

# Texas workers' compensation compliance 101

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Dan LaBruyere – Deputy Commissioner of Compliance & Investigations



# Compliance & Investigations

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graph TD; A[Compliance & Investigations] --> B[Administrative]; A --> C[Criminal]
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Administrative

Criminal

# Complaint

- Written submission.
- Alleging a violation of the Workers' Compensation Act or rules adopted by DWC.

## **Refer to:**

- Texas Labor Code Section 402.023.
- 28 Texas Administrative Code (TAC) Section 180.2.
  - Updated in May 2024.
- 28 TAC Section 180.1(6).

# Administrative violation

- Failure or refusal to comply with Labor Code, DWC rules, orders, or a decision of the commissioner.

## **Refer to:**

- Labor Code Section 180.1(2).

Complaint



Audits & Investigations



Enforcement

# Processing complaints

## Audits & Investigations

21 full-time employees

1 director

# Complaint process



# Initial processing

- Routed into our system.
- Processed as they come in.
- Approximately seven days.
- Assigned a problem report I.D. number (PRI number).

# Initial processing

Ambiguous or uncertain complaints:

- Insurance specialist with DWC will reach out to the complainant to request clarification.

# Initial processing

Received and looked at:

- Insurance specialist will send confirmation of receipt to the complainant.

# Complaint process



# Assigning complaint

- Program supervisor assigns complaint to an insurance specialist.

# Complaint process



# Document gathering

- Insurance specialist requests documents from the respondent relevant to the complaint.

# Document gathering

## Common documents:

- Adjuster's notes.
- Payment summaries.
- Medical bills.
- DWC forms.
- First report of injury.
- Work status reports.
- Maximum medical improvement reports.
- Documents establishing accrual of benefits.
- Etc.

# Complaint process



## Document review

- Once all documents are gathered, the insurance specialist determines if the allegation in the complaint forms the basis of an actionable violation.

# Complaint process



# Possible outcomes

## Confirmed

- Confirmed allegations sent to a quality assurance specialist for review.
- Insurance specialist sends complainant and respondent a letter confirming findings and that the matter will be sent to DWC Enforcement.
- Complaint is closed with A&I.

## Unconfirmed

- Complaint and evidence sent to a quality assurance specialist for review.
- Letter sent to complainant and respondent with explanation of DWC's findings.
- Complaint closed.

# Enforcement

7 attorneys

2 program  
specialists

1 legal assistant

1 director

# Confirmed complaint case

- Confirmed complaint violations are assigned a case number by a program specialist.
- The enforcement director evaluates cases by subject matter and complexity, then assigns them to a DWC Enforcement attorney.

eCase → resolution

**Letter of  
education**

**Warning  
letter**

**Consent  
order**

# Evidence and review

- If sufficient evidence, the assigned attorney recommends a penalty and drafts a consent order.
- Parties negotiate and exchange further information.

# If parties agree:

Proposed consent order is peer-reviewed internally for accuracy.

The director reads and approves proposed consent order and penalty.

The consent order is sent to opposing counsel for review and signature.

The consent order (now signed by both parties) is sent to DWC's commissioner for signature.

Once signed by the commissioner, it becomes a final order.

# No agreement:



Labor Code Section 415.036

# Practice tips

- If documents are requested for complaint investigation, please comply with that request as it is made.
- If you anticipate a delay, please let us know.
- We don't punish good-faith negotiations.

# DWC Enforcement orders

Visit: [bit.ly/DWC-orders](https://bit.ly/DWC-orders)

or



The screenshot shows the TDI Texas Department of Insurance website. At the top, there is a search bar with the text "ENHANCED BY Google" and a search icon. Below the search bar, there are navigation tabs for "Insurance", "State Fire Marshal", and "Workers' Compensation" (which is highlighted in orange). Underneath these tabs is a secondary navigation bar with links for "Home", "Injured Employees", "Empleados Lesionados", "Employers", "Health Care Providers", and "Carriers".

The main content area is titled "Disciplinary orders" and includes a search instruction: "To search orders from 2020 to present: Use the search box at the top of this page. To narrow your results, include the word 'order.' You also can click on the 'Disciplinary orders' tab on the search results page." Below this, there is a link for "Workers' compensation disciplinary orders prior to 2019".

At the bottom of the page, there is a table with the following columns: "Order Number", "Date issued", and "Subject". The table contains 15 rows of data, each representing a disciplinary order.

Order Number	Date issued	Subject
<a href="#">20248931</a>	11/4/2024	XL Specialty Insurance Company
<a href="#">20248927</a>	10/30/2024	Indemnity Insurance Company of North America
<a href="#">20248926</a>	10/30/2024	Zurich American Insurance Company
<a href="#">20248925</a>	10/25/2024	Old Republic Insurance Company
<a href="#">20248924</a>	10/17/2024	Arch Insurance Company
<a href="#">20248922</a>	10/17/2024	American Casualty Company of Reading, Pennsylvania
<a href="#">20248921</a>	10/17/2024	Markel Insurance Company
<a href="#">20248920</a>	10/17/2024	LM Insurance Corp.
<a href="#">20248919</a>	10/17/2024	Singleton Associates PA
<a href="#">20248918</a>	10/17/2024	Liberty Insurance Corp.
<a href="#">20248917</a>	10/17/2024	Redwood Fire & Casualty Insurance Company
<a href="#">20248913</a>	10/14/2024	City of San Antonio
<a href="#">20248907</a>	10/9/2024	AIU Insurance Company
<a href="#">20248906</a>	10/9/2024	Standard Fire Insurance Company
<a href="#">20248905</a>	10/9/2024	LM Insurance Corporation

# Compliance & Investigations

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graph TD; A[Compliance & Investigations] --> B[Administrative]; A --> C[Criminal]
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Administrative

Criminal

# Fraud

- Intentionally lying to receive workers' compensation benefits.



Allegation



DWC Fraud Investigations



Travis County District Attorney's Office  
(DWC Fraud Prosecution Unit)

# Report fraud

Visit: [bit.ly/DWC-fraud](https://bit.ly/DWC-fraud)

or



A screenshot of the Texas Department of Insurance (TDI) website. The page is titled "Division of Workers' Compensation Fraud Unit". The navigation bar includes "Insurance", "State Fire Marshal", and "Workers' Compensation" (highlighted in orange). Below the navigation bar, there are links for "Home", "Injured Employees", "Empleados Lesionados", "Employers", "Health Care Providers", and "Carriers". The main content area has a sidebar on the left with links like "About DWC", "Commissioner of Workers' Compensation", "Executive staff contacts", "Disciplinary orders", "Bulletins", "Rules", "Public hearings", "Open records", "Data calls", "Forms", "Memos to system participants", "Reports", "Gifts, grants, and donations", "News", "Calendar", "Jobs", "Contact us", and "Topics A - Z". The main content area has a heading "Division of Workers' Compensation Fraud Unit" and a paragraph explaining that workers' compensation fraud increases system costs. Below this, there are sections for "What is workers' compensation fraud?", "Why do people commit workers' compensation fraud?", and "Who pays for workers' compensation fraud?". A red circle highlights a box titled "Workers' compensation fraud links" which contains a list of links: "Poster", "Brochure", "Report workers' compensation fraud", "News", and "Contact us".

# Fraud Investigation Unit

5 investigators

3 data analysts

1 program  
specialist

1 director

# Referral sources



**Special  
investigation  
units**



**Tipsters**



**Local and  
federal law  
enforcement**



**National  
Crime  
Insurance  
Bureau**

# Subpoena authority

- DWC commissioner may issue subpoena for witnesses and materials.
- Includes Texas and other states.

# Grand jury

- Prosecutor may issue grand jury subpoena.
- Attendance and document production.

## **Refer to:**

- Texas Code of Criminal Procedure Article 20.10.

# Search warrant

- District attorney investigator.

## Refer to:

- Texas Code of Criminal Chapter 18.

# Investigative process



# Grand jury

- Meet and deliberate in secret.
- Investigative body.
- Twelve people – nine for a quorum.
- “True bill” or “no true bill.”
- True bills go to court.



# Offenses we charge

- Theft.
- Securing execution of document by deception.
- Insurance fraud.
- Money laundering.
- Engaging in organized crime.
- Labor code violations – Labor Code Chapter 418 (state jail felony maximum punishment).
- Election of prosecution under Labor Code Section 418.003.

# Workers' compensation cases

- Arrests occur after indictment.
- Process is usually secretive.
- Warrant for individuals.
- Summons for corporate defendants.
- Corporation appears by counsel.



# Corporate defendants

- Agent acting on behalf of corporation within scope of employment.
- Majority of governing board authorized or tolerated the criminal act.
- Actor is a high managerial agent acting on behalf of the corporation.
- Corporations can be tried in absentia.

# Penalties

- State jail felony – 180 days to two years, \$10,000 fine.
- F3 – two to 10 years in prison.
- F2 – two to 20 years in prison, \$10,000 fine.
- F1 – five to 99 years/life in prison, \$10,000 fine.

# Corporate penalties

- No probation.
- \$20,000 – felony offenses.
- \$50,00 – Class A or high and the victim suffers serious bodily injury or death.
- Option – court can double the amount of money lost by victim or gained by the corporation.



# Outcomes - individuals

**Pretrial  
diversion**

**Restitution**

**Deferred  
adjudication**  
(conditions)

**Probation**  
(conditions)

**Jail**

**Prison**



# Restitution

- Not limited by offense level.
- Factual basis in record.
- State must prove restitution – proximate cause of loss.
- Contract recovery does not equal criminal restitution.