

WHAT ABOUT THE FIRE/ARSON INVESTIGATOR?

By: Thomas W. Aurnhammer
Fire Marshal, Farmington Fire Dept.

Due to the number of arson fires in past years, many fire departments have seen the need to investigate fires within their jurisdiction. These fire departments have met this need by establishing a fire/arson investigation team or appointing someone to the duties of fire/arson investigation. If the resource of fire/arson investigation is available to your department, why not put it to work at the initial receipt of an alarm? By having a fire/arson investigator respond on the first alarm, first hand observation can be made of fire travel, methods of fire attack and the crowd at the fire scene. If possible, interviews with the owner/occupant and the reporting party can be started. The fire/arson investigator will be able to view the inside of the fire building immediately after fire extinguishment and before overhaul is started. Investigatory skills can be sharpened by investigating both accidental and incendiary fires and some legal issues raised from court decisions, such as Michigan vs. Tyler, can be addressed. By having a fire/arson investigator or team respond on the first alarm, the ground work for a solid, start to finish investigation can be started.

Many fire departments believe that it is not practical to have a fire/arson investigator respond on the initial alarm. It appears this could be due to the workload or the number of personnel assigned to fire/arson investigation. However, by having a fire/arson investigator on call, to respond to an alarm of fire, the information gathering process can start as soon as the investigator arrives. "Ideally, the investigator should reach the scene while the fire is in progress. This provides the opportunity to observe behavior of the fire, how it spreads, and any other fire-related happenings. The investigator can observe the crowd, looking for familiar faces, suspected firebugs or unusual behavior. Potentially important witnesses, perhaps the discoverer or reporter of the fire, can be interviewed prior to 'not wanting to get involved'."(1) Should an arson fire take place, many departments may just rely on interviewing the first arriving fire fighters and police officers. "There are, however, two problems. First, although police personnel are trained observers, they are not usually trained to observe the details of a fire situation. In other words, they probably don't know what to look for. Moreover, police

rarely enter the fire structure, so their observations are limited to the exterior. Second, fire fighters, who are trained to observe the fire situation, will observe it from a fire fighting - rather than a fire investigation - viewpoint. This is as it should be; fire fighters are at the scene to protect lives and property, and not to worry about the point of origin, heat source, and so on."(2) All members of the fire department and if possible, the police department, should be trained in fire/arson detection. Should a fire/arson investigator not respond on an initial alarm, the investigator must rely on the interviews of these trained observers as to what happened prior to his/her arrival. Even with trained observers at the scene, nothing can replace the first hand observations of the fire/arson investigator.

By responding on the initial alarm the fire/arson investigator can view the fire travel and the method of fire attack employed by the fire suppression crews. "Observation from outside the fire structure can yield important information concerning the fire, especially in the earlier stages."(3) One of the most important observations made could be the area of fire origin. "This information is vital for the investigator faced with the task of determining origin and cause of a fire which has completely destroyed a large structure, for it allows concentration of fire scene examination efforts at a particular point or area of the structure."(4) The method of fire attack can be equally important to the determination of the origin and cause of the fire. "The investigator can profit from observing the suppression activities of the fire fighters, since these can alter the course and intensity of a fire as well as cause unusual burn patterns."(5) As well as viewing the fire travel and method of fire attack, the investigator has an excellent opportunity to photograph both, during his/her observation. The observations made and photographs taken by the fire/arson investigator will become an essential part of the investigation.

As well as observing the fire travel and method of fire attack, the fire/arson investigator has the opportunity to observe the crowd watching the fireground action. "Fireground investigators who arrive during fire fighting operations should observe the spectators as well as the fire."(6) Even though first responding fire fighters should be trained to observe the crowd, the fireground can be a very busy place for the fire suppression crews, especially for the first ten to fifteen minutes. "Investigators also have a responsibility ►

in this area, and because the fire fighters are occupied, probably have the best opportunity to observe the crowd."(7) Once again, the fire/arson investigator has an excellent opportunity to put the camera to work. Photographs should be taken of the spectators at the scene. "These may reveal the previously unnoted presence of the same individual at several in a series of fires."(8) The fire/arson investigator will also have the opportunity of walking through the crowd, listening for persons talking about the fire or perhaps finding someone with the smell of a flammable liquid about them. Also, with the fire/arson investigator responding on the first alarm, he/she will be able to observe and investigate any person or persons fleeing from the fire scene. By arriving at the fire scene with the first alarm companies, the investigator will not lose the opportunity to accomplish these tasks.

Interviews with the owner/occupant and the reporting party can also be stated at this time. "Whether or not arson is suspected, interviews are a major part of fireground investigation; they should be conducted as carefully as the examination of the fire structure."(9) If the owner/occupant and the reporting party can be located at the fire scene, interviews should be started as soon as possible. "This is their first opportunity to tell the truth or make up a story about how the fire occurred, a task they may not be prepared for."(10) It may also be easier for the fire/arson investigator to locate someone who has information pertaining to the fire, before the crowd disperses. "People whose statements or responses may bear directly on the investigation should be interviewed before they leave the fireground. Once they have left, they may be difficult to locate. Moreover, some people will talk freely at the fire scene, but become reticent when the excitement is over. Others may tend to forget or exaggerate details, even a short time after the fire. The sooner the occupants and witnesses are interviewed, the better chance of obtaining clear, accurate statements."(11) Statements made by the owner/occupant or others involved in the investigation can be checked against the physical evidence found in the fire building. This can verify or refute the information that the fire/arson investigator has gathered. This information, if assembled early, will be invaluable as the investigation progresses.

Once the fire has been knocked down, the fire/arson investigator has the opportunity of viewing the fire scene before overhaul is started. "When complete salvage and overhaul operations are conducted at a fire scene, the probability that the investigator will make any definitive determinations as to origin and cause are reduced to near zero."(12) By examining the fire scene immediately after the fire is knocked down, the fire/arson investigator can gain information as to what is present or more importantly, what is missing from the fire scene. If this inspection can not be made before overhaul is started, the fire/arson investigator may have to spend a great deal of time

trying to reconstruct the fire scene. "It has been said that an arsonist's best friend is the tidy fire fighter."(13) Also, it may be possible at this time to photograph the interior of the fire building, check the scene with a hydrocarbon detector and photographically document and collect any evidence. For the sake of safety, the fire/arson investigator should be in protective clothing when he/she enters the fire building. Also, if conditions warrant, S.C.B.A. should be used. Although this examination will not come close to a full investigation, evidence and information gained at this time can prove to make a strong case, if arson is involved.

Every fire department has the need to investigate both accidental and incendiary fires. "Ideally, the arson squad should respond to all fires for the purpose of determining origin and cause, thus identifying accidental as well as suspicious or incendiary fires."(14) It is not known if a fire is accidental or incendiary when an alarm is received. "Every fire scene must be considered a possible crime scene until proven otherwise."(15) By the time a fire is thought to be suspicious by the incident commander, important witnesses may have already left the scene. "Therefore, it is vitally important that every fire scene be treated as a potential arson scene until clear proof of natural or accidental cause is discovered."(16) All fire scenes can serve as a training ground for the new as well as the experienced fire/arson investigator. By examining both accidental and incendiary fire scenes, the investigator's skills can be sharpened and his/her creditability as a fire investigator as well as an arson investigator can be established. "Fire scenes examined need not necessarily be confined to suspicious fires - any fire will serve the purpose, as long as it is instructive. This on-the-scene training is far more productive than classroom instruction utilizing photographs, slides and other single dimension training aids."(17) Above and beyond the training needs these fires address, by having a fire/arson investigator respond on the first alarm, a number of tasks can be accomplished before evidence of arson or accidental causes are discovered.

The first alarm response of the fire/arson investigator may also address some legal issues raised by recent Supreme Court decisions. "The scene must remain in the custody of the fire or police department from the time of the fire to ensure the integrity of the scene and its evidence. It is the responsibility of the fire department to ensure continuity of possession. If that custody has not been maintained, a search warrant must be obtained or the owner's permission secured before any evidence can be rightfully recovered."(18) In the Michigan vs. Tyler decision, the U.S. Supreme Court ruled that a warrant or consent is not required to fight a fire, or to remain on the premises for a reasonable time to investigate the origin and cause of the fire and preserve evidence. However, once a reasonable time has elapsed, and further entries are needed, the investigator ►

must have the owner/occupant's consent or an administrative or criminal search warrant. By the investigator responding on the first alarm and starting the investigation immediately, any question as to the admissibility of evidence taken at the fire scene, in court should be eliminated.

The practice of having a fire/arson investigator respond on the first alarm is not completely out of reach for some departments. Fire departments with a large number of alarms, a heavy arson case load and few fire/arson investigators would probably spend more time running from fire to fire, than they would investigating them. However, for suburban and rural departments with a fire/arson investigation team or a member of the department assigned to fire/arson investigation, this practice¹ can be established and the majority of structural fire alarms can receive this needed attention. The Farmington, New Mexico Fire Department operates a three member fire/arson investigation team, two members from the fire prevention/investigation division and one member from the police department detective division. When a full first alarm assignment is dispatched, an additional tone is set off to activate the on-call investigator's pager. This allows the on-call investigator to be notified and respond along with the first alarm companies. For the sake of safety, the fire/arson investigator's response to the fire scene should be non-emergency (no lights or siren). Also, the need to have all members of the fire department trained in fire/arson detection cannot be stressed enough. This comes not only from the stand point that a time may come when a fire/arson investigator is not available to respond on the first alarm, but also that these trained observers may pick up on something that the investigator has overlooked on the fireground.

First, as it has been explained, the need for a fire/arson investigator to respond on the initial receipt of an alarm has been established. These needs include observation of fire travel, method of fire attack and the crowd at the fire scene. Interviews with the owner/occupant and the reporting party can be started if these people are on scene. Examination of the fire building can take place immediately after the fire is knocked down and before overhaul is started. Also, investigator skill level can be enhanced as well as addressing legal issues. Second, although not all fire departments can provide this type of response, enough departments in the United States are of size that this task can be accomplished easily. Third, another need has been established, that of having all members of a fire department trained in fire/arson detection. By accomplishing these three tasks, local fire departments will be better equipped to fight the on-going battle against arson in their communities.◆

FOOTNOTES

1 National Fire Protection Association, *Fire Protection Handbook*, (N. F. P. A., Quincy,

Ma.,1981), p. 14-48.

- 2 Calvin Phillipps and David McFadden, *Investigating the Fireground*, (Brady Co., Bowie, Maryland, 1982), p.93.
- 3 *Ibid*, p.105.
- 4 Paul Dehaan, *Kirk's Fire Investigation*, 2nd Edition, (Wiley and Sons, New York, 1983), p.85.
- 5 Robert E. Carter, *Arson Investigation*, (Glencoe Publishing Co., Encino, Ca., 1978), p.38.
- 6 Phillipps and McFadden, *Supra*, p.115.
- 7 Carter, *Supra*, p.128.
- 8 *Ibid*, p.128.
- 9 Phillipps and McFadden, *Supra*, p.215.
- 10 Carter, *Supra*, p.43.
- 11 Phillipps and McFadden, *Supra*, p.215.
- 12 Carter, *Supra*, p.43.
- 13 *Ibid*, p.43.
- 14 N.F.P.A., *Supra*, p.14-49.
- 15 DeHaan, *Supra*, p.2.
- 16 *Ibid*, p.285.
- 17 International City Management Association, *Managing Fire Services*, (I.C.M.A., Washington, D.C., 1979), p.280.
- 18 DeHaan, *Supra*, p.96

BIBLIOGRAPHY

Carter, Robert E., *Arson Investigation*, Glencoe Publishing Co., Inc., Encino, Ca., 1978.

DeHaan, John D., *Kirk's Fire Investigation*, John Wiley & Sons, New York, N.Y., 2nd Edition, 1983.

International City Management Association, *Managing Fire Services*, I.C.M.A., Washington, D.C., 1979.

National Fire Protection Association, *Fire Protection Handbook*, N.F.P.A., Quincy, Ma., Fifteenth Edition, 1981.

Phillipps, Calvin and McFadden, David, *Investigating the Fireground*, Robert J. Brady Co., Bowie, Maryland, 1982.