MEMORANDUM

TO: **TOM FREEDMAN, MARY SMITH, PAUL WEINSTEIN**

FROM: **SKYE PHILBRICK**

RE: **AUTO INSURANCE FRAUD**

DATE: **NOVEMBER 26, 1997**

Note: I have completed a preliminary search on criminal penalties concerning auto insurance fraud. Please let me know on Monday morning if you need more information or more specific information. I had to catch a flight at 3:00 P.M. so this is all I had time to accomplish.

MEMORANDUM

TO: **TOM FREEDMAN, MARY SMITH, PAUL WEINSTEIN**

FROM: **SKYE PHILBRICK**

RE: **AUTO INSURANCE FRAUD**

DATE: **NOVEMBER 26, 1997**

BACKGROUND INFORMATION: Recent surveys have revealed increased support for tougher penalties pertaining to auto-insurance fraud. Although there has been no federal legislation concerning criminal penalties of auto-insurance fraud, many states are attempting to crack down on fraudulent claims. Some states are beginning to look at penalties for auto-insurance fraud and their effectiveness. New Jersey has received a lot of attention due to its high auto-insurance rates. Governor Whitman has proposed increased penalties for fraudulent claims and fining insurance companies $25,000 each time they fail to report a fraudulent case. Currently, most states impose civil fines, instead of prosecuting them criminally. Many have argued that this will not reduce the amount of fraudulent claims due to the amount of money that people are able to collect from insurance companies.

FEDERAL CRIMINAL PENALTIES: After completing a preliminary search on auto insurance fraud, I did not find any federal legislation regarding criminal penalties.

STATE CRIMINAL PENALTIES:
(I am still reading the materials I located on auto-insurance fraud)

NEW JERSEY
"Governor Whitman's proposed insurance reform increases penalties for fraud and requires that licenses be revoked for lawyers and medical professionals involved in such schemes."

TEXAS

NEW YORK

CALIFORNIA
"Currently, if a staged auto accident is committed, the suspect faces a two year sentence and a $50,000 fine. Under SB 334, a staged auto accident for the purpose of receiving fraudulent insurance proceeds would be not only a 'serious' felony, but it would also mean the suspect would be subject to the 'three strikes and you're out law'."

ILLINOIS

NOTE: I have attached some articles concerning auto insurance fraud. There is also an article about Insurance Claims Fraud Problems and Remedies by Robert W. Emerson. Let me know if you would like a copy of it. Also, I will be able to complete a more thorough search on Monday.

FOCUS - 51 OF 55 STORIES

Journal of Commerce

January 17, 1997, Friday

SECTION: Pg. 10A

LENGTH: 466 words

HEADLINE: Survey finds Americans support tough stand on insurance fraud

BYLINE: BY MARGO D. BELLER

BODY:

More Americans say they are willing to prosecute criminals for insurance fraud, according to the Insurance Research Council.

A report released Wednesday by the Wheaton, Ill., industry group found that 74 percent of the 1,991 Americans surveyed said they were willing to pay one extra dollar on their auto insurance policy to fund fraud investigations and prosecution of those accused of fraud, including doctors, chiropractors, lawyers and auto body shops.

That percentage is up from the 66 percent who responded to the group's 1991 survey, said Terrie Troxel, IRC's executive director.

In 1995, between $5.2 billion and $6.3 billion was added to the insurance bills of personal car insurance policyholders because of outright fraud or claim padding, according to an IRC estimate.

That increased cost, combined with advertising campaigns by such market leaders as State Farm Group and CNA Insurance, have spurred a ""growing awareness among honest policyholders that they are paying the price of insurance fraud,'' said Mr. Troxel.

As a result, ""support is growing for aggressive actions'' to fight fraud. People want to stop paying those fraudulent claims. There is less tolerance with people cheating the system,'' Mr. Troxel said.

For instance, a greater number of people told IRC they favored criminal prosecution for insurance fraud. The survey found that 75 percent of respondents thought a person involved with an organized ring of doctors, lawyers and body shops filing false claims to defraud insurance companies should be prosecuted for fraud, up from 69 percent in 1991.

The same is true for such frauds as filing false auto injury claims. IRC said 61 percent of those responding want that person prosecuted for fraud; 51 percent felt the same way in the 1991 survey.

And once convicted, Mr. Troxel said, ""people increasingly favor "get tough' tactics such as prosecution by law enforcement authorities and jail terms by the courts.''

Specifically, 69 percent of the respondents said they were more likely to favor jail terms over lesser **penalties** such as a fine or license revocation, up from 60 percent in 1991.

Mr. Troxel said policyholders' frustration is reflected in their willingness to look to different solutions, even if they cause inconvenience.

The study found 88 percent would be willing to provide a copy of their car title at the time they take out a policy, up from 82 percent in 1991.

Also, if it cuts fraudulent claims and lowers their premiums, 85 percent said they would be willing to bring their car to their insurance company representative or agent so that the car could be photographed and inspected at the time the policy is taken out.

This is an increase from the 83 percent who agreed in the 1991 survey, Mr. Troxel said.

LANGUAGE: ENGLISH

LOAD-DATE: January 17, 1997

FOCUS - 49 OF 55 STORIES

The Record

January 21, 1997; TUESDAY; ALL EDITIONS

SECTION: NEWS; Pg. A03

LENGTH: 586 words

HEADLINE: AUTO INSURERS LAX IN REPORTING FRAUD TO STATE

BYLINE: RANDY DIAMOND, Trenton Bureau

BODY:

A state audit found that auto insurers in New Jersey last year failed to report most cases of fraud, despite a state law requiring them to do so, Insurance Commissioner Elizabeth Randall said Monday.

At a meeting with reporters and editors at The Record, Randall said auto insurers failed to report approximately 22,000 cases of fraud to the state, far more than the 13,000 cases they did report.

"We need the insurance companies to work with us, which I don't think they have done,"Randall said.

Increased efforts at rooting out fraud is a key part of the car insurance reform plan that Governor Whitman unveiled during her State of the State address last week.

Among other things, the governor proposed fining insurance companies $ 25,000 for each fraud case they uncover and fail to report.

Randall said Monday that she did not know how much auto insurance fraud costs New Jersey motorists.

But the Whitman administration last week, citing an insurance industry group, said every family in the nation spends $ 161 each year for fraudulent auto insurance claims.

An industry spokesman questioned the department's methodology in determining the number of fraud cases that were not reported to the state.

Randall said the estimate is based on an audit of some claims files from the 70-plus auto insurers who do business in New Jersey.

John Tiene, executive director of the New Jersey Insurance News Service, a consortium of New Jersey auto insurers, said insurers occasionally fail to report cases of fraud, but he said it is not on purpose.

"It's not willful,"he said."It's an oversight. We're human."

Whitman's insurance reform plan promises a reduction in annual insurance premiums of up to 25 percent for motorists who agree to give up their right to sue for pain and suffering if they are involved in an accident. But Randall maintained that Whitman's anti-fraud initiatives will help lower insurance rates even for motorists who retain their right to sue.

The anti-fraud proposals include:
Increasing **penalties** for medical professionals found guilty of fraud, including license revocation.

Hiring 25 state fraud investigators.

Fining insurance companies $ 25,000 each time they fail to report a case of obvious fraud to the state.

Under state law, auto insurers are required to maintain their own fraud divisions and report claims they determine to be fraudulent to the state.

Randall said she wasn't sure why insurance companies are not reporting cases of fraud to the state, but she said some insurers may feel it is less costly and easier just to pay fraudulent claims.

"Sometimes it's too small a matter for them,"she said."They don't want to devote the resources."

But Tiene said auto insurers spent $ 14.8 million in 1995 on their fraud efforts, up from $ 11.6 million in 1994.

He said the state must take part of the blame for not doing enough to deter fraud, claiming that some cases sent by auto insurers to the department's Fraud Division have languished for up to a year.

Tiene also said the state imposes civil fines on most of those found guilty of fraud, instead of prosecuting them criminally. He said fines are not an effective way to stop fraud.

Randall said additional investigators will help the Fraud Division dispose of cases faster and that license revocation will be a more effective tool for penalizing professionals who commit insurance fraud.

LANGUAGE: English

LOAD-DATE: January 21, 1997

FOCUS - 5 OF 55 STORIES

The Record (Bergen County, NJ)

October 31, 1997; FRIDAY; ALL EDITIONS

SECTION: NEWS; Pg. A01

LENGTH: 1106 words

HEADLINE: 41 MORE CHARGED IN FAKED CRASHES ;
RAID TIED TO $ 1M IN BOGUS CLAIMS

BYLINE: DAN KRAUT, Staff Writer

BODY:

In a series of early-morning raids Thursday, Passaic County authorities arrested 41 people who they say targeted unknowing motorists for random car crashes to collect bogus insurance settlements.

Most of the suspects were passengers who knew their drivers were going to crash, authorities said. The passengers allegedly faked injuries and submitted almost $ 1 million in false claims in connection with 21 staged crashes from January 1995 to June 1997, Passaic County Prosecutor Ronald S. Fava said.

"We are not done," Fava said."This is an active, ongoing investigation. There will be more arrests."

Thursday's sweep, the second in Passaic County in four months, nabbed more fraud suspects than any known previous roundup in the state, said Roy Bloom, director of the state Insurance Fraud Division.

About 30 of the suspects are from Paterson. All were charged with conspiracy to commit theft by deception and face a maximum **penalty** of five years in jail. Bail was set at $ 10,000 for some and $ 20,000 for others.

Insurance industry officials welcomed Thursday's sweep as a sign that fraud, which Bloom said costs the average New Jersey policyholder $ 160 annually, is finally being taken seriously. But they tempered their excitement by saying that such fraud will continue until doctors and lawyers lose their incentive to profit from such scams, and until the state's insurance laws change.

No lawyers or doctors were arrested Thursday.

The arrests follow lawsuits filed by at least six insurers in the last two years accusing 2,500 people, most of them Passaic County residents, of submitting $ 50 million in bogus claims.

Insurance fraud and what to do about the high cost of auto

insurance have been hot topics in the governor's race. When asked if the latest sweep was timed to coincide with Tuesday's election, Fava termed the notion"asinine,"and added,"I would neither speed up nor postpone the timing of a raid."

The first Passaic County sweep, in June, netted about 20 suspects.

That raid targeted people involved in crashes in which both drivers, and up to four passengers in each of the cars, were participants in the alleged scheme.

Those arrested Thursday reportedly took a different tack in which the driver of one car deliberately crashed into an unsuspecting motorist in the second car, authorities said. "To throw off law enforcement, what they do is involve innocent people,"Fava said.

He said none of the unsuspecting motorists were injured in the fender benders.

"In America, you have competition and free enterprise,"Fava said, noting the different methods of the alleged rings."There is more than one ring involved." In another indication of the second group's sophistication, the driver would use a false license obtained with a borrowed or stolen birth certificate, Fava said. With the fake identity, the driver would purchase an insurance policy and, after he or she purposely rammed someone else at a stop sign or an intersection, all of the conspiring passengers would sue the driver's insurance company, the prosecutor said.

Because the drivers never used their real identities, many remained at large Thursday, he said.

Fava would not say how the latest suspects were identified. But industry investigators typically cite"fraud flags,"such as repeated accidents by one person in a short period, that raise suspicion.

Authorities said 19 of the 21 accidents tied to the latest suspected ring occurred in Paterson, Passaic, and Clifton.

Fava declined to comment on which lawyers or doctors handled the allegedly fraudulent cases, though insurance representatives and investigators have repeatedly said that computers show which professionals handle the most claims. Fava declined to say if physicians and attorneys would be arrested, saying the investigation is ongoing.

Though the multimillion-dollar business of fraud is now a sophisticated industry with the ability to manufacture fake identifications and launder money, fraud started small, according to insurance officials.

What began with people exaggerating injuries evolved into a system where lawyers would pay"runners"to bring in people who were in car crashes, whether they were injured or not. Then, investigators said,

the runners grew tired of waiting for crashes and staged their own.

Fava said Fabian Beato, 41, of Ryerson Avenue in Paterson, who was arrested Thursday, was an organizer of the latest ring. Though he didn't participate in any crashes, he arranged them and benefited from"a division of the proceeds,"Fava said.

Insurance investigators say fraud expanded so quickly in the county for two basic reasons. First, there is a steady pool of poor immigrants who are talked into participating in the schemes by ringleaders who direct them to doctors or lawyers.

"As long as there are people who see the system as offering an economic opportunity, they will try to take advantage of it,"said Elio Montenegro, a spokesman for Allstate Insurance Co., which along with Warner Insurance was identified as the two companies victimized by the latest alleged scam.

But"every state has its poor people," Montenegro continued, adding that a second factor distinguishes New Jersey, the insurance system itself, which"invites more fraud than any other state,"he said.

He suggested that the state's"take-all-comers"law, which prevents insurers from turning down customers they consider bad risks, contributes to fraud.

At the New Jersey Insurance News Service, Executive Director John Tiene faulted a system that gives people higher cash settlements based on the value of their medical bills. And he suggested that unless"pain and suffering"awards are limited to those who suffer serious injuries, fraud would continue to escalate as scam artists fake neck pain and other hard-to-disprove ailments.

Allstate has sued 1,000 people in the region in connection with alleged fraud and may sue 6,000 more. Montenegro said the insurer would pay claims submitted by innocent motorists struck by its clients accused of fraud.

Thursday's arrests began about 4:45 a.m., after members of six law enforcement agencies and the fraud division gathered at a county building in Paterson.< Within an hour, 23 three-person teams were taking in suspects in Paterson, Passaic, Clifton, Newark, and Fairfield.

Fava said the suspects were arrested without incident and transported to Paterson municipal court, where a judge set bail.

GRAPHIC: PHOTO - DON SMITH / STAFF PHOTOGRAPHER - Police leading suspects in auto insurance fraud to a bus to take them for arraignment in Paterson.

LANGUAGE: English

LOAD-DATE: October 31, 1997

FOCUS - 7 OF 55 STORIES

Asbury Park Press (Neptune, NJ.)

October 26, 1997, Sunday

SECTION: AA, Pg. 4

LENGTH: 857 words

HEADLINE: Auto insurance rates trouble Assembly hopefuls

BYLINE: TERRI NEEDHAM; STATEHOUSE BUREAU

BODY:

THE CANDIDATES for state Assembly in the 30th District all want to lower New Jersey's highest-in-the-nation auto insurance rates, but disagree on how to do it.

In the relatively quiet race, Assemblymen Joseph R. Malone III and Melvin Cottrell, both R-Ocean, are pitted against two former Democratic mayors of Jackson Township and two retirees representing the Conservative Party.

Malone, an assemblyman since 1993, offers not so much a plan, as a process, saying the special interests with a stake in reforming the auto insurance system need to get together and iron out a compromise.

"We can't manage to just roll back insurance rates 10 percent," Malone said. "It's not a dictatorial answer. McGreevey, he's out in major, major left field." Democratic gubernatorial candidate James E. McGreevey has vowed to roll back insurance rates by executive order, if elected.

Cottrell, a three-term assemblyman who chairs the Assembly Senior Issues, Tourism and Gaming Committee, favors eliminating the verbal threshold and the no-fault system, which requires consumers' own insurance to pay up to $ 250,000 in medical costs for injuries they sustain in accidents. However, he does not support restricting motorists' ability to sue, an essential part of Gov. Whitman's Driver's Choice plan, which she proposed last month.

Both Malone, 48, and Cottrell, 68, voted for auto insurance reforms Whitman signed into law in June. That law ended automatic cost-of-living increases and "bad driver" surcharges, stopped insurance companies from dropping good drivers for no reason and targeted fraud by increasing fines on insurers who fail to report suspected fraud and by providing more insurance investigators.

Democrat Arthur F. Conway, a manager at AT&T, said he has examined auto insurance reforms in other states and would consider supporting an end to the no-fault system.

Democrat Richard Borys, 54, a regional manager for Metromedia Corp., said he would support further increasing the penalties for fraud and ordering auto insurance companies to prove they are losing money before they are allowed to institute rate increases.

Conservative candidate Salvatore Duscio, a retired printer who owns and operates a Jackson Township farm, proposes eliminating mandatory auto insurance, arguing that voluntary insurance would result in companies becoming more competitive and offering lower rates.

Duscio's running mate, Florence Township resident Stephen Mognancki, favors eliminating the no-fault system. However, he said "auto insurance is way too high. It should have been looked into years back, not now. It's too late, but something still can be done."

Mognancki and Duscio are also pushing for changes in property taxes.

Duscio, 69, feels that property taxes should reflect the income of taxpayers.

Mognancki, 72, thinks that school taxes should be frozen when residents reach age 65. He said he pays $ 1,900 in school taxes. He also feels that property taxes should not increase any more than the inflation rate.

Mognancki supports raising the sales tax to pay for schools. "I think it would be easier for the elderly because they don't buy as much. ... Tourists coming through the town would pay for your schools."

Conway and Borys also believe property taxes can be reduced by funding schools in other ways, but have not offered any firm solutions.

Cottrell supports restructuring the property tax system, but said he would leave the specific changes up to the voters, as the state of Michigan did. In Michigan, taxpayers voted to reduce property taxes by raising sales and cigarette taxes.

As challengers hoping to oust longtime lawmakers, Conway and Borys have also tried to portray themselves as more in touch with residents than Malone and Cottrell are.

Malone and Cottrell say they have stayed in contact with 30th District constituents and attended to their concerns by securing new laws and state grants for them, such as funding for schools and open-space preservation.

For example, Malone said he is proud of a bill that designated Burlington County's Pemberton Township an urban enterprise zone, and legislation that allows water and sewer companies to grant seniors and disabled citizens deductions.

Cottrell touts his legislation that provided funding for the preservation of local farmland and open space, and another that established a committee to construct a Korean Veterans Memorial as his major accomplishments.

However, Conway and Borys say the district needs new representatives that come from and understand working families.

"Both Cottrell and Malone are products of local government," Conway said. "They are out of touch with what's really happening. They think they're doing an efficient job and they're not. I know I can do better than they can."

Conway and Borys said their corporate and local government backgrounds have given them experience in cutting and balancing budgets and will make them effective legislators.

Borys says that because of his municipal government work, he understands that "you have to spend tax dollars as though they're your own dollars."

GRAPHIC: PHOTO: Conway; Borys; Cottrell; Malone; Duscio; Mognancki

LOAD-DATE: October 30, 1997

FOCUS - 9 OF 55 STORIES

PR Newswire

October 21, 1997, Tuesday

SECTION: Domestic News

DISTRIBUTION: TO BUSINESS AND NATIONAL EDITORS

LENGTH: 725 words

HEADLINE: IRC Study Finds Insurers Are Accelerating Efforts to Fight Fraud and Control Costs

DATELINE: WHEATON, Ill., Oct. 21

BODY:

America's property and casualty insurance companies are accelerating their assault on insurance fraud by expanding their fraud detection and deterrence programs as well as allocating significantly more money for these programs, according to a new study by the Insurance Research Council.

Based on responses from 150 insurers that service some 77 percent of the nation's property-casualty insurance market, IRC estimates that companies' direct spending on fraud detection and prevention grew significantly from around $200 million in 1992 to at least $650 million in 1996. This estimate understates total expenditures to fight fraud, since companies have indirect internal expenses and also pay assessments to fund state fraud bureaus and special anti-fraud task forces.

"The dramatic increase in the insurance industry's fraud control efforts reflects the growing dimensions of the problem, the many benefits of aggressive anti-fraud initiatives, and public support for a tougher stance on fraud by insurers and law enforcement," said Terrie Troxel, IRC executive director.

Most insurers surveyed said they plan to increase spending on anti-fraud programs through 1999. More than one-fourth said they would increase their spending on fighting fraud by 10 percent or more.

Nearly all the responding insurance companies have some sort of fraud control program established within their organization and the overwhelming majority report having special investigation units (SIUs) in place. In fact, insurers with an SIU serviced 76 percent of the property-casualty market, up from 66 percent in 1992. These SIUs provide the necessary resources and expertise to investigate potential fraud and also train company personnel in ways to detect and prevent fraud.

Key factors contributing to the success of insurers in detecting fraud were identified as training, SIU investigations, centralized claims index databases, and the support of claims management -- in that order of importance.

Public awareness, criminal fraud **penalties**, SIU investigations, and training -- that order of importance -- were cited as most critical to preventing fraud.

More than one-half of the responding companies also said they have broadened the scope of their efforts by implementing anti-fraud public information programs.

Various organizations have estimated all insurance fraud to cost insurance companies and their customers between $20 to $30 billion each year, or as much as $300 per American household.

Troxel cited a recent IRC closed claim study which found that one-third of auto accident injury claims appear to involve some form of fraud or claim padding.

He said the vast majority of claims with the appearance of fraud and claim buildup involve the exaggeration of injuries, medical treatment, wage loss, or some other element of the claim as a result of a real accident. And while few claims appear to involve fake or staged accidents, excess payments that are attributable to claim buildup and/or staged accidents impose large costs on insurers and their customers.

Troxel also noted that the public has expressed increasing support for more aggressive efforts to combat fraud. A 1996 IRC study found that about 75 percent of the public are willing to pay one extra dollar on their auto insurance premium to investigate and prosecute insurance criminals, up from 66 percent in a similar 1991 survey.

In addition, 76 percent favored encouraging insurance companies to investigate claims more thoroughly for potential fraud before making payments even if this delays legitimate payments, according to Troxel.

The findings are published in the IRC's Fighting Fraud in the Insurance Industry. The Insurance Research Council is an independent, not-for-profit organization founded by leading property-casualty insurers. IRC provides timely and reliable information to all parties involved in public policy issues affecting insurance companies and their customers. The IRC does not lobby or advocate legislative positions.

Copies of Fighting Fraud in the Insurance Industry are available from the Insurance Research Council Inc., 211 S. Wheaton Ave., Suite 410, Wheaton IL., 60187, telephone 630-871-0255, fax 630-871-0260, www.ircweb.org.
SOURCE Insurance Research Council
CONTACT: Mr. Terrie E. Troxel of the Insurance Research Council, 630-871-0255

LANGUAGE: ENGLISH

LOAD-DATE: October 22, 1997

FOCUS - 13 OF 55 STORIES

PR Newswire

October 15, 1997, Wednesday

SECTION: Financial News

DISTRIBUTION: TO STATE AND CITY EDITORS

LENGTH: 577 words

HEADLINE: Rewards Proposed For Insurance Fraud Tipsters By Florida Insurance Commissioner

DATELINE: TALLAHASSEE, Fla., Oct. 15

BODY:

State Treasurer and Insurance Commissioner Bill Nelson is proposing that rewards be paid to insurance crime tipsters, a response to the recent Crash for Cash probe that has yielded 100 arrests after an informer called a police hotline.

Nelson unveiled the proposal today, five days after investigators crushed a $10 million insurance-fraud ring that staged 150 car crashes to collect on phony insurance claims. More than 100 suspects were rounded up last Friday, with the total expected to reach 175 in ten Florida cities. The probe, dubbed Crash for Cash, was the biggest bust of an organized auto-crash fraud ring in Florida and one of the biggest in the country.

The investigation began in April 1996 -- with a tip from a caller to the Dade County Crime Stoppers Hotline. The tipster reported that he'd been offered $1,000 to stage a traffic accident. Crime Stoppers notified the Florida Department of Insurance. And four days later, with the tipster wearing a wire, state insurance fraud investigators listened in as ring members banged up three vehicles in a staged wreck.

Nelson said the aim of his proposal is to enlist the help of more citizens, because they are crucial to breaking up insurance fraud. The commissioner said he'll offer a bill to the 1998 Legislature that would allow tipsters, like the one in Crash for Cash, to receive cash rewards for information resulting in convictions. He wants to make individuals who report previously undetected insurance-fraud crimes eligible for rewards of up to $5,000 or 10 percent of the amount of fraud uncovered, whichever is less.

Under the proposal, the insurance commissioner would recommend to prosecutors cases in which rewards should be given, and the money would come from fines and penalties imposed on those who violate the state's insurance laws.

Already, Nelson has set up a toll-free line for people to report suspected insurance fraud crimes to state officials. That number is: 800-378-0445.

Besides rewarding tipsters, the commissioner's legislative proposal would expand an existing law that says insurers must have their own anti-fraud units by requiring the same of health maintenance organizations -- a move targeted directly at curbing health claims fraud, which accounts for the bulk of insurance fraud losses.

Fraud analysts say that about 70 percent of the $6.9 billion annual cost of insurance fraud in Florida is due to fictitious or inflated health claims, including the kind that investigators uncovered in Crash for Cash.

It costs every Florida family about $1,071 a year just to cover health- insurance fraud, Nelson said Wednesday.

His anti-fraud proposal also would toughen **penalties** for insurance fraud artists by increasing the statute of limitations on insurance-fraud crimes from three years to five years; and, by increasing the **penalties** for insurance-fraud crimes.

Third-degree insurance fraud violations could be prosecuted as second- or first-degree offenses, depending on the amount of money involved. Under Nelson's proposal, a third-degree insurance-fraud violation would involve less than $20,000. A second-degree offense would involve from $20,000 to $100,000. And a first-degree crime would involve losses of more than $100,000.

The result would be longer prison sentences for the more costly and serious insurance crimes, Nelson said.

SOURCE Florida Department of Insurance

CONTACT: Dan McLaughlin or Wendy Diehl, both of the Florida Department of Insurance, 850-413-2842

LANGUAGE: ENGLISH

LOAD-DATE: October 29, 1997

FOCUS - 16 OF 55 STORIES

The Patriot Ledger (Quincy, MA)

October 7, 1997 Tuesday ROP Edition

SECTION: BUSINESS; Pg. 21

LENGTH: 350 words

HEADLINE: Auto policy fraud case is settled with fines

BYLINE: Sue Reinert, The Patriot Ledger

SOURCE: The Patriot Ledger

BODY:

Alleged fraud in the state's popular auto insurance group-discount program resulted in a $ 355,000 **penalty** against a broker, his agency and an insurance company, state officials said yesterday.

Broker Alan J. Florian of West Springfield allegedly forged signatures and faked information on applications for insurance discounts for members of 22 credit unions, the Division of Insurance said.

To settle the allegations, Florian agreed to pay $ 50,000, give up his license and be barred from the industry, the division said. The agency where he worked, the Insurance Center of New England Inc., will pay $ 173,300.

New England Fidelity Insurance Co. Inc. agreed to pay $ 131,700. Florian was one of the people who incorporated the insurance company in March, officials said.

Credit union members who signed up for coverage with Florian won't lose their discounts as a result of the alleged fraud, the division said.

Under state law, employers, associations and other organizations can form groups for the purpose of buying auto insurance at a discount. In recent years the number of groups has soared as insurers have competed to win over customers. The best-known group is the American Automobile Association, which offers a 10 percent group discount to its members.

Groups must meet certain requirements to provide the discounts. After two years, the group must show it has signed up at least 35 percent of the eligible members. In addition, a group representative must sign the discount applications filed with the state and certify that the information on the application is correct.

Florian allegedly forged the signatures of group representatives. He also allegedly submitted false information about membership to qualify the groups for continued discounts.

The 22 credit unions have been groups since 1995 but will get a second chance

to meet the 35 percent enrollment standard, officials said. Because the division believes credit union representatives didn't know the actual enrollment in the groups, the credit unions will be treated as if they were established this month.

LANGUAGE: ENGLISH

LOAD-DATE: October 13, 1997

FOCUS - 18 OF 55 STORIES

Business Wire

September 11, 1997, Thursday

DISTRIBUTION: Business Editors

LENGTH: 958 words

HEADLINE: California Insurance Commissioner Chuck Quackenbush Announces Legislation Making Involvement in a Staged Auto Accident a "Serious" Felony

DATELINE: LOS ANGELES

BODY:

Sept. 11, 1997--

Staging An Auto Collision For Insurance Money Would Be

Subject To Three Strikes Law

Next to the Interstate 710 Freeway location where a family of three was killed in a staged auto accident on Feb. 1, 1997, Commissioner Chuck Quackenbush announced new legislation to make lawbreakers who stage auto accidents for fraudulent insurance payments face a much tougher **penalty** for their heinous crime.

"We believe the tragic death of the Lopez family could have been prevented. That is why I am introducing legislation today to put a stop to this deadly insurance fraud. The measure, Senate Bill 334 (SB 334), authored by Senator Lewis, makes staging auto accidents for fraudulent insurance proceeds a 'serious felony'. Our intent is to make criminals think twice before playing Russian roulette with California drivers," said Quackenbush.

Three suspects were arrested in July for their alleged involvement in a staged auto collision which resulted in the death of the Lopez family. Joining Quackenbush today at the fatal accident scene to voice their support for SB 334 were: Los Angeles District Attorney Gil Garcetti, Los Angeles District Attorney's Head Deputy of the Auto Insurance Fraud Division Don Eastman, California Highway Patrol Assistant Chief Ken Walkenshaw, and Assistant Deputy Commissioner Dick Ross of the Department of Insurance Fraud Division.

"Currently, if a staged auto accident is committed, the suspect faces a two year sentence and a $ 50,000 fine. Under SB 334, a staged auto accident for the purpose of receiving fraudulent insurance proceeds would be not only a 'serious' felony, but it would also mean the suspect would be subject to the 'three strikes and you're out law'. Criminals who commit such a heinous crime for the sake of collecting insurance money would face a doubled prison sentence if they already have one violent felony conviction, and criminals with two such convictions are subject to life in prison. SB 334 sends a clear message to such would-be murderers not to commit the crime; if so, they'll face severe consequences," said Quackenbush.

All staged auto accidents have the potential for serious injuries or even death. This measure is needed to deter the alarming number of staged motor vehicle collisions and prevent needless harm to innocent, law-abiding motorists.
Staged accident artists who luckily avoid injuring their victims must not be allowed to escape serious punishment for their dangerous actions.

"Preventing staged auto accidents not only saves lives, it also means cost savings for consumers. The Department of Insurance believes that there are a significant number of staged auto collisions daily in California, based on the number of arrests since January, 1997. Staged auto collisions increase policyholders costs by millions of dollars a year," said Quackenbush. -0-

Visit the Department of Insurance Web site at http://www.insurance.ca.gov . Non-media inquiries should be directed to the Consumer Hotline 800/927-HELP. -0- SB 334 (LEWIS) STAGED CAR CRASHES/THREE STRIKES FACT SHEET

Issue

Motorists are increasingly being victimized by criminals who "stage" auto accidents for the purpose of gaining liability insurance proceeds. Staged crash artists swerve, or stop suddenly, in front of innocent drivers and then demand money for their "injuries." Oftentimes, unscrupulous attorneys and doctors are involved in crash rings and prepare fake and inflated injury reports for the fraud artists. This type of insurance fraud raises the price of auto insurance for all insured drivers and, more importantly, places innocent drivers' lives at risk.

On Feb. 1, 1997, a family of three was killed on the Long Beach Freeway when their station wagon was crushed between two tractor-trailers as a result of an attempted staged accident. This tragedy is a vivid example of how a staged crash can turn deadly.

Proposal Under SB 334 (Lewis), knowingly causing or participating in a staged vehicle crash for the purpose of receiving fraudulent insurance proceeds would be a "serious" felony subject to the "three strikes and you're out" law. Persons with one prior serious or violent felony conviction are subject to having their prison terms doubled and persons with two such convictions are subject to sentences of life imprisonment.

Existing Law Currently, it is a non-serious, non-violent felony to knowingly cause or participate in a staged motor vehicle crash for the purpose of submitting a false or fraudulent claim. A violation is punishable by imprisonment for two, three or five years and a fine of up to $ 50,000 or double the value of the fraud if it exceeds $ 50,000. For a prior conviction for staging a crash, there is a two-year enhancement, and a sentence cannot be suspended, or probation granted.

Purpose

All staged auto accidents have the potential for serious injuries or even death. This measure is needed to deter the alarming number of staged motor vehicle crashes and prevent needless harm to innocent, law-abiding motorists.

Staged accident artists who luckily avoid injuring their victims must not be allowed to escape serious punishment for their dangerous actions.

CONTACT: California Department of Insurance
Dana Spurrier or Lisa Acheson
916/492-3566

Today's News On The Net - Business Wire's full file on the Internet

with Hyperlinks to your home page.

URL: http://www.businesswire.com

LANGUAGE: ENGLISH

LOAD-DATE: September 12, 1997

FOCUS - 22 OF 55 STORIES

The Detroit News

August 07, 1997, Thursday

SECTION: Metro; Pg. Pg. D5

LENGTH: 430 words

HEADLINE: In Wayne County: New law increases **penalty** for bogus auto thefts

BYLINE: By Douglas Ilka / The Detroit News

BODY:

On the street, a popular auto insurance scam is called the 30-Day Special.

First, people hide their vehicles and report them stolen to the police, said William Liddane, director of the Livonia-based Help Eliminate Auto Thefts (HEAT) program.

Then, they wait 30 days -- long enough for the insurance claims to be paid. Once paid, Liddane said, the claimant uses the money to buy a more expensive vehicle and abandons the original vehicle.

The scam is popular because even if caught, the crime usually results in only a misdemeanor charge.

But a new Michigan statute is changing the ground rules, making it a felony for intentionally filing a false report of a stolen vehicle to any law enforcement agency.

"Translation: People caught falsely reporting their cars stolen or carjacked will no longer face a misdemeanor charge, but will face a felony charge with a sentence of four years in prison and up to a $ 2,000 fine," said Detroit Police Inspector Dennis Richardson, a member of the Violent Crimes Task Force which includes officers from Detroit, the Michigan State Police and the FBI.

Despite escalating fraudulent insurance claims, Michigan auto insurance companies were hesitant to cooperate with police under the old state laws.

"Fearing lawsuits on the grounds of malicious prosecution if an insurance fraud case wasn't prosecuted successfully by law enforcement, insurance companies were often reluctant to participate in the prosecution of these cases," said Jerry Hinton of Michigan's American Automobile Association.

National experts estimate that 16 percent of every insurance claim dollar goes to pay for fraud, Liddane said.

"This really puts some teeth into the law and people may now think twice before falsely reporting their cars stolen to collect insurance money," Liddane said.

"It is, in fact, obtaining money under false pretenses and that money doesn't come from some anonymous insurance company, but the pockets of Michigan's auto insurance holders in the form of higher premiums."

Richardson added: "Higher insurance premiums are only the half of it. From a law enforcement standpoint, for every officer tied up running down falsely reported car thefts or carjackings, means one less officer available to investigate other crimes."

HEAT operates a confidential tip line at (800) 242-HEAT and will reward up to $ 1,000 if the caller's information leads to the arrest and prosecution of someone accused of auto insurance fraud.

Other cash rewards are available for information about carjacking and chop shop operations.

LOAD-DATE: August 07, 1997

FOCUS - 23 OF 55 STORIES

The Record

July 27, 1997; SUNDAY; ALL EDITIONS

SECTION: REVIEW & OUTLOOK; Pg. O01

LENGTH: 1126 words

HEADLINE: PUTTING A DENT IN INSURANCE COSTS ;
THREE VIEWS OF A COSTLY PROBLEM
DEMOCRATS: LOTS CAN BE DONE

SOURCE: Wire services

BYLINE: NELLIE POU

BODY:

THIS YEAR'S LEGISLATIVE attempt at car-insurance reform has been a classic case of all talk and no action for New Jersey's 5.8 million motorists.

After offering the prospect of long-overdue rate relief to drivers in her State of the State speech, Governor Whitman last month settled for a law that virtually guarantees New Jersey's status as the state with the highest auto premiums.

The driving public certainly deserved better, especially when you consider how long the state's car insurance problems were neglected, indeed, exacerbated, by the Whitman administration over the past three years.

Consider the Whitman record:.

Eleven arbitrary rate increases approved on top of the automatic "flex"rate increases that were annually granted to insurance companies until this year.

Thirty-one fraud investigation positions eliminated during her first three years in office. (With an eye toward the November election, Whitman recently hired 50 new investigators.).

Regulatory enforcement so lax that some insurers blatantly refused to provide policies upon a motorist's request while other carriers terminated agents in urban territories.

A general reluctance by state regulators to fine egregious violations by insurers, only two companies were fined in New Jersey over the last three years while New York fined 23 insurers last year alone.

Unaggressive prosecution of fraud rings like the V&K case in which two chiropractors were fined just $ 750,000 and their licenses revoked only temporarily after being accused of trying to collect $ 52 million in bogus treatment claims from a defunct state-run car insurance pool.

Elimination of the Office of Public Advocate which reviewed and challenged insurance rate-hike requests filed with state regulators.

In fairness to Governor Whitman, car insurance was a problem long before she took office. A solution had eluded a series of governors and legislatures, Republican and Democrat alike.

But had the situation ever been this bad? Had car insurance ever been so difficult to obtain? Had fraud ever been so pervasive? Did the state ever do such a poor job of making companies comply with regulations and laws intended to protect the public?

Frustration over the car insurance situation reached a crisis state earlier this year with the release of two critical reports compiled by the non-partisan National Association of Insurance Commissioners.

The first report found that in 1995, New Jersey auto insurers had their most profitable year since 1986. Profits almost doubled, from 4.1 percent in 1994 to 7.7 percent in 1995. The second report reaffirmed New Jersey's status as the state with the nation's highest auto insurance rates.

It showed that the average annual premium in New Jersey rose 5.16 percent in 1995 , twice the national rate, to $ 1,013 per policy. No other state had an average premium above $ 1,000. The numbers showed that drivers were getting a bumpy ride on car insurance while the industry was given the equivalent of limousine service by state regulators. The public outcry for change could be heard on talk-radio stations, at public forums, and at demonstrations, such as the Trenton rally that drew 500 people on a workday in April.

In response, Governor Whitman initiated a "reform"plan that, in a nutshell, extended lower rates to any motorist who would surrender his or her right to sue. It was criticized by leaders in both parties as well as by leading consumer interest groups.

Then came a less ambitious proposal that incorporated portions of individual bills that Democrats had proposed over the course of the past four years: elimination of annual automatic rate hikes; elimination of insurance surcharges that drivers paid for traffic tickets and accidents in which they are partly at fault, and elimination of the so-called two-for-one provision that enabled insurance companies to drop policyholders without just cause.

All of these changes were incorporated in the new car insurance law. But strings were attached. The surcharges are replaced by an ill-defined tiered rating system that will actually cause drivers with clean records to be grouped with motorists who have as many as six motor vehicle **penalty** points. Automatic rate increases are replaced with an expedited rate-increase approval process.

At best, the bill is revenue-neutral, but it also could increase rates. Industry analysts said rates could actually increase as much as 7 percent for good drivers. More money for insurers? What kind of reform is that?

(Whitman damage control: She recently froze rates to prevent any increases until after the November election.). Given the public's anger over car insurance, a lot more could have, and should have, been done to bring about meaningful reform during the recent legislative session. Here are just a few suggestions that could be considered:

Streamline the insurance regulatory enforcement process so civil **penalties** will be assessed on companies more quickly and aggressively.

Empower an insurance consumer advocate to fill the pro-consumer void that was created with the elimination of Department of the Public Advocate in 1994.

Eliminate the current system of assigning rates to drivers. Rates should be calculated on the basis of someone's driving record, accidents, tickets, miles traveled. Factors like marital status, age (except for very young drivers), and sex have nothing to do with driving performance and should be abandoned.

Create an office of insurance fraud prosecutor to bring cases to trial as quickly as possible. Insurance investigators would be placed under the jurisdiction of this office to provide a seamless approach to law enforcement similar to a county prosecutor's office.

Establish criminal **penalties** for insurance companies, doctors, and attorneys who fail to report violations of the Fraud Prevention Act.

Other strategies also might be employed to attack the state's status as a high-insurance-risk environment: setting a new threshold for drunken driving, making failure to use a seat belt a primary motor vehicle offense, and investing more money in improved highway technologies.

While there many not be a magic bullet on car insurance, this much is certain: Complacency is not the answer. By settling for an ineffective bill under the guise of reform, the state isn't taking a

first step forward, it's simply going nowhere. A better first step would be for the Legislature to come back into session.

Nellie Pou is a Democratic assemblywoman from Paterson.

LANGUAGE: English

LOAD-DATE: July 28, 1997

FOCUS - 29 OF 55 STORIES

Chicago Sun-Times

June 5, 1997, THURSDAY, Late Sports Final Edition

SECTION: FIN; Pg. 53

LENGTH: 393 words

HEADLINE: Allstate sues 749 in N.J. charging auto fraud ring

BYLINE: BY DAVID ROEDER

BODY:

Allstate Corp. said Wednesday it has sued 749 people in New Jersey, accusing them of faking accidents and injuries to collect on the company's auto insurance policies.

The suits are connected to a criminal investigation of what New Jersey authorities have called a massive, centrally managed fraud ring that may have staged thousands of accidents. Officials said several insurers were victimized and that two besides Allstate also have sued hundreds of defendants.

"Some people were making a dozen claims a year," said Jack Mozloom, a spokesman for New Jersey's Department of Banking and Insurance. "And of course, there were always four people riding in the car and they always went to the same attorneys, the same chiropractors, the same doctors."

Northbrook-based Allstate, the largest auto insurer in New Jersey, said it is seeking as damages triple the amount of the claims it paid. Edward Moran, assistant vice president of Allstate's investigative unit, said the company is still tabulating the sum at stake and that he expects the fraudulent claims will total millions of dollars.

Moran said the fraud case is easily the largest in Allstate's history and that he expects many more defendants will be added to the suit.

"We're looking at accident files going back four and five years on this," he said. He said people who were drivers in one claim usually turned up as passengers in another accident.

Moran said that in almost all cases, an individual filed a claim within 60 days after the insurance policy began.

Last week, authorities in Passaic County, N.J., arrested Jose Alphonso Ciri, 32, suspected of being a ringleader in the scheme. Mozloom said other arrests will follow as the investigation proceeds.

Allstate used the alleged fraud to push for changes in New Jersey's insurance laws. Moran said a provision requiring each company to insure any customer at

relatively high coverage levels has indirectly encouraged abuse.

Illinois law has no such provision, although drivers who cannot obtain insurance elsewhere are directed to a state-supervised coverage plan.

Mozloom said the "take-all-comers" law will not be changed. Gov. Christine Todd Whitman's proposed insurance reform increases **penalties** for fraud and requires that licenses be revoked for lawyers and medical professionals involved in such schemes, he said.

LANGUAGE: English

LOAD-DATE: June 5, 1997

FOCUS - 33 OF 55 STORIES

The Record

May 16, 1997; FRIDAY; ALL EDITIONS

SECTION: OPINION; Pg. L10

LENGTH: 989 words

HEADLINE: AUTO-INSURANCE FRAUD ;
WHO IS REALLY RESPONSIBLE FOR IT?

BYLINE: The Record

BODY:

TO SEE just how glaring the flaws in New Jersey's auto-insurance system are, one need look no further than a massive fraud case that the state settled out of court last month. Two North Jersey chiropractors, accused of trying to bilk the state out of $ 52 million, were fined just $ 750,000 and had their licenses temporarily revoked.

The settlement is alarming not just because it seems so meager, but because it shows how puny the state's anti-fraud efforts have been. The question now is whether the Whitman administration and the Republican-controlled Legislature really intend to overhaul the system, or just make quick fixes in anticipation of the fall campaign.

New Jerseyans pay the highest auto-insurance rates in the nation, a point not lost on politicians facing reelection this year. For that reason, the North Jersey fraud case came into sharp focus on Monday when Insurance Commissioner Elizabeth Randall appeared before the Senate Commerce Committee. She had expected to discuss the Whitman administration's plans to repair the auto-insurance mess, but top legislators were more interested in why the state didn't strike a tougher bargain in what had appeared to be an open-and-shut fraud case.

The two chiropractors, Steven Verchow of Paramus and Alexander Kuntzevich of Oradell, were accused of trying to bilk the state out of $ 52 million in claims for worthless treatments and tests performed on thousands of people between 1987 and 1993. According to the state, the two men owned eight clinics where associate chiropractors often saw more than 100 patients a day each, performed expensive unnecessary tests, and prescribed treatments in order to bolster pain-and-suffering lawsuits.

At least one chiropractor at their Passaic clinic was told that each adult patient must receive at least 70 treatments. Two clinics used an elaborate timing system to limit treatments to less than eight minutes, regardless of the patients needs.

Before an auto insurer's fraud investigator finally caught on to the scheme, the two chiropractors had collected $ 12 million from two state-run auto-insurance pools. Last month, in exchange for having all

criminal charges dropped, the pair agreed to pay a $ 750,000 fine, to have their licenses suspended until 1999, and to stop pursuing another $ 40 million in disputed claims.

At Monday's legislative hearing, Senate President Donald DiFrancesco, R-Union County, wanted to know why the two chiropractors got off so lightly."There is something out of balance when the state's largest auto-insurance scam in history is settled with minimum fines and temporary revocation of chiropractic licenses,"he said. "I think it sends the wrong message to every stakeholder in the auto-insurance system... that New Jersey is soft on those who bilk or defraud the system."

The Commerce Committee chairman, Sen. Gerald Cardinale, R-Demarest, was more blunt:"I believe this type of settlement only encourages more fraud."

Both lawmakers are right. But it turns out that the Legislature may be partly to blame. The insurance commissioner explained in effect that the criminal case was weak because state insurance laws are weak.

Although the chiropractors charged steep fees for dubious treatments that took only a few minutes each, the fact that they provided some form of treatment was enough to derail the state's efforts to pursue the criminal fraud charges.

How can fraud be reduced?

Sen. Cardinale, sponsor of Mrs. Whitman's insurance reforms in the Senate, says he is working with the Attorney General's Office to come up with legislation that would close the loopholes in the current anti-fraud laws, a common-sense move, though one has to wonder why lawmakers didn't move to beef up the laws sooner. After all, charges in the mammoth chiropractor case were filed several years ago.

The Whitman administration, which reduced the number of fraud investigators since 1993, wants to hire 50 more fraud investigators, impose stiffer **penalties** on insurers who fail to report suspected fraud cases, and pass laws that would make it easier to revoke the licenses of professionals, including lawyers, who engage in fraud. The last measure would be more effective if the anti-fraud loopholes were closed.

It remains to be seen whether these measures would reduce insurance rates by 5 percent, as Mrs. Whitman maintains, but they are modest steps in a long climb toward reform. Sen. Cardinale also says he's introducing"peer review" legislation that would have panels of doctors, not attorneys, decide disputed medical claims. The insurance industry is pushing for the measure as a way to reduce claims, but the legal profession has opposed it. So far, the Legislature has sided with the lawyers.

What's still missing, however, is a measure to tighten the no-fault type of policy chosen by 88 percent of the state's drivers. The measure, which was a key element of an earlier Whitman insurance proposal, would

still provide drivers with their current $ 250,000 worth of medical coverage, but would allow pain-and-suffering lawsuits in only the most extreme cases, such as those involving death or verifiable serious injury. This approach would protect motorists with serious injuries while curbing the excessive litigation and fraud schemes that have helped drive up the cost of auto insurance.

Up to now, this strategy has not garnered much support in the Legislature, but that shouldn't be surprising. Lawmakers talk a great game, until it comes to stepping on the toes of trial lawyers, chiropractors, and other professional groups who make regular campaign donations.

Unless the legislators enact genuine and substantial reform sometime soon, maybe they're the ones who should be charged with fraud.

LANGUAGE: English

LOAD-DATE: May 21, 1997

LEVEL 1 - 2 OF 2 ITEMS

46 U. Miami L. Rev. 907

LENGTH: 36804 words

ARTICLE:

Insurance Claims Fraud Problems and Remedies

ROBERT W. EMERSON *

- - - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - -

* Assistant Professor of Business Law and Legal Studies, Graduate School of Business, University of Florida. B.A., University of the South (Sewanee), 1978; J.D., Harvard Law School, 1982. The author very much appreciates the editorial suggestions furnished to him by Professor David J. Nye during the Automobile Insurance Fraud Study (1991) conducted by the Florida Insurance Research

N rous states specifically consider insurance clai fraud a cri . n147 S statutes specifically provide that an insurer can [*938] recover damages, including attorney fees and investigative costs, from claimants convicted of insurance fraud. n148 Moreover, a criminal conviction may estop the insured from relitigating the fraud issue in a subsequent civil suit. n149

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n147 ALASKA STAT. @@ 21.36.360(b)(2)-(3) & 21.36.360(q)(1991); CAL. INS. CODE @ 1871.1 (West Supp. 1992); CONN. GEN. ANN. STAT. @ 53A-215 (1985 & Supp. 1992); DEL. CODE ANN. tit. 11, @ 913 (1987 & Supp. 1990); FLA. STAT. ch. 817.234 (1991); GA. CODE ANN. @ 33-1-9 (1991 & Supp. 1992); IDAHO CODE @ 41-1325 (1991); ILL. REV. STAT. ch. 73, para. 1101 (1965 & Supp. 1992); MASS. GEN. LAWS ANN. ch. 266, @ 111A-111B (West Supp. 1990); MONT. CODE ANN. @ 33-18-401 (1987 & Supp. 1990) (both application and claims fraud); N.M. STAT. ANN. @ 59A-16-23 (Michie 1988)(both application and claims fraud); N.Y. PENAL LAW @@ 176.00-.30 (McKinney 1988); N.C. GEN. STAT. @ 58-2-161 (1990); N.D. CENT. CODE @@ 26.1-01-10 & 26.1-02-24.1 (1989); OHIO REV. CODE ANN. @@ 2921.13(a)(10), 2921.13(D)(3) (1990 Supp.); OKLA. STAT. ANN. tit. 21, @ 1662 (West 1983); 40 PA. CONS. STAT. @ 474 (1971) (both application and claims fraud); R.I. GEN. LAWS @ 11-18-1.1 (Supp. 1991); S.C. CODE ANN. @ 38-55-170 (Law. Co-op. Supp. 1991); S.D. CODIFIED LAWS . @ 58-33-37 (1990) (both application and claims fraud); TENN. CODE ANN. @

39-14-133 (1991) (theft); UTAH CODE ANN. @ 76-6-521 (1990)(theft); WIS. STAT. ANN. @ 943.395 (West 1982). All of the above statutes cover claims fraud, while most do not mention fraud on applications. A New York court specifically found that the state's criminal provision, N.Y. PENAL LAW @ 176.05 (McKinney 1988), only applies to fraud on commercial insurance applications, not to personal policies. See <=108> People v. Ferone, 526 N.Y.S. 2d 973 (1988); see also supra notes 48 & 70 and accompanying text (discussing criminal law for fraud on applications).

n148 See, e.g., FLA. STAT. ch. 817-234(5) (1991).

n149 See, e.g., <=109> Morin v. Aetna Casualty & Sur. Co., 478 A.2d 964 (R.I. 1984). But see <=110> Fisher v. Wainwright, 584 F.2d 691 (5th Cir. 1978) (holding an insured's nolo contendere plea to insurance fraud crimes inadmissible against the insured in a civil case).

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Relatively few states have enacted statutes specifically governing the investigation and prosecution of insurance fraud. n150 These laws establish governmental departments to handle the investigation of suspected insurance fraud. The departments typically work hand in hand with prosecutors to

develop criminal cases. States with such insurance fraud divisions generally require the insurance adjuster and insurance company to report suspected fraud to the division. n151 Yet, [*939] the level of compliance is unclear. n152 A number of claims personnel acknowledge that they, or at least adjusters generally, lack familiarity with the requirements and procedures for reporting fraud to the authorities. n153 The new "get tough" attitude has increased the number of prosecuted fraud cases, but still has not solved the problem. Small claims fraud often remains unnoticed or unreported n154 because of the overall cost of pursuing such fraud n155 or, at times, because of adjuster apathy. n156 The problem of too few personnel, too little time, and not enough money also contributes to a failure in detection. n157

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n150 See supra note 138 and accompanying text. One of the first states to enact such laws was Florida. The initial Florida statute, 1976 Fla. Laws 266 (effective Oct. 1, 1976), created the forerunner to the Division of Insurance Fraud and specifically provided that fraudulent insurance claims constitute a third degree felony. These laws are now found at FLA. STAT. ch. 626.989 (1991) and FLA. STAT. ch. 817.234 (1991), respectively. There have been numerous amendments. See, e.g., 1977 Fla. Laws 468; 1978 Fla. Laws 258; 1979 Fla. Laws 81; 1979 Laws 400; 1982 Laws 243; 1983 Laws 288; 1987 Laws 334; 1989 Laws 42;

39-14-133 (1991) (theft); UTAH CODE ANN. @ 76-6-521 (1990)(theft); WIS. STAT. ANN. @ 943.395 (West 1982). All of the above statutes cover claims fraud, while most do not mention fraud on applications. A New York court specifically found that the state's criminal provision, N.Y. PENAL LAW @ 176.05 (McKinney 1988), only applies to fraud on commercial insurance applications, not to personal policies. See <=108> People v. Ferone, 526 N.Y.S. 2d 973 (1988); see also supra notes 48 & 70 and accompanying text (discussing criminal law for fraud on applications).

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