New Mexico
Public Regulation Commission
Division of Insurance
Insurance Fraud Bureau

SECOND ANNUAL REPORT

TO: Chairman Bill Pope, Public Regulation Commission
   Vice-Chairman Herb H. Hughes, Public Regulation Commission
   Commissioner Jerome D. Block, Public Regulation Commission
   Commissioner Lynda M. Lovejoy, Public Regulation Commission
   Commissioner Tony Schaefer, Public Regulation Commission
   Jack Hiatt, Chief of Staff, Public Regulation Commission
   The Legislature of the State of New Mexico
   The Citizens of the State of New Mexico

FROM: D. J. (Don) Letherer
       Superintendent of Insurance

DATE: December 15, 2000

RE: Second Annual Report of the New Mexico Insurance Fraud Bureau

THE FRAUD BUREAU

The Insurance Fraud Bureau is a part of the New Mexico Division of Insurance, which is a division of the New Mexico Public Regulation Commission. The Insurance Fraud Act which established the Bureau took effect in 1998. The Act states that the Superintendent shall maintain records and information in order to produce an annual report of his activities
undertaken in connection with carrying out the provisions of the Insurance Fraud Act.

**MISSION STATEMENT**

The purpose of the Act, as stated by the Legislature, is also the mission statement for the Bureau: to permit the full utilization of the expertise of the Superintendent to investigate and detect insurance fraud more effectively, to halt insurance fraud, and to work with state, local, and federal law enforcement and regulatory agencies against the commission of insurance fraud.

The Bureau is a state-wide criminal investigation and prosecution office that is working with every facet of the insurance business in New Mexico, including consumers, insurance companies, insurance agents, professional insurance groups, and all law enforcement agencies.

**PERSONNEL**

The Bureau has seven full-time employees. The Director is a former elected prosecutor who has spent 25 years fighting fraud. The Administrative Secretary/Insurance Specialist has seven years experience with the Division of Insurance, including agent and company licensing, title insurance, and legal.

The First Assistant Prosecutor is one of the most distinguished prosecutors in the state, with 25 years prosecuting every type of crime. The Assistant Prosecutor has excellent prosecutorial experience, and is a former insurance attorney.
The Chief Special Agent is a former Santa Fe Police Department detective, with experience in white collar crime investigation. The two Special Agents have a combined 15 years experience with the Santa Fe County Sheriff’s Office and the Albuquerque Police Department. All three are certified peace officers.

**CROSS-DESIGNATION OF PROSECUTOR**

In an unprecedented demonstration of state and federal cooperation, the United States Attorney’s Office for the District of New Mexico has designated the First Assistant Prosecutor of the Bureau as a Special Assistant United States Attorney. This is the first time that this has occurred in a state fraud bureau in the nation.

**FURNITURE AND EQUIPMENT**

The first investigator’s vehicle has been placed in service. Two more are on order. The Bureau moved into its offices in 1999, and is fully operational.

**AUTOMATED SYSTEMS**

All of the initial computer equipment has been procured and is operational. The National Crime Information Computer is online in the offices of the Bureau. The case management system is installed and operational. The Bureau is an active member of the National Insurance Crime Bureau’s automated reporting system, as well as being a subscriber to several other law enforcement and insurance fraud related databases.
CASES IN JUDICIAL SYSTEM

The Bureau began taking cases in late 1998. The first arrest was made in mid-1999. The following cases, reported in chronological order, are currently in the state judicial system:

• **State v. Petra Peters**: Convicted. Embezzlement of insurance agency client’s funds via overpayment of premiums. Judge Frank H. Allen of the Second Judicial District Court in Albuquerque sentenced the Albuquerque woman to 14-1/2 years in prison, suspended. The Defendant pleaded guilty to charges of Fraud over $20,000, Fraud over $2,500, Fraud over $250, and Attempt to Evade or Defeat Tax. Peters was ordered to pay restitution of $42,000, including $25,000 to the Manual Lujan Agency and $5,000 to NM Taxation and Revenue Department.

• **State v. George Casey, Jr.**: Charged by information in 68 felony counts. Embezzlement of client and insurance company funds and fraud by insurance professional. The Defendant has agreed to plead guilty to 4 felony counts and make restitution in this and the companion case. Motions for Extension of Time were filed in the Supreme Court of New Mexico for his delayed plea hearing in Roswell.

• **State v. George Casey, Jr.**: Indicted. 49 felony counts of Fraud and forgery by insurance professional in Clovis. Companion case to above.

• **State v. Kim Hayes**: Convicted. Pre-prosecution probation. Embezzlement of insurance company funds via false claims by insurance professional in Las Cruces.

• **State v. Tom Badgett**: Indicted. Embezzlement of client’s and insurance company’s funds and fraud by insurance professional. Arrangements were completed for Public Defender representation of the Las Cruces insurance agent charged with one felony count of Fraud and 40 felony counts of Embezzlement. Badgett was arrested in Everett, Washington, by the FBI after an Unlawful Flight to Avoid Prosecution warrant was issued by the U.S. Attorney upon request of the Fraud Bureau.

• **State v. Estella Florez**: Convicted. Pre-prosecution probation. Forgery to obtain disability benefits by a non-insurance professional in Carlsbad.
• State v. William C. Pilley: Convicted. Probation. He was charged with three misdemeanor counts of Forged Evidence for issuing three false temporary insurance cards in Hobbs.

• State v. Dalrey Doyle: Indicted. He is accused of committing three counts of Embezzlement for stealing commission checks from a licensed agent of Guarantee Life Insurance whom he supervised. After a preliminary hearing, Doyle, of Carlsbad, was bound over for trial on three counts of Embezzlement. A trial date has not been set.

• State v. Javier Hernandez: Indicted. The Defendant, a former insurance agent from Anthony, licensed in New Mexico and Texas, was indicted in Las Cruces for defrauding a Sunland Park resident. The Defendant has not been located and there is a bench warrant out for his arrest.

• State v. John L. Montoya and Nora A. Montoya. Indicted. The Defendants, former Albuquerque insurance agents, were indicted in Santa Fe for 4 counts of Forgery and 1 count of Conspiracy for lying to the Division of Insurance about completion of their continuing education requirements. A trial date has not been set.

• State v. Lorraine Bartulucci Barth: Indicted. She was accused by an Albuquerque Grand Jury for Filing a False Insurance Claim. A trial date has not been set.


**CASES DISPOSED OF**

The Bureau has disposed of 107 cases, including approximately 60 cases in the last 12 months. The cases were disposed of for the following reasons:

• Referral to a more appropriate governmental agency;

• Referral to the Division of Insurance civil investigators;

• Closure because, upon investigation, no crime had been committed;

• Inactivity pending additional information from insurer special investigative unit;
- Closure because, upon investigation, there existed insufficient evidence to charge a crime;
- Closure because the statute of limitations had run at the time the case was referred to the Bureau;
- Closure because, upon investigation, it was discovered that there existed no proper jurisdiction; and
- Referral to the PRC Consumer Relations Division.

**CASES UNDER INVESTIGATION**

There are over 100 cases under active investigation by the Bureau, including 3 that were initiated in 1998, 27 that were initiated in 1999, and over 70 that were initiated in 2000. As one can readily see, the caseload is snowballing, based upon the recognition of the IFB by the public, law enforcement agencies, prosecution offices, and the insurance industry. The cases under investigation include:

- Fraud by non-insurance professional against insurer and insured;
- Fraud by insurance professional against insurer and insured;
- Claims fraud by non-insurance professional against insurer;
- Forgery by a non-insurance professional;
- Forgery by an insurance professional;
- Unauthorized entity;
- Title insurance fraud;
- Insurance investment fraud;
- Insurance professional defrauding insurer;
• Insurance professional defrauding insurer and insurance agency; and
• Health care professional defrauding insurer and insured.

The Bureau is actively involved in several important insurance fraud investigations involving the FBI, the U. S. Justice Department, and several other states, where the largest amount of monies defrauded is in excess of $16 million.

OUTREACH

The Bureau has worked with the following groups and entities, among others, by giving speeches, trainings, or by becoming a member of the organization, if appropriate:

• Coalition Against Insurance Fraud
• Health Insurance Association of America
• Independent Insurance Agents of New Mexico
• International Association of Chiefs of Police
• International Association of Special Investigative Units
• National Insurance Crime Bureau
• National White Collar Crime Center
• New Mexico Association of Insurance and Financial Advisors
• New Mexico Auto Theft Investigators Association
• New Mexico Chapter of Chartered Property Casualty Underwriters
• New Mexico Claims Association
• New Mexico Council - Western Insurance Information Service
• New Mexico Sheriffs and Police Association
• New Mexico State Association of Health Underwriters

PUBLIC AWARENESS

The Bureau has an excellent and informative web site at www.stopfraud.org which includes a secure fraud reporting form so that a person anywhere in New Mexico can electronically submit a report of suspected insurance fraud. The Bureau has a toll-free number for the same purpose. In excess of 10,000 brochures have been disseminated in the last 12 months.

NATIONAL ANTIFRAUD TASK FORCE

The Director represents the Superintendent on the Anti-Fraud Task Force of the National Association of Insurance Commissioners. New Mexico is one of only 12 states to be a member of such Task Force. The Director was the program director of a national training course on life insurance fraud held in Washington, D.C., in October, 2000. The demand for that course by special investigative units of insurers was so great that the course will be repeated in March, 2001.

THE POLICY ADVISORY GROUP

The statute states that the Superintendent may create an insurance fraud Policy Advisory Group consisting of representatives of the insurance industry, consumers, and other appropriate persons, to advise the Superintendent with respect to the implementation of, and other matters
related to, the Insurance Fraud Act. Such Policy Advisory Group has been formed and has met twice in the last 12 months. The Policy Advisory Group is comprised of the following members:

- The President of a major title insurance company; Santa Fe.
- The President of the New Mexico Chapter of the International Association of Special Investigative Units; Albuquerque
- The Director of the Insurance Fraud Investigation Unit of the Kentucky Department of Insurance, who is currently the Chairman of the Anti-Fraud Task Force of the National Association of Insurance Commissioners; Frankfort, Kentucky.
- The New Mexico State Coordinator for Consumer Issues for ARRP; Santa Fe
- The Associate Vice-President and Director of Government Affairs for the National Insurance Crime Bureau; Chicago, Illinois.
- The Director of Government Affairs for the Coalition Against Insurance Fraud; Washington, D.C.
- An attorney who represents the New Mexico Chapter of the International Association of Special Investigative Units; Albuquerque
- The Director of Government Affairs for the New Mexico Mutual Casualty Company; Albuquerque
- Senator Carroll Leavell; Jal
- The Executive Director of the New Mexico Sheriffs’ and Police Association; Albuquerque.
- The Assistant Attorney General in charge of the Special Crimes Division of the New Mexico Attorney General’s Office; Albuquerque.
- The Supervisory Special Agent for the Federal Bureau of Investigation; Santa Fe.
- The Eighth Judicial District Attorney; Taos.
• The Assistant United States Attorney in charge of the White Collar Crime Section; Albuquerque.

• Representative Mimi Stewart; Albuquerque.

• The Chief of New Mexico State Police; Santa Fe.

• The Executive Vice-President of the Independent Insurance Agents of New Mexico; Albuquerque.

• The President of the New Mexico Association of Insurance and Financial Advisors; Albuquerque.

• The President of the New Mexico Claims Association; Albuquerque.

NEEDS FOR THE FUTURE

Several more investigators are needed to take up the burgeoning caseload, which has increased exponentially in the last six months.

Legislation will be introduced at the January, 20001, general legislative session to clarify which entities are subject to the Fraud Act assessments in the enabling statute.

SUMMATION

The Bureau has had two main goals during its infant years: to engage in energetic investigation and prosecution of insurance fraud and to gain the respect of the insurance industry, consumers, and the law enforcement community. The Bureau is on schedule for every one of its goals.

The Bureau has an investigation or prosecution ongoing in every one of the state’s 15 judicial districts.

The Bureau aggressively targets criminals who prey upon the senior citizens of our State.
The Superintendent believes that the Bureau that is professional, competent, ethical, cost-effective, and respected law enforcement organization.

The Superintendent believes that the Legislature, the Public Regulation Commissioners, the Chief of Staff, and the people of our State can be proud of the New Mexico Insurance Fraud Bureau.

Respectfully submitted,

D. J. (Don) Letherer
Superintendent of Insurance

John H. Tull, Jr.
Assistant Superintendent of Insurance
Director – Insurance Fraud Bureau

**PLEASE NOTE:**

This is not the official version of the Second Annual Report of the Insurance Fraud Bureau. The official version is contained in the Public Regulation Commission’s 2000 Annual Report dated December 1, 2000, which is a shortened version of this Report. All information in the official Report is contained in this Report.