

## Political and Legal Foundations of Fire Protection

32-FST-385-906

Term Paper: Ethics, Firefighter Misconduct On and Off Duty

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As a firefighter and member of the International Association of Fire Fighters, one's fundamental duty is to serve humanity, to safeguard and preserve life and property against the elements of fire and disaster, and to maintain a proficiency in the art and science of fire engineering. Every member of a fire dept. is expected to hold and maintain the public's trust to the highest possible standards. This trust is bestowed by virtue of appointment as a member to the Municipal Fire Department. Public safety providers hold a unique position and are charged with the sacred responsibility to protect the public from harm. Any act or violation that calls to question the integrity of a public safety provider will be viewed more seriously than if committed by the average citizen. Every member of a Municipal Department is expected to operate in a highly self-disciplined manner and is responsible for conducting his or her own behavior in a positive, productive, and mature way while representing the Fire Department. Conduct unbecoming a member will include that which brings the department into disrepute, or reflects discredit upon the member, or their integrity as a member of the department, or that which impairs the operation, efficiency, or safety of the department or member, or that which violates the public trust in the public safety provider or department.

It can be said that a firefighter's code of ethics can and should include several of the following attributes:

- Recognize that they serve in a position of public trust that imposes responsibility to use publicly owned resources effectively and judiciously.
- Not use a public position to obtain advantages or favors for friends, family, personal business ventures or themselves.
- Use information gained from their positions only for the benefit of those they are entrusted to serve.
- Conduct their personal affairs in such a manner that they cannot be improperly influenced in the performance of their duties.
- Avoid situations whereby their decisions or influence may have an impact on personal financial interests.
- Seek no favor and accept no form of personal reward for influence or official action.
- Engage in no outside employment or professional activities that may impair or appear to impair their primary responsibilities as fire officials.
- Comply with local laws and campaign rules when supporting political candidates and engaging in political activities.
- Handle all personnel matters on the basis of merit.
- Carry out policies established by elected officials and policy makers to the best of their ability.
- Refrain from financial investments or business that conflicts with or is enhanced by their official position.
- Refrain from endorsing commercial products through quotations, use of photographs or testimonials, for personal gain.

In the world of today, firefighters, as well as other public service personnel are seen as holding a status slightly above the average citizen, mostly due to the noble duty which is involved in helping and protecting the public at large. Due to

this small rise in status, they are also expected to be more disciplined than the average citizen and somewhat more self controlled when it comes to matters of proper conduct. It is also due to this small rise in status that when a firefighter's conduct, on or off duty, is less than appropriate, they are scrutinized more severely than if it were carried out by the average Joe or Jane Citizen.

Society, although not many people will admit to it, love to see when an individual falls from grace. In a sadistic way, it makes some people actually feel better about themselves by seeing others in an undesirable situation. For this reason, firefighters' as well as any other public servant's conduct on and off-duty often makes for attention getting headlines, and more often than not, it is the substandard choice of actions rather than the good, which makes good headlines. For example, several incidents where firefighters may have made an unethical decision or two are as follows:

- **OFF THE CUFFS: Firefighter Accused of Conduct Most Disorderly**

A Milwaukee firefighter had a little too much to drink at a department outing in Wauwatosa March 20 and wound up arrested on charges of disorderly conduct. (The Milwaukee Journal Sentinel, Apr 10, 2006)

- **District Court Reversed: Giuliani Was Justified in Firing Public Safety Officials for Racially Offensive Conduct**

The Second Circuit overturned the Southern District of New York and ruled yesterday that former Mayor Rudolph Giuliani acted appropriately when he terminated one police officer and two firefighters who engaged in off-duty racially offensive behavior arguing that substantial disruption can

result from off-duty, racist conduct by public safety officials. (Lawyers' Committee for Civil Rights under Law, press release, April 28, 2006)

- **Sheriff's Deputies Have No Right to be Off-duty Porn Stars**

Two deputies were fired when they were seen engaging in off-duty sex acts on a "private" pay-per-view porn site run by the wife of another deputy (who resigned before he was fired). The court upheld the Department's off-duty conduct rule because their conduct "undermined the public's confidence in police operations." This compelling interest overcame any constitutional off-duty privacy or free expression interest of the officers. *Thaeter and Moran v. Palm Beach County Sheriff's Office* (11th Cir., 2006).

- **Cocaine Use and Lying Justify Discharge of Firefighter**

Off-duty "private" drug use violated the Department's off-duty conduct rule to "conduct oneself at all times so as not to bring the Department in disrepute" and "speak the truth at all times." The Wisconsin Court of Appeals found a compelling interest in the off-duty conduct rule and found the rule was clear enough to give fair warning to the employee that cocaine use was an included offense, and lying about the use was also prohibited. The court upheld the firing of the 22-year veteran firefighter. *Gentilli v. Madison Board of Police and Fire Commissioners* (Wis. Ct.App., 2006).

- **Off-duty Providence Detective Arrested in Restaurant Incident**

CRANSTON — An off-duty Providence detective and his girlfriend were arrested after allegedly making a drunken scene at Twin Oaks restaurant mid-afternoon on Friday. (The Providence Journal, November 10, 2006)

- **Firefighter Accused of Misconduct**

A Chicago firefighter is accused of misconduct after his racially insensitive comments were heard over his two-way radio. (ABC 7 Chicago news, February 5, 2004)

- **Firefighter Quits Amid Public Outcry**

After days of community outrage over the handling of a sexual encounter between a firefighter and a 16-year-old girl, the Spokane Police Department has reopened its criminal investigation of the incident. A Spokane firefighter who resigned last month after having on-duty sex with a 16-year-old girl previously sent pictures of himself engaged in sex acts with other women over the Internet while at work, according to city records ordered released Wednesday. (Spokesman Review, March 09, 2006)

- **Police and Firefighter Fired for Off-duty Parade Participation**

The off-duty New York employees participated in a Labor Day parade which portrayed ethnic stereotypes. They wore “black face” on a float which received much negative attention in the press. The court rejected the plaintiffs’ off-duty “private” conduct and First Amendment freedom of expression claim. “The first Amendment does not require a government employer to sit idly by while its employees insult those they are hired to serve and protect.” In this overt situation, a public employee’s “right to express his personal opinions must yield to the public good.” *Locurto v. Giulian* (2nd Cir., 2006).

Most of the above mentioned incidents would in all likelihood not have gotten the average American worker into any trouble at work, and even if it did, it undoubtedly would not have made the same headlines as they did for the simple reason that they were committed by a public servant.

On the 19<sup>th</sup> of November 2006, an interview was conducted with Capt. Joseph Cotto of the East Chicago Fire Dept. regarding Firefighter Ethics and conduct on and off-duty. The following is an edited version of his response. "Approximately 20 years ago at the beginning of my career, drinking was common in the firehouse, many of the guys had "firehouse wives", (girlfriends outside of marriage that would hang around the station for obvious reasons), and gambling was common at the firehouse. This behavior was, by some personnel, seen as some of the fringe benefits of being on the fire department. The fire department had a negative public image of being a bunch of drunken, adulterous, gamblers. The firefighters were often called the "Drunken retarded nephews of the Mayor" because that's usually where the Mayor would put his drunken, lazy, or stupid nephews."

"A few years after I was hired, there was starting to be an ethical change in the fire service where those things were slowly starting to be removed. One of the reasons for the beginning of change was a result of the older generation of firefighters starting to leave and a new generation of firefighters starting to come on along with a more professional attitude towards firefighting."

"The rules that governed firefighting were also beginning to change. Prior to the 1980s there were really no occupational safety rules and no NFPA, there was really no structure or foundation for firefighting, it was just "The Good Ole' Boys Club". You drank before you went to work, you drank after you got to work, and you drank when you got off of work. In fact there would be many instances

where you drank while you were at a fire. It would not be uncommon for someone to make a run to the liquor store during a fully involved fire, or to see a firefighter with a nozzle in one hand, and a beer in the other. The occupation was just a non-stop party back in those days, similar to a bunch of college frat boys living at the campus fraternity house.”

“I believe that we have come a long way since the old days, and are now more focused and geared towards firefighting. It’s no longer just somewhere you would go to party with your buddies. Somewhere along the line it became more of a career and a life decision. As I mentioned before a big part of that change was due to the new blood entering the service, the caliber of personnel that the fire department was bringing in was gradually improving. The quality of recruits that was being acquired was better due to the inception of an organized testing procedure for hiring, and also the use of background checks. There are now people on the department who are very educated and have multiple college degrees which has an influence on how they respond to situations and conduct themselves. Its how a person acts outside the department that’s going to determine how they will act while they are at the department during their work shift. If a person possesses an ethical and professional demeanor in their personal life, they will bring that same demeanor to the fire dept. This in part is what has helped change the fire dept’s negative image of the past to the professional image that it holds today.”

When asked about real world steps that a department could take in order to manage this issue, Capt. Cotto made these statements:

- “It starts first with recruiting, there has to be a good recruiting program for the department which will attract the high quality individuals that we seek.”
- “A fair and comprehensive written examination system such as the one we have in place today will help to bring about a more educated workforce.”
- “Background checks, polygraph tests, psychological evaluations, thorough physical examinations, and a well organized physical agility test would assist in screening out and eliminating individuals that would not be right for the job.”
- “Once personnel are hired and begin their training, ethics should be instilled from day one. They need to be aware of what they’re doing at all times, and who they are doing it in front of.”
- “Random drug testing along with a substance abuse policy can keep people from crossing the line and starting up on bad habits.”

It would appear that on-duty conduct in the fire service, which undoubtedly had an influence on off-duty conduct, was transformed as a result of three major reasons. First and foremost, the safety aspects of the occupation which are overseen by the Occupational Safety and Health Administration (OSHA), and the National Fire Protection Association (NFPA) putting more of an emphasis on life safety. The second reason was the liability issues associated with the fire service. Insurance companies wanted to know why mistakes and accidents were

happening, how vehicles and equipment were being destroyed, and started looking for individuals to blame in order to avert amount of money they were paying out on claims. The final reason for the change of conduct in the fire service was due to the elimination of the “Good Ole’ Boy” hiring system, and the inception of a stringent hiring process which has been put into practice by most professional departments. Under this new process, the candidates are tested in various facets, interviewed at different levels, and screened more thoroughly through background checks and drug testing. With the use of those barriers, the end result should be a pretty well educated, professional, up standing individual that is ready, willing, and able to start their new career in the fire service.

There will always be a few bad apples which make it through the hiring process and perform actions which will give their departments’ bad publicity, but for the most part, the majority of individuals working in the public service sector are professional, honorable individuals who take their jobs seriously, and take pride in what they do. The conduct and ethics associated with the fire service has come along way in terms of improvement over the last few decades and will only continue to improve as we head into the future.

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