

## Draft Pending Adoption

Draft: 4/4/23

Antifraud (D) Task Force  
Louisville, Kentucky  
March 23, 2023

The Antifraud (D) Task Force met in Louisville, KY, March 23, 2023. The following Task Force members participated: Trinidad Navarro, Chair (DE); John F. King, Vice Chair (GA); Lori K. Wing-Heier represented by Alex Romero (AK); Alan McClain represented by Crystal Phelps (AR); Barbara D. Richardson represented by Maria Ailor (AZ); Andrew N. Mais represented by Kurt Swan (CT); Doug Ommen represented by Andria Seip and Jared Kirby (IA); Dean L. Cameron represented by Randy Pipal (ID); Vicki Schmidt represented by John Eichkorn (KS); Sharon P. Clark represented by Rob Roberts (KY); Kathleen A. Birrane represented by Mary Kwei (MD); Anita G. Fox represented by Joseph Garcia (MI); Grace Arnold represented by Paul Hanson (MN); Chlora Lindley-Myers represented by Carrie Couch and Marjorie Thompson (MO); Mike Chaney represented by John Hornback (MS); Troy Downing represented by Steve Matthews (MT); Mike Causey represented by Tracy Biehn (NC); Jon Godfread represented by Dale Pittman (ND); Eric Dunning represented by Laura Arp and Martin Swanson (NE); Chris Nicolopoulos represented by Heather Silverstein (NH); Jennifer A. Catechis represented by Leatrice Geckler (NM); Judith L. French represented by Michelle Brugh Rafeld (OH); Glen Mulready represented by Rick Wagon (OK); Andrew R. Stolfi represented by Dorothy Bean and Stephanie Noren (OR); Michael Wise (SC); Larry D. Deiter represented by Melissa Manning and Travis Jordan (SD); Jon Pike represented by Randy Overstreet, Tanji J. Northrup, and Tracy Klausmeier (UT); Scott A. White represented by Juan A. Rodriguez Jr. and Richard Tozer (VA); Kevin Gaffney (VT); and Allan L. McVey represented by Erin K. Hunter (WV).

### 1. Adopted its 2022 Fall National Meeting Minutes

Commissioner King made a motion, seconded by Mueller, to adopt the Task Force's Dec. 14, 2022, minutes (*see NAIC Proceedings – Fall 2022, Antifraud (D) Task Force*). The motion passed unanimously.

### 2. Discussed its 2023 Charges and Priorities

Commissioner Navarro said the Task Force discussed its 2023 proposed charges during the 2022 Fall National Meeting. Commissioner Navarro said those proposed charges were officially adopted by full NAIC Membership. He said the Task Force will be focusing on additional priorities, including; 1) the creation of a Producer Portal, which will be a centralized portal that would allow consumers to find licensing information on insurance producers; 2) an Antifraud Plan Repository, which will assist with streamlining the process of submitting and collecting companies' antifraud plans; and 3) the implementation of the Online Fraud Reporting System (OFRS) redesign. Commissioner Navarro said the Task Force will also be assisting the Improper Marketing of Health Insurance (D) Working Group's review of the *Unfair Trade Practices Act* (#880) for potential amendments to address current marketplace activities and the Antifraud Technology (D) Working Group's work on the implementation of an OFRS redesign and future enhancements.

### 3. Received an Update from the Improper Marketing of Health Insurance (D) Working Group

Frank Pyle, Vice Chair of the Improper Marketing of Health Insurance (D) Working Group, said the Working Group held its first regulator-to-regulator meeting of the year on Feb. 23. Pyle said the Working Group will continue to meet in regulator-to-regulator session on the fourth Thursday of the month. He said that last year, the Working Group began working on its charge to "review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products, and identify models and guidelines that need to be updated or developed to address current marketplace activities." Pyle said the Working Group started reviewing Model #880.

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He said the Working Group will be continuing its work on this charge and is on a path to finalizing the review of the model in April and May. Pyle said the Working Group will continue with its regulator-to-regulator meetings and will be adding public meetings as necessary to complete its charges and goals for 2023. The Working Group will this afternoon on March 23 following the Task Force (Attachment XX).

### 4. Discussed the NAIC OFRS

Greg Welker (NAIC) said that during the 2022 Fall National Meeting, the Task Force briefly discussed the completion of the OFRS redesign. Welker said that notifications have been sent out. However, he wanted to follow up during the Task Force meeting to announce to those who have not heard that the OFRS redesign is completed and live. Welker said if they have not already, he encourages state insurance regulators to review the redesign. He said the purpose behind the redesign was to update an out-of-date system being used, provide the necessary cyber security required, and add specific enhancements like attachments. Welker said that at this time, an individual submitting a potential fraud referral has the ability to submit attachments directly to the OFRS. He also said that, at this time, the attachment enhancement feature is not set up with the National Insurance Crime Bureau (NICB), the National Health Care Anti-Fraud Association (NHCAA), or state vendors. The NAIC will need to work with each to implement the attachment enhancement. Welker said the NAIC is currently working with the NICB and the NHCAA. The next step will be to work with individual states. Welker said the Antifraud Technology (D) Working Group, chaired by Armand Glick (UT), will be taking back its responsibility to review requested enhancements for OFRS. Welker said the Working Group will meet after the Spring National Meeting to specifically discuss the OFRS and the next steps to fully integrate the redesigned system for everyone.

Glick said he has had discussions with Welker and others at the NAIC. Prior to the redesign project, the Working Group was responsible for reviewing all suggested enhancements and approving them before taking them to NAIC staff to update OFRS. Glick said the Working Group will be taking that responsibility again and will also be involved in the implementation of the redesign. Glick said he will work with Welker to schedule a meeting for April.

### 5. Heard Reports from Interested Parties

#### A. Coalition Against Insurance Fraud

Matthew Smith (Coalition Against Insurance Fraud) said this will be the Coalition's 30-year anniversary. Smith said if there are states that are not familiar with the Coalition or its services available, he would encourage them to reach out. The Coalition distributes its Fraud News Weekly report, which provides comments on what is being seen from different geographic locations. Smith said that this is a free newsletter and that those not already subscribed could enroll on the Coalition's web page.

Smith said that with the continued growth of the Coalition, it is adding staff. He said the Coalition hired Tracy Thompson, former New Jersey state insurance fraud prosecutor, and Brady Bell as a second full-time communications staff member. The Coalition is also interviewing for a full-time government affairs position that will be announced at the end of April.

Smith said the Coalition has continued to work on its research studies, which assist the states in fighting against insurance fraud. He said it has completed a data ethics study that provides a detailed view of the good and bad taking place in insurance fraud. Smith said the data from this study shows that 85% of consumers support the appropriate use of data to fight insurance fraud. He said another study is being completed in partnership with Verisk. Smith said this study will be a psychology fraud study. The analysis will show consumers' perceptions of insurance fraud. Smith said the last study will be with PricewaterhouseCoopers (PWC) on the keys to unlocking special investigation unit (SIU) success.

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Smith said the Coalition’s legislative advocacy program has been busy, with 165 legislative bills being introduced. He said a new bill is being introduced that provides an incentive for reporting insurance fraud. Smith said the bill states that anyone who reports potential fraud that leads to an investigation in which there is a conviction and money recovered will receive 40% of the recovered amount.

Smith said other items to announce on behalf of the Coalition include its efforts to work with Glick for the Utah Insurance Department to host the 2023 Annual Fraud Directors Meeting and its plans to host a webinar in April on litigation finances. The Coalition’s midyear meeting will be June 5–6, and the year-end meeting will be held in December.

### B. NICB

Patrick Martin (National Insurance Crime Bureau—NICB) said he is filling in for Rich DiZinno, who could not attend due to weather. Martin said that the NICB fully supports the OFRS redesign, which provides an avenue to report fraud to the states. The NICB has a similar reporting system, and they complement each other. As the NAIC implements the redesign, the NICB will be 100% behind the implementation. The NICB and NAIC are working together with quarterly calls to help with any implementation issues.

### 6. Discussed Other Matters

Glick said the Utah Insurance Department has the privilege of hosting the Annual Fraud Directors Conference in October. Glick said this will be the largest gathering of state fraud directors. The NAIC will be assisting with the contracts and funding in addition to the Coalition and NICB. Glick said the conference will take place Oct. 3–5 in St. George, UT.

Having no further business, the Antifraud (D) Task Force adjourned.

[AFTF Minutes 3.23.23](#)

*Adopted by the Executive (EX) Committee and Plenary, Aug. 13, 2022*

*Adopted by the Market Regulation and Consumer Affairs (D) Committee, April 7, 2022*

*Adopted by the Antifraud (D) Task Force, March 28, 2022*

## **2022 Amended Charges**

### **ANTIFRAUD (D) TASK FORCE**

The mission of the Antifraud (D) Task Force is to serve the public interest by assisting the state insurance supervisory officials, individually and collectively, through the detection, monitoring, and appropriate referral for the investigation of insurance crime, both by and against consumers. The Task Force will assist the insurance regulatory community by conducting the following activities: 1) maintaining and improving electronic databases regarding fraudulent insurance activities; 2) disseminating the results of research and analysis of insurance fraud trends, as well as case-specific analysis, to the insurance regulatory community; and 3) providing a liaison function between state insurance regulators, law enforcement (federal, state, local, and international), and other specific antifraud organizations. The Task Force will also serve as a liaison with the NAIC Information Technology Group (ITG) and other NAIC committees, task forces, and/or working groups to develop technological solutions for data collection and information sharing. The Task Force will monitor all aspects of antifraud activities by its working groups on the following charges.

#### **Ongoing Support of NAIC Programs, Products or Services**

1. The **Antifraud (D) Task Force** will:
  - A. Work with NAIC committees, task forces, and working groups (e.g., Title Insurance (C) Task Force, etc.) to review issues and concerns related to fraud activities and schemes related to insurance fraud.
  - B. Coordinate efforts to address national concerns related to agent fraud and activities of unauthorized agents related to insurance sales.
  - C. Coordinate the enforcement and investigation efforts of state and federal securities regulators with state insurance fraud bureaus.
  - D. Coordinate with state, federal, and international law enforcement agencies in addressing antifraud issues relating to the insurance industry.
  - E. Review and provide comments to the International Association of Insurance Supervisors (IAIS) on its Insurance CorePrinciples (ICPs) related to insurance fraud.
  - F. Coordinate activities and information from national antifraud organizations and provide information to state insurance fraud bureaus.
  - G. Coordinate activities and information with state and federal fraud divisions to determine guidelines that will assist with reciprocal involvement concerning antifraud issues resulting from natural disasters and catastrophes.
  - H. Coordinate efforts with the insurance industry to address antifraud issues and concerns.
  - I. Evaluate and recommend methods to track national fraud trends.
  - J. Develop seminars, trainings, and webinars regarding insurance fraud. Provide three webinars by the 2022 Fall National Meeting.
  
2. The **Antifraud Technology (D) Working Group** will:
  - A. Work with the NAIC to develop an Antifraud Plan Repository to be used by insurers to create and store an electronic fraud plan for distribution among the states/jurisdictions. Complete by 2022 Fall National Meeting.
  - B. Evaluate sources of antifraud data and propose methods for enhancing the utilization and exchange of information among state insurance regulators, fraud investigative divisions, law enforcement officials, insurers, and antifraud organizations. Complete by the 2022 Fall National Meeting.

**ANTIFRAUD (D) TASK FORCE** *(Continued)*

3. The **Improper Marketing of Health Insurance (D) Working Group** will:
  - A. Coordinate with state insurance regulators, both on a state and federal level, to provide assistance and guidance monitoring the improper marketing of health plans, and coordinate appropriate enforcement actions, as needed, with other NAIC committees, task forces, and working groups.
  - B. Review existing NAIC models and guidelines that address the use of lead generators for sales of health insurance products, and identify models and guidelines that need to be updated or developed to address current marketplace activities.

NAIC Support Staff: Greg Welker/Lois E. Alexander



# Workers' Compensation Premium Fraud in the Construction Industry

National Association of Insurance Commissioners

Seattle, WA August 2023

Matthew Capece, Esq.

Rep. of the General President, United Brotherhood of Carpenters & Joiners of America

450

From probable cause affidavit, FL v. Rodriguez, et.al. (2013)

# The Problem and the Challenge

Construction employers *who do not cheat* on their premiums are punished in the marketplace.

Crooked contractors are taking over markets.

Insurance industry practices need to change to counter this threat.

The status quo is unsustainable.

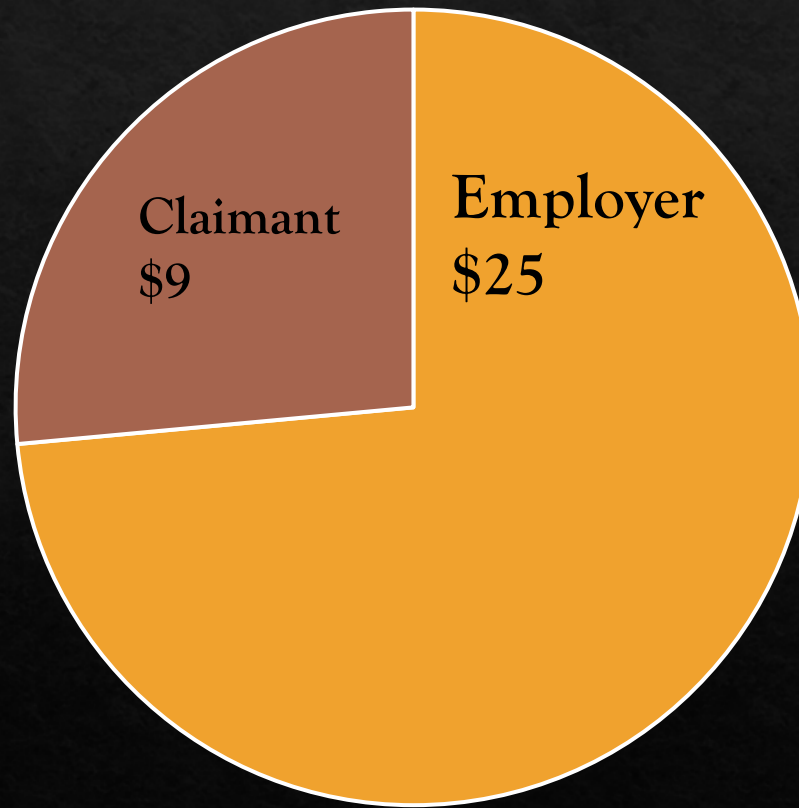




# The Stolen Billions

# Employer Premium Fraud More Severe than Claimant

Premium Fraud v. Claimant Fraud



# \$Billions of Premium Fraud in the Construction Industry

◆ \$2 billion in lost workers compensation premiums in 2017.\*

◆ Updated research based on 2021 data: \$5 billion.\*\*

*\*An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*, by Russell Ormiston, Dale Belman and Mark Erlich (2020). Estimate based on 2017 BLS data.

\*\*Publication forthcoming from The Century Foundation. Estimate based on average of 2021 rates per hundred in 11 construction categories.

# Less Premiums=Less Resources for State Workers Comp Administration

- ◆ Premium fraud Tenn. Construction industry: \$296 million.\*
- ◆ 4.4% assessment: Workers' comp. admin, subsequent injury and uninsured employers fund and TOSHA

\$13 million loss\*\*

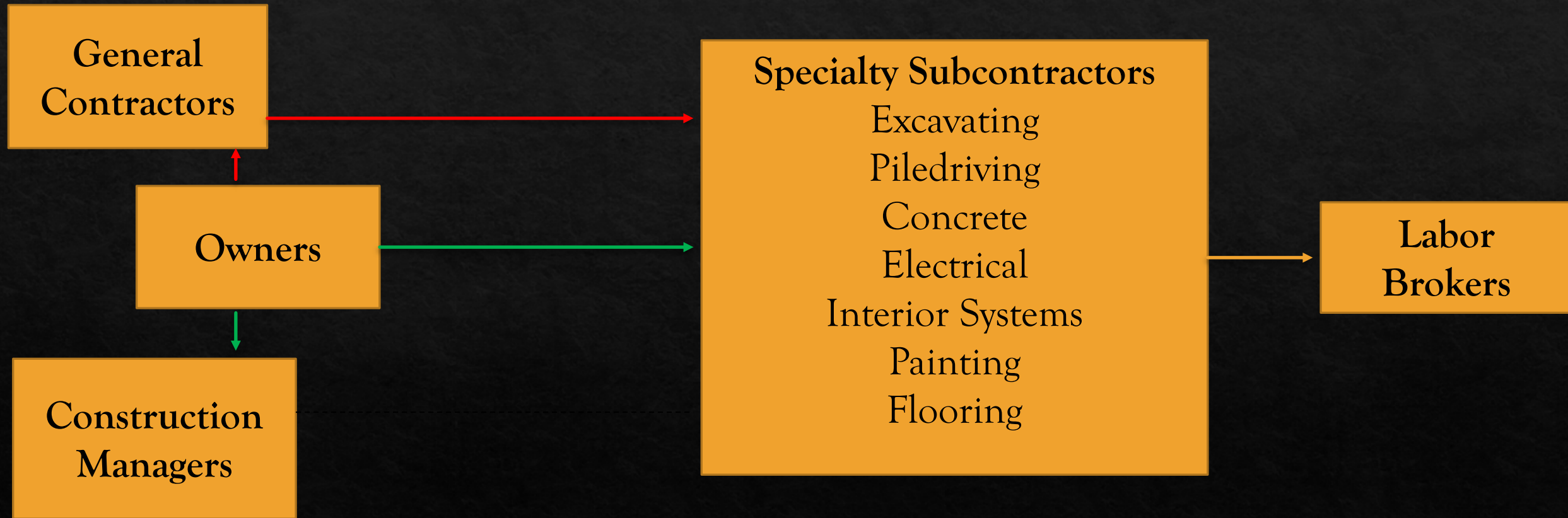
\*Tenn. Bureau of Workers' Compensation, *Annual Report on Employer Coverage Compliance*, 6 (February 1, 2019).

\*\*Tenn. Bureau of Workers' Compensation Employee Misclassification Advisory Committee, *The Use of Criminal Prosecution to Reduce Misclassification, Avoidance of Workers Compensation Coverage and Premium Fraud* (Dec. 12, 2019).



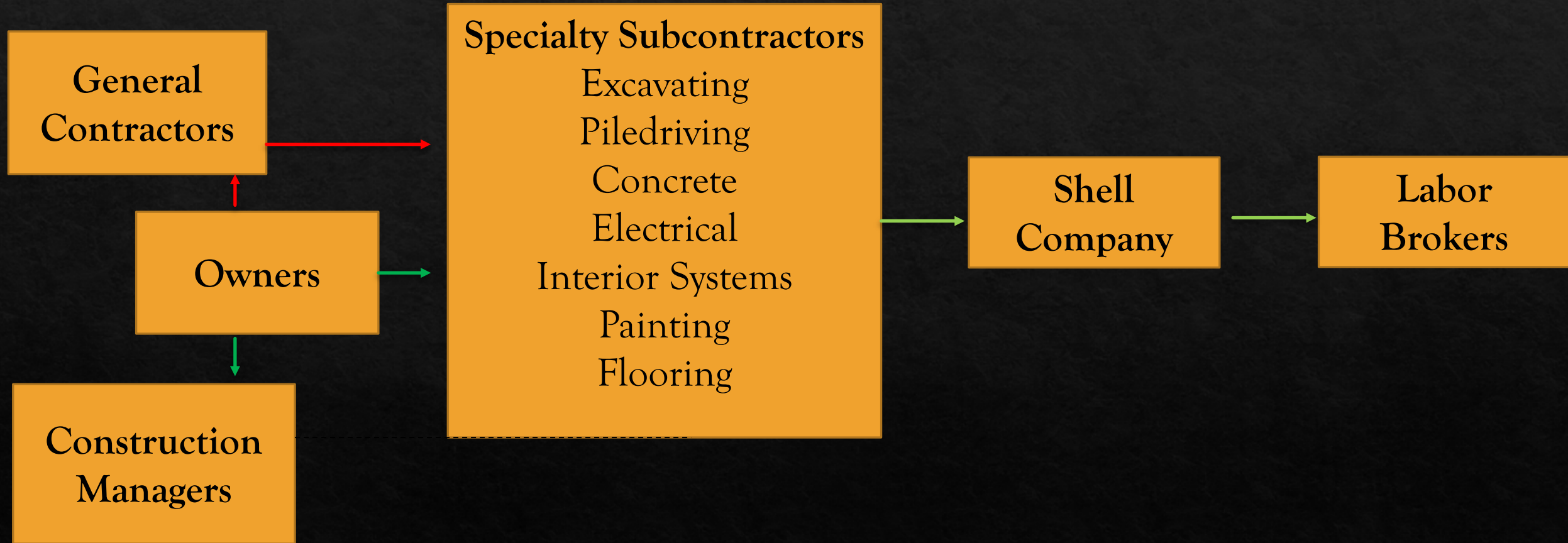
The Construction  
Industry's Very  
Lucrative and Successful  
Fraud Schemes

# Simple Labor Broker Fraud Scheme



Matthew F. Capece, *How Insurers Enable Damaging Workers' Comp Premium Fraud in Construction*,  
Journal of Insurance Fraud in America (November 2022)

# Complex Labor Broker Fraud Scheme



# Other Conspirators



◆ Insurance Brokers

◆ Attorneys

◆ Accountants

◆ Money Service Businesses



# A Cornucopia of Laws Violated

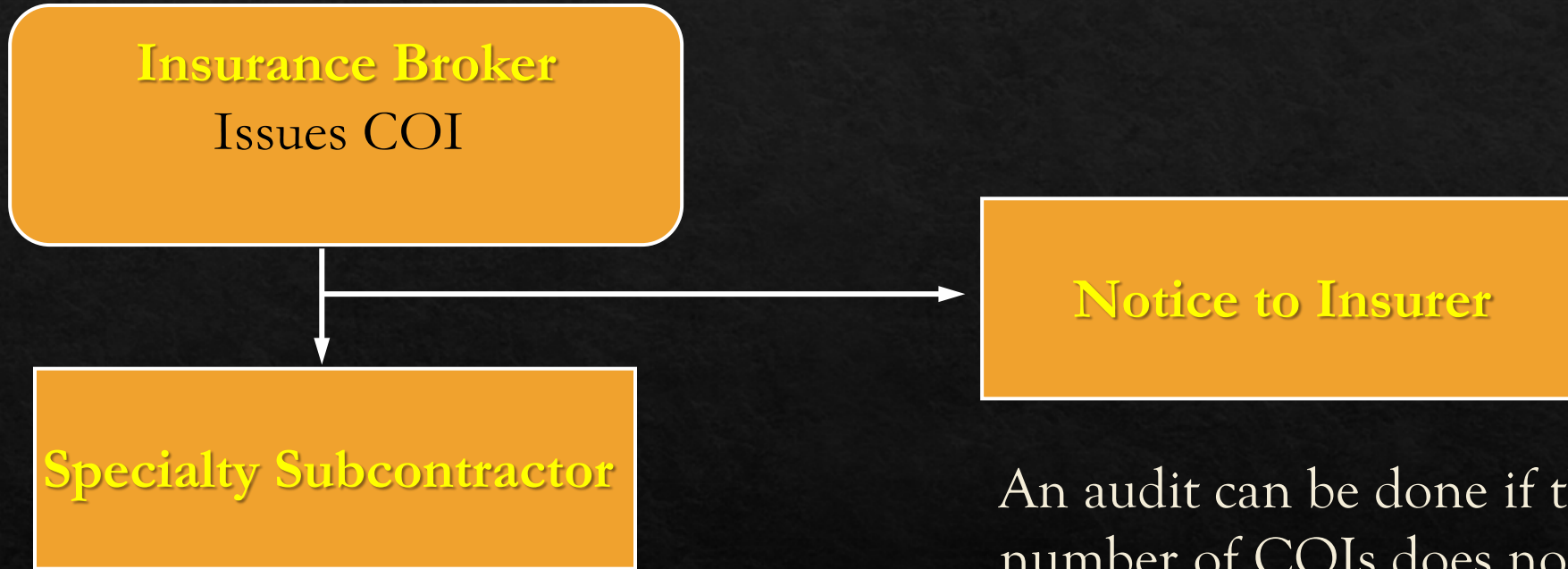


- ◆ Workers' comp. premium fraud
- ◆ Tax Fraud
- ◆ Wage Theft
- ◆ Child Labor
- ◆ Money laundering
- ◆ Mail and wire fraud
- ◆ Labor trafficking
- ◆ Racketeering
- ◆ Conspiracy



Change is Needed.  
The Status Quo is  
Unsustainable.

# The Issuing of COIs by Insurance Brokers



An audit can be done if the number of COIs does not align with the declared payroll.

# Additional Information Needed on COIs

CERTIFICATE OF LIABILITY INSURANCE		DATE (MMDDYYYY)
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>		
PRODUCER	CONTACT NAME: _____ PHONE: _____ FAX: _____ (A/C, No. Ext): _____ (A/C, No): _____ E-MAIL: _____ ADDRESS: _____	
INSURED	INSURER(S) AFFORDING COVERAGE INSURER A: _____ NAIC # _____ INSURER B: _____ INSURER C: _____ INSURER D: _____ INSURER E: _____ INSURER F: _____	
COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.		
INSR LTR	TYPE OF INSURANCE	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ. <input type="checkbox"/> LOC <input type="checkbox"/> OTHER: _____	EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPIOP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED.    RETENTION \$	EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	PER STATUTE    OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)		
CERTIFICATE HOLDER		CANCELLATION
		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
		AUTHORIZED REPRESENTATIVE

◆ Payroll amount.

◆ Classification codes.

◆ Safeguards to prevent forgery.

◆ QR codes

◆ Block chain

# Other Impactful Reforms



- ◆ Use labor brokers, pay a higher premium.
- ◆ Track bad employers.

# Beginning of a Discussion

Matthew Capece, Esq.

United Brotherhood of Carpenters & Joiners of America

101 Constitution Ave, NW

Washington, DC 20001

203-231-0398

[Matthew.Capece@carpenters.org](mailto:Matthew.Capece@carpenters.org)

[StopTaxFraud.net](http://StopTaxFraud.net)

Facebook & X: @StopTaxFraud



# United in Fighting Insurance Fraud

**NAIIC**

**Antifraud Task Force**

# American Attitudes Toward Insurance Fraud are Changing



**And not for the better!**



# How Do We Know?

The most in-depth analysis of the psychology of insurance fraud ever done.

## “WHO ME?”

Who Commits Insurance Fraud and Why



Coalition Against  
Insurance Fraud



Verisk

# Groundbreaking New Study



**dynata**™

## “WHO ME?”

**Who Commits Insurance Fraud and Why**



**Coalition Against  
Insurance Fraud**



**Verisk**



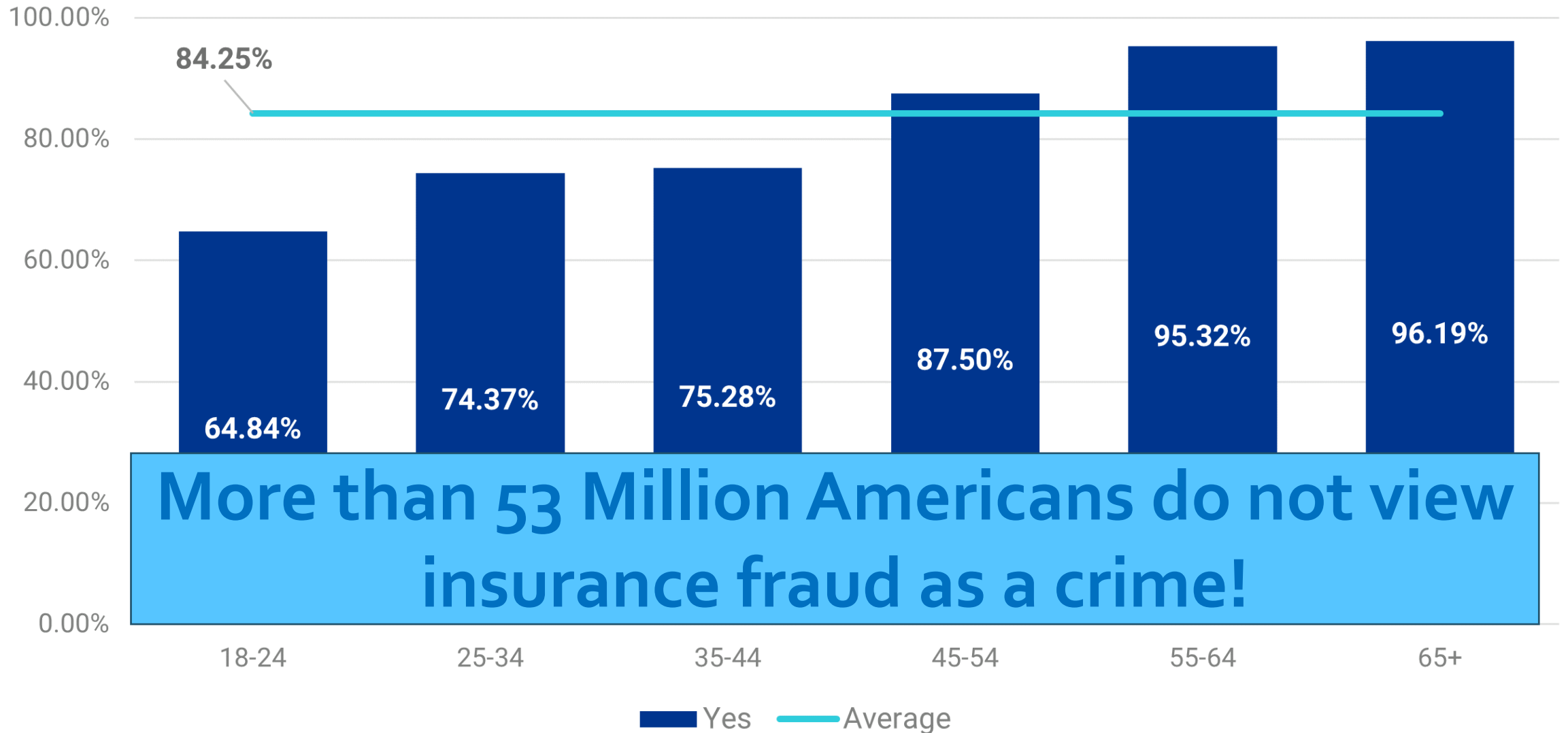
**When it  
comes to  
fraud,  
America is  
divided...**



**But not as  
you may  
think.**

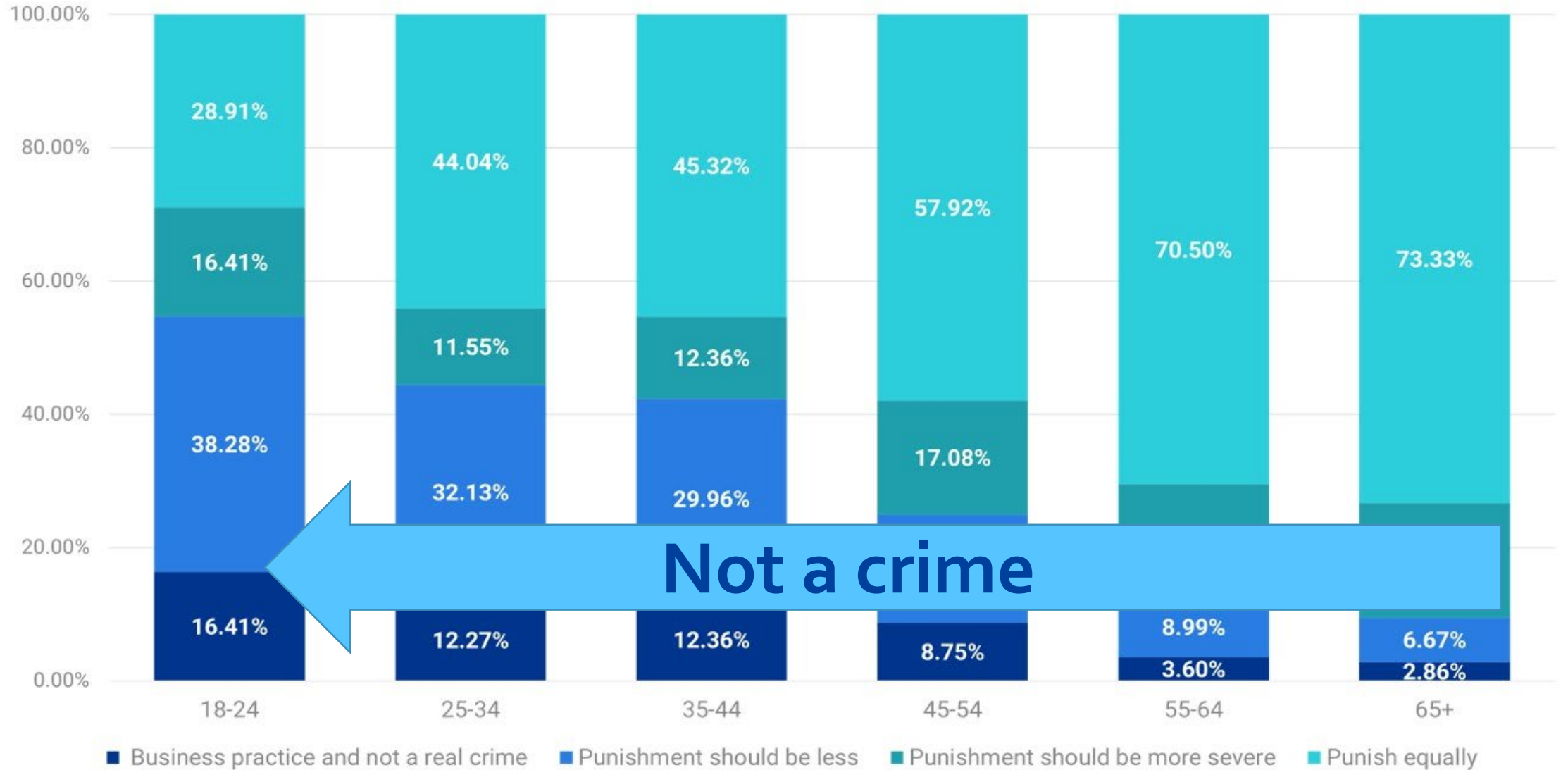


## Do you consider insurance fraud to be a crime?

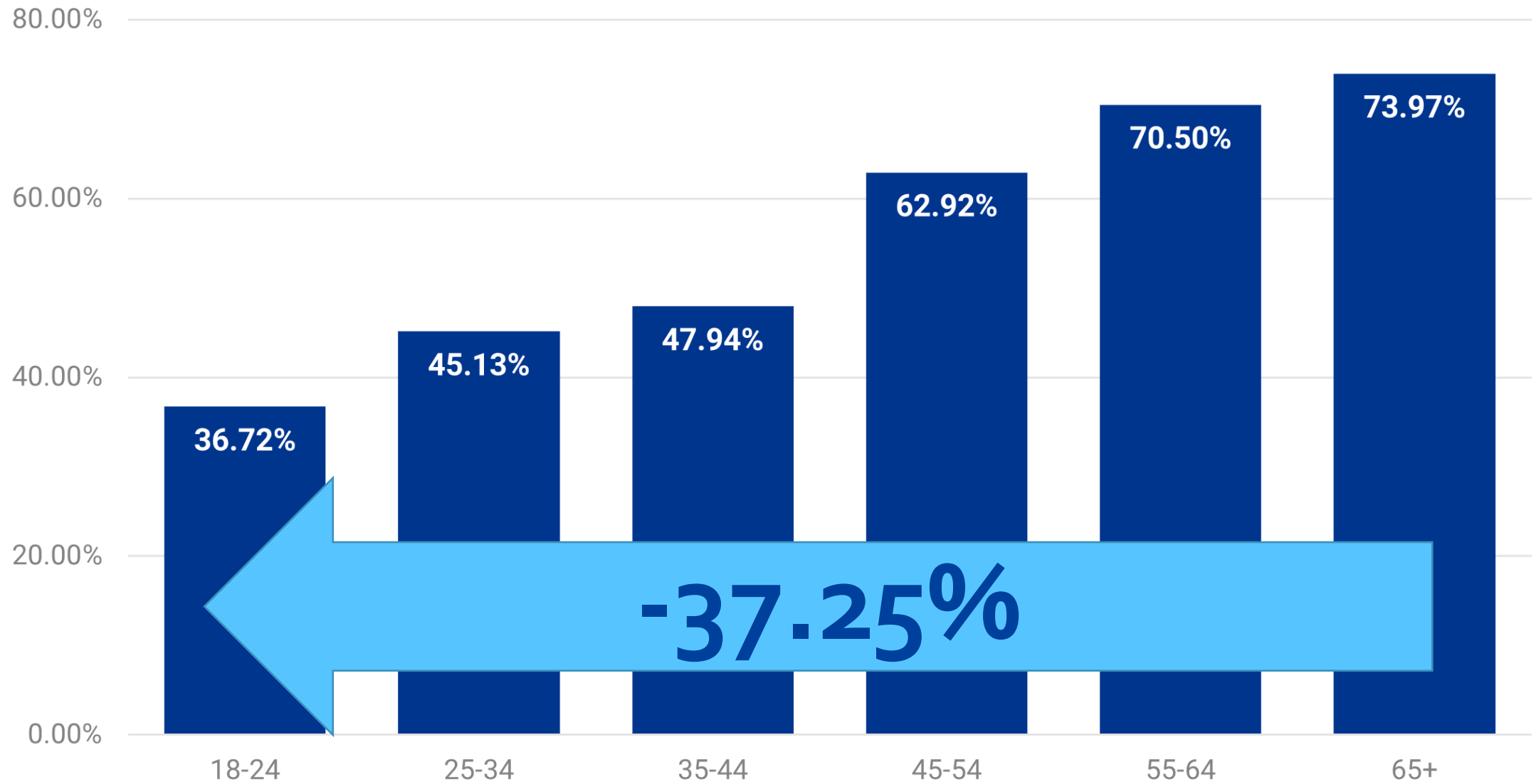


**More than 53 Million Americans do not view insurance fraud as a crime!**

Compared to crimes such as tax fraud or stealing  
my view of committing insurance fraud is:

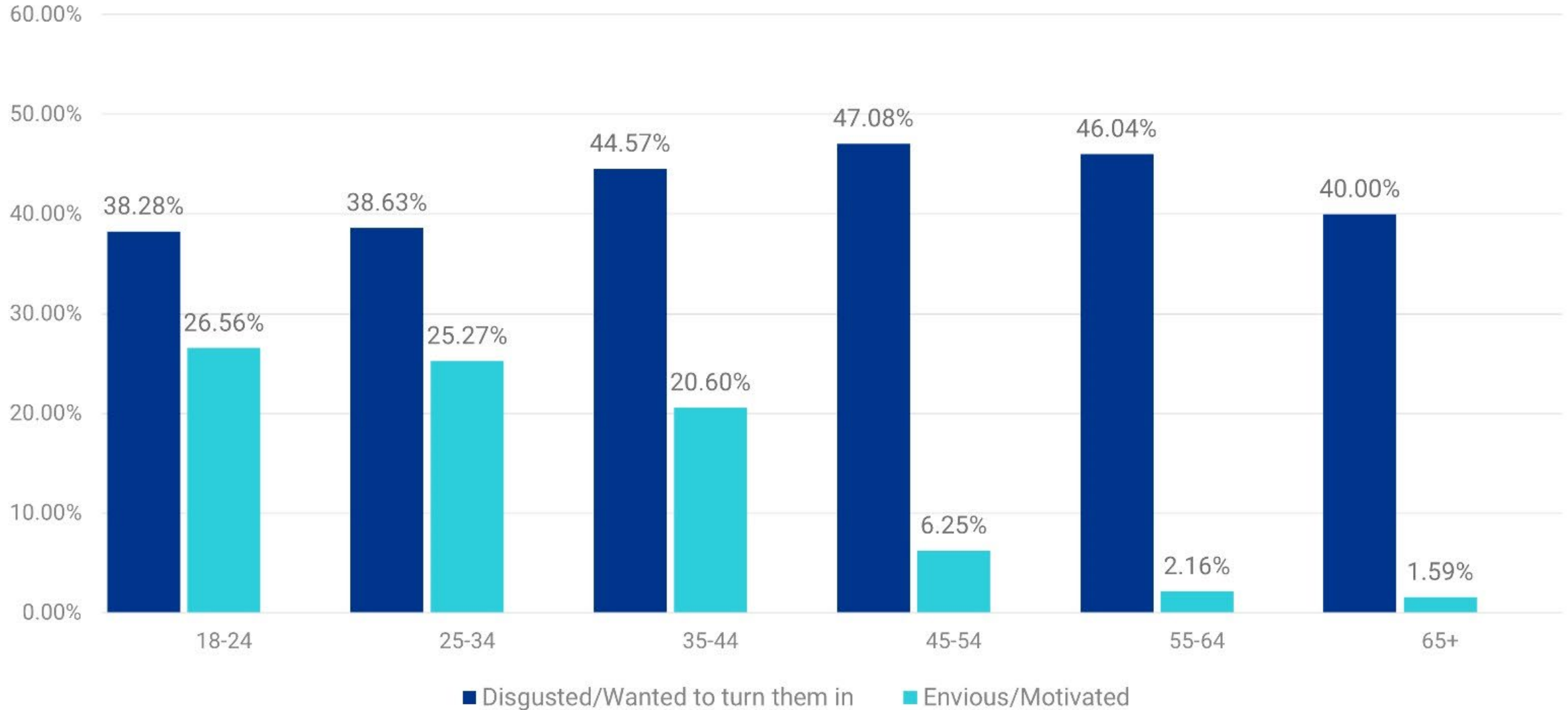


I believe I am personally affected by insurance fraud committed by other people or groups across the U.S.

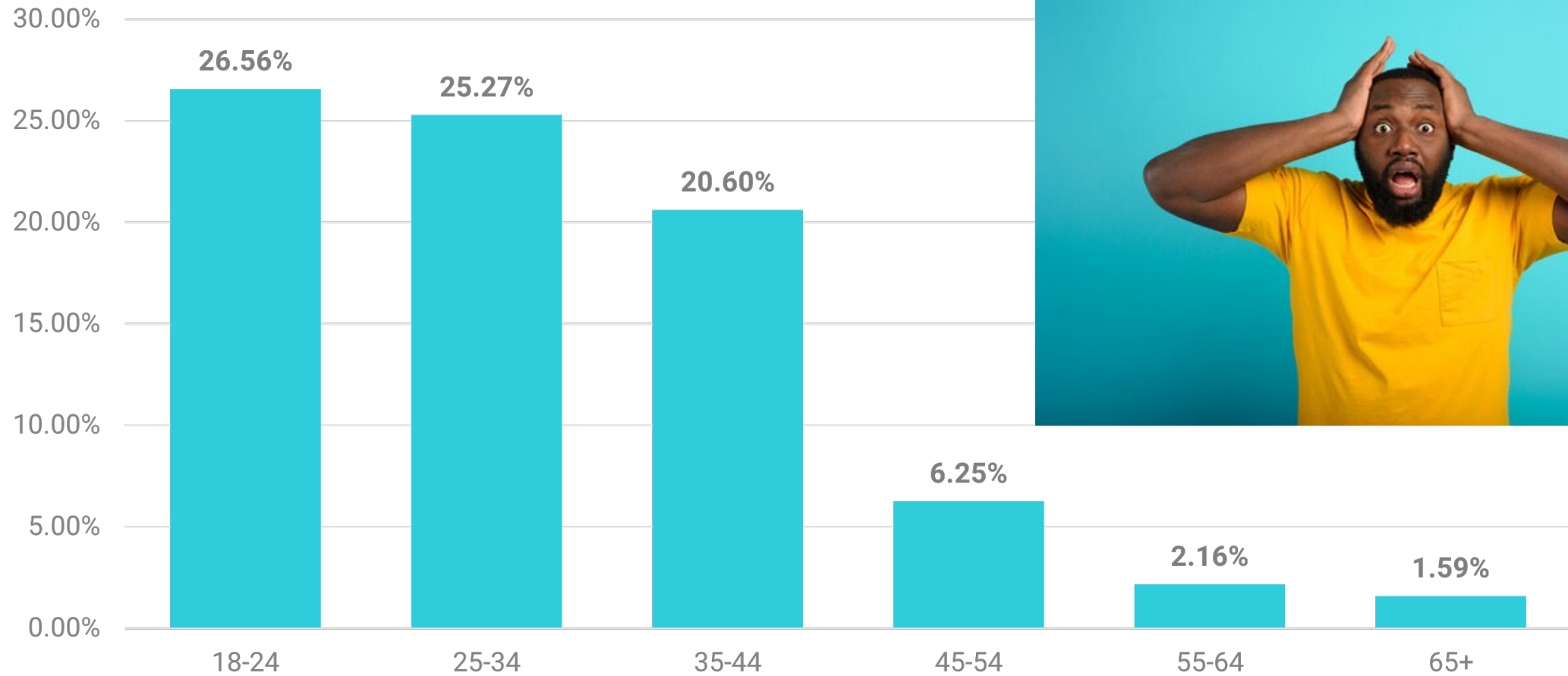




## If you know someone that committed insurance fraud, how did it make you feel?



# If you know someone that committed insurance fraud, how did it make you feel?



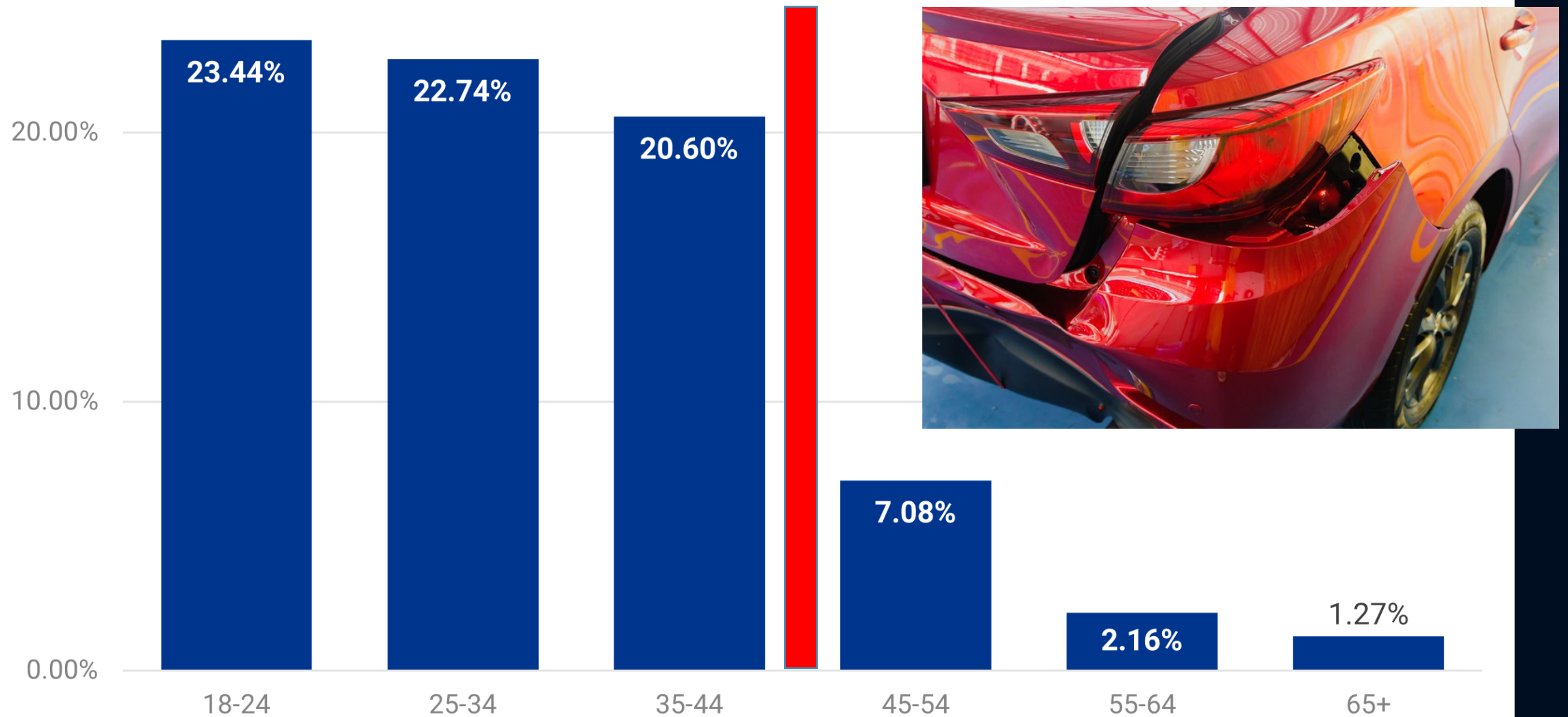
Envious or Motivated



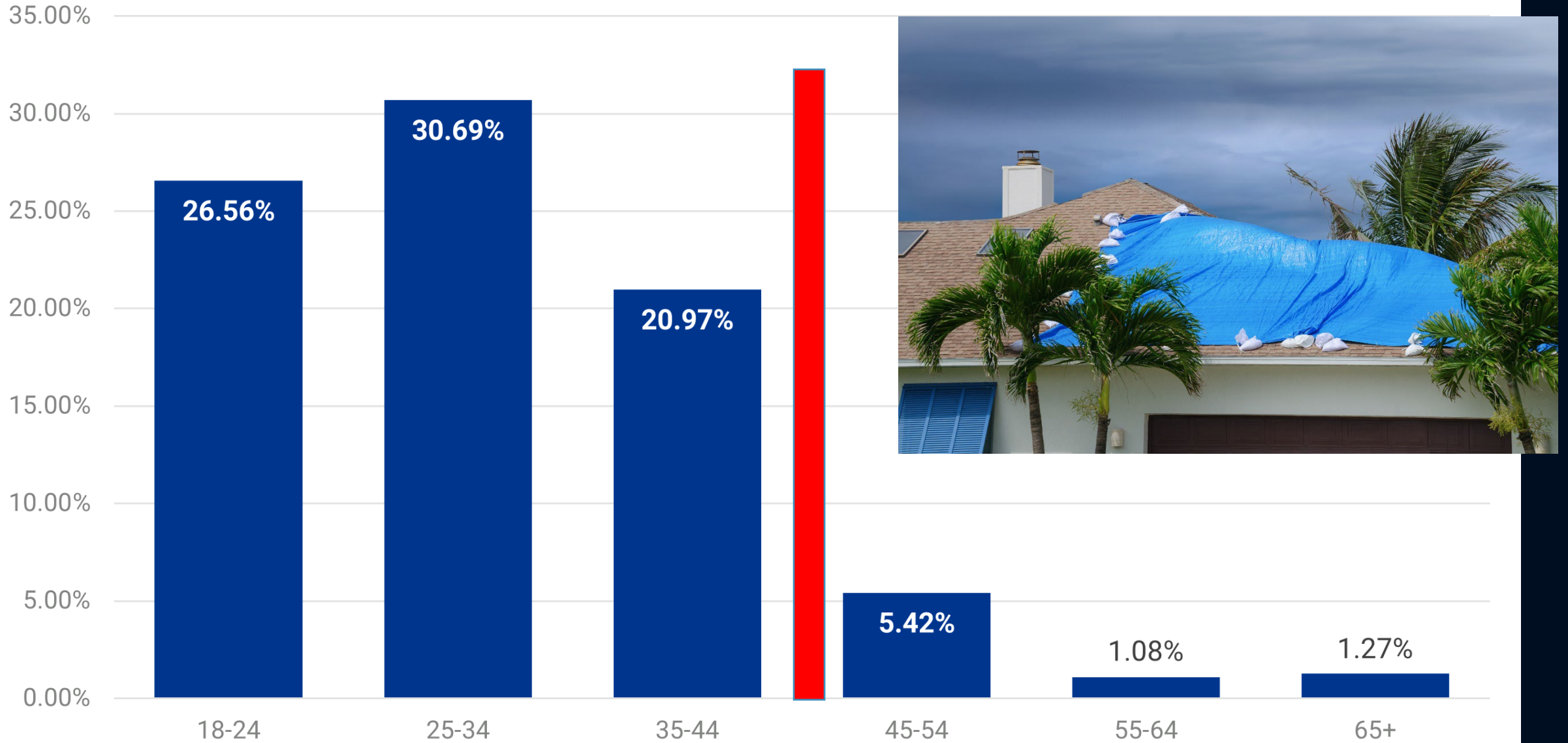
**Would you  
commit  
insurance  
fraud?**



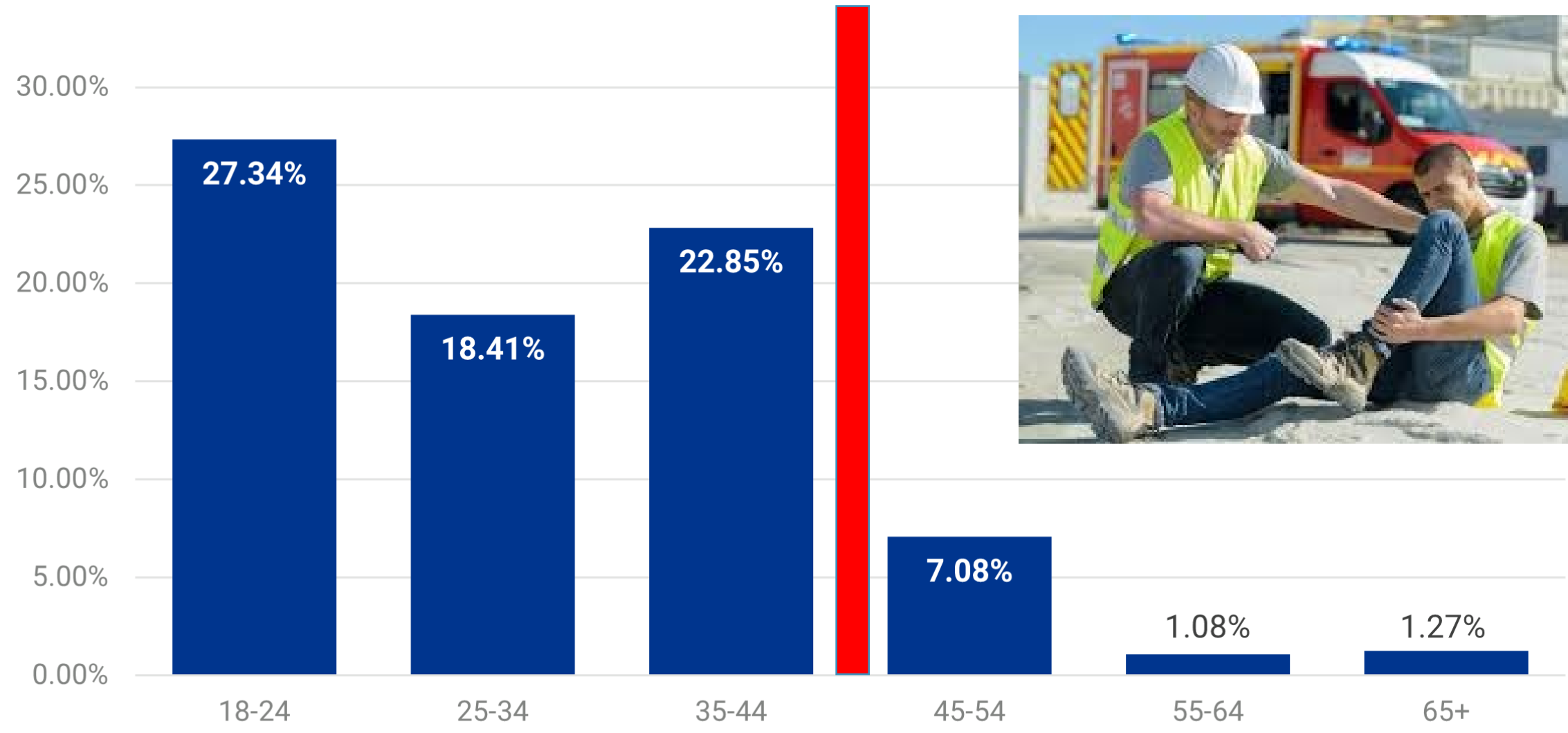
# I definitely would submit a claim for vehicle damage caused in a prior car accident



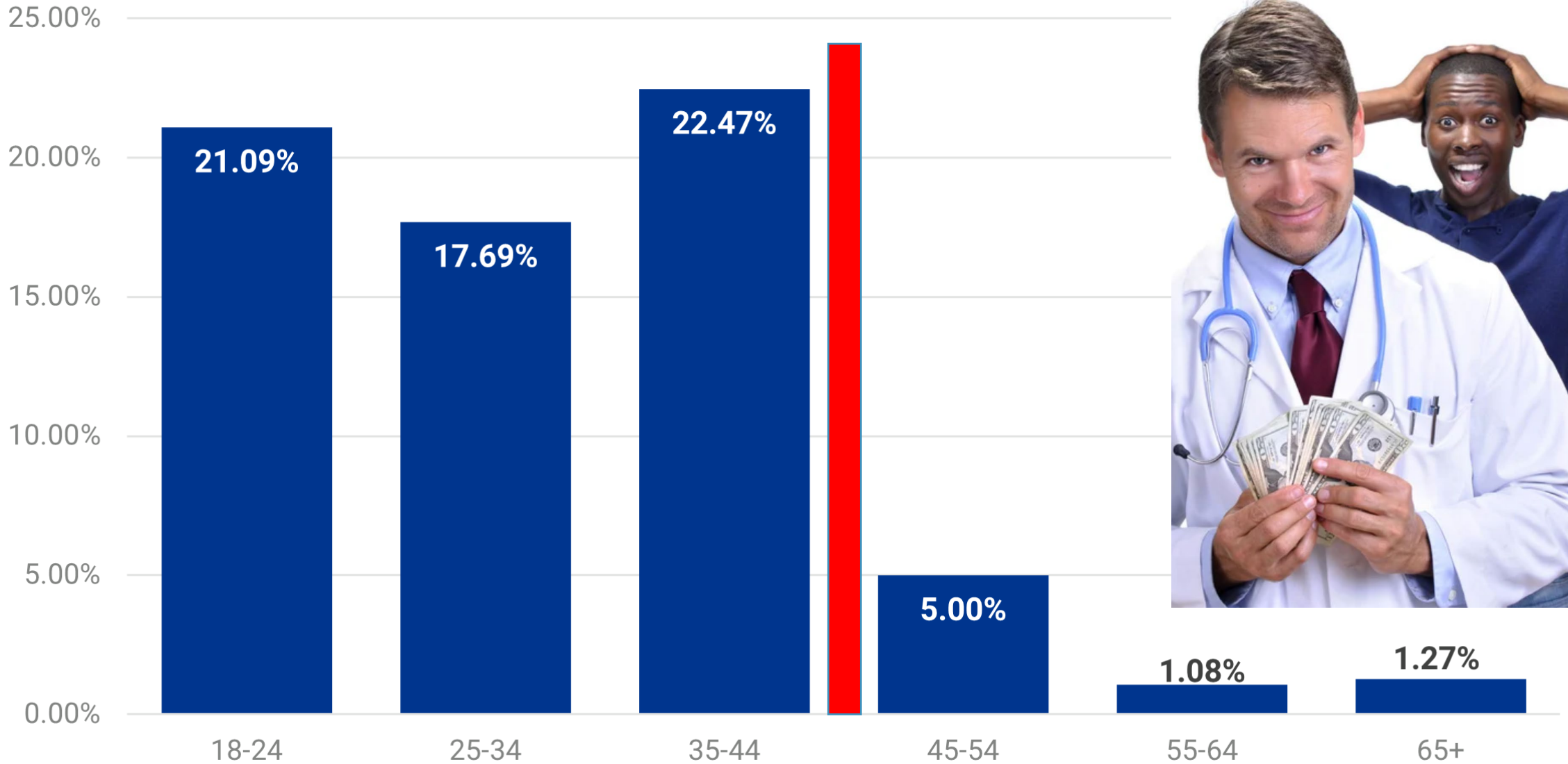
# I definitely would submit a claim for damage to my home caused in a prior storm



# I definitely would submit a workers compensation claim for an off-work recreation injury



# I definitely would help a medical provider bill an insurance company for treatment I didn't receive



# What is driving this major shift in attitudes?







# Millennial Ethics & Fraud?

**“A routine moral failure that is widespread among the Millennial generation is theft. With the advent of technology, the lines of ownership and theft have significantly blurred.”**

**Millennial Ethics...**



# Millennial Ethics...

**This group of 18 to 33 year-olds has emerged into adulthood with low levels of social trust. The future of an ethical society is looking grim and we can expect even more fraud in the future.**



THE  
**PEW**  
CHARITABLE TRUSTS

# NEW YORK POST

“An overwhelming majority of younger Americans don’t think twice about fibbing their way out of a tough spot, according to a poll measuring generational views of truth and lying.

A whopping 80 percent of Millennials find it acceptable to lie to avoid embarrassment, compared to 57 percent of Baby Boomers.”



People  
are  
lying  
more  
often





- 35.8 million Americans admit lying to get lower auto insurance rates.
- A 204.8% increase in only 2 years.



# Demographics tell the future.

## Acceptance of Lying

17.9%	Gen Z
22.5%	Millennials
18.1%	Gen X
4.0%	Baby Boomers
3.4%	Silent Generation

Millennials & Gen Z are the most sought for policyholders



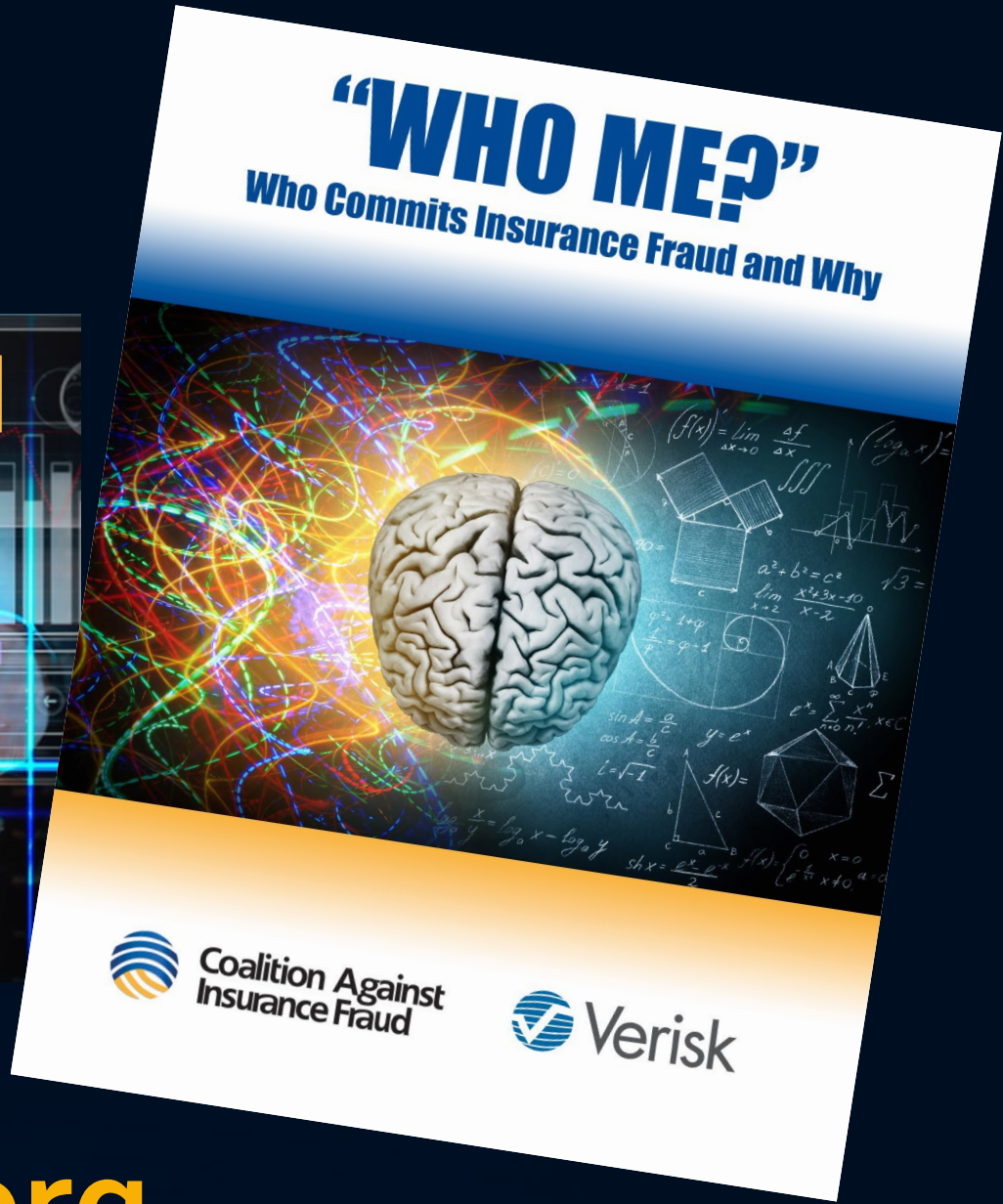
INSURANCE



# Download the Full Study



Research



[www.insurancefraud.org](http://www.insurancefraud.org)



*Thank You.*



**Antifraud Task Force**