

TRAINING BULLETIN

Los Angeles Port Police



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Date: October 7, 2014
Training Bulletin #14-001
Approved by Deputy Chief Lipscomb *RLC*

PURPOSE

This training bulletin provides guidance in implementing Port Police Policy 360.7.2 which states:

POLICY 360.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal/OSHA is notified by telephone or teletype with all pertinent information (8 CCR 342(b)).

GUIDANCE AND EXPLANATION

We seek to cooperate with the efforts of Cal/OSHA to the maximum extent allowed by law. Reports of serious illness, injury or death of an employee in a workplace that are made pursuant to Policy section 360.2.7 must be reported to Cal/OSHA as soon as possible to allow them time to respond to the scene to conduct a timely investigation.

California law mandates that this notification by first responding police and fire agencies is to be "immediate"ⁱ, therefore it should be done as soon as reasonably practical considering the exigencies of the response, scene and personnel safety.

The notification made by the public safety agency is **IN ADDITION TO**ⁱⁱ any notifications made by the employer who has a separate responsibility.

In order to accomplish our responsibility as expeditiously as possible, notification should be made via dispatch who will relay any requests for additional information. Dispatch should notify Cal/OSHA by telephone and record the date, time and the name of the person taking the notification.

California law states that the notification is to be made to the nearest Cal/OSHA officeⁱⁱⁱ. The contact for reporting by the Los Angeles Port Police is: State of California Department of Industrial Relations, Division of Occupational Safety and Health, **Torrance Office Telephone (310) 516-3734**.

The following are serious illness or injuries to be reported if they occur in a workplace^{iv}:

1. Any incident where one employee has suffered an injury likely to result in hospitalization for greater than 24 hours. *In many instances it will not be clear if the patient will be hospitalized for 24 hours, therefore members should make notification in any case where they believe this may be possible.*
2. Any incident where an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement.
3. Any incident involving a death of an employee.
4. Cal/OSHA staff has stated that if 3 or more employees are transported to a hospital for any reason they would like notification^v. Members of the Los Angeles Port Police should make this courtesy notification whenever the reported injuries or illness could be categorized as serious or if there may be an ongoing risk of injury to additional persons.

The following should be reported to the extent it is available for the immediate notification^{vi}:

1. Time and date of accident.
2. Employer's name, address and telephone number.
3. Name and job title, or badge number of person reporting the accident.
4. Address of site of accident or event.
5. Name of person to contact at site of accident.
6. Name and address of injured employee(s).
7. Nature of injury.
8. Location where injured employee(s) (was/were) moved to.
9. List and identity of other law enforcement agencies present at the site of accident.
10. Description of accident and whether the accident scene or instrumentality has been altered.

EXCEPTIONS:

1. The above reporting would not be required for injuries on a vessel operating on a Federal waterway such as the Harbor. These incidents would be under the jurisdiction of Federal OSHA and not Cal/OSHA. In some cases there may be a question of whether the accident is on the waterway or not such as; accidents on the gangway, or starting on land and ending on the water. These accidents are most likely under the jurisdiction of Cal/OSHA and should be reported. **If there is any question, report to Cal/OSHA and let them determine if they have jurisdiction.**
2. Accidents on a public street or highway^{vii}. **When in doubt as to the nature of the location (workplace or not), members should make notification.**
3. Accidents caused by a violation of California Penal Code §385, Moving equipment under high-voltage power lines and required warnings. **If a member is in doubt as to the applicability the Penal Code violation they should make notification.**

SCENE PRESERVATION

It is always best if Cal/OSHA is notified promptly and has an opportunity to arrive before the police complete their inquiries. In some instances when notification is made to Cal/OSHA they may request

that the scene be secured until their arrival. Holding a scene or property is a Fourth Amendment seizure under the United States Constitution that must be supported by probable cause, or for emergency situations. In any case where we suspect negligence or carelessness on the part of an employer or a third party working on behalf of an employer and it may be related to unsafe working equipment or practices, it may be relevant to our investigation to have an expert in these workplace matters such as an inspector from Cal/OSHA. In this case it would be appropriate to hold a scene. If on the other hand, there is no evidence of the above and our investigation is completed we cannot continue to seize the location or non-evidence property and we will have to turn the location back over to the employer.

California law gives Cal/OSHA employees only one avenue of recourse if an employer denies them access to a site for a criminal^{viii} or civil^{ix} investigation or inspection; and that is to get a warrant^x. Police officers cannot act as an agent of, or for Cal/OSHA who can only delegate those acts within their existing legal powers.

ⁱ California Labor Code § 6409.2; 8 CCR 342 (b)

ⁱⁱ 8 CCR 342 (d)

ⁱⁱⁱ California Labor Code § 6409.2; 8 CCR 342 (b)

^{iv} 8 CCR 330 (h) "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or suffers any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of *Section 385 of the Penal Code*, or an accident on a public street or highway.

^v Request of Cal-OSHA Division Manager Michael Loupe at Informal Conference on 1/24/2014.

^{vi} 8 CCR 342 (c)

^{vii} 8 CCR 330 (h); STATE OF CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD In the Matter of the Appeal of: CALIFORNIA HIGHWAY PATROL Docket No. 09-R2D1-3762

^{viii} 8 CCR § 344.51. Criminal Investigations: The central function of the Bureau of Investigations, within the Division of Occupational Safety and Health, is to conduct criminal investigations. The Bureau must investigate accidents involving violations of a standard, order, or special order, or section 25910 of the Health and Safety Code in which there is a serious injury to five or more employees, death, or request for prosecution by a Division representative. The Bureau of Investigations is the only entity within the Division which is empowered to conduct criminal investigations and to refer the results of such investigations when appropriate to a city attorney or district attorney for necessary action. The Bureau must analyze the circumstances surrounding the violation to determine whether the conduct is sufficiently aggravated to fall within the scope of Labor Code sections 6423, 6425 and other penal statutes.

^{ix} 8 CCR § 344.50. Civil Inspections and Investigations: Compliance personnel of the Division are responsible for conducting inspections and investigations under the California Occupational Safety and Health Act for the purpose of invoking civil enforcement remedies only. If hazardous or violative conditions are found, the civil enforcement remedies which can be utilized include, but are not limited to, the issuance of citations and civil penalties, special orders, orders to take special action, the initiation of injunction proceedings, issuance of orders prohibiting use, and the revocation or suspension of permits. Division compliance personnel have no authority to initiate criminal proceedings.

^x California Labor Code §6314(b).