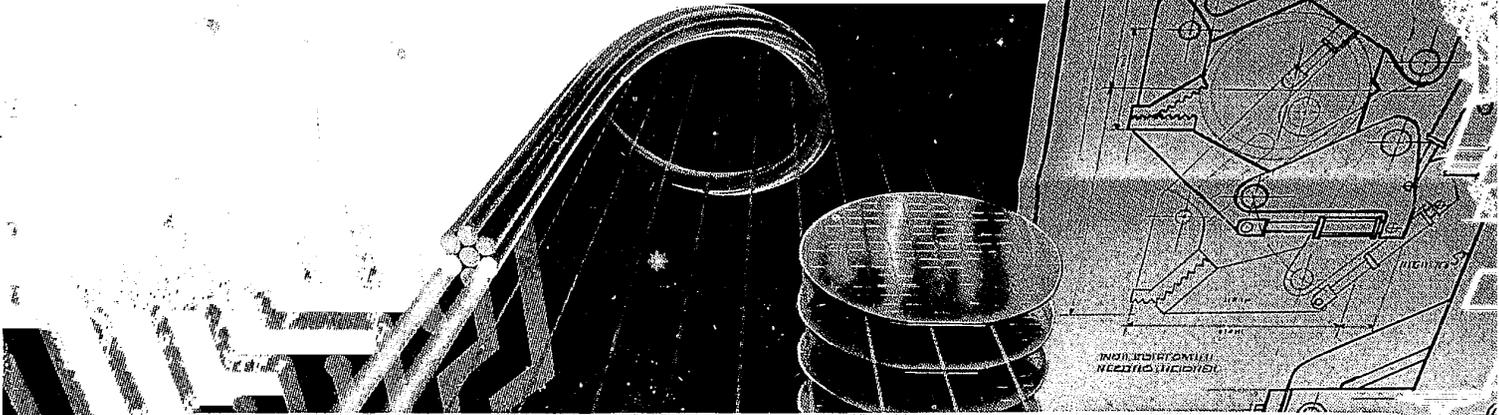


# FBI

## Law Enforcement Bulletin



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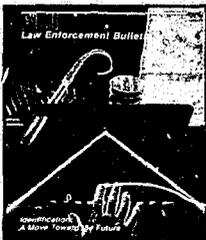
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United States Department of Justice  
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William S. Sessions, Director

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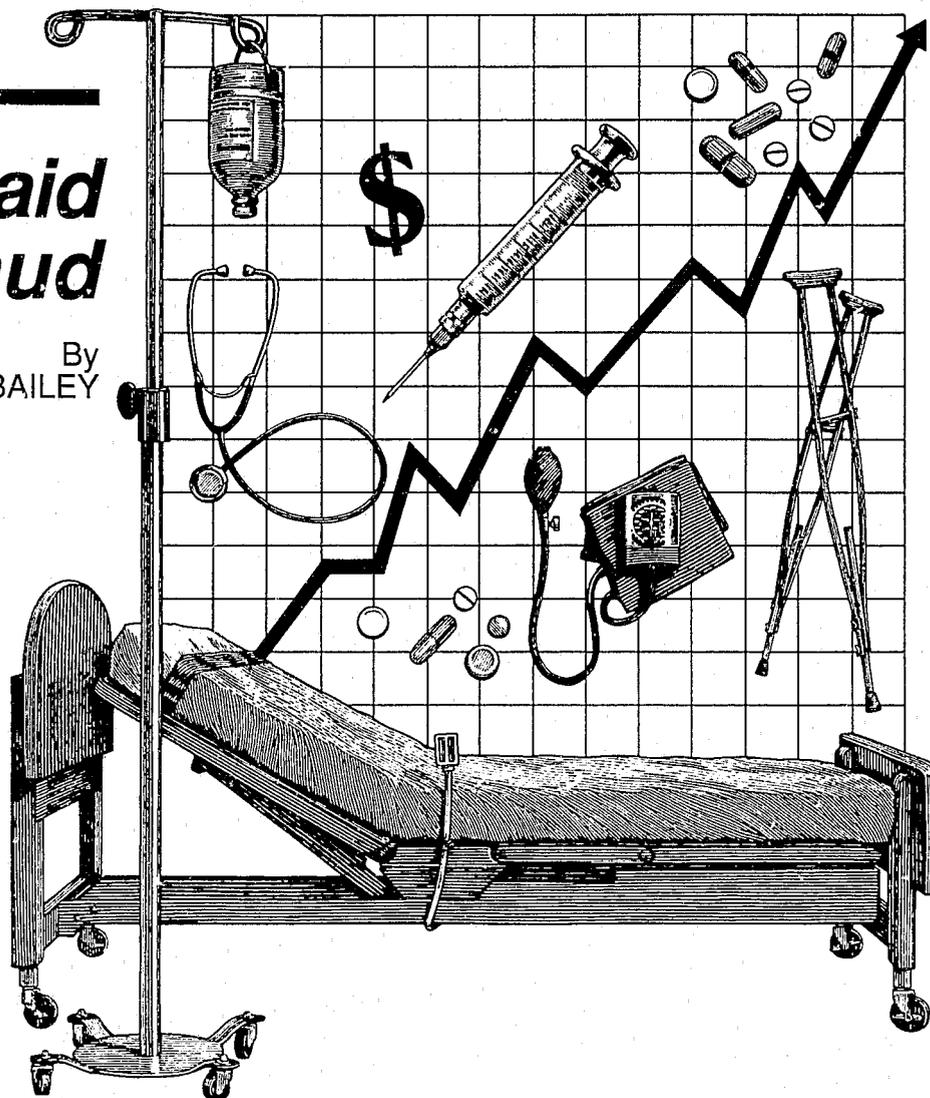
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# Medicaid Fraud

By  
LARRY L. BAILEY



In 1965, as part of Lyndon Johnson's Great Society, legislation was introduced to create the Medicaid Program. The program was designed to provide State-administered financing of medical services for needy families.

By 1977, Medicaid was a \$19 billion a year program, and it was estimated that fraud was costing taxpayers at least \$653 million annually. These losses threatened the integrity of Medicaid, and although the Medicaid Program is Federally monitored, the original

legislation did not specify who would investigate and prosecute any suspected cases of fraud. Therefore, Congress introduced legislation to form special Medicaid Fraud Control Units (MFCU).

Thirty-eight States currently have MFCUs. Most of the units are part of State attorney generals' offices, State bureaus of investigation, State police departments, State auditor generals' offices, or other similar agencies. Wherever these MFCUs are located, it is important that local, State, and Federal agencies know of their existence, their authority,

and their function. Many agencies are unaware that MFCUs exist, and as a result, opportunities to refer pertinent information to them or to combine investigative efforts with them are often overlooked. Therefore, law enforcement agencies should be aware of the functions of MFCUs and how these units can help them investigate Medicaid cases.

This article discusses what MFCUs are, how they work in conjunction with other law enforcement agencies, and how they can assist in local investigations that, were it not for MFCUs, might not otherwise



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**Medicaid Fraud Control Units may well be the key to stem the tide of Medicaid fraud and abuse....**  
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be pursued. It also illustrates how important it is for other law enforcement agencies to make timely referrals of possible crimes to MFCUs.

### **Purpose**

MFCUs investigate and prosecute Medicaid fraud committed by doctors, psychiatrists, pharmacists, laboratories, hospitals, nursing homes, and medical equipment and supply companies. Personnel in the units also investigate suspected abuse of patients in Medicaid-subsidized facilities, ranging from simple assaults to sexual assaults or homicides.

For example, police are often called to nursing homes, where unattended deaths may appear to be of either natural or accidental causes. If foul play or negligence did occur, it is likely that the nursing home personnel would make untrue statements to officers and would falsify medical records to indicate that the person died of natural causes. To

further complicate the situation, doctors might sometimes certify the cause of death without a thorough examination of the body, much less an autopsy. They frequently draw their conclusions on the cause of death from statements of personnel at the facility. While the local police oftentimes do not have the experience or personnel to investigate such cases, MFCUs can investigate the possibility of a pattern of abuse or neglect of patients in a certain facility and may be able to establish a prosecutable case of negligent homicide. However, timely referrals by police to MFCUs is crucial, because if a victim is cremated, it is virtually impossible to prove that a crime has been committed.

### **Personnel**

In most States, MFCU investigators are experienced, sworn peace officers who execute search and arrest warrants, participate in grand jury investigations, conduct

surveillances, and operate undercover. For example, investigators in the Colorado MFCU have, on the average, over 14 years' experience in law enforcement prior to beginning employment with the unit. In those States where MFCU investigators are not police officers, a sworn officer accompanies investigators whenever it is necessary to serve arrest or search warrants.

MFCU investigators who handle fraud cases that involve billing for services not performed, double billings, or kickbacks are assisted by auditors in the unit. These auditors are usually not sworn officers; however, some MFCUs do have police officers who are certified public accountants and also serve as unit auditors.

In addition to investigators and auditors, MFCUs oftentimes employ attorneys to prosecute Medicaid cases. Because the Federal Government contributes approximately 50 percent of the total Medicaid budget, it, as well as the States, is the victim of Medicaid fraud. For this reason, some of the lawyers are cross-designated as assistant U.S. attorneys. This allows them to file charges in Federal court rather than State court, which broadens the scope of potential offenses for which the defendants can be prosecuted. Federal charges in Medicaid fraud cases may include mail fraud, wire fraud, filing false claims, and violations of the Federal kickback statute.

### **Inter-Agency Cooperation**

In States with large Medicaid programs, such as New York and California, single Medicaid fraud cases frequently range in the mil-

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lions of dollars. Prior to the creation of MFCUs, this fraud went virtually unchecked. For example, one family used a medical clinic to obtain over \$30 million illegally from New York State. The family purchased a very expensive apartment in Manhattan and a mansion in Florida. They were routinely chauffeured in a limousine, and they enjoyed all the other amenities associated with wealth.

While the situation is now much improved, in order for MFCUs to be truly effective, it is important that other agencies notify them when there are possible fraud or patient abuse problems within their jurisdictions. The benefit of such inter-agency cooperation was clearly illustrated in a recent case in Colorado when investigators with the California Attorney General's Office advised their counterparts in Colorado that suspects from a recent California fraud case had moved to the Denver area, possibly to form a new company.

Investigators in the Colorado MFCU were able to determine that the suspects had, in fact, formed a new company in their jurisdiction. An MFCU investigator, who joined the company in an undercover capacity, quickly identified a pattern of fraud within the company, and he also learned that the suspects hoped to bribe a government official to obtain confidential information.

At this point, a local police department joined the investigation. It provided an additional undercover operative and electronic equipment, as well as detectives to operate the equipment and assist with the surveillance. This coopera-

tive effort resulted in the arrest of five suspects who were charged with 24 felony counts of bribery of a public official, conspiracy, and fraud, as well as the seizure of computers and an automobile. In addition, the company was put out of business before it could obtain large amounts of money through fraudulent activity. One defendant, who is cooperating with law enforcement officials, stated that company officials planned to bilk the system out of \$30 million during a 10-month period and then disappear.

In another cooperative effort, the Colorado MFCU worked with local police and the Drug Enforcement Administration (DEA) on the investigation of a pharmacist and a pharmacist/dentist who wrote prescriptions for controlled drugs and

## Conclusion

Medical providers who cheat one program, such as a private insurance company, are likely to defraud other programs, such as Medicaid or Medicare. Medicaid Fraud Control Units are invaluable in the effort to reduce the number of Medicaid fraud and abuse cases.

MFCU personnel can access confidential information not available to those outside of their units, and through the use of MFCUs, law enforcement agencies can broaden the scope of offenses for which certain defendants can be charged. Unfortunately, however, because the existence of the units is not well-known, law enforcement agencies oftentimes fail to make use of this valuable asset. Therefore, it is imperative that police departments

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***...law enforcement agencies should be aware of the functions of MFCUs and how these units can help them investigate Medicaid cases.***

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traded them for cocaine. They accounted for the controlled drugs by submitting false claims to Medicaid that indicated that the prescriptions were for Medicaid patients.

The MFCU assisted the police and DEA by reviewing Medicaid claims and other confidential information that is inaccessible to police officers who do not work in MFCUs. This joint effort resulted in the arrest and successful prosecution of both suspects on drug and Medicaid fraud-related charges.

educate themselves on MFCUs and how they can assist law enforcement agencies on the local, State, and Federal levels.

Medicaid Fraud Control Units may well be the key to stem the tide of Medicaid fraud and abuse, but it is impossible for them to be truly effective until they gain recognition within law enforcement agencies. Only then will they begin to make the considerable contribution of which they are capable. **LEB**

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## Arson Trends and Patterns

The National Fire Protection Association (NFPA) has released a report entitled *Arson Trends and Patterns—1989*. The report contains information on the incendiary and suspicious fires occurring within the United States. It is based on data received from the NFPA, the U.S. Fire Administration, and the Uniform Crime Reports Section of the Federal Bureau of Investigation.

Using charts, graphs, and tables, as well as written text, the report covers all facets of the arson problem in the United States. The report begins with information on structure, vehicle, and outdoor fires. It then addresses arson and suspected arson according to community size and clearances and arrests of arsonists. One section of the report is dedicated to the convictions, sentences, and motives of offenders, while another section looks at arson and suspected arson by property type and area of origin. The report concludes with a discussion of the four principal factors to consider when faced with this crime problem.

*To obtain copies of this report, contact the Fire Analysis and Research Division of the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269, or call 1-617-770-3000.*

## Preliminary 1990 Crime Figures

According to preliminary annual statistics released by the Uniform Crime Reports Section of the FBI, serious crimes known to law enforcement rose 1 percent nationwide from 1989 to 1990. The data show that the number of violent crimes rose 10 percent last year, while the property crime total dropped 1 percent. The changes were measured by a Crime Index of selected violent and property offenses and were computed from data provided by law enforcement agencies across the Nation.

All violent crimes increased during 1990. Murder and aggravated assault both rose 10 percent; forcible rape was up 9 percent; and robbery increased 11 percent.

In the property crime category, motor vehicle theft increased 5 percent and arson, 1 percent.

Larceny-theft showed no change, while burglary declined 4 percent.

Regionally, 2-percent increases in the Crime Index total were recorded in the Northeastern States and the Midwestern States. While the Southern States showed no change, the Western States registered a 1-percent decrease.

Similar to the national experience, the suburban areas and cities with populations over 50,000, as well as those outside metropolitan areas, each recorded 1-percent increases in the number of Crime Index offenses reported to law enforcement. The rural areas registered a 1-percent decrease for the same timeframe.

*Source: Press release dated April 28, 1991, and issued by the Uniform Crime Reports Section, Federal Bureau of Investigation, Washington, DC.*

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**The Bulletin Reports**, a collection of criminal justice studies, reports, and project findings, is written by Kathy Sulewski. Send your material for consideration to: *FBI Law Enforcement Bulletin*, Room 7262, 10th & Pennsylvania Ave., NW, Washington, DC 20535.

(NOTE: The material presented in this section is intended to be strictly an information source and should not be considered as an endorsement by the FBI for any product or service.)

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