

THE 5Cs

for Taking A Bulletproof Injured Worker Recorded Statement

Our goal in workers' compensation is to accept 100% of the claims that we should, and 0% of the claims that we shouldn't. A high integrity workers' comp claim investigation should obtain as much information as possible in order to make the correct decision on a claim. A highly trained investigator, skilled lawyer, or effective adjuster follow a proven system and process to interview an injured worker following an injury.

Stuart Colburn defines this process as Colburn's 5 Cs.

- COMFORT
- CONVERSATION
- CONFIRM
- CONFRONT
- CONCLUDE



Stuart Colburn
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Comfort

The goal of the initial stage of the interview is to establish rapport with the injured worker and make them feel comfortable.

Being a good listener is among the most important requirements to ensure the injured worker is comfortable. Only through hearing and understanding what the other person is saying can you gain insight into their perspective.

Comfort tips:

- Be nice; you will catch more flies with honey than vinegar
- Break the ice with light discussion, ask how they are doing
- Take your time
- Solve the problems you can

Stuart Colburn: The start of this process is actually to listen to what the injured worker is saying. Look them in the eyes if you're in person, ask follow-up questions. If there's a lull, say, "Go on, I understand, tell me more." All of the questions you ask should be open-ended without judgment.

I don't care how bad the story sounds, let them tell the story. Let the injured worker know that you actually care about them, again, with integrity.

Making the injured worker comfortable is an essential foundation and first step to a successful investigation. If you fail at this step, the investigation will suffer regardless of how well the remaining four steps are completed.

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Conversation

Effective communication with an injured worker regarding the injury is both receiving and giving information to engage in conversation and define exactly what happened.

Stuart Colburn: A conversation means open-ended questions using active listening techniques, speaking with integrity, and letting the injured worker tell their story. Don't interrupt to the extent that you can and try to keep them somewhat focused. Let them have their say as the conversation section is where you're going to obtain a lot of information.

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An effective technique you can use to obtain the information you need is to use signposting. Signposting is bringing up a new topic such as, tell me about the mechanism of injury, how did the injury occur? The next question might be to ask who the witnesses were?

Don't judge, take notes, and be ready to use the information in the third section, confirmation.

Confirm

The confirm stage is summarizing what the other person has said without inserting your judgments. The goal of this stage is to tie-down the statements to eliminate confusion, gray area, or open-loops in the story that can cause problems later in the claim.

Pursuing the word, No.

Stuart Colburn: *What separates the truly great in interviewing an injured worker is the ability to confirm information. Confirming means that the questioner is now going to take a more active role. Go back and take all of the information received in the conversation section and confirm what they said using a technique called pursuing the no.*

Tips for pursuing 'the No' include:

- Make sure that the injured worker, a month or a year later, can't expand the damages or injury when they hire an attorney, or they get with a bad doctor.
- Be politely persistent and continue asking questions until the injured worker confirms a no answer and eliminates all gray area.

Example:

- I asked them in the conversation step about the witnesses of the injury, and now I want to confirm the only witnesses were Mary and Tom as they stated. You want to eliminate the possibility they can come back later and say Charles also witnessed the injury.
- I would say "you told me that Mary and Tom witnessed the injury, is that correct? Yes. Were there any other witnesses? No. I've pursued the no, so they can't come back later and change their story."

Confront

The confront stage is typically not recommended in an injured worker interview. However, it is the step of the process where you would address any questionable behavior or information such as employment issues, video evidence, etc. If this type of information exists that needs to be addressed, then the confront stage is the time it should be handled.

Use the confront stage sparingly and only when necessary.

Conclude

The conclude stage is an additional opportunity to confirm and re-confirm information that was expressed during the conversation stage. This stage will also allow the injured worker to clarify information and give a chance to reevaluate what he said.



Stuart Colburn:

Concluding is the end of the interview and a very important step. If I think that the

witnesses are an important part of the investigation, then I would re-confirm this point during the conclude step by saying "Okay, I think we're at the very end here, let me look at my notes. It looks like you stated the witnesses to the injury were Tom and Mary, but not Charles, is that right?"

It's a third opportunity for the claimant, especially if you know they're lying, or suspect they're lying, to put something down that allows your attorney to go back and say, "You had three separate occasions in the conversation section, in the confirmation section, and the concluding section, to tell the truth, and you chose to lie all three times, didn't you?" It gives the tools to your attorney to win should the claim go to litigation.



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