

The Requirements for Preparing Written Reports by Fire Investigators

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Introduction

Not every investigation requires the preparation of a written report. The decision to write a report depends on the jurisdiction, responsibility of the investigator, purpose of the investigation, desires of the client, or the policy and practices of the employer.

The absence of a written report occasionally becomes an issue, particularly when litigation is anticipated or pending. It is not unusual for someone to read the job performance requirements in NFPA 1033, *Standard for Fire Investigator Professional Qualification* and presume that the tasks identified in the Standard are required to be performed in actual investigations. A reader of the Standard may believe they've found support for requiring a written report. However, there is no requirement to prepare a written report, or to perform any of the tasks listed in the Standard for actual investigations.

This article will review the relevant sections of NFPA 1033, *Standard for Fire Investigator Professional Qualifications* and other documents that discuss written reports. The discussion regarding any "requirement" for the various tasks is also relevant to other duties and tasks identified in NFPA 1033 for actual fire investigations.

Fire Investigation Standards

NFPA 1033, *Standard for Fire Investigator Professional Qualifications*, identifies the duties, tasks, requisite knowledge, requisite skills, and performance evaluation criteria for the position of fire investigator. Together these are called the "Job Performance Requirements," or JPRs. The scope, purpose and an explanation of JPRs are found in Chapter 1, Administration.

Chapter 1 – Administration

1.1 Scope.

This standard shall identify the professional level of job performance requirements for fire investigators.

1.2* Purpose. The purpose of this standard shall be to specify the minimum job performance requirements for service as a fire investigator in both the private and public sectors. (* Refers the reader to Annex B)

1.2.1 The intent of this standard is not to restrict any jurisdiction from exceeding the minimum requirements.

1.2.2 Job performance requirements for each duty are the tasks an individual **must be able to perform** (emphasis added) in order to successfully carry out that duty; however,

they are not intended to measure a level of knowledge. Together, the duties and job performance requirements define the parameters of the job of fire investigator.

This text indicates that JPRs are not mandatory duties; instead, they define what the investigator “must be able to perform in order to successfully carry out that duty.”

The Job Performance Requirement (JPR) is defined as:

3.3.5 Job Performance Requirement. A statement that describes a specific job task, lists the items necessary to complete the task, and defines measurable or observable outcomes and evaluation areas for the specific task.

Primary Use of Professional Qualification Standards

A detailed explanation of JPRs can be found in Annex B of NFPA 1033. §B.1 “Explanation of the Standard and Concepts of JPRs” explains the development and application of the JPRs that is applicable to all the Professional Qualification Standards for fire service positions, including fire fighter, fire officer or fire investigator.

B.1 Explanation of the Standard and Concepts of Job Performance Requirements (JPRs).

¶4. The professional qualifications standards are written as JPRs. JPRs describe the performance required for a specific job. JPRs are grouped according to the duties of a job. The complete list of JPRs for each duty defines what an individual **must be able to do** in order to successfully perform that duty. (Emphasis added) Together, the duties and their JPRs define the job parameters, that is, the standard as a whole is a description of a job.

As in §1.2.2, the fourth paragraph in section §B.1 reinforces the concept that the JPRs defines what an individual “must be able to do” not necessarily what they are required to do.

Section B.3 “Examples of Potential Uses” explains that JPRs are primarily used for Certification (§B.3.1) and Curriculum Development/Training Design and Evaluation (§B.3.2) purposes such as training exercises or in “simulated” investigations used for certification, but not for “actual” investigations.

Section B.4 “Other Uses” provides examples of how the document might be utilized for activities, such as: (1) Employee Evaluation/Performance Critiquing, (2) Establishing Hiring Criteria, (3) Employee Development, (4) Succession Planning, (5) Establishing Organizational Policies, Procedures, and Goals.

§B.4 Other Uses.

While the professional qualifications standards are principally used to guide **the development of training and certification programs** (emphasis added), there are a number of other potential uses for the documents. Because the documents are written in JPR terms, they lend themselves well to any area of the profession where a level of performance or expertise must be determined.

§B.4. (1) Employee Evaluation/Performance Critiquing. The JPRs can be used as a guide by both the supervisor and the employee during an evaluation. The JPRs for a specific job define tasks that are essential to perform on the job as well as the evaluation criteria to measure when those tasks are completed.

Clearly, JPRs can be used for evaluating an investigator's performance in the field in actual fires. However, there is an important distinction to be made between applying the JPRs for certification or training purposes versus actual fire investigations.

Required v. Optional Duties in Actual Investigations

NFPA 1033 lists the "duties" and related tasks for the position of a professional fire investigator. As discussed previously, the primary purpose of the JPRs is for training and certification. To be certified in accordance with this Standard, the candidate would be expected to perform all the tasks and successfully meet the performance requirements. However, in actual investigations, all the duties and tasks in the Standard are not necessarily performed, nor would they be expected to be as clarified in §A.4.4.1. The necessity to perform any task depends upon the individual needs of the investigation and responsibility of the investigator. Optional tasks on actual fire scenes include the collection of evidence (§4.2), assessing victim injuries and fatalities (§4.4) interviewing (§4.5), as well as report writing (§4.7).

The Written Report

NFPA 1033 addresses written reports in §4.7 Presentations. The performance measures for written reports, articulating what the investigator is required to do to successfully complete the task, are found in §4.7.1 appearing after "so that."

4.7 Presentations.

Duties shall include the presentation of findings to those individuals not involved in the actual investigations.

4.7.1 Prepare a written investigation report, given investigative findings, documentation, and a specific audience, **so that the report accurately reflects the investigative findings, is concise, expresses the investigator's opinion, and meets the needs or requirements of the intended audience(s)** (emphasis added).

As discussed in §1.2.2, §A.4.1.1, and §B.1, there is no requirement that a written report be prepared. However, once the decision is made to write a report, like all other tasks, the report shall meet the performance requirements in the JPR.

Training and Certification v. Actual Investigations

The section that identifies all of the JPRs for the position of fire investigator are found in §4.1 General. The explanation regarding the distinction between the application of the JPRs for certification and/or training purposes and actual investigations is found in the annex to this section, in §A.4.1.1.

4.1 General.

4.1.1* The fire investigator shall meet the job performance requirements defined in Sections 4.2 through 4.7.

A.4.1.1 Job Performance Requirements (JPR's) are organized according to duties. Duties describe major job functions and result from a job task analysis. JPR's, in total, define the tasks that investigators **must be able to perform to be qualified** (emphasis added); however, **it is not logical, nor the committee's intent, that each and every JPR be performed during each investigation** (emphasis added). Rather, that the investigator correctly applies selected JPR's as related to the investigation demands or the individual responsibilities.

Thus, §A.4.1.1 provides several of the key elements for understanding the intent and applicability of the Standard. First, it provides that "JPRs define the tasks that investigators must be able to perform to be qualified." "Qualified" here refers to the use of the Standard for certification purposes. Secondly, and most importantly, this section states unequivocally that it is not the intent of the committee that any of the JPRs be mandatory for actual investigations. Lastly, the explanation provides that in actual investigations, the investigator applies the JPRs (tasks) depending on his responsibility.

NFPA 921

NFPA 921, *Guide for Fire and Explosion Investigations*, is not a "standard" according to the NFPA but is developed through the NFPA Standards Making System. NFPA 921 is generally recognized as a standard of care for conducting fire and explosion investigations and is referenced specifically in §A.1.3.7 of NFPA 1033.

The two key sections regarding the application of any tasks identified in NFPA 921 are found in §1.3.3 and §1.3.4.

1.3.3 Not every portion of this document may be applicable to every fire or explosion incident. **It is up to investigators (depending on their responsibility, as well as the purpose and scope of their investigation) to apply the appropriate recommended procedures in this guide to a particular incident.** (Emphasis added)

This section provides that the investigators would only apply the relevant sections of NFPA 921 to their responsibilities. For example, if utilizing the "team approach" to fire investigation, as is recommended in NFPA 921 (§14.1.3), during

an investigation each investigator would only be responsible for the particular task they would be assigned, such as photographer, evidence custodian, canine handler or interviewer. It would not be logical, or practical that each investigator would be required to prepare a written report of the overall investigation. Simply, if the investigator has no code, statute, ordinance, law, policy, procedure or authority that directs that a written report be prepared, then according to NFPA 921, there would be no requirement to prepare one. In addition, §1.3.4 also provides an exception whereas “time and resource limitations or existing policies may limit the degree to which the recommendations in this document will be applied in a given investigation.” In some circumstances, this might include preparing a written report.

Written Reports

The section of NFPA 921 that addresses written reports is found in Chapter 15 “Documenting the Investigation,” specifically in §15.7 “Reports.”

15.7 Reports. The purpose of a report is to effectively communicate the observations, analyses, and conclusions made during an investigation. The specific format of a report is not prescribed. For guidance on court mandated reports see Chapter 11.

The section “Reports,” is sufficiently ambiguous such that it addresses reports in either a written or an oral form. Frequently, jurisdictional or client reporting procedures will only require oral reporting of “observations, analyses and conclusions.” Nonetheless, there is no requirement that a written report be prepared in this section.

The discussion on reports in Chapter 11 “Legal Considerations,” is found in §11.4.2.4. This is not a general requirement for the preparation of written report. Instead, the discussion addresses what is to be contained within a report when it is required in accordance with the Federal Rules of Civil Procedure. It is important to recognize that these Rules would apply to both private and public sector investigators. §11.4.2.4 states:

These reports contain the following information:

- (1) A list of materials reviewed and investigative activities conducted
- (2) A list of opinions the expert expects to express at trial
- (3) The bases for those opinions
- (4) A list of publications by expert within the last ten years
- (5) A list of [expert] testimony given either at trial or in deposition in the last four years
- (6) The compensation the witness receives for his or her work.

IFSTA, Fire Investigator

Another resource that addresses written reports is Fire Investigator published by IFSTA, International Fire Service Training Association. This document (p. vii):

“provides fire investigators with the information, data and resources necessary to meet the job performance requirements for fire investigators defined in NFPA 1033, *Standard for Professional Qualifications for Fire Investigator*.

In the discussion entitled “Report Writing for the Fire Investigator,” the Fire Investigator (p. 201) provides more supporting evidence there is no requirement to prepare a written report to meet the requirements of NFPA 1033. The text indicates that preparing a written report is "required" only for certification purposes. Furthermore, the text makes the distinction regarding the "requirements" for certification purposes and "actual" investigations. The text states:

¶1 “**In order to certify to NFPA 1033, fire investigators must be able to prepare a written report** that documents the investigation they performed. However, in the **actual performance of their duties in the field**, whether or not the investigators are required to file a formal written report will be a matter of agency or company policy.” (emphasis added)

This section discusses the different reporting procedures for private and public investigators.

¶2 “**Reports are generally required of investigators employed by public agencies** (emphasis added), such as fire departments.”

Reporting for the public sector is usually dictated by codes, state statute, local ordinance or department policy. Nevertheless, even where reports are required, the reporting methods for fire incidents are not standardized. Some codes only require the basic incident information be recorded in codified (database) type reports such as NFIRS (National Fire Incident Recording System),¹ while in others only fires in certain “uses” are to be recorded.²

The International Code Council/BOCA International Fire Code only requires that a “record of fires occurring within the jurisdiction” be kept (§104.6.3). However, there are no requirements for written reports authored by a fire investigator.

¶3 “**Reports may or may not be required of investigators employed in the private sector** (emphasis added). This necessity is generally controlled by company policy, the entity on whose (sic) behalf the fire is being investigated, or the judicial system.”

As simply stated, reports for private sector investigators may not be required.

¹ Ohio Fire Code, §1301:7-1-03, §(F)FM-102.4 Fire Records

² New Jersey Fire Safety Code, N.J.A.C 5:18A-3.4 (c), Requires records in Life Hazard Uses

ASTM Standards

ASTM E620, *Standard Practice for Reporting Opinions of Technical Experts* addresses aspects regarding written technical reports. These requirements would be applicable to both private and public investigators.

The scope of the document, states:

Sec. 1.1 “This practice covers the scope of information to be contained in formal written reports which express the opinions of the technical expert with respect to the study of items that are or may reasonably be expected to be the subject of litigation.”

This standard practice addresses what is to be contained in written reports when they are required (§4 Report Content). Subsections include the requirements for Descriptive Information (§4.1.1), Pertinent Facts (§4.2) and Opinions and Conclusions (§4.3).

Conclusion

A careful review of NFPA 1033, *Standard for Professional Qualifications for Fire Investigator* clearly provides that there are no requirements for an investigator to prepare a written report for actual investigations. The review of other authoritative resources such as NFPA 921, *Guide for Fire & Explosion Investigations*, IFSTA’s *Fire Investigator*, and the ASTM Standard E620, *Standard Practice for Reporting Opinions of Technical Experts* likewise provide that there are no requirements for the preparation of a written report by a fire investigator.

However, what the sources do address is that once a decision is made that a written report must be prepared, the report must meet the minimum requirements of the standard(s).

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