

Updating Law Enforcement Policies for Arson Investigations

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Certification Statement

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### Abstract

The recent trends with law enforcement and the growth of violent crimes against police officers and citizens, arson investigators are stuck between the fire operations and the required law enforcement side of the law. The problem this research addresses is the law enforcement policies for arson investigators at Fort Bend County Fire Marshal's Office require updating to accommodate the societal changes currently occurring that directly affect how those enforcing the law carry out their responsibilities. The purpose of this research is to conduct policy review of relevant law enforcement policies for arson investigators that leads to the development of transition policies for arson investigators during law enforcement operations and potential safety situations that could result in a use of force. Research will be conducted through literature, interviews, survey, and personal experience. Evaluative research method was used to answer specific research questions. The research questions for this document are: 1) What are the current definitions, legal status, and law enforcement trends that involve the use of force for arson investigators in the fire service? 2) What are the current responsibilities of law enforcement functions involving the use of force for arson investigators of the Fort Bend County Fire Marshal's Office? 3) What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators? 4) What are some possible consequences of law enforcement actions that involve the use of force by county arson investigators operating under outdated policies and procedures? The research identified the lack of cohesive policy and direction for arson investigators faced with the use of force on a fire scene as well as during daily duties. The changing and updating of policies will help align the department's policies with other jurisdictions' procedures and policies.

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## Updating Law Enforcement Policies for Arson Investigations

### Introduction

With the recent trends with law enforcement and the growth of violent crimes against police officers and citizens, arson investigators are stuck between the fireside operations and the required law enforcement side of the law. In the past year there has been some threats and questions raised on what actions and equipment law enforcement officers should carry and what the policy for use of force situations. Fire departments that have dual certified arson officers need to have guidelines to follow. The Fort Bend County Fire Marshal's Office is a department that has two primary functions for operations; fire investigation and fire inspections. The licensed staff hold a Texas Peace officer certification and a Texas Commission on Fire Protection Certification, causing the policies to be different than just for a firefighter.

The problem this research addresses is that the law enforcement policies for arson investigators in the Fort Bend County Fire Marshal's Office require updating to accommodate the societal changes currently occurring that are directly affect how those enforcing the law (e.g., those who carry weapons) carry out their responsibilities.

The purpose of this research is to conduct a current policy review of relevant law enforcement policies for arson investigators that leads to the development of transition policies (i.e.; policies that move law enforcement practices from the past to the future) for current and future arson investigators during law enforcement operations and potential safety situations that could result in a use of force.

Research will be conducted through questions, material review, interviews, survey, and personal experience. The evaluative research method will be used to answer specific research questions. The research questions for this document have been identified as: 1) what are the

current definitions, legal status, and law enforcement trends that involve the use of force for arson investigators in the fire service? 2) What are the current responsibilities of law enforcement functions involving the use of force for arson investigators of the Fort Bend County Fire Marshal's Office? 3) What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators? 4) What are some possible consequences of law enforcement actions that involve the use of force by county arson investigators operating under outdated policies and procedures?

### Background and Significance

The significance of this research rests with an understanding of the growth and history of the fire marshal's office of Fort Bend County and its association with law enforcement responsibilities. Fort Bend County is the third largest county by area in the state, and nestles up against the southwest side of Harris County, home of the city of Houston. The population spillover into Fort Bend County from Harris County initially fueled Fort Bend County's impressive growth statistics, and the creation of effective county/city infrastructures enabled it to sustain that growth with the result that it is now considered to be one of the fastest growing counties in Texas. In the last five years alone, its population has increased to a projected population in 2017 of 723,713 people. ("Demographics Report," 2013, p. 1) Populations of this size with rapid growth histories place tremendous challenges on all government entities, in particular those relating to the direct protection of life and property; e.g., the fire service, the emergency response service and the law enforcement service.

The Fort Bend County fire marshal's office (FBCFMO) is a "standalone" department under the Texas Commission on Fire Protection (TCFP) and the Texas Commission on Law

Enforcement (TCOLE). The FBCFMO coordinates and responds to fire investigations for 21 different fire departments in the county. The types of fire responses from those departments depend on the make-up (e.g., equipment, personnel, location, etc.) of each department. The FBCFMO must be intimately familiar with the make-up of each department in order to gauge the amount of law enforcement support needed at a fire scene as well as the type(s) of additional support needed from the fire service. The FBCFMO must also take into consideration five different emergency service districts (ESDs) and sixteen other different volunteer fire departments that service their respective response areas within the county. This collage of city fire departments, ESDs and volunteer fire departments creates within the county a unique partnership that is continually evolving commensurate with the growth of the county. The FBCFMO is directly involved in this partnership, for it has a responsibility to work with all of the fire departments, ESDs and law enforcement agencies in the county, including those in the county's unincorporated areas (e.g., sheriff's department and local constabulary). A good example of this involvement is that the FBCFMO has six inter-local agreements with the cities to act as their fire marshal when called upon.

The FBCFMO was created in 1985 to investigate fires and explosions, maintain all fire records, plan and coordinate fire protection, conduct fire and life safety inspections and provide training to others in order to protect lives and property in the unincorporated areas of Fort Bend County. When this position was created under the state statute found in Vernon's Texas Codes Annotated, Chapters 352.011 through 352.023 (County Fire Protection, 2005), there were limited regulations that provided guidance for policies and procedures in situations that involved the use of law enforcement at a fire scene to protect emergency service personnel as well as community individuals. In the thirty years since its creation, there have been significant changes in our

society, our laws, and our communities that affect how fire marshals can legally fulfill their responsibilities. Regrettably, it has been difficult at times in the past for the FBCFMO to stay abreast of current trends in certain areas. For example, the use of force by fire marshals in law enforcement situations is one area that has lain dormant for years, but current events in our society reveal trends (e.g., more riots, community disrespect of police and fire services, civil uprisings at the scenes of fires, etc.) that now dictate that this area be highlighted in policies and procedures (e.g., equipment needed, the training of personnel in the use of that equipment as well as in effective personal interaction skills to defuse volatile situations, etc.) to more effectively assist law enforcement personnel.

The FBCFMO is currently comprised of 10 licensed arson/fire investigators, fire inspectors, and Texas Peace Officers. The author has been the chief administrator of the department for the past two and a half years. He has managed the office based largely on the standard policies and operating procedures from the previous administration, including the use of the equipment worn by the arson investigators during their daily operations and arson investigations. One of the state requirements to be a fire investigator is that one must have at least the basic Peace Officer certification as approved by the State of Texas. This is the minimum standard, and all members of the FBCFMO listed above exceed that standard, holding Advanced Peace Officer Certifications. It should be noted while on duty most of the staff members have been carrying approved firearms on a police belt for years, just like other police officers.

This department is reviewing and following the guidance from the National Fire Academy's goals and information from classes. This research started by following the one of the goals of the U.S. Fire Administration, which is to reduce risk at the local level through prevention and mitigation. Every disaster or emergency has its local and personal characteristics,

and being prepared is both an individual and collective responsibility. (National Fire Academy, 2010, p. 14)

Within the last year in Fort Bend County, law enforcement personnel and even some first responders have been faced with situations involving the need to use force in order to gain citizens' compliance. Since the certified staff members of the FBCFMO function under job descriptions that involve police presence along with firefighting duties, situations at fire scenes that require the use of force to assure compliance with the law can place the current staff of the FBCFMO in harm's way at these public incidents.

The author started reviewing what behaviors and what are the norms for the department regarding the use of force and daily activities of arson investigators during the Executive Leadership course at the National Fire Academy. The goal from the class and the research paper is to identify a behavior that would make the department more adaptable, and design a ritual that would encourage the changes that need to take place. (Heifetz, Grashow, & Linsky, 2009, p. 60)

A recent incident on August 28, 2015 in the Houston community signaled a sea change in perceptions by the law enforcement community. A Harris County sheriff's deputy, Darren Goforth, was murdered by a cowardly individual only twenty minutes away from Fort Bend County. The proximity to Fort Bend County combined with how the murder occurred had a significant psychological impact on all first responders in the area. Deputy Darren H. Goforth, 47, was preparing to enter his car after pumping gas. The gunman walked up behind him and opened fire for no apparent reason, other than it was just because he was a uniformed officer, according to Harris County Sheriff Ron Hickman. (Izadi, 2015) This incident set the stage for a major perception change; i.e., that simply wearing a law enforcement uniform in public could make one a target. This tragedy has caused peace officers and first responders to seriously

rethink their duties and their safety. Their thoughts have been reinforced by other similar uses of force issues that have also caused law enforcement actions on citizens to be questioned. Overall, the public's perception of law enforcement is experiencing some second thoughts, and law enforcement personnel are also having second thoughts as to how the public perceives them, resulting in a heightened awareness of all those who wear law enforcement uniforms in public.

Two weeks after the death of Deputy Goforth, all Houston area fire marshals' offices received an email and phone calls from the Harris County Fire Marshal's office regarding an issue at a fire scene involving arson investigators and the local citizens. There were multiple threats from the public and the safety of the officers was compromised, causing them to document the scene and quickly remove themselves from the investigation until a later time. (L. Christensen, personal communication, August 30, 2015)

All first responders in Harris and Fort Bend Counties are now aware of the changing societal view of individuals who wear law enforcement uniforms; i.e., those who are perceived to wear law enforcement uniforms and carry weapons. This clearly comes home to arson investigators in the FBCFMO and the placement of them on emergency scenes and fires, sometimes with their being the only law enforcement officers protecting the other first responders. Since all of the FBCFMO's arson investigators are Texas Peace Officers, they wear uniforms and a side arm and handcuffs for daily duty and when on fire scenes. The current policy also allows them to secure their weapons in their vehicles during an investigation which could potentially limit their abilities to carry out their law enforcement duties if called upon. Regarding their daily duties, the officers are to wear their side arms for fire inspections and anytime they are in uniform. The current policy does not allow their carrying of other law enforcement tools (e.g. pepper spray, baton, Taser, etc.) that could be of significant benefit to

them in hostile community situations. The policy also lacks clarity on uniform options such as wearing body armor and the option to wear plain clothes while wearing the badge on the waist next to the side arm. The use of these options, as one can imagine, has the potential to create other issues involving law enforcement personnel and public perception.

The primary scope and the importance of this research is to enhance current guidelines and to establish new guidelines regarding the management, equipment, training, and overall capabilities of the FBCFMO to more effectively provide safety and direction for fire investigators when they are faced with life threatening or use of force issues while on the scene of a fire investigation.

### Literature Review

The literature review involved in the search for information regarding the use of force by arson investigators during confrontational incidents at fire scenes was far-ranging. The topic of law enforcement incidents involving the use of physical force has become frequent “top fold” news items, reflecting the social trends that frequently drive public policies and procedures regardless of logic and objectivity. While this current media hype covers a wide range of law enforcement activities, resulting in numerous articles, books and reports that were at times less than objective in their presentations, the topic of arson investigators being associated with law enforcement activities while on fire scenes had rather limited and often questionable reporting. Thus, this literature review researching the role of arson investigators and their potential involvement in law enforcement activities at fire scenes and specific policies relating to such involvement has focused mainly on responsible books and periodicals, as opposed to such media

as You-Tube presentations and newspaper articles. The author centered his research on specific arson investigator policies for an investigator on duty, with the research extending to policies and practices outside the fire service such as local, state and federal law enforcement policies and procedures relating to the use of force while on duty.

The review explored the law enforcement policies, procedures and practices and their application to arson investigators who need to be on a fire scene for fire investigations and possible arson. The knowledge that an arson investigator could be placed in a situation that would require the investigator to act as a police officer dictates that a fire chief adopt enforcement policies that mirror those of a police departments. It should be recognized by the reader that the cultures of police and fire departments are different in many respects, while at the same time reflect certain commonalities. One dominant commonality is the resistance to change, and to protect their respective turf. Police deal exclusively with crime, both in the prevention and in the aftermath. Firefighters deal with the protection of life and property, both in the prevention and in the aftermath. The arson investigator is often caught in the middle, whereas there are times when the investigator is expected to conduct law enforcement practices (e.g., apprehend and arrest an arson suspect; assist the police in defensive actions against a hostile crowd, etc.) and other times when the investigator sifts through debris searching for the cause of a fire and rules it accidental. Societal issues and events within the past few years that have directly affected the police and fire departments have precipitated a slow blending of certain police and fire departments' cultural characteristics. Police officers are finding themselves at the scene of fires more often than in the past, and firefighters are responding to and dealing with situations that can result in criminal actions, such as safety issues involving threats or refusals from the public to back off from the scene of a fire.

The previous two paragraphs provide the backdrop for the staging of the research questions, as follow: 1) *What are the current definitions, legal issues, and law enforcement trends associated with the use of force in confrontational situations by arson investigators in the fire service?* The author reviewed several sources that had researched and promoted the need for policies and guidelines in a use-of-force situation. As an example, under Texas law, each member of an arson investigating unit commissioned by a city, county, or the state is required to be a Texas peace officer. (Who are Peace Officers, 2014) This is a key law, and all arson investigators should adhere to the legal requirements inherent in such a law. A major fact in the carrying out of both police and fire responsibilities is that the requirement to use force in a situation could occur at any time. According to the National Institute of Justice, “Law enforcement officers should use only the amount of force necessary to mitigate an incident, make an arrest, or protect themselves or others from harm. The levels, or continuum, of force police use include basic verbal and physical restraint, less-lethal force, and lethal force. The level of force an officer uses varies based on the situation. Because of this variation, guidelines for the use of force are based on many factors, including the officer’s level of training or experience.” (“Police Use of Force,” 2015) This literature is not only an important resource for the employee to know as an arson investigator, but for the fire chief to be aware of in the case of any altercation on a fire scene.

Should an arson investigator be placed in a situation that could escalate to a law enforcement act (a “special duty” situation), leaders of the investigator’s fire department need to know and understand the expectations associated with that situation, as does the investigator. Karen Kruger, Senior Assistant County Attorney and Counsel to the Sheriff, Hartford County, Maryland states that the public duty is considered when an individual alleges that law

enforcement personnel or other government employees are liable for injuries due to a breach of a legal duty. But unless the state actors either created or enhanced a risk or had a special relationship with the individual, these suits are generally unsuccessful because the duty owed by the government to its citizens is to the public generally and not to citizens individually. Law enforcement agencies should provide training to personnel so that they are aware when they may be expected to perform a “special duty” above and beyond the general legal requirements.

(Kruger, 2016)

Although arson investigators are not viewed as police officers when their chain of command and policies are fire-department driven, they still have the responsibilities of police officers since they are licensed as such. After identifying the laws and state statutes creating an arson investigator, the literature review focused on the scope and responsibilities of a public officer, no matter what title is assumed. (Code of Criminal Procedure, 2015) Thomas Schneid talked about the scope of authority for a public officer in the fire service. The scope of authority granted to a fire service organization and to the officers in that fire service is usually determined by statute and ordinance. Most courts have determined that the operations of the fire service would be severely hampered if the fire service officials were held accountable by the courts for mistakes or poor judgements in the honest performance of their duties in an emergency situation. Given the fact that since such decisions must often be made upon subjective judgment and discretion, most courts tend not to second guess the decision-making process so long as the decision was within the scope of authority of the fire service organization and was reasonable under the circumstances. (Schneid, 1995, p. 109) By having a public official that is both a police officer and a firefighter places that official in an untenable position. On one hand, the officer has an obligation to act in a need to protect people and also to conduct a fire scene investigation. On

the other hand, the possibility of the use of force along with overall scene control can place the officer in a legal and future criminal proceeding, or even a shooting. (Aitchison, 2009, p. 223)

Research on question number two, as follows, revealed some pragmatic data that directly pertained to the responsibilities of arson investigators on a local level: 2) *What are the current responsibilities of law enforcement functions involving the use of force for arson investigators of the Fort Bend County Fire Marshal's Office?* A review of the policies, procedures and practices currently in place and followed in the Fire Marshal's Office revealed that they harbor certain limitations and clearly need an update to accommodate the legal and societal changes that have been and are currently taking place in the county as well as in the state and nation. For example, under Local Government Code, Sec. 352.015, Arson Investigation, the county fire marshal shall file in a court of competent jurisdiction a complaint charging arson, attempted arson, conspiracy to defraud, or any other crime against a person the marshal believes to be guilty. The office also has the responsibility of filing charges under Section 352.012 in a court of competent jurisdiction against a witness who refuses to cooperate with the investigation. (County Fire Protection, 1987)

The administration of these responsibilities as well as the administration of the myriad of responsibilities associated with the processing of a fire scene mandate policies in place that protect not only the organization but the arson investigators and first responders as well. Currently, the training and equipment that is in place only allows for the use of verbal commands, hand controls and use of a side arm (gun). Any other weapon that the arson investigator uses has to be approved with continual and documented training in the weapon(s) selected. Note: This is not required by the current office policy. To underscore this point, no one currently in the Fort Bend County Fire Marshal's Office is certified in Taser, deterrent spray (Pepper Spray) or batons. The importance of implementing appropriate policies is pointed out by

the following reference. According to a 2003 study by the Community Relations Services of the U.S. Department of Justice, *Principles of Good Policing: Avoiding Violence between Police and Citizens*, the fire department/fire marshal policies could have a significant impact on how force is used in any fire scene encounter. And, the data collection report referenced above stresses the need for police or fire executives to improve the training of recruits and arson investigators on the use of force and the techniques for minimizing its application. ("Principals of Good Policing," 2003)

The author reviewed different reference sources to address question three, as follow: 3) *What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators?* In Syracuse, New York, Bill Ryan, the mayor's chief of staff stated, "Fire investigators are the people who go into a fire scene after the last fire truck has left. They take photographs, dig through debris to find clues and collect evidence to determine a fire's cause. The collection of evidence, whether it's physical pieces from a crime scene or interviews with suspects, is sometimes conducted in dangerous places. For many years, Syracuse police assigned an officer to protect the city fire investigators for the added protection. (Kulkus, 2013) Since this article was written, this particular practice has been changed due to police department budgetary reasons. This does not downplay the danger to which fire investigators are exposed. It may be a surprise to some, but research has shown that the uniform and equipment worn for arson investigators are important and need to be reviewed on a frequent basis. "The very first impression a subject forms of an investigator will be based on physical observations — not only gender, race and body type, but also attire. The desired perception a subject should have is that the investigator is professional, intelligent, non-judgmental and trustworthy. Anyone who has

found themselves in a social situation of being either under or over-dressed can appreciate the psychological impact attire choices have on social interaction. The other fascinating aspect of attire is that it affects a person's self-image which, in turn, can affect confidence and performance levels." ("Investigator's Attire," 2016) The author believes that this concept of appropriate attire for arson investigators is important for fire chiefs to understand, embrace and put in practice by selecting the appropriate attire for arson investigators, both for active investigations as well as for other duties; e.g., public speaking, training, office work, etc. Both situations call for interactions with the public, which alone should provide motivation for upgrading departmental policies for appropriate attire and for the carrying of any weapons.

Question number four underscores the need for current policies and procedures in the area of arson investigators and their use of force in confrontational situations, as follows: 4) *What are some possible consequences of law enforcement actions that involve the use of force by county arson investigators operating under outdated policies and procedures?* This question necessitated a review of multiple references for this question (including the internet and newspaper articles) to develop some common possible outcomes for arson investigators who use force in confrontational situations. It is well-known that police officers could misuse their powers or be accused of wrong doing as a peace officer. Such an event causes great consternation on the part of the public, the politicians, the government and the police department. Fortunately, most police departments have current policies that facilitate solutions to such events, and police chiefs are well versed in the art of standing behind their policies. Fire chiefs, on the other hand, find that law enforcement actions by members of their departments (e.g., arson investigators or fire marshals) create many challenges in the management arena. The fire chiefs, for the most part, have limited knowledge of and exposure to the myriad of rules and regulations

pertaining to the use of force for police officers in the matter of using force for law enforcement incidents. Many of the fire chiefs have even less knowledge in how to parse and adopt/adapt police policies to fire department policies. For example, in Columbus Ohio, a fire division arson investigator was suspended for two weeks and stripped of his city-issued firearm for ordering a motorist out of a car at gunpoint while he was on duty in what the police called a road-rage incident. Disciplining the arson investigator was difficult, fire officials said, because the incident happened while the fire division was developing its first written gun policy outlining how and when arson and bomb-squad investigators may use their weapons. About a dozen of those investigators carry weapons while on duty in Columbus Ohio. A policy now states that only firefighters who investigate crimes such as arson may carry guns, and they may use them only during a fire-related incident. ("Gun-Pointing Arson Investigator," 2013) These news articles and many others illustrate the need for control over the use of weapons by fire department employees (i.e., fire marshals and arson investigators) for not only the employees' sake but also to avoid possible negative community impacts. Having policies in place to limit and control an arson investigator's weapon use is the responsibility of the fire department through up to date policies and procedures combined with appropriate training and record-keeping.

For another view of the issue, take the case where the arson investigator's need for protection involving the use of a weapon is necessary. As one of the many examples within the last few years, a lone arson investigator was shot early one Sunday morning in Chicago as he checked an alley where a Molotov cocktail had been tossed against a house. As a consequence of this incident, the Chicago Fire Department will change its policy and have arson investigators work in pairs, according to the fire commissioner.(Long, 2008) Another example to illustrate why investigators need to carry weaponry in line with a peace officer license is an incident that

happened in Texas. Following the department's policy and procedures for confrontation on a fire scene, Kilgore firefighters were still rolling up their hoses after battling a house fire early one Saturday morning when they were attacked by a rifle-wielding neighbor. Following a back-and-forth scuffle, while firefighters and the suspect's wife and a child took shelter behind the fire engines, Kilgore Fire Marshal Brandon Bigos drew his firearm and shot the apparently intoxicated attacker in the left shoulder. ("Man shot at Firefighters," 2014)

In Florida, new policies for all firefighters might even come true according to Bonita Springs fire commissioner Fred Forbes. He is pushing for the fire chief to develop policies for all firefighters to carry guns. Forbes said his idea is in response to recent shootings that have claimed the lives of first responders across the country. "Every time you turn the news on, law enforcement are being shot and killed," he said. "There are instances already where firemen are going out on a call and being shot at. They're less likely to be shot at, but there is an element of terrorist activity in the U.S. unfortunately." ("Firefighters with Guns," 2015) Granted, this approach may be a little "over the top," but at least it starts a conversation.

Overall, the research for this paper demonstrated to the author that there is a need for arson investigators carrying weaponry to work under current policies that require periodic training and annual reviews, and that the arson investigator must fully understand the policy and comply with its goal of protection for the benefit of all concerned; e.g., the arson investigator, fellow firefighters and policemen, the fire department, the public, the politicians, etc.

### Procedure

The research for this paper on the ability of fire investigators (e.g., first responders) to effectively employ the use of force in confrontational situations on emergency scenes was

conducted through several venues including a survey, an interview and an extensive literature review. The survey, interview and the literature review corresponded to procedures that reflected an evaluative research model, an effective method used to frame and answer specific research questions. The research process and intent of this literature review was to identify and understand the “use of force” policies and equipment that are currently being used in the field by first responders, what they have used in the past and the development of possible policies and equipment needed in the future to secure the safety of the first responders and still be in compliance with state and local laws. The method included identifying the overall use of force first responders might have to manage as well as policies that directly impact their actions when in public and on emergency scenes.

The literature review began at the National Fire Academy’s (NFA) Learning Resource Center in August 2015. The review involved searching relevant Executive Fire Officer (EFO) Applied Research Papers (ARP), manuals, textbooks, and magazine journals for information pertinent to the research inquiry. This inquiry also involved an internet search to identify current data and the type of situational awareness fire investigators need in a confrontation at an emergency scene that necessitates the use of force to maintain order. A review of federal, state, and local laws that impact fire investigations and the carrying of weapons by licensed peace officers who are involved in those investigations was also conducted.

The survey was created in Survey Monkey and distributed to seventy-five individuals who are involved in the fire service and who have direct influence on decisions on policies and procedures for different fire departments. The list of these seventy-five individuals was created from Executive Fire Officer Student rosters and agencies with fire investigators. The survey contained eleven questions that were developed from literature review data combined with a

review of the current policies and procedures for fire investigators in Fort Bend County. A review of the literature with a focus on current practices and trends that have shaped the use of force in confrontational situations also contributed to the survey's development. Responses were received from forty of the surveys between the months of September 2015 and December 2015.

The list of survey questions follow:

1. What type of department or organization do you represent?
2. Does your agency have a division of certified Fire/Arson Investigator?
3. Is the Fire/Arson Investigator in your organization required to be licensed as a peace officer?
4. Does the Fire/Arson Investigator conduct any other police activities in addition to fire investigations?
5. Does the Fire/Arson investigator operate under a policy regarding any law enforcement activities?
6. Does your Fire/Arson Investigator carry defense weapons (e.g., gun, baton, pepper spray, etc.) when conducting an investigation? If so, what equipment is issued?
7. If the Fire/Arson Investigator is certified to carry a sidearm, when do they carry the weapon?
8. Have any of the department's officers (Fire/Arson Investigators in particular) used force within the last five years to deal with one or more confrontational individuals at the scene of a fire?
9. If you answered "yes" to question 8, please provide a short explanation regarding the use of force needed in the incident, and if it involved a Fire/Arson Investigator.

10. Is there a state law, regulation, policy or procedure that your employees follow in a use of force incident? If so, please identify it for referencing in this research paper.
11. What training is required of your officers (Fire/Arson Investigators in particular) for dealing with situations involving confrontations with citizens that could possibly result in a use of force?

An analysis of the survey results combined with the data yield from the literature review provided a sufficient data pool to address the first research question (1. What are the current definitions, legal status, and law enforcement trends that involve the use of force for arson investigators in the fire service?). The survey results also helped shape the answer for the third research question (3. What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators?).

Research question number two (2. What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators?) was researched using the results of the survey, the literature review, a review of current policies and procedures in Fort Bend County, and a review of the different types of available equipment that could be used or needed to protect first responders.

A key interview was conducted with the Assistant Chief/Operational Support Services for the Harris County Fire Marshal's Office, Laurie Christensen. The purpose and reasoning behind the interview lay in Ms. Christensen's background and position with Harris County. Also, just within the past four months she has been a supervisor over investigations, which have grappled with some issues and situations involving the use of force on fire scenes with arson investigators.

This interview was conducted subsequent to her receiving the survey, which helped “center” her responses. Her grasp of the “Gestalt”, or big picture, of the use of force in the fire service was impressive, so much so that other formal interviews would have simply yielded redundant information. This is not to say that other informal interviews were not conducted throughout this research project, for they added to and validated data already collected. The questions for the interview with Ms. Christensen are found in Appendix B.

After compiling the data from the surveys, the literature reviews and the interview, an analysis was made of the overall results. This allowed for comparisons between the different local jurisdictions in their policies and procedures regarding the use of force in the fire service, reflected by what each allowed their respective arson investigator to wear/carry and their guidelines for the use of force by that arson investigator. This procedure allowed the author to begin to identify, from a field-oriented point of view, the most viable policies and procedures to select for editing in consideration of their modified adoption by the Fort Bend County Fire Marshal’s Office.

Research question four (What are some possible consequences of law enforcement actions that involve the use of force by county arson investigators operating under outdated policies and procedures?). This question not only required a literature review but the author’s participation in many informal interviews with fire service officers, police officers and legal personnel pertaining to the different kinds of actions and their consequences in the use of force in confrontational situations. The review also included the selective retrieval of certain county records and manuals in an expanded search of the commonalities and differences between the policies and procedures of the arson investigators’ agencies in the use of force in confrontational situations, as well as the strategies that have been used in situations involving physical threats

during a fire investigation response. The answers received by the research involved with this question provided salient support for the need to develop and adopt comprehensive policies and procedures regarding the use of force by arson investigators.

### Results

The procedures used for this research paper led to a number of interesting results that shaped the findings and enhanced the conclusions. The collection of data from the procedures employed provided a solid foundation for the development and implementation of future policies for the Fort Bend County Fire Marshal's Office. Specifically, such future policies will refer to arson investigators as they attempt to cope with the challenges associated with being not only a firefighter but a licensed peace officer as well. Their coping skills are heavily taxed at times, especially when situations involving the use of force occur, and clear policies and procedural guidelines will provide a sense of stability and security for their actions on the job. The results of the study that produced this positive outcome have been reported in accordance with the four research questions that initiated the data collection process.

*Research question 1: What are the current definitions, legal status, and law enforcement trends that involve the use of force for arson investigators in the fire service?*

The answers to this question are based on many factors that intersected during the research process. A review of the current state laws and regulations pertaining to the question revealed multiple state statutes within Texas alone that impacted a first responder's (e.g., arson investigator's) rights to act with respect to carrying out his duties, including the use of force in certain situations. The information in the article by Thomas Schneid reassured the author of the scope of authority for a public officer in the fire service. The scope of authority granted to a fire service organization and to the fire service in general is usually determined by statute and

ordinance for each individual state. Thus, the following question was asked in the survey, *“If there is a state law or standard that your department’s or organization’s employees follow in the event “Use of Force” is necessary, please identify it for reference in this research paper.”* The question did not produce many references; however, those that it did produce were most helpful regarding other fire marshals’ offices and how the concept of “use of force” applied to arson investigators. A total of seventy-two (72) surveys were distributed to officers in the fire service in 42 states, and forty (40) of those surveys were completed and returned. Twenty-one (21) of those responding answered this question, and of those twenty-one (21) only nine (9) answered with a “No” or “N/A.” The other twelve (12) responses provided information and listed specific state laws or statutes that allowed employees to carry side arms and other protective measures while engaged in fire investigation activities.

The interview with an executive officer from another local fire marshal’s office provided significant insight regarding the impact of state statutes and laws that encouraged the Harris County Fire Marshal’s Office to develop and implement their policies and codes on the use of force by arson investigators. “How fire marshals’ offices develop policies and train their staff is more important than having an expectation for ‘if it happens’”, according to L.Christensen in a personal communication on August 30, 2015.

The last question on the survey (“Add any additional information regarding this topic of arson investigators and the officer precautions fire departments are taking while on fire scenes regarding the current threats to harm first responders.”) produced a wealth of insight and understanding from other fire departments with the same issues. Some of the responses for this question helped generate outcomes that will be in the discussion section of the paper. A sampling of these responses sans editing follow, with a full set of responses located in Appendix A:

1. Our fire marshal is strictly related to the fire service. There are no gray areas between a fire and police type of event. If the use of force is granted it is handled by the Sheriff's office not the fire Marshal.
2. We ensure that two Investigators are at the scenes of all fires, unless a clearly justifiable reason exists for the fire Investigator to be there alone. If that is the case, they have an AFD engine company there with them, or the Austin Police Department.
3. We team with a police officer any time we are doing an arson investigation.
4. Generally investigator does not work a scene alone though no specific or general threat against ff's have been received in our region
5. Our investigator will do a criminal background check on a suspect prior to making contact. If the suspect has a violent criminal history, they'll partner with local police and make contact as a team (one police officer and one fire department investigator).
6. Arson investigations are POLICE work. Any Fire Department or other agency doing this type of work should fully train & prepare their investigators for law enforcement.
7. Our Inv. are FF employees, acting under the color of law as agents of our police department. Our policies cross reference the police department policies. The state (GA) does not require O&C Inv. to be police mandated, but our department does. Our Inv. report to work just like any other detective does.
8. Call PD if you have any problems, A detective is always assigned to us if we cannot rule out foul play

*Research Question 2: What are the current responsibilities of law enforcement functions involving the use of force for arson investigators of the Fort Bend County Fire Marshal's Office?*

The review and search for materials within the county included a review of the past historical documents that the County Commissioners Court had produced in the years since the office of the county fire marshal was created in 1985. The results of this review uncovered little to no significant findings addressing the concern of the use of force for fire service officers on the scene of a fire investigation. The current applicable document in place is a two page explanation of the use of force and a legal description referencing chapter 9 of the Texas Penal Code. The document was from 2007 and the one-page document was in dire need of updating. No staff member in the current fire marshal's office was employed in the office at that time, and the previous fire marshal did not have any revisions or updates on record. The document is attached in Appendix C.

*Research question 3: What are the current requirements and standards on law enforcement equipment and policies regarding the use of force for different fire marshals' offices that have arson investigators?*

The author first had to develop an understanding of the types of arson investigation offices that exist. It turned out that 59% of the 34 fire departments responding were either in a city or a municipality. This is significant in the findings, due to the extra resources available to them compared to what is available to a volunteer or a "stand-alone" fire marshal's office.

Answer Choices	Responses
City/Municipality	58.82% 20
County Fire Department	14.71% 5
Volunteer Fire Department	2.94% 1
Combination Department (Volunteer/Paid)	29.41% 10
Fire Marshal's Office	20.59% 7
<b>Total Respondents: 34</b>	

In reviewing the responses to what standards and requirements are needed for arson investigators, the following survey question shed light on licensing and certification: *Is the fire/arson Investigator in your department or organization required to be licensed as a peace officer?* Forty-four percent (44.12%) of those who answered this survey question had their arson investigators being a licensed peace officer, while fifty-five percent (55.88%) did not require their arson investigator to be a trained police officer. This finding was substantial, for it indicates not only what rules and policies need to be in place, but the need to customize policy to fit the individual department if its staff members are carrying law enforcement tools while conducting fire investigations.

While the interview with Ms. Christensen confirmed the reason that Harris County provides defensive equipment (including side arms) for arson investigators is for their protection at all times while on official duty. She also identified another use of force weapon for protection at all times while on official duty -- a radio to request assistance in case of any situation with the potential for a dangerous confrontation. (L. Christensen, personal communication, August 30, 2015) One must look at the defensive tool requirements that regular peace officers carry while on duty, which at a minimum include a side arm and at least one other control device when placed in a use-of-force scenario at a fire scene. The results from the survey also answered the question regarding what other defensive tools were used by arson investigation. Question six of the survey provided some answers. Some tools of this nature were identified as a handgun, badge, ID card, a spare magazine and handcuffs (all at the very minimum), ballistic vest, OC spray and/or a baton. Very few responses included the use of Tasers.

In reviewing what other departments' policies allow in the case of arson investigators who are certified to carry a side arm, when can these investigators officially display and have

readily available those side arms? Out of the thirty-four (34) responses to this survey question, forty-seven percent (47%) responded “daily when in uniform,” fourteen percent (14%) responded “only when active on arson investigations,” but forty-one percent (41%) do not allow any staff to carry a sidearm for the department.

The survey results also illustrated that seventy-four percent (74%) of the agencies that answered the survey do not have a policy in place to apply when their arson investigators are involved in any law enforcement operations (e.g., a riot breaks out at a fire scene). This finding leads directly to the following question: Research Question 4: *What are some possible consequences of law enforcement actions that involve the use of force by county arson investigators operating under outdated policies and procedures?*

The literature review revealed that a duty to act is an important output that always had a result, either positive or negative. In 1981, the District of Columbia Court of Appeals ruled in *Warren vs. District of Columbia* (444 A.2d. 1, D.C. Ct. of Ap., 1981). The Court stated that it is a “fundamental principle of American law that a government and its agents are under no general duty to provide public services, such as police protection, to any individual.” A quick review of state statutes found that very few states actually have laws that mandate a duty to act. Such statutes, which require an individual to respond to another being harmed, are relatively new. (Mangeria, 2014) There have been multiple situations since the time the author began this research that have challenged the right to act and who should act.

Reaching out to the other departments and arson investigators, it was found that there are limited actual accounts when an arson investigator needed to employ defensive actions at a fire scene. Out of thirty-seven (37) responses, only eighteen point nine percent (18.9%) or seven (7) had to deal with a use-of-force situation. The other 30 or eighty-one percent (81%) had not been

involved in such altercations or had not needed to use the police tactics or police to control a situation. Of the seven that had situations that resulted in use-of-force situations, they ranged from an official arrest due to the act of arson while on a fire scene to individuals interfering with a fire scene. Some of the seven verbatim responses from the survey that reaffirmed the need for the research are:

1. Hands on arrest tactics with disorderly individual. No weapons were involved
2. Typically this involves an arrest or arrival on the scene and a domestic is in progress.
3. On one occasion an intoxicated subject refused to leave a scene after being warned. Subject was ordered and physical force was required to effect arrest. Another occasion a subject fled investigators and was tased. Another a subject tried to fight and investigator and occasionally spray was used.
4. Person interfering with scene operations
5. Maybe two times in the six years I have been in the office, we have had to arrest someone for interfering with firefighters and their duties. The Austin Police Department is excellent in supporting us at fire scenes.
6. Secure individuals trying to enter the scene, in addition suspects that have run or resisted arrest.
7. To effect an arrest for arson.

### Discussions

One of the top concerns any fire or police department administrator is that a member of their respective department becomes injured while on duty performing public service. This level of concern is raised significantly in the case of an injury from a physical confrontation as opposed to more common incidents; e.g., broken leg from slipping on fire ladder; strained back

from rescuing citizen from wrecked car, etc. In today's society, the patterns of injuries and accidents to first responders (e.g., fire fighters and police officers) is slowly shifting, from the more common incidents in the past to the results of more physical confrontations at incident scenes; e.g., vehicle wrecks and fires. On any given day, one can find a media report about first responders being hurt or threatened by individuals on the scene of an incident, regardless of the type of call that precipitated their response. This shifting pattern of injuries and accidents is changing the way that first responders respond to emergencies. This is a growing concern for not only the fire and police administrators, but for the politicians and the public as well.

Police deal exclusively with crime, both in the prevention and in the aftermath. Firefighters deal with the protection of life and property, both in the prevention and in the aftermath. The arson investigator is often caught in the middle, whereas there are times when the arson investigator is expected to perform law enforcement practices (e.g., apprehend and arrest an arson suspect; assist the police in defensive actions against a hostile crowd, etc.) and other times when the investigator shifts through debris searching for the cause of a fire and makes a ruling as to its cause.

The problem this research is designed to address is that the law enforcement policies for arson investigators in the Fort Bend County Fire Marshal's Office are outdated. They were developed 10 years ago with little or no annual reviews. They require updating to accommodate the societal changes currently occurring that directly affect how those enforcing the law (e.g., those who carry weapons) carry out their responsibilities. It is intended that the future law enforcement policies of this office will reflect the tenet that our arson investigators will use only the force that is reasonably necessary to effectively bring an incident under control while protecting the lives of the officer and others.

This research was conducted in recognition of the number one goal of the U.S. Fire Administration, which is to reduce risk at the local level through prevention and mitigation. Every disaster or emergency has its local and personal characteristics, and being prepared is both an individual and collective responsibility. (National Fire Academy, 2010, p. 14)

The research findings on policies regarding law enforcement practices by arson investigators were limited when specifically focused on, which could be expected considering their specialized field as well as to the fact that often their supervisors were often not certified in the same area; e.g., a fire chief without peace officer certification over a fire marshal's office. Thus, attention was directed to reviewing police law enforcement policies along with the occasional article mentioning arson investigators.

Addressing the author's first question (*What are the current definitions, legal status, and law enforcement trends that involve the use of force for arson investigators in the fire service?*), the research clearly illustrated the need to establish law enforcement policies for arson investigators that are based on the state and local laws. A review of these laws and policies that police departments follow revealed that police department policies are in-depth and must remain objectively reasonable. For example, any police officer must maintain crowd control on any first responder scene, and use only the force that a reasonably prudent officer would use under the same or similar circumstances. Furthermore, any actions taken by a police officer will have the potential to legally be reviewed based upon the information known to the officer at the time the force was used or any other actions to control any scene. Through a recommendation from Ms. Christenson, the Texas police chief's association has developed a Texas "best practices policy" for departments to use. The Texas best practices manuals are developed by a committee of chiefs of police and command level officers from across Texas that developed standards that

were believed to be necessary for proper functioning of Texas law enforcement agencies. The committee reviewed Texas laws and ensured their compliance with “164 Texas Law Enforcement Best Practices.” The goal was to assist agencies in the efficient and effective delivery of service, the reduction of risk and the protection of individual rights.

(<http://www.texaspolicechiefs.org/recognition-program>) The author believed that this was the best platform to start with in developing a use-of-force policy for application to an arson investigator on the scene of a fire or during the arson investigator’s daily duties.

The research also showed that many of the fire departments and arson investigators are backed by other police agencies that can help with the “back-up” at a fire scene. For example, sheriffs’ offices, local constables, school district police officers, etc. However, of the departments represented in the survey, seventy-one percent (71%) indicated that their arson investigators were not peace officers and that their departments did not have policies in place to apply when an arson investigator is involved in any law enforcement operation. And, pre-planning for possible confrontations on fire scenes was practically non-existent. Overall, most of the fire departments rely on recognized law enforcement agencies for “protection” or for further police investigations on fire scenes while a select few have actually called on their arson investigators with their peace officer certifications to apply any use of force; e.g., removing a hostile bystander from the fire scene.

One action that the author wants to avoid is to place a technical change to an adaptive challenge. In layman’s terms, an adaptive challenge is one that involves a change in the culture of an organization, while a technical change is a “quick fix” that over time may or may not be absorbed into the culture while creating problems in the meantime. A technical change is often the poster child for the awakening of “The law of unintended consequences.” This problem of

absorbing arson investigators into peace officer roles is not a simple fix of a policy, and many administrators would prefer not to develop any policy that could change or disrupt the organization. (Heifetz, Grashow, & Linsky, 2009, p. 71) The solution to the problem presented needs to be clear that it is not just a policy change that is needed, but an understanding for and of the policy change by the entire organization; i.e., it is an adaptive challenge for the department, to better use the talents and training they have taken for the safety of first responders and citizens.

Chief administrators are ultimately responsible for causing and/or fixing organizational problems, but knowing when and where problems exist can allow the administrator to be focused on the technical changes to fix the problems, and to not address adaptive changes at the outset. Once an emergency presents itself, there is little or no time to train, plan, or prepare, thus the staff should have a policy to fall back on for guidance and support. Research materials on arson investigators who had found themselves in a use-of-force situation were limited, as were policies to support them.

The research associated with question two (*What are the current responsibilities of law enforcement functions involving the use of force for arson investigators of the Fort Bend County Fire Marshal's Office?*) was limited by a paucity of policies, both old and new. For an office that has been a "standalone" fire agency for the past 30 years, the limited policies that were written created multiple holes in the legality of situations involving fire fighters and citizens. Currently, the increasing number of call outs and fire investigations in this rapidly growing county present a potential threat to the arson investigators while conducting fire investigations. An example incident of this in adjoining Harris County was cited, whereby the arson

investigators were threatened while conducting a fire scene investigation. It is safe to assume that more such incidents will be experienced in the future.

The development of policies that have been proven to cover all the legal ramifications associated with the use of force will assist arson investigators in knowing their legal responsibilities and their potential duty to act. The increasing demands on police officers and other law enforcement personnel to manage unique situations underscore the need for arson investigators to maintain their certification hours. Also underscored is the need for all first responders (e.g., fire fighters, EMT personnel, police officers, etc.) to undergo extra training in what to look for in the area of potential confrontational situations at fire scenes. Policy development by the Fort Bend County Fire Marshal's Office will include these facets of professionalism, for the good training of staff, combined with policies that follow all legal mandates and promotes performance will help all first responders not only at the scene of a fire but in daily activities.

The major implication of the study's results for the Fort Bend County Fire Marshal's Office is that updating policies and procedures in the use-of-force area in law enforcement for first responders as well as for arson investigators will provide the training and security necessary for an effective work force in the protection of life and property. It is both a technical and an adaptive challenge to accomplish these policy updates, but the cost/benefit ratio easily justifies the effort. To explain this in simplistic terms, what is the cost of developing policy, training in its use, monitoring its effectiveness and periodically updating it versus the loss of one life due to a lack of direction, training, equipment and knowledge of consequences?

### Recommendations

The conclusions reached for this ARP are based on the literature review, results from the survey, a formal as well as informal interviews, and some media presentations. These conclusions in the form of recommendations are being presented to the Fort Bend County officials as well as to the staff of the Fort Bend County Fire Marshal's Office. The research has identified the lack of a cohesive policy and direction for arson investigators faced with the use of force on a fire scene as well as during their daily duties. The changing and updating of policies will help align the department's policies with other jurisdictions' procedures and policies. Based on the research of this applied research paper, the following recommendations are being presented to the county and department:

1. The Fort Bend County Fire Marshal's Office needs to increase and maintain any and all data involving local use-of-force situations involving first responders from local police departments. This will open up communications between the police and sheriff's department and will facilitate refreshing the policy when needed.
2. The research on the Fort Bend County Fire Marshal's Office's current policy and staff revealed the need to provide training for the staff to be improved, and to provide training in the use of force according to state and local peace officers' standards. This will ensure that when a potentially dangerous scenario is presented on a fire scene or during daily duties, the staff can react accordingly with the security of being backed by policy.
3. The Fort Bend County Fire Marshal's Office needs to develop and produce a policy for the use of force in law enforcement instances for the arson investigators as well as for their daily operations. The policy needs to follow a set standard and be able to accommodate changes in line with the growing legal problems that first responders are

encountering. Through the research for this paper, the “Texas Best Practices” that was developed by a police chief association will be the foundation for this policy.

4. The Fort Bend County Fire Marshal’s Office needs to cooperate with all of the county’s fire departments with which its arson investigators will be working, and educate them on possible current and future safety situations involving the use of force as well as the discharge of firearms.

## References

- Aitchison, W. (2009). *The Rights of Law Enforcement Officers* (6th ed.). Portland, Oregon: Labor Relations Information System and Citizens [Report]. (2003, September 2003). U.S. Department of Justice Community Relations Service. Retrieved from <http://www.justice.gov/archive/crs/pubs/principlesofgoodpolicingfinal092003.pdf>
- Arson, 28.02 Texas Penal Code § Chapter 28 (1973 & Suppl. 2009).
- Burke, R. H. (2012). *Criminal Justice Theory*. London and New York: Routledge.
- Code of Criminal Procedures, Chapter 2 Code of Criminal Procedures § 2.12 (7) (2015 & Suppl. 2015).
- Consideration for an Investigator's Attire [Magazine]. (2016). *Police Link: The Nations Law Enforcement Community*. Retrieved from <http://policelink.monster.com/training/articles/1870-consideration-for-an-investigators-attire>
- County Fire Protection, 352 TX -Codes Annotated §§ 352.001-352.120 (2005).
- County Fire Protection, Texas Codes Annotated Volume 5 § 352.000 (1987).
- Fla. Fire Commish: Firefighters should carry guns. (2015, September 8, 2015). *Fire Recue 1*. Retrieved from <http://www.firerescue1.com/fire-department-management/articles/3206409-Fla-fire-commish-Firefighters-should-carry-guns/>
- Fort Bend County Demographics Report. (2013). Retrieved from
- Gun-pointing Ohio arson investigator suspended after road rage. (2013,). *The Columbus Dispatch*. Retrieved from <http://www.firerescue1.com/fire-products/investigation/articles/1474174-Gun-pointing-Ohio-arson-investigator-suspended-after-road-rage/>

- Heifetz, R., Grashow, A., & Linsky, M. (2009). *The Practice of Adaptive Leadership*. Boston, Massachusetts: Harvard Business Press.
- Izadi, E. (2015, August 29, 2015). *The Washington Post* Sheriff's office identifies defendant in deputy's 'execution-style killing'. *The Washington Post*. Retrieved from [https://www.washingtonpost.com/national/texas-sheriffs-office-identifies-defendant-in-deputy-execution-style-killing/2015/08/29/97e58b2a-4e9c-11e5-84df-923b3ef1a64b\\_story.html](https://www.washingtonpost.com/national/texas-sheriffs-office-identifies-defendant-in-deputy-execution-style-killing/2015/08/29/97e58b2a-4e9c-11e5-84df-923b3ef1a64b_story.html)
- Kania, R. R. (2008). *Managing Criminal Justice Organizations: An Introduction to Theory and Practice*. Newark, NJ: Matthew Bender & Company, Inc.
- Kappeler, V. E. (2006). *The Police and Society* (3rd ed.). Long Grove, Illinois: Waveland Press, Inc.
- Kruger, K. (2016, January 2016). Duty to All–Duty to No One: Examining the Public-Duty Doctrine and Its Exceptions [Supplemental materials]. *The Police Chief: The Professional Voice of Law Enforcement*. Retrieved from [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arch&article\\_id=1172&issue\\_id=52007](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1172&issue_id=52007)
- Kulkus, E. (2013, January 13, 2013). Syracuse fire investigators have carried concealed personal guns for three years with no documented training, few knew it was happening. *The Post-Standard*. Retrieved from [http://www.syracuse.com/news/index.ssf/2013/01/syracuse\\_fire\\_investigators\\_ha.html](http://www.syracuse.com/news/index.ssf/2013/01/syracuse_fire_investigators_ha.html)
- Long, J. (2008, June 30, 2008). Chicago arson investigator shooting changes Fire Department policy. *Chicago Tribune*. Retrieved from [http://articles.chicagotribune.com/2008-06-30/news/0806290151\\_1\\_arson-investigator-molotov-cocktail-chicago-fire-department](http://articles.chicagotribune.com/2008-06-30/news/0806290151_1_arson-investigator-molotov-cocktail-chicago-fire-department)

- Mangeria, A. (2014, March 4, 2014). Duty to Act: Legal Obligations vs. Community Expectations. *CSafety*. Retrieved from <http://inpublicsafety.com/2014/03/duty-to-act-legal-obligations-vs-community-expectations/>
- National Fire Academy. (2010). [http://www.usfa.fema.gov/downloads/pdf/strategic\\_plan.pdf](http://www.usfa.fema.gov/downloads/pdf/strategic_plan.pdf)
- Police Use of Force [Journal]. (2015, April 13, 2015). *National Institute of Justice*. Retrieved from <http://www.nij.gov/topics/law-enforcement/officer-safety/use-of-force/Pages/welcome.aspx>
- Schneid, T. D. (1995). . In *Fire Law: The liabilities and Rights of the Fire Service*. New York, NY: John Wiley & Sons, Inc.
- Texas man shot after threatening firefighters with rifle. (2014, August 26, 2014). *Kilgore News Herald*. Retrieved from <http://www.firerescue1.com/fire-attack/articles/1970506-Texas-man-shot-after-threatening-firefighters-with-rifle/>
- Who are Peace Officers, Code of Criminal Procedures § 2.14 (2014).

## Appendix A – Results from Survey Questions

Question 1:

What type of department or organization do you represent?		
Answer Options	Response Percent	Response Count
City/Municipality	58.8%	20
County Fire Department	14.7%	5
Volunteer Fire Department	2.9%	1
Combination Department (Volunteer/Paid)	29.4%	10
Fire Marshal's Office	20.6%	7
Other (please specify)		9
<i>answered question</i>		<b>34</b>
<i>skipped question</i>		<b>6</b>

Question 2:

Does your department or organization have a position or division in which a certified fire/arson Investigator is currently employed?		
Answer Options	Response Percent	Response Count
Yes	94.7%	36
No	7.9%	3
Other (please specify)		3
<i>answered question</i>		<b>38</b>
<i>skipped question</i>		<b>2</b>

Question 3:

If "yes" in #2 above, is the fire/arson Investigator in your department or organization required to be licensed as a peace officer?		
Answer Options	Response Percent	Response Count
Yes	44.1%	15
No	55.9%	19
Other (please specify)		5
<i>answered question</i>		<b>34</b>
<i>skipped question</i>		<b>6</b>

## Question 4:

<b>Does the fire/arson investigator in your department or organization conduct any other police activities in addition to fire investigation?</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Yes	28.2%	11
No	71.8%	28
Other (please specify)		6
<i>answered question</i>		<b>39</b>
<i>skipped question</i>		<b>1</b>

## Question 5:

<b>Does your department or organization have a policy in place to apply when the fire/arson investigator is involved in any law enforcement operations (e.g., a riot breaks out at a fire scene)?</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Yes	25.6%	10
No	74.4%	29
Other (please specify)		1
<i>answered question</i>		<b>39</b>
<i>skipped question</i>		<b>1</b>

## Question 6:

<b>Does your department's or organization's fire/arson investigator carry any defense weapon(s) (e.g., gun, baton, pepper spray, stun gun, etc.) when conducting investigations? If so, please identify the weapon(s) issued.</b>	
<b>Answer Options</b>	<b>Response Count</b>
	37
<i>answered question</i>	<b>37</b>
<i>skipped question</i>	<b>3</b>

## Responses

1. Gun 10/21/2015 2:45 PM
2. 2 Guns they have qualified with, Taser if qualified, Oleoresin Capsicum (OC) Spray, Baton 9/30/2015 9:05 AM
3. No 9/29/2015 6:24 PM
4. None 9/29/2015 12:39 AM
5. We carry handguns, badge, ID card, a spare magazine, and handcuffs at a minimum. Additionally, if the Investigator is openly displaying a weapon (handgun) they are required to wear their ballistic vest. Many of the Investigators choose to carry OC spray and/or a baton (issued to them). We have had Tasers in the past, but are transitioning away from them (due to age and budget constraints).

- 9/27/2015 9:29 AM
6. none 9/26/2015 7:35 AM
  7. Police Department issued - H&K 9mm 9/26/2015 7:06 AM
  8. handgun 9/25/2015 5:07 PM
  9. None 9/25/2015 12:18 PM
  10. Handgun Ballistic vest 9/25/2015 11:40 AM
  11. City issued Glock. Same as Police Officers. 9/25/2015 10:30 AM
  12. Handgun 9/25/2015 10:17 AM
  13. None 9/25/2015 9:51 AM
  14. No 9/25/2015 9:42 AM
  15. Semi auto pistol 9/25/2015 9:29 AM
  16. None 9/25/2015 9:28 AM
  17. No 9/21/2015 1:41 AM
  18. Handgun when processing fire scene; Taser & Intermediate weapons at other times;  
Arson Investigator is an extra assignment; Weapons carried vary by primary assignment;  
9/18/2015 9:59 AM
  19. No 9/17/2015 6:45 PM
  20. handgun, shotgun 9/17/2015 2:22 PM
  21. Firearm 9/17/2015 10:59 AM
  22. Yes firearms TASER 9/17/2015 10:57 AM
  23. gun 9/17/2015 10:39 AM
  24. none 9/17/2015 10:07 AM
  25. Duty Pistol 9/17/2015 9:42 AM
  26. No 9/16/2015 4:58 PM
  27. S&W M&P .40cal 9/16/2015 12:12 PM
  28. Pistol, rifle, shotgun, expandable baton, Oc spray, taser cew. 9/15/2015 10:54 PM
  29. Glock 22 .40 caliber, ASP, OC 9/15/2015 10:41 PM
  30. State Fire Marshal Investigators carry the state issued Glock 22 .40 caliber handgun and  
handcuffs 9/15/2015 10:33 AM
  31. None 9/15/2015 9:07 AM
  32. Gun 9/15/2015 8:31 AM
  33. Gun, Taser 9/15/2015 8:10 AM
  34. pistol and pepper spray 9/15/2015 8:00 AM
  35. N/A 9/15/2015 7:45 AM
  36. no 9/15/2015 7:04 AM
  37. No 9/15/2015 6:52 AM

## Question 7:

If your department's or organization's fire/arson investigator is certified to carry a sidearm, when do they carry the weapon?		
Answer Options	Response Percent	Response Count
Daily while on duty	47.1%	16
Only during active arson investigations	14.7%	5
Not allowed to carry sidearm for the department	41.2%	14

Other (please specify)	10
<i>answered question</i>	<b>34</b>
<i>skipped question</i>	<b>6</b>

Question 8:

Has any fire/arson investigator in your department or organization ever had to use force to deal with an individual at the scene of a fire?		
Answer Options	Response Percent	Response Count
Yes	18.9%	7
No	81.1%	30
Other (please specify)		2
<i>answered question</i>		<b>37</b>
<i>skipped question</i>		<b>3</b>

Question 9:

If you said "yes" to #8 above, please provide a short explanation regarding the use of force needed that involved a fire/arson investigator.	
Answer Options	Response Count
	14
<i>answered question</i>	<b>14</b>
<i>skipped question</i>	<b>26</b>

Responses

- To effect an arrest for arson 10/21/2015 2:45 PM
- Secure individuals trying to enter the scene, in addition suspects that have run or resisted arrest. 9/30/2015 9:05 AM
- Maybe two times in the six years I have been in the office, we have had to arrest someone for interfering with firefighters and their duties. The Austin Police Department is excellent in supporting us at fire scenes. 9/27/2015 9:29 AM
- N/A 9/25/2015 11:40 AM
- N/A 9/25/2015 9:51 AM
- N/A 9/25/2015 9:42 AM
- N/A 9/25/2015 9:29 AM
- N/A 9/21/2015 1:41 AM
- Person interfering with scene operations 9/17/2015 6:45 PM
- NA 9/16/2015 4:58 PM
- On one occasion and intoxicated subject refused to leave a scene after warned. Subject was ordered and physical force was required to effect arrest. Another occasion a subject fled investigators and was tased. Another a subject tried to fight and investigator and occasionally spray was used. 9/15/2015 10:54 PM
- Typically this involves an arrest or arrival on the scene and a domestic is in progress. 9/15/2015 10:41 PM

13. Hands on arrest tactics with disorderly individual. No weapons. 9/15/2015 8:00 AM  
 14. N/A 9/15/2015 7:45 AM

Question 10:

If there is a state law or standard that your department's or organization's employees follow in the event "Use of Force," is necessary, please identify it for reference in this research paper.	
Answer Options	Response Count
	21
<i>answered question</i>	<b>21</b>
<i>skipped question</i>	<b>19</b>

Responses

1. Tennessee State Law on Use of Force 10/21/2015 2:45 PM
2. Texas Penal Code Chapter 9 2. Texas Penal Code Chapter 46 9/30/2015 9:05 AM
3. No state law or standard. 9/27/2015 9:29 AM
4. not aware of any. 9/26/2015 7:35 AM
5. Any person within the department that is licensed as a Arson/ Fire Investigator carries a sidearm during investigations. They fall under the same use of force policies as the police department. 9/26/2015 7:06 AM
6. Revised Code of Washington 9A.16.020:  
<http://apps.leg.wa.gov/rcw/default.aspx?cite=9A.16.020> 9/25/2015 11:40 AM
7. N/A 9/25/2015 9:51 AM
8. No 9/25/2015 9:28 AM
9. N/A 9/21/2015 1:41 AM
10. Texas Penal Code Texas Code Criminal of Procedure Applicable Case Law  
 9/18/2015 9:59 AM
11. randall county use of force policy 9/17/2015 2:22 PM
12. TX Penal Code Sec. 9.51, 9.52, 9.53 9/17/2015 9:42 AM
13. NA 9/16/2015 4:58 PM
14. Official Code of GA Annotated O.C.G.A. 16-3-21 9/16/2015 12:12 PM
15. The use of force continuum: verbal, soft hands, physical submissions, taser/Oc spray, vascular restraints, deadly force 9/15/2015 10:54 PM
16. Albemarle County Police Department use of force policy which is written and overseen by our Commonwealth Attorney. 9/15/2015 10:41 PM
17. Illinois Compiled Statutes Use of Force Statute 9/15/2015 10:33 AM
18. No 9/15/2015 9:07 AM
19. Department policies and various statutes <http://www.ptb.state.il.us/pdf/uof.pdf>  
 9/15/2015 8:00 AM
20. N/A 9/15/2015 7:45 AM
21. no 9/15/2015 7:04 AM

Question 11:

Is the fire/arson investigator in your department or organization required to participate in training for dealing with situations involving confrontations with citizens that could possibly result in a use of force?		
Answer Options	Response Percent	Response Count
Yes	53.8%	21
No	46.2%	18
<i>answered question</i>		<b>39</b>
<i>skipped question</i>		<b>1</b>

Question 12:

If the answer to #11 is "yes", please identify the time requirements for this training.		
Answer Options	Response Percent	Response Count
Monthly	0.0%	0
Quarterly	10.0%	2
Semi-annually	20.0%	4
Annually	70.0%	14
<i>answered question</i>		<b>20</b>
<i>skipped question</i>		<b>20</b>

Question 13:

Add any additional information regarding this topic of arson investigators and the officer precautions fire departments are taking while on fire scenes regarding the current threats to harm first responders.	
Answer Options	Response Count
	12
<i>answered question</i>	<b>12</b>
<i>skipped question</i>	<b>28</b>

Responses

9. Blastic vest 10/21/2015 2:45 PM
10. Our fire marshal is strictly related to the fire service. There are no gray areas between a fire and police type of event. If the use of force is granted it is handled by the Sheriffs office not the fire Marshal. 9/29/2015 12:39 AM
11. We ensure that two Investigators are at the scenes of all fires, unless a clearly justifiable reason exists for the fire Investigator to be there alone. If that is the case, they have an AFD engine company there with them, or the Austin Police Department. 9/27/2015 9:29 AM
12. We team with a police officer any time we are doing an arson investigation. 9/26/2015 8:38 AM

13. na 9/26/2015 7:35 AM
14. Generally investigator does not work a scene alone though no specific or general threat against ff's have been received in our region 9/25/2015 5:07 PM
15. Our investigator will do a criminal background check on a suspect prior to making contact. If the suspect has a violent criminal history, they'll partner with local police and make contact as a team (one police officer and one fire department investigator). 9/25/2015 11:40 AM
16. Arson investigations are POLICE work. Any Fire Department or other agency doing this type of work should fully train & prepare their investigators for law enforcement. 9/18/2015 9:59 AM
17. On EMS calls we have provided bullet resistant vests. 9/16/2015 4:58 PM
18. Our Inv. are FF employees, acting under the color of law as agents of our police department. Our policies cross reference the police department policies. The state (GA) does not require O&C Inv. to be police mandated, but our department does. Our Inv. report to work just like any other detective does. 9/16/2015 12:12 PM
19. State Fire Marshal Investigators are required to attend an update and re qualify with their weapons annually 9/15/2015 10:33 AM
20. Call PD if you have any problems, A detective is always assigned to us if we cannot rule out foul play 9/15/2015 7:45 AM

## Appendix B - Interview with Laurie Christensen

Laurie Christensen works for Harris County Fire Marshal's Office as the Asst. Chief, Operational Support Services. She has a master's degree in criminal justice and belongs to multiple police and fire marshal organizations that are on the cutting edge of trends affecting first responders. Meeting and interview was done August 30, 2015.

1. Does Harris County Fire Marshal's Office have specific policies that provide guidelines for use of force for officers, on a fire scene and for daily duties?
  - a. *Harris County is currently reviewing the policies and procedures after sending some of the staff to the Texas police chief's conferences and training this fiscal year. The current policy defines out what daily wear and "tool" they should have for police activities, affecting what could happen on a fire scene.*
2. When the Harris County Fire Marshal's Office is responding to a fire, are the arson investigators in control of the scene with multiple different fire departments responding?
  - a. *In the unincorporated area of Harris County, the Fire marshal's office takes incident command position until overhaul is complete, then the investigation continues and the release of fire departments happens. The arson investigators are usually left on scene alone to finish the full investigation.*
3. What is their daily uniform and equipment they wear for inspection or investigations?
  - a. *The arson investigators wear body armor with any law enforcement activity along with gun, baton, OC/Pepper spray, Taser, flashlight, and handcuffs. The staff is to maintain the equipment and maintain the training for each item.*

4. Has your department had to use force on a fire scene, creating an officer to utilize one of their weapons?
  - a. *Over the past couple of years, the staff has made multiple arrests on scene of a fire, but not with out of the ordinary detaining of the subject. We have had three use of forms filled out for other situations while the staff was completing other daily duties.*
5. Has the Harris county fire marshal's office done any steps to protect officers after the recent incidents that have taken place in the Houston area towards first responders?
  - a. *Since the Officer Goforth incident, we do not allow our arson investigators conduct fire scene investigations alone and mandate having radios on the staff when in uniform. Besides actual changes, the staff is more aware and conscious of the surroundings when working.*
6. What training does the office incorporate to make sure staff is well versed in any situation regarding use of force?
  - a. *The staff has to attend training in the categories of: Cultural Diversity, Special Investigative Topics, and Crisis Intervention Training, Use of Force hands on training every two years, and fire arm training annual.*
7. What set of guidelines did you use to help develop your policies and guidelines to follow for arson investigators?
  - a. *All policies have to have a reference to them and follow Texas Commission on Fire Protection (TCFP) or Texas Commission on Law Enforcement (TCOLE). The department also reviews the information that comes from Texas best practices, which is done by the police chief association. This is policies*

*worked on by majority of the police chiefs in Texas stating what the best practices are for certain situations.*

8. How has social media or citizens filming police/arson investigators doing their job affected your officers jobs.

- a. *Social media and citizens have made our job and staff more accountable for their actions and results as a peace officer and firefighter. The department uses social media to educate and inform citizen on what's going on with fire scenes, and limited questions that could come up. Currently, the department is looking at adding police body cameras to the uniforms to help with accountability on both the citizens' side, along with the officer's side.*

## Appendix C – 2007 Use of Force Policy

Fort Bend County Fire Marshal's Office

Use of Force Policy


Signed in: 01/2007

To effectively accomplish their duties, officers must sometimes use or threaten to use physical force against a person. Officers should use force only when necessary to protect life or prevent serious bodily injury, and only when such force does not unreasonably endanger bystanders, consistent with the provisions of Chapter 9 of the Texas Penal Code. All officers are responsible for their actions in the use of force, even if justified under the relevant legal provisions of the penal code. Additionally, Section 9.06 of the Texas Penal Code explicitly states that the remedy for conduct available in a civil suit is not abolished or impaired by Chapter 9 provisions. The purpose of this policy is to define and establish guidelines for the safe, effective and humane use of force procedures by members of this agency to achieve or further lawful objectives whether it is used in response to a threat to life or serious bodily injury, in protection of property, to affect an arrest, or to quell a disturbance. This policy applies to all FBCFMO personnel where the use of force is or could be a part of their core job functions. Failure to comply may be grounds for disciplinary action, up to and including termination. Contact your immediate supervisor if you need assistance with the interpretation of policy or procedure, resolution of problems, or permission in special situations.

The authority for peace officers to use deadly force and to carry firearms is granted through various sections of law. No officer has the right to extend his/her power, but must decide his/her action in light of the circumstances confronting him within the limitations of the peace officer's authority. **Officers should use force only when necessary to protect life or prevent serious bodily injury, and only such force does not unreasonably endanger bystanders, consistent with the provisions of Chapter 9 of the Texas Penal Code.**

## Appendix D – Proposed Use of Force Policy

This policy is made with the input from the Texas Police Chief's Association format, information, and research from this Applied Research Paper (ARP). The policy will be reviewed and approved by the Fort Bend County Attorney's office prior to implementing to department.

	<h2 style="margin: 0;">Fort Bend Fire Marshal's Office</h2> <h3 style="margin: 0;">Policy Manual</h3>
<b>Title:</b>	Policy 4.1 Use of Force
<b>Effective Date</b>	
<b>Replaces</b>	
<b>Number of Pages:</b>	5 pages
<b>Fire Marshal Signature</b>	

#### I. POLICY

This department values the protection and sanctity of human life. It is, therefore, the policy of this department that officers use only the force that is reasonably necessary to effectively bring an incident under control while protecting the lives of the officer and others.

The use of force must be objectively reasonable. The officer must use only the force that a reasonably prudent officer would use under the same or similar circumstances.

The officer's actions will be reviewed based upon the information known to the officer at the time the force was used. Information discovered after the fact will not be considered when assessing the reasonableness of the use of force.

Officers are prohibited from using any force as a means of punishment or in the process of an interrogation.

#### II. PURPOSE

The purpose of this policy is to provide law enforcement officers of this agency with guidelines for the use of deadly and non-deadly force. This policy does not set forth a higher standard of care with respect to third party claims.

#### III. DEFINITIONS

- A. **Deadly force:** Any use of force that creates a substantial risk of causing death or serious bodily injury.
- B. **Non-deadly force:** Any use of force other than that which is considered deadly force. This includes any physical effort used to control or restrain another, or to overcome the resistance of another.
- C. **Objectively reasonable:**

1. This term means that, in determining the necessity for force and the appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to themselves and the community.
2. In evaluating the reasonable application of force, officers may consider their own age, size, strength, skill level with department weapons, state of health, and the number of officers opposing the number of suspects.

#### **IV. PROCEDURES**

##### **A. Use of non-deadly force**

1. Where deadly force is not authorized, officers may use only that level of force that is objectively reasonable and necessary to bring an incident under control.
2. Officers are authorized to use department-approved, non-deadly force techniques and issued equipment when one or more of the following apply:
  - a. To protect the officer or others from physical harm.
  - b. To lawfully restrain or subdue a resistant individual.
  - c. To bring an unlawful situation safely and effectively under control.

##### **B. Use of deadly force**

Law enforcement officers are authorized to use deadly force when one or both of the following apply:

1. To protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm.
2. To prevent the escape of a fleeing violent felon whom the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others. Where practicable, prior to discharge of the firearm, officers shall identify themselves as law enforcement officers and state their intent to shoot.

##### **C. Deadly Force Restrictions**

1. Warning shots shall not be fired.
2. Firearms shall not be discharged at a moving vehicle in an attempt to disable the vehicle.
3. Because of the low probability of penetrating a vehicle with a handgun, officers threatened by an oncoming vehicle should attempt to move out of its path, if possible, instead of discharging a firearm at it or any of its occupants. However, if an officer reasonably believes that a person is immediately threatening the officer or another person with deadly force by means of a vehicle, an officer may use deadly force against the driver of the vehicle.
4. Officers may use deadly force to destroy an animal that represents a threat to public safety or as a humanitarian measure if the animal is seriously injured and the officer reasonably believes that deadly force can be used without harm to the officer or others. In these circumstances, a supervisor shall be contacted prior to the use of deadly force if time permits.

#### **V. LIMITATIONS ON FORCE**

The following acts associated with the use of force are prohibited:

- A. Application of a choke hold or carotid-control holds, except when the officer reasonably believes such holds are the only means of protecting himself or herself or another person from an imminent threat of serious physical injury or death and the use of deadly force would be authorized.
- B. Use of Streamlites or Kel-lites or other flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon only to defend himself or herself or another from imminent serious bodily injury or death and then only if departmentally sanctioned methods are not available or are impractical. The use of a flashlight or other alternative weapon under such circumstances, depending on the manner of use, may be deemed an application of deadly force.

## **VI. TRAINING**

- A. All officers shall receive training in the use of their firearms and all non-lethal weapons authorized by the department, hands-on arrest and defensive tactics, as well as the “Use of Force” policy prior to performing any law enforcement duties.
- B. All officers shall be trained and qualified with their firearms at least annually. All officers shall receive training in the department’s “Use of Force” policy at least annually.
- C. All officers shall receive hands-on arrest and defensive-tactics training at least every two years.
- D. Officers shall receive training in all non-lethal weapons issued or used by the department and demonstrate proficiency with those weapons at least every two years.
- E. All use-of-force training shall, at a minimum, comply with the standards established by TCOLE.

## **VII. REPORTING USE OF FORCE**

- A. Officers shall document any application of force except for those arising in training, departmental demonstrations, or off-duty recreational activities.
- B. If officers have employed any use of physical force (other than the routine use of handcuffs or use of a firm grip to direct the movements of a subject) or used any impact, electrical, or chemical weapons, or pointed or discharged any firearm, they shall first provide for appropriate medical aid for the subject and then they will do the following:
  - 1. Immediately notify the Fire Marshal of any use of force or discharge of a weapon. The Fire Marshal shall determine if an immediate investigation is required.
  - 2. Photographs of the subject will be taken as soon as possible after the use of force to document any injury or lack of injury.
  - 3. Submit a use-of-force form to the fire marshal prior to the end of shift describing the incident, the force used, and any medical aid rendered. The use of force form shall be in addition to any other required reports.

## **VIII. DEPARTMENTAL REVIEW**

- A. Review
  - 1. The officer’s supervisors and the fire marshal shall review all reported uses of force to determine the following:
    - a. If departmental orders were violated.
    - b. The relevant departmental policy was clearly understandable and effective enough to cover the situation.
    - c. Departmental training was adequate.
    - d. Departmental equipment operated properly.

2. At least annually, the fire marshal shall conduct an analysis of use-of force incidents *to be made available to the public* and to determine if additional training, equipment, or policy modifications may be necessary.

B. Internal Investigations

1. An internal investigation will be conducted on any firearms discharge (other than training), and any other use of deadly force by any member of the department. An internal investigation may be conducted on other use-of-force incidents if a violation of law or department policy is suspected. In addition to the internal investigation, a criminal investigation shall also be conducted of any incident involving the discharge of firearms or any other use of force incident where an officer or other person is injured or killed and in any other circumstances where a violation of law is suspected. The criminal investigation may be conducted by another law-enforcement agency with concurrent jurisdiction, and the results may be presented to the grand jury for review.
2. Procedures for officer-involved-shooting investigations are covered in Policy 6.4.

C. Assignment

Pending administrative review, any officer whose actions have resulted in the death or serious bodily injury of another person, either through the intentional use of force or by accident involving a use-of-force weapon or action or a vehicle accident, shall be removed from line-duty assignment. This action protects both the interests of both the officer and the community until the situation is resolved. This re-assignment is not considered punitive in nature.