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Giving Arsonists a 'Hose-Down'

By Robert Tie

When convicted arsonist Mahendra Harilal Shah of Ellicott City, Maryland, stood up to be sentenced, he had no reason -- even as a first-time offender -- to expect judicial leniency. The charges and proof against him were simply too damning, with clear evidence he had touched off an enormous blaze to defraud his insurer.

Detective Steven Wagner of the Baltimore City Police Department's Arson and Explosive Unit and his colleagues in other agencies -- city, state, and federal -- had seen to that. Their investigation had uncovered evidence so thoroughly incriminating that the jury took only one day to find Shah guilty.

As U.S. District Court Judge Benson E. Legg sentenced Shah to 15 years' imprisonment, he noted the defendant's "cavalier disregard for the lives of others" in setting a "monstrous conflagration."

His honor had not exaggerated. The fire Shah had set in 2001 in an industrial park he owned was one of the largest in Baltimore's history. Its flames were so hot that firefighters at first were unable to enter the inferno. Across the street, modest, two-story row houses' windows cracked and melted as residents fled for safety.

Miraculously, no one was injured. But the fire drew six alarms, drastically reduced water pressure in west Baltimore, and occupied half of the entire city's fire and emergency units for 12 hours.

Ever since those disastrous events, the former Shah Industrial Park has remained fallow, a weed-filled wasteland. Passersby see a crumbling brick warehouse with plywood-sealed windows -- one of them nevertheless sprouting a five-foot tree -- and its address scrawled in spray paint. A hundred feet away, CSX freight trains rumble by on tracks built for the historic Baltimore & Ohio Railroad.

Across South Monroe Street, the front door of one small home is boarded shut and bears the legend, "Stay Out." Once again, the lingering effects of arson have contributed to urban decay, in this case lowering the resale value of Shah's onetime neighbors' homes.

None of this would have happened if Shah hadn't tried to cheat his insurer, Travelers Indemnity Company, out of \$3 million. But the number and greed of such fraudsters is limitless. So investigators must be skilled, diligent, and collaborative if they are to deter arson by ensuring that the guilty pay for their crimes.

It Takes a Team

Wagner is a 25-year veteran of the Baltimore City Police Department, and has specialized in arson investigations for twelve years. Frequently, he has worked on cases with ACFE Regent Emeritus Isabel Mercedes Cumming, J.D., CFE, who formerly was with the Baltimore City State's Attorney's Economic Crimes Unit and now is chief of the Special Prosecutions/Economic Crimes Unit in the State's Attorney's Office, Prince George's County, Maryland.



While they didn't work together on the Shah fire, which wasn't within Cumming's purview, they have collaborated on numerous other arson cases. Over the years, they've kept open minds when evaluating arson suspects.

"No longer can you confine your suspicions mostly to criminals," Wagner said. "In this difficult economy, we frequently encounter arson by otherwise respectable citizens who chose the wrong way to deal with their suddenly unaffordable mortgages or car payments. That includes police officers, military personnel, clergy, and others you ordinarily wouldn't suspect."

Cumming agreed. "One of the biggest mistakes investigators or prosecutors can make is to think they can accurately 'typecast' the arsonist; you can't. Instead, you have to focus on what the

evidence tells you."

The Baltimore City Police Arson and Explosive Unit consists of 7 detectives, including Wagner. "In an average week, we investigate fire damage to five cars and two to four houses," he said.

Not only is there high volume, but its nature may differ from many observers' expectations.

"When most people hear the word 'arson,' insurance fraud isn't their first thought," Cumming said. "But with some cars costing more than \$40,000 and gas at \$3-plus (per) gallon, people find themselves financially overextended. Then they discover the trade-in value is far less than what they owe. So, more people are burning their flashy SUVs for the insurance money."

According to the latest tallies by the National Fire Protection Association (NFPA), roughly 15,000 intentionally set vehicle fires occurred



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in the United States in 2009, causing \$108 million in property damage. Of course, much higher stakes structural arson, such as the Shah fire, continues to be a major problem. The NFPA also said that approximately 26,500 intentionally set structural fires caused \$684 million in property losses in 2009.

To combat this many life- and property-threatening crimes, investigators and prosecutors must work together closely, complementing each other's skills.

"Effort isn't what prosecutors need from investigators," Cumming said. "We need results in the form of physical evidence that will stand up in court and testimony that will give the judge and jury information they need to understand and weigh a case. Of course, it's important for investigators to produce witnesses who can shed light on the case. But we also need investigators who can remain cool during cross-examination by a defense attorney. If you get flustered when your overall competence or the specifics of your investigation are scrutinized in court, you won't be of much use to a prosecutor, and a good case could fail as a result."



In the Shah case, the defense attorney grilled Wagner for three long hours on every aspect of his career and handling of the case.

"It's defense counsel's job to get a prosecution witness angry and defensive," Cumming said. "But Detective Wagner never rose to the bait in that case. The jury believed in his integrity and knowledge, and brought in a guilty verdict."

Wagner's advice: Maintain an up-to-date curriculum vitae listing not only your employment history and experience, but training you've obtained in your area of specialization. If necessary, it can complement your oral answers to questions on your qualifications for gathering and presenting evidence.

"You're truly fortunate," Wagner said, "if you get to work with a prosecutor who'll actively help you develop a case. For example, a few well-placed subpoenas can make a huge difference in obtaining evidence from witnesses or victims whom you suspect aren't being truthful or cooperative. Of course," he acknowledged, "it's up to the investigator to have a compelling case when he or she approaches the prosecutor and asks for time and resources. You can't expect people to pitch in on a case you yourself haven't adequately prepared."

And when an investigator is called to the stand, Cumming said, he or she should keep it simple.

"Aim to communicate facts, not to impress anyone with your vocabulary and special knowledge. Juries don't like acronyms and buzzwords they can't understand," she said. "Instead, they want clarity that will help them render a fair verdict."

Catching Shah

Wagner had been following Shah's activities for some time before finally striking pay dirt in the form of newly cooperative witnesses. Maryland has no statute of limitations on arson, and Wagner had been tenacious and methodical in his pursuit of Shah, who had been committing difficult-to-prove insurance fraud for years.

In November 1999, Wagner investigated a suspicious blaze that had broken out in Shah's six-building industrial park. The small fire had been doused before Shah's tenants suffered any damage, and they denied knowledge of anything suspicious about their landlord's activities or the fire. Meanwhile, Shah continued obtaining reimbursement on a variety of property casualty claims.

But despite Shah's insurance reimbursements, his loss of a key tenant had long since forced him to default on mortgage payments for the industrial park, and he became desperate. In January 2001, a mere two days before his Travelers policy was to expire, Shah set the massive fire, damaging his tenants' goods and driving them into Wagner's hands as witnesses for the prosecution.

"By then, I had interviewed Shah several times," Wagner recalled. "But I never accused him of arson because I couldn't prove it."

That practice is a core element of Wagner's investigative strategy. "It doesn't pay to prematurely accuse a suspect," he said. "Instead, what you do is try to eliminate suspects. Those you can't rule out -- because there's a chance they're guilty -- remain persons of interest. And Shah remained a person of interest because he always had an opportunity and motive."

With the aid of subpoenas obtained via the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, which has jurisdiction over arson involving commercial structures, Wagner got access to Shah's bank records and credit reports. They revealed the desperate financial situation that had led him to commit insurance fraud repeatedly.

Speaking frankly to Wagner after the big blaze, one of Shahs' tenants admitted he had heard Shah plotting arson with two men whom the tenant saw later and observed they had newly singed eyebrows. The same tenant told Wagner that Shah had asked him how to disrupt the flow of water to the industrial park's fire sprinkler system.

In addition, Wagner and fire department investigators had determined that the 2001 blaze had two points of origin -- an unlikely situation that often turns out to be an indication of an intentionally set blaze. And to ensure the success of his second attempt to incinerate his property, Shah had the water supply turned off, effectively disabling the sprinkler system.

When Wagner and other investigators discovered traces of a fire accelerant, the time was right to charge Shah. Federal prosecutors based their case against him on a combination of circumstantial evidence, including physical specimens, and the testimony of witnesses. For jurors, the proof was sufficient and irrefutable; Shah's fate was sealed.

Is That So?

Wagner uses every available means to confirm or disprove what suspects have told him in interviews.

One method is simply to interview suspects repeatedly, and compare their answers to the same questions posed to them on multiple occasions. Another is to compare different sources' accounts of events or factors related to a fire. These time-tested techniques aren't exciting, and can be exhausting.

"But they can lead to important testimony," Cumming said. "Once we have witnesses, I rehearse with them their answers to the major who, what, when, where, why, and how questions. I hate surprises."

Increasingly, though, technology plays a central role in gathering evidence.

"In one of my cases, I was able to obtain from cell phone records solid proof that a person who reported his car stolen had actually committed arson and insurance fraud," Wagner said.

The victim lived in a county some distance from Baltimore. He said that until police told him, he hadn't known his car had been driven to the city and set afire.

But Wagner examined phone company records of the victim's cell phone usage on the night of the alleged theft and fire. Through interviews, Wagner also confirmed that the person making each call was the car owner. In the records was data from cellular towers the victim had passed while speaking on the phone as he traveled into Baltimore. A time stamp from each tower enabled Wagner to plot the car owner's presence when and where the theft and arson were committed.

An Arson-Fighter's Best Friend

"When the city fire department thinks a fire is suspicious, they immediately call us to the scene," Wagner said. The arson unit then arrives before the fire department cleans out the structure and piles the burned contents outside. So Wagner and his colleagues get to examine the scene just as it was as soon as the fire was put out. They search for the fire's origin and cause. In instances where an accelerant was used, they direct lab technicians to photograph and recover evidence for later analysis. And if they need one, they'll call in a specially trained dog to help detect any accelerant that may be present.

"That can be both useful and fun in court," Cumming said. "I'll tell the bailiff, 'My next witnesses are Detective Jones and his accelerant detecting canine, Ugmug.' Of course, that gets everyone's immediate attention."

But before he brings in the dog, the handler will spread several empty metal cans across the front of the courtroom. In one, he will place a trace of accelerant; in the others, nothing. The handler then will bring in the dog, and lead it past each can. The dog will ignore the untainted cans, and sit in front of the can that has accelerant.

"The purpose of this is not to introduce evidence," Cumming said. "It's meant to just demonstrate the dog's ability to detect an accelerant. We tie that into the case by having the handler testify that the dog detected a similar substance at the crime scene, and that at Detective Wagner's request, a lab technician took a sample of the tainted material and later, through analysis, confirmed the presence of an accelerant."

In this way crucial evidence, easily understood by the jury, helps build the prosecution's case.

Training is Key

Over the years, Wagner has participated in dozens of arson training programs. This has not only increased the depth and scope of his knowledge and expertise, he said, but also kept him abreast of the latest arson investigation techniques.

"In my experience, two organizations stand out as the best sources of such training: the Federal Emergency Management Administration's National Fire Academy (www.usfa.dhs.gov/nfa) and the International Association of Arson Investigators (firearson.com)," Wagner said.

"Of course," Cumming added, "all investigators, whether fighting arson, insurance fraud, or other crimes must develop and maintain their interviewing, testifying, and other investigative skills."

Robert Tie is a New York business writer.

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