INSURANCE BUREAU OF CANADA / BUREAU D'ASSURANCE DU CANADA

Insurance Impact Statement-Personal Injury Fraud

Insurance Bureau of Canada (IBC) is the national trade association of the private property and casualty insurance industry. It represents the companies that provide more than 90% of the private home, car and business insurance in Canada.

IBC is mandated to collect claims information from the insurance industry nation-wide. This information consists of the type, number and cost of claims submitted.

Insurance crime in Canada

The economic cost of insurance fraud is immense. An Insurance Bureau of Canada study from 1993 estimated that at least 15% of claims for all personal lines of general insurance contain some element of fraud.[1] This means that for the $21.87 billion in incurred claims and expenses Canadian insurers experienced in 2003 (figure includes private insurers and ICBC)[2], fraud would amount to at least $3.28 billion. This is considered a very conservative number because the 15% potential fraud calculation is likely on the low side now. Toronto police Chief Julian Fantino has said he believes organized crime targeting insurance companies has increased significantly in the past decade because of the crime's high profit/low risk nature.

A significant contributor to the fraud costs is personal injury fraud.

The Canadian Coalition Against Insurance Fraud commissioned a closed claims study to gauge the prevalence of personal injury fraud. The study concluded that 33.6% of all accident benefits (AB) claims have some element of fraud and 25.6% of all bodily injury (BI) claims have some element of fraud.[3]

Industry data strongly suggests something is amiss.

The number of auto collision claims on Canadian roads has been decreasing over the past number of years but the cost of personal injury claims arising from those collisions has increased dramatically.

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[1] Insurance Bureau of Canada, (1993). Initial Estimates of Property and Casualty Insurance Fraud in Canada: Evidence from a Review of Closed Claims Files.

[2] MSA Research. (2004). MSA Benchmark Report: Property and Casualty, 2004.

[3] Hynes, T., MacAulay, K., Mahaffey, T., & Wright, B. (2003). Premeditated and opportunistic fraud in personal injury claims (revised). Toronto: Canadian Coalition Against Insurance Fraud.

In 1991, private general insurers in Canada paid out $1.7 billion in AB and BI claims on private passenger vehicles. In 2003, this figure had ballooned to $4.6 billion. But during the same period, accident frequency declined. Of every 100 insured cars in 1991, there were collision claims on 5.46 of them. This figure was down to 3.83 in 2003.

Personal injury fraud can be premeditated; that is, specific actions can be carried out for the purpose of illegally collecting insurance benefits. These include staged accidents, in which participants fake collisions, claim to be injured and fraudulently collect insurance benefits. The crime can also be opportunistic, as when legitimate expenses resulting from a real injury are inflated.

In Canada, staged accidents are commonly organized within the service supplier chain. A group of people is involved in an accident. In some jurisdictions police don't attend the scene of the accident if an injury is not immediately reported. This allows more people to claim that they were an occupant of a vehicle involved in the collision. Minutes later, a tow truck driver arrives, recommends a paralegal or lawyer to coordinate the process and tows the automobile to a specific garage. The tow truck driver is then paid a fee (kickbacks are usually between $600-$1,200[4] per person) for referring the paralegal or lawyer. Subsequently, the paralegal coordinates the claims process and recommends specific health care professionals, who also provide kickbacks, amounting to about $1,000 per person. Service providers at every step in the chain may over bill for services, or simply charge insurers for services that were never performed.

Competing clinic owners are reluctant to report these instances because they do not wish to threaten their own businesses by alienating physicians or others upon whom they rely for referrals. Over-utilization is also a common problem, particularly in cases of soft tissue injury. The lack of research about how best to treat this type of injury means that insurers are faced with large variations in the frequency, duration, type and cost of treatments being claimed. Such variation makes insurers vulnerable to insurance crime because there is usually no sound basis upon which to dispute instances of over-treatment.

Not a victimless crime

Even more serious than the financial loss of personal injury fraud is the human cost.

In March of 2003, 71-year-old Alice Ross, of New York City, was killed when she was maneuvered into a staged accident by gang members allegedly looking to scam insurance money. After her Buick was rammed, it careened into a tree, killing her almost instantly. The alleged ring leader of the gang now faces a second-degree murder charge. These types of staged collisions take place in Canada, placing innocent people in jeopardy.

[4] A paralegal and a tow-truck driver are about to make a deal. Guess who winds up paying – Globe and Mail, Aug 2nd 2003

Recent personal injury fraud cases

Staged Accident Scheme

In a case that is typical of many such schemes, eight people, including a paralegal, were charged in connection with a staged auto accident scam. The claimants reported an auto accident that in fact had never occurred. Seven of the accused filed for and received accident benefits for the bogus incident, receiving a combined $86,000 from two insurers. The paralegal had coached the "accident victims" on how to describe their fake injuries and how to portray the symptoms. A health care practitioner charging for services never rendered was also involved.

If the claimants had not been caught, the total final loss to the companies would have been over $200,000 – an amount equal to the annual premiums of 154 drivers paying $1,300 each.

Project Slip

"Project Slip" involved an organized insurance fraud scheme that included faked falls on Toronto Transit Commission buses and staged vehicle collisions.

The ringleader Odlanir Bellomo pleaded guilty to conspiracy to commit fraud. Calling the operation "large-scale in its organization, scope and frequency," Mr. Justice Brent Knazan sentenced Bellomo to over two years in prison in this precedent-setting case. Bellomo recruited and trained "victims" to fake injuries and also staged motor vehicle accidents. There was more than $43,000 in claims resulting from the faked accidents. Eight others charged in connection with the scheme await their court appearances.

This was the first time a recruiter of staged accidents has been sentenced to prison in Ontario.

ICBC busts a staged accident ring

In this case, a B.C. Supreme Court jury awarded Insurance Corporation of British Columbia (ICBC) compensatory and punitive damages from 25 defendants who staged five accidents in Vancouver and Burnaby.[5]

[5] Insurance Corporation of British Columbia (2003). Corporate Communications Press Release.

Personal Injury Fraud costs time, resources, and money

Over the past two years in Ontario alone, there have been 70 IBC projects related to investigating staged collisions, with an estimated cost of at least $17 million.

But insurance companies are not the only victims of insurance fraud and the repercussions of these crimes extend beyond the monetary. Insurance crime results in:

- Higher insurance premium costs for consumers, to the extent that automobile insurance becomes unaffordable for lower income families;
- Unnecessary risk to, and depletion of, emergency resources. Police, fire and ambulance personnel are all placed in jeopardy when they rush to a call. When occupied by a staged incident, these resources are not available for legitimate accidents;
- The inappropriate use of doctors, hospital staff and associated medical equipment such as MRI machines to make faked injuries appear legitimate;
- A waste of the time and resources of insurers, the police and the court system in the investigation and prosecution of those involved in insurance crime;
- Injury and death to innocent motorists and pedestrians caught in staged collisions that go awry;

Changing attitudes towards insurance fraud

The insurance industry cannot fight insurance fraud alone, primarily because it faces a startling public attitude that this type of crime is acceptable. Polls conducted by the Canadian Coalition Against Insurance Fraud indicate that in 2000, 46% of Canadians believed it was easy to submit fraudulent claims, and 5% said padding a claim, whether general insurance or personal injury insurance, was acceptable[6]. These perceptions must be changed through the vigilance of the public and through a clear understanding by police agencies and the courts of the severity of fraud's repercussions.

On behalf of its member insurers, IBC is asking that the court take an aggressive stance on issues of insurance crime. The court's actions should be a clear statement that insurance crime will not be tolerated; accused persons must receive sentences that reflect the seriousness of their actions. Such a statement will, ultimately, change the general public's attitude that insurance crime is acceptable, and function as a mechanism of deterrence.

[6] Canadian Coalition Against Insurance Fraud website, citing numbers from poll "Canadians and Personal Injury Fraud: A Survey of Canadians". Poll conducted in 2000 by POLLARA for Insurance Bureau of Canada.