



F16 The Evolution of Wrongful Convictions in Fire Cases

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Learning Overview: After attending this presentation, attendees will have learned of the growing problem of wrongful convictions in fire cases resulting from faulty fire science. Attendees will learn to recognize the issues that most often cause wrongful convictions in fire crime cases and how these issues are evolving, in part due to steps being taken to implement the National Academy of Sciences/National Research Council (NAS/NRC) Report.¹ Recognizing these issues is the critical first step to avoiding the pitfalls that lead to wrongful convictions.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by providing a wake-up call to fire investigators, prosecutors, defense attorneys, and others involved with criminal fire cases. This wake-up call comes as people become sensitized to the common issues running through wrongful conviction cases that arise from misapplied fire science. From examining these common issues, those involved in prosecuting, defending, or testifying in a fire crime case can learn lessons that reduce the likelihood of being involved in a wrongful conviction.

Post-conviction relief in fire crime cases began slowly to emerge in the 1990s, largely coinciding with early editions of National Fire Protection Association (NFPA) 921 *Guide to Fire and Explosion Investigations*, which publicized misconceptions in commonly held beliefs about fire behavior and fire patterns that were simply wrong.² Over time, NFPA 921 and its companion, NFPA 1033 *Standard for Professional Qualifications for Fire Investigator*, have together raised the bar for fire investigations by incorporating information about reliable fire investigation methodology along with developments in the knowledge base of fire science.³ These two documents have long ago become entrenched in the fire investigation community. They form the basis of the two international fire investigator certification programs, play a significant role in fire investigator training, and have become widely accepted as foundational works for fire investigators. NFPA 921 has also become a favorite tool in *Daubert* challenges of fire investigation experts across America.

One would think that by now, almost 30 years after NFPA 921 was first published, cases of post-conviction relief and exonerations based on faulty fire science would be abating, at least after cases from the pre-NFPA 921 days were adjudicated to finality. Not so. Post-conviction relief for fire crime cases resulting from misleading or bad fire science continue to grow. This presentation will identify the common issues that arise from examining the court decisions in such cases. The way in which the issues in post-conviction relief or *habeas corpus* applications are evolving in response to initiatives flowing from the NAS/NRC Report will also be explored. Finally, the impact on wrongful conviction cases of the two industry standards governing fire investigations, NFPA 921 and NFPA 1033, will be analyzed.

Reference(s):

1. National Research Council (NRC), Committee on Identifying the Needs of the Forensic Science Community. (2009). *Strengthening Forensic Science in the United States: A Path Forward*. Washington, DC: The National Academies Press.
2. Tech. Committee on Fire Investigations. *NFPA 921 Guide for Fire and Explosion Investigations*. (Quincy, MA: Natl Fire Protection Assn, 1992 to 2017.)
3. Tech. Committee on Fire Investigator Professional Qualifications. *NFPA 1033 Standard for Professional Qualifications for Fire Investigator*. (Quincy, MA: Natl Fire Protection Assn, 2003 to 2014.)

Fire Investigation, Wrongful Convictions, Consensus Standards