

Upcoming MCLE Class:

Topic:	Arson cases
Date:	Tues, June 28, 2016
Time:	3:30 – 5:00 pm
Place:	HOJ, Room 308
Speaker:	Richard Simon, Sr. DDA
MCLE:	1.25 hours

This class will cover the fundamental principles of arson prosecution from the investigative phase -including what evidence you need and how to read fire patterns, to the charging sections and enhancements to file. It will also cover how to present persuasive evidence and successfully argue an arson case.

The Ventura County District Attorney's Office is a State Bar of California approved MCLE provider. The above listed class will qualify for 1.25 hours of general MCLE credit by the State Bar.

Definition of Arson

- Willfully Sets Fire to, Burns, or Causes to be burned an inhabited structure, forest land or property
- Arson is a General Intent Crime
- But Malice is Required- Malice is the Intent to Do a Wrongful Act
- If the Act intended IS RECKLESS but not Wrongful the proper section is 452

Charging Section PC 451

- PC 451(a)- Arson Causing GBI
- PC 451(b)-Residential Arson
- PC 451(c)- Arson of Structure or Forest Land
- PC 451(d)-Arson of Property of another OR arson of ones own Property for Fraudulant Purposes
- PC 455-Attempted Arson-16, 2 or 3

Arson Enhancements-

- Enhancement for Financial Gain-PC 456
50K fine OR 2X amount of gain
- Enhancement for Use of Accelerant-PC
451.1(a) 5 3-4-5
- Enhancement for Prior Arson or 452- PC
451.1(a)1 3-4-5

Arson Enhancements

- Enhancement for Injury to Police, Fire, or Emergency Personnel-PC 451.1(a)2
3-4-5 does not have to be GBI just injury
- Enhancement for GBI to more than one person-PC 451.1(a)3 3-4-5
- Enhancement for Multiple Structures Burning-PC 451.1(a)4- 3-4-5

Financial Loss-PC 12022.6(a)

- Over 65 k- 1 year
- Over 200k- 2 year
- Over \$1,300,000- 3 year
- Over \$ 3,200,000- 4 year

All Arsons Under PC 451 ARE:

- Strikes
- 667(a) Priors
- Violent Felonies
- State Prison Eligible
- Cannot be 17(b)

Initial Investigation

- Michigan v Tyler 466 US 439 (1978)
- Michigan v Clifford 464 US 287 (1984)
- Cause and Origin Determination
- Area of Least Burn to Area of Greatest Burn
- Negative Corpus Rule-Cameron Todd Willingham

This Case Changed Arson Investigation



Arguing Arson-Circumstantial Evidence



Motives for Arson

- Firebugs
- Crime Cover-up
- Fraud
- Spite-Revenge
- Hero Syndrome
- Political/Hate Crime
- Juveniles

Keys to Successful Investigation and Prosecution

- Initial Neighborhood Canvass
- Get all insurance info
- Get all Security Video
- Thorough Interview of Suspect
- Scene Photos
- Proper Evidence Collection
- Accelerant Detection Canines

Keys to Successful Investigation and Prosecution

- Video Recreations-Silverstrand and Ramsdale Cases, Gasoline lit cigarette
- Visit Scene
- Go over each Photo with Investigator
- Prepare Exhibits-Photoboard, Videos, Documents
- Make Sure all Forensics are completed

Keys to Success

- Make Sure Investigator can Communicate Fire Science in an Understandable Way
- Call actual Fire Fighters as Witnesses-Last American Hero
- Cover Circumstantial Evidence in Jury Selection and Hammer it Home in Closing
- Have Victims Testify about the Loss from the Fire-Emotional as Well as Financial

1101(b)

- Doctrine of Chances
- People v Erving (1998) 63 Cal. App. 4th 652
- Silverstrand Beach
- This Principle can apply to any crime

Possible Defenses

- The fire was Not Arson-Defense Attacks Fire Investigation, may call their own expert
- It was Arson but Someone Other Than Defendant did it
- Insanity or Other Mental Defense

Basic Scientific Concepts

- Fire-Rapid Oxidation combined with emission of Heat and Light
- Heat Rises-Fire travels toward Oxygen, up and out in a “V” Pattern
- Ignition Temperature-Minimum Temperature at which a Substance Ignites
- Find Cause and Origin-Go from area of least to greatest Burn

Negative Corpus Rule

- NFPA 921
- Many Misconceptions About This
- Was Adopted in Response to Willingham
- Arson Investigator May Consider Corroborative Evidence

CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

Top portion of form to be completed by the MCLE Provider

Provider Name: Ventura County District Attorney's Office

Provider Number: 1130

Title of Activity: Arson Cases

Date(s) of Activity: June 28, 2016

Time of Activity: 3:30 - 5:00 pm

Location of Activity (City, State): HOJ Room 308 Ventura, CA

Total California MCLE Credit Hours for the above activity are 1.25, including the following sub-field credits:

- Legal Ethics _____
- Elimination of Bias in the Legal Profession _____
- Prevention, Detection and Treatment of Substance Abuse/Mental Illness that Impairs Professional Competence _____

Bottom portion of form to be completed by the Attorney after participation in the above-referenced activity

By signing below, I certify that I participated in all, or some*, of the activity described above and am therefore entitled to the following MCLE credit hours -

Total California MCLE Credit Hours 1.25, including the following sub-field credits

Legal Ethics _____

Elimination of Bias in the Legal Profession _____

Prevention, Detection and Treatment of Substance Abuse / Mental Illness that Impairs Professional Competence _____

(You may not claim credit for sub-fields unless the Provider is granting credit in those areas and you participated in those portions of the activity)

Print Your Name _____

Your California State Bar Number _____

Signature _____

* partial participation hours must be pro-rated