

**A FIRE INVESTIGATOR'S HANDBOOK**

**Wayne P. Petrovich** began his career in 1972 with the City of Hollywood Florida Fire Department as a firefighter. In 1979, he joined the fire department's Bureau of Fire Prevention as an Inspector/Investigator.

Petrovich left the fire department in 1981 and joined the Florida State Fire Marshal's Office as a law enforcement investigator with the Bureau of Fire/Arson Investigations, assigned to the West Palm Beach Office.

Investigator Petrovich earned an AA degree in Criminal Justice, and has attended many schools and seminars in the field of fire investigations, including courses at the National Fire Academy, FBI Academy, and the Bureau of Alcohol, Tobacco and Firearm's Arson for Profit School.

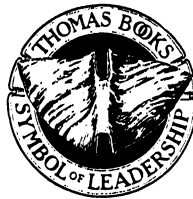
As a senior fire investigator with the State Fire Marshal's Office, Petrovich has testified in numerous civil and criminal court cases both in the state and federal judicial systems. He is currently one of the instructors at the State Fire College in Ocala and for the Indian River Community College Fire Science Program. Investigator Petrovich has been a guest speaker for many law enforcement and fire service departments and seminars throughout the country.

# **A FIRE INVESTIGATOR'S HANDBOOK**

Technical Skills for Entering,  
Documenting and Testifying in a  
Fire Scene Investigation

*By*  
**WAYNE P. PETROVICH**

*With a Foreword by*  
**Guy E. Burnette, Jr.**



**CHARLES C THOMAS • PUBLISHER, LTD.**  
*Springfield • Illinois • U.S.A*

*Published and Distributed Throughout the World by*  
CHARLES C THOMAS • PUBLISHER, LTD.  
2600 South First Street  
Springfield, Illinois 62794-9265

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ISBN 0-978-0-398-06794-6 (hard)

Library of Congress Catalog Card Number: 97-14973

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*Printed in the United States of America*  
CR-R-3

*Library of Congress Cataloging in Publication Data*

Petrovich, Wayne P.

A fire investigator's handbook : technical skills for entering,  
documenting, and testifying in a fire scene investigation / by  
Wayne P. Petrovich ; with a foreword by Guy W. Burnette, Jr.  
p. cm.

Includes bibliographical references and index.

ISBN 0-978-0-398-06794-6 (hard)

1. Fire investigation. I. Title.

TH9180.P384 1997

363.37'65—dc21

97-14973

CIP

*This book is dedicated to the families of fire investigators and especially to my wife, Debra, who spend countless hours, alone, at any given moment, day or night, as we pursue the fire's origin and cause.*



## FOREWORD

The crime of arson remains the single least-often and least-effectively prosecuted crime in America. It is the nature of arson that it is usually committed under circumstances where there are no eyewitnesses to the offense and much of the physical evidence is destroyed in the fire. It is left to the investigator to piece together the evidence and direct the latent investigation necessary to effect an arrest. Arson is inevitably a circumstantial crime requiring thorough investigation and a methodical approach to fit together the pieces of the puzzle.

The proper collection of physical evidence and the effective use of demonstrative evidence at trial are the cornerstones of an arson case. With this text, Wayne Petrovich has provided a powerful tool for the fire investigator dedicated to doing the job right. The experiences and lessons learned from the thousands of cases he has worked are brought together in this unique book for every fire investigator to learn and apply. This represents an important step forward in the fight against arson. The battle lines have been drawn in this war and the weapons are here for those who will take up the call to arms. It is a war we cannot afford to lose.

Guy E. "Sandy" Burnette, Jr.





## **PREFACE**

**T**his book is written for two types of fire investigators: the novice, who is seeking to develop skills in fire investigation, and the veteran, who wants to enhance his or her fire investigative techniques.

To assist both types of investigators, this book is divided into three sections. The first section advises the investigator on how to legally enter the fire scene. The second section explains the methods of documenting a fire scene, and the third section describes the procedures of becoming a good witness while testifying in court.

The book stresses that each section has an important relationship to the other. To omit techniques and/or to be not properly prepared could lead to damaging testimony for the fire investigator.



## **ACKNOWLEDGMENTS**

**W**ithout the assistance of the following individuals this book could not have been written. A large debt of gratitude is given to Ann Kaklamanos, librarian for the Law Library of the Florida Fourth District Court of Appeals, who helped in my research through countless volumes of law books and periodicals, and to Marge Fickley, who gave up hours of free time to type and proofread the manuscript. A special thanks to Detective Dennis Saling of the Palm Beach County Sheriff's Office, Bomb and Arson Squad, for his assistance in photography. To attorney Sandy "Guy" Burnette Jr. for his advice and foreword, and to Collin Holmes and Michele Petrovich for their illustrations. Lastly, I would like to thank all of the fire investigators and law enforcement personnel who taught me, through the ashes of their investigations, what it means to be a creditable fire investigator.



## INTRODUCTION

Throughout my career as a fire investigator, many hours have been spent with other investigators, exchanging views on the education and skills obtained in our line of work. Many agree that the basic knowledge of fire investigation found in books, schools and seminars is a good foundation for the beginner investigator as well as a refresher for the seasonal investigator.

As the fire investigator becomes experienced, the range of knowledge becomes sophisticated. Not only does the investigator learn fire behavior and basic fire scene investigation techniques, he or she must also become proficient in advanced methods and problems such as criminal law, the proper techniques for documenting the fire scene, courtroom demeanor, and expert testimony, just to name a few, that may be necessary to successfully conclude the investigation.

During my twenty-two years as both a fire and law enforcement official in the field of fire investigations, I have constantly seen the need for the development of educational schools and seminars for the advanced investigator. Through these educational channels, information not readily accessible can be disseminated. The move for higher learning must continue for both the beginner and advanced fire investigator if we, as fire investigators, are to keep up with the rapid progress of science and industrial technology being introduced into today's everyday life.

Hopefully, this book will become one of many written by fire investigators that will give support to the investigator in his or her quest to document the fire scene.



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**A FIRE INVESTIGATOR'S HANDBOOK**



# **SECTION 1**

## **ENTERING THE FIRE SCENE LEGALLY**

**FOURTH AMENDMENT RIGHTS**

**EXCEPTIONS TO THE SEARCH WARRANT**

**EXIGENT OR EMERGENCY CIRCUMSTANCES**

**MICHIGAN V. TYLER**

**MICHIGAN V. CLIFFORD**

**ADMINISTRATIVE WARRANT**

**CONSENT TO SEARCH**

**PLAIN VIEW DOCTRINE**

**ABANDONMENT**

**OPEN FIELD**

**MIRANDA RIGHTS**



## INTRODUCTION

In legal terms, “the fruit of the poison tree doctrine” deals with the illegal conduct of an official during a search and seizure. The official, to name a few, may be a law enforcement officer, building inspector or a fire investigator. The conduct of the official may be conscious or unconscious. Either way, if the evidence is seized when a search is conducted while in violation of an accused person’s Fourth Amendment rights, then that evidence cannot be used against said individual in a criminal trial.

The phrase “fruit of the poison tree” is derived from the belief that once the tree is poisoned, then it must be assumed that so too is the tree’s fruit. In law, the “fruit of the poison tree” would be the primary evidence initially seized illegally, and any other evidence that has been tainted because of its relationship to the illegal activity. For example, when a confession is made, in part, by showing the suspect the evidence obtained during an illegal search, that confession and any evidence seized during the search may be found inadmissible in a criminal trial.

There are two landmark cases involving evidence seized during an illegal search. In 1914, the United States Supreme Court, in the case *Weeks v. US* (232 US 383, 34 S Ct 341, 58 L ed 652), established the doctrine called “the fruit of the poison tree” or the Exclusionary Rule. The court further stated that the rule would apply to all federal prosecutors.

In 1961, the United States Supreme Court, in the case *Mapp v. Ohio* (367 US 643, 81 S Ct 1684, 6 L ed 2d 1081) stated that under the Fourth and Fourteenth Amendments, any evidence seized through an illegal search and seizure was inadmissible in state as well as in federal courts.

For this reason, the legal aspects of how a fire investigator should enter a fire scene are discussed first. For, if the fire investigator does not know his or her legal limitations and the rights given to individuals through the United States Constitution, that investigator may find his evidence inadmissible and countless hours of hard work thrown out.

## **FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION**

As representatives of government agencies, law enforcement and fire personnel should fully understand how to legally conduct a fire scene investigation. Before entering a fire scene, the investigator needs to be aware that a person is protected from unreasonable search and seizure through the Fourth Amendment of the United States Constitution. The Fourth Amendment states:

The right of the people to be secured in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated and no warrants, shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

What the Fourth Amendment states is that in order to have a legal search and seizure of evidence, there must be a warrant based on probable cause and issued by a judicial officer. This relieves the law enforcement officer involved in the investigation from a biased decision to search and seize, thus bringing the probable cause to a neutral party, the judicial judge. Therefore, any search and seizure of evidence made without a warrant is considered unreasonable and in violation of the Fourth Amendment.

To understand what a search does, a definition from the book, *Search and Seizure, A Treatise on the Fourth Amendment* 2nd edition by Wayne R. LaFave, best describes what constitutes a search:

Some exploratory investigation, or an invasion and quest, a looking for or seeking out. The quest may be secret, intrusive, or accomplished by force, and it has been held that a search implies some sort of force, either actual or constructive, much or little. A search implies a prying into hidden places for that which is concealed and that the object searched for has been hidden or intentionally put out of the way. While it has been said that ordinarily searching is a function of sight it is generally held that the mere looking at that which is open to view is not a "search."

Another excellent definition comes from the *Black's Law Dictionary*, 4th Edition, which states a search as:

An examination of a man's house, or other buildings or premises, or of his person, with a view to the discovery of contraband or illicit or stolen property,



or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged.

Another term that needs to be clarified in the Fourth Amendment is the word “houses.” For the Fourth Amendment interpretation, a “house” involves two different classes. One class engages where a person lives, either in a whole structure or a part of a structure that can be owned, rented, or leased, either permanently or temporarily. Family dwellings, apartments, individual townhouses, rooming houses, hotels/motels, etc. are some examples.

The second class is a structure, either whole or in part, where an individual works. This area also can be owned, rented or leased, permanently or temporarily. The work area can be as small as a work desk, a one-room business, an office, a warehouse, or even as large as an industrial complex.

There are many state and federal court cases involving decisions concerning search and seizure. One of the landmark cases on this subject is United States Supreme Court case *Katz v. United States* (389 US 347, 19 L ed 2d 576, 88 S Ct 507). This decision looks at the constitutionality of the Fourth Amendment. In the opinion for the court, delivered by Justice Stewart, he stated:

.....once it is recognized that the Fourth Amendment protects people— and not simply “areas”—against unreasonable searches and seizures, it becomes clear that the reach of that Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure. (*Katz v. US* 389 US 353, 19 L ed 2d 583)

The court also stated that a person had the reasonable expectation of privacy. Justice Stewart wrote:

What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection... But, what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected. (*Katz v US* 389 US 351, 19 L ed 2d 582)

The court also wanted to make clear that if a search is to be conducted, then it would be done so according to the requirements set forth in the Fourth Amendment. Otherwise, the search and seizure would be unreasonable, and thereby unlawful. Justice Stewart stated: