

1956

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Recommended Citation

Thomas J. Feeheley, *Suggestions for Improving Arson Investigations*, 47 *J. Crim. L. Criminology & Police Sci.* 357 (1956-1957)

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POLICE SCIENCE

SUGGESTIONS FOR IMPROVING ARSON INVESTIGATIONS

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Competent, experienced criminal investigators are in agreement that arson investigation is very complex. In most instances good, straight forward thinking will carry one over the investigative hurdles.

Two important points to be considered which constitute successful arson investigation are knowing what evidence must be gathered, and, secondly, to be able to give competent testimony as to the evidence gathered and in doing so be able to impress upon the court and jury that the entire investigation has been one of an impersonal nature. The most important aim or duty is the proper collection and preservation of evidence. By the successful completion of this duty the investigator provides the greatest assistance to the prosecutor. The investigator is an important cog in the wheel of justice, and if he has discharged his duties well, he can derive a great deal of satisfaction regardless of any decision reached by the judge or jury with reference to the guilt or innocence of the subject.

Mention has been made of the collection and preservation of evidence. Heffron, in his book, *The Officer in the Courtroom* has set out a definition of evidence which clearly explains the term and outlines the objectives of the investigator.

“Any species of proof or probative matter, legally presented at the trial of an issue, by the acts of the parties and through the medium of witnesses, records, documents, objects etc., for the purpose of inducing belief in the minds of the court and jury as to their contention.”

A few hints and suggestions should be considered which will often make the difference between a mediocre investigation and a good one, thus affording a better opportunity to achieve success. The investigator's knowledge, initiative and interest play a major role in the satisfactory handling of any criminal investigation.

NOTEBOOK

Among the hints and suggestions contained herein would be the notebook. The notebook is of great importance to the investigator since no investigation could be considered complete without its use.

The notebook must be identified so as to prevent its permanent loss. While this is

a rare occurrence, it has been known to happen. If the notebook is properly identified, there is a greater chance that it will be returned. No good report was ever written without the use of notes, so the added precaution should be taken to properly identify it.

The type of notebook, whether loose leaf or permanent binding, is a matter of choice or regulation. Some people are less apt to talk freely at the sight of the investigator's notebook, but when one of large proportions is produced this hesitancy may increase many times. Thorough notes should be taken in a discrete manner. The date, time, and place of each interview should be noted in addition to a list of persons present. It is best to begin each interview on a separate sheet of paper. The more descriptive data the better as there is usually some time between an investigation and court action which follows. One will appreciate his thoroughness when the time comes to refresh one's memory about a certain interview.

Model penmanship is not necessary in note taking, but some effort should be made to keep the notes legible. Abbreviations and symbols are acceptable if it is easier, but one should consider that the case might later be assigned to another investigator and he might have to depend upon the notes for his information. He might decipher most of the symbols and abbreviations, but he could overlook some pertinent point.

Notes should not take the place of a statement but rather should be used to supplement the statement. Notes by the investigator used on the witness stand may be made part of the evidence, and the defense counsel has the right to examine all the notes. One should be certain that the notes produced pertain only to the case at hand.

FIRE SCENE

Another consideration in an arson investigation is the fire scene. There is nothing mystifying about the procedure of surveying the scene and determining the cause and origin. It is the investigator's attitude regarding the scene that might result in the uncovering of evidence and clues or overlooking them. Some may rush into the scene in a disorganized manner thus accomplishing nothing and possibly adding confusion. Worst of all, whatever evidence exists might be destroyed. One should stand back, look around, get a good perspective of the situation, and then proceed to make a methodical search and examination of the area. A planned inspection of the fire scene is always necessary. The area should be segregated into sections, and the findings in each section should then be integrated. Hastiness might cause one to overlook something of value.

The fire scene must be protected pending inspection and examination by the criminal investigator. This is doubly important if the fire scene search is to be fruitful. Unauthorized persons must be kept from the area. Objects which have been disturbed, tampered with, or contaminated may be made to look very weak in the courtroom. Also, they might not be admitted into evidence. Around the clock guarding and protecting might be necessary pending the arrival of the trained investigator so that the evidence is properly developed and preserved. Nothing is so discouraging as to come upon a fire scene only to find that the debris has been removed and all that remains is the foundation. Unfortunately, some investigators feel it is useless

to go ahead with an investigation when the fire scene has been disturbed or left unprotected.

DIAGRAMS AND SKETCHES

By preparing diagrams and sketches of the fire scene the investigator may be able to reconstruct the original scene and possibly determine the cause and origin of the blaze. In the event objects or other evidence is found, the location should be indicated on the diagram or sketch. When such notation is made there will be no confusion when this point arises at a later date. By forceful, direct testimony and the use of the diagram or sketch, one will reduce the possibilities of error and misunderstanding to a minimum.

PHOTOGRAPHS

After the sketch or diagram is made it is time to put the camera to work. Each investigator might have a different choice of camera to use, but in any case he should not overlook the importance and usefulness of photographs. Some investigators hesitate to photograph important evidence because they think they are not properly qualified to do so. If such is the case, keep in mind that in urban areas the investigator is quite likely to find that the services of police and many fire departments are readily available to do the required photographic work. It is usually not advisable to employ the services of the press photographer or the amateur because of possible subsequent embarrassment.

A reasonably good photograph is worth innumerable words when the fire scene is to be described. Many courts have become more lenient in admitting photographs as evidence, consequently it is not necessary to be a professional photographer. Essentially, the requirement for admissibility is dependent upon whether the scene is accurately portrayed. If the investigator does his own photographic work, he should become very familiar with his camera and its limitations. Properly identify each photograph but place such descriptive data on the back of the print. Such markings as arrows, notations, or numbers placed on the face, which are not misleading, might not necessarily render the picture inadmissible. However, it is suggested that photographs which are to be offered as evidence be free from such markings.

There is a danger in having too many photographs. The defense attorney might ask if the photographs present in the courtroom are all that were taken regarding the case in question. If they are not, he could demand all of them pertaining to the investigation be made available and at the same time suggest there was hesitancy on the part of the prosecution in revealing the complete photographic evidence. Also he might attempt to infer that only prejudicial photographs are being presented.

LABORATORY ASSISTANCE

Some emphasis should be directed toward the facilities of the crime laboratory. There have been great discoveries made in this field for the investigator's benefit. It would be a definite oversight on the part of the investigator not to give consideration to the use of these facilities. If there exists the slightest possibility that a laboratory examination will be beneficial, by all means call upon the laboratory technicians whenever possible. Let them decide for or against any examination.

Inform the laboratory as to what the investigator is attempting to establish through analysis. It is important to advise of the circumstances under which the specimens were discovered or gathered and to have it properly marked and identified. In some instances the quantity of the specimens may be so small that there can be only one test or analysis. By being aware of what the investigator is trying to determine, the technician will be in a position to apply the most suitable process to decide the point in question.

Further emphasis should be placed on the protection of the evidence in transporting it to the laboratory. The technicians work under certain limitations, therefore, if specimens are received which have been contaminated, either by accident or negligence, one cannot expect the best results. Used properly, the laboratory and its personnel can be of great assistance. The competent investigator will familiarize himself with the various facilities the laboratory offers.

INTERVIEWING WITNESSES

After the investigator has gathered all available facts and evidence at the fire scene, he should consider interviewing the various witnesses with the object of developing information which will direct the investigation toward the proper solution of the case. In the investigative field there is a distinction made between interviewing and interrogating. The interview is, in effect, the method by which the investigator obtains information that reveals the facts of the case. To accomplish this, one must use the "information seeking" interview, usually on an informal basis, to question suspects and witnesses. The criminal interrogation is different from the interview in that the interrogation is concerned with the legal aspects of questioning the suspects.

There are numerous types of witnesses who might confront one during an investigation. Some are reluctant, belligerent, and even hostile. At this point one may have to apply whatever ability he has in the "sizing up" of the witness. It is possible to eliminate a difficult problem by the application of a little "investigator's know how." This approach could be of major importance as it may be necessary to decide if a witness can be considered friendly or hostile, creditable or otherwise. Much good information may come from an unreliable source so one must give deep consideration to the possibility of placing such a witness in a vulnerable position in the courtroom. The investigator, by extending himself a bit further, might find another witness who could furnish the same information and is reliable.

When the investigator is confronted with a very talkative witness, he should be on guard not to let the interview get out of control, or he might well be the one who is ultimately interviewed. One should be cordial and yet firm in his attitude in order to give the impression that the matter at hand is important and his cooperation is desired. Oftentimes it is necessary for the investigator to be a good salesman to sell himself and his objectives to the witness. It is important that the investigator be prompt for any appointment he makes. Unnecessary delay can be very annoying and may develop undesired irritation between the parties concerned.

A friendly witness is a great asset to the investigation; therefore, the investigator

should exercise caution so as not to antagonize the person who, if given the opportunity, will supply one with what might be valuable information. Pertinent facts can be developed by direct questions that will stimulate the witness' memory. This is necessary if one is to obtain the complete story. Once the investigator has the witness answering his questions quickly and willingly, he is well along the way to a successful interview. By casually determining the place of employment, marital status, age, and the address of the witness the investigator probably has the person talking freely to the extent that it is then possible to get to the crux of the interview.

There have been occasions in which the investigator has accepted the witnesses' statement as being final only to find later that the information was misleading either by intent or by a faulty memory. One should take the precaution to verify the important facts of the interview so that the investigation can continue on a solid basis. There will be instances in which the investigator is confronted with a witness who has every intention to be helpful but can only supply opinions and rumors that have no apparent foundation. At this point the investigator must be alert to separate rumors from fact and at the same time maintain an open mind to the extent that a rumor or opinion might furnish one with an important lead.

The investigator may find it necessary, but inconvenient, to re-interview a witness. One should make every effort to secure all available information during the initial meeting as time and circumstances might later result in a change of attitude on the part of the witness. However, do not hesitate to consider a re-interview in the event there are conflicting statements made during the first meeting.

A good way to conclude an interview is to present the very general question, "Is there anything else you think the investigator should know about this case?" This could eliminate an embarrassing situation for the investigator in that the person who had supposedly been thoroughly interviewed offers new and vital information. When asked why this data was not offered during the first interview, one might find the interview was concluded prematurely thereby not suggesting to the person one last thought provoking question and the opportunity to present further information.

A question the investigator believes to be routine might divulge information of extreme importance. It is best not to underestimate the knowledge of the witness or assume that his answer will shed no further light on the subject at hand. Some questions asked might be so routine as to give the impression of naiveness on the part of the investigator. However, this can work to his advantage in that the witness might feel proud in revealing a pertinent fact.

On occasion the investigator will find himself conducting the proverbial "fishing expedition" when interviewing the witness. He tries not to indicate to the person how meager his knowledge is, and at the same time he is not sure as to what he is attempting to discover from the witness. He is, in effect, "fishing" for a lead. The "fishing expedition," like any other interview, must be planned to be effective. Once the investigator has brought out a certain point, he then can broaden his interview to obtain additional facts. It is after such an interview that the investigator will likely have considerable rumors and opinions. He then has the problem of determining if he has developed new leads. One often goes fishing for a whale only to catch a minnow, and so it is with the investigator's fishing expedition.

INTERROGATION

The primary concern with reference to the interrogation is the choosing of the time and place. This cannot be overemphasized. If at all possible, the investigator should be the person to make this decision. It is a definite disadvantage to the investigator to interrogate the subject in surroundings familiar to him. It might give the added confidence he needs to successfully evade the investigator's questions.

The investigator should enter into the interrogation knowing that he had complete knowledge of the facts so far developed. However, seldom does the investigator have all the facts. He must guard against the subject realizing this. It is difficult for the unprepared investigator to detect conflicting statements made by the suspect during the interrogation.

Generally, in arson cases it is the first crime of any sort in which the perpetrator is involved. This condition can be an advantage to the investigator in that the person will talk freely in an effort to create the impression he would not be implicated in a crime such as arson.

The investigator should remove all side arms before beginning the interrogation. This lapse of memory may void the confession in the eyes of the court as it might constitute coercion or duress. The investigator's intentions, however fair, might be questioned and the case weakened. Seldom does the investigator have occasion to use handcuffs in arson investigations, but if the situation does require restraining measures, it is advisable to remove them during the interrogation. If the suspect is thought to be dangerous, it is advisable to conduct a thorough search of his person at the time he is taken into custody.

The investigator must exercise patience and perseverance. There are occasions in which a few more minutes of interrogation might have resulted in a confession. When one feels exhausted and that it is useless to continue, that is the time to make up one's mind to give it one more try.

Taking notes is an important phase of the interrogation but be somewhat cautious of producing the notebook until one feels the suspect will not object. The notes will be of great importance to the investigator at the time he reduces the statement to writing. They will also be useful in determining discrepancies as the suspect repeats his story.

STATEMENTS

Even though one's efforts are not successful in obtaining a confession or admission it is advisable to prepare a written statement as to the facts related by the suspect. This is one of those instances which reflects the difference between the mediocre and the good investigation. The investigator should keep in mind that although the statement might not be one of implication, it could be of value in a negative sense. It is also sometimes wise for the investigator to take a statement from an individual even though the information set out is known to be false. By having the person swear to and sign such a statement, it might be used as a wedge to obtain the true facts once the suspect is advised that it is a criminal offense, possibly a perjury charge, to swear to a false statement.

It is suggested that the investigator preface the statement with personal data that

only the person making the statement would ordinarily know. This might include education, age, place of birth, name of husband or wife, telephone number, relatives, employment, and social security number. This type of information would be an indication of the willingness of the person making the statement. It would also be useful to the prosecutor when the time arrives to locate the witnesses.

Some investigators prefer to have the statement made before a court reporter or assigned stenographer. However, in some instances neither will be available which leaves the responsibility of taking the statement to the investigator. Although theory tells us that it is advisable for the subject to write the statement, many investigators feel that it is best that they take the responsibility of preparing the statement. By this method the investigator can feel that the facts are suitably explained and correctly stated. Some investigators feel that it is best to begin the statement with words that indicate the statement was made freely and voluntarily and end the text with the words no force or duress was used in obtaining the statement and that it has been read by the subject.

If the investigator finds that he must write the statement as dictated by the subject, he must be cautious not to inject language not characteristic with that of the subject. The suspect's education might be limited to the extent that he would not understand fully the contents of the statement. This could impair the admissibility of the statement as evidence in the courtroom in that the subject could claim the statement was not his words but those of the investigator.

Some investigators think it is advisable to intentionally make an error on each page of the statement and have the subject or witness initial the correction. This could be further indication to the court that in order to initial the correction the statement was read by the witness. One should obtain the individual's signature as quickly as possible without any fanfare. The more time allotted the person to decide the pros and cons of affixing his signature the greater the risk he might refuse.

In some cases the subject will admit to several offenses other than arson. It is advisable to take separate statements with reference to each incident. If there is more than one fire involved, one should also take separate statements regarding each occasion. The general statement which includes all offenses might be challenged in the court and not admitted as evidence because of this technicality.

COLLABORATING A CONFESSION

There is a tendency on the part of some investigators to consider the investigation complete after obtaining a confession. One must not forget that he still has the task of corroborating the information set out in the confession. This confession alone, although vitally important, is not sufficient for a guilty verdict unless it is shown the contents are factual and substantiated by evidence. The investigator should also consider that an oral statement made before investigators can be as important as one in writing. In either case the investigator will probably have to testify to the facts relating to the circumstances under which the statement was made. He should be particularly accurate when giving such testimony since he may not know how previous witnesses have testified on this subject. An error at this point might void his testimony.

ARREST OR CUSTODY

In the event the investigator obtains a confession which will be the basis for issuing a warrant and placing the individual under arrest, he must consider the problem of incarceration until such time the hearing can be conducted. It is at this point one could possibly weaken the case by allowing the person his freedom on a promise to appear at the required time. Such a situation, when brought out by a defense counsel, might be used to show or indicate to the court the little importance or seriousness the investigators placed on the crime. It is best to avoid such circumstances.

LIE-DETECTION TESTS

The lie-detector has in recent years become an important investigative aid. Accept it as an aid and not as a substitute for good investigation. The investigator will be wise if he does not place all his hopes on the results of the lie-test. There have been occasions in which the machine has failed to produce either confirmatory or contradictory evidence even after deception was indicated. However, generally the results of the tests have been most encouraging.

Lie-detector examination by appointment has proved to be our greatest obstacle to its successful use. Once we have the subject in the position of agreeing to submit to such a test, it is advisable to conduct the test at the earliest possible time so as to prevent the subject from discussing the advantages and disadvantages of the examination. Almost without exception his attorney's advice will be to decline taking the test. The arrangements for the test should be tentatively set at the time and place of the interrogation in order to keep the delay at a minimum.

Obtain a statement and question the subject thoroughly before suggesting the lie-test. One may not have the opportunity for further interrogation. Over-zealousness may work to our disadvantage. The subject may have a physical or mental ailment not known to the investigator or the lie-detector operator which would result in an inconclusive test. This gives the person a distinct feeling of confidence in that he has complied with the investigator's request, and there is no further indication he has knowledge of the fire.

There have been occasions in which confessions have been obtained in the pre-test interview. This is usually accomplished by the experienced examiner who has been thoroughly familiarized with all facts of the investigation. Be cautious of the indiscriminate use of the machine. It is not always advisable to employ it. One should allow the circumstances of the case to dictate its necessity.

PUBLIC RECORDS

There is much information that would furnish the investigator leads which is a matter of record either public or private. In both instances it is usually available to the investigator and can be a valuable investigative aid, consequently should not be overlooked. In arson cases the use of records appear to be more important than in most other crimes. One begins by checking fire department records and progresses through the bank, business concerns, credit reporting agencies, newspaper offices, police departments, realtors, court house, and any others thought to be important.

At the fire department one would want to determine if the person has a previous

fire record, and if so, what were the circumstances of the fire. The investigator will want the exact time and the person's name who reported the fire under investigation. At the bank one will attempt to determine if the person has applied for loans and, if so, was the request approved or denied. If the loan or mortgage has been denied, for what reason was it denied. The banks are usually quite conservative with their loans, and when a denial is made it is usually for a very good reason. Determine the activity of the personal or business checking account. How many of the checks have been returned for insufficient funds? Is there a personal savings account, and what is the balance?

Possibly the suspect has placed the building in the hands of a realtor for sale. The investigator will want to know full particulars regarding the agreement between the suspect and the realtor as to the price asked and what is involved in the sale.

Gather all the facts with reference to the insurance maintained by the suspect. Not all arson cases are the result of attempts to collect insurance, but a very representative number are. Determine if the amount of insurance is excessive or has been increased shortly before the fire occurred. There have been instances in which the building owner or occupant has acquired insurance from two or more agencies without either knowing that duplicate policies exist on the same property. This could be an indication that the fire was something other than accidental. It certainly bears further investigation.

If the fire involves a business concern, one will want to determine the suspect's relations with his buyers and suppliers. This might disclose heavy indebtedness thus indicating a motive for having a fire. We might also find that the owner was heavily stocked with obsolete merchandise which could not be disposed of through normal channels. Credit reporting agencies, although not always complete, can supply leads as to the financial status of the assured and his credit rating in the community. Certain agencies are best suited to report on the business itself and others are more complete on the individual. It is here that previous records of bankruptcy might come to light.

Visit the newspaper offices if you have reason to believe that the owner or occupant has attempted to sell the business or building. A newspaper ad usually describes the property and a selling price indicated. The amount of insurance carried may be far in excess of the selling price listed in the ad. The willingness of the owner to sell may not always be a desire to retire or for profit but an attempt to discard a failing business. Obtain copies of such an ad. It could be useful during the interrogation. The newspaper story of the fire under investigation is a valuable addition to any investigative report.

Police department records should always be checked during the course of the investigation. It is important for the investigator to know if any of the suspects or witnesses have criminal or arrest records. It could change the course of the investigation as it may reflect on the creditability of the witnesses or the previous activities of a suspect.

The court house records may often be very enlightening. Here one will find records of mortgages as they are almost without exception registered. Also indicated might be law suits in which the owner is involved. The actual owner of the property in

question can also be determined in many cases. Bankruptcy proceedings are usually mentioned. Also if the property is in the hands of receivership. All these record checks may be of consequence as there have been cases in which this type information has been used in showing the corpus delicti in the court room.

WRITTEN REPORT

At sometime or other during the course of one's investigation it will be necessary to prepare a written report of the facts so far developed. The report of the investigator is usually indicative of the thoroughness of the investigation. Some have the ability to write a report which looks interesting on paper, but they often fall short in conducting a complete investigation. Others are able to carry on an exhaustive investigation, only to find they are unable to clearly report their findings. A brief, but not all inclusive, method by which the investigator can usually express himself is by explaining the following points: Who; When; What; Where; How; and Why.

COOPERATION WITH PROSECUTOR

Cooperating with the prosecutor is of primary importance to the success of the investigation. He is the person to advise what additional information is needed for prosecution. One should ask his advice as well as seek his suggestions and collaboration. He must depend on the investigator's findings when making his decision as to how the matter shall be handled by his office. The prosecuting attorney must have facts. It is he who depends on the ability and sincerity of the investigator to produce such evidence as may be necessary to present the case before the court or grand jury. The investigator is in effect, a representative of the prosecutor.

The competent investigator must have a thorough knowledge of the rules of required proof and evidence. However, this should not deter him from gathering all information or facts obtainable even though they might not be acceptable as evidence in a court of law. The investigator should report all his findings because the prosecutor will want to decide their significance.

AS A WITNESS

If the investigator is called on to testify his presentation is expected to be better presented and more complete than most ordinary witnesses. This duty is as important to the successful prosecution of the case as the actual arrest or investigation itself. When the occasion arises for the investigator to act as a witness, the question arises as to how he should prepare himself to perform this duty. The initial preparation begins with the investigator's notes. It is his running account of the investigation, and he usually relies on them to sharpen his memory.

The investigator must be so well prepared that he will be able to overcome any effort by the defense counsel to confuse the issue. The ability to give logical answers and explanations to questions by the defense that perhaps appear to be ridiculous will undoubtedly strengthen the investigator's testimony.

The investigator's dress is important in the courtroom. His appearance is undoubtedly considered by the jury. Usually, a business suit conservative in cut, style, and color should be worn. It should be neat, clean, and fit properly. However, in

some cases there are investigators who belong to a uniformed division. In this instance it is suggested the uniform be worn in the courtroom since a clean cut, neat, uniformed investigator's appearance will lend dignity to his presentation. Many times the investigator is used to wearing sport clothes while off duty or during the investigation, but these are never to be worn in the courtroom. It deters from the businesslike attitude of the court.

Promptness should be of prime concern to the investigator when appearing as a witness. In most instances he is notified far in advance of the trial, therefore it is expected that he will arrive at the prescribed time. It is suggested that he arrive earlier than the stated time so that he can further study his notes before taking the stand. While taking the stand the investigator should be very conscious of his carriage and stature. He should have the appearance of a business man coming to the court room to conduct business.

Comfort on the stand is probably as close to relaxation that the investigator can expect. The ability to relax on the stand is important but is usually acquired through experience. He should sit erect in the chair avoiding sliding, slouching, or slumping. Avoid changing position too often as it may distract the jury. If nervousness persists, it is suggested that both feet be on the floor and the hands folded in the lap. Crossed legs may only tend to accentuate the trembling.

At the conclusion of the investigator's testimony, he should wait until he is properly excused before leaving. This usually is expressed by the judge. Upon being excused, one should move directly toward the door, not stopping to talk or nod to anyone, above all the prosecutor. He should make every attempt to leave the jury with the impression that his testimony was entirely impersonal.

Lastly and in addition to carrying on a thorough, complete investigation and giving competent testimony in the court room, the investigator should consider as one of his most important aids the education of the public as to the seriousness of arson. One must make the public realize that he needs their cooperation if he is to attain any degree of success in the field of arson investigation.