

# STATE OF TEXAS

OFFICE OF THE

## STATE FIRE MARSHAL

### Firefighter Fatality Investigation Policy Version 5.0



Texas Department of Insurance  
July 2008

# Table of Contents

1.0	Purpose & Scope.....	3
2.0	General Investigation Policy.....	3
3.0	Authority.....	3
4.0	Definitions.....	4
4.1	Incident Commander.....	4
4.2	Fire-Fighting Incident.....	4
4.3	Firefighter Fatality.....	5
4.4	Firefighter Fatality Not Related to a Fire-Fighting Incident.....	5
4.5	Advisory Committee.....	5
4.6	Firefighter Fatality Incident Investigation Team.....	5
5.0	Advisory Committee.....	5
5.1	Appointment.....	5
5.2	Advisory Committee Member Involvement in an Investigation.....	5
6.0	Participation in a Firefighter Fatality Investigation.....	6
6.1	Conflict of Interest.....	6
6.2	Alternates.....	6
6.3	Confidentiality.....	6
7.0	Communication with Affected Fire Department.....	7
8.0	Post-Report Release Activities.....	7

**TEXAS DEPARTMENT OF INSURANCE**  
**TEXAS STATE FIRE MARSHAL'S OFFICE**  
**AUSTIN, TEXAS**

**Firefighter Fatality Investigation  
Policy**

**1.0 Purpose & Scope**

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The following policy relates to the investigation of a firefighter fatality under the direction of the State Fire Marshal's Office. This policy is formulated to ensure consistency, objectivity, integrity and confidentiality when investigating a firefighter fatality.

In the event of a conflict between State Fire Marshal's Office (SFMO) policies and agency-wide Texas Department of Insurance (TDI) policies, including the TDI Personnel Manual; Operations Manual; Open Records Manual; Employee Health, Safety & Risk Management Manual, the TDI policies will preside. A conflict does not exist if the SFMO policy is consistent with, but more specific than, TDI policies.

**2.0 General Investigation Policy**

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The State Fire Marshal's Office will, as required by state law, investigate all Firefighter fatalities, as defined herein. The SFMO may investigate other Firefighter deaths as determined by the State Fire Marshal. The scope of SFMO firefighter fatality investigations, including membership of any investigation team, will be determined by the State Fire Marshal.

The State Fire Marshal may utilize individuals, or teams of individuals, noted for specific expertise, in conducting various phases of a Firefighter death investigation. Such individuals serve at the will and pleasure of the State Fire Marshal. The State Fire Marshal may, at any time, remove any individual from the investigation team.

Incident investigation teams shall be organized following National Incident Management System (NIMS) guidelines, as necessary, to conduct the investigation of the fatality.

**3.0 Authority**

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The SFMO's statutory authority to conduct firefighter fatality investigations is found in 417.0075 Texas Government Code, "Investigation of Firefighter Fatality." This section reads as follows:

- (a) In this section, the term "Firefighter" includes an individual who performs fire suppression duties for a governmental entity or volunteer fire department.
- (b) If a Firefighter dies in the line-of-duty in connection with a fire-fighting incident in this state, the state fire marshal will investigate the circumstances surrounding the death of the Firefighter, including the cause and origin of the fire, the condition of the structure, and the suppression operation, to determine the factors that may have contributed to the death of the Firefighter.
- (c) In conducting an investigation under this section, the state fire marshal has the same powers as those granted to the state fire marshal under Section 417.007. The state fire marshal will coordinate the investigative efforts of local government officials and may enlist established fire service organizations and private entities to assist in the investigation.
- (d) The state fire marshal will release a report concerning an investigation conducted under this section on completion of the investigation.
- (e) Not later than October 31 of each year, the state fire marshal will deliver to the commissioner a detailed report about the findings of each investigation conducted under this section in the preceding year.
- (f) Information gathered in an investigation conducted under this section is subject to Section 552.108 Texas Government Code.
- (g) The authority granted to the state fire marshal under this section will not limit in any way the authority of the county or municipal fire marshal to conduct the county or municipal fire marshal's own investigation into the death of a Firefighter within the county or municipal fire marshal's jurisdiction.

## **4.0 Definitions**

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### **4.1 SFMO Incident Commander**

The individual in charge of the firefighter fatality investigation under the statutory authority of the State Fire Marshal. The IC shall work with other system entities on the scene in accordance with the established incident command system. A Unified Command may be established as necessary to perform jurisdictional responsibilities with other responding agencies.

### **4.2 Fire-Fighting Incident**

Any incident connected with the fire suppression activities of a fire department including travel to and from the scene of a fire.

### **4.3 Firefighter Fatality**

Any firefighter fatality that is directly connected with a fire-fighting incident, as defined in 417.005 Texas Government Code.

### **4.4 Firefighter Fatality Not Related to a Fire-Fighting Incident**

Any Firefighter death that is not directly connected with a fire-fighting incident as defined herein.

### **4.5 Advisory Committee**

A group of individuals appointed by the State Fire Marshal that provides Firefighter Fatality Investigation Program policy guidance.

### **4.6 Firefighter Fatality Incident Investigation Team**

All individuals employed by the SFMO, or appointed by the State Fire Marshal, to participate in a specific firefighter fatality investigation.

## **5.0 Advisory Committee**

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### **5.1 Appointment**

The State Fire Marshal may appoint an Advisory Committee to review Firefighter Fatality Investigation Program policies, investigation reports and other matters assigned by the State Fire Marshal. All members of the Advisory Committee serve at the will and pleasure of the State Fire Marshal. The State Fire Marshal may, at any time, remove any individual from the Advisory Committee, whether or not for cause. Removal from the Advisory Committee may be communicated verbally but, in all cases, will be formally communicated in writing.

### **5.2 Advisory Committee Member Involvement in an Investigation**

No member of the Advisory Committee, with the exception of the State Fire Marshal, may participate in a firefighter fatality investigation.

### **5.3 Notification of Firefighter Fatality**

The State Fire Marshal, or SFMO management designee, or the SFMO Incident Commander will contact members of the Firefighter Fatality Advisory Committee and other state and federal entities as appropriate.

## **6.0 Participation in a Firefighter Fatality Investigation**

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### **6.1 Conflict of Interest**

A determination by the State Fire Marshal, or designee, that a conflict of interest exists may restrict specific involvement by a **member of the Advisory Committee or any individual** participating in any phase of an investigation. The following conditions **may** result in a conflict of interest by a Firefighter Fatality Investigation Program participant. Conditions include, but are not limited to:

- Membership in the affected fire department;
- Membership in a fire department participating in a Mutual or Automatic Aid Agreement with the affected fire department;
- A relation, by blood or marriage, to anyone that is a member of the affected fire department; and/or
- Any other relationship with the affected fire department, family of the deceased Firefighter or the investigation that could impair the person's objectivity while participating in the investigation.

If a conflict of interest, as described herein, develops while an individual is involved in a firefighter fatality investigation, that person shall immediately notify the State Fire Marshal or SFMO Incident Commander and remove themselves from any further participation. The removed person is prohibited from discussing any aspect of the investigation that the person may have been involved in prior to his/her recusal.

### **6.2 Alternates**

Unless specifically authorized by the State Fire Marshal, no member of the Advisory Committee may designate another individual to any Advisory Committee meeting, or otherwise act in an official capacity of this program, if they are unable to personally attend.

### **6.3 Confidentiality**

Due to the nature of a firefighter fatality investigation, including the review of investigation reports, strict confidentiality is required. **No person** participating in a firefighter fatality investigation, directed by the State Fire Marshal's Office, or serving as a member of the Advisory Committee may communicate, by any means, any portion of that investigation with:

- Any person or entity not directly participating in the investigation; or
- The news media, unless authorized by the State Fire Marshal or TDI Public Information Office.

Authorized persons communicating with E-mail to discuss elements of a firefighter fatality investigation should keep in mind that E-mail is not secure and should refrain from discussing sensitive elements of the investigation using this medium. Persons using E-mail will not copy others in their messages unless the addressee is directly involved in the investigation and has a need to receive the information. The need to possess firefighter fatality investigation-related information will be determined by the State Fire Marshal, or designee.

## **7.0 Communication with Affected Fire Department**

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The State Fire Marshal, or designee, will communicate the progress of an investigation with the Chief of the affected department as appropriate.

## **8.0 Post-Report Release Activities**

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Upon release of an investigation report, members of the Advisory Committee, investigation teams, and others involved in the investigation are encouraged to ensure that lessons learned from the Firefighter Fatality Investigation Program are integrated within the Texas Fire Service.

These efforts may include:

- Direct contact with the affected fire department as approved by the State Fire Marshal,
- Improvements to training plans,
- Firefighter certification requirements,
- Equipment design,
- Standards/policy development,
- Grant policy development, and
- Professional organization outreach.

Direct contact with the affected fire department may include discussion of findings, development of an implementation strategy for recommendations, and/or discussion of observations made during the investigation.