



OREGON
Fire Marshals
ASSOCIATION

OREGON FIRE CODE Joint Policy Bulletin

A collaborative service to provide consistent and concise application of Oregon's fire prevention and life safety regulations.

Date: 1/18/2024

Initiating: Joint Policy Bulletin No. 007

Subject: Roles and Responsibilities of Fire Investigation Teams

Authority References:

- Joint Policy Bulletin #003 (Fire Investigation Authority)
- ORS 476.030, 476.040, 476.060, 476.110, 476.210 and 476.590
- ORS 190.003 to 190.110
- ORS 30.260(4)
- 2019 Oregon Fire Code Chapter 1, Section 104.10

State Certification and Training References:

- OAR Chapter 259, Division 9- Fire Service Professionals
- DPSST Fire Program's Fire Certification: Application, Task Books, and Guides:
 - <https://www.oregon.gov/dpsst/FirePrograms/Pages/Cert%20Applications-TaskBooks-Guides.aspx>

BACKGROUND:

Fire Investigation Teams (FIT Team) exist throughout the state of Oregon. When requested by the local fire authority having jurisdiction (AHJ), the primary role of the local FIT Team is to assist in the process of determining the origin, cause and circumstances of a fire that has occurred within the AHJ. FIT Teams are an adjunct to the AHJ specifically for the process of fire investigation and not in-lieu of the statutory responsibility of the AHJ to determine origin and cause. This responsibility and authority reside solely with the local AHJ and/or the Oregon State Fire Marshal (OSFM) only as authorized by ORS 476.210.

When the local fire AHJ cannot determine the fire's origin, cause, and circumstances or does not have the capacity to determine fire origin and cause (this includes the use and assistance of the local Fire Investigation Team), Oregon Deputy State Fire Marshals shall serve as the primary contact for additional fire investigation assistance. State law does not allow the AHJ to delegate the authority and/or the responsibility for origin and cause investigation to FIT Teams, Law enforcement officials (Oregon State Police), private individuals, insurance companies and etc.

In addition, the responsibility of a FIT Team does not include performing criminal investigations unless it is in conjunction with determining origin and cause. Criminal investigations shall be handled by the local

law enforcement agency having jurisdiction and/or Oregon State Police in accordance with ORS 476.110. However, the authority to perform fire origin and cause still resides with the local fire AHJ and/or OSFM.

DEFINITIONS:

AUTHORITY HAVING JURISDICTION (AHJ): The fire AHJ for determining the origin, cause and circumstances of a fire that has occurred within the AHJ are those listed in ORS 476.060. This includes and is limited to:

- All Fire Marshals in those governmental subdivisions having such officers; or
- Chief of the fire department of every city or rural fire protection district in which a fire department is established; or
- The Marshal or Chief of police, officer of any city in which no fire department exists, and constables.
 - Examples includes: City or County Law Enforcement Agencies who cover areas of the state that do not have an established Fire Department or Fire District providing fire protection coverage. This excludes lands protected by Oregon Department of Forestry under ORS 477.

NOTE: The above AHJ's (including partially exempt fire jurisdictions) shall be subject to the direction of the State Fire Marshal in the execution of the provisions of this section and ORS 476.070, 476.090, 476.150, 476.210 and 480.445. In addition, Oregon State Police (OSP) is not an assistant to the State Fire Marshal, therefore, fire origin and cause responsibilities cannot be assumed by or delegated to OSP.

LOCAL FIRE DEFENSE BOARD: Fire Defense Board districts are composed of one or more counties or portions of counties. The Fire Defense District Board is comprised of the local fire chiefs within the district or a chief officer who has authority to make decisions on behalf of a fire chief. The main purpose for the formation of Fire Defense Board districts is to support the State Fire Marshal's "Oregon Fire Service Mobilization Plan" as identified in ORS 476.590. However, many Fire Defense Boards also utilize their boards to conduct local fire agency business at the county area level that involves mutual and auto-aid agreements towards the suppression of fire.

LOCAL FIRE INVESTIGATION TEAM: An organization of individuals who operate under the direction and approval of the local Fire Defense Board and/or under local intergovernmental/mutual/auto-aid agreements as allowed by ORS 190.010 to provide assistance in the process of determining the origin, cause and circumstances of a fire that has occurred within a local AHJ in accordance with ORS 476.210.

LOCAL FIRE INVESTIGATION TEAM'S ROLES AND RESPONSIBILITIES

HOW SHOULD LOCAL FIRE INVESTIGATION TEAMS BE ORGANIZED?

FIT Teams primarily, should be organized to aid in the process of determining the origin, cause and circumstances of a fire that has occurred within a local AHJ. In addition, FIT Teams can be organized to:

- 1) Provide leadership and education for its membership for the purpose of fire cause investigations and
- 2) Help encourage quality working relationships which includes law enforcement, insurance companies, technical experts and etc.

In order to provide a consistent level of organization and operations, it is recommended that FIT Teams establish By-Laws, SOGs and/or Rules & Regulations. Furthermore, it is also preferred that local FIT Teams be organized and operate under a legally executed intergovernmental agreement with participating fire jurisdictions in accordance with ORS 190 (i.e. Mutual and Auto-Aid Agreements). FIT Team By-Laws, SOG's and rules shall be vetted by OSFM to ensure compliance with Oregon Law.

Examples are as follows:

- **Organization** sections may include, but is not limited to the following:
 - Purpose/Mission/Organization/Structure
 - Scope/Goals
 - Authority (Active Agencies)
 - Definitions (if applicable)
 - Membership
 - Meetings/Attendance
 - Officers/Committees/Executive Board/Finances (if applicable)
 - Training/Education levels
 - Code of Ethics/Confidentiality Agreement

- **Operations** section may include, but is not limited to the following:
 - Requesting FIT Team assistance
 - Fire Scene Activities
 - Scene Safety/PPE

HOW SHOULD LOCAL FIRE INVESTIGATION TEAMS ASSIST WITH ORIGIN AND CAUSE INVESTIGATIONS?

FIT Teams should assist in accordance with the direction and approval of the local Fire Defense Board Chiefs and/or under local intergovernmental/mutual & auto-aid agreements. In addition, FIT Team assistance shall be in accordance with state law and may be subject to direction by Oregon Deputy State Fire Marshals. All FIT Team fire investigation documentation and written reports are the responsibility of the AHJ or OSFM. Examples of assistance that FIT Teams could provide at local AHJ fire scene are as follows:

- Fire origin and cause determination
- Scene diagramming
- Witness interviews
- Evidence collection/preservation
- Scene photographing
- Technical expertise support

WHAT IS THE AUTHORITY OF A LOCAL FIRE INVESTIGATION TEAM?

The authority of a FIT Team is very limited in scope as it is a support function for the Oregon Fire Service. As a result, FIT Teams should operate under an approved OSFM "Permission to Enter" form or an "Administrative Inspection Warrant" obtained by either the local fire AHJ or by a Deputy State Fire Marshal. FIT Teams should not operate under "exigent circumstances", as that authority is specifically reserved for the local fire AHJ and/or Deputy State Fire Marshal. Finally, FIT Teams should not operate under a "Criminal Search Warrant" unless requested by the local fire AHJ where the fire occurred and/or the on scene Deputy State Fire Marshal for origin and cause purposes.

WHAT SHOULD THE MEMBERSHIP MAKE UP OF LOCAL FIRE INVESTIGATION TEAMS BE?

Membership make up of a FIT Team can serve a variety of purposes. However, membership make up of a FIT Team must be focused on different levels based on what services each membership level can legally provide at a fire scene. With this in mind, the following FIT Team membership levels should be considered for each FIT Team:

- **Oregon Fire Service Member:** This membership level should be restricted to individuals who are: 1) Assistants to the State Fire Marshal under ORS 476.030 as a member of a fire agency and 2) Function under the local Fire Defense Board Chiefs and/or local

intergovernmental/mutual/auto-aid agreements. This membership level has the primary responsibility to assist in the process of determining the origin, cause and circumstances of a fire that has occurred within the AHJ.

- **Law Enforcement/OSP/ATF Member:** This membership level should be restricted to members who are sworn law enforcement officers in the state of Oregon. This membership level has the primary duties to enforce criminal laws and other statutes of Oregon with reference to the suppression and punishment of arson and fraudulent claims and practices in connection with fire laws in accordance with ORS 476.110.
- **Associate Member:** This membership level should be for members who are not an "Oregon Fire Service Member" or a "Law Enforcement/OSP members" but are a function of government. This membership level will typically provide technical expertise support. Examples of individuals in this type of membership would be local and federal government officials such as building and electrical inspectors, architects, engineers, CPSC, BLM, UFS and etc. Careful consideration should be given to this level of membership as information obtained during an official fire scene and/or criminal investigation cannot and should not be shared with this level of membership unless it is public information. It is not recommended that individuals from private industry be allowed on FIT Teams as a member as they have no connection to local or state government and therefore have no legal authority or responsibility.
- **Ex-Officio Member:** This membership level is restricted to the local Deputy State Fire Marshal assigned to the area in which the FIT Team functions. If the FIT Team has an Executive Board, the Deputy State Fire Marshal can only serve as a non-voting member of this board. The primary purpose of this position is to: 1) Provide expertise fire investigation support, 2) Ensure state fire investigation laws are followed and 3) Provide fire investigation leadership and training assistance when requested and available.

WHAT ARE THE MINIMUM TRAINING AND EDUCATION REQUIREMENTS FOR FIT MEMBERS?

All FIT members shall have adequate training, experience, education, certification and licensure based upon the specific functions they are performing. Additionally, the following specific requirements apply:

- **Oregon Fire Service Member:** It is the statutory responsibility for every Fire Marshal, Fire Department Chief, constables and other officers referred to in ORS 476.060 to investigate the cause, origin and circumstances of each fire occurring in their respective jurisdiction. With this in mind, there are two levels of fire origin and cause investigation training levels that local fire agencies and FIT Teams can consider:
 - **First Responder Level:** This level should be considered the minimum entry level of training and certifications for individuals to be involved in origin and cause investigation. This level of training focuses on the following DPSST fire certifications areas:
 - DPSST NFPA 1001 Fire Fighter 1 Task Book: Sections 4.3.13 & 4.3.14
 - DPSST NFPA 1001 Fire Fighter 2 Task Book: Section 5.3.4
 - DPSST NFPA 1021 Fire Officer 1 Task Book: Section 4.5.3
 - DPSST NFPA 1001 Fire Officer 2 Task Book: Section 5.5
 - **Fire Investigator Level:** This level should be considered the minimum level of training and certification for individuals whose job duties include performing and conducting fire origin and cause investigations. This level of training focuses on the following DPSST fire certification area:
 - DPSST NFPA 1033 Fire Investigator Task Book: All requisite knowledge and skills
- **Law Enforcement /OSP/ATF members:** LE/OSP/ATF shall have certification and training in accordance with their agency.
- **Associate Members:** Associate Members should have certifications, licenses and training consistent with the types of opinions they are providing (i.e., electrical experts should have an electrical engineering license or similar).

- **Ex-Officio Members:** Ex-Officio members shall have DPPST NFPA 1033 Fire Investigator certification.

CAN FIT TEAM MEMBERS PREVENT OTHERS FROM ENTERING AN ACTIVE FIRE INVESTIGATION SITE?

Only the local fire AHJ, State Fire Marshal Deputy or law enforcement agency has authority to prohibit or remove persons from a fire investigation scene.

Contacts:

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