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April 1, 2014

**Via Hand Delivery**

Honorable Chris Christie, Governor  
Office of the Governor  
State of New Jersey  
125 West State Street  
Trenton, New Jersey

Dear Governor Christie:

I am pleased to submit the Annual Report of the Office of the Insurance Fraud Prosecutor (OIFP) for calendar year 2013, pursuant to N.J.S.A. 17:33A-24. In 2013 OIFP began to harvest the fruit of the reform efforts that the office began in 2011. From 2011 to 2013, OIFP overhauled its operations with the goal of becoming an office that could efficiently and successfully prosecute to completion significant cases and thereby obtain prison sentences that would have a deterrent effect. OIFP set this goal based on the understanding that focusing on more significant cases that result in lengthier prison sentences, particularly cases involving licensed professionals, would serve a greater deterrence value than expending resources on a larger number of cases that result in shorter



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sentences or probation. In pursuing this goal, OIFP implemented the following: established case selection criteria focused on identifying and prioritizing high deterrence cases (those with larger dollar amounts, higher level targets, and offenses that would yield longer prison sentences); transitioned from an open-ended case-by-case investigation team approach to a vertically integrated trial team approach comprised of a prosecutor, detectives, and an analyst who share a common docket of cases; and, enhanced efforts to recruit, train and retain detectives, attorneys and auditors with backgrounds/interest in complex white collar prosecution. These changes paid dividends in 2013.

#### **A. MEASURING OIFP'S SUCCESS IN 2013**

OIFP obtained better results in 2013 than in any prior year despite operating with twenty fewer employees than in 2011, a decrease of more than 17%. The office's success can be demonstrated through a number of means, but can most easily be shown through four metrics: the average prison sentence for defendants in OIFP cases; the percentage of OIFP prosecutions that lead to a prison sentence of one or more years; the number of first degree cases prosecuted; and, the dollar amount of returns for the Medicaid Program from False Claims Act settlements.

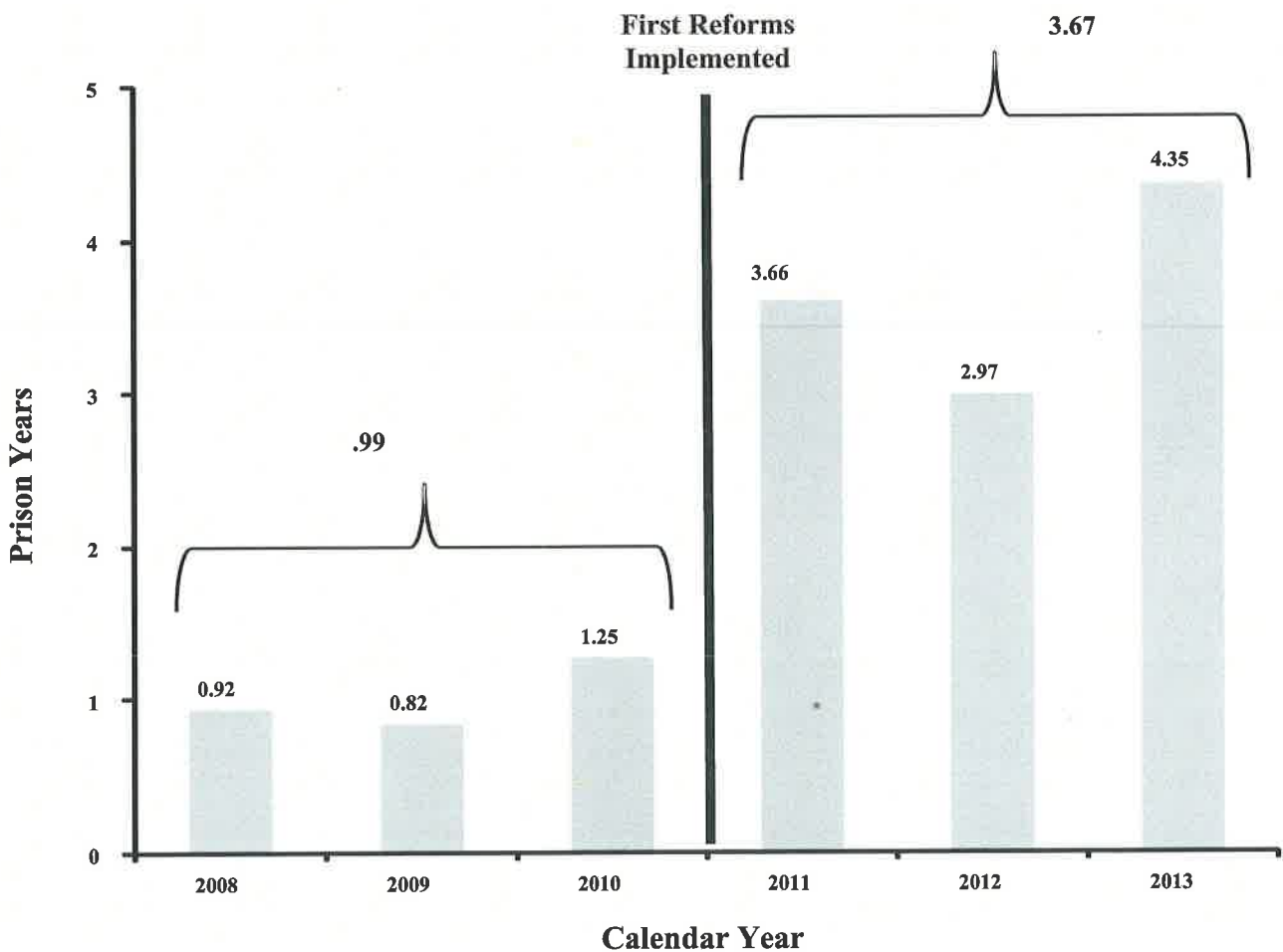
**1. Average Prison Sentence:** By investigating and prosecuting more complex cases, which typically involve greater dollar amounts of fraud, OIFP increased the average prison sentence in cases that it prosecuted from 1.25 years in 2010 (before OIFP initiated its reforms) to 4.35 years in 2013 (after OIFP launched the bulk of its reforms). This means that, on average, defendants in OIFP cases that resulted in any prison sentence, received a term of 1.25 years in 2010, but just three years later, in 2013, OIFP defendants were sent



away to prison for an average term of 4.35 years, an increase of almost 350%. OIFP puts great emphasis on this statistic because focusing on fewer cases and achieving longer prison sentences, particularly for licensed professionals, serves a greater deterrence value than handling more cases that result in shorter prison sentences or probation and because it is an indicator that the office is prosecuting more complex, sophisticated cases.

As shown in Chart 1 below, the average prison sentence over the past three years (2011-2013) is far higher than for the prior three years (2008-2010).

**Chart 1: Average Annual Prison Sentence**



The office's leap in average prison sentence can be attributed to two primary factors. First, OIFP shifted its focus from handling a larger volume of smaller cases to investigating and prosecuting a smaller number of significant cases, which, typically, contain more serious charges and larger dollar amounts of theft, resulting in longer sentences. Second, OIFP prosecuted its cases from a greater position of strength by demonstrating to defendants and their counsel that the office was prepared to go to trial on any case in which it obtained an indictment. This message translated into better (i.e., longer agreed upon periods of incarceration) plea deals.

In sum, the average prison sentence in 2013, particularly when compared to prior years, demonstrates that OIFP's approach to its cases - selecting cases that will serve a greater deterrence purpose than had been the case in years past; organizing staff into teams with an emphasis on holding each team accountable for consistently making meaningful progress on its most important cases; obtaining indictments containing second-degree charges and, for the first time in OIFP's history, first degree charges; being quickly prepared for trial in all cases; and, communicating to defendants and their counsel, through an office-wide policy of escalating plea offers, that the office will not settle for less than favorable plea terms - has proven to be an excellent model that has produced strong results and will continue to do so as long as these key components are maintained.

**2. Percentage of Defendants Sentenced to One or More Years:** In addition to obtaining, on average, far stiffer sentences than in years past, OIFP also greatly increased the percentage of defendants prosecuted who received a prison sentence of one or more years. Again, comparing 2013 to 2010 (the year before the OIFP reforms began), OIFP



increased the average number of defendants sentenced to prison (both State prison and County jail) for more than one year from 37% in 2010 to 80% in 2013.

The precise breakdown of the percentage of defendants sentenced who received a prison sentence of one or more years is set forth in Table 1 below.

**Table 1: Percentage of Defendants Sentenced to  $\geq$  1 Year of Prison**

Calendar Year	Percentage
2008	21%
2009	14%
2010	37%
2011	64%
2012	52%
2013	80%

The above demonstrates that in the period from 2011 to 2013, a greater percentage of defendants prosecuted by OIFP received significant prison sentences (one or more years) than in prior years. This statistic also shows that OIFP is succeeding in its effort to identify, investigate and prosecute more serious crimes that, by virtue of their nature and degree, will result in longer prison sentences. Again, this approach is designed to deter future insurance fraud by raising the public's awareness of two things: the OIFP's ability to bring those who commit insurance fraud to justice; and, the serious consequences for those who are prosecuted for committing insurance fraud in New Jersey.

**3. First Degree Prosecutions:** OIFP successfully has prosecuted three first degree cases since the beginning of 2011. In comparison, the office had not successfully prosecuted any first degree cases prior to 2011. The ability to prosecute the highest degree financial crimes is another key indicator of OIFP's transformation into a better functioning



white collar prosecution office.

**4. False Claims Act Settlements:** In 2012 and 2013 combined, the False Claims Act (FCA) group in the Medicaid Fraud Control Unit of OIFP recouped approximately \$72 million for the State Medicaid Program, which is, by far, the highest two year total for this program since it was formed in 2008. As with the above-referenced metrics, this too points to OIFP's ability now to successfully handle large cases against more sophisticated adversaries.

**B. SIGNIFICANT CASES**

Statistics showing improvements in the key measures that define success only tell part of the story behind OIFP's transformation into a first class white collar prosecutor's office. To fully appreciate the results of the office's reform efforts over the past few years, it is important to analyze carefully the types of cases that OIFP prosecuted in 2013 and the results that it obtained in these cases.

The office prosecuted chiropractors who had evaded justice for years; brought down sophisticated runners who helped bilk insurance companies out of hundreds of thousands of dollars; through covert operations, successfully infiltrated and prosecuted a theft ring headed by a career criminal who is now behind bars for first degree theft; convicted at trial a health plan administrator for absconding with insurance company premiums while innocent people went without health coverage, leading the Judge to sentence the administrator to a seven year prison sentence; and, obtained a guilty plea to first-degree attempted murder against a physician who tried to have someone he thought was a hit man kill his wife and a business associate only to learn that the "hit man" was a government informant. What





follows is an overview of the most significant matters that OIFP and the Medicaid Fraud Control Unit (MFCU) within OIFP prosecuted in 2013.

1. **Jose Lopez**, is serving a fifteen year State prison sentence (with five years of parole ineligibility) after pleading guilty to first-degree charges brought by OIFP as part of a cooperative undercover effort led by OIFP involving OIFP, the Perth Amboy Police Department and the Woodbridge Police Department. Using the expertise of the various law enforcement personnel involved, OIFP was able to prove that Lopez was the mastermind behind the theft of more than 100 personal vehicles and contractors' vans, many of which were insured by New Jersey insurance carriers. The joint investigation included the use of surveillance equipment, GPS, and the interception and review of dozens of forged vehicle titles.

2. **Herlindo Garcia-Merlos**, was sentenced to eight years in State prison after pleading guilty to two counts of second-degree theft by deception, for stealing more than \$450,000 by providing false and misleading information to a workers' compensation carrier and for failing to file tax returns and under-reporting wages for his business and himself to the New Jersey Department of Treasury. Defendant Garcia-Merlos also agreed to pay restitution to the defrauded insurance company, New Jersey Manufacturers, in the amount of \$315,680 and to the State of New Jersey in the amount of \$135,462.

3. **Catarina Young**, was sentenced to seven years in State prison following a five week jury trial in Middlesex County that resulted in her conviction for second-degree theft and second-degree misapplication of entrusted property. With cooperation from the United States Department of Labor, OIFP proved that Young, a third party administrator for



a multi-employer union trust fund, stole more than \$460,000 from the trust fund that was supposed to pay for health insurance premiums.

4. **Marcin Gradziel**, was sentenced to seven years in State prison for his role in a scheme to defraud homeowner insurance carriers by submitting fraudulent property damage insurance claims for alleged hail storm damage. Gradziel's employer, Precision Builders, canvassed neighborhoods in South Jersey and advised homeowners that their homes had been damaged in hail storms and that the homeowners could have new siding installed at no cost by filing claims with their homeowner's insurance carrier. Prior to the carrier's representative inspecting the alleged hail damage, Gradziel damaged the siding on the homes in order to make it appear as if the siding had been damaged by hail. Gradziel was recorded on video using a hand tool to make dents in the siding.

5. **Dr. Scott Greenberg**, a chiropractor, is now serving a six-year State prison term for his role as the leader of a scheme to pay approximately \$100,000 to runners to recruit more than 150 car accident victims to his chiropractic business. As a result of this scheme, Dr. Greenberg obtained a total of more than \$655,000 in reimbursement from various insurers as "compensation" for providing services for these "patients." In addition, OIFP obtained plea deals from five others charged as part of Dr. Greenberg's scheme.

6. **Hugh Hunsinger, Jr.**, a financial advisor, pleaded guilty to second-degree theft by unlawful taking and was sentenced to five years in State prison. As a condition of his sentence, Hunsinger forfeited his insurance producer license and executed a consent judgment to repay \$1.35 million, which was the amount of money that he stole from his parents and used to support his personal living expenses, leaving his parents with meager





savings on which to live.

7. **Dr. Ajit Jayaram**, a licensed physician, is serving nine years in State prison with 85% parole ineligibility under the No Early Release Act, after pleading guilty to two counts of first degree Attempted Murder, one count of second degree Health Care Claims Fraud, and one count of third degree Medicaid Fraud. As part of his plea, Jayaram admitted that he attempted to hire a hit man to kill his lover and a pharmacist, although the “hit man” turned out to be a confidential government informant who was being closely monitored by a team of State investigators.

8. **Dr. Mohammad Ibrahim**, a neurologist, was charged by a State Grand Jury in a one hundred and fifty-one (151) count indictment with second degree Health Care Claims Fraud and one count of third degree Theft by Deception stemming from his submission of bills to managed care organizations for testing and office visits that allegedly did not occur.

9. **New Jersey Mobile Dental**, a group of dentists who travel to various nursing homes and assisted living facilities throughout New Jersey to provide on-site dental treatment, defrauded the State Medicaid Program by: billing for procedures that were not performed; billing for medically unnecessary services not covered by the Medicaid Program; and, systematically adding a “trip” charge to numerous claims at a single facility despite the fact that the dentists were only entitled to one trip charge per facility regardless of the number of patients examined at such facility. After obtaining guilty pleas from six dentists in this group, using undercover surveillance and information obtained through a search of the NJ Mobile Dental billing office computers and records, MFCU obtained a



thirty-one count Indictment against seven additional NJ Mobile Dental personnel, including the owner, charging, among other things, second degree Health Care Claims Fraud, with the alleged fraud totaling more than \$5.5 million.

### **C. NOTABLE ACHIEVEMENTS**

In addition to statistics and case narratives that show that OIFP is meeting its goals and functioning as a high quality white collar prosecutor's office, OIFP can also demonstrate its success over the past year through numerous achievements.

**1. First-Degree Case:** OIFP prosecuted its third first-degree case when it prosecuted Jose Lopez jointly with the Middlesex County Prosecutor's Office, with all three of the office's first-degree prosecutions taking place during the period from 2011 to 2013. In this most recent first-degree prosecution, the office used a novel approach to charge a statutory provision, promotion of organized street crime, in a massive automobile theft ring, which resulted in a fifteen-year prison sentence. The Lopez case demonstrates that OIFP now has the capacity to spearhead a multi-pronged investigation and prosecution against a large scale, sophisticated criminal organization.

**2. Licensing Actions Against Professionals:** From 2010 to 2013, OIFP improved its communication and coordination with the professional licensing boards within the Department of Law & Public Safety, Division of Consumer Affairs, by providing the professional boards with more advance notice of OIFP sentences and plea deals involving licensed professionals and by alerting these boards after OIFP entered plea deals or obtained convictions against licensees. This improved level of communication and coordination resulted in sixteen licensing actions by the professional boards in OIFP cases over the most



recent two-year period, 2012-2013. In addition to the number of licensing actions stemming from OIFP prosecutions, this coordination between OIFP and the professional boards sends a strong “real world” deterrence message to the professional community because licensees now know that they not only face prison time and monetary fines/restitution orders for their illegal conduct, but also a long term suspension or revocation of their license to practice in their professional field. This is an example of the “multiplier effect,” or related beneficial consequences that can arise from operating a successful white collar prosecution office.

**3. Meetings With and Visits From Insurance Industry Leaders:** OIFP personnel continued to play a leadership role in insurance fraud forums and to meet with insurance company personnel to discuss methods to improve how the government and private sector detect and prosecute insurance fraud. In addition, based on the burgeoning reputation of the OIFP as a first rate white collar prosecutor’s office, the newly installed insurance regulator for the Republic of South Korea, Daesung Hwang, contacted OIFP and arranged to visit with the Acting Insurance Fraud Prosecutor and OIFP staff as part of a short information gathering tour of three cities in the United States. During Mr. Hwang’s visit, OIFP staff and Mr. Hwang exchanged insights into the government’s insurance fraud efforts in their respective jurisdictions. Finally, MFCU successfully completed a federal audit that takes place every five years, leading the federal regulators from the Department of Human Services, Office of the Inspector General, to state that of the five recommendations they made, the MFCU had concurred and implemented four and was studying the fifth, altering the reporting structure of the Unit to eliminate the dual reporting chain for detectives.



#### **D. FALSE CLAIMS ACT RECOVERIES**

In 2013, the FCA unit within MFCU participated in fifteen global cases and recovered over \$27 million for the State Medicaid Program (this figure is the State portion of the amount recouped and does not include the federal share). The largest FCA settlements are described below.

1. **Janssen Pharmaceuticals:** The largest FCA settlement was the global case against Janssen Pharmaceuticals (Janssen), a subsidiary of Johnson & Johnson stemming from the company's off-label marketing and sale of two atypical antipsychotic drugs, Risperdal and its successor drug, Invega. Pursuant to the FCA settlement, Janssen entered into a plea agreement in which it pleaded guilty to violating a provision of the federal Food, Drug, and Cosmetic Act and the defendants entered into a Corporate Integrity Agreement with HHS-OIG. As part of this settlement, the defendants paid a total of more than \$1.27 billion to the federal government and settling states, with more than \$1.1 billion of that amount designated as the Medicaid Program recovery (state and federal share) and the remaining amount designated for recovery by other federal programs affected by the covered conduct. New Jersey received more than \$36 million (State and federal) and a net payment (State only) of more than \$18.2 million from the total Medicaid settlement amount.

2. **Ranbaxy Laboratories:** This settlement, which resolved two *qui tam* actions, stemmed from claims that Ranbaxy Laboratories, Inc. (Ranbaxy) violated the federal and state FCA by submitting false statements to the FDA as part of various corporate filings, including Abbreviated New Drug Applications and supplemental drug applications, and failed to comply with current Good Manufacturing processes, which resulted in



systemic deficiencies in manufacturing plants located in India. In addition to the civil remedies, Ranbaxy entered guilty pleas to seven felony counts and paid \$150 million in criminal fines and forfeitures. As part of the civil settlement, Ranbaxy paid a total of \$350 million in civil damages and penalties to the federal government and states, including almost \$267 million to Medicaid Programs. Of the amount paid to Medicaid Programs, New Jersey received a total (federal and State shares) of almost \$7 million and a net amount (State only) of more than \$3.4 million.

#### **E. ADVERTISING CAMPAIGN**

In the 2012 Annual Report, OIFP pledged to attempt to “preempt insurance fraud through a comprehensive, far-reaching anti-fraud advertising campaign that stresses deterrence.” OIFP delivered on this pledge through a multi-media advertising campaign designed to spread the deterrence message and to signal to the public that OIFP is a reinvigorated bulwark against insurance fraud intent on incarcerating criminals who violate New Jersey’s insurance laws. OIFP’s advertising campaign emphasized the consequences of committing insurance fraud, using the theme:

***“Where Does Insurance Fraud End in New Jersey? Prison.”***

OIFP, through the Attorney General’s in-house media experts and its outside media placement vendor, developed this advertising campaign and disseminated it strategically throughout the State using the following means: outdoor (billboards and posters in rail stations and in/outside buses/trains); 30 second radio spots; digital (placed by media outlet and by key word or context); cable television advertisements that ran in counties with the greatest incidence of insurance fraud; and, print media that relate to insurance fraud (e.g.,





nurse and physician newsletters).

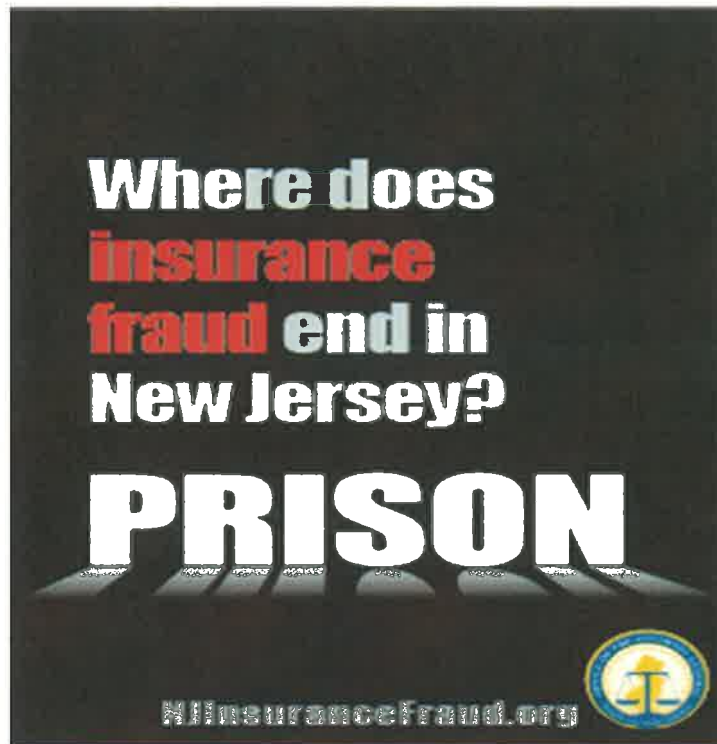
As illustrated below, three of the advertising platforms that OIFP used in its advertising campaign were billboards, posters, and NJ Transit buses.

### Ad Campaign - Billboard





## Ad Campaign – Posters



## Ad Campaign – NJ Transit Buses



Over the course of four months, covering the most active portion of the advertising campaign, the media outlets used garnered over 95 million impressions (i.e., these advertisements were seen more than 95 million times) and led to a substantial increase in visitors to the updated and improved OIFP website, where they could learn more about what constitutes insurance fraud and the harm caused by this type of fraud.

The precise breakdown of impressions from OIFP's advertising campaign is set forth in Table 2 below.

**Table 2: Ad Campaign Impressions**

Media Type	Total Impressions
Outdoor	64,646,376
Radio	2,036,000
Digital	19,515,270
Cable TV	8,872,624
Print	249,000
<b>Total</b>	<b>95,319,270</b>

In addition, although the four month advertising campaign was designed to deliver a deterrence message, it nonetheless can be credited for increasing electronic referrals by 31% as compared to the prior four month period. In sum, the advertising campaign not only broadcast OIFP's deterrence message throughout the State, but also educated the public about what constitutes insurance fraud, the economic harm caused by insurance fraud and the consequences of committing insurance fraud, all of which were unexpected, though gratifying, byproducts of the campaign.



## **F. LOOKING FORWARD – LEGISLATION AND GOALS**

1. **Legislation:** For the past several years, OIFP, through the legislative staff in the Department of Law & Public Safety, has advocated on behalf of bills that contains several anti-fraud measures, including provisions that would: restrict outsider access to accident reports in order to reduce the potential for referrals to providers who administer bogus injury treatments; expand the exchange of case information allowing insurers to share fraud information with each other and the National Insurance Crime Bureau (a clearinghouse for law enforcement personnel engaged in investigating and prosecuting insurance fraud); and, make it a specific crime for drivers to lie about where they garage their vehicles to illicitly lower their auto insurance premiums. In the year ahead, OIFP will continue to work with the Department's legislative personnel and other stakeholders to advance these bills and others designed to reduce insurance fraud and the concomitant costs associated with such fraud.

2. **Goals for 2014:** OIFP is a high performing white collar prosecutor's office as a result of many factors, none more important than its continual focus on identifying new professional talent, cultivating and trying to retain the wealth of talent that exists in the office and properly aligning the skills and capacity of its staff with the most important cases in the office. Applying virtually any measure, particularly the average prison sentence and percentage of cases resolved through a prison sentence metrics, OIFP is succeeding in its mission. To maintain this success, the office will focus its efforts on carefully selecting new staff members for line and leadership positions; identifying and developing training and skill development opportunities that will allow OIFP staff to more efficiently and effectively handle complex, document intensive cases; and, prioritizing cases to ensure that the office



not only is prosecuting the cases with the highest deterrence value, but also is properly aligning its most skilled personnel with the most significant cases.

OIFP has undergone a radical transformation over the past three years. The office is now in a position to institutionalize the changes that have been made and to further reap the benefits of its transformation by successfully prosecuting significant, complex cases and obtaining favorable results, which the office will publicize in order to maximize the deterrent value of these victories. We completed an extremely productive year in 2013 and, with the personnel, structure and vision firmly in place, OIFP looks forward to building on this solid foundation for another productive year in 2014.

Thank you for your attention to this Report.

Sincerely,

/S/ Ronald Chillemi

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Ronald Chillemi  
Acting Insurance Fraud Prosecutor

Enclosures

C: Honorable Stephen M. Sweeney, President, New Jersey Senate  
Honorable Vincent Prieto, Speaker, New Jersey Assembly  
Honorable John J. Hoffman, Acting Attorney General



**Office of the Insurance Fraud Prosecutor 2013 Statistical Report**

Calendar Year	2013
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Total Referrals Received	5346
Criminal Cases Investigated	312
Number of Indictments & Accusations Filed	37
Number of Defendants Charged	53
Number of Defendants Convicted	41
Number of Defendants Sentenced	47
Number of Sentenced Defendants Receiving Prison/Jail Terms	20
Total Years of Incarceration	86.8
Total Criminal Fines and Penalties	\$54,525
Total Civil Fines & Penalties Imposed in Medicaid Cases	\$12,981,614
Restitution Imposed in Civil and Criminal Cases	\$20,066,142
Assets Seized	\$2,598,373
Assets Forfeited	\$55,664
Licensing Actions	5