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ACQUISITIONS

## ARSON IN MASSACHUSETTS:

### SENTENCING PATTERNS

1975 - 1978

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ARSON IN MASSACHUSETTS: SENTENCING PATTERNS (1975-1978)

A. INTRODUCTION

B. LITERATURE REVIEW

C. METHOD

D. DEFINITIONS

E. RESEARCH FINDINGS

- I. Distribution of Defendants by Year of Arraignment
- II. Distribution of Defendants by Sex
- III. Distribution of Defendants by Age
- IV. Sentencing Patterns
- V. Dispositions by Age Groups
- VI. Prior Convictions
- VII. Dispositions by Number of Prior Convictions
- VIII. Dispositions by Number of Prior Arson Convictions
- IX. Simultaneous Convictions
- X. Dispositions by Simultaneous Convictions

F. SUMMARY

G. BIBLIOGRAPHY

## A. INTRODUCTION

Public awareness concerning arson, particularly arson for profit, is growing. The Symphony Tenants Organizing Project in Boston has received nationwide attention for their success in uncovering an arson-for-profit ring; other groups have found it possible to predict arson targets by examining patterns of ownership and insurance. Arson for profit accounts for an estimated ten to forty percent of arson cases; other motivations include revenge, intimidation, psychopathy, crime concealment, and vandalism.

Both detection and prosecution of arson defendants are difficult, since evidence is often destroyed in the fire. According to the Boston Globe (October 18, 1979), the federal government, in an effort to promote arson investigations, has recently elevated arson to a "class one" crime in the FBI report.

This study examines sentencing patterns of 107 defendants convicted of arson in Massachusetts between 1975 and 1978. Data was cross-tabulated to assess variations by age, prior convictions, and simultaneous offenses. While one cannot draw conclusions from this study as to what type of sentencing is most effective in discouraging arson, the study can provide useful information as to how current laws are being applied.

This analysis is one part of a larger study of sentencing patterns for criminal offenses in Massachusetts. Nearly five thousand (4,976) randomly selected records were used as the basis of the aggregate study.

The Office of the Commissioner of Probation is unique in that it maintains all criminal and delinquency records statewide. Six million records, dating back to 1924, are stored in the Probation Central File.

## B. LITERATURE REVIEW

A review of the available literature on arson yields the impression that although arsonists' conviction rates and sentencing patterns are quite low and worthy of public interest, research in this area is generally lacking. There is considerable mention of this in current arson-related literature; yet the majority of the research is concerned with other facets of arson study.

Early arson-related literature (e.g. Greer, 1965; Juillerat, 1965) dealt basically with arson prevention and detection. There was also some inquiry into the psychological motivations for arson (e.g. Rheinhardt, 1969). Such studies were largely published in journals such as the Fire and Arson Investigator, and the Fire Journal. Interest in arson was not at all widespread.

According to the Sourcebook of Criminal Justice Statistics, since 1964, the estimated number of incendiary and suspicious building fires in the U.S. annually has more than tripled. This has sparked greater interest in many facets of arson study.

One recent and most comprehensive report produced by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration is Arson and Arson Investigation: Survey and Assessment. One of the many difficulties in arson study pointed out in this report is the lack of one clear definition of what arson actually is. The authors cite two definitions of arson: "(1) incendiary and suspicious fires, and (2) incendiary and suspicious fires plus one-half the fires of unknown cause." The report bases its second "broader" definition of arson on the fact that "many arson experts believe that at least half the fires labeled 'unknown cause' are actually intention-

ally set." (p.4)

The difference in the definition used can account for a great disparity in research findings. For example, in 1974, there were 16,900 arrests for arson in the United States. There were 187,000 arsons committed in 1974. So the arson arrest rate ( the ratio of the number of arson arrests made to the number of arson offenses committed) was 0.09. If the broader definition is used for arson, the arson arrest rate was 0.03.

There is a general concurrence in arson literature and research that arson incidence is high and yet arrest and conviction rates remain low. A Reader's Digest report (Nov., 1976) cites that " about 1/3 of our fire losses stem from blazes deliberately set- yet fewer than 3 arsonists out of 100 ever go to jail." More specifically, the article states that the arson arrest rate is only 26% for the cases in central cities, and 7% in suburban areas.

The U.S. Department of Commerce, National Fire Prevention and Control Administration, in its report Arson: America's Malignant Crime , cited arson laws themselves as a major cause of this problem. According to the report, "often these laws lack uniformity, appropriate penalties, and specific delineation of responsibilities. This leads to apathy and inaction on the part of public officials."

For instance, the Federal Bureau of Investigation had previously classified arson as a part II offense- along with gambling and drunk driving. According to Fraker et'al (Newsweek, Jan. 24, 1977), "arson investigators object to the fact that the F.B.I. refuses to place arson on its list of major crimes." Such a move by the F.B.I. would, "undoubtedly, increase public awareness and concern; and would increase the motivation of law enforcement officials to attempt to reduce

arson." This year, in hopes of accomplishing this goal, the F.B.I. has elevated arson to its list of major crimes.

Another contributor to the "inaction" of public officials is the fact that much of the evidence of arson may often be destroyed by the fire itself. Because of this, arson is a very difficult crime to prove. Psychology Today reports that "most district attorneys don't like to bring (arson) charges since the conviction rate is so low, and most insurance companies are reluctant to question claims because they fear massive suits for punitive damages if they turn down a legitimate claim." (Feb., 1976).

Much of the current arson literature is concerned with the matter of arson for insurance fraud and profit. Time magazine (Oct, 31, 1977) quotes an unnamed federal study estimating that 40% of arson nation-wide is economically motivated.

The research and writing on the spiraling problem of arson in the United States is by no means prominent. Although it has increased somewhat in recent years, it is hardly indicative of the problem that exists. It is obvious that the National Research Council's (N.R.C., 1976) summary of the problem is correct: "Nobody is really concerned about arson; they all agree that it is a problem that needs work. They just believe somebody else is working on it."

### C. METHOD

The data for the Arson convictions were drawn from the sample of 4,976 records randomly selected from the Probation Central File. Stratified random sampling was undertaken throughout the alphabetized file to assure no ethnic bias.

Criteria for inclusion in the aggregate sentencing study were:

1. Case arraignment and disposition between January 1, 1975 and December 31, 1978.
2. Record showed a conviction for qualifying offense. Convictions were defined as: cases for which a finding of guilty resulted in incarceration, a suspended sentence, or probation; cases continued without a finding with supervision; cases which were filed; and cases for which the penalty was a fine.
3. Qualifying offense was either a crime against person or crime against property (Massachusetts General Laws, Chapter 265 and 266) or Use of Motor Vehicles without Authority (M.G.L. Chapter 90, Section 24).

Records were coded to delete identifying data. The data, in turn, were analyzed through the Probation Central File Computer. Arson offenses constituted 1.80 percent (140)\* of the total 7,739 offenses in the aggregate study.

Offenses entered as arson in the computer included:

1. Burning of a Motor Vehicle
2. Burning of a Dwelling House
3. Burning of a Building
4. Arson of a Motor Vehicle
5. Arson of a Building
6. Willful and Malicious burning of Church Property
7. Setting fire to personal property
8. Burning of a Motor Vehicle with intent to defraud
9. Burning with intent to defraud
10. Attempted Arson
11. Attempted Burning of a Building

Records with charges entered as arson were then extracted from the aggregate study in order to analyze the sentencing patterns.

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\*The discrepancy between this number and the number in the introduction is because there were 107 defendants, but 140 charges of arson. Similarly, there were 4,976 defendants in the aggregate study, but 7,739 offenses.



#### D. DEFINITIONS

Arson is defined in the Massachusetts General Laws, Chapter 266, sections 1, 2, 5, 5A, and 10. As shown in Table 1, the penalties for arson vary according to the specific charge alleged.

The harshest penalty - twenty years in a state prison - is for the charge of "wilful and malicious burning or aiding in burning of a dwelling house." The maximum penalty for the "wilful and malicious burning of aiding in burning of a meeting house" is ten years in a state prison; for such burning of "wood and other property" the maximum penalty is three years in a state prison. The maximum penalty for attempted arson was increased to ten years in a state prison at the beginning of 1978; prior to that change the maximum penalty was 2½ years in a house of correction. The maximum penalty for "burning insured property with intent to defraud" is five years.

TABLE 1: PENALTIES; LEGISLATED FOR ARSON

<u>OFFENSE</u>	<u>STATE PRISON</u>	<u>HOUSE OF CORRECTION OR JAIL</u>		<u>FINE</u>
Dwelling houses; burning or aiding in burning (c. 266§1)	not more than 20 years	not more than 2½ years	<u>and/or</u>	not more than \$10,000
Meeting house; burning or aiding in burning (c. 266§2)	not more than 10 years	not more than 2½ years		
Wood and other property; burning or aiding in burning (c. 266§5)	not more than 3 years	not more than 1 year	<u>and</u>	not more than \$500
Attempts (c. 266§5A)	not more than 10 years*	not more than 2½ years	<u>or</u>	not more than \$1000
Insured property; burning with intent to defraud (c. 266§10)	not more than 5 years	not more than 2½ years		

\* The penalties for attempted arson were amended in 1977 and approved on January 11, 1978. Before the amendment the maximum penalty was 2½ years in a house of correction; after the amendment the maximum penalty is as shown above.

## E. RESEARCH FINDINGS

### I. Distribution of Defendants by Year of Arraignment

Table 2 illustrates the distribution of defendants convicted of arson by the year in which they were arraigned. A relatively small proportion of cases (17.8%) were arraigned in 1975. The largest proportion (29.9%) were arraigned in 1977. Although the distribution of cases is uneven, it reflects the distribution of cases in the aggregate study.

TABLE 2 : DISTRIBUTION OF DEFENDANTS BY YEAR OF ARRAIGNMENT

<u>Year</u>	<u>Number of Arson Convictions</u>	<u>Percent of 107 (All arson convictions)</u>	<u>Percent of all Offenses (Aggregate Study)</u>
Before			
1975	3	2.8%	2%
1975	19	17.8%	20%
1976	25	23.4%	26%
1977	32	29.9%	27%
1978	28	26.2%	25%
<u>TOTAL</u>	<u>107</u>	<u>100.0%</u>	<u>100%</u>

### II. Distribution of Defendants by Sex

As Table 3 indicates, the proportion of males convicted of arson far outweighs that of females convicted. Females accounted for 3% of the total number of convictions, whereas males accounted for 97%.

TABLE 3 : DISTRIBUTION OF DEFENDANTS BY SEX

<u>Sex</u>	<u>Number of arson convictions</u>	<u>Percent of all arson convictions</u>
Male	104	97%
Female	3	3%
<u>TOTAL</u>	<u>107</u>	<u>100%</u>

### III. Distribution of Defendants by Age

As indicated in Table 4, juvenile defendants, aged seven to sixteen, accounted for 19.6 percent of the arson convictions. Young adults, aged seventeen to twenty-five, accounted for 48.6 percent of convictions, and older adults, aged 26 or older, accounted for 31.8 percent of the convictions.

Juveniles represented a higher proportion of convictions for arson (19.6%) than their proportion of convictions for all offenses (15.3%), while young adults represented a lower proportion of arson convictions (48.6%) as compared to their convictions for all offenses (54.2%). Older adults had a slightly higher representation of arson convictions (31.8%) as compared to their representation of convictions for all offenses (30.4%).

The average age of defendants convicted of arson was 24.1 years.

TABLE 4 : DISTRIBUTION OF DEFENDANTS BY AGE

<u>Age</u>	<u>Number of Arson Convictions</u>	<u>Percent of 107 (All arson convictions)</u>	<u>Percent of all Offenses (Aggregate Study)</u>
7 - 16	21	19.6%	15.3%
17 - 25	52	48.6%	54.2%
26 or older	34	31.8%	30.4%
<u>TOTAL</u>	<u>107</u>	<u>100.0%</u>	<u>100.0%</u>

#### IV. Sentencing Patterns

The type and length of sentences for defendants convicted of arson are shown in Table 5. Almost one-half (49%) of the defendants received a suspended sentence. An additional twenty-two percent received straight probation or had their cases continued without a finding. One-quarter (25%) of the defendants were incarcerated. The remainder had their cases filed, were fined, or had an unknown disposition.

##### Suspended Sentences

Defendants who received a suspended sentence are supervised by probation officers and may be incarcerated if they do not meet terms of probation. Breaking down the 49 percent who received this disposition, 36 percent received suspended sentences at a House of Correction, 4 percent received suspended sentences at a Massachusetts Correctional Institution, and eight percent received a suspended sentence at the Department of Youth Services.

The average length of suspended sentences at a House of Correction was 1.2 years, with a range in length from two months to two and one-half years. Suspended sentences at Correctional Institutions were longer, averaging 4.8 years and ranging from 1.3 years to 7.0 years. The lengths of suspended sentences at the Department of Youth Services are not predetermined.

##### Probation and Continuances

One-fifth (20%) of the arson defendants received straight probation. Adult probationers, comprising thirteen percent of the sample, were sentenced to an average of 2.25 years, with a range from nine months to ten years. Juvenile probationers, comprising seven percent, were sentenced to an average of 1.2 years, with a range from one year to 2.3 years.

A small percentage (2%) of defendants had their cases continued without a finding. With such a disposition, defendants receive supervision for the length of their continuances. The average length of a continuance in this sample was 1.5 years, with a range from one to two years.

Combining suspended sentences, probation, and continuances, nearly three-quarters (71%) of defendants received some type of supervision rather than incarceration.

##### Incarceration

One-quarter (25%) of all defendants were incarcerated. Breaking down the 25 percent, 16 percent were sent to a House of Correction. The average length of sentence for these defendants was 1.66 years and sentences ranged from one month to two and one-half years. A smaller percentage (4%) were sent to MCI Walpole, where the average length of sentence was 10.25 years. Sentences at MCI Walpole ranged from five to twenty years. Twenty years is the maximum penalty for arson. Additionally, four defendants (4%) were sentenced to the Department of Youth Services, for an indeterminate length of time.

TABLE 5: DISPOSITIONS AND AVERAGE LENGTH OF SENTENCES

TYPE OF DISPOSITION	NUMBER	PERCENT OF 107 (ALL ARSON CONVICTIONS)	AVERAGE LENGTH IN YEARS	RANGE IN YEARS
House of Correction	17	16%	1.66	.1 - 2.5
MCI Concord	1	1%	7.00	-
MCI Walpole	4	4%	10.25	5.0 - 20.0
Prison (type unknown)	1	1%	15.00	-
Dept. of Youth Services	4	4%	Indeterminate	-
<b>TOTAL INCARCERATIONS</b>	<b>27</b>	<b>25%</b>		
Suspended Sentence-House	38	36%	1.20	.2 - 2.5
Suspended Sentence-MCI	4	4%	4.80	1.3 - 7.0
Suspended Sentence (type unknown)	1	1%	Unknown	-
Suspended Sentence-DYS	9	8%	Indeterminate	-
<b>TOTAL SUSPENDED SENTENCES</b>	<b>52</b>	<b>49%</b>		
Probation (Adult)	14	13%	2.25	.8 - 10.0
Probation (Juvenile)	7	7%	1.20	1.0 - 2.3
Continued without a finding	2	2%	1.50	1.0 - 2.0
<b>OTHER SUPERVISED</b>	<b>23</b>	<b>22%</b>		
Filed	3	3%		
Fined	1	1%		
Unknown disposition	1	1%		
<b>MISCELLANEOUS</b>	<b>5</b>	<b>5%</b>		

## V. Dispositions by Age Groups

Sentencing patterns varied when defendants were separated into age groups, as shown in Table 6. As might be expected, juveniles (aged 7 - 16) were sentenced less harshly than adults. Young adults (aged 17 - 25) were also sentenced less harshly than older adults (aged 26 or over).

### Juvenile Defendants

Juveniles were less likely to be incarcerated and more likely to be placed on probation than their older counterparts. While one-quarter of all defendants were incarcerated, less than one-fifth (19%) of juveniles were incarcerated. All juveniles were sent to the Department of Youth Services, rather than to adult institutions. Juveniles were also less likely to receive a suspended sentence than older defendants. While almost one-half (49%) of all defendants received such sentences, only 43 percent of juveniles were so sentenced. Juveniles were more likely to be placed on probation than adults; 20 percent of all defendants were placed on probation as compared to 33 percent of juveniles.

### Young Adults

Young adults were sentenced more harshly than juveniles and less harshly than older adults. Roughly one-quarter (23%) of young adults were incarcerated, a figure between the rate of 19 percent for juveniles and 32 percent for older adults. Young adults constituted the largest percentage of defendants who received suspended sentences. While 49 percent of all defendants received this disposition, 58 percent of young adults were so sentenced. Young adults were less likely to be placed on probation than all ages; fifteen percent of young adults were placed on probation as compared to 22 percent of all ages.

### Older Adults

Older adults were incarcerated at higher rates than either of the other age groups. Almost one-third (32%) of older adults convicted of arson were incarcerated, compared to 25 percent for all ages. A smaller percentage (38%) of older adults received suspended sentences when compared to the percentage for all ages (49%), and a comparable percentage (24%) of older adults were placed on probation when compared to the percentage for all ages (22%).

TABLE 6 : DISPOSITIONS BY AGE GROUPS

TYPE OF DISPOSITION	7 - 16 years			17 - 25 years			26+ years			ALL AGES	
	#	% of age group	% of total	#	% of age group	% of total	#	% of age group	% of total	#	%
House of Correction	0	-	-	9	17%	8%	8	23%	7%	17	16%
MCI Concord	0	-	-	1	2%	1%	0	-	-	1	1%
MCI Walpole	0	-	-	1	2%	1%	3	9%	3%	4	4%
Prison (type unknown)	0	-	-	1	2%	1%	0	-	-	1	1%
Dept. of Youth Services	4	19%	4%	0	-	-	0	-	-	4	4%
TOTAL INCARCERATIONS	4	19%	4%	12	23%	11%	11	32%	10%	27	25%
Suspended Sentence -											
House	0	-	-	27	52%	25%	11	32%	10%	38	36%
Suspended Sentence - MCI	0	-	-	2	4%	2%	2	6%	2%	4	4%
Suspended Sentence (type unknown)	0	-	-	1	2%	1%	0	-	-	1	1%
Suspended Sentence - DYS	9	43%	8%	0	-	-	0	-	-	9	8%
TOTAL SUSPENDED SENTENCES	9	43%	8%	30	58%	28%	13	38%	12%	52	49%
Probation	7	33%	7%	7	13%	7%	7	21%	7%	21	20%
Continued without a finding	0	-	-	1	2%	1%	1	3%	1%	2	2%
OTHER SUPERVISED	7	33%	7%	8	15%	7%	8	24%	7%	23	22%
Filed	1	5%	1%	1	2%	1%	1	3%	1%	3	3%
Fined	0	-	-	0	-	-	1	3%	1%	1	1%
Bound over (disposition unknown)	0	-	-	1	2%	1%	0	-	-	1	1%
MISCELLANEOUS	1	5%	1%	2	4%	2%	2	6%	2%	5	5%
TOTAL	21	100%	20%	52	100%	49%	34	100%	32%	107	100%



VI. Prior Convictions

Table 7 shows that slightly less than one-half of the total number of convicted arsonists (49%) had any prior convictions for any category of offense.

Of those defendants with prior convictions, 69 percent had adult convictions, 27 percent had juvenile delinquencies, and 4 percent had both adult convictions and juvenile delinquencies on their prior records.

TABLE 7 ; PRIOR CONVICTIONS

<u>Prior Convictions</u>	<u>Number</u>	<u>Percent of all Defendants</u>	<u>Percent of Defendants with Prior Convictions</u>
Adult Convictions	36	34%	69%
Juvenile Delinquencies	14	13%	27%
Both	2	2%	4%
Total	52	49%	100%

## VII. Dispositions by Number of Prior Convictions

Table 8 delineates the types of dispositions received by defendants relative to the number of the defendants' prior convictions for all categories of offenses. These are crimes against person, public order crimes, property crimes, non-assaultive sex crimes, motor vehicle crimes, and controlled substance violations.

Of the total defendants with no prior convictions, 20 percent were incarcerated, 47 percent were given suspended sentences, 28 percent were placed on probation or continued without a finding with supervision, and 6 percent were given other types of dispositions.

Of the defendants with one to three prior convictions, 29 percent were incarcerated, 52 percent were given suspended sentences, and 19 percent were placed on probation or had their cases continued without a finding.

Of those defendants with four to six priors, one-third (33%) were incarcerated, 55 percent received suspended sentences, and 11 percent were placed on probation or had their cases continued without a finding.

Of the defendants with seven or more priors, 31 percent were incarcerated, 44 percent received suspended sentences, 13 percent were placed on probation or continued without a finding with supervision, and 13 percent received miscellaneous types of dispositions.

While suspended sentences were the most common type of disposition for all defendants convicted, defendants with prior convictions were more likely to be incarcerated than those without prior convictions. Defendants with no prior convictions were placed on probation more frequently than the other groups.

Table 8: DISPOSITIONS BY NUMBER OF PRIOR CONVICTIONS

Type of Disposition	0 Priors			1-3 Priors			4-6 Priors			7+ Priors			Total	
	#	%	%	#	%	%	#	%	%	#	%	%	#	%
House of Correction	8	16%	7	6	19 %	6	1	11 %	1	2	13 %	2	17	16%
MCI Concord	1	2%	1	0	0 %	0	0	0 %	0	0	0 %	0	1	1%
MCI Walpole	0	0%	0	1	3 %	1	1	11 %	1	2	13 %	2	4	4%
Prison (type unknown)	0	0%	0	1	3 %	1	0	0 %	0	0	0 %	0	1	1%
Dept. of Youth Services	1	2%	1	1	3 %	1	1	11 %	1	1	6 %	1	4	4%
TOTAL INCARCERATIONS	10	20%	9	9	29 %	8	3	33 %	3	5	31 %	5	27	25%
Suspended Sentence - House	18	35%	17	10	32 %	9	3	33 %	3	7	44 %	6	38	36%
Suspended Sentence - MCI	1	2%	1	3	10 %	3	0	0 %	0	0	0 %	0	4	4%
Suspended Sentence (type unknown)	0	0%	0	0	0 %	0	1	11 %	1	0	0 %	0	1	1%
Suspended Sentence - DYS	5	10%	5	3	10 %	3	1	11 %	1	0	0 %	0	9	8%
TOTAL SUSPENDED SENTENCES	24	47%	22	16	52 %	15	5	55 %	5	7	44 %	6	52	49%
Probation (Adult)	9	18%	8	3	10 %	3	0	0 %	0	2	13%	2	14	13%
Probation (Juvenile)	3	6%	3	3	10 %	3	1	11 %	1	0	0 %	0	7	7%
Continued without a finding	2	4%	2	0	0 %	0	0	0 %	0	0	0 %	0	2	2%
OTHER SUPERVISED	14	28%	13	6	19 %	0	1	11 %	1	2	13%	2	23	22%
Filed	2	4%	2	0	0 %	0	0	0 %	0	1	6 %	1	3	3%
Fined	0	0%	0	0	0 %	0	0	0 %	0	1	6 %	1	1	1%
Bound over (disposition unknown)	1	2%	1	0	0 %	0	0	0 %	0	0	0 %	0	1	1%
MISCELLANEOUS	3	6%	3	0	0 %	0	0	0 %	0	2	13%	2	5	5%
TOTAL	51	100%	47	31	100 %	29	9	100 %	8	16	100 %	15	107	100%

### VIII. Dispositions by Number of Prior Arson Convictions

Table 9 delineates the types of dispositions received by the defendants relative to the defendants' number of prior arson charges.

Of the total defendants, 10 percent had prior arson convictions; 7 percent had one prior conviction; 2 percent had two prior convictions; and 1 percent had three or more prior convictions.

Of those defendants with prior arson convictions, 24 percent were incarcerated, 50 percent received suspended sentences, 21 percent were placed on probation or continued without a finding with supervision, and 5 percent received miscellaneous dispositions.

Of the defendants with one prior arson conviction, 25 percent were incarcerated, 50 percent were given suspended sentences, and 25 percent were placed on probation or continued without a finding with supervision.

The data concerning defendants with two or more arson convictions is inconclusive. There were only three defendants in this category. However, both of the defendants with two prior arson convictions were incarcerated, and the one defendant with four prior arson convictions was placed on probation. There is no definite pattern here.

Nevertheless, it seems that whether or not an arsonist has any prior arson convictions is not related to the disposition received by the defendant.

Table 9 : DISPOSITIONS BY NUMBER OF PRIOR ARSON CONVICTIONS

Type of Disposition	0 Priors			1 Prior			2 Priors			3+ Priors			Total	
	#	%	%	#	%	%	#	%	%	#	%	%	#	%
House of Correction	13	14%	12	2	25%	2	2	2%	2	0	0%	0	17	16%
MCI Concord	1	1%	1	0	0%	0	0	0%	0	0	0%	0	1	1%
MCI Walpole	4	4%	4	0	0%	0	0	0%	0	0	0%	0	4	4%
Prison (type unknown)	1	1%	1	0	0%	0	0	0%	0	0	0%	0	1	1%
Dept. of Youth Services	4	4%	4	0	0%	0	0	0%	0	0	0%	0	4	4%
<b>TOTAL INCARCERATIONS</b>	<b>23</b>	<b>24%</b>	<b>21</b>	<b>2</b>	<b>25%</b>	<b>2</b>	<b>2</b>	<b>100%</b>	<b>2</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>27</b>	<b>25%</b>
Suspended Sentence -														
House	36	38%	34	2	25%	2	0	0%	0	0	0%	0	38	35%
Suspended Sentence - MCI	4	4%	4	0	0%	0	0	0%	0	0	0%	0	4	4%
Suspended Sentence -														
(type unknown)	1	1%	1	0	0%	0	0	0%	0	0	0%	0	1	1%
Suspended Sentence - DYS	7	7%	6	2	25%	2	0	0%	0	0	0%	0	9	8%
<b>TOTAL SUSPENDED SENTENCES</b>	<b>48</b>	<b>50%</b>	<b>45</b>	<b>4</b>	<b>50%</b>	<b>4</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>52</b>	<b>49%</b>
Probation (Adult)	12	13%	11	1	12.5%	1	0	0%	0	1	100%	1	14	13%
Probation (Juvenile)	6	6%	6	1	12.5%	1	0	0%	0	0	0	0	7	7%
Continued without a finding	2	2%	2	0	0%	0	0	0%	0	0	0%	0	2	2%
<b>OTHER SUPERVISED</b>	<b>20</b>	<b>21%</b>	<b>19</b>	<b>2</b>	<b>25%</b>	<b>2</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>1</b>	<b>100%</b>	<b>1</b>	<b>23</b>	<b>21%</b>
Filed	3	3%	3	0	0%	0	0	0%	0	0	0%	0	3	3%
Fine	1	1%	1	0	0%	0	0	0%	0	0	0%	0	1	1%
Bound over (disposition unknown)	1	1%	1	0	0%	0	0	0%	0	0	0%	0	1	1%
<b>MISCELLANEOUS</b>	<b>5</b>	<b>5%</b>	<b>5</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>0</b>	<b>0%</b>	<b>0</b>	<b>5</b>	<b>5%</b>
<b>TOTAL</b>	<b>96</b>	<b>100%</b>	<b>90</b>	<b>8</b>	<b>100%</b>	<b>7</b>	<b>2</b>	<b>100%</b>	<b>2</b>	<b>1</b>	<b>100%</b>	<b>1</b>	<b>107</b>	<b>100%</b>

### IX. Simultaneous Convictions

Of the 107 defendants convicted, 57 (53%) were convicted on multiple charges. Nineteen of these defendants were convicted on two or more counts of arson. The remaining 38 defendants were convicted on other offenses. The great majority (95%) of simultaneous offenses were felonies.

Table 10 shows the type and frequency of simultaneous offenses. Most offenses were crimes against property such as breaking and entering and the possession of burglars' tools. In as much as some defendants were convicted of more than one simultaneous offenses, there are 100 offenses represented in the table.

TABLE 10: SIMULTANEOUS CONVICTIONS

<u>CRIMES AGAINST PROPERTY</u>	<u>FREQUENCY</u>
Arson	33
Breaking and Entering - Nighttime	11
Possessing Burglars' Tools	7
Breaking and Entering	6
Receiving Stolen Goods	5
Breaking and Entering - Daytime	4
Breaking and Entering and Larceny	4
Larceny	4
Malicious Destruction of Property	3
Fraud	3
Larceny of Motor Vehicle	1
Larceny Less	1
Larceny in Building	1
Larceny More	1
Destruction of Property	1
<u>CRIMES AGAINST PERSON</u>	
Conspiracy	6
Manslaughter	2
Assault and Battery w/ dangerous weapon	1
Assault w/ dangerous weapon	1
<u>CRIMES AGAINST PUBLIC ORDER</u>	
Obstructing Firefighter	3
<u>MOTOR VEHICLE OFFENSES</u>	
114A (Use without authority)	1
114B (Driving after revocation or suspension of license)	1

## X. Dispositions by Simultaneous Convictions

Defendants received harsher sentences if they had simultaneous convictions beyond the qualifying arson offense. Furthermore, defendants with two or more simultaneous convictions received harsher sentences than those with only one simultaneous conviction...

As shown in Table 11 , 32 percent of defendants with two or more simultaneous convictions were incarcerated, as compared to 24 percent of defendants with one simultaneous conviction and 22 percent of defendants with no simultaneous convictions.

Defendants with one simultaneous conviction were most likely to receive suspended sentences. Fifty-nine percent of these defendants received suspended sentences as compared to 44 percent of those with no simultaneous convictions and 46 percent of those with two or more simultaneous convictions.

Probation and continuances were most frequently received by defendants who had no simultaneous convictions. This disposition was received by 28 percent of defendants with no simultaneous convictions, as compared to 14 percent of those with one, and 18 percent of those with two or more simultaneous convictions.

Sentences for the simultaneous convictions were generally the same as, or less harsh than, the sentence for the arson conviction. Only four of the 57 defendants with simultaneous convictions (7%) obtained a harsher sentence for their simultaneous convictions.

TABLE 11 : DISPOSITIONS BY NUMBER OF SIMULTANEOUS CONVICTIONS

TYPE OF DISPOSITION	No Simultaneous Convictions		One Simultaneous Convictions		Two+ Simultaneous Convictions		All Defendants	
	#	% (of 50)	#	% (of 29)	#	% (of 28)	#	% (of 107)
Incarceration	11	22%	7	24%	9	32%	27	25%
Suspended Sentences	22	44%	17	59%	13	46%	52	49%
Probation and Continuances	14	28%	4	14%	5	18%	23	22%
Miscellaneous	3	6%	1	3%	1	4%	5	5%
TOTAL	50	100%	29	100%	28	100%	107	100%



## F. SUMMARY

This study examined the sentencing patterns of 107 defendants convicted of arson in Massachusetts between 1975 and 1978. Data revealed that a wide variety of sentences were imposed, reflecting both the minimum and maximum sentences legislated for arson. Variables found to effect sentencing patterns included the defendants' age, prior record, and simultaneous convictions.

### Distribution of Defendants

The distribution of defendants by the year in which they were arraigned was uneven, but proportional to the larger, aggregate study. The sample included slightly more defendants arraigned in 1977, and slightly fewer defendants arraigned in 1975.

Males accounted for the great majority (97%) of defendants convicted of arson.

Juveniles (aged 7 - 16) accounted for 20 percent of the sample, young adults (aged 17 - 25) accounted for 49 percent, and older adults (aged 26 or older) accounted for 32 percent.

### Sentencing Patterns

One-quarter of defendants convicted of arson were incarcerated, while almost three-quarters (71%) were supervised in the community. Breaking down the 71 percent who were supervised, 49 percent received suspended sentences, 20 percent received straight probation, and 2 percent had their cases continued without a finding.

The wide variety of sentences imposed included the maximum sentence for arson - twenty years in a state prison.

Younger defendants were found to be sentenced less harshly than older defendants. Juveniles were the age group most likely to be placed on probation and least likely to be incarcerated. Young adults were the age group most likely to receive suspended sentences, and older adults were the age group most likely to be incarcerated.

Approximately one-half of the defendants had convictions prior to the arson conviction in study. Defendants with no prior convictions were less likely to be incarcerated and were more likely to be placed on probation than other defendants.

Approximately ten percent of defendants had previous arson convictions. Sentencing patterns did not significantly vary between those with, and those without, prior arson convictions. However, the small number of defendants with prior arson convictions minimizes the significance of these findings.

More than one-half (53%) of defendants were convicted on multiple charges. Defendants convicted on multiple charges were more likely to be incarcerated and were less likely to be placed on probation than defendants convicted of only one count of arson.

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COMMISSIONER

# The Commonwealth of Massachusetts

Office of Commissioner of Probation MAY 12 1980

211 New Court House, Boston, 02108

ACQUISITIONS

## NEWS RELEASE

May 6, 1980

FOR IMMEDIATE RELEASE

For further information contact: Joseph P. Foley, Commissioner of Probation, 617-727-5300; Marge Brown Roy, Director of Research, 617-727-8484; or the Chief Probation Officer in your local superior, district or juvenile court.

### ARSON IN MASSACHUSETTS: RESEARCH FINDINGS ANNOUNCED

Sentences for convicted arsonists in Massachusetts vary widely, according to a recently released research report issued by the Office of the Commissioner of Probation.

The study was conducted due to the spiraling public interest in the crime of arson; the FBI recently elevated arson to its list of major crimes. The sample included 107 people convicted of arson and arson-related offenses, including crimes such as willful and malicious burning of a dwelling house, willful and malicious burning of a meeting house, and intent to defraud by burning insured property. The 107 convictions occurred between 1975 and 1978.

"This arson study found that the defendant's age, prior criminal convictions, and simultaneous convictions of additional crimes were related to the sentencing outcomes," reported Probation Commissioner Joseph P. Foley. "Sentences ranged from community supervision to incarceration in a state prison."

#### Average Age: 24 Years

Two-thirds of the convicted arsonists were under 26 years old. Juveniles (7-16 years of age) accounted for 20% of the people in the study, young adults (17-25 years) accounted for 48%, and older adults (26+ years old)

accounted for 32%. The average age of people convicted of arson was 24 years. The majority of people in the study (97%) were male.

#### Sentencing Patterns

The Probation study found that 71% of the convicted arsonists were supervised by probation officers in the community, through suspended sentences (49%), probation (20%) or cases which were continued without a findings (2%). A small percentage (5%) of the people in the arson study had their cases filed or they were fined.

Massachusetts General Laws, Chapter 266, establishes a sentence of not more than 20 years in a state prison as the maximum penalty for arson. Six percent of the 107 people in the Probation study were sentenced to a state prison, where the terms ranged from 5 to 20 years. The average sentence to a state correctional facility was 10 years. Sentences to a county House of Correction were given to 16% of the convicted arsonists, for terms ranging from one month to 2½ years. The average sentence to a House of Correction was 21 months.

#### Juveniles More Likely to be Placed on Probation

Sentencing patterns varied based on the age of the defendant, with juveniles more likely than adults to be placed on probation. While 33% of the 21 juveniles (under 17 years old) were placed on probation, 19% of the 86 adults were placed under probation supervision.

Commitment to a correctional facility was higher among adults than juveniles. While 19% of the juveniles were committed to the Department of Youth Services, 27% of the adults were sentenced to a state or county correctional facility.

#### Impact of Prior Convictions on Sentences

About half the arsonists had prior convictions, encompassing a wide range of offenses. The frequency of prior convictions was found to be

related to the type of sentence imposed. First offenders were placed on probation more often than people with one or more prior convictions. While 28% of the first offenders were placed on probation, 16% of those with prior convictions for a wide variety of crimes were similarly placed on probation.

Imprisonment was also related to the incidence of prior convictions: 30% of the people with one or more prior convictions were sentenced to a correctional facility, compared to 20% of the first offenders.

About 10% of the arsonists in the Probation study had from one to three prior convictions for an arson offense. These people were more frequently (36%) incarcerated in a state or county correctional facility than those people who had no prior record for an arson conviction (24%). However, due to the small sample size, these findings are still somewhat inconclusive.

#### Simultaneous Convictions

The Probation study also found that more than half of the people convicted of arson were also convicted for another offense that had taken place at the same time. The majority of these were for property crimes, such as breaking and entering or the possession of burglary tools. Defendants with these simultaneous convictions were more likely to be sentenced to a correctional institution than were the people with no simultaneous crimes.

The study indicated that as public concern about arson increases, attention may be drawn to current sentencing patterns for people convicted of arson. "This study found that older adults (over 26 years), who had simultaneous crimes and a history of prior convictions for various offenses were most likely to be incarcerated. Prior convictions for arson reflected a higher incarceration rate, but because of the small sample size, these findings warrant further review," Commissioner Foley concluded.

Copies of the complete study, Arson in Massachusetts: Sentencing Patterns (1975-1978) are available through the Research Unit, Office of the Commissioner of Probation, 211 New Court House, Boston 02108.

**END**