



New York State Chapter 23 of the  
International Association of Arson Investigators, Inc.

# **FIRE FIGHTER TESTIMONY**



New York State Chapter 23 of the  
International Association of Arson Investigators, Inc.

## *NYS IAAI's Awareness Series*

- Free series of training modules designed to educate/promote awareness to line fire officers and fire fighters
- Modules address Origin and Cause investigations, role of the fire investigator, multi-agency investigations, role of suppression crews in fire investigations, etc.
- Presentation was developed and disseminated in conjunction with a 2013 FEMA Fire Prevention and Safety Grant awarded to NYS IAAI





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## *NYS IAAI's Awareness Series*

*[www.nyfireinvestigators.com](http://www.nyfireinvestigators.com)*



**NYS IAAI Awareness Series**



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## ***NYS IAAI's Awareness Series***

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# Enabling Objectives

- The importance of Fire Investigation & its purpose
- The Responsibility & Role of Fire Suppression personnel
- Observe, Recognize, Protect, and Notify
- Preparing to Testify
- Do's and Dont's of Testifying



# Fire Chief

## NYS General Municipal Law; Article 10, 204-D

- **§ 204-d. Duties of the Fire Chief.**

The fire chief of any fire department or company **shall**, in addition to any other duties assigned to him by law or contract, *to the extent reasonably possible determine or cause to be determined the cause of each fire or explosion which the fire department or company has been called to suppress.* He shall file with the office of fire prevention and control a report containing such determination and any additional information required by such office regarding the fire or explosion. The report shall be in the form designated by such office. *He shall contact or cause to be contacted the appropriate investigatory authority if he has reason to believe the fire or explosion is of incendiary or suspicious origin.* For all fires that are suspected to have been ignited by a cigarette, within fourteen days after completing the investigation into such fire, the fire chief shall forward to the office of fire prevention and control information detailing, to the extent possible: (a) the specific brand and style of the cigarette suspected of having ignited such fire; (b) whether the cigarette package was marked as required by subdivision six of section one hundred fifty-six-c of the executive law; and (c) the location and manner in which such cigarette was purchased.



# Fire Chief

- **Awareness:** Understand that someone has to determine the cause of the fire. (NYS GML 204-d)
- **Attitude :** Know what needs to be accomplished to determine the origin & cause and try to make conscious efforts to educate and advise suppression personnel as it will move the investigation along quicker, increasing the chance of finding the cause.
- **Common Sense:** Make every attempt to protect & preserve the entire scene keeping all furnishings, contents & fixtures in place. Further, avoid taking anything apart!



# What is the purpose of Fire Investigation?

- **To determine the origin, cause, and development of a fire or explosion.**
- **To determine the responsibility, circumstances and factors that were necessary for the fire to have occurred.**
- **Fire Prevention!!! .....to identify & learn how to avoid this from happening again!**





# How do Fire Investigators arrive at the Origin?

## NFPA 921 Guide for Fire & Explosion Investigations (2014 Edition)

- **(1) Witness Information.** The analysis of observations reported by persons who witnessed the fire or were aware of conditions present at the time of the fire
- **(2) Fire Patterns.** The analysis of effects and patterns left by the Fire.
- **(3) Arc Mapping.** The analysis of the locations where electrical arcing has caused damage and the documentation of the involved electrical circuits .
- **(4) Fire Dynamics.** The analysis of the fire dynamics, that is, the physics and chemistry of fire initiation and growth, and the interaction between the fire and the building's systems .



# Fire Cause Determination

- Is the process of identifying the *first fuel ignited*, the *ignition source*, the *oxidizing agent*, and the circumstances that resulted in the fire.
- Generally follows origin determination
- Is reliable only if the origin has correctly determined.



# The Fire Investigation Unit

- Made up of specially trained experts
- Render expert opinions for legal proceedings
- Made up of fire and law enforcement personnel
- Many functions you may not be aware of
- May bring in subject matter experts



# Role of Witnesses (...this Means You!)

- Describe Suppression
- Describe Fire
- Describe Conditions and Damages
- Describe Injuries
- Describe Statements and Actions of Others
- Describe Evidence



**EVIDENCE**



# Fire Suppression Personnel – The Best Witness on Scene?

Consider the *Entire* scene as evidence

- Be a good witness!
  - Secure the scene to the best of your ability!
  - Avoid *contamination* and *spoliation*!
- ❖ Not to be implied that Life & Property preservation are secondary



# Fire Suppression Personnel

- **Observe**
- **Recognize**
- **Protect**
- **Notify**



# BE OBSERVANT

## Report to Incident Command or Fire Investigator:

- Observations upon arrival
- Observations during Entry and Suppression
- Observations during Overhaul & Salvage
- Statements
- Any potential evidence
- Communicate with your fire investigator
- *Anything odd.....*



# NOTIFY

*Anything Odd.....*





# RECOGNIZING Entry Points

- Obstructions?
- Doors (forced entry)?
- Contents missing / removed?
- Contents don't match décor



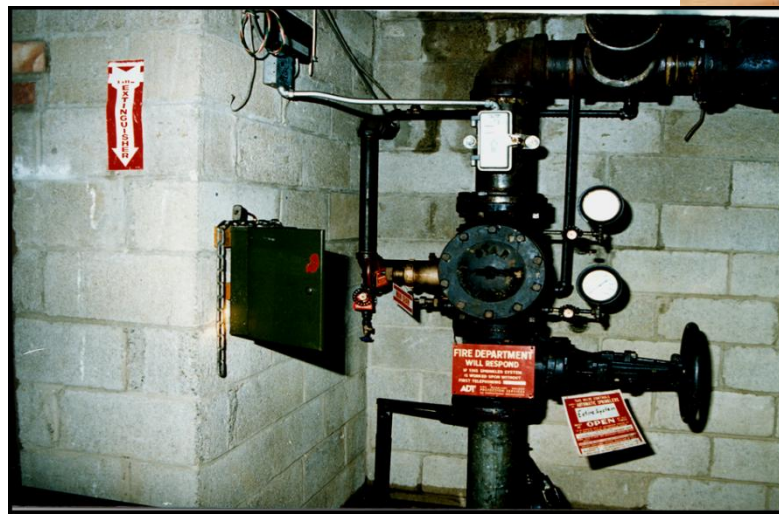
# RECOGNIZING Physical Evidence

- Patterns
- Containers
- Devices



# RECOGNIZING *Physical Evidence*

- Accidental Evidence
- Tampering
- Smoking
- Smoke Detectors
- Prints



# Controlling Suppression

## Tools

- Use clean tools
- Clean PPE
- Avoid gas powered equipment usage
- Fuel Equipment outside
- Avoid Contamination!!



# Controlling Overhaul

**Avoid Hydraulic Overhaul and wash-away**

**Limit overall usage in/around the area of origin**

**Avoid the use of heavy equipment unless there is imminent danger**

**Allow FI's to document before heavy equipment usage**



# Why “Preserve” the Scene?

*To accurately determine the cause so that future fire incidents can be avoided!*

**Fire Investigations make life and property safer**

## Considerations:

- Recalls / Product Defects
- Code Violations / Construction Defects
  - Liability Issues



# Fire Investigation Involves Criminal and Civil Processes

- Fire Investigation can involve arrests and criminal court
- Fire investigation can involve civil lawsuits and subrogation
- You can be used as a witness in either criminal or civil actions



# Criminal and Civil Processes

*May be in front of a jury, just a judge, or just attorneys*

## Criminal Process

- Grand Jury
- Suppression Hearings
- Trial
- Sentencing

## Civil Process

- Depositions
- Trial

### ***What is a Deposition?***

Testimony under oath outside the presence of the jury/judge involving questions by one attorney to the witness, to which an opposing attorney may offer very limited objections.





# I am not an Investigator, will I ever have to testify?



**YES !!!!**

- Could even be called to testify years after the incident
- What you think is insignificant could be hugely important later in the investigation



# Preparing to Testify

- Understand what you need to testify to
- Review paperwork, reports, photos
- Find out layout of courtroom
- Find out how sworn in and where to sit
- Verify Time, Date and Location
- Testimony guides?
- Know your background, expertise – your resume
- DO NOT try to “coordinate” your testimony with other witnesses



# Preparing to Testify

The defense or other side may try to contact you to interview you

Do not provide interview and check with your investigators/attorney first to see how to respond

Understand that the other side may claim that you are obligated to speak with them – often times this is not the case

If you are interviewed by someone you don't know, obtain clear identification and precise information as to who they are and why they wish to speak with you



# What Expectations Are There of Me?

- Tell the TRUTH
- Direct answers, avoid extraneous information
- Look at jury and judge when answering
- Do not offer information unless asked
- Neutral
- Appear in dress uniform, distinguishes you from police officers



# When You Testify

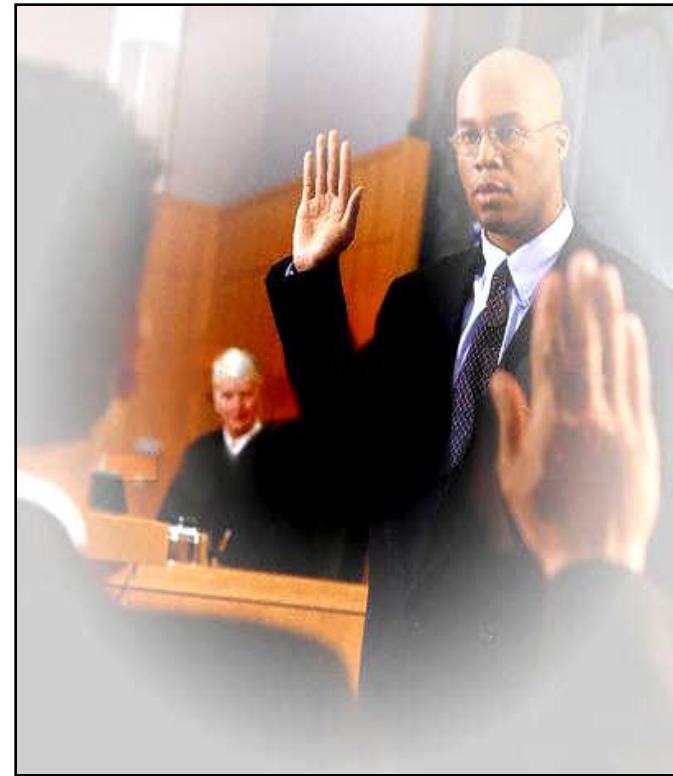
Your testimony can provide the foundation for the theory of the case and of the expert's opinions.

## History and progression of the fire:

- The smell or presence of ignitable liquids
- The presence of separate fires
- The direction and speed of flame travel - ventilation
- The intensity of heat and subsequent injuries
- The location of the fire and materials involved

## Other potential circumstantial evidence:

- The condition of doors and windows
- The existence/condition of victims and personal property
- The sounds (i.e. screams; explosions; alarms; etc.)
- Any unusual extinguishment factors



# When You Testify

Don't worry – if you need to clarify what you said your prosecutor/attorney will have a chance to do “re-direct”



# Avoid ...

- Playing “games”, do not help to try to “win”
- Slang or technical jargon if possible
- Avoid attitude towards opposing side
- No food or drinks
- Turn off cell phones
- No opinions unless asked



# What Happens If I Lie ...



- Jail
- Loss of Job
- Case Dismissed

**It's Not Worth It!!!!**





# Points of Understanding

What the Fire Investigator is looking for to conclude Origin & Cause

The responsibilities of fire suppression personnel – observe, recognize, protect, notify

How you are summoned to testify

Preparing to testify

Effective testifying techniques

Testifying techniques to avoid





***QUESTIONS?***