



41st Annual Conference

DON'T BE VICTIMIZED BY FRAUDULENT WORKERS' COMPENSATION CLAIMS

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WHAT IS INSURANCE FRAUD?

- Insurance Fraud occurs when people deceive an insurance company or agent to collect money or benefits to which they are not entitled.
- It is a criminal act requiring a material and intentional misrepresentation in order to obtain a benefit, or cause a benefit due to someone to be denied.
- Fraud may be committed by applicants for insurance, policyholders, third-party claimants, and professionals who provide services to claimants, agents, and company employees.

INSURANCE FRAUD

- There is a difference between *claim exaggeration*, or inflation of a claim, and *claim fraud*.
- Insurance fraud, as stated earlier, must involve a **material misrepresentation**, meaning a lie involving significant, pertinent, relevant information or data.
- The misrepresentation must be intentional. Those guilty of fraud have *chosen* to commit fraud.

TYPES OF INSURANCE FRAUD

Insurance fraud can be referred to as “hard” or “soft.”

- **Hard Fraud**: Someone makes a deliberate attempt to fake or stage an accident, injury, theft, arson or other loss to collect money illegally from insurance companies. Crooks often act alone, but increasingly, organized crime rings have begun staging large schemes which essentially steal millions of dollars.
- **Soft Fraud**: Normally honest people often tell “little white lies” to their insurance company. Many people think it is harmless fudging. Soft fraud is typically not premeditated, but rather the exaggeration of an otherwise legitimate claim. Nonetheless, soft fraud is a crime, and raises everyone’s insurance costs.

EXAMPLE OF SOFT FRAUD

- Many may consider the following “harmless” fibs...
 - An injured worker misses or cancels medical appointments that would release them to return to work.
 - A legitimately injured worker exaggerates his condition and pain to his doctor .
 - Malingering.
- Is it Fraud? Is it intentional and was it misrepresented?

THE EFFECTS OF INSURANCE FRAUD

- Insurance Fraud remains the number two economical crime in America, next to Tax Evasion
- According to the Coalition Against Insurance Fraud, insurance fraud results in at least \$80-billion annually.
- \$80-billion annually means that if Insurance Fraud, Inc. was a legitimate property and casualty carrier it would be the largest in the US. (source INSWEB.com)

**HOW DO WE MINIMIZE OUR
CHANCES OF BEING A VICTIM?**

WHAT THE INSURED CAN DO TO HELP

- Freeze the facts – obtain written statements from all parties involved, to include witnesses.
- Secure any equipment involved in the injury.
- Take photographs of the scene and injured worker.
- Secure any CCTV video.
- Report tips to the adjuster.
- Ensure you have the current contact information to include email address of injured worker.

COMPLIANCE

- Training & Awareness
- Mandatory reporting
- Annual Reporting

INVESTIGATION

- Data Analysis / Backgrounds
- Claims Investigation & Consulting
- Comprehensive Claims Investigation
- Surveillance Investigation
- SIU Fraud Investigation
- Fraud Prosecution and Tracking

MANDATORY STATE FRAUD REPORTING

- Mandatory Reporting is the law in 48 of the 50 states. If you have reasonable belief of fraud, by law, it must be reported.
- Non-compliance invites time consuming Department of Insurance Audits.
- Non-compliance penalties range from large fines \$10k per occurrence (CA), to criminal penalties and jail time (AR) and variations in between.
- California Department of Insurance has increased audits over the last ten years.

FRAUD VS. ABUSE

ABUSE:

- Abuse is any practice which uses the insurance system in a way contrary to either the intended purpose of the system or law. Abuse includes some behavior which is criminal and some which is not. Criminal abuse is called fraud.

vs.

FRAUD:

- In elementary terms, fraud occurs when someone knowingly lies to obtain an insurance benefit to which they are not otherwise entitled.

REASONABLE BELIEF

- “Reasonable Belief” is defined as the presence of “Red Flags” and/or articulated facts leading you to believe the claim is, or may be, fraudulent.
- Once “Reasonable Belief” has been established, the case should be referred to your SIU Department.

RED FLAGS

- The presence of one or more “Red Flags” is not necessarily proof of abuse or fraud but can be a good indicator something is not right.
- “Red Flags” trigger us to take a closer look at the file.

EXAMPLES OF RED FLAGS

- Employee is new, disgruntled, soon-to-retire, or facing layoff.
- Employee was recently disciplined.
- Accident is not the type that the employee should be involved in, i.e. an office worker who is lifting heavy objects on a loading dock.
- Employee changes physician when a release for work has been issued.
- Physical description of employee is not consistent with the extent of the disability.
- First notification of injury or claim is made after employee is terminated or laid off or is submitted by a physician or attorney.
- Tip” indicates that the employee is currently employed elsewhere or participating in activities that exceed his/her limitations.
- Employee cancels or fails to keep medical/legal appointments.

INVESTIGATIVE TOOLS

- Special Investigations (SIU Services)
- Surveillance
- Recorded Statements
- Accident Scene Inspections
- Alive and Well Checks
- Asset Investigations
- Public Records/Documents Requisition
- Accident Reconstruction Program
- Database Background
- Criminal/ Civil History
- Medical Canvass
- Social Networking Investigations

BACKGROUND INVESTIGATIONS

Background investigations can be used to obtain information that will assist the claims handler in making informed decisions about the claim and establishing plans of action related to further investigation, settlement and potential litigation. Generally background investigations can be used to:

- Confirm information provided – i.e. SSN; DOB; Address; Email address
- Develop new information – i.e. new address; aliases; vehicles
- Confirm information obtained during claims investigations
- Develop a profile of the subject being investigated
- Identify potential credibility issues with the claimant or insured
- Develop information to be used during surveillance investigations
- Identify red flags and potential material misrepresentations

BACKGROUND INVESTIGATIONS

Background investigations can support ongoing claims and fraud investigations by uncovering information pertaining to the following types of misrepresentations:

- Concealed claims history
- Concealed medical history
- Prior accidents
- Personal activities
- Property ownership & values (subrogation)
- Legal ownership of business, law firms and medical clinics
- Potential employment
- Prior criminal convictions

CRIMINAL BACKGROUND INVESTIGATIONS

A criminal background investigation will provide information pertaining to misdemeanor and felony charges and convictions for the subject. Criminal backgrounds can be conducted at the Federal, State or County level.

Statewide Criminal Searches are available in the following states:

NY, IL, MI, FL, KS, ME, MN, MT, NE, NJ, NC, PA, RI, SC, TN, TX, VT, VA, WA, WI.

All other states require searches to be conducted at the county level.

Criminal background investigations can contribute to a fraud investigation by identifying:

- Prior convictions that impact the credibility of the subject (insurance fraud, perjury)
- Criminal acts in which the subject may have been injured
- Injuries resulting from the arrest of the subject
- Where to locate medical records in the event the subject was incarcerated.

CIVIL BACKGROUND INVESTIGATIONS

County and federal civil records will provide the name of the litigants, filing dates, case type and case disposition. In some instances a hand search of the records may be required as not all counties have automated records systems.

Civil records searches can assist fraud investigations by identifying:

- Litigation involving the subject
- Auto accidents
- Other claims
- Personal injuries
- Businesses owned by the subject
- The subject's personal and business associates
- Property owned by the subject

INDEX SEARCHES

Claims index and suspected fraudulent activity searches exist for a variety of sources including State Workers' Compensation Boards and national insurance organizations. The most common resources to obtain claims information are:

ISO: Provides access to historical claim data for reporting and member organizations. Basic ISO searches. SIU level ISO

NICB: Provides access to a searchable database for member organization related to subjects, business and medical professionals who have been suspected of or convicted of committing fraud.

EDEX: Provides subscriber access to all litigated claims in the State of California

Claims index searches can assist the SIU to identify:

- Concealed claims history
- Suspects being investigated for insurance fraud
- Suspicious business and medical professionals
- Suspected convicted of insurance fraud
- Stolen vehicles and property

SOCIAL NETWORKING INVESTIGATIONS

An extensive search of established internet social websites to determine if an individual has created a viewable website or joined an internet based Social Networking Group. During a canvass investigators will be looking for information regarding a person's social activities and interests in the following areas: professional associations, groups and clubs, athletic interest or hobbies, Cultural activities and interest. Details will be provided in a comprehensive report.

Considering that one of the most pervasive material misrepresentations on bodily injury claims pertains to stated physical limitations, social networking investigations can be a valuable tool when investigating potential fraud.

SOCIAL MEDIA: LEGAL CONSIDERATIONS

- Information available to anyone with a computer and internet access is considered public.
- Information located in public domains (sites where no passwords or invitations are needed) is repeatedly held by courts as having no expectation of privacy.
- Information located in public domains, and later removed, from the public domains is considered public, before removal.
- Identities of the posting person is public when attributed to a public source (MySpace, Facebook, other sites displaying names or photos).
- If the collection of information requires an invitation on the part of the subject, this can not be done in a deceitful manner in an effort to “fool” the subject. If their account is private, it should remain private, as there is a reasonable expectation of privacy.

QUESTIONS





CASE STUDIES

CASE STUDY –

MOTOR VEHICLE RECORDS & CLAIMS INDEX



- Professional painter.
- Nine days after DOH reported back & neck sprain from lifting 5 gallon bucket of paint
- Treated several years.
- Denied prior injuries to neck, back, head.
- DMV records and further investigation developed a 1999 auto accident in which he treated for five months. 
- Claimed severe limitations associated with accident. 
- Surveillance of him gardening & moving his residence. Claimant denied both activities.
- SIU – Documented Referral
- Arrest made & surprise discovered in back yard
- Convicted – 90 days jail, 100% restitution (\$42,078.02)

CASE STUDY –




SOCIAL NETWORKING INVESTIGATION

- Case began as surveillance of injured worker during an Independent Medical Examination and a hearing.
- On the days of his medical appointment and hearing, claimant was found to ambulate very gingerly, limping and utilizing a cane for support.
- A Social Networking Investigation was assigned and found the claimant was associated with a band. 🚩
- Having reviewed the Internet sites associated with the claimant, it was developed the band would be playing at a local pub. 🚩
- Surveillance was authorized around the band's show and subsequent shows thereafter.
- The claimant was documented on several occasions performing with his band, capable of moving fluidly and without the requirement of any orthopedic supports or devices. 🚩
- Case was referred to SIU where a Documented Referral was prepared for the New York Insurance Department based off the surveillance video and the fact during the aforementioned hearing and medical appointment, the claimant stated on record he could no longer perform his activities with his band.
- Results of the criminal investigation from the New York Insurance Department are pending.

CASE STUDY – INSURED TIP

- Claimant sustained a compensable knee and low back injury while working for the insured as a Chef and was placed on TTD.
- After several months passed, claimant was observed on a television show working as a Chef for a high-end club/restaurant in Las Vegas. 
- Case was referred to SIU for a full evaluation
- Copies of Indemnity checks were obtained which confirmed the claimant cashed the checks before and after the date he was seen on the television show. 
- A Documented Referral was submitted to the Nevada Bureau of Criminal Justice – Workers' Compensation Fraud Unit
- The claimant was arrested and charged with one felony count of Worker's Compensation Insurance Fraud
- The claimant agreed to a plea bargain of a misdemeanor charge and ordered to pay \$3,117.41 in restitution; \$1,000.00 in fines and complete 20 hours of community service
- With remaining reserves, an estimated savings of \$10,269.28 was attributed to the SIU investigation

CASE STUDY – INSURED TIP

- Claimant sustained a compensable work-related injury while employed with the insured.
- While out on Workers' Compensation, claimant allegedly attempted to recruit a co-worker from the insured to assist her with a cleaning business. 
- The co-worker reported this information to the insured, who in turn reported it to the adjuster. 
- Case was referred for surveillance.
- Four days of field efforts found the claimant engaging in activities synonymous with operating a cleaning business including her wearing a shirt bearing the name of the company. 
- Case referred to SIU for mandatory reporting and documented referral.

DO Something

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