

Chapter 1 : Expert Arson Lawyer and Prosecutor

State arson prosecution guides generally agree that the prosecutor should be involved early in the case, ideally by attending the fire scene (e.g. California District Attorneys Association, ; Burnette and Smith,).

Furnishing goods or services upon presentation of credit card or debit card illegally obtained or possessed. Unlawful acts; criminal penalty; civil penalty. A person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any: Dwelling house or other structure or mobile home, whether occupied or vacant; or 2. A person who willfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of: Any unoccupied personal property owned by him or her in which another person has a legal interest; or 3. A person who willfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in NRS In any prosecution under this section the placing or distributing of any inflammable, explosive or combustible material or substance, or any device in any building or property mentioned in NRS In addition to any other penalty, the court shall order the person to pay restitution. The court may, in addition to imposing the penalties set forth in NRS The costs of providing police and fire services related to the crime; or 3. Whenever any building or structure which may be the subject of arson in either the first or second degree shall be so situated as to be manifestly endangered by any fire and shall subsequently be set on fire thereby, any person participating in setting such fire shall be deemed to have participated in setting such building or structure on fire. To constitute arson it shall not be necessary that another person than the defendant should have had ownership in the building or structure set on fire. Any willful preparation made by any person with a view to setting fire to any building or structure shall be deemed to be an attempt to commit the crime of arson, and shall be punished as such. Definition; penalties; venue; exception. Except as otherwise provided in subsection 5, a person who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed. The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted: Every person who unlawfully breaks and enters or unlawfully enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car may reasonably be inferred to have broken and entered or entered it with intent to commit grand or petit larceny, assault or battery on any person or a felony therein, unless the unlawful breaking and entering or unlawful entry is explained by evidence satisfactory to the jury to have been made without criminal intent. A person who, by day or night, forcibly enters an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a person is present at the time of the entry, is guilty of invasion of the home. A person who is convicted of invasion of the home and who has previously been convicted of burglary or invasion of the home must not be released on probation or granted a suspension of sentence. Whenever an invasion of the home is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the conveyance, vessel, boat, vehicle, house trailer, travel

trailer, motor home or railroad car traveled during the time the invasion was committed. As used in this section: Every person who, in the commission of a burglary or invasion of the home, commits any other crime, may be prosecuted for each crime separately. A person who, with the intent to commit a crime, breaks and enters, either by day or by night, any building whether inhabited or not, and opens or attempts to open any vault, safe or other secure place by use of nitroglycerine, dynamite, gunpowder or any other explosive, is guilty of burglary with explosives. A person convicted of burglary with explosives is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years. Every person who makes or mends or causes to be made or mended, or has in his or her possession in the day or nighttime, any engine, machine, tool, false key, picklock, bit, nippers or implement adapted, designed or commonly used for the commission of burglary, invasion of the home, larceny or other crime, under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a crime, or knowing that the same is intended to be so used, shall be guilty of a gross misdemeanor. The possession thereof except by a mechanic, artificer or tradesman at and in his or her established shop or place of business, open to public view, shall be prima facie evidence that such possession was had with intent to use or employ or allow the same to be used or employed in the commission of a crime. As used in NRS A person who forcibly enters an uninhabited or vacant dwelling, knows or has reason to believe that such entry is without permission of the owner of the dwelling or an authorized representative of the owner and has the intent to take up residence or provide a residency to another therein is guilty of housebreaking. A person is presumed to know that an entry described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that: A person convicted of housebreaking is guilty of: A person convicted of housebreaking and who has previously been convicted three or more times of housebreaking must not be released on probation or granted a suspension of sentence. A person who takes up residence in an uninhabited or vacant dwelling and knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner is guilty of unlawful occupancy. A person is presumed to know that the residency described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that: A person convicted of unlawful occupancy is guilty of a gross misdemeanor. A person convicted of unlawful occupancy and who has been convicted three or more times of unlawful occupancy is guilty of a category D felony and shall be punished as provided in NRS A person who is accused of unlawful occupancy pursuant to subsection 1 and has previously been convicted two times of housebreaking, unlawful occupancy or any lesser included or related offense, or any combination thereof, arising from the same set of facts is presumed to have obtained residency of the dwelling with the knowledge that: A person is guilty of unlawful reentry if: A person convicted of unlawful reentry is guilty of a gross misdemeanor. A person who draws a check with intent that it be so delivered shall be deemed to have issued it if the delivery occurs. Property in the possession of the defendant in which another person has only a security interest shall be deemed not to be the property of that other person, even if that person holds legal title to the property pursuant to a security agreement. The value of a written instrument which does not have a readily ascertainable market value is the greater of the face amount of the instrument less the portion satisfied or the amount of economic loss to the owner of the instrument resulting from the deprivation of the instrument. The trier of fact shall determine the value of all other property whose value is not readily ascertainable, and may, in making that determination, consider all relevant evidence, including evidence of the value of the property to its owner. Except as otherwise provided in subsection 2, a person commits theft if, without lawful authority, the person knowingly: The pretense may be verbal or it may be a physical act. A person who commits an act that is prohibited by subsection 1 which involves the repair of a vehicle has not committed theft unless, before the repair was made, the person received a written estimate of the cost of the repair. Conduct denominated theft in NRS A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS The amount involved in a theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained. Amounts involved in thefts committed pursuant to a

scheme or continuing course of conduct, whether from one or more persons, may be aggregated in determining the grade of the offense. A person who participates in organized retail theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for: In addition to any other penalty, the court shall order a person who violates this section to pay restitution. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of 90 days: In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in the organized retail theft was committed, regardless of whether the defendant was ever physically present in that jurisdiction. Unless a greater penalty is imposed by a specific statute and unless the provisions of NRS In addition to any other penalty, the court shall order the person who committed the theft to pay restitution. A plate, label, trademark, term, design, device or form of advertisement is in the form and similitude of the genuine instrument imitated if the finished parts of the engraving thereupon shall resemble or conform to the similar parts of the genuine instrument. Every person who, with intent to injure or defraud, shall: 1. Make any false entry in any public record or account; 2. Fail to make a true entry of any material matter in any public record or account; or 3. Every person who makes, passes, utters or publishes, with an intention to defraud any person or persons, body politic or corporate, either in this state or elsewhere, or with the like intention attempts to pass, utter or publish any fictitious bill, note or check purporting to be the bill, note or check, or other instrument in writing, for the payment of money or property of some bank, corporation, copartnership or individual, when in fact there is no such bank, corporation, copartnership or individual in existence, the person knowing the bill, note, check or instrument in writing for the payment of money or property or any labor claim or claims to be fictitious, is guilty of forgery, and shall be punished as provided in NRS Whenever the note, bill, check or other instrument in writing is drawn upon any bank, proof that the purported drawer had no account at the bank shall be deemed sufficient evidence to sustain the allegation of the nonexistence of the drawer of such instrument. The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government and bearing the pretended signature of any person therein falsely indicated as an agent or officer of such corporation, association, state or government, is forgery the same as if that person were in truth such officer or agent of such corporation, association, state or government. Every person who, knowing the same to be forged or altered, and with intent to defraud, shall utter, offer, dispose of or put off as true, or have in his or her possession with intent so to utter, offer, dispose of or put off any forged writing, instrument or other thing, the false making, forging or altering of which is punishable as forgery, shall be guilty of forgery the same as if the person had forged the same. Whenever the false making or uttering of any instrument or writing is forgery, every person who, with intent to defraud, shall offer, dispose of or put off such an instrument or writing subscribed or endorsed in his or her own name or that of any other person, whether such signature be genuine or fictitious, under the pretense that such subscription or endorsement is the act of another person of the same name, or that of a person not in existence, shall be deemed guilty of forgery and shall be punished accordingly. A person who is authorized to take a proof or acknowledgment of an instrument which by law may be recorded, who willfully certifies falsely that the execution of the instrument was acknowledged by any party thereto, or that the execution thereof was proved, is guilty of a category D felony, and shall be punished as provided in NRS A person shall not willfully sign the name of another person, whether living or deceased, or of a fictitious person to any petition. A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS Each false or wrongful signature on a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense. A person shall not willfully add to, revise or alter any petition with the intent to falsify the name or any information concerning the age, citizenship or residence of another person who signs the petition. Each addition, revision or alteration to a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense. A person shall not willfully offer or provide any consideration, gratuity or reward to another person with the intent to induce the other person to sign his or her own name to or withdraw his or her own name from any petition.

Each offer or provision of consideration, gratuity or reward to another person in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense. A person shall not, knowing that any petition contains any false or wrongful signature, statement or information, file the petition or cause the petition to be filed. Each filing of a petition in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense. A person shall not, in signing his or her own name to any petition, willfully subscribe to any false statement concerning his or her age, citizenship, residence or other qualifications to sign the petition. A person who violates the provisions of this subsection is guilty of a misdemeanor. Each subscription to a false statement in violation of this subsection, whether related to a single petition or multiple petitions, constitutes a separate offense. Except as otherwise provided in this subsection and subsections 2 and 3, a person who willfully, with an intent to defraud, draws or passes a check or draft to obtain:

Although there are a number of books on the market dealing with the various aspects of arson investigation, this is the only book that combines both arson investigation and the law relating to all aspects of arson from investigation through prosecution.

Statistical Picture of Arson Prosecutions Arson cases are the least often, least effectively prosecuted criminal offenses in America. At the same time, arson cases are the single largest dollar loss crime in America, exceeding the total of all burglaries, thefts and armed robberies combined. The clearance rate nationally in arson cases is under ten percent. The conviction rate nationally, as a percentage of the incidence of arson, is under one percent. An arsonist has a ninety-nine percent statistical probability of escaping conviction for his crime. People all over the country line up to buy lottery tickets every week with perhaps one chance in twenty million of winning, while an arsonist has a ninety-nine percent probability of "winning" as he strikes the match. Clearly, the criminal justice system has failed in its handling of arson cases. Why is the Picture of Arson Prosecution so Dismal? Why is the picture of arson prosecution so dismal? There are many reasons. Arson is typically committed with a carefully calculated plan to minimize the chance of detection. Inevitably, the arsonist has established an alibi. Invariably, there are no eyewitnesses to the commission of the crime. Predictably, much of the physical evidence is destroyed in the fire. Regrettably, the case is investigated by over-worked and under-staffed law enforcement agencies unable to dedicate the investigative resources necessary to uncover the crime. Ultimately, arson cases are prosecuted by state attorneys unfamiliar with the strategies needed to effectively prosecute the offense and unwilling to take on a case involving "only circumstantial evidence" with no eyewitnesses able to testify that they saw the arsonist set the fire. There are too many excuses for the inability of the criminal justice system to effectively handle arson cases. It is time to change this picture and bring a new approach to the investigation and prosecution of arson cases. The Anatomy of the Crime of Arson It must begin with an understanding of the anatomy of arson. Arson is by its very nature a clandestine offense, often committed under cover of darkness and almost always away from any eyewitnesses in order to minimize the chance of detection. The evidence is almost entirely circumstantial by definition. The evidence of the crime itself must be recreated from the ashes of the fire. The connecting evidence implicating the defendant must be derived from a chain of circumstantial evidence in nearly every case of arson. This must be recognized and accepted when taking on a case of arson. The successful investigation and prosecution of an arson case requires a commitment of investigative resources to put together a circumstantial case and a commitment on the part of the prosecutor to take a circumstantial case to trial. Only in this context can an arson case be successfully investigated and prosecuted. While potential arson prosecutions are typically rejected because of "inadequate evidence" or the absence of any direct evidence, this is too often an easy way out. When the ted bundy murder cases seized the attention of the nation, a coordinated investigative effort led to the successful prosecution and conviction of ted bundy. The case was entirely circumstantial in nature. There were no eyewitnesses to the offense. Still, a successful prosecution was obtained through the results of a coordinated investigative and prosecutorial commitment to proving the case. There are countless other examples of the ability of the criminal justice system to prove a case where the public outcry mandates a response to solve a crime despite the availability of only circumstantial evidence. There is almost no arson case anywhere which could not be proved through the efforts of an investigative response such as found in most murder cases. In the final analysis, it is not a question of whether it can be done, but simply a question of whether it will be done. Use of Circumstantial Evidence: A Sample Case Ironically, the very circumstantial evidence which is so often viewed as the "weakness" in the case is actually the most convincing evidence proving the guilt of the defendant. Much of the circumstantial evidence in an arson case is objective scientific evidence. The principles of fire science, chemistry and physics are the key to solving a case of arson. It is scientific evidence which establishes a fire to be incendiary in origin. That same scientific evidence can provide compelling evidence connecting the defendant to the crime. The method by which a fire is set and the progression of the fire can provide almost irrefutable evidence of guilt. Consider a

typical scenario: The fire is discovered more than forty-five minutes after the defendant left his home that evening. The defendant claims he left the home safe and secure with no indication of a fire. He reports there had been problems with the electrical wiring in his home and it was serviced by an electrician only days before the fire. The defendant has an unimpeachable alibi for his whereabouts at the time the fire was discovered. He has a ready explanation for a fire accidentally occurring in his home. Even if he agrees the fire was arson, he has a likely suspect in an employee he recently fired or a neighbor who had a grudge against him and who had threatened him. Surely, there is insufficient evidence in this case to charge the defendant - or is there? The fire investigator who examined the fire scene has conclusively established the fire as incendiary. The electrical wiring, the appliances and all other potential accidental causes of a fire have been ruled out. The burn patterns show the fire was set in a back room of the house with the use of an "accelerant" - gasoline. The person who discovered the fire found the house engulfed in flames from one end of the structure to the other. Based upon the construction of the house and the available combustible materials - the "fire load" - the investigator has determined the fire had already been burning for at least thirty minutes to an hour before it was discovered. The house was found completely secure by the responding fire department with all doors and windows intact. There were no indications of forcible entry into the house before the fire department broke down the doors. Already, two key facets of the case have been established: The circumstantial case is building. Further investigation shows the defendant had the only set of keys to the house and they were in his pocket the night of the fire. A family photo album kept on the coffee table in the living room was missing in the fire debris. Everything else in the house with any extrinsic value was accounted for in the fire debris. Interviews with neighbors showed the defendant had recently expressed concerns about his financial situation and had mentioned having to sell the house. A local realtor had been contacted by the defendant concerning a sales listing of the house. The realtor anticipated it could take at least six months to a year to close the sale on the property. The circumstantial evidence of motive is becoming clear. He had already received several notices from the bank threatening foreclosure. In the event of a foreclosure, the defendant would have lost all his equity in the home and his credit would be ruined. Even if he tried to sell the property, in the time it would take to close a sale he ran the risk of losing the property to the bank in foreclosure if it did not sell quickly. However, in the event of a fire the defendant stood to gain much more. The insurance company would be required to immediately pay off the mortgage note after a fire, thereby avoiding the potential of a foreclosure action. He would have an insurance claim payable within sixty days at no expense or cost to him. On top of all this, the defendant had "replacement cost coverage" for his personal property. The policy of insurance would pay him the full cost for all of his furnishings, clothing and personal effects to be replaced with brand new items. Now, let us revisit the question of whether this is a prosecutable case. The defendant claims to have an absolute alibi. He has at least two ready explanations for a fire at his house, whether accidental or not. The evidence is "only circumstantial". Yet, this is clearly a winnable case for the investigator and prosecutor willing to take on the challenge. This is how a case of arson-for-profit can be proved. In other types of arson cases the same result can be obtained. In a case of arson set to cover a crime, the evidence of the underlying crime is almost always discoverable despite the destruction of the fire. Indications of forcible entry into the premises, the theft of property or the murder of a victim can be established from the evidence left at the fire scene. The fire investigator can establish this evidence in coordination with other experts, such as the medical examiner or toxicologist. The method by which the fire is set is often the best clue to the motive for setting the fire. A qualified fire investigator can show a jury the fire was an after-thought to the crime, set with available combustibles or flammables found at the scene. In a case of arson-for-profit, the investigator can show a jury the fire was carefully planned and set in such a way to ensure the maximum possible destruction of the property. In a business competition arson, the evidence will show the fire was set to put the business out of operation or destroy some critical component of the business. In a vandalism or juvenile fire case, the method and time of the fire will provide critical evidence. In virtually every type of arson case, there will be some evidence uniquely characteristic of the type arson causing the fire which will refute any hypothesis of innocence claimed by the defendant. A comprehensive latent investigation will inevitably turn up other evidence connecting the defendant to the crime. Like the pieces of a jigsaw puzzle, a well-presented arson

prosecution puts together all of the parts until the picture is clear. Arson Cases as a Test of Trial Skills Arson cases are interesting, informative, intriguing and entertaining. A well-presented arson trial should be all that and more. For the prosecutor, an arson case is the ultimate test of trial skills and the true measure of legal abilities. The challenge is great, but the rewards are even greater. Every prosecutor wants to win at trial. Winning an armed robbery case with two eyewitnesses and a confession may be satisfying to the prosecutor, yet it is hardly a noteworthy accomplishment. Even a successful murder prosecution does little more than serve the cause of justice when it only involves the presentation of nearly conclusive evidence destined to establish the guilt of the defendant. A prosecutor who has orchestrated a successful prosecution for robbery or murder based upon circumstantial evidence knows the sense of satisfaction and personal accomplishment this can bring.

Chapter 3 : Prosecutor wants psychological exam for arson defendant

FORDHAM URBAN LAW JOURNAL a year and one half's study of the arson problem in that state.' Comparing state and nationwide statistics for arson prosecutions.

Share on Facebook What is Arson? Its purpose was to protect people from having their property burned while they were still inside. Today, modern arson laws have expanded the traditional definition and now cover burning any type of property. They do not require that the property be a home, building, structure, or a place with people inside, and you can commit arson by burning either personal property, buildings or land. Arson laws exist in all states, though some differences exist between how state laws punish or categorize the crime. Committing Arson The information below outlines the elements of arson. This essentially means you cannot commit arson if you accidentally set fire to something. You must purposefully set fire to the property or intend that your actions lead to property becoming burned or damaged. However, a prosecutor does not necessarily have to show what you specifically intended to do when you started the fire or burned the property. You can be convicted of arson if the prosecutor can show that the circumstances show you intended to burn the property even if you never say what your intention was. In some states, you can also commit arson if you damage property as a result of acting recklessly. Acting recklessly means you act knowing that what you are doing is dangerous and could result in fire or property damage, but you do it anyway. In other states, causing property damage by acting recklessly is charged as different crime than arson. You can also be convicted of arson if you take actions that indirectly lead to property getting burned. For example, if you use a match to set fire to a home, you have committed arson. In many states, explosions are also included in arson laws. This means that if you use an explosive force to cause damage you can also be convicted of arson even if that damage is from debris and not from fire. In other states, property damage caused by explosions is charged as a separate crime. If no damage resulted from your actions no arson occurred. However, the damage can be very slight, and there is no requirement that the fire last any specific amount of time. While most arson crimes involve property that belongs to other people, you can also be charged with arson if you set fire to your own property. For example, burning down your home or business with the intent to collect on your insurance policy is arson. Penalties Arson is a crime that states have divided into different degrees of severity. In some situations and in some states, arson may only amount to a misdemeanor offense, though felony charges are also possible. Felony offenses are more serious than misdemeanor offenses, and typically involve significant damage to property or fires set in homes, dwelling places, or buildings with people inside of them. In the most egregious felony cases where someone starts a fire with the intent to harm or kill someone else, an arson conviction can bring a life sentence. In other situations, convictions for felony arson can bring sentences of anywhere from one to 20 years. Misdemeanor arson convictions can lead to as much as a year in county jail. Anyone convicted of arson also faces fines in addition to jail or prison time. Restitution is an amount of money that the convicted person must pay to the property owner to compensate for the damage caused by the arson. Restitution amount differs depending on how much damage was involved, and they may also include repaying a fire departments for the expense of battling the fire. Arson convictions can also result in probation sentences. Probation typically lasts at least 12 months, but in many arson cases it can last significantly longer, sometimes up to as long as five years. When a judge sentences you to probation you must comply with specific terms, such as regularly reporting to a probation officer, not leaving the state without permission, and not committing other crimes. If you violate any of the terms you can have your probation revoked and be forced to serve the original prison sentence. Talk to an Attorney Being charged with arson is a very serious situation. Anyone charged with arson should speak to a local criminal defense attorney as soon as possible. Arson laws differ significantly between states, and a local attorney will not only know what the law is in your state, but will also be familiar with the local court systems, prosecutors, and judges. A criminal defense attorney will be able to guide you through the criminal justice process, advise you about possible plea agreements, and protect your rights at every stage of the criminal justice process.

Chapter 4 : Prosecution of Arson in California - Los Angeles Arson Defense Attorneys

Auto Suggestions are available once you type at least 3 letters. Use up arrow (for mozilla firefox browser alt+up arrow) and down arrow (for mozilla firefox browser alt+down arrow) to review and enter to select.

After the prosecutor files the notice of prosecution to the court, the prosecutor must mail a copy of the notice to the accused following the detailed guidance provided in Section 7D 1 of the Magistrates Ordinance. Along with the notice, the prosecutor must also provide and enclose a statement of confession and a letter of instruction telling the accused how to institute a legal proceeding if the accused refuses to confess and admit committing the crime. In the letter of instruction, the prosecutor must also provide information about which court will be handling the case, and the deadline for requesting a trial. Provided in Section 7D 2 of the Magistrates Ordinance, the deadline for requesting a public trial must not be fewer than 35 days from the day which the prosecutor files the notice. Because issuing notice of prosecution as a way to prosecute is only available to very minor offences. The consequences of these offences are most likely to result in paying fines. Therefore, very likely, the accused will pay the fine and return the statement of confession to the court. Still, the accused can request a public trial and follow the instruction provided along with the prosecution notice. If that happens, the following procedure will take place as if the prosecutor has laid an information before the magistrate and asked the court to summons the accused. An information is the detailed information related to the offence which the prosecutor lays before a magistrate and requests for a summons to be issued. Thus, all the accused should receive is a summons from the court. In order to ensure the summons is received by and served to the accused, the court is first to mail the summons to the accused. If the accused does not appear and answer in the hearing required by the court, the court will assume the first service fails and will employ a police officer or court clerk to serve the summons to the hand of the accused in person, following the guidance under Section 8 2 of the Magistrates Ordinance. Charge Sheet[edit] The way to issue and the format of a charge sheet may be different from a notice of prosecution or a summons; still, in essence, a charge sheet has the same functions and contents as a notice of prosecution or a summons. A prosecutor will not issue a charge sheet unless someone has been arrested. A charge sheet must be issued and explained to the accused within 48 hours after the apprehension, according to Section 51 of the Police Ordinance. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. However, there is one condition: Knowing the fact that the accused has been summonsed and informed of the charges, repeating the charges in open court to the accused seems very repetitive and redundant. In fact, it is necessary. First, the Secretary for Justice has the discretionary power to remove and change charges in between the first hearing and the time the prosecutors first formally issue charges according to the situation, evidence, and findings; thus, repeating charges before the accused can assure and verify the charges he is facing. Moreover, repeating the charges can prevent potential administrative errors like, mixing up files due to similar names. Lastly, the accused is charged by the government which represents the society; thus, the public have the right to know what crime the accused is involved. As a result, repeating charges before the accused in open court can ensure justice, transparency, and fairness. In conclusion, in the first hearing, one of the following situations is going to happen: Situation A[edit] If the accused pleads guilty, the prosecutor will present a summary report of the evidence and findings to the court. The magistrate will then read the report out loud and ask the accused whether or not he agrees with the summary. Even though the accused pleads guilty and agrees with the summary report, the magistrate still has the responsibility to ensure that everything fulfils all the required elements for conviction. If the magistrate accepts the report and the guilty plea, the magistrate is required to give the accused the last chance of word to present excuses and reasons in the hope of receiving less severe judgement. After, the magistrate can give judgement or wait for the reports from probation officers and other experts. Under the principle of the last chance of word, the accused has every right to read all the probation reports or other documents and comment on all of them before the magistrate. Then, the magistrate can give final judgement. Situation B[edit] If the accused pleads not guilty or innocent, the magistrate will postpone the case and arrange the next hearing. If the

accused has been admitted to police bail at the time of the first hearing, the magistrate will normally set the same requirements as the police have set and allow the accused to continue being admitted to bail. Although judicial bail and police bail are the same, they are required to proceed separately under the principle of separation of powers; the accused is thus required to finish all the procedure for transferring the police bail into judicial bail. Situation C[edit] If the accused pleads not guilty or innocent and the police have refused the accused from admitting into bail, the magistrate is required to determine whether or not the refusal is reasonable. Under such situation, this very first hearing must be conducted within 48 hours after the apprehension. If not, the prosecutors materially violate the Basic Law and the Hong Kong Human Rights Ordinance and may face lawsuits for false imprisonment. Situation D[edit] Under some circumstances, the prosecutors may request the magistrate to postpone the case without asking the question whether or not the accused pleads guilty. The prosecutors may bring such requests to the magistrate when the prosecutors are waiting for the reports from the government laboratory like, analysis of the purity of illegal drugs or the decision from the Secretary of transferring the case to the District Court or not. If the magistrate approves such request, the magistrate will arrange the next hearing and deal with the issue of admission to bail. Such procedures are called committal proceedings. In a committal proceeding, the magistrate has the responsibility to ensure the severity of the case and the evidence are enough to bring the case to the High Court. If the magistrate thinks the severity and the evidence are not enough to bring the case before the High Court, the magistrate can remove the charges and free the accused; otherwise, the magistrate will transfer the case to the High Court. Because indictable offences are normally more severe, the Secretary or the prosecutors are normally not ready for a formal committal proceeding in the first hearing. The prosecutors thus usually request the magistrate to postpone the committal proceeding in the first hearing so that the prosecutors could have more time to collect evidence and wait for further instructions from the Secretary. Moreover, the prosecutors are required to provide a package of detailed information to the accused at least 7 days before the formal committal proceeding hearing. According to Sections 80A and 80B 1 of the Magistrates Ordinance, the package includes 1 a copy of the complaint made or information laid before the court, 2 copies of the statements of those witnesses whom the prosecution intends to call at the trial, 3 copies of documentary exhibits, and 4 a list of exhibits. You may give those particulars now to this court or to the prosecutor not less than 10 days prior to the commencement of your trial.

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Aggravated Arson is a more serious charge in California and presents more of a challenge to an Orange County arson attorney. That said, it is also more of a challenge for a prosecutor to prove. That said, it is also more of a challenge for a prosecutor to prove.

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Arson Law and Prosecution will be very useful to everyone involved in arson cases, including police and fire investigators, prosecutors, defense attorneys, and judges. It is also ideal for use in arson investigation training courses in colleges, in advanced criminal law courses in law schools that focus in depth on one crime, and in a law.

Chapter 7 : NRS: CHAPTER - CRIMES AGAINST PROPERTY

Arson Law and Prosecution John F. Decker ProfessorofLawEmeritus DePaulUniversity Bruce L. Ottley ProfessorofLaw DePaulUniversity CarolinaAcademicPress.

Chapter 8 : Section - Title 18 - CRIMES AND OFFENSES

Traditionally, arson was a crime that prohibited burning someone else's home, dwelling, or nearby property. Its purpose

was to protect people from having their property burned while they were still inside.

Chapter 9 : Arson Law and Prosecution : John F Decker :

prosecution, defense, and fire and arson investigation communities, and their collective expert knowledge, experience, and dedication made this effort a success.