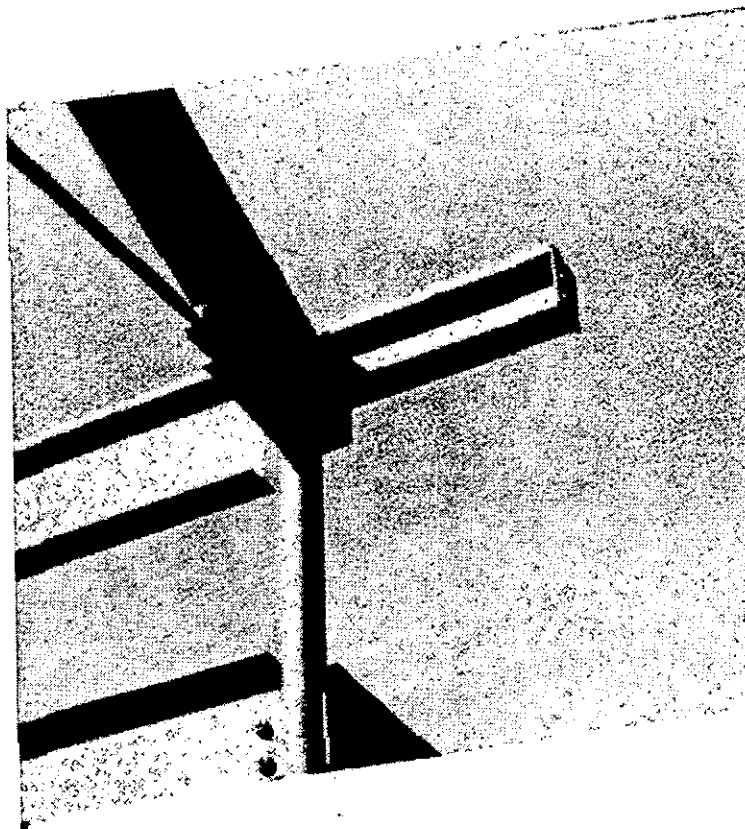


Technical Publication No. 101

WORKERS' COMPENSATION FRAUD DETERRENT IMPLEMENTATION



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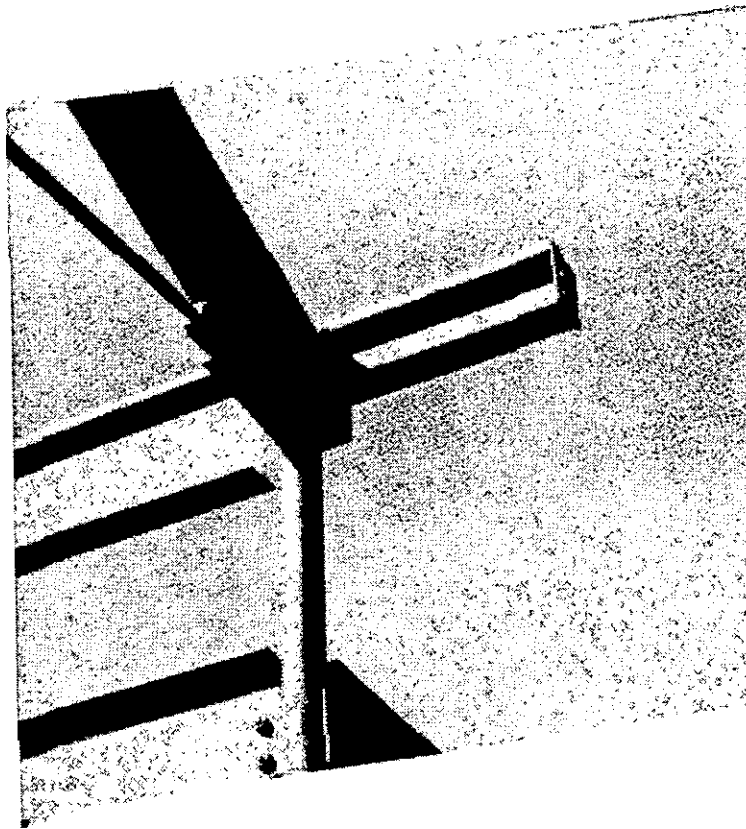
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September 22, 1998

This research report was sponsored by the Zenith Insurance Company and the Building Construction Industry Advisory Committee under a grant from the State of Florida Department of Education.

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EXECUTIVE SUMMARY

Workers compensation fraud is an issue for which a system to deter such activity is greatly needed. The continuing increases in workers compensation premiums and cases of fraud have fueled the drive to establish a methodology to deter fraud. Training and education is an issue of great importance in the fight to combat workers' compensation fraud.

The objective of this research was to study the current level of awareness concerning workers' compensation fraud among professional trade associations, construction companies, and insurance companies throughout the state of Florida. In addition to the awareness issues, this research looked at the levels of training and education that are being provided by both the construction and insurance industries. Construction companies were also surveyed to determine the procedures they have in place to follow up with injured workers.

Recommendations to combat the problems of employee fraud must include proper training and education of all parties involved. This starts with a commitment on the part of insurance companies and contractor management to work together to provide education to frontline supervisors and employees. This training should include an emphasis on how to detect cases of fraud and the importance of following up with the condition of an injured worker to prevent "after-the-fact" cases of fraud. The foreman must play an integral role in this process, as he is the direct link between management and the individual worker.

Surveys were conducted in an attempt to determine the amount of training and education contractors are receiving and where they are acquiring this information. Contractors were also asked about the kind of information insurance companies are including as a part of their workers compensation fraud training.

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INTRODUCTION

1.1 Overview

Workers' compensation fraud (WCF) reduction in the construction industry is an issue that merits both continuing study and active participation. This report focuses on a methodology that can be used to reduce the potential of this fraud. A deterrent methodology involves pro-active participation of all supervisory staff within the construction industry. The following text is a result of a study of successful procedures used in combating WCF throughout various parts of the construction industry.

This research, which was designed to develop a methodology to reduce WCF in the construction industry, was funded by the Building Construction Industry Advisory Committee (BCIAC) and The Zenith Insurance Group. The study was conducted in order to gauge current conditions, attitudes, and methodologies concerning the reduction of workers' compensation fraud (WCF) in the state of Florida. The workers' compensation program is a very large, integrated system of employees, employers, state government regulatory agencies, and insurance companies. Special interest groups have played a large role in the workers' compensation legislation in Florida. The special interest group agendas, combined with a lack of effective deterrents aimed at discouraging or preventing this fraud, has led to an urgent need to change the way that WCF issues are approached. With this purpose in mind, these key points are addressed throughout this report:

1. The extent to which workers' compensation fraud is currently found in the state of Florida.
2. The means by which individuals cheat the workers' compensation system and the effects that this fraud has on the construction industry.
3. The current level of fraud awareness held by construction trade organizations and insurance companies.
4. The ways in which Florida's insurance industry and building contractors are addressing the problem of WCF.

5. The development of a methodology that can be used to reduce workers' compensation fraud in the construction industry.

1.2 Statement of the Problem

In 1996 workers' compensation fraud cost the insurance industry approximately \$120 billion, resulting in a steady increase in premiums for many construction trades (Gastel, 1996). For example, from 1996 to 1997, the cost to insure one roofer has increased from \$48.53 to \$52.47 per \$100 of payroll in 1997 (NCCI, 1997). Workers' compensation fraud is often the result of collaboration for the mutual benefit of many unscrupulous individuals in the construction industry, which in some cases includes collusion with medical and legal professionals who abuse the system. This situation exists in part due to the lack of training and education received by contractors on how to combat and deter fraud. Insurance companies who fail to educate the contractors that have to pay increased premiums due to WCF are also partly responsible for this situation.

1.3 Research Objectives

The purpose of this research is to determine the extent to which contractors and professional organizations are training their management and employees to recognize and combat workers' compensation fraud in the construction industry. Another objective is to determine the kinds of information that insurance companies are providing their clients on fraud deterrence. There has been a major push to develop a methodology to deter workers' compensation fraud in order to reduce the insurance premiums paid by contractors.

This research specifically probes the individual contractor to determine the extent to which they provide training and education for their management and workforce. First it is determined whether a contractor has experienced fraud on a first-hand basis and also the capacity in which the fraud was committed. The research then attempted to identify the type of system that contractors have in place for caring for injured workers and

getting them back to work. The survey also addressed issues such as the sources of educational material on workers' compensation fraud that contractors acquire and also the methods they use to deter this problem.

In order to gather information on professional organizations and contractors, a survey form was developed to address certain key points. Surveys were completed either through a phone interview or through a fax transmission. The degree of completion was based on the willingness of the survey participant.

1.4 Benefits of the Study

The study will provide an overall picture of the steps that professional organizations, contractors, and insurance companies are taking to educate and train the construction industry on the problem of workers' compensation fraud. This information can be used to develop a methodology that contractors and insurance companies can use to train management and frontline supervisors. A better understanding of fraud by frontline managers and foremen will aid in discouraging their employees to commit fraud. Cooperation between the insurance companies and the construction industry is essential if workers' compensation fraud is to be reduced.

CHAPTER 2

History of Workers' Compensation

This study began with a literature search into previous studies, conducted by Dr. Richard J. Coble, at the University of Florida, which includes BCIAC Technical Publication No. 92 – A Study of Fraudulent Workers' Compensation Claims, and BCIAC Technical Publication No. 97 – The Effect of Exemptions on Florida's Workers' Compensation Program. Considerable information concerning workers compensation fraud was available through this information source. The Zenith Insurance Group, who will be collaborating with the BCIAC on future workers' compensation research, also provided much of the information that is contained in the following pages.

2.1 Background of Florida's Workers' Compensation Program

The Florida workers' compensation program has grown dramatically in order to meet rising demands due to an increasing population. Worker's compensation was designed as a "no-fault" liability insurance fund, which ensures "exclusive remedy" for the injured worker or disability benefits for permanently maimed workers (NAIC, 1996). "The worker's compensation concept provides a basic give-and-take situation for addressing work related injuries and disease. The employee must give up the right to sue the employer in exchange for a specified and guaranteed set of benefits. Thus, worker's compensation becomes the employee's "exclusive remedy" for addressing work related injuries" (NAIC, 1996). Because injured workers may only sue laterally, owners of construction projects could find themselves being defendants in lawsuits if the injured workers decided to seek additional compensation. The ramifications to property owners are discussed in greater detail on page nineteen of this report.

2.2 Objectives of Workers' Compensation

The basic objectives of the Florida Workers' Compensation Law are:

1. Provide non-litigating compensatory benefits for injured employees. The employee forfeits the right to sue his/her employer in exchange for a guaranteed minimum amount of disability/death benefits.
2. Minimize inadequacies between employee insurance by providing a uniform approach to insurance coverage that is based on an employers' personal insurance rating (known as the Experience Modification Rate (EMR) in the construction industry), which determines how much an employer must pay in insurance premiums (Coble, 1996).

2.3 Historical Overview of Workers' Compensation Fraud (WCF)

Passed in 1911, the first United States workers' compensation law was not designed with the intent of discouraging fraudulent claims (Coble, 1994). Instead, workers' compensation laws (legislated by state governments) were created in order to provide an equitable, no-nonsense approach to providing reasonable medical and disability benefits for injured workers. Workers' compensation laws were also created to prevent litigation between employers and employees. As the laws became more complex (due in part to certain case law precedents), some individuals began to take advantage of the system by filing false workers' compensation claims, faking injuries or illnesses, or in some cases, sustaining self-inflicted injuries in order to collect payment from the insurance fund. In response to the rising costs of insurance premiums, which are cited by insurance companies as a direct result of rising fraudulent claims, the Florida Legislature passed a law into the Florida Statutes (F.S. 626.989, passed 1976) that formed Florida's Division of Insurance Fraud. In 1990, the Florida Bureau of Workers' Compensation Fraud was formed within the division to conduct criminal investigations of fraudulent cases. The Division of Insurance Fraud was responsible for accepting complaints and investigating

allegations of many types of insurance fraud, beginning with auto-insurance fraud. The division also helped to create methods and procedures that would later be copied and modified by the Bureau of Worker's Compensation Fraud in order to conduct follow-up investigations on worker's compensation fraud complaints (Coble, 1994). Today, the Florida Bureau of Workers Compensation Fraud now employs over thirty full-time employees, including twenty-one sworn investigative personnel located in eight regional offices throughout the state (Coble, 1994). Insurance companies have also responded to the need to stop WCF by implementing Special Investigative Units (SIUs) within each company to acquire concrete evidence such as video tape, photographs, or sworn professional testimony to prosecute persons who file false claims.

2.4 Safety Issues: The Workers' Compensation Exemption Program

The original intent of the Florida Workers' Compensation Program was to provide a no-fault disability coverage insurance fund for injured workers, who then forfeited the right to sue their employers. The original intent of the Workers' Compensation Exemption (WCE) program was to provide a financial break for small independent contractors who may not be able to afford high state worker's compensation premiums coupled with the costs associated with starting a small business. Typically, the courts determined if there was a contractor-subcontractor relationship in injury cases pursued under tort law. At the same time, the Florida Legislature incorporated into the Florida Statutes the following nine qualifications which determine independent contractor status:

1. Maintain a separate business with separate equipment.
2. Have an employer's federal tax identification number.
3. Agree to specific work and control the means of performing the work.
4. Incur the principal expenses related to the work.
5. Be responsible for satisfactory completion of the work and agree to be held liable for failure to complete the work.
6. Agree to perform the work for a commission on a per job or competitive bid basis.
7. Realize a profit or suffer a loss in conjunction with the work.
8. Have continuing or recurring business liabilities.

9. Be paid on the success or failure of the job by comparing business receipts to expenditures (Coble, 1997).

Nonetheless, exemption from worker's compensation insurance is the exception rather than the rule. Working with *absolutely no insurance* in an industry with the highest rate of injury and accidents is something else – something terribly wrong, yet prevalent in the construction industry today. In 1996, over 38,000 exemptions were filed in the state of Florida (FDWC, 1995). In most cases, these exempt individuals were small independent contractors that worked without any additional employees and were therefore eligible to file for the WCE. However, as the following chart illustrates, some unscrupulous independent contractors will file for an exemption and then illegally employ uninsured workers. The end result was cost savings for the general contractor who pays lower prices for the services of these independent contractors because workers' compensation premiums were not paid.

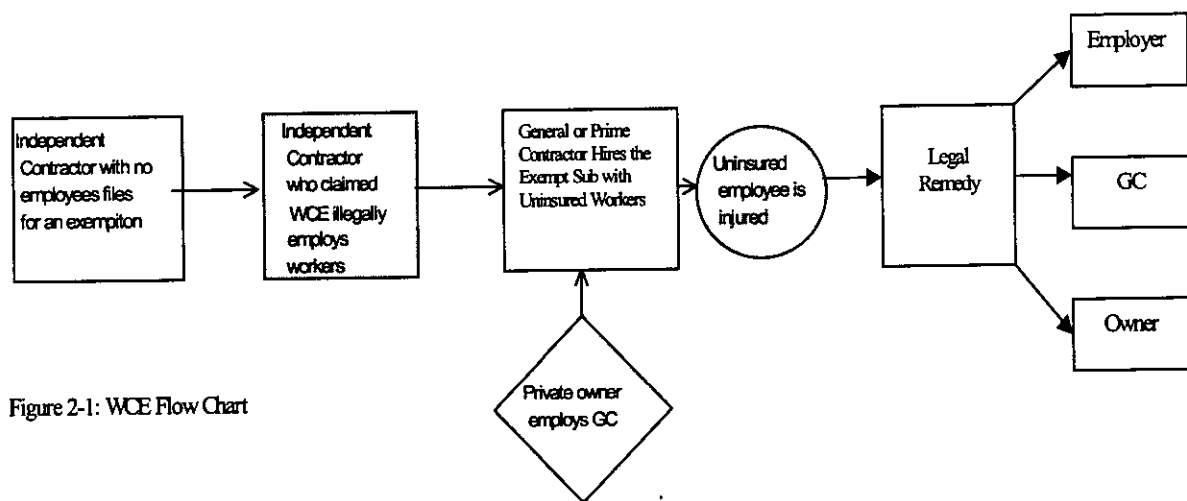


Figure 2-1: WCE Flow Chart

Figure 2-1 outlines this process and shows the relationships between all parties on a typical construction project and the potential liabilities that are introduced when WCE fraud and misuse become part of the process. Negligence must be proven in order for an owner to be held liable for injuries to an uninsured worker that is currently employed by an exempt contractor. Because the notion of owner negligence is relatively subjective, owners (who are generally unaware of these exemptions to begin with) may find themselves being sued for medical benefits.

2.5 Unprotected Workers

In order to cover one roofer under the current Florida Workers' Compensation Program, it costs a contractor \$52.47 for every \$100.00 paid in payroll to that worker (NCCI, 1997). With numbers like these, it is easy to see why a contractor might be tempted want to avoid paying worker's compensation premiums whenever and however possible. Unfortunately, the workers are the ultimate losers if they are injured on the job while illegally employed by an exempt independent contractor who is operating outside the bounds of the law. The job injury statistics are staggering--in 1994, 910 deaths occurred in the United States construction industry, while in this same year the disabling injury rate was 4.8 for every 100 workers (Hinze, 1997). Second only to mining and agriculture, the construction industry ranks among the highest in the number of injuries and fatalities--not a statistic in which to take pride (Hinze, 1997).

In a study conducted by the Construction Industry Institute (CII), it was found that the average indirect cost of a single injured worker for a medical case injury was \$442.40, while the average direct cost was \$519.15 (medical case injuries are defined as those requiring only a doctor's attention before the injured employee may return to work) (Hinze, 1997). Lost workday cases, defined as those in which the injured worker could not return to work the following workday or where the worker had to be assigned to a different type of work because of the injury, had an average field indirect cost (total direct cost minus liability claims) of \$1613.21, and an average direct cost of \$6,909.98 (Hinze, 1997).

The average laborer makes between \$270-450 per week, and if injured, may be faced with high medical bills, lost wages, and perhaps the fact that he/she may not be able to work again. If the laborer is employed by an independent contractor who has fraudulently obtained a WCE, the only available recourse is to seek legal remedy for damages from:

1. The unscrupulous independent contractor who knowingly hired this employee without concern for his/her welfare.

2. The general contractor who either knowingly or unknowingly employed the exempt contractor and the uninsured employee(s).
3. The owner of the project/residence who contracted this entire chain of employment for their purposes. (The owner must be proven in a court of law to have demonstrated negligence by operating a hazardous job site or by hiring an unqualified or unsafe third party) (CII, 1996).

When injury occurs, a chain of fraudulent events in addition to WCE abuse may take place such as:

1. Fraudulent claims of accidents.
2. Collusion with unscrupulous professionals (lawyers and doctors).
3. Worker's refusal to return to work.
4. "Double Dipping": when a worker continues to claim WC benefits while working at a different job.

Fraudulent WC claims occur in the construction industry when a person files a claim for an accident that never occurred, or exaggerates and misrepresents an accident that has occurred (Coble, 1994). An employee may also attempt to collect, through a self-inflicted injury, a new WC claim based on an unidentifiable past injury (Coble, 1994). Injured employees that are faced with the sudden burden of enormous medical costs may be seduced into WC fraud by unscrupulous doctors and lawyers who promise large case settlements and "easy money". There are also workers that may have healed from their injury but remain at home while they continue to collect WC benefits. "Double dipping" describes workers who continue to claim WC benefits while working at a different full or part-time job. This term is also used when a worker files a claim to both the disability carrier and the WC carrier.

2.6 Dangers on the Job site

When an injury occurs on a job site, productivity is lowered because of the lack of concentration among the workers. It is almost impossible for the labor force to put aside a serious event (such as the death of one of their fellow workers) out of their minds and continue working (Oglesby, 1989). Uninsured employees present an obvious financial danger to themselves. However, uninsured and unsafe employees pose a danger to themselves, other workers, and all parties involved on the project. WCE abusers (mostly independent contractors with illegally employed workers) are responsible for a great deal of the superfluous lawsuits that occur as a result of an injured, uninsured worker. Additionally, one must question the dedication that these fraudulent contractors have towards overall job safety when they cheat the system by WCE abuse. The Florida Workers' Compensation Program was set up so that liability and litigation could be limited. The WCE was initiated in order to help the small independent contractor make an honest living.

2.7 Extra Burden on Public Safety and Welfare

The main goal of any employer that has an injured worker should be to follow up and monitor progress of healing, and make efforts to help return the employee to work. Return-to-work programs are an excellent way for employers to save themselves and the WC program money. Exempt workers must be supported by the general public, who has to pay higher prices for construction services and may actually be sued (as homeowners) by the injured worker. Most injured workers are not inclined towards committing fraud, but can be encouraged by unscrupulous legal and medical professionals to exaggerate injuries or pursue third party claims as a means to pay their medical bills. This sector of the legal and medical industry abuses the system for personal gain, and ultimately passes the costs onto the general public.

The following chart shows how workers' compensation exemption claims have risen since 1991:

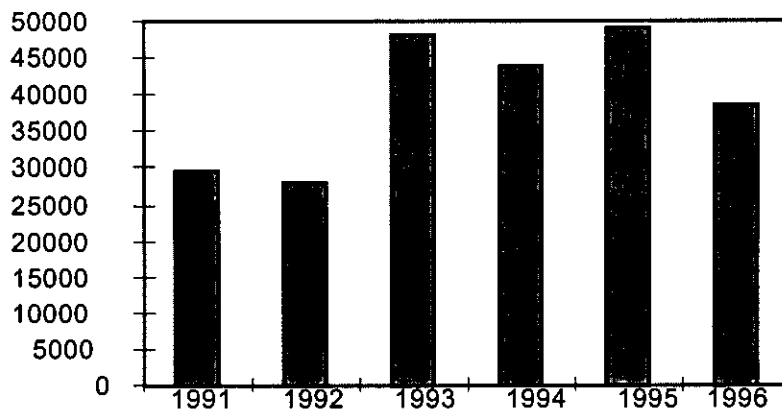


Figure 2-2: Number of WCE

Source: Florida Division of Workers' Compensation, 1996

Construction costs have also risen steadily over the years due in part to the problems associated with construction safety and the insurance crisis in the construction industry. Misuse of the WCE also leads to an increase in insurance rates for all contractors in the state. Honest contractors, who regularly pay their WC premiums, may find themselves paying higher rates if the fraud and exemption abuse by unscrupulous independent contractors (who are supposed to have no employees) is not policed and curtailed.

2.8 The Importance of Discouraging Workers' Compensation Fraud

1. Follow-up and return-to-work: The most simple and personable way to make the injured employee feel like his/her best interest is the employer's concern is by visiting the employee while they are healing away from work. These visits also give the employer a chance to monitor the progress of the employee and can further discourage him/her from committing fraud. Return-to-work programs seek to provide lower physical and mental stress-related jobs to workers while they continue to heal.

Return-to-work programs help the injured employee to avoid lapsing into a lazy psychological state, thereby making it easier to get the employee back to work (and to avoid WC fraud). Uninsured workers will seek damages from any party that can be shown to have demonstrated negligence that may have led to an injury. Therefore, it is important that more steps be taken by the WC administration and legislature to inform homeowners and contractors of the exempt status of an independent contractor and the associated liabilities for all parties.

2. Prosecute and purge the system of WCE abusers: Tougher penalties should be established and enforced by the state to discourage fraud and promote more responsible and safer job sites. Independent contractors who abuse the WCE should not be able to file for another exemption and should possibly be driven out of the industry.
3. Stiffer penalties for collusion: Current penalties for dishonest lawyers and doctors that encourage an injured worker to exaggerate their claims are not very tough and provide little deterrence. Some of these doctors and lawyers have actually made WC a full-time business by running "mills," which are businesses that repeatedly create excessive or exaggerated charges by filing fraudulent claims (NICB, 1993). Furthermore, these mill operators hire individuals, called "cappers," who solicit injured employees in unemployment lines and encourage them to see lawyers that are involved in the fraudulent WC claim scheme (Coble, 1994).
4. Limit WC exemptions: After the 1993 Governor's Legislative Reform Act, workers' compensation exemptions were made valid for life. While this was an attempt to satisfy small independent contractors who previously protested the earlier legislation that completely outlawed exemptions, the balance of power shifted too far in the opposite direction.

The cost of WC and WCE fraud is far-reaching and expensive for everyone involved. Under the OSHA Act, section 5a (CFR, 1996), a safe job site and healthy working conditions are the responsibility of the employer. It is also the responsibility of the employer to pay their fair share of workers' compensation premiums so that all employees are covered in case of an accident. Abusers of the WCE should be punished

and monitored in order to provide for the safety and welfare of their workers, and to stop the expensive litigation between general contractors, insurance companies, and building owners. A single dishonest independent contractor can have many negative effects on the parties involved in today's construction projects. When these fraudulent individuals (whose primary concern is clearly not the well being of their employees) are driven out of the market, the situation can only improve.

CHAPTER 3

METHODOLOGY

3.1 Introduction

This report was prepared in order to assist the insurance and construction industries in the effort to pursue and prosecute fraudulent workers' compensation claims. Little research has been conducted to document information such as: 1) the degree to which fraudulent claims are being filed in the state of Florida, 2) the lack of resources within the Florida Bureau of Workers' Compensation Fraud to investigate the increasing number of fraudulent claims, and 3) the overall rise in premiums and associated losses in the insurance industry due to fraud. This study will collect and analyze information (through the use of surveys) that can be used to develop a methodology by which construction organizations and insurance companies can deter fraud. This paper represents the genesis of extensive research that is currently underway in cooperation with the Building Construction Industry Advisory Committee (BCIAC) and the Zenith Insurance Group. The methodology of this paper was coordinated with both groups and will be further developed over the course of further research. Upon examining the problem and the far-reaching extent of fraud in the construction industry, a survey questionnaire appeared to be the most appropriate method for acquiring current data. Furthermore, it was determined that a survey of professional building trade associations and construction companies would be the best way to initiate a series of three surveys of distinct sample types, which will be conducted over the course of continuing BCIAC research.

3.21 Survey Questionnaire Design—Professional Organizations

The professional construction organization survey was designed to obtain information concerning the general awareness level of workers' compensation fraud and

the methods used to prevent fraud in the construction industry. A copy of this survey, titled "Workers' Compensation Fraud Deterrent Study – Professional Organization", can be found in Appendix A. The first section (section I) of the survey was designed to gather general data, such as the organization's name, phone number, address, type, number of members, and the representative's name who completed the survey.

The questionnaire (section II) contained a series of simple yes and no questions, each followed by a question requesting more details or further explanation (depending on the answer to the preceding yes or no question). One of the questions asks if the organization was aware of the level at which workers' compensation fraud is being committed within Florida's construction industry. Questions were also asked to determine if members have personally experienced fraud within their business and what kinds of training and educational resources concerning workers' compensation fraud are available for members. The last question asked for a listing of five members who have been most involved in workers' compensation fraud. This additional information will be used in an independent study of the awareness of construction companies towards workers' compensation fraud, which will be conducted by the Building Construction Industry Advisory Committee (BCIAC).

3.22 Sample Selection—Professional Organizations

The sample of professional construction organizations represents all trades and membership levels throughout Florida. These organizations were targeted in order to gauge their level of understanding and to determine the degree of educational training offered to members concerning workers' compensation fraud. The organizations were also asked to provide a list of their top five members who are most involved with the prevention of worker's compensation fraud. It was the intent of this methodology that these members have some degree of training and/or education program (or other method of information conveyance) in place, which would keep their foremen and/or superintendents informed about ways to ensure that fraud is not a viable option from an employee's perspective. This information will become the starting point for a contractor survey, to be conducted by the BCIAC over the course of their continuing research. A

list of twenty professional construction organizations was obtained from the Florida Construction Coalition; additional organizations were found through the Internet. All members on this list were contacted and asked to for their cooperation with this survey and to forward this survey form to as many other professional construction industry organizations that they may be associated with. The initial list of organizations contained twenty Florida chapters or headquarters officials. A larger number of completed organization surveys would both increase the accuracy of the analysis and would provide more potential contractors who could be contacted in the second phase of the research (the contractor survey).

3.23 Surveys Conducted

The planned methodology of the professional organization survey consisted of a number of logical, scientific steps that were used to reach the desired outcome. This methodology is described below.

- 1) A list of professional construction trade organizations was obtained from a representative from the Florida Construction Coalition. The Florida Construction Coalition is a political lobby for construction trade organizations that promotes shared interests to the state legislature in Tallahassee. Phone numbers, facsimile numbers, and contact persons were also obtained from this list.
- 2) Surveys were conducted through telephone interviews, facsimile, e-mail, or any combination of these methods. Any outstanding surveys were followed up with more phone calls and email messages.
- 3) All respondents were given an opportunity to express their opinions (and ask questions in the case of phone interviews). Respondents that indicated limited knowledge of workers' compensation fraud were offered copies of BCIAC technical publications about workers' compensation or any information from the Division of Workers' Compensation.

- 4) Responses were tabulated and organized so that relevant information concerning workers' compensation fraud deterrence could be analyzed and processed.

3.31 Survey Questionnaire Design - Contractors

Construction companies were surveyed to determine the extent to which training and education were being provided for their employees. It was first determined if each company had any experience with fraudulent claims made against their insurance company. This information may be used to determine the company's attitude towards workers' compensation fraud prevention. It is likely that if these any of these companies have been a victim in the past, they would then be inclined to deter such activity in the future. A copy of this survey form can be found in the Appendix.

The survey format for contractors is similar to that used for professional organizations. The first part of the survey addresses key information such as the name of the company and the person completing the survey form. Many of the questions are similar in regard to gathering information on training and/or education provided to contractors and to determining where they obtained this information. Other important information includes the identification of the construction company's follow-up procedures for dealing with an injured employee. This information is vital since it is important to get an employee back to work and back to his daily routine. The survey also attempts to determine the level of involvement that the construction company's insurance company has in fraud deterrence.

3.32 Sample Selection—Contractors

The sample selection used to complete this portion of the survey included general contractors and subcontractors from all trades, including commercial and residential contractors throughout the state of Florida. This sample is thought to cover almost all areas of construction and will therefore provide an overall picture of the industry situation. The names of these contractors was obtained from a number of sources, including those acquired through the professional organizations study, a database of

contractors on file at the University of Florida, and the 1997 Blue Book of Building and Construction.

3.33 Survey Methodology - Contractors

A methodology was initially set up to conduct research that consisted of a series of phone calls that were followed up by other phone calls or faxes. Accommodations were made to complete the survey via e-mail. The first attempt to conduct the survey was over the phone with each construction company. Here, each question was answered verbally, and there was an opportunity to speak with each individual contractor. Valuable information was gained through this interaction. If the contractor was unable to complete the survey over the phone, a copy of the survey was faxed to their office. If the contractor had any questions on how to complete the survey, there was a phone number and name provided for their convenience. Each contractor was contacted at least once. If there was no response to the survey within the specified date, a follow up letter was sent in an effort to gain their participation. Each participant was offered information on workers' compensation fraud and methods of fraud deterrence.

The results were tabulated once all the information was acquired; the information was then plotted graphically to illustrate the results. Once the information was tabulated and graphed, it was analyzed to determine the present level of workers' compensation training and education in the construction industry. The results were then used to make recommendations on fraud deterrence and training.

3.41 Survey Questionnaire Design—Insurance Companies

The purpose of this portion of the study was to determine the level of training and/or education insurance companies are providing for their clients. This may include management training on the detection and deterrence of workers' compensation fraud. The survey also included questions involving the number of fraudulent cases handled by

the insurance company in the areas of employer and employee fraud and which division within the insurance company that handled each problem. This information would provide a better understanding of the problems that insurance companies are facing and what areas their clients (construction companies) should address.

The survey format is similar to that of the previous two surveys, with vital company information acquired at the beginning of the survey. The first few questions focused on the insurance company's special investigative unit (SIU), or more specifically, the annual cost of running the SIU. The next few questions focused on the education and/or training that is provided by the insurance company on fraud detection and deterrence. The last section of the questionnaire focused on the number of cases of fraud the insurance company has faced in the last four years and the total estimated cost of fraud for each year.

3.42 Sample Selection - Insurance Companies

The list of insurance companies used in this study was acquired by the Florida Department of Insurance. This list was made up of over 400 insurance companies that provide workers' compensation coverage to Florida's construction industry. Although many of the companies are located outside Florida, only information relevant to this state was used in the study. Each company provided a wide range of services to the construction industry as well as to a number of other industries.

3.43 Survey Methodology - Insurance Companies

Before the surveying process could proceed, a contact name was first obtained through the individual insurance company that dealt with workers' compensation in the construction industry for the state of Florida. This individual normally held a position in the special investigative unit (SIU). Once this individual was contacted, he/she was advised of the purpose of the study and then given an opportunity to complete the survey over the phone. If they were unable to be reached by phone, they were faxed a copy of the survey and encouraged to complete it as soon as possible. This was followed by a

telephone call to assist with any questions that might arise. It was determined early in the study that the process of conducting the survey over the phone was difficult because there were several questions that required the individual to look at a database of information that was not readily accessible. This required the methodology to be altered from the original format. It was apparent that the only way to complete the survey in its entirety was to send the insurance company a hard copy of the survey and to allow them more time to respond. As a result, the survey form was faxed to a number of insurance companies instead of being conducted over the phone.

CHAPTER 4

FINDINGS

4.1 Introduction

Chapter three explained the methodology and purpose of the survey as well as the anticipated outcome of the analysis. Because survey participants were assured of confidentiality, a number was assigned to each completed survey received. Therefore, the survey response summary (in Appendix C) refers to each response with a corresponding number.

4.2 Professional Construction Organization Survey

All results of this portion of the survey are summarized in Appendix C of this report. In most cases, the representatives who were interviewed by telephone provided more detailed unrehearsed responses to the questionnaire than those who faxed or mailed their responses. It was found that the more personal, informal questionnaire forum that exists in personal interviews (as opposed to the faxed survey) provides the respondent with a less intrusive atmosphere. When surveys were mailed or faxed, a detailed cover letter was included that explained the purpose and importance of the survey. A verbal explanation over the telephone afforded the opportunity to stress the importance of the survey and the value of the subsequent report and therefore provided for more substantial responses. However, the problem with conducting phone interviews is that it is highly unlikely that the person you need to talk to is available. This means that in order to complete the survey, you must spend much more time and effort to contact the individual.

Thirty-five (35) survey questionnaires were disseminated during the course of this research, of which, thirteen (13) responses were obtained. It should be noted that some of these organizations contain in excess of six hundred (600) members, with regional and/or metropolitan chapters within the main organization. It should also be noted that considerable difficulty was encountered in locating the more than twenty-five (25) separate, distinct building organizations which had neither duality between the

responding representative and a similar (or subsidiary) organization, or had overlapping membership lists. Subsequently, each response was screened to ensure that no other similar building organizations (that may have already been contacted) were associated with another related professional organization.

The following questions were asked on the professional construction organization survey:

Table 4-1 WCF Questions

Question #	Question
1	Is your organization aware of the degree to which workers' compensation fraud is being committed in the state of Florida?
2	Have any members of your organization experienced workers' compensation fraud?
3	Are you aware of the different types of workers' compensation fraud?
4	Has any action been taken within your organization to combat workers' compensation fraud?
5	Are you aware of any methods used to combat workers' compensation fraud in the construction industry?
6	Is your organization actively involved in workers' compensation fraud training and education?
7	Has your organization been involved in workers' compensation fraud training for supervisors and workers?
8	Are any specific reference materials or text used in your training programs?
9	Is your organization aware of available training programs used to fight workers' compensation fraud in the construction industry?

Figure 4-1 (below) provides a graphic summary of all responses to the professional construction organization survey questions: 1, 2, 3, 4, 5, 6, 7, 8, and 9. The survey is located in Appendix B of this report.

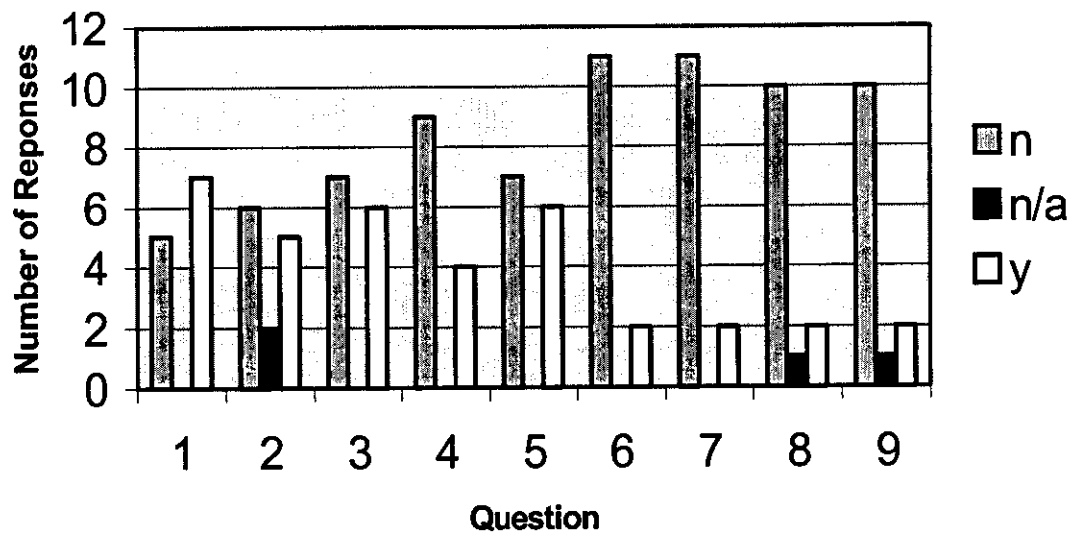


Figure 4-1: Professional Construction Organization Survey Response Analysis

Questions #1, #2, #3, and #5 were somewhat level and were split evenly between the “yes” and “no” responses. Question #4, which asked whether any action had been taken within the responding organization to combat workers’ compensation fraud, had an overwhelming “no” response. The significance of this response is that it indicates a necessity for a systematic approach to fighting WC fraud at every level of the construction industry. A fraud deterrent system is proposed in Chapter Five of this report for further consideration and research. Questions #6 through #9 had mostly no response, which was possibly due to the fact that most organizations rely on the Florida Division of Workers’ Compensation (or other limited written educational and training resources) for information concerning WC fraud deterrence.

Figure 4-2 shows that respondents are generally aware of the degree to which WCF is being committed in Florida. However, most were not aware of these facts:

- 1) Worker's compensation fraud was a \$120 billion problem in 1995, causing insurance premiums to rise in most trades.
- 2) Approximately eighty percent (80%) of participants surveyed by the Florida Division of Workers' Compensation say that workers' compensation fraud is condonable behavior.

Because very little research has been conducted in the area of workers' compensation fraud, the severity of the issues is not thoroughly known within the survey respondents.

**Is your organization aware of the
degree to which worker's
compensation fraud is being
committed in the state of Florida?**

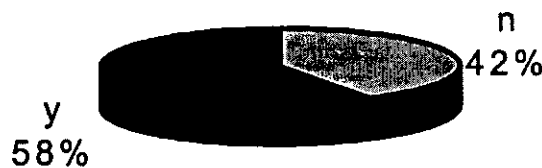


Figure 4-2: Professional Construction Organization Survey Response Analysis

Figure 4-3 shows that most respondents were certain that one of their members must have experienced WCF firsthand during their experience in the industry, but had no specific examples to elaborate this point. This general lack of information testifies to the presumption that many professional construction trade organizations simply do not include discussions of WCF on their seminar agendas or publications. This presumption also includes the notion that the Division of Workers' Compensation, Bureau of Compliance, or insurance companies are considered to be primarily responsible for

training contractors in fraud deterrence and for ensuring that WCF is significantly reduced.

**Have any members of your
organization experienced workers'
compensation fraud?**

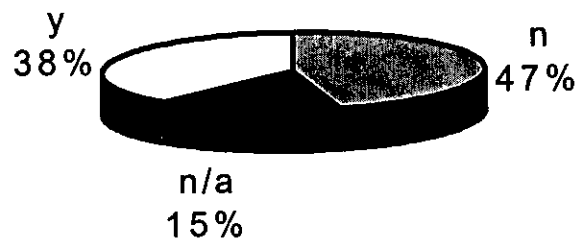


Figure 4-3: Professional Construction Organization Survey Response Analysis

Workers' compensation fraud occurs in some basic categories, including:

- 1) Fraudulent accidents.
- 2) Collusion with unscrupulous professionals, such as lawyers and doctors.
- 3) Extension of benefits beyond the worker's statutorily indicated time frame.
- 4) Workers' compensation exemption fraud caused by individual contractors who attempt to avoid premiums by coercing their employees to claim independent contractor status.
- 5) Cash payments, which attempt to completely avoid workers' compensation payment (Coble, 1994).

Most respondents in the professional construction organization indicated that they were generally unaware of the high level of WCE fraud that occurs in the state of Florida (see Figure 4-4, following page).

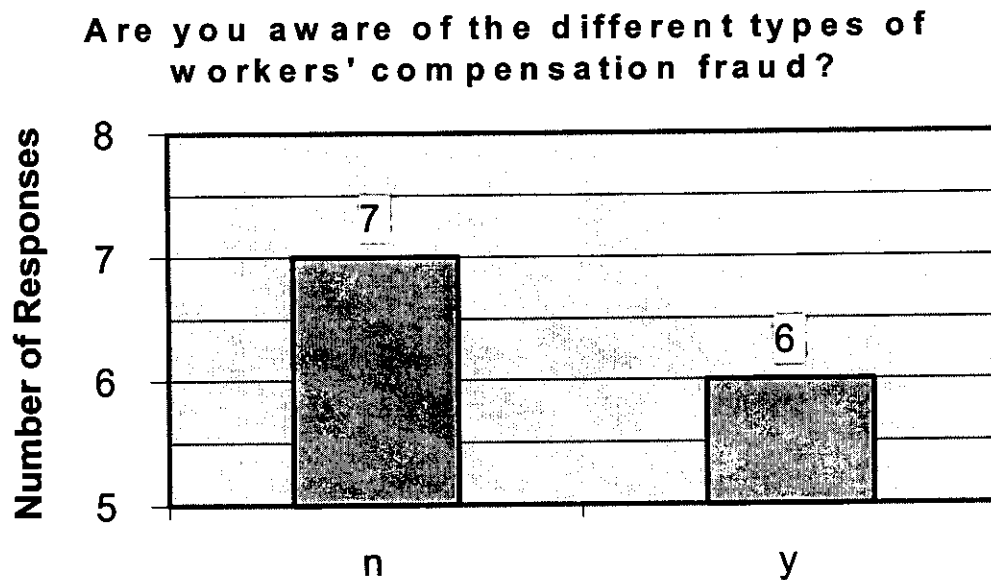


Figure 4-4: Professional Construction Organization Survey Response Analysis

Many insurance companies have a special in-house, special investigative unit (SUI) that investigates allegations of workers' compensation fraud by policyholders with that company. The Bureau of Workers' Compensation Fraud carries out investigations of criminal cases that are based on reports made by the suspect's neighbors and/or co-workers, or by private investigative observers who work for the Bureau. Additionally, the Florida Division of Workers' Compensation's Bureau of Compliance is responsible for verifying that employees have workers' compensation coverage. The responses to question number four indicate a lack of general knowledge about the state government and private investigative agencies or their activities regarding investigation and prosecution of fraudulent individuals (see figure 4-5 on the following page).

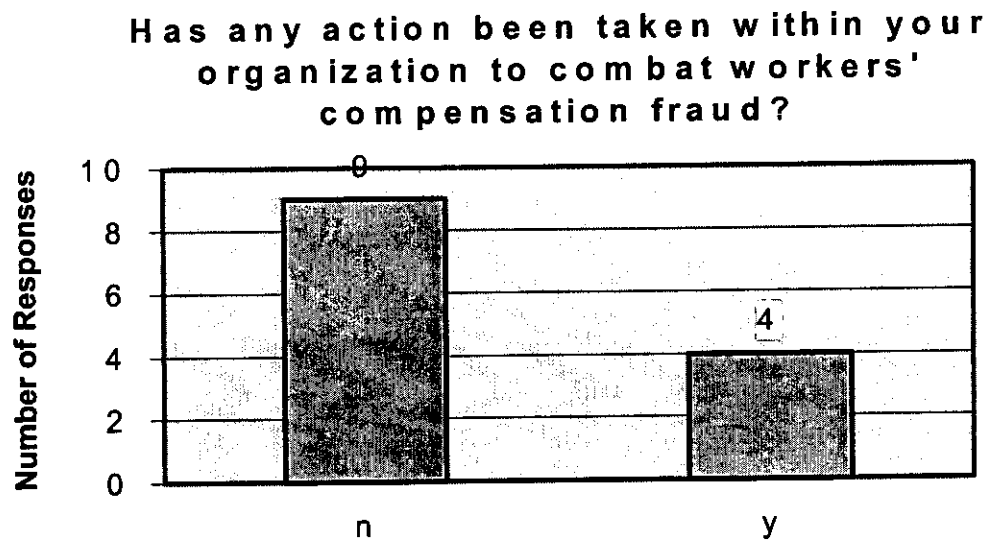


Figure 4-5: Professional Construction Organization Survey Response Analysis

Most professional construction organizations are not aware of the degree to which workers' compensation fraud is being committed in the state of Florida (see figure 4-6).

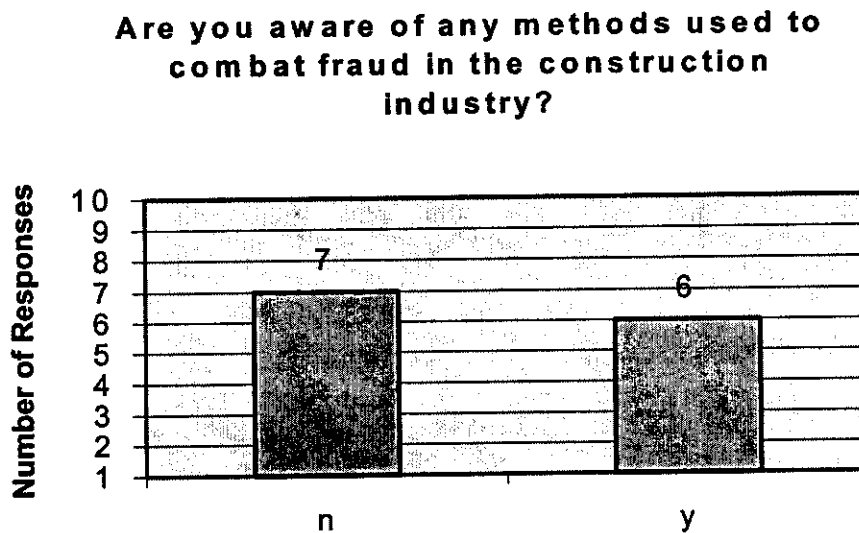


Figure 4-6: Professional Construction Organization Survey Response Analysis

Most organizations surveyed replied that most, if not all, the information they have received is from the Florida Department of Workers' Compensation. These results support the need for continuing research in this area in order to provide the most accurate, up-to-date information concerning this growing issue.

An overwhelming eight-five percent (85%) replied that no training and education programs are available concerning workers' compensation fraud (see figure 4-7 below). Most professional organization representatives indicated that their seminars and/or newsletters focus on topics specifically related to their respective trades or on activities within their organization. Currently, WCF does not seem to be viewed as the all-encompassing, far-reaching problem as it has been described in previous research. "Florida Workers' Compensation Advisor," a publication produced by the Florida Division of Workers' Compensation, and "Voices – From Team Anti-Fraud," published by the Florida Department of Insurance, are among the limited number of resources that professional construction organizations currently have available to educate their members. Examples of these publications are provided, respectively, in Appendix E and Appendix F.

**Is your organization actively involved
in workers' compensation fraud
training and education?**

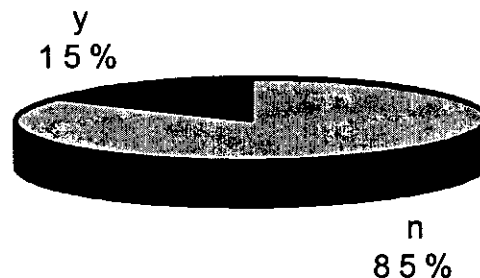


Figure 4-7: Professional Construction Organization Survey Response Analysis

Professional organization representatives were not concerned with the issue of WCF training for supervisors and workers because it did not directly address their position within their organization, regardless of the fact that most were general contractors in the industry (see Figure 4-8 below). Therefore, it was later determined that this issue is better suited for a general contractor survey population and may provide crucial information for future studies. This is addressed in the next section of the report.

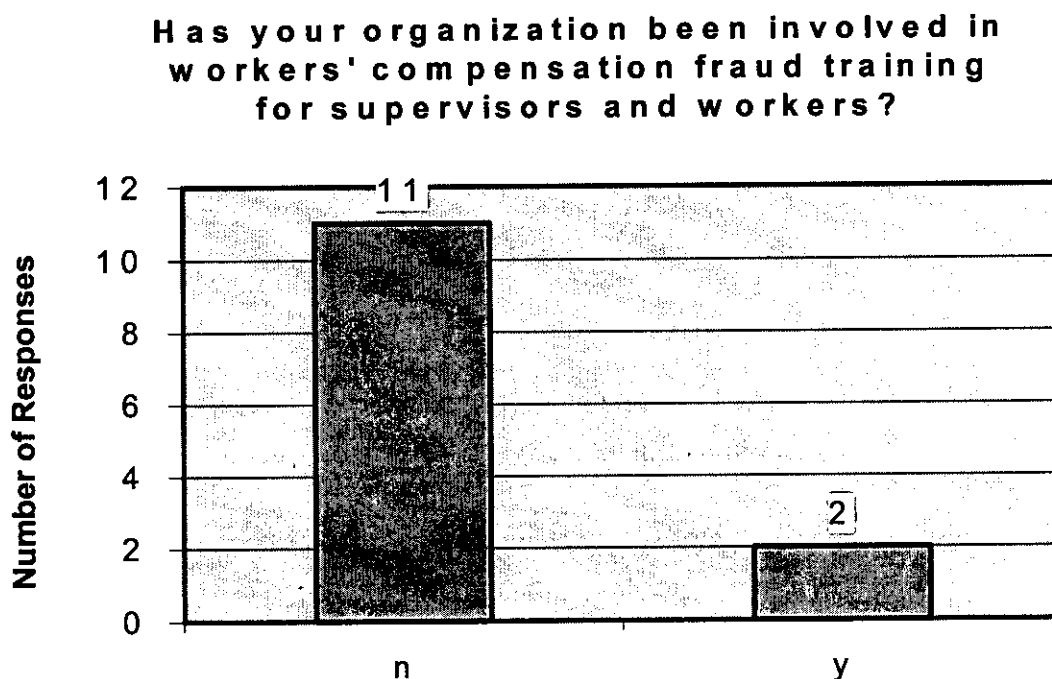


Figure 4-8: Professional Construction Organization Survey Response Analysis

The results of this survey represent a fundamental step in the Fraud Deterrent Implementation System, as presented in Chapter Five of this report. Most WCF is not the result of a premeditation decision of an injured employee, but rather it is the last resort taken by an injured worker who has not been in contact with his/her immediate supervisor, and begins to feel alienated and shunned by their employer. During this time, injured workers may be susceptible to suggestions made by unscrupulous lawyers, doctors, or other professionals who wish to capitalize on the injured worker's physical and emotional suffering and state of vulnerability. Some of these unscrupulous

professionals will even hire individuals to approach persons waiting in unemployment offices (or welfare centers) with promises of substantial legal recovery and revenge by means of a lucrative lawsuit against former employers.

Most respondents cited materials (such as the previously mentioned state bureau publications featured in Appendix D and E) when asked about specific reference materials (see figure 4-9 below). One professional organization in particular, which seems to be very proactive in workers' compensation fraud deterrent issues, said that their organization uses videotapes and textbooks published by the Department of Labor and Employment Security (DLES), and Division of Workers' Compensation. This organization also offers a course on the Florida Workers' Compensation Law and the Construction Industry, and provides up to three credit hours of professional continuing education credit for all students of this course. While this case is very promising, there is still much room for improvement in the area of workers' compensation fraud education. Subsequently, more continuing research must be conducted in this area in order to provide educational resource materials for such training programs.

**Are any specific reference materials or
text used in your training program?**

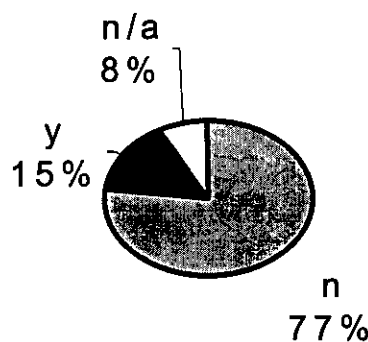


Figure 4-9: Professional Construction Organization Survey Response Analysis

Most organizations did not seem to be aware of their peer organizations' efforts in combating WCF or of the need for independent industry educational programs. Furthermore, the 77% who answered "no" to this question were not aware that any research or published material was available on the subject of workers' compensation fraud in the construction industry (see figure 4-10 below). Most survey respondents that expressed a need for such material were offered copies of BCIAC Technical Publications Number 92 and 97, which address the subjects of workers' compensation fraud and workers' compensation exemption fraud, respectively. These individuals were also directed to the Construction Industry Institute (CII), which has published numerous publications on workers' compensation. The National Council on Compensation Insurance (NCCI) has also published research concerning workers' compensation fraud.

**Is your organization aware of
available training programs
used to fight workers'
compensation fraud in the
construction industry?**

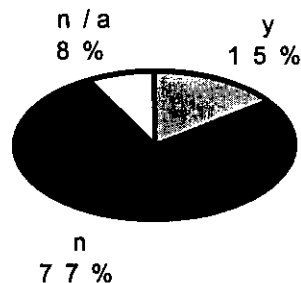


Figure 4-10: Professional Construction Organization Survey Response Analysis

4.3 Construction Contractor Survey

The methodology for this portion of the study was conducted in a manner similar to that of the professional construction organization study as previously described. Florida contractors were contacted over the phone in an effort to complete the survey. This approach yielded a very small number of responses considering the amount of time and effort that was put forth in conducting the survey. It was determined that an alternative approach to gathering information was required. A database of over 150 contractors with their phone and fax numbers was compiled and a fax program was used to disseminate the survey form. An "Introduction and Statement of Purpose" letter was attached to each fax describing the purpose of the survey and how the results were going to be used. This approach yielded a larger number of responses for the amount of time that was required to disseminate the survey. However, the survey was missing the element of personal conversation with the contractor. This approach may have therefore sacrificed some valuable information that could have been gained through open, informal conversation. Over the course of the survey, approximately 100 contractors were contacted by phone and approximately 150 were contacted through a faxed message. Of those contacted, a total of 34 responses have been received.

The vice-president of The Associated Builders and Contractors (ABC) has agreed to disseminate a copy of the survey to its members, which exceed fifteen hundred contractors. The information from these surveys will not be included in this report; however, once the survey results are compiled they will be added as an attachment and the report will be revised.

A series of simple yes/no questions were asked throughout the survey form. Most of these questions were accompanied by another question that asked for further elaborate on the company's thoughts and experiences relevant to previous question. The following table contains a list of questions that were part of the survey.

Table 4-2: WCF Questions

Question #	Question
1	Has your company ever directly experienced workers' compensation fraud?
2	Does your company have any training or education program that is aimed at preventing workers' compensation fraud?
3	Do foremen, superintendents, or project managers actively follow up with an injured worker in order to verify the progress of the workers recovery?
3D	Is this information reported to your insurance company and/or their special investigative unit?
4	Does your company actively investigate workers' compensation claims?
4A	Are employees trained to identify workers' compensation fraud?
5	Would you like more information on workers' compensation fraud deterrence?
6	Do you have any recommendations that would help fight workers' compensation fraud?
7	Are you aware of any workers' compensation fraud deterrent programs in the construction industry?
8	Does your insurance company participate in any workers' compensation fraud deterrent training?
9	Have you ever used the special investigative unit of your insurance carrier when workers' compensation fraud was suspected?
10	Do you know where to acquire investigative or educational materials regarding workers' compensation fraud in the construction industry?

Figure 4-11 (below) shows that a large majority of the contractors surveyed had never experienced a fraudulent workers compensation claim. The majority of those companies that did experience a fraudulent claim were cases in which an employee was hurt outside work and then attempted to claim a work related injury. Other cases included employees who were injured and continued to receive benefits long after they had fully healed from their injury. Almost every construction company reported that there was at least one instance where there was a suspected case of fraud. However, they were unable to do much about the suspected fraud because many of these cases are so difficult to prove, and the majority of the time it is more cost effective for the insurance company to just pay the claim rather than try to prove a fraudulent situation.

Has your company ever directly experienced workers' compensation fraud?

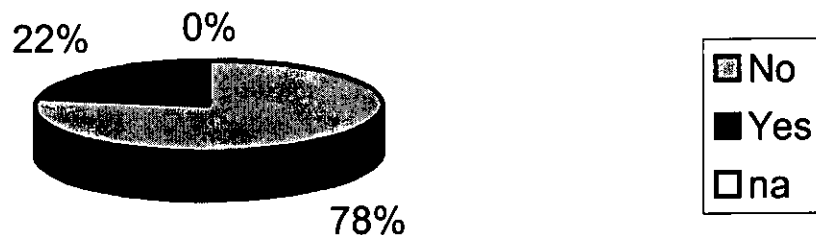


Figure 4-11: Building Contractor Survey Response Analysis

Figure 4-12 (below) shows that few contractors provide any sort of training or education program that specifically addresses the problem of workers' compensation fraud in the construction industry. Many were not even aware of how to provide training for such an issue. Those that do provide WCF training either conduct in-house training through weekly or quarterly meetings, or they use more popular method using their insurance carrier to conduct training seminars. These seminars may include such issues as the different types of fraud, how to detect fraud, cost implications, and the warning signs of WCF.

Does your company have any training or education program which is aimed at preventing workers' compensation fraud?

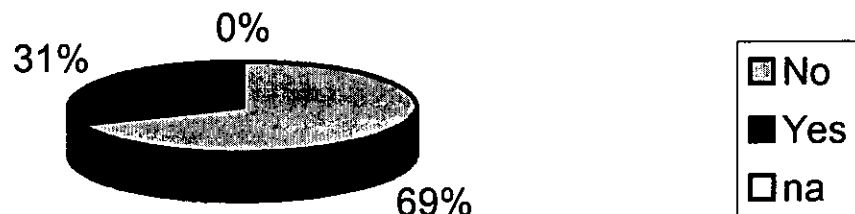


Figure 4-12: Building Contractor Survey Response Analysis

Figure 4-13 (following page) shows that most of the contractors surveyed follow-up with injured workers to find out how they are recovering after an injury. Of those contractors that follow-up with their employees, only one-third of these follow-up activities was performed by either the superintendent or the foreman. The rest were performed by those that are not in direct daily contact with the employee. If an employer wants to get an injured employee back to work, it is essential that visitations and phone calls come from those that the worker feels most comfortable with, namely the foreman. Of those that provide routine follow-ups, only one quarter of them perform them on a daily basis. Approximately half of the contractors surveyed conduct follow-ups every week and the rest are performed on a monthly basis. It is very important that an injured

employee is contacted almost daily to determine the status of his injury. It is also important to get the employee back to work as soon as possible to prevent a possible fraudulent situation from developing; monthly follow-ups are essentially worthless in terms of fraud prevention. It is also very beneficial for the contractor to perform in-person follow-ups to determine the condition of the employee first-hand. These personal follow-ups can also be helpful in determining the environment in which the employee is spending his/her time.

Do foremen, superintendents, or project managers actively follow up with an injured worker in order to verify the progress of the workers recovery?

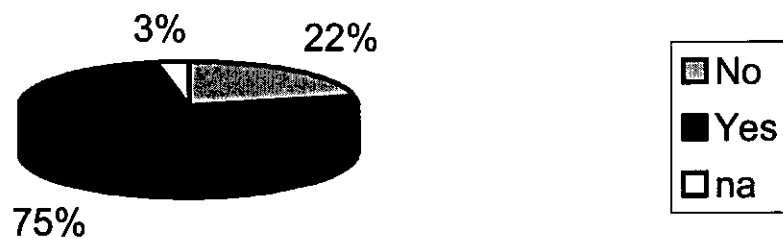


Figure 4-13: Building Contractor Survey Response Analysis

Figure 4-14 (below) shows that 72% of the contractors report back to their insurance companies on the status of their injured employees. This type of reporting gives insurance companies vital information on the status of an employee in the event of an injury.

**Is this information reported to your
insurance company and/or their special
investigative units?**

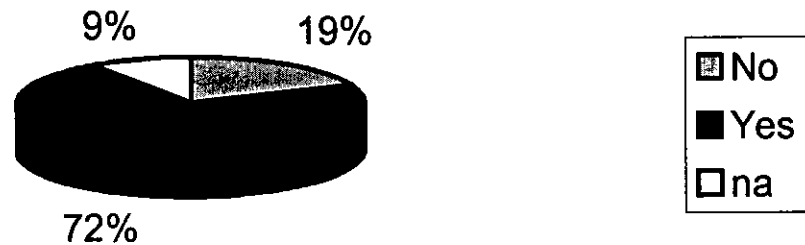


Figure 4-14: Building Contractor Survey Response Analysis

Of the construction companies surveyed, 69% claimed that they actively investigated every workers' compensation claim they encountered (see Figure 4-15 below). However, when these companies were asked to elaborate on this procedure, the majority mentioned that they handed the claim over to the insurance company for further investigation. It can therefore be assumed that these contractors either feel comfortable allowing the insurance companies to handle the investigative procedures, or that they are not knowledgeable in the area of claims investigations. Part of the deterrent process is to determine how fraud cases evolve from their early stages so that procedures may be taken to remedy the problem at the early stage.

Does your company actively investigate workers' compensation claims?

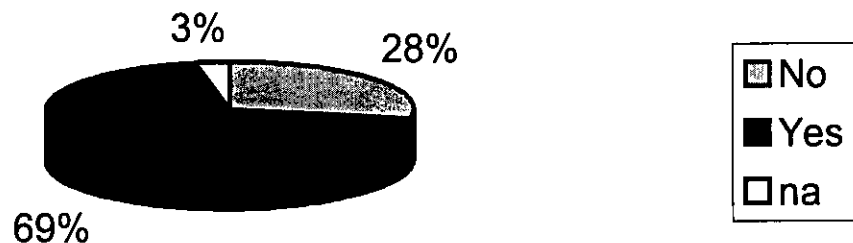


Figure 4-15: Building Contractor Survey Response Analysis

Only 22% of the construction companies surveyed provide their employees with training on how to identify workers' compensation fraud (see figure 4-16 below). It is important that every employee knows the firm's position on workers' compensation fraud, and that begins with training. There is no one better to detect a case of fraud than fellow employees that work together in the same environment. Companies that provide training do so at weekly safety meetings or during weekly management meetings. As previously mentioned in the professional organization study, fraud is not a premeditated act by most injured workers—fraud usually occurs as a direct result of neglect from the employer. It is imperative that managers and frontline supervisors (especially the foreman) realize the importance of caring for an injured employee.

Are employees trained to identify workers' compensation fraud?

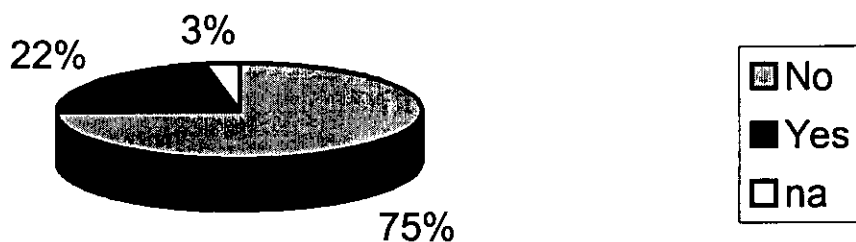


Figure 4-16: Building Contractor Survey Response Analysis

There is an obvious need for deterrence training programs in the construction industry, as only 13% of the surveyed contractors was even aware of the existence of such programs (See Figure 4-17 below). However, most of the contractors that were unaware of such programs were interested in acquiring such information. Respondents that were surveyed over the telephone were offered copies of BCIAC technical publications 92 and 97 as a starting point for their educational material. They were also made aware of other organizations (such as The Construction Industry Institute (CII) and The National Council on Compensation Insurance (NCCI)) that publish information on workers' compensation and fraud issues.

**Are you aware of any workers'
compensation fraud deterrent programs
in the construction industry?**

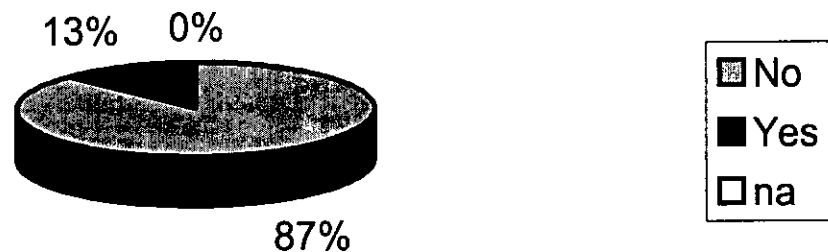


Figure 4-17: Building Contractor Survey Response Analysis

Figure 4-18 (below) reveals an alarming statistic: only 19% of the contractors surveyed were aware that they had an insurance company with a workers' compensation training program. Another 38% were not sure if their insurance company had a training program or not. This information indicates that insurance companies must take a more proactive role in providing their clients with the necessary training tools to fight workers' compensation fraud. A few of the contractors that have insurance companies that provide WCF training have their insurance representative visit their job sites on a quarterly basis to provide training materials for site managers and superintendents. Others allow their insurance companies to send them education packages that contain information on how to recognize and deter employee fraud.

Does your insurance carrier participate in any workers' compensation fraud training?

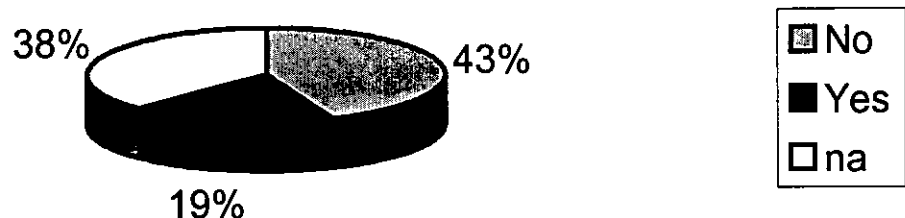


Figure 4-18: Building Contractor Survey Response Analysis

Almost 50% of the contractors surveyed have used the special investigative unit (SIU) of their insurance company when fraud was suspected (see Figure 4-19 below). Insurance companies either have a special investigative unit within their company or contract out the service from an outside vendor. These units investigate situations where it appears that an employee is attempting to defraud the system. This includes monitoring a suspect's home for evidence of a faked or unsubstantiated injury. The SIU is responsible for establishing enough evidence against an employee so that a claim can be denied or so that criminal action can be taken. The SIU of one insurance company was able to determine that a soft tissue back injury that a client's employee was claiming was actually faked based upon their surveillance of the individual performing physical activities outside the workplace. In this case the claim was denied and the employee was fired. The surveyed construction companies that had never used the special investigative unit of their insurance carrier had never knowingly experienced a fraudulent claim. Many of the participants contacted were not even aware of how the claim was handled.

**Have you ever used the special
investigative unit of your insurance
carrier when workers' compensation
fraud was suspected?**

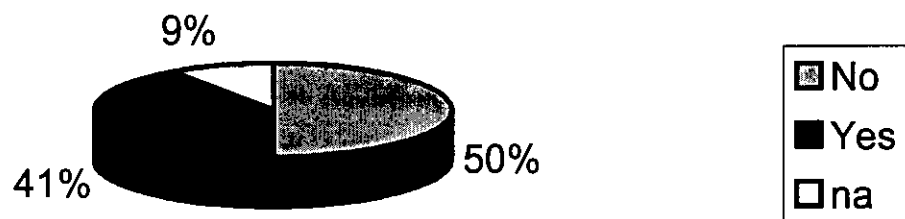


Figure 4-19: Building Contractor Survey Response Analysis

Figure 4-20 (below) indicates that three-quarters of the contractors surveyed were not sure where they could acquire training or educational information on workers' compensation fraud and deterrent methods. This fact reinforces the need to make such material more readily available to contractors. Many insurance carriers currently supply such information; however, it is apparent that contractors are not aware of this fact. The logical solution would be for insurance companies to become more active in providing their clients with information on workers' compensation fraud in the construction industry.

**Do you know where to acquire
investigative or educational materials
regarding workers' compensation fraud
in the construction industry?**

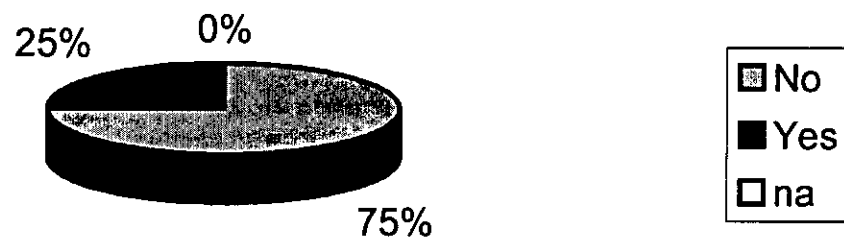


Figure 4-20: Building Contractor Survey Response Analysis

Additional relevant information was gained for the study through conversations and written material from the surveyed contractors. It seemed that one of the major problems concerning WCF training is an apathetic attitude that exists among much of the construction industry towards this issue. Many contractors feel that it is the responsibility of the government to investigate and prevent workers' compensation fraud. However, the government cannot tackle this problem without the full support of the construction and insurance industries. At the present time, it is very expensive to pursue every suspected fraudulent claim. For this reason, the government has taken a lax attitude towards the

prosecution of offenders. On a more positive note, many of the insurance companies that were surveyed did show some interest in obtaining more information on workers' compensation insurance fraud.

4.4 Insurance Company Survey

The methodology for conducting this portion of the survey was similar to that of the previous two studies. It was the original intent to complete this survey over the phone with insurance companies throughout the state of Florida. It was determined early in the study that responses would be most effectively acquired through the special investigative unit of the insurance company. The survey form was made up of a number of questions that dealt with the training and education provided by the insurance company to the individual contractor. The survey form also contained questions regarding the capacity of the special investigative unit within the organization. It quickly became apparent that this survey could not be completed over the phone, as there were a number of questions that required respondents to search a database of statistics in order to obtain an adequate response. It was decided that the best alternative was to fax a copy of the survey to each insurance company. This would provide each company with sufficient time to complete the survey in a thorough manner.

At this time, this portion of the study has not been completed, and the level of response to the survey is not sufficient enough to be presented in an analytical format with graphical representations of the results. The initial results of the findings however will be discussed as appropriate. It seems fairly evident (from the insurance companies' point of view) that workers' compensation fraud is a problem that lacks an adequate methodology for the developing a solution.

The initial results of the survey indicate that the insurance industry seems to be providing its employees with training on WCF deterrence for the construction industry. Each of the insurance companies surveyed to this point is aware of the problems that are created by the WC exemption status that is provided for the independent contractor. It is

apparent that there is a mutual feeling among the industry that everyone would be better served if the WC exemption status was dissolved.

There is no definitive trend on the level of WCF training and education. Some of the insurance companies did take a proactive approach to training their clients in the construction industry on the problems of fraud and how this problem can be addressed. Those that provide training revealed that the best way to get contractors more involved is to spend time explaining the effects that fraud has on the premiums they are required to pay. Contractors are informed that it is in their best interest to provide such training to their employees in order to keep these premiums from escalating.

Another problem that insurance companies seem to be concerned about is the growing concern in the employee-leasing field. Employee leasing companies are part of a growing industry that has responded to the need of construction companies that require dependable short-term employees. These companies provide skilled and unskilled labor to the construction industry and handle all of the payroll requirements, thereby limiting the hassle for the contractor. However, this situation has established a breeding ground for insurance fraud. The major platform that is used by these companies to commit fraud is the misclassification of the work that is being performed by the leased employees. An example of this misclassification would be for an employee-leasing firm to classify an employee as performing clerical work when in reality they are working as a steel erector on a high rise building. Under this scenario, the employee-leasing agency does not have to pay the high cost of workers compensation premiums that are associated with high hazard operations such as iron working. Employee leasing agencies also supply contractors with unskilled labor at low wages, knowing that the contractor is going to use them in a skilled craft or in a hazardous environment. Again, the insurance company inherits a high level of risk that they were not aware of.

Each of the insurance companies contacted understood the problems associated with the lack of training in workers' compensation fraud detection and deterrence. They also understood that there needs to be a methodology for providing this training to the construction industry that is both time and cost effective.

*This portion of the insurance company study will be completed and added to this study as an attachment.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

The fundamental problem with workers' compensation fraud is actually a two-fold issue: how to stop and prosecute those who commit fraud, and how to change the prevailing attitude within the construction industry that nothing can be done outside of the appropriate government agencies to prevent fraud. The reality is that the Division of Workers' Compensation has been overwhelmed by the number of fraud cases that have been reported in Florida. The number of exemptions filed in 1995 was 40,041, and 43,808 filed in 1994 (Division of Workers' Compensation, 1996). The Division's limited staff of thirty to forty full-time employees, coupled with an outdated system of data management, leaves many holes through which fraudulent exemption claims may slip. In order for the construction industry and professional organization to properly disseminate current information to their employees and members, a system of communication, monitoring, and ongoing education must be implemented in order help reduce workers' compensation fraud in the construction industry.

The literature explained the basic manifestations of WCF and how complex the ways and means are that unscrupulous individuals use to gain from a system that was initially designed to benefit everyone on an equitable basis. This section also explained the need for more research and education within the construction industry in order to help reduce fraud.

The results of the surveys and accompanying analysis indicate an overall concern among the construction and insurance industries about the low level of knowledge about

available research material or current research methods on the subject of workers' compensation fraud. WCF must be seen as a problem that will not be single-handedly solved by the Division of Workers' Compensation, but must involve participation among all professionals in both industries. Professional organizations play a part in this process by devoting more time to discussing WCF issues and stressing the importance of reducing WCF to their members. Organizations must also be willing to financially support ongoing research in order to provide hard data and future reference materials to curb WCF. The construction industry presently plays a limited role in the prevention of workers compensation fraud. Since contractors' insurance rates are being affected by fraud, it could only prove beneficial to them to battle workers' compensation fraud at its source. The construction industry must be willing to financially support the training and education of its employees if fraud is ever to be mitigated. The insurance industry must work together with the construction industry to combat fraud. Insurance companies must be willing to take a proactive approach to training their clients on the damaging effects fraud has on the construction industry and also how to identify and combat this multi-billion dollar per year problem.

This chapter will address the conclusions and recommendations, including a fraud deterrent system, which are offered as a possible tool to be used by professional organizations, contractors, and insurance companies to successfully control this growing problem.

5.2 Conclusion

This study has indicated that there is a basic problem of apathy within the construction industry that may be impeding the progress to reduce the incidence of workers' compensation fraud. While many construction industry professionals seem to agree that fraud is a problem and needs to be eliminated, most are still looking to a handful of government bureaus to handle this \$120 billion problem. The lack of available training materials and programs were among the most frequently cited responses in the survey in regards to possible reasons for the slow progress in combating WCF. Most professionals and contractors look to their insurance companies to

investigate and prosecute fraud in the industry. However the concept remains simple, businesspersons have a vested interest in controlling loss within their company, i.e., all individuals are eventually paying the price by not taking steps to prevent fraud at the primary levels of personnel and human resources.

5.3 Recommendations

Proposed Workers' Compensation Fraud Deterrent Implementation System:

The following recommendations represent a hierarchy of levels, from largest to smallest, by which communication and dissemination of current information play important roles in helping to deter WCF in the construction industry.

- I. Professional Construction Organizations: As demonstrated by the results of this survey, professional construction trade organizations must include WCF in their discussion agenda. These organizations must take responsibility to obtain information and provide educational training to all members. Organizations can also help by supporting sponsored research projects related to workers' compensation, as sponsored by the Florida Department of Education.
- II. General Contractor/Construction Management Entity: As members of professional organizations, general contractors and construction management companies must commit themselves to applying what they learn from training seminars into everyday situations. The individual businesspersons in Florida can also support continuing education for their employees by paying for such courses that may be offered by professional organizations and/or the Division of Workers' Compensation. This industry training may possibly be connected with some type of continuing education program, coordinated with the contractor licensing boards or the American Institute of Construction licensing system.

- III. Insurance Companies: The insurance industry must put a higher priority on educating their clients on the problems created by workers' compensation fraud and the techniques that contractors and their supervisors can use to detect and deter fraud. This may include fraud training as a requirement that must be met in order to become insured through a workers' compensation insurance provider. The insurance industry needs to continue to provide continued funding to further research into combating workers' compensation fraud.
- IV. Subcontractors: This area includes independent subcontractors that are the next level of the WCF Deterrent Implementation System and that also represent the first level of field personnel who play a crucial role in monitoring the injured worker. The constant follow-up communication between the immediate supervisor and the injured employee is perhaps the most important step in this proposal. When a worker is injured on the job, his/her immediate thoughts are not on how they are going to cheat the workers' compensation system, but rather are on how serious injury is. Will he/she be able to return to work? If so, how soon? Some survey respondents indicated that an immediate return to work for an injured worker is a very important step and helps the injured worker to feel more involved. Light duty return-to-work programs are instituted by many employers to keep the worker in a positive psychological state. When an employee is away from the routine of their daily job for an extended period of time, an apathetic attitude about returning to work may result, especially if no supervisors bother to check the progress the recovering worker.
- V. Project Managers: Project managers are sometimes responsible for overseeing as many as three or more ongoing construction projects at one time. If an injury occurs on a job site, the project manager must be informed and then provide information to upper management concerning the status of the worker. It also becomes the project manager's responsibility to ensure that all lower management levels are aware of the status of the injured worker, and that constant communication and concern is being accomplished with the injured worker. The project manager acts as a liaison between the field supervisory personnel and

upper management, who are not always present at the job site. The project manager must keep both sides well informed at all times.

- VI. Field Superintendents/ Foremen: Superintendents represent the first real contact that the worker has with the management of the contractor. If a worker is injured on the job, the superintendent/foreman should be in constant communication with the worker and any doctors who have evaluated and treated the workers' injuries. It is also crucial that the superintendent makes personal visits to the injured worker, and encourages other fellow crewmembers to keep the injured worker connected with the company. Written notes of recovery and/or "get well" wishes can make an enormous difference in shaping an injured employee's attitude toward the company for which they work. The superintendent should also look for ways to return the injured worker to light duty part-time work as soon as possible so that the psychological well being of the worker is not compromised in any way.
- VII. Incentive Programs: Incentive programs offer a means to prevent fraudulent workers' compensation claims. These programs could offer rewards to employees who report fraudulent or suspicious cases to their employer. Fellow employees may have the greatest influence in deterring fraud. The incentive system may include monetary rewards, time off from work, the employee's choice of a tool or gift, or extended vacation time. Confidentiality is a key to getting this program properly grounded.
- VIII. Accident Investigation: It is crucial that proper accident investigation procedures are followed after an accident occurs. It is critical that all the evidence surrounding the accident be gathered and documented thoroughly. Photographs and videotape of the site surrounding the accident may prove to be invaluable in the event of a fraudulent claim. The superintendent and project manager must insure that all witnesses to the accident are interviewed shortly after the accident while the scene is still fresh in their minds. Drug testing should also be a

mandatory procedure for all individuals involved with the accident. The employee's employment history should also be evaluated to determine a possible history of fraudulent behavior. Cooperation between the insurance company and the contractor is essential in fulfilling this task.

- IX. Institution of Proposed Legislation: A review of current proposed legislation relating to insurance fraud reveals an ideal approach to combating WCF. According to the proposed statute 692.9891, insurance companies would be required to provide insurer anti-fraud plans, reports, and special investigative units. Insurance companies that collect \$10 million or more in premiums would be required to maintain a division within their company (or contract with an outside service) that investigates possible fraudulent claims. Each insurance company would also have to provide an anti-fraud plan to the Department of Insurance. This plan must include a description of the company's policies and procedures that "facilitate the detection and investigation of possible fraudulent insurance acts, including specific policy provisions and investigative procedures intended to combat instances of fraud." Each insurance would also have to provide an annual anti-fraud report to the Department of Insurance. This report must include any material change made to policies and procedures related to the anti-fraud plan, a summary of significant action taken by the insurer to combat a case of insurance fraud, and a statement that includes actual or estimates losses due to fraudulent claims in comparison with that of previous years.

In addition to the above legislation, additional proposed legislation includes 626.9892 Anti-Fraud Reward Program, which rewards the reporting of insurance fraud. This statute would allow the Department of Labor to pay a reward of up to \$25,000 to "individuals responsible for providing information leading to the arrest and conviction of persons committing complex and organized crimes, investigated by the Division of Insurance Fraud, arising from violations of the insurance code."

This proposed legislation would go a long way in the effort to combat workers' compensation fraud. This legislation would require the insurance industry to take an active role in the detection and prevention of workers' compensation fraud. This legislation would also serve as a catalyst in the effort to prevent fraud in the construction industry by requiring the insurance industry to work together with the construction industry.

- X. Toll Free Hotline: A toll free telephone hotline should be established by the Florida Division of Workers' Compensation, Bureau of Compliance, which would provide information to businesspersons who wish to take an active role in combating WCF. Currently, it is much easier to report fraudulent activity to the Bureau of Compliance than it is to gain information concerning current fraud deterrent methods used by the state agencies. In lieu of a full time staff, this toll free hotline could consist of a simple touch-tone automated menu system that could provide information to individuals who seek information regarding WCF deterrent programs for their businesses. The hotline could also trigger the mailing of current information to contractors that would be appropriate to help in the implementation of (or to keep current) an existing WCF deterrent program.

- XI. Improved Attitudes Towards Government Agencies: The widespread fear or contempt for bureaucratic state agencies must be changed in order to change the notion that it is acceptable, or even commendable, to commit fraud against what is perceived as such a large government institution. The "anti-machine" or "anti-establishment" attitude in society, which commends those who commit fraud against the state or federal government, is foolish—for we all pay the price through higher insurance premiums and higher construction trade rates as a result of the escalating costs of fraud. This attitude could possibly be changed through dissemination information, such as that provided by BCIAC publications, to organizations, business owners, supervisors, and workers.

XII. Precautions Concerning Workers' Compensation Claims: Contractors need to take the following precautions, according to an article from *Nation's Business* magazine (April 1998, pg. 18) that featured advice from labor lawyer Jane Eden. The following recommendations are Ms. Eden's remarks concerning the most common mistakes that employers make in their attempt to dispute a suspected fraudulent workers' compensation claim. However, these guidelines should be followed even if there is no fraudulent activity suspected because they represent prudent management techniques and should therefore be characteristic of an employer's daily routine.

- **“[Never] force an injured employee to continue working despite the injury.”** In other words, do not disregard the employee's claim. The temptation may exist for a foreman that is confronted with a worker that complains of a soft-tissue injury (such as a “bad back”) to ignore the complaint and force the employee to continue working. When faced with a situation like this, the foreman should communicate with the worker and then follow well-defined procedures (as outlined in the company's safety plan) for dealing with the injured employee.
- **“Give employees any information [they may request] about workers' compensation.”** This information should be provided when the employee is first hired and should always be available on the job site for reference.
- **“[Never] harass the person about returning to work.”** This study has clearly emphasized the need for the employer to follow-up on the injured worker's recovery status. However, in no case should the superintendent/foreman force an injured worker back to work without the written approval of a doctor, who is the only person qualified to decide when an injured worker is healthy enough to return to work.

The continued support of independent research from industry and government concerning insurance premium fraud and the Florida Workers' Compensation Program is essential in order to provide non-biased information concerning current these issues and to make possible recommendations that address these concerns. Because little academic research has been conducted in this area, more academic institutions should become involved to help provide further recommendations and conclusions that may lead to a change in Florida Statutes. The current University of Florida project, conducted by Dr. Richard Coble, is the result of cooperative efforts between The Zenith Insurance Group and the Building Construction Industry Advisory Committee (BCIAC). This research exemplifies the level of commitment between the building and insurance industries that are working together to overcome the currently impervious nature of workers' compensation fraud. It is the intent of this research to be continued into areas that include the cost of workers' compensation fraud in conjunction with the continuation of the existing research involved with the awareness and deterrence of workers' compensation fraud in the construction industry.

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APPENDIX A

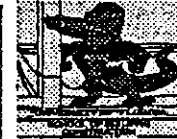
Professional Construction Survey Questionnaire & Responses

Professional Construction Survey Form

WORKERS' COMPENSATION FRAUD DETERRENT STUDY '98



UNIVERSITY OF
FLORIDA



M.E. RINKER, Sr. SCHOOL OF BUILDING CONSTRUCTION

I. Name _____ Title _____
Company _____ Phone(_____) _____
Address _____ City _____ ST _____ Zip _____ County _____
Volume of work per year (\$) _____ # of Employees _____ Type of Work or Trade _____ EMR _____

II. Construction Company (Please use additional sheets if needed)

1) Has your company ever directly experienced workers' compensation fraud? Y N

1A) If yes, please provide a brief explanation _____

2) Does your company have any training or education program which is aimed at preventing workers' compensation fraud? Y N

2A) If yes, how long has this program existed in your company? _____ (years)

2B) Please provide a brief description of this training program _____

2C) What type of reference material is used in your company's workers' compensation fraud deterrent training program? _____

3) Do foremen, superintendents, or project managers actively follow up with an injured worker, in order to verify the progress of the workers' recovery? Y N

3A) Who performs these follow-up progress checks with injured workers (PLEASE CHECK)

PROJECT MANAGER _____ SUPERINTENDENT _____ FOREMAN _____

3B) What is the normal procedure for this follow-up? _____

3C) How often does this follow-up occur (PLEASE CHECK ONE) DAILY _____ WEEKLY _____ MONTHLY _____

3D) Is this information reported to your insurance company and/or their special investigative Unit? Y N

- 4) Does your company actively investigate workers' compensation claims? Y N
- 4A) Are employees trained to identify workers' compensation fraud? Y N
- 4B) When indications of fraud are found, who is notified? _____
- _____
- 5) Would you like more information about workers' compensation fraud deterrence? Y N
- 5A) What sources do you normally use for such information? _____
- _____
- _____
- 6) Do you have any recommendations which would help fight worker's compensation fraud? Y N
- 6A) If yes, please explain. _____
- _____
- _____
- 7) Are you aware of any workers' compensation fraud deterrent programs in the construction industry? Y N
- 7A) If yes, please list. _____
- _____
- _____
- 8) Does your insurance carrier participate in any workers' compensation fraud deterrent training? Y N
- 8A) If yes, please describe. _____
- _____
- _____
- 9) Have you ever used the special investigative unit of your insurance carrier when workers' compensation fraud was suspected? Y N
- 9A) If Yes, please describe the circumstances. _____
- _____
- _____
- 10) Do you know where to acquire investigative or educational materials regarding workers' compensation fraud in the construction industry? Y N

*Note: All of the above information will be compiled and used anonymously for reporting purposes.
All information on this questionnaire will be kept confidential.
If there are any questions please call Dr. Richard Coble, at (352) 392-7521, or Chris Shepherd at (352) 392 - 9030*

Please return to : Center for Safety and Loss Control
BCN/FAC 101, PO. Box 115703, Gainesville, FL 32611-5703

Or Fax to:
(352) 392 -9606

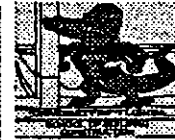
PROFESSIONAL CONTRACTOR QUESTIONNAIRE RESPONSES

Type of Organization	# of Members	1	2	3	4	5	6	7	8	9	10
Underground Utility Contractors	62	n	y	n	n	n	n	n	n	n	n/a
Construction Trade Association	153	n	y	n	n	n	n	n	n	n	n/a
Plumbing, Heating	450	y	n	n	n	y	n	n	n	n	n/a
Trade Association	50	y	n	y	n	y	n	n	n	y	n/a
Local non-profit trade	70	y	y	y	n	y	n	n	n	n	y
non-profit trade	600	y	y	y	n	y	n	n	n	n	y
Concrete trades	n/a	y	n/a	n	n	n	n	n	n	n	y
Electrical	650	n	n	n	y	n	n	n	n	n	n/a
Construction	15	n	n	y	y	y	n	n	n/a	n	y
Commercial Contractors	60	n	n	n	n	n	n	n	n	n	y
For-profit corporation	45	y	n	n	n	n	n	n	n	n	n/a
Painting Contractors	35	y	n/a	y	y	y	Y	Y	Y	y	y
Swimming pool Contractors	n/a	y	y	y	y	n	y	y	y	n/a	y

APPENDIX B
Contractor Survey Form & Responses

Contractor Survey Form

WORKERS' COMPENSATION FRAUD DETERRENT STUDY '98



M.E. RINKER, Sr. SCHOOL OF BUILDING CONSTRUCTION

I. Name _____ Title _____
Company _____ Phone(_____) _____
Address _____ City _____ ST _____ Zip _____ County _____
Volume of work per year (\$) _____ # of Employees _____ Type of Work or Trade _____ EMR _____

II. Construction Company (Please use additional sheets if needed)

1) Has your company ever directly experienced workers' compensation fraud? Y N

1A) If yes, please provide a brief explanation _____

2) Does your company have any training or education program which is aimed at preventing workers' compensation fraud? Y N

2A) If yes, how long has this program existed in your company? _____ (years)

2B) Please provide a brief description of this training program _____

2C) What type of reference material is used in your company's workers' compensation fraud deterrent training program? _____

3) Do foremen, superintendents, or project managers actively follow up with an injured worker, in order to verify the progress of the workers' recovery? Y N

3A) Who performs these follow-up progress checks with injured workers (PLEASE CHECK)

PROJECT MANAGER _____ SUPERINTENDENT _____ FOREMAN _____

3B) What is the normal procedure for this follow-up? _____

3C) How often does this follow-up occur (PLEASE CHECK ONE) DAILY _____ WEEKLY _____ MONTHLY _____

3D) Is this information reported to your insurance company and/or their special investigative Unit? Y N

- 4) Does your company actively investigate workers' compensation claims? Y N
- 4A) Are employees trained to identify workers' compensation fraud? Y N
- 4B) When indications of fraud are found, who is notified? _____
- _____
- 5) Would you like more information about workers' compensation fraud deterrence? Y N
- 5A) What sources do you normally use for such information? _____
- _____
- _____
- 6) Do you have any recommendations which would help fight worker's compensation fraud? Y N
- 6A) If yes, please explain. _____
- _____
- _____
- 7) Are you aware of any workers' compensation fraud deterrent programs in the construction industry? Y N
- 7A) If yes, please list. _____
- _____
- _____
- 8) Does your insurance carrier participate in any workers' compensation fraud deterrent training? Y N
- 8A) If yes, please describe. _____
- _____
- _____
- 9) Have you ever used the special investigative unit of your insurance carrier when workers' compensation fraud was suspected? Y N
- 9A) If Yes, please describe the circumstances. _____
- _____
- _____
- 10) Do you know where to acquire investigative or educational materials regarding workers' compensation fraud in the construction industry? Y N

Note: All of the above information will be compiled and used anonymously for reporting purposes.

All information on this questionnaire will be kept confidential.

If there are any questions please call Dr. Richard Coble, at (352) 392-7521, or Chris Shepherd at (352) 392 - 9030

**Please return to : Center for Safety and Loss Control
BCN/FAC 101, PO. Box 115703, Gainesville, FL 32611-5703**

**Or Fax to:
(352) 392 -9606**

CONTRACTOR QUESTIONNAIRE RESPONSES

Code #	Type of Contractor	#1	#2	#3	#3D	#4	#4A	#5	#6	#7	#8	#9	#10
1	FP	n	N	n	na	n	n	y	n	n	n	n	n
2	GC	n	N	y	n	y	n	n	n	n	na	n	y
3	GC	n	N	y	y	n	n	y	n	n	na	na	n
4	GC	n	N	n	y	y	y	y	n	n	n	n	n
5	GC	n	N	y	y	y	n	n	n	n	n	na	n
6	MECH	n	N	y	y	y	n	y	n	n	y	n	n
7	GC	n	N	y	n	n	n	y	n	n	na	n	n
8	MECH	n	N	y	n	n	n	y	n	n	n	n	n
9	MECH	n	N	y	n	y	n	n	y	n	na	n	n
10	GC	n	N	y	n	y	n	y	n	n	na	n	n
11	ELEC	n	N	y	y	y	n	y	n	n	n	y	n
12	PL	y	N	y	y	y	n	y	y	n	n	y	y
13	RES	n	N	n	y	n	n	n	n	n	na	n	y
14	GC	n	Y	y	y	y	y	y	n	n	na	y	n
15	RES	n	N	n	n	n	n	n	y	n	na	n	n
16	GC	n	Y	na	na	na	na	y	y	n	n	n	y
17	GC	y	Y	y	y	n	n	y	y	n	n	y	n
18	GC	n	Y	n	na	n	n	y	y	n	y	y	n
19	GC	y	N	y	y	y	n	y	n	n	n	n	n
20	GC	n	Y	y	y	y	y	y	y	n	y	y	y
21	GC	n	N	y	y	y	n	y	n	n	na	n	n
22	GC	n	N	y	y	y	n	y	n	y	na	na	n
23	GC	n	Y	y	y	y	y	y	y	y	na	n	y
24	GC	y	Y	y	y	y	n	y	y	n	n	y	y
25	GC	n	N	y	y	n	n	y	n	n	n	y	n
26	GC	n	Y	y	y	y	y	y	n	n	y	y	n
27	GC	y	N	y	y	y	n	y	y	n	n	y	n
28	RES	y	Y	y	y	y	y	y	y	n	y	n	n
29	GC	n	N	y	y	y	n	n	n	y	n	y	n
30	GC	n	N	n	y	y	n	n	n	n	na	n	n
31	GC	y	Y	y	y	y	y	n	n	y	y	y	y
32	GC	n	N	n	y	y	n	y	y	n	n	y	n
33	GC	y	N	y	y	y	n	y	n	n	n	n	n
34	FIN	n	N	y	n	n	n	y	y	n	n	y	n
35	MECH	y	N	y	n	n	n	y	y	y	y	y	n
36	SP	y	Y	n	y	n	n	n	n	n	y	y	y
37	GC	y	N	y	y	n	n	y	n	n	n	y	n
38	SP	y	N	y	y	y	n	y	n	n	n	n	n

39	GC	n	N	y	y	y	n	y	n	n	n	y	n
40	FIN	n	N	y	y	y	n	n	n	n	n	n	y
41	GC	n	N	n	y	y	n	y	n	n	n	n	n
42	GC	n	N	y	y	y	n	y	n	n	n	y	n
43	MECH	y	N	y	y	y	n	y	y	n	n	n	n
44	MECH	y	N	y	y	y	n	y	y	n	y	y	n
45	GC	n	N	y	y	y	n	y	n	n	n	n	n
46	MECH	n	N	y	n	y	y	y	n	n	y	y	n
47	MECH	y	N	y	y	n	n	y	y	n	n	n	n
48	MECH	na	N	y	y	n	n	y	y	n	n	y	n
49	MECH	n	N	y	y	y	n	y	y	n	n	n	n
50	MECH	n	N	y	n	y	n	y	n	n	n	n	n
51	GC	n	Y	y	y	y	y	y	y	n	y	n	n
52	GC	n	N	y	y	y	n	y	n	n	n	n	n
53	GC	n	N	y	na	y	n	n	n	n	y	n	y
54	RES	n	N	y	y	n	y	y	n	n	na	n	n
55	GC	n	N	n	na	y	n	y	n	n	n	n	n
56	GC	y	N	y	n	y	n	y	y	n	n	n	n
57	GC	y	Y	y	y	y	y	y	y	n	na	n	n
58	RES	n	N	na	na	na	na	n	y	n	na	n	n
59	GC	n	N	na	y	n	n	n	n	n	n	n	n
60	GC	n	N	y	na	na	na	n	n	n	n	n	n
No		42	47	10	11	17	46	14	37	55	33	35	49
Yes		17	13	47	42	40	11	46	23	5	12	22	11
N/A		1	0	3	7	3	3	0	0	0	15	3	0

CONSTRUCTION COMPANY QUESTIONNAIRE RESPONSES

The following are detailed responses to the questionnaire located in Appendix A. Only the survey respondents that provided a detailed explanation to the survey questions are listed here.

Response to question 1A).

1A) If yes please provide a brief explanation

Code #	Response
10	No, not that we are aware of.
11	N/A, Since taking over this position in 1993, we have not had a <u>clear</u> cut case of workers' compensation fraud.
12	Yes, 3 employees have tried to "bilk" the system with injury claims. They won!
17	Yes, carpenter on weekend was injured off duty but the insurance company still paid off \$25,000.
24	Yes, 2 were denials because of pre-existing injuries.
27	Yes, Employee working attempted to gain w/c benefits while working for another company. Several employees have not returned to work when released to light duty.
28	Yes, we have had employees claim an on the job injury and admit later they were injured at home not on company time or business.
31	Yes, back injury that no one was aware of happening.
33	Yes, a fired worker complained of a back injury.
35	Yes, 1996/97 employee claimed a back strain and knee injury - WC carrier settled insurance suit. 97/98 employee had a legitimate spine injury but "milled". WC carrier pressured the medical facility and got employee released to full duty.
36	Yes, Employees falsely filling out job applications then making claims and getting hurt off the job but claiming on the job.
37	It has been suspected
38	Yes, employee stated he fell off a ladder but had a steering wheel imprint on chest, other employee testified he did not fall, insurance company settled with the employee anyway for \$12,000
39	Unknown, on occasions we have suspected fraud, but not proven
43	Yes, had a company audit me and say that I owed them \$14,000. I audited them and discovered that they owed me money.
44	Yes, worker having stayed home for one year and lost claim
47	Yes, we had a person who is still using the system for corrective surgery on body parts not involved in the original settlement areas.
56	Fraudulent knee injury and hand injury
57	Yes, 2 back injuries not reported immediately by employees, one has settled. The other is still costing us.

Response to question 2A) and 2B).

2A) If yes, how long has this program existed in your company?

2B) Please provide a brief description of this training program.

Code #	Time	Response
12	N/A	Our insurance company has some info which has been presented
14	1.5 yr.	Types of fraud, what it costs, who it costs, what to watch for, how to report it (fraud hotline), the consequences of fraud (criminal activity, we will prosecute).
16	2 yr.	Weekly safety meeting.
17	6-7 yr.	Weekly safety meetings.
18	N/A	OSHA safety rules, primarily subs who have own programs
20	N/A	In-house training, insurance speakers and supervisors, monthly meetings.
23	4-5 yr.	General safety training, annual and new employee training
24	<1 yr.	Unsure
26	40 yr.	Pre-employment history, also work with insurance company on training.
28	10+ yr.	Periodic inspections and seminars by our comp carriers loss control specialists.
31	5 yr.	Quarterly meetings with supervisory personal covering various topics covering workers comp. & safety.
36	3 yr.	I try to inform the employees on the penalties by law and what can happen if caught. We explain why rates are high and pay scales cannot go up.
51	3 yr.	Safety meetings - drug testing, information and education on investigating w/c injuries with managers & employees.
57	9 yr.	Informal training of foreman - prompt and accurate reporting, checking history before hiring, watching for attempted accidents

Response to question number 2C).

2C) What type of reference material is used in your company's workers' compensation fraud training program?

Code #	Response
12	All insurance company provided.
14	Payroll stuffer – Reminder, fraud hurts everyone.
16	Company newsletter provided each month
17	OSHA, superintendent experience.
18	OSHA
20	None
23	Agent comes in, in-house safety manual, PowerPoint presentation
24	Safety managers information
26	Videos, manuals
28	None
31	Handouts
36	We use some materials furnished to us by our associated FRSA.
51	OSHA, ACCA written material, seminars, and VCR tapes
57	None

Response to question 3A), 3B) and 3C)

3A) Who performs these follow-up progress checks with an injured worker, in order to verify the progress of the workers' recovery?

3B) What is the normal procedure for this follow-up?

3C) How often does this follow-up occur?

Code #	3A)*	3B)	3C)
2	S	Telephone & or other workers	W
3	SD	Follow-up is conducted through the workers compensation provider. Additional contact is made with the employee.	W
4	HR	Our human resources director or VP of construction calls periodically/monthly and discusses with insurance company	M
5	OM	N/A	W
6	PM	Contact medical provider and worker weekly	W
7	S	Phone call, visit	M
8	PM	Discussed one on one with employee	W
9	F	Visit	D
10	PM	Weekly phone call to employee and doctor	W
11	SD	We are directly involved with the scheduling of doctors appointments	W
12	S	Depends on the case. If the worker has to recuperate at home/hospital than follow-up is weekly. If the injuries are minor than daily.	W/D
14	HR	Day of injury, third day, and weekly phone call to employee. Constant communication with insurance co. and doctor.	W
17	S	Phone calls and adjuster progress	W
19	SD	Doctors and insurance adjusters	W
20	SD	Phone calls	D
21	PM	Call to see how employee is doing, Goal is to get employee back to work asap even in office if person can't do his job.	D
22	PM	Unsure	W
23	OM	Calls	W
24	SD	Doctor reports	S
25	PM & S	Calls, doctor reports	M
26	S	Calls or visits, whatever is deemed necessary	W
27	PM S&F	None	W
28	SD	The safety administrator follows up with injured employees	W
29	OM	Call	
30	SD	All follow-up is handled by personnel safety coordinator	D&W

31	S	24 hour follow-up calls	W
32	SD	Corporate safety department usually follows up	M
33	PM	Phone calls	W
34	PM	Contacts injured worker	W
35	S&F	Status inquiry for scheduling purposes	D
36	OM		W
37	PM S&F	Calling and Inquiry on how he or she is doing and when they can get back to work	W
38	S	Phone calls if employee is out – conversation if working	D&W
39	S	Telephone call	S
40	F	We do but it has not happened to us yet	D
41	HR	Minimum monthly follow-ups with injured employee	M
42	S&F	Telephone and direct contact	S
43	OM		W
44	PM & S	Talk to employee at jobsite if back to work, call at home if disabled from work	D
45	PM	Call each day to see progress	D
46	S	Phone calls w/ employee, attorney, & physician	M
47	S	Ask questions, observe work, physical areas	W
48	S	Review accident, ask question and review the events in an effort to prevent a reoccurrence	W
49	PM	Home visits and phone calls to doctor and worker	D
50	PR	I normally pay all bills and follow with a phone visit	W
51	SD	Documentation!	D&W
52	PM	Asst. controller/payroll manager coordinates follow-up with injured worker and his PM	W
53	PM & S	Phone calls	W
54	PM & S	Calls to injured worker	W
56	PM & S	Phone contact	D
57	PM & F	Contact by telephone, through friends, whatever is possible	W

***Abbreviated terms**

PM = project manager

S = superintendent

F = foreman

SD = safety director or safety personnel

OM = operations manager

PR = president

HM = human resources

D = daily

W = weekly

M = monthly

S = situational (depends on the circumstances)

Response to question 4B)

4B) When indications of fraud are found, who is notified?

Code #	Response
5	Insurance company
10	Our insurance carrier and insurance agent
12	The owner and then the insurance company
14	Human resources and/or the insurance company fraud unit
17	Insurance company
19	Insurance adjustor
20	Adjustors
21	Has not happened to us but the president would be notified
22	Vice president
23	Officers of company and insurance agent
24	Workers compensation manager
25	Insurance company
26	Insurance company
27	The safety department who in turn notifies the insurance company
28	Safety officer / vice president
31	Insurance company
32	Corporate safety director and then to insurance carrier
33	Insurance company
34	Operations manager
36	Insurance carrier
39	Insurance company
41	Human resource coordinator, vice president of construction
42	Superintendent and foreman
44	Head of personnel
46	The owner who in turn reports to the FACCA administrator
47	Owner
51	Department heads
54	Owner of our company
57	Insurance company

Response to question 5A)

5A) What sources do you normally use for such information?

Code #	Response
4	Insurance company and labor law attorney
5	Insurance company
10	Our insurance carrier and insurance agent
12	Insurance company
14	Insurance company and safety council
16	In office only company newsletter
17	OSHA, past experience. Superintendents attend special safety programs oriented with managing work.
18	OSHA
19	National safety council, insurance
25	Insurance company
26	Insurance company
28	Insurance carrier
29	Insurance company resources
31	Insurance company
33	Insurance company
35	Close coordination between field supervisors and corporate administration; develop a picture of each situation and communicate it to WC carrier
36	My association, FRSA
37	Experience
38	Insurance agent
40	Our policy or our representative
41	Insurance companies, agents, construction risk management publication
44	Written material for weekly safety meetings / video tape for annual drug & safety meetings
46	FACCA and our insurance agent of record
51	Magazines, bulletins from trade associations
54	Workers compensation employee handbook

Response to question 6A)

6A) If yes, please explain. (recommendations on fighting WCF)

Code #	Responses
9	Eliminate workers compensation.
12	Stop paying fraudulent claims. Insurance companies must be willing to contest claims. Caps on claims should be considered.
14	Wish I did.
15	Make it voluntary and most won't sign up and then most can't claim.
16	Research who you hire up front and be up front with interviews.
17	Screening new employees.
18	Make it more difficult for attorneys to make fraudulent suits.
20	Perhaps stiffer fines/punishment.
23	Through record keeping and documentation.
24	Drug and alcohol testing.
27	The state should show that if the insurance industry pursues a fraudulent claim then the state should make every effort to prosecute the claim.
28	Make penalties for getting caught severe.
32	Clearer guidelines as to what constitutes fraud and what is abuse.
34	Eliminate exemptions for subcontractors and fine the company that uses uninsured subcontractors.
35	Stiffer penalties and more publicity surrounding WC fraud cases that are successfully prosecuted.
43	Incentives for employees who share any suspicions with the office.
44	Make all employees aware of what it costs to insure an employee. They will police the system.
47	Have records available upon request when a new employee is being hired.
48	Investigate more often independently of contractor (liability).
51	Investigation procedures to start sooner.
56	Eliminate workers comp in its entirety.
57	Get the insurance companies to more actively investigate. It is our dollar and I get the impression that unless it falls in their lap, they don't care.
58	Fine the medical community (physicians/pharmacists). I've heard stories of pharmacists asking people if they're covered by workers compensation so medical can be charged to someone else.

Response to question 7A).

7A) If yes, please explain (Are you aware of any workers' compensation fraud deterrent programs in the construction industry?)

Code #	Response
22	AGC
23	AGC programs.
35	As we shopped our WC business this year before letting the contract, each carrier explained their fraud deterrent measures.

Response to question 8A).

8A) If yes, please describe. (Does your insurance carrier participate in any workers' compensation fraud deterrent training?)

Code #	Response
12	If they do, I am not aware of it.
20	Active whenever asked.
26	Yes, but no specifics known.
31	Attends quarterly meetings, visits various job sites monthly.
35	Loss control unit wants to conduct safety program with our supervisors, one module involves WC fraud deterrent.
36	FRSA has a program but I have not attended. We are a small company and have not had problems lately.
44	Only to upper management, once a year to my knowledge.
51	Case workers.

Response to question 9A)

9A) If yes please describe the circumstances. (Have you ever used the special investigative unit of your insurance carrier when workers' compensation fraud was suspected?)

Code #	Response
3	Insurance company may have used their investigative unit.
11	Normally we have surveillance upon suspected employees.
12	Employees were staked out and caught. Those efforts we not enough to convict or even deny claims!
14	Subcontract employee had ditch collapsed on him, he sustained a minor injury, but because he has mild mental retardation, he & his attorney are filing for unrelated physical problems/limitations, and are requesting total disability benefits. Unfortunately the subcontractor, who had provided a certificate of coverage, let the wc policy lapse just a few weeks before the accident. He disappeared within the same time frame.
20	Outside investigative services have been used.
26	Rumors of worker working for someone else while collecting comp.
29	Detective from insurance company followed worker to document activities.
31	Video tape surveillance.
32	Only when the reported incident by the employee is suspected.
34	We have contacted state investigators when we knew of subcontractors working without insurance.
35	The carrier asked if we suspected fraud and I said yes. The employee was put under surveillance and his doctor was interviewed. The employee was returned to full duty in 30 days.
36	Our carrier did when we had a short term employee that had a claim and moved locations and doctors a lot.
37	Total and permanent claim.
39	On occasions we use surveillance with limited results.
44	Employees with claims on hurt backs but working for other companies on side or other activities.
46	Fast response, video investigation and follow-up on one incident we had about 8 years ago.
48	Back injury that was suspected. Insurance bought him off for \$2,500 and medical.
56	They do no good at all. The carrier always settles at my expense.

Response to question 10)

10) Do you know where to acquire investigative or educational materials regarding workers' compensation fraud in the construction industry?

Code #	Response
16	Assume from the insurance company.
23	Through insurance agent.

Appendix C
Insurance Company Survey Form & Responses

Insurance Company Survey Form

WORKERS' COMPENSATION FRAUD DETERRENT STUDY '98



M.E. RINKER, Sr. SCHOOL OF BUILDING CONSTRUCTION

I. Organization _____ Representative's Name _____
Phone (____) _____ Address _____ City _____ St _____ Zip _____
Type of Organization _____ # of Members _____

II. Please Answer Only Those Questions That Apply (use additional sheets if necessary).

- 1) What type of Special Investigations Unit does your company use?
____ In-house _____ Vendor
- 2) Number of S.I.U. employees _____
- 3) What is the estimated annual cost of you S.I.U.? _____
- 4) What is the percentage of fraud investigated for each type listed?
Claimant _____ %
Premium _____ %
Vendor _____ %
- 5) What part of your staff has received training in detecting workers' compensation fraud?
Claims Y _____ N _____
Auditing Y _____ N _____
Underwriting Y _____ N _____
Loss Control Y _____ N _____
- 6) What plans, if any, do you have for implementing such fraud detection training?

- 7) To what extent are you aware of the problems created by exemptions?
____ Increased cost to insurance companies.
____ Increased cases of fraud.
____ No problems with the program.
- 8) Where do referrals to you S.I.U. originate?
Claims _____ %
Auditing _____ %
Loss Control _____ %
Insureds _____ %
Other _____ %
- 9) Do you advise your clients to educate their employees on fraud? Y _____ N _____

Note: All of the above information will be compiled and used anonymously for reporting purposes.

All information on this questionnaire will be kept confidential.

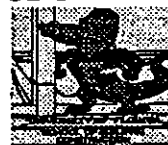
If there are any questions please call Dr. Richard Coble, at (352) 392-7521, or Chris Shepherd at (352) 392 - 9030

Please return to : Center for Safety and Loss Control
BCN/FAC 101, PO. Box 115703, Gainesville, FL 32611-5703

Or Fax to:
(352) 392 -9606

Insurance Company Survey Form

WORKERS' COMPENSATION FRAUD DETERRENT STUDY '98



M.E. RINKER, Sr. SCHOOL OF BUILDING CONSTRUCTION

9a) Do you assist your clients in educating their employees, and if so, how?

- 10) Do you advise your clients on the effects that fraud has on insurance premiums? Y__ N__
11) Do you advise your clients on the benefits of routine follow-up of an injured employee? Y__ N__
12) Do you advise your clients of the benefits of return-to-work programs? Y__ N__
13) Are you aware of any methods used to combat workers' compensation fraud in the employee leasing field? If so, what are they?

14) Are you aware of any methods used to combat workers' compensation fraud in the construction industry? If so, what are they?

15) Do you provide workers' compensation coverage to the construction industry in the state of Florida?
Y__ N__

Note: All of the above information will be compiled and used anonymously for reporting purposes.

All information on this questionnaire will be kept confidential.

If there are any questions please call Dr. Richard Coble, at (352) 392-7521, or Chris Shepherd at (352) 392 - 9030

Please return to : Center for Safety and Loss Control
BCN/FAC 101, PO. Box 115703, Gainesville, FL 32611-5703

Or Fax to:
(352) 392 -9606

INSURANCE COMPANY RESPONSES TO QUESTIONNAIRE

Code #	Insurer Type	#1	#2	#3	#4			#5	
					Claiment	Premium	Vendor	Claims	Auditing
1	Company	In-house	1	75,000	10%	1%	0.50%	y	y
2	Company	In-house	8	na	48%	52%	1 case	y	y
3	agency	na	Na	na	na	na	na	na	na
4	agency	na	Na	na	65%	35%	na	n	y
5	agency	na	Na	na	na	na	na	n	na
6	agency	none	Na	na	na	na	na	n	n
7	agency	none	Na	na	na	na	na	na	na
8	agency	na	Na	na	na	na	na	na	na
9	company	In-house	Na	na	90%	na	na	y	y
10	company	na	Na	na	na	na	na	na	na
11	agency	na	Na	na	na	na	na	na	na
12	agency	na	Na	na	na	na	na	na	na
13	agency	na	Na	na	na	na	na	na	na
14	company	In-house	45	3,000,000	98%	1%	1%	y	y

		#7			#8
Underwriting	Loss Control	Increase cost to ins. Co.	Increased cases of fraud	No problems	Claims
y	y	Y	y	na	90%
y	y	Y	y	na	y
na	na	Na	na	na	na
y	y	Y	y	na	na
na	na	Y	y	na	na
n	n	Y	y	na	na
na	na	Y	y	na	na
na	na	Na	y	na	na
y	y	Y	y	na	90%
na	na	Y	y	na	na
y	na	Na	na	y	na
na	na	Na	na	na	na
na	na	Na	na	y	na
25%	5%	Y	y	na	93%

				#9	#9A	#10	#11	#12	#15
Auditing	Loss control	Insureds	Other						
5%	1%	1%	4%	y	y	y	y	y	y
y			y	n	y	y	y	y	y
na	na	na	na	n	n	y	y	y	y
na	na	na	na	y	y	y	y	y	y
na	na	na	na	y	n	y	y	y	y
na	na	na	na	y	n	y	y	y	y
na	na	na	na	y	y	y	y	y	y
na	na	na	na	y	n	y	y	y	y
na	na	na	na	na	y	y	y	y	y
na	na	na	na	y	Na	y	y	y	y
na	na	na	na	y	y	y	y	y	y
na	na	na	na	y	y	y	y	y	y
na	na	100%	na	y	n	y	y	y	y
na	2%	2%	3%	y	y	y	y	y	y

Response to question #6

6) What plans, if any, do you have for implementing such fraud detection training?

Code #	Responses
1	We periodically bring in personnel from the Bureau of Fraud for in-house training. Our SIU also trains in departmental meetings.
2	Already completed and is an ongoing process
11	Furnish insureds with signs concerning fraud. Also inform them as to penalties for audit fraud.
13	Thirty Years Experience as an Agent.
14	We conduct annual training with claims adjusters. All adjusters spend 2 days in the field with SIU investigators.

Response to question #9A)

9A) Do you assist your clients in educating their employees, and if so, how?

Code #	Responses
1	Provide industry specific training to clients insured by us. Provide written material to enable clients to train their staff.
2	If asked – by training classes. Also our clients can call our SIU directly with questions they may have
4	Yes, our agency helps set safety programs up and educate employees on workers compensation
6	No, we have our company for that.
7	Set up appointments with carriers to do so
9	Yes, safety training
10	Fraud is a third degree felony is what I tell my clients to tell their employees
12	Using insurance company material and showing how it affects their insurance cost.
13	Limited as a agent
14	Occasionally our loss control counselors will give talks on fraud.

Responses to question #13

13) Are you aware of any methods used to combat workers' compensation fraud in the employee leasing field? If so, what are they?

Code #	Responses
1	Comprehensive loss control at job sites and solid underwriting
2	Yes, through the department of insurance fraud and the FI Task force. Leasing companies are not self-regulating.
4	<ol style="list-style-type: none"> 1. Leasing company sales representatives are not licensed insurance agents, yet they continue to sell workers' comp insurance. There is absolutely no licensing or training of these salespeople, nor are there any continuing education requirements. Yet they are dealing with many of the same issues that licensed insurance agents deal with on a daily basis. 2. In addition, leasing representatives promise that huge savings can be realized just by switching to their service. They tell insureds they can offer reduced rates on workers' comp insurance, which is in violation of state law. The rates are mandated by the state of Florida. However, most leasing companies are charging less than the state mandated rate for each class code. We know of a specific case where a roofing contractor is paying a little as \$4.00 per hundred, achieved by misclassifying employees. What would happen to a licensed insurance agent if her were intentionally misclassifying employees? 3. Also, lets consider that the experience modification factor is being manipulated by the leasing companies, which throw the insureds into a pool with many other insureds. So, in essence, a company with a 1.65 EMR could be enticed into a leasing arrangement in order to reduce their mod and save money. Both the state of Florida and the insurance carriers are missing out on their rightful premiums. This is part of the reason why insurance premiums are so high <p>We are appalled that the state of Florida is allowing this abomination to continue. If you want to stop fraud and get to the root of the problem, then you need to start by attacking the leasing companies.</p>
5	Aware of none, there are employee leasing firms who contribute to the problem by misclassifying employees.
10	No, there is nothing being done to combat fraud. The employee leasing companies have Carte Blanche to do anything they want to do. There is no one to check on them. They have to total immunity in anything they want to do. They use incorrect codes, they use a company name until their EMR goes up, however they always have another company with a low mod.
11	No, however I know from experience that the only accounts that I have lost to

	them have had problems with their WC. What does that tell you??? Also the employee leasing people collect excess taxes (payroll & state unemployment) and pocket the monies.
12	No, they are not regulated by the department of insurance so they can do basically whatever they want. I suspect their insurance company doesn't care either, as long as the account is profitable. Consider it a ? to the open rating allowed in California
13	As a agent I can only report to the insurance company, if they do nothing – I must do the same.

Responses to question #14

14) Are you aware of any methods used to combat workers' compensation fraud in the construction industry? If so what are they?

Code #	Results
2	Yes, division of compliance is going to levy higher penalties and become more active in checking construction sites. Certificates of insurance are being scrutinized where prior, they were accepted on face value
3	Stay in contact with employees
4	There are 1-800 numbers to call for fraud. In addition I think they should abolish the BCM-204 exemption forms and require every contractor to carry workers' compensation insurance
6	Auditing
10	One GC I know of require a certificate of insurance every month from his subs. Some in the construction industry have figured out every method to cheat the system. The exclusion form assists them in this fraud.
11	Complaint from insureds is that it does not do any good to report the fraud as nothing is ever done about it and you can face a personal injury suit. The courts are just giving a slap on the wrist to those convicted of fraud. Some contractors say that they do certain jobs, while they are doing more hazardous jobs. They play with payrolls.
12	I advise my clients to use only known subs. I also review certificates with them and point out those that are suspect. I then have the client follow up on those as best they can to assess their validity
13	Most claims are with prior injuries and most injuries are with general contractors who in turn have no coverages
14	The state has done some job site inspections for WC coverage. We have checked multiple jobsites for the same insured at the same time to ascertain number of employees.