



Private Investigation: A Valuable Piece of the Fraudulent Claim Solution.

According to a global study on fraud and abuse (Canadian edition) done in 2018 by the ACFE, 62% of the frauds in Canada occurred at for-profit organizations, with 40% of the victim organizations being private companies and 22% being public companies. The public companies suffered the greatest median loss, at USD 362,000.

Government organizations were the victims in 20% of frauds and had the lowest median loss of USD 55,000

https://www.acfe.com/uploadedFiles/ACFE_Website/Content/rtnn/2018/RTTN-Canada-Edition.pdf

As investigators, our job is not to reinforce or confirm the opinion of the client, but rather provide objective, non-biased information regarding the subject's activities; all while abiding by the ethical, fair and legal boundaries in place to protect the privacy of the individual.

“In Ontario, it’s estimated that auto insurance fraud costs consumers up to \$236 per year per policy.” Insurance Bureau of Canada: Property and Casualty Insurance Industry in Canada

http://assets.ibc.ca/Documents/Facts%20Book/Facts_Book/2019/IBC-2019-Facts.pdf

When one thinks of Private Investigators, they usually picture the “no holds barred” approach portrayed in the plethora of private eye movies and shows produced throughout the years. While entertaining for the theatre, the real-life version is far from the characters portrayed there.

To legally work in Ontario, a private investigator must be licensed and follow industry regulations, municipal, provincial, and federal laws. The Private Security and Investigative Services Act (PSISA) is the law that provides rules and regulations, as well as the Code of Conduct that governs the manner which a licensed private investigator must conduct themselves in Ontario. The PSISA was created to:

- *make private investigation a professional industry,*
- *increase public safety, and*

- *ensure private investigators receive proper training and are qualified to provide private investigation services.*

Licensed Private Investigators must follow rules and guidelines that ensure the privacy of the individual being viewed is respected. Not only can the investigator be criminally charged if found contravening the rules set forth in PSISA, but their license can also be nullified, and their career finished.

The real-life version of private investigation is rather constricted in the methods and tools they may use to document a subject's activities. Some of these restrictions include, trespassing on private property or engaging the subject in a conversation. Clearly, these are not all inclusive and there may be exceptions to the rule depending on contractual obligations.

The high standard of ethics that an investigation company holds themselves to says a lot about their reputation and results produced. After all, the results that an investigation company provides goes far beyond being provided to a client. Reports, video and other forms of evidence such as affidavits, letters of authenticity etc., is subject to scrutiny far beyond what a client or customer will expect. It is more-often than not put through a high level of standards set by court precedent, the Rules of Civil Procedure, governing bodies and is also subject of scrutiny by plaintiff legal teams.

Therefore, before even accepting a case, a reputable and ethical Investigation company will ask several questions before agreeing to work with the client. The questions may vary slightly whether the client is in the Insurance industry or is a Corporate client looking into a WSIB claim or attendance management issue.

For WSIB claims, usually there is an abundance of red flags that an employer has encountered that will lead them to believe that an employee is carrying on in a fraudulent manner. For example, it is suspicious if an employee is not willing to work with the employer on a "return to work" plan which usually offers an employee very modified duties that allows them not only a modified job description but potentially also varied or shortened hours. This gradually allows the employee to adjust physically and mentally to returning to work with a unified goal that suits both the employer and employee. Other red flags include no specific date, time and place of injury is included in the claim; details about the injury are sketchy or discrepancies are found between the claimant's version and witness accounts. However, the number one way an employer finds out about a potentially fraudulent claim is by tip offs from the work force itself. Nobody likes to do the job of two people nor do they like the moral or unethical behavior. These flags may cause the employer to question the validity of the claim and/or the employee's overall intentions.

Of course, there are some assurances that any Investigation company should make before accepting a case:

- Does the employer have a series of red flags* of their own that perhaps include 3rd party observations of the subject having other employment?
- Is the employer asking the Investigator to break the law or "bend the rules" in any way to confirm their suspicions? This verbiage needs to be taken very seriously and the file should be refused if so.
- The medicals don't match with the evidence.

****For a copy of our "Red Flag Guide" please email to sandrab@irmi.ca.***

In the insurance industry, there will always be people to take advantage of the system and fraudulently exaggerate claims to suit their needs, however, not all claims are fraudulent. Prior to taking on an insurance claim, the investigator needs to ensure their due diligence is completed. A concise scope of the investigation must be outlined by the adjuster/client; and adhered to by the investigator. A defined scope is particularly important to both a surveillance file and/or workplace investigation. This scope will be the “bible” for the investigator to follow and accurately capture the surveillance footage which can be used by the claims adjuster to accurately document their claim file.

Regardless of the type of investigation being conducted, there are consequences for both the investigator and the client. If laws are broken to gather evidence, it will not be valid or accepted in a court of law. No one understands the laws better than an experienced, professional, and ethical Private Investigator. In fact, a good portion of the licensing process of an investigator focuses on the legalities of any investigation and a thorough understanding of criminal and civil law. Whether in the Insurance industry or the corporate board room, fraud is rampant and who pays for that fraud? It is you and I with our increased premiums. Without some type of investigation and ongoing policing, the situation will continue to be uncontrollable.

We need to trust the system and ensure that the laws in place to protect the individual are adhered to. At the same time, we need to ensure that the people exaggerating injuries on any type of claim are caught and handled accordingly. Realistically what any investigator can legally film of you is no more than what may be routinely filmed while you ride the subway, grocery shop, take an Uber or visit a casino. While out in public, conducting daily activities, there is no expectation of privacy.

There are methods of performing fair and thorough investigations, however, when it comes down to ensuring an unbiased and legally credible investigation for complex or severe issues, it is highly recommended that you obtain external professional assistance. Every company, Corporate or Insurance, will encounter difficult situations at one time or another. When this occurs, experts are needed to ensure the client has enough information to make an informed decision.

Investigative Risk Management provides professional consulting and analysis, necessary for your organization to reach informed decisions. Our standard is to provide quality and personalized service. Major areas of investigation include: Insurance Investigations, Human Rights, Harassment & Discrimination, WSIB, Fraud & Employee Investigations, Undercover Operations & Surveillance, Social Media / OSINT, Data Collection, MERLIN Investigations and High-Risk Terminations.

<https://www.theirmsolution.com/>

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