

DOCUMENT RESUME

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[Authority, Activities, and Plans of Federal Law Enforcement Agencies Regarding "Arson for Profit" Crimes]. GGD-78-47; B-171019. April 5, 1978. Released April 24, 1978. 7 pp. + 2 enclosures (4 pp.).

Report to Sen. Charles H. Percy, Ranking Minority Member, Senate Committee on Governmental Affairs; by Elmer B. Staats, Comptroller General.

Issue Area: Law Enforcement and Crime Prevention: White-Collar Crime (509).

Contact: General Government Div.


Budget Function: Law Enforcement and Justice: Federal Law Enforcement and Prosecution (751).

Organization Concerned: Department of Justice; Department of the Treasury; Postal Service.

Congressional Relevance: Senate Committee on Governmental Affairs. Sen. Charles H. Percy.

Authority: 18 U.S.C. 7. 18 U.S.C. 844. 18 U.S.C. 1950. 18 U.S.C. 1961.

The authority, activities, and plans of Federal law enforcement agencies regarding arson-related crime were reviewed. Arson is not generally a Federal crime, and, in general, the Federal Government will investigate and prosecute arson only if a Federal law is violated in conjunction with the arson crime. The Federal Government has not considered arson-related crimes an enforcement priority; the Government does not have a unified, coordinated program specifically designed to prevent, detect, investigate, and prosecute these crimes. Four Federal law enforcement agencies -- the Federal Bureau of Investigation; the Department of the Treasury's Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms; and the U.S. Postal Service -- investigate arson-related crimes. Coordination among these agencies is limited, usually informal, and on a case-by-case basis. The consensus of these law enforcement agencies was that there was no evidence that arson-related crime is a serious national problem or that a greater Federal effort is warranted. Federal law enforcement agencies involved with arson-related crimes do not collect data which would demonstrate the severity of the arson problem and are not in a position to delineate their previous efforts or to identify the actions needed to cope with the arson issue. The Attorney General should take the lead in developing information needed to assess the seriousness of the arson problem and, based on the results, develop an appropriate Federal law enforcement strategy. (RHS)

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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

RELEASED
4/24/78

B-171019

April 5, 1978

The Honorable Charles H. Percy
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

Dear Senator Percy:

Your August 2, 1977, letter requested that we review a number of issues concerning "arson-for-profit." Your major concerns related to:

- Adequacy of controls over the insurance coverage property owners can obtain.
- Research and development of arson detection techniques, and training of arson investigators.
- Activities of Federal law enforcement agencies to prevent, detect, and prosecute this type of crime.

As agreed with your office, we will give you a report on each of the three areas. This report discusses the authority, activities, and plans of Federal law enforcement agencies regarding arson-related crime.

FEDERAL AUTHORITY AND COORDINATION
FOR ARSON-RELATED CRIMES

Arson is not generally a Federal crime. There are two exceptions to this rule. First, 18 U.S.C. 81 makes arson a Federal crime if committed at a location where the Federal Government exercises special maritime or territorial jurisdiction. In general, and as defined by 18 U.S.C. 7, special maritime or territorial jurisdiction of the United States includes

- the high seas;
- Federal property held under exclusive or concurrent jurisdiction of the United States; and

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--property purchased or otherwise acquired by the United States with the consent of the State legislatures, if the property is initially acquired to erect a fort, magazine, arsenal, dockyard, or other necessary building.

Second, some Federal agencies administer Federal property that is not within the special maritime or territorial jurisdiction of the United States. By issuing regulations, some of these agencies have made arson a Federal misdemeanor on the Federal property they administer.

In general the Federal Government will investigate and prosecute arson only if a Federal law is violated in conjunction with the arson crime. For example, suspects in arson-for-profit cases are usually accused of transmitting insurance claims and other correspondence through the United States mails. If the Federal mail fraud statute (18 U.S.C. 1341) is violated, Federal law enforcement agencies may become involved in investigating the mail fraud and indirectly the arson. Enclosure I lists the Federal statutes covering arson-related crime which various law enforcement officials said their agency could investigate.

The Federal Government has not considered arson-related crimes an enforcement priority; therefore, the Government does not have a unified, coordinated program specifically designed to prevent, detect, investigate, and prosecute these crimes. Four Federal law enforcement agencies--the Department of Justice's Federal Bureau of Investigation (FBI); the Department of the Treasury's Internal Revenue Service (IRS) and Bureau of Alcohol, Tobacco, and Firearms (ATF); and the United States Postal Service--investigate arson-related crimes; however, coordination among these agencies is limited, usually informal, and on a case-by-case basis. Justice's organized crime strike forces, operating in various cities throughout the United States, will also investigate and prosecute arson-related crimes if organized crime is involved.

The consensus of these law enforcement agencies was that no evidence existed to support the contention that arson-related crime is a serious national problem or that a greater Federal effort is warranted. The Federal Government, however, has not made any attempt to determine the severity of the arson problem.

CURRENT FEDERAL LAW ENFORCEMENT
EFFORTS IN THE ARSON AREA

Federal law enforcement agencies involved with arson-related crimes do not collect data which would demonstrate the severity of the arson problem. Therefore, they are not in a position to delineate their previous efforts or to identify the actions needed to cope with the arson issue.

During 1978 the Postal Service plans to give more investigative attention to suspected arson-related insurance fraud schemes and to separately identify and report these cases. ATF officials said that they are revising their statistical reporting system to acquire arson-related information. Neither the FBI nor the IRS had plans to separately identify arson offenses within their internal statistical reporting systems.

None of the four agencies considered arson a priority investigative area and therefore did not have a program designed to deal specifically with arson. ATF, however, is currently establishing arson task forces in several cities. This initiative was prompted by a special project conducted by its Philadelphia District. In January 1977 the Special Agent-in-Charge of ATF's Philadelphia District independently initiated a special project--which he termed a task force--to investigate arson in the Philadelphia area. The task force was established by an informal cooperative agreement between ATF, the local police, the local district attorney, and the local fire marshal. Under the agreement ATF assumed leadership in all arson investigations in the Philadelphia area, with active participation and cooperation from the other officials. As of December 7, 1977, the task force was conducting 15 arson investigations. ATF officials said that all of these investigations involved matters cognizable under 18 U.S.C. 844 (i), 1/ but that collateral violations of the racketeering statutes (18 U.S.C. 1950, 1961-1968) were also being investigated.

Officials said that the idea for the arson task force was, in part, the result of two arson investigations

1/18 U.S.C. 844 (i) is a criminal statute that deals with the destruction of or damage (by an explosive) to property used in or affecting interstate or foreign commerce.

conducted by ATF in Philadelphia. The first was an investigation of an arson case previously investigated by the Philadelphia Police Department. Local citizens groups had protested that the police had arrested, and the court convicted, an innocent person. The local U.S. attorney asked ATF to reinvestigate the case. Officials said their investigation led to the arrest and conviction of the individuals who actually committed the crime and the release of the innocent person. In the other case, the U.S. attorney asked ATF to investigate a fire bombing of a Philadelphia hotel. Investigators found traces of gasoline in an oxidized state which, according to officials, has an explosive capability. Although ATF officials believed that 18 U.S.C. 844 (i) had been violated, the U.S. attorney elected to prosecute the case under statutes dealing with mail fraud and interstate transportation in aid of racketeering. The defendant received a 3-year prison sentence.

On October 14, 1977, the Special Agent-in-Charge of the Philadelphia District, as a result of his experience, recommended instituting ATF-led arson task forces in other U.S. cities. ATF headquarters approved this recommendation in January 1978, and it plans to establish arson task forces in 18 additional cities. (See enclosure II.) An official estimated that the new task forces would not be operational until June 1978.

Although Federal organized crime strike forces are not set up specifically to investigate and prosecute arson cases, the strike forces have investigated arson-related crimes when organized crime was involved. For example, the Buffalo, New York, organized crime strike force became interested in arson cases about 3 years ago. At that time the Erie County District Attorney established a task force of local officials to look into the local arson problem. The task force had two prime suspects it associated with many of the arsons, but it could not get enough evidence against them to make a case. The strike force assisted by identifying a number of suspicious insurance claims and tracing them through various corporate records, deeds, and other documents, looking for an association with the two suspects. They found it. The two individuals pled guilty to charges of mail fraud, and each received a 5-year sentence. The Buffalo strike force recently indicted the entire hierarchy of a Rochester organized crime family engaged in an arson-for-profit ring and, as of December 14, 1977, had one arson-related investigation pending.

HAS ARSON BEEN A WIDESPREAD PROBLEM?
IS A GREATER FEDERAL PRESENCE NEEDED?

Law enforcement agency officials contacted said that no evidence existed to demonstrate that arson-related crime was a widespread problem or that a greater Federal involvement in the arson area should be initiated. As previously mentioned, the Federal Government has not made an attempt to quantify arson-related crimes to determine their severity. Agency officials were willing to reconsider arson as a priority area if evidence became available to justify an expanded effort. The Postal Service and ATF appear to be taking a more aggressive initiative in the arson area. (See p. 3.) ATF officials supported their initiative with the following statistics:

- Incendiary bombings increased 200 percent nationwide in 1976 over 1975.
- Forty-nine percent of the fires of incendiary, suspicious, or unknown origin in New Jersey in 1975 were never investigated.
- Sixty-two percent of the arsons committed in the United States involved the use of flammable liquids or accelerants; of that number 90 percent had an explosive capability when aerated.

In addition to establishing ATF-led arson task forces, ATF is planning to establish an "Explosives Academy" at the Federal Law Enforcement Training Center, Glynco, Georgia, which will include instruction on arson investigation.

In summary, although the Postal Service and ATF have taken some initiatives to combat arson, the rest of the Federal law enforcement community does not view this particular crime as deserving any special priority. There is insufficient hard evidence to accurately gage the magnitude of the arson problem, and consequently, to gage the propriety of the Federal posture concerning it. We recommend that the Attorney General take the lead in developing information needed to assess the seriousness of the arson problem and, based on the results, develop an appropriate Federal law enforcement strategy.

As agreed with your office, we did not obtain formal agency comments on this report. However, we discussed its

contents with agency officials and considered their views in preparing the report. Because of your plans for hearings on the arson problem and your desire to release this report at the hearings, we plan no further distribution of the report until that time, or until you publicly announce its contents.

We want to direct your attention to the fact that this report contains a recommendation to the Attorney General. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the report's date and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the report's date. Your release of this report will enable us to send it to the four Committees for the purpose of setting in motion section 236 requirements. We trust this information will meet your needs.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas B. Steeds". The signature is written in a cursive style with a large initial "T".

Comptroller General
of the United States

Enclosures - 2

FEDERAL STATUTES COVERING ARSON ANDARSON-RELATED CRIME

<u>Federal statutes</u>	<u>Title</u>	<u>Agencies claiming investigative jurisdiction</u>			
		<u>FBI</u>	<u>ATF</u>	<u>Postal Service</u>	<u>IRS</u>
18 U.S.C. 81	Arson Within Special Maritime and Territorial Jurisdiction of the United States	X	-	-	-
18 U.S.C. 371	Conspiracy to De- fraud the United States	-	-	-	X
18 U.S.C. 842- 845	Interstate Trans- portation of Ex- plosives or Incen- diary Devices	X	X	X	-
18 U.S.C. 922- 925	Unlawful Acts- Firearms	-	X	-	-
18 U.S.C. 1001	Fraudulent State- ments	-	-	-	X
18 U.S.C. 1073- 1074	Flight to Avoid Prosecution	X	-	-	-
18 U.S.C. 1341	Frauds and Swindles (by Mail)	X	-	X	-
18 U.S.C. 1342	Fictitious Name or Address	-	-	X	-
18 U.S.C. 1343	Fraud by Wire, Radio, or Tele- vision	X	-	-	-
18 U.S.C. 1361- 1362	Destruction of Government Owned or Controlled Property	X	-	-	-

<u>Federal statutes</u>	<u>Title</u>	<u>Agencies claiming investigative jurisdiction</u>			
		<u>FBI</u>	<u>ATF</u>	<u>Postal Service</u>	<u>IRS</u>
18 U.S.C. 1363	Destruction of Property Within the Special Maritime and Territorial Jurisdiction of the United States	X	-	-	-
18 U.S.C. 1716	Nonmailable Injurious Articles (Explosives or Incendiary Devices)	-	-	X	-
18 U.S.C. 1855	Destruction by Fire of Timber, Underbrush or Grass Upon Federally Owned or Leased Land, Indian Land or the Public Domain	X	-	-	-
18 U.S.C. 1952	Interstate and Foreign Travel or Transportation in Aid of Racketeering	X	-	-	-
18 U.S.C. 1961-1968	Racketeer Influenced and Corrupt Organizations	X	X	X	-
26 U.S.C. 5861	Prohibited Acts (Re: Firearms and Destructive Devices as defined by 26 U.S.C. 5845)	-	X	-	-

<u>Federal statutes</u>	<u>Title</u>	<u>Agencies claiming investigative jurisdiction</u>			
		<u>FBI</u>	<u>ATF</u>	<u>Postal Service</u>	<u>IRS</u>
26 U.S.C. 7201	Attempts to Evade or Defeat Tax	-	-	-	X
26 U.S.C. 7203	Willful Failure to File Return, Supply Information, or Pay Tax	-	-	-	X
26 U.S.C. 7206	Fraud and False Statements	-	-	-	X

PLANNED LOCATIONS FOR ATF'S ARSON TASK FORCES

Atlanta, Georgia
Boston, Massachusetts
Brooklyn, New York
Buffalo, New York
Chicago, Illinois
Cleveland, Ohio
Dallas, Texas
Detroit, Michigan
Honolulu, Hawaii

Kansas City, Missouri
Las Vegas, Nevada
Los Angeles, California
Miami, Florida
New Orleans, Louisiana
Phoenix, Arizona
Rochester, New York
San Juan, Puerto Rico
Washington, D.C.