

A RESEARCH STUDY TO ADDRESS LAW ENFORCEMENT ISSUES THAT
DIRECTLY AFFECT JUVENILE FIRE-SETTING IDENTIFICATION AND
INTERVENTION PROGRAMS

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I. Introduction

A. Scope of Work

Law enforcement involvement has always been a part of the juvenile fire-setter issue. A working partnership among the fire service, law enforcement, social services, mental health, and the juvenile justice system is needed to assure that all fire-setters are identified and appropriate intervention strategies are used, whether those strategies are arrest, probation, fire-setter intervention program referral, or other treatment alternatives.

In view of the fact that fire service and law enforcement personnel generally are the first responders to most juvenile fire-setter incidents, the initial information collected about the situation will have a distinct impact on every part of the subsequent response to the incident. The area of law enforcement and investigations, while often overlooked, is one of the most important components of a juvenile fire-setter intervention program.

This goal of this study is to provide an effective analysis and evaluation of the following four objectives:

1. Establish an inventory of law enforcement issues that directly affect juvenile fire-setting.
2. Create a list of recommendations for improving investigatory aspects of juvenile fire-setting.
3. Create a list of recommendations for improving prosecutorial aspects of the response to juvenile fire-setting.
4. Provide an analytical assessment of current trends and/or laws in juvenile justice that may impact the juvenile fire-setting problem, such as monitoring vs. confidentiality, treatment vs. prosecution.

B. Team Members

The study team was lead by the Chief Expert, Washington State Fire Marshal Mary Corso. Marshal Corso has 22 years of experience in firefighting, code enforcement, fire investigation, hazardous materials, fire service training, fire protection regulation, plan review, data analysis, public education, and legislative initiatives. She is also a Board Member of the National Fire Protection Association.

Karen Jones, a Deputy State Fire Marshal for the State of Washington, is a member of the Washington State Fire Stoppers, a statewide juvenile fire-setter organization. She has experience and training in juvenile fire-setter intervention, firefighter, code enforcement, fire investigation, fire service training, data analysis, public education and information. She is a past board member of the Washington State Public Fire Educators.

Thomas C. Hinkle is the Chief Investigator for the Investigation Division of the Indiana Office of the State Fire Marshal. He is a member of the Indiana State Fire Marshal's Juvenile Fire-setter Task Force. He has an Associate Degree in Fire Science Technology. Chief Hinkle has 23 years of experience in the fire service, and is certified in inspections, investigations, and fire suppression tactics. He assisted in the development of a statewide juvenile fire-setter resource directory and is a member of several fire and arson investigation associations at the state and national level.

Mara Snyder, Counsel and Director of Special Projects for the Indiana State Fire Marshal's Office, has a Masters in Information Science and a Juris Doctor. A member of the Indiana State Fire Marshal's Juvenile Fire-setter Task Force, she has served as Chief Inspector for the Office. She has extensive experience in code enforcement, and statutory

and regulatory drafting and review. She has lectured on juvenile fire-setter and other fire service legal issues.

Barbara Spurlin is the Coordinator of the Indianapolis, Indiana Fire Department Juvenile Fire-setter Intervention Program. She works closely with mental health professionals, juvenile court system child protective services, schools, including school police, and other agencies. She has presented training classes on juvenile fire-setter program development for the Indiana Fire Instructors' Association for 18 years and has been a presenter at numerous local, regional, and national seminars. A member of the Indiana State Fire Marshal's Juvenile Fire-setter Task Force, she is also a member of the Marion County, Indiana, Arson and Explosive subcommittee of the Marion County Fire Chiefs' Association. Barbara has 23 years experience in the fire service and is certified in Fire Investigation, Fire Prevention, Tactics, Fire Service Management, and as an Instructor. Barbara is also certified as an Emergency Medical Technician.

P. Michael Oler, a Law Enforcement Investigator II for the Bureau of Fire/Arson Investigation of the Florida State Fire Marshal's Office, is currently assigned as an investigator with the Florida State Fire Marshal's Office in the southwest Florida region. With 30 years experience with the Indianapolis, Indiana Police Department, he was also a commander of a fire investigation unit, he oversaw a juvenile fire-setter program, was a member of a bomb squad. He is currently developing a juvenile fire-setter program in Florida.

C. Mel Jewell is a Court Administrator in Cowlitz County, Washington Juvenile Court. He has 28 years of experience in juvenile corrections as a probation officer,

diagnostician, and has administrative, diagnostic and supervisory experience with sex offenders and violent offenders.

Craig D. Apperson, Program Supervisor, Safety and Security Programs for the Washington State Office of Superintendent of Public Instruction, is a Certified Mental Health Professional and a Specialist in juvenile and adult forensic mental health programs. He is a trainer for the Washington State Criminal Justice Training Commission in Mental Health Assessment and Intervention for Offenders, emphasizing violence prevention and intervention. His current focus is on the development of school-based violence prevention, intervention and crisis response plans.

Patricia Mieszala, RN, President and founder of Burn Concerns Inc. has 30 years experience and national recognition in the areas of psychiatry, burn care, rehabilitation, fire safety and burn prevention. She is a national/international educator and trainer, involved in the Juvenile Fire-setter and Arson National Project and the National Fire Protection Association *Learn Not to Burn*® and *Risk Watch*™ programs.

The team members, under the leadership of the Chief Expert bring an extraordinarily wide range of experience, training and education to this study. The geographic diversity is an additionally important factor in the expertise provided by this team.

C. Background

In 1997 it was reported that juveniles (under 18 years old) accounted for 50% of all arson arrests. The FBI Uniform Crime report for 1997 states that 6.3% were under 10 years old; 37.5% (1/3) were under 15 years old. 27% (3 in 10) youth adjudicated for

arson are placed in a residential treatment facility. 59% are placed on probation and 1% transferred to adult court.

The arson rate for 1997 was 18 per 100,000 inhabitants in rural areas and 87 per 100,000 inhabitants in large cities. (Snyder, 1997). While national indicators of juvenile violent crime are suggesting that incidents such as murder and aggravated assault are on the decline, the number of juvenile arsons continues to increase. (Hall, 1999).

In October, 1998, leaders of the fire service, law enforcement, and insurance industry arson investigation communities met in Washington D.C. to review emerging trends in fire and arson investigation at the National Arson Forum sponsored by the Insurance Committee for Arson Control. "During that forum Dr. John Hall, Assistant Vice President with NFPA, presented results of his latest statistical research on juvenile fire-setting. The data, he reports, suggest that juvenile fire-setting continues to be a leading cause of arson in America, although the overall numbers of fires remains relatively constant, suggesting that juvenile-set fires are a larger part of the overall fire problem and that efforts to deal with juvenile fire-setters should be increased." (Naylis, 1998).

Using FBI statistics and National Fire Incident Reporting System data, it is estimated that there are at least 100,000 fires annually in the United States directly attributable to children. It is widely believed that this number is conservative due to the fact that many fires never come to the attention of the fire service. According to the ninth edition of Fire in the United States, the ratio of unreported fires to reported fires is about three to one. In many states, statutes do not permit younger children to be charged with arson and many investigators are reluctant to label a child as an arsonist. In fact, if the

percentage of juvenile arrests is applied to the total number of incendiary and suspicious fires that occurred in 1993, for example, there were potentially 250,000 fires attributable to juveniles. (Schwartzman, Stombaugh and Kimball, 1998).

The fire department may be hesitant to call upon law enforcement because of a misdirected concern of not wanting the child to be placed in the juvenile justice system. Law enforcement may become aware of juvenile fire-setting issues when investigating acts of vandalism, gangs, animal cruelty, and other areas where law enforcement is the first to respond, however, the fire service seldom has knowledge of the incident. Youth identified in these circumstances may not be placed in a fire-setter intervention program even if arrested. This information is usually not exchanged.

It is important that any child-set fire, regardless of size, set by a child be investigated to the fullest extent possible to determine if a crime has been committed. If the child is not taken into custody, an assessment using an appropriate screening tool (such as Fineman, revised, 1997, U. S. Fire Administration/Federal Emergency Management (USFA/FEMA)) must be completed by a qualified individual as quickly as possible, to determine the degree of risk for repeating this dangerous behavior. Fire service professionals generally conduct these intervention assessment programs to determine the existence and extent of repetition risk. If the screening indicates the child is at risk for repeat fire-setting or discloses possible dysfunctional situations such as abuse or neglect, the child and caregiver are referred to the appropriate agency for help. If the child is taken into custody and subsequently placed on probation, it is recommended the child be ordered into a juvenile fire-setter intervention program by the

court. All affected agencies must have a common understanding of the points of entry into the juvenile and criminal justice system.

The individuals and organizations working with juvenile fire-setters envision a future in which law enforcement, the fire service and other agencies and individuals work as a team to mitigate the effects of juvenile fire-setting on the fire-setter and the community. Centralized intervention programs dealing with juvenile fire-setters must be made available, as well as methods for addressing infrastructure issues to assure program continuance and creative thinking to handle juvenile fire-setter issues.

Mission statements and strategic plans adopted and implemented must be evaluated on a regular basis at the federal, state and local levels.

D. Process

The process by which the team established the issues, obstacles/barriers, gaps and needs, recommendations for the objective described in the scope of the study included the following: a) identification of existing model programs targeted at structures at risk for juvenile-fire-setting behaviors; b) identification of data sources available (e.g., fire incident and investigative reports, law enforcement records, records of fire at schools, hospital and other health records, and records available to the public) to identify juvenile fire-setters from a variety of sources; c) examination of existing investigation programs to determine efficient methodology for identifying and intervening with juvenile fire-setters; d) identification of existing intervention strategies commonly used by law enforcement personnel; e) development of model program recommendations; f) examination of methods used to educate prosecutorial officials about the seriousness of the juvenile fire-setter problem; g) identification of tools, such as legislative changes, quality

investigations and cross-jurisdictional information sharing that can be provided to prosecutors to enable successful responses to juvenile set fires; h) review of current trends in programs focused on addressing increases in youth violence, particularly at schools and involving gangs, drugs and cults; i) examination of linkages between arson, sex offense, and substance abuse conduct; j) identification of existing laws in various states with respect to juvenile and fire-setter issues; k) consideration of legal issues involving abuse and neglect; l) examination of existing laws and legal issues regarding juvenile sexual offender disposition alternatives and multi-system therapy sentencing issues; and m) identification of issues involving confidentiality and information sharing.

II. An Inventory of Law Enforcement Issues Directly Affecting

Juvenile Fire-Setting

Leaders in the law enforcement and fire service professions must be convinced of the necessity to integrate their programmatic responses to fire-setting issues. Juvenile fire-setters have an enormous impact on the families and the communities in which they live. Combining the efforts and skills of both the fire service and law enforcement professions, communities can provide additional resources, as well as a proactive approach to solving the fire-setting problem.

A. Issues

Law enforcement issues directly affecting the response to the juvenile fire-setter problem are multifaceted and numerous. One such issue is training and education of the law enforcement community on the impact of juvenile fire-setting on all aspects of the community. It is imperative that each instance of juvenile fire-setting be identified and addressed in an appropriate and effective manner.

The problem of juveniles having easy access to the sale of ignition devices, fireworks, bombs and improvised explosive devices seriously impacts the juvenile fire-setter problem must be the focus of sustained review and evaluation.

The need to provide successful intervention in high-risk fire-setter situations through sustained and effective sharing of all relevant information among appropriate parties is of great importance. (See section on “Analytical Assessment of Current Trends and/or laws in Juvenile Justice beginning on page 29.)

The form and content of data collection also is extremely important. “Information on the U. S. arson problem is collected by several organizations. The National Fire Protection Association (NFPA) and the U. S. Fire Administration (USFA) collect data on incendiary and suspicious fire reported to fire departments, while the Federal Bureau of Investigation (FBI) collects data on arson offenses reported to law enforcement agencies” (Hall, 1995). The NFPA uses a stratified random sample of information provided from fire departments in the country. The National Fire Incident Reporting System (NFIRS) is not used in a high percentage of fire departments around the country. The Uniform Crime Report system of FBI collects standardized crime reports from U. S. law enforcement agencies. While law enforcement agencies protecting approximately 90% of the population of this country do report, those that report for a full year cover just over half of the U. S. population. (Hall, 1995).

Few model treatment programs are available nationwide to address the issue of fire-setters who have been arrested or taken into custody for their fire-setting behavior.

CHINS (Child in Need of Services), Child Protective Services (CPS), Family Advocacy and Department of Family Services (DFS) are some of the different names for

agencies in various states that are entrusted with the authority to investigate and protect children. Children and their caregivers may access these services through the law enforcement community when it is brought to their attention that these children have been neglected and/or abused by their caregivers. At risk fires-setters may be victims of abuse or neglect. "Fire-setting in young children has been identified as being largely the result of a neglectful family environment (Gaynor & Hatcher, 1987). Macht & Mack (1968) have asserted that the family environment of the childhood firesetter is likely to be chaotic and limited in nurturing behaviors, and the externalization of emotions through fire-setting resembles adolescents who are victims of abuse and neglect. As a result of these theories, unwanted and unacceptable childhood behaviors are thought to be largely the result of a neglectful and abusive home environment." (Schwartzman, 1999.

"Examples of crisis or trauma that may precede a fireset include moves, divorces, new stepparents, school expulsion, rejection, molest, assault, being fired and spousal abandonment." (Fineman, 1995). Fineman also states "Core issues are often made evident by defining the traumatic or critical event that usually precedes the fireset. In some instances, understanding the trauma is essential to understanding the motivation to starting the fire and thus essential to extinguishing the fire-setting behavior. A molested child will stop setting fires once the molesting has stopped." These agencies may not be aware of the serious implications of fire-setting behaviors in juvenile. In most states, the mission statements of these agencies are to provide whatever is necessary, including mental health services, to resolve the situation and keep the family together. A case history of a young juvenile fire-setter who was both a victim and a perpetrator of sexual abuse is found in Appendix III.

In addition to the need for model programs, there is insufficient emphasis on the issue of vacant and abandoned structures as being at significant risk for fire-setting, as well as serving as a location for other juvenile and adult criminal behaviors.

Schools are also significant structures in the analysis of the juvenile fire-setter program. It is critically important that fire and law enforcement agencies be advised of school fires, particularly those fires viewed as small or insignificant with no fire department response. Any child setting a fire, regardless of age, may be at risk for repeating this behavior and seriously endangering life and property.

1. Obstacles/barriers.

Obstacles/barriers pose a serious threat to the effectiveness of any juvenile fire-setter identification and intervention program. For example, there is a real lack of understanding concerning the seriousness of a juvenile set fire, regardless of the size or age of child.

There is also a lack of uniform vocabulary for technical terms or “terms of art” that are used by the variety of disciplines involved with young fire-setters. This lack of a uniform vocabulary is one component of the absence of a universal awareness-level training program for law enforcement personnel dealing with fire-setter issues.

Inability to share information, in part because of the lack of a uniform vocabulary, impedes the continuum of care. There is limited access to system data because of confidentiality issues among disciplines. (See the discussion of this problem beginning in section on page 31.)

2. Gaps and needs.

It is important for agencies responsible for dealing with a child's welfare understand the seriousness of fire-setting actions. A review of child fatalities from abuse and/or neglect in the State of Indiana (1998) reported that the incidence of fire as a cause of death in abuse and neglect deaths was the following:

Abuse – fire 16% (the second highest cause of death from abuse)

Neglect – fire 33% (the highest cause of death from neglect)

Combined – fire 26% (the # 1 cause of death from abuse and neglect)

3. Recommendations.

The profile of the juvenile fire-setter and what can be done to mitigate juvenile fire-setter issues involve the law enforcement community, the fire service, as well as social service, mental health, juvenile and criminal justice systems. A national consortium is already in place that addresses law enforcement issues that could be expanded to include juvenile fire-setter issues.

a) Community policing consortium. This organization consists of the partnership of the following five leading police organizations in the United States:

International Association of Chiefs of Police

National Organization of Black Law Enforcement Executives

National Sheriffs' Association

Police Executive Research Forum

Police Foundation

The Consortium is administered and funded by the U.S. Department of Justice, Office of Community Oriented Policing services. Their efforts are directed at developing community policing research, training and technical assistance.

Community policing seeks to resolve community disorder and neighborhood decay with a broad brush of solutions. It accomplishes these goals by combining the efforts and resources of the police, local government and community members.

Community policing has three essential elements. The first, community partnership promotes the concept that all elements of society must pull together to help address identified problems. The second element, problem solving, identifies specific concerns that the community and police feel are disrupting the community. Priorities are established to identify and address the target concerns.

The third element is change management. This element recognizes that forging community policing partnerships and targeting problem areas will necessitate changes in the organizational structure of policing. It is a part of the process in which the problems are identified, the steps to correct the most pressing problem(s) are established, the plan is then implemented, and the outcome is evaluated for success or modification.

A project of the Community Policy Consortium is the Problem-Oriented-Policing Network (POPNet). Problem-Oriented Policing focuses on thorough assessment of a community policing problem and the development of a plan to solve the problem, involving groups and agencies from within the community that have a vested interest in solving the problem. POPNet is a database of problem solving information that law enforcement officers can use to analyze problems using a formula comprised of the following elements: scanning, analysis, response, and assessment. Scanning is the

process by which the officer(s) look at the area and the type of calls for service that are being generated. This includes identifying the parties involved and the crime committed, if any.

The consortium is already associated with the U. S. Department of Justice, Office of Community Oriented Policing Services. It recommended that a meeting with project leaders from the fire service and juvenile justice be held with the consortium leaders to identify the parameter of the Juvenile Fire-setting Project and gain support and insight in dealing with the law enforcement community. The objectives would be:

- Develop a partnership with Community Policing Consortium to get law enforcement involved at the highest level.
- Develop identification and intervention training on fire-setter issues for the law enforcement community
- Address the ability to share information between law enforcement and fire service without breaching constitutional rights and other laws.
- Develop and provide a model standard operating procedure or standard operating guideline that provides law enforcement officers with a “tool box” to handle juvenile fire-setters.
- Identify federal, state and local training levels and selected individuals that could conduct regional “train-the-trainer” programs to provide training to all levels.
- Design curriculum that will demonstrate to both fire and law enforcement that it is credible by using a coalition of individuals who share expertise in adult

education and curriculum development, police and fire training and juvenile fire-setting behaviors.

- Obtain endorsements from credible officials respected by both professions that will assist in implementation of the process.
- Pilot test and validate curriculum at selected sites

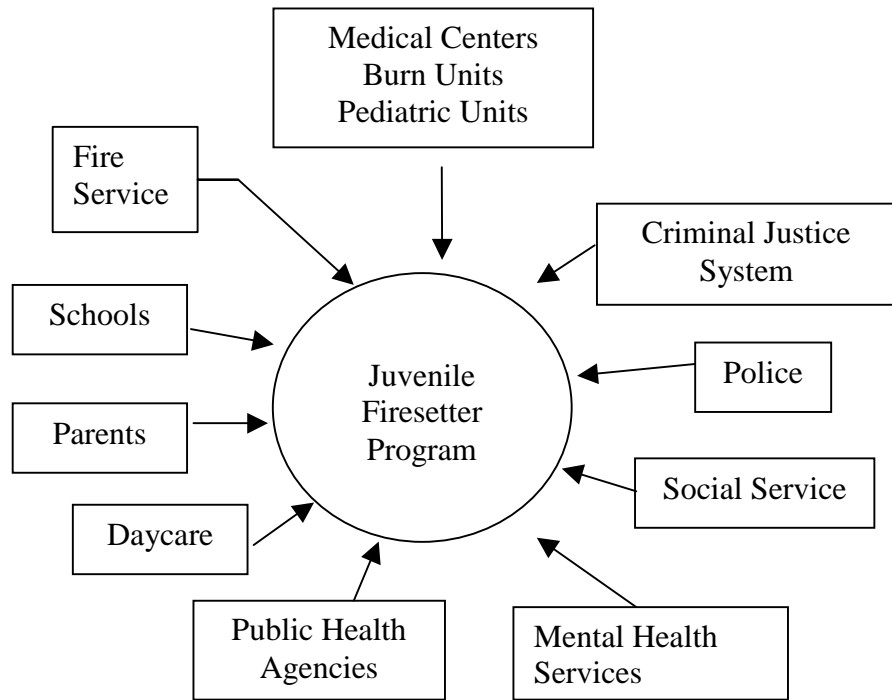
b) Treatment programs. Compile and review a list of treatment programs enacted by legislation across the nation. The Rosenberg Law (Chapter 3b) is an example of one recognized treatment program enacted by legislation in the Commonwealth of Massachusetts and contains the following description of its purpose:

“The Rosenberg Law sets forth mandates for state agencies which deal with children in state custody when there is an indication of sexual aggression or fire-setting. There does not need to be a formal adjudication of any charge, and the indication does not have to be current and active. Any indication, report, or reference to these concerns in a case file is subject to mandates. A social worker or caseworker who encounters evidence of sexual aggression or fire-setting must report it to a supervisor within twenty-four hours. The supervisor must contact the regional lead agency, which will contact a qualified diagnostician. The diagnostician must conduct an Assessment for Safe Appropriate Placement (ASAP) within ten working days” (Pinsonneault, 1998).

While this law impacts a small portion of the fire-setting children, it quickly provides for mental health intervention for fire-setters identified in this high-risk population not often addressed. (See also M.G.L.A. 119 s. 33B)

Special Sex Offender Disposition Alternative (SSODA) and Sexually Aggressive Youth (SAY) are two model programs used in the State of Washington to address other youthful behavior issues. These programs may be used as model programs to design similar programs dealing with juvenile fire-setters. (See Recommendations for Improvements in Prosecutorial Aspects of the Problem, Page 27.)

c) Continuum of care network. A continuum of care system provides a range of interventions. This range of interventions is based on corresponding levels of fire behavior and classification of fire-setting risk, (prevention, primary prevention, secondary prevention and crisis response). It is essential to develop a standard or model for a continuum of care network involving agencies dealing with fire-setting youth. Such standard or model must provide a mechanism for agencies to refer to other agencies to continue the intervention process. If there is no continuum network that exists for monitoring the child and caregiver family, many families will “slip through the cracks”. The agencies most involved are illustrated in Continuum of Care Figure 1 below:



Continuum of Care Figure #1

It is vital that a collaborative wrap-around network as shown above be established to assure that the child’s and caregiver’s needs are met to provide for a safe environment for the child and community in which the family live.

d) Structures at risk. Identify model programs such as “Hardening the Target” from Massachusetts (Appendix IV) and Indianapolis Fire Department’s Unsafe Building & Structures Identification Program (Appendix V) and develop programs to integrate programs for law enforcement officers to deter juveniles from setting fires to significant high risk structures. Law enforcement officers are already aware of the potential criminal activity that exists in these structures.

e) Schools. It is critical that model in-service programs that address the seriousness of juvenile fire-setters be designed for school administrators, school law enforcement and other school personnel. Models should be provided for school systems that support effective, efficient reporting and sharing of information among agencies to address juvenile fire-setters in the school setting in a prompt manner.

III. List of Recommendations for Improving Investigatory Aspects of Juvenile Fire-setting Behaviors, Including Proper Use of Intervention Strategies by Law Enforcement

There are two primary issues that are essential to this discussion of investigatory aspects of juvenile fire-setting.

A. Issue-Case Management

Case management is described as the set of procedures used by an agency as an investigation tool to provide structure and steps for investigators to follow to effectively resolve an issue from the beginning to conclusion. Case management includes complete collection and identification of data. Collection and analysis of information is assisted by information management systems directed at the concerned field of study. Each agency has a system for the collection of information. The investigating agency at the police/fire

level is the front-line information gatherer at the time of fire occurrence or just after. The collection should identify the reason for the event and its result. The information is compiled into a report that is used by other agencies to assist in the preparation of programs to address the problem. The collection of information not only identifies the specific concern, it may also identify a pattern of conduct that could be occurring at the individual or community level.

Social service agencies will also use their own case management systems to gather their own information, including the use of interviews with the affected person, and his/her family or peers. Through case management, this information may be combined with that of the other agencies in order to identify the problem and act accordingly.

Another aspect of case management involves case assignments. Police/fire investigation units all employ some type of standard operating procedure for the assignment of cases. In some communities, a police agency may refer the investigation to another agency such as a State Fire Marshal unit in their area and not take direct responsibility for fire or arson crime investigations.

Each agency has its own system of case assignment, frequently based on the person who is next for assignment or by an individual's area of expertise. Also, each case must be assigned a priority on a case-by-case basis. Law enforcement may set priorities based on the relative likelihood that the case may be solved. If the case simply has no lead, the priority may be very low.

Each particular incident may involve the teamwork of all groups or may involve only one agency. Investigators should be aware of certain procedures followed by

supporting agencies in order to facilitate the movement of information and subsequent allocation of needed resources. Any fire involving juveniles that is other than curiosity-based may require the involvement of all agencies if the child is at the age of reason or above (generally 8 years old in most jurisdictions). Children who are younger may also require involvement of all appropriate agencies based on an assessment of the specific circumstances surrounding the fire-setting incident. It is important to recognize that any intervention program cannot be effective without the participation of a number of agencies because no one agency has the ability to supply all of the resources needed to effectively address the problem and a suitable resolution. For example, in most states, the majority of fire departments are completely volunteer. They generally have very few resources beyond what is necessary for suppression activities and have few, if any, volunteers who can be trained and available during daytime hours to provide effective juvenile fire-setter identification and intervention programs.

1. Obstacles/barriers. Law enforcement departments vary greatly when it comes to the cases of fire-setting issues and, in most cases, will not involve themselves where the juvenile perpetrator is under the age of eight unless there are implications of abuse or neglect. Law enforcement may identify these young children as a problem for the fire service since they are only concerned with the law enforcement issues of fire/arson. Few law enforcement agencies recognize that many fires involving children over the age of seven may not be accidental and should be addressed through the juvenile court system. However, this information is not passed on to the fire department in many cases.

There are many variables to examine when addressing the issue of law enforcement's involvement with fire-setters. These variables include the types of law

enforcement departments involved such as state fire marshal, state law enforcement units, county law enforcement units, town marshals and city/local (municipal) units, as well as fire investigation personnel having police powers.

2. Gaps and needs. There is not consistent inclusion of the schools in the response process. Educators and administrators may not be aware of the very real danger created by juvenile fire-setters.

Jurisdictions outside of cities may not be informed of case management policies and procedures that are available in larger communities in their area.

3. Recommendations. Any fire involving juveniles should be given a high priority. A prompt evaluation by fire service personnel, using risk analysis forms recommended by the USFA, assures that those children setting fire because of curiosity will receive incident specific and age appropriate education intervention to reduce the risk of repeating the firesetting behavior. Standard operating procedures or guidelines will ensure that such evaluation are performed in a timely and effective manner.

Those children evaluated as definite risk or extreme list must be referred to appropriate agencies to provide services to mitigate the firesetting behaviors. Without prompt evaluation and referral, firesetting for these children will most certainly continue. These programs must take into account the need for a quick response to child fire-setting activities, especially if the fire is more than just a child's curiosity. Again, standard operating procedures or guidelines are essential components of the evaluation process.

Educators and school administrators must be included as integral parts of any case management team. These individuals are often the first source of identification of serious issues affecting children because they may spend more time with these children than their

caregivers. In addition to the fire service and law enforcement other integral parts of the management team are mental health professionals, juvenile justice, child protective services and family advocacy.

B. Issue-Training

Law enforcement, fire service, mental health, and social service personnel are trained in their respective fields with respect to the standard procedures necessary to perform their jobs. However, the training that occurs generally is focused fairly narrowly to address the goals and objectives of each agency. Training with respect to juvenile fire-setter issues, when it is included in curricula, may vary greatly because of such elements as lack of common vocabulary and differences in policy approaches to dealing with children. In order for investigatory units to effectively interact with other appropriate agencies and individuals concerning a juvenile fire-setter, a uniform approach to elements such as case management, standard operating procedures, goals and objectives is a critical first step in the process.

1. Obstacles/barriers. There is no uniform curriculum for training various kinds of professionals about the issues involved in juvenile fire-setting. In addition, there is rarely a central location for the identification and intervention program. Components of the program are spread among a number of agencies and individuals in many different locations. The lack of a uniform curriculum includes the lack of a uniform vocabulary for describing the conduct at issue and the goals and objectives to be accomplished.

2. Recommendations. Develop certification programs for individuals involved in juvenile fire-setter identification and intervention programs, including, for example, risk assessors. Standards such as NFPA 1033 Fire Investigator Professional Qualifications,

and NFPA 1035 Fire Educator Professional Qualifications may be a source for developing these programs. The National Fire Academy currently uses a management program for arson prevention and control that includes both fire-setting and education modules.

Training of school administrators, school security officers and educators must be a priority. Schools may be the locus of fire-setting activity and an awareness of the problem of juvenile arson is essential. Fire involving juveniles should be given a high priority. Early Warning Timely Response Guide to Safe Schools, (U. S. Department of Education, 1999) states that “youth who show an early pattern of antisocial behavior frequently and across multiple settings are particularly at risk for future aggressive and antisocial behavior. Similarly, youth who engage in overt behaviors such as bullying, generalized aggression and defiance, and covert behaviors such as stealing, vandalism, lying, cheating and fire-setting are at risk for more serious aggressive behavior.” Also identified are imminent warning signs including severe destruction of property, detailed threats of lethal violence, and possession and/or use of firearms and other weapons. Fire most certainly causes severe destruction. A threat of a fire can certainly be considered a lethal threat and lighters and matches have been determined as weapons in most school systems. The guide also has “Tips for Parents” that advises parents to note any disturbing behaviors in their children. Fire-setting is identified as a disturbing behavior. See Appendix VII. The National School Safety Center’s Checklist of Characteristics of Youth Who Have Caused School-Associated Violent Deaths Effective (1999) states that one of the characteristics that should serve to alert school administrators, teachers and support staff to needs of troubled students is “preoccupied with weapons, explosives or

other incendiary devices”. Appendix VIII. This training should be incorporated in current programs aimed at curbing violence in schools.

Investigators must initiate outreach to the juvenile court and prosecutorial personnel.

IV. Recommendations for Improvements in Prosecutorial

Aspects of the Problem.

Issue-Competency of Juvenile Fire Setters

A. Issue-Competency of Juveniles

A critical issue for prosecutors to address when faced with a juvenile set fire is the competency of the juvenile who is the alleged perpetrator. Juveniles who intentionally set fires that cause large property loss or loss of life may be subject to the criminal justice system. Under this system, the first step in the process is the determination by the investigator/law enforcement officer that there is probable cause to believe that the fire has been intentionally set and, therefore, that a crime has been committed. The second step is to identify the responsible party. The third step is to refer the case to a prosecutor or district attorney, an intake officer, or a judge with juvenile jurisdiction. It typically is at this stage where a prosecutor must make a decision concerning whether to proceed with a formal charging of an act that would be a crime if it was committed by an adult, e.g. arson. Many prosecutors find arson to be an extremely difficult case to try when the defendant is an adult, and presumably competent to stand trial, because the very nature of arson destroys most of the evidence of the crime. The difficulty is multiplied many times over when a juvenile is the alleged perpetrator. The almost infinite variety of factors, including numerous terms for the conduct, that must be evaluated in order to determine a

juvenile fire-setter's competency to understand the nature of the charges against him or her, and to be able to assist counsel in the defense militates against already over-burdened prosecutors bringing charges against many young fire-setters. Most prosecutors receive little, if any, training in the variety of disciplines that interact in the identification and intervention of juvenile fire-setter. With the terms used to describe the juvenile's conduct ranging from "arson" to "symptom of abuse" and numerous terms in between, the prosecutor has no framework within which to analyze the juvenile's ability to (i) understand the nature of the charges or (ii) assist in his or her own defense.

1. Obstacles/barriers. The lack of a common vocabulary among prosecutors, fire investigators, and social services and mental health agencies and individuals makes it even more unlikely that a prosecution of a young fire-setter will occur.

In addition, the evidentiary burden, beyond a reasonable doubt, makes obtaining a "conviction" extremely difficult when the competency of a juvenile fire-setter is at issue. A key element of proof is the "mens rea" or the intent of the defendant. If a prosecutor cannot determine whether the child intended to commit the act alleged because, for example, the fire-setting is an effort on the part of the child to call attention to severe abuse, the intent cannot be proved beyond a reasonable doubt.

2. Recommendations. Create a set of uniform standards to assist prosecutors in evaluating the competency of a juvenile fire-setter. These standards should provide guidance for cases where the incompetency is the result of age, or mental illness/emotional disability.

B. Issue-Training

Many prosecutors have not had the opportunity to obtain any kind of training on the issue of juvenile fire-setters. They may be relatively unacquainted with the statistics concerning the number of juvenile set fires at the national, state, or local level. Their decision about how to deal with a juvenile fire-setter may be based on incomplete or out-dated information.

1. Obstacles/barriers. Prosecutors may be unaware of alternative dispositions that are available in lieu of prosecutions. Their focus may be on detention as a means of protecting the community from the conduct of the fire-setter, without considering other methods of addressing the problem.

In addition, prosecutors may be unaware of the magnitude of the problem presented by juvenile fire-setting, both in terms of loss of life and injury, and property damage. They may be equally unacquainted with the numerous agencies and individuals who can serve as information sources and resources for a disposition that does not include detention of some kind. Being unadvised about the need for pre-adjudication and pre-dispositional assessments can lock a prosecutor into a very narrow range of alternatives for responding to information concerning a juvenile fire-setter.

In 1996, 53% of juvenile arson cases disposed by the courts were formally processed and 47% were disposed informally. (Snyder, 1997).

2. Gaps and needs. It is important to consider whether there is an assumption by the prosecutorial process that the mental health system will handle to problem. In addition, it is possible that a prosecutor may make a decision not to initiate the formal adjudicative proceeding because of the quality of the information being provided does not

rise to the level necessary to adequately inform the prosecutor. The “kids will be kids” reaction may also color a determination about whether to bring charges against a juvenile fire-setter.

3. Recommendations. Providing accurate information about the magnitude of the juvenile fire-setter problem must be a primary priority. In addition, guidelines must be developed to assist in the specification of the reasons for not bringing a charge.

The importance of a collective agreement about how juvenile fire-setters should be treated cannot be overstated. One component of such an agreement must address dispositional alternatives. The State of Washington has a statute that supports such mechanisms for use by justice officials. (See RCW 74.13.075 in Appendix XI) This statute, part of the Community Protection Act, provides treatment resources for at-risk, sexually aggressive youth. A report by JoAnn Ray, Caudette Sayles with Barbara E.M. Felver, describes the program as follows:

As written, the law covers youth of all ages:

'...at risk juvenile sex offenders' means those juveniles in the care and custody of the state who: (a) have been abused; and (b) have committed a sexually aggressive or other violent act that is sexual in nature; or (c) cannot be detained under the juvenile justice system due to being under age twelve and incompetent to stand trial for acts that could be prosecuted as sex offenses as defined [under Washington state law] if the juvenile was over twelve years of age, or competent to stand trial if under twelve years of age. RCW 74.13.075(1)

All children who received treatment under this program qualified through the requirements of abuse history and sexual aggression. The age-related requirement is stated as an alternative to having committed a sexually aggressive act, as opposed to an additional requirement. 55% of the first 62 children who received funds were over 12.

Social workers and treatment providers interviewed agree that children with sexual behavior problems require a comprehensive, integrated, treatment team approach. The team consists of the social worker who serves as the treatment coordinator, the specialized foster home who provides a stabilized home for the child, and the therapist who is primarily responsible for initiating behavior change. The natural parents and other involved professionals, such as teachers and probation officers, are included when appropriate. Training for foster parents and social workers is essential, and supervision for the children and respite care for the foster parents are sometimes seen as necessary. (**Intervention with Sexually Aggressive Youth: Implementation Report**, JoAnn Ray, Caudette Sayles with Barbara E.M. Felver, September 1991).

Two other alternatives are available to Washington justice officials for juveniles who are over twelve and/or competent for prosecution. They are Special Sex Offender Disposition Alternative (SSODA) (RCW 74.13.075) and Chemical Dependency Disposition Alternative (CDDA) (RCW 13.40.165). According to a report by the Washington State Institute for Public Policy:

The SSODA program is for offenders adjudicated for a first-time sex offense other than Rape in the First Degree.

Under SSODA, the judge can suspend the offender's sentence, place the offender on community supervision for up to two years, and require the juvenile to participate in sex offender treatment with a state-certified therapist. In addition, the court may impose other conditions, including up to 30 days of confinement. The state pays the cost of the treatment. If the offender does not comply with the sentence conditions, or the judge determines that the juvenile is not making adequate progress in treatment, the alternative disposition may be revoked and a determinate sentence imposed, or up to 30 days confinement may be ordered. (**Sex Offenses in Washington State: 1998 Update**, Washington State Institute for Public Policy, Olympia, Washington)

Alternatives such as the above programs usually include professional counseling or therapy as part of the suggested outcomes for justice officials to follow. Four components, eligibility, evaluation, disposition, and the obligation of the treatment provider, create these programs for justice officials to use to provide a standard for enforcement strategies used on behalf of the juvenile offender. A statute or national guideline should be sought to provide funding of treatment and other resources for justice officials to provide the best, most feasible sanction to help the juvenile fire-setter.

V. An Analytical Assessment of Current Trends and/or laws in Juvenile Justice.

One of the most critical components of the juvenile fire-setter problem to be addressed in the analysis of effective recommendations for a national model in a way that institutionalizes the response programs is the areas of data collection, the content of the data, and the dissemination of the data. The fire service, law enforcement, social services, juvenile and criminal courts, mental health agencies, schools, and others identify, intervene and interact with juvenile fire-setters in a multitude of ways. Each of these entities creates and obtains data, uses a variety of vocabularies to describe conduct, evaluates conduct based on multifaceted public policies, and shares (or does not share) data with one or more other agencies, entities or individuals.

A. Issue-Data Collection

Of the three primary issues to be addressed in the discussion of current trends and/or laws affecting the juvenile fire-setter problem, the first issue is that of data collection.

Within consideration of the issue of data collection comes the topic of who is collecting the data, the review of which can be divided into two main categories based on the purpose of the data collection. The first main category of data collection on juveniles is based on the juvenile justice/juvenile delinquency system. Juvenile delinquency can be defined, in part and for purposes of this discussion, as conduct of a juvenile that would be a crime if committed by an adult. (This definition does not include those acts, commonly known as "status offenses" such as truancy and curfew violations.) In this category, law enforcement agencies are primary creators, holders and users of data. This includes federal as well as state and local law enforcement officials. Under such federal laws as the Controlled Substances Act (1970) and the Controlled Substances Import and Export Act of 1974, juveniles can be charged with conduct that would be a federal crime if committed by an adult. Federal law enforcement agencies include the Department of Justice (the Federal Bureau of Investigation and the Drug Enforcement Agency) and the Department of the Treasury, including the Bureau of Alcohol, Tobacco and Firearms. By and large, though, juvenile delinquency is state-regulated conduct that is enforced by state and local law enforcement officials. Unlike law enforcement involvement in child abuse, however, in addition to those traditionally viewed as law enforcement, arson investigators who are defined as law enforcement officers under their respective state statutes are included among the data sources.

The other agencies, organizations and individuals collecting data with respect to juvenile delinquency involve law enforcement officials ranging from town marshals to state troopers. Child welfare department personnel include case workers and intake officers. However, other valuable sources of data encompass school teachers,

administrators, and counselors, juvenile and criminal courts, including prosecutors and their staffs, hospitals, health centers, individual and family counselors, foster parents, and other public or private individuals or organizations providing educational, mental health or physical supervision assistance to juvenile delinquents. In addition, school security units (consisting of school security personnel who are not required to be law enforcement officers), juvenile detention facilities, and group homes are additional data locations.

Local coordinating committees such as those established pursuant to Indiana Code 31-38-1 are an additional element in the data analysis picture in juvenile delinquency proceedings. The duties of a local coordinating committee include consideration of alternative placements, developing and recommending a long range treatment plans for a child, and exchanging information concerning services available in the county.

The second category is child abuse data and there is a myriad of organizations and individuals collecting the data. Under the Child Abuse Prevention and Treatment Act of 1974, Congress encouraged states to create and implement child abuse reporting and treatment programs, and augment such existing programs through the provision of grants and other assistance. All states have statutory requirements for the reporting of suspected child abuse. (See, e.g. Code of Alabama § 26-14-3, Colorado Revised Statutes Annotated § 19-3-304, and Indiana Code 31-33-5-1). (It is interesting to note that Colorado's statute specifically includes the term "firefighter" at §19-3-304(2)(v)). Essentially, anyone who has reason to suspect that child abuse is occurring has a legal obligation to report it to, generally, either law enforcement official or child welfare authorities. As a result, law enforcement agencies and child welfare departments at the state and local level are the two largest repositories of data on child abuse. The other agencies, organizations and

individuals collecting data with respect to child abuse include all of those involved in the juvenile delinquency forum as well. One example of such an organization is a local coordinating committee created under Indiana Code 31-38-1 for the purpose of reviewing proposed restrictive placements of children under the supervision of, among others, child welfare agencies.

Reporting sources used by law enforcement and the fire service often have information on juvenile fire-setters that would be beneficial to each other. The most common data sources from which to identify juvenile fire-setters are NFIRS, UCR, and local law enforcement records and fire reports. Other sources, not commonly used, include hospital records (both emergency rooms and burn units), reports from schools, animal control officers reports of burned animals, and mental health or other agencies.

A third step in the process of creating a unified model for addressing the problem of juvenile fire-setting nationwide is an analysis of the information bridging/integration process as exemplified by common data repositories. Presently, data is created, used and stored in a wide array of formats, including paper, electronic, oral, film/microfilm, photographs, and slides. The explosion in information technology must be harnessed to provide uniform data creation, use and storage methods.

An additional element of data storage that must be considered is what is often referred to as "records retention" or "records management." This is a concept that generally is applied to the storage of information. Statutory frameworks such as Indiana Code 5-15-5.1-5(4), for governmental units, are further developed by rules and implemented by agency policies.

1. Obstacles/barriers. The identification of the many and varied locations of juvenile data collection is merely the first step in creating a unified model for addressing the problem of juvenile fire-setting nationwide. A second step is to determine the vocabulary used to describe conduct that relates to juvenile fire-setting. The first element in that determination is to identify the basis for classifying the conduct.

Lack of a common vocabulary for describing what is actually juvenile fire-setting behavior has a number of bases including the requirement of certain levels of intent for charging a child with the crime of arson. Proving that a particular child had the requisite level of intent is extremely difficult, especially with younger children. In most states, children under a specified age, usually 7 or 8, are deemed to be unable to form intent. Very young children, under the age of 4 or 5, generally are not considered to have the ability to commit a deliberate act. For those children, juvenile delinquency is not even considered.

In other cases, local community officials do not want to charge a "good kid" with arson, or "boys will be boys", or the child has well respected parents who the responding officer does not want to embarrass. Other community members, such as mental health or social services professionals are not trained to consider set fires as arson or to see the immediate potential for further fire-setting behavior. They may not be aware of the juvenile set fire statistics, including the number of children who die in child-set fires. In addition, there is no tradition of integrating the fire service into the social services/mental health/juvenile court equation.

For example, in child abuse/neglect cases, phrases such as "playing with matches/lighter", or "setting small fires" may be deemed to be symptoms of a problem, i.e. child abuse/neglect, and not conduct that is a problem itself.

In juvenile criminal proceeding, fire-setting may be called "criminal mischief", "trespass", "reckless burning", "vandalism", "animal cruelty" (including setting fire to an animal), "illegal use of explosives", etc. instead of "arson." These are fires that are set deliberately and that are reported to law enforcement. There are other instances where fires are set, such as in the home or even in school environments, where they are not reported to either the fire service or law enforcement. The lack of reporting, together with the lack of a common vocabulary, is a deterrent to effective action concerning juvenile fire-setting.

2. Gaps and needs. No common vocabulary exists that includes a universally acceptable method of defining the level of fire-setting that is occurring. There are three risk levels commonly used by fire service professionals involved in juvenile fire-setter risk evaluation. The three levels are little, definite and extreme. "Each level of risk represents a successively more severe form of fire-setting behavior. The three risk levels can be described by the psychological and social factors of individual traits, social circumstances, and fire-setting scenarios. Individual traits are those characteristics describing physical, cognitive, and emotional functioning. Social circumstances refer to the quality of the family, social and school environment. The fire-setting scenario described the behaviors and event leading up to, during, and immediately following the firestart. How these factors impact on the lives of these juveniles and their families determines whether they will be classified as little, definite, or extreme risk for

firesetting.” See Appendix VI. (Gaynor, 1999). However, these phrases do not comport with criminal code requirements for adjudication as a delinquent.

Obstacles to common vocabulary and methods of defining conduct can also include institutionalized behaviors and rivalries or turf issues. Law enforcement, the fire service (both paid and volunteer), and child protective services may all have different priorities. Public policy may emphasize keeping a family together, and also focus on the best interests of the child, a combination that can create differing approaches to juvenile fire-setting. This type of public policy practically mandates the use of a non-criminalizing vocabulary in order to prevent possible referral to the criminal justice system. Such a referral is seen as the antithesis of the two primary guiding principles for affecting a child's life: (i) keeping a family together, and (ii) in the best interests of the child. The referral puts the child away from the family or exposes the child to the influences of confinement.

An additional public policy consideration may focus on the need to address rising criminal activity by juveniles through incarceration, whether for punishment or rehabilitation. The popular political phrase about getting tough on crime is not limited to those over 18.

In the area of records management, courts frequently have their own rules concerning data storage. Private organizations and individuals all may have their own record retention/management policies and procedures or, unfortunately, they may have none at all.

3. Recommendations. Create a common vocabulary that includes an analysis of the proposed use of a defined term. There are a variety of means by which the search for

a common vocabulary, an acceptable method of defining the level of fire-setting, and integrating the fire service into the law enforcement/social services/mental health/juvenile court equation may be achieved. Educational efforts such as the *Learn Not to Burn*TM and *Risk Watch*TM programs developed by the National Fire Protection Association bring a variety of fire service, law enforcement, health, education and other professionals into a working group, using a common vocabulary, that interacts with children from kindergarten through eighth grade.¹ University degree programs that blend curricula to emphasize the links among fire, law enforcement, juvenile justice, social work, education, and mental health. In addition, research programs, including data analysis, that form bases for curriculum development for such areas of study as early childhood development, and maternal and child development provide important tools for cross-disciplinary interaction. Legislative responses can be based on data and analysis accomplished through research facilities such as the Institute for Public Policy created by the State of Washington.

The Institute for Public Policy was created by the Washington Legislature in 1983. A Board of Directors representing the legislature, the governor and public universities governs the Institute and guides the development of all activities.

The Institute's mission is to carry out practical, non-partisan research at legislative direction on issues of importance to Washington State. The Institute conducts research activities using its own policy analysts and economists, specialists from universities, and consultants. Institute staff work closely with legislators, legislative and state agency staff, and experts in the field to insure that studies answer relevant policy questions.

¹ However, the intended goal(s) of the education still may not be clearly defined. There are major differences between education intended to help someone survive a fire and education intended to prevent

Current areas of staff expertise include education, criminal justice, welfare, children and adult services, health, utilities and general government.

B. Issue-Analysis of Applicable Trends

The second issue to be addressed is the analysis of applicable trends. The analysis of the components that are essential to the effective communication among agencies and individuals does not stop at an itemization of everyone involved, their respective vocabularies, policies and goals. It must include an examination of the content of the data being created including the identification of risk factors, risk assessments, performance measures, evaluation, linkage of data, causation vs. conduct, recidivism, and the pervasive influence of the Internet.

The use of universal interview forms is an essential pre-condition to standardized risk assessments. Obtaining the information to identify risk factors requires questions that are designed and tested to provide the data needed. Once the information has been gleaned from properly formulated and conducted interviews, a uniform method of evaluation of the interview results must be implemented. The evaluation of the interview results is the first evaluative step.

A second, equally critical, evaluation must occur when the juvenile fire-setter is referred for substantive evaluation. It is at this point that a team concept/multidisciplinary approach is so essential. Information and expertise must be contributed by law enforcement, fire service, social services, juvenile justice (including prosecutors), mental health, education and other relevant agencies. The evaluation/treatment plan may well be incomplete or inadequate without the broad

spectrum of participation. Linking of data concerning risk factors is crucial to this information exchange.

Linking data from such federal agencies as the Bureau of Alcohol, Tobacco and Firearms (conduct involving firearms and explosive devices) and the Federal Bureau of Investigation Uniform Crime Report and data sources such as the National Fire Incident Reporting System database are additional mechanisms for adding to the evaluation data pool.

The multidisciplinary approach is also an integral part of the examination of how juvenile fire-setting conduct should be evaluated. For example, does the fire investigator, as a law enforcement official, see it as an arson? Does the social work professional see the activity as a symptom/acting-out of an abusive or dysfunctional environment? Does the mental health professional see the fire-setting as a symptom of psychopathological conduct? Does a law enforcement officer, specializing in youth gangs, see the conduct as strategic fire-setting in the framework of gang involvement? Can the fire-setting be more than one of these in combination? Defining the conduct as one or more of these is extremely important for many reasons, one of the most important of which is the need to effectively and accurately evaluate juvenile fire-setting identification and intervention programs, as a whole and on an individual case basis.

In order to measure the performance of program, it is necessary to begin with what is being measured and the reason for the measurement. For example, if the method of evaluation is focusing on decreasing the number of risk factors or the level of risk of fire-setting behavior, or promoting protective factors such as positive peer involvement, the evaluation will have a very different perspective than if it is considering only how

many juvenile fire-setters are being counted. If there are fewer opportunities for children to get access to matches and lighters (parental education, statutory prohibitions on access), that would provide evidence of a successful program, but not many "numbers."

The combination of parental education and statutory prohibitions certainly is not limited to the matches/lighter issue. The potentially enormous impact of the internet on juvenile behavior including chat rooms used by sexual predators, information about bomb-making, and intra-gang communication via e-mail are only a few examples of the challenges facing parents and legislatures in the 21st century.

Intra-gang e-mail is not the only gang-related element involved in juvenile fire-setting. According to Schwartzman:

The Phoenix Fire Department has labeled fire-setters in juvenile gangs as 'strategic fire-setters'. Phoenix has seen an increase in these types of fires, and with the help of Dr. Jeffrey Thomas, has closely examined the dynamics surrounding their behavior. Dr. Thomas describes strategic fire-setters as teenagers who have a history of involvement with the juvenile justice system and/or mental health system. Most have been unsuccessful in school. They may have a history of alcohol and substance abuse. These strategic fire-setters demonstrate behaviors indicating poor self-esteem and little regard for life. As a result, they do not show guilt or remorse for sociopathic behavior, including violence against people and property.

Strategic fire-setters generally set fires as a group. Fire investigators report that these fires typically involve the use of accelerants and often have multiple points of origin. The fires are set for the purpose of revenge, to instill fear in a

community, or to destroy evidence from another crime. When confronted, the strategic fire-setter is unusually resistant and uncooperative. (Schwartzman et al., 1998).

In a recent article (Huff, 1999) Huff states that “prevention issues will not deter all youths from joining gangs. It is also important to address the brief window of opportunity for intervention that occurs in the year between the ‘wannabe’ stage and the age of the first arrest”. Fire-setting may be the first contact with law enforcement and the importance of appropriately dealing with these high-risk youth cannot be disregarded.

1. Obstacles/barriers. Insufficient, inadequate or inappropriate questioning defeats the interview purpose and, may have the unintended effect of inhibiting and/or preventing further communication with the juvenile and/or family members.

Lack of a uniform set of recognized risk factors is an additional obstacle, as is the absence of universally accepted evaluative criteria and performance measures.

2. Gaps and needs. The ability to link data from many agencies is tremendously important because many juvenile fire-setters live in dysfunctional family environments. These families tend to move frequently, both intrastate and interstate. It is not uncommon for these families to move from place to place several times in a single year. Juveniles in the families may also leave an area on a temporary basis and be residing with a relative elsewhere. Without effective tools to monitor the location of these children, any intervention program is ineffectual.

3. Recommendations. A comprehensive compilation of risk factors for juvenile fire-setting must be created and accepted by all disciplines. Factors such as delinquency, peer pressure, Attention Deficit/Hyperactivity Disorder and other behavioral disorders,

easy access to matches/lighters, abuse, parental substance abuse and family dysfunction are identified by entities across the spectrum of juvenile intervention and treatment. The factors must be recognized and an appropriate intervention response must be provided, regardless of the agency or individual that initiated recognition of the factor(s). Effective identification of the risk factors mandates the use of standardized risk assessments.

In addition, like the need for common terms to describe the level of fire-setting activity, the interview data must be evaluated according to a generally accepted set of criteria, leading to uniformly defined terms for levels of fire-setting.

C. Issue-Dissemination of Information

The third issue is laws and policies affecting the dissemination of information about juvenile fire-setters. Regardless of the methods or purpose for the evaluation of the performance of juvenile fire-setter identification and intervention programs, if the data collectors cannot share the data with all the people who have a clear need for the information, the programs will be limited in their effectiveness and in their lifespan.

The issue of data dissemination/information sharing can be divided into three components, (i) what can be shared and with whom, (ii) what cannot be shared, and (iii) what prevents the sharing of information.

Under the federal Freedom of Information Act (1966), the policy of the federal government has been to provide open public access to the activities of federal agencies. Individual states have similar policies embodied in their statutes. (See, e.g. Indiana Code 5-14-3). Under these statutes, the public has the right to obtain information from a variety of federal and state agencies, usually at a nominal charge and without disclosing

the reason for requesting the information. However, this traditionally has not applied to juvenile records.

The long-standing public policy concerning the need to keep juvenile records confidential has been changing in recent years through numerous federal and state laws.

For example, in Kansas, the juvenile court records of juveniles of a specified age are open to the public (Kansas Statutes Annotated § 38-1607). State juvenile records held by federal agencies that are not otherwise excepted from the provisions of the Freedom of Information Act are accessible to the public. (See McDonnell v. United States, 4 F. 3d 1227 (1993)). In addition, there are further records available to specified agencies, organizations or individuals. Wyoming law provides that all information created, obtained or stored by local or county officials "evidencing any legal or administrative process or disposition resulting from a minor's misconduct" may be shared by, among others, law enforcement officials and "any employee of the department of family services or the minor's past or present school district." (Wyoming Statutes § 14-6-203(g)).

1. Obstacles/barriers. One of the major exceptions to the open access concept, at both the federal and state level, is juvenile records. Historically, juvenile records were kept confidential because of the public perception that it was necessary to prevent labeling a child as a criminal and having that label stick to the child through adulthood.

Although much juvenile information is available, there are some kinds of material that are not subject to any disclosure without the consent of the minor's parent or legal guardian. This material includes documents and other information that is protected by evidentiary privileges such as physician/patient or attorney/client. It should be noted that

these privileges also apply to information about a parent. For example, if a parent has entered a program for substance abusers or treatment for mental health problems, it is virtually impossible to obtain those records.

There is another segment of juvenile information that is largely inaccessible. Documentation and other data concerning juvenile fire-setters living on land that is subject to the jurisdiction of Native American tribal authorities is virtually impossible to obtain. This also applies to adults on Native American tribal lands.

2. Recommendations. Develop a universal listing of agencies and individuals to which access to otherwise confidential information concerning juvenile fire-setters should be made available. Establish safeguards to ensure that such information does not get released improperly; including possible qualifications to be required of those provided access. Evaluate and quantify the harm that results from the lack of free exchange of information among all parties who have a legitimate need for the information.

VI. Summary and Recommendations

A. Summary

Any effective national model for the identification, intervention, and treatment of juvenile fire-setters must include an accurate perspective on the sources and content of data being established at the local, state, and federal levels, the interaction of multiple organizations and individuals involved in the issue of juvenile fire-setting, and a effective, reasonable and legal means of data communication for all relevant participants. There is a wide variety of agencies, organizations, and individuals who create, use and store information on juvenile fire-setters. They have varying purposes, goals, issues and

concerns that are addressed in a multitude of data media. There is no common vocabulary, nor national consensus on risk factors or risk assessments. Evaluation and performance measures tend to be locality specific, with few elements in common. Due to federal and state constitutions and other statutory provisions founded on the basic concept of the right to privacy for certain parts of peoples' lives, there are formidable barriers to information sharing and data linking. The laws and rules that specify the agencies and individuals who can share some kinds of information about juveniles and create multidisciplinary response/treatment groups only include fire service professionals who are designated law enforcement officers doing arson investigations.

B. Recommendations for further action

1. Study and research

a) Develop a strategic plan with the community policing consortium leaders to identify the parameters of the juvenile fire-setting project and gain support and insight with the law enforcement community.

b) Identify treatment programs enacted through legislation in the United States that effectively addresses fire-setters and other juvenile delinquency issues.

These programs can be compiled and examined to shape a model program that efficiently treats juvenile fire-setters.

c) Research effective programs in the United States that provide a continuum of care network that provides a mechanism for agencies to refer to other agencies and share information to continue the intervention process.

d) Research and develop model alternative disposition programs

2. Education

- a) Study and develop an awareness training program targeted specifically at law enforcement and juvenile justice personnel.
- b) Design creditable curriculum for law enforcement using a coalition of individuals with related expertise in adult education, curriculum development, police/fire training, and juvenile development.
- c) Identify and develop a certification program for juvenile fire-setter identification and intervention programs.
- d) Identify and develop model programs for training of school administration, school security officers, educators and other staff focusing on juvenile fire-setting and juvenile arson in the school setting.

3. Standard Operating Procedures

- a) Identify and develop model case management programs and standard operating procedures for fire investigators that establish a high priority for juvenile fire-setting cases.
- b) Create a set of uniform standards to assist prosecutors with the evaluation of a juvenile fire-setter. The standards should address topics such as uniformity in dealing with juvenile fire-setters in civil and criminal court proceedings. This should include but not be limited to dealing with juvenile fire-setters with mental disabilities, a Safety At Large evaluation (or one similar) for juveniles, and evaluation for post adjudication, pre-disposition, and post-incarceration.
- c) Create a common, universally accepted vocabulary to describe fire-setting conduct and a list of risk factors.

4. Sharing of Information

a) Draft statutory authority to share many categories of information among relevant agencies, including the fire service in more than just a law enforcement/arson capacity. This authority must be carefully crafted to ensure that material such as mental health reports is only released to a limited number of entities and that confidentiality safeguards are kept in place. Examples are the Serious or Habitual Offender Comprehensive Action Program (SHOCAP). (See, e.g. Virginia Statutes § 16.1-330.1) The statute states that:

“it [the SHOCAP] is a multidisciplinary interagency case management and information sharing system which enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts.” (§ 16.1.330.1B.)

The Interagency Gang Intervention Database Program, City of Wichita/Sedgwick County, permitted under Kansas law identifies "individuals who are gang members, violent individuals and registered sex offenders." (Wichita Police Department Policy Manual – Policy 527.01 [1998]). This information exchange contains criteria for entry of an individual, such as "the individual admits to gang membership and displays knowledge of gang activities consistent with such membership" and requires that two or more of the criteria be present before an individual entry is made. (Wichita Police Department Policy Manual – Policy 527.05 [1998]).

b) Create multi-state agreements, such as the Interstate Compact on Juveniles, that would permit interstate sharing of information.

- c) Develop a uniform data format and media to facilitate computer-based data exchanges.
- 5. Develop a service delivery model that provides law enforcement officers with a “tool box” to effectively manage juvenile fire-setters.
- 6. Develop uniform performance measures to ensure that juvenile fire-setter programs are being appropriately scrutinized.

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APPENDIX I

Definitions

Accidental: An unplanned event that interrupts an activity and sometimes causes injury or damage. A chance occurrence arising from unknown causes; an unexpected happening due to carelessness, ignorance, and the like. NFPA 921 1998 Edition.

Arson: The crime of maliciously and intentionally, or recklessly starting a fire or causing an explosion. Precise legal definitions vary among jurisdictions, wherein it is defined by statutes and judicial decision. NFPA 921 1998 Edition.

Fire service: used in context of this document to refer to paid or volunteer fire service providers including prevention, fire and life safety and fire investigation personnel.

Fire-setting: any setting of fire whether accidental, experimental or intentionally set.

Incendiary: The incendiary fire is deliberately ignited under circumstances in which the person knows the fire should not be ignited. NFPA 921 1998 Edition. Section 12-2.3

Judicial system: used in context of this document to refer to criminal and civil courts, juvenile and family courts, drug court, and any other similar court affiliated with the judicial system. Includes prosecutors, their staff, guardians ad litum and independent contractors with such courts.

Juvenile: any individual under a statutorily specified age, generally those under age 18.

Law enforcement: used in context of this document to refer to any local, county, state, federal or other officers with arrest powers.

Social service: used in context of this document to refer to family and social services, welfare, and child family serving agency or individual, such as department of child and family

APPENDIX II

Examples of Task Force Concept

Programs in Indiana, and Florida are examples of the task force concept

INDIANA

1. The Indiana State Fire Marshal's Office uses law enforcement certified investigators to conduct investigations into fires that are deemed suspicious or result in serious injury or death. Just as in many other state fire marshals' offices, Indiana may not be called to investigate fires involving juveniles unless the intent is criminal in nature. The Indiana State Fire Marshal does have a Juvenile Fire-setters Task Force that meets every other month to discuss areas of concern for agencies involved in the response to juvenile fire-setting behavior. The task force is a multi-agency group consisting of fire service, law enforcement (state, county and local), mental health, schools, prevention, social services and other agencies. A quarterly newsletter, F.I.R.E., is published and sent to all fire chiefs, school principals, day care centers, law enforcement agencies and others identified as having an interest. The task force has published a resource book listing departments having a recognized fire-setter intervention program and other agencies. This resource manual contains a significant amount of information concerning programs, personnel, agencies, materials, intervention forms etc. that is helpful. If a child comes to the attention of the Indiana State Fire Marshal's Office as being in need of juvenile fire-setter intervention services, a referral is generated to the fire-setter intervention program closest to the caller. Indiana has many small fire departments, both paid and volunteer, most having their fire inspectors or fire marshals that use the State Fire Marshals office to

investigate suspicious fires. While many departments may be able to provide fire safety education to their community, they may not have a juvenile fire-setter intervention program in place to assess the child's fire risk and make referrals to appropriate agencies. State fire investigators, through contacts developed within their community, will also make referrals of the child and caregiver to an established program. Some of the larger departments do have structured programs that are utilized by county departments.

2. Marion County Indiana, which includes the city of Indianapolis Fire Department, has thirteen fire departments and does have a county arson task force that includes a juvenile fire-setter coordinator from the City of Indianapolis. Each department has its own juvenile intervention program based on the same set of operations procedures. All use the recommended forms and have been using the most recent revised Fineman forms (1997) for over two years.
3. In the city of Indianapolis, the fire investigation unit operates uniquely in that it pairs a police detective with a fire investigator and both respond to the scene of a fire as a team. Both units are trained in fire investigation and both units have full police powers. The police detective is responsible for the case management and is the lead agent in the incident. The fire investigator assists by conducting the origin and cause investigation to determine the cause of the fire. If the fire is determined to be a child-set fire, the investigator advises his or her partner police investigator. The fire investigator then assists in the follow-up with the police partner. The origin and cause is entered into the reporting system by the fire investigator and all information beyond the fire investigation is entered into the reporting system by the police officer.

Every case has to follow certain parameters and steps allowing the information to filter down to the service agencies effectively to insure that the juvenile fire-setter is assisted in his/her need for intervention when a juvenile initiated fire has occurred.

The files are maintained both on electronic media and in case folders stored within the office. Files are maintained for over 15 years. The unit files a report to the FBI under the Uniform Crime Reporting requirement (UCR). This unit is an example of an effort to involve a number of other agencies to facilitate the resolution of an intervention program for each particular juvenile.

Each file is submitted for review by a supervisor after all the information is complete. The type of fire involved determines the completion of each report. Files involving juveniles are ideally completed, at least the events leading up to and after the fire, within two days. The information includes submission of fire reports, police reports, evidence/photo transmittal forms, statements, juvenile/adult statement waivers and statements, and any other information important to the case.

The juvenile fire-setter coordinator maintains an office within the Indianapolis Fire Investigations unit and receives immediate notification of a juvenile-set fires. The Fire Stop Program is effective in seeing that all concerned agencies are notified when necessary and appropriate. The files may shared among a network of participating agencies throughout the system including the juvenile courts, county family advocacy units and mental health departments.

The Fire-Stop juvenile coordinator completes a follow-up to the case if a juvenile is involved. The coordinator has developed a relationship with the social service agencies throughout the area and has the ability to exchange information. While

much of the information shared from the mental health services is limited, attendance at treatment programs is confirmed to the coordinator. The coordinator will then enter the information into the narrative of the police notes that an intervention program is being followed without having to identify information that is considered confidential.

All juvenile fire-setter intervention programs are individualized and are unique to each participant, unlike a number of other classroom-operated programs. A fire risk assessment is completed and incident specific and age appropriate education is provided.

A weakness identified in Indianapolis program is that the program is not institutionalized, i.e. the one program coordinator is the entire juvenile Fire Stop program. The program coordinator is currently addressing this issue by preparing a procedures and training manual as well as a review of the program protocols that will assure the program's continuance and effectiveness in coming years.

FLORIDA

1. State Fire Marshal's Office/Southwest Region/Ft. Myers Office of the Florida State Fire Marshal's Office has several regions with each region having different offices. All investigators are assigned to the Bureau of Fire/Arson Investigations and are law enforcement certified. This means that an investigator has completed a minimum of 640 hours of training to act as a police officer. This training includes criminal law, interview and interrogation, use of force, etc. In addition, each State Fire Marshal investigator completes another five weeks of schooling in

the identification of fire causes and their origins and the identification of perpetrators.

The southwest region (20th Judicial Circuit) consists of 5 counties and includes an office in Ft. Myers. Each region that has its own system of handling juvenile fire-setters, just as each area's fire departments has its own method for notifying the State Fire Marshal's Office. While the Florida State Fire Marshal's Office maintains jurisdiction anywhere in the state, it usually limits itself by request and jurisdiction is not an issue. Each county has a number of fire departments. In Lee County, Florida for example, there are 18 fire departments, each having its own program in dealing with juvenile fire-setters. Currently, Lee County has a juvenile fire-setter task force in place working to develop a countywide standardized juvenile fire-setter intervention program. The Ft. Myers office of the State Fire Marshal's Office maintains the database for all of Lee County involving juvenile fire-setters and is on the Lee County juvenile task force.

The Ft. Myers State Fire Marshal's office initiates its investigations by request. All requests generally are dispatched through the main duty room in Tallahassee. Investigators are generally on-call and will handle the investigation from top to bottom. Each investigator must report using a state wide computer program known as ASISS. The program is comprehensive and has a number of data fields. The investigator must be complete, in full, all of the information in each of the pages in the program. This information provides the probable cause for the court systems and social service systems to act because the information in each incident can reveal the amount of mitigating circumstances for each fire. All cases are printed out and are

maintained in folders and stored in secured file cabinets in the office. All disseminated information is strictly limited to those in the need to know and is disseminated only by the main office in Tallahassee, thereby respecting confidentiality.

The Ft. Myers State Fire Marshal Office generally is not notified if the perpetrator is a young child, except in identifying for data purposes. The office conducts no investigation. The local fire departments utilize their own fire marshal who completes the investigation and, in many cases, provides an education program to the child and family.

Criminal cases of arson investigated by the Ft. Myers State Fire Marshal Office are assigned a priority based on the likelihood of the case being solved. Investigators utilize their time and energy on cases with leads and quickly close those with no further leads.

In Lee County, Florida, any juvenile arrested for the charge of arson (having attained at least 8 years of age) is automatically held in the Juvenile Detention Center and can be held for up to 21 days without possibility of release. This time period permits the Florida Department of Juvenile Justice to examine the needs of the child. Florida is responsive regarding this issue and rapidly acts when the child may need help. Arson is classified as one of the five crimes of violence thus requiring the automatic incarceration of juveniles involved. In addition, by Florida state statute, any felony crime committed that results in fire, regardless of whether it is accidental or not, is classified as arson.

In the 20th Judicial Circuit, which includes Lee, Collier, Glade, Henry, and Charlotte counties, the State Fire Marshal's office also may share the investigative responsibility with a number of law enforcement agencies. However, these agencies only become involved when a criminal violation occurs and, in fact, may be the arresting agency. Also each law enforcement agency in the area employs a sworn officer as a school resource officer in the middle and high schools. They work closely with the Fire Marshal's Office concerning school fires and will arrest children involved in school fires. Case management is determined by each department's standard operating procedures involving criminal investigations and the information is shared among the local/county agencies and the State Fire Marshal's Office. Lee County, Florida is currently developing a juvenile fire setter program.

A number of other programs have been examined and the information has been altered to meet the county's needs. The development phase is still far from complete and some weaknesses have to be addressed. A referral form was developed to send juvenile fire-setters to established programs in the different departments. The programs may not be effective because there is no means of compelling cooperation if a parent refuses to participate with the program. A number of the program providers have had no formal training to conduct the intervention and assessment interviews. The Lee County Juvenile Fire-setter task force is addressing that problem and a multitude of other issues. They include:

- Developing an effective countywide juvenile education program acceptable to all of the fire service agencies in the county
- Referral process to the program

- Referral process for evaluation through mental health professionals
- Intervention and treatment through education for parents and the child
- System to identify problems by area/nationality/socio-economic levels
- Working with the State Attorney's office for assistance by prosecution for those who elect not to participate (Ages 8+). It is anticipated that This group should move into its final developmental phase towards the conclusion of this year.

2. County - County law enforcement will become involved only if the fire is determined to be an arson. In Lee County, Florida, the Sheriff's office leaves most of the fire/arson investigation and charging activity to the State Fire Marshal's Office. The Fort Myers and Cape Coral Fire Departments have their own, dual-certified fire investigator (police and fire certifications), and conduct their own investigations without using the Sheriff's department. In the other four counties of the 20th Judicial Circuit, the Sheriff's department will actively become involved in effecting the arrest of the perpetrator when the fire is identified as incendiary arson by the State Fire Marshal's Office.

APPENDIX III

A Case History of a Sexually Abused Juvenile Fire-setter

Indianapolis, Indiana

In March of 1997 a call was received from Family Advocacy advising of a child who had set a fire in a shelter. Contact was made with the shelter and the Fire Stop Coordinator was advised that the family had left the shelter and left no forwarding address. The family could not be located. This was not the family's first contact with the CPS. Two years prior there had been allegations of this child being molested.

In November of 1997 the Fire Stop Coordinator was contacted by a CPS caseworker advising that the 8 year old boy had set fire to the carpet in the family room. CPS had instructed the mother to contact Fire Stop for an appointment, however, the mother failed to do this. All attempts to reach the mother were unsuccessful.

On January 5, 1999, the Indianapolis Fire Department responded to a fire run in an apartment. This fire sent 9 civilians to the hospital with smoke inhalation and did over \$35,000 damage. Duane was identified as the child who set the fire.

Duane's younger brother was injured in the fire. Duane's mother told fire personnel at the hospital that he had used his little brother's head to break out the window. His brother received cuts on his head. Duane's mother reported that the night before the fire that Duane had been throwing lit matches in his little brother's bed. She stated the police were called and they told her to whip him; however, there is no record of any police call to that address. Duane's mother stated that she went to Fire Stop and no one would help her. When she was advised that no contact was ever made with Fire Stop, she stated that she had taken Duane to "another department on the east side of

town.” Contact with all other fire departments in Marion County showed that no contact had ever been made. Duane’s mother stated that she missed an appointment on December 28 with a psychologist to help Duane. His mother was also upset that she would not be able to return to her apartment if Duane came home with her, so her pastor agreed to take Duane and seek custody. Later that evening the police were contacted and Duane was taken to the Guardian’s home.

The next morning the Fire Stop Coordinator gathered the facts and contacted the Guardians Home with information about Duane and also contacted Child Protective Services. Duane was placed in a local behavioral care facility and approximately two weeks later was transferred to Resolute, a residential treatment facility for sexual perpetrators.

After Duane was released from Resolute, he was placed in foster care. His mother made several attempts to regain custody through juvenile court. She finally regained custody in late fall and less than a month after going home at that time, Duane was arrested for molesting a 5 year old neighbor girl. Duane is 10 years old.

It would appear that the system had failed Duane early on. What will become of Duane now? How many times will he be arrested or placed in foster or residential care? How many times will he become a perpetrator again? Where was the system when Duane was calling for help with his early firesetting attempts?

The enclosed video, which was done by a local television station, Channel 13, entitled “In the Child’s Best Interest” dramatically illustrates the link between fire-setting and sexual abuse. Judge James W. Payne, of the Marion County Juvenile Court, stated that this case came before him as a result of the fire investigation. Duane’s caseworker

states that this is one of the toughest cases she has ever dealt with, yet I can recall many such children that have been seen as fire-setters.

APPENDIX IV

City of Indianapolis Unsafe Buildings and Structures, 1994

In March of 1994 the Indianapolis Fire Department identified a serious issue with unsafe buildings and structures that were abandoned, damaged by fire, weather and lack of maintenance. The majority of these buildings were found in the inner city. Structures were identified where the roof had collapsed into the structure, foundations that had serious damage, floors with holes cut into them and a host of other problems. The Technical Services Division (Code Enforcement) of the Indianapolis Fire Department felt that the firefighter and police officer on the street should be given every advantage possible when called upon to respond to incidents in these structures. No building, vacant or otherwise, is worth the life or serious injury to a firefighter or police officer if it can be prevented. Attempts to seal vacant buildings by local and state officials with wood over the doors and windows were often vandalized by vagrants, the homeless, or illegal drug dealers. The main goal of the program was to use the inspection of these structures as an aid to the incident command system. The numbering of these structures should indicate the condition of the building and what hazards exist in the event of a fire or police response.

The numbering system was placed on a placard, with I.F.D. (Indianapolis Fire Department) on it, with a number corresponding to the hazard that exists within the structure. A number 1 on the placard indicated that the structure was too dangerous to mount an offensive interior attack, i.e. holes in the floor, possible roof collapse, or building scheduled for demolition. With this placard being in place on the A, B, and D sides of the building, first arriving companies could identify whether the structure was

unsafe and that a defensive attack was required to extinguish the fire. A number 2 on the placard indicated that danger did exist, and entry of the structure should be made only if a life threatening situation exists. This also required a defensive attack on the structure. A number 3 on the placard indicated that there was minor damage to the structure and that entry could be made, depending on the fire conditions and the size-up by the incident commander. It was suggested that this program be incorporated into the Mayor's Task Force on Unsafe Buildings. Once a week the task force went together to determine the condition of and do a joint inspection of the structures throughout the city. At that time, the fire inspector would install three placards on the A, B, and D sides of the structure to indicate the dangers that did exist.

The placards were printed on a reflective surface that could be mounted on masonry, wood or aluminum siding. A fastening system was developed to adapt to all surfaces.

The numbering system was placed on a placard with I.F.D. on it, and a number corresponding to the hazard that existed in the structure. This placard was placed on the A, B, and D sides of the building so that first arriving fire companies would know the structure was unsafe and that a defensive attack was required to extinguish the fire.

Number 1 indicated structure is too dangerous to mount an offensive interior attack (i.e. holes in the floor, possible roof collapse, or building scheduled for demolition.

Number 2 indicated danger exists, and entry of structure should be made only if there is a threat to life. (This also required a defensive attack on the structure.)

Number 3 indicated minor damage to the structure and that entry could be made depending of the fire conditions and the size-up by the incident commander.

Number 4 indicated the structure had been inspected and is fairly safe to make an interior attack.

This program continued for approximately three years in the City of Indianapolis.