

**NSW PARLIAMENTARY LIBRARY  
RESEARCH SERVICE**

**Arson**

by

**Talina Drabsch**

**Briefing Paper No 2/03**

## **RELATED PUBLICATIONS**

- Bushfires, by Stewart Smith, NSW Parliamentary Library, Briefing Paper No 5/02

**ISSN 1325-5142**

**ISBN 0 7313 1725 4**

August 2004

© 2003

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this document may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent from the Librarian, New South Wales Parliamentary Library, other than by Members of the New South Wales Parliament in the course of their official duties.

# **Arson**

**by**

**Talina Drabsch**

## **NSW PARLIAMENTARY LIBRARY RESEARCH SERVICE**

David Clune (MA, PhD, Dip Lib), Manager ..... (02) 9230 2484

Gareth Griffith (BSc (Econ) (Hons), LLB (Hons), PhD),  
Senior Research Officer, Politics and Government / Law ..... (02) 9230 2356

Talina Drabsch (BA, LLB (Hons)), Research Officer, Law ..... (02) 9230 2768

Rowena Johns (BA (Hons), LLB), Research Officer, Law ..... (02) 9230 2003

Roza Lozusic (BA, LLB), Research Officer, Law ..... (02) 9230 3085

Stewart Smith (BSc (Hons), MELGL), Research Officer, Environment ... (02) 9230 2798

John Wilkinson (BA (Hons), MA), Research Officer, Economics ..... (02) 9230 2006

**Should Members or their staff require further information about this publication please contact the author.**

Information about Research Publications can be found on the Internet at:

[www.parliament.nsw.gov.au/WEB\\_FEED/PHWebContent.nsf/PHPages/LibraryPublications](http://www.parliament.nsw.gov.au/WEB_FEED/PHWebContent.nsf/PHPages/LibraryPublications)

Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion.

# CONTENTS

## EXECUTIVE SUMMARY

<b>1</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>2</b>	<b>LEGISLATION .....</b>	<b>2</b>
2.1	Model Criminal Code .....	2
2.2	New South Wales .....	4
2.3	Other Australian States and Territories .....	7
<b>3</b>	<b>WHAT DISTINGUISHES ARSON FROM OTHER TYPES OF CRIMINAL BEHAVIOUR? .....</b>	<b>11</b>
<b>4</b>	<b>WHY FIRE?.....</b>	<b>112</b>
<b>5</b>	<b>HOW COMMON IS ARSON?.....</b>	<b>13</b>
<b>6</b>	<b>WHERE DOES ARSON OCCUR? .....</b>	<b>14</b>
<b>7</b>	<b>WHO ARE THE STAKEHOLDERS? .....</b>	<b>16</b>
<b>8</b>	<b>ARSONISTS.....</b>	<b>17</b>
8.1	Who are they?.....	17
8.2	Why?.....	18
8.2.1	General motives.....	18
8.2.2	Motives for lighting bushfires .....	21
8.2.3	Juveniles .....	22
<b>9</b>	<b>THE ROLE OF THE MEDIA.....</b>	<b>24</b>
<b>10</b>	<b>WHAT STRATEGIES ARE CURRENTLY IN PLACE? .....</b>	<b>25</b>
10.1	Crime Prevention and Intervention .....	25
10.1.1	Schools .....	25
10.1.2	Fire Brigades .....	26
10.2	Investigation .....	27
10.2.1	Strike Force Tronto.....	27
10.2.2	NSW Rural Fire Service .....	28
10.2.3	State Forests.....	29
10.3	Community involvement .....	29
10.4	Legislation .....	30
10.4.1	Juveniles .....	30
10.4.2	Bushfires.....	30
10.5	Collaborative Approaches .....	31
<b>11</b>	<b>AUSTRALIAN STRATEGIES OUTSIDE NSW .....</b>	<b>31</b>
11.1	Australian Capital Territory .....	31
11.2	Northern Territory .....	32
11.3	Queensland .....	32
11.4	South Australia .....	32
11.5	Tasmania.....	32
11.6	Victoria .....	33
11.7	Western Australia .....	33
<b>12</b>	<b>OVERSEAS STRATEGIES .....</b>	<b>34</b>

12.1	United States of America.....	34
12.2	United Kingdom .....	37
<b>13</b>	<b>THE WAY FORWARD? .....</b>	<b>37</b>
13.1	Address socio-economic factors.....	38
13.2	Develop arson prevention programs.....	38
13.3	Develop arson investigation techniques .....	39
13.4	Develop intervention programs .....	40
13.5	Youth conferencing .....	41
13.6	Promote collaboration between relevant agencies .....	42
13.7	Improve the recruiting process for fire brigades .....	42
<b>14</b>	<b>CONCLUSION .....</b>	<b>42</b>

## EXECUTIVE SUMMARY

Fire damage costs the community about \$600 million every year, with arson accounting for approximately 30% of that figure. Concerns were raised throughout 2002 that not enough was being done to protect the community from the devastation of deliberately lit bushfires.

Arson is an indictable offence in every Australian state and territory however it is usually prosecuted summarily (pp 2-11). Malicious destruction and damage of property by fire is the terminology used by the *Crimes Act 1900* (NSW) rather than arson. Nevertheless, this paper treats the term arson as synonymous with malicious destruction and damage by fire, in accordance with general community understanding of the crime. The maximum penalty that may be imposed in New South Wales for the conviction of an arson offence is a term of imprisonment for 14 years. This is at the lower end of the scale when compared to the statutory penalty for arson in the remaining Australian states and territories.

The destruction caused by fire is often a matter of chance as it depends on the amount of time that passes before it is extinguished (p 11). Fire is often chosen as a weapon as it does not require any particular skill to light a fire once a person possesses the right ignition materials (p 12). Despite the number of recorded incidents of arson in NSW being over 7000 in 2001 and increasing, less than 10% of arsonists are convicted due to the difficulties of proving that a fire was deliberately lit and securing enough evidence to prove beyond reasonable doubt that the offender committed the crime (p 13).

Public discussion of the issues surrounding arson has recently centred on the connection between arson and bushfires. However, arsonists also target schools, homes, commercial premises and motor vehicles (p 14). Accordingly, a wide variety of organisations have an interest in combating arson including the police and fire services, state forests, Roads and Transit Authority, the department of education, local councils and insurance companies (p 16).

The popularity of psychological profiling has increased in recent times as it is hoped that it may assist in the detection of offenders. However the motivations behind arson attacks are diverse and not always easily categorised. Motivations may be acquisitive, vindictive, instrumental or cathartic in nature, or there may be no discernable motive at all. Juveniles may have different motives to adult arsonists. Research has shown that the majority of arsonists are young, male and unemployed (p 17).

The media has the ability to influence the public's perception of the frequency of arson attacks. Newspaper and television reports abounded with stories of arsonists during the 2001 Christmas bushfires and again in the November/December 2002 bushfire crisis. Some have expressed a concern that extensive television coverage of the bushfires is encouraging potential arsonists. However, media coverage of the fires also plays a valuable role by increasing public awareness of fire dangers and responsibilities as well as gaining support for fire personnel (p 24).

A number of strategies, both legislative and otherwise, have been developed in NSW to counter the effects and rate of arson (pp 25-31). Every Australian jurisdiction has

introduced intervention programs that target juvenile firefighters (pp 31-35). However, only Western Australia, Victoria and Queensland have dedicated arson squads specifically trained to deal with fire scenes. The United States of America and the United Kingdom also experience a high rate of arson at enormous cost to the community. Various policies and initiatives have been developed that aim to reduce the rate of arson in those countries (pp 35-38).

The way forward is not certain and various organisations have offered their suggestions (pp 38-42). Socio-economic factors need to be considered, as well as the further development of arson prevention programs and fire investigation techniques. Many writers have emphasised the benefits of a collaborative response to arson, where relevant organisations share their specialised knowledge and other resources.



## 1 INTRODUCTION

During the 2001 Christmas bushfires more than 450 fires raged throughout New South Wales. The efforts of 1,695 fire fighting equipment units, 109 aircraft and more than 29,000 personnel deployed from 50 organisations were employed to control the blaze. Nevertheless, 754,000 hectares of bushland burnt, 7,000 head of livestock were killed and 109 homes were destroyed.<sup>1</sup> Miraculously, no lives were lost. A number of the 2001 Christmas bushfires were the work of arsonists. The *Crimes Amendment (Bushfires) Act 2002* was subsequently passed by the NSW Parliament, which introduced into the *Crimes Act 1900* a new specific offence of lighting bushfires. However, reports that some of the fires in the November/December 2002 bushfires were deliberately lit resulted in bushfire arson again being the subject of much attention.

Whilst deliberately lit bushfires frequently hold the attention of the media, arsonists continue to target other structures. Schools, religious buildings, motor vehicles, businesses and homes are also intentionally torched, and have been the subject of media attention in the past. Court cases are rife with stories of businesses destroyed by fires set by the owner or an employee as part of a fraudulent attempt to claim the insurance proceeds. Targets are chosen and fires are set for numerous reasons including revenge, boredom, or as an attempt to destroy the evidence of a crime.

Arson costs the community an enormous amount each year. The cost of fire damage has been estimated at \$600 million each year, with arson accounting for approximately 30% of that figure.<sup>2</sup> The cost of the bushfires alone in 2002 is believed to be well in excess of \$100 million.<sup>3</sup> However, the social cost of arson is thought to be four times the amount usually quoted if the cost of maintaining and developing infrastructure such as the police, fire brigades, courts and social services is considered.<sup>4</sup> Arson results in higher insurance premiums, lost jobs when places of employment are destroyed, higher taxes and the loss of natural resources such as forests and bushland, and thus arguably affects all Australians.<sup>5</sup> Arson also increases the cost of construction of buildings as special fire resistant materials need to be used and buildings are designed in such a way as to reduce the risk of fire.<sup>6</sup> The disruption to society also comes at a price. Fires disrupt normal social and economic life as

---

<sup>1</sup> NSW, Parliament, Joint Select Committee on Bushfires, *Report on Inquiry into 2001/2002 Bushfires together with the Minutes of Proceedings*, (J Price MP Chairman), NSW Parliament, 2002, p 25.

<sup>2</sup> Café T and Stern W, 'Is it accidental fire or arson?', *T C Forensic and Scientific Services* [www.tcforensic.com.au/docs/article3.html](http://www.tcforensic.com.au/docs/article3.html) accessed 12 November 2002.

<sup>3</sup> '\$100m is not even close to the fire bill', *Daily Telegraph*, 9/12/02, p 4.

<sup>4</sup> Porter A, 'Arson: Its Cost to Insurers and the Community', *Australian Journal of Forensic Sciences*, 19(1/2), September/December 1986, p 44.

<sup>5</sup> NSW Fire Brigades, 'Incendiary and Suspicious Fires 1987-1993', *Statistical Research Paper*, September 1994, 1/94, September 1994, p 21.

<sup>6</sup> Nicholas Clark and Associates, *Study of the Pattern of Costs of Arson in NSW*, Criminology Research Council and NSW Standing Committee on Arson, 1986, p 7.

emergency services interrupt traffic, smoke and water damages adjacent buildings, jobs are lost and customers move when fire destroys businesses. Fires may also destroy items that are simply not replaceable due to their historical or sentimental value.<sup>7</sup>

Despite the number of recorded arson incidents having grown by almost 2000% in the last 30 years ‘there is virtually no empirical data concerning bushfire arsonists, or arsonists in general, in Australia’.<sup>8</sup> Few arrests are made, with the majority of arsonists escaping any kind of punishment at all. In such circumstances, much can be learnt from the experience of the United Kingdom and the United States of America which also experience a large number of arson incidents every year at a high cost to the community. However, caution should be exercised in that whilst Australia, the UK and USA are all western industrialised nations, different socio-economic, cultural and geographic conditions prevail in each country. Thus, the experience of the UK and USA is not always applicable to the Australian context.

## **2 LEGISLATION**

### **2.1 Model Criminal Code**

The Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General drafted a Model Criminal Code to guide the development of criminal legislation in Australia and encourage consistency between the states. Chapter Four of the Code – Damage and Computer Offences was released in 2001. Clause 4.1.7 deals specifically with the offence of arson.

#### 4.1.7 Arson

(1) A person who:

- (a) causes damage to a building or conveyance by means of fire or explosive, and
- (b) intends to cause or is reckless as to causing, damage to that or any other building or conveyance,

is guilty of an offence.

Maximum penalty: Imprisonment for 15 years.

(2) A person who:

- (a) makes to another person a threat to damage any building or conveyance

---

<sup>7</sup> Ibid, p 9.

<sup>8</sup> Kocsis RN, ‘Arson: Exploring Motives and Possible Solutions’, *Trends and Issues: in crime and criminal justice*, August 2002, p 1.

belonging to that other person or a third person by means of fire or explosives, and

- (b) intends that other person to fear that the threat will be carried out or is reckless as to causing that other person to fear that the threat will be carried out,

is guilty of an offence.

Maximum penalty: Imprisonment for 7 years.

- (3) In the prosecution of an offence against subsection (2) it is not necessary to prove that the person threatened actually feared that the threat would be carried out.

- (4) In this section:

**building** includes:

- (a) a part of a building, or
- (b) a structure (whether or not movable) that is used, designed or adapted for residential purposes.

**conveyance** means motor vehicle, motorised vessel or aircraft.

The offence of arson as described by Clause 4.1.7 is narrower in scope than the corresponding provisions in the NSW *Crimes Act*. The Model Criminal Code Committee intentionally drafted the Code so that it accorded closer to the general community's understanding of arson.<sup>9</sup> The Committee noted that there were 'significant benefits in retaining public understanding and acceptance of the law, when the crimes in the Code coincide with well known and well accepted names of crimes in common usage'.<sup>10</sup>

The Model Criminal Code separates the offence of lighting bushfires from the general offence of arson.

#### 4.1.8 Bushfires

- (1) A person:

- (a) who causes a fire, and

---

<sup>9</sup> Australia, Standing Committee of Attorneys-General, Model Criminal Code Officers Committee, *Report Model Criminal Code Chapter 4 Damage and Computer Offences*, 2001, p 5.

<sup>10</sup> *Ibid.*

- (b) who intends or is reckless as to causing a fire, and
  - (c) who is reckless as to the spread of fire to vegetation on property belonging to another,
- is guilty of an offence.

Maximum penalty: Imprisonment for 15 years.

(2) In this section:

**causing a fire** includes:

- (a) lighting a fire,
- (b) maintaining a fire,
- (c) failing to contain a fire, except where the fire was lit by another person or the fire is beyond the control of the person who lit the fire.

**spread** of a fire means spread of a fire beyond the capacity of the person who caused the fire to extinguish it.

Clause 4.1.8 focuses on the creation of risk rather than the infliction of harm that is the usual focus of arson legislation. This is because bushfires are so unpredictable in terms of their extent and possible consequences.<sup>11</sup> The Report of the Model Criminal Code Officers Committee explained that whilst arson is an aggravated form of criminal damage, the legislation of various jurisdictions within Australia does not make provision for a crime of comparable gravity directed at those who light bushfires.<sup>12</sup> When the report was released in 2001, New South Wales was recorded as having the smallest maximum penalty for arson out of the Australian states and territories, being a maximum of 10 years for an offence under section 195 of the *Crimes Act*.

## 2.2 New South Wales

Arson is the criminal offence of wilfully and unlawfully setting fire to property. The statutes of New South Wales do not use the term ‘arson’, choosing instead to describe the act of arson as the malicious destruction or damage of property by means of fire. However, the term arson is used throughout this paper as it accords with the general community’s understanding of the offence. The *Crimes (Criminal Destruction and Damage) Act 1987* (‘the 1987 Act’) inserted Division 2 of Part 4 into the *Crimes Act 1900*, in almost identical terms to the Act today, as part of an attempt to codify the law in this area. The 1987 Act changed the emphasis of offences dealing with the destruction and damage of property

---

<sup>11</sup> *Ibid*, p 51.

<sup>12</sup> *Ibid*, p 47.

from examining the **type** of property damaged to ‘the **means** used to damage the property, the intent of the accused; and whether the life of any person was endangered’ (author’s emphasis).<sup>13</sup> The common law offence of arson was repealed by the 1987 Act as the statutory offences were viewed as complete.

Criminal destruction and damage is the subject of Division 2 of Part 4 of the *Crimes Act 1900*, the relevant sections being 195 to 198.

*Crimes Act 1900*

Section 195 Maliciously destroying or damaging property

A person who maliciously destroys or damages property belonging to another or to that person and another is liable:

- (a) to imprisonment for five years, or
- (b) *if the destruction or damage is caused by means of fire or explosives*, to imprisonment for 10 years.

Section 196 Maliciously destroying or damaging property with intent to injure a person

A person who maliciously destroys or damages property, intending by the destruction or damage to cause bodily injury to another, is liable:

- (a) to imprisonment for 7 years, or
- (b) *if the destruction or damage is caused by means of fire or explosives*, to imprisonment for 14 years.

Section 197 Dishonestly destroying or damaging property

A person who dishonestly, with a view to making a gain for that person or another, destroys or damages property is liable:

- (a) to imprisonment for 7 years, or
- (b) *if the destruction or damage is caused by means of fire or explosives*, to imprisonment for 14 years.

Section 198 Maliciously destroying or damaging property with the intention of endangering life

A person who maliciously destroys or damages property, intending by the

---

<sup>13</sup> NSWPD, 28/10/87, p 15344.

destruction or damage to endanger the life of another is liable to imprisonment for 25 years.

[author's emphasis]

An element of the offence of arson is the requirement that the act be done 'maliciously'. Maliciousness is deemed to be an actual intention to inflict the particular type of harm, or recklessness as to the outcome of the action.<sup>14</sup> The offender must have foreseen the result of the action.

The *Crimes Act* deals with deliberately lit bushfires in a separate section. The *Crimes Amendment (Bushfires) Act 2002* inserted a new subdivision titled 'Bushfires' into Part 4 Division 2 of the *Crimes Act*. According to section 203E, a person who intentionally causes a fire and is reckless as to the spread of the fire to vegetation on any public land, or on land belonging to another, is guilty of an offence and liable to imprisonment for 14 years. However, a firefighter who causes such a fire in the course of bushfire fighting or hazard reduction is clearly exempt from liability.<sup>15</sup>

The *Crimes Amendment (Bushfires) Bill 2002* was criticised by some who saw it as superfluous legislation. The Deputy Leader of the Opposition accused the Government of introducing the Bill to be seen as doing something in relation to the Christmas bushfires, as the Opposition did not believe the Bill added anything new to the law.<sup>16</sup> The Attorney-General, Hon. R Debus MP explained that, 'the new offence complements others that already exist in both the *Rural Fires Act 1997* and the *Crimes Act* and completes, as it were, a comprehensive suite of offences that may result in charges across the whole range of arson'.<sup>17</sup> Section 203E of the *Crimes Act* is largely based on Clause 4.1.8 of the *Model Criminal Code* which distinguishes between arson in general and bushfires. However, the maximum penalty that may be imposed under section 203E is 14 years as opposed to the 15 years imposed by the *Model Criminal Code*. This is to ensure that there is consistency within the *Crimes Act* with other imprisonment penalties.<sup>18</sup>

Section 100 of the *Rural Fires Act 1997* provides that a person is liable to 1000 penalty units or imprisonment for five years if they set fire to land belonging to another person or the Crown or a public authority. Clause 29 of the *Rural Fires Regulation 2002* holds that it is an offence to light, use or carry a tobacco product 'within 15 metres of any stack of grain, hay, corn or straw or any standing crop, dry grass or stubble field' during bushfire danger periods. The Model Criminal Code Report noted that statutory penalties in NSW for the lighting of bushfires were comparatively light when compared with other forms of

---

<sup>14</sup> Watson et al, *Criminal Law (NSW)*, Lawbook Co, 2001, p 1-1933.

<sup>15</sup> Section 203E(3).

<sup>16</sup> NSWPD, 8/5/02, p 1836.

<sup>17</sup> NSWPD, 8/5/02, p 1838.

<sup>18</sup> Second Reading Speech: A Stewart MP, NSWPD, 12/4/02, p 1468.

arson.<sup>19</sup>

The introduction of section 203E into the *Crimes Act* could be seen as fulfilling one of the aims of the Model Criminal Code in that it emphasises ‘society’s abhorrence and condemnation of the deliberate lighting of bushfires by making specific provisions against it’.<sup>20</sup> Nonetheless, section 100 of the *Rural Fires Act* is retained as an alternative verdict in a prosecution.<sup>21</sup>

The risk of a bushfire starting from a cigarette butt thrown from a moving motor vehicle was emphasised by the Government in late 2002, following concern that discarded cigarettes had started a number of bushfires in November and December 2002. The Attorney-General and Emergency Services Minister, Hon. R Debus MP warned, ‘Under NSW law, a person caught starting a bushfire by throwing a cigarette butt from a car can be charged with an arson offence by the Police... Under the *Crimes Act* they can face a gaol term of up to 14 years. And under new laws soon to come into force, this offence will also attract a standard minimum sentence of five years... Even if a tossed lit cigarette butt doesn’t start a fire, people can face a fine of up to \$5500 during a bushfire danger period under the *Rural Fires Regulation*’.<sup>22</sup>

### 2.3 Other Australian States and Territories

The maximum penalties that may be imposed under NSW legislation are at the lower end of the scale when compared to other Australian states and territories. Whilst Western Australia<sup>23</sup> and Victoria<sup>24</sup> are relatively similar to NSW with the maximum penalty that may be imposed for an arson offence, section 239 of the *Criminal Code* of the Northern Territory of Australia provides that a person may be imprisoned for life if they are found to have unlawfully set fire to a building, ship, cultivated vegetable produce, fuel, a mine or aircraft. The Australian Capital Territory<sup>25</sup> also imposes a significantly greater maximum penalty of 25 years if a person destroyed or damaged any property by means of fire with the intent of endangering the life of another. The maximum penalty is 20 years if the property was dishonestly destroyed with a view to gain.

---

<sup>19</sup> Australia, Standing Committee of Attorneys-General, n 9, p 47.

<sup>20</sup> Second Reading Speech: A Stewart MP, *NSWPD*, 12/4/02, p 1468.

<sup>21</sup> Section 203E(4) *Crimes Act 1900* (NSW).

<sup>22</sup> Hon R Debus MP, Attorney General, Minister for the Environment, Minister for Emergency Services, Minister Assisting the Premier on the Arts, ‘Cigarette Butt Tossers Face Gaol and Big Fines’, *Media Release*, 5/12/02.

<sup>23</sup> Section 444 *Criminal Code* (WA).

<sup>24</sup> Section 197 *Crimes Act 1958* (Vic).

<sup>25</sup> Section 129 *Crimes Act 1900* (ACT).

In contrast, South Australia<sup>26</sup> provides a range of penalties that are to be imposed according to the amount of damage inflicted or what the damage would have been if the attempt to damage the property by fire had been successful. For example, a successful attempt to commit arson that resulted in damage of more than \$30,000 is liable to a maximum penalty of life imprisonment whereas the maximum penalty where the damage is more than \$2,500 but less than \$30,000 is only five years imprisonment. The law in South Australia has recently changed with the introduction of a new bushfire offence that carries a maximum term of imprisonment of twenty years.<sup>27</sup> The new law focuses on the risk of harm rather than the amount of damage caused. The Premier, Mr Rann explained the purpose of the amendment: “We want to hit these arsonists hard, the new penalties will bring home the extreme gravity of the offender’s crime, highlighting the harm done both to individuals and to the community”.<sup>28</sup>

There is a possibility that further reform of relevant legislation in each jurisdiction within Australia will occur. The Model Criminal Code Officers Committee noted that ‘there is an obvious need, in all Australian States and Territories, for legislation which strikes at intentional, reckless and even negligent conduct which causes or risks bushfire or other forms of wildfire’.<sup>29</sup>

A table of the relevant legislation in Australia follows:

JURISDICTION	STATUTE	OFFENCE	MAXIMUM PENALTY
Australian Capital Territory	<i>Crimes Act 1900</i>	Section 129(1) Destroys or damages any property by fire or explosive.	Imprisonment for 15 years.
		Section 129(2) Destroys or damages, by fire or explosive, any property with intent to endanger life of another person.	Imprisonment for 25 years.
		Section 129(3) Dishonestly, with view to gain, destroys or damages, by fire or explosive, any property.	Imprisonment for 20 years.

<sup>26</sup> Section 85 *Criminal Law Consolidation Act 1935* (SA).

<sup>27</sup> Section 85B *Criminal Law Consolidation Act 1935* (SA).

<sup>28</sup> Hon M Rann MP, Premier, ‘20 Years Jail – New Bushfire Arson Laws Now in Force’, *Media Release*, 3/11/02.

<sup>29</sup> Australia, Standing Committee of Attorneys-General, n 9, p 41.



New South Wales	<i>Crimes Act 1900</i>	<p>Section 195 Maliciously destroying or damaging property by fire or explosive.</p> <p>Section 196 Maliciously destroying or damaging property by fire with intent to injure a person.</p> <p>Section 197 Dishonestly destroying or damaging property by fire.</p> <p>Section 198: Maliciously destroying or damaging property with the intention of endangering life.</p> <p>Section 203E Intentionally causes a fire and is reckless as to the spread to vegetation.</p>	<p>Imprisonment for 10 years.</p> <p>Imprisonment for 14 years.</p> <p>Imprisonment for 14 years.</p> <p>Imprisonment for 25 years.</p> <p>Imprisonment for 14 years.</p>
	<i>Rural Fires Act 1997</i>	<p>Section 100(1) Sets fire to land and permits fire to escape so as to cause or be likely to cause damage.</p> <p>Section 100(2) Leaves fire before extinguished.</p>	<p>Imprisonment for 5 years or 1000 penalty units.</p> <p>Imprisonment for 12 months or 50 penalty units.</p>
Northern Territory	<i>Criminal Code of the Northern Territory of Australia</i>	<p>Section 239 Arson: Unlawfully sets fire to building, ship, cultivated vegetable produce, mine or aircraft.</p> <p>Section 240 Attempts to commit arson.</p>	<p>Imprisonment for life.</p> <p>Imprisonment for 14 years.</p>
Queensland	<i>Criminal Code Act 1899</i>	<p>Section 461 Arson: Wilfully and unlawfully sets fire to building or structure, vessel, fuel, cultivated vegetable produce, mine, aircraft or motor vehicle.</p> <p>Section 462 Attempts to commit arson.</p>	<p>Imprisonment for life.</p> <p>Imprisonment for 14 years.</p>

South Australia	<i>Criminal Law Consolidation Act 1935</i>	<p>Section 85 Arson: Intending to damage property by fire or recklessly indifferent as to damage by fire.</p> <p>Section 85B Intending to cause or recklessly indifferent as to causing a bushfire.</p>	<p>If completed: Where the damage exceeds \$30,000 – imprisonment for life; where the damage exceeds \$2,500 but does not exceed \$30,000 – imprisonment for 5 years; where the damage does not exceed \$2,500 – imprisonment for 2 years.</p> <p>For an attempt: Where the damage would have exceeded \$30,000 – imprisonment for 12 years; where the damage would have exceeded \$2,500 but would not have exceeded \$30,000 – imprisonment for 3 years; where the damage would not have exceeded \$2,500 – imprisonment for 18 months.</p> <p>Imprisonment for 20 years.</p>
Tasmania	<i>Criminal Code</i>	Section 268 Arson: Unlawfully	All Tasmanian

Victoria	<i>Crimes Act 1958</i>	<p>setting fire to structures, vegetation, vessels, etc.</p> <p>Section 268A Unlawfully setting fire to vegetation</p> <p>Section 269 Unlawfully setting fire to property.</p> <p>Section 269A Causing a fire with intent to injure person or property.</p> <p>Section 197(1) Intends to destroy or damage property.</p> <p>Section 197(2) Intends to destroy or damage property with the intent to endanger the life of another.</p> <p>Section 197(3) Dishonestly, with a view to gain, destroys or damages property.</p> <p>Section 197(6) An offence is arson if the destruction or damage is caused by means of fire.</p> <p>Section 197A Arson causing death</p>	<p>offences attract a maximum penalty of 21 years.</p> <p>Imprisonment for 15 years.</p> <p>Imprisonment for 25 years.</p>
Western Australia	<i>Criminal Code</i>	Section 444 Criminal damage: Wilfully destroys or damages any property by fire.	Imprisonment for 14 years.

### 3 WHAT DISTINGUISHES ARSON FROM OTHER TYPES OF CRIMINAL BEHAVIOUR?

Arson is often described as an extremely easy crime to commit, as it does not require much skill to light a basic fire. A relatively small fire can quickly become a big fire if it is not brought under control early enough. Therefore, the final amount of damage caused by the fire is usually a matter of chance, as it will depend on the amount of time that has lapsed before the fire was controlled.

Arson differs from many crimes in that it is not always immediately obvious that a crime has occurred. There needs to be an initial suspicion that the fire was not an accident, before arson is even investigated. Fire investigation is fraught with difficulties as the fire itself frequently destroys the evidence that it was deliberately lit. However, investigators will

examine the surroundings for clues. Deliberately lit fires leave a number of tell-tale signs including, the presence of two or more separate fires, a strong odour of kerosene or another petroleum product, and an unaccountably rapid spread or intensity of fire.<sup>30</sup>

The circumstances surrounding a fire might arouse suspicion that it was not due to natural causes. For example, it is believed that the November 2002 bushfires through Lake Macquarie were deliberately lit, as fire personnel battling fires near Wakefield reported seeing other fires suddenly start up further along the F3 Freeway.<sup>31</sup> They were not spot fires and there was no lightning activity in the area at the time.

Given the isolated nature of the bush, bushfire arsonists are usually only apprehended if there is a witness to the act itself or they are seen leaving the scene of the crime. As an example, 18 year old Mark Gallagher was arrested in late 2002 for lighting a fire at Glenfield that caused the destruction of a house at Wattle Grove, two more at Sandy Point, another at Picnic Point, and resulted in the evacuation of many residences in Menai and Sutherland. Two boys saw Mr Gallagher light the fire and tried to put it out before they called the fire brigade.<sup>32</sup> However, the fire raged out of control, resulting in a damage bill in the vicinity of \$1.5 million.<sup>33</sup> Nevertheless, the boys were of great assistance as they could identify the arsonist.

The crime of arson differs to other forms of property damage as the owner of the property itself may be charged with its destruction. The *Crimes Act* prohibits the deliberate destruction of property for dishonest gain. Therefore, the owner of a building who sets fire to their premises to claim the insurance property may be prosecuted under section 197 of the *Crimes Act*. In the case of *R v Emad Ahmed*<sup>34</sup>, the owner of a fruit shop at Ingleburn, hired an employee of the fruit shop to burn down the store so that the owner could claim the insurance money. The owner was charged, inter alia, under section 197(b) of the *Crimes Act*.

#### 4 WHY FIRE?

It has been suggested that arsonists choose fire as their weapon for one of three reasons:<sup>35</sup>

1. It is an easy weapon to use as it requires very little skill to light a fire;
2. The arsonist had experience with fire in their childhood thus it is a familiar tool; or

---

<sup>30</sup> Battle BP and Weston PB, *Arson: A Handbook of Detection and Investigation*, Greenberg, New York, 1954, p 7.

<sup>31</sup> 'Signs of arson as inferno spread', *Newcastle Herald*, 28/11/02, p 4.

<sup>32</sup> 'Curious teenager with a lighter was all it took, say police', *Sydney Morning Herald*, 7/12/02, p 7.

<sup>33</sup> 'Suburbia in the line of fire', *Australian*, 7/12/02, p 25.

<sup>34</sup> Unreported, 21 November 2001, Supreme Court of New South Wales Court of Criminal Appeal, Heydon JA, Dowd and Bell JJ.

<sup>35</sup> Barker AF, *Arson: A Review of the Psychiatric Literature*, Oxford University Press, Oxford, 1994, p 87.

### 3. The unconscious symbolism of fire as a form of protest and power.

Arson has been used throughout history and on virtually every continent as an expression of discontent and resistance, usually by the oppressed.<sup>36</sup> Accordingly, the deliberate lighting of forests, bushland, and pasture is not something peculiar to Australia in the 21<sup>st</sup> century.

Barker has concluded that ‘fire is only one among many tools of destruction, but that it is the one which is attractive since it requires neither physical prowess, nor courage, skill, knowledge, and so forth, and one which, in addition, reaps maximal rewards for the minimal effort’.<sup>37</sup>

## 5 HOW COMMON IS ARSON?

In 2001, the number of recorded criminal incidents for arson in New South Wales was 7310 as compared to 6157 in 2000 and 4692 in 1998.<sup>38</sup> The incidence of arson appears to be on the increase, with the rate of arson having doubled every eight years since 1964.<sup>39</sup>

However, the actual number of charges determined by way of Local Court appearances is miniscule in comparison. Whilst 3166 incidents of arson were recorded in 1995, only 253 charges were finalised in the Local Courts. This rate deteriorated even further by 1998/99 when only 194 charges were finalised compared to 4866 arson incidents.<sup>40</sup> Nonetheless, the clear-up rate for arson is similar to that of other property crimes. Arson investigations are fraught with difficulties as:<sup>41</sup>

- a good proportion of the evidence is destroyed by the fire itself;
- there are usually few eyewitnesses;
- the evidence may indicate a range of possible motives for lighting the fire, resulting in numerous suspects;
- it is often difficult to conclusively establish the cause of the fire; and
- some police and fire service personnel lack training in arson investigation and scene preservation.

As arson is a criminal offence, it is subject to the high standard of proof of beyond

---

<sup>36</sup> Kuhlken R, ‘Settin’ the Woods on Fire: Rural Incendiarism as Protest’, *The Geographical Review*, 89(3), July 1999, p 343. The article provides a useful review of the use of fire as a means of protest throughout history.

<sup>37</sup> Barker, n 35, p 83.

<sup>38</sup> Bureau of Crime Statistics and Research (BOCSAR), ‘NSW Recorded Crime Statistics 1997-2001: Recorded Criminal Incidents’, [www.lawlink.nsw.gov.au/bocsar](http://www.lawlink.nsw.gov.au/bocsar), accessed 12/11/02.

<sup>39</sup> BOCSAR, ‘Arson in NSW’, *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice*, 7, January 1990, p 1.

<sup>40</sup> BOCSAR, *Key Trends in Crime and Justice*, Bureau of Crime Statistics and Research, Sydney, p 31.

<sup>41</sup> Bahr P, ‘Developing an Analysis Model for Wildfire Events’, *Australian Police Journal*, 56(1), March 2002, p 67.

reasonable doubt. Therefore the usual terminology in the available literature refers to deliberately lit fires as either incendiary or suspicious, the difference being the degree of proof of the ignition factor. Incendiary fires are those where either the physical evidence or legal decision indicates that the fire was deliberately lit whereas suspicious fires are fires whose circumstances indicate the possibility that the fire may have been deliberately lit, given that multiple ignition factors were found or, in the alternative, no accidental or natural ignition factor could be found.<sup>42</sup>

Incendiary or suspicious fires were the most prevalent cause of all types of fires attended by the NSW Fire Brigades in 1998 and 1999, being 39% of all fires attended. The ignition factor of a further 25% of fires was undetermined, not applicable or not reported.<sup>43</sup> Therefore, it is possible that the available figures underestimate the number of fires that are deliberately lit. Similar figures exist for 1990 when it was reported that the NSW police and fire brigades attend 20,000 to 30,000 fires every year. Approximately 12,000 of those fires contained an element of suspicion with 4,000 of those being directly attributed to arson.<sup>44</sup>

Bushfire arson has attracted much attention in recent times. It has been reported that bushfire arson is increasing in every Australian jurisdiction, its frequency only second to bushfires due to lightning strikes.<sup>45</sup> Over the last five years, lightning strikes caused 21% of fires in national parks, 19% were the work of arsonists, and arson was suspected to be the cause of another 17%.<sup>46</sup>

## 6 WHERE DOES ARSON OCCUR?

Between 1991 and 1996, Victoria, New South Wales and South Australia consistently experienced the greatest number of arson incidents reported in Australia. However, if the rate of arson reported to the police per 100,000 people is compared, South Australia, Australian Capital Territory and Victoria experience the greatest rate of arson. New South Wales consistently ranked fourth and the rate of arson reported to the police in NSW has always been below the Australian average.<sup>47</sup> However, there are difficulties with directly comparing the statistics between jurisdictions, as there are differences in how arson is defined and reporting methodologies.

<sup>42</sup> NSW Fire Brigades, n 5, p 5.

<sup>43</sup> NSW Fire Brigades, *Annual Statistical Report 1998/99*, p 85.

<sup>44</sup> BOCSAR, n 39, p 1.

<sup>45</sup> 'Burning desire', *Sydney Morning Herald*, 30/11/02, p 27.

<sup>46</sup> National Parks and Wildlife Service '2001-02 bushfires: the role of the NSW National Parks and Wildlife Service' [www.npws.nsw.gov.au/news/bushfires\\_qa.html](http://www.npws.nsw.gov.au/news/bushfires_qa.html) (accessed 12/12/02).

<sup>47</sup> The rate of arson reported to police per 100,000 population in New South Wales was 39.67 in 1991-92, 41.02 in 1992-93; 52.49 in 1993-94; 48.47 in 1994-95 and 60.35 in 1995-96. In contrast, the rate experienced by South Australia for the same period was always greater than 90 reaching a peak of 112.02 in 1995-96. Mukherjee et al, *A Statistical Profile of Crime in Australia*, Australian Institute of Criminology, Canberra, 1997.

Within New South Wales, most recorded incidents of arson occur in urban areas.<sup>48</sup> However, the response times of the fire brigade differs between regions. For example, fire brigades are generally able to respond to an urban fire quicker than in the country, due to resources and the size of the area under command. This may be critical as the fire may destroy some or all of the evidence that a fire was deliberately lit. Therefore, a faster response time is likely to preserve more of the evidence indicating the cause of fire is suspicious.

The deliberate lighting of bushfires has featured prominently in news reports ever since the 2001 Christmas fires. Bushfire arson again grabbed public attention during the bushfire crisis in late 2002. Arson was strongly suspected when more than 60 separate fires broke out on 4 December 2002 within one hour and no lightning strikes were reported.<sup>49</sup> NSW Rural Fire Services Commissioner, Phil Koperberg, stated 'I suspect deliberate fire-lighting, when there was no lightning, there was no motor vehicle accident or a picnic or something'.<sup>50</sup>

In recent times, discussion of the issues surrounding arson has tended to focus on the lighting of bushfires. However, schools, homes, businesses and motor vehicles are also common targets. The cost of arson in public schools had reached \$100 million per year by 1987-88 and represented 27% of all arson incidents in NSW in 1987-88.<sup>51</sup> The amount of damage caused by arsonists in schools has markedly decreased since then with fires causing approximately \$53 million in damage to NSW schools between 1997 and 2002.<sup>52</sup> 57.3% of school fires are believed to be incendiary or suspicious.<sup>53</sup>

The fraudulent burning of homes and businesses for insurance purposes has also been the subject of much attention in the past.<sup>54</sup> The number of incendiary residential fires increased by over 243% from 39 fires in 1987 to 134 fires in 1995.<sup>55</sup> The number of

---

<sup>48</sup> 66.9% of reported incidents of arson for 1987/88 were located in the Sydney Metropolitan area. BOCSAR, n 40, p 2.

<sup>49</sup> Australian Associated Press, 'NSW: Throwing out cigarette butts more than a littering offence', 5/12/02.

<sup>50</sup> 'Suburbia in the line of fire', *Australian*, 7/12/02, p 25.

<sup>51</sup> Geason S. and Wilson PR, *Preventing Graffiti and Vandalism*, Australian Institute of Criminology, Canberra, 1990, p 45.

<sup>52</sup> NSW Fire Brigades, *Annual Report 2001/2002*, p 25.

<sup>53</sup> NSW Fire Brigades, n 43, p 93.

<sup>54</sup> The ABC program, Four Corners, produced a series in 2000 called "Burned". They investigated the insurance industry and found that there was a disturbing pattern of people being wrongly and systematically accused of arson in the absence of supporting evidence in order that insurance claims might be denied.

<sup>55</sup> NSW Fire Brigades, 'Fire in the Home', *Statistical Research Paper*, 3/96, Sydney, 1996, p 19.

suspicious residential fires increased by 134% from 173 such fires in 1987 to 405 in 1995.<sup>56</sup>

It should be remembered that the cause of many fires remains undetermined which means that some of these fires are also the work of arsonists. Whilst the percentage of incendiary and suspicious fires in 1995 was only 12.3% of all residential fires, they remain the third most prevalent cause of all residential fires and usually cause more damage than accidental fires.<sup>57</sup>

29% of all incendiary and suspicious fires recorded by the NSW Fire Brigade involved a motor vehicle, the second most prevalent type of property involved following bush and grass fires.<sup>58</sup> There is a correlation between suburbs in the Sydney metropolitan region that have a high number of incendiary and suspicious vehicle fires and vehicle theft hotspots as identified by the National Roads and Motor Association.<sup>59</sup> It is thus possible that some vehicle fires are the result of a desire to destroy any evidence that would link the theft of the vehicle to the offender.

A study of motor vehicle theft and arson in South Australia has revealed a correlation between motor vehicles that are burnt after being stolen and the value of the car.<sup>60</sup> Torched vehicles have been found to be of significantly greater value than the vehicles that are not burnt. It is thought that this is due to one of two factors:

1. motor vehicle arson is being used to lodge fraudulent insurance claims; or
2. the vehicle is destroyed as it symbolises material wealth that is beyond that of the arsonist/s.<sup>61</sup>

## 7 WHO ARE THE STAKEHOLDERS?

A review of the agencies involved in the 2001 Christmas bushfires quickly reveals the wide range of bodies that are directly affected by destructive fires. The following is a list of all agencies involved in the 2001 Christmas bushfires as identified by the Australasian Fire Authorities Council:<sup>62</sup>

- NSW Rural Fire Service
- Country Fire Authority (Vic)
- Country Fire Service (SA)
- Queensland Fire and Rescue Rural Brigades
- Tasmania Fire Service Rural Brigades

---

<sup>56</sup> Ibid.

<sup>57</sup> Ibid, p 6.

<sup>58</sup> NSW Fire Brigades, n 5, p 13.

<sup>59</sup> Ibid, p 16.

<sup>60</sup> Potter R, 'Arson on the Increase: Motor Vehicle Theft and Arson in South Australia', *Information Bulletin on Motor Vehicle Theft Issues*, June 2000, p 4.

<sup>61</sup> Ibid.

<sup>62</sup> Australasian Fire Authorities Council, *Newsletter*, 1, February 2002, p 5.



- State Emergency Service (NSW)
- NSW Fire Brigades
- National Parks and Wildlife Service (NSW)
- Sydney Catchment Authority
- State Forests (NSW)
- Queensland Fire and Rescue Urban Brigades
- South Australia Metropolitan Fire Service
- Tasmania Fire Service Urban Brigades
- National Parks and Wildlife Service South Australia
- Fire and Emergency Services Authority of Western Australia
- Tasmania Parks and Wildlife Service
- Northern Territory Fire Service
- Bushfires Council NT
- Department of Conservation and Land Management WA
- New Zealand Department of Conservation
- New Zealand Local Territories Authorities and Rural Fire Districts
- New Zealand Rural Fire Authority
- New Zealand Fire Service
- Department of Natural Resources and Environment (Vic)

An interdepartmental approach is likely to be effective in combating arson. The New South Wales Fire Brigades, Rural Fire Service, Police Service, National Parks and Wildlife Service, State Forests of New South Wales, Roads and Traffic Authority, insurance companies and local councils all have a direct interest in arson prevention. However, the Department of Education and Training is also relevant as public schools are the target of a good proportion of arsonists. Schools may also have a role to play in educating youth about the dangers of fire as well as identifying potential arsonists. Whilst these organisations may play a direct role, the community also has an interest in combating arson as it feels the effects of arson through higher insurance premiums, the loss of jobs and the destruction of natural resources.

## 8 ARSONISTS

### 8.1 Who are they?

Caution must be exercised when interpreting statistics on the number and profile of arsonists because the clear-up rate is low. In 1989 the clear-up rate was only 7.5%.<sup>63</sup> The small number of arsonists who are caught may not be an accurate representation of arsonists in general. Arsonists who have some form of mental illness or impairment, or who had consumed alcohol at the time of the offence, may be statistically over-represented as they may be less likely to elude arrest.

Nevertheless, it appears that the majority of arsonists are **male, young and unemployed**. In 1989, 85% of the alleged offenders were male, 46% were juveniles and 50% were

---

<sup>63</sup> BOCSAR, n 39, p 3.

unemployed.<sup>64</sup> In the United Kingdom, 77% of those arrested or cautioned for arson are under the age of 21.<sup>65</sup> It has been noted that whilst studies on arson throughout history have differed on their estimation of the prevalence of male offenders, **all** studies estimate that at least two thirds of arsonists are male.<sup>66</sup>

People who have a relationship to the property damaged or destroyed commit the majority of residential and commercial arson. Owners perform 31% of residential arson with another 31% comprising friends, family and tenants.<sup>67</sup> Owners are also responsible for 21% of commercial arson, friends and family commit a further 21%, with tenants committing another 21%. In contrast, strangers commit approximately 69% of rural property arson.<sup>68</sup>

## 8.2 Why?

### 8.2.1 General motives

Dr Richard Kocsis studied 148 arson incidents in New South Wales and Victoria between 1980 and 1998.<sup>69</sup> Each incident resulted in the conviction and incarceration of the offender. Kocsis found that Australian serial arsonists exhibited four distinct behaviours:

1. Sexual – the ignition of the fire was associated with some form of sexual expression or release;<sup>70</sup>
2. Resentment – state owned educational facilities were frequently targeted;<sup>71</sup>
3. Anger – associated with inflicting personal harm on an individual; and<sup>72</sup>
4. Wanton excitement – the pleasure is not sexual, typical target is bush areas.<sup>73</sup>

Kocsis also found that serial arsonists utilised a single point of origin for the fire, would steal from the target, if possible, and would plan the offence beforehand. The study formed part of an attempt to determine the psychological profile of an arsonist. Profiling is ‘the psychological technique whereby the behaviour patterns discernable in a crime, or series of

---

<sup>64</sup> *Ibid*, p 4.

<sup>65</sup> Barker, n 35, p 24.

<sup>66</sup> *Ibid*.

<sup>67</sup> BOCSAR, n 39, p 4.

<sup>68</sup> *Ibid*.

<sup>69</sup> Kocsis R, ‘Profiling arson investigations’, *NSW Police News*, 82(3), March 2002, pp 19-21.

<sup>70</sup> *Ibid*, p 20.

<sup>71</sup> *Ibid*.

<sup>72</sup> *Ibid*, p 21.

<sup>73</sup> *Ibid*.

crimes, are interpreted to provide a description of the probable offender'.<sup>74</sup> The value of psychological profiling in assisting with the apprehension of arsonists is controversial as some fear that it will result in certain groups within society being unfairly targeted. However, profiling may be helpful in providing a general explanation of why people commit arson. It may also assist in the apprehension of serial arsonists. The early detection of arsonists needs to be given priority as serial arsonists tend to light bigger fires each time.<sup>75</sup>

Ann Barker has completed an extensive review of the psychiatric literature available on arsonists and sorted the various theories on the motivations of arsonists into five categories:<sup>76</sup>

### 1. Acquisitive

An acquisitive arsonist causes damage in the course of gain, for example, setting fire to a home or business in order to fraudulently claim the insurance proceeds. Other examples include landlords deliberately setting fire to their property in order to drive out tenants to facilitate redevelopment.<sup>77</sup> Deliberately lit fires are also used to close or disrupt competing businesses.<sup>78</sup>

Insurance companies have been accused of overestimating the number of fraudulent insurance claims in order to defer payment. In September 2002, the house of a fireman, Ron Christie, burnt down. The insurer, Suncorp-Metway, refused to meet the claim on the basis that Mr Christie could have used his knowledge as a fireman to deliberately light the fire and not leave any evidence.<sup>79</sup> This was despite the fact that the police had cleared Mr Christie of any blame. Mr Christie only received the insurance proceeds after successfully suing Suncorp-Metway.

### 2. Vindictive

A vindictive arsonist wants the damage caused by the fire to result in suffering for a perceived aggressor. The arsonist may be motivated by jealousy or revenge. Vindictive arsonists sometimes target state owned educational facilities, for example, a student was charged in October 2002 for committing four school arson offences in the

---

<sup>74</sup> Ibid, p 23.

<sup>75</sup> Crowe F, 'The Arsonist's Mind' Paper presented at the National Academies Forum, Adelaide, 30 September-1 October 1999, 45 at 46.

<sup>76</sup> Barker, n 35.

<sup>77</sup> Brown D, 'Reactions ignore the incendiary motives', *The Australian*, 9/1/02, p 11.

<sup>78</sup> Ibid.

<sup>79</sup> 'Fireman wins blazing battle with insurer to clear name', *Australasian Business Intelligence*, 25/9/02, p 1.

Lower Hunter region in 2001 and 2002.<sup>80</sup> Another example of a vindictive arsonist is the case of a 20 year old man who was sentenced to 16 months gaol on October 2002 for setting fire to a home unit in Corrimal six weeks after he had been evicted for not paying rent.<sup>81</sup>

### 3. Instrumental

The instrumental arsonist lights fires as a reaction to a particular event and is usually designed to achieve a particular end. This end may be criminal, for example, the use of fire to conceal a crime, or it may be a terrorist action or a desire to make a political statement. Some offenders light fires as a cry for help or as a method of self-destruction.<sup>82</sup>

### 4. Cathartic

Cathartic arsonists light fires as the result of tension or anger. There are not usually any obvious environmental precipitants. The fire may have been lit for sexual pleasure, for other types of pleasure or excitement, by vandals, because of boredom, or simply for the relief of tension.

### 5. No obvious motive.

Arsonists do not always have a clearly discernible motive, hence the difficulty with profiling.

Whilst arsonists are motivated by a number of factors the most frequent motives for lighting fires are believed to be:

- revenge;

---

<sup>80</sup> 'Fitness for trial report requested over arson cases', *Newcastle Herald*, 5/10/02, p 6.

<sup>81</sup> 'Ex-tenant jailed for causing unit fire', *Illawarra Mercury*, 16/10/02.

<sup>82</sup> On 17 December 2001 some detainees at the Woomera Immigration Reception and Processing Centre lit fires that resulted in damage to 13 buildings following a demonstration regarding visas. This was not an isolated event as there were seven fires between 20 November and 17 December 2001 at a cost of approximately \$1.5 million (Source: Department of Immigration and Multicultural and Indigenous Affairs, 'Arson at Woomera Detention Facility', *Media Release*, 18/12/01). Commentators used a variety of expressions to describe the fires, ranging from a 'cry for help' (Jeremy Moore, Woomera Legal Outpost co-ordinating solicitor, quoted in 'Detainees continue on 'visa' arson campaign', *The Australian*, 19/12/01, p 3) to 'a deliberate criminal campaign' (Federal Government quoted in 'Asylum seekers "waging arson campaign for visas"', *Sydney Morning Herald*, 19/12/01, p 2). A year later, between 27 and 31 December 2002, fires were deliberately lit in five immigration centres throughout Australia. Fires were lit during demonstrations that protested the conditions of the centres. They are estimated to have caused approximately \$8.5 million damage (Source: 'Detainee fires: police look for proof of conspiracy', *Sydney Morning Herald*, 2/1/03, p 4). Fires were deliberately lit on 31 December 2002 at the Villawood detention centre with an estimated cost of \$500,000; 31 December 2002 at Christmas Island, cost unknown; 30-31 December 2002 at Woomera with an estimated cost of \$2.5 million; 29-30 December 2002 at Port Hedland with an estimated cost of \$3 million; and on 27 and 29 December 2002 at Baxter with an estimated cost of \$2 million.

- cry for help;
- pleasure/excitement;
- vandalism;
- boredom; and
- relief of tension.<sup>83</sup>

### 8.2.2 *Motives for lighting bushfires*

The motive for lighting fires may differ according to the type of property targeted by the arsonist. Dr Peter Shea has suggested that the following characteristics and themes are common to deliberately lit bushfires:<sup>84</sup>

1. Anger and revenge.

This is usually directed against society as a whole.

2. Attention-seeking behaviour.

The bushfire may be the result of low self-esteem or it may be a cry for help.

3. Mental illness.

Whilst mental illness may feature amongst some arsonists, caution should be exercised as a person may light a fire for reasons that have nothing to do with their having a mental illness.

4. Age.

Children often experiment with fire out of curiosity whereas adolescents tend to light fires as the result of peer pressure.

5. Intellectual impairment.

Impulsivity and an inability to relate present behaviour to possible future consequences can result in fire setting.<sup>85</sup>

6. Alcohol and drugs.

Alcohol and other drugs can loosen inhibitions and so exacerbate the tendency to light a fire initially motivated by another factor.

7. Pyromania.

Pyromania is defined as an impulse-control disorder where there is “a pattern of fire-

---

<sup>83</sup> Barker, n 35, p 81.

<sup>84</sup> Shea P, ‘The Lighting of Fires in a Bushland Setting’, *Judicial Officers Bulletin*, 14(1), February 2002, pp 1-4.

<sup>85</sup> For example, The *Sydney Morning Herald* reported in April 2002 that a 16 year old girl with a mental age of eight had been sentenced to a two year good behaviour bond for lighting five fires in the Eastwood and Pennant Hills area in January 2002 because she was angry and wanted attention. (Source: ‘Teenager went on arson spree to grab attention’, *Sydney Morning Herald*, 19/4/02, p 4).

setting for pleasure, gratification or relief of tension”.<sup>86</sup> Whether or not pyromania actually exists is a matter of some debate.

### 8.2.3 *Juveniles*

Much attention was given to the high incidence of juvenile arsonists during the 2001 Christmas bushfires as 17 out of the 23 people arrested were aged between nine and 16 years old. The proportion of juvenile arsonists is much higher than for other crimes and appears to be rising. For example, the rate of juvenile apprehensions in Victoria for property damage and arson increased during the 1990s from 309.7 per 100,000 to 852.2 per 100,000.<sup>87</sup> This was mirrored in Queensland where the rate increased from 1159 to 1401 per 100,000 between 1995/96 and 1999/00.<sup>88</sup> In contrast, the rate decreased in South Australia from 1124 per 100,000 in 1990/91 to 824.3 per 100,000 in 1999/00.<sup>89</sup>

Children’s motives for lighting fires may differ to adults. The National Association of State Fire Marshals in the USA determined that there were two categories of juvenile offenders, those who were merely curious about fire and those who were intentionally setting fires.<sup>90</sup> The children who set fires out of curiosity were usually between five and ten years old. On the other hand, older fire-setters usually set fires as result of aggression, sensation seeking, social skills deficits, deviance, vandalism, covert antisocial behaviour and attention-seeking behaviour.<sup>91</sup> The Association found that fire-setters generally came from dysfunctional families characterised by poor supervision and a lax child-care environment. The parents tended to be uninvolved in the child’s life, and abuse and neglect was common. The child had often been exposed to fire at an inappropriate age.

The NSW Fire Brigades identified the following social and environmental factors as being common to children who light fires in Australia:<sup>92</sup>

- Single parent home with the child usually living with the mother.
- Either no father figure present or a constant change of adult male.
- Recent trauma such as moving home or school
- Recent new baby

---

<sup>86</sup> Shea, n 84, pp 1-4.

<sup>87</sup> O’Connor I and Cameron M, ‘Juvenile Justice in Australia’, A Graycar & P Grabosky (eds), *The Cambridge Handbook of Australian Criminology*, Cambridge University Press, Cambridge, 2002, p 224.

<sup>88</sup> *Ibid*, p 224.

<sup>89</sup> *Ibid*.

<sup>90</sup> National Association of State Fire Marshals, *Juvenile Firesetter Intervention Research Project – Final Report*, 2000, p 5. A copy of the report is available at [www.firemarshals.org/issues/arson/pdf/nasfm\\_final\\_report.pdf](http://www.firemarshals.org/issues/arson/pdf/nasfm_final_report.pdf).

<sup>91</sup> *Ibid*, p 11.

<sup>92</sup> NSW Fire Brigades, ‘Fires caused by children 1987-1994’, *Statistical Research Paper*, 2/96, May 1996, p 4.

- Lower socio-economic profile
- ADD and hyperactivity
- Enjoys experimentation and exploration
- Feels neglected, suffers poor self-esteem
- Poor communicator or the child's parents are poor communicators
- Either extremely intelligent or a slow learner
- Behavioural problems at school and home.
- Difficulty in relating with peers
- Often prefers adult company
- Abused physically, sexually or mentally
- Easily influenced by peers.

Whilst the above factors may be helpful in identifying children at risk of lighting fires, it should be borne in mind that focusing on the individual may ignore wider social factors that also contribute to the incidence of arson. Criminologists have warned of the dangers of labelling theory, as it can result in the stigmatisation of sectors of the population.<sup>93</sup> This can have the counter-effect of increasing the risk of criminal behaviour as it acts as a 'self-fulfilling prophecy'.

The National Association of State Fire Marshals in the USA released a report on juvenile firesetters in 2001 and concluded that there were the following five types of pathological juvenile firesetters:<sup>94</sup>

1. Cry for help

Depression, attention deficit disorder and hyperactivity, and family stress usually feature amongst those who commit arson in order to attract attention. Recidivism was found to be frequently associated with physical and sexual abuse and chronic neglect. The children in this category were of a range of ages and usually responded well to treatment.

2. Delinquent

Children in this group were usually between 11 and 15 years of age. They were generally interested in vandalism, hate crimes, had little conscience and lacked empathy. Their firesetting behaviour was usually one of a number of personality and behavioural problems.

3. Severely disturbed

This group consisted of paranoid and psychotic individuals controlled by sensory reinforcement or self-harm motivations. They tended to avoid hurting others.

4. Cognitively impaired

Children in this group also tended to avoid intentionally harming others. Nevertheless,

---

<sup>93</sup> Cunneen C and White R, *Juvenile Justice: An Australian Perspective*, Oxford University Press, Melbourne, 1995, p 48.

<sup>94</sup> National Association of State Fire Marshals, n 90, p 10.

significant property damage was common and the child usually lacked good judgment. These children are thought to be good therapy candidates.

#### 5. Socio-cultural

This type set fires because of the support they received from their community for attracting attention to their cause and so on. They were found to avoid harming others but would cause significant property damage. Children in this group were found to be amenable to treatment.

The Association proposed that diagnosis of the type of firesetter would allow for a more effective intervention as the motivations could be more readily identified and dealt with. However, treatment should not be limited to the firesetting behaviour but should also consider the other problems frequently present.

Any attempt to profile arsonists quickly reveals that ‘...arson is not a homogenous offence, but is perpetrated for many different reasons by different types of people’.<sup>95</sup> Therefore, it is likely that a diverse range of strategies need to be implemented in order to effectively combat arson.

## 9 THE ROLE OF THE MEDIA

The media has an influence on public perception of the prevalence of arson. For example, a spate of bushfires occurred in the Southern and Hunter regions in October and November 2002 and the media quickly attributed the fires to arsonists. One newspaper report equated arsonists with terrorists ‘because both have no regard for human life’.<sup>96</sup> Cameron Wade of the Rural Fire Service, however, felt compelled to point out that though there were 90 fires burning throughout NSW, a large majority of them ‘were actually started by lightning strikes that went through about four days ago... although there are certainly accounts for arson in the fire situation, a lot of fires in NSW currently burning are results of lightning strikes, so we can’t say generally across the board that arson is the major concern at this point in time’.<sup>97</sup> Therefore, public perception of the number of deliberately lit fires may differ from reality.

Research has found a correlation between high fire danger periods and the deliberate lighting of bushfires. It has been suggested that the factors that provide the trigger for the lighting of a fire are associated with the high profile given to bushfires by the fire brigade, government and the media.<sup>98</sup> *Lateline* reported in November 2002 that there was a concern amongst criminologists that coverage of fires on the television was encouraging arsonists.<sup>99</sup>

---

<sup>95</sup> Barker, n 35, p 87.

<sup>96</sup> ‘Bushfire terror’, *Newcastle Herald*, 22/10/02.

<sup>97</sup> ‘Bushfires continue to threaten homes in the Hunter Valley’, *ABC News Online*, 11/11/02.

<sup>98</sup> Crowe, n 75, p 45.

<sup>99</sup> ‘Criminologists worried TV fire coverage encourages arsonists’, *Lateline*, Australian Broadcasting Corporation, 26/11/02.



Accordingly, an effective arson prevention strategy would need to consider such issues.

However, extensive media coverage of the bushfires also assists the community to be better prepared. People are shown how they should respond in the event of a fire, and residents are alerted to the relative danger of a fire in their area. Television coverage of the fires assists volunteer bush firefighting organisations to obtain funding as public awareness and support of their work is increased. Therefore, the dangers and benefits of television coverage need to be carefully balanced.

## **10 WHAT STRATEGIES ARE CURRENTLY IN PLACE?**

A range of strategies has been implemented in New South Wales as part of an effort to reduce the rate of arson. These strategies take a number of forms and are underpinned by a variety of philosophies. Some strategies are designed to prevent the crime from ever taking place whilst others focus on developing better investigative techniques so that a greater number of arsonists are caught.

### **10.1 Crime Prevention and Intervention**

#### **10.1.1 Schools**

A crime prevention program has been developed for students in years five and six in NSW primary schools.<sup>100</sup> As part of the Crime Prevention Workshop Program<sup>101</sup> children learn what it means to be a good citizen and how it feels to be a victim. Students participate in modules on assault and harassment, stealing, malicious damage and crime avoidance strategies. Crime prevention workshops have been operating in high schools in NSW since 1995.

The Department of Education has also implemented a number of other schemes in order to increase safety and security in schools including:<sup>102</sup>

- establishing Taskforce Var – a permanent education/police taskforce;
- creating a new Safety and Security Directorate in the Department of Education and Training;
- implementing a Priority Schools Action Program; and
- upgrading physical security at schools with fencing, new security patrols and security alarms.

It has been suggested that some schools leave themselves vulnerable to arson attacks because of such things as doors and windows being left unlocked, computer paper is left

---

<sup>100</sup> 'Students taught crime prevention', *Daily Telegraph*, 11/12/02, p 7.

<sup>101</sup> Hon J Watkins MP, Minister for Education and Training 'NSW Primary Schools get First Ever Crime-Prevention Program', *Media Release*, 11/12/02.

<sup>102</sup> Hon J Watkins MP, Minister for Education and Training, 'NSW Primary Schools get First Ever Crime-Prevention Program', *Media Release*, 11/12/02.

lying around and security lights are not switched on.<sup>103</sup> In 2000, the Department of Education and Training reported that more than five million dollars was being spent on electronic alarms, movement sensors, random security patrols, lighting and new school fencing to improve school security around New South Wales as it was recognised that ‘fire and arson cost our schools more than ten million dollars a year – money that would be better spent on students and teaching’.<sup>104</sup> A greater awareness of security issues is likely to assist in reducing the rate of arson.

### **10.1.2 Fire Brigades**

The New South Wales Fire Brigade has adopted the following two approaches to intervention that are both proactive and reactive:

1. Primary intervention.  
Officers meet and talk to children about fire competent behaviours, usually in the form of a classroom presentation; and
2. Secondary intervention.  
Programs have been introduced to deal with children who have been identified as having inappropriate firelighting behaviours.<sup>105</sup>

The Child Intervention Program (CHIP) commenced in NSW in 1990. The fire brigade intervenes when a child fire lighter has been identified. The program attempts to determine why the child is lighting fires and to subsequently develop an appropriate course of action, such as referring the child and family to social, medical or psychological professionals.<sup>106</sup> The Intervention Officer continues to work in conjunction with the social, medical or psychological professionals.<sup>107</sup>

The Juvenile Intervention and Fire Awareness Program is centred on a three-tier model that includes the provision of telephone advice and a resource kit, direct intervention by a local firefighter trained in the Program, or, if more appropriate, the juvenile is referred to another agency. In response to the 2001/2002 bushfires, the NSW Fire Brigade planned to extend the Program by conducting a pilot program in regional NSW for three months in 2002. The Program currently receives three referrals each week and is expected to increase to more than 400 referrals in the first year of the program.<sup>108</sup> The Program has recognised the value of co-operation between agencies as partnerships have been established with the Burns Unit at the Children’s Hospital at Westmead, Kidsafe, the Department of Juvenile Justice

---

<sup>103</sup> Geason and Wilson, n 51, p 45.

<sup>104</sup> Hon J Aquilina MP, Minister for Education and Training, ‘\$5 Million for School Alarms, Sensors and Security Patrols’, *Media Release*, 12/10/00.

<sup>105</sup> NSW Fire Brigades, n 92, p 11.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> NSW Fire Brigades, n 52, p 23.

(Youth Conferencing), the Department of Education and Training, the Department of Health (Centre for Mental Health), NSW Police, the Department of Housing, and a consultant psychologist. Discussions are also taking place with the Department of Community Services.

## 10.2 Investigation

Fire investigation skills are essential for the identification of the perpetrators of deliberately lit fires as well as the collection of evidence. The Blue Mountains Bushfire Risk Management Plan identified the need for Arson Investigation Programs as part of its Bushfire Risk Management Options.<sup>109</sup> The NSW Fire Brigades' Fire Investigation and Research Unit runs a Fire Investigation Course on advanced investigation skills. The Unit works closely with the NSW Police Forensics Group. Participants are tested on their ability to detect the origin and cause of fires, the preparation of reports and the photographic documentation and findings needed for a court case. As stated by the Emergency Services Minister, Hon. R. Debus MP, "Fire investigation training is part of our commitment to identifying arson and reducing the impact of fires".<sup>110</sup>

There have been a number of developments in arson investigation in the last decade. The investigation of bush fire arson has improved, training in fire cause investigation and research has commenced, and a volunteer based fire investigation unit has been formed.<sup>111</sup>

### 10.2.1 Strike Force Tronto

Strike Force Tronto, a police unit led by Police Commander John Laycock, was formed during the 2001 Christmas bushfires. It combines 46 investigators and analysts from all regions. The police service works closely with the Rural Fire Service, NSW Fire Brigades and other agencies. Its terms of reference include to:

1. Coordinate and assist the Local Area Command response to criminal activity pertaining to bushfires including reports of arson, looting and fraud.
2. Provide a coordinated report for the information and attention of the NSW State Coroner looking at the causes and origins of fires.<sup>112</sup>

The Strike Force investigated a number of fires that occurred in the crisis period between 24 December 2001 and late January 2002. A special fire investigation unit has been proposed to investigate and profile cases of suspicious bushfires.<sup>113</sup> Strike Force Tronto

---

<sup>109</sup> Blue Mountains Bushfire Management Committee, *Blue Mountains Bushfire Risk Management Plan*, 2001, p 33. A copy of the plan is available at [www.bluemountains.rfs.nsw.gov.au/secure/documents/BMRMP.pdf](http://www.bluemountains.rfs.nsw.gov.au/secure/documents/BMRMP.pdf).

<sup>110</sup> Hon R Debus MP, Minister for Emergency Services, 'Emergency Services Minister welcomes Fire Brigades' newest fire sleuths', *Media Release*, 7/8/02.

<sup>111</sup> NSW, Bushfire Coordinating Committee, *Report of the Coordinating Committee on the Findings of the NSW Bushfire Inquiry* (Koperberg P Chairman), 1996, p 6.

<sup>112</sup> NSW, Parliament, n 1, p 31.

<sup>113</sup> NSW Fire Brigades, n 52, p 24.

investigators have been deployed to 503 separate fires across the state, 154 of which were deemed suspicious.<sup>114</sup> They have examined 106 crime scenes together with the Forensic Services Group and Rural Fire Examiners. Rural Fire Service Investigators and Police search the bush to locate the origin of fires. Extensive site examinations are carried out, members of the rural fire service, police, and the public are interviewed, the scene is photographed and a final report prepared.<sup>115</sup>

369 persons of interest were identified following the 2001 Christmas bushfires and the majority were interviewed. The Strike Force charged 17 adults and four juveniles with bushfire-related offences. However, one adult was charged with 25 offences relating to separate fires in the Lapstone, Dooralong and Albury areas, and was sentenced to two years imprisonment. 106 people, forty of whom were juveniles, received a summons, court attendance notice, caution, conference, warning or infringement notice.<sup>116</sup> These incidents are believed to have been responsible for the destruction of 753,000 hectares of bushland.

Strike Force Tronto adopted an inter-agency approach to the investigation of fires. The Rural Fire Service was requested to carry out scene examinations in conjunction with Forensic Services Police. The Rural Fire Service also appointed an Administration Logistics Officer. This Officer assisted the Manager of Fire Investigation to liaise with Tronto and Rural Fire Service Investigators.<sup>117</sup>

The work of Strike Force Tronto continued throughout 2002 as numerous bushfires occurred throughout the year. It is believed that many of these fires were deliberately lit.<sup>118</sup> Known as Strike Force Tronto 2, the group has been set up to investigate arsonists relating to the November/December 2002 bushfire crisis.

### **10.2.2 NSW Rural Fire Service**

The NSW Rural Fire Service has identified the need to determine the cause of all fires whether large or small.<sup>119</sup> It is hoped that this will give the service a more thorough appreciation of fire causes, allowing them to develop more effective fire prevention strategies, as well as assisting in the apprehension and prosecution of persons who negligently or deliberately light fires. The Rural Fire Service has adopted a three level approach to fire investigation.<sup>120</sup>

---

<sup>114</sup> NSW Police Service, *2001-2002 Annual Report*, p 21.

<sup>115</sup> Woods R, 'Fire Investigations: Major Investigations for the Service', *Bushfire Bulletin: Christmas Fires 2001*, 23(4) – 24(1), 2002, p 148.

<sup>116</sup> NSW Police Service, 'Strike Force Tronto Update', *Media Release*, 4/4/02.

<sup>117</sup> Woods, n 115, p 148.

<sup>118</sup> Strike Force Tronto were reported as inquiring into fires at Lake Macquarie in late November 2002. 'Signs of arson as inferno spread', *Newcastle Herald*, 28/11/02, p 4.

<sup>119</sup> Woods, n 115, p 24.

<sup>120</sup> *Ibid.*

1. Brigade officers determine the cause of most accidental fires.
2. District/Regional Fire Investigation Teams investigate suspicious fires when requested by other agencies.
3. The Manager, Fire Investigation, assists in the investigation of suspicious fires if requested by Regional Units. The Manager also reviews trends in fire investigation findings and prepares reports for input into prevention and awareness programs.

### **10.2.3 State Forests**

State Forests now have trained forest fire investigators in the Wauchope and Hunter region as most of the fires in these areas in recent times were deliberately lit. Fire-spotting towers are used to detect fires with ground patrols used to get to the fires quickly. It is hoped that this will assist with catching arsonists in the act. The Government has promised that 'all suspicious fires will be investigated and recorded, and a database will be developed showing the location and nature of those fires'.<sup>121</sup>

### **10.3 Community involvement**

A number of initiatives utilise community concern about the rate of arson. People are encouraged to inform the police of any suspicious behaviour, such as during the November/December 2002 bushfires. Media attention was given to the possibility that some bushfires were started by cigarette butts thrown from passing cars. The community was urged to call Crime Stoppers rather than the Environmental Protection Authority, as a sign that discarding cigarette butts was now being treated as a criminal, rather than littering, offence.<sup>122</sup> Realsurf News, a daily surf report website, has urged visitors to its site to report anyone seen lighting bushfires.<sup>123</sup>

Local Councils have been using financial incentives to encourage reporting by offering rewards for the provision of information leading to the arrest of arsonists.<sup>124</sup> Hunter Valley Council is offering a \$1,000 reward for information leading to the conviction of anyone found lighting fires in the area. The Council is hoping the reward will serve as a deterrent to would-be offenders. The Insurance Council of Australia has established a nation-wide Arson Reward Scheme that offers an award of up to \$25,000 for information leading to the arrest and conviction of people responsible for arson. It is hoped that the scheme will act as a deterrent, assist in the provision of information to police, and assist insurers in refusing fraudulent insurance claims.<sup>125</sup>

---

<sup>121</sup> NSWPD, 5/9/02, p 4718.

<sup>122</sup> 'Throwing out cigarette butts more than a littering offence', Australian Associated Press, 5/12/02.

<sup>123</sup> Realsurf News, [www.realsurf.com.au/news/newsitem.php?id+85](http://www.realsurf.com.au/news/newsitem.php?id+85), accessed 12/12/02.

<sup>124</sup> ABC News Online, 'Bushfires continue to threaten homes in the Hunter Valley', 11/11/02.

<sup>125</sup> See [www.crimestopperssa.org.au/rewardsArson/main.html](http://www.crimestopperssa.org.au/rewardsArson/main.html) for more information.

## 10.4 Legislation

### 10.4.1 Juveniles

Concern about the apparent high incidence of juvenile arsonists was raised during the 2001 Christmas bushfires. In January 2002, Parliament amended the *Young Offenders Regulation 1997* to include section 19A – Outcome plans for bushfire/arson juvenile offenders.<sup>126</sup> An outcome plan for a child who admits to lighting a bush fire or destroying or damaging property by means of fire, and is directed to attend a youth conference, must provide for:

- (a) attendance by the child at a burns unit or ward of a hospital that agrees to participate in the youth justice conference scheme,
- (b) a meeting between the child and any victim of the offence who is willing to meet the child,
- (c) the making of reparation for the offence, such as:
  - (i) assistance in clean-up operations and in treatment of injured animals, and
  - (ii) the payment of compensation (not exceeding the amount that a court may impose on conviction for the offence).

However, police still retain their discretion as to whether a warning or caution is more applicable.

Concern has been expressed, however, over the suitability of arsonists being referred to conferencing. There is a fear that the conference might present the offender with an opportunity to relish the damage they have caused, if animosity was a motivation for lighting the fire.<sup>127</sup>

### 10.4.2 Bushfires

Following the 2001 Christmas bushfires, three inquiries were established. Strike Force Tronto was called to investigate criminal activity relating to the fires, a Coronial Inquiry was established, and on 12 March 2002, NSW Parliament appointed a Joint Select Committee on Bushfires. The Joint Select Committee published its report in June 2002.<sup>128</sup> The Report found that there was a need for further research into hazard reduction as well as a need for the community to be engaged in bushfire management planning and property protection. The *Crimes Amendment (Bushfires) Act*, which inserted a new separate offence of lighting bushfires into the *Crimes Act*, was assented to on 21 June 2002.

---

<sup>126</sup> *Young Offenders Amendment Regulation 2002* (NSW).

<sup>127</sup> 'Burning desire', *Sydney Morning Herald*, 30/11/02, p 27.

<sup>128</sup> NSW, Parliament, n 1.

## 10.5 Collaborative Approaches

The benefit of adopting an inter-agency approach to crime prevention and arson investigation has been recognised. The Australasian Fire Authorities Council was formed in 1993 to ‘establish better collaboration between fire services, land management agencies and other emergency services, allowing a forum for exchange of strategic information and development of national positions on important fire and emergency service issues’.<sup>129</sup> NSW is also a member of the International Association of Arson Investigators, together with Victoria, Queensland and New Zealand.

FM Global, a commercial and industrial property insurance group with a focus on risk management, launched an Arson Prevention Programme in 1990 in response to the increasing number of serious arson-related fires in the Asia and Pacific Region.<sup>130</sup> An Arson Fund was set up as part of the program to provide monetary grants for projects and equipment to non-profit organisations and agencies whose work directly relates to arson reduction.

## 11 AUSTRALIAN STRATEGIES OUTSIDE NSW

*Lateline* reported in November 2002 that only Western Australia, Victoria and Queensland have dedicated arson squads specifically trained to deal with fire scenes and forensic fire scenes.<sup>131</sup> No national arson database currently exists and Strike Force Tronto in New South Wales is only a temporary bushfire arson strike force. However, all Australian States and Territories have introduced intervention programs that target juvenile firefighters.

### 11.1 Australian Capital Territory<sup>132</sup>

In May 1999, the ACT Fire Brigade introduced a Juvenile Fire Awareness and Intervention Program. Children between the ages of three and 16 with dangerous firelighting behaviours are identified. Following the consent of their parent or guardian, the child participates in fire awareness sessions. Children may be referred to the service by parents, schools, police, courts, hospitals, child and adolescent mental health service, day care services, youth justice services, and the ACT Emergency Services Bureau. However, the program is not designed to replace professional psychological services.

The ACT Fire Brigade also conduct a fire education program where children in kindergarten learn about fire awareness.

---

<sup>129</sup> For further information visit the Australasian Fire Authorities Council website [www.ausfire.com](http://www.ausfire.com).

<sup>130</sup> Woods, n 115, p 24.

<sup>131</sup> *Lateline*, ‘Bushfire investigators don’t have the resources to catch arsonists’, Australian Broadcasting Corporation, 25/11/02.

<sup>132</sup> Further information on the ACT Fire Brigade Juvenile Fire Awareness and Intervention Program can be found at [www.esb.act.gov.au/fb/jfaip.htm](http://www.esb.act.gov.au/fb/jfaip.htm).

## 11.2 Northern Territory<sup>133</sup>

A Juvenile Fire Awareness and Intervention Program operates in the Northern Territory for children between the ages of three and 16. Children who participate in the program have shown either fire-lighting tendencies or have an interest in fire play. Parents, firefighters, teachers, Community Police Officers, Territory Health Services, schools and the Juvenile Justice Department may refer children to the program. A specially trained fire officer attends the child's home on two or three occasions to help the child develop an awareness of fire safety issues. The Program makes use of awards as a further incentive for improved behaviour. Younger children might receive a movie ticket whereas older children may experience a two-day work placement with the Brigade. It is hoped that the program will reduce the number of bush and scrub fires.

## 11.3 Queensland<sup>134</sup>

Juvenile firesetters are a significant problem in Queensland where they are the third largest cause of structural fires and one of the major causes of bushfires. The Fight Fire Fascination Program has been designed by the Queensland Fire and Rescue Service to combat such firesetting behaviour. A trained fire officer visits the child at home over a period of six months and uses a series of goals, objectives and rewards to discourage firelighting behaviour.

## 11.4 South Australia<sup>135</sup>

The Fire Safety Department of the South Australian Fire Services has been running a Juvenile Fire Lighters Intervention Program for the last ten years. Parents, firefighters, doctors, childcare agencies, the Women's and Children's Hospital and family care agencies may refer children between the age of four and 17. The program involves the use of role-plays, discussions and activities and is run by an experienced fire officer who visits the child's home over a number of weeks. To date, over 900 families have been involved in the program with a claimed success rate of 97%.<sup>136</sup>

## 11.5 Tasmania

The Tasmanian Fire Service co-ordinates a Juvenile Fire Lighter Intervention Program

---

<sup>133</sup> For further information see 'Juvenile Fire Awareness and Intervention Program' at [www.nt.gov.au/pfes/fire/Juvenile\\_Fire\\_Awareness.html](http://www.nt.gov.au/pfes/fire/Juvenile_Fire_Awareness.html).

<sup>134</sup> Information collated from Queensland Fire and Rescue Service 'Fight fire fascination' [www.fire.qld.gov.au/safety/fascination.asp](http://www.fire.qld.gov.au/safety/fascination.asp). Accessed 3/12/02.

<sup>135</sup> For further information see the South Australian Metropolitan Fire Service website at [www.samfs.sa.gov.au](http://www.samfs.sa.gov.au).

<sup>136</sup> Fire Safety Department, South Australian Fire Services 'J-Flip – Juvenile Fire Lighters Intervention Program', *Fire Safety Circulars*, p 2. Available on-line at [www.samfs.sa.gov.au/fire-safety/residential/pdf/hfs15.pdf](http://www.samfs.sa.gov.au/fire-safety/residential/pdf/hfs15.pdf), accessed 3/12/02.



which receives children between the age of three and 14 who have been referred by either parents, schools, the Department of Health and Community Services, Tasmania Police, Tasmania Fire Service, family physicians or other community organisations.<sup>137</sup> The program aims to teach children the dangers and consequences of playing with fire as well as increasing their awareness of fire safety issues. It has been found that over 90% of the children who complete the Program do not engage in further fire-lighting behaviour.<sup>138</sup>

The State Opposition has been calling for tougher measures to deal with arsonists. They have urged the Tasmanian Government to establish a police arson squad and a register of arsonists.<sup>139</sup>

## 11.6 Victoria<sup>140</sup>

The Melbourne Fire and Emergency Services Board, the Country Fire Authority and the Royal Children's Hospital are responsible for the Juvenile Fire Awareness and Intervention Program. The program is open to children between three and 16 who are visited at home by specially trained firefighters over a number of weeks. The child participates in role plays, discussions and activities where he or she learns to respect fire and develops an awareness of the consequences of fire. The program has the support of psychiatrists and psychologists from both the public and private sector. Children may be referred to the program by parents, fire personnel, doctors, child welfare agencies, juvenile justice, community policing, Children's Hospital Accident Prevention Centre and family welfare sources. Participation is mandatory for juvenile firefighters who are to appear before the Children's Court.

## 11.7 Western Australia

The Western Australian fire brigade conducts a Juvenile and Family Fire Awareness program that aims to teach children about the dangers of playing with fire. The program aims to reduce the risk of fire setting by identifying children who demonstrate inappropriate fire behaviour.<sup>141</sup>

An Arson Investigation Unit<sup>142</sup> is part of the Western Australian Police Service. It is a specialist investigative and support unit that determines the origin and cause of significant

---

<sup>137</sup> 'Education the best cure for arsonists', *Newcastle Herald*, 10/1/02.

<sup>138</sup> Tasmanian Fire Service, *State Fire Commission Annual Report 2001*, p 9.

<sup>139</sup> ABC News, 'Fire service gears up for danger season', Australian Broadcasting Corporation, 9/12/02

<sup>140</sup> For further information see the Metropolitan Fire and Emergency Services Board, 'Juvenile Fire Awareness and Intervention', [www.mfbb.vic.gov.au](http://www.mfbb.vic.gov.au).

<sup>141</sup> Kocsis, n 8, p 5.

<sup>142</sup> For further information see the Western Australia Police Service website at [www.police.wa.gov.au](http://www.police.wa.gov.au).

fires. The investigators are specially trained in both structure and wild fire scene examination. They can also give expert evidence in court on the origin and cause of fires. The Unit conducts a detailed analysis of fire trends within Western Australia and has identified a number of suburbs that have a higher than average rate of arson incidents.

The Unit has acknowledged the value of collaboration, evidenced by the forming of strategic partnerships with the Department of Conservation and Wildlife Management and Emergency Services Authority. The partnership with the Department of Conservation and Wildlife Management has facilitated the development of Wildfire Investigation Courses and has resulted in the more active investigation of wildfires. Together with the Emergency Services Authority, the Police Service runs a series of Structure Investigation/Fire Investigation courses.

An Arson Taskforce was established in Western Australia in 1997.<sup>143</sup> Membership is comprised of the Fire and Emergency Services Authority, Western Australia Police Service, Department of Conservation and Land Management, Education Department, Ministry of Justice, Department of Contract and Management Services and RAC Insurance. The Task Force is to provide policy direction and coordination between the agencies involved. Through collaboration between various agencies, it is hoped that arson prevention will become part of all government business. The State Arson Strategy encompasses both deterrence and intervention measures.

The success of arson prevention programs in Western Australia was recognised at the Emergency Management Australia National Safer Communities Awards 2002.<sup>144</sup> The Fire and Emergency Services Authority of Western Australia received a Highly Commended Award for its Arson Wildlife Prevention Activity.

## **12 OVERSEAS STRATEGIES**

Both the United Kingdom and the United States of America experience a large number of arson incidents every year. In order to combat arson, both the USA and UK have developed programs that draw on the strengths of a number of agencies in both the public and private sector.

### **12.1 United States of America**

In 1997, 110,000 incidents of arson were reported to law enforcement agencies in the United States of America.<sup>145</sup> 18% of those incidents were cleared up by law enforcement

---

<sup>143</sup> For further information see Lampard M, 'Partnerships in Arson Prevention' Paper presented at the Reducing Criminality: Partnerships and Best Practice Conference, Perth, 31 July and 1 August 2000.

<sup>144</sup> Details of the awards can be found at [www.ema.gov.au](http://www.ema.gov.au).

<sup>145</sup> Office of Juvenile Justice and Delinquency Program 'Juvenile Arson 1997' [www.ojjdp.ncjrs.org/about/99juvjust/990305b.html](http://www.ojjdp.ncjrs.org/about/99juvjust/990305b.html). Accessed 15 November 2002. Arson is defined by the Federal Bureau of Investigation as "any wilful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc".

agencies, generally by arrest.<sup>146</sup> As in Australia, a high proportion of those arrested for arson are juveniles, in 1997, 46%. Arson is also the criminal offence for which the greatest proportion of juveniles are arrested.<sup>147</sup> In 1997, deliberately lit fires caused more than 280 deaths, 2400 injuries and cost \$250 million in terms of property loss.<sup>148</sup>

The mission of the Bureau of Alcohol, Tobacco and Firearms is to:

- Provide arson and explosives statistics.
- Provide intelligence information in support of arson and explosives related criminal investigations. The Bureau maintains a database that can be queried with data from all federal and as many state and local law enforcement and fire service agencies as possible.
- Compile data necessary to describe trends and patterns related to arson and criminal misuse of explosives.
- Provide a method to increase/enhance communication among investigators working to solve similar type arson and explosives cases and provide access to selected arson and explosives reference materials.
- Provide resource materials to assist investigators with the identification of explosive material and techniques used to commit arsons and explosive related crime.
- Publish arson and explosives incidents reports.<sup>149</sup>

A proliferation of anti-arson programs has been introduced throughout the United States. Such programs attempt to curb the rate of arson by addressing both the contributing factors and symptoms of arson. A distinction is drawn between Arson Task Forces that address the issue of arson prevention at a policy level and Arson Strike Forces, which are specialised investigative forces.

An arson strike force is ‘a special purpose, short-term mobilization of a team (or teams) of investigators together with allied resources that applies high intensity investigative efforts to a major arson incident or series of incidents’.<sup>150</sup> The Strike Forces investigate the cause of fire, develop and share information about arsonists, and provide automatic assistance to other agencies that require the investigation of a fire. They are to be distinguished from a fire-police joint investigative unit. It is said that an arson strike force is a cost-effective method of countering arson as it allows for both resource-sharing between agencies and jurisdictions that are frequently on tight budgets as well as the development of a specialist forces who have the opportunity to hone their skills. The identified benefits of an arson

---

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

<sup>148</sup> National Association of State Fire Marshals, n 90, p 1.

<sup>149</sup> Bureau of Alcohol, Tobacco and Firearms, ‘Arson and Explosives Statistics’, [www.atf.treas.gov](http://www.atf.treas.gov). Accessed 11/11/02.

<sup>150</sup> Federal Emergency Management Agency, United States Fire Administration, ‘Establishing an Arson Strike Force’, *FA-88*, February 1989, p 2.

strike force are:<sup>151</sup>

1. Greater productivity with existing resources;
2. Better inter-agency coordination and cooperation; and
3. Stronger prosecutions.

Example: New Haven, Connecticut<sup>152</sup>

An interagency Arson Strike Force was formed in 1985 and subsequently developed the Arson Warning and Control System. The Program examined numerous records from the Building and Sanitary Code Enforcement Department, Fire Department, Inspection Department and Property Tax Department. It was found that buildings that had experienced arson fires also had a number of sanitary, fire code and building code violations and tax debts. Accordingly, records were then searched for buildings that shared these characteristics but had not experienced a fire as yet. Letters were sent to the owners of such buildings advising them of their profile and that a local/state/federal investigation would immediately be launched should a fire occur at any of these buildings. No fires have been recorded at any of these buildings.

Due to the high number of juveniles apprehended for arson offences, the Office of Juvenile Justice and Delinquency Prevention and US Fire Administration determined in 1987 to fund the National Juvenile Firesetter/Arson Control and Prevention Program (NJF/ACP Program).<sup>153</sup> The NJF/ACP Program aims to ‘conceptualise, design, develop, and evaluate a variety of community-based approaches to prevent and control juvenile firesetting’.<sup>154</sup> The program does not advocate a single model as it recognises the need for flexibility so that a program may be developed in accordance with the local environment. However, it claims that effective juvenile firesetter programs are comprised of the following:<sup>155</sup>

1. Program management - preferably involving a broad range of relevant agencies;
2. Screening and evaluation;
3. Intervention services - encompasses primary and early intervention as well as treatment;
4. Referral - the program is linked with various agencies, including, but not limited to, mental health and social services;
5. Publicity and outreach – to increase public awareness of the program and encourage early identification of firesetters;
6. Monitoring; and
7. Juvenile Justice system - strong links with the juvenile justice system may encourage the involvement of other agencies.

---

<sup>151</sup> Ibid, p 4.

<sup>152</sup> For more information see, Corry B and Toscano JP, ‘Setting up a community-based anti-arson program’, [www.interfire.org/features/anti-arson.htm](http://www.interfire.org/features/anti-arson.htm). Accessed 2 December 2002.

<sup>153</sup> Office of Juvenile Justice and Delinquency Program, n 145.

<sup>154</sup> Federal Emergency Management Agency, n 150, p 1.

<sup>155</sup> Ibid.

However, the NJF/ACP program did encounter some difficulties. Small departments with limited budgets, in remote areas, and dependent on volunteers were reluctant to become involved. Treatment could not always be effectively monitored due to technical difficulties, the lack of a central database, and restricted access to confidential information about juveniles.<sup>156</sup> It is likely that the implementation of such a program in the Australia would experience similar problems.

The NJF/ACP Program recommended the use of a current organisation, not necessarily the fire department, which has the experience of developing networks in the community to implement a program. However, involvement of the fire department was found to be essential to the long-term success of the program. The program implemented should build on the resources that already exist for countering firesetters. It is recommended that programs start small and gradually grow as community acceptance is gained. It is also recommended that a juvenile firesetter program be developed by an individual fire department before the program is used regionally.

## 12.2 United Kingdom

The United Kingdom has also developed strategies which it is hoped will reduce the incidence of arson. More than 90,000 incidents of arson occur each year in the United Kingdom.<sup>157</sup> In 1996 there were 136 deaths and 3284 casualties that resulted from deliberately lit fires.<sup>158</sup> The economic cost alone is huge with insurance companies paying more than one million pounds every day on arson related claims.<sup>159</sup> The Association of British Insurers and the Home Office established the Arson Prevention Bureau in 1991. It aims to spearhead and co-ordinate a national campaign to reduce both the cost and incidence of arson by raising awareness, undertaking initiatives and working closely with other organisations.<sup>160</sup> The Bureau has adopted an inter-agency approach by bringing together government departments, fire and police services, insurers, major trade associations and other interested parties. Together they produce guidance documents for the control of arson.

## 13 THE WAY FORWARD?

There are many different views on the most effective way to counteract arson. Many suggestions have been made by various sectors of the community particularly in response to recent bushfires. Only a few programs specifically formulated to combat arson exist. However, there are an increasing number of general crime prevention projects that have been developed. Many of these crime prevention projects are designed for juveniles.

---

<sup>156</sup> Ibid, p 5.

<sup>157</sup> Arson Prevention Bureau, [www.arsonpreventionbureau.org.uk](http://www.arsonpreventionbureau.org.uk), Accessed 11 November 2002.

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

<sup>160</sup> Ibid.

### 13.1 Address socio-economic factors

Research has clearly indicated that many offenders come from a socially and economically disadvantaged background. Therefore, it has been suggested that there are three key ways to reduce the supply of offenders:

1. reduce the level of economic stress;
2. prevent geographic concentration of poverty so as to attenuate the influence of delinquent peers; and
3. introduce family and child support programs designed to prevent social and economic stress exerting disruptive effects on the parenting process.<sup>161</sup>

### 13.2 Develop arson prevention programs

In 1994, the NSW Fire Brigade recommended the following pro-active arson prevention schemes:<sup>162</sup>

- a juvenile fire setting program to be established by the fire brigade;
- connections made with other public and private sector agencies and associations to generate a better understanding of the positive impact of effective arson prevention programs;
- the government, insurance industry and fire brigade should develop strategies to limit the incentives and opportunities for fraud;
- the introduction of community based programs such as media campaigns, anti-arson and fire safety workshops, neighbourhood patrols;
- the establishment of prevention task forces; and
- investigation training.

Some eight or so years later, it appears that many of these strategies have been developed and put into practice as identified in section 11 of this paper.

The NSW Fire Brigades have recommended that arson prevention campaigns be both pro-active and reactive. They suggest that a base of knowledge should be established and maintained that encompasses well-trained investigators whose successful efforts will deter potential arsonists and reduce repeat offences. However, they also recommend that an inter-agency approach be adopted by making connections with other public and private sector agencies and associations to generate a better understanding of the positive impact of effective arson prevention programs. The Fire Brigades also stress the importance of loss management; community based programs such as media campaigns, anti-arson and fire safety workshops, neighbourhood patrols, public relations campaigns, prevention task forces and investigation training.<sup>163</sup>

---

<sup>161</sup> Moore G, Untitled, Paper presented at the Parliament of NSW Legislative Council, Standing Committee on Law and Justice, Conference on Crime Prevention Through Social Support, December 1998, 195 at 202.

<sup>162</sup> NSW Fire Brigades, n 5, p 20.

<sup>163</sup> Ibid.

David Brereton has suggested that crime prevention responses should increase patrols in places and at times when there are known to be problems.<sup>164</sup> This could be extended to increased surveillance of rural areas favoured by arsonists. The Blue Mountains Bushfire Management Committee found that arson was the predominant cause of fires within the developed areas and along the major lines of access within the Blue Mountains.<sup>165</sup> They recommended as part of their Bushfire Risk Management Options that access should be closed to management areas where arson activity is frequent as well as increasing patrols of the high arson ignition locations increased. It was found that bushfires tend to be lit on days of higher fire danger.

Continued development of early intervention approaches is an effective strategy in the long-term as there is clear evidence that well-designed interventions can significantly reduce juvenile crime.<sup>166</sup>

### 13.3 Develop arson investigation techniques

A number of interested bodies have specifically noted the need for improved fire investigation techniques. The *Report of the Coordinating Committee on the Findings of the NSW Bushfire Inquiry* made the following recommendations in 1996:<sup>167</sup>

- The cause and origin of all bushfires be investigated to the fullest extent practicable;
- The investigation authorities to make an annual report to the Coordinating Committee on the results of their investigations into bushfires caused by arson; and
- Penalties are currently accurate and should be maintained.

The Nature Conservation Council of New South Wales has recommended that the police, National Parks and Wildlife Service, Rural Fire Service, State Forests of NSW, Road Traffic Authority, Department of Land and Water Conservation and local councils should:

1. Mount a public education campaign on the liabilities of people illegally lighting or using fire;
2. Increase their efforts and willingness to adequately investigate the illegal lighting or use of fire including obtaining forensic evidence; and
3. Allocate adequate human and financial resources in order to give greater priority to pursuing the prosecuting of people whom illegally light or use fire.<sup>168</sup>

---

<sup>164</sup> Brereton D, 'Policing and Crime Prevention', D Chappell and P Wilson (eds), *Crime and the Criminal Justice System in Australia: 2000 and Beyond*, Butterworths, Sydney, 2000, p 127.

<sup>165</sup> Blue Mountains Bushfire Management Committee, n 109, p 15.

<sup>166</sup> Gant F and Grabosky P, *The Promise of Crime Prevention*, (2<sup>nd</sup> ed), Australian Institute of Criminology, Canberra, 2000. This publication provides an overview of a number of crime prevention projects operating both in Australia and overseas and notes the success of each program. The benefits of each program far outweighed the cost.

<sup>167</sup> NSW, Bushfire Coordinating Committee, n 111, p 94.

<sup>168</sup> Nature Conservation Council of NSW, *NCC Bush Fire Policy 1997*, [www.nccnsw.org.au/bushfire/context/policy.html#22](http://www.nccnsw.org.au/bushfire/context/policy.html#22). Accessed 18 November 2002.

Similarly, a major theme of submissions received from the Blue Mountains area by the Joint Select Committee on Bushfires in 2002 was the need for better arson policing.<sup>169</sup> Crowe has argued that some fire agencies are dismissive of the need to determine the origin and cause of insignificant bushfires. The possible consequence of this attitude is that ‘the real motivations for these fires go unrecognised, and many of those that are lit by people who have an unhealthy attitude towards fires and the community are not properly examined. These are the incidents that require the most attention. Potentially they are the ‘breeding-grounds’ for future arsonists’.<sup>170</sup>

New approaches to the investigation of arson are being developed. UTS and the NSW Fire Brigade’s Fire Investigation and Research Unit have sponsored the ‘Development and Validation of Canine Accelerant Detection Program’. Research has shown that a sniffer dog has the ability to ‘identify traces of complex chemical substances that elude sophisticated chemical analysis in the laboratory’.<sup>171</sup> The dogs have demonstrated the ability to detect minute traces of accelerants that produce false negatives in laboratory testing. The NSW Fire Brigade has reported that the Accelerant Detection Canine Program has reduced the time taken for frontline firefighters to undertake fire origin and cause analysis.<sup>172</sup> It has been argued that the development of programs such as these will help secure the successful prosecution of arsonists.

#### 13.4 Develop intervention programs

Successful youth fire setting intervention programs seem to consist of the same foundation components.<sup>173</sup> The fire service, law enforcement agencies, fire investigation teams, mental health professionals, juvenile justice, education, child welfare, burn treatment, paediatric medical, local media, civic organisations and the insurance industry are the key partners in developing such a program. It has been suggested that the juvenile prone to fire setting needs to:

1. be identified by one of these agencies;
2. have a relationship with the relevant agency established;
3. commence an education program;
4. have their motivation for setting fires determined;
5. commence the intervention service; and
6. be followed up and evaluated.<sup>174</sup>

---

<sup>169</sup> Stanwick J, *Early Childhood Crime Prevention – Implications for Policing*, Australasian Centre for Policing Research, Payneham, 2001, p 90

<sup>170</sup> Crowe, n 75, 47.

<sup>171</sup> Sarzin A, ‘Sniffing out arsonists’, *NSW Police News*, 82(5), May 2002, p 37.

<sup>172</sup> NSW Fire Brigades, n 52, p 26.

<sup>173</sup> Porth D, ‘Developing a Youth Firesetting Intervention Program’, [www.sosfires.com](http://www.sosfires.com). Accessed 11 November 2002.

<sup>174</sup> *Ibid.*



### 13.5 Youth conferencing

The *Young Offenders Act 1997* introduced the use of police cautions and family group conferencing in order to divert as many young offenders as possible away from the criminal justice system. Family conferencing was initially developed in New Zealand and involves the offender and their family/support group meeting with the victim and their family/support group. Such conferences have been operating in NSW since 1991, however, since the passing of the *Young Offenders Act* in 1997 they have had a statutory basis. A mediator is present to assist the process of the offender acknowledging the harm they have caused with the parties working together to determine an appropriate form of restitution.<sup>175</sup>

Before a conference is able to take place, the offender must admit their guilt, and the offence must be one for which a conference is deemed suitable by the Act. According to the *Young Offenders Act*, arson is deemed suitable for youth conferencing provided that it did not result in the death of any person.

Youth conferencing is based on the notion of restorative justice. Restorative justice “places greater emphasis on the role and experience of victims in the criminal process, it gives lay and legal actors decision-making authority, and it permits more of a free play of discussion between all parties involved... the aim is to repair the harm caused by crime, not punish the crime”.<sup>176</sup> Whilst this process arguably assists in reintegrating the offender into the community, it has been criticised on the grounds that the deep and fundamental economic and educational problems that contributed to the commission of the crime remain unaddressed.<sup>177</sup> Nevertheless, the potential of youth conferencing could be further explored.

---

<sup>175</sup> Polk K, ‘The Coming Crisis of Abandoned Youth: A Look at the Future of Juvenile Justice in Australia’, A Borowski and I O’Connor (eds), *Juvenile Crime, Justice and Corrections*, Longman, South Melbourne, 1997, p 494.

<sup>176</sup> Daly K and Hayes H, ‘Restorative Justice and Conferencing in Australia’, *Trends and Issues in Crime and Criminal Justice*, 186, February 2001, p 2.

<sup>177</sup> Polk, n 175, p 494.

### 13.6 Promote collaboration between relevant agencies

An effective strategy for reducing the incidence of arson would harness the resources and ideas of those who have an interest in the issue, in both public and private organisations. Smaller governmental agencies or even non-government groups are likely to have stronger community ties that may be used to advantage. There is a financial incentive for the involvement of insurance companies. The National Crime Prevention Program launched by the Commonwealth government in 1997 recognised the potential benefits of collaboration. A Crime Prevention Ministerial Forum was formed involving the Ministers of each jurisdiction in Australia together with the relevant New Zealand Ministers. The forum agreed to 'to promote collaboration within and across governments in partnership with the non-government and private sectors' by the year 2000.

### 13.7 Improve the recruiting process for fire brigades

A number of arsonists are unfortunately members of fire brigade organisations.<sup>178</sup> Whilst the media may over-emphasise the number of firefighters who are also arsonists due to the sensational nature of the story, Kocsis has suggested that consideration be given to psychological screening conducted by fire fighting organisations during times of recruitment.<sup>179</sup> Whilst some level of screening exists for the paid fire brigade, Kocsis believes that further screening needs to be developed for the volunteer fire brigade. He also recommends that policies that pay staff according to the number of fires attended be reformed.<sup>180</sup>

## 14 CONCLUSION

The law as it relates to arson continues to develop in NSW, particularly in response to the 2001 Christmas bushfire crisis and the subsequent government initiatives that were developed. A number of strategies to counter arson attacks have been developed in the last ten years and continue to gain support. Crime prevention programs have been introduced and more resources dedicated to improving the sophistication of the investigation of suspected arson incidents. Much can be learnt from the experience of other jurisdictions and the successes and failures of their legislative reforms and policies. The imposition of tougher penalties to deter potential arsonists continues to be a popular approach. However, given the difficulties of collecting evidence and identifying arsonists, it is also important to continue to develop crime prevention techniques.

---

<sup>178</sup> Peter Burgess, a 20 year old serial arsonist pleaded guilty to 16 charges of arson and was sentenced to two years imprisonment in June 2002. Burgess had joined a number of volunteer fire brigades but attracted suspicion because he was always first on the scene. He would often report the fires after lighting them. Burgess explained that fire made him excited and that he got satisfaction from the praise given to volunteer firefighters. He also said he would sometimes light fires because he was bored. Source: 'Deadly quest for praise', *Sydney Morning Herald*, 30/11/02, p 27.

<sup>179</sup> Kocsis, n 8, p 5.

<sup>180</sup> *Ibid.*