The Ohio Arson Registry

Terrorism Awareness

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Abstract:

The Ohio Arson registry was signed into law in December 2012. The law went into effect on July 1, 2013. The law requires anyone convicted of a crime involving the use of fire to requester with the local sheriff’s office. The information will then be kept in a database administrated by the Ohio Attorney General’s Office. There are numerous definitions used to define the term arson from various expert sources. The statistics on the number of arson fires in the United States and the State of Ohio is staggering. Professionals who deal with arsonist have differing opinions on if the registration process will be effective. Defense attorneys oppose the law, while fire marshals and investigators feel the registry will be a useful investigation tool. This useful tool will be beneficial to local fire investigator like in the City of Barberton.
Table of Contents:

Introduction_________________________________________________ Page 4
Definitions of Arson___________________________________________ Page 4
Statistics____________________________________________________ Page 5
The Arson Registry____________________________________________ Page 6
How the registry will affect Barberton_____________________________ Page 10
Conclusion___________________________________________________ Page 11
References____________________________________________________ Page 12
Introduction:

When a fire is investigated, the first question the investigator hears from the scene commander, “Is it Arson?” The problem with that question is arson is a crime not a cause of a fire. Fires happen for a number of reasons accidental, acts of nature, and intentional act. Persons causing fires by an intentional act are the fires that can result with those individuals to be charged with the crime of Arson.

The purpose of the paper is to show the reasoning used to bring forth the Arson Registry. In order to show need for the law the different definitions of arson are need to be understood. The document will list statistics showing the occurrences of arson nationally and in the state of Ohio. The opinions of professionals who will be affected by the law will be deliberated. Then the document will show how the law will affect the investigation process in the city of Barberton.

Definitions of Arson:

The definition of arson differs depending on the source. NFPA 921 defines arson in Section 3.3.11 as “The crime of maliciously and intentionally, or recklessly, starting a fire or causing an explosion” (National Fire Protection Association, Inc., 2011). The US Fire Administrations definition is very similar however; it differs from NFPA. US Fire Administration uses this definition “ar·son (är'sən): The crime of maliciously, voluntarily, and willfully attempting to or setting fire to a building, buildings, or other property of another or one's own property, with or without intent to defraud” (U.S. Fire Administration, 2013). The definition that really counts is the one that is in the used by the Ohio Revised Code. The crime of arson can be found in section 2009. The State of Ohio has broken arson into two separate crimes. Section 2909.02 Aggravated arson which states. “(A) No person, by means of fire or
explosion, shall knowingly do any of the following. (1) Create a substantial risk of serious physical harm to any person other than the offender, (2) cause physical harm to any occupied structure, and or (3) create, through the offer or acceptance of an agreement for hire or other consideration, a substantial risk of physical harm to any occupied structure. Whoever violates this section is guilty of aggravated arson, a violation of division (A) (1) or (3) of this section is a felony of the first degree. A violation of division (A) (2) of this section is a felony of the second degree” (State of Ohio). The charge of arson covered in ORC section 2909.3 is similar to aggravated arson however; it covers unoccupied buildings, building used for public purpose, parks and wild lands and any other item that may be burned. (State of Ohio)

Statistics:
The FBI Uniform Crime Reporting Program collects data on fires investigator have determined to be willfully set. Arson rates are a calculated based upon data received from all reporting law enforcement agencies. “In 2012, 15,656 law enforcement agencies provided 1-12 months of arson data and reported 52,766 arsons. Of the participating agencies, 14,782 agencies provided expanded offense data regarding 45,926 arsons” (U.S. Department of Justice—Federal Bureau of Investigation, 2013). According to the FBI, the number of arrest for arson has decreased over the past few years. The chart below shows the number of arrests for arson from 2006 through 2010. The reasons for the decrease in arrest were not listed in the report.

<table>
<thead>
<tr>
<th>Year</th>
<th>2006</th>
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<td>15,200</td>
<td>14,100</td>
<td>12,200</td>
<td>11,300</td>
</tr>
</tbody>
</table>

(Department of Justice, 2011)

The statistics for Ohio are kept by the Fire Marshal’s Office. “Ohio reported more than 8,000 arsons each year from 2007 to 2011, including blazes whose causes remained under investigation or undetermined. Those fires are associated with hundreds of millions of dollars in
damage, more than 450 deaths, and more than 3,000 injuries to first responders and civilians” (Franko, 2013).

Looking at these statistics it is easy to see that the crime of arson affects everyone. Insurance companies raise their rates to cover the losses they experience from arson. Cities have to expend the resources of the police and fire departments to extinguish and investigate the fire’s cause by the arsonist. These resources are funded by tax dollars that are paid by the citizens.

The Arson Registry:

The Ohio Arson Registry went into law on July 1, 2013. “Ohio is joining the few states that require convicted arsonists to register with authorities, hoping it will help solve more cases, deter repeat offenses and prevent deaths and property damage” (Franko, 2013). The other states that have an arson registry are California, Illinois, and Louisiana. Montana has a registry for violent offenders, which includes arsonist.

“Senate Bill 70, sponsored by State Senator Tim Schaffer, creates an arson registry in Ohio and requires offenders to register with the Ohio Attorney General’s Office following their release” (The Ohio Senate - Arson Registry, 2012). The offender will be required to register for at least ten years after they are released from prison. If the offender was not given prison time they have to register after being sentenced. The bill was signed into law by Governor Kasich in December 2012 creating Ohio Revised Code Section 2909.15 Arson offender registration. The law requires convicted arsonist to register with their local sheriff’s office annually. The Ohio Attorney General’s Office will maintain a central database containing the names, addresses, photos and other personal information on fire-setters. That registry, unlike a similar database for sex offenders, will be available only to law enforcement officials and not the public. “Jill Del Greco, a spokeswoman for the state attorney general, said people convicted of any arson-related
crime are required to register — even if they plead to a lesser offense” (Armon, 2013). Once the person is registered on, the Arson Registry their name is there for life the only way to have a name removed from the registry is to acquire a court order for the removal of the name. “So far, 67 people are on the list, according to the attorney general’s office” (Balint, 2013).

The law requires the convicted arsonist to pay an initial registration fee of fifty dollars then an annual fee of twenty-five dollars every year. These fees are to help offset the cost of maintaining the list of convicted arsonists. The law also carries a penalty section for individuals who fail to register. Those individuals failing to register could be charged with a felony of the fifth degree. The registry is maintained and managed by the Bureau of Criminal Investigation, part of the state Attorney General’s Office. The new law only affects persons convicted or released from prison after the July 1, 2013 date. Anyone who was convicted or released from prison prior to that is exempt from having to register with the local county sheriff.

The law does face some opposition even from law enforcement. “In Summit County, convicted arsonists must register at the county jail in Akron. Sheriff’s spokesman Bill Holland said the sheriff’s office will collect the data but called the process another unfunded mandate passed onto counties” (Armon, 2013). “I don't know where it came from," Amy Borror, spokeswoman for the Ohio Public Defender's Office, said of the new law. “ I don't know why we have it.” Borror said the law will put unnecessary work on the shoulders of local sheriffs, who will be tasked with compiling the list in addition to the sex-offender registry they already put together. "The sex-offender registry has been around for a long time, and the research that's out there says that it has no positive impact on the public safety," Borror said. "And, if anything, it might have a negative impact on public safety because it creates this administrative burden." Nick Worner, spokesman for the American Civil Liberties Union, said a registry for arson seems
arbitrary and will do little to solve crimes because "rounding up the usual suspects" is rarely an effective investigation method. "Are we eventually going to have a registry for everything?" Worner said. "Will we have a shoplifters registry, where if something comes up missing at JC Penney's, they round up everybody who has ever been convicted of shoplifting and start there? " Generally, the problem with this sort of thing is that it is supposed to start with the gathering of evidence in the investigation and then the detaining of people based on suspicion. This kind of does that backwards." Worner also expressed concern that money needed to maintain the registry may end up coming from taxpayers' pockets. He said fees paid by offenders are supposed to finance registries, but that does not necessarily mean they will make the payments. Another big concern, Worner said, is that unlike the sex-offender registry, this one is not publicly available, meaning only law enforcement has access to the list” (Santus, 2013). Anthony Koukoutas an attorney from Stark County Ohio questioned the fairness of the law. His client with mental health issues tried to set herself on fire while intoxicated. ““I can see if it applied (strictly) to those individuals who commit arson for insurance purposes, (or) have an unnatural fascination with fire, but then you have individuals who have mental illness or may have been intoxicated at the time (and he or she) started a small fire that is extinguished quickly; but do you put them on a registry with no (prior) history?” DeWine, the attorney general, said that “anytime you write a law there’s going to be cases where you can make an argument where that particular part of the law should not apply. ” But “the good news for her is it’s not a public record,” DeWine added. “She only has to do it once a year so it’s not really a burdensome (requirement)”” (Balint, 2013).

The opinions of the above differ from the specialists who are charged with the actual investigation of the fires and prosecution of the perpetrators who set the fires. The majority of
the fire investigators talked to agree with Ohio Attorney General Mike DeWine “The idea is to give law enforcement another tool. You could be investigating an arson and have no idea that there’s an arsonist who lives around the corner (and) that might or might not be relevant, but you’d probably at least want to know that so you can interview that person and question them — it’s a tool” (Balint, 2013). Past president of Ohio International Association for Arson (IAAI) Investigators and Retired Dayton fire investigator Scott Bennett praised, “Ohio's registry law and said he planned to seek the IAAI National board's support for similar measures covering each state, either through state legislation or at the national level” (Franko, 2013). The support for the law also comes from the oldest fire marshal’s office in the United States. State Fire Marshal Larry Flowers defended the law by saying, "It's just another tool in the toolbox for our investigators" (Franko, 2013). What does Flowers mean by that comment? Fire investigators cannot just rely on the fact a registered arsonist is living around the corner from a fire and call the fire incendiary. The investigator will still have to process the scene and evidence in the same manner as before the law went into effect. When the scene is processed, the fire is determined to be an incendiary fire, and probable cause is present with the method of ignition similar to past fires set by the registered arsonist then that person can be interviewed as a probable person of interest. The question arises how effective the database will be in convicting arsonist? The feeling of most investigators echo Lt. Slade Schultz of the Lancaster Fire Department ““If this database helps solve one arson crime and helps to give a family closure, I think it's worth it. Schultz heard about the idea from inspector Jason Coy and worked with him to bring it to the attention of a firefighters union and their state senator, Republican Tim Schaffer, the bill's sponsor” (Franko, 2013).
When statistics are researched on how effective, similar arson registries have been in other states, the answer comes up hollow. The Arson Registry has been compared to the Sexual Predator Registry, which some defense attorney’s claim has little effect on the outcome of most investigations. Organizations like the ACLU feel investigators use these databases as a short cut to solving cases and the registry issue a negative condensation. Fact is when an investigation is started, be whatever the crime, the investigator has to utilize every tool available. These databases are exactly that another tool. Like any tool, it is hard to say the database was the sole reason the crime was solved. “That would be like saying the hammer was the most important tool when a house was built. The job could not have reached completion without using a variety of tools such as a saw, level, measuring tape, and a lot of hard work. Investigations go the same way, utilizing all the tools in the investigator toolbox and a lot of hard work” (Adamson, 2002). Tracking the usefulness of databases such as these is difficult for other reasons. “Investigators are not prone to disclosing the techniques they use to the public. Doing this is like showing the playbook to the other team” (Adamson, 2002).

How the registry will affect Barberton:

Barberton has a history of having repeat arson offenders. Years ago, there was a man, who will be called “Ray”, he would set the cars on fire. The cars he chooses to burn were those owned by people Ray did not like or had made him mad. Ray had the unique signature when he set a fire. He used a cigarette and ordinary combustibles such as paper stuffed into the passenger compartment. Ray was eventually caught and sent to prison. He was charged with arson and breaking and entering. He was convicted of the breaking and entering but the arson charge was reduced to criminal damage by burning. “He was very arrogant about the fact he was never convicted for arson” (Adamson, 2002). Being a habitual criminal, he was in and out of jail.
Every time he was released from jail, the “unusual” fires would increase in his neighbor, the west side “Nob” area of Barberton. The neighbors all knew who he was and were afraid of him. Eventually he graduated to setting houses on fire, of which he was finally caught and convicted of arson. The only way anyone knew Ray was back in town was when he interacted with the police or the fires on the west side of town increased. During a fire investigation in the area he stalked, the first question was “is Ray back in town” and with a little luck, one of the police officers had seen him. Ray has been out of town for several years and no one has seen or heard anything about him. A few years ago, a fire had a strange ignition source. The fire started on a porch in a stack of paper, in the burned papers was a cigarette butt. During the course of the investigation, Ray’s name came up but no one knew his location, as he had not been seen in the area for years, and the police could not obtain a reliable current address. Ray could have been living in a neighboring municipality. Then none of the Barberton police would have interacted with him. Ray still could have driven into town and started the fire. Access to the Arson Registry would give us a place to search to see if Ray was out of jail and his place of residence. Information such as this can be useful in many of the fires that are investigated. The registry does not just allow investigators see if their regular suspects are back in town. It enables investigators to see if someone with a history of setting fires has moved into town. There was a motel fire where the person who started the fire admitted to smoking in bed and that caused the fire. The same person was under investigation in Canton for several fires but no one in Barberton knew about it until after this person was long gone. The only way a investigators in both cities eventually knew they were dealing with the same person was when the subject came up at a local training session. After returning to their respective offices the investigators secured the suspects name and shared information. The suspect was subsequently arrested. Police have
the ability to find information about an individual they have stopped for a traffic violation. Fire investigator should have the ability to know if the person they are talking to has a history of setting fires. Just this morning there was a fire that happened, the cause appears to be accidental, but the circumstances and timing of the fire were strange. Could the person have “accidently on purpose” left the hot curling iron on top of the towel at 3 o’clock in the morning? Did they have a history of “problems” or was it just a dumb mistake? Access to the Ohio Arson Registry will let us know.

**Conclusion:**

The information in this document has explained the reason behind the formation of the Ohio Arson Registry. The paper has given definitions of arson from several sources. Statistics show arson is not only a problem in the State of Ohio but throughout the United States. The opinions of professionals on both side of the issue are listed in the document. The document also showed how the investigators working for local fire departments like the one in the City of Barberton could benefit from having arsonist register in a statewide database.

Lighting a fire in your fire place is an incendiary act, but it is not a crime. Lighting a fire on your kitchen floor so the insurance company can pay for the remodeling of your kitchen is also an incendiary act, but it is also a crime. The crime of arson affects everyone. The Ohio Arson Registry is one tool that investigators can use to track and catch the person responsible committing arson.
References


