

Workers Compensation Prosecutions

INVESTIGATOR VERN VANDEBERG

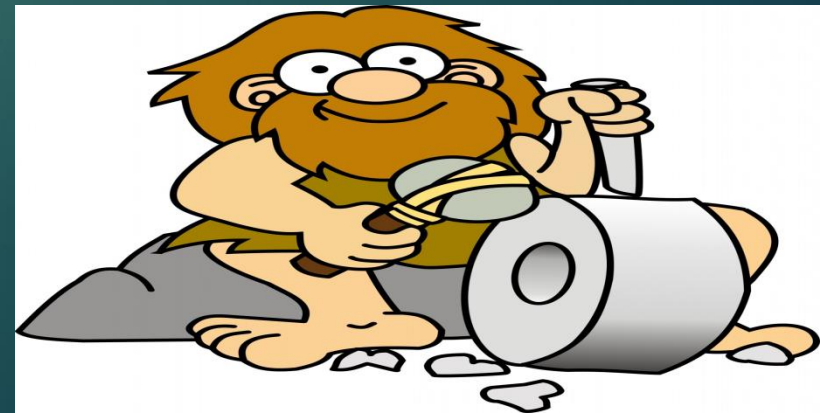
Workers Compensation & Unemployment Insurance Fraud Unit

- ▶ To be hired soon– AAG
- ▶ Vern Vandenberg
 - ▶ half time worker's compensation investigator
 - ▶ Former DCI Agent/Detective
- ▶ Four full time Unemployment Insurance Investigators
 - ▶ All former Law Enforcement
- ▶ Started December 2016

Before it was a Local issue

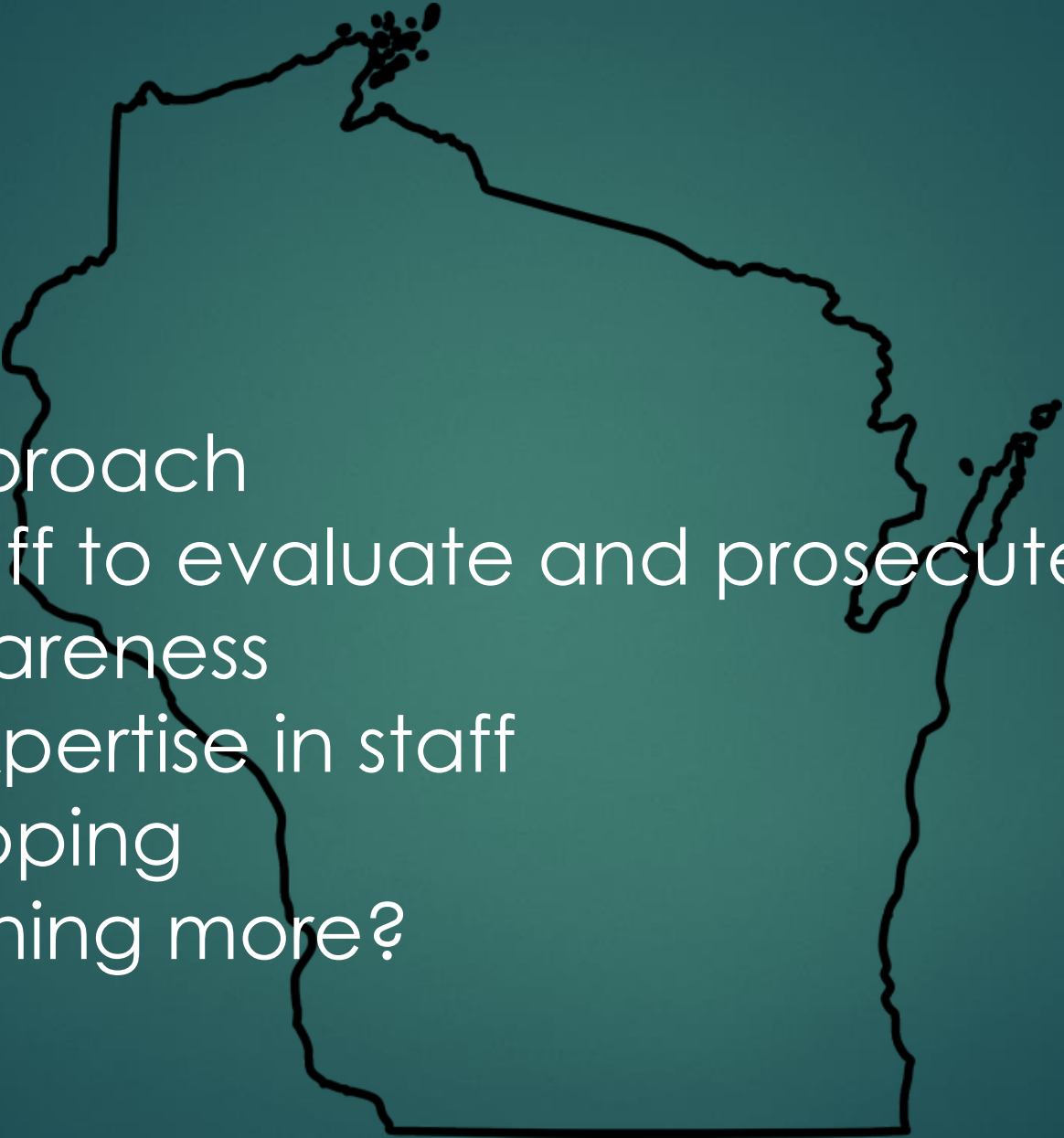
Department of Workforce Development
received tips referred cases to you and
would ask you to investigate.

All prosecutions to local law enforcement
(county DA)
Very few charged



In 2015 : Wisconsin Act 180 was passed and took effect in 2016.



A black outline map of the state of Wisconsin is positioned in the background, centered vertically and slightly to the left. The map shows the state's irregular borders, including the Door Peninsula and the Keweenaw Peninsula.

Statewide approach
Dedicated staff to evaluate and prosecute cases
Increased Awareness
Developing Expertise in staff
One stop shopping
Start of something more?

Every initial tip that comes in, all are forwarded to investigator

Expect contact from pretty quickly after report, usually via phone

Contact will be made with whoever is on file with DWD



102.125 Fraud reporting, investigation, and prosecution.

Amended to allow Department of Justice to prosecute and investigate on behalf of DWD

The department **may** require an insurer or self-insured employer to investigate any allegedly false or fraudulent claim and may provide the insurer or self-insured employer with any records of the department relating to that claim.

" If an insurer or self-insured employer has evidence that a claim is false or fraudulent in violation of s. 943.395 and if the insurer or self-insured employer is satisfied that reporting the claim to the department will not impede its ability to defend , the insurer or self-insured employer shall report the claim to the department."

For s. 102.125 (1), Wis. Stats., to apply the insurer or self-insured employer is to have evidence a claim is false or fraudulent in violation of s. 943.395, Wis. Stats. It is important to remind everyone that in a criminal case the standard of proof is that the case must be proved beyond a reasonable doubt. There is no requirement to report false or fraudulent claims that are not defined within the meaning of s. 943.39, Wis. Stats., and for which the evidence does not meet the beyond reasonable doubt standard.

In some cases there is a reasonable basis to believe that fraud has occurred, but the elements of s. 943.395, Wis. Stats., have not been met and the evidence of the cases do not meet the required beyond reasonable doubt standard. There is no statutory requirement to report these cases and in my opinion these cases should not be reported. Many times there are conflicting opinions by practitioners who treat and examine injured employees related to the cause of an injury being work-related and the extent of disability. Conflicting opinions are not alone adequate proof of fraudulent claims.

What kinds of Fraud are out there for Worker's Compensation?

TOO MANY!!!!



A Lot of Money!



Deterrence and Restitution



Can encompass many crimes in Wisconsin:

§ 943.20(1)(d) – Theft by Fraud

§ 943.395 - Fraudulent insurance and employee benefit program claims

§ 943.39 - Fraudulent Writings

§ 943.392 - Fraudulent data alteration

Many, many others.



Burden of Proof
Much harder in Criminal case
vs.
Civil Cases



Beltran





344 \$184.00^v

June 14 1948

Stanger Furn. Co.

3 piece - bedrm

	DOLLARS	CENTS
..BROT. FORD	96	41
6/14 IT DEPOSITED	700	00
" "		
TOTAL	796	41
IT THIS CHECK	184	00
L. CARD FORD	612	41

STATE SAVINGS BANK

OF ANN ARBOR

74-102

ANN ARBOR, MICH.

19

No. 350

PAY TO THE
ORDER OF

\$

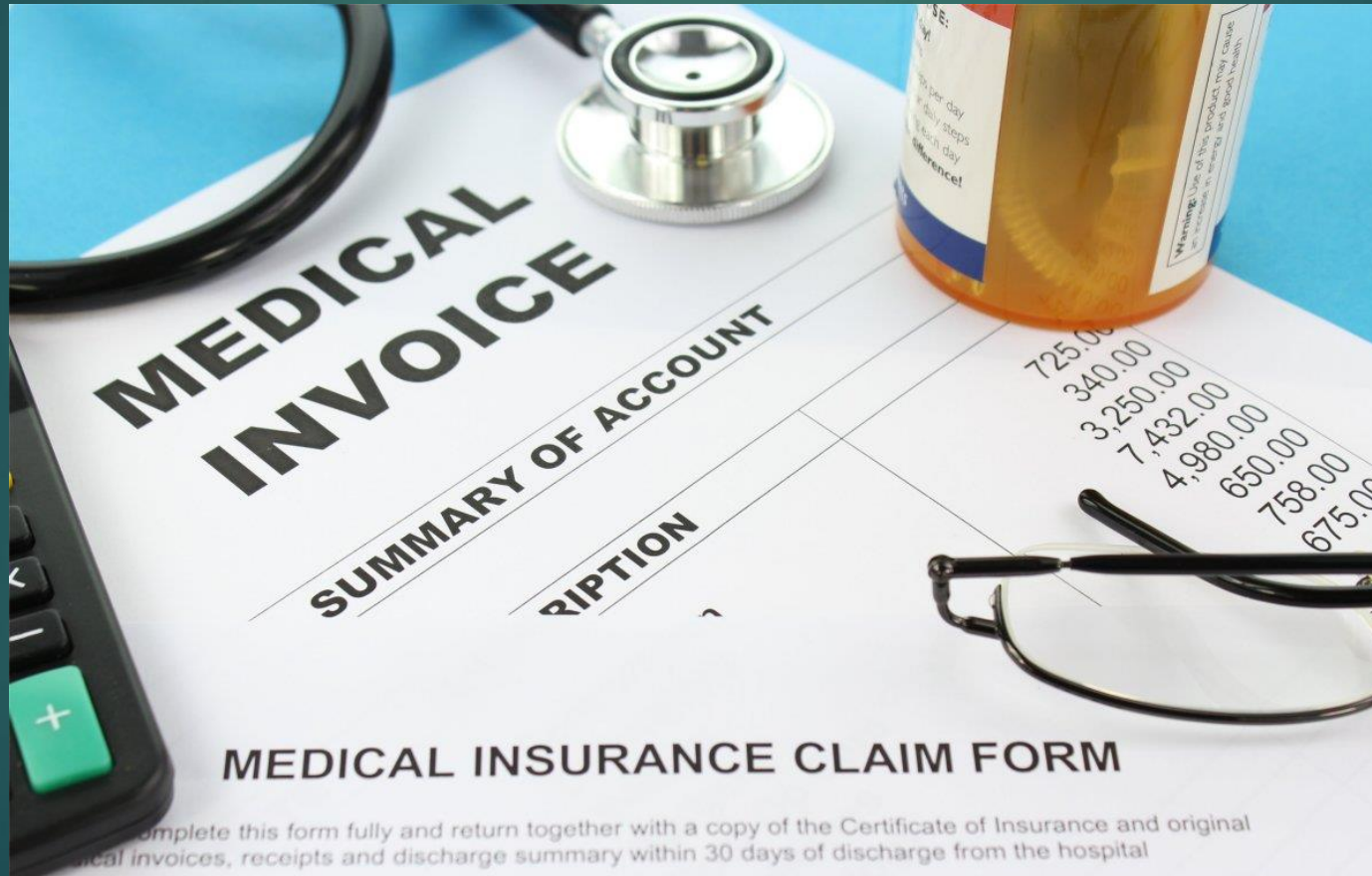
DOLLARS

Smith/Jones hidden employees



Remember worker comp case can
lead to unemployment case

Doctor Cases



What can Insurers and other stakeholders do?

First Spotting Fraud – Well known Flags (partial)

Monday morning accidents

No witnesses (know their workplace)

Delayed reporting

Employee has other problems at work

History of claims

Familiar actors (doctors, lawyers, etc)

Avoiding contact with insurer

Your own experience and intuition

Many are the same things we will look for when building a case

Check in on claimant – ask questions

How are they doing?

Are they working anywhere else?

Talk to their doctors

Often taken off on subjective reports (pain)

Is what the doctor sees lining up with reports?

Consider independent examinations when appropriate

Document!

Work with your investigative unit

Evidence is crucial

Misstatements or
Misrepresentation

Statements to Dr or Insurer

Video



Limited Civil Immunity to report

- ▶ Don't be afraid to report
 - ▶ Wis. Stat. §895.486 Civil immunity exemption; reports of insurance fraud
 - ▶ If you are worried, check with your organization
 - ▶ Website allows anonymous tips
 - ▶ But these can be problematic to investigate
- ▶ If you don't report, we won't be able to do anything
 - ▶ Use it or lose it



Where should I go with the case that I have right now that is bothering me?

- ▶ Referral to your Special Investigation Unit (SIU)
- ▶ SIU will create a “Prosecution Package” including, but not limited to :
 - * In collaboration with the Claims Adjuster
 - ▶ FROI / FNOI
 - ▶ Initial medical report – identifying specific work restrictions
 - ▶ Initial adjuster interview / statement
 - ▶ Subsequent medical record – continuing to identify restrictions
 - ▶ PT / OT / Chiro
 - ▶ Co-worker / witness statements
 - ▶ Claims Log Notes
 - ▶ Investigation Report (SIU)
 - ▶ Surveillance Report & Video

Where should I go with the case that I have right now that is bothering me?

- ▶ DWD Website –report online or via phone
 - ▶ <https://dwd.wisconsin.gov/wc/insurance/fraud/>
 - ▶ I see every tip that comes in & we follow up
- ▶ Contact me directly
 - ▶ vandebergla@doj.state.wi.us

Thank you!

Questions?