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John Kennedy

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POLICE SCIENCE

INVESTIGATING ARSON INCENTIVES

JOHN KENNEDY

The author is President of General Investigations, Inc., a consulting organization for insurance investigations. He has lectured at nine of the Annual Arson Investigators Seminars at Purdue University and has written extensively on subjects relating to arson investigation. He served during World War II in the U. S. Navy and at present holds the rank of Commander, USNR, in the Naval Intelligence Reserve. Mr. Kennedy is a charter member and officer in the International Association of Arson Investigators and is also a member of the Special Agents Association of Chicago.—EDITOR.

Every fire has a cause. There is also a reason for every fire. Cause and reason are often used as synonymous terms. They are, however, quite different when used in connection with an arson investigation. *Cause* is defined as that which occasions or effects a result; *Reason* is defined as the motive leading to an action. The cause of a fire may be accidental, or due to malfunctioning of equipment, or the result of "arson". The reason for an incendiary fire may be any one of the motives for arson.

We have, through precedent, long use and general agreement among arson investigators, become familiar with and accepted the five general classifications of motives for arson set forth by Dr. R. C. Steinmetz in his "Arson in Times of War". The five motives are here repeated.

- (1) Economic gain. Assured benefits directly.
- (2) Economic gain. Assured is innocent party, but the perpetrator benefits directly or indirectly.
- (3) Personal satisfaction, attainment of a goal, or furtherance of a cause.
- (4) Concealment of some other criminal act.
- (5) Arson by the mentally afflicted.

The reason, motive or incentive is not an essential element of the crime of arson. Therefore, it is not necessary to prove the motive in order to convict the arsonist, according to our law.

It is, of course, necessary to prove intent—that the burning was willful and malicious. Do not confuse motive with intent. Intent is an essential element of the crime of arson, but motive is *not*.¹ Intent involves the will of the doer and indicates the willful, malicious nature of the burning. Motive involves the desire rather than the will and is the occasion which results in the act.

Although not a legal necessity, most good prosecutors consider that incentive plays an important, practical part in their case because of its effect on the judge and jury when it can be shown. Therefore, it behooves arson investigators to work diligently

¹ *State vs. Santino*, (Mo.) 186 S.W. 976.

and efficiently to furnish the prosecutor with evidence concerning the reason, motive, or incentive for the fire.

In the investigation of a fire, the motive or possible motive will often influence the investigator in conducting his investigation. In a fire of unknown origin, how does the investigator attempt to establish the cause—and if incendiary—the incentive? One of the important things he does is to consult records.

Records may not only serve to indicate the incentive for a fire, but the destruction of the records may indeed be the reason for the fire.

In fraud fires, it is always necessary to consult records and often to produce them in court in order to convict the arsonist. It would be a very unusual case wherein a conviction for a fraud fire is obtained without the assistance of records.

In a community which is plagued by a "firebug" the arson investigators turn to their fire and police records to determine if any known arsonists are at liberty in the immediate area. Hospital, asylum, and doctor's records are often consulted to learn if any persons were treated for burns, and the records of mental institutions are examined to see if any patients were recently released or escaped.

Regardless of the motive for the incendiary fire, the investigators who are working on the case will consult innumerable records. Suspects will be checked in police files to determine if they have arrest records. Employment records may be verified to learn if suspects were working at the time of the fire. Fire department records will be examined to find out who turned in the alarm so that person may be interviewed. The names of firemen who fought the fire may also be taken from these records so that they may be questioned about characteristics of the fire and the details surrounding it.

Motor vehicle registration records may be checked to determine the identity and ownership of a vehicle reported by witnesses to have been on the scene at the time of the fire. Schedules of buses, trains, airlines, taxis, and other public carriers may be studied to learn if any were in the vicinity discharging or loading passengers at the time of the incident, and the drivers', employees', and passengers' names may be obtained as possible witnesses.

Missing witnesses may be located by consulting records for forwarding addresses if they have moved. Labor union records may be checked for the new employment of the missing witness who belongs to the union.

Courthouse records may indicate the assessed value of the property destroyed, if there were any mortgages, the value of the contents, if there is any chattel mortgage, the amount paid for the property, if there are any delinquent taxes, if there are any liens or claims against the property or owners, if the witnesses or suspects are involved in any lawsuits, as well as providing information about the nature of the business and the individuals concerned.

Records of federal, state, municipal, private, and reporting organizations may be examined to provide valuable background and financial information about suspects, assureds, employees, witnesses, businesses, and other organizations.

The investigator, after learning of the existence of certain records, must learn how to glean the information from these facts and statistics. Many investigators know of the existence of the records but never do learn the information contained therein.

The investigator should know: *where* the records are kept; *how* to gain access to

the information contained there; *when* to peruse the records; *whom* to consult to interpret or translate records; and *what* is the significance of the records. The investigator will want to consult an accountant as to the importance and meaning of bookkeeping records he has obtained. He will want to have a doctor or nurse consult with him regarding hospital records. He will probably require the assistance of a trainmaster or other informed person to provide information from the train records (a similar procedure applies with other carriers). He will want to thoroughly interview the custodian of the courthouse records to assure himself that he has covered all angles and to have the records explained to him. He will want the bank president or vice president to help him with the bank records. In other words, records alone are of little value unless their meaning has been fully explained by the expert or custodian.

The same investigative principles prevail in attempting to gain information from records as prevail in interviewing witnesses or interrogating suspects. Common sense, enthusiasm, experience, and thoroughness should be employed.

Prepare before seeking records. Learn just what records and general information are available before going to the bank, courthouse, or other source of records.

Ask to see the records. The custodian of the records does not understand your problem. Ask him to consult the records and to show them to you. Explain your problem to the custodian; he may be able to expedite your search.

Avoid the negative approach. Most information obtained from records comes from public records and other sources which are available to you. The custodian's job is, in part, to assist you in locating, translating, and analyzing the meanings of the records entrusted to him. Don't be satisfied with allowing him to merely direct you to them. Ask him to remain and explain the symbols, abbreviations used, and the filing systems. Let him know by your manner and your actions that you are there, *to get* the information and you do not intend to leave until you have the complete information necessary for your purpose.

In discussing records which are contained in financial institutions, one encounters an unusual situation. Investigators seem to have an unreasonable fear of banks. Seasoned and experienced investigators who are not daunted by long, arduous interrogations with tough and hardened criminals are sometimes seized with concurrent spells of timidity and apathy when duty and the course of action require that bank records be inspected and reviewed. They have been known to resort to the slimmest of excuses and farflung pretexts to avoid this interview with the banker.

When considered logically, a bank is nothing but a stone edifice inhabited by all types of individuals who work for the banking institution. These individuals are human and possess human traits. Some are honest, some have been found to be criminals. They have human emotions such as pride, ambition, jealousy, curiosity, and sympathy. One may expect to find a complete cross-section of humanity in a bank. The general public, as a rule, has a deep and reverent respect for banks and is awed and impressed by the executives who direct the actions of the banking institution. Perhaps this attitude may, in part, explain the investigator's reluctance to seek information from their records.

Experience shows that bankers usually are most solicitous of the investigator's problems and often are pleased to assist him.

At a recent investigators' school, the speaker asked the assembled investigators

whether or not they had had any difficulty in obtaining information from bank employees or from their records. The immediate reaction of some was that bankers were difficult persons to interview and that they zealously guarded the information contained in their records. However, when the speaker questioned these investigators more minutely and pressed them for additional details as to how and when they were refused information from the banks, it became embarrassingly obvious that they were not speaking from first-hand experience but were merely stating the experience of others as told to them. In short, those investigators had not made the attempt to get information from the banker or his records. They had failed to keep an open mind, adopting the preconceived idea that this information would not be forthcoming, and thus, they felt, had saved themselves the embarrassment of being denied permission to examine the records. They simply had not made the initial effort to get the information.

Perhaps now is the time to pose the question: "What is the best method of obtaining information from bankers and their records?" In a sense, one cannot give the best method because that depends upon the individual talents, propensities, experience, and personality of each investigator. However, one good plan that has worked in many, many instances is to seek out the highest official of the bank present at the time the investigators arrive there. Approach that official in much the same manner that one would approach any intelligent person during an interview. Explain to him that the investigator has the power of *duces tecum*, if this is true, and can subpoena all records pertaining to the individual or corporation being investigated but that he wants to spare the bank and himself the unnecessary trouble of subpoenaing the records before it is known whether or not the information contained therein is desired and will be necessary.

The investigator should, by his manner and demeanor, convey the thought that dealing with bankers is an everyday occurrence and that the usual procedure at other banks is to provide him the opportunity to see the desired accounts.

The investigator should subtly indicate that this cursory examination may eliminate the burdensome task of causing the banker or his employees to transport innumerable records and expend the time of employees in bringing these records to a suitable place so that they may be reviewed. In those instances in which the banker expresses reluctance or doubts about allowing you to review the records, indicate that it is usually unnecessary to subpoena the records as in most cases there is generally insufficient original information contained there. However, the investigator should reassure the banker that in the unlikely event it is necessary to obtain copies of these records or to have an employee testify in court, the bank and its employees will be fully protected by subpoenas. Employing this tried and true method has, in many cases, enabled the investigators of General Investigations Inc. to obtain the desired information upon the first visit to the bank without the necessity of any legal action.

A successful interview with the banker unlocks the gate to a storehouse of valuable information waiting to be tapped by the investigator with confidence and a polished approach. It eliminates the trouble and added work of having a subpoena issued. The investigator who approaches this problem with confidence and enthusiasm will find that the bank records will, in most instances, be made available to him.

It has been the experience of many investigators that the president of the bank

will relegate them to a minor officer or clerk with instructions to that clerk to "show these gentlemen the records they wish to see."

Now we come to the question of the type of records that one wishes to examine in the bank. We will usually want to see all checking accounts of the individual and his wife, the corporation, and other individuals being investigated. Once, an investigator examined the microfilms of checks written by the suspect and located a check issued to a truck rental agency two days before the fire. This fact led to the discovery that a truck rented from this agency had been used to remove the contents from the building prior to the fire.

One would usually want to see or know about any loans that had been made to the individual or company involved. This information, of course, is usually available in the courthouse records, but what is not in the courthouse records is the financial statement and information contained in the application for the loan which is on file at the bank. In past instances, these records have indicated a value of assets which is many times less than the value listed for the same contents on the Proof of Loss after the fire, thus giving the initial opportunity and grounds for filing a fraud proceeding, and of course, revealing a motive for the incendiary fire. It hardly seems necessary to add that the investigator should get all details pertaining to insufficient fund checks and the "kiting" of other checks which would indicate a poor financial condition and thus, another motive for the fire.

In a paper of this brevity one cannot possibly cover the many places where records are kept; however, one very prominent place which seems to be overlooked in the search for records and factual information is the newspaper office. It is suggested that the investigator keep in mind the records of the reporter who was present at the fire scene and who may have taken the names and addresses of witnesses, interviewed during the fire, whose information was subsequently considered unimportant and whose names therefore did not appear in the newspaper accounts. These witnesses often provide factual information as to where and when the fire was discovered and other details such as persons seen during the early stages of the fire.

While in the newspaper office, the investigator should also seek out the records of the photographer. Perhaps only one or two of his photographs were published, but it is possible that he has several other negatives in his file. In some cases he may have taken several fire scenes when the fire was in an early stage, and these may enable the investigator to examine the scene when the fire was first discovered. In some cases, unpublished photographs have shown the identity of individuals watching the fire scene and utterly shattered their alibi that they were miles away at the time of the fire.

Before leaving the newspaper office, perhaps the investigator will want to go to the advertising department to ascertain whether or not there have been any merchandise sales prior to the fire. In this way one may learn that the saleable merchandise had been disposed of prior to the fire and only the culls and unwanted contents had been left to burn. The business may have been advertised for sale prior to the fire. Finally, before leaving the newspaper building, the investigator might want to stop in the business office to determine whether or not the advertising account of the individual, company, or corporation was delinquent.

The insurance agent and adjuster should always be interviewed if there is a pos-

sibility that we are investigating a fraud fire. Investigators of General Investigations Inc. are required to obtain a detailed, signed statement from all adjusters and insurance agents concerned during the investigation of all suspicious fires.

Why interview the insurance agent? This question may be answered in two parts: (1) The motive in an insurance fraud fire centers about the insurance policy. Who can better answer the multitude of questions the investigator wants answered in regard to the policies and thus the motive than the man who sold the policy? (2) The agent can tell the investigator if the assured paid cash or owes for the premium; if he discussed the possibility of a fire before it occurred; if the fire insurance was recently issued or recently increased; and what reasons were given for purchasing or increasing the insurance. The agent can state whether he knows of any other fire insurance in force on this risk and whether other insurance is permitted under the provisions of the policy.

Consult the insurance agent and obtain complete information about the insurance coverage. Ascertain the amount and kinds of insurance, the number of each policy, the exact coverage of each policy, the inception and expiration dates, the loss payable or mortgage clauses, and if any other interests are shown or if there are any other endorsements.

Ask if he has any information regarding any previous fires suffered by the individual or companies involved. Ask if the assured's premium has been paid; if so, if by cash or by check; if by check, the name of the bank. Ask the amount of the premium, how paid, and when. Make it a point to examine or to be furnished with copies of ledger sheets, accounts, credit reports, and correspondence pertaining to the assured, his company, or his insurance account.

After the agent has been examined and has explained all the details, question him as to whether there is any additional information available about the assured. Take a detailed, signed statement from the agent as to the story and sequence of events from the time the agent first met the assured, including the circumstances surrounding the writing of the insurance, who solicited whom to buy the insurance and how the particular amount of the various policies of insurance was determined.

Chronologically develop the story step-by-step and detail-by-detail, including the agent's first notification of the fire and his meetings and conversations with the assured since the fire, being sure to record as completely as possible all conversations of the assured held in the agent's presence.

Determine if anyone else in the agent's office had any correspondence, conversations, or other dealings with the assured and, if so, question that person. The agent and his assistants should be questioned about any possible policy violations or failure of the assured to abide by the provisions of the fire insurance contract. Ask the agent to provide copies of any charts, diagrams, photographs, or sketches of the risk to which he might have access.

Why interview the insurance adjuster? This question may be answered in three parts: (1) Any person who has reason to discuss the fire, insurance, values and cause of the fire with the assured is an important witness. The adjuster is not only important in this respect, but many times the adjuster has interviewed the assured before the investigator arrives on the scene. In several instances investigators have had their

task made infinitely easier because the adjuster took a signed statement from the assured before the investigator was assigned to the case. (2) The adjuster can serve as a source of information regarding the assured and the circumstances of the fire. This will be valuable to the investigators who are not ready to talk to the assured but who want to know what he is saying and doing, with whom he has counseled in regard to the loss, and the assured's version of the fire and surrounding circumstances as told to the adjuster. (3) The adjuster will often serve to bridge the gap of the investigator's all too frequent lack of insurance knowledge which is necessary when arson is perpetrated to collect on the fire insurance coverage. He will be able to explain the insurance provisions and their significance in the light of the facts peculiar to the fire under investigation.

The good investigator interviews the adjuster and closely questions him as to when and how the loss assignment was received and what he has done to date on the adjustment of the loss. He should be questioned as to any and all meetings he has had with the assured and what transpired at these meetings. If he has visited the scene of the loss, he should be asked to estimate the extent of damage to buildings and contents. He should be asked as to his knowledge of the reputation, previous fire record, credit standing, any bankruptcies, financial structure, habits, background, and reputation of the assured. He should be questioned as to the relation of the amount of insurance to the value and utility of buildings, contents, machinery, and other insured property.

The good investigator checks with the adjuster as to the accuracy of the insurance information provided by the agent and the possibility of additional insurance, policy violations or discrepancies in the stories told by the assured to the agent and to the adjuster.

In the interview with the adjuster there should be a discussion of the story of the fire and of the circumstances which might be considered suspicious. For, in a fraud fire, it is often the adjuster who is the first to "sense" that something is "off color."

He should be asked if auditors, bookkeepers, appraisers, machinery experts, photographers, salvage handlers, chemists, explosion authorities, engineers, or other experts are to be consulted. If so, the reasons and circumstances should be fully explained to the investigator who has then developed additional potential sources of information.

The investigation of arson incentives consist of an examination, evaluation, and deliberation of the circumstances of the fire with regard to possible motives.

(1) Economic gain. Assured benefits directly. In a dwelling fire of incendiary origin where the property appears to be overinsured or the fire insurance coverage has recently been increased, the suggested investigation is one which prepares for the possibility of a fraud fire.

(2) Economic gain. Assured is innocent party, but the perpetrator benefits directly or indirectly. When a competitor benefits from his increased share of available business due to the fact that an incendiary fire has destroyed his business rival's plant, warehouse, stock, or machinery and thus forced him to close or curtail his activity, the investigators have been furnished leads which can be developed by questioning competitors. Thus an investigative procedure is suggested by analyzing possible motive.

(3) Personal satisfaction, attainment of a goal, or furtherance of a cause. If there

have been labor troubles, strikes or picket line violence and the fire being investigated concerns the property of strikers, non-strikers, unions, or management, the investigators may plan their investigation with the possibility in mind that a motive may be the attainment of a goal for union or management.

(4) Concealment of some other criminal act. When books and records are destroyed by the fire or there are indications of shortages or theft, the investigators may be dealing with a person or persons who are attempting to use the fire to conceal the modus operandi of the crime or to make a shortage of contents appear less conspicuous.

(5) Arson by the mentally afflicted. In the absence of other apparent motives for an incendiary fire, the investigators may attempt to learn if there have been any other incendiary or unexplained fires in the neighborhood. If so, they may decide to tailor their investigation toward the apprehension of a pyromaniac or "firebug."

In order to properly investigate suspicious fires, the investigator must be familiar with the many incentives for setting fires. Once the investigator has eliminated the incentives which do not apply to the fire under investigation and has correctly deduced the motive for the incendiary fire, he has taken a long step toward identifying the arsonist.