



## 2023 Insurance Roundtable

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### Bag It, Tag It

*Fraud Investigation and Detection in the Claim Handling Process*

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## Fraud Investigation and Detection in the Claim Handling Process

Fraud and insurance claims are synonymous. Early investigation through SIU, recorded statements, ISO searches, underwriting details, independent medical examinations, medical record reviews and agency files are all tools for the claims professional and panel counsel in the endless pursuit of the facts. Expenses related to fraudulent claims—from presentment to ultimate coverage determination—can be contained through an efficient investigation protocol. The goal is to make the right coverage decision every time and use resources such as state insurance fraud bureaus to combat fictitious or exaggerated claims.

### Insurance Fraud Overview

Fraudulent insurance transactions include, but are not limited to, fraud and abuse of the system by attorneys, insurers, employers, contractors, medical providers, vocational rehabilitation providers, agents for attorneys or other service providers, claimants, or any other individuals or companies alleged to have engaged in unlawful acts of insurance fraud.

Two categories of fraud exist: hard fraud and soft fraud. Hard fraud occurs when a policyholder deliberately destroys property with the intent of collecting on the insurance policy. Soft fraud, which is more common, occurs when a policyholder exaggerates on an otherwise legitimate claim, or intentionally omits or lies about information on an application to obtain a lower premium. Soft fraud is often considered a crime of opportunity.

### Top 10 Insurance Fraud Statistics<sup>i</sup>

- Insurance fraud costs American consumers approximately \$80 billion per year.
- Medicare fraud costs Americans an estimated \$60 billion per year.
- In 2020, there was \$3.2 billion of health fraud insurance claims.
- Improper Medicaid payments totaled \$98 billion in 2021.
- In 2020, an estimated 8,898 cars were intentionally set on fire in the US.
- Car insurance scams damage companies to the tune of \$29 billion per year.
- 68% of Americans aren't widely aware of common car insurance scams.
- 20% of Americans surveyed admitted to lying to their car insurance provider.
- Millennials are 77% more likely to fall for insurance scams that start with emails.
- Oregon is the only US state without insurance fraud laws.

### State and Federal Efforts to Investigate and Prosecute Insurance Fraud<sup>ii</sup>

- 48 states make insurance fraud a specific crime. 30 states make insurer fraud a specific insurance

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crime. Oregon is the only state without an insurance fraud law of any kind.

- 42 states and the District of Columbia have an insurance fraud bureau. Most deal with all lines of insurance.
- 43 states and the District of Columbia require insurers to report suspected fraud to the state fraud bureau or other agency.
- 22 states have enacted laws making counterfeit airbags a specific crime.

## Claim Handling Tool Box

1. Initial claim assessment, coverage determination and review of materials associated with notice of claim.
2. ISO Claim History.
3. Assignment of independent adjuster to conduct recorded statements, canvas of witnesses and review of claim details.
4. Background checks.
5. Surveillance.
6. Social media search.
7. Underwriting file review to investigate insurance application details.
8. Review of insurance agency files.
9. SIU referral.
10. Examinations under oath.
11. Medical record reviews.
12. Independent medical examinations.
13. Enhanced investigation into “soft fraud” versus “hard fraud”.
14. Cost-containment to avoid unnecessary litigation and open-ended reserves.

## Maintaining Claims/SIU Files: How to avoid Extra-Contractual Liability

Maintaining the claims/SIU file to avoid extra-contractual liability should be a normal business practice for claims and SIU personnel. Experience teaches that at any stage of the claims handling process, inattention or inadvertence

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can easily expose the Company to extra-contractual liability. The development of good habits in claims/SIU file maintenance can serve not only to avoid extra-contractual liability but to enhance the level of professionalism with which the claim is handled. The product of careful file maintenance is efficient handling and successful resolution.

There is no bright, clear definition of the kind of conduct that constitutes an unfair claims handling practice. In virtually all circumstances, whether or not a particular act, practice or aspect of a claims handler's/SIU investigator's conduct is "unfair or deceptive" is something to be determined by a trier of fact, usually a judge sitting without a jury. There is no generally accepted definition of claims handling practices that are to be considered as "fair" as opposed to "unfair." Therefore, on a day-to-day basis, claims handlers/SIU investigators can never be confident that their conduct will be safe from being alleged to have been "unfair or deceptive" or done in "bad faith." Some file handlers have begun placing notations on various file reports as "Confidential - Prepared in Anticipation of Litigation," hoping that such notations would act to protect certain reports and notes from discovery by the insured or his attorney. The courts routinely ignore such notations, making a determination as to the discoverability of the contents of claims/SIU files based upon the contents of the files themselves, as well as the nature of the litigation involved.

Claims handlers and SIU investigators inexperienced in bad faith claims are often horrified to learn what claimants consider to be the "claims file" or "SIU file." The definition of "the file" is most important when responding to discovery requests by opposing counsel. For some, the broad expanse of materials sought by opposing counsel is truly surprising.

The "claims file" and/or "SIU file" is considered by some courts to be every piece of paper associated with the handling and investigation of a claim including, but is not limited to, the folder or jacket within which materials are contained, reports of any investigator or outside adjusting firm retained in connection with the claim, and, potentially, communication with counsel or notes concerning oral communication. Claims handlers and SIU investigators are often shocked to learn that they are judged not only by what they, themselves, have recorded but also by what is reported to them by other claims handlers, attorneys and investigators.

## Insurance Fraud Red Flags

### *General Red Flags*

- Physical address is not disclosed
- Uses P.O. Box, attorney's office or relative
- Address provided is not valid
- Subject lives in transient housing
- Subject is moving around
- Subject uses other people's telephone numbers
- May call from payphone
- Subjects SS#, name or other pertinent info doesn't match up
- Receive tips or rumors from co-workers, neighbor or family
- Recent Claims in the family or co-workers
- Claim filed several days, weeks or months after alleged loss
- Recent increase in coverage
- Reduction of deductible
- High number or other recent claims

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- Makes a social security disability claim as well
- Has multiple means of coverage for loss

### *Personal Injury Red Flags*

- Subject or spouse unemployed/self-employed or seasonal worker
- Recent changes in family status
- Recent financial changes
- Subject has a criminal history, appears unethical, depressed or lazy
- Subject advises he is a victim of the insurance company
- Family history of claims
- Subject has dangerous hobbies
- Subject retains attorney immediately
- Attorney well known in the involvement of suspicious claims
- First Notice of Claims is from attorney
- Subject is threatening or abusive
- Subject might be evasive, repeating questions
- Subject is non cooperative
- Claimants have strong knowledge of claims process and terminology
- Subject never home for calls – asleep-just left etc.
- Subject refuses personal visits by claims personnel
- Subject demands payment right away
- Subject calls constantly/daily to get paid
- Subject's demands are out-of-line with the type or degree of loss
- Subject avoids U.S. Mail, facsimile
- Drops off documents in person
- Subject in a hurry to settle claim

### *Agent & Application Fraud Red Flags*

- Material Misrepresentation on application
- Clear inaccuracies on application
- Minimum premium paid on initiation of policy
- Insured paid cash
- Insured living with others not on application
- Insured denies having other or previous automobiles or can't remember
- Works in another state
- Garages vehicles out of state
- Out of state licenses
- Application not signed
- Blank answers
- Application completed by two or more different people
- Undisclosed risk issues
- Undisclosed commercial usage
- Poor driving record
- Vehicle not observed
- Some coverage, but not others

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- Recent additions of coverage
- Lowering the deductible
- Full coverage on low value vehicle
- Any discrepancies of DL#, SS#, name, dob or address
- Walk in Clients

### *Auto Insurance Fraud Red Flags*

- New Policy or new vehicle added
- Coverage added or increased prior to date of loss
- Vehicle was never inspected or seen
- Premiums paid in cash – short terms
- Odd combinations of coverage
- Loss occurred soon after re-newel or cancellation notice
- Contacted insurance company to inquire about coverage
- Poor driving record
- Driver’s license in multiple states
- Title is not original, a salvage title or from out of state
- Title is unassigned
- Ownership undetected
- Has no purchase information

### *Bodily Injury (BI) & Fraud Ring Red Flags*

- Rental vehicle or rental truck
- High end car striking a low-end vehicle
- Subjects have numerous prior claims
- Prior damage on vehicles
- All vehicles taken to same body shop
- Vehicle taken to a known “problem shop”
- All subjects have same doctors and attorneys
- All subjects have similar injuries
- Subjects reside near one another
- Both vehicles contain the same foreign nationals
- Subjects are all friends or acquaintances
- Three or more unrelated subjects in vehicle
- All subjects give exact or similar details of loss
- All subjects use similar terminology
- Despite extensive damage, vehicles were driven away
- Subjects demanded to go to hospital
- Minor impact, soft tissues injury
- Subjects admit liability immediately
- Property damage doesn’t match the alleged injuries
- No police reports or filed after the loss
- Phantom vehicles
- Witness’s state vehicle was breaking excessively prior to loss
- Witness overly cooperative or knows too much

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- Witness may have heard, but didn't see
- Accidents occur on private roads

### *Comprehensive Losses – Vehicle Theft & Fire Red Flags*

- Lease Vehicle – excess mileage
- Title is salvage
- Expensive vehicle no lien
- Recently purchased for cash Insured was selling vehicle
- Questionable ownership or title history
- Vehicle purchased from out of state
- Vehicle not registered in state
- Insured has no prior record of insurance even though prior damage
- Maintenance or repair issues
- Dealer problems or out of warranty
- Financed vehicle – upside down on payments/value
- Other financial problems – lost job
- Vehicle too costly for insured's income/lifestyle
- Lien holder is a non-traditional lender
- Classic or collectible/antique vehicle
- Loss occurred soon after non-renewal or cancellation notice
- Policy changed or added coverage
- New policy
- Excessive belongings in vehicle
- Keys missing
- No damage to ignition
- Security system was off/malfunctioning
- Vehicle missing new tires/rims
- Additional aftermarket parts added to claim
- Taken from mall, airport, Movie Theater
- Recovered in a lake/canal
- Burnt
- Vehicle left out of garage
- Prior claims for theft and damage
- Heavy or senseless vandalism to vehicle
- Subject not interested in recovery
- Request fast payments
- Vehicle not seen for a few days prior to loss

### *Worker's Compensation Fraud Red Flags*

- Poor Attendance Record
- Recent disciplinary action
- Missed a promotion or transfer
- Problems with co-workers
- Recent termination, involuntary transfer
- Upcoming layoffs

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- Prior lost time claims
- New employee
- Loss occurs on Monday morning (weekend injury)
- Accident happened where subject was not to be
- Performing a task not ordinarily part of job duties
- No witness
- Witness is a friend
- Witness heard but did not see
- Subject resists signing authorizations
- Resist light duty offers
- Not performing job search or lacking
- Alleged restrictions out of line with injury

### *Premium Fraud Red Flags*

- Repeated injuries by new employees
- Coverage issues – under estimate of employees
- Injuries inappropriate to job classification
- Classifications or number of employees in inexpensive classifications appear out of line with type of business
- Number of exempt officers seems out of line for size of the business
- Discrepancies between employer and employee regarding wages, name of employer or type of accident
- Any discrepancies in wages reported to other entities, such as state unemployment insurance returns
- Suspicious documents, such as copies showing evidence of erasures or other changes
- Discrepancies in reports of witnesses and employer or employee
- Accident occurs in state where employer is not known to do business
- Employer's doctor are overly aggressive about dismissing employees' injury complaints
- Employer has independent contractors on staff
- Indications that employees are paid by other than reported wages, such as with rent, cash, vehicle use or unusual expenses
- Employees paid by piece work
- Employer operating without all proper licenses
- Employer pays medical bills direct without reporting loss
- Employee lives far away from employer
- Policies written under DBA's
- Employer resist or delays premium audit
- Employer is hard to reach or uncooperative
- Employer is an employee small leasing firm
- Firm low balls competitor on contract bids

### *Medical Provider Fraud Red Flags*

- Canned medical reports and notes
- Errors of an obvious nature such as subject's gender, race or age
- Diagnosis and treatment don't match



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- Clinic using a P.O. Box or mail drop
- Facility with several names
- Unprofessional letterhead or stationary/photocopied
- Referral to nearby medical testing or clinics
- Answering machine
- Treatment on weekends and holidays
- Clinic diagnoses new problems
- The work comp and health insurance are both billed
- Same treatment over and over
- Multiple subjects from same loss
- Same diagnosis for all subjects
- Clinic is a good distance from subjects home
- Inconsistency of fees for various services
- Numerous treatments on same day
- Mobile diagnostic operations
- Excessive diagnostic testing
- Subject cannot identify clinic
- Subject can't explain treatment

### *Personal Medical Red Flags*

- Injuries are subjective – soft tissues, sprains, headaches, psychological issues
- Psychological claims for Stress and Anxiety
- Claim is from previous injury
- Excessive recovery time
- Excessive Chiropractic treatment
- Excessive testing – MRI-NCV
- Excessive Therapeutic treatment – massages, acupuncture
- Subject shows no interest in getting better – doesn't want tests
- Subject visit specific doctors immediately
- Subjects' vitals are good –despite alleged long term inactivity
- Subject is over dramatic when describing injury
- Conflicting medical opinions
- Medical billings are billed on holidays and weekends
- Treatment includes prescriptions for controlled substances
- Variation in description of pain

### *General Property Fraud – Theft & Burglary Red Flags*

- No signs of forced entry
- Illogical target
- Excessive vandalism during burglary
- Excessive items taken
- Apprehended subject admits to taking much less
- Alarm was turned off or not functional
- Insured produces extensive documentation immediately after loss
- Lack of documentation or no receipts

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- Recently purchased items missing
- Expensive items purchased in a short period of time
- Replacement estimates passed off as receipts
- Consecutive numbered receipts with purchased dates over time
- Basic handwritten receipts or bad copies
- Sales tax is incorrectly calculated or not included
- Many items purchased from same source
- Stolen items aren't consistent with insured's lifestyle/income
- Unfamiliar with items or can't give details
- Limited knowledge of missing items
- Police report differs from loss report
- Police changes, increase in coverage, lowering of the deductible
- New policy
- Loss around expiration, cancellation or non-renewal
- Financial motives – credit or mortgage issues

## *Arson & Fire Red Flags*

- Night, weekend or holiday loss
- Boarders or roommates residing at resident
- Insured claims to have been away from residence
- Too solid of an alibi
- Property run down
- Property had been or is for sale
- Delinquent taxes
- Behind on mortgage
- Liens of property
- Rental property with high vacancy rate
- Lack of personal property within
- No animal loss
- No sentimental items claimed
- Missing items from residence
- Large amount of cash lost
- Utilities turned off at time of loss
- Very detailed and organized content report
- Very recent video of structure and contents
- Surviving items are junk to begin with
- Police report differs from loss report
- Police changes, increase in coverage, lowering of the deductible
- New policy
- Loss around expiration, cancellation or non-renewal

## *Personal Injury/Liability Fraud Red Flags*

- Background turns up history of losses
- Similar names, reversed names on databases
- Multiple family claims

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- Vague details about their lives.
- Vague details as to what they were doing prior to loss
- Inconsistent details
- Witness known by subject
- No witnesses
- Out of state resident
- Try to settle immediately
- Low dollar claims at times
- Injuries don't match loss details
- When pressed my drop claim
- Will take minimal settlement when pressed as well
- Individual food contamination claims
- Falling merchandise
- Premises video captures subject searching for the cameras
- Premises video capture subject canvassing the premises for the least visible spot
- Assaults by unknown persons in hotels/phantom assaults
- Claims for lack of security

### *Life and Disability Fraud – Disability Income (DI) Red Flags*

- Newly covered claimant
- Group policy without individual underwriting
- Claimant was self-employed or had family business
- Verification of claimant's pre-event income not completed
- Declining income or indications it may have been likely to decline
- Recent increase in coverage
- Work related issues
- Eager for settlement
- Multiple disability income coverage
- Claimant traveling extensively
- Home or personal/family issues

### *Life Insurance Red Flags*

- Any death within a contestable period
- Any death with no body recovered
- Any accidental death under less than open and shut circumstances
- High dollar policy
- Policies without investigative confirmation of income
- Any discrepancies in any document
- Any question that insured knew about policy
- Excessive documentation provided
- Any doubts about the cause of death
- Multiple policies not requiring an exam
- Any possible suicide motives
- Roommate or boarder arrangements
- Marital problems – separation or divorce

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- Financial issues
- Legal issues
- Changes in beneficiary
- Changes made to policy limit

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<sup>i</sup> [www.fortunly.com/statistics/insurance-fraud-statistics](http://www.fortunly.com/statistics/insurance-fraud-statistics)

<sup>ii</sup> [www.insurancefraud.org/fraud-stats](http://www.insurancefraud.org/fraud-stats)