



El Segundo Police Department

Training Section

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TRAINING BULLETIN

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OSHA and Environmental Crimes Rollout Program

In 2014, the Los Angeles County District Attorney's Office announced the launch of a new program that dispatches investigators and prosecutors from the DA's office to industrial incidents involving occupational deaths and environmental threats. Under this program, the District Attorney's office is to be notified regarding workplace incidents involving the following:

- 1) Death
- 2) Serious injury or illness
- 3) Environmental crimes

If any of the above are a direct result of an employer's negligence, recklessness, or failure to act, employers may be charged with any of the following criminal sections:

- Labor Code Section 6425 (wobbler) provides that any employer, or any employee with control over a workplace or other employees, who willfully violates any safety rule and causes death or serious injury to any worker, may be guilty of a felony, punishable by up to three years in prison and, in the case of corporate defendants, up to \$1.5 million in fines.
- Penal Code Section 387 (wobbler) provides that any employer or manager who knew or should have known of a serious, concealed workplace danger and failed to both: 1) warn affected employees in writing, and 2) inform OSHA in writing within 15 days of discovery, may be guilty of a felony, punishable by up to three years in prison and, in the case of corporate defendants, up to \$1 million in fines.
- Penal Code Section 192 (felony) Involuntary Manslaughter – gross/criminal negligence.

The procedure for this rollout program is to contact the DA Command Post at 213-974-3607 and ask to speak to a DA investigator assigned to the OSHA and Environmental Crimes Rollout Program. The operator will have an investigator call you back for details. The DA Investigator will then contact OSHA and a determination will be made whether to have the two investigators (OSHA and DA's Office) roll out. The OSHA investigator is a criminal investigator, as opposed to an administrative investigator that handles non-criminal incidents or accidents. This procedure not only applies to employers of businesses/corporations, but also to

homeowners that hire contractors and the contractor's employee dies or is seriously injured. In these cases, the contractor could possibly be held liable.

- 1) Death cases. The DA and OSHA investigators will attempt to respond to all workplace death incidents. ESPD detectives shall be notified and will respond to such cases as well. Even if OSHA ends up handling the investigation, detectives will conduct a preliminary investigation and a patrol officer will complete a death report.
- 2) Serious Injury or Illness. The following are some examples of when to call the Command Post:
 - a. Amputations
 - b. Severe burns, e.g., burns covering $\frac{1}{4}$ to $\frac{1}{2}$ or more of the body (not a small burn to the hand). This includes electrocutions.
 - c. Mutilation/disfigurement
 - d. Head trauma requiring hospitalization
 - e. Falls from high places (3rd story or higher)
 - f. Any potentially life-threatening injury

3) Environmental Crimes

- a. Large fires caused by hazardous materials, chemicals, etc.
- b. Explosions
- c. Oil spills or other large chemical spills.
- d. Train crashes
- e. Scrap yard fires/explosions
- f. Anytime an evacuation is necessary and/or hazmat suits are required.

Note: These are the general guidelines. If you are ever in doubt, call the Command Post 24/7.

Things to Consider

- The initial call to the DA Command Post should be made as soon as practicable after the scene has been stabilized. The reason for this is so an investigator can start responding sooner rather than later (there are very few OSHA investigators in the Southern California region). In addition, the sooner the call is made, the faster a decision can be made whether to roll out the investigators. The call to the Command Post will normally be made by the patrol or detective sergeant.
- If the DA and OSHA investigators are responding to the scene, handle the area as a crime scene and restrict access by using yellow crime scene tape. When the scene is stable, photographs should be taken as soon as possible. In the majority of successfully prosecuted OSHA cases, initial crime scene photos and statements were obtained by the law enforcement agency first on scene. Often times, foremen/supervisors or employees will attempt to tamper with or remove evidence when no one is looking. Therefore, timely crime scene photos are critical.

- Statements from key witnesses should also be obtained in a timely manner. Employees' statements sometimes change due to fear of losing their jobs. Once OSHA investigators arrive, they will request any photos, FI's or statements we have obtained.
- The patrol officer will complete a basic crime or incident report and the OSHA investigator will handle the follow-up investigation.
- The DA investigator is on scene in case the supervisor or employee in charge contacts a lawyer, who then responds to the scene and attempts to intimidate or impede the investigation. The DA investigator can also be instrumental in obtaining search warrants or other court orders that may be needed at the scene.