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AUGUST 11, 2026

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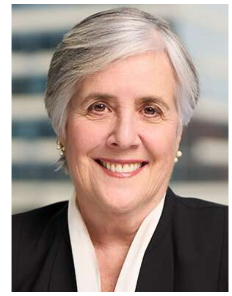

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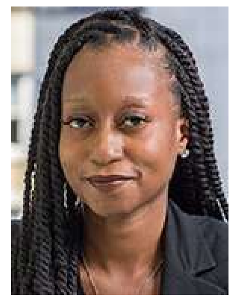

Michele St. Julien

For decades, successful False Claims Act cases typically began with insider information from employees, competitors or other individuals with firsthand knowledge of alleged misconduct. Increasingly, however, FCA investigations are emerging from statistical anomalies identified through artificial intelligence-assisted analysis of publicly available data.

This shift is being driven by a growing class of qui tam relators known as data miners. Unlike traditional whistleblowers, data miners often have no employment relationship with — or firsthand knowledge of — the target company. Instead, they analyze public datasets for patterns that may suggest fraud against the government and seek to share in any resulting recovery. Notably, a relator need not have been personally harmed by the defendant's conduct to bring a qui tam action on behalf of the U.S.[1]

The growing influence of data miners has become significant enough to attract attention of the U.S. Department of Justice. In announcing the Fraud Oversight through Careful Use of Statistics, or FOCUS, initiative in April, the DOJ stated that it had experienced a rapid increase in qui tam complaints in recent years and that much of the surge had been driven by individuals and entities analyzing publicly available government data for potential signals of fraud.[2]

What may have once appeared to be an emerging phenomenon is rapidly becoming a defining feature of the FCA landscape. According to the DOJ, fiscal year 2024 saw a record 980 qui tam filings, which was quickly surpassed by approximately 1,297 filings in fiscal year 2025.[3]

As of May, the DOJ had already received more than 780 qui tam complaints, putting the government on pace for another record-breaking year.[4] Most significantly, the DOJ has reported that data miners filed more than 45% of all qui tam complaints since fiscal year 2024.[5]

DOJ Encouraging Data Mining While Policing It

The DOJ's FOCUS initiative signals that the government views data-driven fraud detection as a valuable enforcement tool. The initiative expressly invites data miners to engage with the DOJ and explain how their methodologies identify "high-quality, actionable" FCA matters.[6]

At the same time, the FOCUS initiative reflects an important recognition: Not every statistical anomaly constitutes fraud. The DOJ has repeatedly emphasized that successful data-mining cases require more than identifying an outlier.

Data miners are expected to understand the relevant regulatory framework, consider alternative explanations, and articulate why a particular pattern is indicative of falsity and scienter. The DOJ has also stressed the importance of analytical rigor and legally sufficient allegations, particularly given the heightened pleading requirements for fraud claims under Rule 9(b).[7]

Viewed holistically, the FOCUS initiative appears less like an open invitation for more data-mining lawsuits and more like an effort to distinguish genuine fraud signals from statistical noise.

Data-Driven Enforcement Through Private Data Mining

While the current focus on AI is new, data-driven enforcement itself is not. Agencies such as the Federal Trade Commission have long relied on large datasets to identify enforcement targets and emerging fraud trends. Through its Consumer Sentinel Network, for example, the FTC aggregates millions of consumer complaints, and makes that information available to law enforcement to spot trends, identify questionable business practices and detect emerging fraud schemes.[8]

What distinguishes the current FCA environment is that sophisticated analytical capabilities are no longer confined to government investigators. Through the DOJ's FOCUS initiative, the government is increasingly receiving fraud allegations generated by private data miners using AI and other advanced analytical tools.[9]

In that respect, the rise of data miners may represent a broader shift in the enforcement ecosystem. The analytical tools once largely available to regulators are increasingly being deployed by private actors incentivized to identify potential FCA violations.

Public Data a New Whistleblower

The data-mining model is particularly effective where three factors are present: significant government spending, large publicly available datasets, and clear statutory or programmatic requirements.

The DOJ points to pandemic-relief lending programs as a leading example. Public release of the U.S. Small Business Administration loan-recipient data generated substantial data-miner activity and FCA litigation, with the DOJ reporting approximately 840 settlements and judgments totaling more than $850 million involving pandemic-relief programs.[10]

Looking ahead, industries with extensive public-facing data and significant government touchpoints — including healthcare, government contracting, grant and loan programs, customs and tariff compliance, and cybersecurity — may face heightened scrutiny as AI-driven analytics become more sophisticated.[11]

Practical Takeaways

Historically, compliance programs were designed to address insider whistleblower risk. Companies may now need to ask a different question: What conclusions could an outsider armed with AI draw from our public-facing data?

While there is no one-size-fits-all response, companies operating in highly regulated sectors may benefit from conducting periodic outside-in reviews of publicly available information through the eyes of a regulator, relator or data miner.

The objective is not to search for fraud, but to identify data points that could appear anomalous if viewed without business context. Equally important is ensuring that legitimate explanations for those anomalies are understood and can be readily articulated if questions arise.

To support these efforts, companies should consider maintaining an inventory of publicly available data sources that could be used to evaluate their activities, including government payment data, procurement information, reimbursement records, pricing disclosures and other regulatory filings. Compliance, legal and business personnel should periodically assess whether trends reflected in those datasets align with internal records and business justifications.

Organizations may also wish to establish processes for identifying and investigating material statistical outliers, documenting legitimate explanations for unusual patterns and escalating issues that warrant further review. In some cases, targeted data analytics or mock relator-style reviews may help compliance teams understand how their data could be interpreted by an outside observer.

The rise of AI-enabled data miners represents more than an increase in qui tam filings. It reflects a broader transformation in how fraud is identified, investigated and litigated. As analytical capabilities continue to migrate beyond government agencies and into the hands of private relators, the next FCA investigation may begin not with a whistleblower's firsthand account, but with an algorithm's identification of a statistical anomaly.

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[1] False Claims Act Cases: Government Intervention in Qui Tam (Whistleblower) Suits, U.S. Dep't of Just., https://www.justice.gov/sites/default/files/usao-edpa/legacy/2011/04/18/fcaprocess2_0.pdf.

[2] Civil Division Announces FOCUS Initiative for Data Miners Filing Qui Tam Complaints, U.S. Dep't of Just. (Apr. 30, 2026), https://www.justice.gov/opa/pr/civil-division-announces-focus-initiative-data-miners-filing-qui-tam-complaints.

[3] False Claims Act Settlements and Judgments Exceed $6.8B in Fiscal Year 2025, U.S. Dep't of Just. (Jan. 16, 2026), https://www.justice.gov/opa/pr/false-claims-act-settlements-and-judgments-exceed-68b-fiscal-year-2025; U.S. Department of Justice, Fraud Statistics Overview: Fiscal Year 2025 (Jan. 16, 2026), https://www.justice.gov/opa/media/1424121/dl.

[4] DOJ Data Miners Initiative: FOCUS Initiative for Data Miners Filing Qui Tam Complaints, U.S. Dep't of Just., https://www.justice.gov/opa/media/1438871/dl.

[5] Id.

[6] DOJ Data Miners Initiative: FOCUS Initiative for Data Miners Filing Qui Tam Complaints, supra note 2.

[7] Id.

[8] Consumer Sentinel Network Data Book 2024, Fed. Trade Comm'n, https://www.ftc.gov/reports/consumer-sentinel-network-data-book-2024; Consumer Sentinel Network Reports, Fed. Trade Comm'n, https://www.ftc.gov/enforcement/consumer-sentinel-network/reports.

[9] DOJ Data Miners Initiative: FOCUS Initiative for Data Miners Filing Qui Tam Complaints, supra note 2.

[10] Id.

[11] False Claims Act Settlements and Judgments Exceed $6.8B in Fiscal Year 2025, supra note 2.