

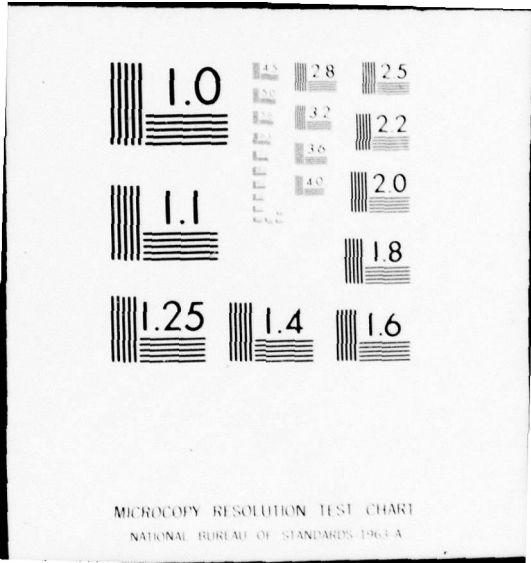
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ARSON: A DILEMMA FOR THE CRIMINAL JUSTICE SYSTEM

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Final Report May 1978

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A thesis submitted to Sam Houston State University, Huntsville, Texas, 77340, in partial fulfillment of the requirements for the Degree Master of Arts.

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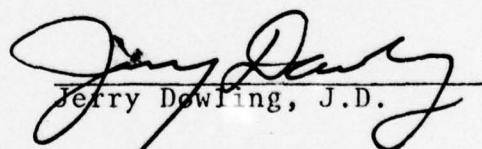
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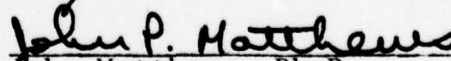
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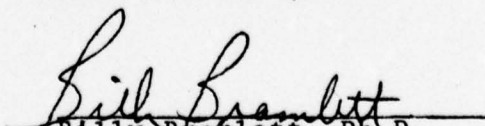
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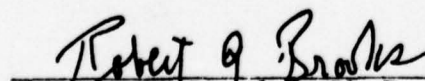
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ARSON: A DILEMMA FOR THE CRIMINAL JUSTICE SYSTEM

A Thesis

Presented to

the Faculty of the Institute of Contemporary Corrections
and the Behavioral Sciences

Sam Houston State University

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts

by
Terry L. Miksic

May, 1978

ABSTRACT

Miksic, Terry L., Arson: A Dilemma for the Criminal Justice System. Master of Arts (Institute of Contemporary Corrections and the Behavioral Sciences), Sam Houston State University, Huntsville, Texas, May, 1978.

Purpose

It is the purpose of this study to examine the reasons why arson investigation is such a problem within the criminal justice system. This study looks at why arson is a neglected crime; trends in rates of arson increase and the inadequacies of published statistics are discussed; current thinking and practices concerning arson investigation are presented; how the problem of arson is addressed in three Texas communities is viewed; and recommendations toward an organizational model are presented. It is hoped that this study will provide an impetus to further studies in arson and as a beginning toward the recognition of arson as a significant problem within the criminal justice system.

Methods

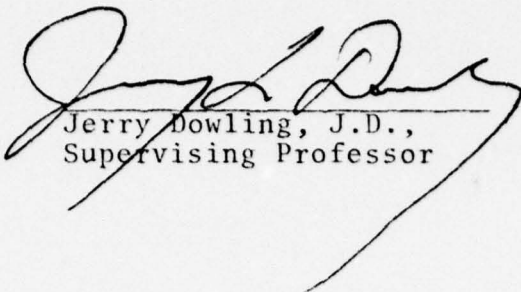
This study was accomplished by the conducting of interviews with the fire marshals of Houston, Beaumont, and Huntsville, Texas. Research materials from the libraries at Texas A & M University, the University of Houston, and the Government Printing Office in Houston,

Texas were also used. The Office of the Texas State Fire Marshal in Austin, Texas was queried for information.

Findings and Recommendations

This study found that there is a conflict in role definition existing between fire and police departments; that there are inadequacies in the gathering and reporting of arson statistics; that the smaller the city, the less arson, is viewed as a significant problem; that there appears to be no professional consensus of opinion on how arson bureaus are to be organized; and that the criminal justice system and criminologists, in general, have neglected the crime of arson.

This study also presents the following recommendations: that leaders in government should take steps to insure coordination and cooperation among the various agencies; that there should be written agreements delineating responsibility; that arson statistics gathering and reporting be improved; that federal funds be made available for arson investigation; that state fire marshals recognize their role and become more active in the criminal justice system; and that the criminal justice system as a whole recognize arson as a very special problem and take steps to deal with it.



Jerry Dowling, J.D.,
Supervising Professor

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Mr. Gerald Schappe, Mr. Alcus Greer, Mr. Jerry Creekmore, Mr. Danny Cross, and Mr. Joe French all deserve recognition and thanks for the giving of their time and experience to this author in the conduct of the interviews.

Last but not least, to my wife, Betty Jo, for her patience, understanding and help throughout the writing and completion of this thesis, thank you.

TABLE OF CONTENTS

	PAGE
ABSTRACT	iii
ACKNOWLEDGEMENTS	vi
LIST OF TABLES	ix
CHAPTER	
I. INTRODUCTION	1
Nature of the Problem	5
Statement of the Problem	5
Purpose	6
Methodology	6
Limitations of the Study	8
Definitions	11
II. REVIEW OF THE LITERATURE	14
Motives	15
The Insurance Industry	17
Fire Department Versus Police Department	20
The Prosecutor	24
Public Apathy	28
Statistical Information	32
Arson, A Part I Crime?	40
Why the Increase in Arson?	43
III. THE ARSON BUREAU'S OF THE THREE VARYING SIZE COMMUNITIES IN THE STATE OF TEXAS ..	46
The State of Texas	46
The Office of the State Fire Marshal ..	47
Required Training for Arson Investigators	48
Texas Statistical Information	49
Houston	54

	PAGE
Beaumont	64
Huntsville	70
IV. SUMMARY, RECOMMENDATIONS, AND CONCLUSIONS.	76
The Organizational Problem	76
Recommendations Toward Developing a Model Program	79
Intergovernmental Relationships	80
State Level	82
Local Level	83
Conclusions	85
FOOTNOTES	88
BIBLIOGRAPHY	90
APPENDIXES	95
Appendix A. Questions Asked During the Fire Marshal Interviews	96
Appendix B. Summary of Offenses Investigated by the Arson Investigators for the Beaumont Police Department	98
VITA	101

LIST OF TABLES

TABLE	PAGE
1. Agencies Responsible for Arson Detection and Criminal Investigation	23
2. Estimated Loss by Fire Ignition Sequence ..	26
3. Incendiary and Suspicious Fires and Losses, 1964-1974	27
4. Estimated Number of Building Fires by Fire Ignition Sequence	33
5. Fire Ignition Sequence Factors for Fire Losses by Occupancy, 1975	34
6. Disposition of Persons Formally Charged by Police, 1976	36
7. Arrest, Number and Rate by Population Groups (comparison of 1964 to 1976)	37
8. Total Arson Arrest Trends	38
9. Total Fires and Arsons in Texas	51
10. Number of Incendiary Fires as Reported by City Fire Marshals in Texas	52
11. Excerpts from Houston Fire Department Statistics	56
12. Fire and Arson in Beaumont, Texas (1970-1977)	69
13. Comparison of Houston and Beaumont Fire and Arson Statistics	71

CHAPTER I

INTRODUCTION

The issue of crime in America today has reached a new high in the minds of the affluent American Society. George Cole (1976) says "... in the 1960's, Americans became conscious of a dramatic acceleration in the amount of crime [p. 1]," and in a 1968 Gallup Survey, "'crime and lawlessness' were mentioned as a cause of anxiety more often than any other ... problem [p. 1]."

The violence that leads to this anxiety is exemplified and nurtured by the news media, television and its "police stories," and even the police themselves by the publishing of crime statistics. Rape, murder, robbery, auto theft, prostitution, gambling and many other crimes are seen as evil and defeatable by the police. There are other crimes that are not so easily defeatable, nor easily detected. Many are white-collar crimes with little, if any, violence. One that is associated with violence is arson. The crime of arson is hard to detect but simple to implement by a common household item--the match. A government report, America Burning (1973), says:

Fire! Hundreds of thousands of times a year that shout reverberates down hallways or the inner recesses of the mind as Americans come face to face with one of the most dreaded causes of death and disfigurement ... Appallingly, the richest and most technologically advanced nation in the world leads all the major industrialized countries in per

capita deaths and property loss from fire ...
[p. 1].

What may be especially appalling about fire is that it is used by highly educated, socially conscious persons as a means of financial gain without thinking of the potential savage consequences. It may also be set by the mentally ill who may be incapable of thinking of the consequences of the act, or finally, it may be set by a malicious person who has such immature motives as revenge or the answering of a "dare."

Authors, such as Dodge (1977) and Suchy (1976), suggest that many fire departments estimate half of all fires are purposely set and approximately one quarter of all forest fires are intentional. In further examination of the number of fires, McKinnon (1976) adds that the monetary value and number of incendiary fires between 1964 and 1974 give a vivid example of the growth of arson. In 1964, there were 30,900 classified arson fires with a loss of \$68,200,000. By 1974, it had grown to 114,400 classified arson fires for a loss of \$563,000,000.

Martin Grimes (1977) sees this rise between 1964 and 1974 as a 34 percent increase with a 25 percent increase for 1975 alone. Grimes (1977) and Suchy (1976) state that arson fires are deemed to be responsible for the deaths of approximately 1,000 people, including forty-five firemen, each year.

In viewing this statistical increase in arson, and understanding the anxiety and consciousness of this society, why in light of this does it appear that arson does not seem to raise great cries of public dismay? Robert May (1974) is of the opinion that "ARSON is the most neglected crime on earth [p. 32]." This corresponds with a statement made by Grimes (1977), "It does not seem to alarm the public in the way that most other crimes do [p. 68]." The question is "why"?

A possible answer to this question can be developed by examining the writings of Battle and Weston (1960). They state that fire is most often considered as an unfortunate accident instead of arson. People choose to rationalize this unfortunate accident by saying it is because fire has been a

constant menace to man over the centuries ... that may leap out of control at any time and create great havoc ... most people are normal, law-abiding individuals who have never had any urge to set fire to a building [Battle and Weston, 1960, p. 1].

Other answers lie in the public's view of arson as a crime where there is little, if any, personal injury involved. It is placed in the recesses of the mind as an act such as fraud, embezzlement, tax evasion, and driving faster than 55 miles per hour. In essence, it is an invisible crime that has no direct association, in most cases, with personal injury. Therefore, it receives little attention from the media after its initial sensationalism.

This all goes toward helping to bury arson along with other day-to-day problems.

There are additional factors involved in the crime of arson. Some of these factors are that fire and its after-effects tend to destroy evidence; it hinders the finding of what evidence might be available; and the investigation requires highly experienced, trained, and skilled investigators. This then, by its nature and the fact that arson is a crime that entails coordination and cooperation between the police and fire departments, leads to natural conflict between two government agencies that operate on separate budgets.

By adding these facts, it leads one to the office of the prosecutor. Here the conclusion can be drawn that arson finds its place among those offenses which prosecutors do not look upon with eager anticipation, because of the difficulty of proving a case with totally circumstantial evidence.

The emphasis on the part of the police and the criminal justice system, overall, has been to appease the public's dismay toward visible violent crime. Thus, resources are allocated toward those visible crimes that the public considers to be a threat to its safety. This appears to be ill-advised, for fire is without a doubt, an everyday threat to society.

Nature of the Problem

Disparity of resource allocation causes arson to receive little attention among the subsystems of the criminal justice system, with those fire departments who have the responsibility for arson investigation, in essence being discriminated against by the system. This is a fact of bureaucratic life which is in some areas aided by, though no fault of, the fire departments themselves.

The problem which this thesis will bring into focus is the varying arguments concerning who has responsibility and jurisdiction in arson investigations. Presently, there are various agencies dealing with the arson problem, and in general, there appears to be a lack of consensus of opinion and a lack of standard operating procedures for the organizational structure of arson investigation.

Statement of the Problem

The problem is that agencies, be they fire or police, need to clarify what roles each will play. At the same time, standard operating procedures for the organizational structure of arson investigation should be established with clear and concise goals, which will inform the public, develop responsibilities, and set guidelines in the investigation of arson.

Purpose

In view of what has been written and researched concerning the crime of arson, its apparent increase, the appearance of public apathy, and the issues dealing with investigation, the purposes of this thesis will be to:

1. Examine the reasons why arson is considered to be a neglected crime. This will include a description of the problems concerning investigative responsibility; public and governmental apathy concerning arson; the insurance industries problems; and other bureaucratic stumbling blocks.
2. To present and show trends in relation to rates of increase in arson, rates of arrest and conviction, and inadequacies in the published statistics.
3. To present current thinking and practices concerning arson investigation.
4. To view how the problem of arson is addressed in three Texas communities of varying size.
5. To develop recommendations toward an investigative organizational model for arson.

Methodology

In addressing the purposes of this thesis, trips were made to Texas A & M University; to the Texas State

Fire Marshal's office in Austin, Texas; to the United States Government Printing Office in Houston, Texas; to the University of Houston in Houston, Texas; and requests were made for material from various governmental sources.

Personal interviews were also conducted with Mr. Alcus Greer, Fire Marshal of Houston, Texas; Assistant Fire Marshal Jerry Creekmore and Investigator Danny Cross, both of the Beaumont Fire Department; Mr. Joe French, Fire Marshal of Huntsville, Texas; and Mr. Gerald Schappe of the Texas State Fire Marshal's office.

These interviews were conducted in order to evaluate three arson bureaus of varying size communities in Texas. They were conducted by using the questionnaire at Appendix A, with the following areas being generally addressed:

1. The communities' statistical data concerning number of fires, arson, arrests and convictions.
2. Their means of investigating arson/incendiary fires. This included who had responsibility, the duties of investigators, investigators training, the laboratory and evidence facilities available, and what precipitates an arson investigation.
3. The department's relationships with the police and the State Fire Marshal's office.
4. Their personal views of the Federal Bureau of

Investigation's Uniform Crime Report Classifications as they relate to arson.

5. Problems that are special to their situation, and their views toward future arson problems.

Limitations of the Study

The limitations of this study are fourfold and consist mainly of human inadequacies. The limitations are influenced indirectly by the difficulty of detection of arson. In comparison, when there is a homicide one knows that there were factors leading to that death which were caused by an individual or individuals. Conversely, arson is a crime that may be classified only as a fire, for it is of question whether a fire was done for gain, or if it was an accident and an act of nature.

The limitations of this study are influenced by this fact, but are affected more so by the limitations within the literature, personal biases, inadequate and unreliable statistics, and political interaction.

In dealing with the literature one finds that, for the most part, the writings concerning arson have been done in two areas. One is descriptive, such as in Fire Alarm by Fred Lord (1957); and second, investigation, as in Arson by Battle and Weston (1960) and

Fitch and Porter's book Accidental or Incendiary (1968). There are also articles in various periodicals, that deal with typologies of the arsonist, which is not the purpose of this study and which will only be examined briefly.

One finds the most recent writings concerning arson in magazines, newspapers, and periodicals. These consist mainly of writings of short duration and government studies of arson and its investigation. The majority of these writings are done by authors with good credentials who have many years of experience in the field. The shortage and difficulty of obtaining current comprehensive writings and books on the subject of arson, as this study examines it, is therefore a definite limitation.

Another limitation of this study is that it is necessary to rely heavily on interviews which, due to human nature, tend to be biased and based on assumptions not supported by empirical research. The number of people interviewed, five total, also hampered or limited this study. It does appear that their views do coincide with the literature's views.

Glenn Vernon, in his book Human Interaction (1972), deals with this phenomenon by calling such people "opinion leaders." When facts and access to sources of information are lacking or when there is no public desire to seek out

such information, the information that is available is

channeled through such individuals who ... edit consciously or unconsciously the content of the message as they receive and transmit it [p. 570].

The above directly influences the statistics that are available on arson. Cressey and Ward (1969) bring to light that

law enforcement agencies have long used the differences between crimes known to them and the number of arrests ... as a measure of organizational efficiency [p. 121].

This sometimes is done because of political pressure from outside or even inside the police department. The fire department may also be guilty of reporting erroneous figures in an attempt to show that they are doing a good job.

The statistics are also unreliable because of erratic reporting. The Uniform Crime Reports, put together by the Federal Bureau of Investigation, give only a complete picture of Part I Crimes (seven major crimes); whereas, arson is a Part II Crime. Only arrest and conviction statistics are published for the Part II Crimes. In evaluating their means of obtaining information, it appears as if fire departments have little, if any, means of having arson reported. The exception lies in those cases where they do achieve an arrest or when they receive an arrest and conviction.

The Office of the Fire Marshal for the State of Texas attempts to act as a collection agency, but receives little or no information from a majority of the fire departments within the state, mainly because there is no real incentive or requirement to report. The State of Texas has 1,174 towns or cities that should report. When looking at the reporting, it was noted that 707 have reported periodically with only 523 making reports in 1977; many of these may only have been one time reports. These 523 making reports compose approximately 50 percent of the total Texas population.¹

Definitions

The distinction between arson and incendiary requires, for the purpose of this study, a discussion concerning their relationship. The best means of explaining their relationship is through a definition of the terms and a look at how the criminal law applies.

Arson is, according to The World Book Encyclopedia Dictionary (1963), "the crime of intentionally setting fire to a building or other property."

The Model Arson Law as shown in the study by Boudreau, et al., Arson and Arson Investigation (1977), places arson as a crime with four different degrees. Arson in the first degree is the burning of buildings, be it one's own property or the property of others. Arson

in the second degree is the burning of buildings other than dwellings. Arson in the third degree is the burning of other property besides buildings, and arson in the fourth degree is the attempt to burn property or buildings.

Arson can then be said to be defined as the willful and malicious burning of another's property, or the burning of one's own property for some improper purpose, such as defrauding an insurer.

Incendiary fires are those fires that can be classified as a crime, the crime being arson, just as murder is classified as a crime falling in the general category of homicide as written in some penal codes. Boudreau, et al (1977), say incendiary fires are those intentionally set, including fraud fires.

The World Book Encyclopedia Dictionary (1963) defines incendiarism as "the crime of willfully setting fire to property." It defines incendiary as "having to do with the setting of property on fire maliciously."

In looking at these definitions and in the application of these terms in this study, arson will be used as the statutory crime and incendiary as a type of fire. There may be occasions where they seem to be used interchangeably; and when they are, explanations will be given.

In defining the legal definition of arson,

Vernon's Texas Codes Annotated (1974), Penal Code
Section 28.02, Arson, defines it as:

- (a) A person commits an offense if he starts a fire or causes an explosion:
 - (1) without the effective consent of the owner and with intent to destroy or damage the owner's building or habitation; or
 - (2) with intent to destroy or damage any building or habitation to collect insurance for the damage or destruction.
- (b) An offense under this section is a felony of the second degree, unless any bodily injury less than death is suffered by any person by reason of the commission of the offense, in which event it is a felony of the first degree.

One final definition which may be necessary is that of fire ignition sequence, as found in the tables derived from the Fire Protection Handbook (1976). Fire ignition sequence is considered as ignition sources and the combustible materials involved in a fire. As an example, the fire ignition sequence, such as children and fire, can be controlled by keeping matches away from children. Other means are listed, such as lightning, spontaneous ignition, trash burning, and heating and cooking equipment.

The second chapter will outline the problems of arson and the consequences of the crime. It will also discuss the problems which the criminal justice system faces in dealing with the crime of arson.

CHAPTER II

REVIEW OF THE LITERATURE

In conducting a search of the literature in order to develop a clear picture of arson and its ramifications, few books or periodicals were found that attack the problem of arson in a comprehensive manner. They appear to miss the target of why it is a problem and how it should be dealt with.

The literature addresses the various types of arsonists by looking at famous arson cases (Lord, 1957; Barracato, 1976; Ball, 1934; and Dearden, 1934). The literature also looks at the crime and the police functions that are involved in the investigation and evidence gathering (Battle and Weston, 1968; Fitch and Porter, 1968; and Macdonald, 1977).

Writings within magazines, journals, and periodicals (Fire Journal, Police Chief, The Journal of Insurance) view the problem in a different light. They address the rising statistics, the conflict between agencies, the typologies of the arsonist, and methods and means of attacking the problem. They give a piecemeal approach to the problem, without tying factors together for an overall picture of the problem.

One book, Municipal Fire Administration (1967) and one report of proceedings, The Police Yearbook (1975), contain

chapters on fire investigation and incendiarism. Within these chapters, the crime of arson, arson reports, arson squads, and their organization, investigation, and preparation of arson cases are discussed. Each gives a general overview of the above areas plus other points, but they do not deal with the bureaucratic organizational structure nor its problems.

The most comprehensive writings found are two government-sponsored studies, Arson and Arson Investigation (1977) by Boudreau, et al., and Arson, Vandalism and Violence: Law Enforcement Problems Affecting Fire Departments (1974) by Kendall Moll. They provide an indepth look at the increase of arson and the problems associated with the criminal investigation and prosecution.

This review of the literature will attempt to tie these writings together in view of the bureaucratic problems; the apathy of both the government and the public; trends and reasons for rates of increase; and the presentation of current thinking and practices in arson investigation.

Motives

However, prior to this, it is of benefit to describe the reasons or motives for the commitment of the crime of arson, in order to set the stage for the remainder of this study. In a brief look at the typologies of the arsonist, one finds Grimes (1977) placing the motives for arson as:

fraud, coverage of other criminal activity, revenge, protest, vandalism, compulsive firesetting, recognition, and combinations of these.

In examining these motives Grimes states that, even though one can develop motives, the arsonist cannot be stereotyped. To further explain these motives, it can be said that:

- (1) Fraud: has an obvious motive such as insurance or tax abatement.
- (2) Coverage of other criminal activity such as murder.
- (3) Revenge: such as a fired employee with a real or imagined problem.
- (4) Protest: such as the student riots of the sixties and seventies.
- (5) Vandalism: normally children with no apparent reason or motive.
- (6) Compulsive fire setting: normally there are deep seated psychological reasons or problems.
- (7) Recognition: done for heroic recognition by firemen or police.

Another author, Levin (1976), develops conclusions and makes comments on three personalities or motives. His three types are:

- (1) Arson-for-profit: this is the most rapidly increasing, is a rational act, and there is little known of this type.
- (2) Solitary firesetting: these are malicious fires set in secret. They have numerous reasons: revenge or spite; pyromaniac or sensual satisfaction; heroic; the housewife in order to keep the husband at home; the psychotic; and the sexual deviate for sexual gratification.
- (3) Group firesetting: political fires to dramatize an issue; fires from riots; and vandalism fires caused by peer group pressure [p. 36].

Levin concludes his article by saying that children are fascinated by fire and that

while people may not outgrow their fascination with fire, normal children learn that playing with matches is not acceptable behavior ... [p. 38].

In an article in The Police Chief by Robert May titled "ARSON: The Most NEGLECTED CRIME on Earth" (1974), arson is said to be a major problem because "most fires are not being intensively investigated to determine the cause of the fire [p. 33]." May states that generally "the fire service takes the approach of 'Call the state fire marshal' [p. 33]."

May is of the opinion that arson is the major cause of most fires, but the statistics do not show it as such because the true cause of fires are not being determined. He finds fault with all concerned--the insurance industry, the general public, and government at all levels--for "failure to recognize that arson should be a part of this concern with crime [p. 35]."

The Insurance Industry

Before delving into this fault of the general public and government, it is essential to look at the insurance industries problems concerning arson. Some authors deal with this problem by calling it the insurance companies' dilemma.

Grimes (1977) sees three deterrents to arson: (1) security, (2) delay in settlement of claims, and (3) investigation and prosecution. The second, delay in settlement of claims, is the responsibility of insurance agencies. Grimes says that if arson is suspected, the profit from it may be curtailed somewhat; but the insurance industry faces many problems if they delay, and they may face legal action if they do so. In the interest of the insured, they have been encouraged to settle claims promptly and "perhaps have overlooked the possibility of fraud in some cases [p. 69]."

Levy (1975), in discussing confusion over roles, says insurance companies have become involved in the controversy. It appears as if they may be somewhat more successful through civil cases than the authorities are in criminal cases. He quotes John Husband, secretary of the Home Insurance Company, as pointing out

it is necessary to consider the legal and moral responsibilities of the companies. Even delay in paying claims can lead to the death of an insured firm [p. 31].

In reference to legal damages, Robert Larson (1977) states:

The threat of punitive damages against an insurer ... has become particularly popular with plaintiff lawyers in California and is now taking root throughout the country. ... [This] has caused many insurers to consider very carefully before denying a fire claim on the basis of fraud [p. 5].

An example of this was put forth in an article

by Keith Burton, "Ashes to Ashes, Fraud to Fraud" (1977). A woman who knew her husband was "cheating" on her, decided to burn their home. The claim was for \$125,000 of which the insurance company attempted to withhold payment. The insurance company's attorneys and the judge told the company, "Fellas; if you don't have a signed confession and an eyewitness, you're going to have to pay triple damages [p. 58]." It later developed that the wife had seduced the city's fire marshal and the city attorney who had at one time represented her husband.

Ralph Jackson, Loss Prevention Manager for All-state Insurance Companies, in an article for Fire Journal (1976), when asked why the insurance agencies have not done everything possible against arson, put forth that:

- (1) Insurance companies do not know how serious the problem is.
- (2) In the consumer-oriented market place, the pressure is to settle claims promptly. This includes pressure from state insurance departments.
- (3) There are misunderstandings about the amount of evidence needed for defense in a civil action.
- (4) Lack of trained personnel and lack of cooperation are twin problems with not only the insurance firms but the police and fire departments.
- (5) There is a lack of arson convictions, which has discouraged companies from contesting claims.

Jackson's answers to the question then lead into the problems that arise between the fire and police departments, the prosecutors, and the general public.

Fire Department Versus the Police Department

Graves, et al., in the 1975 issue of The Police Yearbook, state that the International Association of arson Investigators warned of the increase in arson for many years, but they were unable to:

overcome the apathy, acquiescence, negligence, and nonfeasance on the part of many governmental officials and fire and police administrators who are charged with the responsibility for the suppression of fire and the crime of arson [p. 73].

Graves, et al., feel the major problem areas are in: (1) jurisdiction and responsibility for arson investigation between the police and fire departments; and (2) the lack of resources for investigation of arson within the police departments. The authors feel distinctions should be established between determination of (1) the cause of the fire, (2) the determination of arson, and (3) the criminal investigation of arson. By so doing, it should be easy to see who has what responsibilities. Finally, "without an adequate resource in the police services to handle arson investigations, we shall continue to flounder [p. 73]."

In the "Arson Committee Report" by Henry Lux, to The Police Yearbook of 1970, it is said that:

Arson investigation is unique ... [it] requires very close cooperation between law enforcement and fire service agency ... if the investigation is to be successful [p. 216].

When addressing this relationship, Lux feels that failure

to recognize that both agencies must participate, and erroneous ideas as to who plays what roles, has been a major crippling factor.

John Levy, author of "Arson--The Rising Flame" (1975) says:

The vast majority of incendiary fires go unsolved and undetected ... because of the lack of adequate investigation ... Jurisdiction and responsibility for arson investigation ... are often simply unclear. As a result, neither firemen nor police may take full responsibility; or else competition and lack of communication may substitute for cooperation ... [p. 22].

Philip Culp, in an article in Police Work (1977), says arson investigation requires a team approach. This team consists primarily of the fire department, the police department, and the prosecutor. These teams have the basic skills in fire science, criminal investigation, and law, which are required for arson investigation.

Culp deals with this required team approach by addressing the roles which each agency plays in the three phases of investigation. The three phases being fire investigation, arson detection, and arson investigation. Law enforcement and the fire service recognize these phases, and in quoting a committee of the International Association of Fire Chiefs and the International Association of Chiefs of Police, he states:

The fire service role is one of fire investigation and arson detection, and not that of arson investigation ... Arson investigation is criminal investigation and in a category beyond noncriminal investi-

gation ... [p. 6].

Culp feels many investigations fail because, first it has been overlooked that fire investigation and arson detection blend together as do arson detection and arson investigation. Secondly, they fail because no one is willing or able to assume leadership.

In continuing to look at this required team approach, there are certain discrepancies that arise. Moll (1974) addresses these discrepancies by noting the relationship between the fire and police departments. He states:

Arson is an inherently difficult crime to detect and prosecute, and it falls in a governmental gap between police and fire department responsibilities that is too often not effectively covered [p. 21].

Moll says that there are gaps within the existing organizational structures which, if are not filled, will "result in a degradation of the fire services' traditional role of preventing and suppressing fires [p. 4]."

Boudreau, et al (1977), further address these "gaps" by expressing that, historically, the police attitude has been "that arson is a fire problem and that responsibility for arson lies completely within the fire service [p. 33]." He also feels "Arson ... is a crime, and fire fighters are not trained to investigate criminal matters [p. 33]." According to him, the International Association

of Chiefs of Police and the International Association of Fire Chiefs recommend that fire departments have the responsibility for determining the causes of fires, and the police handle or take responsibility for the criminal investigation. He presents a table which shows that this recommendation is not the current pattern in the United States (see Table 1).

TABLE 1
Agencies Responsible for Arson Detection
and Criminal Investigation

Type of Agency	NUMBER OF STATES	
	Detection	Investigation
Local fire department	20	8
State fire marshal	14	17
Local police	8	12
State police	6	6
Insurance companies	2	0
State department of criminal investigation	0	1

Source: "Fire Marshal Advisory Committee Report," Proceedings of the 26th Annual Meeting of the International Association of Arson Investigators, April 21-25, 1975, p. 46, as quoted by Boudreau, et al., 1977, Arson and Arson Investigation.

The Prosecutor

Trends in the arrest and conviction rate help to contribute to the "gaps" that are found in the system. These gaps have been addressed in the discussion of the police and fire departments, and the insurance companies. These gaps are also found in the prosecutor's office. They stem from the fact that since arson is usually conducted in secret, the proof of the crime must be established using circumstantial and physical evidence which increasingly proves difficult in a criminal case.

Boudreau, et al (1977), state three reasons for gaps in the prosecution phase: (1) cases such as arson require greater trial preparation and more specialized experience with the experience usually lacking due to high turnover rates in district attorney's offices; (2) arson cases have a history of low success rates and high work demands, therefore making them unattractive to prosecutors whose advancement is usually based on the number of convictions they receive; and (3) prosecutors feel uneasy with the amount of expert scientific testimony which is often required.

Moll (1974) found during his research, that arson cases have notoriously bad conviction rates with consequent law school reputations. He found that considerable

effort is required to work with, persuade, and assist prosecutors in preparing cases.

Larson (1977) says that once the case is brought before the district attorney, vigorous prosecution should be the next step. Many investigators become frustrated at this point for they note an unwillingness from the district attorneys to authorize the filing of criminal complaints.

Dodge (1977) also feels that prosecutors are hesitant to take arson cases and adds that "One reason people continue to burn buildings ... is that the profit from arson simply outweighs the danger of being caught [p. 18]." This fact can readily be seen in Tables 2 and 3.

Grimes (1977) says in some areas attorneys are assigned immediately after a fire is classified as arson. This is in contrast to those areas where prosecutors receive the brief on the case shortly before the trial and expect to have a "well-investigated, completely documented case, with no loopholes or omissions [p. 70]." This is normally not the case in an arson investigation.

In viewing the literature, it was further found that the prosecutor is influenced by other factors besides this difficulty of prosecution. George Cole (1976) notes that the legal process is a subsystem of the larger political system, and broadly conceived political considerations

TABLE 2
Estimated Loss by Fire Ignition Sequence

	1970	1971	1972	1973	1974
Incendiary/ Suspicious	\$206,400,000	232,947,000	285,000,000	320,000,000	563,000,000
Unknown Cause	\$977,700,000	1,002,931,000	992,700,000	1,045,300,000	1,237,000,000

Source: McKinnon, Gordon P., ed. Fire Protection Handbook. Boston, Mass.: National Fire Protection Association, 1976.

TABLE 3
Incendiary and Suspicious Fires and Losses,
1964-1974

Year	Number	Property Loss
1974	114,400	\$563,000,000
1973	94,300	\$320,000,000
1972	84,200	\$285,600,000
1971	72,100	\$232,947,000
1970	65,300	\$206,400,000
1969	56,300	\$179,400,000
1968	49,900	\$131,100,000
1967	44,100	\$141,700,000
1966	37,400	\$ 94,600,000
1965	33,900	\$ 74,000,000
1964	30,900	\$ 68,200,000

Source: McKinnon, Gordon P., ed. Fire Protection Handbook.
Boston, Mass.: National Fire Protection Association,
1976.

explain

to a large extent 'who gets or does not get-- in what amount--and how, the good [justice] that is hopefully produced by the legal systems' [p. 212].

Therefore, the prosecutor is under the influence of not only the police, but the community, the courts, the defense attorneys, the politicians, and corrections. Cole (1976) states, "the police, court congestion, organizational strains, and community pressures are among the factors that influence prosecutorial behavior [p. 223]."

There is another element that aids this neglect-- the jury. Levy (1975) quotes a case in which the jury did not convict a defendant "out of sympathy for the financial troubles of the accused, even though the prosecution had proved its case beyond doubt [p. 28]."

Larson (1977) also comments on jury apathy by saying that they fail to bring guilty verdicts when the evidence appears sufficient, therefore discouraging both the prosecutor and arson investigators.

Public Apathy

This apathy by the jury leads into another area of neglect; that of the public. In attempting to answer why the public appears apathetic towards arson, Levy (1975) quotes Robert Provencher, National Director of the

Fraud and Arson Division of the General Adjustment Bureau, as saying:

The community can ignore fire. Arson does not smack them in the face like a mugging. If you have a hold-up team that is getting a lot of publicity, the police are going to work on that out of necessity, to assuage the fears of the public [p. 28].

Inciardi (1974), alludes to the theory that arson is a victimless crime. He puts this forth by evaluating the agent-victim relationship where there is a denial of the victim, and "rationalizations define the open face-to-face behavior as 'not too dishonest' [p. 358]." He implies that there appears to be no human victim to criminal interaction, therefore, the public is apathetic towards arson.

Levy (1975) also refers to arson as a "victimless" crime, even though fire fighters or bystanders may be injured or killed. The immediate victim is likely to be an insurance company which he feels is an anonymous institution. The public does not perceive arson to be a direct threat as, for example, armed robbery. He states, "this indirect and delayed effect evidently goes unnoticed [p. 23]."

Richard Thompson, editor of Police Work (1977) states,

the success of the arsonist is a manifestation of the deterioration of morality ... More people are apparently willing to burn ... than ever before ... the public seems unconcerned provided there

are no victims. In recent time there has arisen a tendency to regard crimes ... involving property much less oppressive than crimes ... against persons [p. 2].

Thompson views this false emphasis as being accompanied "by the notion that a crime against property, per se, is not a crime against people [p. 2]." There is a failure to recognize that property is owned by people.

Grimes (1977) is of the opinion that "with fire generally, the attitude seems to be that it is going to happen to the other person [p. 68]."

Suchy (ed.), in Arson: America's Malignant Crime (1976), looks at this incongruity from a different viewpoint.

We prefer to ignore arson as long as it doesn't affect us personally. We suffer from a lack of awareness as to the extent of the impact of arson, further compounded by an inability to bring to bear the resources necessary to reduce the severity of the problem. Fire, police and insurance authorities are quick to make a culprit of public apathy, but those same establishments must share a large part of the blame for their own failures to modernize skills and techniques [p. 11].

Cole, in his book Criminal Justice (1976), writes on the crisis of criminal justice. While he does not specifically address the crime of arson, what he does write can be generalized to any crime. He says,

It should be emphasized that it is primarily 'visible' crime rather than 'upperworld' ... crime that make the headlines, arouses the community, and is the target ... [p. 4].

Upperworld crimes are those that can be considered organized crime in the business world, or as some authors call it, white-collar crime. He states,

To a great extent, society has allocated law-enforcement, judicial, and correctional resources toward violators of the laws concerned with visible crimes [p. 5].

In looking further at the reasons why arson is classified as an upperworld crime, or as a crime of little significance, Merton (1969), in writing on "Social Structure and Anomie," puts forth that there are two elements of social and cultural structures. The first

consists of culturally defined goals ... held out as legitimate objectives ... a second ... regulates and controls the acceptable modes of reaching out for those goals.

In looking at the economy of the United States, it is based upon competition, as Merton (1969) states:

the pressure of such a social order is upon out-doing one's competitors ... When the cultural emphasis shifts ... to almost exclusive concern with the outcome, the resultant stress makes for the breakdown of the regulatory structure [p. 281].

In relating Merton's thoughts to "organized" or "white-collar" crime, one can apply the views of Cressey and Ward (1969). They make the statement,

crime is 'caused' by public tolerance of it, or reluctance or inability ... crime is closely associated with a widespread notion that, when making money is involved, anything goes [p. 4].

The magnitude of loss attributed to arson is

higher than what most might believe possible. A report, America Burning (1973), by the National Commission on Fire Prevention and Control, says that "the American public is indifferent to and ignorant of the heavy toll of destructive fire [p. 4]." This heavy toll can best be seen in Tables 4 and 5.

Tables 4 and 5 give some idea of the massive amount of fires set for gain. The following section will give an account of the statistical rates and the problems with those rates.

Statistical Information

The statistics that were gathered from the various sources are shown in the tables. There are various authors that quote statistics by using different sources, and at times they appear to be contradictory and confusing. However, if the statistics are even close to being valid, then a shocking situation exists. In viewing these statistics, it is necessary to keep in mind that they have been gathered from a hodgepodge of sources, and it is understandable in view of the various problems that have been considered in this study, why discrepancies may exist.

In viewing these figures, one sees Grimes (1977) looking at a ten year span, 1964 to 1974. In so doing,

TABLE 4
Estimated Number of Building Fires by Fire Ignition Sequence

	1970	1971	1972	1973	1974
Incendiary/ suspicious	65,300	72,100	84,200	94,300	144,400
Unknown causes*	162,000	166,200	154,200	150,500	159,200

*Inability to determine the probable cause of a fire or failure to make a careful investigation.

Source: McKinnon, Gordon P., ed. Fire Protection Handbook. Boston, Mass.: National Fire Protection Association, 1976.

TABLE 5
Fire Ignition Sequence Factors for Fire Losses by Occupancy,
1975

	Incendiary %	Suspicious %	Total %
Churches	35.7	15.2	50.9
Hospitals	18.0	6.6	24.6
Apartments	12.7	7.6	20.3
Hotels	18.2	6.7	24.9
Mobile Homes	3.6	3.2	6.8
Road Transport Vehicles	5.5	1.1	6.6
One & Two Family Dwellings	4.6	1.9	6.5
Industrial	5.1	4.0	9.1
Restaurants	21.4	9.4	30.8
Nursing Homes	3.2	9.7	12.9
Offices & Banks	26.7	7.6	34.3
Storage Facilities	Unknown	67.8	67.8

Source: McKinnon, Gordon P., ed. Fire Protection Handbook. Boston, Mass.: National Fire Protection Association, 1976.

he shows incendiary or suspicious fires growing from 30,900 to 114,000, an increase of 237 percent. In 1975, he notes the number increasing by 30,000 to 144,000, an annual rate increase of 25 percent. He shows a \$60 million loss in 1964 increasing to \$550 million in 1974 to \$633 in 1975. These figures correspond with those that were shown in Table 5. Grimes states, "It is believed that the actual and indirect losses are much greater, perhaps even as high as \$4 billion [p. 67]."

A pamphlet² published by the Travelers Insurance Companies in Hartford, Connecticut, says,

Arson accounted for more than \$2 billion in property losses last year with the number of incendiary fires up a staggering 285% in the last ten year period.

In the Congressional Record, Senator John Glenn is quoted as saying,

From various sources ... From 1965 to 1975 ... arson has increased 325 percent according to the LEAA,

and

In 1976, it is estimated that arson losses approached \$2.5 billion.³

Estimated United States Building Fire losses by causes, 1971, from the National Fire Protection Association estimates, as shown in the Fire Journal (September, 1972), list 72,100 incendiary or suspicious fires with a loss of \$232,947,000. If one considers 50

percent of unknown or unidentified fires as arson, as many experts do, one can add 83,100 fires with a loss of \$501,465,500, for a total estimated 155,200 fires with a total property loss valued at \$734,412,500.

The Federal Bureau of Investigation's Uniform Crime Reports show the statistical information on arrests and conviction trends in the United States. Drawing from the report for 1976, one sees 1,937 charged with the crime of arson, with 24.6 percent judged guilty (see Table 6), with 14,534 total arson arrests (see Table 7).

TABLE 6

Dispositions of Persons Formally Charged by Police,
1976

Number charged	1,937
Guilty, percent of	
offense charged	20.6%
lesser offense	4.0%
acquitted/dismissed	15.5%
referred to juvenile court	59.8%

Source: Crime in the United States, Uniform Crime Report, 1976. Clarence M. Kelly, Director, Federal Bureau of Investigation, Washington, D.C.: Government Printing Office, 1977.

TABLE 7

Arrest, Number and Rate by Population Groups (comparison
of 1964 to 1976)

	1964	Rate per 100,000	1976	Rate per 100,000
TOTAL ARSON	5,220	(3.9)	14,534	(8.3)
City Total	4,131	(4.2)	10,649	(8.7)
250,000+	1,943	(4.8)	3,642	(10.3)
100 to 250,000	439	(3.8)	1,194	(8.7)
50 to 100,000	469	(3.6)	1,297	(8.3)
25 to 50,000	427	(3.5)	1,562	(8.3)
10 to 25,000	511	(3.8)	1,724	(8.2)
10,000 & under	342	(4.1)	1,230	(6.7)
Suburban Area	1,132	(3.6)	5,229	(8.3)
Rural Area	699	(3.4)	1,734	(7.1)

Source: Crime in the United States, Uniform Crime Report, 1964.
J. Edgar Hoover, Director, Federal of Investigation,
Washington, D.C.: Government Printing Office, 1965,
and Crime in the United States, Uniform Crime Report,
1976. Clarence M. Kelly, Director, Federal Bureau of
Investigation, Washington, D.C.: Government Printing
Office, 1977.

Prior to the upswing in the amount of reported
arson, Battle and Weston (1960) examined the Federal
Bureau of Investigation's analysis of arson arrests.
The authors state, arrest data

... since 1936 reveals the amazing fact that the
yearly average ... numbers less than nine hundred
throughout the entire United States

and that

... the total of those arrested is almost

ridiculous [p. 3].

Moll (1974), in his report, shows that arrests have remained around 4.5 percent of estimated incendiary fires from 1970 to 1974. He also states that if the conviction rates for juveniles (see Table 8) can be added, the

... nationwide conviction rate will be less than three percent of [the total] estimated incendiary fires. And if the true number of incendiary fires is as high as expected ... the rate of conviction ... is less than one percent [p. 16].

TABLE 8

Total Arson Arrest Trends

	1967	1976	
TOTAL ALL AGES	5,160	8,298	+60.8 percent
Under 18	3,460	4,596	+32.8 percent
18 and over	1,700	3,702	+117.8 percent

Source: Crime in the United States, Uniform Crime Report, 1967. J. Edgar Hoover, Director, Federal Bureau of Investigation, Washington, D.C.: Government Printing Office, 1968, and Crime in the United States, Uniform Crime Report, 1976. Clarence M. Kelly, Director, Federal Bureau of Investigation, Washington, D.C.: Government Printing Office, 1977.

Boudreau, et al (1977), lists 16,900 arrests for arson in 1964 and he says that by adding fires classified as incendiary or suspicious, there were 187,000 total arson-related events in 1974. This gives an arrest rate (ratio

of arrests to offenses) of .09, and when the broader definition is used (which includes one-half the fires of unknown cause), the arrest rate was .03.

Others (May, 1974, and "Behind Alarming Rise ...", 1975) give reinforcement to this 1 percent or less conviction rate. May quotes a National Institute of Law Enforcement and Criminal Justice report prepared by the Stanford Research Institute, and adds that "Arrests for arson increased six percent in 1972 but the incidence of arson increased 17 percent [p. 33]."

"Behind Alarming Rise ..." (1975) states "the conviction rate in recent years has been only about 1 percent ... only 5 percent of suspected arson cases even reached court [p. 61]."

Finally, Senator John Glenn⁴ states:

[it is estimated] that only 9 persons are arrested, 2 convicted and .07 incarcerated per every 100 fires classified as incendiary or suspicious. This compares with 21 arrests, 6 convictions, and 3 incarcerations per every 100 of each of the presently classified 'major' crimes.

The statistical information available within the literature is contradictory and, in a few cases, unreliable. Battle and Weston (1960) say that

the frightening thing about the fire-setting picture in the United States is the impossibility of creating a valid statistical picture of the extent of fire setting [p. 2].

Moll (1974) reinforces this invalidity by saying there appears to be a high incidence of inaccurate

reporting and there is the recognition

that loss of life from incendiary fires is quite low, the public at large ... have not become very concerned about the incendiary problem [p. 10].

The Federal Bureau of Investigation publishes annually the Uniform Crime Report. In the report, crimes are broken into two classes: Part I and Part II Crimes. Part I Crimes consist of homicide, robbery, rape, aggravated assault, burglary, auto theft, and theft over \$50.

Part II Crimes consist of all other crimes, such as forgery, embezzlement, confidence games, and arson. The report does not list the total figures on arson and other Part II Crimes, but does give arrest and conviction comparisons and rates for the Part II offenses. Debate currently exists concerning the desirability of arson being elevated to a Part I Crime; therefore, the next section will examine this argument.

Arson, A Part I Crime?

Concerning Part I offenses, Glaser (1974) quotes representatives of the Federal Bureau of Investigation as saying,

These crimes were selected ... because as a group they represent the most common local crime problem ... [they] are those considered to be most consistently reported to police [p. 60].

Glaser further comments that the Part II offenses

are difficult for the police to know about fully ... because they are often difficult to count even when much detail on them is known [p. 62].

In an issue of Target (1978), the editors examine the testimony given before a Senate Subcommittee on Intergovernmental Relations by Paul Zolbe, Chief of the Federal Bureau of Investigation's Uniform Crime Reporting Section. Zolbe says that the crime of arson should not be classified as a Part I Crime. Classifying arson as a Part I Crime would not significantly alleviate the problems of arson.

Zolbe gives six reasons why arson is not so classified:

1. The UCR Program collects two primary sets of crime data which are known or come to the attention of law enforcement authorities.
2. Not all serious crimes are classified as Part I offenses. In order to give an index, the crimes must: (1) be generally accepted as serious crimes, (2) occur in volume, (3) be reported reliably to law enforcement agencies [which arson is not] and (4) clearly reveal themselves as criminal acts 'at the time of occurrence' [which arson does not].
3. By a combination of custom, statute, and administrative decree, arson is a crime that has been traditionally investigated by fire service personnel and infrequently by law enforcement authorities. To change classification would require a nationwide collection program within the fire service profession which is dissimilar in function to the law enforcement profession.
4. The argument to make arson a Part I offense in order to publicize the crime and enlist more resources to reduce its occurrence is not valid for the present Part I offenses have not

seen a decrease but increase.

5. The UCR Program is not an FBI program, but rather was begun by the International Association of Chiefs of Police (IACP), whose committee still governs the program, and in order to change must have IACP approval.
6. Arson previously was evaluated as a potential Part I Crime by a distinguished panel, which found that it would not serve as an effective index to estimate the trends in the volume of all crimes occurring in the nation [p. 5].

In generalizing the thoughts of the IACP's Uniform Crime Records Committee Report (The Police Yearbook, 1976) on white-collar crime to arson, they felt, in an argument against making white-collar crime a Part I offense, that:

the collection of information regarding white-collar crime is beyond the capability of most police agencies and is not a logical approach ... as much as the ... information does not reach law enforcement [p. 309].

In an article by Dodge (1977), the National Fire Prevention and Control Administration's opinion is that arson should be classified as a Part I offense. Reclassification would improve the gathering of statistics and would foster "cooperation among fire departments, police officials, and private industries [p. 18]."

Conversely, in the same article by Dodge, a spokesman for the International Association of Chiefs of Police is quoted as disagreeing. Part I Crimes

are basically solvable ones, and detection in arson cases is an imperfect science. The association feels that there is little to be gained ... [p. 18].

It is interesting to note that in the 1975 and 1976 issues of The Police Yearbook, the International Association of Chiefs of Police's "Arson Committee Report" recommends that arson be classified as a Part I offense. In the 1975 report, the committee states:

In 1973, there were 93,000 incendiary fires with a dollar loss of \$320 million ... authorities suggest 26 percent of all undetermined fires are actually of incendiary origin. Using these figures, this would mean that in the United States and Canada, the cost ... is over \$1 billion for the year 1973. This figure is NOT reflected in the Uniform Crime Report. It SHOULD be [p. 267].

Senator John Glenn⁵ has proposed an Arson Control Assistance Act that would do two things: it would reclassify arson from a "part two" to a "part one" crime under the FBI's Uniform Crime Reports System.⁶ Secondly, it would add to the list of permissible areas for Law Enforcement Assistant Administration grants in the development of programs designed to prevent and detect arson for profit in urban areas. He reasons that, "We need to move to take the mantle of 'white collar respectability' off of this crime and expose it for what it is ... [p. 1]." This may also expose some of the reasons why arson is on the increase.

Why the Increase in Arson?

Reasons for the increase in crime vary from

population growth to the economy. Some authors have attempted to explain or rationalize why there is an increase in arson. Grimes (1977) says, "The pattern and incidence of arson can be linked both to the economy and to social problems [p. 67]." Grimes points out that during the depression era there was a sharp increase of arson, presumably due to economic problems, but decreased during the 1940's. During the urban riots and student protests of the 1960's and early 1970's, one sees an increase in arson due to social unrest and expression.

Grimes is of the opinion that, except for isolated cases as "... social unrest declined in the seventies, a change in the arson incidence occurred with less social protest arson, but more fraudulent arson ... [p. 67]." He therefore draws the conclusion "this being directly related to the economy, and to the fiscal difficulties of maintaining urban properties [p. 68]."

Senator Glenn, along these same lines, states:

It is obvious that this crime is directly linked to the overall malaise of our central cities. Industry and jobs have rapidly moved out of central city areas ... Consequently, the economic core of many of our cities is not a strong one ... the South Bronx has the dubious distinction of holding the world's record for arson.⁷

Cressey and Ward (1969) say that

In a sense, social and economic conditions 'cause' crime ... [crime] has flourished, in city slums, those neighborhoods where overcrowding, economic deprivation, social disruption ... are endemic [p. 4],

therefore reinforcing Grimes and Senator Glenn.

This review of the literature has highlighted and examined the multiple problems of arson, its investigation, and its reporting. The dilemmas of the insurance industry, the fire departments, and the police departments, including the differing role conflicts have also been examined. Likewise, the problems of coordination, the statistical approach of the Federal Bureau of Investigation's Uniform Crime Report, other statistical hurdles, the apathy of the public, and a brief insight as to why the increase of arson, have been addressed.

The next chapter will examine the arson problem in Texas, with a brief look at the state's statistics. A description of arson investigation within three Texas communities of varying size--Houston, Beaumont, and Huntsville--will also be presented.

CHAPTER III

THE ARSON BUREAU'S OF THREE VARYING SIZE COMMUNITIES IN THE STATE OF TEXAS

This chapter will examine the problem of arson within the state of Texas. In dealing with this problem, a view of the Office of the Texas State Fire Marshal, the required training for arson investigators, and the statistical information on arson will be examined.

The State of Texas

Texas⁸ occupies 7 percent of the total water and land area of the United States. It is second in size, with 267,339 square miles. In July, 1976, it was estimated by the United States Census Bureau to have a population of 12,487,000, being third in size behind California and New York. More than 80 percent of the state's population lives in cities and towns meeting the United States Bureau's definition of urban areas.

Texas leads the nation in the production of oil, natural gas, cattle, cotton, and ranks high in commercial fishing and electric power. Personal income, by a 1975 estimate, was \$5,387 per capita.

Having set a brief description of Texas and its population, the following information concerning the Office of the State Fire Marshal is presented.

Office of the State Fire Marshal

The Texas State Fire Marshal is responsible to the Texas State Board of Insurance. His office is established through state statute (Article 5.43, Texas Insurance Code). The statute says that the State Fire Marshal, at the request of officials or of a fire insurance company or of a policy-holder sustaining a loss, shall:

forthwith investigate at the place of such fire before loss can be paid, the origin, cause and circumstances of any fire occurring within the State, whereby property has been destroyed or damaged, and shall ascertain if possible whether the same was the result of any accident carelessness or design ... and if he shall be of the opinion that there is evidence sufficient to charge any person with arson ... he shall arrest or cause to be arrested such person.

The Texas State Fire Marshal is also responsible for inspection of public buildings, factories, and places where the public might gather, and to order any hazards dangerous to firemen or occupants be removed or remedied. He is required to inspect and enforce the regulations concerning the storage and handling of flammable liquids at the retail level; the manufacture, storage and commercial sale of fireworks; and the licensing of companies which refill fire extinguishers and install fire alarms.

Looking at those who do the actual arson investigation for the State Fire Marshal, there are presently a

total of four arson investigators for the entire state. States such as Illinois, with 56,400 square miles, and Ohio with 41,222 square miles, have far fewer square miles, but have ten investigators each. Some feel that even these two states have too few investigators. May (1974), in commenting about Illinois and Ohio says "A look at the map ... readily reveals the impossibility of such a small group being able to cope with the problem [p. 33]."

By looking at the map of Texas and applying May's observation, it is evident that the Office of the Texas State Fire Marshal is understaffed.

Presently, Texas State Senate Bill, Number 1260, would increase the number of investigators, but not by an appreciable amount. A Fiscal Note dated May 17, 1977, from the Legislative Budget Board in Austin assumes the addition of four investigators in fiscal year 1978, one investigator and one secretary in 1979, and one additional investigator in fiscal year 1980, 1981, and 1982.⁹ This will raise the total to twelve investigators by 1983, which, in the author's opinion, is still not enough.

Required Training for Arson Investigators

In order for police or fire department personnel to be certified to investigate a case of arson, the State

of Texas has set minimum qualification standards. Texas, through the Texas Commission on Fire Protection Standards and Education, requires a basic fire and arson investigation certificate. To qualify:

Fire Department and Fire and Arson Investigators must possess a current Police Officer Basic Certificate issued by the Texas Commission on Law Enforcement Officers Standards and Education as a prerequisite; and MUST COMPLETE within two (2) years from date of appointment to such position, the following subjects in order to be certified. Applicant must also have served in such position for a period of one (1) year prior to the issuance of a certificate in this discipline [p. VII-1].

These courses consist of seventy hours of instruction. A few of the major topics covered are law, evidence, chemistry, investigation, and crime scene searches. There are also certificates for Intermediate, Advanced, and Master Fire and Arson Investigators. Each step requires an additional forty hours of instruction with the requirement that the individual move up the ladder from Basic to Master, meeting all requirements for each certificate. There are no time requirements on moving from one certificate to the next.

Texas Statistical Information

In deriving the data in this section, it was found that there are numerous handicaps in the compiling of arson statistics in Texas, the main one of which

being that there is no requirement for fire departments to report arson.

The Office of the Texas State Fire Marshal and the Department of Public Safety both collect statistics on arson occurrences, but there are no legal requirements that fire departments or police departments report to them. Therefore, the statistics that the state Fire Marshal possesses have been gathered by phone calls, from insurance agencies, and from periodic reporting by some concerned fire departments without purporting to be comprehensive in nature.

The statistics that are shown here were received from the Office of the Texas State Fire Marshal and the Insurance Information Institute in Austin, Texas (see Table 9). These statistics are far from adequate, but they do present a representation of what is happening within the state, and the nonreporting that is evidenced by the small number of reported arson cases.

When one looks at Table 9 and keeps in mind what many experts have to say about the reliability of arson statistics, some conclusions can be drawn. Some cities appear to be honest in their reporting, such as Dallas, which reported 3,537 fires with 921, or 26 percent, being arson in 1977. Conversely, Amarillo shows 3,263 fires and only eleven, or 0.3 percent, as being arson in 1977. It appears as if the majority of those reporting are

TABLE 9
Total Fires and Arson in Texas

	1971		1973		1975		1977	
	Total/arson (%)		Total/arson (%)		Total/arson (%)		Total/arson (%)	
Dallas	2,231	487 (21.8)	2,293	691 (30.1)	3,008	745 (24.8)	3,537	921 (26.0)
Austin	533	26 (4.9)	590	62 (10.5)	519	75 (14.5)	467	98 (21.0)
Lubbock	2,939	411 (14.0)	3,836	580 (15.1)	3,529	525 (14.9)	3,747	571 (15.2)
Beaumont	1,830	20 (1.1)	2,175	1 (.05)	2,175	75 (3.5)	3,424	51 (1.5)
Pasadena	858	Unknown	860	Unknown	1,129	32 (2.8)	1,396	45 (3.2)
Galveston	Unknown	Unknown	1,499	14 (0.9)	1,706	54 (3.2)	1,912	83 (4.3)
Houston	Unknown	626	Unknown	855	Unknown	866	Unknown	971
Amarillo	2,115	17 (0.8)	2,476	18 (0.7)	2,544	17 (0.7)	3,263	11 (0.3)
Odessa	1,203	8 (0.7)	1,189	23 (1.9)	1,539	20 (1.3)	1,567	12 (0.8)
Baytown	645	8 (1.2)	794	13 (1.6)	867	2 (0.2)	1,022	9 (0.8)

Notes: (1) Source for all data is either the Office of the State Fire Marshal or local fire departments.

(2) Arson, suspicious fires, vandalism, criminal mischief, and car fires were added together and reported as one. This may distort figures.

Source: Excerpts from "Fire and Arson Incidents--Major Texas Cities," Prepared by the Texas Insurance Information Center of the Insurance Information Institute in Austin, Texas (1978).

showing artificially low arson rates.

Additional information received from the Office of the State Fire Marshal reveals an increase of 77 percent over the past ten years, with 1.8 percent of the total fire alarms reported in 1977 as incendiary in origin. In 1967, there were 1,413 fires classified as incendiary with an increase in 1977 to 2,513 (see Table 10).

TABLE 10

Number of Incendiary Fires as Reported by City
Fire Marshals in Texas*

Year	Total
1967	1,413
1968	1,726
1969	1,526
1970	1,545
1971	1,628
1972	1,336
1973	1,658
1974	2,201
1975	2,498
1976	2,235
1977	2,513

*Fires reported as unknown or suspicious are not listed.

Source: Information received from Mr. Gerald Schappe of the Office of the Texas State Fire Marshal in Austin, Texas (1978).

The reports that the Office of the Texas State Fire Marshal have received from the various departments cover approximately 40 percent of the state's population. By extending the population and fire alarm data, it is hypothesized that at least 6,500 incendiary fires occurred in Texas in 1977. The total arson reported by the Texas Insurance Information Center of the Insurance Information Institute (refer to Table 9) shows 4,806 arson incidents in 1977 for the twenty-nine cities in Texas on which information was available.

The State Fire Marshal data show that this amounts to a rate of fifty-one incendiary fires per 100,000 population. The Insurance Information Institute quotes the National Fire Protection Association estimate that arson costs \$4,339 per occurrence; by extrapolation then, Texas lost over \$28 million in 1977 to the arsonist. This author feels that this dollar estimate is low, for Houston alone reports a \$10,312,725 loss in 1977.

One would expect to find a proportionate number of individuals arrested, convicted, and sentenced for arson. However, this does not appear to be the situation. The Texas Department of Corrections' 1977 Fiscal Year Statistical Report shows that the number of inmates convicted on hand of arson as of August 31, 1977 numbers sixty-six, or .32 percent, of the total prison population.

Conversely, when the figures for other white-collar crimes, such as fraudulent activity and forgery, are viewed, one sees much higher figures. On hand, inmates convicted for fraudulent activity, as of August 31, 1977, show 160, or .77 percent, and for forgery, 734, or 3.55 percent. This reinforces the theory that arson is a crime which is much harder to detect, prosecute, and convict than other white-collar crimes.

Having set the background concerning the problem within the State of Texas by showing the requirements for arson investigators, the operation of the Office of the State Fire Marshal, and the statistics concerning arson, the next portion of this thesis will deal with the examining of three arson bureaus within three varying size communities within Texas.

Houston

The city of Houston is the largest city in Texas and the fifth largest in the United States, with a city population of 1,357,394. The metropolitan area surrounding Houston consists of a population of 2,316,832. This area consists of Harris, Brazoria, Ford Bend, Liberty, Montgomery, and Waller counties. Houston has a labor force of 1,085,600, with a personal per capita income of \$6,795. The metropolitan area contains 6,285 square miles, with an average

rainfall of 48.19 inches yearly.

It ranks first for petroleum equipment, agricultural chemicals, and pipeline transmission. It ranks second in the nation's cities in annual value of building permits. Houston is a leading scientific center with major medical and educational facilities, having the nation's seventh largest public school system. It is also a prominent corporate center, with more than 200 firms locating corporate headquarters there since 1970. Harris County, of which Houston is a part, has more than 2,800 manufacturing plants, is the nation's third largest seaport, and has the nation's largest concentration of petro-chemical plants.¹⁰

In an interview with Houston's Fire Marshal, Alcus Greer, the following information and description of his Arson Bureau was brought to light.¹¹

In 1970, Houston statistics showed a total incendiary loss of \$2,324,070 with a total suspicious fire loss of \$3,770,084 and 557 arson cases. This is compared to 1977 with a total incendiary loss of \$10,312,725 and total suspicious fire loss of \$2,045,425 and 971 arson cases. Ten percent of the structural fires in 1970, and 15 percent of the structural fires in 1977 are attributed to arson (see Table 11).

It is noteworthy that auto fires are not investigated nor charged as arson due to the number and relatively

TABLE 11
Excerpts from Houston Fire Department Statistics

Year	Total Structural Fires	Total Fire Loss	Total Deaths	Arson	Total Fires
1970	5,552	\$10,345,610	Unknown	557	Unknown
1971	5,781	\$ 9,415,313	51	626	16,500
1972	5,304	\$ 7,822,257	25	633	16,753
1973	6,079	\$12,029,616	53	855	13,078
1974	4,912	\$14,376,613	53	802	11,967
1975	Unknown	Unknown	44	866	Unknown
1976	6,756	\$30,900,000	52	808	12,932
1977	6,700	\$23,449,638	48	971	13,158

Source: Received from Fire Marshal Alcus Greer, Houston Fire Department, Houston, Texas (1978).

small amount of insurance loss involved. Exceptions are when there is a "hot" lead.

In Houston, the police department does not become involved in arson investigation, not even when a homicide has occurred. The police department's position is that the Arson Bureau is the expert in fire investigation. Seeing that this impression exists, it has been necessary for the arson investigators to be designated as peace officers, therefore, having police powers to conduct investigations, make arrests, and carry out other law enforcement functions.

The Houston Fire Department utilizes two investigators per case, with the average case taking three to four days; this is an estimate, for some cases may run as long as eleven months. No reasons were given for the assignment of two investigators per case, but this author is of the opinion that this is probably necessary in Houston, due to the size of the department, the number of arson cases, and the amount of specialization that is required of the department's investigators. The arson investigators have no additional fire department duties.

Concerning the composition and salaries of the bureau, it was found that out of a 2,500-man fire department, there are:

35 investigators	@ \$20,000 a year
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4 senior investigators	@ \$22,000 a year
1 assistant chief investigator	@ \$25,000 a year
1 chief investigator	@ \$32,000 a year
1 clerk	@ \$10,000 a year
1 stenographer	@ \$ 6,000 a year

Each investigator receives a \$350 uniform allowance a year. The city places money equal to 18 percent of their total salary in a retirement fund. This is not a salary deduction.

Three of the investigators are certified polygraph examiners, two are trained in facial composite use, four have had fingerprint training, and others have special training in criminal intelligence, homicide investigating, firearms, and other such technical skills.

Houston's investigators meet the standards of education and training required by the Texas Commission on Law Enforcement Officer Standards and Education and the Texas Commission on Fire Prevention Standards and Education. The Houston Fire Department requires that after six months, an investigator must have completed 240 hours of law enforcement training and 70 hours of specialized training in arson investigation. Prior to selection as an arson investigator, a minimum of five years fire fighting experience is required.

If the number warrants, Houston puts into effect its own training program with the Houston Police, the

Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation, and the Department of Public Safety assisting. If the number does not warrant, the investigator-trainee is enrolled in the Harris County Sheriff's Academy. The Arson Bureau also conducts periodic classes and reviews on such subjects as report writing, crime scene searches, and evidence procedures.

Besides the standard courses taught to firemen, fireman trainees receive a thirteen-hour block of instruction on arson during their preliminary training. The police department gives its cadets a one-hour lecture on arson prior to their graduating from the academy.

The Arson Bureau does not investigate every fire to determine the cause. The district chiefs and firemen at the scene contact the Arson Bureau if they suspect arson. Fire Marshal Alcus Greer is of the opinion that the thirteen-hour block of instruction, plus periodic lectures have been of great benefit towards making his men cognizant of the potential arson. He also related that periodically private citizens or insurance companies will call the Arson Bureau to notify them of a fire that was not reported to the fire department and which may have been arson.

When there is a need to have evidence evaluated by laboratory, the Houston arson investigators use the

Houston Police Department's laboratory facilities. Fire Marshal Greer said results are slow in returning from this laboratory. He expressed a desire to have his own laboratory, which he estimates will cost approximately \$60,000 to establish. This figure does not include a salary for a chemist.

Any evidence collected follows the proper chain-of-custody procedures just as police evidence handling procedures require. The department has its own evidence vault which is sufficient and is safe to store flammable liquids.

The Arson Bureau and the fire department, as a whole, receive no outside funding for investigation or equipment. Fire Marshal Greer is of the opinion that Law Enforcement Assistance Administration funds should be made available for arson investigation, but at the same time he feels his department is adequately equipped to handle arson investigations. It was observed that they have two interview rooms furnished with polygraph machines and two polygraph examiners. The rooms are also supplied with one-way mirrors and an elaborate sound recording system. Investigators also make use of tape recorders in report writing, with the clerk and stenographer typing the reports. The investigators also have pagers, walkie-talkies, and a hydrocarbon detector, as well as identification and composite picture kits available for

their use.

According to Fire Marshal Greer, no clear record exists of the results of cases turned over to the prosecutor for action. He states that, just as with the police, many persons charged plead guilty, are plea bargained, or the cases are dismissed. He states that many times a suspect is charged with other offenses, such as burglary or theft, and will be tried on those charges rather than arson because of the difficulty in proving arson.

Houston sends a report to the Texas Department of Public Safety on each arson case. This appears to be a new procedure of which the state fire marshal's office is seemingly unaware. Greer related that the Department of Public Safety recently told him that Houston is about the only agency reporting arson to them. Houston also reports the total number of arsons to the State Fire Marshal, but not the number of fires.

As previously stated, the Arson Bureau reports deaths attributed to fire and arson to the Homicide Division of the Houston Police Department. The Homicide Division normally defers to the Arson Bureau and remains out of the investigation. Even though they do investigate these homicides, there were no statistics available to show how many have been handled. While investigating deaths, they work closely with the medical examiner.

Fire Marshal Greer feels he has a good relationship with the police and the Department of Public Safety. In reference to the State Fire Marshal's role, he feels that the larger cities can handle their own problems, but assistance is required for the small fire departments. He feels this is where the State Fire Marshal should help and that the State Fire Marshal needs more than four investigators on his arson squad.

Fire Marshal Greer feels the statement of the spokesman for the International Association of Chiefs of Police, that arson is an unsolvable crime, is a fallacy. He says it is difficult, but it is solvable. "Many cities," he stated, "feel that they do not have an arson problem." Keeping this in mind, Greer expresses that by making the crime of arson a Uniform Crime Report Part I Crime, eventually the statistics may not back up the problem due to the discrepancies in statistic compiling. He says what is needed are true, unbiased figures.

Fire Marshal Greer is of the opinion that arson (at least in his area) will continue to increase. His rationale is that arson investigators are becoming more skilled in detecting arson; therefore, the incidence of reported cases will increase but the raw number of arson cases will not. He also attributes this to the classroom

instruction which the firemen have received.

Fire Marshal Greer also commented on other areas of concern. First, he now has two men assigned to intelligence work and crime analysis in order to be aware of relationships among the numerous cases assigned various investigators with the bureau. The bureau also reviews cases from out of the city and state, thereby gathering facts on other cities, arson rings, and the like.

Second, he suggested an answer as to why it appears that there is little publicity given to arson after the initial fire and sensationalism, and as to why the fire departments seem to be forgotten when it comes to supplemental resources. There are essentially two parts to his answer.

First, normally, the fire department headquarters have no news media assigned to it, whereas the police department has news media that are based at the police station. Second, the fire department has an inherent desire and need to be at the fire scene as soon as possible. In so doing, even if they are drastically short-handed, they are given credit by all concerned as doing their job, even though by having more firemen, they might have saved more property and lives. Conversely, the police may make use of the excuse that they cannot react immediately to calls, for they are understaffed.

The police can frequently take their time in responding to a complaint; therefore, the police have the publicity and leverage through their own efforts to reinforce a need for more men and equipment. Whereas the fire departments, through the nature of their job, defeat themselves in this regard.

This author feels that there may be one other area that the fire department uses against itself--that of statistics. The police have the Uniform Crime Report which is well-publicized in the media, whereas the statistics of the National Fire Protection Association are not well-publicized.

Finally, Fire Marshal Greer says the ideal arson bureau should have 2 percent of the total department as arson investigators with two investigators per case, with no additional duties. This is an estimate on his part and is based on his own experience. It is interesting to note that his department falls nine short of the 2 percent.

Beaumont

The city of Beaumont has a population of 113,696 and is the county seat for Jefferson County, population 241,246. It has varied chemical and petro-chemical plants, with oil refineries, shipbuilding, extensive port activities, a rice milling center, and a steel mill.

The Beaumont-Port Arthur-Orange area consists of 1,310 square miles, with an average rainfall of 55.07 inches. The per capita personal income for 1975 was \$5,895, with the total labor force being 162,500.¹²

The interview with the Beaumont Arson Bureau was conducted with Jerry P. Creekmore, the Assistant Fire Marshal, and Danny W. Cross, an investigator.¹³ Beaumont is an example of a coordinated investigative effort between the police and fire departments. The arson investigative effort consists of three firemen and two police investigators with dual offices, one at the fire department and one at the police department. Although there is no requirement to do so, two copies of most reports and records are kept, with one going to each office with two investigators normally working each case.

There appears to be only a verbal agreement between the two departments in the investigation of arson. It is interesting to note that the city charter lays total responsibility on the fire department for arson investigation.

Arson investigators for the fire department have dual roles. Besides arson investigations, they conduct fire inspections, administrative office functions, and duties of the assistant fire marshal. The police

investigators also have additional duties, such as polygraph examinations and other investigations, such as robbery and burglary (see Appendix B).

As previously stated, the fire department has three investigators. One is a grade two, earning \$14,000 a year, and two are grade three, earning approximately \$15,600 a year. They also receive longevity increases with the city matching 9 percent of their gross salary, which goes towards retirement.

An arson investigator is required to attend a ten-week law enforcement course at Lamar University which consists of 400 hours of instruction. They can also attend a 72-hour course given by the Department of Public Safety. Both police and fire personnel must have completed the prerequisites required by the Texas Commission on Fire Protection Personnel Standards and Education and the Texas Commission on Law Enforcement Officers Standards and Education. In addition, they attend periodic conferences and have review sessions.

Basic firemen are given a ten-week course of instruction within which they receive the twelve class hours on fire and arson investigation required by the Texas Commission on Fire Protection Personnel Standards and Education. There are no additional or review classes on arson besides this initial twelve hours of instruction.

The arson investigators do not investigate every

fire, and automobile fires generally are not investigated. Every fire does receive a fire report by the chief officer at the scene. Arson investigators go to the fire scenes when the chief officer cannot determine the cause or whenever there is not an obvious cause to the fire.

Police polygraph examiners can be used in an arson investigation. Presently, one of the two police arson investigators is in training to become a polygraph examiner. Police evidence room and laboratory facilities are also utilized. A regional crime laboratory is used by all agencies within their area. This is found to be quicker than the Department of Public Safety's central laboratory. There is an evidence locker within the fire department, but "hard" evidence goes into the police facilities, and it is handled through proper chain-of-custody procedures.

In looking at outside funding for arson investigation, it was found that the police have some money made available to them in order that they may go to arson schools and conferences. The police investigators are the only ones who can make use of funds from other governmental agencies.

Arson incidents are reported to the Office of the Texas State Fire Marshal on the forms supplied by that office. The arson investigators report to the fire

chief who then reports to the mayor and the State Fire Marshal. The police follow those reporting procedures standard for investigators. Both investigators interviewed are of the opinion that arson should be classified as a Part I Crime in the Federal Bureau of Investigation's Uniform Crime Report.

Problems that are inherent in their fire department appear to stem from a manpower shortage. This has come about because of a reduction in hours that the firemen work each week. Recently, they have had a 56-hour week reduced to a 48-hour week without an increase in personnel. This has caused more shifts with less men per shift, and any additional personnel hired will first go to shift work. They are also of the opinion that the firemen at the scene may not look at fires as closely, due to this cut. This will cause the arson investigators to have less help at the fire scenes in determining first the cause of a fire and second that it was arson.

They are of the opinion that most fires which have been set this year have been for spite. They also related that the insurance companies appear to be working more closely with them in reference to the arson problem.

The statistical information for Beaumont leaves some room for improvement (see Table 12). Prior to 1976, when the police began their reports, the incidence of

TABLE 12
Fire and Arson in Beaumont, Texas
(1970-1977)

Year	Total Structural Fires	Total Fire Loss	Total Deaths	Arson	Total Fires
1970	699	\$474,732	4	19*	2,133
1971	600	\$409,500	3	8*	1,830
1972	671	\$555,950	3	9	2,102
1973	760	\$686,325	6	22	2,175
1974	752	\$326,150	0	61	2,049
1975	840	\$421,985	4	75	2,158
1976	772	\$472,150	4	52	2,717
1977	780	\$629,560	16	51	3,424

*Listed only as suspicious fires.

Source: Information was compiled from various reports by the Beaumont Fire Department. It was received from the Assistant Fire Marshal for Beaumont, Mr. Jerry Creekmore (1978).

arson was not viewed as a problem. In 1970, they show no arson, but nineteen suspicious fires out of 2,133 total fires. The first year in which arson was reported was in 1972, with nine arson cases out of 2,102 fires. This jumped to fifty-one arson cases out of 3,424 fires in 1977.

The police investigators are required by their superiors to make a yearly arson and activities report (see Appendix B). This activity chart also shows other additional crimes for which these investigators are responsible. It is interesting to note that police and fire investigators cleared twenty-eight out of forty-seven arson cases for a cleared ratio of 59.5 percent, which is above the national average. One discrepancy found was that the police report shows forty-seven total, and the fire statistics show fifty-one total for 1977. An answer could not be found to this discrepancy.

In comparing the arson statistics for the past eight years for Houston and Beaumont, there appears to be a much higher percentage of arson in Houston than in Beaumont (see Table 13). This is indicative of the unreliable reporting which seems to follow arson.

Huntsville

Huntsville, Texas, is approximately fifty miles

TABLE 13
Comparison of Houston and Beaumont Fire and Arson Statistics

Year	HOUSTON		BEAUMONT	
	Arson	Percent	Arson	Percent
1970	557	10	19	.89
1971	626	11	8	.44
1972	633	12	9	.43
1973	855	14	22	1.01
1974	802	16	61	2.98
1975	866	Unknown	75	3.48
1976	808	12	52	1.91
1977	971	15	51	1.49

Source: Information excerpted from the statistical information received from the Houston and Beaumont Fire Departments (1978).

north of Houston, has a population of 22,357, and is the county seat for Walker County (population 34,819). It is the headquarters for the Texas Department of Corrections, with Sam Houston State University and the Sam Houston Museum within its city limits. It has plants that make wood products and has a hospital. Its economy is based on education, state employment, agriculture business, lumbering, and tourism.¹⁴

Its fire department is a volunteer unit, presently engaging two full-time employees. One of these, Fire Marshal Joe French, was interviewed¹⁵ with the following information being received. The present fire marshal has been in office since the past fire marshal, H. B. Toney, died in a fire in 1977. Prior to this, the present fire marshal was a city detective for the Huntsville Police Department. He is a certified peace officer with the proper certificate from the Texas Commission on Law Enforcement Officers Standards and Education, and he has recently completed the requirements for a certificate from the Texas Commission on Fire Protection Personnel Standards and Education.

The Huntsville Fire Marshal's duties presently consist of being a fireman, of helping with maintenance of equipment, of doing fire inspections, and the issuing of permits. Besides these duties, if a suspected case of arson arose, he would investigate it without assistance

from the Huntsville Police, even though his superior is the Assistant Police Chief of Huntsville.

Fire Marshal French relates that only the "suspicious" fires are investigated, but he gives only a cursory answer to what are suspicious fires. If he did investigate and he determined he had a case of arson with evidence that needed evaluation, he said he would try the laboratory facilities in Houston or the Department of Public Safety facilities.

In reference to training, he showed where the Huntsville Fire Department and a few Huntsville policemen have recently received a forty-hour extension course from the Fire School at Texas A & M University. He is of the opinion that he is adequately equipped to investigate arson.

He feels he has a good relationship with the Huntsville Police, but appeared to be noncommittal. He has an administrative relationship with the Texas State Fire Marshal, whose office he corresponds with through the use of the state fire reporting forms.

He feels arson should be a Part I Crime in the Uniform Crime Reports. He was able to relate no problems concerning arson, but says arson incidents, like fires, will increase.

In reference to the number of arson cases, he initially could recall of none prior to his becoming fire

marshal. After further questioning, he was able to say that he made one arrest in 1977 for arson which involved a juvenile that was setting a grass fire. He also said that the Walker County Sheriff may have one case, but he did not know the outcome in either situation.

While his office does not have the arson statistics for the past few years, Fire Marshal French was able to quote the following number of fires in the city and the county which his department has responded to: 1973, 282; 1974, 353; 1975, 384; 1976, 495; and 1977, 484.

A recent article in the Huntsville Item on Wednesday, March 29, 1978 reports that the city council has made provisions for a third full-time paid fireman. This has been done to curb the increasing number of fires in Huntsville. This will enable the "fire marshal to be free for full-time inspections [p. 1]."

The article quotes City Manager Jim McAlister as showing the increase in total fires in the city as averaging 9 percent over the past seven years. This does not correspond with the above figures, for they include both city and county fires.

This concludes the third chapter, which has presented the problems and means of attacking the crime of arson in the State of Texas. The final chapter will show

how the organizational structure is affected by the peculiarities of arson investigation and what the organizational structure should attempt to achieve in organizing to fight the crime of arson.

CHAPTER IV

SUMMARY, RECOMMENDATIONS, AND CONCLUSIONS

In the previous chapter, arson bureaus of three communities in Texas were described. These bureaus differ not only in size but in organizational structure. The fire department in Houston, besides the use of laboratory facilities, receives very little assistance from the Houston police. They have their own law enforcement effort. Beaumont has a combination of police and fire department arson investigators, but has no written agreement or formal understanding between the two departments. Huntsville's arson investigator is the fire marshal who is responsible to the assistant police chief and leaves some doubt in this author's mind as to what would happen if there was an arson investigation.

The Organizational Problem

Arson has been shown to be a unique crime with many faces. There are other crimes that have multiple motives and repercussions, such as murder, rape, hijacking, and kidnapping. Arson is a crime that can be motivated by sexual, economical, peer pressure, psychological, or political desires. What is special about arson is not only these multiple motives but the fact that each and every time there is a case of arson, it is a menace and

danger to the general public who may very well have only been bystanders.

Crime is a broad and encompassing matter which should have a multilevel approach taken to it. Most criminologists recognize this and attempt to explain it in some detail. But in so doing, the literature and academia have given only a cursory examination to arson. For example, some of the better known authors and criminologists (Glaser, 1974; and Cressey and Ward, 1969), mention arson along with white-collar crime on only one or two pages of their books.

This cursory examination may be indicative or even symptomatic of why it appears as if there is a great desire in a bureaucratic organization to dispel or pass the blame for acts which are not clearly that organization's responsibility. The "fog" which clouds these organizations adds to the fact that many times subordinates only do what is checked by the boss. Just as academia has unintentionally pushed the subject aside, so have administrators given little attention to the problem.

Organizations operate on orderliness with clear, concise means. They must have rules and regulations and an organizational structure with definite responsibilities. When there appears to be little pressure and/or order in investigating a crime, chaos and inefficiency flourish.

A good example of chaos and inefficiency would be the assassination of President John Kennedy and the killing of Lee Harvey Oswald. In the killing of Oswald, the various federal and local law enforcement agencies were in a turmoil over who had jurisdiction and responsibility, therefore contributing to the difficulties of investigating these events.

Institutions are made to run in an orderly, efficient manner; and when a part of that institution is not recognized nor cooperated with but still has a responsibility, then its efficiency suffers. This is especially disturbing in governmental organizations because of the difficulty of effecting change.

The question or problem, then, is how does one answer or address this disparity in dealing with the crime of arson? This author is of the opinion that what must be developed is a sense of responsibility and awareness in the criminal justice system that arson is a problem of great magnitude. At the same time, it must recognize that there is another agency, besides the police, that has input into the criminal justice system--the fire department.

In turn, the fire departments must also realize this and must be made to cooperate to their fullest extent. In doing so, it is the opinion of this author that definite roles must be established that will be

recognized by all concerned.

This writer feels that there are various means of achieving this. Informing the public, governmental grants, professional seminars, political issues, can all be utilized towards this goal. What this author can contribute then is limited, but it may best be recommendations towards developing a model program which could be applied to arson investigation. One could write a complete book on how to set this up, but for the purpose of this study, a brief look at the major points that need to be addressed will be given.

Recommendations Toward Developing a Model Program

Presently, some programs of arson investigation are successful, such as the programs in Houston, Texas, and Seattle, Washington. Where there are successful programs, they should continue as such and make changes only after close and detailed thought is put into such changes. But where programs against arson are not successful or are nonexistent, then changes, after a careful evaluation of what is needed, should be taken immediately. Above all else, before anything is done, a study should be undertaken to evaluate those programs which are identified as being effective. This is necessary to show what does and does not work.

In lieu of this, what follows in this study is a

look at some areas which this author feels are necessary in an arson program. Techniques of investigation, explicit organizational structures, and definitive roles will not be addressed, for they will depend on the individual situations. What must be kept in mind is almost every city, county, and state are set up differently, and what will work in one instance will not work in another. Therefore, this will, hopefully, allow a generalization to these different instances.

Intergovernmental Relationships

To begin with, the highest levels of government must recognize that there is a problem and it must be willing to take steps to combat it. The governors at the state level, the mayors or city managers at the city level, and the county commissioners at the county level must be the implementing agents and overseers of such programs. Leaving the problem up to the police and fire departments is contributing to red tape and petty biases.

There should be clearly written instructions and responsibilities with mutual agreements so that there will be no gaps within the areas of responsibilities. Boudreau, et al (1977), in giving recommendations, feel that jurisdiction in arson investigation needs to be

clarified with

fire investigation and arson detection being the responsibility of the fire service and the criminal investigation ... being the responsibility of the law enforcement agencies [p. 95].

This paper has shown that the gathering of arson statistics must be improved. Both Boudreau, et al (1977), and Suchy (1976), have drawn the same conclusion in giving their recommendations. This gathering of statistics is necessary in order for studies to gain creditability, and to inform the public. Steps must be taken to insure better public awareness and cooperation. The public must be made aware of the major ramifications of arson and how it affects them.

There also appears to be a void on the part of the federal government in the funding of arson investigation. There should be monies made available through Law Enforcement Assistance Administration grants that would aid and help change the organizational structures. Mandatory reporting procedures should be established for fire departments in order for the statistics published by the National Fire Protection Association to be considered reliable and a good valid picture of the crime of arson. The present arguments for not making arson a Part I Crime are valid; therefore, by the National Fire Protection Association validating their statistics, they should be on the same par as the Federal Bureau of

Investigation's Uniform Crime Report.

State Level

In order to insure the proper functioning of the system, there are certain steps which must be taken at the state level. The federal and state governments must first cooperate with each other. They must be able to integrate fire and police agencies into programs at the state and federal level.

If necessary, there should be established a committee at the federal and state levels that aids this coordination between fire and police agencies. This committee should have no political ties and should have the power and authority to mandate requirements in standards, reporting, investigation, prosecution, et cetera. Graves, et al (1975), say that

action toward a program development should take place immediately. This will necessitate designating capable personnel from both agencies to jointly work out an appropriate interdepartment conditioning and briefing session for the arson control and investigative program [p. 78].

One of the major members of any committee should be the state fire marshal. The state fire marshal should be a coordinating agent for the fire departments and should have the manpower to assist those communities that do not have the expertise nor the manpower to address the problem. He should also have sufficient manpower organic

to his office in order to give support to those agencies who request it. The state fire marshal's office should take steps to insure public awareness, with the primary goal being news media coverage of the follow-up on arson investigations.

Local Level

Local law enforcement agencies should maintain closer control over and report accurately the statistical information that flows through their agency. Specifically, the information concerning arson, arson prosecutions and investigations should be as closely monitored as the Part I Crimes. This would allow for better statistics in the Uniform Crime Reports and would help to pacify those who argue that arson should be a Part I Crime.

In those cases where the programs are nonexistent or are not successful, the police and fire departments should have clear, definite roles and guidelines established and followed. Fire departments should have the role of fire investigation and arson detection and not arson investigation. Arson investigation is a criminal investigation, therefore, the police should investigate.

Police and fire departments should be closely coordinated with thought given to the state fire marshal on who has what role and when that role is put into

operation. The fire departments should have investigators that follow through with the criminal investigative step, but only with the understanding that the police are the responsible agency for the criminal investigation of arson.

The office of the prosecutor also has a major function. The prosecutor should take a much more active role by assigning one of his assistants to become involved as soon as the police have received notification that there has been an incident of arson. This will also require cooperation and coordination on the part of the police and fire departments. The prosecutor must also explore alternative means of prosecution. Civil suits and suits to reimburse for fire services should be explored.

The police should have qualified investigators who have experience with fire investigations. If they do not, then there should be a requirement to have their investigators spend whatever time is necessary on temporary duty to the fire departments to receive that experience.

The standards and goals set by the Texas Commission of Fire Protection Personnel Standards and Education and the Texas Commission on Law Enforcement Officers Standards and Education appear to be sufficient. However, the amount of education and training given to the police-

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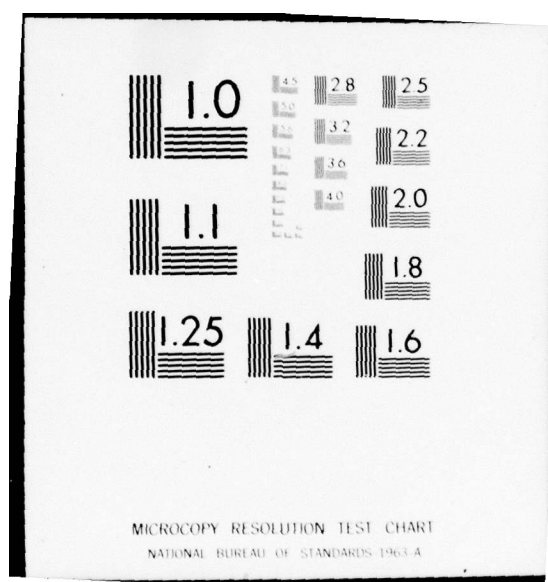
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man on the beat and the firefighter, after graduating from their academies, should be upgraded and increased. This should be done in order to enhance the early detection of arson, and so that those individuals involved could move up the ladder with the proper experience when it is necessary.

The above requirements apply to urban areas and municipalities almost without exception, but rural areas present some definite organizational and manpower limitations. Graves, et al (1975), feel that it may be advisable for a significant number of fire departments to form an association and work out a program with the available law enforcement and investigative resources.

The state fire marshal would be an essential requirement in the development of such an organization or program. In fact, it may be necessary for the state fire marshal to establish district offices for his investigators in order for them to be close to where help is required, and to insure cooperation.

Conclusions

The central thought to keep in mind is that a structure needs to be developed with the individuals of the hierarchy in the governmental, fire, and police departments becoming cognizant of the problem and the fact that there are ways and means of coping with it.

It is also necessary for the programs to be in writing with clear responsibilities and agreements. It is understandable that rural areas are not going to have the expertise and manpower; therefore, it will be necessary for the state to become actively involved. The major point is that some steps must be taken to develop agreements and means of attacking the problem. Since no one agency is willing to take responsibility, it appears as if the problem is being thrown around with the blame being passed among the various agencies.

It is a fact that there are many different roads that can be taken to find a solution. What has been presented in this thesis is not one of those roads, but rather an input toward the development and beginning of movement toward the action that needs to be taken.

It has been shown that arson is on the rise and appears to be a neglected violent crime which is, in part, the result of confusion over roles. As with most problems of this magnitude, there are various recommendations that are given. Therefore, in concluding, this author feels that those recommendations given in one of the studies appear to be inclusive of what is desired. In this author's opinion, Suchy (1976) gives a consensus of the recommendations. He says:

1. It is important to develop and define

responsibilities of all those concerned with the arson problem.

2. There is a need to reclassify arson as a Part I Crime, so that (a) reporting can be more complete and (b) people can be more aware of its impact.
3. There is a need to make the public more aware of the consequences of arson and the need to do something about it.
4. There is a need to develop and apply training programs.
5. There is a need to develop and apply better reporting, data collection, and data analysis procedures on all levels.
6. There is a need to promulgate and apply effective laws and regulations which are uniform.
7. There is a need to provide adequate funding.
8. There is a need to conduct research and development.
9. There is a need to develop a consistent, uniform terminology to be used nationwide.

Hopefully, what has been shown in this final chapter, and throughout this study, is that the criminal justice system needs to become aware and take steps toward organizing against the crime of arson. It appears as if in the past decade that attempts and studies are being put toward arson investigation. But in finality, the crime must be taken and pushed through the complete criminal justice system for what it is--a violent, malicious, and dangerous act that affects everyone.

FOOTNOTES

FOOTNOTES

¹ Interview with Mr. Gerald Schappe of the Texas State Fire Marshal's Office, 1011 Congress, Austin, Texas, on February 14, 1978.

² Information from a pamphlet titled "Arson ... America's Fastest Growing Crime." Received from The Travelers, Office of Consumer Information, The Travelers Insurance Companies, Hartford, Connecticut.

³ Information received from the Office of Senator John Glenn (D-Ohio) Russell Senate Office Building, Room 200, Washington, D.C. 20510, consisting of a copy of the Congressional Record Volume 123, Number 122 dated Tuesday, July 19, 1977.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Source for descriptive information for the State of Texas, Houston, Beaumont, and Huntsville is the Texas Almanac and State Industrial Guide (1977), Fred Pass (Editor), A.H. Belo Corporation, Dallas, Texas.

⁹ Information gathered from a Fiscal Note of the Legislative Budget Board, Austin, Texas. It was in letter form from Thomas M. Keel, Director, to Bob Davis, Committee on Insurance, House of Representatives dated May 17, 1977.

¹⁰ Source for descriptive information for the State of Texas ..., op. cit.

¹¹ Interview with Houston Fire Marshal Alcus Greer, 410 Bagby, Houston, Texas, was conducted on March 9, 1978.

¹² Source for descriptive information for the State of Texas ... op. cit.

¹³ Interview with Beaumont's Assistant Fire Marshal Jerry P. Creekmore and Investigator Danny W. Cross, P. O. Box 3827, Beaumont, Texas, was conducted on March 17, 1978.

¹⁴ Source for descriptive information for the State of Texas ... op. cit.

¹⁵ Interview with Huntsville's Fire Marshal Joe French was conducted on March 6, 1978.

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APPENDIXES

APPENDIX A

Questions Asked During the Fire Marshal Interviews

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Questions Asked During the Fire Marshal Interviews

1. What is the size of the community?
2. What was the number of fires reported in 1976? 1977?
3. What was the number of arson/incendiary fires reported in 1976? 1977?
4. How are arson/incendiary fires investigated?
 - a. Do firemen or police or combination of both investigate?
 - b. How many investigators per case and approximate time on each case?
 - c. Do they have police powers?
 - d. What additional duties do arson investigators have?
 - e. How much money is budgeted for arson-related activities?
 - f. What type/amount of training and experience is required for arson investigators?
 - g. What instruction is given to firemen first on the scene and are police, to your knowledge, given the same?
 - h. Is every fire investigated? If not, what instigates the investigation?
 - i. What lab facilities are available?
 - j. How is evidence handled?
5. Do you receive any outside funding for arson investigation?
6. Do you feel you are properly equipped to investigate arson?
7. Do you have the number of arrests and convictions for arson and if so, what are they?
8. Who do you report arson incidents to?
9. What is your relationship with the police department?
10. What is your relationship with the Texas State Fire Marshal's Office?
11. What are your views of arson being classified as a Part I Crime by the FBI and how would this help or hinder?
12. What problem areas do you feel are special to your situation?
13. What do you view as the future for arson problems within your area of responsibility?

APPENDIX B

Summary of Offenses Investigated by the Arson
Investigators for the Beaumont Police Department

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Summary of Offenses Investigated by the Arson Investigators for the Beaumont Police Department

ARSON	TOTAL	NUMBER CLEARED
Arson/Murder	1	1
Arson/Murder/Suicide	1	
Arson Attempted Murder	1	
Arson Suicide	1	1
Arson Burglary	2	1
Other Arsons	<u>41</u>	<u>25</u>
TOTAL	47	28 (59.5%)

DEATHS	
Accidental	8
Murder by Arson	6
Fire Death/Homicide	1
Suicide by Arson	<u>1</u>
TOTAL	16

OTHER INVESTIGATIONS

Accidental Death by Electrocution	1
Bomb Threats	51
Extortion Bomb Threat	1
Deliberate False Alarms	357
Felony Criminal Mischief	19
Misdemeanor Criminal Mischief	30
Felony Theft	4
Misdemeanor Theft	3
Manufacture of Explosive Weapons	1
Fire Investigation	2
Aggravated Assault on Fireman	1
Aggravated Assault with Deadly Weapon	1
Rape	1
Possession of Marijuana	1
Pigeon Drop	1
Attempted Auto Burglary	1
Trespassing	1

APPENDIX B--Continued

Source: Extract from the 1977 yearly report for the police arson investigators, Beaumont Police Department, received from the Assistant Fire Marshal for Beaumont, Mr. Jerry Creekmore.

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