

Fraud Unit

Annual Report FY2013



*Texas Department
of Insurance*

*For more information or to report insurance fraud,
call 1-888-327-8818 or visit www.tdi.texas.gov/fraud.*

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Executive Summary

The 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.

This report takes a look back in time to the inception of the Fraud Unit in 1992. This historical overview will highlight the evolution of the unit – staffing, statutory duties, expanded scope – and will provide information about fraud activity in Texas.

In fiscal year 2013, the Texas Department of Insurance Fraud Unit surpassed all prior years in the number of cases opened for investigation and referred for prosecution, and in the number of judgments from referred cases.

TDI's Fraud unit is a strong line of defense against insurance fraud in Texas. The data compiled for this report reflects a steady rise of fraud and serves as an alert revealing emerging fraud trends. Fraud often spikes during economic downturns. People's finances begin to diminish, and financially sustaining homes or property becomes difficult. During these times, insurance schemes occur more frequently: Agents might have financial problems with their offices and steal money from consumers, while consumers might attempt to file padded or fraudulent claims.

FY2013 Statistical Highlights

Fraud reports received	12,444
Cases opened for investigation	559
Cases referred for prosecution	222
Estimated amount of fraud identified in referred cases	\$10,319,063
Indictments resulting from investigations	108
Judgments from cases referred	108
Restitution assessed by courts on Fraud Unit cases	\$7,533,941
Subpoenas issued	325
Public Information Act requests processed (total includes Fraud Unit related inquiries and non-Fraud Unit related inquiries)	141

Top Adjudicated Cases

This report highlights 10 investigations that include prosecutions and judgments within various jurisdictions around the state.

Key Milestones and Accomplishments for FY2013

Unit Enhancement

- Developed efficiencies to work processes by implementing “paperless” handling of incoming fraud reports.

Events/Conferences

- Hosted the 15th Annual Fraud Conference with 344 attendees, including lawyers and fraud investigators from state government, law enforcement, and the insurance industry. The previous year’s conference had 289 attendees.
- Participated in National Fraud Director’s Conferences in Montana and Ohio.
- Attended National Association of Insurance Commissioners (NAIC) meetings in Houston and Washington, D.C.
- Attended the Texas District and County Attorneys Association (TDCAA) Annual Criminal and Civil Law Update.
- Attended the National Insurance Crime Bureau (NICB) auto theft course.

Outreach/Partnerships/Collaboration

- Ten Fraud staff members responded to the West Fertilizer Plant fire and explosion at the request of the State Fire Marshall’s Office.
- Served on the Texas Committee on Insurance Fraud, the Texas Residential Mortgage Fraud Task Force, and the Medicaid and Public Assistance Fraud Oversight Task Force.
- Hosted members of the NAIC’s International Fellows Program and provided information about the Fraud Unit’s purpose, the tools used, and methods for fighting insurance crimes.

Training

- More than 831 cumulative years of investigative expertise and experience represented within the Fraud Unit.
- Twenty-nine Fraud employees earned Certified Fraud Examiner accreditation.
- Special prosecutors and Fraud counsel attended the TDCAA Annual Criminal and Civil Law Update
- More than 40 staff members trained in CPR/AED certification.

Fraud Unit Overview

Texas Insurance Code, Section 701.101(a), describes the purpose of the Texas Department of Insurance (TDI) Fraud Unit, which is to enforce laws relating to fraudulent insurance acts. The unit's responsibilities include receiving and reviewing reports of fraud, initiating inquiries, and conducting investigations when TDI has reason to suspect insurance fraud or related criminal offenses have been committed. In addition, the unit makes arrests, assists in prosecutions, and educates the industry and consumers on ways to deter insurance fraud in Texas.

TDI Fraud Unit Resources

Hotline: 1-800-252-3439

Website: www.tdi.texas.gov/fraud/index.html

The Fraud Unit staff includes criminal investigators, management, Fraud Counsel, three special prosecutors deputized by the Bexar, Dallas, and Harris County district attorney offices, and administrative support. Investigators include commissioned peace officers and civilian investigators.

The TDI Fraud Unit has full state police powers (armed, make arrests, and conduct investigations into violation of state laws), and statewide jurisdiction. The unit specializes in financial crime, and investigators may conduct joint investigations with city, county, state, and federal law enforcement agencies.

Under Texas Insurance Code, Section 701.104(b), the Chief Investigator supervises and directs all peace officers. The Chief Investigator coordinates and oversees all investigations the Fraud Unit conducts. Investigations may occur inside or outside of Texas and typically involve one of the following types of fraud:

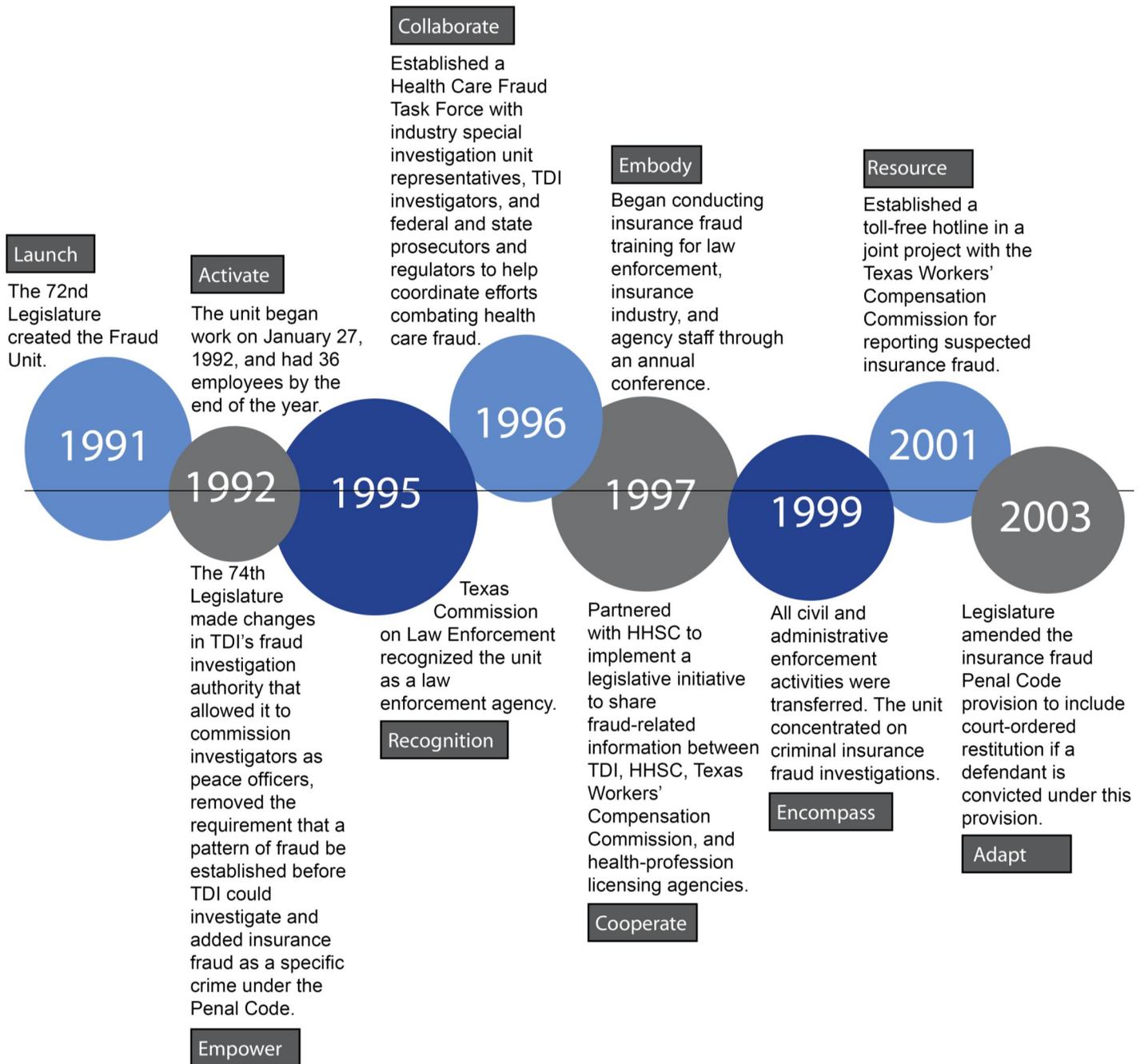
- claim fraud committed against an insurer;
- fraud by TDI licensees against their company or the public;
- insurance application fraud;
- unauthorized business of insurance, including operating without proper authority or the sale of fraudulent insurance products;
- workers' compensation, premium, claim and provider fraud; and
- health care fraud by providers and individuals.

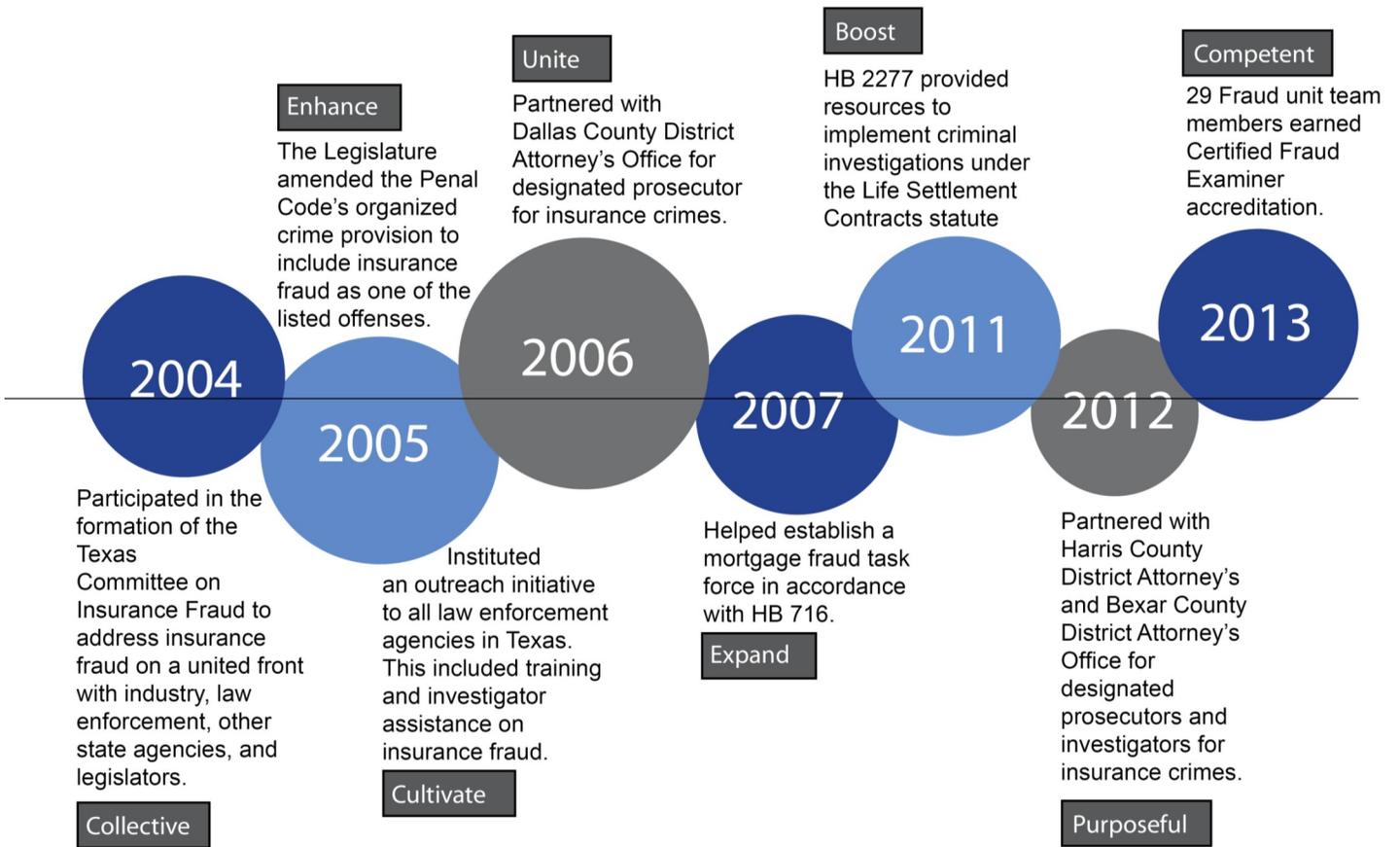


Once a TDI Fraud Unit criminal investigator has completed a criminal investigation, the case is referred to a county, district, or U.S. attorney for prosecution.

The Fraud Unit is part of the TDI Compliance Division. In addition to the Fraud Unit, the division includes the Consumer Protection Section and the Enforcement Section. Each entity has different roles but equally important regulatory and statutory responsibilities.

History of the Fraud Unit





Administrative Support and Investigations

Administrative Support—Intake, Entry, and Analysis

All successful fraud investigations begin with the administrative review process. The administrative support team, which comprises eight staff members and one manager, received 12,444 reports of suspected fraud during fiscal year 2013. Each report is evaluated to determine whether a matter should be investigated. All reports are entered in the unit's case management system for statistical purposes or for possible use by investigators and prosecutors in the future. While the majority of the reports received did not meet the criteria for a criminal investigation and were entered without further investigation, many were forwarded for supervisory review and assignment to an investigator.

If a report is going to be assigned to an investigator, requests for information are sent by administrative staff to insurers or other parties that may have information that an investigator will need to start an investigation. In some instances, the crime analysts' analysis helps find additional suspects and identifies additional victims and financial losses. Analysts prepare link charts and provide financial analysis to investigators.

Administrative staff members also search various open source and law enforcement databases to locate suspects involved in fraud. The actions are vital in resolving fraud investigations.

Investigations

Fraud Investigators are responsible for looking into allegations of criminal insurance fraud. The investigations might involve criminal matters other than fraud. Those cases could include organized crime, arson, money-laundering, perjury, and federal violations.

The Fraud Unit has three teams to investigate insurance crimes. The Claim Fraud Team investigates claim fraud committed by consumers or providers against insurance companies, including staged accidents, fake or exaggerated loss claims, arson for profit, and health care issues. The Insurer Fraud Team looks into matters such as fictitious policies, misapplication of fiduciary property, life and viatical settlements, mortgage fraud, and unauthorized insurance. The Workers' Compensation team investigates criminal allegations of violations of workers' compensation and related laws.

The investigators include an experienced team of commissioned peace officers and civilian staff. During fiscal year 2013, a group of 25 investigators obtained their certification as fraud examiners. Investigations require detailed analysis and often involve the creation of lengthy spreadsheets and the need for multiple witness and suspect interviews. During the entire investigation process, investigators discuss the progress of their cases with Fraud Unit management and also reach out to the appropriate prosecutors.

In addition to working their own cases, TDI Fraud Unit investigators help local, state, and federal law enforcement agencies.

Special Prosecutors Unit

In 2012, TDI partnered with district attorney offices in Bexar and Harris counties to have TDI employees deputized as assistant district attorneys to combat insurance fraud. This expanded a partnership with local law enforcement that started in Dallas County in 2005 and has netted more than \$9.5 million in restitution to fraud victims.

These prosecutors prosecute insurance crimes, educate the public and industry on ways to combat these crimes, and help TDI Fraud investigators and other criminal law enforcement develop cases for referral. The prosecutors also review investigators' referrals, present to grand juries, conduct pretrial matters and negotiate plea agreements, and try cases in both bench and jury trials. Cases prosecuted cover all aspects of insurance crimes and related criminal activity.

FY2013 was the first full year the team of three prosecutors has been in place. The chart to the right illustrates outcomes generated this year.

Fraud Prosecutor Team Profile

The TDI fraud prosecutor team includes three attorneys with more than 45 years of cumulative experience practicing law. The prosecutors have worked in various county, state, and federal roles. Their experience comes from varied backgrounds with the Arizona Attorney General's Office, Grayson County District Attorney's Office, United States Army Judge Advocate General, Bexar County District Attorney's Office, Tarrant County District Attorney's Office, Department of Homeland Security, and U.S. Immigration and Customs Enforcement.

	Bexar County	Dallas County	Harris County	TOTAL
Case Load	50	43	95	188
Indictments	19	50	18	87
Dispositions	17	58	20	95
Restitution	\$481,500	\$800,000	\$1.26 million	\$2.54 million

In addition to working with the TDI Fraud Unit's investigators, the TDI special prosecutors work with local law enforcement agencies on prosecutions. The team has worked with the Texas Attorney General's Office, the NICB, and the Texas Committee on Insurance Fraud to discuss the crime and problems with barratry. The team has also worked with the Secret Service about Eastern European crime rings. The team has presented at the Texas Association of Special Investigative Units (South Chapter), provided training to the NICB Auto Theft Training in League City, the San Antonio Police Department, and the San Antonio Fire Academy.

Additionally, all three prosecutors have obtained the Certified Fraud Examiner (CFE) accreditation. CFEs have a set of skills that are unique to this field; they combine the proficiency of completing complex financial transactions with an understanding of methods, law, and ability to resolve fraud allegations. Fraud examiners are also trained to understand how and why fraud activity occurs in the marketplace.

Top Adjudicated Cases

1 A Harris County District Court convicted Leon “Randy” Sinclair III of Houston of first-degree felony misapplication of fiduciary property. The court sentenced Sinclair to serve 20 years in prison. The conviction followed a 16-month investigation by the Texas Department of Insurance Fraud Unit.

Sinclair, a former insurance agent, convinced more than 30 elderly customers to liquidate insurance products and other assets and to place the money in charitable gift annuity accounts. He then misappropriated more than \$16 million from the accounts.

2 The Harris County 338th District Court convicted Leslie Ray Collins of Sugar Land of a first-degree felony of misapplication of fiduciary property over the value of \$200,000 and sentenced Collins to serve 12 years in prison. The court also ordered Collins to pay \$162,424 in restitution in the case initiated by a complaint to the Texas Department of Insurance Fraud Unit.

Investigators found that Collins, a former insurance agent, collected insurance premiums for fictitious residential and commercial insurance policies that he created. Collins never forwarded the premiums to an insurer to bind valid coverage. Instead, he used the funds for his own personal benefit. Collins also obtained premium financing agreements on the fictitious policies and kept that money as well. The money he kept was used to fund a commercial real estate scam that ended in the loss of several million dollars to investors. TDI revoked Collins’ insurance agent license in 2009.

3 In U.S. Federal Court – Southern District of Texas, Christopher Purser and Robert S. Mills pleaded guilty to federal charges stemming from an investigation by the TDI Fraud Unit, IRS, and FBI. Purser and Mills sold fictitious marine insurance to the owner of Shoreline Cruises of Lake George, New York. When the cruise ship Ethan Allen sank and killed 20 elderly tourists, the company was left with no valid insurance coverage. Purser was sentenced to 188 months in prison. Mills was sentenced to 120 months in prison and was ordered to pay \$2.45 million in restitution.

4 In Travis County, Pearl J. Whitworth pleaded guilty to theft, a first-degree felony. Whitworth, of Huffman, Texas, was a licensed escrow officer for a title company. Whitworth fraudulently diverted customer funds to a Texas corporation for which she was the registered owner. Thirteen wire transfers, totaling more than \$299,000, were made from the title company business account where she worked to her account. Whitworth was sentenced to 120 months probation and was ordered to pay the full amount of the wire transfers in restitution.

5 In Webb County, Richard Trevino, DBA Chiro-Health Inc., billed health insurers for \$515,063 of services that were not rendered and received \$153,536 in reimbursements. The bills Trevino sent to health insurers were for services performed or ordered by a chiropractor, but Trevino had no chiropractor employed at the clinic. Trevino pled guilty to insurance fraud, a first-degree felony. He was sentenced to 60 months probation and 200 hours of community service and ordered to pay full restitution.

6 In Bexar County, Mike Klein filed continuous injury claims with his health insurer after his retirement from the San Antonio Fire Department. Klein forged paperwork from his doctor and supervisor in support of the claims. Klein pleaded guilty to insurance fraud, a second-degree felony. He was sentenced to 120 months deferred adjudication and ordered to pay \$2,000 in fines and \$117,140 in restitution.

7 In Harris County, Olanrewaju "Larry" Omoyele caused different attorneys to file false claims with various insurers by stating that he was the owner/operator of Rose Tree Medical Clinic. He claimed he treated patients injured in auto accidents, when in fact, Rose Tree Clinic did not exist and the people were never treated.

As a result of these false claims, the various insurers paid a total of \$114,382 to either Rose Tree Clinic, the attorneys involved, or to the people allegedly involved in the accidents. Omoyele went to trial and was found guilty of insurance fraud, a first-degree felony. He was sentenced to 84 months in prison and ordered to pay \$131,182 in restitution.

8 In Dallas County, Sylvia Leyva-Talamantes submitted 110 health claims for services that were not rendered to Blue Cross and Blue Shield and received more than \$28,131 in benefits. Leyva-Talamantes pleaded guilty to insurance fraud, a second-degree felony. She received 120 months deferred adjudication and was ordered to pay \$2,000 in fines, and \$28,131 in restitution.

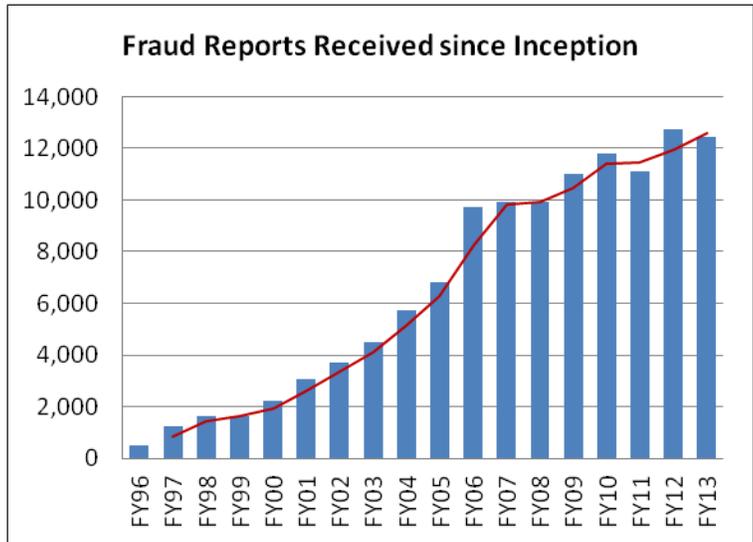
9 In Harris County, Sylvia Vazquez submitted false cancer treatment claims to her insurer, when in fact she had not been treated for cancer. Vazquez pleaded guilty to insurance fraud, a third-degree felony, and was sentenced to 120 months deferred adjudication, 120 hours of community service, and was ordered to pay \$50,025 in restitution.

10 In Bexar County, George Martinez was employed by multiple employers while he was receiving workers' compensation benefits after being injured at his primary place of employment. Martinez did not notify his workers' compensation insurance carrier of his other employment as required by law. Martinez pleaded guilty to insurance fraud (a state jail felony) and was sentenced to 48 months deferred adjudication. He was also ordered to pay \$2,000 in fines and \$7,196 in restitution.

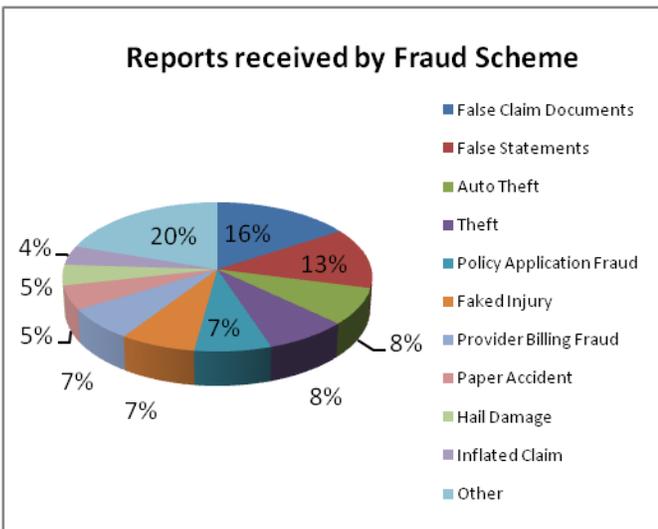
Fraud Activity Data

The Fraud Unit was created January 27, 1992, and began its action against fraudulent activity. Tracking of the fraud reports received began in 1996. There has been a significant and steady increase in the number of fraud reports received, which can be attributed to additional fraud reporting statutes and increased outreach liaison activities.

The volume of fraud reporting is currently more than 25 times higher than at its inception. In FY2013, the Fraud Unit received more than 12,440 fraud reports. Although this is a decline of 292 reports from the previous year, the FY2013 total is the second-highest number received by the Fraud Unit in its 21-year history.



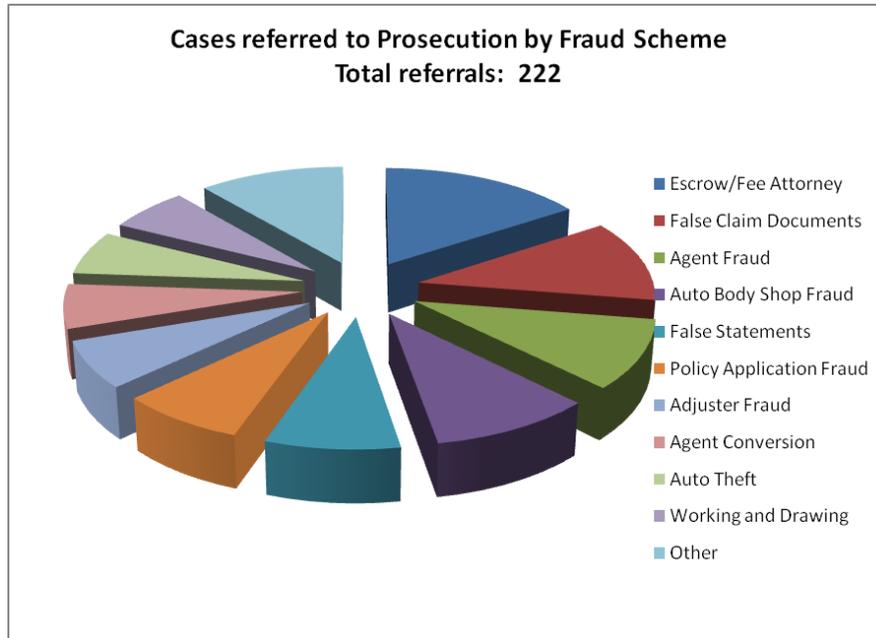
The TDI Fraud Unit receives reports through various methods. Reports are received directly from insurance carriers, through the NICB, NAIC, and through the online reporting system on the Fraud Unit's webpage on the TDI website. Reports are also received from the public, consumers, and private businesses through the online reporting system on the Fraud Unit's webpage, mail, email to FraudReport@tdi.texas.gov, fax (512) 490-1001, or by calling the TDI Fraud Unit's hotline at 1-888-327-8818.



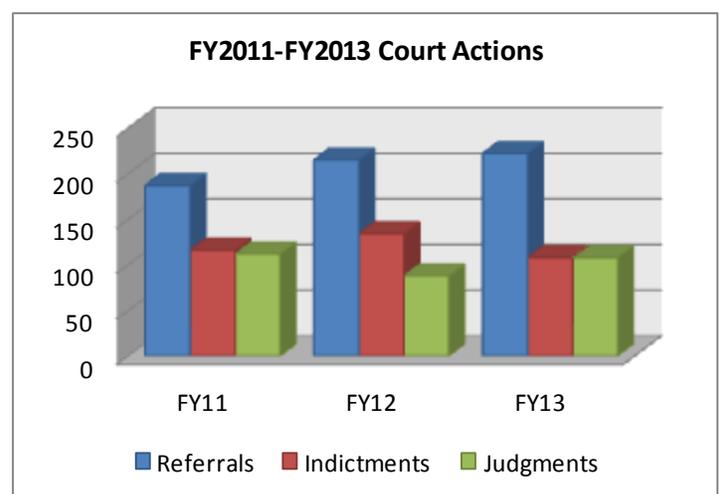
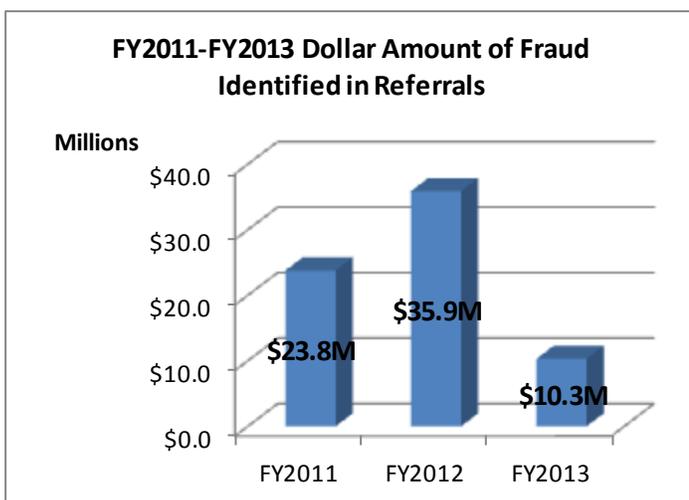
Consumers are an important source of referrals. Consumers may report suspected fraud by calling the TDI Fraud Hotline at 1-888-327-8818 or by submitting an online fraud report at www.tdi.texas.gov/fraud/tdifraud.html. Once the information is received, a determination is made whether to accept for further investigation by a TDI investigator or forward to another law enforcement agency. All reports are entered into the TDI database for statistical purposes and for possible future investigative purposes.

Referral Activity

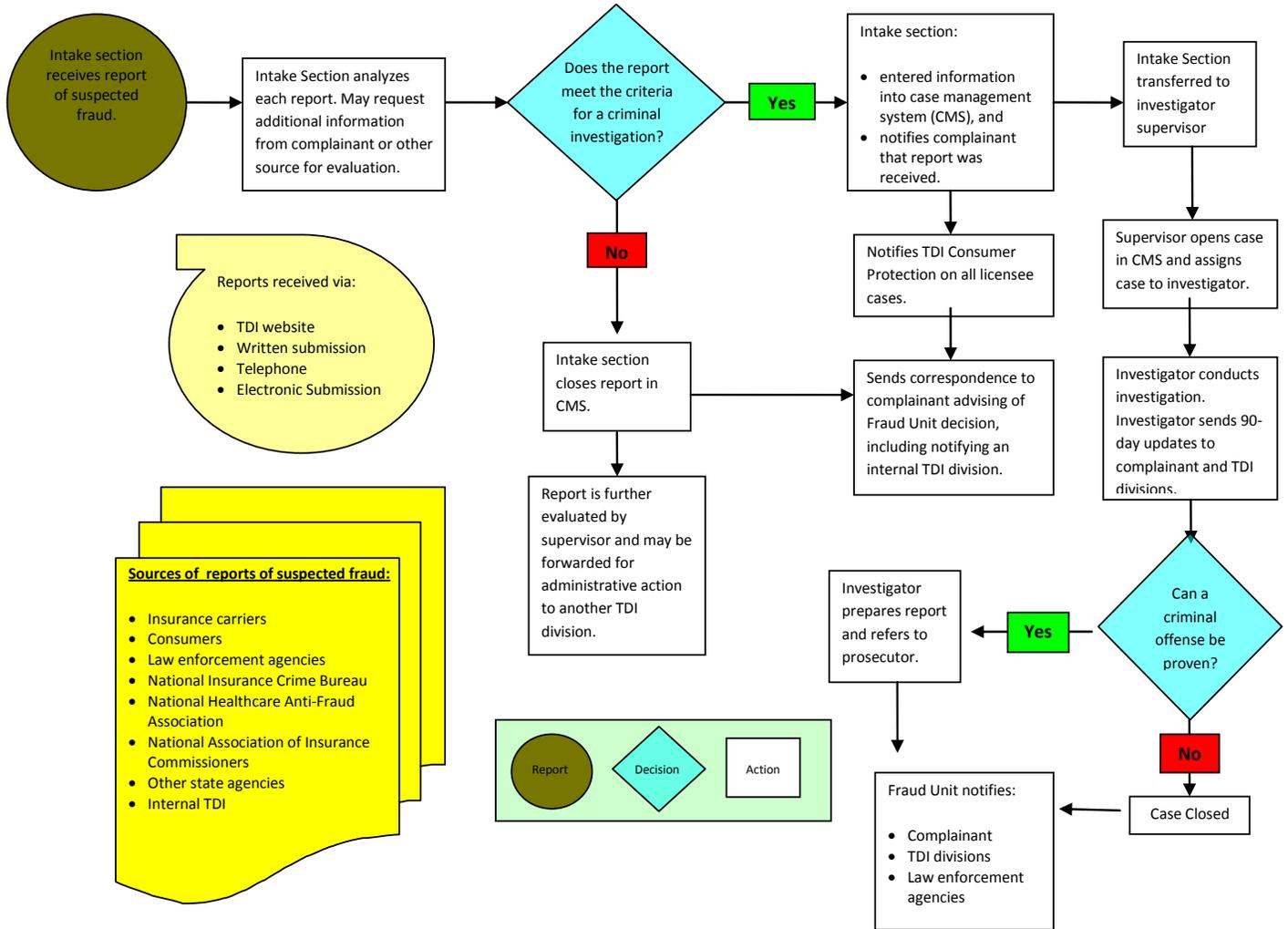
The prosecution of a TDI Fraud case investigation begins with the determination that sufficient evidence has been gathered to make the referral to a prosecutor. The outcomes of prosecution, from indictments to judgments, depend on many factors, including the type and complexity of the case and jurisdiction to prosecute. The individual facts and amounts of evidence required for each case can determine how long a prosecution may take before it is resolved.



In 2013, 108 people were indicted for insurance fraud-related crimes. After indictment, if a person is found guilty by trial or by a plea agreement, the court can sentence the person to jail time or probation and can order restitution, fines, and community service. In FY2013, Texas courts ordered about \$7.5 million in restitution. This was more than three times higher than the previous year.



Case Flow Process



Fraud Organizational Chart

Attachment B: Fraud Unit Organizational Chart

