

Liberty Victoria

Arson Recidivism Written by Kate Mallinson March 2010

Bushfires have been a natural part of Australia's ecological environment for millions of years. Australian vegetation has evolved with fire, and has developed characteristics that promote the spread of fire, however, European settlement in Australia has meant that the management of fire has become a growing issue, particularly for those living in rural or regional areas. The Victorian Bushfires in February 2009 that killed 173 and wounded 414 were an example of the extent of damage that can be caused by out of control bushfires. Several of the fires that swept through towns in Victoria were suspected to have been deliberately lit by arsonists.

The destruction caused by the Black Saturday fires attracted significant media attention, which subsequently led to an increased focus on arson and the penalties for individuals who deliberately light fires. Victoria's State Opposition called for tougher monitoring and restrictions on arsonists, and suggested that those convicted of arson should be liable, upon release from any custodial sentence, to be subject to an Extended Supervision Order, which would restrict the activities and movements of those that are considered at risk of reoffending.

Unfortunately for policy makers, arson does not lend itself well to empirical research. Arson is difficult to detect, and it is estimated that many deliberately lit fires are not recognized as arson, with offenders rarely identified or held responsible. Statistics from Victoria Police and the Sentencing Advisory Council illustrate that there is a huge discrepancy between the number of arson offences recorded annually and the number of people sentenced.

In addition to detection issues, another problem that arises with discussion of arson recidivism is what is actually meant by the term 'recidivist'. Literature on the topic of arson distinguishes between 'pure' arsonists, meaning those who commit only arson offences, and 'non-pure' arson, which refers to those who commit other crimes, in addition to arson.

An unpublished study conducted by the Australian Institute of Criminology from 2001-2006 revealed that more than half of all arson offenders had a previous recorded conviction for the offences examined, with the most common prior offences among arsonists being personal offences, followed by property and drug offences. However, only seven individuals out of the 555 involved in the study had a prior history that consisted exclusively of arson. Additionally, evidence submitted to the 2009 Victorian Bushfire Royal Commission by James Ogloff, forensic psychologist and arson expert at Monash University, stated that very few offenders are narrowly focused on arson, rather, they are 'criminally versatile'.

Published Australian research in the area of arson recidivism is lacking. There is, however, a body of international research on arson reoffending. The largest study to date, and the paper most referred to in arson literature is by Lewis and Yarnell, conducted in 1951 in New York. Their study reported on 1145 male firesetters and 200 female firesetters for 15 years. The recidivism results recorded by Lewis and Yarnell were that 28% of males and 13% of females had set more than one fire.

In a review of international literature on arson recidivism, Adam Brett, in the *Australian and New Zealand Journal of Psychiatry* stated that there is a vast difference in recidivism rates in different populations, varying from between 4% to 60%. These findings suggest a wide variety of recidivism levels for arsonists, although a notable absence is research on the deliberate lighting of bushfires, which is of particular importance in Australia.

Despite the difficulties with comparing the international research to an Australian context, researchers have been able to shed light on some of the factors that influence arson and arson recidivism. Studies have found that offenders commit arson for a range of reasons, such as revenge, vandalism, crime concealment, insurance claims, excitement or pyromania.

Mr. Ogloff in his statement to the Royal Commission states that when looking at those sentenced for arson, certain features arise; they tend to be social outcasts, socially isolated, unmarried and have a lower level of intelligence. Typically a third of arsonists suffer from major mental illnesses such as schizophrenia, personality disorders and substance abuse. Ogloff also stated other characteristics that may be predictive of fire setting, with traumatic childhood experiences and unstable home life, poor social adjustment, low intelligence, fire setting history early in life, and a history of aggression playing a part.

Other notable characteristics of arsonists were revealed by an unpublished Australian study on recidivism in New South Wales conducted by the Australian Institute of Criminology which revealed that males comprised 90% of juvenile, adult and bushfire offenders. The age of individuals ranged from 10 to 76 years, with the mean age of arsonists as 26.7. Only three per cent of arson offenders in this study had a previous conviction for arson.

Around Australia, the laws for arson vary between 10 years imprisonment to 20 years imprisonment currently. Three states have implemented the model criminal code of 15 years imprisonment for arson, however, following the Victorian Bushfires, the Federal Attorney general drafted new model penalties for bushfire arson, which impose penalties of up to 25 years for lighting a fire which leads to death and 15 years for a fire which leads to serious injury. These offences were presented to the Standing Committee of Attorneys-General (SCAG) in April 2009. Whether these model penalties are adopted or not is a matter for each State to decide, however Liberty recognizes that arson, and more specifically arson recidivism, is a complex and largely misunderstood issue.