  
info reported to State Fire Marshal-- ###  
Nat'l Fire Incident Reporting System-- //  
Uniform Crime Reporting System-- /  
fire depts. report to State Fire Marshal, follow up with written report; reports assigned number, logged, filed by year and county, computerized; reports assigned number, logged, copy of form sent to investigator who follows up on it; info received is computerized, used for investigative, statistical purposes; info received kept confidential

7. Have you or any agency in your state issued regulations, notices, or forms to carry out your arson reporting immunity law? Please supply a copy of any regulation, form, notice, or other written material issued under the arson reporting immunity law.

no-- ### ### ### // yes-- ### ### // PILR-- ///

8. What steps, if any, does your department take to assure compliance by the insurance companies with the arson reporting immunity law?

none-- ### ### ///  
inform companies, request cooperation-- ///  
periodic audits, examinations-- ///  
report to attorney general; State Fire Marshal warns, then matter taken to insurance dept.; any measures at disposal of insurance commissioner; investigate complaints from law enforcement; public hearing to terminate authority for non-compliance; check investigators' reports against PILR reports received

Reciprocal Exchange of Information

9. Are you, or any agency of your state, required by your arson reporting immunity law to supply information to insurance companies? If so, what do you supply? If other agencies are required to supply information, please give us the name, title, and telephone number of a person whom we may contact.

no-- ### ### ### ### ///      yes-- ### ///

records open to public; anything relevant to investigation; required to hold info confidential till criminal, civil proceedings; ins. co. required to supply requested info to State Fire Marshal; info available by subpoena

10. Are you, or any agency of your state, permitted to supply investigatory information to insurance companies? Are other agencies permitted to do so? If yes, what information is disclosed?

yes-- ### ### ### ///      no-- ### ###

cause of fire, extent of damage, progress of investigation; any info that would not impede investigation or prosecution; anything except testimony info which State Fire Marshal may withhold; except in criminal investigations, which are kept confidential; info released only after case closed; only upon written request; only if subpoenaed

11. If state agencies are neither permitted nor required to supply information to insurance companies, do you acknowledge suspicions or that an investigation has commenced?

yes-- ### ### ### ///      no-- /      privacy laws prevent-- /

12. If your state does not have an effective reciprocity clause (insurers may get information from authorized agencies), do you know of any serious political or legal problems to getting one?

no-- ### ### /      yes-- ### /  
privacy laws-- ///      would conflict with privileged nature  
of State Fire Marshal reports-- /

13. If your state does have a reciprocity clause, how well is it working?

well-- ### //  
N/A-- ### ### ///      well without-- /  
more experience needed-- ///

14. Have any citizens complained to the insurance department regarding the sharing of information in their insurer's files?

no-- ### ### ### ### ### ///      very few, if any-- /

15. Are you aware of any court action in your state challenging the arson reporting immunity law?

no-- ### ### ### ### ### ### /

16. Are officials from any state agency required or permitted to testify for insurance companies in civil legal actions based on suspicious fire claims? If yes, how often do they testify?

yes-- ### ## ###	quite often-- ///
if subpoenaed-- ### ### ///	not often-- //
no-- /	each of 5 investigators
at discretion of	about twice a year-- /
State Fire Marshal-- //	several times a year-- //
	6 times in 1979-- /
	approx. 20 times a year-- /

#### Opinion on Law

17. In your view, has the disclosure of information required under the law facilitated the investigation and detection of suspicious fires?

yes-- ### ### ### ###	very little-- /
no-- ### //	not enough data-- ///

18. In your opinion, has the implementation of the arson reporting immunity law facilitated prosecution? If yes, please supply some examples, without names.

yes-- ### ///	no-- ## ///
no cases yet-- ///	not in effect long enough,
	not enough data-- ###

Prepared Statement of Charles H. Fritzel

Mr. Chairman, my name is Charles H. Fritzel. I am the Assistant Vice President for Government Relations of the National Association of Independent Insurers (NAII). NAII is a property and casualty insurance trade association of over 500 member and subscriber companies.

We are pleased to participate in these hearings and will say from the outset, as we did in April of 1979 before the Intergovernmental Relations subcommittee of the Senate Governmental Affairs committee, that we support the general concept of S.252, the Anti-Arson Act, and give our wholehearted support to provisions to classify arson as a Part I crime. We do have some recommendations for improvements in the bill.

The National Association of Independent Insurers has long advocated a stronger "before-the-fact" approach toward arson. While much of the discussion of the arson issue has centered on "after-the-fact" measures and prosecution and conviction of the arsonist, we believe that the most productive arson control effort is that which is directed at the prevention of the crime. Some of our member companies have been successful in establishing arson tracking systems by which they have been able to identify properties that may be more susceptible to future arsons. The NAII workshop held in Denver in March of this year included a full day of discussions devoted to the arson issue.

I would like to include as a part of the record a paper by Clyde Turbeville, Vice President for Underwriting of the South Carolina Farm Bureau Mutual Insurance Company, in which he describes the profile of the arsonist which his company was able to establish by a review of its claim files. Also, I would like to include for the record a paper by John P. Killarney of the New York law firm of Kroll, Killarney, Pomerantz and Cameron who discusses his experience in pursuing an arson defense in denying insurance claims. Both of these papers were presented at the NAII workshop in March.

NAII supports the Anti-Arson Application Model Bill now being developed by the Arson Task Force of the National Association of Insurance Commissioners (NAIC). The NAIC application proposal is based on the belief that arson-for-profit can be prevented if the underwriter is supplied with dependable information during the initial risk appraisal process. We feel that this approach to arson control — from the underwriting or loss prevention side — is far more productive than efforts directed to after-the-fact where rules of criminal law make apprehension of the arsonist extremely difficult.

Under the proposal, the state insurance regulator could require a special anti-arson application designed to identify arson prone situations. The application would elicit such information as ownership identification, history of fire loss, valuation method, building code violations, and so on. The applicant



would vouch for the accuracy of the application by signing it. I would like to include for the record a NAII position paper which discusses the Anti-Arson Application Model Bill version then under consideration.

S.252 creates a Federal Agency Committee on Arson Control which will coordinate preventive and after-the-fact efforts to combat arson. Because of the importance of the work being done by the NAIC and the other insurance trade associations, as well as NAII, in the arson field, we suggest that the committee include private insurance industry underwriting expertise and NAIC representation on the proposed Federal Arson Control Committee. Insurance industry representation would provide an insight for the Committee into how various proposals will affect the ongoing efforts of the NAIC and the individual insurers in the highly competitive insurance environment.

The insurance industry faces many problems in writing high-risk properties, and we think it is important that the Arson Control Committee have the benefit of insurance experts with the background and experience to bring a better understanding of these issues to the Committee. Our hands have too often been tied by requirements of immediate payment of losses, destruction of evidence, threats of libel suits, and other factors which have made it difficult for us to refuse payment even if we suspect arson.

The 1979 Staff Study of the Permanent Subcommittee on Investigations of the Senate Governmental Affairs committee is an example of the situation we would attempt to avoid. The study failed completely to recognize factors affecting private insurers operating in a highly competitive environment. Had the staff been more aware of just how the business of insurance is conducted, it is likely that the value of the report would have been enhanced substantially. Instead, the report damns the industry for practices it often is required by law to carry out.

The additional underwriting information prescribed in Section 7 of the bill could best be obtained through state level cooperation - another reason for including industry and NAIC representation on the Arson Control Committee. As a result of passage of the so-called Holtzman Amendment in 1978, the number of states that have FAIR Plans meeting the increasingly burdensome federal standards or criteria has diminished rapidly. Instead of 26 FAIR Plans, there are today only about 18 which meet the federal requirements. The important New York and California Plans -- the largest in the country -- are out. The onerous requirements of the Holtzman Amendment could virtually eliminate federal involvement in the FAIR Plans, although the programs will continue under state control.

Adoption of the NAIC Anti-Arson Application Model Bill will accomplish the same purpose as Section 7 - namely, the

availability to the insurer of information which may be used to detect a possible arson — and it will do so while retaining state regulatory authority over insurance underwriting requirements. It also could encompass more than just FAIR Plan coverages.

The Governmental Relations committee reported S.252 in an amended form which reduced from 10 years to 5 years the required listing of losses on property to be insured. In our earlier testimony, we suggested a three-year requirement, but can accept the five-year period. A listing of fire losses to these properties involving claims of at least \$2,500, whether paid or not, also would be a reasonable and helpful requirement.

Again, I want to express our support for this legislation. Since its introduction in January of 1979, the insurance industry, in cooperation with our state regulators, has made much progress in meeting the challenge of arson. We feel that many of the purposes of S.252 are and can be secured by state action.

Thank you for this opportunity to present our views on S. 252.

STATEMENT  
OF THE  
AMERICAN INSURANCE ASSOCIATION  
TO THE  
SUBCOMMITTEE ON CRIMINAL JUSTICE  
OF THE  
SENATE COMMITTEE ON THE JUDICIARY  
CONCERNING S. 252  
"THE ANTI-ARSON ACT OF 1979"

The American Insurance Association is an organization representing the interests of 152 publicly-owned property and casualty insurance companies nationwide. As such, we are vitally concerned about arson and we appreciate this opportunity to present our views on legislation intended to combat this crime.

Arson is a deadly serious problem in America today. It is a crime which destroys entire communities along with individual properties and its devastation no longer is confined to urban neighborhoods. Statistics show that arson is the fastest-growing crime in the United States.

The insurance industry is painfully aware of these statistics and has initiated many procedural changes in underwriting and claims-handling to identify properties which either are arson risks or were torched for arson fraud. However, the arson problem goes beyond the issue of insurance fraud and cannot be discouraged entirely through insurance industry initiatives. Whatever the motive, arson will flourish if police and fire officials are unprepared to identify arson fires, if our criminal justice system is inadequate to convict and punish arsonists, if our legal system discourages or intimidates insurers from investigating and resisting suspicious fire claims

and if the public remains ignorant of the seriousness of the crime. These are the conditions that are largely responsible for the current environment where arsonists know their deeds more than likely will go unpunished, if not undetected.

The AIA believes that the best way to change that environment is by increasing public and official awareness of the nature and magnitude of arson crimes. Moreover, the best way to raise public awareness is to permanently classify arson as a Part I crime for FBI reporting purposes. One of the biggest obstacles to awareness has been the lack of reliable statistics on arson.

For too long, arson has been classified as a Part II crime for the Federal Bureau of Investigation's reporting purposes. This means that statistics gathered on arson were limited to figures on the number of arrests. Had arson been a Part I crime, statistics gathered would have revealed such information as the nature and frequency of the crime, the number of arrests made and the persons charged for the crime, crime trends and the success of law enforcement agencies in solving arson cases.

By compiling these statistics on a national level, the public will become aware of the nature and extent of arson, state and local governments will be able to allocate suitable resources to combat this offense and fire and law enforcement agencies throughout the nation will be encouraged to develop programs to train personnel in the prevention and detection of arson. We believe a greater awareness of the crime will encourage penal reform in those states where present law deals insufficiently with the definition of various arson offenses, the grading of those offenses and the punishment

of the arsonist. Moreover, the statistics gathered for arson as a Part I offense will precipitate greater financial involvement by the federal government in the development of arson prevention and detection programs for those communities where statistics reveal arson to be a critical problem. This factor alone will encourage most state and local fire and law enforcement agencies to cooperate with one another in investigating suspicious fires and in relaying accurate statistics to the FBI's Uniform Crime Reporting System.

For the foregoing reasons, the AIA supports the permanent reclassification of arson as a Part I offense and we, therefore, support S. 252 in its effort to accomplish this.

S. 252 would establish an Interagency Committee on Arson Control which would coordinate Federal anti-arson programs. The AIA applauds this concept. Such a Committee would signify a strong federal commitment to the anti-arson effort by drawing upon the knowledge and expertise of the nine Committee members whose federal agencies are most involved in anti-arson activities. The annual reports which would be submitted by the Committee members on behalf of their agencies would provide data concerning the success of the various federal anti-arson programs. Successful programs thereby could be identified and viewed as models for state and local efforts.

This bill also provides that the Committee could establish subcommittees or working groups to accomplish its objectives. Membership in such subcommittees would not be restricted to the members of the Committee. AIA believes this could be an invaluable provision if the Committee enlisted the aid of experts in the field of arson prevention and control from the local

and state levels as well as from industry and the general public. We urge establishment of subcommittees comprised of such interdisciplinary membership.

The AIA strongly supports the creation of the Interagency Committee on Arson Control and believes that its existence should not be restricted to the two-year period enunciated in this bill. Anti-arson efforts, including those of the federal government, must assume a position of permanence since the arson problem will be with us for a long time. We ask that the two-year termination provision be reconsidered.

Similarly, the AIA supports Section 5 of the bill which provides for the National Fire Prevention and Control Administration (now the United States Fire Administration) to develop anti-arson techniques, equipment and educational and training materials and programs to be used by State and local fire and law enforcement authorities.

Section 7(c) of this bill would permit insurers to establish procedures, subject to the approval of the State insurance authority, for the cancellation or nonrenewal of any FAIR risk upon 5 days' notice to the policyholder. The AIA notes the Federal Insurance Administration has established a list of underwriting prerogatives which permit FAIR Plans to cancel coverage upon 5 days' written notice if certain conditions exist in relation to the property, and we urge all FAIR Plans to adopt them. We support this provision in that we believe that there must be a framework providing the insured safeguards such as adequate notice and the right to appeal.

Section 7(a) of S. 252 is a provision which, although well-intentioned, is not well-conceived. This section requires that each policy written

pursuant to a FAIR Plan could be written only after the Plan obtains a signed application and evaluates data including (a) a listing of real property in which the applicant has an insurable interest at the time of the application and at any time within the previous 10-year period, (b) the number of fires involving those properties, (c) the cause of the fires, (d) the amount of each loss, (e) the amount of insurance recovery, and (f) whether any of the properties were or could have been subject to arson.

The AIA recognizes that properties insured under the FAIR Plans have been the target of arsonists in recent years, and we realize that it is necessary to obtain better information from the applicant prior to granting coverage. Surely, information obtained from an applicant indicating a prior history of fires and the possibility that at least one of those fires was arson-related would normally give an insurer reason to decline coverage. However, FAIR Plans can decline coverage only if the risk does not meet limited underwriting standards. The AIA believes that under the present law, the FAIR Plans could not decline coverage solely on the basis that an applicant has a suspicious history of fires. The administrative and financial costs to the Plans of requiring such an application would be great with no compensating value since the information obtained on the application could not be used to decline coverage.

While the AIA believes that more complete underwriting information will enable Plans to identify potential arsonists, the restrictions placed upon the FAIR Plans in denying coverage make such a provision inappropriate.

Section 7(b) grants to the FAIR Plans the right to obtain data within the custody of the State insurance authority which would assist the Plan in



further assessing or evaluating a suspicious application for coverage.

State insurance authorities would rarely, if ever, possess data concerning either individual insureds or individual risks. Consequently, we see little if any value to be derived from granting access to the Plans.

In conclusion, we at the American Insurance Association strongly support the major provisions of S. 252 and urge that, with some modifications, the measure be enacted as quickly as is possible. We are confident that once this step is taken, we will at last have the weapon that can tilt the balance against the arsonist.

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