

wcb

Saskatchewan  
Workers'  
Compensation  
Board

# WCB Investigations

October 29, 2018



# Overview

- A history of the investigators position
- The mandate of the unit
- Powers within the WCB Act and regulatory/ adjudicative investigations
- Transition to Peace Officer Status
- Outline of a typical investigation



# Internal Audit Unit

**Director:** Michelle DeCorby, CPA, CA, CIA

**Regina Investigator:** Dustin Small, BAPS

**Saskatoon Investigator:** Marnie Williams, CFE



# Mandate of the Unit

To investigate allegations of fraud and abuse against the Saskatchewan Workers' Compensation board and its stakeholders.

Investigators determine if an allegation or circumstance (internal or external) having varying degrees of complexity, warrants criminal fraud investigation. Based on that determination, the respective investigation is carried out.



# Types of investigations

- The primary focus of Investigators are individuals on a WCB claim who are receiving benefits fraudulently. Examples include:
  - Submitting a false claim where no workplace injury occurred
  - Working while receiving benefits
  - Operating a business while receiving benefits



# Other functions of Investigators

- The investigators fill a number of roles within the WCB and may be involved in some capacity in the following circumstances:
  - Investigation of employer related complaints (claims suppression, failure to pay WCB premiums)
  - Investigation of service providers (Medical overbilling, misreporting nature or extent of injury)
  - Internal Staff investigations



# History

An Investigator position was created within the Internal Audit department in 1996. The mandate was to conduct investigations relating to fraud with the goal of prosecution. Soon afterward it was expanded to two fraud investigators (One in both Regina and Saskatoon)



# History

Initially the investigators were able to use powers under the WCB Act to obtain information. Through the course of employment, Investigators had access to claim files and documents that were used to supplement an investigation. When completed the investigative findings were turned over to the respective Police agencies for review and potential charges under the criminal code.



# Offences and penalties Within the WCB Act

180(1) No person shall:

- (a) knowingly provide false or misleading information to the board;
- (b) fail to report to the board, without lawful excuse, the person's return to work;
- (c) fail to inform the board of a material change in the person's circumstances that may affect the person's entitlement to compensation or other benefits pursuant to this Act or the amount of that compensation or those benefits; or
- (d) contravene any other provision of this Act or the regulations for which a penalty is not otherwise provided for in this Act.

(2) Every person who contravenes a provision of this Act or the regulations for which no penalty is otherwise provided for in this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000.



# Offences and penalties Within the WCB Act

183(1) The board may make an order imposing a penalty in an amount not exceeding \$10,000 against an employer if the board is satisfied that the employer has contravened section 52, 105 or 122, subsection 158(1) or section 164.



# Powers under the WCB Act

21 (2) The board has the same powers as are vested in the Court of Queen's Bench for the trial of civil actions:

(a) to summon and enforce the attendance of witnesses;

(b) to compel witnesses to give evidence; and

(c) to compel witnesses to produce records or property.



# Powers under the WCB Act

127(1) In this Division, “board” includes a member or any other person authorized by the board for the purposes of this Division.

(2) For the purposes of administering this Act, the board may, at any reasonable time **without a warrant**:

(a) enter and inspect the establishment of any employer or other person who, in the opinion of the board, is or may be an employer and any premises connected with the establishment; and

(b) enter and inspect any premises containing any books, records, papers or documents, including any computer, digital or electronic records, files or data, that are required to be kept pursuant to this Act.

# Benefits of a regulatory / Adjudicative Investigation

- These types of investigation can often be completed relatively quickly
- Broad powers under Legislative acts allow for the collection of information
- The burden of proof is much lower compared to a criminal charge



# Challenges of a Regulatory Investigation

- Compiling evidence for a criminal case without “poisoning the well” of a criminal prosecution by using the powers of the WCB Act.
- Investigations are forwarded to the respective Policing agency for review and investigation.



# Catalyst for change

- Two Sawmill explosions in BC prompted drastic changes to how Worksafe BC collected evidence and conducted investigations.
- Lakeland Mills, Prince George B.C. Two workers were killed and 22 were injured.
- Babine Forest Products, Burns Lake B.C. Two workers were killed and 19 injured



# BC Criminal Justice Branch Report

“WSBC’s examination of the fire site, and the related inquiries, were all conducted as a safety-compliance inspection rather than as an investigation into possible criminal or regulatory enforcement. Thus, for example, WSBC did not obtain a search warrant authorizing search and seizure at the Babine site, even after its officers formed reasonable grounds to believe Babine had violated the WCA and OHSR. Similarly, when officers interviewed the president of Babine, they did not provide him with any Charter of Rights warning or caution.”



# Special Constable Status

- Given the outcome of the BC Criminal Justice Branch and with consultation with Provincial Crown Prosecutors, the WCB took steps to ensure that future investigations would not compromise the ability to prosecute criminally.
- In January 2017 the WCB investigators were appointed Special Constables pursuant to The Police Act, 1990
- This designation allowed Investigators to have greater access to police information, conducted warned caution statements with subjects of complaint, draft production orders and swear information's



# Investigation Process

Most investigations start with a TIP. Internal Audit receives tips from:

- 24-hour tip line (1-877-595-2541)
- Email to Internal Audit ([fraud@wcbask.com](mailto:fraud@wcbask.com))
- Internal sources such as Case managers



# Investigation Process

## Prioritize

- Decide if investigation is warranted based on the following:
  - Establishing that a WCB claim exists
  - The nature / credibility of the information provided
  - The nature of the injuries / medical information on file
  - The potential overpayment / Fraud amount

# Investigation Process

## Gather evidence

- Typically open source avenues are examined first and include:
  - Social media profiles (facebook, twitter, Instagram Ect.)
  - Sales pages (Kijiji, Usedregina, Varagesale)
  - Saskatchewan Corporate Registry / Land titles
- Witness Statements / Warned Caution statements
- The evidence listed above can be used as grounds to draft an information to obtain a Production Order which is required for information such as:
  - Banking information
  - Health records
  - CRA information

# Investigation Process

## Memo to claim file

- The evidence gathered is vetted and compiled into a claim document which provides the Case Team enough information to adjudicate. Investigators are not involved in the adjudication process
- Decisions to create an overpayment are based on WCB policy as well as information on the claim file (Medical reports, income tax, declared income ect.)
- If the decision to create an overpayment is made, Payment specialists calculate an amount based on the direction of the case team. This amount will be forwarded to Crown as the “Fraud amount”

# Investigation Process

## Disclosure and pre charge approval

- A disclosure package is created and forwarded to crown for pre charge approval
- Charges will only be approved if Crown Counsel is satisfied that the evidence gathered provides a substantial likelihood of conviction, and if so, that a prosecution is required in the public interest.
- If pre-charge approval is obtained, an information is sworn and a summons is issued to the subject of complaint to attend court
- If pre-charge approval is not obtained the file is reviewed and civil action may be undertaken by the WCB legal department



# Investigation Process

## Court proceedings

- Any secondary disclosure is submitted to Crown for potential court date
- Investigators typically testify and enter evidence at trial
- Coordinate other witnesses within the board and advise of court dates.
- Upon conviction, a media release is drafted by Investigators and is issued by WCB communications



# Media releases

## Man fights in MMA while collecting workers' comp 4

Saskatoon StarPhoenix 3 Apr 2013 HANNAH SPRAY

A man who fought in mixed martial arts matches while collecting workers' compensation will spend the next five years paying back the money he owes.

Shawn Gregory Pauliuk, 35, pleaded guilty Tuesday in Saskatoon provincial court to defrauding the Saskatchewan Workers' Compensation Board (WCB) of \$20,596.21.

Pauliuk reported a back injury in October 2008, claiming he hurt himself while lifting a heavy object out of a truck. He collected lost wage benefits from November 2008 until June 2009, when the WCB received information suggesting Pauliuk was participating in MMA events.

It turned out he had been working throughout that time

frame despite his disability claim, Crown prosecutor Frank Impey said.

"He was actually participating in rather physically strenuous events," Impey said.

Pauliuk's online MMA profile lists his record as 0-5, including three bouts during the time he was collecting WCB benefits. His last fight was in December 2011 in Quebec City, where he was knocked out 21 seconds into a match against Joel Theriault.

Pauliuk initially indicated WCB cut him off and he returned to work to support himself, but that is "quite contrary" to what the WCB records show, Impey said.

"(The WCB) clearly indicates it didn't cut him off until it sub-

sequently came to light he wasn't as injured as he said he was," Impey said.

The Crown and defence jointly submitted that Pauliuk receive a conditional sentence of two years less a day, plus three years of probation. During the entire length of the sentence, he must pay \$250 a month in restitution to the WCB towards the \$20,000 he owes.

Pauliuk also pleaded guilty Tuesday to a number of other charges ranging from cheque fraud to theft to cocaine possession.

He admitted writing bad cheques on an instant loan account in Wainwright, Alta., in November 2009 totalling more than \$12,000. He also pleaded guilty to forging three cheques he'd stolen from a person in



Shawn Pauliuk before an Instinct MMA fight in Quebec City in December 2011.

Wainwright, Alta., totalling \$2,480.

Sometime in the spring of 2010, he stole a door from the yard of a Co-Op where he was working in Wainwright and installed it for a client of a busi-

G golfguy · 5 years

Well he's not going to be making the money to pay back WCB by fighting. With

wcb

Saskatchewan  
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MISSION:  
ZERO

# Media Releases

## Sask. man gets 2.5 years in jail for defrauding Workers' Compensation of \$137K



2 false claims amounted to 'largest amount of fraud we've ever had,' Workers' Compensation Board says

Guy Quenneville - CBC News - Posted: May 18, 2017 5:15 PM CT | Last Updated: May 19, 2017



A man from Hudson Bay, Sask., was sentenced Thursday in Melfort court to two and a half years for defrauding the province's Workers' Compensation Board.

A former labourer from Hudson Bay, Sask., has been sentenced to two and a half years in prison for defrauding the Saskatchewan Workers' Compensation Board of over \$130,000.

Larry Hayter was sentenced in the Court of Queen's Bench in Melfort, Sask., on Thursday, following a seven-day trial in late April and early May.

# Media Releases

## Man guilty of defrauding WCB of thousands of dollars

Regina / 980 CJME

CJME News

December 21, 2016 12:42 am



A man has been sentenced for defrauding the Workers Compensation Board of \$80,000.

Kenneth Olson, 54, a former equipment operator and former claimant, pled guilty at provincial court in Regina Tuesday to going back to work while still receiving income replacement.

Olson was given a two year less a day conditional sentence order. He must obey a curfew of 11 p.m. to 6 a.m. for the first six months. A restitution order and victim's surcharge were also imposed.

# Wrap-up

- Questions/Concerns/Comments



# Contact Information Regina

S/Cst. Dustin Small

306-787-9453 (Direct Line)

306- 551-0604 (Cell)

1-877-595-2541 (Fraud Tip Line)

[fraud@wcbsask.com](mailto:fraud@wcbsask.com)

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# Contact Information Saskatoon

S/Cst. Marnie Williams

306-933-8323 (Direct Line)

306-533-7462 (Cell)

1-877-595-2541 (Fraud Tip Line)

[fraud@wcbsask.com](mailto:fraud@wcbsask.com)

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