

Fall 1951

## Arson Investigation in Selected Cities

Kuan-lou Lee

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Kuan-lou Lee, Arson Investigation in Selected Cities, 42 J. Crim. L. Criminology & Police Sci. 407 (1951-1952)

This Criminology is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

# ARSON INVESTIGATION IN SELECTED CITIES

Kuan-lou Lee

The author holds a degree of Master of Science in Public Administration from the University of Southern California and is a graduate of the Chinese Central Police College and San Jose State College. At the present time he is pursuing graduate studies at American University, Washington, D. C. This is the concluding portion of his study on arson investigation which is based upon his thesis prepared at the University of Southern California.—EDITOR.

(CONCLUDED FROM JULY-AUGUST ISSUE)

## III.

As mentioned in the foregoing sections, should arson investigation be a function of police or of fire department has been a problem prevailing in the field of criminal investigation. In order to develop a constructive solution for, and to clarify, both in theory and in practice, this existing confusion arising from the jurisdictional controversy on the matter of arson investigation, first, it is necessary to explore and to simplify the sequence of the investigative processes pertaining to the crime of arson.

In arson cases, the proof of the fire caused by the willful criminal act, or corpus delicti, and the identity of suspect as the one responsible for the fire are the two major elements which the prosecution must establish.<sup>16</sup> From the standpoint of evidence, a decisive factor to the success or failure of arson prosecution, the sequence of the processes of arson investigation may be diagrammed as in Table 3.

Table 3.

Fire		Suspect		Court decision
1 Discovery of the cause of fires and recognition of evidence	2 Selection, collection and preservation of evidence	3 Apprehension of the criminal	4 Presentation of evidence to district attorney	5 Legal identification of the suspect on the basis of evidence
Arson detection		Criminal investigation		Prosecution

Secondly, the knowledge, techniques, and experience necessary to the satisfactory performance of each process of arson investigation have to be taken into consideration.

The determination of the cause of fire requires a wide range of knowledge closely related with the subject of fire prevention as well

16. William C. Braun, "Circumstantial Evidence in Arson Cases," *The Journal of Criminal Law and Criminology*, 41(3):226 (September-October, 1950).

as fire-fighting experience. "No attempt has been made to exhaust the list of possible or even probable natural cause of fire, if indeed there is such a list."<sup>17</sup> However, the basic knowledge on natural or accidental fire causes such a radiated heat, mechanical friction, electricity, chemical reactions and spontaneous ignition is of vital importance to the understanding of causes of fire other than accidental origin. It also gives clues to the gathering of evidence of an incendiary fire. In order to facilitate the prosecution, the processes of gathering evidence, physical or circumstantial, necessitates legal knowledge pertaining to the law of evidence and the techniques of recognizing, collecting, and preserving it. It is not expected that the investigator should be a lawyer or an expert in all scientific subjects, but he is expected in every case to know what evidence will be required, what are the legal requirements for it, what the technicians can do to assist him in the solution of his case, and how he should submit evidence in such condition that the maximum amount of information can be obtained from it.<sup>18</sup> The success of apprehension of the criminal depends on the knowledge, techniques, and experience of criminal investigation and identification. And, when an arson case comes to the stage of prosecution, it involves the question of legal procedures and the application of law.

Thirdly, after exploring the sequence of the investigative processes in arson cases and determining the qualification required for the performance thereof, one must seek to answer the question, "Who is better trained and qualified to perform each process of arson investigation?"

There is little doubt that fire fighting and fire prevention are the responsibilities of firemen. With training and experience, firemen while working at the scene of a fire could gather information needed to determine if investigation by the arson unit was warranted.

The purpose of the firemen's observation of the facts at the scene of a fire is twofold. First, it expedites immediate recognition of fires of suspicious origin and also aids in locating evidence of fire causes, so that care can be taken in the use of hose streams to avoid the possibility of destroying potential evidence. Secondly, further investigation by the arson unit is facilitated by this information from the firemen.

The importance of the roles which trained and experienced firemen play does not mean that they can also be a trained investigator, but it

17. *Judging the Fire Risk*, Federation of Mutual Fire Insurance Companies, Chicago, 1949, p.4

18. Lloyd M. Shupe, *The Recognition, Collection, and Preservation of Physical Evidence*, a paper reproduced by the Public Safety Institute of Purdue University, Lafayette, Indiana, 1949, p. 2.

does mean that they can play a highly important part in detecting arson cases. Since it has long been recognized that criminal investigation and apprehension are the policemen's job, and the prosecution of criminal, a duty of the district attorney, these points demand no further comment.

However, police duties at fires need be mentioned briefly here. Through modern communication systems, the fire alarm comes in at almost the same time to both fire and police departments. But the policeman on the street is usually the first official representative of the city at a fire.<sup>19</sup> The regulations<sup>20</sup> prescribe that the policeman shall, "when he discovers or has his attention called to a fire requiring an alarm, hasten to the nearest fire signal box or telephone and send in an alarm. After making provisions for the direction of responding fire apparatus to the fire, he shall proceed immediately to the scene of fire."<sup>21</sup> Police department usually assigns a precinct chief or a lieutenant responsible for the proper policing of the street in the vicinity of such fires and see that the fire department is not interfered with in its work.<sup>22</sup> This end is achieved through the establishment of fire lines and through the control of traffic so that no unauthorized person or vehicle will be admitted within fire lines. The officer in charge at the fire "shall detail members responding to fire so that police duty will be efficiently performed, that life and property will be protected and the commission of crime prevented."<sup>23</sup> When it is believed the fire is of incendiary origin, the police officer "shall take necessary measures to safeguard evidence, and inform the desk officer for notification to fire marshal and the precinct squad detective on duty to investigate."<sup>24</sup> However, "a member of the (police) force shall not independently enter upon the premise where a fire is in progress for the purpose of seeking evidence of incendiarism or other information concerning the origin or cause of the fire. . . . Such information shall be obtained from the officer of the fire department in charge."<sup>25</sup>

In a report to the annual meeting in 1940, the arson committee of the

19. It would be interesting to know the result of a special analysis of who discovered the fires in unsprinkled buildings in the pamphlet, "Must Stores Burn?" published by the National Fire Protection Association, the following results were shown:

Discovered by outsiders or police.....	838
Discovered by occupants or employees.....	623
Discovered by watchmen .....	66
Discovered as the result of an explosion.....	47
Discovered as the result of animal alerting humans.....	2

20. The contents of police regulations dealing with the handling of fires are very much the same. In this section both San Francisco's and New York's are quoted.

21. San Francisco's Police Rules and Regulations 413.

22. *Ibid*, 185.

23. *Ibid*, 418.

24. New York Police Rule and Regulation, Article 40, H.

25. *Ibid*, Article 318.

Fire Marshals' Section of the National Fire Protection pointed out that "The average police officer is deficient in the practical aspects of fire techniques, . . . and the average firemen or fire officer is deficient in the knowledge of legal procedure." However, on the firemen, to a great extent, will rest the responsibility for performing certain important detection duties without which the trained investigator will always be seriously handicapped. "The responsibility of the firemen, then, is arson detection rather than arson investigation."<sup>26</sup>

It is now clear that neither policemen or firemen are proficient in every one of the investigative processes employed in arson cases. The determination of whether arson investigation be solely a police function or exclusively a fireman's responsibility does not provide an answer to the basic problem. Successful arson investigation requires positive cooperation between a municipality's police and fire departments.

#### IV.

Complaints are frequently heard, from law enforcement agencies, concerning the delays and ineffective prosecution of arson cases by the prosecutors and the courts. This difficulty stems largely from a lack of adequate evidence so that even the best prosecutor is frequently unenthusiastic about taking to court a weak or borderline case. Once a Chinese Minister of Justice had told me that in his opinion that justice cannot be achieved in any country without impartial efforts on the part of the law enforcement officials, and the success of the criminal prosecution depends much on the evidence which the law enforcement agencies have gathered and submitted to court.

The state fire marshals may help, or render technical service to, the local officials to investigation arson upon request. But from the administrative standpoint, it is a costly operation to maintain more than one arson force within a city which would be the case if the state fire marshal intervenes. And, of course, there are other undesirable consequences of this practice.

As practiced in the majority of the American cities, the responsibility for arson investigation has been placed on the fire department, due to the fact that the chief of the fire prevention bureau is legally an ex-officio fire marshal in the city. This may be ascribed to the influence of the state fire marshal law.

It must be admitted that there are certain functions in the whole process of arson investigation which the police or fire department per-

---

26. *The Firemen's Responsibility in Arson Detection*, National Fire Protection Association, Boston, 1949, Forward.

sonnel may do better than the other, but without full co-operation between these two uniformed forces in the city, the investigation of arson tend to be incomplete, and the prosecution, ineffective. As Table 3 has shown, the relationship between the police and fire departments forms an inseparable link in a course of investigation, if this is broken, so would be the link in the chain of evidence. Police and fire departments each have their place in, and must make their contribution to, arson investigation. Without these cooperative efforts, the protection of life and property will not be sound.

The Arson Committee of the International Association of Chiefs of Police has continually urged "the fullest cooperation between the police and fire departments in the investigation of fire."<sup>27</sup> It also advocates "the establishment of an arson squad in all police departments to handle this specialized form of crime."<sup>28</sup> There are reasons behind this advocacy. First, without special knowledge and experience, amateur crime detectors cannot cope with the professional criminal of today. Secondly, arson might be committed in connection with other crimes, or the arsonist might have a previous police record. Thirdly, processes of arson investigation, from beginning to end, follow criminal procedures step by step which might take a long period of time, or require a considerable amount of human effort. After service has been rendered in the early part of an investigation of arson, it would be functionally and economically unsound for the fire department to continually engage in criminal investigation. All these indicate that the International Association of Chiefs of Police's position relates to two major essentials of effective arson investigation, namely: (1) The functional fitness of the organization; and (2) the professional specialization of the investigators.

Since from the detection and investigation of the crime of arson until the end of its prosecution, each case is to be taken from the fire and/or police departments to the prosecuting attorney's office, the question may be raised as to whether or not the arrangement of assigning the fire and police officers to the arson squad under the command of a prosecuting attorney as currently practiced by the City of Chicago is a superior type of organization for arson investigation. Every police student would appreciate the importance of securing the cooperation of the prosecuting attorney's office, and it can be readily imagined what a chaotic condition would result if the police officer fails to possess legal knowledge required in connection with the investigative duties he is assigned to per-

---

27. Arson Committee Report, International Association of Chiefs of Police, 1947, p. 5.

28. *Ibid.*

form. Should the investigation of arson require the leadership of the prosecuting attorney for its effective performance before the case is materialized, why not the investigation of other crimes? This is hardly true. The location of an arson squad in the prosecuting attorney's office tends to sacrifice the initiative of the fire and police officers because such an arrangement places responsibility for arson investigation in the hands of a layman in order to obtain the somewhat dubious advantage of familiarity with legal knowledge and procedures.

There is another question which remains to be answered: Is the joint arson squad comprised of the fire and the police officers physically located in either one of these two departments a most satisfactory solution as to the organizational problems of arson investigation? Indeed, the joint squad could secure a better cooperation between the police and fire departments in arson investigation, but would the administrative control be a problem in the joint squad?

Under the direction of a police inspector-detective the Detroit joint squad operates smoothly. This joint squad consists of five teams, in each of which, a police detective and a fire inspector are assigned; the inspector-detective in charge of the joint squad seeks to maintain a close contact with the City Fire Marshal. The police detectives and the fire inspectors assigned to the arson squad work harmoniously together and encounter few serious problems of administrative control.

From both the theoretical and practical points of view, the combination of the technical knowledge and the special experience of the police detective and fire inspector provides an opportunity to increase the efficiency of arson investigation. This arrangement enhances the strength of law enforcement effort and provides a superior type of organization. The inspector-detective in charge of the Detroit arson squad recently observed: "If we do a good job, it is because of two things alone. We investigate a great many fires, and we do not rely on the fire department or fire-fighting officers to tell us what fires to investigate, and we get to the scene fast and stay on the case until it is complete."<sup>29</sup>

Among other factors underlying the efficiency of an arson squad as mentioned sporadically in previous sections, the competent personnel, the time factor, and the quality and quantity of the work are most important ones. The importance of competent personnel in arson investigation is only second to that of the adequate arson law. The strength of any organization is simply the aggregate strength of the individuals who compose it. As generally recognized, the competency of the special

---

29. Letter of R. K. Goeriz, Inspector-detective of Detroit Arson Squad, to the writer, September 13, 1950.

agents of the Arson Department of the National Board of Fire Underwriters is a major factor to the success of the Board. Law enforcement agencies should devote more efforts to the development of adequate programs for recruitment, selection, and training of arson investigators, which will meet the minimum standards commonly agreed upon. Unless this is done so that a specific classification in the service is set up for arson investigator, an incentive salary scale is offered to attract the competent personnel, there is little hope to improve the quality of arson investigation in the organization concerned.

Another consideration affecting the success of fire investigation work is the time factor. The investigation of a fire cannot wait. It must be started as soon as possible after the alarm. This explains why the work of an arson squad is far more satisfactory than those performed by other units responsible for a wide range of other duties.

The third effective deterrent in the efficiency of an arson squad is the quantity of the investigation. However, the quantity of investigation will have no definite weight in efficiency if competent investigator has not been secured. Of course, many fire marshals or law enforcement officials have critical problems, particularly as to manpower, but the work cannot be done effectively until fire investigation extend beyond merely those fires which are thought to be suspicious by the fire-fighting officers. The situation in Philadelphia that 6,604 out of her total 11,530 fires in 1949 marked "cause undetermined" reminds us of this point. The value of investigating as many fires as possible is twofold; first the investigators get wide experience in investigating all kinds of fires, and secondly, the public is thereby made conscious of the presence and activities of the investigators, and this acts as a powerful deterrent to acts of arson.

The above findings concerning the factors underlying effective arson investigation are in accordance with the following statement expressed by A. Bruce Bielaski, Assistant General Manager of the National Board of Fire Underwriters, contained in a letter sent to the writer.

There are certain features which enter into the efficiency of the investigative work: one, the competency of the investigator; two, the presence or absence of the political influence in prosecutions; three, the energy and capacity of prosecuting attorneys; and four, the different standards prevailing in different states and sections of the country.

Although the second and the third points of Bielaski's statement are beyond the scope of this study which deals mainly with the administrative problems of arson investigation, the law enforcement's efforts involved in arson cases are by no means free from the orbit of political influence.