

ORGANIZING AND COMPLETING A FIRE SCENE EXAMINATION WITH MULTIPLE INTERESTED PARTIES

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ABSTRACT

Fire investigators and other professionals in the fire investigation field have different opinions on the proper ways to process a fire scene with multiple interested parties involved. Many assume that the scene will be processed in a complete and systematic fashion following proper standards. However, this is not always the case. There exists a lack of knowledge or an unwillingness to properly process a fire scene. Issues such as not taking sufficient evidence, not notifying proper interested parties, and not having the proper tools to conduct a thorough investigation are a few examples. This paper will outline a recommended procedure of basic steps to properly conduct a fire scene inspection from the initial scene exam, through notifying the correct interested parties, to properly identifying and collecting all evidence.

INTRODUCTION

Once a fire has occurred, has been extinguished and investigated by public authorities, control of the fire scene is typically turned over to the property owners or tenants. By this time, the property insurance carrier has typically been notified and a fire investigator has been hired to determine the origin and cause of the fire. This fire investigator is typically placed in charge of the fire scene from this point forward. He or she is responsible for properly conducting the scene inspection and collecting and maintaining the relevant evidence.

In some instances, a property owner, business owner, or tenant may hire a fire investigator or an attorney will hire an investigator on their behalf. In these situations the insurance investigator and the individual's investigator may share the role of planning and coordinating the investigation.

INITIAL SCENE EXAM

The investigator in charge may initially conduct a site inspection of the fire scene. The purpose of this inspection is to define the scope of the investigation, document the fire scene, interview witnesses, and determine who, if any, interested parties should be notified.

The scope of a fire scene investigation can vary depending on the type and use of the structure and the nature and extent of damage. During the initial inspection, scene safety should be evaluated and all safety issues and hazards should be identified and properly handled. The need for technical and specialized personnel and consultants may also be determined at this point.

Minimum initial documentation of the fire scene should be done in the form of photographs and a scene sketch. Care should be taken to properly record the scene in a fashion that will allow others to see this condition prior to any alteration in the event that the site is altered in the early stage.

Interviewing the witnesses to a fire while at the fire scene can be very beneficial, but it is not always possible. However, when it is possible, it should be done. This will allow the witnesses the opportunity to not only tell their story, but show the investigator what they witnessed from

their perspective in the actual location. The witnesses will also be able to point out specific points of interest at the scene versus giving a description, which at times can be confusing.

Finally, it is up to the investigator in charge to determine what interested parties should be notified. An interested party is any person, entity, or organization, including their representatives, with statutory obligations or whose legal rights or interests may be affected by the investigation of a specific incident.

It is important to note that during this initial scene investigation, the fire scene should not be altered if there is any anticipation of pursuing civil matters against another interested party unless absolutely necessary. Doing so does not allow all interested parties the same opportunity to see the fire scene as the investigator in charge. Processing the fire scene prior to all interested parties being in attendance could result in spoliation issues being raised at a later time.

It is recognized however that some fire scene processing may need to be done in order to identify interested parties. When this is the situation, minimum alteration should be done and the scene should be documented as thorough as possible during the processing. Videotaping this process is recommended.

DETERMINING THE INTERESTED PARTIES

Properly determining the correct interested parties is important in any fire investigation where the potential exists for subrogation against one or more of those parties. In the case of limited damage or a clearly defined origin, determining the correct interested parties may be easy. In cases of more severe involvement such as post-flashover, full-room involvement, to complete destruction of an entire building, proper determination of interested parties may be difficult. Typically, it is not the investigators job to actually notify the interested parties. It is their job to determine what parties should be notice during the initial stages of the investigation.

Once an area of interest has been defined, interested parties associated with the area of interest should be notified and given an opportunity to attend a scene inspection. These interested parties include, but are not limited to, product manufacturers, contractors, sub-contractors, tenants, owners, and service companies.

Information gained from interviews along with non-destructive observation of products is the best ways to identify the interested parties for many commercial products. If possible, labels on products should be documented to show model and serial numbers along with the manufacturers name and other information. Obtain service records of work done in situations of recent construction, remodel, or other work performed by an outside party on a product or system in the building.

The investigator should be cautious when determining who should be notified. Failure to properly notify all parties could hamper efforts to recoup losses during subrogation, and can delay the efforts to rebuild the structure. Multiple site inspections might occur if proper parties are not notified. An example is a fire in the kitchen of a home that progressed to full room involvement. The investigator may determine based on their origin analysis that only appliance manufacturers in a certain area of the kitchen need to be notified, even though the other appliances are severely damaged and may be responsible for causing the fire. If the initial origin analysis is wrong, an investigation may need to be suspended to allow for a new interested party to arrive on site. This in turn results in greater time and expenses for everyone involved and can prolong repair or rebuilding of the structure. Keep in mind that the exact cause of the fire may not be known until

well after the fire scene is gone. It is imperative to keep an open mind when determining what parties should be notified.

On the other hand, a witness who discovers the fire in its early stages may be able to provide information that will enable the investigator in charge to limit the number of parties involved. However, when in doubt, it is better to err on the side of notifying more than less.

PROPER EQUIPMENT

The investigator in charge of a multiple party scene investigation should be responsible to provide the basic tools and equipment necessary to process the fire scene in a complete fashion. The basic tools include but are not limited to:

- Scene lighting
- Power generator
- Shovels, hoes, rakes, and brooms
- Basic hand tools
- Power tools
- Evidence collection equipment
- Evidence containers
- Evidence tags

Investigators for interested parties should not be responsible for supplying these basic tools. Often times, these investigators travel on airplanes to the loss site, which makes it impossible to carry some of these tools. However, in some instances where special tools and equipment are needed, it may be up to the other investigators to provide the equipment, especially if it is their request that certain testing be done which requires special tools.

MULTI-PARTY SCENE INSPECTION

Scene Schedule

Once all interested parties have been notified, the scene examination date and time should be scheduled in a way to accommodate as many parties as possible. Determining a date and time that is within reason can vary depending on the situation: the more parties on notice, the more difficult it may be to schedule the exam. Allowing interested parties a time frame of one to four weeks to respond to the notice may be necessary. Dates of availability from the parties' representatives should be collected and a date should be chosen that accommodates all parties. This situation is preferred, but not always possible or practical. In some situations, it may be required that an exam date is chosen despite some parties not being able to accommodate those dates. In those situations the parties unable to attend may have to find different representatives. In rare instances, those parties may try to get an order from a local court of jurisdiction delaying the exam.

It is also important to schedule sufficient time to properly process the fire scene. Some scene work can be completed in a few hours and some will take several days. It is better to plan more time than one thinks is needed and get the scene processed early than to run out of time, and have to schedule another exam.

Scene Protocol

It is recommended, but not mandatory, that a protocol be developed that outlines the activities and rules for processing the scene. This protocol can be generic or specific for a given

situation. The protocol should be distributed to the interested parties prior to the scene inspection for comments and changes. The investigator in charge should be receptive too and take into consideration reasonable changes and requests from other investigators. This is an important step in working together to thoroughly complete the fire scene inspection.

Start of the Exam

The investigator in charge should start the scene inspection with a meeting of all interested parties. All parties should introduce themselves and their roles in the investigation. It is recommended and typical for all parties to sign a sign-in sheet and leave a business card, which can be sent after the scene exam to all parties for their file.

Once the introductions are completed, the plan for the day and rules for the inspection should be discussed. It is typical that the investigator(s) in charge share common factual information they have gained through interviews of witnesses and public agency representatives. It is preferred to have the witnesses present for questions, but this is not always practical or possible. In some instances, the party in charge of the investigation does not want its witnesses or insured present and available for interviews. When this is the case, it is imperative that common factual knowledge be shared with the other parties. It is also reasonable to request that the interested parties submit in writing the questions that they want answered. These answers should be provided in a timely fashion.

After the initial meeting is held, ample time should be allotted for the interested parties to complete their initial scene documentation. Time limits should NOT be placed on this activity. Often times, the investigators in charge have had unlimited time to complete the initial documentation. In some situations, it may be agreed upon by the interested parties to share certain documentation such as scene sketches and measurement, results of arc mapping, or other data collecting activities. These activities can be done by different groups and shared. Sharing data may save time and reduce costs by speeding up the scene processing.

Scene Processing

Once the factual information is shared and the initial documentation is completed, the scene processing can be started. Every fire scene is different, and it is not the point of this paper to describe those processes. What is important is that the scene is processed in a way agreed upon by all parties. The protocol may need revising as the processing progresses.

When a relevant item of interest is found, time should be allowed for all interested parties to document that item. Time should also be allowed throughout the processing to stop for documentation of the progress being made.

In most situations, there is no reason that all investigators should not help in the process of debris removal and site processing. Whether it is shoveling out a room, sifting debris, or documenting in a group effort, the scene processing will go much quicker if every investigator lends a hand. This is encouraged. In some situations, it may not be possible for every investigator to help, as the area of interest may be too small to accommodate all of the individuals or specialized knowledge is needed to do the task properly.

Evidence Collection

It is up to the investigator(s) in charge to collect and store the evidence harvested from the fire scene. It is up to the group of investigators to determine what evidence needs to be harvested. In most instances it is possible to discuss the evidence that will be collected during the initial meeting and in follow-up meetings. It is important that it be made clear by every

investigator at the loss site what evidence they want collected. Typically, if it is agreed upon by the group that an item of evidence is relative to the investigation, this evidence will be collected by the investigator in charge.

In some situations, some investigators may want evidence that no one else in the group deems as significant. In this situation, the investigator requesting this evidence should be prepared to identify, document, and collect the evidence, while the investigator in charge will store it. Situations of extreme, unnecessary demand should be handled in this fashion. For instance, a fire has occurred in a single room of an office building, and an individual requests that a particular piece of evidence, that is similar throughout the entire office building, be collected in multiple locations. Sometimes this will not be possible. In situations that it is possible, the investigator in charge should inform the party requesting these items that they are to document and collect the items, and bring them to a location onsite where the investigator in charge will take possession of them for storage.

Things to Do and Not to Do

Listed are bullet points of do's and don'ts based on real world experiences. Many take these items as common sense situations, but not every investigator has the same opinion.

Do:

- Do allow ample time for all parties to document the fire scene, both initial and ongoing.
- Do be open to suggestions from other investigators and willing to accommodate their wishes.
- Do share relevant factual information from interviews.

Do Not:

- Do not expect investigators to share their professional opinion regarding the fire during the fire scene exam. The fire scene examination is not a deposition.
- Do not ask other investigators whether they think a noticed party can be released from the scene. It is not up to the investigators to determine what interested parties can be released as the site processing goes. Remember, interested parties are invited and are not required to be there. If they feel their client has no role in the fire, they may leave or not participate.
- Do not require investigators to sign legal forms regarding the scene (exceptions may include safety liability waivers). It is up to the attorneys involved to decide the legal issues.
- Do not place unreasonable time limits on the site exam.
- Do not process the fire scene prior to notifying interested parties and allow for reasonable scheduling.

CONCLUSION

While readers of this paper may take this discussion as common knowledge, some of the items discussed in this paper are not commonly followed throughout the industry. As this industry evolves, better ways of processing a multiple interested party fire scene may become the norm. It is important to remember to keep an open mind no matter what party you represent at a fire scene inspection. Each investigator will have an idea in their mind on how to process the scene and what is relevant as far as evidence preservation. Some ideas will be better or worse than others and some demands may be reasonable and others may be ridiculous. Flexibility and reasonableness will allow for the best means for all to accomplish their investigative goals. Also,

recognize that the next scene may find you receiving similar treatment as you are giving out to your peers

SCENARIOS

The Processed Scene

An investigator is hired by a product manufacturer to investigate a fire and determine if the client's product played a role in causing the fire. The scene exam is scheduled and the investigator arrives to find that the scene was completely processed prior to the scheduled exam. None of the contents of the room of fire origin are in place. The investigator finds out that the investigator for the property insurance carrier processed the scene even though that investigator knew other parties would be notified.

The point of notifying interested parties for a fire scene exam is to have all of those parties present when the fire scene is processed. The interested parties in this situation do not have the opportunity to see evidence in its original location. While this exam may be better than not attending a scene exam at all, it would have been better for all parties involved to process the scene with all interested parties present. This allows everyone to see the evidence in situ and do their own documentation.

Removal of Evidence

An investigator for a product manufacturer arrives at a fire scene examination to find that relevant evidence has been collected for safe keeping by the investigator in charge. This evidence is not brought to the scene exam and was reportedly manufactured by his client. Months after the scene exam, an evidence exam is scheduled and it is determined during the exam that the evidence was manufactured by another company. This evidence also shows signs that it did cause the fire.

It is recognized in some situations that evidence may be removed from the scene prior to the scene examination by all parties. In this situation, all evidence should be brought back. This will allow everyone to see the evidence in place and document it. Product manufactures in some cases will send a company representative who is able to provide details to a specific product that can be helpful to all involved.

In this case, the investigator in charge should have brought the evidence back to the scene. This may have allowed for the product manufacturer to be correctly identified and would have given the newly identified manufacturer the opportunity to attend an onsite exam. Now the fire scene is gone, and the newly identified product manufacturer is claiming spoliation.

Time Limits

A scene exam is scheduled and multiple investigators arrive at the loss site. During the initial meeting, they learn that they are only going to have 30 minutes to photograph and diagram the fire scene. The damage is severe and when questioned, it is discovered that the investigators in charge have already a day on the loss site.

This situation of time limits seems to occur often. Typically it is remedied with a simple explanation by the group that more time is needed. Allowing sufficient time for everyone involved to perform their investigation is important. Placing unreasonable time limits on activities does not benefit anyone.

Lack of Equipment

Investigators fly in from all over the country to examine a fire scene. The investigator in charge of the fire scene only has a flash light, as do the rest of the investigators. The room of origin is completely dark. The scene is processed with inadequate light.

Investigators responsible for conducting the scene examination should be prepared to adequately light the fire scene along with supplying the other basic tools needed to complete the investigation. This should be as high of a priority as securing the scene or as scene safety. When this is not the case, it may cause delays in the scene exam and valuable fire patterns and evidence might be missed, due to the poor lighting condition. This also can create safety hazards.

Reluctance of Notifying Adequate Interested Parties

A fire investigator for a product manufacturer flies clear across the country to investigate a fire loss that has reportedly been caused by his client's product. The investigator arrives to find a room with significant fire damage and that other products in the area are severely damaged. When questioned, the investigator in charge, who is working for the property insurance carrier, describes that they did not notify any other party because they believe the fire was caused by the one product. It is learned by both investigators during interviews with the homeowner that the product alleged to have started the fire was not even plugged in and had not been used in several months. The fire scene exam is stopped at that point, and this new information has not been confirmed by the physical evidence. Other interested parties are notified and another scene exam is scheduled, where the investigator has to make a second trip.

This situation causes both the property insurance carrier and the third party product manufacturer to waste time and money. Had all of the relevant parties been notified, the scene exam could have continued and a second trip would not have been necessary.

ABOUT THE AUTHOR

Ryan M. Cox has been working full time as a fire investigator for Kodiak Fire & Safety Consulting since January 2003. Prior to this, he interned at Kodiak while obtaining his Bachelor of Science degree in Fire Protection and Safety Engineering Technology at Oklahoma State University. Ryan has investigated fires all over the United States and in other countries. His investigation experiences range from small fires in single family dwellings to multi-million dollar losses in private and commercial properties. Ryan has testified as an expert witness in both state and federal courts. Ryan started in the volunteer fire service in 1995 and is currently a Fire Captain with the Aboite Township Fire Department in Ft. Wayne, IN.