



**DEPARTMENT OF FINANCIAL SERVICES**

Division of State Fire Marshal  
Bureau of Fire Standards & Training

**Legal Issues for Investigators**

**Title: Master Syllabus**

**Date: November 17, 2016**

<b>Course Title</b>	Legal Issues for Investigators
<b>Course Number</b>	FFP2670, BFST2670, ATPC2670
<b>Prerequisite(s)</b>	None
<b>Revision Date</b>	November 17, 2016
<b>College Credit Recommendation</b>	This course has a college recommendation of 3 credits.
<b>Continuing Education Units (CEU's)</b>	40 hrs. towards Firesafety Inspector I renewal.
<b>Class Days/Time</b>	Monday – Friday 8:00 a.m. – 5:00 p.m.
<b>Instructional Supervisor</b>	Name: Dr. Barbara Klingensmith Email: <a href="mailto:Barbara.Klingensmith@myfloridacfo.com">Barbara.Klingensmith@myfloridacfo.com</a>
<b>Program Specialist Contact Info</b>	Name: Karl Morgan Email: <a href="mailto:Karl.Morgan@myfloridacfo.com">Karl.Morgan@myfloridacfo.com</a>
<b>Class Location</b>	Room 107
<b>Course Description</b>	The course includes a study and understanding of arson and related state statutes, search and seizure guidelines for the fire investigator that include case studies of several applicable supreme court rulings, criminal and/or civil case preparation, courtroom practices and procedures and the qualifications of being an expert witness. An in-depth study on the techniques of interviewing and interrogation will be conducted.
<b>Student Learning Outcomes</b>	After the successful completion of this course, the student will be able to do the following: <ol style="list-style-type: none"><li>1. Explain the charges that can be filed in relation to the crime of arson.</li><li>2. Identify when search and seizure warrants are needed and obtained.</li><li>3. Describe the contents of NFPA 921 and NFPA 1033 and how they apply for fire investigators and investigations.</li><li>4. Describe an expert witness and how the “Frye Test” and the Daubert analysis is viewed by courts.</li><li>5. Explain the importance of thorough and accurate documentation.</li><li>6. Define a Public Agency Investigative Fire and describe its contents.</li><li>7. Describe interviews and interrogations, Miranda warning, and the US Constitutional Amendments that affect them.</li><li>8. Define and describe insurance policies and their contents.</li><li>9. Identify information that insurance representatives can provide you</li></ol>

	<p>with when conducting an investigation.</p> <p>10. Describe various insurance files and their contents.</p> <p>11. Explain insurance company issues in arson investigations.</p> <p>12. Define spoliation and how it is viewed by the court system.</p> <p>13. Discuss what is contained in Florida Statutes and the possibility of tort liability for improperly released information.</p> <p>14. Explain the costs of arson-for-profit cases and what is needed to prove an arson-for-profit case.</p> <p>15. Describe what procedures should be followed to present an arson case for prosecution.</p> <p>16. Explain legal procedures that must be considered when dealing with juvenile firesetters.</p>
<b>Required Textbook</b>	<i>Legal Issues in Fire Investigations Manual</i> (2015); Publisher: Florida State Fire College
<b>Required Materials</b>	None
<b>Method of Instruction</b>	Classroom
<b>Grading</b>	Passing 70%
<b>Certification(s)</b>	<p>Required course for Fire Investigator II certification.</p> <p><u>BFST407</u> ARSON INVESTIGATION</p> <p><u>FFP2630, BFST2630, or ATPC2630</u> LATENT INVESTIGATIONS</p> <p><u>FFP2670, BFST2670, or ATPC2670</u> LEGAL ISSUES FOR INVESTIGATO</p> <p><u>BFST406</u> POST BLAST INVESTIGATIONS</p>
<b>Attendance Policy</b>	You are required to attend all sessions of the course and complete all pre-course assignments. Failure to appear in class for a scheduled activity will be considered an absence. Students are allowed to miss 10% of the class and still receive credit. There are no makeup sessions.
<b>Academic Integrity</b>	<p>Academic integrity is crucial to the learning community and indicates respect for the college, the instructor, the course, your classmates and yourself. Any violation of this trust, including but not limited to cheating, plagiarism, collusion, or using or having any content of an un-administered test, will result in immediate dismissal from the course. Under Florida Statute 633, any student dismissed for academic dishonesty can be refused acceptance for any course administered by FSFC.</p> <p>Qualification FIRE INVESTIGATOR II Description</p> <p>Training You must be certified by the State of Florida as an Instructor Provider I, II, or III, or a State of Florida recognized Fire Department,</p>

	<p>Message or hold a certification as a Single Course Exemption Instructor. Applications can be made through the Bureau of Fire Standards and Training. Organization Providers are Schools, Government Entities, and Businesses that need to apply and be approved by the Florida State Fire College.</p> <p>Instructor Message You may teach courses for this type of Certification or Competency only if you hold the certification, and the appropriate disciplines.</p> <p>Pre-Certification Message To be certified as a Fire Investigator II in the State of Florida, an individual must be a Florida State Certified Fire Investigator I and successfully complete 160 hours of basic certification training for fire investigators, or have received equivalent training in another state. To apply for this certification, login as a student, click on Apply, select certification exam and follow the process to submission. Supporting documentation may be scanned and attached or faxed to 352-732-1374. When faxing, note "on-line application" on the fax along with a contact phone number.</p>
<b><i>Students with Disabilities</i></b>	Any student who has a permanent or temporary disability that may require a reasonable accommodation to participate in the course must present documentation of the disability and requested accommodation no later than the beginning of the course.
<b><i>Emergency Evacuation Policy</i></b>	<p>Occupants of buildings on the Florida State Fire College campus are required to evacuate and assemble outside when a fire alarm is activated or an announcement is made. Please be aware of the following policies regarding evacuation.</p> <ul style="list-style-type: none"> <li>• Familiarize yourself with all exit doors of the classroom and the building.</li> <li>• Remember that the nearest exit door may not be the one you used when you entered the building.</li> <li>• If you require assistance to evacuate, inform the instructor on the first day of class.</li> <li>• In the event of an evacuation, follow the guidance of the instructor.</li> <li>• Do not re-enter a building unless you are given instructions by Florida State Fire College personnel to do so.</li> </ul>
<b><i>Requesting Emergency Care</i></b>	Any request for emergency care should be initiated by calling “911” from any phone on campus of the Florida State Fire College. Phones are located in each classroom. Additionally, in the event of any emergency, immediately contact an instructor or staff member.
<b><i>Critical Event Procedures</i></b>	<b>Severe Weather</b> – there is a lightning detection system on campus which has an audible 15 second blast of an air horn. If you are outside, please follow your instructor or move to the closest permanent building. Once the threat is

	<p>over, there will be three 5 second blasts of the signal.</p> <p><b>Security</b> – During the daytime, security is handled by full time faculty and staff. There are security guards on duty in the evenings and weekends. Please comply with the requests made of security officers. Failure to do so can result in removal from campus.</p> <p><b>Student Badges</b> – You will be issued a badge to be worn anytime you are on campus.</p>
<p><b>Enabling Objectives</b></p>	<p>Given information from discussion and reading materials, the student will perform the following objectives to a written test accuracy of at least 70% and meet the applicable job performance requirements of NFPA 1033 (2009) and NFPA 921 (2011).</p> <p><b><u>Unit 1 Lesson 2 The Arson Statute and Related Laws</u></b></p> <ol style="list-style-type: none"> <li>1. Identify the essential elements of the crime of arson.</li> <li>2. Identify the differences between 1<sup>st</sup> and 2<sup>nd</sup> degree arson.</li> <li>3. Explain the crime of arson as a general intent crime.</li> <li>4. Describe how “unlawful” damage affects the crimes of arson.</li> <li>5. Define a “Felony-Arson”.</li> <li>6. Identify related statutes in arson cases to include fire bombs, burning to defraud, false and fraudulent insurance claims.</li> <li>7. Define a “fire bombs”.</li> <li>8. Describe the term “Burning to Defraud”.</li> <li>9. Describe false and fraudulent insurance claims and application fraud.</li> <li>10. Explain how an individual could be charged with arson and grand theft.</li> <li>11. Explain the components required to charge someone with Preventing or Obstructing the Extinguishment of a Fire.</li> </ol> <p><b><u>Unit 1 Lesson 3 Working the Fire Scene- Search and Seizure Issues</u></b></p> <ol style="list-style-type: none"> <li>1. Explain whom the protection of the 4<sup>th</sup> Amendment applies.</li> <li>2. Explain how a search and seizure conducted without a search warrant is viewed.</li> <li>3. Describe the three ways that a search can be conducted.</li> <li>4. Explain warrantless searches in terms of emergency doctrine or exigent circumstances exception.</li> <li>5. Identify the key concepts of <i>Michigan v. Tyler</i> to include when a warrant is not required for fire departments or investigators.</li> <li>6. Explain what an administrative search warrant is for including no requirement for “probable cause”.</li> <li>7. Identify the key concepts of <i>Michigan v. Clifford</i> involving private residences and expectation of privacy.</li> <li>8. Define “consent” according to the courts.</li> <li>9. Explain who can give permission to search.</li> <li>10. Explain common authority in relation to giving consent to search.</li> </ol>

11. Explain why the method of obtaining consent is the most important aspect of a consent search.
12. Identify how to resolve problems involving consent searches.
13. Explain the right to consent and whether an investigator is required to tell someone the right exists.

**Unit 1 Lesson 4 Liability and Legal Issues**

1. Explain the importance of NFPA 921 and how the court views it.
2. Discuss changes between the last and most common version of NFA 921.
3. Discuss how often NFPA 921 is revised and the revision points.
4. Explain the relevance of NFPA 921 for investigators.
5. Discuss Federal Case precedents.
6. Summarize the intent of NFPA 1033.
7. Identify who NFPA 1033 applies to.
8. Describe the general qualifications for an investigator under NFPA 1033.
9. Discuss the general and specific duties, knowledge, and skills of an investigator.
10. Discuss concerns of NFPA 1033 as far as measuring competency and the subjective components of the standard.

**Unit 1 Lesson 5 Fire Scene Investigation: The Daubert Challenge**

1. Identify the case which ruled that the “Frye Test” was abolished and established a new standard for the “expert witness”.
2. Explain the scientific process in relation to *Daubert*.
3. Identify which case was the first to have the *Daubert* analysis applied to fire scene investigation.
4. Explain why in the *Benfield* case, the investigator’s findings were excluded.

**Unit 2 Lesson 1 Documentation of the Fire Scene: A Legal Perspective**

1. Explain the importance of documentation.
2. Describe how to document the discovery and report of the fire.
3. Describe what documentation and sources of documentation are needed about the conditions of the fire scene.
4. Identify four methods to document the fire scene at a trial and their purpose and concerns of use.

**Unit 2 Lesson 2 The Investigative File – Public Agency**

1. Identify what should be included in the Public Agency Investigative File.
2. Describe the following items and their importance:  
Curriculum Vitae/Resume; Origin and Cause Report; Lab Report; fire scene photos; fire scene video; diagrams; blueprints/building plans; timeline/flowchart; consent to search warrant; waiver of rights form; evidence log; defendant’s statement; tape/videotape of defendant’s statement; witness statements; witness tapes/video tapes; witness summaries;  
examination under oath; examination under oath summary; fire

department reports; police report; insurance claim documents; insurance fire report; insurance company laboratory reports; insurance company photos/diagrams; miscellaneous insurance records; property records; utilities records; telephone records; and delivery/newspaper/mail records.

### **Unit 2 Lesson 3 Interview and Interrogations**

1. Describe the difference between an interview and an interrogation.
2. Describe what a witness statement is and its contents.
3. Identify what is covered under the US Constitution 4<sup>th</sup> Amendment.
4. Explain the concept “Fruit of the Poisonous Tree” as it relates to the 4<sup>th</sup> Amendment and from what case it was created.
5. Identify what is covered under the US Constitution 5<sup>th</sup> Amendment.
6. Explain when Miranda must be given and what Miranda entails.
7. Describe when a suspect is in custody.
8. Explain how Miranda warning can be waived.
9. Explain how suspects can terminate an interrogation.
10. Describe methods that a suspect can request an attorney.
11. Identify what is covered under the US Constitution 6<sup>th</sup> Amendment.
12. Identify what is covered under the US Constitution 14<sup>th</sup> Amendment.

### **Unit 3 Lesson 1 Understanding the Policy of Insurance**

1. Define an insurance policy.
2. Define a binder.
3. Explain the components of the declarations page.
4. Explain the 165 Lines/New York Standard Fire Policy.
5. Explain the terms “All Risk/Named Perils”, “Insurable Interests”, and “Co-Insurance”.
6. Define the term “Subrogation”.
7. Explain what the “duties after loss” mean to the insured.
8. Explain the difference between “Intentional Loss Exclusion” and “Misrepresentation/Fraud Exclusion”.
9. Define what the term “fraud” means as it relates to arson.
10. Explain an “Examination Under Oath”.
11. Describe the different types of insurance.

### **Unit 3 Lesson 2 Interacting with Insurance Representatives**

1. Identify insurance representatives that should be contacted when conducting an arson case.
2. Describe what the following are and what they do in terms of insurance: Insurance agent; company or “captive” agent; independent agent; broker; underwriters; loss control/risk inspectors; claims adjusters; company adjusters or “in-house” claims adjusters; independent adjuster; public adjuster; Special Investigations Unit (SIU);

fire investigation/origin and cause expert; contractor/estimator; inventory specialist; salvor; appraiser/valuation expert; other experts.

3. Explain the role of the insurance witness in Arson-for-Profit and other arson cases.
4. Describe the different types of insurance witnesses.
5. Explain the insurance process.

#### **Unit 3 Lesson 3 The Insurance Files**

1. Describe what is found in the agent's file.
2. Describe what is found in the underwriting file.
3. Describe what is found in the claim file.

#### **Unit 4 Lesson 1 Insurance Company Issues in an Arson Investigation**

1. Explain what application fraud means in an arson investigation.
2. Describe what the reservations of rights letter is used for in an insurance claim.
3. Explain what non-waiver agreements are used for in an insurance claim.
4. Describe when a cancellation/non-renewal of a policy occurs.
5. Explain when a loss payment occurs.
6. Explain how an examination under oath is used.
7. Describe how the terms "bad faith" and "confidentiality" affect an insurance claim.
8. Explain the use of informants/confidential sources in an insurance claim.
9. Describe when a denial letter is issued.

#### **Unit 4 Lesson 2 Spoliation of Evidence**

1. Define the term "spoliation".
2. Discuss landmark cases involving spoliation.
3. Identify what a judge can do when spoliation occurs.

#### **Unit 4 Lesson 3 SIU Information Sharing**

1. Describe the contents of Florida Statute 626.989.
2. Describe the contents of Florida Statute 633.126.
3. Explain potential tort liability for improperly released information.

#### **Unit 5 Lesson 1 Arson-for-Profit Cases**

1. Explain arson-for-profit cases in terms of frequency and terms of damages and dollar loss.
2. Identify the most common characteristics of all arson-for-profit schemes.
3. Describe "red flags" of arson-for-profit fire.
4. Identify documents that need to be found when pursuing the paper chase.

#### **Unit 5 Lesson 2 Presenting a Case for Prosecution**

1. Identify how a case becomes federal.
2. Identify the steps in the process for a Grand Jury to make a charging document.
3. Describe the process for filing a state arson case including the process.

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4. Explain the state's standard for pursuing an arson case in terms of probability of prosecution.

**Unit 5 Lesson 3: Civil Arson Case – From the Ashes to the Courtroom**

1. Describe what the ultimate objective is in a civil arson case.
2. Describe how contract law affects a civil arson case in terms of claimants statements and burden of proof.
3. Explain why it is essential to have a private origin and cause investigator.
4. Describe the three components of the fire triangle that are needed to prove a civil arson case.
5. Explain how a forensic accountant can help in determining motive.
6. Discuss other charges that could be filed in a civil arson case.
7. Describe universally recognized types of arson fires.

**Unit 6 Lesson 1 Juvenile Firesetters**

1. Define child, juvenile, or youth.
2. Describe the procedures for taking a juvenile into custody.
3. Identify reasons juveniles set fires.
4. Identify the procedures for interviewing and interrogating juveniles.
5. Identify the standards required for searching a juvenile's personal property at school.
6. Understand how to write an interagency agreement.
7. Identify how to build a juvenile intervention program.