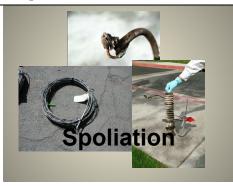
Slide 1



Slide 2

Objective

Describe Spoliation and how it applies to both the Fire Investigator and the Electric Utility Companies.

Slide 3

Objective

Describe the steps necessary to avoid motions based on Spoliation.

Slide 4

"Definition"

The loss, destruction or alteration of an object which is evidence (or potential evidence) in a legal proceeding.

Slide 5

"Case Definition"

The destruction, mutilation or alteration of evidence by a party to an action.

Miller v. Montgomery County, 494 A.2nd 761 (Md. Ct. Spec. App 1985)

Slide 6

"Case Definition"

"Spoliation' means failure to preserve property for another's use as evidence in pending or future litigation."

Slide 7

Litigation

When a critical issue turns on the existence or condition of a piece of evidence that is unavailable or properly preserved, the courts must provide an appropriate remedy for the disadvantaged party by imposing an appropriate punishment on the wrongdoing party.

Slide 8

Litigation

Potential Actions when Spoliation has occurred:

 Worse Case – Case Dismissed for deliberate or malicious conduct by a party
 Specific case – Exclusion of Expert Testimony
 Evidentiary Inferences – Instructions to juries that "the missing or altered evidence should be presumed to have been unfavorable to the 'spoliator' that caused its loss, alteration, or destruction."



Spoliation

Should be a matter of concern to every fire investigator First victim of Spoliation is the "Truth"

Slide 10

Avoiding Spoliation

Again

Document – Document – Document

Carefully document the fire scene, identify items that are or could be relevant evidence, properly collect and preserve those items, include opposing parties and experts in any testing, especially any destructive testing and MAINTAIN Chain of Custody processes.

Slide 11	Knowledge Check	
	"Spoliation" only applies to:	
	 A. Loss of evidence B. Intentional alteration of evidence C. Negligent destruction of evidence D. Any loss, alteration, or destruction of evidence 	
?	 "Spoliation" only applies to: A. Loss of evidence B. Intentional alteration of evidence C. Negligent destruction of evidence D. Any loss, alteration, or destruction of evidence 	
?	The correct answer is:	

Slide 12	Knowledge Check		
	Spoliation is applicable to:		
	A. Evidence that has been properly collected		
	B. Evidence that has been provided to expert witnesses for testing		
	C. Evidence that is used in litigation		
	D. All evidence relevant to the case, even evidence that was not collected and preserved.		
	Spoliation is applicable to:		
	A. Evidence that has been pr	operly collected	
	B. Evidence that has been provided to expert witnesses for		
	testing		
	0		
	C. Evidence that is used in litigation		
	D. All evidence relevant to the case, even evidence that was		
not collected and preserved.			
?	The correct answer is:		
	TRANSITION to Unit 8: Neglige	nce.	