

U.S. Fire Administration/Technical Report Series

Special Report: Firefighter Arson

USFA-TR-141/January 2003



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U.S. Fire Administration Fire Investigations Program

The U.S. Fire Administration develops reports on selected major fires throughout the country. The fires usually involve multiple deaths or a large loss of property. But the primary criterion for deciding to do a report is whether it will result in significant “lessons learned.” In some cases these lessons bring to light new knowledge about fire--the effect of building construction or contents, human behavior in fire, etc. In other cases, the lessons are not new but are serious enough to highlight once again, with yet another fire tragedy report.

The reports are sent to fire magazines and are distributed at National and Regional fire meetings. The International Association of Fire Chiefs assists USFA in disseminating the findings throughout the fire service. On a continuing basis the reports are available on request from USFA; announcements of their availability are published widely in fire journals and newsletters.

This body of work provides detailed information on the nature of the fire problem for policymakers who must decide on allocations of resources between fire and other pressing problems, and within the fire service to improve codes and code enforcement, training, public fire education, building technology, and other related areas.

The Fire Administration, which has no regulatory authority, sends an experienced fire investigator into a community after a major incident only after having conferred with the local fire authorities to insure that USFA’s assistance and presence would be supportive and would in no way interfere with any review of the incident they are themselves conducting. The intent is not to arrive during the event or even immediately after, but rather after the dust settles, so that a complete and objective review of all the important aspects of the incident can be made. Local authorities review USFA’s report while it is in draft. The USFA investigator or team is available to local authorities should they wish to request technical assistance for their own investigation.

This report and its recommendations were developed by USFA staff and by TriData Corporation, Arlington, Virginia, its staff and consultants, who are under contract to assist the Fire Administration in carrying out the Fire Reports Program.

The U.S. Fire Administration greatly appreciates the cooperation received from the City of Bessemer Fire and Rescue Service. Particular thanks go to Bessemer Fire Marshal Bill Avery and also Alabama State Fire Marshal John S. Robinson.

For additional copies of this report write to the U.S. Fire Administration, National Fire Data Center, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Special Report: Firefighter Arson

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Department of Homeland Security
United States Fire Administration
National Fire Data Center

U.S. Fire Administration
Mission Statement

As an entity of the Department of Homeland Security, the mission of the USFA is to reduce life and economic losses due to fire and related emergencies, through leadership, advocacy, coordination, and support. We serve the Nation independently, in coordination with other Federal agencies, and in partnership with fire protection and emergency service communities. With a commitment to excellence, we provide public education, training, technology, and data initiatives.



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INTRODUCTION

Everyone in the fire service must be, and should be, prepared to admit that there is a [firefighter arson] problem and that precise, firm methods are needed to combat this situation. To ignore the problem or suggest that it does not exist will only increase the damage caused by the arson firefighters involved, as well as destroy the morale of the other firefighters in their departments. We must talk to our members about firefighter arson. We must investigate, charge, and convict those that are committing this crime.¹

Slowly, the fire service is shedding light on a situation that occurs rarely but which is nevertheless serious: some firefighters intentionally start fires. A very small percentage of otherwise trustworthy firefighters cause the very flames they are dispatched to put out. The incidence of illegal firesetting among the nation's fire and rescue personnel is not known precisely. Fire incident data does not generate many details about incendiary fires, and a suspect's occupation is rarely, if ever, included in the database. Overall, relatively little research has been conducted on arson compared to other types of crimes. Even less information data is available about arsonists who are also public safety personnel.

Most fire departments will never experience having a member indicted for arson. But for those that do, the impact is almost always significant. This report delves into the problem of firefighter arson and explains what some communities and states are doing to prevent it. These jurisdictions have taken bold steps by publicly stating that the problem exists, and they have acted to solve it. Given the far-reaching effects that criminal firesetting by a firefighter can cause, awareness and action are clearly necessary.

The impact of firefighter arson can be severe. People die or are seriously injured, including fellow firefighters who respond to the call. Homes are destroyed. An arsonist from within the fire department can disgrace the whole department, and his actions diminish public trust. Several states that have experienced the crime of firefighter arson have developed new legislation that directly impacts the prosecution of firefighters accused of arson. Firefighter arson task forces have been organized to prevent the crime. Education, training, and appropriate criminal background and reference checks are key components of the programs. Some of these proactive efforts are highlighted in this report to give fire service leaders ideas for their own departments.

Research conducted in the early 1990s by the National Center for the Analysis of Violent Crime (NCVAC) located at the FBI Academy in Quantico, Virginia, suggests that a "tell-tale" sign that a firefighter may be setting fires is a sudden increase in nuisance fires within a company's "first due" area. The research also indicates that firefighter arson offenders tend to be relatively new to the department, typically less than three years as a member. The FBI study of 25 cases of firefighter arson in seven U.S. states and one Canadian province showed that the number one motive was excitement, especially among young firefighters who were eager to put their training to practical use, and to be seen as heroes to fellow firefighters and the community they served. In that study, 75 firefighters were found to be responsible for 182 fires.

¹"NVFC Study: Fire-setting Firefighters--the Arsonist in the Fire Department," originally published in the Illinois Gong, appeared in Minnesota Fire Chief, March/April 1995 issue.

Firefighter arsonists often escalate their fires over time. The NCVAC report² indicates that firefighter arsonists, as is typical of most arsonists, generally start with nuisance fires, such as dumpsters, trash piles, or vegetation. Eventually, the firefighter arsonist graduates to other targets that have more damage potential, such as, abandoned vehicles or unoccupied structures. Sometimes even occupied structures are threatened by the arsonist's actions. The FBI notes that one firefighter set fires to storage sheds beneath the stairs of occupied apartments.

In reviewing cases of firefighter arson for this report, it was apparent that one of the primary motives for firefighters who commit arson is to be seen as a hero. They may be the first to call in a fire, the first on the scene, and one of the most eager, excited, and enthusiastic members of the response team. Their main reason for lighting the fire is so they can appear as a hero, either by being the first to spot the flames, or by rescuing people and saving property. Extreme cases of firefighter arson involve fires set in occupied structures. When a firefighter sets fire to an occupied structure, the potential for being a life-saving hero is even greater. In North Carolina, one firefighter would set fire to an occupied house, and then return to the scene and rescue the family. His need for excitement, being worshiped, and getting attention predominated over any concern about the terrible danger to which he exposed the occupants.

DEFINING THE PROBLEM

The legal definition of arson varies considerably from state to state as do the minimum sentencing guidelines for this crime. Absent a uniform legal definition, the NCVAC defined arson as *the willful and malicious burning of property*. According to the NCVAC, the criminal act of arson has to have three elements:

- There has been a burning of property. This must be shown to the court to be actual destruction, at least in part, not just scorching or sooting (although some states include any physical or visible impairment of any surface).
- The burning is proven to be incendiary.
- The burning was started with malice, that is, with the specific intent of destroying property.

Regardless of the motives, once a firefighter intentionally starts a fire, a criminal act has been committed. Some of the firefighter arsonists may not be aware that arson (in most states) is a felony. Younger firefighters especially tend to be unfamiliar with how the criminal justice system works and what can happen to them if they set a fire. A 1994 article published by the Suffolk County Arson Task Force (SCATF)³ on firefighter arson, describes what the consequences will be for firefighters who commit the crime of arson:

- The crime will have a financial impact upon the arrestee.
- The loss of family and friends is possible.
- Personal embarrassment within the community is possible if the press highlights the individual.

² Fire Setting Fire Fighters: Arsonists In The Fire Department-Identification and Prevention; 1994.

³ SCATF is a division within the Suffolk County Department of Fire, Rescue and Emergency Services in Yaphank, New York.

- The loss of a job and the inability to obtain future jobs is probable.
- The crime will bring embarrassment to the fire department and bring the potential for departmental financial losses.
- The arrestee will lose certain civil rights if convicted of a felony.
- The individual will not be permitted to join another fire department in the state [and probably anywhere else if the crime is known].

Firefighter Arson Statistics

The National Interagency Fire Center (NIFC), the National Fire Incident Reporting System (NFIRS), and the UCR report crimes of arson. None of the three, however, track the sub group of incendiary fires set by firefighters. Such a database would be challenging to develop because it could only be populated after criminal proceedings occurred and a verdict of guilty or a confession was obtained. It takes months, sometimes years, for arson cases to be cleared. Without comprehensive information and accurate statistics on a statewide or National basis, cases that occur tend to be viewed as anomalies, and perceived as isolated incidents. While some states may be able to produce information on the number of firefighter arson prosecutions, other fire agencies do not even acknowledge that the problem exists.

Recent reports in the news give a sense that the numbers nationwide are increasing. It is hard to know whether cases of arson involving firefighters are just being given more attention by the media, or whether there really are more cases occurring. Regardless, it is important to view the issue within the context of the whole fire service. **With over one million volunteer and paid firefighters, the number of those who cause fires represents only a fraction of the number who otherwise serve honorably.**

In 1993, the South Carolina Forestry Commission (SCEC) began looking into firefighter arson. They found that at least 33 fire department volunteers had been charged with arson in their state alone. In 1994, the Forestry Commission reported that the numbers had climbed upwards to 47. In 1996, a statewide teleconference was held by the SCFC to provide a comprehensive look at firefighter arson. Following the teleconference, the South Carolina Arson Investigators Association began offering awareness training to any department that requested it. Authorities wanted to make the message clear: firefighter arson would not be tolerated in South Carolina. The programs have been hailed as an outstanding success, with the number of firefighter arrests reduced from 47 in 1994, to 30 in 1995, and to three in 1996.

In September 1993, the National Volunteer Fire Council (NVFC) established a Subcommittee on Firefighter Arson due to an increasing number of firefighter arson cases. The subcommittee was charged with investigating issues relating to firefighter arson, compiling the existing information, conducting research on the issue, and making any recommendations needed to overcome the problem.

While there was no doubt that firefighter arson occurs, the subcommittee was challenged by the lack of hard data available concerning arson caused by firefighters. In 1994 a National survey was conducted in an attempt to obtain better statistics. The subcommittee contacted fire chiefs, firefighters and fire marshals in every state with a survey that was to gauge the size of the problem, its effect on the fire service in that area, and the measures that had been taken to guard against firefighter

arsonists. In the article, *NVFC Study: The Fire-setting Firefighters--The Arsonists in the Fire Departments*, published in the April 1995 issue of Minnesota Fire Chief, it was reported that 85 percent of the surveys were returned. The findings included:

- Accurate numbers on both arson cases and the number of cases that involve firefighters are not available in most states. Many states have no numbers on how many arson cases involve fire service personnel. No respondents indicated knowledge of previous or ongoing investigations into the scope of the problem.
- Many states do little or nothing in terms of training or awareness within the fire service on firefighter arson. A few states actively promote an awareness of the issue by incorporating the topic into state training courses. They use videos and other tools during department training or utilize the state fire marshal's office for short courses.
- There was a consensus among most respondents that education and screening of applicants are an important part of the solution.
- Only one state is currently pursuing legislation that would require a criminal background check of all applicants for fire department membership. While other states are not currently pursuing legislation, most see background checks as a practical means of deterring and identifying firefighter arsonists. Most respondents believed that education concerning the costs, dangers and legal aspects of arson, either incorporated into state training courses or given to new department members, can make a significant difference in deterring would-be arsonists.

Since the publication of this article, some progress has been made in passing legislation requiring background checks and firefighter registration. South Carolina and New York have passed firefighter registration laws. There has also been an increase in task forces established to address the problems of firefighter arson.

Profiling the Firefighter Arsonist

In the mid-90's, the South Carolina Forestry Commission developed a profile of the firefighter arsonist. At the same time, the FBI's Behavior Analysis Unit was also preparing a profile of firefighters who commit arson. The results of the two profiles are similar. While the profiles are still being tested for reliability, law enforcement officers in South Carolina and the FBI agree that they are remarkably accurate for the majority of the known cases. Table I provides a side-by-side comparison.

Table 1. Firefighter Arsonist Profile Comparison

South Carolina Forestry Commission	FBI's Behavior Analysis Unit
White male, age 17-26	White male, age 17-25
Product of disruptive, harsh, or unstable rearing environment	One or both parents missing from home during childhood. If from an intact home, the emotional atmosphere was mixed and unstable.
Poor relationship with father, overprotective mother	Dysfunctional. One of their parents left the home before the child reached age 17. Cold, distant, hostile or aggressive relationship with natural father.
If married, poor marital adjustment	Poor marital adjustment. If not married, still living at home with parents.
Lacking in social and interpersonal skills	Lack of stable interpersonal relationships
Poor occupational adjustment, employed in low-paying jobs	Poor occupational adjustment. Menial laborer, skilled laborer, clerical jobs
Fascinated with the fire service and its trappings	Interested in fire service in the context that it provides an arena for excitement, not for the sake of public service.
May be facing unusual stress (family, financial, or legal problems)	Alcoholism, childhood hyperactivity, homosexuality, depression, borderline personality disorder, and suicidal tendencies
Average to above-average intelligence but poor to fair academic performance in school	Mixed findings on intelligence, but most arsonists have been found to have average to higher intelligence. Poor academic performance.

Researchers note that firefighter arsonists, with some exceptions, use fairly unsophisticated methods in setting fires. Media reports and research show that arsonists tend to use available materials (paper or clothes), with gasoline as the most common accelerant. They ignite the fires with matches or cigarette lighters.

MOTIVES OF FIREFIGHTER ARSON

Motive is defined as the inner drive or impulse that is the cause, reason, or incentive that induces or prompts a specific behavior.⁴ Researchers in the area of arson conclude that there are six primary motives behind firesetting:

- Excitement
- Vandalism
- Revenge
- Profit
- Extremist/Terrorist
- Crime Concealment

What motivates a firefighter to set fires is a subject of great debate. Motives vary and can be abstract. Professionals in criminal investigation, psychiatric disease, and fire investigation have developed classifications for the motives behind firesetting in the general population. While fire service members who commit arson are represented among those classifications, there are some motives that are particular to firefighters. For example, the primary motives for firefighter arson seem to be the need to be seen as a hero, to practice extinguishing fires, or to earn extra money.

Some researchers believe that firefighter arsonists, like civilian arsonists, undergo a mental process referred to as RPM: the arsonist rationalizes the crime, projects blame, and minimizes the consequences. The FBI may conduct further research of RPM related to firefighter arson.⁵

The sections below elaborate on the six recognized motives of arson in general and how they apply to firefighters. Unfortunately, there are examples of firefighter arson in each category.

Excitement-motivated Arson

Offenders motivated by excitement include seekers of thrills, attention, recognition, and rarely, but importantly, sexual gratification. Excitement and action accompany a fire. The ability to create a situation requiring the response of the fire service and law enforcement provide some people with a feeling of empowerment over society. Potential targets of the excitement-motivated arsonist run full spectrum from so-called nuisance fires to occupied apartment houses at nighttime. Firefighters are known to set fires so they can engage in the suppression effort. Firefighter arsonists who seek recognition, or wish to be viewed as heroes, may set and “discover” the fires.

Vandalism-motivated Arson

Vandalism-motivated arson is defined as malicious or mischievous firesetting that results in damage to property. Vandalism fires are most often set by two or more individuals (usually juveniles) for no apparent reason other than “just for kicks.” One of the most common targets is schools or school property and educational facilities. Vandals also frequently target abandoned structures and flammable vegetation. This is one motive that may be found more frequently among civilian firesetters than among firefighters who set fires.

⁴A Motive Based Offender Analysis of a Serial Arsonist. NCVAC, FBI Academy, Quantico, VA.

⁵The theory of RPM applies to other crimes as well. For further information on the concept of RPM, contact the National Center for the Analysis of Violent Crime, FBI Academy, Quantico, Virginia.

Revenge-motivated Arson

Revenge motivated fires are set in retaliation for some injustice, real or imagined, perceived by the offender. The event or circumstance that is perceived as a wrong may have occurred months or years before the fire-setting activity. Revenge-motivated arson can further be subdivided into four major groups: personal revenge, societal retaliation, institutional retaliation, and group retaliation. Disgruntled employees of the fire service may set fires in retaliation for a perceived grievance. In one case a volunteer torched the fire station, and in another, a fire chief torched his fire station. In one case, the FBI found that a group of demoralized firefighters set fires in retaliation for a grievance against their fire chief.

Crime Concealment-motivated Arson

Arson is the secondary criminal activity of this motivational category. The fire is set for the purpose of covering up a murder or burglary or to eliminate evidence left at a crime scene. Other examples include fires set to destroy business records to conceal cases of embezzlement and the many cases of auto theft arson where fire is set to destroy evidence. In March of 2000 in Memphis, Tennessee, a career firefighter was charged with attempted arson, after lighting his house on fire at an attempt to conceal the murder of his wife.

Profit-motivated Arson

Arsonists in this category expect profit from their firesetting, either directly for monetary gain, or indirectly to eliminate debt. The key to this fire is the desire to cause the most possible damage in the least possible time. Examples include insurance fraud, liquidating property, dissolving businesses, destroying inventory, land clearance, or to gain employment. The latter is exemplified by the allegations brought against a part-time forest service firefighter in Arizona during the summer of 2002, who wanted the extra work.

Extremist/Terrorist-motivated Arson

Arsonists may set fires to further social, political, or religious causes. Examples of extremist/terrorist-motivated targets include abortion clinics, slaughterhouses, animal laboratories, and furriers or fur outlets. The targets of political terrorists reflect the focus of the terrorists' wrath. Although the arsonist wishes his individual identity to remain unknown, it is usually important that their group or "cause" be identified as the responsible party. In the late 1990s and into 2000, there were documented incidents of extremist arson in the south. In Alabama, churches of predominantly African-American membership were burned to the ground. Some of these fires were later attributed to white firefighters.

Mixed Motives

Media accounts and interviews with arson investigators indicate that the motives for firefighters to commit arson are usually mixed; that is, there is more than one motive as borne out by the above examples. In interviews with firefighter arsonists, they indicated that while there was a primary motive, there were secondary motives as well. Reports from the FBI suggest that the arsonist may be disenfranchised from his fire department, and alienated by our society such that the aspect of power should be considered as part of the motive. Revenge arsonists, whether civilian or firefighter, may target society, but another motive is to achieve a sense of power.

An FBI agent who studied arson asserts that revenge is present in all arsons to a “greater or lesser degree.” The FBI report, *A Motive-Based Offender Analysis of Serial Arsonists*, had this to say about mixed motives involving revenge and power:

Motives for arson, like other aspects of human behaviors, often defy structured, unbending definition. Strictly speaking, who can argue that vandals are not looking for excitement when they are engaging in their malicious mischief? Add an element of power and revenge and one can see the problem of strict, unyielding classification. ...Be aware that motivations may change....

While investigators theorize that firefighters mostly set fires to be seen as heroes and that the motive is peripherally laced with the need for power, the firefighter may underestimate the power and consequences of the fire.⁶ Firefighters with a desperate need to obtain recognition commit risky acts that reflect bad judgment. They fail to consider the potential consequences of the crime, or they think they will not get caught.

While arson often is not directly associated with economic recession, arson caused by firefighters certainly can have economic ties. Increased overtime pay, attempts at covering gambling debts, and fighting fires for a paid-on-call fire service have all been incentives for firefighters to set fires. In the summer of 2002, a wildland firefighter was charged with setting one of the largest wildfires in history. As an unemployed temporary firefighter for the Bureau of Indian Affairs, the Arizona resident would have earned a reported \$8.00 per hour for fighting fires.

There were notable differences between the FBI and Forestry Commission research on the subject of whether firefighter arsonists act alone or in groups. The FBI research showed that most firefighter arsonists work alone, but many South Carolina cases involved several firefighters from a single department. The latter behavior is similar to group behavior in adolescents, suggesting that insecurity and lack of maturity are significant in the psychology of firefighter arsonists.⁷

The FBI study found that the arson cases involving more than one firefighter frequently were associated with department programs designed for younger participants, such as those for apprentice firefighters, youth groups, or auxiliary firefighter programs for teenagers.⁸ Novice (or junior) firefighters are disproportionately represented in the fraction of a percentage of fire department members who set fires.

CASES OF ARSON IN THE FIRE SERVICE

Of the approximately 30,000⁹ fire departments in the United States, the overwhelming majority (possibly as high as 75 percent or higher) are volunteer departments. The crime of firefighter arson has occurred in career departments, volunteer departments, and the wildland fire service. Most of

⁶While it is generally believed by society that firefighters, of all people, should understand the power of fire; new members to the fire service, junior volunteers, or fire departments that do not have many working fires, may not be experienced in the power of fire and its consequences.

⁷Cabe, Ken. *Firefighter Arson: Local Alarm, Fire Management Notes*. Volume 56, Number 1, 1996. Page 8.

⁸Huff, Timothy, Violent Crime Case Analyst, Behavior Analysis Unit at the National Center for the Analysis of Violent Crime within the FBI Academy, authored, *Focus On: Arson*, published in the August 15, 1994 issue of *IAFC On Scene*.

⁹Estimate courtesy of the U.S. Fire Administration.

the documented cases have occurred in volunteer departments, which is not surprising since volunteers far outnumber career members. That fact notwithstanding, perhaps the most well-known case involved a career firefighter. John Orr, former chief arson investigator with the Glendale, California Fire Department, was a prolific firesetter. In 1991 a federal grand jury indicted Orr on charges that he set or tried to set blazes in eight stores during a three-year period. There were countless other fires where he was a suspect, but the evidence was not sufficient to charge him. Orr was indicted on five counts of arson and three counts of attempted arson, and was later convicted by a Superior Court jury of setting fire to a home center store. Four people, including a two-year old boy were killed in that blaze. A book and made-for-TV movie publicized the case.

Officials believe that Orr might never have been caught were it not for the investigation of a fire that occurred at a craft store. The investigators of that fire were able to recover a fingerprint from a partially burned incendiary device, and after a search of almost 1.2 million fingerprints, a match was made to John Orr.

Glendale officials and Federal authorities conducted an investigation of Orr that included surveillance. They alerted his supervisors that he was an arson suspect. Prior to the investigation, John Orr had written a novel about a firefighter turned arsonist. In October of 1991, Mr. Orr asked his secretary to type a letter to publishers, pitching his novel about an actual serial arsonist, stating, "He has not been identified or apprehended, and probably will not be in the future. As in the real case, the arsonist in my novel is a firefighter."

The Los Angeles Times reported that the Los Angeles County District Attorney's office accepted a life prison term for Orr. The jury had been deadlocked eight to four on whether to recommend that the 17-year veteran firefighter and arson investigator be executed.

Case Study #1

Memphis, Tennessee

March 2000: Memphis Fire Department, career firefighter Fredrick Williams, 41 confessed to killing his new bride, setting fire to their home and fatally shooting two colleagues and a sheriff's deputy. Williams was charged with murder, attempted murder and arson. The incident started when Williams' wife of three weeks arrived home. He shot and killed her in the kitchen with a 12-gauge shotgun. Williams then set fire to a back bedroom.

A Sheriff's Deputy responding to the call was shot in the head when Williams allegedly came out of the house and fired a shot through the Deputy's windshield. A passerby was shot in the face and suffered non-life threatening injuries.

A fire truck arrived on the scene. They could not see the Deputy's wrecked squad car and could not see that he had been shot. Williams allegedly ambushed the firefighters as they arrived to fight a blaze at his home. Williams, a six-year veteran of the fire department was shot in the groin by police officers when he refused to put down his weapon.

Arson Incidents Involving Volunteer Firefighters

The State of Tennessee Department of Commerce and Insurance, Division of Fire Prevention, Bomb and Arson Section provided to this study information related to firefighter arson, including a memo they published in October 2001. A portion of the memo discussed the results of an internal investigation:

In the past three years, the Bomb and Arson Section has investigated the following cases where volunteer firemen were identified as suspects and/or defendants in an investigation:

A total of 11 volunteer firefighters were identified as suspects in these cases. Nearly \$1,700,000 in fire losses resulted because of the action of these defendants. Targets included a fire department, a car dealership, residential dwellings, barns, a mobile home, and a house of worship. There were no deaths or injuries associated with these incidents. Motives have ranged from the "hero" syndrome to sexual gratification.

In addition to the cases worked by this Section, we also offered assistance in the latter part of 1998 to (name deleted for anonymity) the head of the Hamilton County Sheriff's Department Arson Unit. A former volunteer firefighter was attempting to secure his position back as a volunteer firefighter and encountered resistance from the chief. He and six other volunteers entered into a conspiracy to burn a vacant house, thereby providing this former firefighter an opportunity to call it in and regain the confidence of the chief. Unfortunately, when he was in the process of starting the fire, he was trapped inside the house and died. A total of six (6) volunteer firefighters were subsequently convicted for this crime.

One of our most significant cases involved a volunteer fire chief who allegedly set fire to a local fire department, causing \$750,000 in damages. After more than a one-year investigation, he was indicted by a Federal grand jury in the Western District of Tennessee. Subsequently, a Federal Judge dismissed the indictment on the grounds that the interstate nexus requirement of 18 U.S.C.844(i) was not met. The United States Attorney has appealed this decision. Another one of our cases involved a State employee who was a guard at Fort Pillow State Prison and worked as a volunteer firefighter at both the Henning and Fort Pillow Fire Departments. He entered guilty pleas to arson of his mobile home and a grass fire.

We must emphasize that the bulk of men and women in the volunteer fire service provide a valuable contribution to their respective communities. However, inasmuch as screenings and background investigations are rarely conducted, a relatively small segment of individuals with less than pure motives are sometimes members of these units. Our task is to ensure that, when such incidents do occur, we develop sufficient evidence to sustain their conviction in court.

Upon release from prison, the State employee of the Fort Pillow State Prison (mentioned above) was arrested again for burning a car dealership in Brownsville, TN, causing approximately \$750,000 in damage. His motive for starting the fires was sexual gratification. He was subsequently convicted for and sentenced to a three year prison term in conjunction with the arson charges and charges of following the fire apparatus.

Case Study #2

Hamilton County, Tennessee

Of the cases mentioned in the State of Tennessee's memorandum, the Hamilton County incident, had a far-reaching, long-term impact on the firefighters, the community, and the department.

The five surviving firefighters plead guilty to arson and aggravated burglary. Most of the defendants were sentenced to ten-year prison terms. A sixth man pleaded guilty to being an accessory after the fact and was sentenced to one year, suspended, and probation. One of the men was sentenced to eight one-year consecutive terms on the arson and burglary pleas. He was also sentenced to one-year consecutive terms on guilty pleas to unrelated charges of solicitation of a minor and altering the vehicle identification number on an automobile.

The volunteer firefighters were current or former members of a volunteer fire department near Chattanooga. As a result of the charges, investigation, and subsequent sentencing of the men, the department met with much public scrutiny and community mistrust.

In **July of 1999**, residents called for an immediate investigation into the fire department, focusing on the way it managed its money and staff, as well as its ability and readiness to respond to fires, "...not just the ones they set themselves." Residents were outraged with the knowledge that the firefighters received hundreds of hours of training and still considered themselves "so bored they had to set fire to a house."

The fire chief of the department believed that the incident was an isolated one. However, a review of the Tennessee Incident Fire Reporting System showed that the department responded to five suspicious fires in vacant buildings or lots in their jurisdiction from 1997 to 1999. All were located within one mile of the fire station. In media reports, a county arson investigator confirmed that the suspicious fires at the five locations were under investigation, and may eventually be linked to the former firefighters.

Ultimately a review panel was named to review the practices and standards of the department. The review panel submitted 23 recommendations, which included requesting criminal background checks on current and future members and establishing progressive disciplinary procedures.

After the results of the review panel were made public, there was still much finger pointing, anger, and animosity towards the fire department. Several residents felt as if nothing had been accomplished. With the panel consisting of only emergency personnel except for one public citizen, "take care of their own" allegations surfaced. The incident demonstrates that the crime of firefighter-related arson can impact the entire community. The impact is still felt by some members of the community today.

Case Study #3

Dearborn, Missouri

On **June 2, 2001**, Travis Brown, 30, a volunteer firefighter with the Dearborn Area Fire Protection District was killed when the tanker truck he was riding in while en route to a barn fire, rolled over. Brown was ejected from the truck and pronounced dead on the scene. The driver of the truck was seriously injured in the wreck and was transported by helicopter to a near-by trauma center.

The firefighters were responding on a mutual aid call from another fire department when the wreck occurred. During the investigation, a volunteer firefighter from the first responding department confessed to having started the barn fire and several other fires in the Platte County area over the course of several weeks. In his statement to police, Jason Hendrix confessed that he started the fire by lighting a stack of paper feed bags with a wooden match; he then closed the barn door and fled the scene.

The Platte County Sheriffs Department charged Hendrix, 26, with second-degree arson, a class C felony. At the time, bond for Hendrix was set at \$20,000. During the arraignment of his case, Mr. Hendrix pleaded innocent to the arson charge and requested a 10 percent cash bond payment on the original bond amount. The Assistant Prosecutor objected, arguing that Hendrix posed a danger to society. The Platte County Circuit Judge put special conditions on the bond request and said that Hendrix was not allowed to have any fire-making materials or flammable materials in his possession. If he was to be found with fire-making materials, he would be taken into custody and have the bond amount increased to \$200,000.

On June 12, 2001 the charges against Mr. Hendrix were upgraded to include one count of second-degree murder. In the state of Missouri, if in committing a felony a death occurs, the offender may also be charged with murder. The firefighters of Brown's department encouraged the Prosecutor to file felony murder charges.

During a preliminary hearing regarding the case, a judge found probable cause and ruled that the case be heard before a jury on one count of second-degree murder, three felony charges--including second-degree arson--and first-degree property damage. The bond amount was set at \$270,000. Mr. Hendrix also faced charges of five misdemeanor counts of negligently setting fire to a woodland, cropland, or grassland. He could be sentenced up to seven years for the arson charge, 10 to 30 years or life on the second-degree murder charge and up to five years for the property damage charge.

His wife and five children survive Travis Brown. He was also a registered nurse at a nearby health organization. The community supported the families of the wreck by establishing a memorial fund.

Case Study #4

Lake Charles, Louisiana

May 2002: Darrel James Lyon, 19, a junior volunteer firefighter pleaded no contest to setting three fires while on probation with an area fire department. The fires were set at an American Legion post, a field behind a dance school, and a vacant building.

Lyon pleaded no contest in March to three felony counts of arson, rather than face a trial on those charges and three which were dismissed; two of forgery and one of unauthorized use of an access card.

Lyon's parents were firefighters and he wanted to be a firefighter in Chicago. He participated in the local fire department's junior volunteer program and helped clean trucks, pack hoses, and fight some fires under other firefighters' supervision.

Case Study #5

Caddo Parish, Louisiana

August 1999: Following a joint investigation by the Caddo Parish Sheriff's Office and the Louisiana Fire Marshal's Office, a volunteer firefighter was arrested and charged with one count of simple arson.

Donald Edward Kerry, 25 was arrested and charged with setting an abandoned house on fire in April 1999. Kerry was a suspect in four other suspicious fires in the same part of the parish in the same time period. Additional charges were pending at the time of this report.

Case Study #6

St. Tammany Parish, Louisiana

June 26, 2002: Kenneth James Delaune, 26, and Dustin Shane Talley, 19, were booked on charges of intentionally setting forest fires, raising the number of arrests to nine in the largest arson investigation the state of Louisiana has seen.

The arrests are part of a year-long investigation into more than a dozen suspicious fires near Pearl River. Seven other firefighters from St. Tammany Parish Fire Protection District Nos. 7 and 11 were arrested in October 2001. Investigators reported that the firefighters torched eight abandoned homes and set several forest fires out of boredom. After setting the fires the firefighters would return to the stations and wait to be called out on the blazes.

The seven firefighters who pleaded guilty in March of 2002 each received a two-year suspended sentence and two years of probation and were ordered to pay restitution and complete 200 hundred hours of community service.

Wildland/Forest Fire Service

In the past decade there has been an average of 116,000 wildfires per year in our nation's forests. According to Federal statistics, 102,000 of them were person-caused, both accidentally and intentionally. A miniscule number of arson fires in our National forests are set by federally-employed firefighters; nevertheless, a retired Forest Service fire administrator estimates that 10 to 20 wildfires per year are deliberately started by firefighters. A director of the Western Fire Ecology Center in Eugene, Oregon, noted that, "we only hear of the very worst and blatant incidents, where people are caught red-handed or confess."

As noted earlier, arson offenders in the Forest Service and other federal wildland agencies often have a financial incentive. Permanent firefighting positions under the National Fire Plan have hourly wages starting at \$9.40 to \$14.43 per hour. Temporary positions range from \$7.67 per hour to \$10.52 per hour starting salary. Regionally there are variables in target grade level, tour of duty, bargaining unit status, and location.

During the fire season, the need for firefighters increases dramatically. Temporary and contract employees are brought in to augment the resources required to fight wildland fires during the peak season. The number of positions to be filled depends on an individual unit's needs.

In 2000, a former Forest Service fire safety worker was sentenced to three years in prison for setting fires in the Oregon woods. Investigations showed that she wanted to earn overtime pay fighting the fires.¹⁰ A Forest Service firefighter was sentenced to prison in 2001 for fires he set in the Cleveland National Forest.

In the summer of 2002, two Forest Service employees were accused of allegedly setting two of the largest wildfires in this country's history. The Rodeo fire in Arizona that allegedly was started by a part-time Forest Service firefighter, merged with another blaze and raced across more than 465,000 acres. It destroyed at least 423 homes and devastated the economy of the communities nearby, including an Indian reservation. The fire was difficult to contain, and is estimated to have cost the state of Arizona and the Forest Service over \$10 million to control.

The part-time firefighter was a resident of the already economically depressed Fort Apache Indian Reservation that had portions of land and timber destroyed in the fire. Prosecutors allege that the fire was set in dry grass and with the hope that the firefighter would be called to fight the fire and earn \$8.00 an hour as part of the fire crew.

In Colorado, also in the summer of 2002, a Forest Service employee was accused of starting the Hayman fire in the Pike National Forest. It was a 137,000-acre fire—the largest in that state's history—and the fire destroyed more than 130 homes, caused the evacuation of 25,000 residents, and threatened the outlying suburbs of Denver. Smoke and ash from the fire could be seen for hundreds of miles, and fans at the Colorado Rockies baseball games were subject to falling ash from the sky. The smoke from the Hayman fire was considered a health hazard by public health officials, and cost the state of Colorado and the Forest Service an estimated \$15 million. While the accused employee maintains the fire was accidental, prosecutors suggest that the fire was set for revenge, attention, and to gain financially.

¹⁰As a side note, female arsonists are unusual, and female firefighter arsonists are rare.

Case Study #7

U.S. Forest Service Firefighter

In **July of 2001**, James King, 26, a seasonal firefighter for the US Forest Service was accused of setting fire fires in a two-month period in the Cleveland National Forest. According to an affidavit filed with the US Attorney, a fellow firefighter who responded to a fire in May of that year, said that King “appeared to have been watching in the area for something to appear when no one else could see anything.”

No one was injured in any of the fires, which consumed about 30 acres in San Diego County. A special agent with the US Forest Service believed that if King had not been stopped, he would have continued to set fires. Investigators were concerned that as the fire season went on, King might have set a fire that would have escaped control and become a large fire, possibly injuring lives and damaging property.

According to the affidavit filed in US District Court, King was seen to have a “huge smile on his face” as he responded to a fire in July 2001, near the Pine Hills station. The affidavit also described King as eagerly dispatching fire trucks to small blazes that broke out near the station when he was the only firefighter on duty.

According to news media accounts, King had been under surveillance for five weeks. Fellow firefighters grew suspicious of King in May when he alerted them to a fire near the station. King insisted that there was a fire, though no one else at the station could see or smell smoke. He then guided the fire crew to the location of the fire on the Inaja Indian Reservation.

King later confirmed the investigators’ suspicions. While staring at a brush pile across the road from the ranger station, according to the affidavit, King asked another firefighter, “What would I do if a fire started in front of the station? Would I be able to take the fire engine over and put out the fire?” Nine days later, a brush fire occurred across the station, and it was determined to be intentionally set.

In October of 2001, James King pleaded guilty for setting two blazes in the Cleveland National Forest, in exchange for dismissal of three other arson charges against him. He was free on \$50,000 bail and satellite surveillance. An Assistant U.S. Attorney for the case told reporters that King may face prison time and restitution for firefighting costs, estimated at \$101,000. Under the law, each of the two remaining arson charges carries a maximum penalty of five years in prison and a \$250,000 fine.

The Assistant US Attorney was willing to accept the pleas for the two largest fires that occurred on June 14 and July 14, 2001 in exchange for the dismissal of charges on three small blazes that burned less than three acres. The two larger fires burned over 50 acres and took air tankers to extinguish. King admitted that he set one of the two fires because he wanted “a little extra pay.” He allegedly set the other one to see how fast a fire would spread, then fled when it quickly burned, reports say.

On March 29, 2002, King was sentenced to 30 months in federal prison for setting the two fires and ordered to pay \$101,747 in restitution. The Federal judge on the case recommended King for a “boot camp” program for part of his sentence time. He was ordered not to return to the firefighting profession upon his release. He will be on supervised probation for three years after he serves his sentences.

IMPACT OF FIREFIGHTER ARSON

When firefighters commit arson, the impact can be far reaching, as mentioned previously. Firefighters who set criminal fires are responsible for a chain of consequences that negatively affect department unity, public trust, and oversight.

Public Trust

The efforts of firefighters across the nation and internationally embody many of the values and traditions long respected and admired by the citizens they serve. Firefighters devote many hours acquiring essential training and protecting lives and property, while sometimes having to place their own lives and physical well-being in jeopardy. Firefighters are trusted community helpers and role models for service to others. Unfortunately, each year the public and members of the fire and rescue service are surprised to learn that a few firefighters have been responsible for setting fires. Motives notwithstanding, the effect is the same: public trust in the fire department involved, and morale within department, suffer.

The actions of this small number of individuals can even place communities and citizens at greater risk. If a firefighter arsonist is discovered, public confidence in the fire department wanes, even if only temporarily. For the community, a firefighter who intentionally endangers property and safety represents a breach of trust. Public outrage may result and there can be financial repercussions. The withdrawal of community support can affect the financial resources available to the fire service, disrupt training, place equipment upgrades and purchases on hold, and alter budget planning. An organization that suffers from a poor reputation is less likely to attract high caliber applicants. If the problem continues, the standard for applicants and recruits can decline and the performance of members can drop.

Fire Department Impact

When a firefighter commits the crime of arson, the crime can impact not only the community he serves, but the department as well. First of all, firefighters may get injured or even die while responding to blazes that another firefighter started. That is the most direct, and tragic impact on a fire department. There also can be intense scrutiny from the public and other government agencies. The turmoil caused by allegations, investigations, and any subsequent prosecution impacts the department in ways that may not be obvious at first.

Recruiting new members for the fire department may become more difficult, or the quality of the applicants may decline. When information about the charges becomes fodder for the news media, potential quality recruits may decide to apply elsewhere to avoid the guilty-by-association stigma. Some members of departments that have experienced firefighter arson among their ranks liken it to the scarlet letter. Members may feel shunned by the public they serve and be questioned at fire scenes as to whether the fire they are working to suppress is suspicious.

Along with community distrust of the fire department comes distrust of the fire chief. The public, officials, and other firefighters generally raise questions as to why the fire chief was not aware there was a problem with one of his firefighters. There is sometimes reluctance on the part of the fire department's management to report suspicions of firefighter arson to law enforcement because of the potential investigation that would likely follow.

When an allegation of firefighter arson is brought forward by the fire chief, disruption within the department quickly follows, whether or not these allegations prove to be true. Fire service leaders are in a tough spot. They may internally debate “what if I’m wrong” and hesitate to come forward, knowing that if the accusation is false, the ramifications would be great for the firefighter, the department, and himself. Employee morale suffers when there are allegations looming and ultimately can lead to in-fighting among department members.

Financial Consequences

Firefighters convicted of arson face serious economic consequences. In many of the cases researched for this report, sentencing included restitution; the amounts ranged from \$5,000 to \$250,000.

Insurance costs from property damage can reach into the millions. Fire suppression efforts come with a cost as well. The fire suppression and containment efforts for the Hayman Fire in Colorado and the Rodeo Fire in Arizona were estimated to cost \$15 million and \$10 million respectively. Volunteer, career, and wildland fire services have been forced to regroup and take a detailed inventory of the equipment they used during these fires. Almost all the fire agencies that responded will have to request grant assistance from the federal government to replace equipment that was damaged or destroyed during suppression efforts.

Table 2 outlines a number of firefighter arson incidents. It provides a glimpse of the crime and its financial impact. The examples are representative of the types of cases seen throughout the country.

Table 2. Firefighter Arson Incidents

Year and Location	Age of Firefighter	Estimated Loss	Incident Descriptions
2002 Martins Ferry, OH	25 and 20	Unlisted	Two firefighters and a terminated former firefighter from the same department were arrested for setting a structure fire. The Fire Chief sated, “They put a bunch of firemen’s lives in jeopardy...and put a mark against us. They will be dropped... we’ll just have to look for new people...”
2002 Brunswick, MD	31	\$30,000	A firefighter is accused of setting a garage fire and with making a false report of a fire. The charges carry a combined maximum penalty of 25 years in jail plus fines exceeding \$30,000 dollars. The firefighter was being held in the Frederick County, MD jail on a \$150,000 bond at time of report.
2002 Kent County, MD	26	Unlisted	The son of a local fire chief has been charged with second degree arson in a late September park pavilion fire. He also is alleged to have participated in setting fires in vacant dwellings, according to State Police and Fire Marshal’s Office investigators. The firefighter is serving a one year suspension form the fire department after entering an Alford plea to second-degree assault related to a non-fire incident in 2001. Lesser charges for sex offenses were dismissed.

Table 2. Firefighter Arson Incidents (continued)

Year and Location	Age of Firefighter	Estimated Loss	Incident Descriptions
2002 Columbia, PA	22	\$197,295	A former volunteer was sentenced to 3-6 years in state prison with 14 years of probation for setting a string of fires in the Columbia, PA area. He is one of three former firefighters charged in the arson spree.
2002 Golden, CO	19	\$120,000	A firefighter admitted to setting a fire that damaged a greenhouse and an adjacent building. He was charged with first-degree arson, felony criminal mischief, first-degree criminal trespass, felony theft and burglary. He had been on duty and then left to run an errand; about 40 minutes after his return, the call about the greenhouse fire came in.
2002 Laurel, MD	20	Over \$1 Million	A firefighter was indicted on five counts of arson and related charges for fires dating back to 2000 in the Lanham area. He along with three other men from the fire department set fires that caused over \$1 million in damages.
2002 New Jersey	23	Unlisted	A firefighter was charged with arson after setting fire to his apartment while people were sleeping inside. He told investigators he was behind on rent payments due to gambling problems.
2002 Ostader, OH	20 and 19	Century old barn and livestock	Two firefighters were charged with two barn fires, and allegations were made that they were responsible for a string of other fires in central Ohio.
2001-02 Hanover, PA	20	Over \$1 Million	A firefighter charged with seven arson in York County, claims he has multiple personalities and that "Samantha" actually lit the fires. Most of the fires were small and no one was injured. He faces over 40 felony charges for the incidents.
2001 Long Island, NY	19	Unlisted	A probationary, volunteer firefighter admitted to torching a Long Island flower shop in an attempt to become a hero by putting out the blaze. He was charged with arson and criminal trespass.
2001 Stevensville, MD	20	Unlisted	In April 2001, a volunteer firefighter was arrested by the State Fire Marshal's Office in connection with two arsons on Kent Island. He was charged with second-degree arson and three counts of malicious burning of property for burning a truck trailer behind a Kmart store. Thirty-three firefighters from surrounding communities were needed to extinguish that fire. He also set a trash container on fire. His motive was to have a chance to go out on a fire call with the Kent Island Volunteer Fire Department.

Table 2. Firefighter Arson Incidents (continued)

Year and Location	Age of Firefighter	Estimated Loss	Incident Descriptions
2001 Rochester, NY	25	Death of wife and 3 children	Firefighter was charged with killing his wife age 23 and their four children, aged 15 months to 6 years old by setting fire to their home in western New York. He was arraigned on charges of second-degree murder and arson, with a potential penalty of 25 years to life in prison.
2001 Stockbridge, MA	17	Unlisted	A juvenile, training to be a firefighter had recently been hailed a hero for rescuing his grandmother from a burning building. He was arrested for setting a string of fires, including one that destroyed the Great Barrington lumber mill.
2001 Madison County, NC	19	Unlisted	A firefighter was charged with numerous counts of arson involving forest fires and structure fires. When asked why he did it he said, "I just like to put the fire out." The investigation revealed that every fire he was charged with he had called in. He is a prime suspect in several other incidents, too.
2001 Clark County, OH	32	Unlisted	A volunteer firefighter was charged with four counts of aggravated arson in four fires in a mobile-home complex near Springfield. In one of the fires, the firefighter rescued his girlfriend's sons from her burning mobile home.
2000 Henning, TN	46	Unlisted	The Fire Chief of the Henning Fire Department was indicated for setting ablaze the fire station that was destroyed by the fire. Special agents from ATF, the State Fire Marshal Bomb and Arson Section and the State Bureau of Investigation cooperated on the sensitive case.
1999 Henagar, AL	19	Over \$1 million for multiple fires	The Fire Chief had the Police Department run background checks on all unfamiliar volunteers, one of whom (along with two juveniles aged 15 and 17) was charged with five counts of second-degree arson following a year-long investigation. The firefighter was hired by another fire department upon his dismissal from Henagar. One of the fires he is accused of setting caused damages estimated at close to \$1 million dollars. The last fire he is accused of setting was started three hours before his arrest.
1992-94 Suffolk County, NY	Nine firefighters in multiple incidents	\$1.5 million and two deaths	1992: One firefighter was arrested and convicted of setting fires. 1993: 35 firefighters – 8 of whom were from three different departments in Suffolk County – were arrested for arson throughout the state that year.
International			
Australia	18	Unlisted	A firefighter set fire to a school so he could impress students with his uniform. Police investigating the arson found 60 pairs of underwear in his home. Psychologist testimony showed that the arson and sexual fetishism were fueled by low self-esteem and the need to impress people.

Table 2. Firefighter Arson Incidents (continued)

Year and Location	Age of Firefighter	Estimated Loss	Incident Descriptions
Tasmania	26	\$73,000	Burnie Supreme Court heard testimony from a firefighter who set fire to 14 houses plus some shed and scrub fires to gain favor from his bosses. The blaze took days to control. Personnel and heavy equipment had to be called in to fight it. He had joined the Zeehan Volunteer Fire Brigade in 1988 when he was 13.
Tokyo, Japan	Unknown	Unknown	A firefighter was arrested for a series of arson attacks, to which he admitted. He said he started the fires "to vent my frustrations." The firefighter is also a construction worker. About 60 suspicious fires in construction areas had broken out since August of 1999, and the arsonist admitted to starting more than 10 of them.

PREVENTION OF FIREFIGHTER ARSON

In an effort to combat firefighter arson, several states have developed programs to educate members of the fire service about the problem. Proactive prevention and awareness programs to combat firefighter arson try to instill in cadet firefighters, as well as in seasoned veterans, that there should be zero tolerance for the degrading and dangerous behavior exhibited by firefighter arsonists. There is a growing awareness of the serious implications of firefighter arson to the well being of the community and the fire service. At the same time, there is an increasing recognition that something needs to be done to reduce the potential of firefighter arson.

The keys to prevention seem to lie in recognizing the problem, acknowledging the serious threat it poses to public safety and to the credibility of the fire service, and improving screening procedures for new recruits. These preventative actions require the cooperation of all relevant authorities and a commitment to address the problem at a National level as well.

Several fire service leaders in the United States have taken active steps to ward off the potential for firesetting among department members. Some have created task forces; others have added the topic to their fire training curriculum or set up special projects. A few states have succeeded in getting new laws passed that strengthen penalties for arson, while others have developed information for firefighters on the criminal justice system and the legal issues that an offender faces if charged with arson. State fire academies in some parts of the country explain in firefighter recruit classes that there is a zero tolerance policy for firefighter arson. The lectures to new firefighters stress that arson is a crime their peers will not tolerate.

Below is a summary of several state programs currently underway.

Pennsylvania Firefighter Arson Task Force

Founded in the fall of 2000, the Firefighter Arson Task Force was created to provide training to the fire leaders in Pennsylvania's fire companies, and to help identify potential arsonists among the ranks. The task force is composed of "officials with the knowledge, experience, and influence necessary to

effect change in the situation.” The task force was established in order to address the need to alert and inform fire service and other allied personnel to the dangers and repercussions of intentionally setting fires.

The Firefighter Arson Task Force developed awareness education programs, to target the prevention of firefighter arson, and a policy for mitigating existing problems. The State Fire Academy offers training programs that now address the subject of firefighter arson. Curriculum elements may be incorporated into one or more of the state’s programs: the 88-hour *Essentials of Firefighting*, the *Arson Awareness for Emergency Personnel* class, and the stand alone program, *Firefighter Arsonist Prevention and Mitigation*.

The programs stress awareness that firefighter arson could happen, the consequences of such acts, an overview of the state laws regarding arson, and actions to mitigate the problem. The program emphasizes the importance of prevention, education, and training with a combined effort from both the firefighter and the fire service.

To help discourage the intentional misuse of fire by firefighters, the Office of the Pennsylvania State Fire Commissioner has worked on creating ways that could identify whether someone interested in joining a fire department has any record of firesetting. Indeed, early fascination and experimentation with fire is a common precursor to arson.

Conducting background checks on new applicants is becoming a more common feature of pre-employment screening in many public safety agencies. The Office of the Pennsylvania State Fire Commissioner, however, recognizes that background checks can be more difficult to carry out within the volunteer fire service than they are in career departments for reasons of cost and time. Moreover, many non-urban areas protected by volunteer firefighters are struggling to recruit and retain fire department members. Wanting to encourage, not discourage, new members, volunteer department may hesitate to add another hurdle like background investigations to the list of membership requirements.

The Office of the State Fire Marshal in Pennsylvania, therefore, has prepared an alternative that accomplishes some of what a background check would accomplish, and provides a measure of protection from liability for the fire department should they ever experience an incident involving firefighter arson. The Office makes available to Pennsylvania fire departments, a sample one-page statement, *Affidavit For Fire Company Membership*, wherein applicants affirm that they have never been convicted, pleaded no lo contender, or been found guilty of the crime of arson or of false alarms to public safety agencies. The statement further asserts that the applicant has made full disclosure of **all** arrests, convictions, or adjudications for other criminal offenses. The affidavit must be signed by the applicant and by a magistrate. It becomes part of the applicant’s file. A copy of the document is included in Appendix A.

Suffolk County, New York Arson Task Force

The Suffolk County Arson Task Force educates its firefighters on the criminal justice system and mandates background checks. The lessons taught in the Suffolk County Arson Task Force classes make the firefighters aware of the impact of arson on the firefighter, both criminally and socially, by using the “scared straight” approach. The program shows firefighters how their arrest would affect family, friends, career, and freedom. The program also reminds firefighters of their commitment and responsibility to the community.

New York State, Office of Fire Prevention and Control-- Fire Service Organization and Fire Behavior: Firefighter Firesetters

In response to the occurrences of firefighter arson in the State of New York, the State Office of Fire Prevention and Control developed a curriculum that can be taught to incoming classes of new fire cadets. Rather than speak informally about firefighter arson, instructors follow a comprehensive outline with chapters that were developed for the Academy. The curriculum begins with information on the legal system, the crime of arson, and the penalties an offender may face.

Each chapter has lesson objectives and the instructor emphasizes throughout the serious nature of arson and the associated penalties for conviction. When the material was originally produced, some of the legal penalties were different. New York recently has taken great strides to change what level an offender may plea to, and what sentencing would subsequently result from an arson conviction.

After discussion of the legal ramifications of firefighter arson, the program goes on to include a section on community impact. Topics discussed here address the impact of firefighter arson on the community the firefighter serves, the impact on family and friends, and the financial burden that could result. Included in this portion is information on the impact the crime would have on the fire department itself. The curriculum indicates that the crime would have a negative Impact on recruitment, the public image of the department, support for the department, and embarrassment to the fire department.

Finally, the program stresses that each firefighter has the duty and responsibility to promote and support arson control measures within their community as the first line of defense in combating arson. Candidates are taught that not only would arson cause a “black eye” to the department, the stigma of an arson conviction is something that they would regret for the rest of their lives.

South Carolina Forestry Commission

In 1993-94, the South Carolina Forestry Commission developed a general, descriptive profile of fire service personnel who had been arrested for arson. The profile was recognized by the Southern Group of State Foresters as being reasonably accurate in describing firefighter arsonists throughout the southern region of the United States. Then, in 1997, the Southern Group received a grant from the National Wildlife Coordinating Group to develop a written instrument that could identify any firefighter applicants who may be predisposed to firesetting. The project was assigned to the South Carolina Forestry Commission.

The South Carolina Forestry Commission contracted with a criminology professor at Central Missouri State University to develop the instrument. The consultant serves as an advisor to the FBI and the National Center for the Analysis of Violent Crime, and is the co-author of NCAVC’s *Essential Findings from a Study of Serial Arsonists*.

The Arson Screening and Prediction System (ASAP)¹¹ created for the South Carolina Forestry Commission was designed to be administered, scored, and evaluated by field level fire administrators. Based on the numeric score, a fire leader can ascertain whether a particular recruit or firefighter

¹¹The instrument does not presume to identify an individual as an arsonist, nor is it intended as a criterion for acceptance or rejection of any applicant for a firefighting position. It simply compares a subject’s responses with the profile characteristics.

may be predisposed to commit arson. The test is a “user-friendly” tool of sorts that does not need to be sent off for analysis. The fire leader utilizing this test can review the answers immediately and determine the best course of action from there.

The assessment instrument is based on eight specific domains:

- I. Personal**
Age, race, gender
- II. Marital and Family**
Relationship with father and mother, marital adjustment, rearing environment
- III. Occupational**
Employment and work history
- IV. Social Interaction**
Social skills, interpersonal skills, empathy, interpersonal problem solving
- V. Personal and Emotional Needs**
Self-control, impulsiveness, aggressive tendencies, anger threshold, life planning
- VI. Self Esteem**
Intelligence, academic performance, self-esteem
- VII. Stress**
Financial management, income levels, family and legal stress
- VIII. Fire Service Attitudes**
Fascination with the fire service and its trappings

Forty questions were developed to explore each of these domains. Four responses are provided for each question; test subjects are instructed to select the response that most closely describes their feelings about the question. The questions are simply phrased using common vocabulary. Most subjects complete the questionnaire in about a half-hour.¹²

Scoring the Instrument

The possible responses to each question are assigned values of 1 through 4; the composite score for any screening will lie in a range of 40 through 160. The higher the score, the more the applicant resembles the general profile of a firefighter arsonist. Scores of 80 or less indicate the applicant does not fit the general profile in any significant way. Scores of 120 or more indicate a high degree of match to the general profile. Scores in the 81-119 ranges are subject to interpretation. Use of the answer sheet simplifies the scoring of the instrument.

Delaware State Fire Marshal’s Office and Delaware State Fire School

One of the first states to publicly recognize that in rare cases, firefighters set fires, was Delaware. In 1994 the State Fire Marshal and the Director of the Delaware State Fire School released a course,

¹² More specific information and test questions may be obtained by contacting Kenneth Cabe, Information Officer, South Carolina Forestry Commission, PG Box 21707, Columbia, SC 29221-1707.

“Firefighter Arson Awareness”. The course was created to provide fire service students with training on the problem of firefighter arson and what can be done to correct the problem. The messages are clear:

- Arson is a problem;
- Firefighter arson is also a problem;
- Firefighter arson occurs in Delaware;
- It is not acceptable; and
- Offenders will be investigated and prosecuted.

The fire service constituency in the state supported the training, recognizing that it takes only a small fraction of all firefighters to cause serious harm to the fire service’s reputation and community support. Preventing firefighter arson from occurring is an important goal.

“Registration Law” Legislation

In South Carolina, a law passed May 23, 2001 requires registration of all new firefighters hired after July 1, 2001. The South Carolina Firefighters Employment and Registration Act allows for criminal background checks of new firefighters. Firefighters hired prior to June 30, 2001 are required to register with the South Carolina State Fire Marshal, however, a criminal background check was considered “not necessary.

Members of the fire service in South Carolina consider this Bill to be one of the most important ever sought. Mandating firefighter registration and criminal background checks is a proactive tool to prevent firefighter arson. The Bill requires the State Fire Marshal’s office to create an identification number for each registrant and to maintain relevant records on the firefighters. Firefighters employed by a public fire department are required to register, or will not be allowed to perform firefighting duties. The public fire departments are also required to notify the State Fire Marshals office within sixty days of a firefighter separating his employment.

Exceptions to the registration law were firefighters employed by the United States government or an individual engaged in firefighting duties during a declared state emergency. The law also includes this mandate:

A person who is convicted, pleads guilty or no contest, or otherwise admits guilt, regardless of adjudication, to a felony, arson related crime, use of an illegal substance, or abuse of a controlled substance within the last ten years, shall not be allowed to perform firefighting duties in the State of South Carolina on or after July 1, 2001. After the expiration of the ten-year period, the Fire Chief has the option and discretion to determine whether or not to hire a person with a criminal record as a firefighter.

A full text version of Bill S.390 and examples of South Carolina Firefighter Registration forms are included in Appendix B.

South Carolina was the only state where an enacted “registration law” could be found. This type of legislation should possibly be considered in other states to help prevent firefighter arson. It is useful in preventing firefighter arson and preempting current offenders from “department jumping” to other fire services within the state.

Criminal Background Checks

Over a decade ago, the FBI began creating an arson profile. It was about this time that several fire departments began doing criminal background checks and psychological testing on firefighter applicants. The problems associated with a firefighter arsonist can be reduced with applicant screening and background examinations. While screening cannot be 100 percent effective for a fire department any more than for a police department, when combined with a background check the possibility of hiring a potential arsonist, or current one, is generally thought to be reduced. The percentage of reduction, however, is speculative and data is not currently available to verify the impact. Measures such as these are preventative, but can be expensive.

Combining screening and background checks for an applicant may alert a fire leader that a prospective member has a criminal history. In the little research that has been conducted on firefighter arson, there was evidence that some of the individuals were convicted of arson in one state, and then moved to another state only to set more fires.

In conjunction with the Suffolk County Arson Task Force, the Suffolk County Police Arson Squad provides applicant screening. Suffolk County asks applicants to sign a waiver that would allow the County to inspect the applicant's criminal history as part of the department's application process. Failure to sign the waiver precludes the applicant from further consideration. The waiver for criminal history checks as a pre-employment requirement can be a simple and effective screening measure.

In the State of New York in February of 1999, Chapter 423, The Executive Law was amended to add a new section 837-o, which requires fire chiefs to obtain an arson history background check of any applicant for membership in a volunteer fire company. The law became effective on April 1, 2000. The check is to be conducted by the Division of Criminal Justice Services at no cost to the applicant or the fire company. If history of an arson conviction is found, the applicant is barred from membership. The Town Law, Village Law, and Not-for-profit Corporation Law were also amended to require the arson history checks.

The amendment in New York State's law came after years of fire officials lobbying to make a conviction of arson in any degree an absolute bar to membership in a fire company. Chapter 423's intent is to strengthen the ability of fire companies to police their own ranks by enabling fire chiefs to require new volunteer firefighter applicants, including those who transfer between fire companies, to undergo an arson conviction record check prior to acceptance as members. The New York law is provided in Appendix C.

Even with all of the efforts a fire department may take to prevent a potential firefighter arsonist from joining their department, some still slip through the cracks. Following is an account of a volunteer firefighter who moved from one state to another and applied to a new volunteer fire department, and then finally a career fire department. It is easy to see that even with the system in place for background checks, diligence is still required on the part of the fire department. The following example is a case in point.

Case Study #8

Criminal Background Checks, Texas

A firefighter was convicted of burning a vehicle as a part of an insurance fraud. He received probation in a plea bargain for a reduced charge. The firefighter then moved to another state and joined another small volunteer fire department. While there, a series of arson fires occurred in that jurisdiction. Strong circumstantial evidence pointed to the firefighter as the prime suspect, and an investigation commenced, but before charges could be filed against the individual, he applied, and was accepted as a recruit in a large career fire department in another state: Texas.

Since the prior criminal conviction did not occur in Texas, it was not initially discovered during the pre-employment background check. Furthermore, since the arson-related offense was originally listed in a category unique to that states classification system, the system in Texas “translated” it to a similarly worded misdemeanor category. Consequently, when asked if he had ever committed a felony, the applicant said, “No,” and a polygraph showed no deception during pre-employment screening. Fortunately, the prior criminal history and the on-going arson investigation in the other state were discovered while the person was in training for the career fire department. He was subsequently dismissed from employment with the fire department.



Firefighter arson is not a trivial problem for the fire service. Its importance is measured not by large numbers of incidents, but by the serious impact of the very few which do occur. The problem may be increasing or maybe is just now capturing the attention of the media, but the number of cases that have recently come to light indicates the need for better screening and adequate arson awareness training programs for firefighters. The 99.9 percent of the nation’s law-abiding fire and rescue personnel have only to gain from bringing to light the .01 percent of the fire service who endanger their colleagues and the citizens they are sworn to protect.

APPENDIX A

Affidavit For Fire Company Membership

The Office of the State Fire Marshal in Pennsylvania

INSERT FIRE COMPANY NAME, LOGO, ADDRESS, TELEPHONE, OR OTHER
OFFICIAL INFORMATION IN THIS HEADER

AFFIDAVIT FOR FIRE COMPANY MEMBERSHIP

I, _____, of _____,
hereby swear (or affirm), under penalty of perjury or false swearing, that I have never been
convicted, pleaded no to contender, or been found guilty of the following:

1. *The crime of arson or its related offenses. I have read the definition of "Arson and related offenses" as set forth in Section 3301 of the Crimes Code (18 Pa. C.S. § 3301), which is attached hereto as Exhibit A, and I hereby swear that I have never committed nor engaged in any of the acts defined or described in this section.*
2. *The crime of false alarms to public safety agencies. I have read the definition of "False alarms to agencies of public safety" as set forth in Section 4905 of the Crimes Code (18 Pa. C.S. § 4905), which is attached hereto as Exhibit A, and I hereby swear that I have never committed nor engaged in any of the acts defined or described in this section.*

I further swear that as part of this membership application; I have made full disclosure of any and all arrests, convictions, or adjudications for any other criminal offenses.

I understand that if subsequent investigation reveals that I have falsified or otherwise misrepresented the true nature of any criminal offenses that involve myself, I may forfeit my membership in the above-named organization and be subject to the criminal penalties for perjury or false swearing.

I fully intend to be bound hereby, by affixing my hand on this, the _____ day of _____ in the year _____.

Written Signature of Applicant

Printed Name of Applicant

Signature of Parent/Guardian for Junior Firefighter Applicants

Signature of Magistrate

APPENDIX B

“South Carolina Firefighters Employment and Registration Act”

South Carolina Legislature
General Assembly General Bill S.390

and

**South Carolina State Fire Marshal’s Office
Firefighter Registration Forms**



Home - Fire Politics - FF

FF Registration

Go to SC FF Registration Act for More information For Firefighters Employed Before July 1, 2001

South Carolina Firefighter Registration Form [pdf]

Request for Criminal Record Review [pdf]

Request for Registration Documentation [pdf]

S.L.E.D. Request Recap Sheet [pdf]

1. All current firefighters employed before July 1, 2001 must complete Section A of the Firefighter Registration form for the initial registration. Form must be signed by the Fire Chief, or his/her designee.

2. Submit registration forms on those firefighters employed before July 1, 2001 as a batch from the fire department (not one at a time). All forms are due by September 1, 2001.

For Firefighters Employed On or After July 1, 2001

3. Firefighters employed on or after July 1, 2001 must complete Section A and Section B of the Firefighter Registration form. Form must be signed by the Fire Chief or his/her designee.

4. Criminal records check (See Request for Criminal Record Review Form) and S.L.E.D. Request Recap must be completed prior to submitting registration form to the State Fire Marshal's Office. This check is required for those employed before July 1, 2001. REQUEST FOR CRIMINAL RECORD REVIEW FORMS S.L.E.D. REQUEST RECAP SHEET ARE TO BE SENT DIRECTLY TO S.L.E.D. ALSO, THESE REPORTS WILL BE RETURNED TO THE FIRE DEPARTMENTS, NOT TO THE FIRE MARSHAL'S OFFICE.

For All Firefighters

6. Completion of Section A and Section B required for all actions taken after initial registration.

7. All information on form must be completed.

8. All forms should be typed or printed legibly.

9. Registration forms are to be submitted to:

Firefighter Registration
State Fire Marshal's Office
141 Monticello Trail
Columbia, S. C. 29203

S.390

Page 1 of 1

[Home - Fire Po](#)

S.390

[For a complete reading of S390 Click here](#)

General Assembly Passes S.390. Thanks to the South Carolina Fire Service!

The House of Representatives gave third and final reading to S.390 on Wednesday, May 23, 2001. The Sen concurred with the House version of the bill about 12:15 pm this afternoon. The bill will be ratified and a date is being arranged with the Governor's Office.

This is one of the most important bills ever sought by the fire service. It mandates the Firefighter Registrat Program and requires a background check for all firefighters hired after July 1, 2001. In an interesting ame passed by the House, all background checks conducted by SLED to comply with the provisions of this bill for by LLR after 7/1/01.

The bill also provides much needed operating money for the Fire Academy through the continued collectio the .35% tax on fire insurance premiums that were originally utilized to repay the bonds for the Academy. allocate approximately \$1.7 million annually to the Academy.

In addition, it funds the construction of Dalmatian Station at EdVenture. This is the interactive children's m being built in front of the State Museum in Columbia. It will educate over 300,000 children annually in publi education.

Thanks to the South Carolina Fire Service for never giving up on our strategic goals. All of this is a reality we spoke as one. Thanks for all your hard work!

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EDUCATION AND TRAINING, FIRE PREVENTION SERVICES, AND PUBLIC GRANTS TO ENTITIES PROVIDING FIRE AND LIFE SAFETY EDUCATION.

Be it enacted by the General Assembly of the State of South Carolina:

South Carolina Firefighters Employment and Registration Act

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 80

Employment and Registration of Firefighters

Section 40-80-10. (A) This chapter may be cited as the ‘South Carolina Firefighters Employment and Registration Act’.

(B) For purposes of this chapter:

(1) ‘Employer’ means any fire department or other entity which puts an individual or employee in service as a firefighter or assigns any person to work or to official duties as a firefighter whether or not the firefighter receives financial compensation.

(2) ‘Employment date’ means the date the fire chief certifies the firefighter is trained and prepared to perform firefighting duties.

(3) ‘Fire chief’ means the highest ranking officer or official in charge of a fire department, whether or not called by some other title.

(4) ‘Fire department’ means any organization providing rescue, fire suppression, and related activities including any public or government sponsored organizations engaged in rescue, fire suppression, and related activities.

(5) ‘Firefighter’ means any person, male or female, paid or unpaid, who engages in rescue, fire suppression, or related activities under the supervision of a fire chief or fire department.

(6) ‘Firefighting duties’ means duties relating to rescue, fire suppression, public safety, and related activities as assigned by a fire chief.

Section 40-80-20. (A) Prior to employment of any firefighter, paid or volunteer, the fire chief or other employer must ensure that each prospective firefighter undergoes a criminal records check conducted by a law enforcement agency.

(B) The cost of the criminal records check must not exceed eight dollars.

(C) A person who is convicted, pleads guilty or no contest, or otherwise admits guilt, regardless of adjudication, to a felony, arson related crime, use of an illegal substance, or abuse of a controlled substance within the last ten years, shall not be allowed to perform firefighting duties in the State of South Carolina on or after July 1, 2001. After the expiration of the ten-year period, a fire chief has the option and discretion to determine whether or not to hire a person with a criminal record as a firefighter.

(D) A criminal records check is not required for a firefighter employed on or before June 30, 2001.

Section 40-80-30. (A) No later than sixty days after the start of his employment date as a paid or volunteer firefighter, each firefighter must be registered with the Office of the State Fire Marshal by his fire chief or other employer. The criminal background check required by Section 40-80-20 must be conducted before registration.

(B) The Office of the State Fire Marshal must maintain a file on each registered firefighter in this State, that includes all information required to be kept by this chapter, and must assign a firefighter identification number to each registered firefighter which corresponds with the firefighter's social security number.

(C) Upon request the information in the file of an individual firefighter may be released in its entirety to a potential employer as defined in this chapter and may be used as a basis for employment. The requesting department or employer must maintain this information in a confidential manner.

(D) Any registered firefighter may at any time request and obtain a copy of his or her file. The fee for a copy of a firefighter's file is five dollars payable to the Office of the State Fire Marshal.

Section 40-80-40. (A) No person may be allowed to perform firefighting duties with a public fire department, organization, or employer of a county, municipality, special purpose district, or other political subdivision in this State on or after July 1, 2001, without first undergoing a criminal background check as required by Section 40-80-20 and being recommended for registration pursuant to Section 40-80-50.

(B) A firefighter employed by the United States Government and working in the course and scope of his official duties as a federal employee is not required to be registered under this chapter.

(C) A firefighter who works for or serves more than one fire department must be registered by each department.

(D) A firefighter previously registered with the Office of the State Fire Marshal, but not actively engaged with a fire department or as a firefighter for a period of six months, must apply for registration and must submit a criminal records check as required by Section 40-80-20. Firefighters that are being reinstated to their last registered department within a period of not more than three years are exempted from the provisions contained in this section.

Section 40-80-50. Upon recommendation of a fire chief or other employer, the Office of the State Fire Marshal must register each firefighter subject to the provisions of Sections 40-80-30 and 40-80-40. The Office of the State Fire Marshal must maintain as minimum information on each firefighter the complete name, the date of birth, the social security number, the South Carolina driver's license number, the employer, and the date of employment or membership. The Office of the State Fire Marshal must notify the chief of the employing fire department or other employer of the registration. This notification may be transmitted electronically or in written form. The fire chief must utilize forms as required and provided by the Office of the State Fire Marshal.

Section 40-80-60. If a firefighter becomes separated from employment or membership or becomes inactive, the fire chief or other employer within sixty days must notify the Office of the State Fire Marshal of the firefighter's separation or inactive status. Notification of separation of a firefighter from employment must be on a form as provided by the Office of the State Fire Marshal.

Section 40-80-70. Notwithstanding another provision of law, the provisions contained in this chapter do not apply to individuals engaged in firefighting duties during a declared state of emergency."

Debt service on bonds

SECTION 2. Subsections (C), (D), and (E) of Section 2 of Act 1377 of 1968, as added by Act 522 of 1992, are amended to read:

"(C) In addition to the tax imposed pursuant to the provisions of Section 38-7-30 of the 1976 Code, an additional tax of thirty-five one-hundredths percent is imposed annually on the gross premium receipts less premiums returned on canceled policy contracts and less dividends and returns of unabsorbed premium deposits of all fire insurance companies doing business in the State. This tax must be

collected by the Director of the Department of Insurance as other taxes on fire insurance companies are collected. All sums collected for this tax must be paid annually by the director to the State Treasurer to be credited to the South Carolina Department of Labor, Licensing and Regulation to be used for capital improvements and support at the State Fire Academy, implementation of the Firefighter Employment and Registration Act established in Chapter 80 of Title 40 of the 1976 Code, regional service delivery of public firefighter education and training, fire prevention services, and public fire safety education, including grants to entities providing fire and life safety education on a statewide basis. Amounts necessary to conduct the fingerprint and background checks required pursuant to Chapter 80, Title 40 of the 1976 Code, must be transferred from the DLLR Fund to SLED and retained, expended, and carried forward for these purposes.

(D) Reserved

(E) Reserved ”

Time effective

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 5th day of June, 2001.

Approved the 19th day of June, 2001.

APPENDIX C

State of New York S2657-A LAVALLE Chapter 423

Section 176.b.16 Town Law, State of New York
Article 35 Division of Criminal Justice Services Section 837-o,
Executive Law
Article 150, Section 150.01 Arson in the fifth degree

S2657-A LAVALLE

Chapter 423

STATE OF NEW YORK

S. 2657-A

A. 4736-A

Cal. No. 625

R. R. 112

1999–2000 Regular Sessions

SENATE - ASSEMBLY

February 16, 1999

§ 837-o. Search for arson conviction records of volunteer firefighter applicants.

1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services.

2. The chief of the fire company shall send the completed search request form to either (i) the sheriff's department of the county in which the fire company is located, or (ii) the department of state, office of fire prevention and control, as follows:

(a) the sheriff's department of the county in which the fire company is located shall be responsible for receiving the search requests and processing the search requests with the division, unless the county legislative body adopts and files with the secretary of state pursuant to the municipal home rule law a local law providing that the sheriff's department shall not have such responsibility;

(b) in all other instances where a county legislative body has adopted a local law pursuant to paragraph (a) of this subdivision, the department of state, office of fire prevention and control shall be responsible for receiving search requests and forwarding the search requests to the division. The department of state, office of fire prevention and control is hereby authorized to establish a communication network with the division for the purpose of forwarding search requests and receiving search results pursuant to paragraph (b) of this subdivision.

3. (a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain solely to ascertaining whether the applicant stands convicted of arson.

(b) The results of the search shall be communicated in writing to the chief of the fire company from which the search request originated by either the sheriff's department or the department of state, office of fire prevention and control, and shall be kept confidential by the chief, except as provided in paragraph (c) of this subdivision. The results of the search shall only state either that: (i) the applicant stands convicted of arson, or (ii) the applicant has no record of conviction for arson. The results of the search shall not divulge any other information relating to the criminal history of the applicant.

(c) At the time an applicant is advised that he or she is ineligible for membership due to a record of conviction for arson, he or she shall also be advised of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division. The applicant shall continue to be barred from membership until all administrative and judicial challenges to the accuracy of such information or appeals therefore, are ultimately resolved in his or her favor, or if such a determination is unchallenged.

§ 3. Section 176-b of the town law is amended by adding a new subdivision 17 to read as follows:

17. Upon application by any person for membership in a fire company operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 4. Section 10-1006 of the village law is amended by adding a new subdivision 19 to read as follows:

19. Upon application by any person for membership in a fire company operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 5. Paragraph (c) of section 1402 of the not-for-profit corporation law is amended by adding a new subparagraph 5 to read as follows:

(5) Upon application by any person for membership in a fire corporation operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 6. This act shall take effect April 1, 2000 except that the division of criminal justice services and the department of state are immediately authorized to promulgate such rules and regulations necessary to implement this act on or before such effective date.

EXECUTIVE, TOWN—VOLUNTEER FIREFIGHTERS—
ARSON HISTORY REPORTS

CHAPTER 423

S. 2657—A, A. 4736—A

Approved Aug. 31, 1999, effective as provided in section 6

AN ACT to amend the executive law, the town law, the village law and the not-for-profit corporation law, in relation to arson history reports for volunteer firefighters

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Legislative intent. The efforts of volunteer firefighters in New York state embody many of the values and traditions long respected and admired by our citizens. Volunteer firefighters devote many hours acquiring necessary training and then expend their energies to protect lives and property while placing their own lives and physical well being in jeopardy. They are heroes to our children, are trusted in our hour of need and provide role models for dedication and discipline.

Unfortunately, each year the public and members of the volunteer firefighting services are shocked to learn that a very few volunteers among the ranks have themselves been responsible for setting fires in their communities. These are the very individuals who have received specific training as firefighters in the arts and techniques of the arsonist. While observers may differ as to whether these fires are set by individuals who are fascinated by fire itself, or are set by those who seek to create opportunities in which they can be viewed as brave heroes by others, the results are the same: a serious erosion in public confidence in the volunteer firefighting services as a whole, and a loss of trust and morale within the volunteer

Additions are indicated by underline; deletions by ~~strikeout~~; vetoes by shading 997

Ch. 423, Sec. 1

LAWS OF NEW YORK

companies themselves. This small number of individuals also places our communities and citizens at serious physical risk.

Mindful of these consequences, the legislature enacted chapter 719 of the laws of 1985, making an arson conviction in any degree an absolute bar to membership in a fire company. This law, however, relied too heavily upon an individual's willingness to admit an arson conviction and resigning as a volunteer or in refraining from applying in the first instance. It is the intent of this law to strengthen the ability of fire companies to police their own ranks by enabling fire chiefs to require new applicants for membership as volunteer firefighters, including transfers between fire companies, to undergo an arson conviction record check prior to acceptance as members. The authority afforded will enable the early identification of persons convicted of arson who may not serve.

§ 2. The executive law is amended by adding a new section 837-o to read as follows:

§ 837-o. Search for arson conviction records of volunteer firefighter applicants. 1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services.

2. The chief of the fire company shall send the completed search request form to either (i) the sheriff's department of the county in which the fire company is located, or (ii) the department of state, office of fire prevention and control, as follows:

(a) the sheriff's department of the county in which the fire company is located shall be responsible for receiving the search requests and processing the search requests with the division, unless the county legislative body adopts and files with the secretary of state pursuant to the municipal home rule law a local law providing that the sheriff's department shall not have such responsibility;

(b) in all other instances where a county legislative body has adopted a local law pursuant to paragraph (a) of this subdivision, the department of state, office of fire prevention and control shall be responsible for receiving search requests and forwarding the search requests to the division.

The department of state, office of fire prevention and control is hereby authorized to establish a communication network with the division for the purpose of forwarding search requests and receiving search results pursuant to paragraph (b) of this subdivision.

3. (a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain solely to ascertaining whether the applicant stands convicted of arson.

(b) The results of the search shall be communicated in writing to the chief of the fire company from which the search request originated by either the sheriff's department or the department of state, office of fire prevention and control, and shall be kept confidential by the chief, except as provided in paragraph (c) of this subdivision. The results of the search shall only state either that: (i) the applicant stands convicted of arson, or (ii) the applicant has no record of conviction for arson. The results of the search shall not divulge any other information relating to the criminal history of the applicant.

(c) At the time an applicant is advised that he or she is ineligible for membership due to a record of conviction for arson, he or she shall also be advised of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division. The applicant shall continue to be barred from membership until all administrative and judicial challenges to the accuracy of such information or appeals therefrom, are ultimately resolved in his or her favor, or if such a determination is unchallenged.

1999 REGULAR SESSION

Ch. 424, Sec. 1

§ 3. Section 176-b of the town law is amended by adding a new subdivision 17 to read as follows:

17. Upon application by any person for membership in a fire company operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 4. Section 10-1006 of the village law is amended by adding a new subdivision 19 to read as follows:

19. Upon application by any person for membership in a fire company operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 5. Paragraph (c) of section 1402 of the not-for-profit corporation law is amended by adding a new subparagraph 5 to read as follows:

(5) Upon application by any person for membership in a fire corporation operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 6. This act shall take effect April 1, 2000 except that the division of criminal justice services and the department of state are immediately authorized to promulgate such rules and regulations necessary to implement this act on or before such effective date.

§ 176-d

TOWN LAW

rights, a verified complaint which shall set forth the particulars of the alleged unlawful discriminatory practice and contain such other information as the division of human rights may require. The division shall thereupon cause to be made an investigation and disposition of the charges pursuant to the provisions of article fifteen of the executive law.

16. A person who has been convicted of arson in any degree shall not be eligible to be elected or appointed as a volunteer member of a fire company. The membership of any volunteer member of a fire company shall immediately terminate if he is convicted of arson in any degree while a member of a fire company.

17. Upon application by any person for membership in a fire company operating pursuant to this section, the fire chief shall cause the applicant's background to be checked pursuant to section eight hundred thirty-seven-o of the executive law for a criminal history involving a conviction for arson.

§ 176-d. Funding of fire districts

Notwithstanding any other provision of law to the contrary, a fire district may include as part of its budget an appropriation to fund an annual fireman's inspection-dinner for each fire company within the fire district.

§ 177. Powers and duties of fire district treasurer

The fire district treasurer shall be the fiscal officer of the fire district and shall receive and have the custody of the funds of the district and shall disburse the same for the purposes herein authorized when so ordered by resolution of the board of fire commissioners, except that no such resolution of the board of fire commissioners shall be required for the payment of fixed salaries, compensation for services of officers or employees regularly engaged by the fire district at agreed wages by the hour, day, week, month or year unless so required by resolution of the board of fire commissioners adopted at the organization meeting in the month of January, the principal of or interest on obligations issued by the fire district, fixed amounts becoming due on lawful contracts for the purchase of water for fire protection, and amounts which the fire district may be required to pay to the state and local employees' retirement system on account of contributions for past and current services of firemen. All such disbursements shall be made by check payable to the order of the person or persons entitled thereto. The board of fire commissioners shall designate in the manner provided by section ten of the general municipal law the depositories in which the fire district treasurer shall, within ten days, deposit and secure all moneys coming into his hands by virtue of his office.

At the annual organization meeting of the board of fire commissioners of a fire district the fire district treasurer shall account with the board of fire commissioners for all moneys received and dis-

bursed by him during the preceding fiscal year. He shall produce all books, records, receipts, orders, vouchers and cancelled checks or check images as authorized by section ninety-nine-b of the general municipal law respecting the same, at such meeting the fire district treasurer shall file with the board of fire commissioners a statement in writing showing his receipts and disbursements for the preceding fiscal year, which statement shall be in detail and shall be entered in the minutes of the meeting by the fire district secretary, except that the fire district treasurer, if authorized by the board of fire commissioners at a meeting held prior to the annual organization meeting, may within sixty days after the end of the fiscal year, submit to the board a copy of the annual report required by section thirty of the general municipal law, in lieu of such statement, in which case the fire district treasurer shall account for all moneys received and disbursed by him during the preceding fiscal year and shall produce all books, records, receipts, orders, vouchers and cancelled checks or check images as authorized by section ninety-nine-b of the general municipal law respecting the same, at the meeting of the board of fire commissioners at which the said annual report is submitted or at the next meeting held subsequent to the submission of the report if not submitted at a meeting of the board, in lieu of producing such records at the annual organization meeting. Such authorization shall remain in effect from year to year until rescinded by the board of fire commissioners. The annual report shall be entered in the minutes of the meeting by the fire district secretary. The board of fire commissioners may require the fire district treasurer to submit to the board of fire commissioners at any time for examination his books, records, receipts, orders, vouchers and cancelled checks or check images as authorized by section ninety-nine-b of the general municipal law.

§ 177-b. Powers and duties of deputy fire district treasurers

The board of fire commissioners of any fire district may appoint a deputy fire district treasurer to hold office until the thirty-first day of December next succeeding his appointment. During the absence or inability to act of the fire district treasurer or while the office of fire district treasurer is vacant the deputy fire district treasurer shall be vested with all of the powers and may perform all of the duties of the fire district treasurer under this chapter or any other law, including the provisions of subdivision four of section one hundred seventy of this chapter relating to the giving and filing of official undertaking. The fire district treasurer shall not be liable for the acts of a deputy fire district treasurer.

§ 178. Powers and duties of fire district secretary

The fire district secretary shall attend all meetings of the board of fire commissioners, act as clerk

ARTICLE 35 Division of Criminal Justice Services

Section

837-o. Search for arson conviction records of volunteer firefighter applicants

§ 837-o. Search for arson conviction records of volunteer firefighter applicants

1. Any person who applies for membership in a fire company, as such term is defined in section three of the volunteer firefighters' benefit law, or who seeks to transfer as a member to another fire company, shall be required to authorize the submission of his or her name and other authorized identifying information to the division which shall search its files for records indicating whether the person stands convicted of the crime of arson. The chief of the fire company to which application is made shall provide written notice to the applicant that a search will be conducted, and if the applicant desires to proceed, he or she shall complete a search request on the form provided for this purpose by the division of criminal justice services.

2. The chief of the fire company shall send the completed search request form to either (i) the sheriff's department of the county in which the fire company is located, or (ii) the department of state, office of fire prevention and control, as follows:

(a) the sheriff's department of the county in which the fire company is located shall be responsible for receiving the search requests and processing the search requests with the division, unless the county legislative body adopts and files with the secretary of state pursuant to the municipal home rule law a local law providing that the sheriff's department shall not have such responsibility;

(b) in all other instances where a county legislative body has adopted a local law pursuant to paragraph (a) of this subdivision, the department of state, office of fire prevention and control shall be

responsible for receiving search requests and forwarding the search requests to the division.

The department of state, office of fire prevention and control is hereby authorized to establish a communication network with the division for the purpose of forwarding search requests and receiving search results pursuant to paragraph (b) of this subdivision.

3.(a) All searches concerning the application for membership in a fire company shall be conducted under the provisions of subdivision six of section eight hundred thirty-seven of this article without the assessment of any fee to the applicant or fire company and shall pertain solely to ascertaining whether the applicant stands convicted of arson.

(b) The results of the search shall be communicated in writing to the chief of the fire company from which the search request originated by either the sheriff's department or the department of state, office of fire prevention and control, and shall be kept confidential by the chief, except as provided in paragraph (c) of this subdivision. The results of the search shall only state either that: (i) the applicant stands convicted of arson, or (ii) the applicant has no record of conviction for arson. The results of the search shall not divulge any other information relating to the criminal history of the applicant.

(c) At the time an applicant is advised that he or she is ineligible for membership due to a record of conviction for arson, he or she shall also be advised of the rights to challenge and appeal the information contained in the record of conviction as provided in the rules and regulations of the division. The applicant shall continue to be barred from membership until all administrative and judicial challenges to the accuracy of such information or appeals therefrom, are ultimately resolved in his or her favor, or if such a determination is unchallenged.

§150.00

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ARTICLE 150 - ARSON

Section

- 150.00 Arson; definitions.
 150.01 Arson in the fifth degree.
 150.05 Arson in the fourth degree.
 150.10 Arson in the third degree.
 150.15 Arson in the second degree.
 150.20 Arson in the first degree.

§150.00 Arson; definitions.

As used in this article,

1. "Building", in addition to its ordinary meaning, includes any structure, vehicle or watercraft used for overnight lodging of persons, or used by persons for carrying on business therein. Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building.
2. "Motor vehicle", includes every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven invalid chairs being operated or driven by an invalid, (b) vehicles which run only upon rails or tracks, and (c) snowmobiles as defined in article forty-seven of the vehicle and traffic law.

§150.01 Arson in the fifth degree.

A person is guilty of arson in the fifth degree when he or she intentionally damages property of another without consent of the owner by intentionally starting a fire or causing an explosion.

Arson in the fifth degree is a class A misdemeanor. (Eff. 11/1/01, Ch. 224, L. 2001)

§150.05 Arson in the fourth degree.

1. A person is guilty of arson in the fourth degree when he recklessly damages a building or motor vehicle by intentionally starting a fire or causing an explosion.
2. In any prosecution under this section, it is an affirmative defense that no person other than the defendant had a possessory or proprietary interest in the building or motor vehicle.

Arson in the fourth degree is a class E felony.

§150.10 Arson in the third degree.

1. A person is guilty of arson in the third degree when he intentionally damages a building or motor vehicle by starting a fire or causing an explosion.
2. In any prosecution under this section, it is an affirmative defense that (a) no person other than the defendant had a possessory or proprietary interest in the building or motor vehicle, or if other persons had such interests, all of them consented to the defendant's conduct, and (b) the defendant's sole intent was to destroy or damage the building or motor vehicle for a lawful and proper purpose, and (c) the