

**THE BILL BLACKWOOD  
LAW ENFORCEMENT MANAGEMENT INSTITUTE OF TEXAS**

The Justification for the Return to a bi-agency Approach to  
Arson Investigation by the Fire Service and Police Agencies.

A Policy Research Project  
Submitted in Partial Fulfillment of the  
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## **ABSTRACT**

Arson has been called the "fastest growing crime in America", and is easily one of the oldest crimes known to man. And yet, local, state and federal law enforcement agencies choose to ignore this national epidemic. In most jurisdictions, fire investigators continue to shoulder the monumental task of investigating the crime of arson, without police assistance.

A small number of fire departments and police agencies have joined forces to collectively address arson as the serious criminal offense it is. In doing so, these agencies have proven that this joint effort (or task force approach) when applied correctly, results in a significant increase in the number of arrests made, cases solved, and successful prosecutions in court. This proposal brings to light information found in law enforcement journals, manuals, and trade magazines, as well as other sources that bear out the shortcomings of the traditional, fragmented approach to arson investigation.

The only logical conclusion to be reached is that officials, entrusted with protecting the lives and property of our citizens, are not using every available tool to investigate arson. It is critical for police agencies and the fire service to combine the use of their personnel, training, expertise, and other resources to effectively reduce the "fastest growing crime in America".

## TABLE OF CONTENTS

Section	Page
Abstract	
Introduction	1
Historical, Legal and Theoretical Context	2
Review of Practice	5
Discussion of Relevant Issues	8
Conclusion	11
Bibliography	
Appendix	

## **Introduction**

With the advent of today's technology, law enforcement has made significant progress, particularly in the discipline of criminal investigations. Yet, public safety officials fail to recognize the seriousness of what agents from the Bureau of Alcohol, Tobacco, and Firearms call "America's fastest growing crime" (BATF iii). One of the oldest crimes known to man, arson has been practiced since soon after the discovery of fire (Woodfork 30). The Texas Commission on Fire Protection in its annual report, Fires in Texas 1993, reported that a suspicious or incendiary fire occurred every 26 minutes; killing 47 people, and causing in excess of \$81,000,000.00 in property losses (TCFP 1995 - 65). The Federal Emergency Management Agency through the U.S. Fire Administration reported that in Texas alone in 1996, there were 21,805 suspicious or incendiary fires; injuring 163 civilians, killing 35, and resulting in dollar losses of \$135,174,118 (FEMA 1996).

Logically, recognition of a crime of this magnitude would compel local police and fire departments to combine forces in a proven effort to combat the ever-growing incidence of arson. Yet, this has not occurred. The purpose of this project is to bring this contradiction in logic to the attention of those agencies that do not engage in a cooperative effort to fight arson.

The problem to be addressed is the revelation that the crime of arson is not being investigated to its fullest potential by many local fire and police agencies. More often than not, there is no coordination of personnel, equipment, training, and other resources such as evidence collection, witness and or suspect identification and interview, etc. The issue to be discussed will be that departments who have adopted this type of "arson task force approach" have enjoyed significant degrees of success with the concept (Woodfork 32). This project will show the parallel in skills and experience possessed by both police and fire investigators, and how those

compliment each other during an investigation. It will also point out that departments that fail to participate in a multi-agency approach to arson are not doing all that can be done to solve the crime.

This project will demonstrate to police and fire department administrators the advantages of the task force approach to arson investigation. It will also show City Mayors, Council Members, County Commissioners, and Commission Members that uniting investigators from both agencies will make better use of personnel, increasing the efficiency of both departments.

Information will be gathered from law enforcement journals, statistical manuals, and trade publications. Fire and police agencies will be surveyed to determine if they engage in a task force approach, and asked for an evaluation of the program. If they do not, if they have considered such an approach, and what might prevent them from doing so.

This project will reveal to fire and police administrators as well local government officials that failing to combine the skills, resources, and equipment of the two departments not only hinders the success of arson investigation in their jurisdiction, but allows an indiscriminate killer to go undetected.

### **Historical, Legal, and Theoretical Context**

In the 1970's, portions of many major cities in the United States were burning to the ground. The destruction of entire neighborhoods caused both the public and private sectors to begin to address the crime of arson in a more comprehensive manner. Until this was done, the investigation of arson was rarely conducted in a cooperative effort by police and fire agencies. The police service considered arson a fire problem, while the fire service considered arson a crime, and referred it to the police department for investigation. This conundrum fed itself on more and more fires. There was a 400 percent nationwide increase in arson in the 1970's,

attributable to a number of factors to include the demonstrable lack of training and resources for those charged with the responsibility of investigating arson. Compounding that was the fact that incendiary fire scenes were not treated as crime scenes, and therefore, evidence was not detected, collected or admitted in court (Galvin 50).

The City of El Paso, Texas, is a community of over 700,000 residents, situated in the Far West corner of Texas, bordering Mexico and New Mexico. The El Paso Fire Department employed the only trained and certified fire and arson investigators in the state within approximately two hundred and fifty miles. These investigators performed investigative duties for the city and county of El Paso, as well as the neighboring counties of Hudspeth and Sierra Blanca.

In the fall of 1996, members of the El Paso City Council declared that fire department personnel would not conduct investigations of any kind. On December 2, 1996, fire department investigators were stripped of their commissions as peace officers, and consequently, their certification as arson investigators. They were assigned to duties as fire prevention or inspection officers, and the title of "Fire Marshal" was removed from the city charter. Members of the El Paso Police Department were delegated the above mentioned duties. The police department then provided training and certification in fire and arson investigation for five police Detectives and one Supervisor. These officers attended not only the basic state certification course, but also numerous advanced courses to include the National Fire Academy in Emmitsville, Maryland.

Although constantly attending training at the time, the police investigators managed to respond to the scene and investigate three hundred and eighty eight fire incidents. The clearance rate achieved for arson cases was 20%, matching the clearance rate for all arson cases in Texas for the same year.

The police department conducted fire investigation until October 30, 1998, when the City Council reversed its prior decision, returning all fire and arson investigative duties back to the fire department. The fire department then sought to again commission its investigators as peace officers, train personnel to fill vacancies created by the first transition of duties, and purchase the equipment and other resources necessary to function effectively.

Fire investigators all too well understand the roadblocks in conducting fire investigations and successfully prosecuting the offenders. An unending litany of these roadblocks can be heard from any number of investigators. Unfortunately, one major obstacle is most often due to our own investigative agencies. In too many police departments, having a qualified fire investigator on staff is the exception, rather than the norm. Departments will typically send patrol officers, detectives, and evidence technicians to bank robberies where the total take from one teller drawer may be less than \$20,000.00. Numerous investigative and follow up hours are conducted without a second thought.

In residential or commercial incendiary fires, however, the same departments may be totally apathetic. The fire may not even rate a response from a police investigative unit. Patrol officers will respond to assist with traffic and crowd control, and most likely be mandated to write "the police report" in cases of criminal fires. Usually that report parrots what the fire department officials tell the officer. That report very seldom reaches the investigative unit (Hankins 24).

"Arson is the hardest crime to solve," Fire officials recite when questioned by the media. They'll continue with; "Fires destroy evidence of their own cause," "Fire and fire suppression jointly ruin all forms of physical evidence connecting the arsonist to the fire scene," "Arson is a clandestine crime with no witnesses," or "Prosecutors won't file charges and juries won't convict

unless there is a photograph of the arsonists with the match." Experience has shown that when an arson investigation fails to isolate a suspect, or a case is later lost in court, it is usually because investigators failed to take advantage of opportunities for information collection. Frequently, a fire scene is handled so poorly that no one can prove anything one way or the other. Unlike other types of criminal investigation, there is no fire academy that we know about that teaches new fire investigators how to investigate the crime of arson. It is hardly a mystery why year after year, the crime of arson has the lowest solution rate of the eight major crimes measured by the FBI. The actual conviction rate of arsonists may be less than 2% for every 100 known arson fires. This sorry situation translates to the street as an open license to set fires in many jurisdictions (Corry 41).

### **Review of Literature or Practice**

Why do people set fire to buildings? Few studies have been done, more should be. Those that exist suggest the following motives in descending order of frequency:

- Vandalism
- Revenge or spite
- Profit
- Mental Instability/Pyromania
- Concealment of another crime
- Violence/Terrorism (Woodward 31)

The drug wars are impacting fire investigation in urban and rural areas alike. Drugs lords are setting fire to the premises of their rivals, the drug refining process is highly explosive and flammable, and is causing fires, and investigators are facing dangerous armed felons when they respond to some of these scenes or try to make an arrest (Tri-Data 6).

Arson is one of the most difficult crimes to prosecute. It involves a great deal of work and requires unique expertise. A stealthy, cowardly crime, arson leaves very little direct evidence as



to the identity of the arsonists (Galvin 34). Often, the arsonist evades apprehension for months while investigators become increasingly frustrated by a lack of experience in handling these baffling cases (Icove 46).

It is very important to begin a fire investigation while the fire is still in progress. It is equally important that an investigator possess all the tools and equipment necessary to properly process a fire scene and to document evidence. The most important single ingredient is to follow a procedure that will help identify the fire origin, guide evidence collection, and provide documented leads about the person responsible for setting the fire. Fire investigation and arson investigation are related but are not the same. A large percentage of arson cases can be solved without knowing one end of a match from the other. Someone on an investigative team must be an expert in fire scene analysis and evidence collection in order to establish the incendiary cause of the fire (Corry 42).

Every public sector fire investigator needs to know that there are many individual fire and arson investigators and arson squads in this country that report arrests and convictions in a very high percentage of their cases. County fire investigation units in California, Florida, Massachusetts and other jurisdictions consistently report closing one half of all serious arson cases they investigate by arrest. Others report even higher clearance rates than that (Corry 41).

The success of the task force concept is well known. The U.S. Justice and Treasury Departments established the Church Arson Task Force in the spring of 1996 to address those fires. According to media reports, 199 suspects were arrested in connection with 150 investigations. Their reported 35 percent arrest rate was more than double the 16 percent general arson arrest rate. In addition, 110 of the defendants were successfully convicted (Hankins 24). Similar results were achieved by municipal and state task forces working on a variety of criminal

issues in addition to arson. The task force can be effective in dismantling jurisdictional questions concerning fire investigations. Assistance from two other sources can also be utilized.

Prosecutors and insurance representatives should be included in any public safety response to arson fires. Many task forces include them in their organization or at the very least, request consultation during the investigation. They are a valuable source of information and a successful prosecution mandates their inclusion.

There is an investigative approach for arson, which works best in most cases. It is exactly backward from the way that most fire investigators seem to work. Rather than trying to read the often-ambiguous signs of fire damage, a better approach is to use information gleaned from witnesses to guide both the fire scene examination and any criminal investigation. There is documentation in case after case where "statement-driven" arson investigations succeeded and "scene-driven" arson investigations failed (Corry 41).

In "statement-driven" investigation, emphasis is placed on identifying and taking statements from persons who saw the fire in its early stages. Using this approach, when investigators went into burned buildings to begin the origin and cause examination, they usually knew where the fire began, what it looked like in its incipient phase, what ignition hazards and fuel loads were present, attendant circumstances, who was present, and if there were any suspicious circumstances. The rest of the investigation seems to fall into place with vastly improved evidence collection results, more educated origin and cause examinations which often dovetailed exactly with witness observations; an understanding of what happened and a "bright line" trailer which often led directly to the arsonist. The rest was usually simple (Hankins 24).

A timely coordinated response to explosives and arson incidents was found to be crucial to the determination of the exact cause and origin of the incident and subsequent apprehension

of those responsible for the crime. In November 1978, ATF developed and implemented a national response capability by establishing two National Response Teams located in the Eastern and Western sectors of the United States. In 1980, ATF established four teams located in the Midwest, Northeast, Southeast, and Western Regions of the United States. This structure enhanced response capabilities and intensified ATF's assistance to state and local law enforcement agencies faced with major arson and explosive related crimes. Also in 1981, with the assistance of the U.S. Fire Administration, ATF selected and trained 20 "cause and origin" specialists to assist the teams. The resource of "cause and origin" expertise has proven invaluable in investigations where it is required, but is not available locally (BATF 1).

### **Discussion of Relevant Issues**

The success or failure of an arson case may depend on the quality of the fire scene investigation. According to North Carolina State fire investigator David Campbell, "if you don't have a good origin and cause determination, you don't have a corpus delicti [sic], and if you don't have a corpus delicti [sic] you don't have anything." If a quick confession is obtained, investigators may neglect to conduct a thorough scene examination. This is extremely risky, since the confession will be useless, absent proof that a crime was committed (TCFP 1995 - 2: 1).

Since ninety percent of all arson charges are proven circumstantially, prosecutors must recognize that the cause of the fire may be circumstantially established by the elimination of accidental causes, and by the introduction of other circumstantial evidence that indicates the fire was intentionally set (Hart 36).

Mary Galvin, a state attorney and successful arson prosecutor in Connecticut notes, "First and foremost to any successful anti-arson effort is the existence of an arson task force", and "It is critical that police and fire investigators respond immediately to the fire scene." Ms. Galvin

notes that when a joint effort is present, prosecutors stand a better chance of successfully trying cases without the "match-in-hand" evidence so frequently demanded by prosecutors before they accept a case (Tri-Data 29).

Combining investigative efforts in an Arson Task Force approach is a viable and proven method for addressing the problem of arson. We should not limit ourselves to coordinating activities with local fire departments, but should expand our focus to include the private sector. It is important to take full advantage of the resources available through other local, state, and federal agencies.

The El Paso Police Department assigned four criminal investigators and one Supervisor to their fire and arson investigation team. They were joined by an equal number of fire investigation personnel during the initial training and transition phase. The salaries of the personnel, cost of vehicles and equipment, office space and furnishings had been incurred previously by each department and did not require a budget increase. "Start-up" costs for uniforms, specialized equipment and training during the first year totaled \$25,800.00. It must be recognized, however, that these were costs incurred to shift total responsibility for fire and arson investigation, from one department to another within a large metropolitan area.

Creating a task force can be accomplished with the use of existing resources from within both agencies at minimal cost, such as was the case with the combined fire and police investigation unit proposed by the Fire Department in the city of Orlando, Florida. There was no initial outlay of funds or budgeting to implement an arson task force, and the only expense anticipated was the cost of moving two telephones (Tri-Data 61).

Often, a police investigator cannot be present at the fire scene. While this may be a handicap in the beginning, it in no way precludes a successful investigation based on fire

department, origin and cause, and insurance reports. In fact, after the initial fire scene investigation is made, an arson investigation progresses similar to other criminal investigations. However, arson investigations tend to be much more time consuming than many other criminal investigations due to their circumstantial nature. Since eyewitnesses are seldom available, it is critical that the environment in which the fire took place be fully explored. Not all evidence is lost in the fire; on the contrary, insurance and financial records frequently lead to a successful investigation (Woodfork 31-32).

By design, the task force combines the fortes of both agencies, teaming fire specialists and trained police investigators and assigning investigative case loads to be worked jointly. More thorough and effective investigations ensued, resulting in a higher clearance rate for an increased volume of cases. This conclusion is particularly significant in light of the fact that arson commonly has one of the lowest clearance rates in the Uniform Crime Report Statistics (Woodfork 31).

The most inter-action in regard to fire involves firefighters (as first responders and sometimes the best witnesses). Daily interaction with firefighters also provides an opportunity to train them in what observations should be brought to the attention of fire investigators. Since the crime of arson involves the "weapon" of fire, the majority of expertise will found be in the fire department, and this is a highly specialized area.

On the other side of this issue is the expertise of the police investigator. With a background of dealing with all types of people in a variety of situations, expertise in legal issues and the ability to systematically approach a criminal investigation, this is an asset not to be overlooked by the Arson Task Force.

The most difficult chore of each of these highly trained and qualified investigators is to recognize and respect the difference between the two professions, and have the ability and desire to blend and work together as a team with the difficult responsibility of solving the crime of arson. It would not be economically feasible to operate such a unit within a police department, as it would require far too many police investigators who must be cross-trained. It should also be remembered that the fire investigator is also a fire fighter and if the need arises, he/she can be utilized accordingly (Larson 10).

The task force concept is most often opposed due to the inference that it is a large-scale operation. This does not need to be the case. The task force may be composed of a minimum of two investigators. For larger fires or multiple events, i.e. "serial" arsons, staffing can be increased to meet the need (Hankins 25).

### **Conclusion/Recommendations**

The purpose of this research has been to demonstrate that although the crime of arson has surged since the middle of the century and continues to grow steadily; and billions of dollars are lost annually to this serious felony crime, the public safety community has yet to take notice.

In this age of limited resources and under budgeting, public service agencies are tasked with more responsibility each year. Administrators are forced to look for increasingly innovative ways to utilize personnel, equipment, and other resources to their fullest potential. While at the same time, providing the best possible service to ensure the safety of the public.

The problem lies in the fact that even though many agencies recognize the impact that arson has on our society, there is no coordination of effort between fire and police agencies to investigate these incidents. Each entity seems to believe that the responsibility lies with the other department.

The conclusion is that a concerted "bi-agency" approach to the crime of arson has worked, regardless of whether it is a two person investigative unit, or a national response team. Once each agency recognizes the attributes that their personnel can bring to a team effort, it is simply a matter of facilitating that cooperation between the departments.

Once these two agencies become the lead in fire and arson investigation in their jurisdictions, relationships can be developed with prosecutors, insurance industry personnel, etc. The entire community itself can be utilized as an unlimited source of assistance. Ultimately, fire scenes will be investigated more proficiently, cases will be worked more intelligently, and the increase in deaths, injury and dollar loss due to this crime can be reduced. The Holy Bible says it best in The Second Book of Moses: Called Exodus 22:6-6 "If fire break, and catch in thorns, so that the stacks of corn, or the standing corn, or the field, be consumed therewith; **he that kindled the fire shall surely make restitution.**"

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## APPENDIX

Personnel from forty-five law enforcement agencies in Texas were asked to complete an informal survey between April 1997 and April 1999. The information gained is reflected below.

<b>Population served (city/county)</b>	<b>Number of agencies</b>	<b>employs fire/arson investigator</b>	<b>must seek outside resources</b>
<b>up to - 15,000</b>	<b>15</b>	<b>6</b>	<b>9</b>
<b>15,000 - 50,000</b>	<b>16</b>	<b>3</b>	<b>13</b>
<b>50,000 - 300,000</b>	<b>10</b>	<b>3</b>	<b>7</b>
<b>300,000 - 500,000 &amp; up</b>	<b>4</b>	<b>0</b>	<b>4</b>
<hr/>			
<b>Total</b>	<b>45</b>	<b>12 (26%)</b>	<b>33 (74%)</b>