

Insurance Fraud Bureau: Does Wisconsin Really Need One?

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Abstract

Wisconsin is one of nine states without an insurance fraud bureau. While states with insurance fraud bureaus maintain records of convictions and cases presented, Wisconsin keeps no such records. In a sense, Wisconsin is blind to the amount of insurance fraud occurring every day within its boundaries. Extensive research was conducted to determine the amount of insurance fraud prosecuted in Wisconsin. It was anticipated prior to this research that many more cases of insurance fraud were being prosecuted in Wisconsin. The research revealed a surprisingly few cases each year. Most counties did not charge a single person for insurance fraud last year and some have never charged for this crime.

In an era when white-collar crime is bilking Americans out of billions of dollars, states can scarcely ignore the problem or deny that one exists in the area of insurance fraud. Fortunately there are prosecutors in Wisconsin who take this crime seriously. The Coalition Against Insurance Fraud, National Insurance Crime Bureau, National Association of Insurance Commissioners and the National Association of Mutual Insurance Companies have all addressed the seriousness of insurance fraud in the global market. While many other agencies have addressed this issue head on, virtually nothing is being done in Wisconsin to educate the public, to deter insurance fraud, and to improve communication among law enforcement and insurance companies.

Introduction

Since 1993, more and more states have established fraud bureaus, also known as insurance fraud bureaus (IFB), to combat insurance fraud. Insurance fraud is without question rampant and this directly affects how much is paid in insurance premiums every year. Insurance fraud cannot be ignored, especially considering the costs to the customer.

The world is a different place since the attacks of 9/11. A quick study reveals much of the financing supporting organized crime groups and terrorist groups came via money laundering. Insurance fraud is an ideal means of laundering money, because the payout is large and the risks are extremely low. Contributing to the issue is the fact that insurance companies are pressured to settle claims quickly or face suits for bad-faith. In the process, fraudsters, terrorists, and general criminals are able to profit. States with IFBs have come to

realize that the cost of ignoring the problem is greater than facing it head-on. After all, no insurance company wants to be known as the company responsible for the financing of terrorists' acts, especially causing the deaths of hundreds or thousands of innocent people. Beyond simply demonstrating a fiduciary responsibility to policyholders or stakeholders, insurance companies must consider national security.

Insurance fraud is about as broad a crime as theft. Insurance fraud can include agents selling phony policies, customers lying on an application for reduced premiums, or an insured inflating a legitimate claim. Some cases of insurance fraud are complex and involve networks of chiropractors, doctors, lawyers, and others who even coordinate and cause auto accidents. Insurance fraud is not limited to low level street thugs.

While insurance companies should safeguard their resources and do all that is possible to prevent, detect, and investigate insurance fraud, they are not a law enforcement or governmental agency. If law enforcement were capable of investigating and prosecuting all crimes, then banks, retailers, and insurance companies, to name a few, would not need their own investigators and legal staff. While private industry may have no authority to prosecute suspected or proven insurance fraud, they can drastically influence the landscape. The role of an insurance fraud bureau must be considered in terms of its effectiveness in deterring, investigating and prosecuting Insurance fraudsters. "Insurance fraud bureaus are an integral element in the enforcement of strict insurance laws" (Goldblatt, personal communication, May 10, 2005). All insurance fraud bureaus have investigators and some even commission prosecutors who are dedicated solely to matters of insurance fraud. They need not compete with other crimes that scream for preference in prosecution. The investigator and prosecutor alike focus on insurance fraud issues.

The operations, governance and funding of fraud bureaus differ among states. Usually an IFB is housed within a state's department of insurance. Sometimes however, the fraud bureau is its own entity, operating outside the scope of the insurance department. For example, Minnesota's relatively new IFB is housed within Minnesota's Department of Commerce.

This study shows the prosecutorial value and deterrence of having a fraud bureau. States hanging in the balance as to legislating for an IFB, may wish to consider if they would wish to be more like Wisconsin or more like the 41 other states with IFBs already in place. If a state wishes to present a unified effort against insurance fraud and wants its citizens to know insurance fraud is handled seriously, then the state usually wants to show the weight of insurance fraud law via prosecutions and convictions. If prosecution of insurance fraud shows consumer insurance fraud is taken seriously by the state, then what does a lack of prosecution show?

This research is important because there is no current information available about prosecution rates of states still without a fraud bureau. According to Dennis Jay, Executive Director of the Coalition Against Insurance Fraud (CAIF), the state of Maine compiled fraud statistics in connection with the enactment of a new insurance fraud law several years ago. He added, "Over time, that data helped us demonstrate the need for a fraud bureau." Furthermore, he added, "It also can help if an insurance department, AG or an insurer association takes the lead" (personal communication, January 27, 2006). According to the Coalition Against Insurance Fraud, there are 41 states with fraud bureaus dedicated to identifying, preventing, investigating and prosecuting insurance fraud of various sorts (2006). This currently makes Wisconsin just one of nine states without an IFB.

Often, states with fraud bureaus develop more referrals and prosecutions in the few years following the implementation of the bureau (Jay, personal communication, January 27, 2006). According to Jay, most states are unaware of the extent of insurance fraud within their borders, until a fraud bureau has been up and running for a couple years. States with IFBs can often justify their existence based upon quantifiable data such as exposure in dollars, referrals, prosecutions and convictions. But who is to say such cases would have never been brought before a district attorney and prosecuted anyway? Past efforts to establish an IFB in Wisconsin have failed. This could indicate that there is not enough fraud in Wisconsin to justify a fraud bureau.

Iowa is geographically proximate and contiguous to Wisconsin. This researcher attempts to show the differences in prosecution rates between the two, along with other states possessing a fraud bureau. Because Iowa and Wisconsin have similar insurance laws and crime rates, the benefit of a fraud bureau should be readily identifiable.

Rationale

States currently without a fraud bureau include: Vermont, Illinois, Michigan, Indiana, Wyoming, Oregon, Maine and Wisconsin. Indiana is actively pursuing legislation that would enact a fraud bureau there. Most other states either have a state fraud bureau already or are gearing up for one, while a select few are opposing the idea.

Just this year Washington was successful in the creation of a state fraud bureau. Washington Insurance Commissioner Kriedler states they have what "amounts to a big welcome sign at our border" (2006). Kriedler, testifying in legislative hearings on January 17, 2006, in support of a dedicated unit to combat insurance fraud, said, "The stark reality is that insurance fraud is too far down the priority list for local law enforcement agencies whose investigators are already stretched to capacity fighting violent crimes and maintaining public safety."

In Wisconsin, Dane County District Attorney Blanchard echoes similar sentiments. According to Blanchard, his office and every district attorney in the state of Wisconsin are dangerously understaffed. He said, "I would not put insurance fraud at the top of our list of priorities, since we have a steady stream of homicide, intentional physical abuse of children, sexual assaults of children, false imprisonment and other such crimes to handle..." (personal communication, December 15, 2005). He adds however that insurance fraud is important to them. If a fraud bureau were created in Wisconsin, "It would be immediately busy as soon as it opened its doors" (Blanchard, personal communication, December 15, 2005).

Blanchard was asked if he knew about how many insurance fraud cases his office faced in a year. Proactive states legally mandate that fraud cases be reported to their fraud bureau. This way, the state has a metric in place showing at least the level of fraud being reported. Blanchard advised his office does not possess staff who could produce a report that would reflect the number of fraud cases. He again mentioned how severely understaffed his office is for the cases they do receive (personal communication, December 15, 2005). Absent from his response though, was any mention that they prosecute any amount of insurance fraud under other statutes. The desire to prosecute insurance is clearly there with Dane County District Attorney Blanchard, but staffing is preventing it, causing insurance fraud and other fraud cases to take a backseat.

The scope of insurance fraud has been repetitively researched in recent years. According to the Insurance Information Institute's Web site insurance fraud costs Americans about \$30 billion each year (Insurance Information Institute [III], 2006). The public is often ill-informed regarding insurance and therefore has a negative view of it. Many believe their insurance policy is an account they should be able to withdraw from at any time. According to a survey conducted by Accenture (as cited in the Insurance Journal, May 25, 2004) 56% of respondents believe people commit insurance fraud because they can get away with it. Thirty two percent believe fraud occurs because they believe they pay too much for insurance premiums, while 24% think it is to offset deductibles (2004). Commenting about this survey in the Insurance Journal, Lucarini says, "Insurance companies need to better equip themselves with integrated tools and technologies that help prevent and combat insurance fraud" (Insurance Journal, 2004). This survey also found that 49% of respondents believe people are discouraged from committing insurance fraud due to increased conviction rates, more serious punishments and media attention surrounding corporate scandals.

Insurance Fraud costs each household an additional \$300 each year in homeowner and automobile insurance premiums, according to an article published on National Association of Mutual Insurance Companies' [NAMIC] Web site (2005). These numbers represent only property and casualty premiums. Fraud in health insurer lines is estimated to be almost three times this amount at \$85-\$120 billion each year, according to NAMIC (2005).

The aim of this research is to determine what Wisconsin is doing about insurance fraud, based upon court activity in Wisconsin. The research compares prosecutions in Wisconsin with states that have insurance fraud bureaus [IFB]. Because of their similarities, a more in-depth comparison was made between Wisconsin and Iowa, as both are in the Midwest and border each other. Their insurance laws are basically the same. Neither is a "no fault" state and both rank near the top for lowest premiums paid by insurance consumers (bankrate.com, 2001); in premiums paid for auto insurance in 2001, only three were higher than Wisconsin ranked and Iowa had the lowest.

Findings

Twenty-one cases of insurance fraud were charged in Wisconsin in 2005. Fourteen cases were prosecuted, leading to findings of pleas of guilty or no contest. Three cases were dismissed. Three cases had dispositions listed as "other," while one case resulted in the issuance of an arrest warrant.

Prosecutions for insurance fraud have never been tallied in Wisconsin before now. The methods of data retrieval were limited to a manual online search and personal contact with several clerks of court in major counties. For instance, Milwaukee County, which is the largest county in the state, charges almost 20,000 cases each year. It was therefore easier to have their clerk of courts query charges by statute. An automated search yielded three insurance fraud charges in 2005 and two in 2004. The subjects in the two 2004 cases pled guilty/no contest in 2005.

The researcher met with clerk of courts representatives from Dane, Racine, Kenosha, Rock and Waukesha Counties. Each queried by statute insurance fraud charges filed for years as far back as 1992. Dane County houses the state capital and is populated with just over 450,000 people. It is the second largest county in Wisconsin. They have charged 12 cases of insurance fraud since 1995, averaging a single charge per year.

118,094 total charges were filed in 2005 by 71 of the 72 counties in Wisconsin. Two counties, Portage and Menominee, did not contribute data to the online database. Portage County reported that one case was prosecuted in 2005, resulting in a guilty plea/conviction (Flatoff, personal communication, March, 2006). Menominee County reported no insurance fraud related convictions and had 55 total charges filed in 2005. Twelve were coded for felony and 43 coded for misdemeanor charges (clerk of courts, personal communication, May, 2006).

A manual case by case search was conducted for the remaining 86,651 cases. Because all cases charged in a given year are not prosecuted that same year, a search of 2004 charges was also conducted for the most populous counties and those that prosecuted fraud in 2005. These counties comprise 63% of the state's

total population. A total of 52,571 charges were searched. This represents nearly half of all the charges filed statewide in 2004. The search yielded only two cases as mentioned above. Milwaukee County charged two cases in 2004 and prosecuted both in 2005. Both pled guilty/no contest. These cases were added to the 2005 prosecution/conviction numbers. One offense occurred in 2003, but was charged and prosecuted in 2005. It appears that once enough information is presented for prosecution, the charge is filed. This may explain why a vast majority of cases charged in a given year are disposed of in the same year.

Of the 21 cases prosecuted in 2005, five were from Sauk County. Sauk County consists of about 57,000 residents (US Census Bureau, 2004). No other county prosecuted five cases in 2004 or 2005. Therefore, these five cases involving staged auto accidents represent an anomaly in Wisconsin.

Milwaukee County represents about 20% of the entire population of Wisconsin and yielded two and three cases charged in 2004 and 2005, respectively. Just 13 out of 72 counties charged persons with insurance fraud in 2005. Most of the 13 counties that charged for insurance fraud charged a single case in 2005.

The Iowa Insurance Fraud Bureau was not able to provide this researcher with prosecutions for 2005. However, prior studies conducted by the CAIF (2002) show that Iowa's Fraud Bureau reported prosecution, conviction and open investigations numbers for the years 1998-2000 and 2002. The Iowa Fraud Bureau was created in 1998. During its first year of operation, 136 referrals were received. There were 11 cases presented for prosecution, leading to four convictions in 1998. These numbers increased significantly over the next few years. In 2002 Iowa had a 16% increase in referrals of suspicious insurance claims, from the year before. There were 393 open investigations according to the CAIF (2002). Twenty three cases were presented for prosecution resulting in 17 convictions. There were 15 convictions each for 1999 and 2000.

The CAIF sent a survey to all state fraud bureaus in 2006, requesting 2005 data. The CAIF provided the researcher with the results of the survey completed by the Iowa IFB. In 2005, Iowa presented 19 cases for criminal prosecution resulting in 13 criminal convictions (Jay, personal communication, June 21, 2006).

The NICB also provided pertinent information consistent with the above data. They reported to the researcher the following numbers of questionable claims reported by agencies in Iowa and Wisconsin: Questionable claims reported in 2004 and 2005 by various Iowa agencies were 274 and 369, respectively. In Wisconsin 2004 claims equaled 466 and 501 for 2005 (Smidt, personal communication, May 25, 2006).

The following data represents the prosecution numbers for cases followed-up by the NICB: Prosecution numbers for Iowa in 2004 and 2005 were eight and five,

respectively. The NICB followed-up on seven and eight conviction cases for 2004 and 2005, respectively (Smidt, personal communication, May 25, 2006).

The data provided by the NICB shows that Wisconsin reports about the same amount of questionable claims, proportionately, as Iowa. Iowa's population is about 55% of Wisconsin's. Likewise, the questionable claims reported to NICB by each state in 2004 shows Iowa reported about 59% as many cases as Wisconsin. This shows the questionable claims per capita is about the same in each state.

This researcher does not believe the NICB was involved in the five aforementioned Sauk County cases in 2005. Baraboo City Detective Edwards was primarily involved in building that case. This researcher assisted in obtaining a confession from one of those convicted. The NICB was not notified regarding this case. Therefore, if you add the eight cases the NICB followed up on, to the five cases in Sauk County you get a total of 13 cases. It is possible another case was prosecuted without the NICB being advised. This validates the accuracy of the 14 Wisconsin prosecutions identified through online records for 2005. So while the numbers should be deemed reliable, if a case or two were missed and added to the 14, the end result would be the same. Whether Wisconsin prosecutes 14 cases or 16 cases each year, the prosecutions per capita in Wisconsin remain under .30.

Wisconsin prosecutes insurance fraud at a rate of .26 per capita. (2000 population was 5,363,675, according to US Census Bureau Data). Using the 2002 data, Iowa has a per capita conviction rate of .58. Per capita then, Iowa prosecutes about twice as many people for insurance fraud than Wisconsin. In 2005 Iowa convicted 13 people or .44 per capita, about twice as many convictions as Wisconsin.

Wisconsin and Iowa are alike in many ways, yet Iowa prosecutes twice as much fraud per capita. When compared with all other states with IFBs, Wisconsin, performs close to or at the very bottom in insurance fraud convictions. Information compiled by the CAIF in 2002 shows conviction numbers reported by about 26 states, with IFBs. Not considering workers compensation bureaus, Wisconsin ranks the lowest of these states in insurance fraud convictions. Some states just have fraud bureaus dedicated to combating workers compensation fraud. Minnesota was such a state in 2002. Minnesota created an IFB in 2004. In 2002 Minnesota's workers compensation bureau convicted just eight people or .16 convictions per capita. However, this does not accurately represent Minnesota's current efforts. Rhode Island has a workers compensation bureau solely and convicted two people or .19 convictions per capita. All other states with broad investigative powers and those who investigate just workers compensation cases, convicted more people per capita than Wisconsin for insurance fraud (see figures 1 and 2).

Figure 1. 2002 Convictions for insurance fraud per capita for 13 IFB states, 2005 conviction numbers represented for Wisconsin and Iowa.

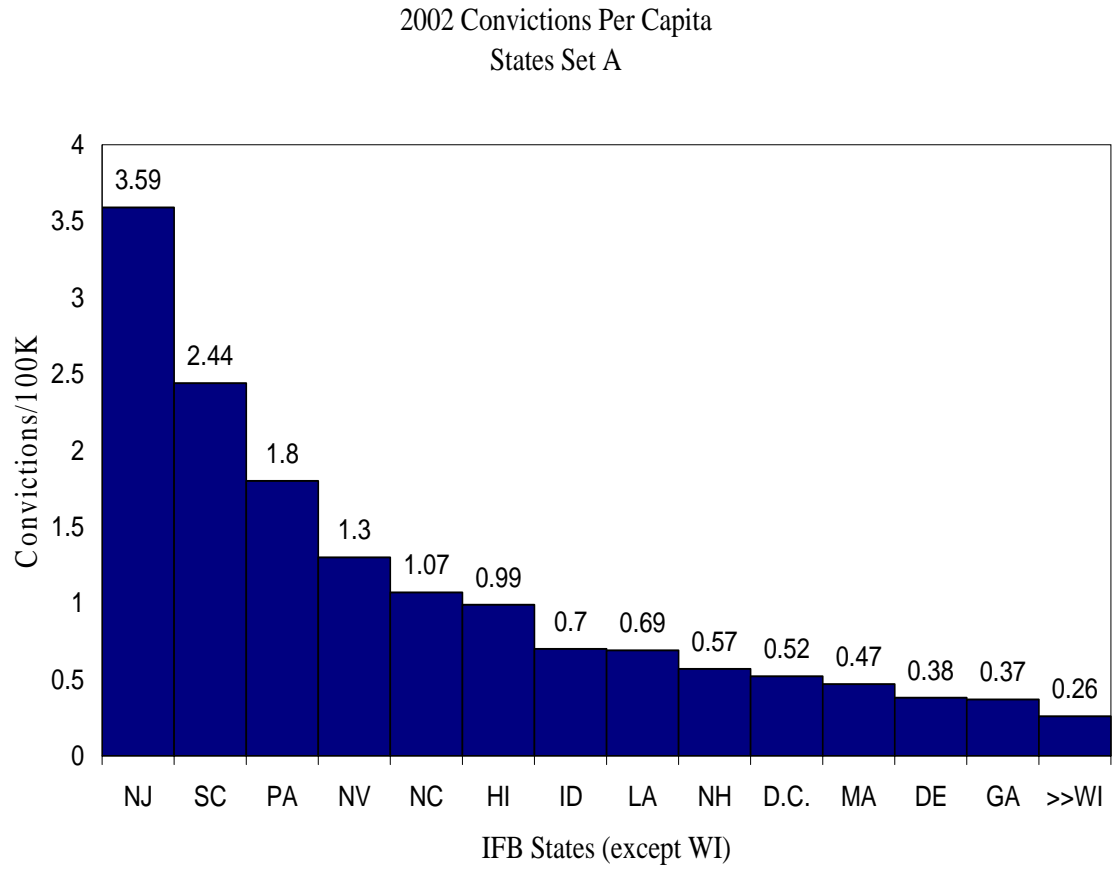
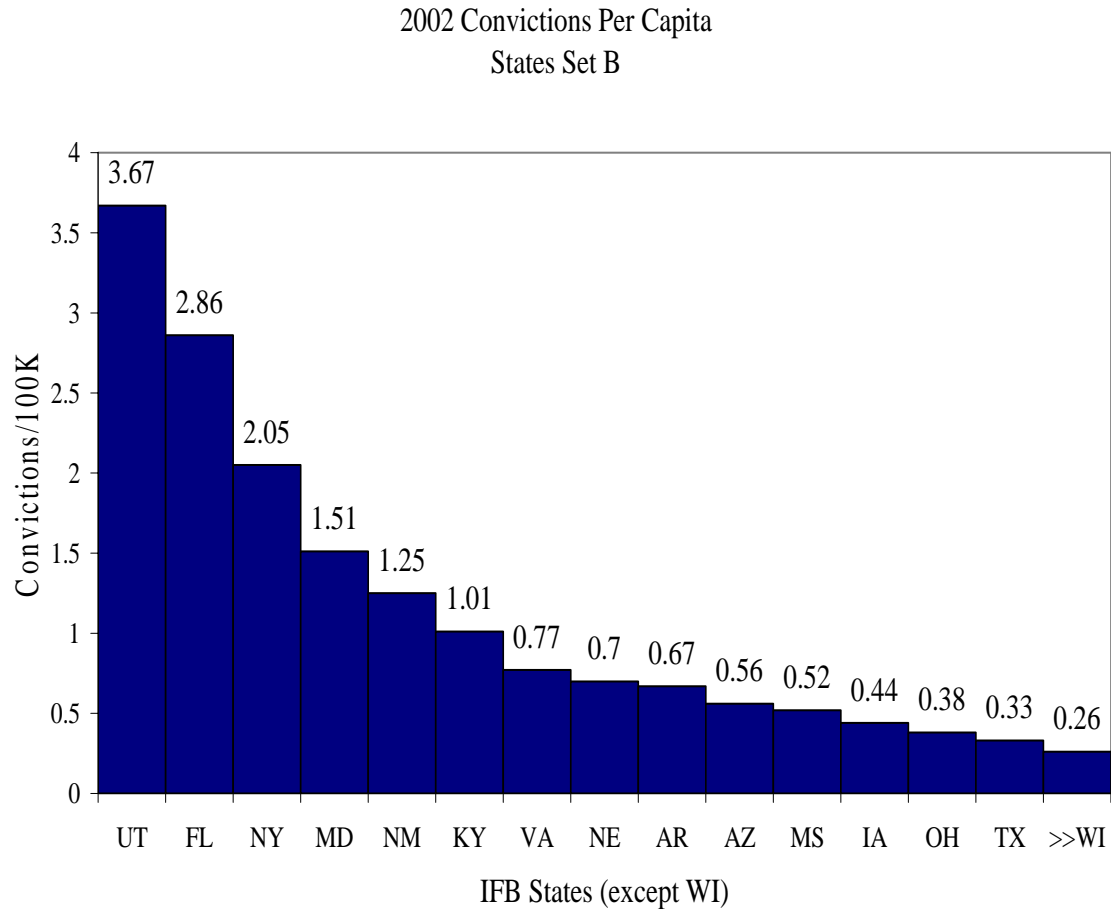
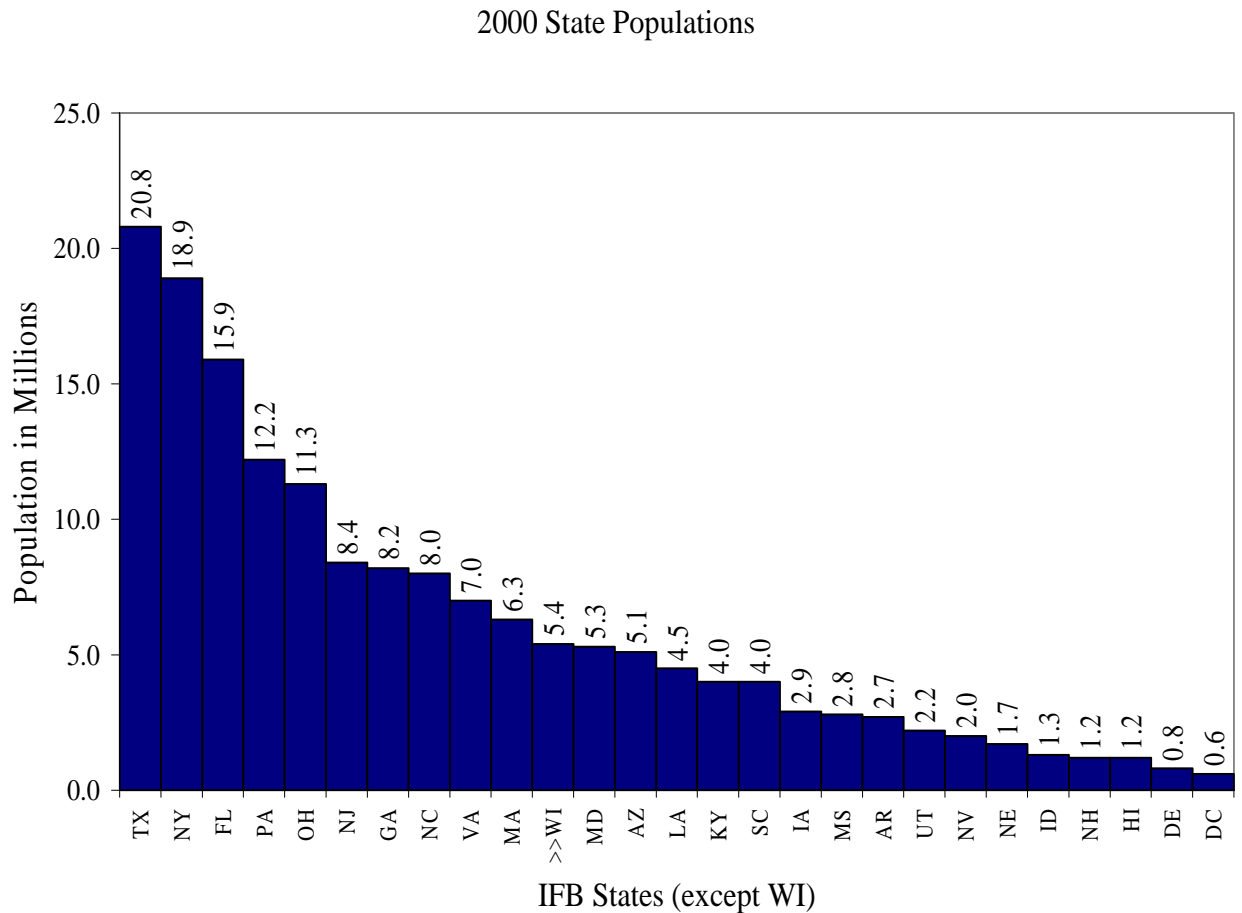


Figure 2. 2002 Convictions for insurance fraud per capita for 14 other states and Wisconsin. 2005 Conviction numbers represented for Wisconsin and Iowa.



The data shows that Iowa prosecutes nearly twice as many people per capita for insurance fraud than Wisconsin does. It also appears that states with IFBs prosecute more fraud than states that do not have IFBs. Of the IFB states Wisconsin was compared with, 16 had lesser populations (see figure 3).

Figure 3. 2000 Populations for IFB states and Wisconsin.

Among the comparison states, many had crime indexes lower than Wisconsin. For instance, from 1960-2000, New York, Kentucky, Virginia, North Dakota, Minnesota, New Jersey, Idaho, and New Hampshire all had better total crime index numbers than Wisconsin. North Dakota ranked 50th, New York 40th, and New Jersey 39th, compared with Wisconsin's 37th ranking. The total crime index is the sum, per capita, of reported property and violent crime incidents. These include robbery, assault, burglary, motor vehicle theft and arson etc. (disastercenter.com, 2005).

To gain a better perspective on these prosecution numbers, questionnaires were sent to twelve fraud experts, anti-fraud leaders and law enforcement in both Iowa and Wisconsin (see Appendix). Many of the fraud experts are currently insurance fraud investigators with prior law enforcement and detective experience. Respondents to the questionnaire possess 273 years combined experience in both law enforcement and insurance investigations. Nearly all respondents believe insurance fraud is prosecuted less in Wisconsin than in other states, because it is not seen as a serious matter, as a result of a lack of education and also a mindset that insurance fraud is an insurance company

issue. Many mentioned the lack of a central fraud fighting force to take on the fraudsters in Wisconsin.

One respondent is not so sure Wisconsin is prosecuting fewer insurance fraudsters, stating instead "that prosecutions are made under statutes other than 'insurance fraud' i.e. Arson, theft, criminal damage etc." Another respondent believes that as a former officer and detective he investigated hundreds of insurance fraud cases, but as embezzlements, burglaries and other white collar crimes. He also believes the only way to curb the costs of fraud is to have a dedicated state task force.

The same respondent shared an interesting first-hand experience regarding the mindset of some regarding insurance fraud. He recalled a time during voice stress analysis training, when his instructor revealed a story about a recent claim. "The instructor told the class he reported a claim involving hearing aids being stolen when they were actually left on his dash and they melted. The whole class of police officers laughed at his story and the insurance company paid out several thousand dollars to buy him new ones."

Another interesting perspective came from an individual who has investigated insurance fraud in many states, but specifically in Iowa and Wisconsin. He has investigated hundreds of cases and believes that 60-70% of them contained some element of fraud. He recalled six of his cases were prosecuted in Iowa, Minnesota and Illinois. He has not seen any of his cases prosecuted in Wisconsin. He believes Wisconsin would prosecute more insurance fraud if it had an IFB and, "if insurance companies would be more proactive in fighting fraud." Another respondent stated that while insurance companies can investigate insurance fraud, it takes prosecutors knowledgeable about the crime, for anything further to occur. "Without the resources to pursue insurance fraud, agencies will continue to go after typical 'bad guys' because that is what's most familiar."

Technology was also addressed by a respondent in the questionnaire. He stated, "The Special Investigations Units and computer programs that identify red flags and identifies these claims should be used more intensely." He added that he believes other states prosecute more insurance fraudsters because those states have mission statements geared toward fraud prosecutions.

Two of the survey respondents have investigated insurance fraud for 25 years and 21 years, primarily in Wisconsin. Each has investigated approximately 2,000 claims in that time. They estimate 60-75% of those claims contained some element of fraud. However, less than two percent of those cases were prosecuted.

If as few as half of the claims were fraudulent, that would still amount to approximately 2,000 fraudulent claims investigated between the two of them in

the last 25 years. If 30-40 of the 2,000 cases were prosecuted, there is just over a one percent chance of facing any penalty.

One respondent has been an insurance investigator in Iowa for three years. About seven of the cases he has worked have been prosecuted. He believes prosecutions are under-reported in Iowa. He knew of a specific case handled by a local law enforcement agency, where the local police handled the case from beginning to end. In this case the Iowa IFB never got involved and therefore most likely never obtained information about the prosecution.

An investigator for the Iowa IFB echoes those thoughts. The prosecution numbers they keep are for known cases only. He said there is no requirement for local and county DAs to report prosecutions to the IFB. He said the IFB may become involved in the investigation, but if the DA prosecutes the case months or years later, the IFB often is not informed of the outcome.

One respondent has been an insurance investigator in Wisconsin for over eight years and was formerly a police officer for 23 years in Wisconsin. He investigated no cases of insurance fraud as a police officer. As an insurance investigator he has seen no prosecutions of insurance fraud. He investigates approximately 120 cases each year. Half involve fire investigations, while the other half are for thefts and injury accident claims. He added that there should be a stepped-up effort to combat insurance fraud. He believes it would be advantageous for insurance companies to follow-up with claims after they have been closed out. He believes there is no push for prosecuting insurance fraud in Wisconsin and that there is lack of communication among agencies and insurance companies.

Another respondent recalled investigating about five cases of insurance fraud during his 13 years in law enforcement in Wisconsin. For the last 22 years as an insurance investigator in Wisconsin, he estimates only eight cases were charged in court. Because he works the border between Minnesota and Wisconsin, he has investigated many cases in both states. He estimates approximately 20-40 of the cases he has investigated in Minnesota were charged in court. Like many other respondents he believes insurance fraud is not a priority in Wisconsin and that Wisconsin lacks the resources to combat it.

Some of those surveyed believe that negative perceptions of insurance companies extend beyond just the general public and into law enforcement officers as well. One respondent stated that some officers care little about insurance fraud, perhaps because they have had a bad experience with an insurer. On the other end, there are those in law enforcement who see insurance fraud as another civil matter they are not to be involved with. Also contributing to the problem is that some insurance companies are unwilling to be listed as a complainant in a criminal suit, even when prosecutors are willing to prosecute.

A retired FBI agent who is involved in fraud training for the insurance industry stated that there “is a lack of aggressive prosecution, low priority, and poor quality referrals from investigating agencies. Most insurance cases lack prosecutorial appeal because they are not headline material.” He added, “Most people believe it is O.K. to commit insurance fraud because of the high premiums and they believe they will get away with it...People commit fraud because they think it is easy money and is owed to them, they believe they will not get caught, and they practice situational ethics. They believe it is O.K. to send in a fraudulent claim, but would not think of committing murder.”

Another former FBI agent stated that she believes cases other than insurance fraud, such as public corruption and violent crimes, grab the attention of voters. She adds that perhaps better training is needed in presenting cases to prosecutors. Regarding the benefits of and funding of a fraud bureau, she believes the greatest advantage to prosecutions is deterrence.

In order to procure funding for an IFB, the benefit of having one must be shown. The two former FBI agents referenced above agree that it is difficult to show the true extent of the value a fraud bureau could provide, without first showing the level of fraud in Wisconsin. Both believe mandatory reporting laws in Wisconsin could best address the need for a fraud bureau.

A detective with 20 years of law enforcement experience recalls investigating zero cases of insurance fraud, in the metropolitan area where he works. He believes insurance fraud is still seen as a victimless crime in Wisconsin. It is his belief that law enforcement officers are “not trained to identify and investigate insurance fraud.” He adds that the single greatest challenge for states with fraud bureaus is, “getting past the idea that financial crimes are not important enough to address at a high level.”

A former detective and current anti-fraud manager believes that insurance fraud is not thought to be a problem. In her 16 years in law enforcement she recalls investigating just one case of insurance fraud. She believes that proactive measures are the best way to curb fraud activities and that there are enough frauds and swindles in Wisconsin to justify an IFB.

In summary, those surveyed believe that there is enough insurance fraud in Wisconsin to justify an IFB. They believe insurance fraud is either not taken seriously in Wisconsin or not seen as a big enough problem to warrant action. They believe the public must be educated on insurance fraud. They also believe an IFB devoted to insurance fraud education and prosecution would benefit the citizens of Wisconsin.

Discussion

It appears there is a strong correlation between greater insurance fraud prosecution numbers and the existence of an insurance fraud bureau. Virtually every state with an IFB successfully convicts more people per capita than Wisconsin does. It is quite likely this is because Wisconsin lacks a central fraud fighting unit to coordinate efforts among insurance companies and law enforcement. It is entirely possible, though, that the differences in prosecution numbers are the result of something less tangible than having or not having an IFB.

Perhaps IFB states possess a keener interest in fighting this crime and therefore create IFBs to better combat it. The creation of an IFB by a state is the state's response to recognizing the seriousness and costs of insurance fraud. The states that create IFBs are proactive in this fight. They have concluded that an IFB is the best answer to fighting insurance fraud.

Insurance Fraud Statutes vs. Other Statutes

Some have suggested that IFBs ensure insurance fraud statutes are used in prosecutions, instead of other statutes, thereby better justifying their existence. In other words, following this logic, states without an IRB punish just as many insurance fraudsters as other states, they just convict using different statutes. While this is a good presumption, no evidence of this surfaced in this research. If Wisconsin did not have an insurance fraud statute or a poorly written one, then they would prosecute no "insurance fraud" or prosecute under other statutes with elements easier to prove in court. However, this is not the case in Wisconsin. The state not only has a well-written and comprehensive insurance fraud statute, it has a comprehensive immunity statute. The immunity statute protects reporters of fraud from being held liable for the sharing of private information, such as between insurance companies and law enforcement. Furthermore, if insurance fraud were prosecuted via other statutes, one would expect that law enforcement would see it more. The reality is that very few law enforcement officers are even aware of insurance fraud, let alone involved in investigating it as insurance fraud. In cases of burglary for instance, police will investigate the validity of the theft, look for suspects etc., but will rarely investigate the matter as insurance fraud. Even in cases where they suspect insurance fraud, they do not pursue it. It is likely that many are unaware Wisconsin has an insurance fraud statute.

There are other reasons this researcher believes insurance fraud is not being charged as other crimes in Wisconsin. Perhaps a few cases are prosecuted as something other than insurance fraud, but not enough cases to put Wisconsin on par with other IFB states. Jay of the CAIF concurs, stating, "There may be other cases in Wisconsin charged under other statutes, but our clipping service likely would have picked them up" (personal communication, June 21, 2006).

The NICB also keeps track of insurance fraud cases in each state. They were able to follow-up on eight cases that involved insurance fraud in Wisconsin in 2005. It is doubtful the NICB cares how insurance fraud is charged, as long as the fraudsters are being convicted.

If insurance fraud was being readily charged, but under a different statute, it seems that Dane County District Attorney Blanchard in Wisconsin would have communicated that. To the contrary, he advised that district attorney offices across the state were “dangerously understaffed” and that insurance fraud was not at the top of a list of priorities, but “important.” He recommended that if a fraud bureau were created in Wisconsin that it should be a “wholly public function,” supported by the public and not the insurance companies (personal communication, December 15, 2005).

The Role of Insurance Companies in Fraud Prosecution

The DAs in Wisconsin who have prosecuted insurance fraudsters, when the opportunities have come, should be complimented. But how can any DA prosecute a case unless they are first made aware of it? Perhaps insurance companies could effectively investigate, compile, and present easy to read cases to the appropriate DAs for prosecution. If insurance companies worked more closely with the DAs in a state, then insurance fraud would be prosecuted at a level comparable to states with IFBs.

The only foreseeable drawback to this issue is related to liability and costs. First of all, one must remember it is not the job of the insurance company to fulfill law enforcement functions. It is not the recommendation of this researcher that insurance companies be an extension of law enforcement. However, insurance company investigators should be adequately trained to fairly investigate and adequately present fraudulent cases to law enforcement in a legal and ethical manner. Immunity statutes must protect insurance companies who share claim information about suspected fraudulent claims with law enforcement and other agencies.

Who can better investigate insurance fraud in Wisconsin: those whose sole job is to investigate insurance claims or law enforcement officials who are very busy protecting the public from other issues? Because insurance companies cannot subpoena documents or act as agents of the government, someone must take the leading role in Wisconsin to fight insurance fraud. An IFB with dedicated investigators and prosecutors seems the most likely agency to handle this issue in Wisconsin.

The Relevance of Conviction Rate Per Capita

The mean conviction rate per capita of the comparison states is 1.13. Wisconsin would have to prosecute 59 people each year to match the average prosecutions of IFB states in this study. The median convictions in IFB states equal .7 convictions per 100,000 inhabitants. For Wisconsin to reach this mark it would need to prosecute 38 fraudsters each year or just 24 more than it did in 2005.

Of course, increasing prosecutions by 24 raises several questions. Would convicting 24 more fraudsters each year justify an increased effort on behalf of insurance companies and DAs? Would this really have a significant or noticeable impact on Wisconsin residents? If prosecutors in most counties in Wisconsin are bogged down with current case loads, then detecting and reporting more insurance fraud may make little difference.

The clerks of courts who provided data for this research were often shocked at the results they found. In one county, the clerk asked if her query could be right. She found no insurance fraud convictions, going all the way back to 1992. While the insurance fraud law may not be that old, the research revealed that most counties did not prosecute any cases of insurance fraud in 2005.

Public Awareness and Insurance Fraud Bureaus

The public would become more aware of insurance fraud if there were an IFB. Besides prosecuting insurance fraudsters, IFBs also educate the public about insurance fraud. They perform the public service of raising awareness of various fraud schemes, which can save potential victims from falling into the hands of caused-accident artists. Hotlines are set up and tips solicited by the general public. This community-government involvement is very important in reestablishing trust between government and the communities they serve.

Soft Fraud

Soft fraud is the biggest contributing factor to the increases in insurance premiums, as it costs the insurance companies the most. It is committed by otherwise honest people, who take advantage of an ostensibly legitimate claim. For example, claimants rear-ended in minor accidents, resulting in little or no damage to their vehicles, claim serious neck and back injuries which are costing policyholders billions each year. While it may be difficult for the plaintiff to convince the jury of these alleged injuries, asserting they committed fraud would be even more difficult and likely not possible. Injury attorneys are often at the helm of such claims, flooding accident "victims" with direct mailings intended to convince them an injury claim could be worth millions of dollars. While most attorneys act in their clients' best interests, some just want a share of what insurance claimants are receiving.

There are many padded (soft) claims that could be easily proven in court as fraud. In one case this researcher worked a few years ago, the insured's home was legitimately burglarized or so it seemed. Instead of claiming the actual loss of contents estimated at about \$2000 worth, he inflated his claim to over \$40,000. Instead of claiming his old 27" TV, he claimed a 60" plasma TV and so on. The investigation concluded with the insured providing a taped confession of how he made up the story regarding most of the stolen property. In the end his claim was denied, based upon misrepresentation. His policy was not renewed due to this matter, but nothing further happened. He committed a \$40,000 felony in Wisconsin and faced no punishment for his crime. This represents just one claim out of thousands of fraudulent claims committed in Wisconsin each year. Residents of Wisconsin should not be expected to subsidize such crimes through insurance premiums. That case could have been easily proven in court, without the need to sort through hundreds of documents. This case seemingly would have been easier to prosecute than many others that DAs work through.

Many fraudulent claims are filed every day in Wisconsin. Often the claim is denied or simply dropped by the insured. Unfortunately, the fraudster becomes wiser the next time and may even seek out an adjuster or insurance company perceived to be soft on fraud.

The Value of Punishment

When discussing the court system often one will ask if there is any deterring value in punishing someone for a certain crime. For instance, many opponents of the death penalty will argue that states that legalize the death penalty for murder often have the highest murder rates. This issue here, though, is not whether prosecuting insurance fraudsters will deter them, but if they should be prosecuted and sanctioned. The imposition of civil penalties, i.e. restitution to the victim, may be beneficial and has been in many states.

Costs

The costs associated with funding a state fraud bureau vary. According to the CAIF's statistical study of fraud bureaus from 1995-2002, the average per capita spending by states with IFBs was 48 cents. The cost ranged from seven cents to \$3.48. Texas, Georgia and South Carolina spend seven cents per capita, while New Jersey spends \$3.48 per capita. California spends about \$0.97 per capita and has the largest budget at over \$34 million. Iowa's costs are just 10 cents per capita. Funding a bureau should not burden tax-payers. Given the above costs, it seems more costly to ignore the problem.

Recommendations

It is the recommendation of this researcher that Wisconsin consider undergoing a serious evaluation of the extent of insurance fraud. Legislators should encourage the reporting of suspected cases of insurance fraud by law enforcement and insurance companies. They should not assume because law enforcement sees very little of it, that it is a trivial matter or that the prevalence of insurance fraud is exaggerated. The best source regarding the level of insurance fraud or suspected insurance fraud is insurance companies that insure in Wisconsin.

The creation of an insurance fraud bureau in Wisconsin is justified and may be the best offense against current fraud and the best defense against future frauds. At a bare minimum, Wisconsin residents need to be educated about insurance fraud and provided an incentive and a hotline to report suspected fraud. Someone must take the lead in Wisconsin to foster relationships with district attorneys about this issue. Prosecutors who have already prosecuted insurance fraud in their jurisdiction can be a wealth of information to other attorneys who are either reluctant or uninterested in prosecuting such a case.

If an insurance fraud bureau is created in Wisconsin, then it should have dedicated prosecutors as well, unless additional staff can be funded in prosecutor offices across the state. Efforts between insurance companies and an IFB should be seamless. Neither the insurance company nor the IFB should rely too heavily on the other for the investigations. The insurance company SIU should do its best investigation and present the case to the IFB in an easily understood format. While it should be required that all insurance companies report suspected fraud to the IFB, the reporting procedures should be straightforward and not labor intensive.

The wheel need not be reinvented in this endeavor. Most states have already created a central agency of one sort or another to combat fraud. The CAIF can be an invaluable resource in getting this process underway.

Wisconsin does not have to be just like every other state, but it must do something to combat this ever increasing crime. Researching the amount of insurance fraud in Wisconsin may be the first step, coupled with education and awareness campaigns throughout the state. The next question may be who can best do this.

Further Research

More research in this area must be done. Of greatest importance would be to research the amount of fraud occurring in Wisconsin. NICB statistics show that 501 questionable claims in Wisconsin were reported to them in 2005 alone.

Clearly not all of these claims are necessarily fraudulent. However, it should be remembered that those reporting such cases work claims daily. Insurance adjusters can easily work up to a thousand or more claims in a year. Considering the number of fraudulent claims that escape notice, 501 claims is a very low number and represents a minugia of all fraudulent claims.

Not all questionable claims or even claims known to be fraudulent are reported to NICB or law enforcement. Some believe it is more cost-effective and simpler to just pay a claim, especially if it is just a few hundred or a few thousand dollars. Even still, it would be interesting to know how many cases SIUs in Wisconsin investigate and how many of those investigated were believed to be fraudulent, whether provable or not. While it should never be the motivation of an SIU to deny as many claims as possible, it would be interesting to know how many are denied based upon misrepresentation. Furthermore, it is common for fraudsters to simply drop a claim and move on, especially when a proactive insurance adjuster and or investigator starts asking probing questions. Because some companies may not wish to be viewed as tough on fraud, it may be helpful to conduct a survey where the company name is protected.

Researching the reasons insurance companies do or do not pursue criminal charges against insureds and claimants would also be very interesting. Are there certain protections that must first be afforded before a company signs its name to a complaint? Is an insurance company viewed negatively by the public for taking a stand against fraudsters? Is the culture still such that the insurance company is viewed as Goliath, while the individual fraudster is viewed as David? Is the fraudster likened, in public perception, to Robin Hood? What success have insurance companies had in seeking prosecution of fraudsters in jury trials?

Further research should focus on whether or not insurance fraud is being prosecuted under different statutes in Wisconsin. This research revealed no cases. Several theft by deception charges were looked into further by this researcher. No insurance companies or agents of a company were mentioned as a plaintiffs. No restitution orders were found made out to insurance companies. Furthermore, many of the theft by deception charges were for amounts generally well under the usual \$250 or \$500 deductibles most insurance policies have.

It would also be interesting to research what it is that district attorneys believe would be needed for insurance fraud to be taken more seriously. Would greater cooperation by the insurance companies help? Would law enforcement be receptive to insurance fraud training by the insurance company?

There is much research remaining in the area of insurance fraud. When the public is educated on the subject, it is believed more proactive steps can be taken to fight insurance fraud in Wisconsin. Left unchecked, insurance fraud can

spiral out of control as it already has in other states. Hopefully Wisconsin will take this seriously before legislators are forced to scramble for solutions.

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About the Author

Nathan Taarud earned his Master of Science in Economic Crime Management from Utica College in New York. He earned his Bachelor of Science from Minot State University in North Dakota. He is currently employed as a senior special investigator for American Family Insurance Company in Madison, WI. American Family is the nation's third largest property and casualty mutual company.

Prior to the insurance industry Nathan was enlisted in the United States Air Force, stationed in Minot, ND, Aviano, Italy and Dhahran, Saudi Arabia. Afterward, he was fortunate enough to work as a state trooper for the North Dakota Highway Patrol, one of the smallest, but also one of the most professional, state patrol agencies in the US. It was in Minot, ND that Nathan met Kristie, his wife of nine years. At home are also three young children, Isaac, Sophia and Ella.

Appendix

Questionnaire for Law Enforcement (active and former)

1. Wisconsin prosecutes/convicts fewer insurance fraudsters than most other states in the U.S. When compared with IA for instance, WI convicts half as many fraudsters per capita. Why do you think this is?
2. In your _____ years of law enforcement, how many cases of insurance fraud have you investigated?
3. Do you believe the number of cases you investigated, if any, accurately represents the amount of insurance fraud being committed by consumers in Wisconsin? Why or why not?
4. It has been estimated that of the health & property/casualty insurance premiums every household pays, about \$900 per year is due to fraud. What do you think is the best way to reduce this?
5. Is there anything else you would like to add?

Questionnaire for Anti-Fraud Leaders/Managers

1. Some in Wisconsin do not believe enough frauds and swindles exist in Wisconsin to justify a state fraud bureau. Do you agree or disagree with his belief? Why or why not?
2. Do you believe Wisconsin residents can benefit from the existence of a state fraud bureau and if so how?
3. Do you believe charging and convicting more people for insurance fraud will result in reduced premiums? If not, should that matter?
4. Regarding states with state fraud bureaus, what do you believe was the single greatest challenge for their creation?
5. What other, if any, recommendations would you make regarding whether or not Wisconsin should create a state fraud bureau?
6. Is there anything else you would like to add?

Questionnaire for Insurance Fraud Experts

1. Wisconsin prosecutes/convicts fewer insurance fraudsters than most states in the United States. When compared with Iowa for instance, Wisconsin convicts half as many fraudsters per capita. Why do you think this is?
2. In your _____ years of insurance fraud investigation, how many cases of insurance fraud have you investigated?
3. How many of the cases you have investigated, do you believe actually contained some element of fraud?
4. Approximately how many of your cases have seen charged in court?
5. How do you explain the above numbers?
6. What do you believe sets Wisconsin apart from most other states that prosecute more cases of insurance fraud?
7. Is there anything else you would like to add?

References

- Abramovsky, A. (2005). Criminal law and procedure; organized crime control act: Insurance Fraud and Attorney. [Electronic version]. *New York Law Journal*, May 13, 3.
- Accenture. (2003, February 12). *One-Fourth of Americans Say it's Acceptable to Defraud Insurance Companies, Accenture Survey Finds* (2003 News Release). Florham Park, NJ: Marykate Reese. Retrieved May 22, 2005, from Accenture.com Web site: http://accenture.com/xd/xd.asp?it=enweb&xd=dyn/dynamicpressrelease_577.xml
- Agencies Attack Insurance Fraud in Lawrence. *Ifb E-Report*. Retrieved May 9, 2005, from Insurance Fraud Bureau Web site: www.ifb.org/CIFI/Lawrence/lawrence.com
- Albrecht & Albrecht. (2004). *Fraud Examination & Prevention*. Mason, OH: Thomson/South-Western.
- Asian Organisation of Supreme Audit Institutions. (2005). Understanding fraud and corruption. Retrieved June 15, 2005, from http://www.asosai.org/guidelines/guide_un_st_fru_corruption.htm
- Baldauf, S. (1995). State Cracks Down on fake job injuries. [Electronic version]. *Christian Science Monitor*, 87(120), 4.
- Beadle, J., & Pinder, J. (2005, February 24). Claims Supplement; Insurance Fraud; the one that got away. [Electronic version]. *Post Magazine*, 22.
- Boyd, W. & Stempel, J. (Sept 1999). Attorney General's prosecution of law firm for auto industry fraud not improper or unconstitutional because of funding by and contact with state. [Electronic version]. *Journal of Risk and Insurance*, 66:3, 505.
- "Claims Fraud" Brochure. Property Casualty Insurers Association of American. Retrieved from PCI Website on August 4, 2005 from: www.pciaa.net/sitehome.nsf/main
- Coalition Against Insurance Fraud. (2002). Latest Study-Fraud Bureaus. *A statistical study of state insurance fraud bureaus: a quantitative analysis from 1995 to 2002*. Retrieved on June 15, 2005 from: http://insurancefraud.org/fraud_bureaus/convictions.htm
- Coalition Against Insurance Fraud. (2005). *Insurance Fraud: The crime you pay for* (Consumer Information). Washington, DC. Retrieved May 22, 2005, from: http://www.insurancefraud.org/fraud_backgrounder_set.html

- Cornejo, R. (2005, May 17). New Jersey Adopts New Rule For Insurers' Fraud-Prevention Reports. [Electronic version]. *Bestweek*.
- Crimes and Offenses, Pennsylvania State, Title 18, Chapter 41, SS 4117, (a) 2.
- D&M Disney & Associates, Inc. (2005). Fraud Defined. Retrieved June 15, 2005 from http://www.dmdisney.com/Fraud_Defined.htm
- The Disaster Center (2005). United States: Uniform Crime Report-State Statistics from 1960-2004. Data Source: FBI Uniform Crime Reports 1960-2000. Retrieved on July 9, 2006 from The Disaster Center Web site: <http://www.disastercenter.com/crime/>
- FedStats. (2000). Arrests in Dane county Wisconsin. Retrieved on June 16, 2005 from: <http://www.fedstats.gov/mapstats/arrests/county/55025.html>
- Genera Cologne Re. (2001), "Guide on insurance fraud-insurance fraud reporting and immunity statutes", With Katten Muchin Zavis, 2001, 1-48. [IFFR-318]. Abstract received from Insurance Fraud Research Register on July 7, 2006 from: http://www.derrig.com/ifrr/Search_Title.asp
- Grzincic, B. (2005, May 11). MD lawyer disbarred over false bill to her own insurer. [Electronic version]. *The Baltimore Daily Record*.
- Insurance Fraud Bureau's 2004 Annual Report (2004). Expansion of the task force concept. Retrieved from IFB Web site on August, 4, 2005 from: www.ifb.org/STATS/statistics/mainframe.htm
- Insurance Information Services. (2005). Hot topics & issue updates. *Insurance fraud*. Retrieved June 15, 2005 from: http://www.iii.org/media/hottopics/insurance/fraud/?table_sort_717120=5
- Insurance Services Organization. (1992, 1997). *Fighting Insurance Fraud-Survey of Insurer Anti-Fraud Efforts* [Executive Summary]. Available from http://www.iso.com/studies_analyses/docs/study017.html
- Kriedler, M. 2006. Washington State Office of the Insurance Commissioner. OIC News Release, January 16, 2006. Retrieved on January 26, 2006 from; <http://www.insurance.wa.gov/news/dynamic/newsreleasedetail.asp?rcdNum=485>

- National Association of Mutual Insurance Companies. (2005, March 28). *Insurance Fraud: Most States Take Action to Curb Abuses. Vermont One the Last States To Act* (Public Policy Paper). Washington, DC: Kenneth Marshall.
- National Association of Mutual Insurance Companies (2005). Statutory Remedies to Curb Fraud Abuse Spreading Across U.S. Retrieved July 6, 2006, from NAMIC Web site: www.namic.org/newreleases05/050525nr1.asp
- National Insurance Crime Bureau. (2002). 2002 Annual Report. In *Fraud Solutions Now*. Palos Hills, Illinois. Retrieved May 22, 2005, from NICB Web site: www.nicb.org/public/publications/annualreport2002.pdf
- National News. Accenture survey targets industry fraud. *Insurance Journal*, May 25, 2004. Retrieved from Insurance Journal Web site on July 7, 2006 from:
<http://www.insurancejournal.com/news/national/2004/05/25/42545.htm>
- Nearly 1 in 10 Consumers Likely to Commit Insurance Fraud. *The Daily Fraud Caster* (2001). Retrieved May 22, 2005, from Insurance Journal Web site: <http://www.insurancejournal.com/news/national/2001/09/07/14267.htm>
- Quiggle, J. (2005, April). Fraud Bureaus Deliver Despite Tough Resources: Agencies stretched as fraud cases keep pouring in. *Coalition Against Insurance Fraud*. Retrieved May 22, 2005, from www.insurancefraud.org/releases_2005_set.html . (See also http://insurancefraud.org/siu_study.htm for the actual study report.)
- Rabe, B. & Champion, D. (2002). *Criminal Courts Structure, Process and Issues* (Special Edition (University of Phoenix) ed.). Upper Saddle River, New Jersey: Prentice-Hall, Inc.
- Shaw, S. (2005). Lenient Laws Blamed as cases of fraud double to 756 M. [Electronic version]. *The Independent*, 3/29/05(1st Edition), 19.
- State of New York. (2004). In Press Office (NA) (Ed.), *Governor Pataki Announces Reduction In Auto Insurance Rates. Success of Anti-Fraud Measures Reaffirms the Need for Even Tougher Measures*. [Electronic version]. (Release Date July 7, 2004). New York City, New York: Executive Chamber. Retrieved July 8, 2006 from New York's Press Office from Web site: www.ins.state.ny.us/press/2004/p0407071.htm
- Superintendent of Insurance Howard Mills. (2005). *The Annual Report to the Governor and the Legislature of the State of New York on the Operations of the Insurance Fraud Prevention Act* [Electronic version]. New York: State of New York Insurance Department

Sutherland. E. (1940). White-collar criminality. [Electronic version]. *American Sociological Review*, 5(1), 1-12.

Virginia State Police news release. (2006, March 28). Virginia: 2005 Statistics Show Continued Success in Stamping Out Insurance Fraud. Message posted to NAMIC Online electronic mailing list, archived at www.naimc.org/topnews/060328st3.asp

Wisconsin Workers Compensation. (2000). Annual report for calendar year 1999: allegations of worker's compensation fraud. State of Wisconsin workforce development worker's compensation division November 1, 2000. Retrieved on June 16, 2005 from: http://www.dwd.state.wi.us/wc/fraud/1999_Fraud_Report.htm