Our ref: DIRE1001

16 October 2012

Mr Joseph McGrath SC
Director of Public Prosecutions
Level 1
26 St George's Tce
Perth WA 6000

Dear Director

Prosecutions for Arson

The purpose of this letter is to inquire whether there are guidelines within your office with respect to the exercise of the discretion to prosecute the offence of arson.

My query is prompted by the case of State of WA v Chester, in which sentence was passed by Justice McKechnie last Friday. The material facts presented to the court by the prosecutor were to the effect that following the breakdown of a domestic relationship of 10 years duration, the offender burnt five items of underwear in the rear yard of the house which he had occupied with the owner of the underwear. The estimated value of the underwear was $200. The offender was fined $500.

I would have thought it fairly clear that the culpability of the offending conduct could have been adequately covered by an appropriately framed charge falling within the jurisdiction of the Magistrates Court. It seems to me, with respect, that bringing a charge which brought the offender within the exclusive jurisdiction of the Supreme Court, facing a potential maximum penalty of life imprisonment, was plainly inappropriate.
I would therefore be grateful for your advice as to whether there are guidelines used within your office to ensure the appropriate exercise of the discretion to prosecute in this area.

Yours sincerely

The Hon Wayne Martin AC
Chief Justice of Western Australia