

Fire Investigation: Case Preparation and Testimony

FI: CPT-Student Manual

1st Edition, 8th Printing-May 2025



FEMA

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Acronyms

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ACKNOWLEDGMENTS

The development of any National Fire Academy (NFA) course is a complex process aimed at providing students with the best possible learning opportunity we can deliver. There are many players in course development, each of whom plays an equally important part in its success. We want to extend our heartfelt thanks to everyone who participated in making this quality product.

Sincerely,

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Training Specialist
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COURSE DESCRIPTION

This six-day course is an intense, interactive and realistic experience providing students with case development, case review, and the knowledge and skills to prepare to testify as an expert. This course is offered in a blended format; students are assigned a cold case file two weeks prior to arrival with corresponding course work. Once students arrive on campus, they will use the case file to complete an expert origin and cause report from which the student will provide testimony in a courtroom setting. Students who fail to complete the pre-arrival distance learning activities will be removed from the in-residence portion of the course and forfeit stipend reimbursement. Successful completion of this course satisfies the requirements of the IAAI for Expert Testimony. This course expands upon concepts presented in “Fire Investigation: Essentials” (FI: E) (R0772). Students seeking additional interviewing, evidence, and data collection instruction should consider the new course “Fire Investigation: Forensic Evidence and Interviewing” (FI: FEI) (R0780).

COURSE GOAL

The purpose of this course is to equip students with investigative techniques, knowledge, and skills necessary to prepare to testify as an expert during legal proceedings. Course content provides an intense, interactive, and realistic experience expanding upon the concepts presented in FI: E (R0772).

Note: Students seeking specialized training for interviewing strategies should register for a new six-day course, FI: FEI (R0780).

AUDIENCE, SCOPE AND COURSE PURPOSE

To apply, applicants must possess and document **a minimum of two years of experience as a FULL-TIME public sector investigator, or four years as a PART-TIME public sector fire investigator.**

- For purposes of these criteria, a Full-Time public investigator is defined as: the applicant’s primary job responsibility for the past two years has been the investigation of the Origin and Cause of fires and explosions or has documented participation in the investigation of 40 or more fires investigated per year.
- For purposes of these criteria, a Part-Time public investigator is defined as: where the applicant has other assigned duties that may take the majority of the applicant’s work schedule. Those duties may include fire suppression, fire inspection, fire safety, fire prevention, or criminal investigations where fire investigation is a significant component of the applicant’s assigned duties. The applicant must have documented participation in a minimum of 10 fires investigated per year or in the investigation of 40 or more fires investigated over the four-year period prior to applying to this course.

Priority will be reserved for federal, state, and local fire service, law enforcement personnel, and prosecutors with full-time fire/arson/explosion investigation responsibility and/or prosecution. These personnel include fire/arson investigators, state fire marshals, law enforcement personnel, criminal investigators, district attorney’s staff and members of arson task forces.

In addition to meeting the requirements listed in the Selection Criteria section, applicants must also be able to document the following levels of training:

ICS-100-level ([Q0462](#)) and ICS-200-level ([Q0463](#)) training, available through NFA Online. Chief’s signature on the application attests that the applicant has completed this required training.

Applicants must meet ONE of the following SECTIONS:

1. Successful completion of the National Fire Academy's (NFA's) "Fire Investigation: Essentials" ([R0772](#)) course. **Additionally, successful completion totaling 80 or more hours of any in-person and tested fire investigation related practical training. Training certificates applied toward this requirement must be dated January 1, 2018, or later. (CFITrainer.net modules do not count towards this requirement.)**

OR

2. Successful completion of one of the following designations/certifications:
 - International Association of Arson Investigators (IAAI) Certified Fire Investigator (IAAI-CFI®).
 - IAAI Fire Investigation Technician (IAAI-FIT®).
 - A state equivalent Fire Investigations course that resulted in the issuance of a certificate recognized by the state in which the applicant is employed. The State Equivalent Fire Investigation course must either be recognized by the state for designation/certification or by an Accredited Instructional program, i.e., ProBoard, IFSAC, etc. The student must complete all modules required by the state course series. (For example, if a state offers three modules of training within the Fire Investigator series, all three modules must be completed for credit and before applying to this course).

In addition to one of the above designations listed under #2, the applicant must document the completion of any in-person, tested fire investigation related practical training totaling 150 or more hours.

AND in addition to completion of one of the above sections (#1 or #2), applicants must also complete the following:

Successful completion of the following (10) CFITrainer.net modules (transcript MUST be submitted with application):

1. Critical Thinking Solves Cases.
2. Discovery in Civil Cases.
3. Discovery in Criminal Cases.
4. Effective Investigation and Testimony.
5. Ethical Duties Beyond the Fire Scene.
6. Ethics and the Fire Investigator.
7. Magnetek: A Case Study in the Daubert Challenge.
8. Process of Elimination.
9. The Deposition Part 1: Format, Content and Preparation.
10. The Deposition Part 2: Questioning, Tactics and Effective Responses.

GRADING METHODOLOGY

Evaluation and Grading

Both formal and informal evaluations are conducted throughout the course and are an essential component as they provide real-time feedback in an experiential learning environment.

In addition to the formal, graded evaluations described below, students are provided additional practice and informal feedback during the voir dire, deposition, and mock trial testimony activities. These include peer, instructor, and self-evaluation. Attorney/instructors will provide verbal feedback on testimony and comment on case projects. Student peers serve as members of a mock jury and complete Testimony Evaluation forms that are given to each student after their testimony.

A minimum of 80% is required for successful completion of this course. The total course score is derived from the following assignments:

Evaluation Method	Percent of Final Grade
Discussion Board Post	5%
Essay Assignment	15%
Origin and Cause Report	20%
Mock Trial Testimony	50%
Final Presentation	10%

Pre-Course Assignment #1 – Discussion Post

Students will post a well-developed, referenced, and grammatically correct discussion post which identifies three challenges faced by an investigator when they cannot go to the actual fire scene, nor can they further interview witnesses. Students will comment on 2 other student’s initial posts.

Evidenced Understanding and Critical Thinking 5 Points	Marginal Comprehension 3 points	Limited Comprehension 0 Points
Initial post was well-developed, referenced, and grammatically correct. Initial post identified three challenges. Prepared a well-developed paragraph-length comment for at least two classmates’ published posts.	Failed to provide any one of the following: Initial post was well-developed, referenced, and grammatically correct. Initial post identified three challenges. Prepared a well-developed paragraph-length comment for at least two classmates’ published posts.	Failed to provide two or more of the following: Initial post was well-developed, referenced, and grammatically correct. Initial post identified three challenges. Prepared a well-developed paragraph-length comment for at least two classmates’ published posts.

Pre-Course Assignment #2 – Essay

Students will complete an essay question relating to the identification, discussion, and validity of three hypotheses regarding the origin and causation of their assigned case file fire. In addition to National Fire Protection Association (NFPA) 921, *Guide for Fire and Explosion Investigations*, Chapters 4 and 5, students will reference their discussion using NFPA 921 and at least one other published source.

Question	Ratings		
	15 points	12 - 14 points	10 points (less if incomplete)
Identify, describe, and discuss three hypotheses relating to the origin and causation of the fire scene as described in your case file.	<p>Evidence of understanding and critical thinking:</p> <ul style="list-style-type: none"> • Response includes discussion of three origin/causation hypotheses. • Demonstrated application of the Scientific Method in response. • Identified and discusses any heat release rate (HRR) or fire dynamics factors influencing hypotheses. • Identified and discusses the effects of ventilation as related to fire development. • If applicable, provided thorough explanation of the significance of burn patterns to hypotheses. • If applicable, provided summary incorporation of witness statements to development of hypotheses. • Used at least two references. • Grammatically correct response. 	<p>Marginal comprehension:</p> <ul style="list-style-type: none"> • Provided only two origin/causation hypotheses. • Partially applies Scientific Method in response. • Misapplies or misidentifies theories of HRR or heat transfer factors influencing hypotheses. OR • Incorrectly identifies or uses incorrect terminology to discuss ventilation effects. • If applicable, provided a partial explanation of the significance of observed burn patterns to hypotheses. OR • If applicable, provided partial or incomplete summary of witness statements to development of hypotheses. • References NFPA 921 only. • Multiple minor grammatical errors. 	<p>Limited comprehension:</p> <p>Any of the following:</p> <ul style="list-style-type: none"> • Neglects a discussion of area of origin OR causation hypotheses. • Failed to demonstrate basic application of the Scientific Method in response. • No discussion of HRR or heat transfer factors influencing hypotheses. • No discussion of the effect of ventilation of fire growth and development. • If applicable, provided no explanation of the significance of observed burn patterns to hypotheses. • If applicable, failed to incorporate witness statements to development of hypotheses. • No references. • Grammatically incorrect response (major errors).

Activity 4.1 – Origin and Cause Report

Students will submit a comprehensive Origin and Cause Report for their assigned case. Students will begin developing the report prior to arriving on campus and will be afforded time to finalize the report in class. The quality of, and familiarity with, the report is essential to successful testimony.

Criteria	Critical Thinking and Comprehension 5 Points Per Section	Marginal Comprehension 3 Points Per Section	Insufficient Comprehension 0 Points Per Section
Synopsis	Writing demonstrates a clear, concise, and accurate summary of the facts, circumstances, and information provided in the case file.	<ul style="list-style-type: none"> • Writing demonstrates a limited understanding of the facts of the case. • Writing is accurate but imprecise and confusing to the reader. 	Fails to include any synopsis or opening summary.
Collect Data			
Witness Statements and Reports	<ul style="list-style-type: none"> • Summarizes the significant data contained in the case file. • Successfully uses witness statements and reports to support and/or exclude each hypothesis. 	<ul style="list-style-type: none"> • Summarizes the significant data contained in the case file. • Successfully uses witness statements and reports to only support the final hypothesis. (Fails to apply to all hypotheses.) 	Missed critical evidence provided in the Witness Statements and/or Reports to support and/or exclude hypotheses.
Evidence	<ul style="list-style-type: none"> • Identified most of the evidence relevant to the case. • Effectively used the evidence log to support report. • Effective identification of all evidence included in the case file. • Recognition of trace evidence or easily missed evidence as presented in the case file. 	<ul style="list-style-type: none"> • Identified most of the evidence relevant to the case. • Failed to apply and/or evaluate all evidence contained on the evidence log. 	<ul style="list-style-type: none"> • Failed to identify most of the evidence relevant to the case. <p>OR</p> <ul style="list-style-type: none"> • Failed to use the evidence log.
Fire Patterns	<ul style="list-style-type: none"> • Provided thorough explanation of the significance of observed burn patterns to origin determination. • Correctly identified and (if reported) named significant burn patterns, and those names are as outlined in NFPA 921. 	Used nonstandard (non-NFPA 921) names or terminology to explain significant burn patterns.	<ul style="list-style-type: none"> • Failed to reference NFPA 921 as a guide for the explanation of observed burn patterns. • Failed to relate the observed burn patterns to origin determination.

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<p>Ventilation</p>	<ul style="list-style-type: none"> • Accurately described ventilation as related to fire development. • Writing demonstrates identification, evaluation, and assessment of ventilation principles, openings, and effects, as germane to specific fire development and proffered hypothesis. • Identifies or discussed ventilation affected patterns observed during the data review. 	<p>Missed one area of higher criteria.</p>	<p>Missed two or more areas of higher criteria.</p>
Analyze Data			
<p>Timeline</p>	<ul style="list-style-type: none"> • Demonstrates thorough understanding of timeline analysis; inclusion of timeline analysis in the report. • Demonstrates thorough understanding of failure analysis; inclusion of failure analysis in the report if applicable. 	<ul style="list-style-type: none"> • Minimal timeline data considered and included in the report. • Minimal discussion of the application of failure analysis. 	<ul style="list-style-type: none"> • Failed to address timeline, no evidence of failure analysis. • No integration of timeline or failure data.
<p>Fire Dynamics</p>	<ul style="list-style-type: none"> • Thoroughly and correctly described the method(s) of heat transfer as applied to the case file fire. • If applicable, accurately described plume development, as evidenced, and supported by convective and conductive heat transfer. • Identified factor(s) impacting HRR, in the compartment (radiant feedback, layer development, availability of combustion air). • Fire dynamics principles fully identified, developed, and explained in writing. 	<p>Higher criteria met with exception of:</p> <ul style="list-style-type: none"> • Incorrectly identified/described one of the three concepts: radiant feedback, layer development, or availability of combustion air. • Failed to fully identify, develop, and explain fire dynamics factors in writing. 	<p>Any area of higher criteria missed.</p>

Develop/Test Hypothesis			
Origin	<ul style="list-style-type: none"> • Demonstrated understanding, and application of the Scientific Method. • Identified a specific area of origin within the compartment. • Addressed alternate theories of origin location. 	<p>Higher criteria met with exception of:</p> <ul style="list-style-type: none"> • Failed to address alternate origin location theories. 	<ul style="list-style-type: none"> • Failed to identify a specific area of origin within the compartment. <p>OR</p> <ul style="list-style-type: none"> • Unable to demonstrate application of the Scientific Method.
Causation	<ul style="list-style-type: none"> • Followed the Scientific Method and used a systematic approach to successfully determine a cause. • Identified competent ignition source(s) and the circumstance(s) that brought the fuel and ignition source together. • If multiple ignition sources exist, explained. • Addressed alternate theories of ignition. • Writer does not confuse opinions of causation with classification of the fire. 	<p>Higher criteria met with exception of:</p> <ul style="list-style-type: none"> • Failed to address alternate theories. • Failed to demonstrate evidence of hypothesis testing. • Confuses or misuses Causation-related content with Classification information as outlined in NFPA 921. 	<p>Unable to demonstrate application of the Scientific Method and a systematic approach to conduct a fire scene examination.</p>
Opinions	<ul style="list-style-type: none"> • Expert opinions are clearly expressed. • Opinions relate directly to the facts at hand, in the specific case file. • Opinions are well supported by the totality and completeness of the written report. • Fire must be classified as: Incendiary, Accidental, or Natural. (For purposes of this assignment, Undetermined is not acceptable.) • Writer does not confuse opinions of causation with classification of the fire. 	<p>Higher criteria met with exception of:</p> <ul style="list-style-type: none"> • Opinions are not well developed or concisely stated. • Opinions are unsupported by the written report. • Confuses or misuses Causation-related content with Classification information as outlined in NFPA 921. 	<p>Higher criteria met with exception of:</p> <ul style="list-style-type: none"> • No opinions provided. <p>OR</p> <ul style="list-style-type: none"> • Opinions are unsupported, or inconsistent with the case facts as provided.

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Writing	<ul style="list-style-type: none">• Used accurate terminology throughout the report.• Organization of contents was contained within the appropriate report sections.• References were properly cited.• No grammatical errors.	Higher criteria met with exception of: <ul style="list-style-type: none">• Limited grammatical errors. AND/OR <ul style="list-style-type: none">• Improper citations.	<ul style="list-style-type: none">• Inaccurate terminology used.• Poor organization.
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Origin and Cause Report Grading Scale:

- 55 – 50 = A
- 49 – 44 = B
- 43 – 39 = C
- 38 – 33 = D

Note:

- The grade for this assignment will be weighted in the learning management system Blackboard to be 20% of the student's final grade.
- Students will provide a technical, counter expert review of another student's Origin and Cause Report. While this is not a graded activity, it has real-world applications and provides the attorneys with additional questions for consideration during the deposition and mock trial.

Activity 6.3 – Testimony

Students will provide expert testimony in a mock trial setting. As an expert, the student will present their findings and conclusions, and will be subjected to both a direct and cross examination. The student will be challenged vigorously on their knowledge, training, experience, skill sets, and certainty of opinions.

Criteria	Ratings		
	25 points	15 points	5 points
Specialized Knowledge	<p>Effective comprehension and critical thinking:</p> <ul style="list-style-type: none"> • Correctly uses fire investigation terminology and concepts. • Applies systemic-scientific approach to explanations about one’s determined origin, cause and one’s opinion(s). • Correctly states facts, observations, deductions and circumstances based upon evidence/ circumstances of one’s case. • Cites field-respected publications and research to validate the report and testimony. • Establishes credibility by demonstrating preparation and a thorough knowledge of the report and supporting materials during testimony. • Was well versed and responsive as to use of applicable parts of authoritative resources (NFPA 921, 1033, Kirks, NFA studies/ reports, etc.) 	<p>Marginal comprehension:</p> <ul style="list-style-type: none"> • Mixed or basic use of fire investigation terminology and concepts. • Marginal explanations on how followed the scientific-systemic approach to one’s opinions. • Credibility by demonstrating basic preparation. • Somewhat unclear explanations and/or responses about case facts, and about ignition source and sequences. • Marginal use of respected authoritative resources/ research/product recalls validating one’s report and one’s testimony. • Demonstrates only basic familiarity with all reports, documents, evidence, and supporting materials. 	<p>Limited comprehension:</p> <ul style="list-style-type: none"> • Fails to use fire investigation terminology and/or misstates concepts. • Appears unprepared or unfamiliar with the report and supporting materials during testimony. • Fails to apply scientific methodology. • Fails to provide minimal ignition source understanding or ignition sequence within response. • Fails to cite field-respected publications and research to validate the report and support testimony.

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<p align="center">Communication</p>	<p>Effective communication skills:</p> <ul style="list-style-type: none"> • Spoke clearly and distinctly using (when appropriate) technical language and terms. • When using technical terms, explained each of them. • Appropriately presents and explains evidence to the Jury and attorneys. (i.e., stands, uses props, gestures, etc.) • Maintained control and pace of responses to all questions. • Established topic/Jury credibility by providing respectful/truthful/direct responses to attorney’s simple and complex questions. • Refrains from interrupting or talking over counsel or judge. • Presented as an effective fire investigation teacher to the Jury and attorneys; answered related questions. • Presented thoughtful explanations of one’s case facts/evidence. • Presented considered analysis and supported each conclusion (validated or discarded). Effectively answers questions of defendant’s attorneys and appropriately explains contrasting facts from attorney’s assumptions. 	<p>Marginal communication skills:</p> <ul style="list-style-type: none"> • In limited instances, misstated technical words or concepts. • In limited instances, did not properly turn and teach the Jury about technical terms or concepts. • In limited instances, a.) did not control defendant’s attorney’s complex questions presented, b.) did not control the pace of the questions, and c.) did not negate assumptions/ implications made within the attorneys questions; d.) “talked over” each other sometimes. • Few answers had long nonresponsive answers to attorney’s questions. • Missed some Jurors on exhibits shown. • Voice needed to be louder. • Occasionally used technical terms to Jury without explanation. <ul style="list-style-type: none"> – Hypothesis considered. – Interrogation. – Motives means and opportunity. – “Scientific” method. – Use of a trailer, etc. 	<p>Limited communication skills:</p> <ul style="list-style-type: none"> • Misuses technical terms. • Fails to speak clearly and distinctly. • Fails to appropriately address the Jury and attorneys. • Fails to maintain control of the pace of communication throughout the testimony. • Fails to establish credibility by providing disrespectful or dishonest responses. • On multiple occasions, interrupts or talks over counsel or judge. • Stated in trial that defendant asked for attorney. • Used technical terms without explanation. • Does not directly answer attorney’s questions. • Was unable to keep one’s voice up; unable to present exhibits and explanations to all Jurors.

Demeanor	<p>Effective demeanor:</p> <ul style="list-style-type: none"> • Dresses neatly and professionally. • Maintains eye contact with questioner and Jury as required. • Was attentive and responsive to all questions. • Maintains a serious and professional demeanor at all times. • Does not appear anxious by fidgeting or any other distracting behavior. • Remained seated upright, calm/ professional affect, without being combative on attitude. • Properly observed courtroom decorum. 	<p>Marginal demeanor:</p> <ul style="list-style-type: none"> • Clothes were appropriate but not polished. • Maintains eye contact most of the time. • Seemed sometimes not responsive to questions. • Maintains a serious and professional demeanor most of the time. • Displays minor anxious or distracting behavior. • Appeared to swivel in seat; sounded/appeared during questioning with unhelpful attitude. • Was struggling to look and teach the Jury. • Observed some courtroom decorum. 	<p>Limited demeanor:</p> <ul style="list-style-type: none"> • Fails to dress neatly and professionally. • Fails to maintain eye contact most of the time. • Fails to remain attentive and alert at all times. • Fails to maintain a serious and professional demeanor. • Displays anxious or distracting behavior. (Example, extreme fidgeting, failure to remove noisy items from pockets, gum chewing, etc.) • Fails to remain calm and noncombative, refuses to answer questions. • Fails to observe all courtroom decorum. (Example, fails to stand.)
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Testimony Grading Scale:

- 75 – 68 = A
- 67 – 60 = B
- 59 – 53 = C
- 52 – 45 = D

Note: The grade for this assignment will be weighted in the learning management system Blackboard to be 50% of the student’s final grade.

Activity 7.1 – Final Presentation

Students will create a ten-minute, reflective presentation based on a self-selected video clip of their courtroom testimony. Students will play the selected video clip for the class and then discuss their impressions of the video, their options for improvement, or how they may handle the exchange differently in a future trial. This is a graded activity, with a grade of pass/fail.

Pass (10 Points)	Fail (0 Points)
<p>Evidence of understanding and critical thinking:</p> <ul style="list-style-type: none"> • Student effectively used 60- to 90-second video clip of courtroom testimony. • Reflective presentation, demonstrating serious thought and self-introspection. • Demonstrated a well-planned, clear and concise presentation. • Demonstrated effective presentation skills. 	<p>Any of the following:</p> <ul style="list-style-type: none"> • Failed to use video clip in student presentation. • Presentation was non-reflective, demonstrating lack of serious thought or self-introspection. • Unclear, rambling, or disjointed presentation. • Evidence of student not taking assignment seriously.

Students who do not complete the entire course will be awarded an Incomplete (I) grade. In accordance with NFA academic policies, an Incomplete (I) grade must be removed by the end of the next semester following the course, or it automatically becomes a Failing (F) grade.

If you fail an on-campus course, you will not be issued a stipend for that course. You can reapply for the failed course or any other NFA course and go through the random selection process. You don't have to successfully complete the failed course before attending another NFA course.

SCHEDULE

WEEK 1 – PRE-COURSE	WEEK 2 – PRE-COURSE
<p>Orientation: Students complete Introduction unit in Blackboard, watch Orientation video, agree to Academic Integrity and Human Dignity statements, execute non-disclosure agreement, syllabus.</p> <p>Videos: Case File Introduction. Report Writing.</p> <p>Required reading: Posted in Blackboard.</p> <p>Discussion board post: Identify three challenges that a fire investigator may face when assigned a no-scene/fire-scene.</p> <p>Case file access: (Students assigned case in Blackboard.)</p> <p>#101 Magnolia Street #102 Dogwood Drive #103 Century Blvd. #104 Commerce Parkway #105 Mountain View Road</p>	<p>Curriculum vitae (CV) submission: Upload an updated CV.</p> <p>Essay Assignment Due End of Week 2:</p> <ul style="list-style-type: none"> • List and describe at least three hypotheses regarding the origin and cause of assigned case. • References should include Chapters 4 and 5 of National Fire Protection Association (NFPA) 921, <i>Guide for Fire and Explosion Investigations</i>. <p>Origin and Cause Report: The essay assignment is designed to position students for successful completion of an Origin and Cause Report assignment, which is due Day 2 of class. Assignment requirements are addressed in the Case File Introduction Video from Week 1.</p> <p>Report will require references.</p>

Note: Students who do not complete pre-course work on time may be turned away upon campus arrival.

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TIME	DAY 1	TIME	DAY 2
8:00 - 9:30	Unit 1: Introduction	8:00 - 10:00	Unit 5: Legal Considerations – Panel Discussion
	<i>Break</i>		<i>Break</i>
9:30 - 10:30	Unit 2: Courtroom Introduction	10:00 - 12:00	Unit 5: Legal Considerations – Panel Discussion (cont'd)
10:30 - 12:00	Unit 3: Case File Introduction		
12:00 - 1:00	<i>Lunch</i>	12:00 - 1:00	<i>Lunch</i>
1:00 - 2:00	Unit 4: Case Development Group Discussion: Sample Videos of Testimony	1:00 - 5:00	Activity 4.2: Technical Review and Question Development
	<i>Break</i>		<i>Break</i>
2:30 - 5:00	Students work on origin and cause report with photos and case materials in class. Activity 4.1: Origin and Cause Report Final Report Due in Blackboard by 11:59 p.m.	1:00 - 5:00	Attorney case work preparation

Note: This schedule is subject to modification by the instructors and approved by the training specialist.

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TIME	DAY 3	TIME	DAY 4
8:00 - 11:00	Unit 6: Student Testimony Activities Activity 6.1: Expert Qualification - Curriculum Vitae	8:00 - 10:00	Unit 6: Student Testimony Activities (cont'd) Activity 6.3: Mock Trial Testimony Exercise (Trial 1)
	<i>Break</i>		<i>Break</i>
11:00 - 12:00	Activity 6.1: Expert Qualification - Curriculum Vitae (cont'd)	10:00 - 12:00	Activity 6.3: Mock Trial Testimony Exercise (Trial 1) (cont'd)
12:00 - 1:00	<i>Lunch</i>	12:00 - 1:00	<i>Lunch</i>
1:00 - 4:00	Unit 6: Student Testimony Activities (cont'd) Activity 6.2: Deposition	1:00 - 2:30	Activity 6.3: Mock Trial Testimony Exercise (Trial 2)
	<i>Break</i>		<i>Break</i>
4:00 - 5:00	Activity 6.2: Deposition (cont'd)	2:30 - 5:00	Activity 6.3: Mock Trial Testimony Exercise (Trial 2) (cont'd)

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TIME	DAY 5	TIME	DAY 6
8:00 - 10:00	Unit 6: Student Testimony Activities (cont'd) Activity 6.3: Mock Trial Testimony Exercise (Trial 3)	8:00 - 10:00	Unit 7: Final Presentation
	<i>Break</i>		<i>Break</i>
10:00 - 12:00	Activity 6.3: Mock Trial Testimony Exercise (Trial 3) (cont'd)	10:00 - 12:00	Unit 7: Final Presentation (cont'd)
12:00 - 1:00	<i>Lunch</i>	12:00 - 1:00	<i>Lunch</i>
1:00 - 3:00	Activity 6.3: Mock Trial Testimony Exercise (Trial 4)	1:00 - 3:00	Class Assessment, Hot wash, Evaluations, Certificate Presentation
	<i>Break</i>		<i>Break</i>
3:00 - 5:00	Activity 6.3: Mock Trial Testimony Exercise (Trial 4) (cont'd)	3:00 - 5:00	Travel

FIREFIGHTER CODE OF ETHICS

Background

The Fire Service is a noble calling, one which is founded on mutual respect and trust between firefighters and the citizens they serve. To ensure the continuing integrity of the Fire Service, the highest standards of ethical conduct must be maintained at all times.

Developed in response to the publication of the Fire Service Reputation Management White Paper, the purpose of this National Firefighter Code of Ethics is to establish criteria that encourages fire service personnel to promote a culture of ethical integrity and high standards of professionalism in our field. The broad scope of this recommended Code of Ethics is intended to mitigate and negate situations that may result in embarrassment and waning of public support for what has historically been a highly respected profession.

Ethics comes from the Greek word ethos, meaning character. Character is not necessarily defined by how a person behaves when conditions are optimal and life is good. It is easy to take the high road when the path is paved and obstacles are few or non-existent. Character is also defined by decisions made under pressure, when no one is looking, when the road contains land mines, and the way is obscured. As members of the Fire Service, we share a responsibility to project an ethical character of professionalism, integrity, compassion, loyalty and honesty in all that we do, all of the time.

We need to accept this ethics challenge and be truly willing to maintain a culture that is consistent with the expectations outlined in this document. By doing so, we can create a legacy that validates and sustains the distinguished Fire Service institution, and at the same time ensure that we leave the Fire Service in better condition than when we arrived.



FIREFIGHTER CODE OF ETHICS

I understand that I have the responsibility to conduct myself in a manner that reflects proper ethical behavior and integrity. In so doing, I will help foster a continuing positive public perception of the fire service. Therefore, I pledge the following...

- Always conduct myself, on and off duty, in a manner that reflects positively on myself, my department and the fire service in general.
- Accept responsibility for my actions and for the consequences of my actions.
- Support the concept of fairness and the value of diverse thoughts and opinions.
- Avoid situations that would adversely affect the credibility or public perception of the fire service profession.
- Be truthful and honest at all times and report instances of cheating or other dishonest acts that compromise the integrity of the fire service.
- Conduct my personal affairs in a manner that does not improperly influence the performance of my duties, or bring discredit to my organization.
- Be respectful and conscious of each member's safety and welfare.
- Recognize that I serve in a position of public trust that requires stewardship in the honest and efficient use of publicly owned resources, including uniforms, facilities, vehicles and equipment and that these are protected from misuse and theft.
- Exercise professionalism, competence, respect and loyalty in the performance of my duties and use information, confidential or otherwise, gained by virtue of my position, only to benefit those I am entrusted to serve.
- Avoid financial investments, outside employment, outside business interests or activities that conflict with or are enhanced by my official position or have the potential to create the perception of impropriety.
- Never propose or accept personal rewards, special privileges, benefits, advancement, honors or gifts that may create a conflict of interest, or the appearance thereof.
- Never engage in activities involving alcohol or other substance use or abuse that can impair my mental state or the performance of my duties and compromise safety.
- Never discriminate on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, gender, sexual preference, medical condition or handicap.
- Never harass, intimidate or threaten fellow members of the service or the public and stop or report the actions of other firefighters who engage in such behaviors.
- Responsibly use social networking, electronic communications, or other media technology opportunities in a manner that does not discredit, dishonor or embarrass my organization, the fire service and the public. I also understand that failure to resolve or report inappropriate use of this media equates to condoning this behavior.

Developed by the National Society of Executive Fire Officers

A Student Guide to End-of-course Evaluations

Say What You Mean ...

Ten Things You Can Do to Improve the National Fire Academy

The National Fire Academy takes its course evaluations very seriously. Your comments and suggestions enable us to improve your learning experience.

Unfortunately, we often get end-of-course comments like these that are vague and, therefore, not actionable. We know you are trying to keep your answers short, but the more specific you can be, the better we can respond.



Actual quotes from student evaluations:	Examples of specific, actionable comments that would help us improve the course:
1 "Update the materials."	<ul style="list-style-type: none"> The (ABC) fire video is out-of-date because of the dangerous tactics it demonstrates. The available (XYZ) video shows current practices. The student manual references building codes that are 12 years old.
2 "We want an advanced class in (fill in the blank)."	<ul style="list-style-type: none"> We would like a class that enables us to calculate energy transfer rates resulting from exposure fires. We would like a class that provides one-on-one workplace harassment counseling practice exercises.
3 "More activities."	<ul style="list-style-type: none"> An activity where students can physically measure the area of sprinkler coverage would improve understanding of the concept. Not all students were able to fill all ICS positions in the exercises. Add more exercises so all students can participate.
4 "A longer course."	<ul style="list-style-type: none"> The class should be increased by one hour per day to enable all students to participate in exercises. The class should be increased by two days so that all group presentations can be peer evaluated and have written abstracts.
5 "Readable plans."	<ul style="list-style-type: none"> The plans should be enlarged to 11 by 17 and provided with an accurate scale. My plan set was blurry, which caused the dotted lines to be interpreted as solid lines.
6 "Better student guide organization," "manual did not coincide with slides."	<ul style="list-style-type: none"> The slide sequence in Unit 4 did not align with the content in the student manual from slides 4-16 through 4-21. The instructor added slides in Unit 4 that were not in my student manual.
7 "Dry in spots."	<ul style="list-style-type: none"> The instructor/activity should have used student group activities rather than lecture to explain Maslow's Hierarchy. Create a pre-course reading on symbiotic personal relationships rather than trying to lecture on them in class.
8 "More visual aids."	<ul style="list-style-type: none"> The text description of V-patterns did not provide three-dimensional views. More photographs or drawings would help me imagine the pattern. There was a video clip on NBC News (date) that summarized the topic very well.
9 "Re-evaluate pre-course assignments."	<ul style="list-style-type: none"> The pre-course assignments were not discussed or referenced in class. Either connect them to the course content or delete them. The pre-course assignments on ICS could be reduced to a one-page job aid rather than a 25-page reading.
10 "A better understanding of NIMS."	<ul style="list-style-type: none"> The instructor did not explain the connection between NIMS and ICS. The student manual needs an illustrated guide to NIMS.

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UNIT 1:
INTRODUCTION

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I. ADMINISTRATIVE

ADMINISTRATIVE

- Roster.
- Parking.
- Class schedule & breaks.
- Interruptions
 - Texting, cell phones.
- Restrooms.
- Emergency exits, fire drills, shelter in place.
- Tobacco products.

Slide 1-3


- A. Roster: Initial roster. If any information has changed, correct it on the roster. If name or agency has changed, the student will need to go to Admissions to correct it.
- B. Parking: Students should park in student parking areas.
- C. Class schedule and breaks: Breaks will be **approximately** every hour; some will be shorter than others. If student needs to be excused, just get up and leave.
- D. Interruptions (texting, cell phones): Silence cell phones and take calls away from classroom doors.
- E. Emergency exits, fire drills, shelter in place: Note emergency exits and procedures. The student by the light switch is designated to take the roster clipboard (above their head) if the class must evacuate the building or shelter in place.
- F. Tobacco products: No tobacco products in classroom or down range. Products are only permitted in designated smoking areas, 25 feet away from doors.

II. PURPOSE

PURPOSE

This six-day course is an intense, interactive, and realistic experience providing students with case development, case review, and the knowledge and skills to prepare to testify as an expert.

Successful completion of this course satisfies the requirements of the International Association of Arson Investigators (IAAI) for the expert testimony requirement within the IAAI-Certified Fire Investigator Certification (IAAI-CFI®) examination application.



Slide 1-4

- A. This six-day course is an intense, interactive, and realistic experience providing students with case development, case review, and the knowledge and skills to prepare to testify as an expert.
- B. Successful completion of this course satisfies the requirements of the International Association of Arson Investigators (IAAI) for the expert testimony requirement within the IAAI-Certified Fire Investigator Certification (IAAI-CFI®) examination application.

1. Week 1:
 - a. Orientation.
 - b. Videos.
 - c. Required reading.
 - d. Discussion posts.
 - e. Case files.

2. Week 2:
 - a. Essay questions.
 - b. Report work.
 - c. Curriculum vitae (CV).

COURSE OVERVIEW-ON CAMPUS

- Unit 1: Introduction
- Unit 2: Courtroom Introduction
- Unit 3: Case File Introduction
- Unit 4: Case Development
- Unit 5: Legal Considerations – Panel Discussion
- Unit 6: Student Testimony Activities
- Unit 7: Final Presentation

Slide 1-8

- B. Course overview-on campus.
1. Unit 1: Introduction.
 2. Unit 2: Courtroom Introduction.
 3. Unit 3: Case File Introduction.
 4. Unit 4: Case Development.
 5. Unit 5: Legal Considerations – Panel Discussion.

- 6. Unit 6: Student Testimony Activities.
- 7. Unit 7: Final Presentation.

STUDENT AND COURSE REQUIREMENTS

Students can be successful in this course in one of two ways:

1. To academically pass the class, students must obtain an overall average score of 70%
2. To receive credit toward IAAI-CFI, students must obtain an overall average score of 80%

Slide 1-9

C. Student and course requirements.


Students can be successful in this course in one of two ways:

1. To academically pass the class, students must obtain an overall average score of 70%.
2. To receive credit toward IAAI-CFI, students must obtain an overall average score of 80%.

COURSE DELIVERY

Any questions regarding the Learning Management System (Blackboard)

- Tests.
- Resources.
- Activities.
- PDF of unit slides.
- Lock out.
- Navigation.



Slide 1-10


D. Course delivery.

Any questions regarding the Learning Management System (Blackboard):

1. Tests.
2. Resources.
3. Activities.
4. PDF of unit slides.
5. Lock out.
6. Navigation.

SYLLABUS

- Schedule
- Rubrics



Slide 1-11

- E. Syllabus.
1. Schedule.
 2. Rubrics.

UNIT 2: COURTROOM INTRODUCTION

TERMINAL OBJECTIVE

The students will be able to:

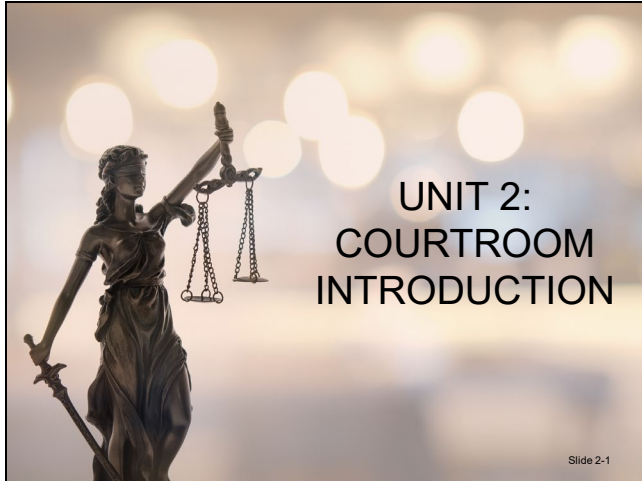
- 2.1 *Distinguish among the various types of court proceedings, the roles of courtroom personnel, trial procedures, and the presentation of professional witness expert testimony.*

ENABLING OBJECTIVES

The students will be able to:

- 2.1 *Explain the different types of court proceedings.*
 - 2.2 *Assess the trial process.*
 - 2.3 *Categorize the roles of courtroom personnel.*
 - 2.4 *Consider appropriate professional courtroom demeanor.*
 - 2.5 *Defend against common cross-examination strategies.*
-

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TERMINAL OBJECTIVE

Distinguish among the various types of court proceedings, the roles of courtroom personnel, trial procedures, and the presentation of professional witness expert testimony.

Slide 2-2

ENABLING OBJECTIVES

- 2.1 Explain the different types of court proceedings.
- 2.2 Assess the trial process.
- 2.3 Categorize the roles of courtroom personnel.
- 2.4 Consider appropriate professional courtroom demeanor.
- 2.5 Defend against common cross-examination strategies.

Slide 2-3

GRAND JURY PROCEEDING

- Part of a criminal procedure that may result in an indictment of the defendant.
- Probable cause hearing, similar to the preliminary hearing, except:
 - it is conducted in secret before grand jurors;
 - only involves the judge and prosecutor;
 - and the jury determines if probable cause exists for an indictment.

Slide 2-6

B. Grand jury proceeding.

1. Part of a criminal procedure that may result in an indictment of the defendant.
2. Probable cause hearing, similar to the preliminary hearing, except:
 - a. It is conducted in secret before grand jurors.
 - b. Only involves the judge and prosecutor.
 - c. The jury determines if probable cause exists for an indictment.

DEPOSITION

Depositions require witness testimony without the presence of a judge or jury to gather information about a pending civil or criminal case.



Slide 2-7

C. Deposition.

1. Depositions require witness testimony without the presence of a judge or jury to gather information about a pending civil or criminal case.

2. An attorney asks questions and the deponent responds while the testimony is recorded.

PRETRIAL MOTION HEARINGS

- Occur after the preliminary hearing and before trial.
- Hearings to address evidence admission, such as a motion to suppress, or Daubert.
- The outcome of these motions help determine what evidence will be permitted at trial, what legal arguments are likely to be made, and whether a trial is necessary.

Slide 2-8

- D. Pretrial motion hearings.
1. Occur after the preliminary hearing and before trial.
 2. Hearings to address evidence admission, such as a motion to suppress, or Daubert.
 3. The outcome of these motions help determine what evidence will be permitted at trial, what legal arguments are likely to be made, and whether a trial is necessary.

TRIAL

- Criminal trials require a judge or jury to determine if a defendant is guilty.
- Civil trials require a judge or jury to determine if a defendant is responsible or not responsible.

Slide 2-9

- E. Trial.
1. Criminal trials require a judge or jury to determine if a defendant is guilty.

- Civil trials require a judge or jury to determine if a defendant is responsible or not responsible.

II. TRIAL PROCESS

STANDARDS OF PROOF

- The prosecutor in a criminal case must convince a jury that they have proven every element of the crime(s) beyond a reasonable doubt, which is the highest legal standard in our justice system.
- The jury verdict must be unanimous.
- A plaintiff's attorney must convince the jury they have proven their civil case by meeting the standard of preponderance of the evidence, which means more than 50%.

Slide 2-10

A. Standards of proof.

- The prosecutor in a criminal case must convince a jury that they have proven every element of the crime(s) beyond a reasonable doubt, which is the highest legal standard in our justice system.
- The jury verdict must be unanimous.
- A plaintiff's attorney must convince the jury they have proven their civil case by meeting the standard of preponderance of the evidence, which means more than 50%.

PRETRIAL PROCESS

When a subpoena to appear is received, the expert witness should:

- Contact the attorney who issued the subpoena to arrange for a pretrial meeting.
- Review the entire case file in preparation for meeting with the attorney.
- Determine the purpose of the testimony.

Slide 2-11

B. Pretrial process.

1. When a subpoena to appear is received, the expert witness should:
 - a. Contact the attorney who issued the subpoena to arrange for a pretrial meeting.
 - b. Review the entire case file in preparation for meeting with the attorney.
 - c. Determine the purpose of the testimony.
2. Once a case is determined to be incendiary, the investigator should begin to establish a rapport with the prosecutor. This relationship will lead to an effective prosecution report, preparation for legal action, arraignment, and eventually the path for the trial.

TRIAL PROCESS

1. The case is called.
2. The prosecutor makes an opening statement.
3. The defense may or may not make an opening statement.
4. The prosecution presents its case (evidence and testimony).
5. The defense cross-examines witnesses, if it chooses.
6. The judge rules on motions, objections, case schedule, etc.

Slide 2-12

C. Trial process.

1. The case is called.
2. The prosecutor makes an opening statement.
3. The defense may or may not make an opening statement.
4. The prosecution presents its case (evidence and testimony).
5. The defense cross-examines witnesses, if it chooses.
6. The judge rules on motions, objections, case schedule, etc.

SEQUESTER OF WITNESSES

- When witnesses scheduled to testify are excluded from the courtroom until after they have testified.
- Ensure independent testimony.



Slide 2-13

D. Sequester of witnesses.

1. When witnesses scheduled to testify are excluded from the courtroom until after they have testified.
2. Ensure independent testimony.
3. The sequestering of witnesses is done to prevent the witnesses from consulting prior to their testimony.
4. The government attorney may request to have the investigating agent granted permission to remain in the courtroom to assist in the trial.
5. For mock trial purposes, the expert witnesses are sequestered at the time of their assigned case until their testimony is complete.

TRIAL PROGRESSION

The defense makes a motion for acquittal at the close of the state's evidence. If a verdict of acquittal is not ordered, then:

- The defense presents its case (calls witnesses/experts) and the prosecution cross-examines their witnesses.
- There is the possibility of rebuttal testimony.
- The defense makes a motion for acquittal at the close of all evidence.
- Closing arguments.

Slide 2-14

E. Trial progression.

The defense makes a motion for acquittal at the close of the state's evidence. If a verdict of acquittal is not ordered, then:

1. The defense presents its case (calls witnesses/experts) and the prosecution cross-examines their witnesses.
2. There is the possibility of rebuttal testimony.
3. The defense makes a motion for acquittal at the close of all evidence.
4. Closing arguments.

TRIAL PROCESS CONCLUSION

- The jury deliberates.
- The judge receives the verdict.
- Judgment may occur either at the end of the trial, or at a later date, depending upon the jurisdiction and whether or not the judge or jury is sentencing.


Slide 2-15

- F. Trial process conclusion.
1. The jury deliberates.
 2. The judge receives the verdict.
 3. Judgment may occur either at the end of the trial, or at a later date, depending upon the jurisdiction and whether or not the judge or jury is sentencing.

III. ROLES OF COURTROOM PERSONNEL

COURTROOM PARTICIPANTS

- General overview of courtroom roles (specific examples will be provided during the attorney panel discussion).
- Students will demonstrate courtroom norms relevant to participant roles during Activity 6.3.



Slide 2-16

A. Courtroom participants.

1. General overview of courtroom roles (specific examples will be provided during the attorney panel discussion).
2. Students will demonstrate courtroom norms relevant to participant roles during Activity 6.3: Mock Trial Testimony Exercise.

THE JUDGE

- Directs courtroom proceedings.
- May conduct initial jury voir dire examination.
- Rules on motions, objections, and legal issues.
- Protects the rights of criminal defendants.
- Instructs the jury regarding deliberations.
- Receives the jury's verdict.
- Enters judgment.
- Adjourns court.

Slide 2-17

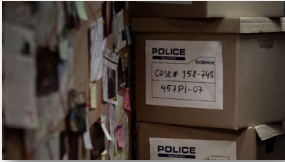
B. The judge.

1. Directs courtroom proceedings.
2. May conduct initial jury voir dire examination.
3. Rules on motions, objections, and legal issues.

4. Protects the rights of criminal defendants.
5. Instructs the jury regarding deliberations.
6. Receives the jury's verdict.
7. Enters judgment.
8. Adjourns court.
9. The judge also determines whether a criminal defendant is guilty or not guilty and whether a civil defendant is, or is not, responsible when the case is presented as a bench trial rather than a jury trial.

COURTROOM CLERK

- Maintains court case files.
- Administers the oath to the jurors.
- Administers the oath to witnesses.
- Maintains custody of all physical evidence introduced at trial.



Slide 2-18

- C. Courtroom clerk.
1. Maintains court case files.
 2. Administers the oath to the jurors.
 3. Administers the oath to witnesses.
 4. Maintains custody of all physical evidence introduced at trial.

BAILIFF

- Calls the court to order.
- Maintains order and safety in the courtroom.
- Communicates questions from the jury to the judge.
- Serves as liaison or passes evidence between witness and jury.
- Varies between jurisdictions.

Slide 2-19

D. Bailiff.

1. Calls the court to order.
2. Maintains order and safety in the courtroom.
3. Communicates questions from the jury to the judge.
4. Serves as liaison or passes evidence between witness and jury.
5. Varies between jurisdictions.

COURT REPORTER

Creates a verbatim record of everything that is said in the court room (testimony, arguments from counsel, objections).



Slide 2-20

E. Court reporter.

Creates a verbatim record of everything that is said in the court room (testimony, arguments from counsel, objections).

THE JURY

- Determines the credibility of all witnesses.
- May believe part, all, or none of witness testimony.
- Determines issues of fact arising from the evidence presented.



Slide 2-21

F. The jury.

1. Determines the credibility of all witnesses.
2. May believe part, all, or none of witness testimony.
3. Determines issues of fact arising from the evidence presented.

FUNCTIONS OF LEGAL COUNSEL



Slide 2-22

ATTORNEYS

- Prosecutor represents the government in criminal cases.
- Criminal defense attorney represents individual(s) charged with a crime.
- Prosecutors and criminal defense attorneys are responsible for protecting constitutional rights of criminal defendants.
- Civil attorneys represent plaintiffs and defendants in civil cases.

Slide 2-23

G. Attorneys.

1. Prosecutor represents the government in criminal cases.
2. Criminal defense attorney represents individual(s) charged with a crime.
3. Prosecutors and criminal defense attorneys are responsible for protecting constitutional rights of criminal defendants.
4. Civil attorneys represent plaintiffs and defendants in civil cases.

PREPARATION WITH ATTORNEY

- Establish rapport with the prosecutor.
- Know the case!
 - Review all records, reports, evidence and diagrams.
 - Review possible testimony with the prosecuting attorney, including exhibits.
 - Know dates, addresses, times and pertinent facts that may be included in testimony.

Slide 2-24

5. Preparation with attorney.
 - a. Establish rapport with the prosecutor.
 - b. Know the case!
 - Review all records, reports, evidence and diagrams.

- Review possible testimony with the prosecuting attorney, including exhibits.
- Know dates, addresses, times and pertinent facts that may be included in testimony.

THE DEFENDANT

- Presumption of innocence (criminal cases):
The defendant enters the court with the presumption of innocence in his or her favor. This continues until evidence is produced to establish guilt beyond a reasonable doubt after submission of the case to the jury.
- Presumption of non-responsibility (civil cases).


Slide 2-25

H. The defendant.

1. Presumption of innocence (criminal cases): The defendant enters the court with the presumption of innocence in his or her favor. This continues until evidence is produced to establish guilt beyond a reasonable doubt after submission of the case to the jury.
2. Presumption of non-responsibility (civil cases).

WITNESSES

- Fact Witness / Lay Witness.
 - Who, What, When, Where, Why and How.
- Expert witness.
 - Opinion testimony, special.



Slide 2-26

I. Witnesses.

1. Fact witness/lay witness.

Who, what, when, where, why and how.

2. Expert witness.

Opinion testimony, special.

IV. COURTROOM DEMEANOR

WITNESS CREDIBILITY

Demeanor and attitude:

- Show respect. (Ex. “yes, your honor”)
- Be professional with all parties.
- Be fair to both sides.
- Show an interest that seeks the truth.
- Provide definitions or complete explanations.
- Show confidence and professionalism.
- Avoid sarcasm.

Slide 2-27

- A. Witness credibility.

Demeanor and attitude:

1. Show respect (ex., “yes, your honor”).
2. Be professional with all parties.
3. Be fair to both sides.
4. Show an interest that seeks the truth.
5. Provide definitions or complete explanations.
6. Show confidence and professionalism.
7. Avoid sarcasm.

GENERAL GUIDELINES FOR TESTIFYING

- Tell the truth.
- Listen to the entire question.
- If there is any possibility of misunderstanding the question, ask that it be repeated.
- Answer the question accurately and concisely.
- If interrupted, ask to finish the answer.
- If there is an objection, wait for the judge to rule before answering. (sustained/overruled)

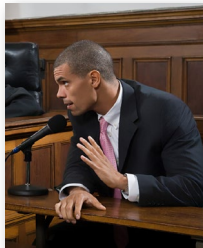
Slide 2-28

B. General guidelines for testifying.

1. Tell the truth.
2. Listen to the entire question.
3. If there is any possibility of misunderstanding the question, ask that it be repeated.
4. Answer the question accurately and concisely.
5. If interrupted, ask to finish the answer.
6. If there is an objection, wait for the judge to rule before answering (sustained/overruled).

ADDITIONAL GUIDELINES

- Think before speaking.
- Do not volunteer information.
- Do not guess.
- Control emotions.
- If a mistake is made, correct it and move on.
- Remember with whom the case was discussed.




Slide 2-29

7. Think before speaking.

8. Do not volunteer information.
9. Do not guess.
10. Control emotions.
11. If a mistake is made, correct it and move on.
12. Remember with whom the case was discussed.

APPEARANCE

- The suit or dress uniform must be neat, properly fitted, and conservative.
- Follow department procedures.
- Pockets should not bulge.



Slide 2-30

C. Appearance.

1. The suit or dress uniform must be neat, properly fitted, and conservative.
2. Follow department procedures.
3. Pockets should not bulge.

ADDITIONAL APPEARANCE

- Avoid flashy jewelry.
- Avoid political pins or buttons.
- You represent the city/county government.
- You will be the center of attention, and all eyes will be focused upon you:
 - This is true from the time you get into your car to come to court until you are finished your testimony and are excused! Jurors are everywhere.


Slide 2-31

4. Avoid flashy jewelry.
5. Avoid political pins or buttons.
6. You represent the city/county government.
7. You will be the center of attention, and all eyes will be focused upon you:

This is true from the time you get into your car to come to court until you are finished your testimony and are excused! Jurors are everywhere.

PUNCTUALITY

- Be early, not on time.
- Be familiar with the subpoena/summons.
- Allow for unexpected traffic or delays.
- Check in with the clerk or bailiff, who will direct you where to go.



Slide 2-32

- D. Punctuality.
1. Be early, not on time.
 2. Be familiar with the subpoena/summons.
 3. Allow for unexpected traffic or delays.
 4. Check in with the clerk or bailiff, who will direct you where to go.

ENTERING THE COURTROOM

- First impression for the judge and courtroom:
 - Stand tall.
 - Walk to the witness stand with even steps.
 - Approach the bench and follow the directions of the clerk or bailiff.
- Taking the oath:
 - Be serious and face the clerk when taking the oath.
 - Raise your right hand (and only your right).
 - Answer “I do” firmly and clearly.

Slide 2-33

E. Entering the courtroom.

1. First impression for the judge and courtroom:
 - a. Stand tall.
 - b. Walk to the witness stand with even steps.
 - c. Approach the bench and follow the directions of the clerk or bailiff.
2. Taking the oath:
 - a. Be serious and face the clerk when taking the oath.
 - b. Raise your right hand (and only your right).
 - c. Answer “I do” firmly and clearly.
3. If possible, visit the courtroom prior to the day of trial.
4. If carrying any items such as a briefcase or notebook, find out where they can be left before entering the courtroom. Do not carry anything to the bench.

SITTING IN THE WITNESS CHAIR

- Sit upright and in a comfortable position.
- Maintain good posture throughout the testimony.
- Appear natural and poised.
- Choose a comfortable position for your legs; do not shift positions often.
- Avoid fidgeting.
- Do not rock the chair.
- The witness chair may not be behind a closed rail; remain cognizant that a full view may be available throughout the testimony.

Slide 2-34

F. Sitting in the witness chair.

1. Sit upright and in a comfortable position.
2. Maintain good posture throughout the testimony.
3. Appear natural and poised.
4. Choose a comfortable position for your legs; do not shift positions often.
5. Avoid fidgeting.
6. Do not rock the chair.
7. The witness chair may not be behind a closed rail; remain cognizant that a full view may be available throughout the testimony.

VOICE

- Speak in a clear and distinct manner.
- Be expressive.
- Volume must be loud enough that all jurors can hear the testimony, and that testimony can be accurately recorded.
- Ensure jurors are paying attention by using voice inflections.

Slide 2-35

G. Voice.

1. Speak in a clear and distinct manner.
2. Be expressive.
3. Volume must be loud enough that all jurors can hear the testimony, and that testimony can be accurately recorded.
4. Ensure jurors are paying attention by using voice inflections.

EYE CONTACT

Eye contact gains credibility with the jury:

- Look at the attorney when a question is being asked.
Look at the jury when answering questions.
- Gauge how the communication is being received.

Slide 2-36


- H. Eye contact.
1. Eye contact gains credibility with the jury.
 2. Look at the attorney when a question is being asked.
 3. Look at the jury when answering questions.
 4. Gauge how the communication is being received.

V. DIRECT AND CROSS EXAMINATION

EXPERT WITNESS

A successful expert:

- During the presentation of testimony, teach the jury about the case.
- Relate case concepts to examples that the jury may be able to connect with.
- Present an unbiased and impartial presentation.



Slide 2-37

A. Expert witness.

A successful expert:

1. During the presentation of testimony, teach the jury about the case.
2. Relate case concepts to examples that the jury may be able to connect with.
3. Present an unbiased and impartial presentation.

FUNDAMENTALS OF BEING A GOOD WITNESS

DO NOT:

- Appear too anxious to please or too eager to fight.
- Chew anything.
- Memorize testimony.
- Touch face, play with hair.
- Bite nails.

Slide 2-38

B. Fundamentals of being a good witness.

Do not:

1. Appear too anxious to please or too eager to fight.

2. Chew anything.
3. Memorize testimony.
4. Touch face, play with hair.
5. Bite nails.

DIRECT/CROSS EXAMINATION

Adversarial process:

- Direct examination presents the case.
- Cross examination means to expose incorrect testimony, identify support for the defense theory, and expose witness' lack of knowledge and/or bias.

Slide 2-39

C. Direct/cross examination.

Adversarial process:

DIRECT EXAMINATION

- On direct, the attorney will ask open ended questions.
- The witness must provide complete responses that a jury will understand.
- An opportunity to teach the jury about the investigation.
- Establish expert knowledge base, credibility, and relationship with the jury.

Slide 2-40

1. Direct examination presents the case.
 - a. On direct, the attorney will ask open ended questions.
 - b. The witness must provide complete responses that a jury will understand.

- c. An opportunity to teach the jury about the investigation.
- d. Establish expert knowledge base, credibility, and relationship with the jury.

CROSS EXAMINATION

The defense attorney may use a variety of tactics in an effort to discredit or diminish testimony. Demonstrate the following:

- Knowledge on fact, science, and witness experience.
- Credibility and professionalism without prejudice or bias.
- A sound investigation report.
- Explanation for anything the investigator may not have done.

Slide 2-41

- 2. Cross examination means to expose incorrect testimony, identify support for the defense theory, and expose witness' lack of knowledge and/or bias.
 - a. The defense attorney may use a variety of tactics in an effort to discredit or diminish testimony.
 - b. Demonstrate the following:
 - Knowledge on fact, science, and witness experience.
 - Credibility and professionalism without prejudice or bias.
 - A sound investigation report.
 - Explanation for anything the investigator may not have done.

HANDLING CROSS EXAMINATION

Be prepared to:

- Respond to leading and compound questions.
- Address conflicts in your testimony.
- Ensure responses are understood by the judge and jury.

The key is to fully understand questions and to answer correctly.

Slide 2-42



D. Handling cross examination.

1. Be prepared to:

- a. Respond to leading and compound questions.
- b. Address conflicts in your testimony.
- c. Ensure responses are understood by the judge and jury.

2. The key is to fully understand questions and to answer correctly.

VI. SUMMARY



SUMMARY

- Courtroom and conduct.
- Fundamentals of being a good witness.
- Explain the reliable method used to analyze relevant evidence in a fire case and how it was applied in this case.
- Demonstrate to the jury that the witness is presenting credible, professional, expert opinions in the case.

Slide 2-43

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UNIT 3: CASE FILE INTRODUCTION

TERMINAL OBJECTIVE

The students will be able to:

- 3.1 *Using the scientific method, formulate a defensible origin and cause hypothesis from a fire case file.*

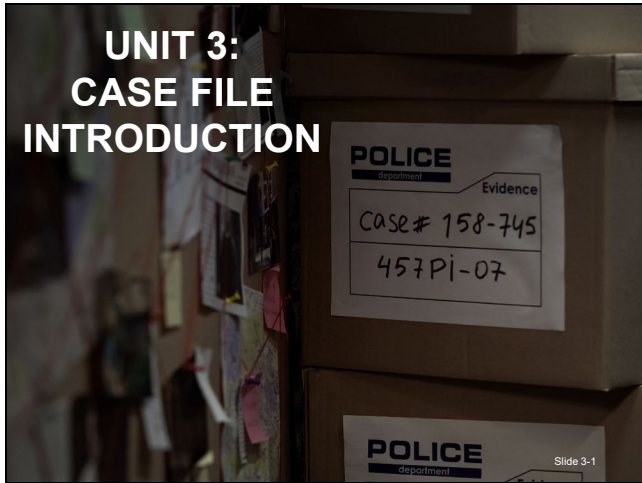
ENABLING OBJECTIVES

The students will be able to:

- 3.1 *Evaluate case file contents.*
- 3.2 *Design a systematic methodology to examine, decipher, prioritize, consolidate and summarize case file contents.*
- 3.3 *Compose a thorough and accurate report that can be defended during a deposition and mock trial testimony.*

Note: This unit is a review of topics covered in the associated pre-course videos. This unit affords instructors an opportunity to elaborate on various concepts and manage expectations. Students are encouraged to discuss any issues they may have encountered with the case files prior to arrival.

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TERMINAL OBJECTIVE

Using the scientific method, formulate a defensible origin and cause hypothesis from a fire case file.

Slide 3-2

ENABLING OBJECTIVES

- 3.1 Evaluate case file contents.
- 3.2 Design a systematic methodology to examine, decipher, prioritize, consolidate and summarize case file contents.
- 3.3 Compose a thorough and accurate report that can be defended during a deposition and mock trial testimony.

Slide 3-3

I. CASE FILE CONTENTS

ONCE UPON A TIME...

- An unknown person processed this scene, collected this information, and you are to use their work for this course.
- The case is provided as an electronic file, a selection of data sources comparable to a cold case or dead case file.
- You have not been to the scene, there is no one to interview, this is what you have and you are tasked with creating an expert report from the ashes.
- The case file is not perfect, but **it has all the significant data**.
- Create an expert report as to the origin and cause of the fire.
- Beginning in the 2021 edition of National Fire Protection Association (NFPA) 921, *Guide for Fire and Explosion Investigation*, classification is no longer required. The primary focus of this exercise is to gather enough information to prepare an expert report from which to testify. However, there is enough information in all case files to make a determination and students should make attempts to classify the fires.

Slide 3-4

- A. Once upon a time...
1. An unknown person processed this scene, collected this information, and you are to use their work for this course.
 2. The case is provided as an electronic file, a selection of data sources comparable to a cold case or dead case file.
 3. You have not been to the scene, there is no one to interview, this is what you have, and you are tasked with creating an expert report from the ashes.
 4. The case file is not perfect, but **it has all the significant data**.
 5. Create an expert report as to the origin and cause of the fire.
 6. Beginning in the 2021 edition of National Fire Protection Association (NFPA) 921, *Guide for Fire and Explosion Investigation*, classification is no longer required. The primary focus of this exercise is to gather enough information to prepare an expert report from which to testify. However, there is enough information in all case files to make a determination and students should make attempts to classify the fires.

FOCUS ON FACTS

- It is expected that you may experience frustration using a case file that you did not create, but focus on the factual content relevant to the origin and cause of the fire.
- You will not be graded on the quality of the case file, but you will be assessed based on your familiarity with its contents, the application of the scientific method, and your ability to credibly explain and defend that application.

Slide 3-5

B. Focus on facts.

1. It is expected that you may experience frustration using a case file that you did not create, but focus on the factual content **relevant to the origin and cause of the fire**.
2. You will not be graded on the quality of the case file, but you will be assessed based on your familiarity with its contents, the application of the scientific method, and your ability to credibly explain and defend that application.

CASE FILE CONTENT

The electronic case files contain items such as:

- National Fire Incident Reporting System (NFIRS).
- Police report.
- Other official reports.
- Witness statements or other interviews.
- Laboratory reports.
- Photographs.
- Scene sketch.
- Additional data.



Slide 3-6

C. Case file content.

The electronic case files contain items such as:

1. National Fire Incident Reporting System (NFIRS).
2. Police report.

3. Other official reports.
4. Witness statements or other interviews.
5. Laboratory reports.
6. Photographs.
7. Scene sketch.
8. Additional data.

**THE REAL WORLD
vs TRAINING**

- All fires within the case file are actual fires created for this course in a burn cell. (Make the connection from the story building to burn cell.)
- All fires have a definitive area of origin, one (or more) distractors, and a known cause.
- Additional photos were added for exterior and building construction purposes.
- The case files do not contain any "tricks". They may contain common mistakes to simulate the real world (mistyped names, variances in statements, mistyped dates). If asked, a student could explain those mistakes were present in the materials provided, but they were inconsequential to the report.

Slide 3-7

D. The real world vs training.

1. All fires within the case file are actual fires created for this course in a burn cell. (Make the connection from the story building to burn cell.)
2. **All fires have a definitive area of origin, one (or more) distractors, and a known cause.**
3. Additional photos were added for exterior and building construction purposes.
4. The case files do not contain any "tricks." They may contain common mistakes to simulate the real world (mistyped names, variances in statements, mistyped dates). If asked, a student could explain those mistakes were present in the materials provided, but they were inconsequential to the report.

**DEVELOP AND TEST
ORIGIN HYPOTHESES**

Focus on the three factors outlined in NFPA 921 to determine origin.

Slide 3-8

E. Use the information provided.

Focus on the three factors outlined in NFPA 921 to determine origin. As there is limited witness information, ensure reliance on all factors.

II. EXAMINE, DECIPHER, AND SUMMARIZE CASE FILE

GETTING STARTED

1. Get an overview of all the materials.
2. Review the reports.
3. Orient information with the sketch.
4. Review photos and begin deciding which may be more important.
5. Create an outline or notes to begin to track theories of origin and cause.
6. Use the page numbers of the case file to reference contents.

Slide 3-9

A. Getting started.

1. Get an overview of all the materials.
2. Review the reports.
3. Orient information with the sketch.
4. Review photos and begin deciding which may be more important.

5. Create an outline or notes to begin to track theories of origin and cause.
6. Use the page numbers of the case file to reference contents.

CRAFTING THE REPORT

- **Format:**
 - Use your agency's format or the provided section headings (next slide).
 - Arial or Times New Roman font, 12 point, **double spaced** Word doc.
- **Length:**
 - Up to the author
 - Reports may be 8 to 14 pages in length or between 2000 and 4000 words.
 - This is an estimate as the fires are different and have slightly varying amounts of data.
 - Reports should be thorough and cover all significant information.
- **Review grading rubric prior to start!**

Slide 3-10

B. Crafting the report.

1. **Format:**
 - a. Use your agency's format or the provided section headings (next slide).
 - b. Arial or Times New Roman font, 12 point, **double spaced** Word doc.
2. **Length:**
 - a. Up to the author.
 - b. Reports may be 8 to 14 pages in length or between 2000 and 4000 words.
 - c. This is an estimate as the fires are different and have slightly varying amounts of data.
 - d. Reports should be thorough and cover all significant information.
3. Review grading rubric prior to start!

SUGGESTED SECTIONS

1. Case synopsis.
 2. Building construction and utilities.
 3. Scene processing and data analysis.
 4. Discussion.
 5. Conclusion.
- Real world reports would have additional headings and would likely be lengthier.
 - This style of report should result in approximately 2-3 pages per topic area. Some may be longer or slightly shorter depending on the assigned case. (Complexity of the fire, and/or information available in a particular file applicable to a section.)

Slide 3-11

C. Suggested sections.

1. Case synopsis.
2. Building construction and utilities.
3. Scene processing and data analysis.
4. Discussion.
5. Conclusion.
6. Real world reports would have additional headings and would likely be lengthier.
7. This style of report should result in approximately 2-3 pages per topic area. Some may be longer or slightly shorter depending on the assigned case. (Complexity of the fire, and/or information available in a particular file applicable to a section.)

USING RESOURCES

- Case files do not represent fires that can be found in the media (do not attempt to research the case itself).
- Some individual research is required. All necessary information to identify origin and cause is provided within the case file; however, you will likely need supplementary knowledge to credibly testify as to your determination.
- Students may use the internet or any resource to investigate specific case details. *Example: if CSST is a component within the case and is unfamiliar, be sure to research data in regard to that material.*
- Students are encouraged to use the texts, guides, and standards provided in the classroom (or from their own collection) to research, reference, and bolster their positions.

Slide 3-12

- D. Using resources.
1. Case files do not represent fires that can be found in the media (do not attempt to research the case itself).
 2. Some individual research is required. All necessary information to identify origin and cause is provided within the case file; however, you will likely need supplementary knowledge to credibly testify as to your determination.
 3. Students may use the internet or any resource to investigate specific case details. **Example:** if Corrugated Stainless Steel Tubing (CSST) is a component within the case and is unfamiliar, be sure to research data in regard to that material.
 4. Students are encouraged to use the texts, guides, and standards provided in the classroom (or from their own collection) to research, reference, and bolster their positions.

APPLY FINDINGS

- Students will be testifying to their report during the Deposition and Mock Trial activities.
- **KNOW** the contents of the case file and how the facts relate to the report findings.
- Address all pertinent evidence that supports the determination in the report. (*Information not contained in the report may be excluded during a trial.*)

Slide 3-13

- E. Apply findings.
1. Students will be testifying to their report during the Deposition and Mock Trial activities.
 2. **Know** the contents of the case file and how the facts relate to the report findings.
 3. Address all pertinent evidence that supports the determination in the report. **(Information not contained in the report may be excluded during a trial.)**

LOGISTICS

1. Groups of approximately four students are assigned the same case file. Students are encouraged (through Blackboard or in person on campus) to discuss and debate the case within their group.
2. Written portions of the course are individual assignments. Students may not collaborate on the written report.
3. All students within a group **do not** have to agree on the ultimate fire origin or causation.
4. Students must present and effectively defend their own findings.

Slide 3-14

F. Logistics.

1. Groups of approximately four students are assigned the same case file. Students are encouraged (through Blackboard or in person on campus) to discuss and debate the case within their group.
2. **Written portions of the course are individual assignments. Students may not collaborate on the written report.**
3. **All students within a group do not have to agree on the ultimate fire origin or causation.**
4. Students must present and effectively defend their own findings.

III. COMPOSING REPORT

FINAL REPORT

- Completion Deadline:
 - **Day 1, Sunday (on campus) at 11:59 PM**
- Upload a complete organized, grammatically correct, expert origin and cause report which contains the opinions to be presented at testimony.
- Must be in a Word document.
- Double spaced, 12 point font, Arial or Times New Roman.
- Reference photos by the number on photo. Do not attach or embed photos in the report itself (even if that is agency policy).
- Illustrative photos for testimony will be available; students do not need to print photos off campus.

Slide 3-15

A. Final report.

1. Completion deadline: **Day 1, Sunday (on campus) at 11:59 PM.**
2. Upload a complete organized, grammatically correct, expert origin and cause report which contains the opinions to be presented at testimony.
3. Must be in a Word document.
4. **Double spaced, 12 point font, Arial or Times New Roman.**
5. Reference photos by the number on photo (example #076, 72). Do not attach or embed photos in the report itself (even if that is agency policy).
6. Illustrative photos for testimony will be available; students do not need to print photos off campus.

INSTRUCTOR'S ROLE

- Instructors **CAN** provide general fire investigation guidance or offer suggestions for additional research.
- Instructors can **NOT** discuss or explain any information regarding the case file contents.
- Instructors will **NOT** proofread or provide guidance on the report contents.
- Do not ask the instructors specific case questions.

Slide 3-16

B. Instructor's role.

1. Instructors **can** provide general fire investigation guidance or offer suggestions for additional research.
2. Instructors can **not** discuss or explain any information regarding the case file contents.
3. Instructors will **not** proofread or provide guidance on the report contents.
4. Do not ask the instructors specific case questions.

LEGAL AND ETHICS

- Students are prohibited from discussing the contents of the case file outside of this course.
- Students are prohibited from removing, duplicating, copying, or making photos of any materials in the paper case files.
- Students will turn in any written notes at the conclusion of the course to be shredded.
- Students will delete any electronic records relating to the case files (other than those stored in Blackboard).
- Students will not discuss case files with potential future students.
- If caught reproducing or distributing contents, students may be banned from future NFA offerings.

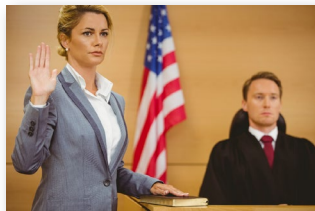
Slide 3-17

C. Legal and ethics.

1. Students are prohibited from discussing the contents of the case file outside of this course.
2. Students are prohibited from removing, duplicating, copying, or making photos of any materials in the paper case files.
3. Students will turn in any written notes at the conclusion of the course to be shredded.
4. Students will delete any electronic records relating to the case files (other than those stored in Blackboard).
5. Students will not discuss case files with potential future students.
6. If caught reproducing or distributing contents, students may be banned from future National Fire Academy (NFA) offerings.

TESTIMONY PREPARATION



- KNOW the report.
- Review all case materials.
- Maintain a list of photos that may be introduced in court.



Slide 3-18

- D. Testimony preparation.
 - 1. **Know** the report.
 - 2. Review all case materials.
 - 3. Maintain a list of photos that may be introduced in court.

IV. SUMMARY



SUMMARY

- Utilize a systematic methodology to examine, decipher, prioritize, consolidate and summarize case file contents.
- Prepare a professional report that is accurate, clear, concise, and grammatically correct.
- Base findings on a totality of the information available.
- Reports are a reflection of the author and could be used to attack credibility during a deposition and/or trial.
- Take ownership of your work and presentation.

Slide 3-19

UNIT 4: CASE DEVELOPMENT

TERMINAL OBJECTIVE

The students will be able to:

- 4.1 *Create and present a fire investigation case that can withstand legal challenge.*

ENABLING OBJECTIVES

The students will be able to:

- 4.1 *Demonstrate fire investigation and case development essentials.*
 - 4.2 *Consider data for analysis.*
 - 4.3 *Prepare an expert report for use throughout the legal process.*
-

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TERMINAL OBJECTIVE

Create and present a fire investigation case that can withstand legal challenge.

Slide 4-2

ENABLING OBJECTIVES

4.1 Demonstrate fire investigation and case development essentials.
4.2 Consider data for analysis.
4.3 Prepare an expert report for use throughout the legal process.

Slide 4-3

I. FIRE INVESTIGATION AND CASE DEVELOPMENT ESSENTIALS



A. Investigative continuum.

Report writing begins at the fire scene and continues throughout the case development process. A report (good or bad) can follow the investigator throughout their career.

The slide, titled "RESEARCH AND REFERENCES", contains the following text:

- Reports need references:
 - Creditability.
 - Validation.
- Supporting technical concepts and characteristics.

There are two images: a red and white "LWEV" (Law Enforcement Vehicle Examination) stamp and a red "FMEA" (Failure Mode and Effects Analysis) stamp. The slide is labeled "Slide 4-5" in the bottom right corner.

B. Research and references.

1. Reports need references:
 - a. Creditability.
 - b. Validation.
2. Supporting technical concepts and characteristics.

RESOURCES TO RELY UPON

- NFPA 921.
- Kirk's Fire Investigation.
- Ignition Handbook.
Barbrauskas
- ASTM Standards.
- Additional recognized,
learned, authoritative
texts.

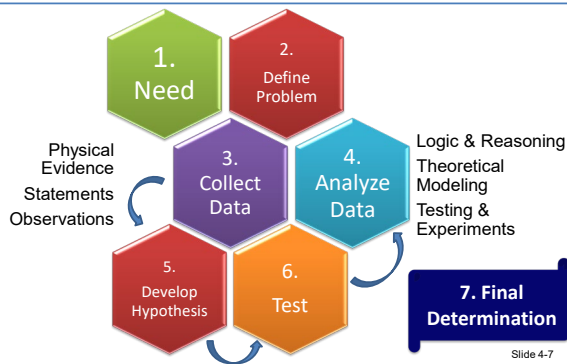


Slide 4-6

C. Resources to rely upon.

1. National Fire Protection Association (NFPA) 921, *Guide for Fire and Explosion Investigations*.
2. Kirk's Fire Investigation.
3. Ignition Handbook by Barbrauskas.
4. ASTM Standards.
5. Additional recognized, learned, authoritative texts.

SCIENTIFIC METHOD REVIEW

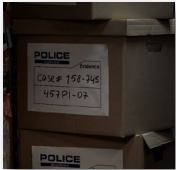


D. Scientific method review.

II. EVIDENCE

WHAT IS EVIDENCE

- Relevant to the area of origin.
- Relevant to the point of origin.
- Displays of malfunction, defect, electrical or other failure.
- May appear conspicuously out of place, in or out of the area of origin.




Slide 4-8

- A. What is evidence?
1. Relevant to the area of origin.
 2. Relevant to the point of origin.
 3. Displays of malfunction, defect, electrical or other failure.
 4. May appear conspicuously out of place, in or out of the area of origin.

WHAT ELSE MAY BE EVIDENCE

- Things people say.
- Things people do.
- Records.
- Videos.
- Photographs.
- Video surveillance from surrounding structures, etc.




Slide 4-9

- B. What else may be evidence?
1. Things people say.
 2. Things people do.

3. Records.
4. Videos.
5. Photographs.
6. Video surveillance from surrounding structures, etc.

CIRCUMSTANTIAL EVIDENCE

- Facts consistent with guilt.
- Behavior inconsistent with innocence:
 - Inconsistent statements.
 - False statements to authorities.
 - Diversions.
 - Inexplicable behaviors.
 - Inferred consciousness of guilt.
 - Destruction/loss of evidence.
 - Threats not to testify.
 - Hiding/fleeing.
 - Hostile relations/behaviors.
 - Deviation from norm at time of crime or event.
- ***Extreme caution must be exercised if this type of information is included in an Origin and Cause Report.***



Slide 4-10

- C. Circumstantial evidence.
1. Facts consistent with guilt.
 2. Behavior inconsistent with innocence:
 - a. Inconsistent statements.
 - b. False statements to authorities.
 - c. Diversions.
 - d. Inexplicable behaviors.
 - e. Inferred consciousness of guilt.
 - f. Destruction/loss of evidence.
 - g. Threats not to testify.
 - h. Hiding/fleeing.
 - i. Hostile relations/behaviors.

j. Deviation from norm at time of crime or event.

3. **Extreme caution must be exercised if this type of information is included in an Origin and Cause Report.**

CRIMINAL CASE EVIDENCE

Connecting defendant to fire:

- Last person there.
- Connected to device(s).
- Control/knowledge of area.
- Seen/placed in vicinity.
- Building prep acts.
- Injury/damage to person or personality by fire.
- Items taken prior to fire.

Slide 4-11

D. Criminal case evidence.

Connecting defendant to fire:

1. Last person there.
2. Connected to device(s).
3. Control/knowledge of area.
4. Seen/placed in vicinity.
5. Building prep acts.
6. Injury/damage to person or personality by fire.
7. Items taken prior to fire.

TO BE INTERVIEWED

- Homeowners/occupants.
- Co-workers/employers.
- Teachers.
- Neighbors.
- Individuals close to the parties involved.
- Business owners.
- Fire/EMS personnel.
- Police personnel.
- Media present.
- Bystanders.
- Insurance carriers/agents.



Slide 4-12

E. To be interviewed.

1. Homeowners/occupants.
2. Co-workers/employers.
3. Teachers.
4. Neighbors.
5. Individuals close to the parties involved.
6. Business owners.
7. Fire/emergency medical services (EMS) personnel.
8. Police personnel.
9. Media present.
10. Bystanders.
11. Insurance carriers/agents.

RECORDS TO CONSIDER

- Cell phone.
- Tolls.
- Court.
- Utility.
- Bank accounts.
- Credit card accounts.
- Weather data.
- Social media accounts.



Slide 4-13

F. Records to consider.

1. Cell phone.
2. Tolls.
3. Court.
4. Utility.
5. Bank accounts.
6. Credit card accounts.
7. Weather data.
8. Social media accounts.

ANALYSIS

- Compare and contrast how the records align with witness statements.
- Determine if the records corroborate or disprove other data.
- Determine if the records prove/disprove hypotheses of the case.


Slide 4-14

G. Analysis.

1. Compare and contrast how the records align with witness statements.
2. Determine if the records corroborate or disprove other data.
3. Determine if the records prove/disprove hypotheses of the case.

WHEN DOES INVESTIGATION END?

- Eliminate all hypotheses until one remains and cannot be disproven.
- The investigation may always be reconsidered.



Slide 4-15

H. When does investigation end?

1. Eliminate all hypotheses until one remains and cannot be disproven.
2. The investigation may always be reconsidered.

III. PREPARING AN EXPERT REPORT

FOR A PROSECUTOR TO FILE

Prepare a thorough, accurate, well thought out report THAT IS:

- Easy to understand and has a fully supported hypothesis.
- Factually accurate.
- Supported by physical evidence.
- Supported by demonstrative evidence.
- Supported by testimonial evidence.
- Explains how alternate hypotheses were disproven.

Slide 4-16


A. For a prosecutor to file.

Prepare a thorough, accurate, well thought out report **that is:**

1. Easy to understand and has a fully supported hypothesis.
2. Factually accurate.
3. Supported by physical evidence.
4. Supported by demonstrative evidence.
5. Supported by testimonial evidence.
6. Explains how alternate hypotheses were disproven.

BURDEN OF PROOF - ARSON

- Motive is not an element of the offense; however, juries expect a motive to be presented.
- Most states do not require motive for conviction.



Slide 4-17

B. Burden of proof - arson.

1. Motive is not an element of the offense; however, juries expect a motive to be presented.
2. Most states do not require **motive** for conviction.

DEMONSTRATIVES FOR THE COURT

- Photographs or videos taken by bystanders.
- Photographs or videos from the media.
- Photographs or videos from surveillance cameras or neighbors door bells.
- Cell phones of first responders and fire personnel/EMS.
- Video from the back of the ambulance.

Slide 4-18

- C. Demonstratives for the court.
 - 1. Photographs or videos taken by bystanders.
 - 2. Photographs or videos from the media.
 - 3. Photographs or videos from surveillance cameras or neighbors' door bells.
 - 4. Cell phones of first responders and fire personnel/EMS.
 - 5. Video from the back of the ambulance.

MORE DEMONSTRATIVES

- Medical records.
- Children's division records.
- School records.
- Juvenile records.
- Diagram of injuries.
- Pre-fire photographs of the location.



Slide 4-19

- 6. Medical records.
- 7. Children's division records.
- 8. School records.
- 9. Juvenile records.
- 10. Diagram of injuries.
- 11. Pre-fire photographs of the location.

WHAT LEGAL COUNSEL WANTS

- To prove a case with the evidence.
- Physical evidence that supports the hypothesis.
- To rely upon the investigator's background, training, knowledge, education, and skill.
- Well prepared and likeable witness.
- Investigator with an ability to identify and explain holes in the case/defense.

Slide 4-20

D. What legal counsel wants.

1. To prove a case with the evidence.
2. Physical evidence that supports the hypothesis.
3. To rely upon the investigator's background, training, knowledge, education, and skill.
4. Well prepared and likeable witness.
5. Investigator with an ability to identify and explain holes in the case/defense.

HELP LEGAL COUNSEL

- Determine which physical evidence is most helpful to support a case.
- Determine what photographs best tell the story for this fire.
- Point out insufficiencies or problems with the case.
- Educate regarding what is essential to prove arson (the prosecutor may have limited experience).

Slide 4-21

E. Help legal counsel.

1. Determine which physical evidence is most helpful to support a case.
2. Determine what photographs best tell the story for this fire.

3. Point out insufficiencies or problems with the case.
4. Educate regarding what is essential to prove arson (the prosecutor may have limited experience).

BOTTOM LINE

- Be able to teach the fire scene and the case to the prosecutor (if you can't convince them, you can't convince a jury).
- Be able to anticipate possible legal theories and be prepared to counter them.
- Be able to explain the case in terms a jury will understand.

Slide 4-22


F. Bottom line.

1. Be able to teach the fire scene and the case to the prosecutor (if you can't convince them, you can't convince a jury).
2. Be able to anticipate possible legal theories and be prepared to counter them.
3. Be able to explain the case in terms a jury will understand.

LEGAL COUNSEL TO JURY

An attorney must win the jury over with:

- The science.
- Demonstrative photos, videos, tangible items of evidence.
- With a likeable, intelligent fire investigator.



Slide 4-23

G. Legal counsel to jury.

An attorney must win the jury over with:

1. The science.
2. Demonstrative photos, videos, tangible items of evidence.
3. With a likeable, intelligent fire investigator.

ACTIVITY 4.1

Origin and Cause Report

Purpose

Complete an Origin and Cause Report using the scientific method.

Directions

1. Pre-course materials provided a case file that you researched and were required to document hypotheses for an Origin and Cause Report.
2. In class, use the allotted time to review and finalize your case file analysis and findings.
3. Review the grading rubric prior to finalizing your report.
4. Craft a final report:
 - a. Format:
 - Use your agency's format or the provided section headings.
 - Arial or Times New Roman font, 12-point, double-spaced Word doc.
 - Photographs should be referenced in the body of the report by the number of the photograph. **Photos should not be embedded or attached to the final report.**
 - b. Length:
 - Reports may be 8 to 14 pages in length or between 2000 and 4000 words.
 - This is an estimate as the fires are different and have slightly varying amounts of data.
 - Reports should be thorough and cover all significant information.
5. Create a coversheet for the assignment which includes the following information:
 - a. Case file name.
 - b. Case file book number reviewed for discovery.
 - c. Author (you).
6. The completed assignment is due by 11:59 PM on Sunday. Upload the paper into Blackboard under the appropriate section.

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ACTIVITY 4.2

Technical Review and Question Development

Purpose

Provide a technical, counter expert review of an Origin and Cause Report.



Directions

1. In the real world, a fire investigator may be asked to identify potential discrepancies or mistakes in another expert's Origin and Cause Report for counsel. You will be provided a printed cold case file, and an expert report relating to that cold case.
2. Create a coversheet for the assignment which includes the following information:
 - a. Case file name.
 - b. Case file book number reviewed for discovery.
 - c. Author of the expert report being reviewed.
 - d. Reviewer name (student).
3. Review the expert's report, reference it, and otherwise review it in relation to the case file. Items of note would include such things as, but will not be limited to:
 - a. Factual inconsistencies.
 - b. Technical inconsistencies or mistakes in the report.
 - c. Failure to demonstrate comprehension of the scientific method.
 - d. Lack of references, incorrect references.
 - e. No discussion or explanation of alternate theories.
4. Based on your review, develop five questions for exploration that your attorney (the defense) could use to impeach the report.
5. The response should be well documented, referenced, and clearly state the five questions/areas chosen and why those areas are vulnerable to attack.
6. The completed assignment is due by 4:30 PM on Monday. Upload the paper into Blackboard under the appropriate section.

7. **Return all materials, expert report, and case file to the instructor.**

Note: You will not be permitted to use the completed technical review as a basis to make corrections to the previously submitted expert report. No additions, resubmissions, or supplemental reports will be accepted after the Monday deadline. You must use your original submission for Activity 6.2: Deposition and Activity 6.3: Mock Trial Testimony Exercise.

IV. SUMMARY



SUMMARY

- Conduct a proper investigation.
- Consider where to obtain evidence, and how to collect it.
- Proper methodology throughout, from fire scene, to data collection, to report, to case preparation.
- Anticipate legal counsel needs in a case file.

Slide 4-26

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UNIT 5: LEGAL CONSIDERATIONS – PANEL DISCUSSION

TERMINAL OBJECTIVE

The students will be able to:

- 5.1 *Integrate knowledge, strategies, and skills to effect admissible and reliable expert witness testimony.*

ENABLING OBJECTIVES

The students will be able to:

- 5.1 *Anticipate the legal issues that will affect a fire investigator's case.*
 - 5.2 *Evaluate the impact of the Fifth and Sixth Amendments to the Constitution and Miranda.*
 - 5.3 *Summarize expert testimony constraints imposed by Federal Rules of Evidence (FRE) 701 and 702.*
 - 5.4 *Distinguish between a fact witness and an expert witness.*
 - 5.5 *Integrate issues and expert witness challenges.*
-

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TERMINAL OBJECTIVE

Integrate knowledge, strategies, and skills to effect admissible and reliable expert witness testimony.

Slide 5-2

ENABLING OBJECTIVES

- 5.1 Anticipate the legal issues that will affect a fire investigator's case.
- 5.2 Evaluate the impact of the Fifth and Sixth Amendments to the Constitution and Miranda.
- 5.3 Summarize expert testimony constraints imposed by Federal Rules of Evidence (FRE) 701 and 702.
- 5.4 Distinguish between a fact witness and an expert witness.
- 5.5 Integrate issues and expert witness challenges.

Slide 5-3

TRAINING

- This is a Training Scenario.
- In this class, we are doing role playing.
- But, you should treat it as if it is real life.
- Everything you see in this training is based on real-life experiences.
- Nothing we say or do is meant to be taken personally.
- Please use “Out of Role” if uncomfortable and please speak with us about it after the activity.

Slide 5-4

I. LEGAL ISSUES

SUBPOENAS

- A subpoena is a command to appear at a certain time and place to provide testimony in a certain manner.
- There are many different types of subpoenas.

IN THE COURT OF COMMON PLEAS OF INDIANA COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Plaintiff: _____
vs.
Defendant: _____

REQUEST FOR SUBPOENA

To the Person(s) to be Subpoenaed:
Please issue _____ subpoena(s) in the above-captioned action.
The Undersigned hereby certifies that:

1. He/she is a party or counsel of record for a party to the above-captioned action.
2. The subpoena(s) issued pursuant to this Request will be used to compel a person to attend or to produce documents or things and/or take any of the following actions:
a. To attend or to appear in an action or proceeding pending in the Court.
b. To take any of the actions in an action or proceeding pending in the Court.
3. No subpoena issued pursuant to this Request will be used to compel a person to appear or to produce documents or things in any matter in which a party, or a representative of the party:

Respectfully submitted,
MEARS, SMITH, HOUSER
& BOYLE, P.C.
By: _____
Kim Ross Houser, Esquire
Attorney for

Slide 5-5

A. Subpoenas.

1. A subpoena is a command to appear at a certain time and place to provide testimony in a certain manner.
2. There are many different types of subpoenas.

SUBPOENA TYPES

- **Criminal.**
A subpoena for a criminal case that requires an appearance to give testimony or to produce items in a criminal proceeding.
- **Civil.**
A civil subpoena mandates an appearance or the production of items at a civil proceeding.



Slide 5-6

3. Subpoena types.

- a. **Criminal.** A subpoena for a criminal case that requires an appearance to give testimony or to produce items in a criminal proceeding.
- b. **Civil.** A civil subpoena mandates an appearance or the production of items at a civil proceeding.

SUBPOENAS

- **Subpoena duces tecum.**
 - A subpoena duces tecum requires a witness to produce specified documents or data in his or her personal possession and control...or requires certain corporate officers to produce certain corporate records.

Slide 5-7

4. Subpoena duces tecum.

A subpoena duces tecum requires a witness to produce specified documents or data in his or her personal possession and control...or requires certain corporate officers to produce certain corporate records.

ADMINISTRATIVE SUBPOENAS

- In some jurisdictions, the coroner, state fire marshal, borough or city council, and the district attorney have the power to issue subpoenas for administrative proceedings.
- Information obtained by these subpoenas may still have to meet the rules of evidence to be admissible.



Slide 5-8

5. Administrative subpoenas.

- a. In some jurisdictions, the coroner, state fire marshal, borough or city council, and the district attorney have the power to issue subpoenas for administrative proceedings.
- b. Information obtained by these subpoenas may still have to meet the rules of evidence to be admissible.

SEARCH WARRANTS

- Search warrants are issued by a government agency with police power as per the Fourth Amendment of the United States Constitution:
 - Issued by neutral judges.
 - Issued for specified objects or places as stated.
 - Probable cause evidence exists that the issuer will find evidence of a crime.

Slide 5-9

B. Search warrants.

1. Search warrants are issued by a government agency with police power as per the Fourth Amendment of the United States Constitution:
 - a. Issued by neutral judges.
 - b. Issued for specified objects or places as stated.

- c. Probable cause evidence exists that the issuer will find evidence of a crime.

MICHIGAN v. TYLER 1978

- Warrantless entry justified.
- Fire is an exigent circumstance.
- Once on scene, may remain for reasonable time to investigate fire cause.
- Search once daylight and smoke cleared reasonable under circumstances.
- Evidence obtained later excluded due to unlawful entry after emergency over.

Slide 5-10

- 2. Michigan v. Tyler 1978.
 - a. Warrantless entry justified.
 - b. Fire is an exigent circumstance.
 - c. Once on scene, may remain for reasonable time to investigate fire cause.
 - d. Search once daylight and smoke cleared reasonable **under circumstances**.
 - e. Evidence obtained later excluded due to unlawful entry after emergency over.

MICHIGAN v. CLIFFORD 1984

- Secured residence indicated reasonable expectation of privacy.
- No exigency when entry made after emergency ceased.
- Unreasonable search without warrant or other lawful justification for entry.
- Single can of fuel in driveway only evidence not excluded.

Slide 5-11

3. Michigan v. Clifford 1984.
 - a. Secured residence indicated reasonable expectation of privacy.
 - b. No exigency when entry made after emergency ceased.
 - c. Unreasonable search without warrant or other lawful justification for entry.
 - d. Single can of fuel in driveway only evidence not excluded.

SEARCH WARRANTS

- Unless an exception applies, such as the fire scene exigency exception or consent, a search warrant is needed.
- Obtaining a search warrant is often time consuming.
- Some states have implemented digital search warrants.

Slide 5-12

4. Unless an exception applies, such as the fire scene exigency exception or consent, a search warrant is needed.
5. Obtaining a search warrant is often time consuming.
6. Some states have implemented digital search warrants.

GVT v. INSURANCE INVESTIGATIONS

- 4th & 5th Amendment agent of the government considerations.
- Insurance companies are generally private actors not subject to constitutional restraints, may search and require statements (contractual).
- When law enforcement and other government actors coordinate with private actors, the private actors may be subject to constitutional restraints.

Slide 5-13

C. GVT v. Insurance Investigations.

1. 4th & 5th Amendment agent of the government considerations.
2. Insurance companies are generally private actors not subject to constitutional restraints, may search and require statements (contractual).
3. When law enforcement and other government actors coordinate with private actors, the private actors may be subject to constitutional restraints.

ARSON IMMUNITY STATUTES

- All states have arson immunity laws.
- Investigators can obtain insurance information such as:
 - Entire policy, notice and proof of loss.
 - History of prior claims.
 - Insurance Investigator reports.
 - Witness statements.
 - Examination under oath (EUO).

Slide 5-14

D. Arson immunity statutes.

1. All states have arson immunity laws.
2. Investigators can obtain insurance information such as:
 - a. Entire policy, notice and proof of loss.
 - b. History of prior claims.
 - c. Insurance Investigator reports.
 - d. Witness statements.
 - e. Examination under oath (EUO).

PRETRIAL HEARINGS

- Suppression of evidence hearing:

At this hearing, the defense will ask the court to “suppress evidence” seized from the defendant, or a statement taken in violation of constitutional rights, statutory rights, or the rules of evidence.

Slide 5-15

E. Pretrial hearings.

1. Suppression of evidence hearing:

At this hearing, the defense will ask the court to “suppress evidence” seized from the defendant, or a statement taken in violation of constitutional rights, statutory rights, or the rules of evidence.

PRETRIAL HEARINGS

- Mental health hearings:

- Capacity to stand trial (at time of trial).
Capable of assisting attorney at trial.
- Mental health defenses (at time of crime).
Incapable of forming required intent of a crime.
Incapable of understanding right from wrong.
Ineligible for death penalty and or execution.
- Competency.
Civil involuntary commitment proceeding.

Slide 5-16

2. Mental health hearings:

a. Capacity to stand trial (at time of trial). Capable of assisting attorney at trial.

- A capacity hearing is to determine whether a defendant is currently capable to stand trial by assisting in his defense at the time of trial (or other criminal proceeding).

- b. Mental health defenses (at time of crime). Incapable of forming required intent of a crime. Incapable of understanding right from wrong. Ineligible for death penalty and or execution.
- c. Competency. Civil involuntary commitment proceeding.
 - A competency hearing is a civil hearing (that does often involve criminal defendants), but it is held to determine whether a person is currently dangerous and in need of involuntary commitment at a mental health facility. Insanity and diminished capacity defenses (and various others) involve a criminal defendant’s state of mind at the time the offense was committed.
 - These types of defenses may affect culpability such that guilt or innocence may be affected either by preventing the government from proving elements of the crime (such as specific intent to kill) or the due process protections provided by the 5th Amendment of the U.S. Constitution which may prevent punishment (including conviction, sentencing or execution) regardless of proof by the government of the existence of all elements of a crime.

CIVIL PRETRIAL MATTERS

- Civil.
 - Deposition.
 - Mediation.
 - Arbitration.
- Deposition.
 - A deposition is an out-of-court proceeding on the record under oath that occurs during the discovery phase of a civil proceeding.
 - If a criminal case is pending, be sure to meet with the prosecutor.

Slide 5-17

- F. Civil pretrial matters.
 - 1. Civil.
 - a. Deposition.

CIVIL MATTERS

- Mediation.
 - In mediation, a neutral third party meets with each party and attempts to settle the civil dispute. Mediation generally does not involve the testimony of witnesses.
- Arbitration.
 - Where a dispute is heard by an impartial third party chosen by the parties or by contract.

Slide 5-18

b. Mediation.

- In mediation, a neutral third party meets with each party and attempts to settle the civil dispute. Mediation generally does not involve the testimony of witnesses.

c. Arbitration.

- Where a dispute is heard by an impartial third party chosen by the parties or by contract.

2. Deposition.

- a. A deposition is an out-of-court proceeding on the record under oath that occurs during the discovery phase of a civil proceeding.
- b. If a criminal case is pending, be sure to meet with the prosecutor.

DEPOSITIONS

- Lawyers ask pertinent questions about any and all aspects of discovery.
- Unfavorable answers will be used at trial.
- Personal and otherwise objectionable questions may be asked.
- You'll be asked to read or waive signature.

Slide 5-19

G. Depositions.

1. Lawyers ask pertinent questions about any and all aspects of discovery.
2. Unfavorable answers will be used at trial.
3. Personal and otherwise objectionable questions may be asked.
4. You'll be asked to read or waive signature.

DEPOSITIONS

- Purpose of depositions:
 - To gain information.
 - Evaluate the witness.
 - Limit testimony.
 - Assist in settling the case.

- Points to remember:
 - Be truthful.
 - Answer only what is asked.
 - Importance of word choice.

Slide 5-20

5. Purpose of depositions:
 - a. To gain information.
 - b. Evaluate the witness.
 - c. Limit testimony.
 - d. Assist in settling the case.

6. Points to remember:
 - a. Be truthful.
 - b. Answer only what is asked.
 - c. Importance of word choice.

MOTIONS

- Motions in limine:
 - Applies in both criminal and civil cases.
 - To rule whether evidence is to be limited, excluded or admissible.



Slide 5-21

H. Motions.

Motions in limine:

1. Applies in both criminal and civil cases.
2. To rule whether evidence is to be limited, excluded or admissible.

CIVIL TRIAL

- Civil case.
 - A civil case dealing with noncriminal issues where the burden of proof on the plaintiff is by the preponderance of the evidence (i.e., more likely than not).
- Civil bench trial.
 - Decision by a judge.
- Civil jury trial.
 - Decision requiring a verdict decision with 10 of 12 jurors voting in favor of the verdict.

Slide 5-22

I. Civil trial.

1. Civil case.

A civil case dealing with noncriminal issues where the burden of proof on the plaintiff is by the preponderance of the evidence (i.e., more likely than not).

2. Civil bench trial.

Decision by a judge.

3. Civil jury trial.

Decision requiring a verdict decision with 10 of 12 jurors voting in favor of the verdict.

CRIMINAL TRIAL

- Criminal juvenile trial.
 - Juvenile proceedings are court trials.
- Criminal bench trial.
 - A judge decides a case without a jury.
- Criminal jury trial.
 - A jury of six to 12 people who would hear all of the evidence and make a decision on the case.

Slide 5-23

J. Criminal trial.

1. Criminal juvenile trial.

Juvenile proceedings are court trials.

2. Criminal bench trial.

A judge decides a case without a jury.

3. Criminal jury trial.

A jury of six to 12 people who would hear all of the evidence and make a decision on the case.

CRIMINAL DISCOVERY

Case File Notes

- You should be aware of any requirements within your jurisdiction for maintaining or turning over copies of your handwritten case file notes.
- The requirement changes from state to state and, in some cases, jurisdiction to jurisdiction.



Slide 5-24

K. Criminal discovery.

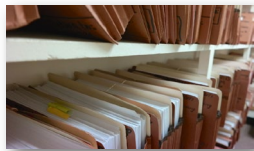
1. Case file notes.

- a. You should be aware of any requirements within your jurisdiction for maintaining or turning over copies of your handwritten case file notes.
- b. The requirement changes from state to state and, in some cases, jurisdiction to jurisdiction.

CRIMINAL DISCOVERY

Brady v. Maryland, (1963) 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215.

- Requires the prosecution to turn over to the defense all exculpatory evidence in the possession of the government or its agents.
- Includes all evidence favorable to the defense.



Slide 5-25

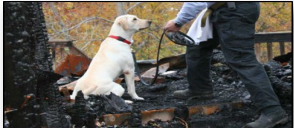
2. Brady v. Maryland, (1963) 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215.

Brady v. Maryland, 373 U.S. 83, 87-88 (1963), “We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” A constitutional violation occurs when “a prosecution...withholds evidence on demand of an accused which, if made available, would tend to exculpate him or reduce the penalty.”

- a. Requires the prosecution to turn over to the defense all exculpatory evidence in the possession of the government or its agents.
 - b. Includes all evidence favorable to the defense.
3. Investigators and prosecutors may incur sanctions including imprisonment for discovery violations. What Brady and the U.S. Constitution require is that the government provide a defendant with all evidence that is exculpatory, which means is favorable and material.
 4. Some states require by statute that all evidence in the possession of the government be provided to the defense.

EXAMPLES OF BRADY MATERIAL

- Negative lab reports.
- Exonerating statements.
- Plea agreements requiring testimony.
- Criminal history of government witness when it affects credibility.



Slide 5-26

- L. Examples of Brady material.
 1. Negative lab reports.
 2. Exonerating statements.
 3. Plea agreements requiring testimony.
 4. Criminal history of government witness when it affects credibility.

BRADY SANCTIONS

- The court may impose “Brady sanctions” even if the prosecutor is unaware of the existence of the evidence in the possession of the investigating agency.
- Sanctions may include:
 - Exclusion of evidence.
 - Dismissal of case.
 - Jail (contempt of court).

Slide 5-27

M. Brady sanctions.

1. The court may impose “Brady sanctions” even if the prosecutor is unaware of the existence of the evidence in the possession of the investigating agency.
2. Sanctions may include:
 - a. Exclusion of evidence.
 - b. Dismissal of case.
 - c. Jail (contempt of court).

ADDITIONAL SANCTIONS

- The investigator could face additional penalties such as:
 - Termination of employment.
 - Loss of certifications.
 - Civil law suit (Fed title 42 US Section 1983).
 - Criminal prosecution.



Slide 5-28

N. Additional sanctions.

The investigator could face additional penalties such as:

1. Termination of employment.

2. Loss of certifications.
3. Civil law suit (Fed title 42 U.S. Section 1983).
4. Criminal prosecution.

GIGLIO v. UNITED STATES

- 405 U.S. 150 (1972).
- Evidence or fact that affects a witness' credibility must be disclosed to the defense prior to trial.
 - Plea deals in exchange for testimony.
 - Promises or conditions.
 - Criminal history involving trustworthiness.
 - Prior false testimony.
 - Suspensions, disciplinary action, termination involving trustworthiness concerns.

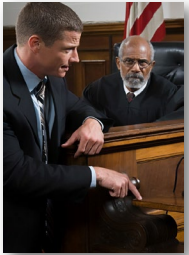
Slide 5-29

O. Giglio v. United States.

1. 405 U.S. 150 (1972).
2. Evidence or fact that affects a witness' credibility must be disclosed to the defense prior to trial.
 - a. Plea deals in exchange for testimony.
 - Promises or conditions.
 - b. Criminal history involving trustworthiness.
 - c. Prior false testimony.
 - d. Suspensions, disciplinary action, termination involving trustworthiness concerns.

NAPUE v. IL

- 360 U.S. 264 (1959).
- The prosecutor is required to correct false or incorrect testimony about any fact stated of a witness the prosecutor knows is false.



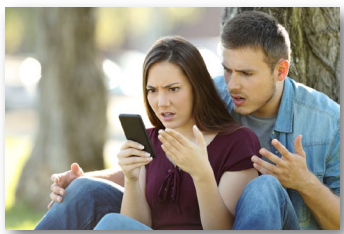
Slide 5-30

- P. Napue v. IL.
1. 360 U.S. 264 (1959).
 2. The prosecutor is required to correct false or incorrect testimony about any fact stated of a witness the prosecutor knows is false.

CURRENT ISSUES

- Social media.
- Photos.
- Videos.

- Considerations:
 - Created.
 - Used.
 - Stored.
 - Destroyed.
 - Consequences.




Slide 5-31

- Q. Current issues.
1. Social media.
 2. Photos.
 3. Videos.
 4. Considerations:
 - a. Created.

- b. Used.
- c. Stored.
- d. Destroyed.
- e. Consequences.

CA v. TROMBETTA

- 467 U.S. 479 (1984).
- Preserve evidence in case the defense wants to examine it.



Slide 5-32

- R. CA v. Trombetta.
 - 1. 467 U.S. 479 (1984).
 - 2. Preserve evidence in case the defense wants to examine it.

SUPPRESSION OF EVIDENCE

- Favorable to the accused.
- Violates due process.
- Evidence may or may not be material either to guilt or to punishment.
- Good faith or bad faith.

Slide 5-33

- S. Suppression of evidence.
 - 1. Favorable to the accused.

2. Violates due process.
3. Evidence may or may not be material either to guilt or to punishment.
4. Good faith or bad faith.

SPOILIATION

- Is a significant and meaningful alteration of relevant evidence.
- Spoliation is viewed as an obstruction of justice.
- Sanctions could range from merely delaying a case to the extreme of directed verdicts in favor of the spoliation-harmed party, without regard to intent or negligence.

Slide 5-34

T. Spoliation.

1. Is a significant and meaningful alteration of relevant evidence.
2. Spoliation is viewed as an obstruction of justice.
3. Sanctions could range from merely delaying a case to the extreme of directed verdicts in favor of the spoliation-harmed party, without regard to intent or negligence.

II. **IMPACT OF AMENDMENTS**

CONSTITUTIONAL AMENDMENTS

- The **Fifth Amendment** creates a number of rights relevant to both criminal and civil legal proceedings.
 - Due process.
 - Double jeopardy.
 - Miranda.
- The **Sixth Amendment** creates a number of rights relevant to criminal proceedings.
 - Right to counsel.
 - Right to public and speedy trial.
 - Confrontation clause.
 - Miranda.

Slide 5-35

- A. Constitutional amendments.
 - 1. The **Fifth Amendment** creates a number of rights relevant to both criminal and civil legal proceedings.
 - a. Due process.
 - b. Double jeopardy.
 - c. Miranda.
 - 2. The **Sixth Amendment** creates a number of rights relevant to criminal proceedings.
 - a. Right to counsel.
 - b. Right to public and speedy trial.
 - c. Confrontation clause.
 - d. Miranda.

SUSPECTS IN CUSTODY

- In evaluating whether a suspect is in custody for 5th Amendment and Miranda purposes, the court will look at the totality of the circumstances.
- Factors courts traditionally have used include the following...

Slide 5-36

- B. Suspects in custody.
 - 1. In evaluating whether a suspect is in custody for 5th Amendment and Miranda purposes, the court will look at the totality of the circumstances.
 - 2. Factors courts traditionally have used include the following:

FACTORS COURTS CONSIDER

- Nature of interrogator.
 - What were they wearing?
 - Position of authority over the suspect?
 - Did they carry a visible weapon?
 - Tone, behavior.



Slide 5-37

Nature of interrogator.

- a. What were they wearing?
- b. Position of authority over the suspect?
- c. Did they carry a visible weapon?
- d. Tone, behavior.

SUSPECTS IN CUSTODY

- After evaluating all factors, the ultimate determination rests on whether a reasonable person in the suspect's position would have felt free to leave.
- Test is objective not subjective.
- To be admissible, a confession must be free and voluntary.

Slide 5-38

3. After evaluating all factors, the ultimate determination rests on whether a reasonable person in the suspect's position would have felt free to leave.
4. Test is objective not subjective.
5. To be admissible, a confession must be free and voluntary.

6. Where there has not been an arrest and the person being interrogated has not been “subjected to restraints comparable to those associated with a formal arrest,” Miranda is inapplicable because the statement was not made while in the custody of law enforcement officers. *Berkemer v. McCarty*, 468 U.S. 420, 441 (1984).
7. The determination of custody depends on the objective circumstances, “not on the subjective views harbored by either the interrogating officers or the person being questioned.” *Stansbury v. California*, 511 U.S. 318, 323 (1994) (per curium).
8. Contrast custody for 5th Amendment voluntariness and Miranda purposes, with 4th Amendment seizure and custody test which depends on whether the suspect is actually free to leave and whether freedom of movement amounts only to temporary detainment or is akin to arrest.

FACTORS TO CONSIDER

- Miranda warnings.
- Age & educational levels.
- Number of officers & duration of questions.
- Food/water/bathroom.
- Ability to leave (subjective & objective).
- Leading or complex questions used.
- Lies, inducements, or threats made.
- Request for attorney.

Slide 5-39

- C. Factors to consider.
1. Miranda warnings.
 2. Age & educational levels.
 3. Number of officers & duration of questions.
 4. Food/water/bathroom.
 5. Ability to leave (subjective & objective).
 6. Leading or complex questions used.
 7. Lies, inducements, or threats made.
 8. Request for attorney.

**VOLUNTARINESS
CONSIDERATIONS**

- How confession was captured.
- Writings - handwritten/typed and by whom.
- Language used in the text.
- Any non-law enforcement witness to text
- Who is more trustworthy?
- Deliberate (degree and use) of deception and manipulation by the government.

Slide 5-40

D. Voluntariness considerations.

1. How confession was captured.
2. Writings - handwritten/typed and by whom.
3. Language used in the text.
4. Any non-law enforcement witness to text.
5. Who is more trustworthy?
6. Deliberate (degree and use) of deception and manipulation by the government.
7. Waiver of Miranda must be voluntary and be “the product of a free and deliberate choice, rather than intimidation, coercion, or deception.” *Moran v. Burbine*, 475 U.S. 412 (1986).

**LEGAL ISSUES: SUSPECTS IN
CUSTODY**

- “But if a suspect requests counsel at any time during the interview, he is not subject to further questioning until a lawyer has been made available or the suspect himself reinitiates conversation.” *Davis v. United States*, 512 U.S. 452 (1994).
- Request of an attorney by defendant may not be presented or stated to the jury (check with prosecutor).

Slide 5-41

E. Legal issues: suspects in custody.

1. “But if a suspect requests counsel at any time during the interview, he is not subject to further questioning until a lawyer has been made available or the suspect himself reinitiates conversation.” *Davis v. United States*, 512 U.S. 452 (1994).
2. Request of an attorney by defendant may not be presented or stated to the jury (check with prosecutor).

LEGAL ISSUES: JUVENILE SUSPECTS IN CUSTODY

“[N]o matter how sophisticated, a juvenile subject of police interrogation ‘cannot be compared’ to an adult subject.” *J.D.B. v. North Carolina*, 564 U.S. 261, 273, 275 (2011). So long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test and that test must specifically include that important consideration.


Slide 5-42

F. Legal issues: juvenile suspects in custody.

“[N]o matter how sophisticated, a juvenile subject of police interrogation ‘cannot be compared’ to an adult subject.” *J.D.B. v. North Carolina*, 564 U.S. 261, 273, 275 (2011). So long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test and that test must specifically include that important consideration.

CORPUS DELICTI

- Cannot introduce a confession without evidence supporting same.
- Confession cannot be the only evidence of a person’s guilt.
- Use of a confession to validate an existing hypothesis or develop a new hypothesis as to the origin and cause of a fire.



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G. Corpus delicti.

1. Cannot introduce a confession without evidence supporting same.
2. Confession cannot be the only evidence of a person’s guilt.
3. Use of a confession to validate an existing hypothesis or develop a new hypothesis as to the origin and cause of a fire.

NEGATIVE CORPUS

- When writing a report, and testifying in court, state all of the facts and evidence which support the conclusions.
- Explain the progression from one point to another.
- Explain how other causes were eliminated.
- Explain how final conclusion was confirmed.


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H. Negative corpus.

1. When writing a report, and testifying in court, state all of the facts and evidence which support the conclusions.
2. Explain the progression from one point to another.
3. Explain how other causes were eliminated.
4. Explain how final conclusion was confirmed.

III. TESTIMONY

TESTIMONY



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LAY TESTIMONY

- Observations from direct knowledge.
- Familiarity with complete investigation.
- Credible communication skills required.
- Firefighters are often fact witnesses.
- Essential to explain what is known.

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- A. Lay testimony.
1. Observations from direct knowledge.
 2. Familiarity with complete investigation.
 3. Credible communication skills required.
 4. Firefighters are often fact witnesses.
 5. Essential to explain what is known.
 6. Lay witnesses are fact witnesses; they describe for the jury what they know because they saw, heard, smelled, felt or tasted something.
 7. The facts of a case are essential because they tell the story of when the event occurred, where it happened, what was seen, heard, etc.

8. The jury ultimately must decide whether they believe the witnesses to convict or punish a defendant, so credibility is essential.
9. In order for the jury to understand the evidence, a witness must understand it and be able to explain it.
10. All witnesses are fact witnesses, except those few witnesses who are called upon to give an opinion about something not generally known or understood.
11. Lay witnesses can give opinions in a few areas that regular life experiences provide information to support, such as:
 - a. The approximate speed a vehicle was traveling.
 - b. Appearance of intoxication.
 - c. Appearance of mental impairment.
 - d. How a person appeared emotionally and or physically.

EXPERT TESTIMONY

- Opinions based on special knowledge, training, skills, education, or experience.
- Help jury understand evidence.
- Reasonably reliable. (FRE 702)
- Ultimate issues, such as fire classification.
- Not ultimate issues, such as who did it, or if defendant had mental ability to do it. (FRE 704)


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- B. Expert testimony.
1. Opinions based on special knowledge, training, skills, education, or experience.
 2. Help jury understand evidence.
 3. Reasonably reliable.
 4. Ultimate issues, such as fire classification.

5. Not ultimate issues, such as who did it, or if defendant had mental ability to do it.
6. Only expert witnesses can provide opinions on ultimate facts and issues, such as if and how something happened that no one actually has firsthand knowledge about.
7. In order to qualify as an expert, a judge must determine the witness has information that will assist the jury in determining whether something is more or less likely to have occurred.
8. In many cases involving experts, the entire case is essentially a “battle of the experts” opinions.

EXPERT TESTIMONY

- Expert testimony exposes expert to cross-examination on all aspects of their opinions.
- Fire investigation experts should be familiar with NFPA 921 and its terms.
- Be prepared to explain the terms and concepts in NFPA 921 in a non-technical manner, so the jury can understand what is known.



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9. Expert testimony exposes expert to cross-examination on all aspects of their opinions.
10. Fire investigation experts should be familiar with National Fire Protection Association (NFPA) 921, *Guide for Fire and Explosion Investigations*, and its terms.
11. Be prepared to explain the terms and concepts in NFPA 921 in a non-technical manner, so the jury can understand what is known.
12. To prevail at trial, an expert must be prepared, knowledgeable about the entire case, and be able to explain procedures and mistakes.
13. Experts must remember it is the opposing attorney’s job to discredit the expert, if possible, and may do so on the basis of bias, lack of knowledge, skill, education, training, experience, or failing to have completed a thorough and competent investigation, or failing to follow proper or recommended procedures or ethical standards.

14. Experts must display the knowledge and professionalism they possess, and do so in a credible and likeable manner, while making the fire investigation and its results clear.

FEDERAL RULES OF EVIDENCE

- The testimony of an expert in federal court is governed by FRE 701, 702 and 703.
- Under FRE 701 and 702, an expert is someone who, because of his or her training, skill, education, experience, and knowledge, may be of help to the jury in understanding the evidence presented.

Slide 5-49

C. Federal Rules of Evidence (FRE).

1. The testimony of an expert in federal court is governed by FRE 701, 702 and 703.
2. Under FRE 701 and 702, an expert is someone who, because of his or her training, skill, education, experience, and knowledge, may be of help to the jury in understanding the evidence presented.

FRYE

- State evidence code standards.
 - Frye v. United States (1923).
 - "... the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs."

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3. State evidence code standards.

Frye v. United States (1923). "... the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs."

STANDARDS FOR ADMISSION OF
EXPERT TESTIMONY

Frye Test – original test for expert testimony.

- Relevant.
- Reliable.
- Reliable means.
 - Generally accepted.
- Method must be generally accepted in the relevant scientific community.

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D. Standards for admission of expert testimony.

1. Frye Test – original test for expert testimony.
 - a. Relevant.
 - b. Reliable.
 - c. Reliable means.
 - Generally accepted.
 - d. Method must be generally accepted in the relevant scientific community.
 - e. Some states are “Frye States,” some states are “Daubert States,” and some states are Hybrid States, that use their own test.
 - f. The federal government utilizes the Daubert standard.
 - g. All courts require that an expert opinion be relevant to the case and that the opinion be reliable.
 - h. It is the requirements for showing reliability that vary.
 - i. Frye requires that the particular scientific community have already accepted the method as reliable and that the particular method be generally accepted as reliable within that area of expertise.

- j. The Daubert test came about because the U.S. Supreme Court recognized that science evolves, and that a method may be reliable, although still relatively new, and has not yet gained recognition as generally accepted as reliable throughout the particular area of expertise.

**STANDARDS FOR ADMISSION OF
EXPERT TESTIMONY**

- Daubert Test – judge is gatekeeper and considers all information.
- Common considerations include:
 - General acceptance.
 - Involvement of scientific community.
 - Set and maintained standards.
 - Testing and results.
 - Publication.
 - Peer review.
 - Rates of error.

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- 2. Daubert Test – judge is gatekeeper and considers all information.
 - a. Common considerations include:
 - General acceptance.
 - Involvement of scientific community.
 - Set and maintained standards.
 - Testing and results.
 - Publication.
 - Peer review.
 - Rates of error.
 - b. No particular consideration is required or determinative.
 - c. Whether the method is determined to be reliable is largely in the trial court’s discretion, and can only be overturned if it can be shown the judge did not use reason in deciding the issue.

STANDARDS FOR ADMISSION OF EXPERT TESTIMONY

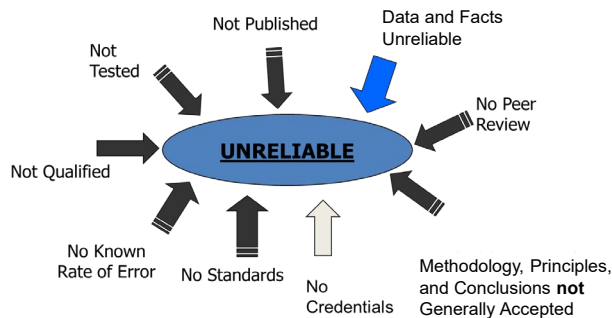
Daubert Test – replaced Frye in many courts.

- Relevant.
- Reliable.
- Reliable decided by judge based on:
 - Sufficient information (facts/data).
 - Method can produce valid results.
 - Applied method to facts in this case.

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3. Daubert Test – replaced Frye in many courts.
 - a. Relevant.
 - b. Reliable.
 - c. Reliable decided by judge based on:
 - Sufficient information (facts/data).
 - Method can produce valid results.
 - Applied method to facts in this case.

DAUBERT AND RULE 702 CHALLENGES



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- E. Daubert and rule 702 challenges.

DAUBERT FACTORS

- The trial court's gatekeeping function applies not only to testimony based on scientific knowledge but also to technical or other specialized knowledge.
- The court went on to note that the factors set forth in Daubert are flexible and are not the exclusive factors that must apply to all experts or cases.



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F. Daubert factors.

1. The trial court's gatekeeping function applies not only to testimony based on scientific knowledge but also to technical or other specialized knowledge.
2. The court went on to note that the factors set forth in Daubert are flexible and are not the exclusive factors that must apply to all experts or cases.

EXPERT TESTIMONY CHALLENGES

- Understand the applicable test.
- Find out
 - If opinions are being challenged
 - ✓ If so, on what basis
 - Are there opposing expert opinions
 - ✓ If so, what are they and who is expert
 - If/when hearing will be set
- Be prepared.

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G. Expert testimony challenges.

1. Understand the applicable test.
2. Find out:
 - a. If opinions are being challenged.
 - If so, on what basis?

- b. Are there opposing expert opinions?
 - If so, what are they and who is expert?
- c. If/when hearing will be set.
- 3. Be prepared.
- 4. In many cases the opinions will be challenged, either by an expert or by opposing counsel.
- 5. Whether a witness even qualifies as an expert is the first challenge.
- 6. If the witness is not able to qualify as an expert, the witness will only be able to testify as a fact witness to observations and not to opinions, such as where and how the fire started, or the fire classification.
- 7. Cross-examination may be extensive and heated, but remain calm and professional to maintain credibility, which is paramount.
- 8. Challenges to admission of expert testimony may occur multiple times, such as outside the presence of the jury, then again in the jury's presence.
- 9. Prepare prior to trial to answer qualification questions, opinion questions, and potential cross-examination questions.

EXPERT TESTIMONY

- The testimony is based on sufficient facts or data.
- The testimony is the product of reliable principles and methods.
- The expert has reliably applied the principles and methods to the facts of the case.

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- H. Expert testimony.
 - 1. The testimony is based on sufficient facts or data.
 - 2. The testimony is the product of reliable principles and methods.

- 3. The expert has reliably applied the principles and methods to the facts of the case.

THE BURDEN OF PROOF

- The trial court's screening function.
 - “Mere prima facie showing that technique is reliable is not enough ...”
 - “The grounds for the expert's opinion merely have to be good, they do not have to be perfect. The judge might think that there are good grounds for an expert's conclusion even if the judge thinks that there are better grounds for some alternative conclusion, and even if the judge thinks that a scientist's methodology has some flaws such that if they had been corrected, the scientist would have reached a different result.” TMI, 193 F.3d 613 (1999).

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I. The burden of proof.

The trial court's screening function.

- 1. “Mere prima facie showing that technique is reliable is not enough ...”
- 2. “The grounds for the expert's opinion merely have to be good, they do not have to be perfect. The judge might think that there are good grounds for an expert's conclusion even if the judge thinks that there are better grounds for some alternative conclusion, and even if the judge thinks that a scientist's methodology has some flaws such that if they had been corrected, the scientist would have reached a different result.” TMI, 193 F.3d 613 (1999).

OTHER EXPERT OPINIONS

- An expert may rely upon inadmissible/ admissible reports or investigations of other experts whose opinions are similar to your opinion.



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J. Other expert opinions.

An expert may rely upon inadmissible/admissible reports or investigations of other experts whose opinions are similar to your opinion.

STATEMENT

- FRE 803. Exceptions to the Rule Against Hearsay.
- “(18) Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:”

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- K. Statement.
1. FRE 803. Exceptions to the Rule Against Hearsay.
 2. “(18) Statements in Learned Treatises, Periodicals, or Pamphlets. A statement contained in a treatise, periodical, or pamphlet if:

IF...

- “The statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
- The publication is established as a reliable authority by the expert’s admission or testimony, by another expert’s testimony, or by judicial notice.
- If admitted, the statement may be read into evidence, but not received as an exhibit.”

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- a. The statement is called to the attention of an expert witness on cross-examination or relied on by the expert on direct examination; and
- b. The publication is established as a reliable authority by the expert’s admission or testimony, by another expert’s testimony, or by judicial notice.
- c. If admitted, the statement may be read into evidence, but not received as an exhibit.”

LEVEL OF CERTAINTY

How do we describe with certainty?



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L. Level of certainty.

LEVEL OF CERTAINTY

- Section 4.5 (.01-.03).
 - 100 percent sure/absolutely certain.
 - Reasonably certain.
 - Confident/positive.
 - Likely/unlikely.



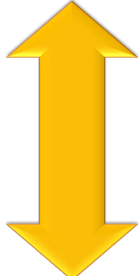
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1. Section 4.5 (.01-.03).
 - a. 100 percent sure/absolutely certain.
 - b. Reasonably certain.
 - c. Confident/positive.
 - d. Likely/unlikely.

LEVEL OF CERTAINTY (cont'd)

- Probable (> 50 percent) Accident/Incendiary/Natural.
- Possible (≤ 50 percent)/Undetermined.

Investigator's levels of certainty is different from the legal burden of proof.




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- e. Probable (> 50 percent) Accident/Incendiary/Natural.
 - f. Possible (≤ 50 percent)/Undetermined.
2. Investigator's levels of certainty is different from the legal burden of proof.

LEVEL OF CERTAINTY

- Near as we could tell.
- We figured/decided.
- Suspicion.
- Unsure/confused/assumed.
- Guess/don't know.
- We came up with..
- Could be.
- I/we believe.





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- a. Near as we could tell.
- b. We figured/decided.
- c. Suspicion.
- d. Unsure/confused/assumed.
- e. Guess/don't know.
- f. We came up with.

- g. Could be.
- h. I/we believe.

IV. SUMMARY



SUMMARY

- Pretrial hearing.
- Trial hearing.
- Legal issues: spoliation.
- Legal issues: suspect in custody.
- Expert testimony issues.
- Burden of proof.
- Level of certainty.

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UNIT 6: STUDENT TESTIMONY ACTIVITIES

TERMINAL OBJECTIVE

The students will be able to:

- 6.1 *Simulate expert testimony in an intense and realistic mock trial setting.*

ENABLING OBJECTIVES

The students will be able to:

- 6.1 *Demonstrate credible fire investigation knowledge.*
 - 6.2 *Demonstrate effective communication skills within a courtroom.*
 - 6.3 *Demonstrate professional courtroom demeanor.*
-

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ACTIVITY 6.1

Expert Qualification - Curriculum Vitae

Purpose

Demonstrate the ability to qualify as an expert witness who can provide admissible opinions in a legal proceeding based upon knowledge, experience, education, training, and skill.

Directions

1. You should always arrive for testimony dressed appropriately and well prepared regarding your professional background.
2. Each student should bring their curriculum vitae (CV).
3. Arrive early.
4. You will be asked an array of questions regarding your professional background and qualifications to testify and render opinions, in addition to questions regarding training, education, and experience.
5. The qualifications contained within your CV will be criticized at multiple steps throughout the legal process.

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ACTIVITY 6.2

Deposition

Purpose

Demonstrate proficiency by testifying about your background, qualifications, and knowledge of case file and report content. Be prepared to testify regarding matters that are both personal and professional and to exhibit your abilities and biases, knowledge, and experience. Firmly establish how you have arrived at your opinions in the case.

Directions

1. You should always arrive at a deposition dressed appropriately and well prepared regarding the facts of your case. You should bring your binder with all the case file materials and include your CV.
2. Never arrive at a deposition with materials that were not previously produced.
3. Ensure you arrive early.
4. You will be asked a variety of questions about your professional background and qualifications to testify and render opinions for this case, in addition to what you relied upon in arriving at those opinions.
5. Oftentimes depositions are strategic on behalf of the attorneys and occur before your qualifications would be challenged in a Daubert/Frye hearing. The qualifications contained within your CV will be criticized at multiple steps throughout the legal process.
6. Depositions can also “be used for trial” when the expert is not available at the time of trial, hence read into the record in lieu of their attendance. This may include causes such as medical, death, or unexplained nonappearance of a party or witness.
7. Depositions are under oath, and they are recorded by a certified stenographer.
8. If you provide favorable responses for your case, your lawyer can’t use those statements from the deposition. However, the opponent can read all opponent favorable statements to their case, made by you, directly to the jury.
9. In addition to questions about your professional experiences, you are often asked very personal questions. These personal questions may be embarrassing but are aimed at judging your credibility and truthfulness. Most often, these questions are in conformance with a Giglio challenge. You must be prepared to answer these questions honestly and professionally. A failure to do so can negatively impact your ability to testify as an expert in the future and your career path.

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ACTIVITY 6.3

Mock Trial Testimony Exercise

Purpose

Provide expert testimony in a mock trial setting. As an expert, you will present your findings and conclusions, and you will be subjected to both a direct and cross-examination. The student will be challenged vigorously on their knowledge, training, experience, skill sets, and certainty of opinions.

Directions

1. Must wear Class A or dress business attire for your testimony and for watching as a juror (see rubric).
2. Review your case file in its entirety in preparation for your testimony. **Know** your case!
3. Review the Grading Rubric prior to testimony.
4. Review resource materials and external resources relevant to your case and opinions.
5. You will testify individually. Your group will be sequestered to the testimony regarding your case file.
6. You are **prohibited** from discussing your testimony with your team members until after all testimony for your case is complete. This is to include via phone, third parties, texts, or during breaks.
7. Each student will observe and evaluate their peers with a written objective suggestions sheet.
8. All students will participate in an instructor discussion critiquing the testifying student's performance.
9. Students are expected to treat this like real testimony, maintaining their professionalism and courtroom decorum.
10. **All of the students will be video and audio recorded via an SD card.** All participants, witnesses testifying, and jurors will be expected to maintain the Code of Conduct.
11. Students will use the SD video card to complete the assignment for Unit 7: Final Presentation. **Watch your testimony and begin the final activity as soon as possible!**

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UNIT 7: FINAL PRESENTATION

TERMINAL OBJECTIVE

The students will be able to:

- 7.1 *Perform and present a self-evaluation of expert testimony.*

ENABLING OBJECTIVES

The students will be able to:

- 7.1 *Evaluate individual courtroom testimony.*
- 7.2 *Compose presentation of analysis and results.*
-

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ACTIVITY 7.1

Final Presentation

Purpose

Create the personal/professional reflection necessary to be equipped with the investigative techniques, knowledge, and skills necessary to testify as an expert during legal proceedings.

Directions

1. Review your mock trial video from SD card.
2. Select a 70- to 90-second clip from your mock trial testimony video to use in your presentation. The video clip selected should illustrate a significant learning moment, or an area where you would answer or react differently than the video shows. Do not select your best moment.
3. Note the time stamp (ex. 04:30 to 05:38) on the video where it should begin and end for the presentation. An instructor will play the clip on the classroom podium computer, based on the provided time stamp information.
4. Prepare a 6- to 8-minute presentation (not including the clip viewing time) which explains why the specific video clip was selected, the observed response and the expected method of response if presented with a similar situation.
5. Be prepared to discuss your impressions of the video and the options for improvement, or how you may handle the exchange differently in a future trial.
6. The presentation should be in a verbal format, and you will provide the presentation from the front of the classroom for the rest of the class.
7. Any format or visual aids for the presentation are acceptable.
8. This is a graded activity, with a grade of pass (10 points)/fail (0 points).
9. Classmates or instructors may ask follow-up questions.

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ACRONYMS

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ACRONYMS

CSST	Corrugated Stainless Steel Tubing
CV	curriculum vitae
EMS	emergency medical services
EUO	examination under oath
FI:E	“Fire Investigation: Essentials”
FI:FEI	“Fire Investigation: Forensic Evidence and Interviewing”
FRE	Federal Rules of Evidence
HRR	heat release rate
IAAI	International Association of Arson Investigators
IAAI-CFI	IAAI-Certified Fire Investigator Certification
IT	information technology
NDA	non-disclosure agreement
NFA	National Fire Academy
NFIRS	National Fire Incident Reporting System
NFPA	National Fire Protection Association
SM	Student Manual
USFA	U.S. Fire Administration

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