

## Standard Interpretations

/ Determining who is responsible for recording an Injury or illness of police officer candidates when they attend training at a police academy.

▪ **Standard Number:** 1904.31

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <https://www.osha.gov>.

March 17, 2021

Mr. Edwin G. Foulke, Jr.  
1075 Peachtree Street, NE  
Suite 3500  
Atlanta, GA 30309

Dear Mr. Foulke:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding the recordkeeping regulation contained in 29 CFR Part 1904 – Recording and Reporting Occupational Injuries and Illnesses. You request clarification on who is responsible for recording injuries and illnesses of police officer candidates when they attend training at a police academy.

**Scenario:** In your letter, you state that you represent a private employer who is required by federal regulations to maintain a state licensed police force at its facility. Under the regulations of the state where your client's business is located, candidate police officers must attend classes and graduate from a local police academy. You also state that these candidate officers are employees of and paid wages by your client, but they are under the exclusive day-to-day supervision and direction of the police academy staff while attending the training. In addition, you note that your client has no control over the activities performed by the candidate officers, nor the hazards presented within the police academy during academic instruction and training.

**Question:** Given the lack of day-to-day supervision and control over activities and hazards, does my client need to record the injuries and illnesses of its employees when they attend training at the police academy?

**Response:** Yes. Section 1904.31(a) of OSHA's recordkeeping regulation provides that employers must record the recordable injuries and illnesses of all employees on their payroll, whether they are labor, executive, hourly, salaried, part-time, seasonal, or migrant. Employers are also responsible for recording the injuries and illnesses of employees not on their payroll if the employer supervises these employees on a day-to-day basis. Day-to-day supervision occurs when "in addition to specifying the output, product or result to be accomplished by the person's work, the employer supervises the details, means, methods and processes by which the work is to be accomplished." Under OSHA's recordkeeping regulation, an employer is performing day-to-day supervision when that employer controls conditions presenting potential hazards and directs the worker's activities around, and

exposures to, those hazards. See, OSHA's Frequently Asked Question (FAQ) at <http://www.osha.gov/recordkeeping/entryfaq.html>. For purposes of OSHA recordkeeping, the concept of day-to-day supervision is applied when employees perform work activities at a location away from their home establishment. For example, a host employer is responsible for recording work-related injuries and illnesses when that employer provides day-to-day supervision over temporary workers from a staffing agency.

Under OSHA's recordkeeping system, in order for the concept of day-to-day supervision to apply, there must be an employer-employee relationship. Based on the information in your letter, your client's employees are present at the police academy for the purpose of receiving training. As such, they are not conducting work activities on behalf of the training academy, and are therefore not under the day-to-day supervision of that employer. In other words, when your client's employees receive educational instruction and training at the police academy, they are students, and are not performing work activities for that employer.

Additionally, employees may be injured or made ill as a result of events or exposures away from their home establishment. Section 1904.5(b)(1) provides that the work environment includes the establishment and any other locations where one or more employees are working or are present as a condition of their employment. For example, if a delivery driver experiences an injury to his or her back while unloading boxes and transporting them into a building, the worker is engaged in a work activity and the injury resulted from an event occurring in the work environment. Thus, when employees are working or conducting other tasks (such as training) in the interest of their employer, but are at a location away from the employer's establishment, the work-relatedness of an injury or illness that arises is subject to the same decision making process that would occur if the case had occurred at the establishment itself. See, the January 19, 2001, preamble to the final rule revising OSHA's recordkeeping regulation, 66 Federal Register 5916 at 5960. Also, please note that an employer's obligation to record the work-related injuries and illnesses of its employees is not dependent on whether the cases are preventable, fall within the employer's control, or are covered by the employer's safety and health program. *Id.* at 5961. In the scenario described in your letter, your client's employees are receiving occupational training and are present at the police academy as a "condition of their employment." Accordingly, your client is responsible for recording the recordable injuries and illnesses of their employees when they attend training at the police academy.

We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in responses to new information. To keep appraised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

Sincerely,

Lee Anne Jillings, Acting Director  
Directorate of Technical Support and Emergency Management

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