

**The Texas Department of Insurance
Fraud Unit
FY 2012 Annual Report**

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Executive Summary

Annual Report Requirement

Texas Insurance Code, Section 701.101 requires the Texas Department of Insurance Fraud Unit to report annually in writing to the commissioner of insurance the number of cases completed and recommendations for regulatory and statutory responses to the types of fraudulent activities encountered.

FY 2012 Statistics

Fraud reports received	12,736
Cases opened for investigation	518
Cases referred for prosecution	215
Estimated amount of fraud identified in referred cases	\$35,875,000
Indictments resulting from investigations	134
Judgments from cases referred	88
Restitution assessed by courts on Fraud Unit cases	\$2,417,347
Subpoenas issued	483
Public Information Act requests processed	86

Top Adjudicated Cases

This report summarizes 10 investigations that include prosecutions and convictions. The fraud schemes are associated with agent fraud, mortgage fraud, and health care fraud.

Legislative Recommendations

There are four legislative recommendations included in this report. The recommendations relate to the Texas Insurance Code provisions on

- the criminal penalty for acting as an agent after license revocation;
 - amending a reference to a Penal Code provision to reflect prior legislative changes and sharing TDI's expertise with district attorney offices in Texas that do not have a full-time insurance fraud prosecutor or sufficient resources to successfully prosecute insurance crimes;
 - an insurer's duty to provide information to the Fraud Unit; and
 - confidentiality of the Fraud Unit's information.
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Fraud Unit Overview

Fraud Unit Purpose and Organization

Fraud Unit Overview

The Texas Insurance Code, Section 701.101(a), establishes that the purpose of the TDI Fraud Unit is to enforce laws relating to fraudulent insurance acts. The unit reviews reports of suspected fraud, initiates inquiries, and conducts investigations when TDI has reason to suspect insurance fraud has occurred or is about to occur. In addition, the unit actively seeks criminal indictments, makes arrests, and assists in prosecutions to deter insurance fraud in Texas. See Attachment A: Fraud Report and Case Flow Process.

The Fraud Unit receives reports of suspected insurance fraud from insurers and the public. The unit maintains a toll-free Insurance Fraud Hotline (888-327-8818) and an online fraud reporting system on the TDI Fraud website at www.tdi.texas.gov/fraud/index.html. 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 TDI 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, premium, claim and provider fraud
- mortgage fraud committed by a person licensed by TDI.

The Fraud Unit is part of the TDI Compliance Division. The Compliance Division team is made up of the Consumer Protection Section, the Enforcement Section, and the Fraud Unit. Each section has different roles but equally important regulatory and statutory responsibilities.

The Fraud Unit comprises management, fraud counsel, three special prosecutors, investigators, and administrative support. Investigative positions include commissioned peace officers and civilian investigators. Under Texas Insurance Code, Section 701.104(b), the chief investigator supervises and directs all peace officers and coordinates and oversees all investigations the Fraud Unit conducts. See Attachment B: Fraud Unit Organizational Chart.

**Noteworthy
Accomplishments**

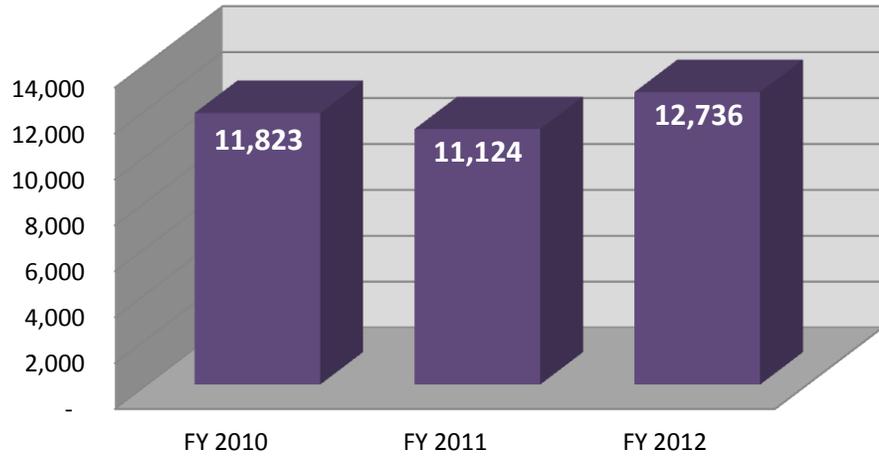
In fiscal year 2012, the Insurance Fraud Unit:

- Renewed and expanded the special prosecutor initiative. The unit entered into memorandums of understanding (MOUs) for insurance fraud prosecutors and investigators in Harris County and Bexar County. The unit also renewed the MOU for the Dallas County special prosecutor and investigator. Collectively, the TDI special prosecutors achieved 88 judgments for insurance fraud with \$2,417,347 in restitution and \$63,610 in fines and penalties.
- Hosted the 14th Annual Fraud Conference with 289 fraud investigators and attorneys from state government, law enforcement, and the insurance industry attending.
- Conducted 11 public presentations on insurance fraud.
- Attended the National Fraud Director's Conference.
- Participated in the Texas Committee on Insurance Fraud to address insurance fraud on a united front with industry, law enforcement, other state agencies, legislators, and citizen advocacy groups.
- Worked with the Texas Department of Public Safety (DPS) and the U.S. Marshal's office to obtain arrests of two suspects who fled to other states after they were indicted on first-degree mortgage fraud crimes.
- Worked on improving industry fraud reporting by analyzing information on fraud reports and training members of special investigative units regarding best information reporting practices.
- Partnered with the Financial Crimes Enforcement Network (FinCEN) to track and combat criminal financial activity. FinCEN is a bureau of the U.S. Treasury Department designated to detect and prevent money laundering and other financial crimes.
- Met with the U.S. Attorney's Office-Western District of Texas, to collaborate on state and federal efforts to fight state, federal, and international insurance crimes.
- Hosted members of the National Association of Insurance Commissioner's International Fellows program and provided information to international insurance professionals about what the Fraud Unit does, the investigative tools the Fraud Unit uses, and methods to fight insurance crimes.
- Participated in statewide task forces in several metropolitan areas.
- Completed mandatory continuing education training for attorneys and peace officers.
- Participated in training to prepare staff to investigate statewide, multijurisdictional, national, global, disaster-related, and organized crime. Topics included international vehicle recovery, advance forensics investigations, active shooter training, intellectual property crimes, chartered property and casualty underwriter certification, and project management.

Fraud Reports

Reports Received

FY 2010 to FY 2012 Fraud Reports Received



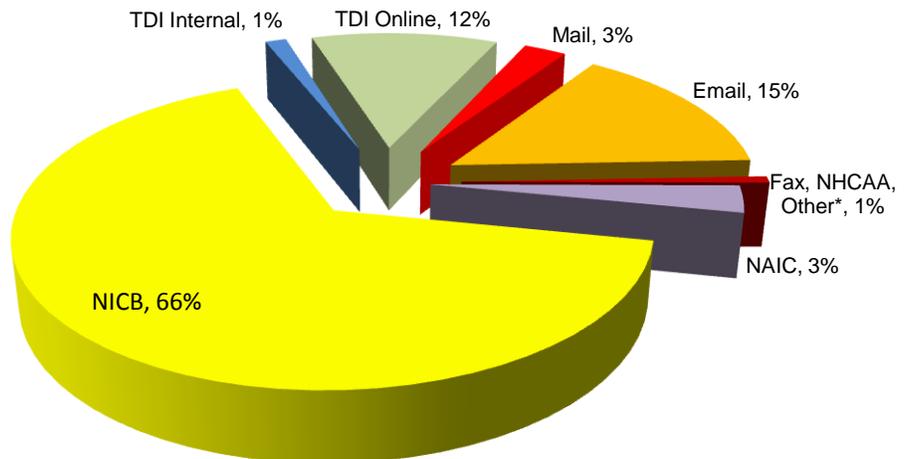
Analysis of Trends

The increase in the number of reports in FY 2012 is likely attributable to increased outreach. The Fraud Unit continues to promote investigator and consumer outreach liaison activities to encourage insurers and the public to report insurance fraud.

Method Reported

FY 2012 Fraud Reports Received by Method Reported

12,736 Total Reports



NICB – National Insurance Crime Bureau
NAIC – National Association of Insurance Commissioners
NHCAA – National Health Care Anti-Fraud Association

Fraud Reports, continued

Fraud Report Schemes

Fraud Scheme	FY 2010 % 11,823 reports	FY 2011 % 11,124 reports	FY 2012 % 12,736 reports
Agent Fraud	2.55	2.83	2.42
Arson for Profit	1.67	1.54	1.28
Auto Burglary	1.33	1.55	1.27
Auto Theft	7.81	7.40	8.17
False Documents/Statements	44.12	46.08	43.03
Inflated Claim	4.90	4.42	4.99
Paper Accident	2.76	1.62	3.79
Policy Application Fraud	5.99	6.05	7.36
Premium Fraud	1.09	1.10	1.16
Provider Billing Fraud	6.59	6.65	5.57
Slip & Fall	1.52	1.46	1.62
Staged Accident	3.53	2.90	2.67
Theft	0.85	4.77	7.56
Undetermined*	0.14	0.90	2.96
Working & Drawing	-	0.56	1.14
Other*	15.16	10.14	5.01

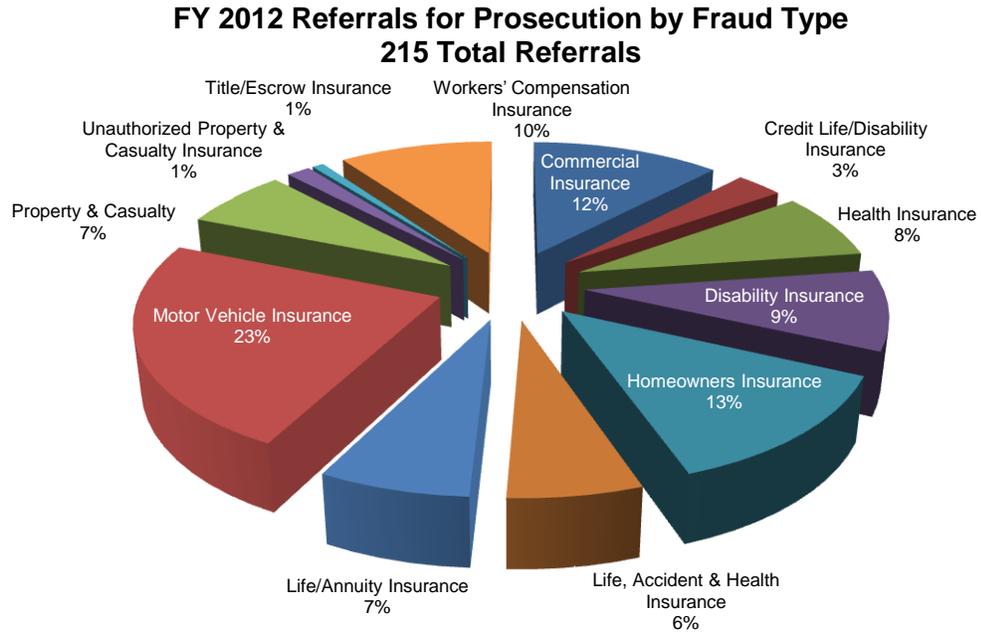
*Other encompasses 21 categories that represented less than 1%

Analysis of Trends

The increase in the number of fraud reports in FY 2012 is likely attributable to increased outreach.

Referrals by Fraud Type

**FY 2012
 Referrals by
 Fraud Type**



**FY 2010 - 2012
 Referrals by
 Fraud Type**

Fraud Type	FY 2010 # 208 Referrals	FY 2011 # 186 Referrals	FY 2012 # 215 Referrals
Agents License	0	1	0
Casualty Insurance	1	0	0
Commercial Insurance	5	9	12
Credit Life/Disability Insurance	11	0	3
Health Insurance	6	4	8
Homeowners Insurance	11	11	13
Life, Accident & Health Insurance	1	1	6
Life/Annuity Insurance	2	6	7
Motor Vehicle Insurance	30	24	23
Property & Casualty	6	13	7
Title Insurance	16	15	1
Unauthorized Property & Casualty Insurance	1	0	1
Workers' Compensation Insurance	10	4	10
Disability Insurance	0	12	9

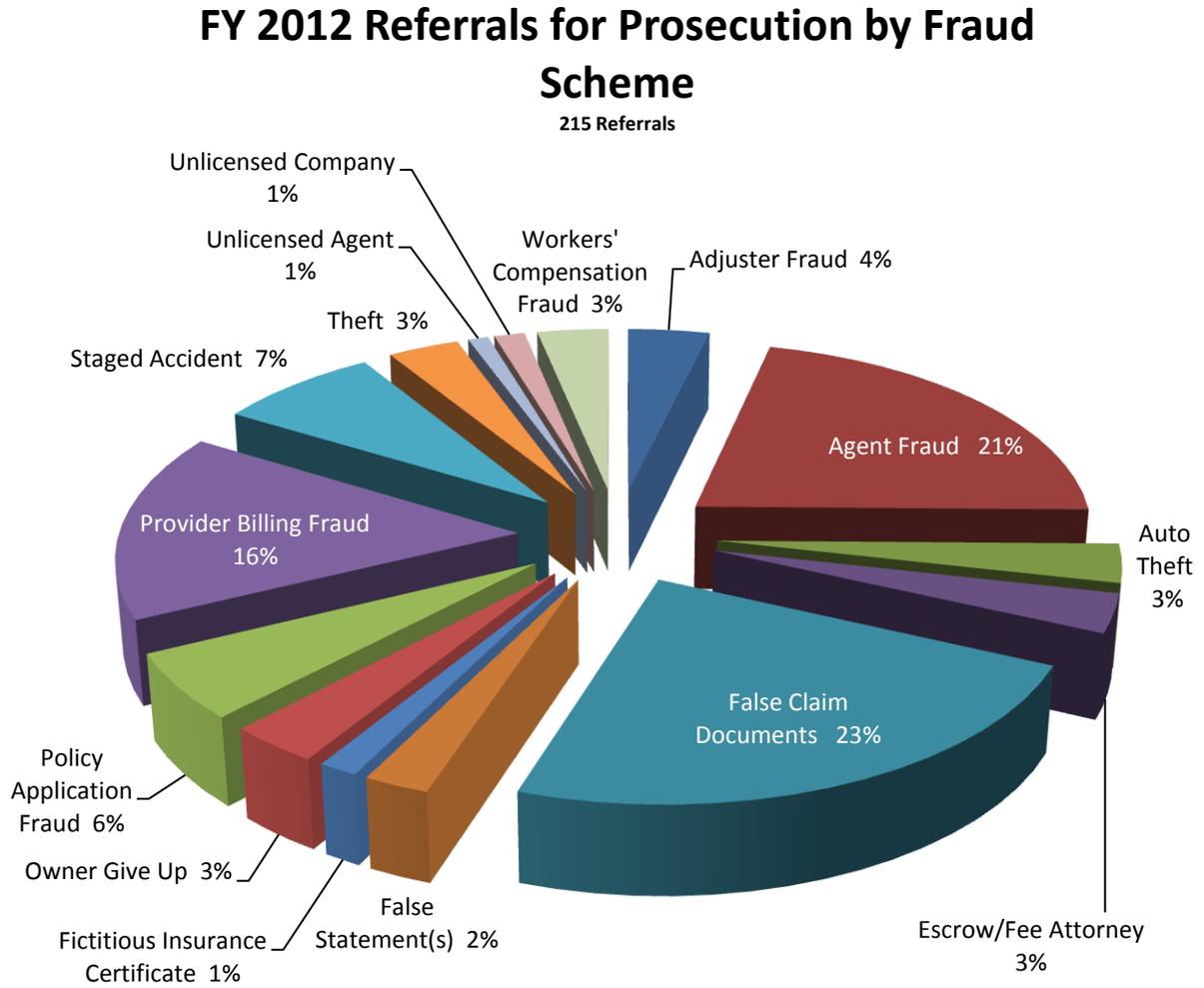
Referrals by Fraud Type, continued

Analysis of Trends

Two fraud types had significant variances between FY 2011 and FY 2012.

- **Title Insurance** – This category had a significant decrease in the number of referrals. This is likely attributable to improved industry fraud control measures and restrictive lending requirements.
 - **Workers' Compensation Insurance** – There was a significant increase due to a single complex case involving 21 defendants.
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Referrals by Fraud Scheme



Referrals by Fraud Scheme, continued

**FY 2010-2012
 Referrals by
 Fraud Scheme**

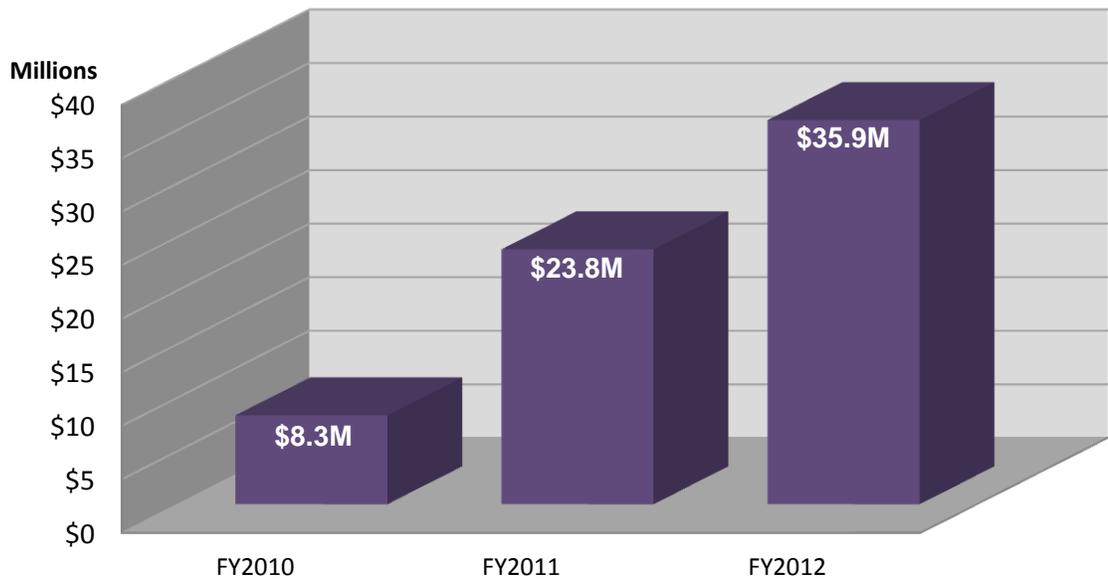
Fraud Scheme	FY 2010 % 208 Referrals	FY 2011 % 186 Referrals	FY 2012 % 215 Referrals
Adjuster Fraud	0.0	0.5	4
Agent Fraud	14	21.5	21
Arson for Profit	0.5	0.5	0
Auto Body Shop Theft	0	3	0
Auto Burglary	0	1	0
Auto Theft	2	2	3
Company Employee Fraud	1	5	0
Disaster Agent Fraud	2	1	0
Disaster Claim Fraud	4	1	0
Escrow/Fee Attorney	0.5	5	3
False Claim Documents	43	34	23
False Statements	0	0	2
Fictitious Insurance Certificate	0	0	1
Inflated Claim	0	2	0
Mortgage Fraud	15	7	0
Owner Give Up	2	0.5	3
Policy Application Fraud	6	2	6
Premium Fraud	0	1	0
Provider Billing Fraud	1	0.5	16
Runner/Capper	0.5	0	0
Slip & Fall	1	0.5	0
Staged Accident	3	5	7
Theft	3	6	3
Unlicensed Agent	1	0	1
Unlicensed Company	0	0	1
Water Damage – Homeowner	0.5	1.5	0
Workers' Compensation Fraud	0	0	3

**Analysis of
 Trends**

- **Provider billing fraud** reports were reclassified from false claim documents to a specific category for that type of scheme.

Amount of Fraud Referred for Prosecution

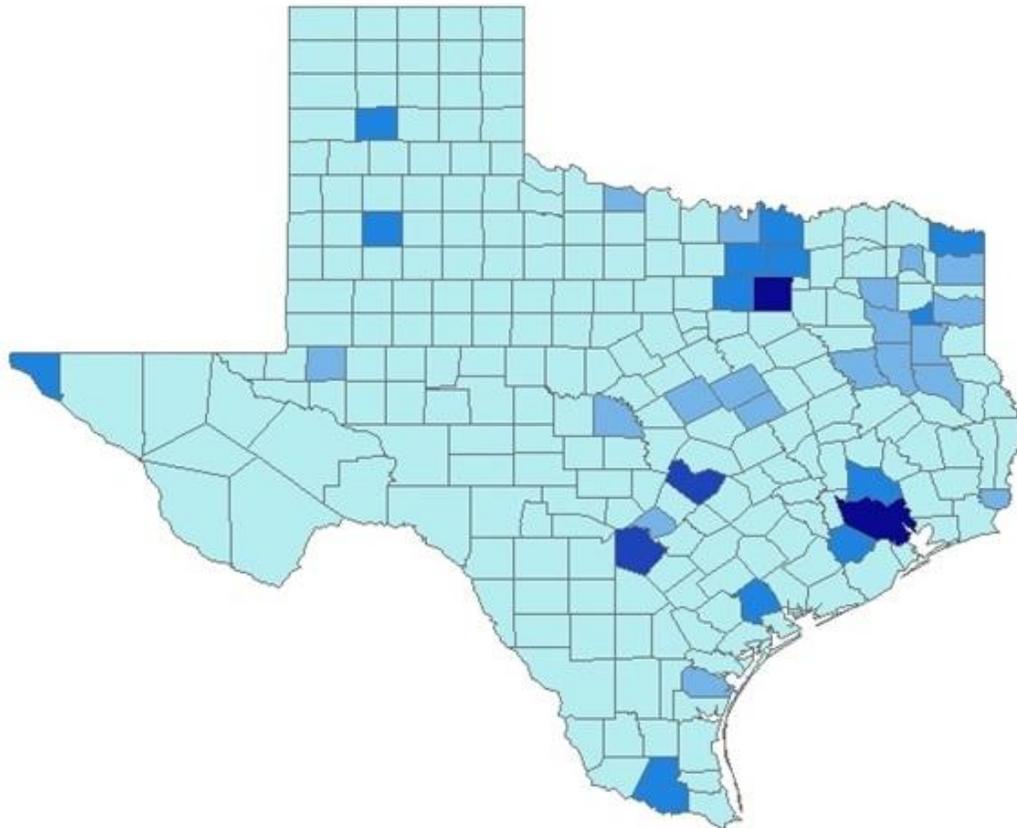
FY 2010 to FY 2012 Dollar Amount of Fraud Identified in Referrals



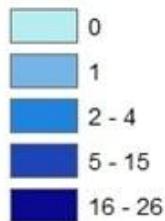
Analysis of Trends

The size of an insurance fraud investigation and the dollar amount of fraud referred for prosecution may vary from one fiscal year to another. The dollar amount of fraud referred is limited to the total amount of fraud committed in conjunction with a scheme or continuing course of conduct for all people involved in an insurance fraud case.

Referrals and Court Actions



Total Number of Fraud Referrals for FY 2012



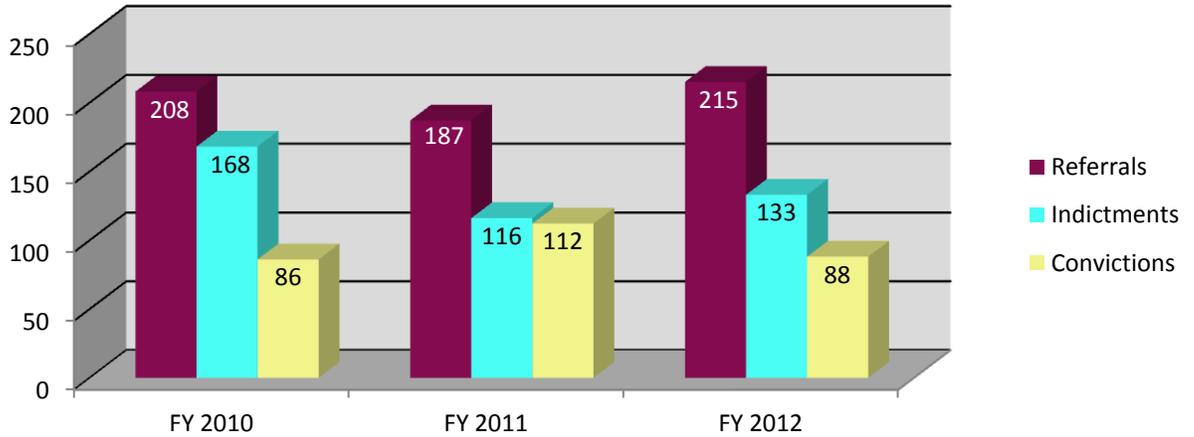
Top Counties:

Dallas - 26
Harris - 23
Travis - 15
Bexar - 13

Note: The Fraud Unit may refer cases to any one of the 254 county district attorney offices where venue is appropriate. The Fraud Unit may also refer to one of the four U.S. Attorney Offices in Texas or other federal prosecutorial agencies.

Referrals and Court Actions, continued

FY 2010 - FY 2012 Court Actions



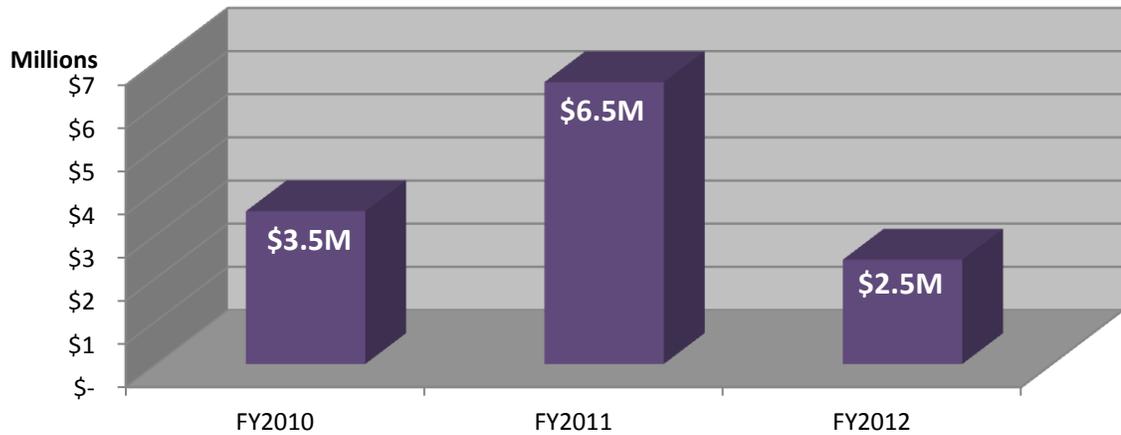
Analysis of Trends

The Fraud Unit rigorously investigated numerous cases, but many were closed because the evidence did not support the allegation of fraud or because fraud could not be proven. The Fraud Unit will continue to pursue its liaison and outreach efforts.

Indictment and conviction data varies from year to year since those actions are directly the result of actions by prosecuting agencies.

Restitution

FY 2010 to FY 2012 Restitution Assessed by Courts



Analysis of Trends

Courts determine the amount of restitution in criminal insurance fraud cases, usually at the request of the prosecutor. The dollar amount of restitution will vary by year. The Fraud Unit provides prosecuting entities with data to help the courts appropriately assess restitution to insurance fraud victims.

FY 2012 Top Adjudicated Cases

**Lincoln Scrange
and
Deroyce
Coleman**

Lincoln Scrange and Deroyce Coleman were involved in a \$40 million mortgage fraud scam in the Houston area involving 300 properties. Both defendants had been fugitives since their indictment in 2007 and were arrested out of state through coordination by the Fraud Unit with DPS and the U.S. Marshal's Service. After his capture, Scrange pleaded guilty to aggregated theft, a first-degree felony, and was convicted and sentenced to 12 years in prison. Coleman pleaded guilty to securing execution of document by deception, a first-degree felony, and was convicted and sentenced to five years in prison.

**Rogelio Ibanez
Sr.**

Starting in January 2008, attorney Rogelio Ibanez Sr. stole \$633,149 from the trust account of his title company, Southern Star Title Company of McAllen. Ibanez stole the money to pay for his failing commercial real estate business and to reimburse his attorney clients from earlier thefts of their trust funds. The theft from the trust account ultimately caused Ibanez's business to fail, and on January 8, 2009, Ibanez signed an Agreed Order Appointing Liquidator and Permanent Injunction, which placed the operation of Southern Star Title Company with a court-appointed receiver. On December 13, 2011, a Houston federal court convicted and sentenced Ibanez to 108 months in federal prison for wire fraud and ordered Ibanez to pay TDI \$542,005 in restitution for victim payments that had been remitted on behalf of his failed title agency by the Texas Title Insurance Guaranty Fund.

**Raymond
Matthew
Ochoa, Helen
Rodriguez, and
Raul Beltran**

In Bexar County, agents Raymond Matthew Ochoa and Helen Rodriguez conspired with Raul Beltran, an escrow management company employee, to obtain the assignment of insurance from mortgage customers' escrow accounts to the Matt Ochoa Insurance Agency. Rodriguez and Beltran received payment for each policy written, although a policy was not issued or funded. Ochoa used the premium funds for personal use. Ochoa pleaded guilty to theft and was convicted and sentenced to five years of probation. In addition, he was ordered to pay \$53,822 in restitution, a \$2,000 fine, and to perform 20 hours of community service. Rodriguez pleaded guilty to commercial bribery, and was sentenced to two years of deferred adjudication. He was also ordered to pay \$3,000 in restitution, a \$2,000 fine, and to perform 120 hours of community service. Beltran pleaded guilty to commercial bribery, was sentenced to two years of deferred adjudication and ordered to pay \$3,030 in restitution, a \$2,000 fine, and to perform 120 hours of community service.

FY 2012 Top Adjudicated Cases, continued

**Timothy J.
Gaffney**

Timothy J. Gaffney, a funeral home owner in Killeen, entered into an agreement with a life insurance company to sell funeral preneed policies. Gaffney deposited premiums into his personal operating account and failed to forward policy applications and premiums to the carrier. On March 28, 2012, Gaffney pleaded guilty to misapplication of fiduciary property, a first-degree felony, and was sentenced to 120 days of deferred adjudication. He was also ordered to pay \$294,329 in restitution and to perform 100 hours of community service.

Jennifer L. Neel

Agent Jennifer L. Neel of Houston issued 236 policies on 84 policyholders who did not exist. The insurance company paid commissions to Neel based on these fraudulent policies. Neel pleaded guilty to theft by appropriation, a third-degree felony, and was convicted and sentenced to 120 months of probation. She was also ordered to pay \$49,577 in restitution and to perform 200 hours of community service.

**Stormy
Crandall**

Stormy Crandall of Dallas submitted false medical records showing she had cancer in order to receive \$55,000 in benefits. She pleaded guilty to insurance fraud, a third-degree felony, and was sentenced to 120 months of deferred adjudication. She was also ordered to pay \$55,000 in restitution, a \$2,500 fine, and to perform 160 hours of community service.

Ricky Ford

Ricky Ford was involved in a mortgage scheme that involved the closing of six properties in Dallas for more than \$900,000 to a man from Mississippi who had never been to Texas. Mr. Ford pleaded guilty to organized criminal activity, a first-degree felony, and was sentenced to five years of deferred adjudication. He was also ordered to pay \$162,241 in restitution.

**Stephanie
Williams**

From August 2006 to July 2008, agent Stephanie Williams of Dallas submitted 41 fraudulent health care claims for 69 medical treatments totaling \$166,568. The health care providers verified that Williams had not received any of the treatments. As a result of the false medical claims, Williams received \$37,000 in health insurance benefits to which she was not entitled. Williams pleaded guilty to insurance fraud, a second-degree felony, and was convicted and ordered to pay \$37,000 in restitution.

FY 2012 Top Adjudicated Cases, continued

Choa A. Hsi

Chao A. Hsi, dba Best P&C Insurance Agency in Houston, collected \$901,892 in premium payments for commercial property insurance and failed to remit the money to the insurance company. He pleaded guilty to misapplication of fiduciary property, a third-degree felony, and was convicted and sentenced to two years in prison.

Jack Gregory

Jack Gregory, a property and casualty agent in Lamesa, misappropriated premium payments by depositing the premiums into his account to use for his personal expenses. Gregory pleaded guilty in Harris County to misapplication of fiduciary property, a third-degree felony, and was sentenced to five years of deferred adjudication. He was ordered to pay \$28,875 in restitution and a \$1,500 fine.

Legislative Recommendations

**Penalty for
Acting as Agent
with Suspended
or Revoked
License**

Amend punishment provisions for acting as agent after license suspension or revocation, Texas Insurance Code, Section 4005.151

BACKGROUND: Under the Texas Insurance Code, Section 101.106, a person who conducts the business of insurance without a license may be found guilty of a third-degree felony and punished by imprisonment for a term of two to 10 years and up to a \$10,000 fine.

ISSUE: A licensed agent who has his or her license revoked or suspended by TDI and then knowingly continues to conduct the business of insurance in defiance of the department's action is only subject to a state jail felony. Under the Penal Code, Section 12.35, someone convicted of a state jail felony can be imprisoned for up to two years and be fined up to \$5,000.

RECOMMENDATION: The Texas Insurance Code, Section 4005.151 should be amended to mirror the language and punishment of Section 101.106 so that agents who have license suspensions or revocations will take the department's actions more seriously and consumers will be better protected. Section 4005.151 should specify that the offense is a third-degree felony and delete references to the amount of fines and prison terms.

Legislative Recommendations, continued

**Insurance Fraud
Investigations**

**Enhance provisions of fraud investigations, Texas Insurance Code,
Section 701.102**

1. **BACKGROUND:** Section 701.102 includes references to subsection 35.02(a) of the Penal Code. Legislative amendments have expanded Chapter 35 of the Texas Penal Code since the original enactment of this law. Now this section of the Penal Code includes application fraud and claim fraud across all lines of insurance with its subsections (a), (a-1), and (b). These subsections are all relevant to the Texas Insurance Code, Chapter 701, and specifically for Section 701.102, Investigations of Certain Acts of Fraud. Fraudulent insurance acts are defined in the Insurance Code's Section 701.001 as "an act that is a violation of a penal law and is: (A) committed or attempted while engaging in the business of insurance; (B) committed or attempted as part of or in support of an insurance transaction; or (C) part of an attempt to defraud an insurer."

ISSUE: There is no longer a need for Section 701.102 to refer to a specific criminal law subsection because a fraudulent insurance act and violation of penal law would cover all offenses.

2. **BACKGROUND:** TDI currently employs special prosecutors in the Dallas County District Attorney's Office, the Harris County District Attorney's Office, and the Bexar County District Attorney's Office. There are many other counties in Texas with less resources that could use assistance and expertise that a TDI prosecutor could offer. An in-house prosecutor, based in Austin at TDI, could travel to offer assistance to different counties to fight insurance fraud.

ISSUE: Texas counties with fewer resources do not have access to expertise that TDI and the special prosecutors have.

RECOMMENDATION: Texas Insurance Code, Section 701.102, should be amended to remove reference to the Penal Code and to permit the commissioner of insurance to assist authorized governmental agencies in investigating and prosecuting fraud.

Legislative Recommendations, continued

**Insurer's Duty to
Provide
Information**

Amend the insurer's duty to provide information, Texas Insurance Code, Section 701.108

BACKGROUND: Criminal investigations are time-sensitive. Important evidence can be lost or altered if too much time passes before the fraud investigators obtain the information. Language clarifying the timeframe in which the requested information is due is necessary and clarifying that requests from the Fraud Unit are covered by this section will provide additional support to Fraud Unit staff in their investigations.

ISSUE: Currently the statute does not provide timeframes for an insurer to produce information the Fraud Unit requested.

RECOMMENDATION: Texas Insurance Code, Section 701.108, should be amended to establish a 10-day timeframe within which responses are due to the Fraud Unit. This will assist in the efficient investigation of fraud in Texas.

Legislative Recommendations, continued

**Confidentiality of
Department
Information**

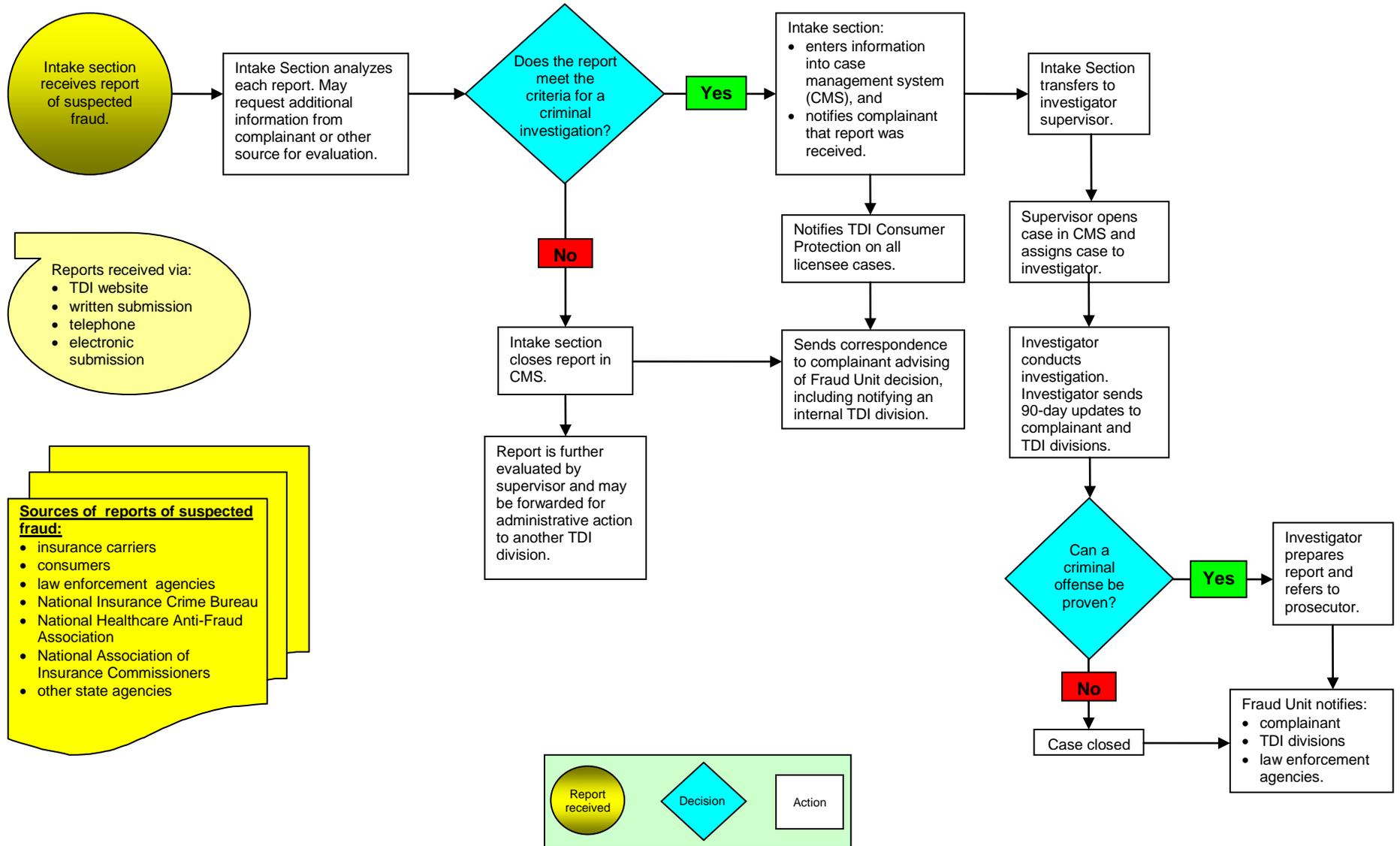
Enhance the confidentiality provisions of Texas Insurance Code, Section 701.151

BACKGROUND: TDI wants to encourage the reporting of insurance crimes. Section 701.151 contains weak confidentiality provisions.

ISSUE: TDI's regulatory processes to revoke licenses or institute disciplinary actions currently may be used as a discovery tool by persons inappropriately seeking information about a criminal case or investigation. This could cause some people not to report crimes out of fear of retaliation or civil litigation by criminals.

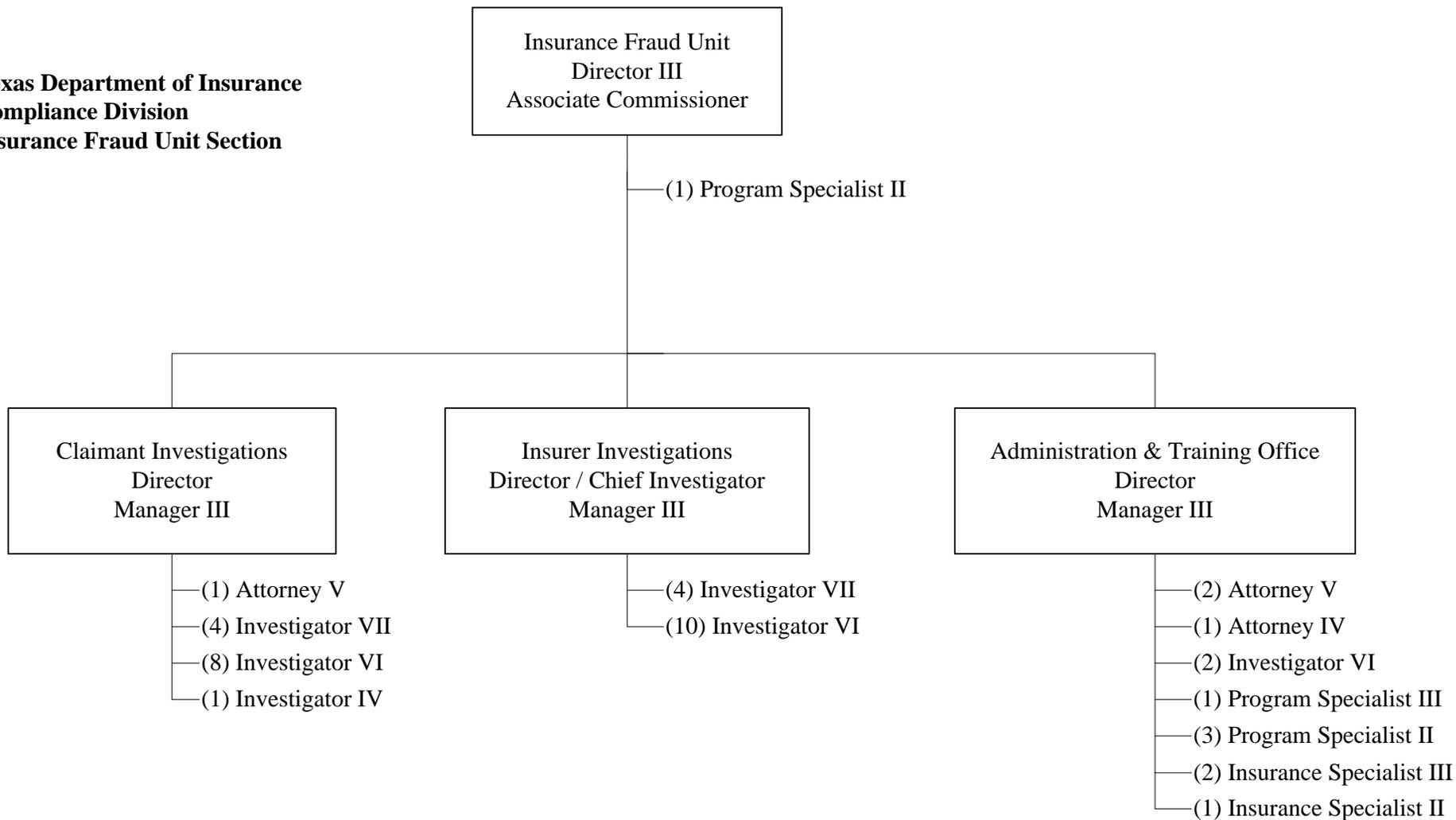
RECOMMENDATION: Texas Insurance Code, Section 701.151, should be amended to prevent civil or administrative discovery of Insurance Fraud Unit cases and investigative materials, including privileged or confidential information required from other law enforcement or regulatory agencies.

Attachment A: Fraud Report and Case Flow Process



Attachment B: Fraud Unit Organizational Chart*

Texas Department of Insurance
Compliance Division
Insurance Fraud Unit Section



*As of August 31, 2012