



South Carolina House of Representatives Legislative Oversight Committee

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TABLE OF CONTENTS

Chairman’s Statement	3
South Carolina Insurance Fraud Information.....	4
Insurance Fraud	5
Key Takeaways from Agency Presentations	6

CHAIRMAN'S STATEMENT

Insurance fraud is an issue often overlooked as it is not a crime that typically generates the type of acute response created by burglaries, violence, and other similar crimes. Insurance fraud may not generate notifications on news apps, or land on the front page of news websites, but its effect on the residents of this state is no less impactful. This issue has far-reaching implications for our communities, the insurance industry, and the well-being of every resident of the state.

Insurance fraud involves deceitful practices to obtain undeserved financial benefits from insurance policies and programs. Perpetrators often engage in activities like identity theft, falsifying claims and documents, staging accidents, or submitting inflated losses, all with the intent to exploit the insurance system. The victims of these crimes may suffer physical injuries and financial loss, creating a ripple effect throughout our local communities.

The far-reaching effect of fraud impacts every insurance policyholder in the state. The financial burden of fraud is absorbed by policyholders as insurance companies pass on the costs of fraudulent claims through higher premiums. Additionally, insurance fraud compromises the sustainability of the insurance market.

The specter of fraud also extends to the state's Medicaid and unemployment insurance systems. Medicaid is not a personal line of insurance purchased by a consumer, but instead serves as a healthcare safety net program funded by the state and federal government. Fraudulent exploitation of this program impacts taxpayers and qualified Medicaid beneficiaries.

To address fraud effectively, we must ensure that the state's government agencies are not operating in siloes, but instead are working together in a logical and cohesive manner. Additionally, collaboration between state agencies, insurance companies, and the public is crucial. Reporting suspected fraud and supporting investigations is a vital step in holding perpetrators accountable for their actions. By working together, we can create a robust deterrent against insurance fraud, protect the rights of policyholder, and ensure the residents of South Carolina have access to quality insurance resources and services.

The ad hoc committee received testimony from six state agencies regarding their role in the prevention, investigation, reporting, and prosecution of insurance fraud. The participating agencies are as follows:

- Department of Insurance;
- State Law Enforcement Division (SLED);
- South Carolina Attorney General's Office;
- South Carolina Workers' Compensation Commission;
- South Carolina State Accident Fund;
- Department of Consumer Affairs;

Over the course of the four meetings, agency leaders discussed their statutory duties, responsibilities, successes, and opportunities for improvement. Through this process, the committee, and members of the public, learned about the prevalence of fraud in our state; gaps that exist in state law which may impair insurance fraud mitigation; opportunities to enhance training to better identify fraud; and strategies for improved interagency communication and collaboration.

I want to thank my fellow committee members for their participation and leadership in this process. I would also like to thank the leadership of each agency represented as we seek to find ways to mitigate fraud in our state.

- Chairman Jeff Johnson

SOUTH CAROLINA INSURANCE FRAUD INFORMATION

WHAT IS INSURANCE FRAUD?

- Insurance fraud occurs when an insurance company, agent, adjuster, or consumer commits a deliberate deception to obtain an illegitimate gain. It can occur during the process of buying, using, selling, or underwriting insurance.
- Insurance fraud drains SC's systems, wastes resources, and raises premiums for all SC citizens.

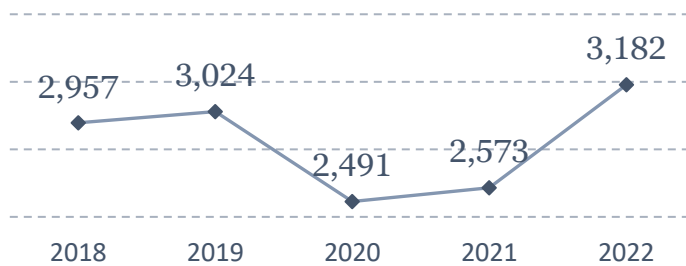
SC AGENCIES INVOLVED IN INVESTIGATING INSURANCE FRAUD:

- Department of Insurance
- State Law Enforcement Division (SLED)
- Attorney General's Office
- Workers' Compensation Commission
- State Accident Fund
- Department of Consumer Affairs
- Department of Disabilities and Special Needs
- Department of Health and Human Services
- Department of Employment and Workforce

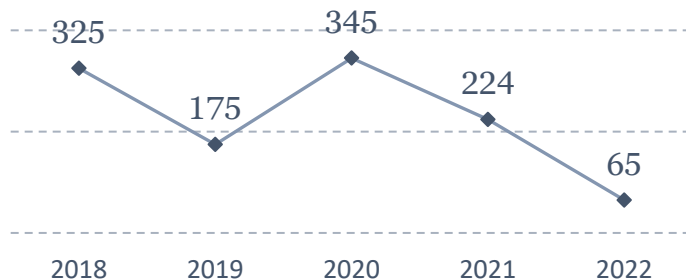
NUMBER OF CONVICTIONS FROM 2018 – 2022: **129**

AMOUNT OF RESTITUTION ORDERED FROM 2018 – 2022: **\$817,197.68**

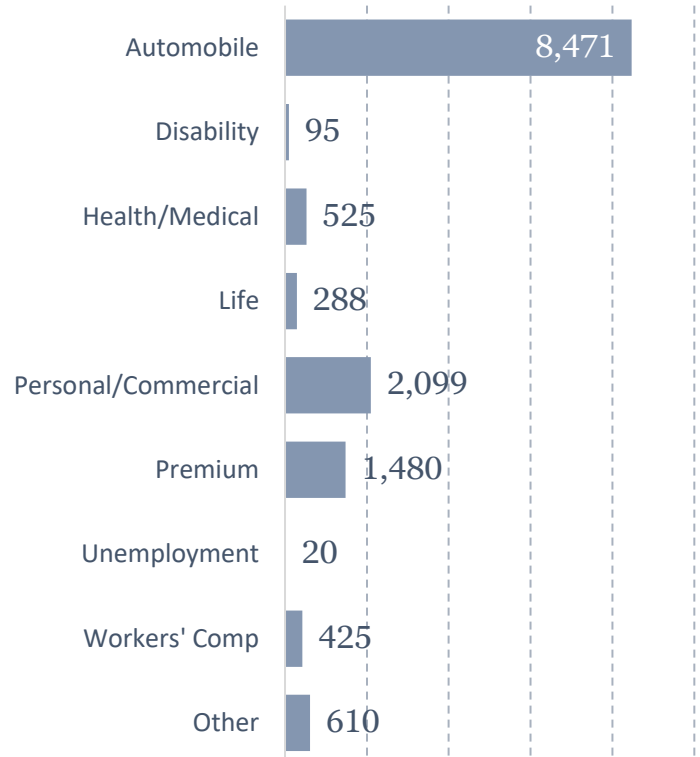
COMPLAINTS OF SUSPECTED INSURANCE FRAUD RECEIVED FROM 2018 - 2022



COMPLAINTS UNDER INVESTIGATION BY SLED FROM 2018 - 2022

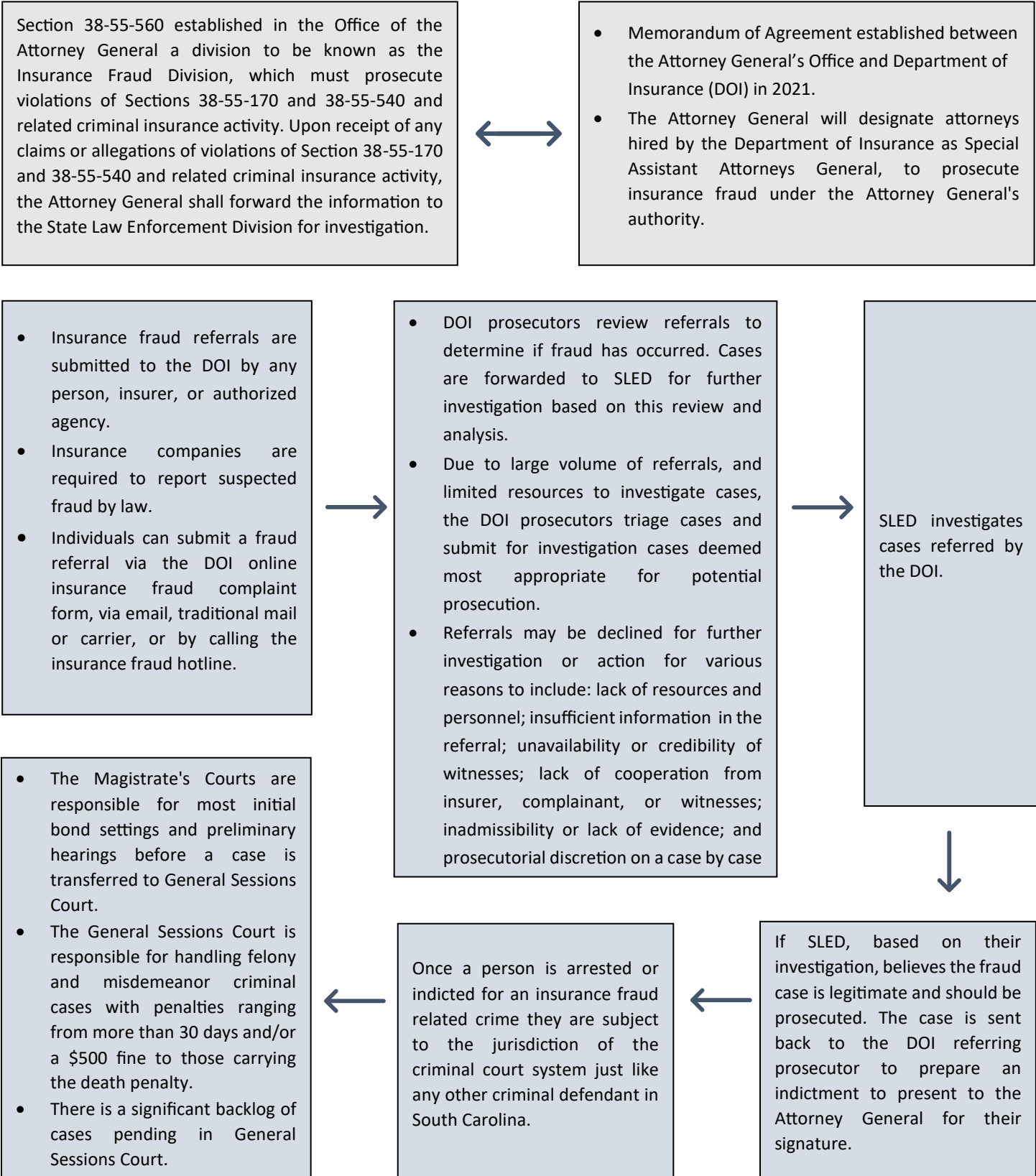


TOTAL COMPLAINTS PER TYPE OF INSURANCE FRAUD RECEIVED FROM 2018 - 2022



INSURANCE FRAUD REFERRAL, INVESTIGATION, AND PROSECUTION

Insurance Fraud Division – Five FTEs (Prosecutors)/SLED – 5 FTEs (Investigators)



KEY TAKEAWAYS FROM AGENCY PRESENTATIONS

DEPARTMENT OF INSURANCE (DOI) – OCTOBER 25, 2023

IDENTIFIED ISSUES

- DOI and its partners must determine how to increase public awareness of insurance fraud as well as how to report insurance fraud.
- In some insurance fraud cases, courts do not order the defendant to pay restitution, resulting in a lack of deterrence.
- Compared to other states, South Carolina is lagging in terms of the amount of state resources allocated to combatting insurance fraud.
- Because SLED does not have the bandwidth to investigate all cases in which DOI suspects insurance fraud, DOI must decline complaints.
- The Insurance Fraud Division is composed of the same number of employees as it was in 2009; however, the Insurance Fraud Division now handles almost four times the number of complaints compared to 2009.
- The estimated cost of fraud is difficult to capture due to limited datasets. DOI and its partners must determine how to resolve this issue.
- The Insurance Fraud Division is not able to search criminal histories or insurance claim histories because it does not have an “originating agency identifier” (ORI Number). ORI Numbers are assigned through the FBI. The Insurance Fraud Division is working with SLED to apply for an ORI number.

OPPORTUNITIES FOR IMPROVED COMMUNICATION

- The Insurance Fraud Division is working on establishing processes to track the number of cases it suspects insurance fraud but must decline due to SLED’s low bandwidth.
- Tracking data regarding complaints, investigations, cases, outcomes, etc. across multiple agencies causes confusion and likely affects the accuracy of the data. DOI and its partners must determine more consistent and clearer methods in which to track relevant metrics and statistics.
- DOI intends to utilize a new management system that will allow DOI and SLED to better communicate and transfer information. In addition to allowing DOI and SLED to easily transfer files, this new management system will assign a number to every complaint. The number will remain attached to the complaint throughout the entire process, which will allow DOI to track which complaints led to prosecution.
- The Insurance Fraud Division plans to implement new analytic software, which will create more proactive investigations. For example, this new software will allow the Insurance Fraud Division to identify patterns and connections between previous or existing insurance fraud complaints and people.

RECOMMENDATIONS MADE BY AGENCY REPRESENTATIVES

- The General Assembly should rewrite the omnibus insurance fraud statute.
- The General Assembly should pass a statute to permanently move the Insurance Fraud Division to DOI.
- The General Assembly should increase SLED and DOI appropriations, which will allow each agency to hire additional staff for the purpose of combatting insurance fraud.
- The General Assembly should discuss ways in which it can increase deterrence of insurance fraud.

STATE LAW ENFORCEMENT DIVISION (SLED) – OCTOBER 25, 2023

IDENTIFIED ISSUES

- The number of SLED agents working on insurance fraud is not sufficient to investigate all cases in which DOI suspects insurance fraud.
- Public awareness regarding the United States', and particularly South Carolina's, significant insurance fraud problem is lacking.
- The backlog in general sessions court creates major delays in prosecuting insurance fraud cases. In many instances, the insurance fraud offender is released on bond then continues to commit crimes.

RECOMMENDATIONS MADE BY AGENCY REPRESENTATIVES

- Increase SLED appropriations to allow the agency to hire more agents to investigate insurance fraud cases, hire administrative support staff, and identify technology that can assist with investigations.
- DOI and SLED should establish a prosecutor-to-SLED agent ratio to ensure both agencies operate efficiently and to maximize the number of cases referred, investigated, and prosecuted. For example, one prosecutor can handle the caseload from several investigators, but once the caseload increases to a certain point, DOI should hire another prosecutor, and SLED should increase its number of agents accordingly.

WORKERS COMPENSATION COMMISSION (WCC) – NOVEMBER 8, 2023

IDENTIFIED ISSUES

- The consequences of not obtaining workers' compensation insurance may not be sufficient to deter employers from taking the chance of not obtaining such insurance.
- WCC commissioners do not receive training regarding recognizing fraudulent activities.
- The Attorney General's office does not inform WCC of the outcomes of the claims referred by WCC.

OPPORTUNITIES FOR IMPROVED COMMUNICATION

- Updates and reports from the Attorney General's Office on the outcomes of cases referred by WCC could help the commission identify what cases to refer to the Attorney General's office in the future.
- WCC commissioners need training specific to the identification of insurance fraud.

STATE ACCIDENT FUND (SAF) – NOVEMBER 8, 2023

IDENTIFIED ISSUES

- The fast-paced nature of workers' compensation creates difficulty in viewing workers' compensation from a technical criminal fraud standpoint. Once the claim reaches a point in which the agency is considering fraud, the claim has mostly been resolved through the system.
- Workers' compensation is a no-fault system in South Carolina, which blurs some areas.
- In some instances, going uninsured is a better financial decision for employers even if they are eventually caught by SAF and required to pay penalties.
- SAF usually discovers uninsured businesses when an employee files a claim, but businesses can go years without an employee filing a claim. This makes it difficult for SAF to identify noncompliant businesses.

OPPORTUNITIES FOR IMPROVED COMMUNICATION

- SCDOR is launching a pilot program to expand its Governmental Enterprise Accounts Receivable (GEAR) program. In addition to SAF's current capability to pursue noncompliant individuals, this pilot program will also allow SAF to pursue noncompliant businesses.

RECOMMENDATIONS MADE BY AGENCY REPRESENTATIVES

- The only way to ensure all businesses are insured is to implement a verification system. Therefore, a system should be established in which all South Carolina businesses are required to verify on a constant basis that they have workers' compensation insurance.
- South Carolina could require businesses to show proof of general liability and workers' compensation insurance before issuing business licenses.

CONSUMER AFFAIRS (DCA) – NOVEMBER 8, 2023

IDENTIFIED ISSUES

- The origins of one-off insurance fraud scams are extremely difficult to identify.

OPPORTUNITIES FOR IMPROVED COMMUNICATION

- A council composed of all agencies dealing with insurance fraud issues should be created. Additionally, the council's meeting frequency and structure should be mandated. This council would serve to keep member agencies updated on one another's work, thereby improving communication and coordination efforts.

RECOMMENDATIONS MADE BY AGENCY REPRESENTATIVES

- Bank and insurance company notifications are the primary ways in which people discover they have been a victim of identity theft or a security breach. The inclusion of DCA's contact information in these bank and insurance company notifications would be incredibly helpful to both DCA and the public—victims of identity theft or a security breach would be able to quickly reach out to DCA to get information and guidance, and DCA would be able to swiftly remediate the identity theft or security breach event.

ATTORNEY GENERAL'S OFFICE – FEBRUARY 13, 2024

IDENTIFIED ISSUES

- South Carolina has not made comparable financial investments to prevent, investigate, and prosecute insurance fraud when compared to surrounding states.

Appropriations by state:

- Georgia - \$7.9m
- North Carolina - \$7.3m
- South Carolina - \$1.8m

Investigators per capita by state:

- Georgia – 1 for every 220,000 residents
- North Carolina – 1 for every 200,000 residents
- South Carolina – 1 for every 1,000,000 residents

REPORTING INSURANCE FRAUD

- The intent of the law, as defined in S.C. Code Section 38-55-520, is to confront aggressively the problem of insurance fraud in South Carolina.
- S.C. Code Section 38-55-570 requires any person, insurer, or authorized agency having reason to believe that another has made a false statement or misrepresentation or has knowledge of a suspected false statement or misrepresentation shall, for purposes of reporting and investigation, notify the Insurance Fraud Division of the Office of the Attorney General.
- There is uncertainty regarding what “shall” implies. There is not criminal or civil penalty associated with this law.
- SECTION 38-55-520. The purpose of this article is to confront aggressively the problem of insurance fraud in South Carolina by facilitating the detection of insurance fraud; to allow reporting of suspected insurance fraud; to grant immunity for reporting suspected insurance fraud; to prescribe penalties for insurance fraud; to require restitution for victims of insurance fraud; to establish a division within the Office of the Attorney General to prosecute insurance fraud; and to require the investigation of alleged insurance fraud by State Law Enforcement Division.
- SECTION 38-55-570. Notification of Insurance Fraud Division of knowledge or belief of false statements or misrepresentations; information to be released; shared among government agencies; privileged; not subject to subpoena.
- Any person, insurer, or authorized agency having reason to believe that another has made a false statement or misrepresentation or has knowledge of a suspected false statement or misrepresentation shall, for purposes of reporting and investigation, notify the Insurance Fraud Division of the Office of the Attorney General of the knowledge or belief and provide any additional information within his possession relative thereto.
- The Insurance Fraud Division, at its inception, was appropriated \$200,000 and had one investigator assigned to investigate insurance fraud.
- General Alan Wilson (Attorney General’s Office), Chief Mark Keel (State Law Enforcement Division), and Director Ray Farmer (Department of Insurance) signed a Memorandum of Understanding to consolidate agency insurance fraud resources at the Department of Insurance.

MEDICAID: PROVIDER FRAUD

- Restrictions regarding information sharing between the Department of Labor, Licensing, and Regulation (LLR) is impeding the Attorney General’s Office from effectively investigating and prosecuting patient abuse cases.
 - The Attorney General’s Office would like better coordination with the provider boards (e.g., nursing boards, physician boards, etc.)
- There is a need to improve coordination with other state agencies (e.g., SLED, DHEC, DSS, Aging, LLR, etc.).

OPPORTUNITIES FOR IMPROVED COMMUNICATION

- The intent of the MOU was to improve investigations and prosecutions of insurance fraud by housing investigators and prosecutors at the Department of Insurance. This consolidation may have streamlined processes, but no formal evaluation of the efficacy of the MOU has been conducted.
- Improved coordination is needed across several state agencies to assist the Attorney General’s Office with investigations.

RECOMMENDATIONS MADE BY AGENCY REPRESENTATIVES

- The Attorney General’s Office, SLED, and the Department of Insurance need to evaluate the efficacy of the MOU which moved insurance fraud resources to the Department of Insurance.
- Amend the Omnibus Adult Protection Act to modify the definition of psychological abuse.
- The state needs to make additional financial investments to mitigate insurance fraud.
 - New technologies: Advanced artificial intelligence, Data mining software
 - Staffing: Investigators, Prosecutors