

“The City Jail Fire of 1942”

It was terrible. The screams of the dying and injured were ghastly. The heat was terrific. Flames leaped 20 feet high through the ventilators.

--Battalion Chief Ed McLarney, San Diego Fire Department.

In the early morning hours of February 4, 1942, San Diego police officers were called to a café at the 4800 block of Pacific Highway. Slumped over a counter was Thomas E. Kelly, 24, an aircraft worker. Depressed after an argument with his wife, Kelly had been drinking heavily.

He was arrested for public drunkenness and booked into the city jail at the foot of Market St. at 3:30 a.m. Kelly was searched for knives, razors, watches and money, but allowed to keep his cigarettes and matches. He was first taken to the “drunk tank,” but after making a noisy racket by banging on his steel bunk, the unruly prisoner was moved to a padded cell on the first tier of the two-story cell block.

Kelly settled down in a cell padded with thick, cork-lined walls, covered with tar paper. Still intoxicated, he tried to light a cigarette but the match head flew off and struck a tar papered wall.

Minutes later Sgt. Mike Shea—one of three men on the grave shift that night--was alerted by a jail guard: “Sarge, a man has just set fire to his cell!” The policemen rushed in and found the walls and ceiling ablaze. Kelly and a man in a neighboring cell were quickly removed. Shea grabbed a fire extinguisher but the hose was corroded and useless. Buckets of water were thrown on the flames. There was an explosion and flames leaped into the upper tier of the cell block. Trapped prisoners beat at the red-hot cell bars screaming “for God’s sake, let us out!” and “throw the keys up!”

The minutes ticked by as a jail “trustee” struggled to open the cell doors, which had to be unlocked individually from a key ring. The lights went out as the electrical system burned. Policeman Art Krause decided “the fire was getting ahead us” and ran to call the Fire Department. The firemen came quickly but thirty minutes had already passed since the start of the fire. The men poured water and chemicals on the blaze. Two firemen finished opening the cells while the flames were extinguished.

When it was over four prisoners were found dead in their cells, all killed by second and third-degree burns. A fifth man died within hours at the county hospital. Ten more men were injured.



The deceased men had all been serving brief sentences for petty offenses. Ray Nessler, serving two days for a drunk charge, died less than three hours before he was to be released. The family of Jesus Martinez would never be notified of his death; they heard about the fire on the radio.

Thomas Kelly, was charged with five counts of murder and placed in the county jail. He had no means to hire a lawyer and there was no system at the time for court-appointed counsel. An aggressive young attorney--John T. Holt—offered to defend Kelly, pro bono.

Attorney John T. Holt. From Heilbron, *History of San Diego County*, 2:297.

When Holt tried to inspect the fire scene, Police Chief Cliff Peterson threw him out. “I got a court order,” Holt recalled, “and returned, to have a smiling police chief pave the way into the charred jail cell. While in the cell I managed to ‘preserve some evidence’—a piece of the tarpaper that was intact.”

A coroner’s inquest was convened on February 11 to determine responsibility for the tragedy. The cause of the inferno was examined first. Thomas Kelly explained that the fire began when he tried to light a cigarette but accidentally ignited the tarpapered wall. Police witnesses countered that the tarpaper was fireproof. Attorney Holt then approached the jury and held up the remnant he had saved from the cell. He touched a lit match to it and the paper “flared up brightly as the tar bubbled.”

Another witness described the “padded” walls of the jail cell: one and half-inch thick cork “cemented on with asphalt, over which asphalt-impregnated rag-felt roofing paper had been pasted with more asphalt.”

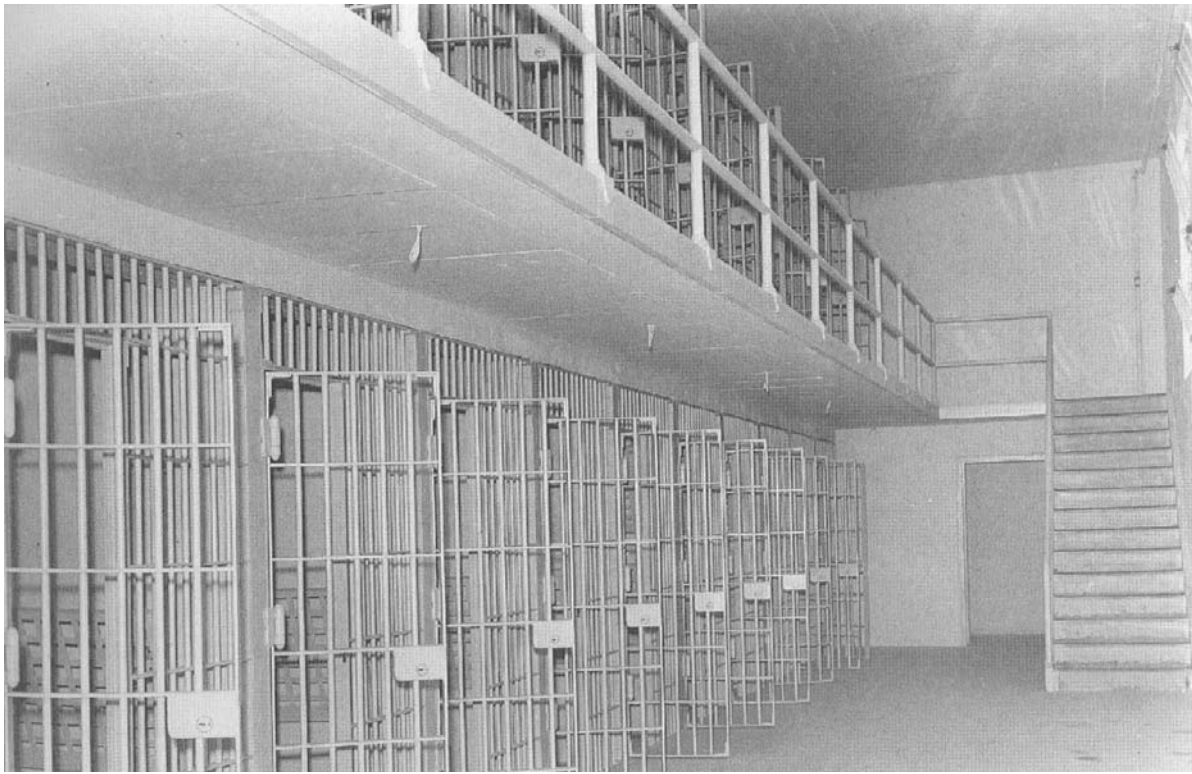
More revelations stunned the coroner’s jury. A fire in another padded cell one month earlier was revealed; the damaged walls had been scrapped clean. A wooden locker on the cell block floor was filled with cans of paint and kerosene. Dr. Paul Brust, police surgeon, testified he had complained to several officers about the danger of storing the chemicals but had been ignored.

The lack of a master-locking system for the three-year-old city jail puzzled the jurors. The county undersheriff, Henry Adams, pointed out that the county jail, built in 1912, had a master-locking system “whereby one pull of the lever would unlock numerous cells.” Chief Peterson testified that such a method was desirable but he could not recall if he had ever asked for the more modern locking system.

The apparent lack of readiness of the jailers was questioned. “The thought never occurred to us that there could be a fire,” Chief Peterson said when asked about the absence of fire drills. “Even after the fire in one of the padded cells a month ago?” asked Holt. The chief did not answer.

After listening to testimony from forty witnesses over the course of three and half days, the coroner’s jury decided that Thomas Kelly had started the fire but was not criminally responsible for the deaths of the five prisoners. The intoxicated prisoner, they concluded, was “incapable of knowing what he was doing.” Kelly was released after serving thirty days for malicious mischief.

The jury was less understanding of the police department, charging the jailers lacked training and “coolheadedness.” Their failure to promptly notify the Fire Department “led to unnecessary delay and was in part responsible for the tragic results,” the final report read. The jury criticized the “dangerous” cell door locking system and urged reconstruction of the jail cells to make them fireproof. With only modest changes the city jail continued to serve until its closure in the late 1960s when the county jail assumed control of all San Diego prisoners.



The cell blocks at Police headquarters, 801 Market Street. Each door required a key instead of the more common system of sliding doors controlled by one lever. *Courtesy San Diego Police Museum.*

Originally published as “Inquest into city jail fire unlocks facility's failings,” by Richard Crawford, in the San Diego *Union-Tribune*, March 28, 2009.