Active Shooter Guide

Insurance Coverage Considerations & Emergency Response Guide

HUB

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Preface

According to Gun Violence Archive the United States has incurred 344 Mass Shootings in calendar year 2017. These Mass Shootings have resulted in 421 deaths and 1,798 injuries. Below are a few additional statistics on gun violence in the United States:

Gun Violence in the United States
1/1/14 to 12/31/17

	2014	2015	2016	2017
Total Number of Incidents	51,843	53,751	58,920	61,759
Number of Deaths	12,556	13,532	15,104	15,631
Number of Injuries	22,997	27,049	30,626	31,244
Number of Children (age 0-11) Killed or Injured	610	695	671	735
Number of Teens (age 12-17) Killed or Injured	2,332	2,699	3,134	3,240
Mass Shootings	**270**	**335**	**382**	**346**
Mass Shootings Deaths	**265**	**368**	**451**	**421**
Mass Shooting Injuries	**1,083**	**1,337**	**1,537**	**1,798**
Officer Involved Incident – Officer Shot or Killed	262	319	327	316
Officer Involved Incident – Subject/Suspect Shot or Killed	1,774	1,916	1,908	2,082
Home Invasion	2,626	2,394	2,578	2,559
Defensive Use	1,587	1,380	1,990	2,100
Unintentional Shooting	1,607	1,963	2,204	2,032

Source: Gun Violence Archive – www.gunviolencearchive.org

The purpose of this document is to address the exposures of Mass Shootings/Active Shooter incidents which present a unique set of challenges for insurance professionals and risk managers. This guide will outline the key exposures, insurance coverages with regard to Active Shooter incidents. In addition, this guide provides the framework for the development of an Active Shooter Crisis Response Program. Please consult with your local HUB Broker and Risk Services Professionals if you would like assistance in the development of your own customized Active Shooter Crisis Response Program.

Active Shooter Insurance Coverage Considerations

PROPERTY INSURANCE

There are four major points to take consider within the property insurance policy that will be a part of your claim after the incident:

1. **Property**
The property portion of a policy is for “first party” coverage meaning damage that was done to your insured premises by “covered perils”. Most commercial policies will respond to damage by a shooter, excess of deductible, for bullet damage, fire, glass breakage, smoke, water damage, and damage to personal property such as furniture, stock and inventory, and machinery and equipment.
2. **Business Interruption**
Following the loss event with damage by a covered peril, there will be likely a shutdown of operations which will results in a loss of revenue or rental income.
3. **Policy Limits and Sub Limits**
Most policies contain limits of which the insurance will pay up to. The policy will also contain sub limits or extensions which are less than the main policy limit. Pertinent sub limits to shootings are typically:
Spoilage, pollution, building codes, demolition / clean up, civil authority, ingress egress which all could be “trigger’s for coverage.
4. **Terrorism Endorsement**
If the motive of the active shooter is of origin associated with a terrorist group or event, physical damage coverage under the property policy will most likely be excluded. If the policy is endorsed and premium paid to cover Terrorism under TRIA or TRIPRA, the loss must exceed $5,000,000 in damages and be Certified by the Secretary of Treasury in consultation with the Secretary of Homeland Security and the US Attorney General. Coverage alternatives would include a standalone Terrorism and Sabotage Policy.

After a shooting, property owners or tenants should record any physical property damage to broken windows and doors or bullet holes in walls or floors. Take pictures. Business interruption insurance coverage may also apply if an organization is forced to close and is affected as a result. Large losses that include business interruption is generally measured by insurers through their forensic accounting analyses of an organization’s historic profit and loss for the applicable period of time. Your broker should help you.

It is important to note that insurers determine business interruption coverage based on the time it takes after a shooting to regain access to the location, repair physical damage, and complete necessary cleanup. You may not have control of your premises for an extended period of time and authorities may leave the crime scene as is for days which triggering a pollution claim and a loner than expected loss of use or rental income.

Although the type of documentation will vary by incident, organizations should be prepared to share:

- Detailed monthly profit and loss (operating) statements.
- Sales statistics and forecasts.
- Purchase orders, invoices, proof of payment for any damaged items, and extra/expediting expenses.

Active Shooter Insurance Coverage Considerations

GENERAL LIABILITY INSURANCE

There are three notable points to take in account for the general, auto and excess liability insurance section of your policy that will be part of your claim:

- **Coverage**
  - The policies provide “third party” coverage meaning that damage suffered by a third party was caused by your employee(s) or you arising out of your business operations. In most cases, this coverage is bodily injury or property damage. Coverage arising out of an active shooter tragedy should be provided if a third party proves that you were partially or completely negligent before, during or after the shooting. Potential allegations could include:
    - Failure to ensure a reasonably safe environment
    - Failure to protect third parties
    - Liability due to consequences you took to protect third parties and / or your property
  - It is important to note that each policy excludes “expected or intended” injuries caused by you. In general, this means that there may be a limit to the amount of force you use to protect third parties and / or your property.
- **Crisis management**
  - Be sure you have this coverage. It is not automatically provided on any or all of these policies. The premium for it is usually minimal, if any. Not all insurers, though, provide this coverage within a General Liability program. Look to other forms of insurance that can add Crisis Management coverages such as Employment Practices Liability Insurance (EPLI) and/or Employee Benefits/Health Insurance Programs.
  - Have a crisis management plan for the issues associated with an active shooter event. Reasonably foreseeable ones include:
    - Having a plan, developed in conjunction with a firm possessing reputable crisis management consulting skills, like HUB.
    - Communication protocols for:
      - Employees (for example, do employees know to not take photos and publish them on social media?)
      - Employee family members
      - Business counter - parties
      - The media
      - On site customers
      - Other third parties
    - A crisis management plan is usually part of a business continuity plan
- **Policy Limits and Sub Limits**
  - Most (not all) policies have legal expenses in addition to the limits of liability, meaning defense costs are unlimited.
  - If a neighbor alleges property damage due to the consequences of an active shooter event that you are legally liable for, bear in mind that all of these policies contain pollution exclusions so be sure to check the language of these exclusions because the language may affect coverage.

Active Shooter Insurance Coverage Considerations

GENERAL LIABILITY INSURANCE - CONTINUED

During and after a shooting, you should do whatever you reasonably can to keep your employees and customers safe (contact your local law enforcement agency for guidelines to help you prepare). Call the police as soon as safe to do so. Take pictures but do whatever you can to not have any pictures publicized. Cooperate with law enforcement and medical professionals.

It is important to note that there are many factors that determine liability. The key is what steps are you taking to minimize / eliminate liability? For example, if you are a retailer, restaurant or hotel and have a prohibition on employees and guests possessing guns while on site, how are you enforcing that? Be sure to consult a lawyer for legal advice relating to the laws of your business operations.

In summary, have a crisis management plan that you practice periodically. It does not take much time to create and maintain. What it can save you via protecting your brand can be priceless.

Active Shooter Insurance Coverage Considerations

WORKERS' COMPENSATION INSURANCE

- **Workers' Compensation Coverage**
  - Active Shooter Events are covered under Workers' Compensation which will pay for the lost wages and medical expenses of an employee who is injured on the job when an Active Shooter Event occurs.
- **Preventative Measures**
  - One of the best protections employers can offer their workers is to establish a zero-tolerance policy towards workplace violence. The policy should cover all workers, patients, clients, visitors, contractors, and anyone else who may come in contact with company personnel.
    - A well-written and implemented workplace violence prevention program, combined with engineering controls, administrative controls and training can reduce the incidence of workplace violence.
    - Critical to ensure all workers know the policy and understand that all claims of workplace violence will be investigated and remedied promptly.
  - Properly implement and promote an Employee Assistance Program (EAP).
    - Issue periodic statements from top management endorsing the program and reminding employees of the services offered.
    - Have counselors that attend staff meetings to familiarize themselves with employees.
    - Have counselors give special briefings and seminars for managers, employees, and union stewards.
    - Remind employees that by law, all services provided by the EAP are confidential.
  - An active shooter preparedness plan should be the source document used in the development of a training program. If no plan exists, the information gained through the needs analysis would be beneficial in developing a plan.
  - Human Resources' Responsibilities:
    - Conduct effective employee screening and background checks.
    - Create a system for reporting signs of potentially violent behavior.
    - Make counseling services available to employees.
    - Develop an EAP which includes policies and procedures for dealing with an active shooter situation, as well as after action planning.

Active Shooter Insurance Coverage Considerations

WORKERS' COMPENSATION INSURANCE - CONTINUED

- Facility Manager Responsibilities:
  - Ensure that the facility has at least two evacuation routes.
  - Institute access controls (i.e. keys, security systems pass codes).
  - Coordinate with the facility's security department to ensure the physical security of the location.
  - Post evacuation routes in conspicuous locations throughout the facility.
  - Place removable floor plans near entrances and exits for emergency responders.

  - Include local law enforcement and first responders during training exercises.
  - Encourage law enforcement, emergency responders, SWAT teams, canine teams, and bomb squads to train for an active shooter scenario at their location.
  - Be aware of indications of workplace violence and take remedial actions accordingly.
  - Assemble crisis kits containing:
    - Radios
    - Floor plans
    - Staff roster and staff emergency numbers
    - First aid kits
    - Flashlights

- **Reduce Loss**
  - Facility staff may be trained in the basics of hemorrhage control so that care can be initiated as quickly as possible. The training can include basic information on how to improvise a bandage and apply direct wound pressure. Tourniquets have been shown to be lifesaving, but it is unlikely that commercial tourniquets will be immediately available in most circumstances. Training for staff could therefore include when to use a tourniquet, how to improvise a tourniquet, and the correct application.

Active Shooter Insurance Coverage Considerations

WORKERS' COMPENSATION INSURANCE - CONTINUED

- **Post Loss**
  - Prompt and efficient assistance and support to employees from the moment of the attack through normalization and beyond can have a positive effect on employees' mental health and ability to cope.
  - Make assistance convenient and available to employees (which in some cases may mean acting closely as possible to the attack location as is safe, or using technology to communicate with employees unable to travel or who are in other countries).
  - Use quick and simple methods adapted to the situation, recognizing that traumatized employees may be feeling emotionally overwhelmed.
  - Identify an official point of contact for the employees, according to the internal legal system, in case they would like to benefit from assistance. Highlight the positive aspects of the employees' previous environment or role, thus helping their self-esteem and their coping strategies.
  - Take into consideration all the particular needs of the employees in each stage, according to the different types of injuries or damages suffered.
  - Treat the emotional side effects of violence and stress. Contact the insurance carrier to provide psychological assistant. Psychological first aid (PFA) is an evidence-informed, modular approach used by mental health and disaster response workers to help individuals of all ages in the immediate aftermath of disaster and terrorism. PFA is designed to reduce the initial distress caused by traumatic events and to foster short- and long-term adaptive functioning and coping.
  - Treatment for Post-Traumatic Stress disorder (PTSD), a mental disorder from exposure to an extreme traumatic stressor.
    - Defining features and diagnostic criteria:
      - Exposure to a traumatic stressor
      - Re-experiencing symptoms
      - Avoidance and numbing symptoms
      - Symptoms of increased arousal
  - Note – Some states allow workers to decline workers' compensation coverage and elect to sue their employer under coverage "B." It is necessary to review the workers' compensation policy limits and be sure that workers' compensation is listed under the umbrella.

Active Shooter Insurance Coverage Considerations

ENVIRONMENTAL / POLLUTION CLEANUP INSURANCE

An area that should be addressed (albeit very uncomfortable) is with regard to Environmental / Pollution Cleanup Expenses immediately following an Active Shooter/Workplace Violence Event. Employers should carefully review any current Environmental / Pollution Cleanup policies that may be in force to determine if coverage will respond to an Active Shooter/Workplace Violence Event. In addition, Employers should carefully consider the coverages offered by any Specialty Insurance Programs (i.e. Active Assailant Polices, Crisis Management Programs, Workplace Violence Insurance) referenced in this document provide coverage for Environmental/Pollution Cleanup Expenses. We strongly recommend you consult with your local HUB Broker in this area.

Active Shooter Insurance Coverage Considerations

OTHER FORMS OF INSURANCE

Many insurance policies currently on the market already contain coverage modules that are applicable to an Active Shooter event. The terms used throughout these policies vary, but all are designed to provide a variety of coverages for catastrophic events that occur during the course of employment. A list of the most widely used phrases/ terms that are used by the insurance markets are as follows:

- Active Assailant
- Bereavement Counseling Benefit
- Crisis Management
- Crisis Response
- Emergency Evacuation
- Employee Assistance Programs
- Trauma Counseling
- Workplace Violence Coverage

Employers should review their current insurance portfolio carefully to determine which of their current policies might respond to an Active Shooter event. A list of policies that should be reviewed includes:

Business Travel Accident / Group Travel Accident Insurance

Generally speaking Business Travel Accident policies contain coverage modules that are designed to provide 24-Hour Accident Protection for designated employees, typically while on a business trip including sojourn and personal deviations taken during the course of the same business trip. Policyholders should look into the available coverages contained within Business Travel Accident policies. Coverages may be available for emergency evacuation, medical expenses, repatriation expenses, bereavement/trauma counseling and life/disability benefits.

Executive Liability - Directors' & Officers Liability (D&O) / Employment Practices Liability Insurance (EPLI)

Executive Liability Insurance Policies may contain specialty policy endorsements that often used the term "Crisis Management" coverage. Adding this coverage to an EPLI policy using a specific sublimit of the primary EPLI limits appears to be an emerging trend. Nevertheless, employers are encouraged to speak to their broker and review any available Crisis Management endorsements as part of their annual Executive Liability Policy review.

Active Shooter Insurance Coverage Considerations

OTHER FORMS OF INSURANCE - CONTINUED

Employee Benefit Programs (i.e. Group Health Insurance)

Many Group Health Insurance programs contain coverages for Employee Assistance Programs (EAP) that could be utilized after an Active Shooter event. EAP programs are designed to provide on-site counseling services which can be arranged immediately following the event. On-site counseling services can often be made available for several weeks after the event and can be a valuable resource for employees dealing with the mental anguish of such tragic events.

Active Shooter Insurance Coverage Considerations

SPECIALTY INSURANCE POLICIES

Employers interested in securing an insurance policy that is specifically designed for Active Shooter/Workplace Violence Events now have a few options to explore in the insurance marketplace. Many International insurance providers are offering manuscript policy forms specifically designed to respond to the Business Income and Extra Expenses incurred by the insured organization resulting from an Active Shooter, Workplace Violence and/or Stalking Threat. The key to these policies is contained in the policy definitions of "Workplace Violence Expenses" which is where the true coverages are listed in great detail. This definition can include coverage for variety of reasonable fees and expenses, including but not limited to:

- Independent crisis management consultants
- Independent public relations consultants
- Independent crisis mental health consultants
- Independent securing guard services
- Independent forensic analysists
- Salary continuation of employees who has been a victim
- Salary for newly hired employees to conduct duties of an employee who has been a victim
- Rewards for information leading to arrests and conviction(s)
- Reasonable medical, mental health, dental, cosmetic expenses of all victims
- Reasonable expenses of rest and rehabilitation of victims including meals and recreation
- Other reasonable expenses incurred by the Insured subject to the Adjusters Approval

HUB Contact

Employers interested in exploring an insurance policy specifically designed for Active Shooter/Workplace Violence Events are encouraged to contact their local HUB International Broker.

How To Respond When An Active Shooter Is In Your Vicinity

Quickly determine the most reasonable way to protect your own life. Remember that customers and clients are likely to follow the lead of employees and managers during an active shooter situation.

1. **EVACUATE** If there is an accessible escape path, attempt to evacuate the premises. Be sure to:
   - Have an escape route and plan in mind
   - Evacuate regardless of whether others agree to follow
   - Leave your belongings behind
   - Help others escape, if possible
   - Prevent individuals from entering an area where the active shooter may be
   - Keep your hands visible
   - Follow the instructions of any police officers
   - Do not attempt to move wounded people
   - Call 911 when you are safe

2. **HIDE OUT** If evacuation is not possible; find a place to hide where the active shooter is less likely to find you. Your hiding place should:
   - Be out of the active shooter's view
   - Provide protection if shots are fired in your direction (i.e., an office with a closed and locked door)
   - Not trap you or restrict your options for movement

To prevent an active shooter from entering your hiding place:

- Lock the door
- Blockade the door with heavy furniture

If the active shooter is nearby:

- Lock the door
- Silence your cell phone and/or pager
- Turn off any source of noise (i.e., radios, televisions)
- Hide behind large items (i.e., cabinets, desks)
- Remain quiet if evacuation and hiding out are not possible:
- Remain calm
- Dial 911, if possible, to alert police to the active shooter's location
- If you cannot speak, leave the line open and allow the dispatcher to listen

3. **TAKE ACTION** against the active shooter as a last resort, and only when your life is in imminent danger. Attempt to disrupt and/or incapacitate the active shooter by:
   - Acting as aggressively as possible against him/her
   - Throwing items and improvising weapons and yelling

Department of Homeland Security Video Training - Run, Hide, Fight

Active Shooters can appear in public places at any time, without warning. Active shooter situations are often over within 10 to 15 minutes, before law enforcement arrives on the scene, and individuals must be prepared both mentally and physically to deal with an active shooter situation.

It is important to recognize that in this situation you CAN take action and your immediate actions can save your life. Here are some good practices for coping with an active shooter situation:

- Be aware of your environment and any possible dangers
- Take note of the two nearest exits in any facility you visit
- If you are in an office, stay there and secure the door
- If you are in a hallway, get into a room and secure the door
- As a last resort, and only when your life is in imminent danger attempt to disrupt and/or incapacitate the shooter.

CALL 911 ONLY WHEN IT IS SAFE TO DO SO!

The US Department of Homeland Security video below demonstrates possible actions to take if confronted with an active shooter scenario, reviews the choices of evacuating, hiding, or, as an option of last resort, challenging the shooter. The video also shows how to assist authorities once law enforcement enters the scene. Please take a moment to watch.

https://www.youtube.com/watch?v=pY-CSX4NPtg&feature=share_email

Active Shooter Crisis Response

An active shooting event is perhaps the most traumatic event that can take place at any workplace. It is the event that every health and safety professional tries to prevent. However, regardless of how many training programs, precautionary measures and disciplinary systems an employer implements, active shooter events in the workplace can and do happen.

The objective of this guide is to provide assistance to employers to prepare an internal system to minimize the risk that charges will be laid or the company's operations shutdown after a serious workplace accident. While much of the guidance contained in this booklet will be of general assistance to employers, there are guidelines to support employees and family members as well.

If this document is being reviewed as part of an active response, then this it is important to get the best internal and external advice available. It is beneficial to bring senior representatives together on a conference call or in a meeting room from the following functional areas to determine the most appropriate courses of action and to designate tasks.

- Legal
- Human Resources
- Risk Management
- Operations
- Facilities
- Communications
- Security

Management Response Guide

Employers who wish to develop their own internal guides should consider including the following content:

Facilitate emergency medical and law enforcement responses

Cease operations at that location

Contain the situation to avoid any further harm

Establish privacy and security controls at the site

Notify OSHA if needed

Clarify what support the company is willing to provide

Provide psychological first aid to affected people

Establish a communications plan

- Communications with family members
- First Communication with the Media
- Second Communication with the Media
- Communication with employees

Notify families of casualties

- Designate a family liaison to address the needs of relatives of the casualties

Visit hospitals and homes of those injured or killed

Develop an internal investigation plan with corporate legal

Organize site cleanup and repairs

Plan for re-entry and return-to-work

- Prepare to address needs of the employees on the first day back to work

Provide needed benefits to employees beyond the normal limits of coverage

Identify any at-risk employees who may need additional crisis support

Organize appropriate memorials and funeral attendance, when needed

Determine the roles of unions or other labor organizations

Establish additional communications any important external stakeholders

Establish legal concerns

Establish financial concerns

Contact insurance partners for support

Management Approach

At this time, management should let all employees know that you are concerned and doing all you can to help them. You represent the organization to your employees, and your caring presence can mean a great deal in helping them feel supported. You don't have to say anything profound; just be there, do your best to manage, and let your employees know you are concerned about them. Be visible to your subordinates, and take time to ask them how they are doing. Try to keep investigations and other official business from pulling you out of your work area for long periods of time.

- The management role in establishing psychological first aid is typically to provide appropriate levels of practical assistance, physical comfort and accurate information in the early aftermath of a distressing crisis. As appropriate, even providing food can be seen as a gesture of corporate caring.
- Let people know, in whatever way is natural for you, that you are feeling fear, grief, shock, anger, or whatever your natural reaction to the situation may be. This shows your employees you care about them. Since you also can function rationally in spite of your strong feelings, they know that they can do likewise.
- Don't be afraid to say, "I don't know." Particularly in the first few hours after a tragedy, information will be scarce and much in demand. If you can be an advocate in obtaining it, you will show your employees you care and help lessen anxiety.
- Ask for support from higher management or crisis team members, if a team is designated to support on-site priorities. The local focus should remain on helping your employees and your organization return to normal functioning. If a crisis team has been formed and has training in how to handle a hypothetical crisis, it will help mentally and practically, to deal with a real one.
- Ask for support from Grief Counselors and your Employee Assistance Program (EAP) on what to say and how to address concerns. The EAP is available to offer professional counseling to those who wish it, and to provide debriefings to groups affected by trauma. Encourage your employees to take advantage of the EAP as a way of preserving health, not as a sign of sickness.

Grief Counseling

Whenever people face bereavement, injury, or other kinds of trauma, they generally need to talk about it in order to heal. To talk, they need willing listeners. Listening to people who are hurting is a matter for everyone involved to show a caring interest. While it is not strictly a matter for professionals such as psychotherapists or members of the clergy, it is true that professional people can help in special ways, and provide the suffering individuals and employers with insights that most are not able to offer.

Grief Counselors can differ from traditional EAP programs in that the counselors have specific training and certifications in post crisis support and can be on-site within hours of an incident. This is also referred to as psychological first aid. It is important to inquire to the EAP service to ensure any designated responding services have this expertise. If not, it can be advisable to obtain grief counselors through direct means.

The Grief Counselors will typically want to start by requesting a conference call with the local leadership to determine immediate and specific needs. Then they will be able to assist with recommended next steps, including how to structure counseling sessions (i.e. location, individual or group), return to work guidelines as well as communications to the employees and their families.

During this process, it is important to realize different people will be reacting in different ways.

- Provide a private area were co-workers can talk together, shed tears and mourn without public scrutiny.
- Let people know that it's OK to cry. Some people are embarrassed if they cry in front of others. Handing over a box of tissues in a matter-of-fact way can help show that tears are normal and appropriate. It's also OK if you get a bit teary yourself.
- Don't be distressed by differences in the way people respond. One person may react very calmly, while another expresses strong feelings. One person may have an immediate emotional response; another may be "numb" at first and respond emotionally later. Emotions are rarely simple; people who are suffering loss often feel anger along with grief.
- Unless you see signs of actual danger simply accept the feelings as that person’s natural response at the moment. If a person is usually rational and sensible, those qualities will return once their painful feelings are expressed.
- Initially, close friends and associates will feel shock and intense grief. If the loss is to be resolved, it is essential for all affected employees to spend time talking about the deceased person, sharing memories, and discussing the loss. This "grief work," which is essential for recovery, is intensely painful when done alone, but much less so when it can be shared with friends.

Law Enforcement Investigations

In general, the police will be responsible for the initial investigation. Whenever a work-related death occurs and there is an indication that a criminal offence other than a health and safety offence may have been committed, the police will conduct a thorough review, which begins with the immediate events leading up to the fatality or serious injury. It is important to note that the police have a power of arrest in relation to all offences.

Each member of the police department present at the scene is responsible for different aspects of the investigation. Thus, the knowledge of these responsibilities can lead to a greater ability to support the process. Legal support may also be beneficial at this time to better understand the requirements and steps taken.

Police officers are obligated to approach the incident as any other potential crime and also have an interest in establishing the circumstances surrounding a work-related death in order to assist in a potential coroner's inquiry.

While there are some differences based upon the specific legal jurisdiction, the responding patrol officers may:

- Secure the scene and take control of the worksite even though traditionally, workplace accidents are not perceived as crime scenes unless it is a homicide or targeted event.
- Detain witnesses
- Separate witnesses until statements can be taken.
- Conduct arrests, if necessary

The responding investigators may:

- Introduce and Identify Self and Role
- Exercise Scene Safety and Security
- Confirm or Pronounce Death
- Participate in Scene Briefing (With Attending Agency Representatives)
- Conduct Scene "Walk Through"
- Establish Chain of Custody
- Photograph Scene
- Develop Descriptive Documentation of the Scene
- Establish Probable Location of Injury or Illness
- Collect, Inventory and Safeguard Property and Evidence
- Interview Witness(es) at the Scene
- Document the Discovery History
- Determine Terminal Episode History
- Document Decedent Medical History

Law Enforcement Investigations - Continued

- Document Decedent Mental Health History
- Document Social History
- Maintain Jurisdiction over the Body
- Release Jurisdiction of the Body
- Perform Exit Procedures
- Assist the Family or Authorized Individual(s)

OSHA Investigations

It is required to report to the nearest OSHA office all work-related fatalities within 8 hours, and all work-related inpatient hospitalizations, all amputations and all losses of an eye within 24 hours.

- Call the OSHA toll-free number: 1-800-321-OSHA (6742); TTY 1-877-889-5627

Employers under federal OSHA's jurisdiction were required to begin reporting by Jan. 1, 2015. Establishments in a state with a state-run OSHA program should contact their state plan for the specifics and implementation date.

It is likely that the OSHA inspectors will determine if there is a need for an on-site investigation following the completion of a pre-investigation report (OSHA-36). After the initial report, the local/area office will be informed. However, the Area Director does reserve the right in some situations not to investigate such as with death due to natural causes.

All fatalities and catastrophes will be thoroughly investigated in an attempt to determine the cause of the event, whether a violation of OSHA safety and health standards or the general duty clause occurred, and any effect the violation had on the accident. The circumstances surrounding all occupationally-related fatalities will be evaluated to determine whether the fatality was caused by a willful violation of a standard, thus creating the basis for a possible criminal referral.

The on-site inspection is intended to be initiated as soon as possible after receiving report of the incident, ideally within one working day, by an appropriately trained and experienced compliance officer assigned by the Area Director. The Area Director determines the scope of the fatality/catastrophe investigation. Once the investigation is closed, a copy of the investigative report shall be forwarded to the official in charge of the workplace, the appropriate safety and health committee, and the exclusive employee representative, if any.

The investigation may involve:

- Collection of incident data
- Collection of victim’s personal data
- Sketches, drawings, measurements of the incident
- Photographing and videotaping when appropriate
- Review of the employer safety and health management system
- Review of incident logs
- If multi-employer work site, then a review of contractual relationships may be conducted
- Interviews with witnesses (Public, fellow employees, management)
- Employee interviews are typically conducted privately, outside the presence of the employer. Employees are not required to inform their employer that they provided a statement to OSHA.
- Interviews with first responders
- Interviews with family members

OSHA Investigations - Continued

- A letter is to be sent to the emergency contact on record within 5 days of victim identification.

Review of the equipment or process involved:

- Machine Type
- Manufacturer
- Model
- Manufacturer's Instructions
- Kind of Process
- Condition
- misuse
- Maintenance Program
- Equipment Inspection (Logs, Reports)
- Warning Devices (Detectors)
- Tasks Performed
- How often equipment used
- Energy sources and disconnecting means identified
- Supervision or instruction provided to employees involved in accident

Note: OSHA Investigators are not likely to speak to media outlets and media inquiries to them will go to the Area Director.

The results of the investigation are to be recorded as part of the OSHA 170 report and include characteristics of the worksite; the employer and its relationship with other employers, if relevant; the employee task/activity being performed; the related equipment used; and other pertinent information. Based on the results, the Area Director will review any proposed violations and penalties.

OSHA is unable to release full details on its inspection findings until the investigation is over, any resulting litigation is completed, and the case is closed. This process may take years. Therefore, it can be important that the company is involved with the investigators, as much as possible, to understand the information that was captured. This is especially true of photographs and videos.

In an effort to keep the families of deceased workers apprised of developments during an investigation, OSHA sends them copies of citations, appeal letters, and the results of any informal settlements as soon as the document is issued.

Communications

Contact with family members, the media and employees are difficult and necessary at times. These include employees who may not be on-site at the time of the incident. The following communications samples include:

- Guidelines to address family members of a victim
- An initial holding statement to provide to the media, if questioned
- A sample press release once more information is known and if there are still media inquiries
- A sample internal communication to co-workers and employees

Workplace Injury/Fatality Immediate Considerations for Families of Victims

- Company assistance is likely to be expected.
- Comfort and support is one of the best means to speed emotional recovery of relatives of a crisis victim.
    - o Family members, religious institutions, friends will likely be needed for support.
    - o The company may consider assisting extended family members who may need travel accommodations, ground transportation, and other needs.

Immediate Considerations

- Assign an employee as a family liaison as soon as possible to meet with family members.
- Organize a suitable location:
    - o Residence or Hotel
    - o Family's place of worship
- Anticipate family members desire to show up at the workplace.
- Anticipate the potential for press to contact the family for an emotional response.
- Anticipate predatory legal service representatives may try to contact the family.

Family Liaison

- Ideally corporate representatives will want some training in providing support.
- Consider using experienced crisis mental health professionals to work with the corporate representative.
- Contact should be initiated with the family as soon as possible.
- Serve as the primary point of contact with the family.
- Assist with travel arrangements for remote family members.
- Assist with funeral arrangements.
- Assess possibility of expediting benefits checks for financial support.
- Bring supplies or other needs to gatherings, funeral, etc.
- Practical errands, meals, cleaning, etc. that may be needed.
- Bring personal items of the deceased from the workplace to the family.
- Arrange for the family to visit the worksite, if desired.
- Serve as the conduit for well-wishers to the family.
- Attendance at the funeral.

Senior Management

- Within 24-48 hours a senior manager should visit the family.
- The family liaison should prepare a list of needs the family may have to address.

Sample Holding Statement for First Communication with the Media

Note: Each statement would need to be modified based upon the specifics of the situation. These statements should be reviewed by legal counsel prior to release.

"My name is [name] and I am [title] with [company] . An investigation is ongoing and we are participating fully with all agencies involved.

Our thoughts and prayers are with [the victims, their families, our employees, everyone involved, the community]. The incident has just happened and I am not prepared to answer your questions at this time.

We will provide information once we have had time to gather and review the facts.

If press is onsite and asking questions, an additional statement can be:

- As you can see, I’m pretty busy right now and need to return to the site.
- Please stay in this safety area so we can do our job and take care of the situation.
- Thank you and for further inquiries please contact………………(name/title/phone).

Drafted by…………………………………… Approved by…………………………………

Phone No…………………………………… Date………………………… Time…………

Sample Initial Press Release (once more information is known)

Note: Each statement would need to be modified based upon the specifics of the situation. These statements should be reviewed by legal counsel prior to release.

For Immediate Release

Contact:
[NAME]
[TITLE]
[PHONE NUMBER]
[E-Mail]

[INCIDENT] AT [COMPANY NAME]

The following statement was issued today by the [Name of Company]:

[Location, e.g., City, State.]: At approximately [time] there was what is currently being investigated as a (Brief general description) at [Facility, Location].

We are working to determine (damage, injuries, etc.). At this time we have confirmed that [General information that is FOR CERTAIN, i.e., one person was injured and is currently being treated, etc. DELETE THIS SECTION IF NO CONFIRMED INFO IS AVAILABLE.] The safety and well-being of our employees, contractors and neighbors is our first priority [expression of compassion/concern if appropriate].

As more information is available we will be provide updates through [media point of contact]

Sample Internal Communications Statement

Note: Each statement would need to be modified based upon the specifics of the situation. These statements should be reviewed by legal counsel prior to release.

[Incident] at [Facility]

I want to express my heartfelt sadness and shock over what has happened.

We understand the concerns, fears and questions you may have about the [incident, accident, etc.] that took place [time frame - this morning, afternoon, today, yesterday, etc.].

Our thoughts and prayers are with the family of [Name of employee], who was fatally injured today at the [Name of company and operation name]. [First name of employee] was a valuable member of our team, and we will miss him.

[Last name of employee] was fatally injured [approximate time of day, e.g., this morning] while (brief description of event). [Description of assistance provided on site, e.g., CPR was started on site], and [Last name of employee] was transported by [how transported and to where], where he [any steps taken at hospital, e.g., underwent surgery and later] was pronounced dead.

At this time, we are doing everything we can to [action: determine what happened, etc.]

The safety and well-being of our [those effected: employees, employees' families, community/neighbors]is our first priority.

The local authorities and Occupational Safety and Health Administration (OSHA) were immediately notified of the incident, and will conduct a thorough investigation. All of us hope to learn from the authorities work and our own analysis of this tragic event.

As more information is available, we will be providing updates through regular meetings. [Last name], has served [a length of tenure] at the (company). He is survived by his (description of survivors). To provide assistance to his family, a (fund/charitable donation)has been set up by(company) and you can donate by (how to donate).

For assistance please contact: (name, method)

Additional Sources of Information

Gun Violence Archive
http://www.gunviolencearchive.org

National Institute of Justice, Law Enforcement Response
http://www.nij.gov/topics/law-enforcement/investigations/crime-scene/guides/death-investigation/pages/welcome.aspx

US Occupational Safety and Health Administration (OSHA)
https://www.osha.gov/index.html

OSHA Recordkeeping Rule
https://www.osha.gov/recordkeeping2014/

OSHA Reporting Criteria
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=12783

OSHA Fatality/Catastrophe Investigation Procedures
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=3245

OSHA Searchable Investigation Summaries
https://www.osha.gov/pls/imis/accidentsearch.html

Psychological First Aid, Crisis Care Network
http://www.crisiscare.com/