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HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

\* \* \* \* \*

House Bills 2814, 2815, 2816, 2817, 2818

\* \* \* \* \*

House Insurance Committee  
Subcommittee on Crime and Corrections  
of the House Judiciary Committee

Main Capitol Building  
Majority Caucus Room 140  
Harrisburg, Pennsylvania

Tuesday, August 29, 2006 - 10:00 a.m.

--oOo--

BEFORE:

- Honorable Robert Godshall, Majority Acting Chairman
- Insurance Committee
- Honorable John Fichter
- Honorable Tim Hennessey
- Honorable Matthew Wright
- Honorable Peter Zug
- Honorable Ronald Buxton
- Honorable Dan Frankel
- Honorable Kathy Manderino
- Honorable Anthony Melio
- Honorable Phyllis Mundy
- Honorable Harold James, Minority Chairman
- Subcommittee on Crime & Corrections

IN ATTENDANCE:

- Honorable Jewell Williams

KEY REPORTERS

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1           ALSO PRESENT:

2

3           Kathy McCormac  
          Majority Executive Director  
          Insurance Committee

4

5           Sheila Earhart  
          Majority Administrative Assistant  
          Insurance Committee

6

7           Phyllis Gould  
          Majority Research Analyst  
          Insurance Committee

8

9           Sean Harris  
          Majority Special Projects

10          Richard A. Speese  
          Minority Executive Director  
          Insurance Committee

11

12          Diane Minich  
          Minority Research Analyst  
          Insurance Committee

13

14          Mary McDaniel, Esquire  
          Majority Executive Director  
          Judiciary Committee

15

16          Judy Sedesse  
          Majority Administrative Assistant  
          Judiciary Committee

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1                   ACTING CHAIRMAN GODSHALL: Good  
2 morning. The hour of 10 o'clock having arrived,  
3 we're going to get started with this hearing.  
4 I'd just like to say on behalf of Chairman  
5 Micozzie, good morning. Chairman Micozzie won't  
6 be with us this morning. I have some remarks  
7 that he was intending to make which I will  
8 briefly go through.

9                   He says he wants to thank you all for  
10 attending our second public hearing on the  
11 subject of insurance fraud. As you know, the  
12 House Insurance Committee and Subcommittee on  
13 Crime and Corrections of the House Judiciary  
14 Committee held an initial hearing earlier this  
15 month with my five-bill insurance fraud package  
16 consisting of House Bills 2814, 2815, 2816,  
17 2817, and 2818.

18                   Testifiers for the first hearing  
19 included experts on insurance fraud,  
20 representatives from the public adjuster  
21 community, and representatives from the  
22 insurance industry. During this hearing we will  
23 hear from the enforcement side of things with  
24 testimony from the Insurance Department, the  
25 Attorney General's Office and the Pennsylvania

1 Insurance Fraud Prevention Agency.

2 It is my hope that these meetings  
3 will provide committee members with background  
4 necessary to understand the issue should further  
5 committee action be necessary in the future.

6 What I want to say is that, it was  
7 brought out a couple times at the last meeting  
8 that these bills were put together from, based  
9 on new Florida law and they -- and what group  
10 National Conference of Insurance Legislators,  
11 NCOIL, have been doing -- working on this issue  
12 for the last number of months and looking at  
13 model legislation pertaining to insurance fraud.  
14 It really is not only a Pennsylvania problem, a  
15 Florida problem, but it's a universal problem.

16 So, this is why we have the  
17 involvement of NCOIL at this time. The bills  
18 that were introduced, you know, may not  
19 perfectly fit in Pennsylvania as they did in  
20 Florida, but that's what we have the hearings  
21 for and that's why we're asking for your  
22 testimony and your help and support in putting  
23 something together for Pennsylvania that will  
24 help our consumers.

25 So with that, we'll go into the

1 agenda. Starting this morning we'll have the  
2 Pennsylvania Insurance Department, Ronald  
3 Gallagher, Deputy Insurance Commissioner, Office  
4 of Consumer and Producer Services. You can  
5 introduce the gentleman with you.

6 MR. GALLAGHER: Thank you. Good  
7 morning. My name is Ron Gallagher, and I do  
8 serve as Pennsylvania's Deputy Insurance  
9 Commissioner for the Office of Consumer and  
10 Producer Services. I have with me to my right  
11 Mr. Ralph Burnham, our chief investigator for  
12 the Department's Special Investigative Unit.  
13 Mr. Burnham also heads our Anti-Fraud Compliance  
14 Division.

15 I want to thank the chairmen of the  
16 two committees, Representative Godshall and  
17 other distinguished members of the House  
18 Insurance Committee and the House Judiciary  
19 Committee, Subcommittee on Crime and Corrections  
20 for giving the Department the opportunity to  
21 offer information and to respond to questions  
22 that you may have on today's topic.

23 You could say that the Consumer  
24 Services operation with three field offices in  
25 the Philadelphia, Harrisburg, and Pittsburgh

1 areas serve, in part, as the Insurance  
2 Department's eyes and ears to the insurance  
3 marketplace. While these operations, by  
4 analogy, may play the role of Miss Marple in  
5 dealing with the world of insurance fraud, as  
6 the investigators deal with insurance consumers  
7 who are many times our first and most  
8 significant source of complaint information,  
9 Ralph is our Sherlock Holmes. He is always  
10 hungry for more information and seeks to uncover  
11 things that might give ammunition for  
12 enforcement actions, recovery or appropriate  
13 referral to the Attorney General for criminal  
14 sanctions.

15 It is my hope that between us we can  
16 give a proper overview of insurance fraud in  
17 Pennsylvania and our efforts to combat it, as  
18 well as to answer any specific questions you  
19 might have as you consider the proposed  
20 legislation.

21 Before I delve into the specific  
22 activities of the Department related to  
23 combating fraud, I want to provide some  
24 interesting facts about Pennsylvania's insurance  
25 marketplace. The Insurance Department, with its



1           370 employees involved in regulating the  
2           industry, is singularly focused on consumer  
3           protection.

4                         This is a daunting task when you  
5           consider that Pennsylvania's marketplace for the  
6           sale of insurance products tops almost  
7           \$71 billion annually among 1700 carriers. We  
8           have over 140,000 producers and an additional  
9           20,000 other individuals licensed that are  
10          involved in the insurance marketplace. This  
11          premium volume makes Pennsylvania fifth in the  
12          nation based on premium dollar, but more  
13          interestingly, 13th internationally. I give you  
14          these numbers because they specifically  
15          represent the reason why insurance fraud  
16          occurs--there is a lot of money involved.

17                        The Insurance Department's work  
18          includes licensing new insurance carriers;  
19          reviewing and approving certain types of the  
20          insurance policies and rates; licensing  
21          producers, formerly referred to as agents and  
22          brokers, and other individuals involved in the  
23          insurance marketplace, who are the touch points  
24          to our citizens; and the important monitoring of  
25          the marketplace activities through our complaint

1 and market conduct and enforcement  
2 investigations.

3 Our Office of Insurance Consumer  
4 Liaison, coupled with the Consumer Services  
5 Offices, are focused on educating consumers so  
6 they can make informed decisions. We like to  
7 say that education is a consumer's best policy.  
8 We have developed information available on the  
9 Department's web site, [www.ins.state.pa.us](http://www.ins.state.pa.us), to  
10 assist consumers in better understanding  
11 insurance.

12 In addition, we have developed a  
13 newsletter to assist consumers on a broad range  
14 of topics dealing with insurance issues. Though  
15 the newsletter is available on the web site, I  
16 have copies of it available with me today, both  
17 in English and Spanish. You both have copies of  
18 both of these in your packets today too, and  
19 they are available on our web site or by calling  
20 the Insurance Department. We also want to let  
21 you know that future editions of this newsletter  
22 are going to be focused specifically on  
23 insurance fraud topics.

24 Insurance fraud robs the state's  
25 economy of possibly millions of dollars every

1 year. While we cannot immediately quantify the  
2 value of insurance fraud in Pennsylvania, we  
3 certainly do know that fraud is not a victimless  
4 crime. It costs all of us through increased  
5 premiums. We applaud your efforts to focus more  
6 attention on this important issue.

7 Insurance fraud occurs when people  
8 deceive an insurance company or agent to collect  
9 money to which they are not entitled. Insurance  
10 fraud can be hard or soft. It can be a  
11 deliberate scheme or a little white lie.  
12 Regardless, the Department will continue to work  
13 with our Fraud Bureau, other state Insurance  
14 Departments and our regulated industry to change  
15 an attitude that fraud is just a cost of doing  
16 business.

17 Fraud is unacceptable, plain and  
18 simple. It is against the law, and if you  
19 engage in insurance fraud of any kind, and are  
20 caught, there are very serious consequences. We  
21 are very serious and we mean business.

22 Most recently, the Department has  
23 been participating in a Stop, Call and Confirm  
24 public service announcement campaign to combat  
25 fake insurance. Insurance Commissioner Koken

1           has distributed a PSA encouraging consumers to  
2           contact the Department before signing any  
3           insurance documents to make sure consumers are  
4           dealing with a legitimate licensed company. I  
5           want to take the opportunity now to share with  
6           you that PSA. Hopefully, Ron knows how to  
7           operate this.

8                           (Video presentation): While all  
9           insurance companies should provide the  
10          foundation for financial protection,  
11          unfortunately, some do not. There are fake  
12          insurance companies that promise peace of mind  
13          when trouble strikes, but actually fall apart  
14          like a house of cards when it's time to pay a  
15          claim.

16                          I'm Pennsylvania Insurance  
17          Commissioner Diane Koken. Before signing a  
18          policy, I urge you to stop, call, and confirm  
19          with my office to be sure you're dealing with a  
20          legitimate company, or go to NAIC.org.

21                          MR. GALLAGHER: This TV PSA and  
22          accompanying radio PSAs were delivered just this  
23          week to media outlets around the state. We do  
24          encourage consumers to call us using the  
25          1-800 number that you did see saw up there on

1 any type of insurance issues that they may have.

2 In addition to the rise of fake  
3 insurance, we have also identified fraudulent  
4 activities with applicants for insurance,  
5 policyholders, as well as third-party claimants  
6 and professionals who provide service to these  
7 claimants.

8 Nationally, it has been estimated  
9 that property and casualty insurance fraud costs  
10 consumers about \$30 billion in 2004. Estimates  
11 skyrocket to almost \$100 billion annually when  
12 life and health insurance fraud are added in.

13 While fraud, as you know, may be  
14 committed at different points in the insurance  
15 transaction by different parties, common types  
16 of fraud include padding or inflating actual  
17 claims; misrepresenting facts on an insurance  
18 application; submitting claims for injuries or  
19 damage that never occurred, and staging  
20 accidents.

21 Pennsylvania is one of about  
22 40 states that have set up separate fraud  
23 bureaus. Our state Insurance Fraud Prevention  
24 Authority and these other state fraud bureaus  
25 are reporting a record number of new

1 investigations and significant increase in  
2 referrals, tips about suspected fraud and cases  
3 brought to prosecution.

4 In addition, as part of the recent  
5 allegations concerning inappropriate insurance  
6 broker activity, we assisted the National  
7 Association of Insurance Commissioners, better  
8 known as NAIC, in efforts to increase awareness  
9 on this issue. Commissioner Koken was serving  
10 as the NAIC president at the time of these  
11 allegations.

12 As part of a three-pronged approach  
13 to this issue, NAIC created a special web site  
14 that went live in January 2005 for reporting  
15 potential fraud and that serves as a national  
16 broker fraud clearinghouse with information that  
17 could be transmitted to the appropriate state  
18 regulator for handling. With this initiative,  
19 consumers had the immediate means to report  
20 suspected fraud at any time.

21 The Pennsylvania Insurance Department  
22 has received numerous grants from the Insurance  
23 Fraud Prevention Authority. You're going to be  
24 hearing from Mr. Ron Miller a little bit later  
25 today about his organization. These grants have

1 enabled the Department's Anti-Fraud Compliance  
2 Division to enhance its fraud-fighting efforts.  
3 These efforts have had an undeniable impact on  
4 reducing insurance fraud in the Commonwealth.  
5 We are committed to continuing these efforts and  
6 are grateful to the IFPA for these grants.

7           These grants funded the Department's  
8 Anti-Fraud Compliance Division and enabled us to  
9 work with every facet of the insurance business  
10 in our state, including consumers, insurance  
11 companies, insurance producers, professional  
12 insurance groups, and all law enforcement  
13 agencies to assure that everyone understands  
14 that insurance fraud is a crime

15           The Department's Anti-Fraud  
16 Compliance Division that Mr. Burnham leads has  
17 worked closely with Pennsylvania's motor vehicle  
18 and workers' compensation insurers to produce a  
19 best practices report on Pennsylvania's  
20 anti-fraud effort. This report is available to  
21 consumers, to law enforcement agencies and to  
22 you on the Department's web site.

23           The Department's Anti-Fraud  
24 Compliance Division was instrumental in bringing  
25 about the Department's joining with the

1 Insurance Fraud Prevention Authority for  
2 production of a first-ever, all-lines summit  
3 meeting on the subject of insurance fraud. The  
4 division has also worked extensively with our  
5 more than 1700 licensed insurers to obtain  
6 up-to-date information on bench marking and  
7 reporting of insurance fraud.

8 Insurers, too, can be in denial about  
9 how fraud impacts their bottom line. It is our  
10 job also to educate them about the value of  
11 fraud plans and how they can be effective as a  
12 competitive tool in today's marketplace. We  
13 emphasize training and the sharing of  
14 information in our ongoing efforts to combat  
15 fraud.

16 In response, a growing number of  
17 insurers have begun to implement sophisticated  
18 fraud detection tools to support manual methods.  
19 In testimony earlier this month you heard some  
20 specific examples of these methods.

21 Fraud management technology that uses  
22 predictive modeling to identify suspicious  
23 claims can accurately cull out high-risk claims  
24 and identify them earlier. It not only makes it  
25 practical for insurers as they process and close



1       claims faster, it also focuses the adjuster's  
2       review on claims that require the most  
3       attention.  Importantly, it provides higher  
4       quality referrals to investigative units.  And  
5       that is very critical, the quality of the  
6       information gathered.  Even Sherlock Holmes  
7       cannot make a case unless the fact-finding is  
8       complete and the case is tightly pulled  
9       together.

10                I'm sure any criminal agency which  
11       might address you will say it does not take  
12       fraud cases with a lot of missing details.  It's  
13       just too costly and time consuming to pursue, so  
14       our job, and that of the industry, is to tee up  
15       fraud cases as best we can.  That takes time,  
16       tools and talent, but we're seeing the value in  
17       focusing those resources on fraud.

18                Motor vehicle and workers'  
19       compensation insurers annually provide the  
20       Department of Insurance a statistical reporting  
21       of anti-fraud activity for the prior year.

22                A summary of the past four years of  
23       reporting shows an increased reporting of  
24       suspected insurance fraud to criminal law  
25       enforcement authorities, increasing investment

1 in anti-fraud programs, and a decrease in  
2 identified fraud. Reports and anti-fraud plans  
3 of individual insurers are filed with the  
4 Department.

5 The most current data reported by the  
6 industry to the Department demonstrates an  
7 increase in the number of reports of suspected  
8 fraud to law enforcement authorities, and at the  
9 same time, a decline in the amount of fraud  
10 identified. As you can see from the chart in  
11 the testimony, the number of reports of  
12 suspected fraud has increased from 954 in 2002  
13 to 1,619 cases in 2005, a 70 percent increase;  
14 while, at the same time the amount of fraud in  
15 dollar terms identified has declined from  
16 68.5 million in 2002 to 64.7 million in 2005.

17 You can also see that over this same  
18 time period the industry reports an increase in  
19 resources used to combat fraud starting with  
20 21.9 million in 2002, rising to \$36.6 million in  
21 2005, or a 67 percent increase in expenditures  
22 directed at fighting fraud. You can see the  
23 chart in front of you that shows the year-by-  
24 year comparison.

25 In addition to detecting fraud, we

1           want to assist the Insurance Fraud Prevention  
2           Authority in changing attitudes so that people  
3           know insurance fraud is against the law and has  
4           serious consequences. Changing someone's mind,  
5           how they think, is hard enough, but changing  
6           attitudes, how someone really feels, now that  
7           can be really tough. Attitudinal changes take  
8           time and require a very deliberate approach.  
9           You have to get to the very core of someone's  
10          values or belief systems.

11                        The IFPA's communication campaign  
12          shows that fraud is not a mischievous act; it is  
13          criminal, pure and simple. You may be familiar  
14          with this campaign which uses television's  
15          commercial and roadside billboards to convey the  
16          message.

17                        According to independent research  
18          conducted by the IFPA, Pennsylvanians' attitudes  
19          about fraudulent activity in several types of  
20          insurance are changing, in large measure due to  
21          the communications strategies put in place by  
22          the Insurance Fraud Prevention Authority.

23                        Workers' compensation: In 1997,  
24          25.3 percent of Pennsylvanians said they would  
25          be willing to receive bogus workers'

1 compensation payments. By 1999, that number had  
2 dropped to 15.9 percent.

3 Auto insurance: The number of  
4 Pennsylvanians willing to inflate an auto  
5 accident claim fell dramatically from  
6 12.5 percent to 5.5 percent in that same  
7 time period.

8 Medical insurance, the same story.  
9 About 80 percent of Pennsylvanians said they  
10 review their medical bills for accuracy. Two  
11 years earlier that number was only 70.5 percent.

12 The Insurance Department's  
13 newly-created Office of Consumer Liaison  
14 includes information about insurance fraud at  
15 all of its outreach activities. In addition,  
16 the on-line newsletter encourages consumers to  
17 check their medical bills. The office has held  
18 events in conjunction with other state agencies,  
19 chambers of commerce, advocacy groups and  
20 legislators, in addition to hosting educational  
21 sessions on Medicare Part D and fraud  
22 prevention.

23 Detection and prevention not only is  
24 relevant for dealing with illnesses such as  
25 cancer, but is also applicable to fraud. We

1 will continue our work to educate consumers,  
2 encourage the industry to develop robust fraud  
3 plans and work with law enforcement agencies to  
4 prosecute cases of fraud, with the overarching  
5 goal of detection and prevention.

6 At this time I'd be happy to  
7 entertain any questions from the committee that  
8 you may have.

9 ACTING CHAIRMAN GODSHALL: Going over  
10 the testimony, I guess one of the things that I  
11 would have liked you to have commented on, which  
12 wasn't commented on, was the bills themselves.  
13 If you can and are prepared to do that now, I  
14 would appreciate your comments pertaining to the  
15 bills.

16 MR. GALLAGHER: We specifically did  
17 not include comment on the bills here. We are  
18 still reviewing what the appropriate response is  
19 from the administration on these bills. We do  
20 think fraud is an issue that needs to be  
21 addressed.

22 And your efforts with this five-bill  
23 package clearly lays out some specifics that we  
24 can think about, and maybe there are other  
25 things that we want to share with you, but we

1           can't do it at this time until we have at least  
2           a unified voice from the Administration.

3                         But in looking at those things, there  
4           are some very good ideas that you're putting out  
5           to combat fraud.

6                         ACTING CHAIRMAN GODSHALL: Your  
7           statistics, which are known statistics of  
8           sixty-eight, \$69 million in a given year known,  
9           with how much you don't know is, again, because  
10          this is a hidden crime, so to speak, do you have  
11          a -- You know, we're talking about a heck of a  
12          lot of money here that is going in the people's  
13          hands that should be in the pockets of  
14          consumers.

15                        MR. GALLAGHER: Your comments are  
16          quite correct. In fact, those numbers only  
17          relate to the two lines of insurance that we  
18          talked about, which was auto and workers'  
19          compensation. So you're leaving out many other  
20          property and casualty lines as well as the  
21          health and life fraud. So, you know, one  
22          would -- If you could extrapolate, you would  
23          think that those numbers would be significantly  
24          larger.

25                        And if you used the information

1 earlier in the report where \$30 billion was  
2 indicated in property and casualty fraud  
3 nationally and 70 billion or so -- a hundred  
4 billion or so when you include life and health,  
5 you know, that just makes the case that fraud is  
6 a bigger issue than just -- than what we think  
7 it is, or even what's currently being reported.

8 ACTING CHAIRMAN GODSHALL: Looking at  
9 a number of hundreds of millions of dollars here  
10 in Pennsylvania, that really is coming directly  
11 out of the pockets of our constituents.

12 MR. GALLAGHER: That's right. They  
13 are paying for the cost of fraud in the premiums  
14 that they do pay, there's no doubt about that.

15 We make great efforts in the  
16 Insurance Department when rate filings do come  
17 in to assure that the rate filings are  
18 appropriate, accurate and are good predictors of  
19 the losses that are paid.

20 The problem is, fraud is calculated  
21 in those losses and not -- And it's tough to  
22 find those, but the efforts that are going on  
23 with the Fraud Prevention Authority, which was  
24 created by the General Assembly, and your work  
25 in furthering fraud is going to make it a lot

1 easier for us to see that kind of thing, and  
2 hopefully, it will benefit the consumers who are  
3 actually paying for the cost of fraud in their  
4 premiums.

5 ACTING CHAIRMAN GODSHALL: How many  
6 people in the Department -- And I've been on  
7 this committee for a long time. I know you  
8 don't have a very large department, but how many  
9 people in the Department actually work on the  
10 fraud end of it?

11 MR. GALLAGHER: Well, the Fraud  
12 Division itself has two people devoted solely to  
13 the issue of fraud. However, as I mentioned  
14 earlier, the eyes and ears of the Department are  
15 our Consumer Services operation. We have  
16 40 investigators throughout the state. And  
17 that's one of their jobs; to look for violations  
18 of the law, to assist consumers in whatever  
19 issue that they present to us.

20 We then also have the market conduct  
21 provision which are, for lack of a better term,  
22 our police folks. They go into the companies  
23 and review company records concerning all issues  
24 that are under our regulatory authority,  
25 including the fraud plans that they are required



1 to submit.

2 If we see violations of law, we do  
3 take appropriate action. All of our market  
4 conduct exams are available on the web site, and  
5 we do that for the purposes of getting the word  
6 out to our regulated industry that we take this  
7 kind of stuff seriously.

8 One of -- One of the areas that we do  
9 emphasize in a market conduct is the fraud plans  
10 within the two lines that we have specific  
11 authority to look at.

12 ACTING CHAIRMAN GODSHALL: One of the  
13 things in -- I guess these bills attempt to do  
14 is enhance penalties, and so forth, which  
15 possibly have some deterrent, you know, down the  
16 road if the penalties are severe. With 40  
17 people out there sort of policing millions of  
18 transactions, it's a lot of room for slides and  
19 dives I guess, and so forth, whatever you want  
20 to call it.

21 And I would appreciate directly  
22 dealing with the legislation and where it would  
23 help you. At some later date if you can come  
24 back on that, I would appreciate that. I  
25 appreciate your testimony today.

1                   MR. GALLAGHER: Well, thank you, and  
2 we will do that.

3                   ACTING CHAIRMAN GODSHALL: Are there  
4 any questions?

5                   (No audible response)

6                   ACTING CHAIRMAN GODSHALL: With that  
7 I believe you're excused, sir.

8                   MR. GALLAGHER: Thank you.

9                   ACTING CHAIRMAN GODSHALL: Good  
10 morning. At this time we have the Pennsylvania  
11 Office of the Attorney General, Chief Deputy  
12 Attorney General Julia Hearthway. Julia, it's  
13 all yours.

14                   DEPUTY ATTORNEY GENERAL HEARTHWAY:  
15 Good morning, members of the House Insurance  
16 Committee and members of the House Judiciary  
17 Subcommittee on Crime and Corrections. Thank  
18 you for this opportunity to be present and share  
19 our views on the proposed legislation.

20                   Before discussing the legislation I  
21 would like to provide you with a brief  
22 background on the role of the Insurance Fraud  
23 Section of the Pennsylvania Office of Attorney  
24 General. The Insurance Fraud Section of the  
25 Pennsylvania Office of Attorney General was

1 established in 1995, and is funded through a  
2 grant from the Insurance Fraud Prevention  
3 Authority, or the IFPA.

4 Over the past 11 years, the office  
5 has investigated and prosecuted individuals who  
6 perpetrate schemes seeking to obtain a quick  
7 dollar at the expense of Pennsylvania's  
8 citizens. Since the section's inception, the  
9 office has investigated over 8,500 referrals and  
10 has arrested over 1,200 individuals.

11 The section aggressively pursues  
12 investigations related to fraudulent claim  
13 activity, covering everything from health care  
14 fraud to staged accidents. We have arrested  
15 individuals who were never involved in  
16 accidents, known as jump-ins, patients who never  
17 received treatment, runners who were paid to  
18 bring patients to a medical facility, therapists  
19 who did not treat patients, and doctors who have  
20 billed for medical services that were never  
21 rendered.

22 In addition to conducting such  
23 investigations, the section develops programs to  
24 educate the public and private sector about the  
25 scope of the problem and the cost to

1 Pennsylvania's taxpayers. Our office also  
2 coordinates and cooperates with other law  
3 enforcement and government entities to ensure  
4 that we are combating fraud in the most  
5 efficient and effective manner. Our  
6 collaboration with other agencies is not limited  
7 to Pennsylvania's borders. We work with several  
8 multistate fraud control organizations designed  
9 to closely monitor national trends in this area.

10 We applaud Representative Godshall  
11 for raising awareness about the issue of  
12 insurance fraud and for seeking solutions to  
13 provide us with tools to address this very  
14 serious problem. In the interest of time, I  
15 will not go through every detail of the proposed  
16 legislation, but I will highlight some of the  
17 key provisions. However, the Office of Attorney  
18 General is willing to participate in subsequent  
19 meetings to discuss the legislation in greater  
20 detail and to provide additional suggestions or  
21 changes.

22 House Bill 2814 adds a number of new  
23 offenses to Titles 18 and 75. One of these  
24 changes adds to Section 18, 4177(a)(11) which  
25 makes it a crime for anyone to create, market or

1 present a fake financial responsibility or  
2 insurance identification card with the intent to  
3 deceive. Fake insurance cards are a significant  
4 problem and one that is not specifically  
5 regulated under existing law.

6 We certainly welcome this  
7 modification to Pennsylvania law and believe it  
8 will provide us with an additional tool to  
9 combat insurance fraud. If possible, we would  
10 request a rewording of the language to include,  
11 knowingly creates, markets or presents rather  
12 than the phrase, with the intent to deceive.

13 The inclusion of terms with the  
14 intent to deceive may create an additional  
15 hurdle for prosecutors to overcome since the  
16 court may be compelled to require some elevated  
17 level of proof of the defendant's mindset during  
18 the commission of the crime.

19 We appreciate your recognition of  
20 this loophole in the existing law and would be  
21 pleased to work with you to secure the passage  
22 of this wise proposal.

23 House Bill 2814 also adds another  
24 Section 18, 4117(a)(12) which makes it a felony  
25 of the third degree for anyone to pay a bribe to

1           induce the referral of patients to a health care  
2           facility. This provision is clearly directed at  
3           runners, individuals who are paid to find and  
4           bring patients to a specific doctor or medical  
5           facility.

6                         Although this conduct is currently  
7           prohibited as set forth in 4117(b)(3), it is  
8           graded as a misdemeanor of the first degree. We  
9           would agree that such egregious conduct should  
10          be graded as a felony of the third degree. To  
11          simplify matters, while still accomplishing this  
12          goal, you could amend the existing language in  
13          Section 18, 4117(b)(3). This should also remove  
14          the need to add Section 18, 4117 (a)(13)  
15          edition.

16                        House Bill 2814 also amends Title 75,  
17          the vehicle code, Section 1815 to require auto  
18          insurers to file anti-fraud plans with the  
19          Department of Insurance. The proposed amendment  
20          assesses a penalty of \$500 a day for  
21          noncompliance. It is my understanding that most  
22          insurance companies have developed anti-fraud  
23          plans. However, any efforts that can be made to  
24          strengthen the implementation of the plans and  
25          to increase the referral of suspected fraud

1 would certainly increase our ability to  
2 aggressively prosecute fraud.

3           House Bill 1815 amends the Crime  
4 Victims Act to include the power to advocate for  
5 victims and survivors of traffic accidents. We  
6 agree that victims of crime should have the  
7 support of an advocate and receive the  
8 appropriate services. However, we will defer to  
9 the Office of Victim Advocate and other victim  
10 services providers to comment on what services  
11 they currently provide and what changes or  
12 amendments may be needed.

13           In addition to providing the IFPA  
14 with additional powers, House Bill 2817 adds to  
15 Title 40, Section 325.23 which provides for  
16 forfeiture of the proceeds from insurance fraud  
17 and states that the IFPA shall receive such  
18 funds. It's important to note that the criminal  
19 insurance fraud statute does not currently  
20 contain a forfeiture statute.

21           Providing for the forfeiture of  
22 proceeds from insurance fraud activity is an  
23 excellent idea and we would support the  
24 enactment of such a provision. For consistency  
25 with other criminal statutes, it would be more

1           appropriate to direct the proceeds to the  
2           investigating and/or prosecuting authorities.

3                         House Bill 2818 provides that the  
4           Department of Health shall not issue a license  
5           to a health care provider until it's satisfied  
6           that the applicant has not been convicted of any  
7           crime within the last 10 years. An applicant  
8           for a health care license must also disclose any  
9           arrest for any crime within the past 10 years.  
10          It's essential that the Department of Health has  
11          sufficient information to determine whether or  
12          not someone is appropriate for the receipt of a  
13          license.

14                        We also believe that it is important  
15          to ensure that those who have been convicted of  
16          fraud within the past 10 years shall not receive  
17          the privilege of a license. We are in the  
18          process of reviewing this language and will  
19          consult with the Department of Health to discuss  
20          the matter further and to determine whether the  
21          current language needs to be altered in any  
22          manner.

23                        Attorney General Corbett has made his  
24          primary mission public safety, to promote the  
25          safety of Pennsylvania's citizens, not only



1           their physical safety, but the safety of their  
2           property. The investigation and prosecution of  
3           insurance fraud is a significant part of that  
4           mission. When insurance companies are  
5           defrauded, the cost of insurance premiums is  
6           increased and this increase is passed on to the  
7           consumer. When insurance companies are  
8           defrauded, we are all defrauded.

9                        We stand ready and willing to work  
10           with you on this important issue and appreciate  
11           the opportunity to provide comments on the  
12           proposed legislation.

13                      That concludes my testimony, and I'll  
14           be happy to answer any questions.

15                      ACTING CHAIRMAN GODSHALL: Before any  
16           questions, is there a Mark Reisinger in the  
17           caucus room? (No response.) Apparently there  
18           was a call for him, it wasn't my telephone,  
19           which went off earlier until I turned it off.  
20           That's why I put it actually on the table. I  
21           forgot to disengage it.

22                      But anyway, I appreciate your  
23           testimony. I appreciate your breaking down the  
24           bills in the legislation and your offers of  
25           working with the Department of Health and with

1           our staff here to go over some of the issues  
2           that you brought out.

3                         It's something I think that other  
4           states are looking at cutting back on and  
5           cleaning up. A lot of states such as Florida  
6           are cutting back on what they see as a real  
7           problem down there. We don't really know  
8           exactly how much today the problem is here. We  
9           know we've got a problem and we -- Hopefully,  
10          we'll be able to do something about it. With  
11          your help -- Really with your help it will maybe  
12          get this whole thing packaged together.

13                        I really would hope that the  
14          Insurance Department comes to the plate also  
15          with their recommendation so we can combine this  
16          all into one. I appreciate everything you've  
17          said this morning.

18                        DEPUTY ATTORNEY GENERAL HEARTHWAY:  
19          Thank you. I don't think there's any question  
20          that fraud is an issue in Pennsylvania, and  
21          we'll be more than happy to work with anyone to  
22          combat it.

23                        ACTING CHAIRMAN GODSHALL: Are there  
24          any questions from anybody? Representative  
25          Hennessey.

1                   REPRESENTATIVE HENNESSEY: Thank you,  
2                   Mr. Chairman.

3                   Good morning, Julia. Julia, in the  
4                   beginning of your testimony you said that over  
5                   the last, I think 10 or 11 years your  
6                   department, Attorney General's Insurance Fraud  
7                   Department, has investigated 8500 referrals, and  
8                   yet, only 1200 resulted in arrest.

9                   That seems like a fairly wide  
10                  disparity. Is that because of the difficulty in  
11                  actually getting the details that would be  
12                  necessary to proceed with a prosecution, or is  
13                  something else happening? Are we getting a  
14                  whole lot of referrals that really don't amount  
15                  to anything right from the start?

16                  DEPUTY ATTORNEY GENERAL HEARTHWAY:  
17                  There's several factors, and certainly that's  
18                  one of them. We do receive a lot of referrals  
19                  that don't amount to a criminal fraud case.  
20                  They may be consumer related.

21                  We have a significant number of  
22                  individuals who send in what they think is  
23                  fraud. We work closely with our own Consumer  
24                  Protection Division, obviously, and with the  
25                  Consumer Office of the Department of Insurance.

1           So a good portion, at least a percentage of  
2           those referrals are then referred to a  
3           consumer-based group to help people.

4                       There are referrals that we receive  
5           from the insurance industry that are suspicious,  
6           that raise what is known in the insurance  
7           industry as red flags. But they do not amount  
8           to evidence of a criminal, beyond-a-reasonable-  
9           doubt crime that could be proven in a court of  
10          law, and those are declined.

11                      Our office also focuses -- A fair  
12          amount of our cases are significant in size,  
13          which takes up investigative resources which  
14          amounts to a portion of that 1200. We do look  
15          at every referral that comes into our office.  
16          We review every referral. We perform an  
17          investigation. Some lend itself to greater  
18          investigation than others.

19                      But the actual coming to the point  
20          where we make a criminal felony conviction on a  
21          case, it's about the average.

22                      REPRESENTATIVE HENNESSEY: I'm sorry.  
23          Did you say --

24                      DEPUTY ATTORNEY GENERAL HEARTHWAY:  
25          It's about the average. When we receive an

1           influx of referrals we have to weed through them  
2           as to what warrants, first of all, a criminal  
3           investigation. Then once we start the criminal  
4           investigation, whether we have enough evidence  
5           to go forward with an arrest and a prosecution,  
6           that breaks down to about 1200 out of 8500.

7                         REPRESENTATIVE HENNESSEY: And that's  
8           over a 10 or 11-year period?

9                         DEPUTY ATTORNEY GENERAL HEARTHWAY:  
10          Yes, sir.

11                        REPRESENTATIVE HENNESSEY: Of the  
12          1200 arrests that have been made, how many have  
13          resulted in successful prosecutions and  
14          convictions of something?

15                        DEPUTY ATTORNEY GENERAL HEARTHWAY:  
16          Almost all of them. I did not calculate the  
17          percentage, but it's well, 95, 98 percent  
18          conviction rate. It's very high.

19                        REPRESENTATIVE HENNESSEY: Okay.  
20          Congratulations on that.

21                        Now, if I could turn to House Bill  
22          2817, that's the provision -- or adds a  
23          provision to the law that would authorize the  
24          IFPA to retain or accept monies that were  
25          forfeited through the criminal process, criminal

1 prosecution process, currently, what happens to  
2 that money?

3 DEPUTY ATTORNEY GENERAL HEARTHWAY:

4 There's not a current forfeiture provision.  
5 It's not as in the drug act where there's a  
6 statute providing for forfeiture, so there would  
7 have to be enabling statute to go along with  
8 that. But actually --

9 REPRESENTATIVE HENNESSEY: It seems  
10 to me that -- I'm sorry. As I look at the  
11 language, it simply authorized the IFPA to  
12 accept that money, but it doesn't have any  
13 specific language creating the forfeiture. I  
14 didn't know whether that fell under a general  
15 provision of the law that applies to criminal  
16 conduct generally.

17 DEPUTY ATTORNEY GENERAL HEARTHWAY:

18 There is the common law forfeiture, but it would  
19 be a tremendous benefit to law enforcement if  
20 there was a statute providing for --  
21 specifically providing for forfeiture of  
22 proceeds from insurance fraud, and then the  
23 proceeds of that going to the prosecuting  
24 authority, but it would need the underlying  
25 statute to work.

1                   REPRESENTATIVE HENNESSEY: So we need  
2 to do additional statute to create that specific  
3 grant authority?

4                   DEPUTY ATTORNEY GENERAL HEARTHWAY:  
5 Right.

6                   REPRESENTATIVE HENNESSEY: Thank you.  
7 Thank you, Mr. Chairman.

8                   ACTING CHAIRMAN GODSHALL: Thank you.  
9 Are there any other questions? Representative  
10 Wright.

11                   REPRESENTATIVE WRIGHT: Thank you.  
12 I'm kind of lost between the two testifiers.

13                   What kind of a general sense would  
14 you say is some sort of a proportion of the  
15 amount of fraud that's out there? And you  
16 may -- If you can't -- It's hard to put a number  
17 because it's alleged fraud, but do you have an  
18 easy, quick estimate of what potential fraud is?

19                   DEPUTY ATTORNEY GENERAL HEARTHWAY:  
20 That is an exceptionally difficult figure. I  
21 can tell you that we've prosecuted over  
22 1200 individuals. I can tell you that we have  
23 over a thousand referrals a year and from those  
24 we derive our prosecutions. I know and I have  
25 read countless studies that estimate the amount

1 of fraud. They vary widely.

2 I've talked to the industry on a  
3 weekly basis, if not a daily basis. Anecdotally  
4 I can tell you that it's everywhere. It exists  
5 with an individual who you would not normally  
6 think would commit a crime. They have an  
7 opportunity and they decide, let me pad this  
8 claim. I could use an extra 500 or a thousand  
9 dollars.

10 It ranges from that all the way up to  
11 very sophisticated medical mills that are  
12 running a million-dollar business all based on  
13 fraud, and everything in between.

14 To put a number on that, I cannot  
15 honestly give you that figure. And it is  
16 something I think that, perhaps, we can work at  
17 trying to get a better handle on the type of  
18 fraud. It truly is a hidden crime and the first  
19 step is uncovering it. And we need to work with  
20 the industry to further detect fraud and refer  
21 fraud.

22 There's no doubt in my mind if the  
23 detection abilities were increased, the  
24 referrals that would lead to successful  
25 prosecutions would also be increased. I wish I



1           could give you a definitive number. I can only  
2           cite you studies. And honestly, I cannot vouch  
3           for how accurate it is because everyone makes an  
4           estimate on this type of fraud.

5                         REPRESENTATIVE WRIGHT: One last  
6           question. Various types of insurance, we have  
7           auto insurance, health care insurance,  
8           homeowners, life insurance, things like that,  
9           business insurance, which types of insurance  
10          would you say would have the largest proportion  
11          of fraud that is estimated?

12                        DEPUTY ATTORNEY GENERAL HEARTHWAY: I  
13          can tell you our office receives primarily auto  
14          insurance fraud cases. I think that they're,  
15          perhaps, easier to detect in some respects which  
16          may be why we receive more of them. You have an  
17          auto accident, it often involves the police. So  
18          you have law enforcement engaged in a very early  
19          stage, but our largest category of referrals is  
20          from the auto industry.

21                        Second to that would be workers'  
22          compensation referrals. Very close to that is  
23          health care fraud referrals. And sometimes it's  
24          a little hard to distinguish between auto and  
25          health care. Because you're involved in an auto

1 accident, you claim injuries, you go to a health  
2 care provider, it spans both lines.

3 But if you were to ask the top three  
4 lines of insurance that I see the most fraud in,  
5 it would be auto first, then workers' comp, then  
6 health care.

7 REPRESENTATIVE WRIGHT: Thank you.

8 DEPUTY ATTORNEY GENERAL HEARTHWAY:  
9 I'm sorry, just to clarify. That's in sheer  
10 numbers of actual incidents. The dollar value  
11 varies as well. Health care because it has a  
12 significant price tag attached to it sometimes  
13 can have a higher dollar value.

14 ACTING CHAIRMAN GODSHALL:

15 Representative Melio.

16 REPRESENTATIVE MELIO: Julia, how  
17 many people do you have in the Insurance Fraud  
18 Section? How many employees?

19 DEPUTY ATTORNEY GENERAL HEARTHWAY: I  
20 have a staff of 40 individuals; 22 agents,  
21 nine attorneys, and the rest comprise our  
22 support staff. And that covers the entire  
23 state.

24 REPRESENTATIVE MELIO: Do you think  
25 that's enough?

1 DEPUTY ATTORNEY GENERAL HEARTHWAY:

2 It's never enough. We can always use more.

3 REPRESENTATIVE MELIO: Thank you, Mr.  
4 Chairman.

5 ACTING CHAIRMAN GODSHALL: Sean  
6 Harris.

7 MR. HARRIS: In your testimony you  
8 had mentioned that you want to stay consistent  
9 with current statutes as far as forfeiture  
10 procedures are concerned. My question is, would  
11 your office have a problem with maybe  
12 subdividing some of that money up for a fraud  
13 authority itself for the purpose of increasing  
14 the reward possibilities for anyone who does  
15 report fraud to the authority?

16 DEPUTY ATTORNEY GENERAL HEARTHWAY: I  
17 think that's definitely something we can look  
18 into. We want to utilize these funds in the  
19 most economical way possible, and we would be  
20 more than happy to sit down with the IFPA, with  
21 any member here, the Insurance Department, and  
22 try to figure out the best avenue to utilize  
23 those funds.

24 MR. HARRIS: Would you agree that  
25 that's possibly a good goal for us to help

1           increase the awareness by providing greater  
2           rewards to maybe give that incentive to help cut  
3           down on fraud?

4                         DEPUTY ATTORNEY GENERAL HEARTHWAY: I  
5           think it has a certain deterrent effect. I  
6           think in that regard the IFPA has done a  
7           masterful job with their television ads and  
8           billboards. I think they've created -- I've  
9           heard anecdotally from insurance companies that  
10          certain people have not lied to them and they've  
11          cited the ad. So I think having posters and  
12          constant awareness is very helpful.

13                        A reward program can be helpful. It  
14          can also flood us with people looking for the  
15          reward more than they are reporting a crime. So  
16          it's, again, something we would like to work  
17          with the wording on that, the extent of it. It  
18          can sometimes --

19                        Representative Hennessey had talked  
20          about the referrals. It takes a great deal of  
21          manpower to go through these referrals. The  
22          better the quality of those referrals, the more  
23          we can prosecute. I wouldn't want to see that  
24          deteriorate with a huge reward system.

25                        MR. HARRIS: Thank you. Thank you,

1 Mr. Chairman.

2 ACTING CHAIRMAN GODSHALL: Thank you,  
3 Julia. We will be in touch, and please continue  
4 to be in touch with us.

5 DEPUTY ATTORNEY GENERAL HEARTHWAY:  
6 Thank you.

7 ACTING CHAIRMAN GODSHALL: We  
8 appreciate your testimony.

9 Next we have Pennsylvania Insurance  
10 Fraud Prevention Authority represented by Roy A.  
11 Miller, Executive Director.

12 MR. MILLER: Thank you very much.  
13 Good morning. I want to thank the committee for  
14 allowing the Pennsylvania Insurance Fraud  
15 Prevention Authority, the IFPA, to respond to  
16 some of the proposed legislation set forth in  
17 House Bills 2814 through 2818.

18 Before I comment on the legislation,  
19 though, I want to give the committees a little  
20 background on the IFPA. As you are aware, the  
21 IFPA is a state authority created by legislation  
22 in 1994. Our statute is currently embedded in  
23 the Insurance Department Act of May 17, 1921  
24 under Article 11.

25 The purpose of IFPA is to establish,

1           coordinate and fund activities in the  
2           Commonwealth to prevent, combat and reduce  
3           insurance fraud, to improve and support  
4           insurance fraud law enforcement and  
5           administration, and to improve and support  
6           insurance fraud prosecutions.

7                         The IFPA is also responsible to  
8           assess the scope of the insurance fraud problem;  
9           develop and sponsor the implementation of  
10          statewide plans, programs and strategies to  
11          combat insurance fraud; improve the  
12          administration of insurance fraud laws, provide  
13          a forum for identification of critical problems  
14          for those persons dealing with insurance fraud;  
15          and finally, to audit at its discretion the  
16          plans and funded programs to evaluate their  
17          effectiveness. That's a mouthful.

18                        The funds to support our programs  
19          come from an assessment on the insurance  
20          industry. No public funds are used to support  
21          our programs. The funds support our statewide  
22          criminal investigative and prosecutorial units,  
23          an aggressive and nationally-respected public  
24          awareness program, and training for our law  
25          enforcement and insurance industry.

1                   Besides funding the Attorney  
2           General's Insurance Fraud Section and the  
3           Philadelphia District Attorneys Insurance Fraud  
4           Unit, the authority also funds smaller units  
5           that support 22 district attorneys'  
6           investigative and prosecutorial offices. We  
7           also fund several police departments and provide  
8           funding for the state police fire marshals. Our  
9           funded units are able to investigate and  
10          prosecute all types of insurance fraud, wherever  
11          they may occur in the Commonwealth.

12                   To run all our programs the IFPA  
13          assesses the industry for FY '06-07  
14          \$10.3 million. Nine point one million of those  
15          funds support our investigative/prosecutorial  
16          effort. The rest of the funds support our  
17          public awareness program and our administrative  
18          expenses.

19                   I want to thank Representative  
20          Godshall and the House members that supported  
21          these bills for taking the initiative to  
22          strengthen our insurance fraud laws. The  
23          insurance fraud experts in the industry and law  
24          enforcement tell us that the insurance fraud  
25          problem in Pennsylvania is significant.

1                   Over the years a lot of numbers on  
2                   the extent of the problem have been published by  
3                   various organizations. More recently, McKinsey  
4                   and Company provided fraud estimates to the  
5                   chief executive officers of the largest property  
6                   casualty companies, the PC companies. That got  
7                   their attention.

8                   The industry reported that the PC  
9                   industry pays out approximately 30 billion  
10                  annually in fraud claims, while industry-wide  
11                  earnings were only \$20 billion. These were  
12                  sobering numbers to the executives of for-profit  
13                  companies. Most of the studies are not  
14                  Pennsylvania specific.

15                  However, in a 2004 study released by  
16                  the Insurance Research Council on fraud and  
17                  buildup in auto claims, they reported for  
18                  Pennsylvania that eight percent of the bodily  
19                  injury, BI claims contained the appearance of  
20                  fraud, and 15 percent contained the appearance  
21                  of buildup. Regardless of what numbers are used  
22                  they are all significant.

23                  But the problem with insurance fraud  
24                  isn't just the dollar losses. Insurance fraud  
25                  is a social corruption that eats away at our



1 society and institutions. For many, it is a  
2 gateway crime.

3 Too many Pennsylvanians make the bad  
4 decision to cross the line and commit insurance  
5 fraud, and in Pennsylvania it is a felony  
6 violation. These criminals are, for the most  
7 part, honest human beings who would no more  
8 think to reach across the counter in a  
9 convenience store to take money from an open  
10 cash drawer, but are more than willing to cheat  
11 their insurance company. This then becomes a  
12 crime we all pay for. Like shoplifting,  
13 insurance fraud is passed on to the consumer.

14 The House bill that directly affects  
15 the IFPA is House Bill 2817. The proposed  
16 changes would create a health care reward  
17 program administered by the IFPA, and as  
18 drafted, calls upon the IFPA to require health  
19 care organizations to place reward posters in  
20 each facility.

21 The difficulty with this provision as  
22 drafted lies in the fact that the IFPA is not  
23 designated an enforcement or regulatory agency.  
24 The IFPA does not have the authority to require  
25 that health care providers should do anything.

1           That, I believe, would rest with the state  
2           agency that regulates and licenses these  
3           entities.

4                       The proposed legislation would  
5           provide for a 25,000-dollar reward for reporting  
6           information leading to the arrest and conviction  
7           of insurance fraud. The IFPA has a reward  
8           program in place for our funded units for  
9           rewards up to \$10,000 for the arrest and  
10          successful prosecution of all types of insurance  
11          fraud. Our law enforcement partners make the  
12          initial determination and recommendation to the  
13          board of directors, and the board of directors  
14          approves or modifies the proposal. Exceptions  
15          to this reward program can always be made on a  
16          case-by-case basis.

17                      The operative words for our reward  
18          program are, up to. The up to 10,000-dollar  
19          reward is realistic considering that the vast  
20          majority of prosecutions are frauds with victim  
21          losses under \$10,000. This would also apply to  
22          some of our health care frauds.

23                      Health care fraud referrals to our  
24          investigative/prosecutorial units are not, for  
25          the most part, high-dollar losses. It would not

1           be good stewardship of the funds to  
2           automatically offer a reward that was higher  
3           than the actual victim loss. That is why we  
4           would recommend that language similar to our  
5           program be adopted.

6                         The other proposed change in  
7           d.1 relates to the forfeiture proceedings. The  
8           IFPA appreciates the committee's intent to help  
9           defray, through forfeiture, what could be  
10          significant costs for this reward program.  
11          Currently, there are no forfeiture provisions in  
12          the insurance fraud statute, Title 18, Section  
13          4117. If the committees wish to add forfeiture  
14          to the statute, and assuming the statute lends  
15          itself to a forfeiture provision, we believe it  
16          would be counter-productive to not allow the  
17          initiating law enforcement agency to retain the  
18          forfeited funds.

19                        Forfeiture can be a time-consuming  
20          process. If law enforcement does not see a  
21          reward for their efforts, they may not use this  
22          very powerful tool. The reward program funding  
23          may have to come from some other source.

24                        House Bill 2814 does not directly  
25          apply to the IFPA. However, some of the changes

1 do apply to our overall mission. Our law  
2 enforcement partners, insurance industry, and  
3 the Insurance Department are better prepared to  
4 respond to the specifics as to how the changes  
5 can be applied under the law.

6 From an overall perspective, anything  
7 that strengthens the law and improves the  
8 prosecution of staged accidents, counterfeiting  
9 of financial responsibility cards, and the  
10 runners who contribute to the above frauds is  
11 positive.

12 Our law enforcement groups have  
13 charged staged accident rings and counterfeit  
14 financial responsibility violations under the  
15 current law; however, perhaps some specific  
16 language may benefit their efforts. As for the  
17 recommended language in Section 1(a)(9-13), I  
18 will defer to our law enforcement experts.

19 The 60-day confidentiality provisions  
20 for police accident reports with the stated  
21 exemptions could help reduce the activity by  
22 unscrupulous persons from obtaining reports and  
23 coercing accident victims to file false or  
24 inflated medical and liability claims.

25 In summary, the supporters of this

1 proposed legislation are to be applauded for  
2 their initiative. The IFPA and our law  
3 enforcement partners are available to assist the  
4 committees in their efforts to create a better  
5 fraud-free environment for the Commonwealth.

6 Thank you, and I'll entertain any  
7 questions you may have.

8 ACTING CHAIRMAN GODSHALL: I  
9 appreciate your comments. I just wanted to ask  
10 you specifically--The pages aren't numbered  
11 here--pertaining to House Bill 2817, the end of  
12 that, just before House Bill 2814, you were  
13 talking about forfeiture there.

14 MR. MILLER: Yes.

15 ACTING CHAIRMAN GODSHALL: What would  
16 your thoughts be, as mentioned by Mr. Harris  
17 earlier, about sharing?

18 MR. MILLER: I would have no problem  
19 with that. But again, I think it's important  
20 for our law enforcement partners to be involved  
21 in that discussion. As I said, forfeiture can  
22 be a very time-consuming process. It's a very  
23 powerful tool. It's one that I think our law  
24 enforcement organizations would be very grateful  
25 to have.

1                   Again, the sharing aspect of it,  
2                   again, if the Attorney General is agreeable to  
3                   that, I would imagine that the D.A.'s offices  
4                   would also support it. But again, they have to  
5                   receive -- have to understand that they're going  
6                   to receive some benefit from the time it takes  
7                   for them to process these forfeiture actions.

8                   So, I think it's a doable plan. And  
9                   again, it would certainly help support some of  
10                  the costs that may be incurred with this reward  
11                  program.

12                  ACTING CHAIRMAN GODSHALL: Another  
13                  question I have. On the reward end of it, this  
14                  was taken really, again, from Florida where they  
15                  had some real expensive fraud initiatives that  
16                  were involved down there. Possibly what we  
17                  could do, as you say up to 10,000, we could up  
18                  that to up to whatever and not choose; just  
19                  taking out that -- providing a blanket number or  
20                  making up to, making that a little bit  
21                  arbitrary.

22                  MR. MILLER: That would work. That  
23                  would definitely work, because it leaves it up  
24                  to the discretion of the enforcement groups to  
25                  determine what the amount should be based on

1 the --

2 ACTING CHAIRMAN GODSHALL: I agree.  
3 I would agree that if there's a fraud case of,  
4 say, \$10,000, a 10,000-dollar reward is just --  
5 is heavy --

6 MR. MILLER: A little impractical,  
7 yes.

8 ACTING CHAIRMAN GODSHALL: But I  
9 think there's a lot in here that we can work on,  
10 again, with your efforts and your expertise.

11 How many people do you have in your  
12 IFPA that actually works on fraud on a  
13 continuous basis?

14 MR. MILLER: Well, keep in mind we're  
15 a funding mechanism. We're not operational. We  
16 don't have anybody that's directly associated  
17 with my organization that does the fraud work.  
18 I only have three other people in my office that  
19 actually run the insurance fraud and the auto  
20 theft prevention authorities. The rest are our  
21 grantees. We have 48 and a half investigators  
22 and over 18 prosecutors statewide that are  
23 currently funded by that 9.1 million-dollar  
24 assessment.

25 ACTING CHAIRMAN GODSHALL: Any

1 questions from any members of the committee?

2 Representative Hennessey.

3 REPRESENTATIVE HENNESSEY: Thank you,  
4 Mr. Chairman.

5 Mr. Miller, you reported that the  
6 McKinsey report identified about \$30 billion in  
7 fraudulent claims. I guess that's across the  
8 country?

9 MR. MILLER: Yes, and that's property  
10 casualty only.

11 REPRESENTATIVE HENNESSEY: Right.  
12 Industry-wide earnings were \$20 billion for  
13 those companies. Have you had a chance to  
14 review that study? That seems like a staggering  
15 statistic.

16 We read about insurance company  
17 executives being paid millions and millions of  
18 dollars to oversee their industry, and yet, that  
19 report would seem to show that somebody is  
20 sleeping pretty routinely at the switch if  
21 they're actually losing that kind of money. Are  
22 those figures realistic at all?

23 MR. MILLER: Well, it woke up the  
24 executive level. And I'll tell you, quite  
25 frankly --



1                   REPRESENTATIVE HENNESSEY: As many  
2 million dollars that they're paying them --

3                   MR. MILLER: Right.

4                   REPRESENTATIVE HENNESSEY: -- they  
5 shouldn't have been asleep.

6                   MR. MILLER: This was a wake-up call  
7 for them. And what it's created is the Chief  
8 Claims Operating Roundtable, which is the direct  
9 reports to the executive level have been tasked  
10 by the executives to go out and do something  
11 about this figure at a national level.

12                   And as you are probably aware,  
13 nationally, there's a lot of organizations that  
14 are involved in this fraud effort, insurance  
15 fraud effort. And what they're trying to do is  
16 coordinate and bring together these groups into  
17 one organization that's focused and directed at  
18 the national level. So, that was a very telling  
19 figure to them.

20                   For years we've been telling them and  
21 they've listened to the various numbers that  
22 have been bandied around, and this organization  
23 here and you folks have heard a lot of these  
24 numbers. Again, how accurate they are, I think  
25 a lot of it is based on substan -- you know,

1           just guesswork, professional guesswork on their  
2           part.

3                         It's awfully hard, as Julia said, to  
4           get a handle on the actual fraud. But the 30  
5           billion-dollar figure seems to be a figure  
6           that's been used also by the Insurance  
7           Informational Institute, which also does  
8           research, as well as the IRC, which is the  
9           Insurance Research Council.

10                        And these organizations do a lot of  
11           the studies that I cited here, and it's based on  
12           the review of claims filed, and a percentage of  
13           those files that have the appearance of fraud.  
14           Keep in mind, just because it has the appearance  
15           of fraud, it doesn't mean it's fraudulent.

16                        REPRESENTATIVE HENNESSEY: Thank you.

17                        ACTING CHAIRMAN GODSHALL: Are all  
18           lines of insurance really reported to you? Do  
19           you cover the whole spectrum?

20                        MR. MILLER: No, we don't, not in  
21           Pennsylvania. Pennsylvania only has the auto  
22           and a portion of the workers' comp that's  
23           reported, and that's why you see in the numbers  
24           that are reported by the Attorney General's  
25           Office, and that's pretty much consistent with

1 the total numbers that we get in from all of our  
2 units, that the auto and the workers' comp are  
3 the two areas that we get the majority, the vast  
4 majority of our referrals.

5 The rest of the lines are not  
6 required or mandated to report in Pennsylvania,  
7 which is unlike most of the states around here  
8 in the northeast regional area. Just about all  
9 of the states in the northeast have that  
10 requirement of all lines reporting.

11 ACTING CHAIRMAN GODSHALL: On the  
12 other lines, are they assessed monies to cover  
13 this?

14 MR. MILLER: Yes, they are. Anybody  
15 who writes in Pennsylvania regardless of what  
16 line they write is assessed.

17 Now, the health care industry  
18 cleverly negotiated a deal so they only pay 10  
19 percent of the total assessed amount. And the  
20 reason they did that is, their premiums in the  
21 state are so significant that it would have been  
22 out of -- off the wall in the amount of monies  
23 that they would have been assessed. So they did  
24 negotiate back when we started this legislation  
25 that they only pay

1 10 percent of the total assessment.

2 But, all lines do get assessed here  
3 in Pennsylvania if they write in Pennsylvania.

4 ACTING CHAIRMAN GODSHALL: But we  
5 only have partial reporting, which is --

6 MR. MILLER: That's correct.

7 ACTING CHAIRMAN GODSHALL: Usually  
8 most other states have full reporting.

9 MR. MILLER: Yes, they do. Yes.

10 ACTING CHAIRMAN GODSHALL: That's  
11 possibly also something that should be looked  
12 at --

13 MR. MILLER: I would think so.

14 ACTING CHAIRMAN GODSHALL: -- in this  
15 legislation?

16 MR. MILLER: Yes.

17 ACTING CHAIRMAN GODSHALL: Well, I  
18 thank you very much. I have a one-page letter  
19 to read here, I was asked to read by somebody  
20 who couldn't be here. It will take a couple  
21 minutes.

22 But again, thank you, Mr. Miller --

23 MR. MILLER: You're welcome.

24 ACTING CHAIRMAN GODSHALL: -- for  
25 your being here today.

1                   This was addressed to myself.

2                   "On behalf of the 1400 independent  
3                   insurance agencies of the Insurance Agents and  
4                   Brokers of Pennsylvania, I'm writing to offer  
5                   comments on the package of bills, House Bills  
6                   2814 through 2818, that are the subject of the  
7                   committee's August 29 public hearing. We  
8                   apologize that, due to a scheduling conflict, we  
9                   will be unable to offer testimony at that  
10                  hearing and respectfully offer these comments in  
11                  place of testimony.

12                  "In general, IA&B strongly supports  
13                  strengthening Pennsylvania insurance fraud laws.  
14                  We have seen evidence of fraud from auto rate  
15                  evasion to abuse of the independent contractor  
16                  status under workers' comp. Insurance fraud is  
17                  a problem that adds to the cost of premiums for  
18                  all insurers and consumers. Accordingly, IA&B  
19                  supports House Bills 2814 through 2818 with one  
20                  exception.

21                  "House Bill 2814 limits access to  
22                  auto insurance policy reports for 60 days  
23                  following an auto accident. Obtaining the  
24                  necessary information from police reports  
25                  following an auto accident has become a

1 significant problem for independent insurance  
2 agents and their clients. Insurance agents need  
3 quick access to basic auto accident information  
4 such as the names of the parties involved, their  
5 insurance policy numbers, et cetera.

6 "Insurance claims cannot be processed  
7 without this information, resulting in delayed  
8 claim payments and hardships for auto accident  
9 victims who cannot even rent a car until their  
10 insurance claim is processed.

11 "A recent survey of IA&B membership  
12 showed that nearly 60 percent reported having  
13 difficulty obtaining basic information from the  
14 police following an auto accident. Survey  
15 results attached. Needless to say, a 60-day  
16 freeze on this information will exacerbate this  
17 problem.

18 "While some insurance-related  
19 entities are exempted from the 60-day  
20 confidentiality period, it can be argued that  
21 these exemptions do not extend conclusively or  
22 clearly to insurance agents. Accordingly, IA&B  
23 urges the committee to consider an amendment to  
24 HB 2814 to specifically list licensed insurance  
25 producers among the list of exempted parties

1           under paragraph 6828(b). Inclusion of license  
2           insurance producers on the list of exempted  
3           parties will remove a potential barrier for the  
4           insurance agents in assessing vital auto  
5           insurance information quickly.

6                         "Thank you for considering the views  
7           of Pennsylvania's independent insurance agent  
8           community."

9                         So that was testimony presented in  
10          writing, which I want to make part of and was  
11          asked to read here. We will look at that  
12          situation as they asked us to do.

13                        At this point, if there are no other  
14          comments or whatever, the meeting is adjourned,  
15          and I thank you very much for you participating,  
16          the people that came out here today. Thank you.

17                        (AT or about 11:10 a.m., the hearing  
18          concluded.)

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C E R T I F I C A T E

I, Karen J. Meister, Reporter, Notary  
Public, duly commissioned and qualified in and  
for the County of York, Commonwealth of  
Pennsylvania, hereby certify that the foregoing  
is a true and accurate transcript of my  
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This certification does not apply to  
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Dated this 8th day of September, 2006.

Karen J. Meister - Reporter  
Notary Public

My commission  
expires 10/19/06