



ARSON REGISTRATION YEAR 2000 CHANGES

By Fred Herrera

In 1998, the Metro Arson Strike Team (MAST), which has jurisdiction for fire investigations in the city of San Diego, initiated a pilot program to track and verify the location of arson registrants registered with the California Department of Justice (DOJ). A comparison of the DOJ master list (Violent Crime Information Network) and the jurisdiction database kept by the San Diego Police Department of registrants entering the city showed some discrepancies. Using both lists, 97 arson registrants were found to be listed as residing in San Diego.

The results of the first year's research shows 40 percent of the registrants in San Diego are not residing in the registered location. If this percentage is a representation of the entire state, then 461 of the 1,153 persons registered with the DOJ are in violation.

The noncompliance of a court-mandated program on this scale is significant. The punishment for a violation of the registration agreement (DOJ form SS8049 (01/99), Notice of Arson Offender Registration Requirement) is a mandatory 90 days, and up to one year in jail and one year of probation thereafter. If the person is on parole or probation, it will be revoked by the Board of Prison Terms. The next goal of the MAST program is to aggressively explore the function of enforcing those found out of compliance.

History of Arson Registration

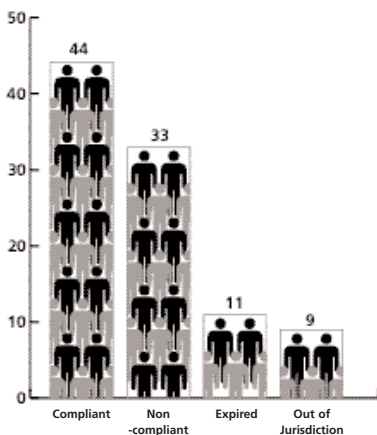
In 1985, section 457.1 was added to the California

Penal Code, and mandated that those convicted of PC 451, 453, or attempted arson, follow a program of registration similar to sex and narcotic offenders. Like the sex and narcotic registrants, arson registrant records are maintained by California DOJ. Unlike sex registrants, failure to comply with the terms of the agreement is just a misdemeanor offense.

The original program specified that a convicted arsonist register for a period of five years after discharge from jail, release from prison, or expiration of parole or probation for first time offenders. A second conviction of 451 or 453 brought on a requirement for lifetime registration. In 1994, section 457.1 was changed to make all 451 and 453 convictions an automatic lifetime registration requirement.

Some confusion resulted when trying to determine the date of expiration for the registrants convicted between January 1, 1985 and September 6, 1994. Also, the requirement was not automatic and needed a court order to be valid. Then there were the cases of persons incarcerated for other offenses during their five-year registration period. Technically, incarceration time was not included in the five-year time frame. If a person went back and forth between prison and probation or parole a few times it would take an expert in parole or probation guidelines to adjust the registration requirement.

SAN DIEGO ARSON REGISTRANTS





Canine Arson Investigators

Fire investigation in San Diego gets help from “man’s best friend” Makayla, a four year-old golden Labrador Retriever. As the only accelerant-detecting canine south of Long Beach, Makayla responds to structure, vehicle and wildland fires, and is called upon to determine the presence of accelerants on suspects and witnesses. On and off duty, Makayla partners with Captain Criss Brainard of the Metro Arson Strike Team (MAST).

Prior to joining MAST in 1997, Makayla lived in a kennel awaiting adoption. The Maine State Police “recruited” Makayla, and she underwent months of training in recognizing and locating petroleum-based hydrocarbons such as gasoline, kerosene, lighter fluid, etc. Makayla continues to train daily. Her findings have supported convictions in numerous criminal cases.

Although Makayla has successfully “hit” on her targets over 40,000 times during training sessions and in the field, she does decide once in a while to “do her own thing.” While investigating a suspicious fire at a business in 1998 Makayla decided to leap from a rooftop to the pavement 19 feet below. Although she was momentarily dazed, she was not injured.

But life is not all work for Makayla. She’s a regular on the school circuit where she demonstrates “Stop, Drop and Roll” to youngsters all over the city. Her enthusiasm and disposition make her a natural attention-getter.

OLD WIVES TALES IN FIRE INVESTIGATION

A number of previously held sacred “beliefs” about fire investigation, terminology and fire causes, are fast becoming outdated.

Low burn patterns were always considered a sure sign flammable liquid was used. Now the only thing a low burn pattern means is that an intense fire was burning in that area. Could it be liquid accelerant? Yes. It could also be a host of other things that have nothing to do with flammable fluids.

A fire used to be called “suspicious.” People are suspicious. Fires are not. Either the fire is incendiary or the cause could be electrical, chemical or natural. If none of these fit the bill, then the cause is unknown.

“Spalling concrete” and annealed springs are no longer considered signs of liquid accelerant. There is no scientific evidence that large blisters, small blisters, or shiny blisters on wood have any meaning at all with regard to the progress of the fire.

ARSON STATISTICS - SAN DIEGO COUNTY

In 1999, 51 percent of all arsons involved buildings or other structures. Twenty-eight percent involved automobiles or other mobile property and 21 percent involved other types of property. Over the last five years, the number of arsons reported in the region dropped 21 percent to 584 in 1999. Source: SANDAG.

**Special
Report:
Arson**

Some convicted arsonists were required to fill out the registration paperwork upon their release from prison, without having been ordered by the court during sentencing, and were entered into the system as arson registrants in error. Because of this, it is essential to view the court record of an individual convicted between January 1, 1985 and September 6, 1994 to confirm the court ordered compliance before enforcing 457.1.

Mistakes can also be made on lifetime registrants. Sometimes a person convicted of a non-registerable code section will be registered in error. But, it could also be that the court required registration for a non-registerable code section at the time of sentencing for extenuating circumstances. For example, one San Diego registrant was convicted of PC 452 (c) and ordered by the court to register because of diminished mental capacity to allow more supervision by law enforcement.

In addition, "attempted arson" has always been a registerable offense, but PC 455 (attempted arson) was not included in Section 457.1(b). Information from the California DOJ Registration Unit indicates PC 664 (unsuccessful attempt to commit crime) had to be used to qualify as a registerable attempted arson. The problem was that most police, fire investigators and prosecutors use section 455 as the most appropriate charge for an attempted arson.

Further, trying to register a homeless person also presented a problem. Without an address to register, they could not be determined out of compliance.

New Changes for 2000

Senate Bill 555 (Section 2) has addressed these problems and others to clarify and simplify PC 457.1. As of January 1, 2000, any person convicted in California of arson or attempted arson (455 or 664) on or after January 1, 1985 through November 29, 1994, is required to register for five years from confinement, or if not confined, from the date of sentencing, if ordered by the court.

Any person convicted on or after November 30, 1994 is required to register for the rest of their life. A person can request a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, obtain a certificate of rehabilitation and be relieved of the duty to register.

Depending on whether a registrant was entering, leaving or moving within a jurisdiction, different lengths of time were specified to complete the registration process.

The new requirement is 14 days for any movement within California. Homeless or transients are required to register a location or area instead of an address. A person with no residence relocating to another area in the same city is required to register that change of location (the same as a person with an address moving within a jurisdiction). All registrants are also required to notify the jurisdiction they are leaving within 10 days by mail, listing their new address.

A juvenile convicted of arson or attempted arson on or after January 1, 1993 is required to register until age 25, or until the person has his or her records sealed pursuant to Section 781 of the Welfare and Institutions Code, whichever comes first.

One issue that was not rectified by SB 555 was possession of a firebomb, or "Molotov cocktail." In 1998, the definition and punishment for possession of a fire bomb was moved from PC 453 to the Destructive Device Section 12301 (Definition 12301.a.5). The remaining definition in PC 453 says a person convicted of possessing a cigarette delay device will become a registrant, but one convicted of possessing a firebomb won't.

To Learn More

Additional registrant information is available through the California Department of Forestry and Fire Protection's Arson Information Reporting System (AIRS). Log into www.fire.ca.gov/airs to get information about the statewide arson registrant database. This information is password sensitive and you need an AIRS training session to get access. The web site will have information regarding training in your area. To obtain a California DOJ master list of arson registrants in your jurisdiction, call the Registration Program at (916) 227-3288. The same information is available on the CLETS Violent Crime Information Network (VCIN).

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