



NORTH AMERICAN CONSTRUCTION SUMMIT

JW Marriott Camelback Inn Resort & Spa | Scottsdale, AZ | February 9-10, 2026

The Do's and Don'ts with OSHA Investigations



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Can OSHA Investigations Be Beneficial?



- Gather and maintain relevant information
- Useful in the event of litigation
- Help identify bad actors / fraud
- Maintain company reputation
- Demonstrate commitment to safety culture



When OSHA Shows Up

- Unannounced visits are common
- Triggered by complaints, accidents, referrals, programmed inspections, follow-ups
- Ask to see OSHA ID
- Confirm reason for inspection
- Clarify areas OSHA will inspect



Do: Stay Professional & Organized

- Greet inspector respectfully
- Provide meeting space
- Request reasonable time to have legal / safety expert present
- Assign knowledgeable escort
- Have documentation ready

Do: Provide Requested Documents Only



- OSHA 300 logs
- Training records
- Safety programs
- Equipment certifications
- Keep copies of everything provided

Do: Conduct Your Own Parallel Inspection



- Take photos and notes
- Record measurements
- Interview employees separately
- Never remove hazards before documenting
- Never modify logs or records
- Maintain site integrity

Do: Correct Hazards Immediately



- Fix simple issues on the spot
- Document corrective actions
- Show proactive safety culture



Do: Be Honest & Factual

- Answer truthfully
- Keep responses concise
- Say “I'll verify that” if unsure
- Only answer what is asked; Don't volunteer extra information
- Avoid opinions or assumptions
- Stick to facts



Don't: Obstruct or Delay

- Don't refuse access
- Don't stall or hide information
- Don't argue with inspector
- Always escort inspector
- Provide context

Don't: Coach or Intimidate Employees



- Employees must speak freely
- Coaching can be retaliation
- Ensure workers know rights



Union vs Non-Union Projects: Key Differences

- **Union Jobsite or Plant:**

- - Union reps may participate in inspection
- - OSHA may interview workers with union rep present
- - Communication follows labor–management protocols
- - Safety committees may be involved
- - Investigations may be more formal due to CBAs
- - Workers often more aware of rights

- **Non-Union Jobsite or Plant:**

- - No union rep involved
- - Employer must ensure workers know interview rights
- - Communication less structured
- - Safety culture varies by management
- - OSHA may check for fear of retaliation
- - Internal investigations more flexible



Federal OSHA vs State-Plan OSHA

- Federal OSHA conducts inspections in non-state-plan states
- State-plan OSHA agencies conduct inspections in their states
- State standards must be at least as effective as federal OSHA
- Some states have stricter rules (heat illness, fall protection, reporting)
- Penalties, appeals, and processes may differ
- State emphasis programs may target different industries

TOP 10 OSHA VIOLATIONS – CONSTRUCTION



10. Title: Respirable Crystalline Silica

Subpart: Toxic and Hazardous Substances

Number of Citations: 585

9. Title: Specific Excavation Requirements

Subpart: Excavations

Number of Citations: 631

8. Title: Inspections, Citations & Penalties

Subpart: Abatement Verification

Number of Citations: 669

7. Title: Head Protection

Subpart: PPE and Life Saving Equipment

Number of Citations: 774

6. Title: General Safety & Health Provisions

Subpart: General Health & Safety Provisions

Number of Citations: 999

TOP 10 OSHA VIOLATIONS - CONSTRUCTION



5. Title: General Requirements - Scaffolds

Subpart: Scaffolds

Number of Citations: 1,835

4. Title: Eye and Face Protection

Subpart: PPE and Life Saving
Equipment

Number of Citations: 1,892

3. Title: General Requirements

Subpart: Fall Protection Training

Number of Citations: 2,176

2. Title: Ladders

Subpart: Ladders

Number of Citations:
2,716

1. Title: Duty to Have Fall Protection

Subpart: Fall Protection

Number of Citations: 6,632

OSHA VIOLATIONS - CONSTRUCTION



Fiscal Year 2024

- Inspections: 10,538 (49% increase over FY 2022)
- Citations: 26,220 (52% increase over FY 2022)
- Total fines **\$117,821,552** (63% increase over FY 2022)

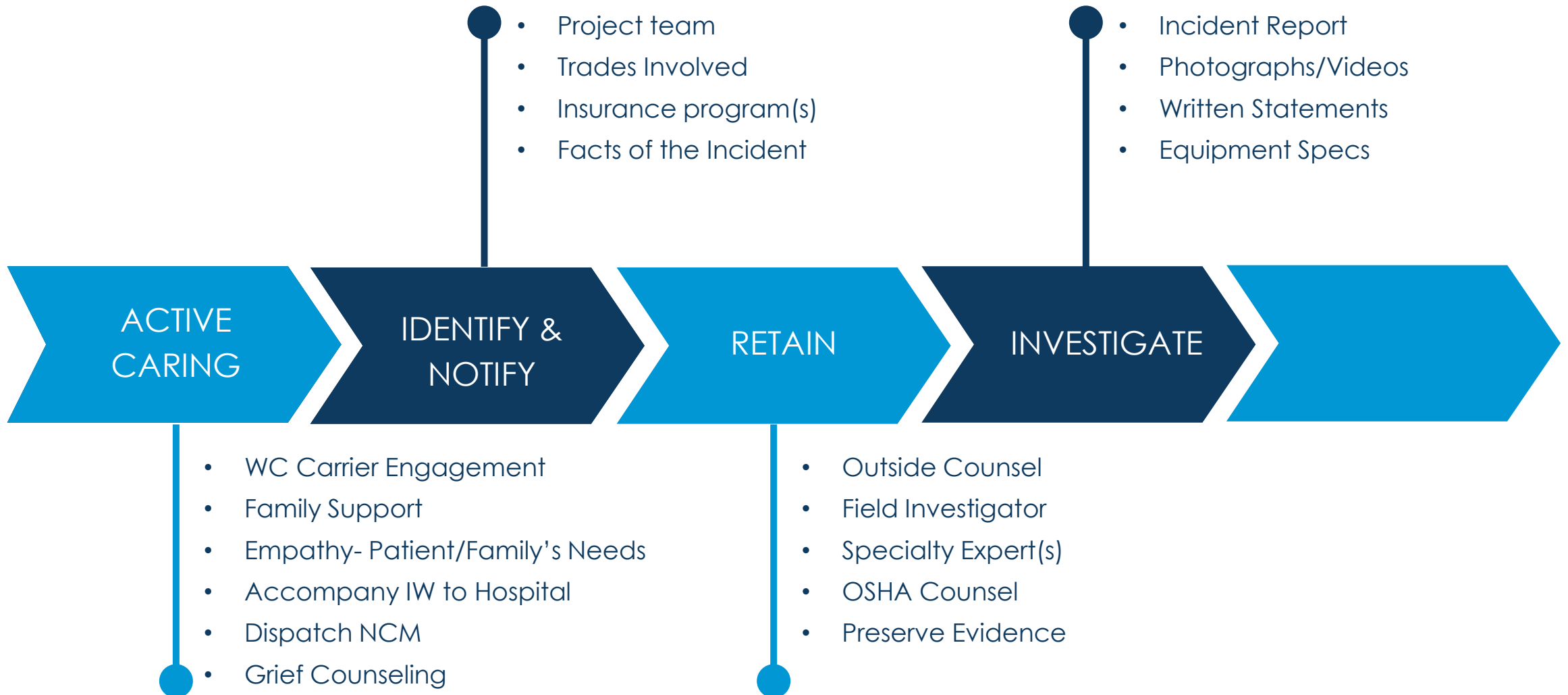


RAPID RESPONSE – LIABILITY



- Benefits of OSHA Certification
 - Access to construction sites
 - Knowledge of safety standards, common OSHA violations, instrumentalities involved
- Purpose
 - Preservation of physical evidence
 - Gathering documents critical to liability and risk transfer
 - Taking statements before witnesses "disappear"
- Value Added to Defense/Claims Management
 - Experts and investigators are involved EARLY
 - Work product and attorney-client privileges triggered
 - Realistic liability picture on Day 1
 - Evidence procured to pursue risk transfer as soon as possible
 - Potential to head off litigation through pre-suit resolution
 - Prevention of spoliation charges in litigation

POST INCIDENT RESPONSE



Closing Conference: Your Last Chance



- Ask for clarification
- Discuss abatement timelines
- Correct misunderstandings
- Take detailed notes



Case Study #1

- 3-story Wood-Framed Apartment Complex
- Framers used a Job-Built ladder to access the various floors
- A different sub-contractor came on-site and used the job-built ladder.
- While descending, he fell and broke his leg requiring surgery
- Injured worker did not report the Incident and left the jobsite.
- Later, he filed suit against the General Contractor and the Framers.

Case Study #1



OSHA[®] FactSheet

Reducing Falls in Construction: Safe Use of Job-made Wooden Ladders

Workers who use job-made wooden ladders risk permanent injury or death from falls and electrocutions. These hazards can be eliminated or substantially reduced by following good safety practices. This fact sheet lists some of the hazards workers may encounter while working on **job-made wooden ladders** and explains what employers and workers can do to reduce injuries. OSHA's requirements for job-made ladders are in Subpart X—Stairways and Ladders of OSHA's Construction standards.

What is a Job-made Wooden Ladder?

A job-made wooden ladder is a ladder constructed at the construction site. It is not commercially-manufactured. A job-made wooden ladder provides access to and from a work area. It is not intended to serve as a work platform. These ladders are temporary, and are used only until a particular phase of work is completed or until permanent stairways or fixed ladders are installed. A 24-ft. job-made ladder built to the American National Standards Institute (ANSI) A14.4-2009 non-mandatory guidelines is shown below.

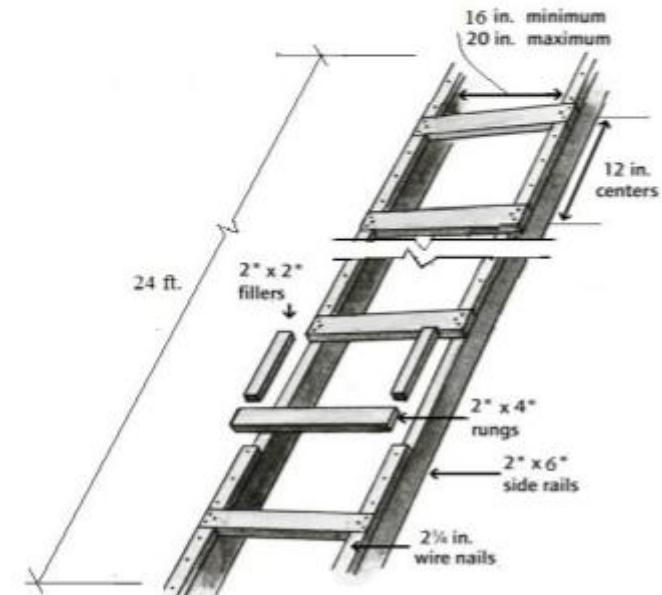


Figure 1: Single-Cleat Ladder



Case Study #1

Testimony of the Frammer:

**“...had OSHA come out and approve it,
and we have been using it ever since.”**



Case Study #2

- 6-story condominium building
- Undergoing roof replacement and other improvements
- The superintendent of the roofing company stepped onto a soffit at the roof and fell through.
- He sustained fatal injuries.

Case Study #2





Case Study #2

Roofing Company had a site-specific safety plan:

@High Roof- Warning Line System set up a minimum 6 feet from roof edge. Warning lines rigged so that the lowest point is not less than 34" from the working surface and the highest point no more than 39" from the working surface. Warning lines flagged with high visibility material at no more than 6' intervals. 100% individual tie off with personal fall protection to a roof anchor point.

Case Study #2



...And a daily Hazard Analysis:

Higher Level – Roof Access	Fall Hazard	<p>Only climb on properly constructed ladders, scaffolding and platforms.</p> <p>When portable ladders are used for access to an upper landing surface, the ladder side rails shall extend at least 3 feet (0.9 m) above the upper landing surface to which the ladder is used to gain access; or, when such an extension is not possible because of the ladder's length, then the ladder shall be secured at its top to a rigid support that will not deflect, and a grasping device, such as a grab rail, shall be provided to assist employees in mounting and dismounting the ladder. In no case shall the extension be such that ladder deflection under a load would, by itself, cause the ladder to slip off its support. Always have ladders tied off. Maintain a 4:1 lean ratio with ladders. Use both hands when climbing a ladder. An employee shall not carry any object or load that could cause the employee to lose balance and fall. Keep access ways clear of debris, materials, tools, equipment and etc. Watch for overhead power lines.</p>
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Case Study #2



Case Study #2





Key Takeaways

- Be prepared and professional
- Document everything
- Fix hazards quickly
- Avoid speculation
- Use closing conference strategically



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