Unit 6: Evidence Collection

Slide 1
For a fire investigation, the evidentiary process is extremely important and specific steps and actions should be taken to ensure that as the evidence is obtained and handled, it remains viable and reliable for its admissibility during litigation.

Slide 2
Objective
Describe the types of evidence you may encounter during an Investigation of a Power Line Caused Wildfire.

There will be many. For the Investigation of a Power Line Caused Wildfire, they may range from small metal fragments to the entire pole or crossarm and small to medium branches to the entire top or stump of a tree.
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Slide 3

Objective
Describe the methods to collect, process, and protect evidence so that it can be utilized within the judicial process.

Is your evidence locker big enough or are you going to have to rent a storage unit for the next 3-5 years as the case goes through litigation? Are you going to need to refrigerate or freeze DNA evidence samples for potential use by the defendants’ experts in the future?

Slide 4

Evidence Categories
Circumstantial
Tends to prove a fact in dispute indirectly

Direct
Testimonial
Physical
Documentary
Judicial Notice

Make the following key points:

- Additional information regarding these categories can be reviewed in the FI-210 Course (See Appendices File and the Other Courses Folder)
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Categories Applied to Power Line Caused Wildfires

Circumstantial:
- Power line or pole located within the general area of origin
- DNA from plant debris found on the power line matches DNA from a tree adjacent to the line

Make the following key points:

Circumstantial
- Power line or pole located within the general area of origin
- DNA from plant debris found on the power line matches DNA from a tree adjacent to the line

Slide 6

Categories Applied to Power Line Caused Wildfires

Direct
- Testimonial:
  - Witness statements regarding seeing tree branches being blown by the wind and hitting the power line and sparks dropping into the grass
  - Observing a bright flash towards the top of the pole and fire in the top of the tree prior to seeing any fire on the ground.

Make the following key points:

Direct:
- Testimonial:
  - Witness statements regarding seeing tree branches being blown by the wind and hitting the power line and sparks dropping into the grass
  - Observing a bright flash towards the top of the pole and fire in the top of the tree prior to seeing any fire on the ground.
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Categories Applied to Power Line Caused Wildfires

Direct
- Physical
  - Blown fuse on pole above Point of Origin
  - Arched and broken Insulator on pole above Point of Origin
  - Pit marks or vegetative debris on power lines above Point of Origin
  - Molten material or fuse/insulator fragments found in Area of Origin
  - Burn pattern only below and on crossarm and at base of pole - no burn pattern between each

Make the following key points:

Direct:
- Physical
  - Blown fuse on pole above the ignition area
  - Arched and broken Insulator on pole above the ignition area
  - Pit marks or vegetative debris on power lines above the ignition area
  - Molten material or fuse/insulator fragments found in the ignition area
  - Burn pattern only below and on crossarm and at base of pole - no burn pattern between each

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Categories Applied to Power Line Caused Wildfires

Physical

Make the following key points:

On the ground and in the air
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Categories Applied to Power Line Caused Wildfires

Direct

Documentary

- Use Permits/Easements
- Circuit and construction maps/diagrams
- Utility Company Outage Records
- Utility Company Inspection and Maintenance Records
- Utility Company Incident Reports to Public Utility Commissions or Authorities
- 911 Reports and Dispatch Records
- Investigation Sketches
- Photographs, Photograph Logs, Evidence Logs

Make the following key points:

Direct:

- Documentary

- Use Permits/Easements
- Circuit and construction maps/diagrams
- Utility Company Outage Records
- Utility Company Inspection and Maintenance Records
- Utility Company Incident Reports to Public Utility Commissions or Authorities
- 911 Reports and Dispatch Records
- Investigation Sketches
- Photographs, Photograph Logs, Evidence Logs

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Make the following key points:

- You might end up with numerous 4” binders of documents and records.

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Evidence Collection & Documentation

IMPORTANT!!!!
Always follow your agencies policies and procedures when collecting and handling evidence.

MOST IMPORTANT!!!!

Make the following key points:

- Maintain Logs of what you do.

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Evidence Collection & Documentation

Evidence must be:
Relevant: Connected to the facts at issue

Obtained in a lawful manner: Item is directly related to the cause of criminal or negligence actions, is in plain view of official who is legally present, pursuant to exigent circumstances, obtained through a warrant or with the consent of owner

Make the following key points:

- Adhere to proper procedures for collection, perseveration, and maintenance of evidence.
- Failure to properly obtain and handle evidence can lead to having the evidence declared inadmissible for litigation, dismissal of actions, and could lead to either criminal or civil liabilities being placed on the fire agency and/or fire investigator.
Evidence Collection & Documentation

Evidence must be:
- Authenticated and Identified: Correct item, properly and specifically marked/tagged, not altered, tampered with, or contaminated
- Secure: Exclusive Custody and Control, Documented Chain of Custody

Make the following key points:

- Authenticated and Identified: Correct item, properly and specifically marked/tagged, not altered, tampered with, or contaminated
- Secure: Exclusive Custody and Control, Documented Chain of Custody
Evidence Collection & Documentation

Authorities:

Your ability to collect or seize potential power line caused wildfire evidence will be based upon your agency’s statutory authorities and the fire investigator’s position and their agency’s delegations.

Based on these capabilities, the fire investigator will normally have the right to request any and all items that are relevant to the potential cause of the fire.

Make the following key points:

Authorities:

- Your ability to collect or seize potential power line caused wildfire evidence will be based upon your agency’s statutory authorities and the fire investigator’s position and their agency’s delegations.
- Based on these capabilities, the fire investigator will normally have the right to request any and all items that are relevant to the potential cause of the fire.
- Make sure that you, as the assigned fire investigator have the delegated authority of your agency to:
  - 1) To conduct the investigation;
  - 2) The authority to collect all relevant evidence pursuant to the cause of the fire that is being investigated; and
  - 3) The ability to either pursue actions regarding the findings of the investigation or make recommendations to the fire agency regarding the investigation.
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Evidence Collection & Documentation
Authorities:
That would include items or vegetation removed from the pole or area by line or construction crews or utility tree trimming crews prior to your arrival.

And electric utility equipment or parts found on the ground or attached to the pole, including lines and wires, utility documents that are part of their normal business practices, including outage records, easements, circuit maps, and pole identification records.

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Evidence Collection & Documentation
Process:
Collect those items that are readily available and can be accessed without endangering the investigators – Follow collection procedures
Verbally request the electric utility representative on scene to provide those items needed from the pole or line and document/monitor removal

Make the following key points:

Authorities:
- That would include items or vegetation removed from the pole or area by line or construction crews or utility tree trimming crews prior to your arrival.
- And electric utility equipment or parts found on the ground or attached to the pole, including lines and wires, utility documents that are part of their normal business practices, including outage records, easements, circuit maps, and pole identification records.

Make the following key points:

Process:
- Collect those items that are readily available and can be accessed without endangering the investigators – Follow collection procedures
- Verbally request the electric utility representative on scene to provide those items needed from the pole or line and document/monitor removal
Evidence Collection & Documentation

Process:
- Provide a written request for items not readily obtainable at the scene (or requiring system shut down or complete equipment change out)
- Issue an “Administrative Subpoena or Warrant”, if available to your agency
- Develop an Affidavit and obtain and execute a Warrant for the items needed

Make the following key points:

Process:
- Provide a written request for items not readily obtainable at the scene (or requiring system shut down or complete equipment change out)
- Issue an “Administrative Subpoena or Warrant”, if available to your agency
- Develop an Affidavit and obtain and execute a warrant for the items needed
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Knowledge Check

In order to obtain documents that a utility uses in their normal course of business you should first:

A. Issue a subpoena for the items needed
B. Provide a written request to the utility for the items desired
C. Obtain and execute a search warrant
D. Check with your neighbor, who works for the utility, to see if those items are available

The correct answer is: B.

A written request for documents that the utility is required to maintain in their normal course of business should be sufficient to obtain the needed records. If that fails, then “A” and then “C” can be initiated. In addition, if there’s a Public Utility Commission or Authority, they may have those same documents available or might be able to assist you in obtaining those records.

TRANSITION to Unit 7: Spoliation.