Accident investigation should be the cornerstone of any safety program. Many safety programs concentrate on safety inspections and training, but miss out on accident investigation. They do so at their own peril. Investigating accidents is not only a good idea, but also a requirement. Here, we provide some guidance and tools to complete an accident investigation.

OSHA strongly encourages employers to investigate all incidents in which a worker was hurt, as well as close calls (sometimes called "near misses"), in which a worker might have been hurt if circumstances had been slightly different. National Safety Council defines accident as an undesired event that causes an injury or property damage. An incident, on the other hand, is an unplanned, undesired event that adversely affects the completion of the task. Near misses are events with no injury or loss, but with a slight shift in time or location, an injury would have easily happened.

To many, "accident" suggests an event that was random, and could not have been prevented. Since nearly all worksite fatalities, injuries, and illnesses are preventable, OSHA suggests using the term "incident" investigation.

**Accident Investigation**

Accident investigations should be conducted by trained individuals with the primary focus of understanding why the accident or near miss occurred and what actions can be taken to preclude recurrence. In smaller organizations, the responsibility may lie directly with the supervisor responsible for the affected area or employee. Questions to ask in an accident investigation include:

1. **What happened?**

   Describe what took place to prompt the investigation: an injury to an employee, an incident that caused a production delay, damaged material or any other conditions recognized as having a potential for losses or delays.

2. **Why did the incident happen?**

   Obtain all the facts surrounding the occurrence: what caused the situation to occur; who was involved; was/were the employee(s) qualified to perform the functions involved in the accident or near miss; were they properly trained; were proper operating procedures established for the task involved; were procedures followed, and if not, why not; where else does this or a similar situation exist, and how can it be corrected?

3. **What should be done?**

   The person conducting the investigation must determine which aspects of the operation or processes require additional attention. It is important to note that the purpose here is not to establish blame, but to determine what type of constructive action can eliminate the cause(s) of the accident or near miss.
4. What action has been taken?

Action already taken to reduce or eliminate the exposures being investigated should be noted, along with those remaining to be addressed. Any interim or temporary precautions should also be noted. Pending corrective action and reason for delaying its implementation should be identified.

Corrective action should be identified in terms of how it will prevent a recurrence of the accident or near miss and how it will improve the overall operation. This will assist in selling solutions to management. The solution should be a means of achieving accident control and total operation control.

The safety committee should review investigations of all accidents and near miss incidents to assist in recommending appropriate corrective actions to prevent a similar recurrence. Thorough investigation of all accidents and near misses will help you identify causes and needed corrections, and can help you determine why accidents occur, where they happen, and any accident trends. Such information is critical to preventing and controlling hazards and potential accidents.

**Accident Investigation Form (See Attached)**

**Fraud Prevention Tool:** Keep in mind that properly competed investigations can later serve as tools in fraud prevention as well. At the time of the accident, it is not apparent which case will be considered fraud and which one will end up in litigation. Statements noted at the scene of the accident carry sufficient evidentiary weight in legal situations. Forms that are normally and customarily completed by corporations are admissible evidence and statements given immediately after an accident or incident are admissible as well. Questions to ask in an accident investigation include:

**Age:** Noting the age, at times, help us determine if the injury occurred to an aged person involved in strenuous work activity. You may have to provide training, engineering controls to prevent the injury from reoccurrence. At times, you may need to reassign the person to another job function temporarily. Do not discriminate on the basis of the injured employees’ age.

**Accident Time/Date v. Reported Time/Date:** Normally, accidents are visible to other employees in the work area. However, many times the employee reports an accident much later than its occurrence. It could be genuine, i.e., the back sprain really started hurting the next day. Or it may be that a personal injury at home or during recreational activities is being attributed to workplace injury. Record the facts now; it may help your case later. You may also document the date/time the employee sought medical assistance on the form.

**Equipment Being Operated:** Was the employee trained in its use? Is the equipment new? Was the equipment damaged or in need of repair? Is the equipment being used for the task it has been provided for?

**Part of Body Injured:** Document the part of the body injured and the extent of injury and loss of motion etc. Sometimes the employee reports injury to one part of the body. However, the employee may later (and when lawyers arrive) decide to list a whole lot of other body parts with injuries. Your document cannot refute all other injuries alleged by the employee, but it definitely gives guidance to your counsel as to what the employee reported at the instant of the injury.

**Description of Accident:** Be careful in stating your case. Just state the facts. Remember this document may go in the hands of people litigating the case against you. If the injury involves a
serious accident, such as amputation or fatality, ask your lawyer to help you with the forms. OSHA will use this document to weave penalties that can reach into the thousands, so a word of caution here.

**Primary Causes:** The trio that is the root cause of most accidents is improper tools, improper procedures, or the employee was in a hurry. Whatever the cause, write it down. It is your possible solution to prevent the injury from reoccurring.

**Corrective Measures:** Generally, the corrective action may be obvious and the action you intend to take is clear. If not, you may discuss options and actions with others and complete another form for documenting steps taken to prevent such accidents. It may involve safety training, providing personal protective equipment or its use thereof, purchasing new equipment, or good old-fashioned counseling of the employee. Equipment LOTO must be noted if the equipment was defective or damaged.

**Witnesses:** Document witness statements. The sooner, the better. Memory begins to fade with the passage of time. Some people avoid this, stating that the nature and severity of accident does not require one. We believe a good practice is good practice for a reason. Document all who saw and what they saw in each accident you document. If the accident involves a serious injury or a fatality, ask your lawyer to take witness statements.

**Employee Counseling Form (See Attached)**

Once you have found the root cause of the accident, it is important to counsel the employee. If the accident involves carelessness as a cause, state that the employee may face disciplinary actions consistent with the employer’s policy on such matters up to and including suspension or termination. Lack of action on part of management may implicate the manager for not taking preventive action that could have prevented future accidents. California statutes carry jail term for managers of sites where employees were killed or seriously injured.

**Employee Declining Medical Treatment (See Attached)**

The nature of certain injuries may be such that the employee declines treatment from a clinic even though the employer provided the option. In certain instances, you may not give the employee the option to decline treatment. Use your judgement. The law says that you must provide employee treatment when you have knowledge of workplace injury! Forms for documenting the employee declining medical treatment are attached and may be used as necessary.

**DISCLAIMER:** Information from the Fed/OSHA and Cal/OSHA website was obtained in the making of this newsletter. The contents of this newsletter are merely for informational purposes only and not to be considered as legal advice. Employers must consult their lawyer for legal matters and safety consultants for matters related to safety. The article was authored by Sam Celly of Celly Services, Inc. who has been helping automobile dealers comply with EPA & OSHA regulations since 1987. Sam received his BE (1984) and MS (1986) in Chemical Engineering followed by a J.D. from Southwestern University School of Law (1997). Our newsletters can be accessed at [www.epaoshablog.com](http://www.epaoshablog.com). Your comments/questions are always welcome. Please send them to [sam@cellyservices.com](mailto:sam@cellyservices.com).