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ARSON: FIRE OR POLICE

THE PROBLEMS

RESPONSIBILITIES FOR ARSON INVESTIGATIONS:

FIRE OR POLICE

**A LEARNING CONTRACT
SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR
MODULE I**

BY

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INTRODUCTION

Arson a critical and serious issue. Arsonists leave a trail of terror, emotional stress and death. Current and past statistics show that a majority of the fires are intentionally set.¹ Then panic sets in with citizens concerned if their property will be burned down next. Fire destroys more property and takes more lives annually than any other disaster, yet it is the most preventable disaster (Fire in Texas 1987).² Law enforcement officials must be made aware of the dangers of arson, the important role the arson investigator plays in the community, and the expertise used in investigating arson.

What is Arson?

Webster defines arson as "the malicious or fraudulent burning of property (as a building),³ and malice as "the desire to see another experience pain, injury, or distress, implies a deep-seated often unexplainable desire to see another suffer." When these definitions are considered, arson becomes a despicable and cowardly crime. When arsonists set fires, they do so with a profit motive endangering the lives as well as the property of others.

¹Crime in the United States, U.S. Department of Justice 1989, pages 36-39

²Fire in Texas 1987, Texas Fire Incident Reporting System (TEXFIRS) Annual Report, Page 1.

³Webster's New Collegiate Dictionary Merriam Webster Inc., Publishers, Springfield, Mass.

Arson is a unique crime. Most criminals attempt to commit an offense and escape while the arsonist commits an offense which attracts immediate attention. Furthermore, physical evidence is often lost or altered in the homes and witnesses are rather infrequent.

Arson is a despicable crime, and a particularly cowardly one. Most people who set fires do so with a motive of profit in mind. They often endanger the lives as well as the property of other people. Consequently, arson is a crime not only against property, but also against persons. The concept of an arson crime is unique. Where the criminal normally attempts to commit his offense and escape, the arsonist commits an offense which attracts immediate attention. The physical evidence which is often lost or altered in the destruction of the fire. Witnesses are rather infrequent.

The Investigation of Arson

Supplemental certification requirements, additions, and/or revisions as officially adopted shall become a printed part of these suggested minimum standards and will be recorded by date and page number in the appendix. Why did the Commission on Fire Protection in 1971 decide to single out arson? It appears the interest of the commission was global. Their reasons are multiple but one stands out. That is the professional assessment of need for community benefit. What does this mean? The fire department is unable to prevent arson. The education programs may assist the reduction of residential fires. The citizens are willing participants to encourage fire prevention at home and with neighbors. The unmanageable avenue to fire disaster is arson.

Arson is a crime out of control. The moment combustion begins, no one can predict the results, other than some possibly high level of Fire Departments may use their every resource and still be unable to prevent death and costly damages from arson. Because the crime has such a hodge podge of motives, the arson investigator must extract many facts to acquire sufficient information to warrant arrest. The investigator must be capable of both reading the crime scene and performing scientific analysis. Sometimes the clue to solve the case may be in financial records not at the scene. Unlike murder, arsonists often do not leave the scene but remain to observe the destruction. It is a heinous crime where the violator can hide in plain sight.

The arson investigator is a fireman with police powers and must understand the science of fire and the powers of police. The crime of arson is an expensive crime for citizens pay in taxes and insurance rates. To frustrate the success of fire setters, standards had to be set that increased the solvability of arsons. In October, 1949, a meeting of fire investigators was held at Purdue University to determine the most effective way to train arson investigators. The arson investigator had to be trained in the scientific basis of fire to combat the increasing sophistication in fuel and timing devices, animals, and the use of other investigative approaches to destruction. The investigator had to stop considering the origin and move to cause. Then as a result of data analysis, the investigator determines what, when, and how. Finally, the capacity to reason leads to who.

The arson investigator needs unique. Since arsons cannot use the traditional investigation model, offenders are rarely caught in the act of fire setting. Also, motive varies from revenge to insurance fraud. The insurance investigator is compelled by the nature of the crime to turn the crime scene into a witness. Through careful observation of the crime scene details, the destruction tell the investigator what happened. Science assist the investigator in seeing the arsonist's method. Trainers like Alcus Greer established standards to manage arson investigations.

Alcus Greer's extensive background as Chief Investigator of the Arson Bureau in Harris County for 24 years; Fire Marshall for 10 years; and Assistant District Attorney for two (2) years made him a likely candidate for Chairman of the Committee to establish standards for arson investigators. Greer had also served on the International Association of Firefighters which adopted minimum standards for firefighters and developed "curricula that would be best suited for someone who wanted to get into arson investigation." Thus, Greer was responsible for writing the first draft which was submitted to the Texas Legislature in 1969 and outlined firefighter standards. (Personal Interview, 1990).⁴

Law Enforcement Attitudes Toward The Fire Problem

Most major cities have an arson and bomb squad. Their priorities are usually on bomb threats more than the burning buildings. Police and firemen have historically been at odds over responsibility. While police officials believe arson is a matter for the fire department,

⁴Alcus Greer, Personal Interview, January 1990

arson is a crime that both agencies have the responsibility to investigate. Firefighters fail to admit that they are not trained to investigate a criminal matter to the same extent as the police department.

The Policeman's Role as a Crime Scene Investigator

The police officer is a part of a larger traditional network which relies on the available clues. Usually, the conventional police organization depends heavily on the citizenry to solve the crime. Because they have frequent contact with criminals as well as with members of the general public, the police are often in the position to prevent a crime. The information which flows into a police organization often goes to an officer who has technical knowledge of that type of crime. This knowledge is developed through time spent patrolling the streets and making contact with criminals. The police foster an open-ended communication network which the criminal investigation and thereby fulfill the public's demand to feel secure. Conventional law enforcement has developed a model of each type of crime. There is a reservoir of data which supports the style and manner an officer may use to solve or reduce, or in some cases, predict with accuracy where a crime might happen within his community. Unequivocally, the visibility of the police serves as a principle deterrence to some crimes. Therefore, the police rely heavily on this visibility to enhance the public's sense of security.

As law enforcement has evolved, the importance of conventional techniques has diminished. The continued importance of conventional techniques demonstrates that change does not always mean a total change of methods. However, the organization which intends to protect its fabric must continue to learn and progress.

Frequently, the police have special elite units to manage critical events. These include S.W.A.T. Teams, Serial Rapist Teams, Serial Killer Teams and Drug Enforcement Units. These units receive routine training to retain proficiency in the management of a crisis or situation. The concept of an resulted from the conclusion of law enforcement leaders that conventional methods are not sufficient in the management of angry crowds, assassins or terrorists, or serial violence, or the interrelated crimes associated with drug enforcement. More emphasis should be placed on the fire department to use this type of critical incident units.

LAW ENFORCEMENT AND DUNOVATION

Police and fire organizations are not often innovators but adapters of scientific and technical innovations from business and industry. The force of their innovations generally lies in the creation of strategy to cope with criminal activities. Technological innovation is seldom the result of a police experiment. The private sector frequently develops materials or equipment that have organizational application. When change comes in law enforcement, the technology appears as it does in the private sector, but the implementation of the technology is often differently managed. This service orientation relates to basic need so that they. They indirectly measure the hazards citizens face in their day to day lives.⁶

⁶Minutes - State of Texas Commission, Fire Protection Personal Standard and Education Committee Meeting 1971, page.

The concept of government as an innovator is relatively new. Since American tradition is to think from government involvement in technological development except on a contractor. The shift toward innovator results from the public's demand to have freedom of choice. Law enforcement seeks to build a protective market place which serves the community.

The conclusion is that these organizations, police and fire, have a mission to avert crisis in society. Law enforcement leaders must address problems in a timely manner before the problem evolves into a crisis. This is why the management of organizational growth is of concern. Law enforcement professionals and citizens must examine and re-examine the goals of organizations which impact dynamically on the very core of the community.

It is no wonder that Greer and other fire protection officials got together to construct a fundamental policy in reaction to scientific development. Looking back, it is clear that neither the police or fire departments were prepared to manage investigations which result from arson. Therefore, the Sixty-First Legislature established minimum standards as a step toward rectifying a dilemma identified by organization professionals.

Texas Commission on Fire Protection Personnel Standards and Education

To improve fire protection, the Sixty-First Legislature established the Commission on Fire Protection. This Commission certifies that fire protection training and education programs which attain minimum standards; certified instructors who qualify under Commission conditions; directs research in the field of fire protection, accepts gifts and grants for these

purposes, and recommends curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education when requested by the Coordinating Board, Texas College and University System.

In 1969, there were 53 fully-paid fire departments located in Texas' major metropolitan areas with approximately 7,400 personnel serving about 5,500,000 citizens. The Commission began operations in March, 1970, by establishing procedures and conducting studies on existing personnel training programs prior to developing minimum standards of education and training.

At a public hearing on April 27, 1971, the Commission recommended adoption of standards to become effective on September 1, that would certify fire protection personnel and education programs and qualify fire department instructors. (See Appendix 1).⁷ These standards clearly single out arson as a problem which can only be additional through education. Fire departments cannot prevent arson, but they can educate the population and encourage residential fire protection.

Arson, An Unpreventable Crime

The Fire Commission believes that arson investigators needed police authority; however, the arson investigator now works unencumbered by police bureaucracy to solve arson crimes. Yet, the police department, the police investigator has access to information pivotal to criminal investigation. The objective to closing the door to this type of destruction may be served by

⁷Appendix 1

re-thinking the assignment of the arson investigation.

Conclusion

The arson investigator must and seek improved professional training and build reliable, professional contacts. Each fire investigated must be viewed as a learning experience. Every fire demands wide expertise. Unlike a robbery where a witness often produces information that results in arrest and conviction, no witness appears to aid the arson investigator. The investigators scans the fire scene looking for clues and relies on experience and training to reach the goal: The reduction of arson.

APPENDIX 1

SECTION VII

MINIMUM STANDARDS FOR ARSON INVESTIGATION PERSONNEL

A. Minimum Training Required for Arson Investigators Certificates

The professional status in any chosen career begins with education. A profession must depend upon adequate knowledge of the task to be performed, along with the development of personal skill and the adaptability to apply this knowledge to specific cases.

Perhaps in no other level of the fire service is this more significant than in the techniques of efficient and skilled arson investigation. An open and flexible mind based on a foundation of fundamental convictions and principles, along with an achievement in formal education in the desired field, can only assist a person in acquiring a relative sense of values that will give direction, meaning and integrity to his life and his work.

The accurate determination of the causes of fires, along with other related and influencing factors, provides for efficient and valuable fire and arson investigation which is actually the basis of fire prevention and fire protection.

1. Fire Department Arson Investigators must complete the prescribed training and possess a current police officer certificate required by the Texas Commission on Law Enforcement Officers Standards & Education as a prerequisite. (One hundred forty hours [140] hours are presently required; however, any future changes shall become a prerequisite standard).
2. An additional sixty [60] hours covering the following subjects must be completed in order to be certified as a Fire Department Arson Investigator.
 - a. **THE LAW OF ARSON AND OTHER WILFUL BURNING - 5 HOURS**

Common law; statutory law; definition of arson; elements of crime; corpus delicti; definition of house; of case law; discussion of Kudgate, Lott, Wilganowski and other related cases; intent and willfulness; design, and the essence of the crime; intent presumed; explosions included within definition of arson; punishment; proof of other crimes; statutory and case law and wilful burning; murder by arson cases; statute of limitation; injury or destruction of property belonging to another; offenses in connection with bombs.
 - b. **CIRCUMSTANTIAL EVIDENCE IN ARSON CASES - 7 HOURS**

Evidence as being synonymous with facts; direct evidence; circumstantial evidence; circumstantial evidence as related to motive; declarations or acts indicative of guilt; preparation for the commission of a crime; possession of fruits of the crime; landmark cases on circumstantial evidence -

Commonwealth v. Webster, Thomas v. State, Ware v. State, Jarvis v. State, Splawn v. State, Hampton v. State, Smith v. State, O'Keefe v. State, Anderson v. State and other related cases; sufficiency of evidence; establishment of corpus delicti and circumstantial evidence.

c. DETERMINING THE CAUSE AND ORIGIN OF FIRE - 3 HOURS

The point of origin; searching the fire scene for the cause and the origin; elements necessary to cause a fire; point of arrow theory; vertical spread of fires; horizontal spread of fires; characteristics of fire spread in various structures; conduction; convection; radiation; flashover; multiple fires in arson cases; multiple fires where cause is accidental, and characteristics of burning patterns flooring of structures.

d. INVESTIGATION OF BOMBINGS AND EXPLOSIONS - 2 HOURS

Divisions between a flash fire and explosion and a detonation; accepted definitions of an explosion; types of explosions - boiler explosions; flammable gas explosions; chemical explosions; dust explosions; nuclear explosions; flash fires; explosives; prohibited explosives; acceptable explosives and types; storage of flammable gas explosions and effect on various structures; differences between detonation and explosions; differences between low explosives and high explosives; determining the cause and origin of explosions; various case histories involving explosions in structures and buildings.

e. **MAPPING PROCEDURES - 2 HOURS**

Diagrams; diagrams used in connection with photographs; the purpose of the diagram; the legend of the diagram; diagrams as an aid in interviewing; diagrams and maps as evidence in court; testifying from diagrams of buildings; diagrams of large geographical areas; inspection and surveying of scene for mapping and diagramming.

f. **CHARACTERISTICS of FLAMMABLE LIQUIDS and GASES - 4 HOURS**

Classifications of flammable and combustible liquids; specific capacity; vapor density; flash point; ignition temperature; burning characteristics of flammable and combustible liquids; explosive ranges of various flammable liquids; flammable gases; non-flammable gases; oxidizing chemicals; combustible chemicals; water and air reactive chemicals; fire hazard problems of dust; factors influencing the explosibility of dust.

g. **MOTIVES FOR THE CRIME OF ARSON - 2 HOURS**

Definition of motive; economic gain; assured benefits directly; economic gain where assured is innocent party; personal satisfaction, attainment of a goal or furtherance of a cause; concealment of a crime or from other criminal acts; arson by the mentally afflicted; how to tell motive; investigating fires according to motive; suicidal motivation; kicks motivation; discussion of arson case histories involving peculiar motives.

h. **CONSTITUTIONAL LIMITATIONS ON EVIDENCE IN CRIMINAL CASES - 7 HOURS**

Declaration of Independence; the Constitution; the Bill of Rights and its history; the 1st, 4th, 5th, 6th, and 14th Amendments; federal criminal procedure; increasing supervision of state criminal procedure; the revolution in state criminal procedure; constitutional standards and the peace officer; the nature of due process, Palko v. Connecticut through Painter v. Connecticut; arrest, search and seizure and 4th Amendment, the Suppression Rule, Supreme Court of the United States cases Mapp v. Ohio (the Suppression Rule), Aquilar v. Texas (search warrants), U.S. v. Ventresca (Affidavit for a Search Warrant), Schmerver v. California (Compulsory Blood Samples), McCray v. Illinois (informants), Warden, Maryland Penitentiary v. Hayden (Hot Pursuit Arrest), Camaro v. Municipal Court of San Francisco (Inspections), Berger v. New York (Electronic Eavesdropping and Wire Tapping), Katz v. U.S. (Electronic Surveillance), Harris v. U.S. (objects in plain view), Burdeau v. McDowell (Seizure of Incriminating Evidence, Private Citizens), Terry v. Ohio (The Frisk); cases involving the 5th and 6th Amendments, Culom v. Connecticut (In-Custody Police Interrogation), Escovdeo v. Illinois (The Right to Counsel), Miranda v. Arizona (Custodial Police Interrogation), Garrity v. New Jersey (Self-Incriminating of Police), Gideon V. Wainwright (Right to Counsel), in the matter of Gault (Juvenile Court Proceedings), U.S. v. Wade (The Line Up), Brady v. Maryland (Suppression of Evidence, Prosecution); Supreme Court of the United States on Vagrancy Entrapment; trial by newspapers.

i. **PYROMANIA AND THE PSYCHOPATHIC FIRE SETTER - 4 HOURS**

Pyromania versus the fire bug; epilepsy and the pyromaniac; unusual behavior of pyros; the types of fires set by pyros; the young adolescent pyro; the female pyro; the confirmed male pyro.

j. **MOB AND RIOT PROBLEMS - 5 HOURS**

Crowds; mobs; inciting a mob; the mob's tactics and violence; fires of tension; rumors; disaster and riot planning; the criminal law and criminal cases relative to types of riots and assemblies; right-wing terrorist groups; left-wing terrorist groups; case histories of cities involved in major riot and civil problems; various crimes generally involved in riots and civil strife; rioters interfering with officers; available force to aid in suppression of riots; means adopted to suppress riots; criminal laws involving the disruptive activities on campus; exhibition of firearms on campuses of state universities and institutions of higher learning.

k. **TECHNIQUES OF ARSON INVESTIGATION - 4 HOURS**

Preparing for the investigation; checking a fire investigation request; importance of ownership and interest; inspecting the fire scene; interviewing witnesses; verifying testimony of witnesses and suspects; corroborating the confession; facts versus imagination; preparing the report of the investigation; discussion of arson case histories relative to the property techniques and procedures used.

1. EXAMINATION OF THE CRIME SCENE IN ARSON CASES - 5 HOURS

Identifying and retaining for questioning the person discovering the crime; determining the perpetrator of the offense by direct inquiry or observation; summon assistance when needed; safeguarding the area; sketching the crime scene; collection and preservation of evidence; methods of surveying the crime scene; the strip of grid method; the zone method; the wheel method; reconstructing the crime; physical reconstruction; metal reconstruction; specific areas and locations to be searched; determining the condition of the building or structure involved; correct methods of interviewing witnesses; establishment of corpus delicti and methods used to prove; a review of the case law relative to illegally obtained evidence.

m. THE CORPUS DELICTI IN ARSON CASES - 3 HOURS

Necessity of establishing the corpus delicti; methods of proving; direct evidence relative to the corpus delicti; circumstantial evidence relative to the establishment of the corpus delicti; factors influencing burning; effects of flammable liquids and gases relative to arson cases; elimination of accidental causes; incendiary devices and materials; plants and other contrivances; interviewing of the fire fighter at the fire scene; the effects of heat and fire on various types of building materials; the effects of ventilation and wind currents; the effects of radiation and wind currents; the effects of various fire loads; the statutory and case requirements for establishing corpus delicti.

n. **THE JUVENILE FIRE SETTER - 4 HOURS**

The statutory definition of juvenile; motives of the juveniles arsonist; officer authority in the arrest, apprehension and handling of juveniles; various symptoms of juvenile delinquency; delinquent parents; arson case histories involving juvenile offenders and gangs.

o. **RECORDS AND SOURCES OF INFORMATION - 3 HOURS**

Federal sources of information; state sources of information; county sources of information; city sources of information; private sources of information; directories; informants; motives for revealing information; protecting the informant; communicating with the informant; obtaining confidential information; potential informants.

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