

RECOMMENDATIONS
OF THE
Nevada Auto Theft
and Insurance Fraud
Task Force

Report to the Honorable Governor Jim Gibbons

NOVEMBER 1, 2008

TABLE OF CONTENTS

| | |
|---|----------|
| Executive Summary..... | 3 |
| Introduction..... | 3 |
| Scope of Fraud and Theft Crimes | 3 |
| Task Force Direction and Actions..... | 6 |
| Task Force Membership | 7 |
| Gov. Gibbons' Task Force Announcement..... | 8 |
| Task Force Recommendations..... | 9 |
| Auto Theft and Fraud | 9 |
| Bodily Injury Claims, Overutilization and Provider Fraud..... | 10 |

EXECUTIVE SUMMARY

Introduction

The Nevada Auto Theft and Insurance Fraud Task Force was authorized by Nevada Governor Jim Gibbons in February 2008 to identify the scope of auto theft and insurance fraud throughout the state, examine their impact on Nevada consumers, and develop recommendations for potential solutions to these crimes.

The task force resulted from a multidisciplinary conference co-sponsored by the National Insurance Crime Bureau (NICB) and Nevada Insurance Council (NIC) in Las Vegas in November 2006. This fraud summit provided a forum to share news, information and ideas, and devise potential solutions for the state's acute fraud and theft problems.

Specifically, summit participants addressed such issues as medical provider fraud and the Las Vegas metropolitan area's vehicle theft rate. Among other speakers and presenters were Nevada Insurance Commissioner Alice Molasky-Arman and FBI Special Agent in Charge of Las Vegas Steven Martinez.

More than 250 insurance company representatives, law enforcement agents, prosecutorial and government officials, and insurance industry trade association professionals attended this conference. Among their many recommendations was a proposal to create a task force that would further identify and research these issues, and recommend workable solutions to support a statewide fight against fraud and theft crimes.

Following the Nevada Fraud Summit, NICB and NIC representatives worked with the governor's staff to devise the task force's mission, structure and membership. The NICB and NIC partnered in this endeavor because of their respective expertise and scope of influence throughout Nevada.

Supported by approximately 1,000 property-casualty insurance companies and self-insured organizations, the National Insurance Crime Bureau is a national not-for-profit organization whose mission is to prevent, detect and defeat fraud and theft. It addresses these crimes through five integrated disciplines: Investigations, Data Analytics, Training, Public Awareness and Legislative Advocacy.

The Nevada Insurance Council is an informational and educational organization representing the state's property and casualty insurance industry. The NIC informs consumers and the media about the insurance business, automotive safety, homeowners insurance and related topics.

Scope of Fraud and Theft Crimes in Nevada

Overview

Years ago, the common perception of an insurance fraud criminal was someone who falsely claimed on a stolen vehicle report that his golf

clubs were in the car's trunk so he could "get a little extra" from the insurance company, while vehicle thieves were typically considered to be teenagers who stole cars for joyriding purposes.

The bulk of today's fraud and theft crimes nationwide are perpetrated by sophisticated organizations and multistate/international crime rings that use elaborate schemes and technologies to defraud insurers and their policyholders of billions of dollars annually. The common link between 21st century fraud and theft rings and their less-sophisticated ancestors is their motivation to commit crimes of financial opportunity. They ply their trade in locales where they think they can succeed and make the most money in the process. In Nevada, these crimes are becoming more widespread and costly for state residents who pay for fraud and theft through higher insurance premiums.

While there is a wide array of fraud and theft crimes being committed in Nevada, this Executive Summary focuses on several of the most acute issues specifically targeted by the governor's task force. Testimony presented to the task force provides greater details of these issues.

Vehicle Crimes

Nevada's statewide auto theft rate rose from 26th per capita in the mid 1990s to first in 2006, according to the NICB Annual Hot Spots Study. With its tremendous population surge in the 1990s and early 21st century, the Las Vegas metropolitan area currently has the nation's second highest vehicle theft rate. The outstanding efforts of the Las Vegas Metropolitan Police Department's VIPER Task Force to strategically address the theft issue was the main reason the city's theft rate dropped to second place nationally in one year. More support is needed for these and similar efforts.

Another growing vehicle crime issue in Nevada is "owner give-ups." These crimes occur when a vehicle owner disposes of a vehicle at an insurer's expense. Among other reasons people give up their vehicles are job loss, worsening financial status, buyer's remorse, rising fuel prices and costly mechanical issues.

Nevada is experiencing another disturbing vehicle crime trend: Vehicles claimed stolen and then subsequently burned by owners. Nevada-based NICB agents are investigating a dramatic increase in vehicles being burned in desert areas around the Las Vegas Valley. Not only do these cases victimize insurance companies and policyholders, but they also waste valuable public safety resources and create the potential for disastrous wildfires.

In testimony to the task force, an NICB agent provided an example of a mid-sized insurer that in 2007 paid more than 140 burned car claims in Las Vegas alone, most of which were suspected to be fraudulent claims. At an average value of \$20,000 per vehicle, these 140 crimes cost this insurance company \$2.8 million; costs that unfortunately are paid by honest Nevada consumers in the form of higher insurance premiums.

Medical and Provider Fraud

As Nevada's population has grown, so has its rate of insurance fraud involving unscrupulous medical providers, doctors and attorneys.

According to the NICB and Nevada Attorney General's Office, most fraud involving medical claims in the 1980s consisted of individual "patients" who would try to cash in on legitimate automobile accidents by malingering or drawing out their medical treatment for a larger insurance settlement. Medical providers typically were either not involved or just looked the other way, as they also profited by continuing to treat malingerers.

Seeing the potential for greater financial gains, criminals formed widespread staged accident rings in Nevada beginning in the 1990s. These organized groups would either create completely phony vehicle accidents as the basis of fraudulent injury claims, or cause accidents with innocent victims in order to file injury claims with insurers. To succeed, these groups needed medical providers to treat them for lengthy time periods. As dishonest medical providers and attorneys began to recognize the substantial sums of money achievable through this activity, they organized their own rings.

Medical fraud is occurring throughout Nevada. Insurer referrals to the NICB of suspected false or exaggerated injury claims increased 400 percent statewide from 2002 to 2006. During that same period, referrals to the NICB for questionable bodily injury claims rose 800 percent.

Scope of Current Crime Fighting Resources and the Need for New Solutions

While Nevada's population has grown exponentially in recent years, its infrastructure for investigating fraud and theft crimes has changed little. When the Nevada Insurance Fraud Unit was formed approximately 15 years ago, it consisted of three investigators and one prosecutor. Today, the Insurance Fraud Unit has six investigators and two prosecutors, yet they continue to operate at funding levels that are inconsistent and trending downwards. Meanwhile, the frequency of fraud and theft crimes throughout Nevada as reported to the Insurance Fraud Unit has tripled over the past five years, thus stretching the resources and capabilities of the Insurance Fraud Unit even further.

Nevada's increase in insurance fraud can largely be attributed to an influx of criminals from other states, especially California. They flee

states with tough anti-fraud laws and migrate to an environment where the climate is more conducive to their illegal operations.

For example, the State of California has:

- Created a large and well-equipped Insurance Fraud Unit
- Strengthened its anti-fraud laws
- Provided insurance companies with tools to better protect themselves from fraudulent claims
- Established task forces to address previously uncontained medical fraud and staged accident rings

The California Insurance Fraud Unit has grown from a handful of investigators in the early 1980s to a formidable law enforcement agency with nearly 200 sworn officers whose sole purpose is to investigate insurance fraud, especially organized rings, staged accidents and medical fraud.

As a result, there has been a steady exodus of criminals from California to the nearest state that has not taken similar actions... Nevada. According to the NICB, criminals view Nevada as an easy target because the state is not currently equipped to deal with large-scale rings that reap millions of dollars annually through bogus medical claim submissions and schemes.

Task Force Direction and Actions

The Nevada Auto Theft and Insurance Fraud Task Force convened at various locations throughout the state six times between February and October 2008. Members examined and prioritized the state's most pressing auto theft and insurance fraud issues, received testimony from an array of experts to help in this analysis, and fashioned a series of proposed recommendations for Gov. Gibbons' consideration which form the bulk of this report.

The task force was organized to bring together experts from various fields, recognizing that task force members were not necessarily experts in all topics covered by the task force. For example, local law enforcement representatives with expertise in auto theft investigations and prosecutions had little exposure to insurance fraud investigations and prosecutions being conducted by the Attorney General. Further, insurance industry representatives were relied

upon for their expertise in the civil aspects of insurance claims handling. The broad spectrum of representation from state and local law enforcement, state regulatory agencies and the insurance industry helped bring a comprehensive perspective to the discussions and ensured no one group dominated any of the findings.

The task force stands ready to assist Gov. Gibbons and the Nevada Legislature in implementing these recommendations and supporting their efforts to address these crimes. Members of the task force represent the insurers, anti-fraud organizations, prosecutorial and law enforcement agencies that are best equipped to fight auto theft and insurance fraud. With the support of the governor and legislature, along with enforceable laws and necessary resources, we can make a significant impact on these crimes that victimize Nevada's residents.

NEVADA AUTO THEFT AND
INSURANCE FRAUD TASK FORCE
MEMBERS AND CONTRIBUTORS

Members

Judith M. Fitzgerald, Chair
Senior Vice President, Member & Government Affairs
National Insurance Crime Bureau

Gail J. Anderson
Deputy Director
Nevada Department of Business and Industry

Capt. Stavros S. Anthony
Las Vegas Metropolitan Police Department

Robert L. Compan
Nevada Government Affairs
Farmers Insurance

Ken Cooley
State Counsel
State Farm Insurance Companies

Troy L. Dillard
Chief, Compliance Enforcement Division
Nevada Department of Motor Vehicles

Robert B. Feldman
President
Nevada General Insurance Company
and Auto Insurance America

Michael Geeser
Media/Government Relations
AAA Nevada

John Helzer
Assistant District Attorney
Washoe County

Brian T. Kunzi
Director, Insurance Fraud Control Unit
Office of the Nevada Attorney General

Lt. Tim Kuzanek
Washoe County Sheriff's Department

Michael S. Mattoch
Vice President & Senior Legislative Counsel
USAA

Capt. Dave Noahr
Investigative Services Commander
North Las Vegas Police Department

Chief Chris Perry
Department of Public Safety
Highway Patrol Division

Lt. Todd Peters
Criminal Investigations Division
Henderson Police Department

Chief Michael Poehlman
Reno Police Department

Commander Gary R. Potter
Sparks Police Department

Judith Ray
Director
Las Vegas Office of Gov. Jim Gibbons

David Roger
Clark County District Attorney

Tim Ward
Team Manager
State Farm Insurance Companies

Contributors

Dr. Paul Heaton
RAND Institute for Civil Justice

Dr. Eric Helland
RAND Institute for Civil Justice

Governor Jim Gibbons



For Immediate Release: February 25, 2008

GOVERNOR ANNOUNCES MEMBERS OF NEVADA AUTO THEFT AND INSURANCE FRAUD TASK FORCE

Carson City— Governor Jim Gibbons today announced the following members of the Nevada Auto Theft and Insurance Fraud Task Force. The Auto Theft and Insurance Fraud Task Force will be charged with identifying the scope of the Nevada insurance fraud and vehicle theft problem and its affect on Nevada consumers as well as review potential solutions. The task force will take a statewide approach to ensure that all stakeholders are represented.

“The task force will greatly improve our efforts to fight organized insurance fraud and vehicle theft in Nevada. I look forward to working with them to reduce these crimes in Nevada,” said Governor Jim Gibbons.

The following members will serve on the task force:

CHAIR – Judith Fitzgerald – National Insurance Crime Bureau
Brian Kunzi- Office of the Attorney General
Deputy Director Phil Brown – Department of Public Safety
Chief Chris Perry – Nevada Highway Patrol
Captain Stavros Anthony – Las Vegas Metropolitan Police Department
Lt. Tim Kuzanek – Washoe County Sheriff’s Department
Chief Mike Poehlman – Reno Police Department
Commander Gary Potter – Sparks Police Department
Captain Dave Noahr – N. Las Vegas Police Department
Lt. Todd Peters- Henderson Police Department
David Roger – District Attorney (Clark County)
John Helzer – Assistant District Attorney (Washoe County)
Gail Anderson – Deputy Director of Business & Industry
Troy Dillard – Department of Motor Vehicles
Robert Compan – Farmers Insurance
Michael Geeser – AAA
Robert Feldman – Nevada General Insurance
Ken Cooley – State Farm Insurance
Michael Mattoch – United Services Automobile Association

-30-

Melissa Subbotin, Press Secretary

Office of the Governor . 101 North Carson Street . Carson City, NV 90701 . (775) 684-5667

RECOMMENDATIONS OF THE NEVADA AUTO THEFT AND INSURANCE FRAUD TASK FORCE

Measures to Address Auto Theft and Fraud

Owner Give-Ups

As noted in this report's Executive Summary, owner give-ups are fraudulent insurance claims where the owner of a vehicle wants to dispose of a vehicle at the insurer's expense. Among other reasons people give up their vehicles are job loss, worsening financial status, buyer's remorse, rising fuel prices and costly mechanical issues.

These types of claims are on the rise in Nevada and have been for the past few years. It is estimated by law enforcement that approximately 25 percent of all reported auto thefts in Southern Nevada have an owner give-up component. Vehicle owners often employ others to actually destroy the vehicles on their behalf, with arson being the preferred method of destruction. The vehicles are frequently taken to desert areas around the Las Vegas Valley and burned. Owners then file false insurance claims with their insurers by stating the vehicle was stolen. Not only do these cases victimize insurance companies and policyholders, but they also waste valuable public safety resources and create the potential for disastrous wildfires.

Organized Vehicle Theft Rings

Nevada continues to be plagued with organized criminal conspiracies dealing in vehicle theft and chop shops. Property crimes affect tens of thousands of Nevada residents and the statutory penalties for these crimes should be

increased. Many career criminals have received lenient sentences despite their significant criminal histories.

Venue has also been a logistical problem between the two key prosecutorial units handling theft and fraud. Historically, district attorneys prosecute property crimes such as larceny and auto theft. The task of prosecuting insurance fraud is the province of the Nevada Attorney General. Operational overlap between local and state jurisdictions can occur which may lead to delays.

RECOMMENDATION 1:

- Fund a dedicated prosecutor in Clark County to manage auto theft and organized criminal conspiracies. Vigorous and aggressive prosecution of criminals involved in these activities is an essential deterrent.

RECOMMENDATION 2:

- Create a regional forensic storage facility for law enforcement agencies to support proper inspections of vehicles and the proper gathering of evidence necessary for successful prosecutions. Arizona and California have such facilities while Nevada does not.

RECOMMENDATION 3:

- Create statewide training for first responders on what to look for when summoned to an incident involving burned vehicles.

RECOMMENDATION 4:

- Create coordinated public awareness campaigns to inform the public that falsely reporting a vehicle as stolen is a crime and will be prosecuted.

RECOMMENDATION 5:

- Recommend that repeat convictions for auto theft are non-probationable.

RECOMMENDATION 6:

- Establish and properly fund a Nevada Auto Theft Authority.

RECOMMENDATION 7:

- Amend current state law to permit the transfer of salvage vehicles and parts between law enforcement agencies and insurance companies. These salvage items will allow law enforcement agents to conduct bait or sting operations. They can ultimately return the items to the insurance companies who will dispose of them as salvage.

Towing Issues

The most serious issue with tow companies in Nevada appears to be vehicle repair facilities that engage in the practice of “tipping,” or providing bounties for towed vehicles. Presently, tow drivers receive up to \$300 - 400 per vehicle to steer consumers to specific repair shops. In addition, some tow companies charge exorbitant fees for day storage, yard maintenance, and visits from insurers and consumers.

While the practice of tipping is illegal in California, it is encouraged in Nevada. Tipping is a consumer protection issue and strict rules need to be enacted to safeguard the public from such practices.

RECOMMENDATION 8:

- Adopt a statute that makes it illegal for any vehicle repair facility or its employees to

solicit, receive, offer or pay a referral fee to a tow company to induce potential customers.

Measures to Address Bodily Injury Claims, Overutilization and Provider Fraud

The task force notes that while Nevada drivers are involved in slightly more accidents than the national average, they are much more likely to claim they were injured in the accident than drivers and passengers in other states. Recent Nevada statistics show there were 42 injury claims for every 100 property damage accidents – a rate which is 63 percent higher than the national average.

The task force also heard testimony from the RAND Institute for Civil Justice, a public policy organization. RAND’s analysis of the Nevada environment suggests that recent insurance premium growth in the state appears to reflect rising per-claim bodily injury costs. While Nevada’s bodily injury cost per claim is consistently among the nation’s highest, its incidence of bodily injury claims has been stable in recent years. Factors other than general medical cost inflation appear to have contributed to recent increases in bodily injury costs in Nevada.

RAND suggests that a key factor contributing to these high bodily injury costs is a large proportion of soft tissue injuries. They estimate the annual cost in Nevada for this type of fraud alone is between \$700,000 and \$5 million.

Another factor that may contribute to the high bodily injury costs in Nevada as identified by RAND is the use of different types of treatment for auto-related injuries. Relative to other states, Nevadans use less of the traditional physician approach and more chiropractic care.

As noted earlier in the report, most of the rings involved in today’s staged accidents and medical fraud schemes are ultimately controlled

and operated by unscrupulous medical providers, lawyers or staff employed to insulate these licensed professionals. These “medical/legal mills” use various means to squeeze money from insurance companies.

While the vast majority of legal and medical professionals admirably represent, advocate or assist legitimate injured claimants, many loopholes in the claims reporting system create avenues for those dishonest legal and medical professionals intent on perpetrating fraud. One example of a questionable practice that interferes with a fair and full investigation and hinders the detection of fraudulent claims is a practice of making policy limit demands early in the claims process, but withholding medical treatment information until the last moment before litigation is initiated.

The timely presentation of medical treatment information permits the insurance company to quickly and efficiently evaluate and pay legitimate injury claims. The withholding of information delays the processing of legitimate claims and creates the potential for fraudulent claims to go undetected.

Unscrupulous providers use countless other schemes to inflate personal injury claims, with or without a patient’s knowledge and cooperation. As a result, the insurer pays an inflated claim and the public pays higher automobile insurance premiums to offset the cost of this fraud.

RECOMMENDATION 9:

- Fund and staff a viable Insurance Fraud Unit in the Attorney General’s office. The existing Insurance Fraud Unit has the primary responsibility to investigate and prosecute insurance fraud in Nevada, but is grossly underfunded and understaffed to accomplish this task.

RECOMMENDATION 10:

- Adopt an insurer-to-insurer immunity statute. Insurance companies must be able

to share investigative data with one another when addressing suspicious or fraudulent claims. California has a very successful insurer-to-insurer immunity statute that has been widely accepted in other states across the nation.

RECOMMENDATION 11:

- Amend the state’s existing anti-capping statute. This would address the issue of medical providers and lawyers who recruit patients by paying individuals for referrals. The statute should be amended to make it illegal for anyone to refer a patient to a lawyer or medical provider for compensation.

RECOMMENDATION 12:

- Current statutes requiring the timely presentation of medical records need to be strengthened to provide some penalty or consequence for noncompliance.

RECOMMENDATION 13:

- Create a medical fraud task force similar to the highly successful NICB task forces presently operating in New York, South Florida, Texas and California. Medical fraud issues are too big to be addressed by a single agency. Each medical fraud case typically involves hundreds of insurance claims. A multifaceted approach by cooperating agencies would make a tremendous impact on these costly crimes. A medical fraud task force consisting of such agencies as the Nevada Insurance Fraud Unit, NICB, Nevada Chiropractic Board, Nevada Medical Board, Nevada Pharmacy Board and the IRS is needed as a potential starting point.

RECOMMENDATION 14:

- Create statutory language that makes it illegal for a public employee to be paid a bonus for the transportation of individuals to medical facilities. (5 dissenting votes)

