

# Module 5

## Investigating Suspicious Property Claims

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### Module 5 Chapter 5

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### Learning Objectives

- ☐ Obj I – Fraud Detection and Investigation
- ☐ Obj II – Voiding Coverage
- ☐ Obj III – Investigating a Suspicious Fire Loss
- ☐ Obj IV – The Fire Investigation Team
- ☐ Obj V – Staged Burglaries and Thefts, Padded Claims, and Multiple Policies

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## Fraud Detection and Investigation

### Objective I

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**Fraud Detection and Investigation**

- ❑ Adjusters must be vigilant for signs of fraud during the claims-adjusting process.
  - ❑ Must also conduct good-faith investigation.
  - ❑ Adjuster is primarily responsible for detecting and investigating fraud.
- ❑ Adjuster should be familiar with fraudulent schemes.

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**Fraudulent Schemes**

- ❑ Fraudulent schemes can be simple or complex.
  - ❑ Can involve one or more individuals.
- ❑ Typical elements of fraudulent schemes:
  - ❑ Deliberately causing an accident or a loss.
  - ❑ Claiming that a loss or an event occurred when it did not.
  - ❑ Exaggerating the amount of a loss.
- ❑ Some insurers are using technology to enhance the fraud-screening process.

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**Federal Laws**

- ❑ Federal laws addressing fraud include:
  - ❑ Violent Crime Control and Law Enforcement Act of 1994 – makes insurance fraud a federal crime when it affects interstate commerce.
  - ❑ Federal Mail Fraud Statute – prohibits use of the U.S. Postal Service for the purpose of defrauding or obtaining property by fraud.
  - ❑ Racketeer Influenced and Corrupt Organization Act – specifies certain activities as racketeering activities.

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**Detection**

- ❑ Common fraud indicators include:
  - ❑ Insured is overly pushy for a quick settlement.
  - ❑ Insured is unusually knowledgeable regarding insurance terminology.
  - ❑ Insured is willing to accept a small settlement.
  - ❑ Losses include numerous appraised items or scheduled property.
  - ❑ Insured verifies coverage shortly before loss.
  - ❑ Coincidental absence of insured and family at time of loss.

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**Investigating Fraud**

- ❑ A claims rep has a good-faith obligation to conduct a fair investigation.
  - ❑ In addition, insureds are expected to document their losses.
  - ❑ Documentation should be verified.
- ❑ Claims rep should be careful to avoid possible invasion of privacy.
  - ❑ May need to consult with legal counsel.
- ❑ A special investigation unit should be contacted if a claim appears suspicious.

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**Industry Resources**

- ❑ Industry resources that can assist in identifying potentially fraudulent claims:
  - ❑ Index systems – can research claimants and specific properties that are involved in claims.
  - ❑ Investigative support organizations – provide databases that match claims to individuals.
    - ❑ Art Loss Register, National Equipment Register, National Insurance Crime Bureau.
  - ❑ Educational organizations – specifically devoted to detecting and proving fraud, including arson.

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### Local and State Information

- An adjuster can access information from many other sources.
  - Federal Bankruptcy Court.
  - Credit reporting agencies.
  - County registrar of deeds.
  - Local building permit department.
  - Local city recorder or clerk.
  - Telephone and utility companies.

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### Practice

- Jane owns a gift shop, and her new property insurance policy went into effect on July 1. She files a fire claim on February 16 of the following year for a fire that occurred on February 15. The claim includes losses related to Valentine's Day cards and decorations. The insurer investigates the claim on February 18. Jane submits receipts and invoices in person to the insurer on February 20 and then calls the adjuster to inquire about payment of the claim on February 22. All of the following are indicators of potential fraud in this case, EXCEPT:
  - A. The loss occurred in the middle of the policy term.
  - B. The Valentine's Day cards were destroyed one day after Valentine's Day.
  - C. The insured was pushy for a quick settlement.
  - D. The insured avoided conducting business by mail.

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## Voiding Coverage

### Objective II

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**Voiding Coverage**

- ❑ An insurer may give a claims rep authority to deny a claim on the grounds the insured breached one of the following policy conditions:
  - ❑ Concealment.
  - ❑ Misrepresentation.
  - ❑ Fraud.
- ❑ The final decision to deny a fraudulent claim is usually made by senior members of Claims Dept.
  - ❑ However, every claims rep should understand these concepts.

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**Concealment**

- ❑ Concealment is misrepresentation by silence.
  - ❑ Must be fraudulent and material for the insurer to avoid liability.
  - ❑ Applicants are required to communicate all knowledge in the applicant's possession regardless.
- ❑ Concealment occurs when the applicant hides material information that is material to the insurer's decision to assume the risk.

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**Misrepresentation**

- ❑ Misrepresentation is representing something that is false as a fact.
  - ❑ A statement of fact must be false and material for misrepresentation to occur.
- ❑ The insurer does not have to prove the misrepresentation was intended to deceive the insurer.

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**Fraud**

- ❑ Fraud is an intentional misrepresentation resulting in harm to a person or organization.
  - ❑ Intentional deception by word, deed, or concealment.
  - ❑ Fraud can occur any time, even before a policy is issued.

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**Fraud Condition**

- ❑ Policies typically contain a condition voiding the policy in the case of concealment, fraud, or misrepresentation.
  - ❑ Coverage will not be provided if insured engages in these acts either before or after a loss.
- ❑ Condition applies to both fraud in the insurance application and claims fraud.

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**Voiding the Policy**

- ❑ To void a policy, an insurer must prove the misrepresentation or concealment was willful.
  - ❑ Considered intentional if the insured knows his or her statements are false or swears to the truth without actually knowing the facts.
  - ❑ Intent to defraud can be assumed whenever the misrepresentation or concealment is willful and material.
- ❑ Inadvertent mistakes do not warrant voiding the policy.

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### Practice

- Barbara recently applied for a life insurance policy on her life. Although she smokes two packs of cigarettes per day, on the insurance application, she indicated that she does not smoke. The type of behavior that Barbara has exhibited is referred to as:
  - A. Bad faith.
  - B. Adhesion.
  - C. Nondisclosure.
  - D. Concealment.

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### Investigating a Suspicious Fire Loss

#### Objective III

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### Duties Following Loss

- Insured's duties following a loss are crucial in cases of suspected arson.
  - Adjuster must remind the insured that these duties are conditions to the policy.
  - A proof of loss must be signed and sworn to and must state the cause of the loss.
- The adjuster should require the insured's examination under oath (EUO).
  - If arson is suspected, an experienced examiner should conduct the EUO.

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### Course of an Arson Investigation

- ❑ In any significant loss, the adjuster should obtain a nonwaiver agreement or issue a reservation of rights letter.
  - ❑ Preserves insurer's rights.
- ❑ Arson investigations explore four areas:
  - ❑ Proof of incendiary (intentional) fire.
  - ❑ Proof of opportunity.
  - ❑ Proof of motive.
  - ❑ Other miscellaneous evidence.

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### Incendiary Fire

- ❑ Intentionally set fires usually present suspicious circumstances as to both the origin and cause.
  - ❑ Origin is the place where fire ignited.
  - ❑ Intentional fires usually have multiple origins.
  - ❑ Arsonists often use accelerants to accelerate the heat and spread of the fire.
- ❑ A fire that is thorough and intense is not typical.
  - ❑ Determining the cause of such a fire might be sufficient evidence of an incendiary fire, even if the origin is never determined.

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### Incendiary Fire

- ❑ Fires spread upward much more readily than they spread horizontally.
- ❑ A fire will not spread horizontally unless:
  - ❑ It is trapped from moving upward by a ceiling.
  - ❑ Combustible material is present.
  - ❑ An accelerant is present.
- ❑ A fire trapped by a ceiling will burn the ceiling intensely.
  - ❑ A fire should not traverse the floor unless the ceiling is severely burned.

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### Incendiary Fire

- ❑ Actions that may give rise to suspicion that the insured caused the incendiary fire:
  - ❑ Insured is only one at property at time of loss.
  - ❑ Insured and family are staying at another location temporarily at time of loss.
  - ❑ Insured has copy of policy at time of loss.
  - ❑ Insured is having financial difficulties.
  - ❑ Insured is pressuring for a quick settlement.
  - ❑ Insured avoids using U.S. Postal Service.

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### Insured's Opportunity

- ❑ The opportunity to commit arson can be demonstrated by the lack of an alibi.
  - ❑ Also by behavior that enables another to commit arson.
  - ❑ An adjuster should thoroughly explore an alleged alibi.
- ❑ Insured's involvement can be inferred when the insured apparently knew arson was about to occur.

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### Insured's Motive

- ❑ The insured's motive is sometimes included as an essential element of the arson defense.
  - ❑ Arson defense only requires proof that the insured deliberately caused the fire.
  - ❑ Motive is not strictly necessary.
- ❑ Financial need is the usual motive for an insured to commit arson.
  - ❑ Adjuster should examine whether the insured would be better off with cash than with the insured property.

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**Practice**

- Which one of the following is a sign of a fire that has been intentionally set?
  - A. Fire started at the corner of the building.
  - B. All the windows in the building are open.
  - C. A single point of origin.
  - D. Fire started inside an electrical appliance.

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**The Fire Investigation Team**

**Objective IV**

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**Arson Team**

- Adjusters should work with experts:
  - Origin and cause expert – crucial to proving that a fire was incendiary.
    - Often former fire department investigators.
    - Could include forensic chemist.
  - Public authorities – fire marshal’s conclusions can identify suspects for criminal prosecution.
    - When authorities investigate a suspicious fire, they usually obtain a statement from the property owner.

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**Arson Team**

- Adjusters should work with experts:
  - Attorneys – help prepare adjusters for court and can answer legal questions.
    - Attorney usually conducts EUO.
  - Accountants – can review insured's financial statements and work with adjuster to obtain appropriate financial documents.
    - A common motive for arson is financial.

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**Defending an Arson Claim**

- Key elements of defending an arson claim:
  - Good investigation with proper documentation and qualified experts.
  - Timely and effective denial of the claim.
  - Declaratory judgment action filed shortly after the denial is issued.

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**Practice**

- By the time of an examination under oath, an adjuster should know as much about the insured's financial condition as the insured does. If an adjuster lacks sufficient training to understand the insured's financial condition, he or she should enlist the help of:
  - A. An attorney.
  - B. A private investigator.
  - C. A certified financial professional.
  - D. An accountant.

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**Staged Burglaries and Thefts, Padded Claims, and Multiple Policies**

**Objective V**

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**Staged Burglaries and Theft**

- ❑ The keys to fighting any type of fraud are detection and proof.
  - ❑ Adjusters must be alert for indicators of fraud and must gather evidence to prove the fraud.
  - ❑ Burglaries and thefts are easy to stage.
- ❑ Following a burglary or theft, the insured property is gone and is rarely recovered.
  - ❑ Most homeowners cannot document the majority of their personal property.

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**Staged Burglaries and Theft**

- ❑ Alleged burglaries to commercial insureds present different challenges than do homeowner claims.
  - ❑ Commercial insureds should have complete records of their property.
  - ❑ With commercial insureds, a typical fraudulent burglary involves relocating the “stolen” property.
- ❑ Adjusters should require all insureds to report all burglaries or thefts to the police.

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### Staged Burglaries and Theft

- ❑ Indicators associated with claims process:
  - ❑ Insured provides receipts for inexpensive items but no receipts for expensive items.
  - ❑ Insured indicates distress over possible EUO.
  - ❑ Insured provides receipts with no sales tax figures or no store logo.
  - ❑ Insured cannot recall place and date of purchase for items of significant value.
  - ❑ Insured provides receipts from same supplier that are numbered in sequence.

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### Padded Claims

- ❑ A legitimate loss can be the occasion for an insured to inflate the claim.
  - ❑ Can include items that were not part of the loss or by inflating the value of items that were.
- ❑ Requiring the insured to prove his or her claim is crucial to fighting padded claims.
  - ❑ Adjusters should insist insureds submit sworn proofs of loss.

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### Multiple Policies

- ❑ An insured who has two or more policies covering the same loss and who does not disclose this has probably intended fraud.
  - ❑ An insured should not collect multiple recoveries for the same loss.
- ❑ An insured who submits the same claim to several insurers has probably staged the claim.

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**Practice**

- Which one of the following is an indicator associated with the claims process?
- A. Insured can recall place and date of purchase for items of significant value.
  - B. Insured has receipts for expensive items but not inexpensive items.
  - C. Insured indicates no distress over prospect of an examination under oath.
  - D. Insured provides receipts from same supplier that are numbered in sequence.

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