

PA FIRE POLICE

The Fire Chief and His Fire Police Officers

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It was suggested that an article appearing in this publication should address the relationship between the Fire Chief, Police Chief, and the Fire Police Captain. Several years ago we wrote a paper entitled "The Fire Chief and His Fire Police Officers" intending to show the relationship between the fire chief and his fire police officers. We will attempt to expand on that document and deal with the requested topic.

Perhaps the reason for confusion and misunderstandings stems from the law itself. When reviewing Section 7437 (formerly 1203) of Title 35, Fire Police Law, it reads as follows:

"At a minimum must display a badge of authority and shall be subject to the control of the Chief of Police, his officers, or if none a member of the Pennsylvania State Police".

This has created much concern for fire chiefs who feel that they are responsible for their fire police officers yet, have no control over them. Obviously, this is not true.

When examining laws for fire police, one cannot find any law that identifies the position of fire police captain or lieutenant. It does not exist, other than in PA Vehicle Code Section 4571 which requires a fire police captain and a fire police lieutenant to equip their personal vehicles with a red light and an audible signal. Note, the law states "Shall" which is a mandatory term and not subject to a fire chief's approval as many assume.

Since the law does not identify this position, it follows that the fire chief is responsible for the fire police officers within their organization. However, most every fire department in Pennsylvania who has fire police has a captain and at least one lieutenant. They supervise the fire police officers and are responsible to report to the fire chief all aspects of training or lack of, equipment needs, and all other requirements as requested by the fire police officers.

In a civil action, where vicarious liability is used to identify the parties being named in the suit, the captain is not identified as the supervisor of fire police, the fire chief is the individual so named.

Therefore, the relationship between the fire chief and the captain is one of mutual cooperation since the captain is performing these responsibilities on behalf of the fire chief and follows the orders given to him/her by that individual.

The notion that the fire chief is not responsible for fire police during emergency incidents is obviously not true. When reading Section 7437 of the Fire Police Law, it stipulates that the fire police are subject to the control of the chief of police or his police officers. This obviously occurs when the fire police have been called out by the police department or are functioning with their fire company but their activity is on a street or highway. Any time fire police operate on a highway, street or road, they come under the supervision of the local and/or state police.

If the fire police are operating on the fire ground (not on a street, road, etc.) they are no different than the fire fighters and take their orders from the fire chief.

Another problem which has occurred in some cases involves the police chief, who misinterprets the law and assumes total control of the fire police unit. When reading Title 35, Fire Police Law, it stipulates that any volunteer fire company may nominate any of its members. Therefore, the fire police are members of the fire company and are required to follow all rules, regulations, policies and procedures of the organization. The police chief cannot assume, therefore, that the fire police come under his/her jurisdiction at all times. Only when they are on duty and operating on the roadway as already stated.

Continued on Page 60

FIRE POLICE *from Page 58*

Obviously, the relationship between the police chief and the fire police (captain and officers) should be one of cooperation. The law does not permit fire police officers to make an arrest yet, there are instances where drivers totally disregard signs, hand signals, and speed limits through an emergency zone. Unfortunately, the law only permits a fire police officer to write a report describing the incident and then gives the fire police a 48 hour period in which to deliver the written complaint to a police officer in the community where the violation occurs. The police officer then determines whether to file the complaint on behalf of the fire police officer. The problem is, unless the fire police officer can positively identify the driver in a courtroom, the police officer may choose not to file the complaint. You can certainly understand why there needs to be trust and cooperation between the fire police and the police department.