



D26 Exceeding the Scope of Law Enforcement in Forensic Fire Investigation

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Learning Overview: After attending this presentation, attendees will understand the danger of law enforcement interference and the potential for unchecked bias if forensic science practitioners and researchers lose autonomy and independence to police agencies, particularly in reference to forensic fire investigation.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by lending support to current ideas regarding the sources of cognitive bias and unregulated practice in forensic science, specifically if forensic functions are incorporated into law enforcement agencies without a controlling plan or oversight.

An example in Connecticut underscores the importance of maintaining independence and objectivity in the field of forensic fire investigation. In 2011, the Connecticut State Fire Marshal's Office restructured operations management for fire investigation by transferring the investigative division from under the auspices of Emergency Services, placing it under the purview of the Connecticut State Police (CSP). The division was rebranded as CSP Fire and Explosion Investigation Unit (FEIU) and has, since that time, assisted in excess of 300 fire investigations per year.¹

Because the FEIU is a division within the CSP, all state fire investigators are now sworn law enforcement members; the FEIU does not employ any civilian or non-police investigators. Furthermore, the FEIU is mandated to investigate upon written complaint local fire marshals reported as incompetent or negligent.

The FEIU is not accredited, nor are they authorized to conduct any fire-related research; they have no standardized procedures or methods that relate to the broader fire science community. They are the only forensic section of the CSP that has not already begun the process of civilianizing. Forensic fire investigation, as defined in the National Fire Protection Association's publication *NFPA 921: Guide for Fire and Explosion Investigations*, is not included among the forensic science disciplines covered by the CT State Division of Scientific Services.² Current practice delegates to the CSP physical and administrative oversight of non-law enforcement personnel; allows police to insert themselves into objective public sector investigations; and fails to safeguard against or account for the potentiality of mistakes due to the unintentional or intentional bias of state troopers and witnesses.

The integration of forensic science into law enforcement, or the idea that a policing agency may also perform scientific analysis of evidence, poses the danger of a "systemic pro-prosecution bias [and] is a function of the same fairly obvious psychological concepts of cognitive bias."³ The scope of a police investigation is not to interpret evidence, but to use forensic reports provided by an impartial certified fire investigator or a fire marshal to develop a criminal case. Police involvement at a fire scene is unnecessary, unless the fire marshal classifies the fire as incendiary.

The information presented pertains to the field of fire and arson investigation, but may provide insight on a small scale to current issues within the forensic science community, especially in light of the passive disbandment of the independent forensics panel which partnered with the United States Department Of Justice (DOJ) and the National Institute of Standards and Technology (NIST) after the release of the National Academy of Sciences (NAS) Report, *Strengthening Forensic Science in the United States: A Path Forward* (2009).⁴ Recommendations within the NAS Report include the creation of an independent federal entity to oversee the field, and the removal of crime laboratories from the administrative control of law enforcement agencies.⁴

Reference(s):

1. Dept. of Emergency Services and Public Protection, *At a Glance*, 2011.
2. National Fire Protection Association. Technical Committee on Fire Investigations. *NFPA 921, Guide for Fire and Explosion Investigations*, National Fire Protection Association (2017).
3. Donald E. Sheldon. Closing the Gate on Biased Expert Testimony: The Judicial Perspective (Bias in Forensics - Examining the Sources and Impacts of Bias on Perceptual and Cognitive Judgments Made by Forensic Experts). *Proceedings of the American Academy of Forensic Sciences*, 66th Annual Scientific Meeting, Seattle, WA. 2014.
4. National Research Council. *Strengthening Forensic Science in the United States: A Path Forward*. Washington, DC: The National Academies Press (2009) <https://doi.org/10.17226/12589>.

Prosecutorial Bias, Forensic Fire Investigation, Arson Investigation