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**Fraud**

# FBI Law Enforcement

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## Features

## Departments

### Focus on Health Care Fraud

- 2** **The Silent Bandit**  
By Joseph L. Ford 139191
- 8** **Prosecuting Lack of Medical Necessity**  
By Andrew Grosso 139192
- 17** **Medicaid Fraud Control**  
By Jim Taylor 139194
- 22** **Cincinnati's Pharmaceutical Diversion Squad**  
By John J. Burke 139195
- 14** **Police Radar—A Cancer Risk?**  
By John M. Violanti 139193
- 27** **Sobriety Checkpoints: Constitutional Considerations**  
By A. Louis DiPietro 139196

- 1** Director's Message
- 21** Book Review
- 12** Police Practices
- 26** Bulletin Reports

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**Cover:** Health care fraud directly challenges law enforcement. This issue focuses on law enforcement's concerted efforts to strategically address this crime problem. (Cover photo © 1992, M. Simpson, FPG International Corp.)

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## **Cincinnati's Pharmaceutical Diversion Squad**

By  
**JOHN J. BURKE**

**I**n 1990, the Cincinnati, Ohio, Police Division formed a special squad to coordinate pharmaceutical diversion investigations. The pharmaceutical diversion squad (PDS) not only initiates investigations of health care providers suspected of pharmaceutical fraud but also works with Federal and State agencies to combat this growing, yet often overlooked, crime problem.

### **FORMING THE SQUAD**

Early in 1990, top administrators in the Cincinnati Police Division recognized the need for an organized approach to pharmaceutical

diversion investigations in the city. Accordingly, the division applied for a grant from the Governor's Office of Criminal Justice Services (GOCJS)—which administers Federal funds available to the State of Ohio—to form a new police squad specifically responsible for investigating these types of criminal offenses. The GOCJS approved the funding within months and the squad became operational in October 1990.

### **TRAINING**

After securing equipment and supplies and selecting qualified personnel (four investigators, a com-

manding sergeant, and a secretary), administrators realized that the pharmaceutical diversion squad would deal in an area that most law enforcement officers knew little or nothing about. Fortunately, however, one of the investigators assigned to the new squad gained extensive investigative experience in diversion cases while working on a drug task force several years earlier. This officer provided most of the initial training to the squad.

Because the other squad members had very limited background information regarding diversion cases, the officer kept the initial training very basic. He began with

an introductory discussion of controlled and noncontrolled substances and the drug scheduling system used by pharmacists. He then provided instruction on the various State criminal laws and pharmacy regulations.

After familiarizing squad members with how the system is *intended* to work, the officer showed them examples of forged and altered prescription forms. He also instructed them on how to recognize typical scams employed by individuals who seek to obtain drugs illegally.

In addition, members of the squad received instruction on the theft and abuse of drugs by health care professionals. Squad members learned the forms and the methods used to dispense drugs in health care facilities. And, they learned the techniques used by unscrupulous individuals in the health care system to steal drugs and substitute other substances for them. To augment this training, investigators also attended seminars offered by the Drug Enforcement Administration (DEA) and the National Association of Drug Diversion Investigators (NADDI).

### VISITING PHARMACIES

Within the first 3 months of the squad's operation, PDS investigators visited every pharmacy in Cincinnati. This preliminary step produced two important results. First, the visits provided investigators with valuable insights into the practices and procedures of the pharmaceutical trade. Second, the visits allowed investigators to alert pharmacy employees of the new operation and elicit their assistance in

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*Sergeant Burke commands the pharmaceutical diversion squad of the Cincinnati, Ohio, Police Division.*

combating the problem of pharmaceutical diversion.

The visits gave investigators the opportunity to familiarize themselves with the generic names of drugs, as well as the more recognizable brand names. During the visits, investigators also requested that each pharmacy place the squad's business card in a prominent place within their stores and use the 24-hour phone number to report any suspicious prescription activity.

### ROLL CALLS

In addition to visiting pharmacies, members of the pharmaceutical diversion squad attend roll calls in each of the city's five police districts on an ongoing basis. This gives PDS members an opportunity to instruct uniform patrol officers on how they can assist the PDS.

At roll call, squad members stress to officers the importance of notifying the pharmaceutical diversion squad whenever they arrest anyone possessing forged, altered, or stolen prescriptions. Often, in response to a radio call, officers arrest

offenders involved in numerous diversion schemes. Investigators from the PDS can greatly expand investigations when they interview these individuals.

PDS members also encourage patrol officers to notify the squad when they come into contact with persons possessing large quantities of prescription drugs, especially controlled substances. Again, questioning these individuals concerning their supply source can help build additional criminal cases.

Further, PDS members request that patrol officers alert them of any contact with health care providers or health facility employees in illegal possession of prescription drugs or apprehended driving while under the influence of drugs. In many cases, health facility administrators willingly volunteer information concerning these individuals, since their actions may place patients and coworkers in jeopardy.

### THE MEDIA

Another important aspect of the program includes using the media to

inform the public of the new squad's existence. Fortunately, in one particular case, the timely detection and prosecution of a small drug ring afforded the program and the new squad some very positive media exposure.

The case involved three offenders who forged medical records to indicate that they were suffering from AIDS in order to obtain mass quantities of the drug Dilaudid. By the time of their highly publicized apprehension, the suspects had obtained approximately \$500,000 (street price) worth of the potent pain killer.

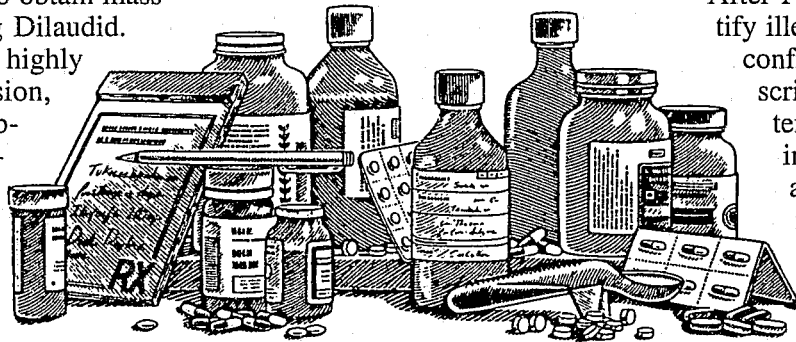
The local media coverage of the case alerted citizens and other criminal justice agencies to the extent and impact of pharmaceutical diversion in southwest Ohio. Also, during the coverage, television news reports broadcasted the phone number of the 24-hour PDS hotline.

### INTERAGENCY COOPERATION

The GOCJS grant that funded the PDS mandated that the squad provide pharmaceutical diversion training to law enforcement agencies in southwest Ohio. To fulfill this requirement, and to further understanding of this crime problem among other criminal justice agencies in the State, the squad hosts 2-day seminars annually for all area police departments, prosecutors, and judges. These seminars not only alert attendees of the problem but also make them aware of the squad's mission and prepare prosecutors for

the possible influx of pharmaceutical cases.

In addition, the PDS makes available to all law enforcement agencies information that it compiles from various sources. With computer programs it developed, the squad tracks suspects, cases, arrests, and the progression of court proceedings, as well as any related



intelligence. The squad also monitors daily countywide arrest summaries and contacts suburban departments that have charged any individuals with diversion-type offenses.

### TYPES OF CASES

#### Forged and False Prescriptions

A large proportion of the squad's cases involves forged and altered prescriptions. Although the stereotypical "street junkies" most often commit this type of offense, the squad also arrests offenders who are health care professionals, such as doctors, pharmacists, and nurses.

Often, legitimate pharmacists identify a problem involving illegal or forged prescriptions and then alert the police. However, as PDS squad members gained experience, they developed expertise in uncovering these types of cases even be-

fore pharmacists detected the illegal activity. Usually, in fact, PDS investigators discover offenses by simply reviewing pharmacy prescription files. During periodic squad meetings, members update each other on offenses being tracked, which may, in turn, lead to expanded investigations in cases found to be interrelated.

After PDS investigators identify illegal activity, they send confiscated fraudulent prescription forms to the latent print lab for processing. A recently acquired automated fingerprint identification system (AFIS) now makes these latent fingerprint searches faster and more accurate.

Handwriting examinations also prove invaluable. In a recent diversion case, a suspect mailed pharmaceutical drugs to a State correctional institute in hollowed out fruit pies. Investigators matched the handwriting on the packaging to known samples of the suspect. A subsequent search of the subject's apartment uncovered further incriminating evidence and led to several felony drug charges against the offender.

#### Doctor Shoppers

Another common offense involves persons who visit numerous physicians in order to obtain drugs. These "doctor shoppers" do not advise any of the health care providers that they also obtain prescriptions from other sources. Often, these offenders rotate among 10 to 20 doctors, as well as area hospital emergency rooms, to obtain prescriptions.

Usually, these individuals complain of illnesses or injuries that cannot be confirmed or refuted. They also generally provide correct identifying information (name, date of birth, etc.) to physicians when requesting medication. They then take these prescriptions to several different pharmacies, avoiding those linked together by computer. This serves to make investigations more time-consuming and difficult.

However, acquaintances of offenders often report these crimes to the PDS, out of concern for the individual. When this occurs, the investigative process generally moves more quickly.

When checking allegations, investigators must contact pharmacies by phone to determine whether the suspect tried to fill any prescription at a particular location. Then, investigators secure computer printouts from those pharmacies that the suspect visited. These printouts allow PDS investigators to compare the drugs prescribed and the names of the doctors involved.

After investigators uncover enough evidence to establish probable cause, they visit each doctor listed in the printouts to ensure that they were unaware that their patient saw other doctors. The dates of visits, types of drugs, and daily medication dosages prescribed must be noted when formulating a criminal case.

### **Medicaid Fraud**

The pharmaceutical diversion squad also investigates cases of Medicaid fraud involving prescription drugs. These investigations may focus on physicians, pharmacists, or health care facilities that

submit bills to Medicaid. Due to the complexity of the fraud schemes, however, these types of cases require considerable outlays of investigative hours.

In fact, physicians who defraud Medicaid often over prescribe drugs, such as pain killers, tranquilizers, and diet aids. However, while it is usually obvious that these offenders traffic drugs, the burden of proof placed on the prosecution in this type of case is extreme. Part of this burden requires that one or two doctors testify on the State's behalf against the suspected offender—something many doctors hesitate to do. The reluctance of doctors to

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***The problem of pharmaceutical drug diversion... should not be underestimated.***  
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testify is compounded by the possibility of a physician-patient privilege that prevents a doctor from presenting confidential information as testimony over the objection of a patient.

Therefore, the PDS generally pursues Medicaid fraud charges—a felony in Ohio regardless of the amount—rather than trafficking charges in these types of cases. Usually, undercover police officers, not informants, make covert visits to targeted physicians during these investigations. State and Federal agencies also cooperate with the PDS by providing Medicaid in-

formation regarding suspected offenders.

Medicaid fraud offenses take many forms. In one case investigated by the PDS, an offending physician simply invented illnesses for patients and billed Medicaid for treatments not rendered.

Another fraud scheme frequently seen involves doctors who see patients only on their initial visits. During subsequent visits, patients receive their prescriptions without seeing the doctor, though the doctor charges Medicaid for an office consultation. Not only does this practice allow doctors to bill Medicaid for an unreasonable number of office visits, but it also attracts drug abusers.

Pharmacies may also defraud Medicaid. One investigation revealed that a local pharmacy billed Medicaid for vast amounts of potent and expensive drugs, even though the pharmacist did not dispense the drugs. By the time investigators apprehended the offender, he had defrauded Medicaid of thousands of dollars.

### **REGULATORY AGENCIES**

The pharmaceutical diversion squad frequently works with various regulatory agencies. In addition to State and Federal agencies, the PDS also coordinates investigations with local regulatory boards. These boards serve as a ready source of information concerning the often-complicated issues involved in diversion investigations.

Field agents of the Ohio Board of Pharmacy work closely with the PDS on various investigations. The dental, medical, and nursing boards also assist the squad when health

## Bulletin Reports

professionals in their respective fields become suspects in possible criminal activity.

### RESULTS

During the first calendar year of its existence, the pharmaceutical diversion squad made a considerable impact upon the drug diversion problem in southwest Ohio. The four PDS investigators opened 220 cases, which resulted in over 160 felony drug abuse arrests. Twenty-two percent of these arrests involved health care professionals. In addition, preliminary records for 1992 indicate that the number of cases may increase by approximately 40 percent this year.

### CONCLUSION

The problem of pharmaceutical drug diversion may be easy to disregard, but it should not be underestimated. Like other assaults against the health care system, this "victimless" crime, in fact, affects everyone—through higher overall health care costs, dangerous proliferation of controlled substances, and the abuse of publicly funded programs designed to aid those in legitimate need.

However, a coordinated effort by the criminal justice community can have a tremendous impact on this crime problem. Even with limited resources, the Cincinnati Police Department's pharmaceutical diversion squad detected and prosecuted many offenders who attempted to misuse the system for their own purposes. Law enforcement agencies at all levels and jurisdictions can have a similar effect. ♦

### Drug Testing Juveniles

Testing juvenile probationers and parolees for drug use requires effective, defensible, and credible operations. To this end, the American Probation and Parole Association (APPA), aided by the Office of Juvenile Justice and Delinquency Prevention, began a research project to explore drug testing and develop guidelines to assist juvenile probation and parole administrators, managers, and field staff. The information gathered as a result of this research project has been published in APPA's *Drug Testing Guidelines and Practices for Juvenile Probation and Parole Agencies*.

The guidelines identify the best practices of the field for drug testing to help juvenile probation and parole agencies develop and operate the most effective drug testing programs possible. The 142-page booklet serves as a resource manual. Some sections are policy-specific, while others are more technical. The majority of the guidelines are followed by commentaries to provide details that will assist in understanding them or to explain how the guidelines might be implemented.

*To obtain more information, or to order a copy of this publication, write to the Juvenile Justice Clearinghouse, 1600 Research Boulevard, Rockville, Maryland 20850, or phone 1-800-638-8736.*

### Corrections Data

The Florida Criminal Justice Executive Institute recently released a monograph entitled "Improving Criminal Justice Information Systems Using Total Quality Management." The monograph discusses a program that provides corrections-based felon data to local law enforcement agencies. Using TQM principles, the information system focuses on the customer (local law enforcement), on teamwork, and on continual evaluation and system improvement.

*Copies of the monograph can be obtained from the Florida Criminal Justice Executive Institute. For information or to receive an order form, contact Dr. Diane Zahm, P.O. Box 1489, Tallahassee, Florida 32302, or phone 904-487-4808.*

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