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Department of Justice Launches FOCUS Initiative, Seeks Data Miners to Assist in Identifying and Building Fraud Claims

Jason M. Crawford, Matthew F. Ferraro, Michael W. Lieberman,
Preston L. Pugh, and William M. Tucker*

In this article, the authors explore the Justice Department's Fraud Oversight through Careful Use of Statistics initiative, recently launched in a stated effort to increase coordination between the Justice Department and the growing host of data miners who sift through publicly available government data to identify patterns of alleged fraud.

The Department of Justice (DOJ) has announced the launch of the Fraud Oversight through Careful Use of Statistics (FOCUS) initiative to increase coordination between the DOJ and the growing host of data miners who sift through publicly available government data to identify patterns of alleged fraud. The launch of FOCUS highlights a growing trend in False Claims Act (FCA) enforcement: civilian data miners with access to public data—but no other connection to the alleged defendants—are filing almost as many *qui tam* complaints as company insiders.

Qui tam filings have risen sharply¹ over the past several years; after filing a then-unprecedented 980 cases in 2024, relators tallied a total of 1,300 *qui tam* actions in 2025 and have, as of this writing, accounted for more than 780 such actions so far for 2026, putting the DOJ on track for another record-breaking year. Notably, data miners have led almost half (45%) of all *qui tam* cases since fiscal year 2024. In its description of the FOCUS initiative,² the DOJ notes that data miners have been particularly active in bringing cases alleging fraud on pandemic-relief programs. Some of these data miners are serial plaintiffs that have found success, whereas others have been defeated by challenges³ from defendants under the FCA's public disclosure bar. Recent years have also seen data miners bring cases based on their analysis of a wide range of data sets—from claims data sourced from the Centers for Medicare and

Medicaid Services to import entry data compiled by Customs and Border Protection.

The announcement of the FOCUS initiative signals that while data mining is here to stay, the DOJ wants to engage with these potential relators and their counsel to make sure that data miners are only bringing forth *quality* cases that merit the use of the DOJ's investigative resources. Given FOCUS's launch, the DOJ's recent establishment of the National Fraud Enforcement Division,⁴ and the Trump administration's continued focus on what it terms⁵ "widespread waste, fraud, and abuse at the expense of the American taxpayer," healthcare companies, government contractors, and others would be wise to review their own data as a compliance tool to identify and address issues that may be fodder for data miners.

DOJ Aims to Incorporate Data Miners Into Enforcement Strategy

In this context, data miners are civilians, individuals, or companies who use advanced data analysis frameworks, strategies, and tools to parse large volumes of publicly available datasets for patterns that *may* signal potentially fraudulent behavior. Relators can use this information, once further contextualized with additional research, to support a formal complaint that a company has knowingly violated a specific contractual, statutory, or regulatory obligation. Moreover, the broad spread of artificial intelligence (AI) capabilities and other technological tools may inspire those the DOJ terms "new players in the space" to take it upon themselves to analyze public data in a hunt for fraud, in order to secure a share of any money recovered in *qui tam* litigation.

Data miners' research is complementary to similar analytical efforts conducted by the DOJ—though the DOJ tends to narrow the scope of its internal review to nonpublic information collected by the government. As described by the DOJ⁶ in a document over-viewing the FOCUS initiative, while "data miners generally do not provide insider information, the best data miners provide valuable leads through high-quality, reliable, and predictive data analyses and signals and a thorough understanding of the relevant legal obligations."

The DOJ also acknowledges the potential for erroneous findings and that not all aspiring relators will be equally sophisticated.

The DOJ's interest is in ensuring "the effective use of enforcement resources" by strategically allocating its limited resources to advance "high-quality data miner *qui tam* actions." To that end, the DOJ encourages civilian entities who have "demonstrated an investment in pre-filing diligence and commitment to analytical rigor, familiarity with program rules, and legally sufficient allegations" to discuss potential collaboration opportunities directly with FOCUS representatives.

The DOJ further advises data miners to focus on:

- Identifying a clear, material, and well-evidenced violation of a specific statutory, regulatory, or contractual obligation.
- Meeting the pleading standard laid out by Rule 9(b) of the Federal Rules of Civil Procedure, which requires plaintiffs who allege fraud to articulate factual circumstances indicating fraud with sufficient specificity.
- Vetting findings potentially indicative of fraud to rule out benign explanations for the observed patterns of behavior.
- Articulating how the data and other available evidence collectively suggest knowing misconduct (*scienter*) and falsity.

The launch of FOCUS indicates that the DOJ will continue to leverage sound analysis methodologies to advance FCA enforcement—and will remain open to working with the public, and especially sophisticated data miners, in order to do so.

Implications for Healthcare Organizations, Government Contractors, and Importers

The launch of FOCUS could have meaningful consequences for healthcare organizations, aerospace and defense companies, and other government contractors. By actively recruiting data miners who, in the DOJ's words, "demonstrate an insightful application of sophisticated technological capabilities to regulatory frameworks to help identify potential fraud that would otherwise go undetected," the DOJ aims to build an expanding network of sophisticated civilian enforcement partners. As FOCUS channels the most analytically rigorous relators toward viable cases, the likely result will be not simply more *qui tam* filings, but more that advance beyond the pleading stage. That shift, in turn, is likely to

drive a corresponding uptick in government-initiated investigations opened on the strength of civilian leads.

As noted above, cases generated via this initiative could be impacted by the FCA public disclosure bar. If the DOJ declines intervention, and a relator's case is found to be based solely on insights generated from publicly available data published by the government without any additional insider information, the data miner's complaint may be vulnerable to being dismissed under the public disclosure bar unless the government uses its statutory authority to oppose such a dismissal. It remains to be seen whether the FOCUS initiative will lead to a higher intervention rate in quality cases brought by data miners or whether DOJ will be more active in utilizing its authority to block dismissal on public disclosure grounds.

Healthcare organizations, among others, should strongly consider developing a proactive strategy to understand the potential FCA exposure in their own data. Given that the data that external miners are scanning is data that healthcare entities already possess internally, organizations may benefit from conducting regular, rigorous audits of their own claims, billing, and government reported data—both to identify compliance gaps and to understand how sophisticated data miners might attempt to build a *qui tam* complaint. A sound compliance program should account for the possibility that the next adverse enforcement action originates not from an insider, but from a public dataset.

In Summary

Key Takeaway #1

The DOJ's FOCUS initiative reflects a new front in FCA enforcement, as civilian data miners—entities that analyze publicly available government data to identify potential fraud—have contributed to the significant uptick in complaints filed under the *qui tam* provisions of the FCA.

Key Takeaway #2

While the DOJ has acknowledged sophisticated data miners as valuable enforcement partners, FOCUS is structured to engage

only the most analytically rigorous data miner relators, with the DOJ expressly seeking to filter out lower-quality filings that place undue strain on government resources.

Key Takeaway #3

Healthcare organizations and other government contractors should take the launch of FOCUS as a spur to audit their own claims and billing data, as publicly available information mined by external data miners may serve as the evidentiary foundation for *qui tam* complaints.

Notes

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1. <https://www.justice.gov/opa/media/1438871/dl>.

2. *Id.*

3. See, e.g., *United States ex rel. Relator LLC v. Howard D. Kootstra and Golden Empire Mortgage, Inc.*, Case No. 1:22-cv-00924-TLN-CDB (E.D. Cal.).

4. <https://www.justice.gov/ag/media/1435311/dl?inline>.

5. *Supra* note 1.

6. *Id.*