

## VII. Guide to Agency Programs

**A. Provide the following information at the beginning of each program description.**

<b>Name of Program or Function</b>	Fraud Unit
<b>Location/Division</b>	William P. Hobby Building, Tower I, 9th Floor
<b>Contact Name</b>	Dennis Pompa
<b>Actual Expenditures, FY 2006</b>	\$1,921, 205.06
<b>Number of FTEs as of August 31, 2006</b>	37

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Fraud Unit protects the public from economic harm by investigating allegations of criminal insurance fraud. The unit's responsibilities include receiving and reviewing reports of fraud, initiating inquiries, and conducting investigations when TDI has reason to suspect insurance fraud (Texas Insurance Code Chapter 701). In addition, the unit actively seeks criminal indictments, makes arrests, and assists in prosecutions to deter insurance fraud in Texas.

The Fraud Unit receives reports of suspected insurance fraud from insurers and the public. The unit maintains a toll-free Insurance Fraud Hotline and an online fraud reporting system on the TDI website. Investigations may occur inside or outside of Texas and typically involve one of the following types of fraud:

- claim fraud committed against an insurer
- fraud by licensees against their company or the public
- insurance application fraud
- unauthorized business of insurance, including operating without proper authority or the sale of fraudulent insurance products
- workers' compensation.

The Fraud Unit reports to the Commissioner of Insurance annually on fraud trends and investigations involving substantial financial losses to consumers or insurance entities.

If a fraud investigator determines that a violation is suitable for state or federal prosecution, the investigator submits a comprehensive investigative report to the appropriate agency. Investigative reports include facts discovered during investigations and may also contain witness/suspect statements, financial records, and analyses of financial transactions. The Commissioner of Insurance and the Fraud Unit routinely subpoena records during an investigation. A Fraud Unit investigative report provides a prosecutor with sufficient evidence to pursue charges against insurance fraud suspects.

The Fraud Unit communicates with TDI's Legal Services; Enforcement; Consumer Protection; Financial; Life, Health, and Licensing; Property and Casualty programs; and DWC's Legal Services through participation in regularly scheduled meetings. The Fraud Unit has an internal process for agency employees to report fraud. During the regularly scheduled meetings, the Fraud Unit provides programs with updates on pending investigations.

The Fraud Unit has two attorneys on staff, the Fraud Counsel and the Special Prosecutor. The Fraud Counsel provides legal advice and investigative support to the unit and may serve as a special prosecutor to prosecute fraud in Texas counties. The Special Prosecutor works out of the Dallas County District Attorney's Office to prosecute cases referred by the Fraud Unit.

The Fraud Unit hosts meetings for enforcement divisions of state professional licensing boards to support Governor Perry's executive order RP-36. This 2004 order directs state agencies to focus on eliminating fraud, waste, and abuse.

The Fraud Unit has a statewide regional liaison initiative with state and federal law enforcement agencies, antifraud organizations, and insurance company special investigative units. A primary and a secondary Fraud Unit investigator are assigned to each of eight geographic regions in Texas.

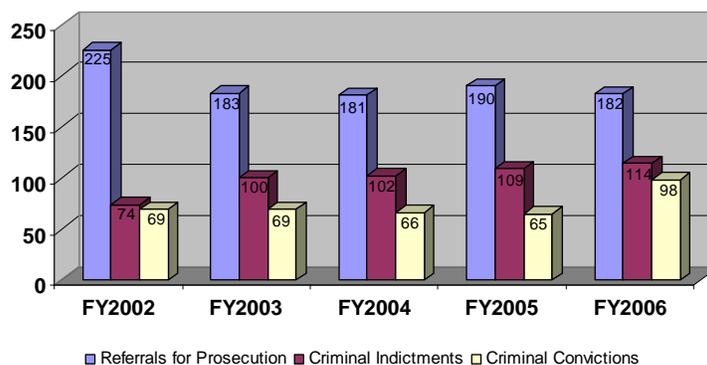
The Fraud Unit provides state professional licensing board enforcement divisions with information about insurance fraud investigations involving their licensees.

Annually for the past nine years, the Fraud Unit has provided a training program for insurance fraud investigators employed by law enforcement agencies, insurance companies, and other state agencies. The program provides an opportunity to learn current investigative techniques and skills for enhancing investigative reports.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.**

The Fraud Unit's effectiveness is best demonstrated by the number of fraud referrals to prosecutors and the number of indictments and convictions for insurance fraud. In FY 2006, the unit referred 182 insurance fraud cases to prosecutors. Of those, 114 people were indicted, and 98 ultimately convicted. A five-year summary of referrals, indictments, and convictions follows.

**Referrals, Indictments, and Convictions**



The following FY 2006 statistics further illustrate the unit's effectiveness and efficiency:

- 9,712 fraud reports received (via mail and the online reporting form on TDI's website)
- 3,507 calls received via TDI's toll-free Insurance Fraud Hotline
- 448 cases opened for investigation
- 274 subpoenas issued
- \$11,305,172 – amount of fraud identified in referred cases
- \$4,285,478 – amount of restitution assessed by courts on Fraud Unit cases
- \$80,797 – amount of fines assessed
- 263 open records requests processed.

The Fraud Unit makes presentations to the public and industry to help promote fraud awareness. In FY 2006-2007, Fraud Unit staff made 19 presentations.

In FY 2007, the number of fraud reports increased by 43 percent from FY 2006 as a result of legislative changes to the fraud reporting statute to require insurers to report all fraud to the Fraud Unit.

The Fraud Unit transitioned to a new case management system in FY 2007, which is expected to improve investigative efficiency. The unit is evaluating using the system to establish a paperless referral process.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

**1991** – 72nd Legislature created an Insurance Fraud Unit.

**1995** – The 74th Legislature authorized the Commissioner of Insurance to hire peace officers to investigate insurance fraud.

**1997** – The Fraud Unit began coordinating and conducting insurance fraud training for law enforcement, the insurance industry, and agency staff through an annual conference.

**2005** – The Fraud Unit instituted an outreach initiative to all law enforcement agencies in Texas, including prosecutors. The initiative included training and investigative assistance on insurance fraud.

**2006** – The Commissioner of Workers' Compensation delegated responsibility for investigating fraudulent workers' compensation matters to the Fraud Unit.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

Insurance fraud is the second-most common white-collar crime after tax evasion. The Coalition Against Insurance Fraud and the National Insurance Crime Bureau currently estimate that insurance fraud costs the average American family \$1,000 per year in increased insurance premiums, in addition to the increased cost of goods and services purchased. Insurance fraud may also affect an insurance company through the payment of claims that otherwise would warrant payment. Additionally, fraud against an insurance company could adversely affect the company's solvency. Finally, the sale of fraudulent insurance products or the operation of a fraudulent insurance entity poses a severe financial risk to those who may unknowingly do business with an unlicensed entity.

Below is the statistical breakdown of insurance companies, agents/adjusters, and consumers in Texas that the Fraud Unit affects:

- Consumers = 23,507,783 (2006 U.S. Census estimate for Texas)
- Companies = 2,437 insurers and various other types of insurance-related entities
- Agents and adjusters = 347,830 total active licenses.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

The Fraud Unit employs investigators, including commissioned peace officers, attorneys, criminal analysts, and administrative support staff. Fraud Unit management includes the Associate Commissioner/Chief Investigator who supervises the investigators and investigator supervisors. An attorney in the Austin office provides legal advice to staff during investigations and reviews investigation materials for referral for prosecution. A second Fraud Unit attorney is a special prosecutor under a memorandum of understanding with the Dallas County District Attorney's Office to prosecute cases referred by the Fraud Unit. All other staff work from TDI's headquarters in Austin.

Fraud Unit staff attend training to stay current on policies and procedures and improve their skills. Peace officers are required to obtain 40 hours of continuing education each year. Managers are required to complete the TDI management training track. Administrative staff attend computer and professional development courses offered at TDI.

The Fraud Unit recognizes the importance of retaining competent and trained employees. The unit's commissioned peace officers have previous experience investigating white-collar and financial crime. Investigative staff must also be proficient in the use of specialized investigation analysis software. In addition, investigative staff complete courses in insurance and insurance industry terminology taught by TDI's Human Resources (HR) section. The primary obstacle to retaining qualified staff is competition with trade associations, the insurance industry, and other state agencies.

To reduce turnover rates, the Fraud Unit worked with HR to identify salary and non-salary initiatives. HR researched the salaries of employees in similar positions in the relevant labor market. Based on the review, qualified fraud investigators received an equity adjustment of \$135 a month, making the starting monthly salary for an Investigator VI \$3,770, for an Investigator VII \$4,263, and for a Manager II \$4,635. To maintain good communication and morale within the program, the Fraud Unit has bimonthly manager meetings and monthly staff meetings. At each staff meeting, an employee is recognized as employee of the month for his or her contributions to the success of the Fraud Unit. The employee of the month is nominated by peers and selected by the managers.

The Fraud Unit has several succession planning initiatives. Administrative functions are covered by assigning a primary, backup, and secondary backup. Each investigation has a lead investigator and a manager as a backup. Fraud Unit processes are outlined in an administrative procedures manual and an investigators manual. Additionally, new investigators are assigned mentors who help them become familiar with investigative procedures.

Management-employee workgroups evaluate and recommend improvements to Fraud Unit processes and offer input on issues. The workgroups include Legislative and Policy Advisory Group, Training Advisory Group, Workflow Processes Group, Employee Recognition, and Event Planning and Outreach Training Program.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

The primary funding sources are general revenue and dedicated general revenue funds, which finance over 96 percent of the agency's operations. Maintenance taxes and fees are the two main revenues that fund the agency's appropriations to regulate the insurance and workers' compensation industries.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. Describe the similarities and differences.**

### **Internal Programs**

Both TDI's Fraud Unit and Enforcement programs investigate violations of the insurance code. Enforcement is responsible for administrative actions, while the Fraud Unit prepares cases for criminal prosecution. Many Enforcement cases involve allegations of activities that, if proven, would provide the basis for prosecution. TDI's Fraud Unit investigates and prepares these cases for referral to various district attorneys around the state. Companion cases often run simultaneously in both Enforcement and the Fraud Unit because Enforcement may still assess an appropriate administrative action against a licensee while the Fraud Unit pursues criminal prosecution.

### **External Entities**

The Travis County District Attorney (DA) also investigates insurance fraud. The DA primarily pursues investigations of fraud involving persons licensed by TDI or those conducting the business of insurance without a license. The Texas Insurance Code, Chapter 85, establishes Travis County as the venue for prosecution of persons engaged in the business of insurance. The Fraud Unit refers completed investigations of persons engaged in the business of insurance to the DA and works with the DA's staff to pursue cases for prosecution. The DA is the only prosecuting entity that reinvestigates cases referred by the Fraud Unit. In addition, the DA investigates matters independent of the Fraud Unit. The DA does not disclose its criteria for investigating fraud.

The Office of the Texas Attorney General (OAG) and the Texas Health and Human Services Commission's (HHSC) Inspector General's Office investigate Medicaid and Medicare fraud.

The Texas Auto Theft Prevention Authority provides financial grants to law enforcement agencies across the state to investigate auto theft. Fraud Unit investigators communicate with auto task force members upon receiving information from insurers of existing investigations.

The Federal Bureau of Investigations (FBI) also investigates insurance fraud and routinely coordinates efforts with the Fraud Unit.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

### **Internal Programs**

The Fraud Unit meets with TDI's Legal Services; Enforcement; Consumer Protection; Financial; Life, Health, and Licensing; and Property and Casualty programs biweekly. The unit also submits a monthly

case status report of active fraud investigations to Enforcement and meets regularly with DWC's Legal Services Section.

### **External Entities**

The Fraud Unit forwards reports of fraud associated with professional licensees to the appropriate licensing agency. The unit also provides outreach to law enforcement agencies, antifraud organizations, and insurers and maintains a database to document contacts.

The Fraud Unit and Enforcement Program, along with the Travis County DA, meet quarterly to discuss pending investigations. Each month, the Fraud Unit and the Travis County DA prepare case status reports to avoid duplication of investigations. A Fraud Unit investigator meets at least weekly with the DA's office on case-related matters.

In addition, the Fraud Unit participates in the quarterly meeting of the Medicaid Fraud Task Force. The task force includes the OAG, HHSC, and the Office of the Texas Comptroller. The legislatively mandated meetings are to discuss investigative matters.

Fraud Unit investigators participate in monthly meetings with law enforcement and insurance investigators in Dallas, Fort Worth, San Antonio, and Houston.

The Fraud Unit also participates on several statewide task forces with an FBI liaison and a U.S. Postal Inspector.

**J. If the program or function works with local, regional, or federal units of government include a brief description of these entities and their relationship to the agency.**

### **Local, State, and Federal Law Enforcement**

The Fraud Unit works with police departments, local sheriffs' departments, state prosecutors, federal prosecutors, and federal law enforcement agencies. Fraud Unit investigators participate in task force investigations.

### **Texas Committee on Insurance Fraud**

The Fraud Unit participated in the formation of the Texas Committee on Insurance Fraud, which is a collaborative group of the insurance industry, legislators, antifraud associations, prosecutors, law enforcement entities, and other state agencies. This committee is working to improve insurance fraud legislation in Texas.

### **State Agencies and Health Professional Boards**

The Fraud Unit meets routinely with the enforcement directors of other state agencies and health professional boards to create awareness of fraud committed within areas of their authority.

**K. If contracted expenditures are made through this program please provide:**

- **the amount of those expenditures in fiscal year 2006;**
- **the number of contracts accounting for those expenditures;**
- **a short summary of the general purpose of those contracts overall;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

An attachment to TDI's Self-Evaluation Report provides agency contract expenditures by program.

**L. What statutory changes could be made to assist this program in performing its functions? Explain.**

The Fraud Unit has no specific statutory changes to recommend.

**M. Provide any additional information needed to gain a preliminary understanding of the program or function.**

As a law enforcement agency, TDI's Fraud Unit may access the FBI's criminal records database and the Texas Department of Public Safety's criminal database. Access to this information is critical to conduct insurance fraud investigations. The Fraud Unit is also a law enforcement member of the Regional Organized Crime Information Center and the National White Collar Crime Center. These are federally funded organizations that provide investigative assistance to member law enforcement agencies.

Fraud Unit peace officers are authorized to make arrests and execute search warrants against fraud suspects.

- N. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- why the regulation is needed;
  - the scope of, and procedures for, inspections or audits of regulated entities;
  - follow-up activities conducted when non-compliance is identified;
  - sanctions available to the agency to ensure compliance; and
  - procedures for handling consumer/public complaints against regulated entities.

Not applicable.

**O. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.