

# Law Enforcement Status for Health Care Fraud Investigators



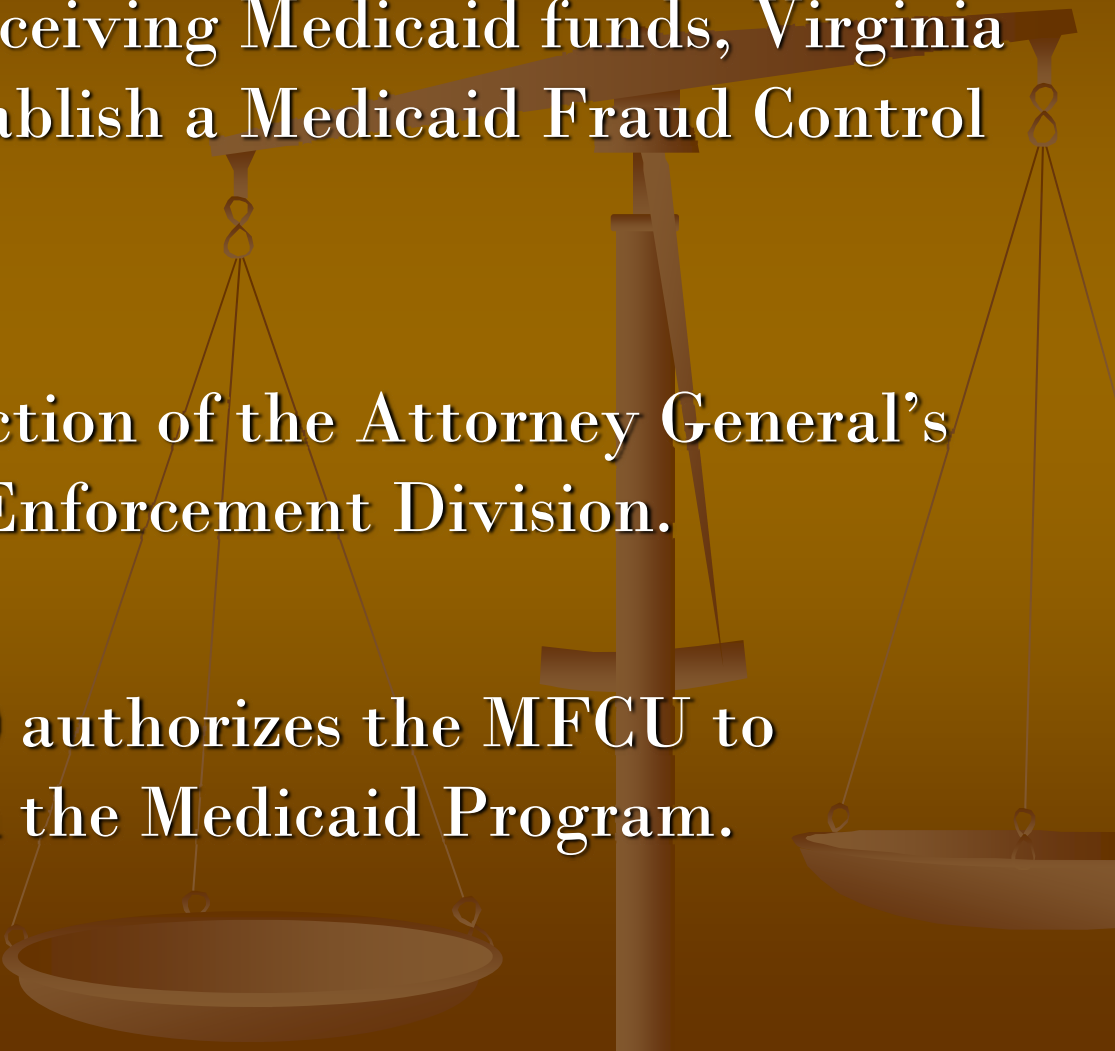
Virginia Crime Commission

July 25, 2011

Richmond, VA

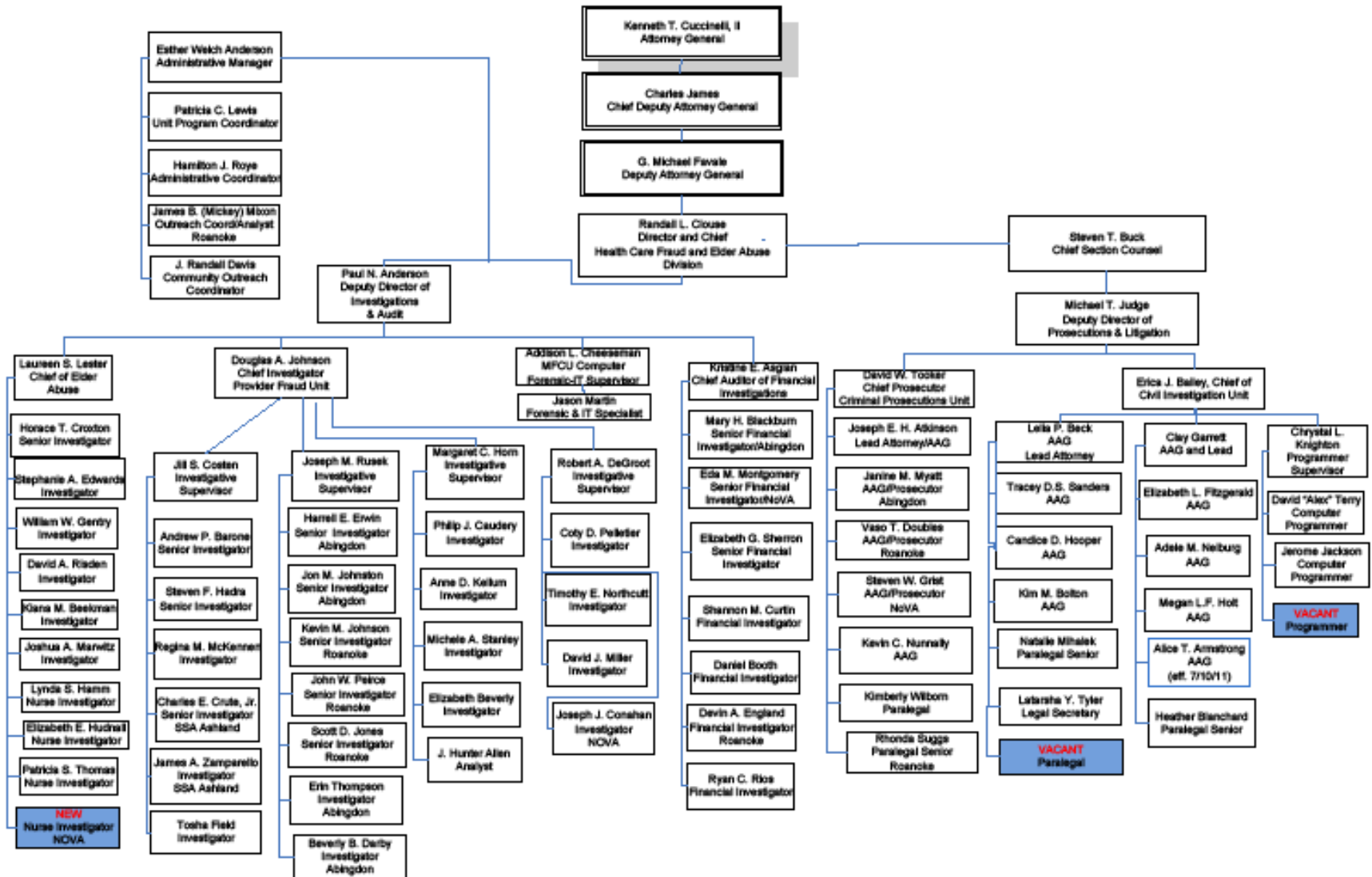
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Director and Chief  
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Office of the Attorney General of Virginia

# Virginia's Medicaid Fraud Control Unit

- As a condition of receiving Medicaid funds, Virginia was required to establish a Medicaid Fraud Control Unit (MFCU).
  - Va.'s MFCU is a section of the Attorney General's Public Safety and Enforcement Division.
  - Va. Code § 32.1-320 authorizes the MFCU to investigate fraud in the Medicaid Program.
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# OFFICE OF THE ATTORNEY GENERAL

## Public Safety and Enforcement Division Health Care Fraud and Elder Abuse Section



# What cases do we investigate?



➔ Billing for services not performed

➔ Billing for unnecessary services or tests

➔ Embezzlement

➔ Kickbacks

➔ Inflating bills for services provided

➔ Double-billing

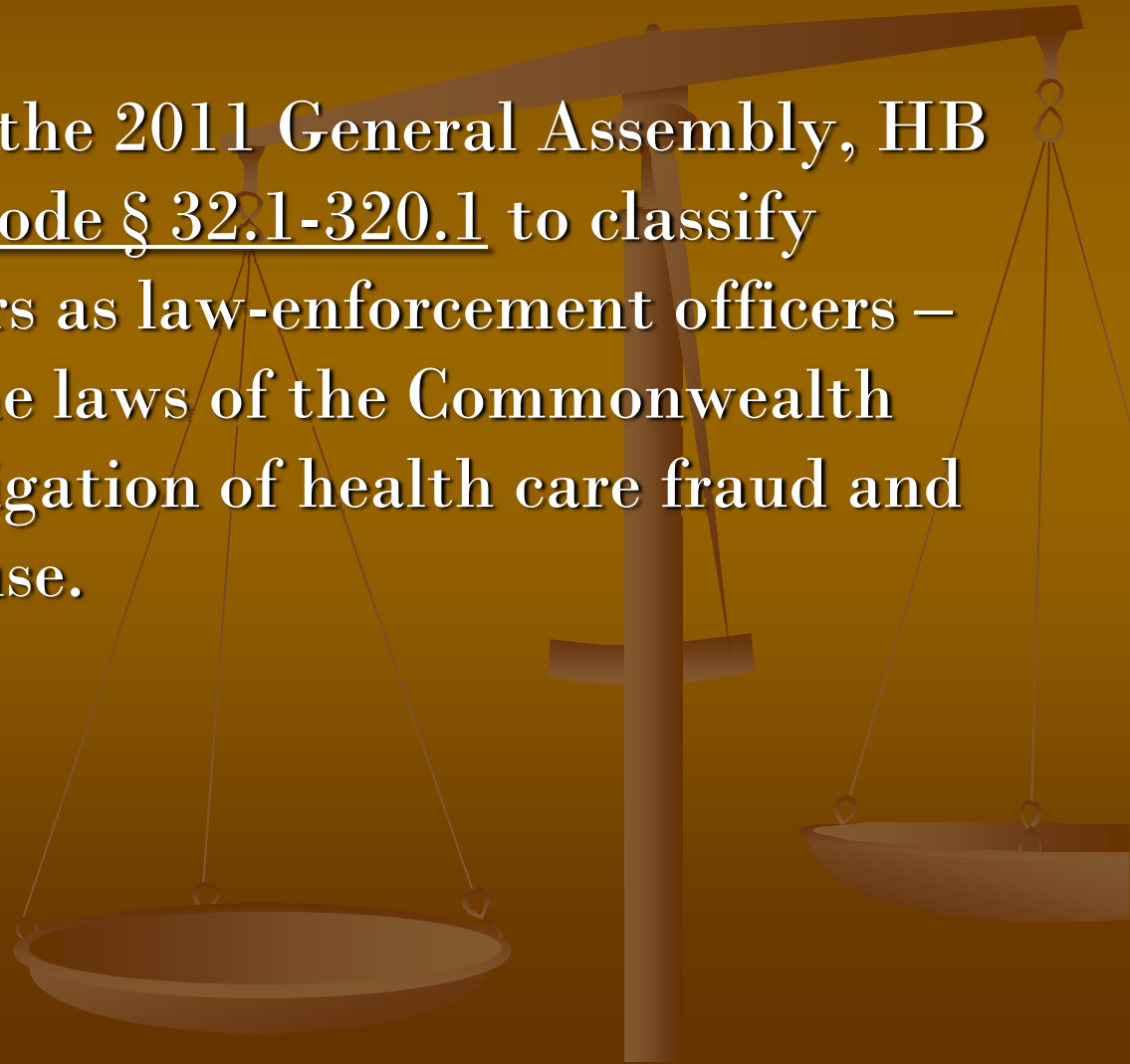
# Investigations

- **Good old fashioned Criminal Investigations**
- **Mail Covers**
- **Financial Analysis**
- **Locating Assets**
- **Asset Forfeiture**
- **Surveillance**
- **Undercover Operations**
- **Search Warrants**
- **Interviews**
- **Non-Custodial interrogations w/signed confessions**
- **Exculpatory evidence**

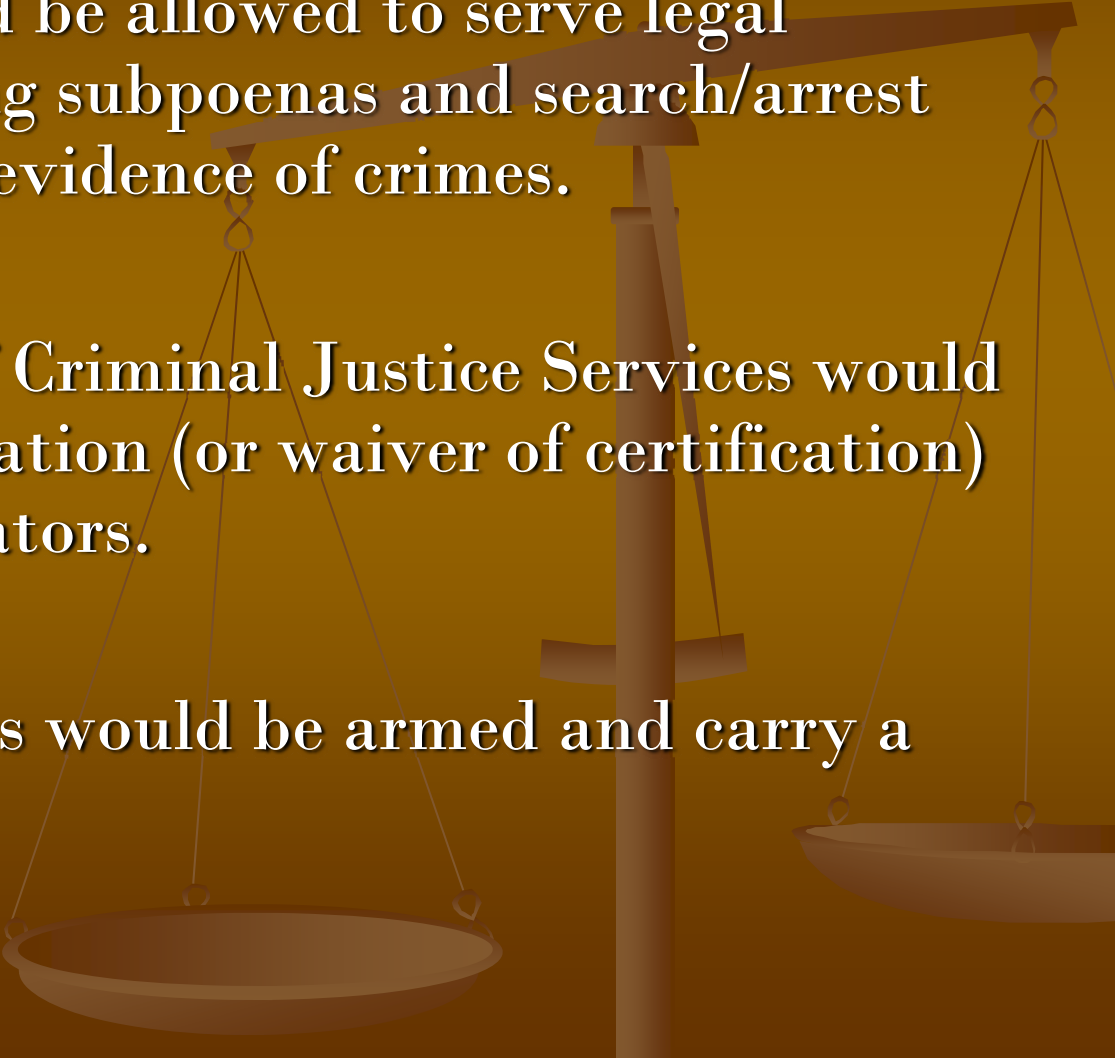


# House Bill No. 2454

- Introduced during the 2011 General Assembly, HB 2454 amends Va. Code § 32.1-320.1 to classify MFCU investigators as law-enforcement officers – sworn to enforce the laws of the Commonwealth through the investigation of health care fraud and patient neglect/abuse.

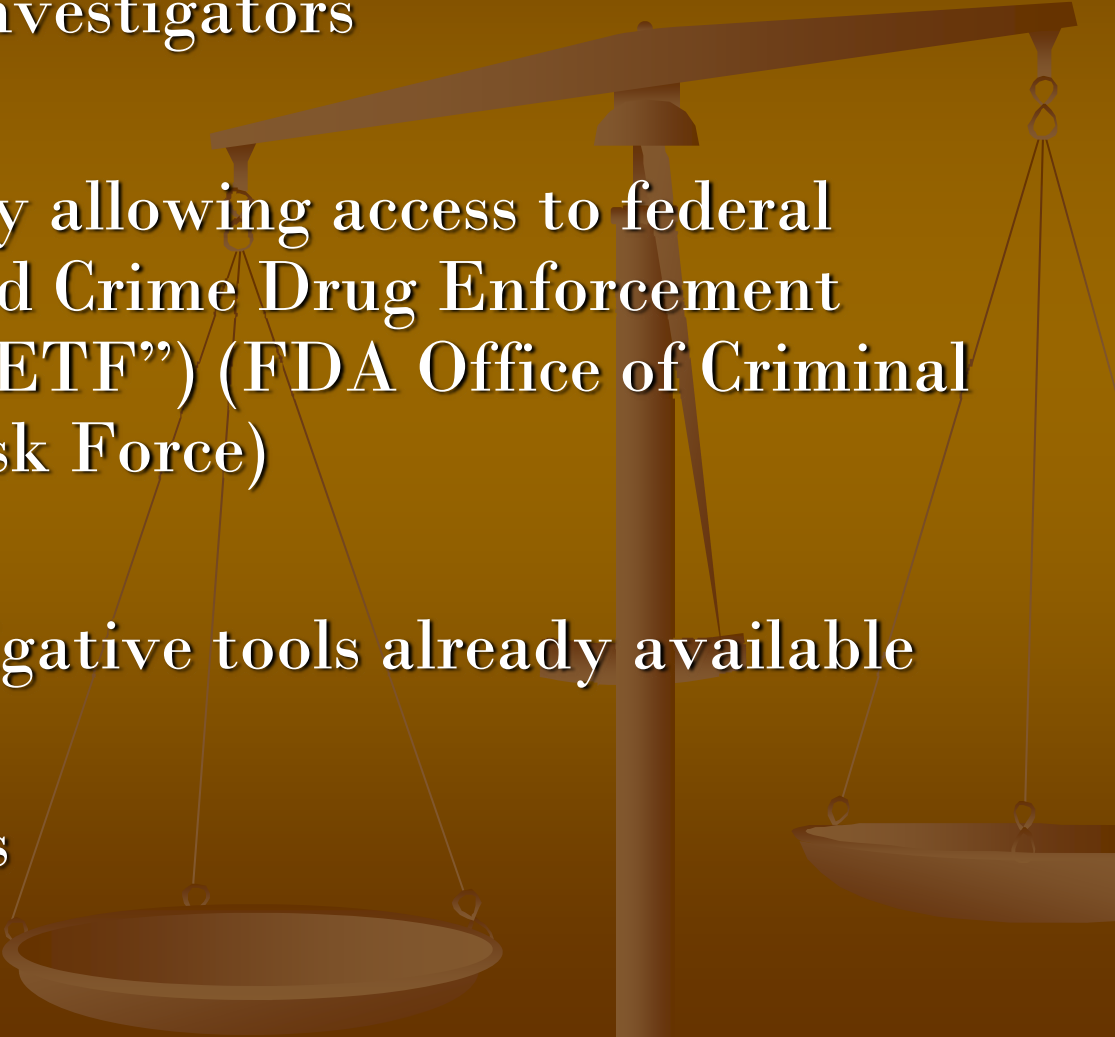


# House Bill No. 2454 (continued)

- Investigators would be allowed to serve legal documents including subpoenas and search/arrest warrants and seize evidence of crimes.
  - The Department of Criminal Justice Services would manage the certification (or waiver of certification) for MFCU investigators.
  - MFCU investigators would be armed and carry a badge.
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## Four Core Purposes of HB 2454

1. Protecting state investigators
  2. Saving money – by allowing access to federal funding (Organized Crime Drug Enforcement Task Force “OCDETF”) (FDA Office of Criminal Investigations Task Force)
  3. Enhancing investigative tools already available
  4. Streamlining cases
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# Protecting Investigators



- MFCU investigators conduct hundreds of interviews each year – the vast majority are conducted in known high/violent crime areas.
- MFCU investigators participate in the execution of search warrants and perform audit and inspect searches at targets' businesses and homes. On multiple occasions investigators have uncovered guns and drugs.
- There is a growing local and national trend of non-typical organized crime rings committing health care fraud.

# ABC News: Organized Crime and Health Care Fraud

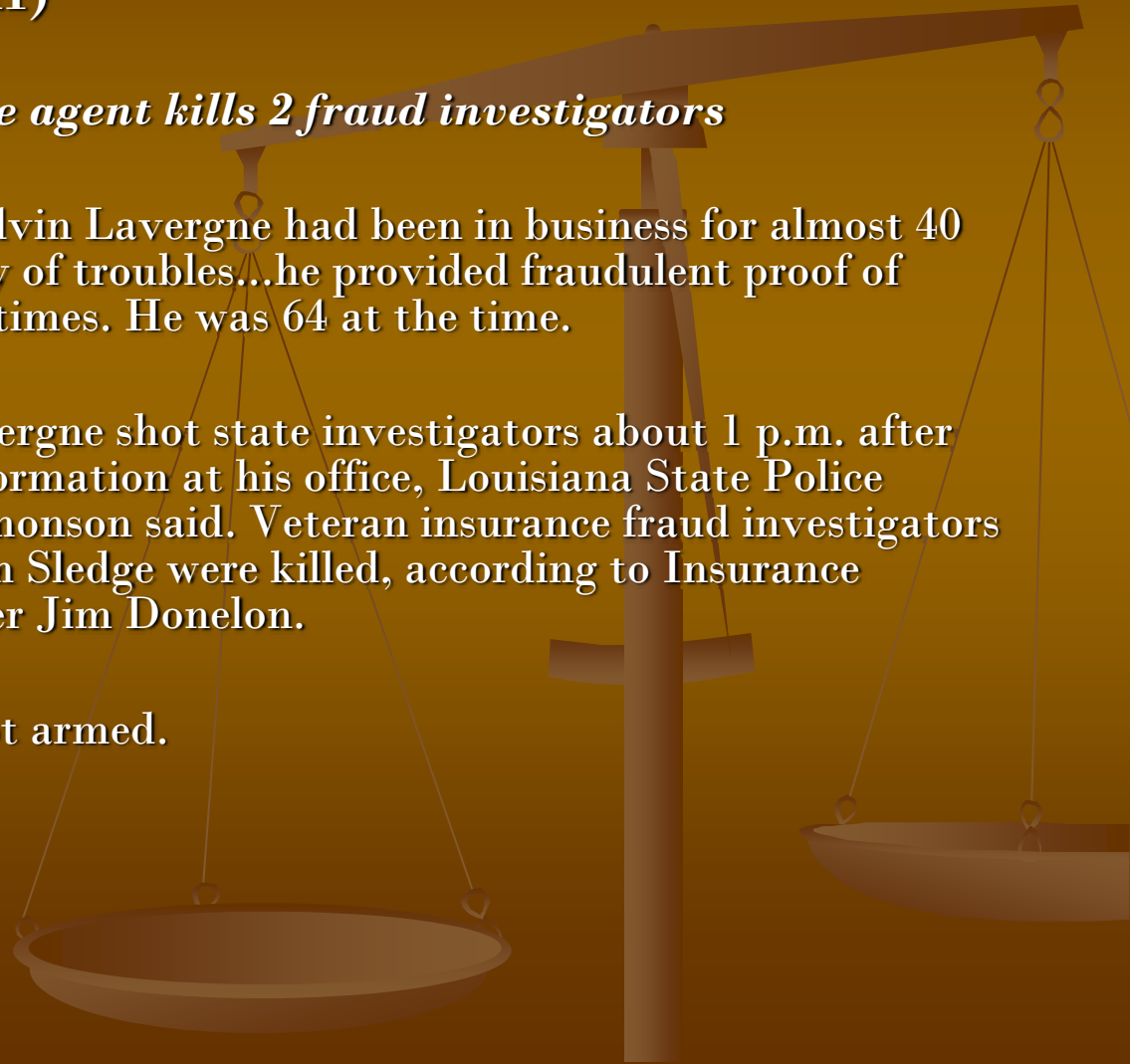


# Protecting Investigators

- From [msnbc.com](http://msnbc.com) (June 8, 2011)

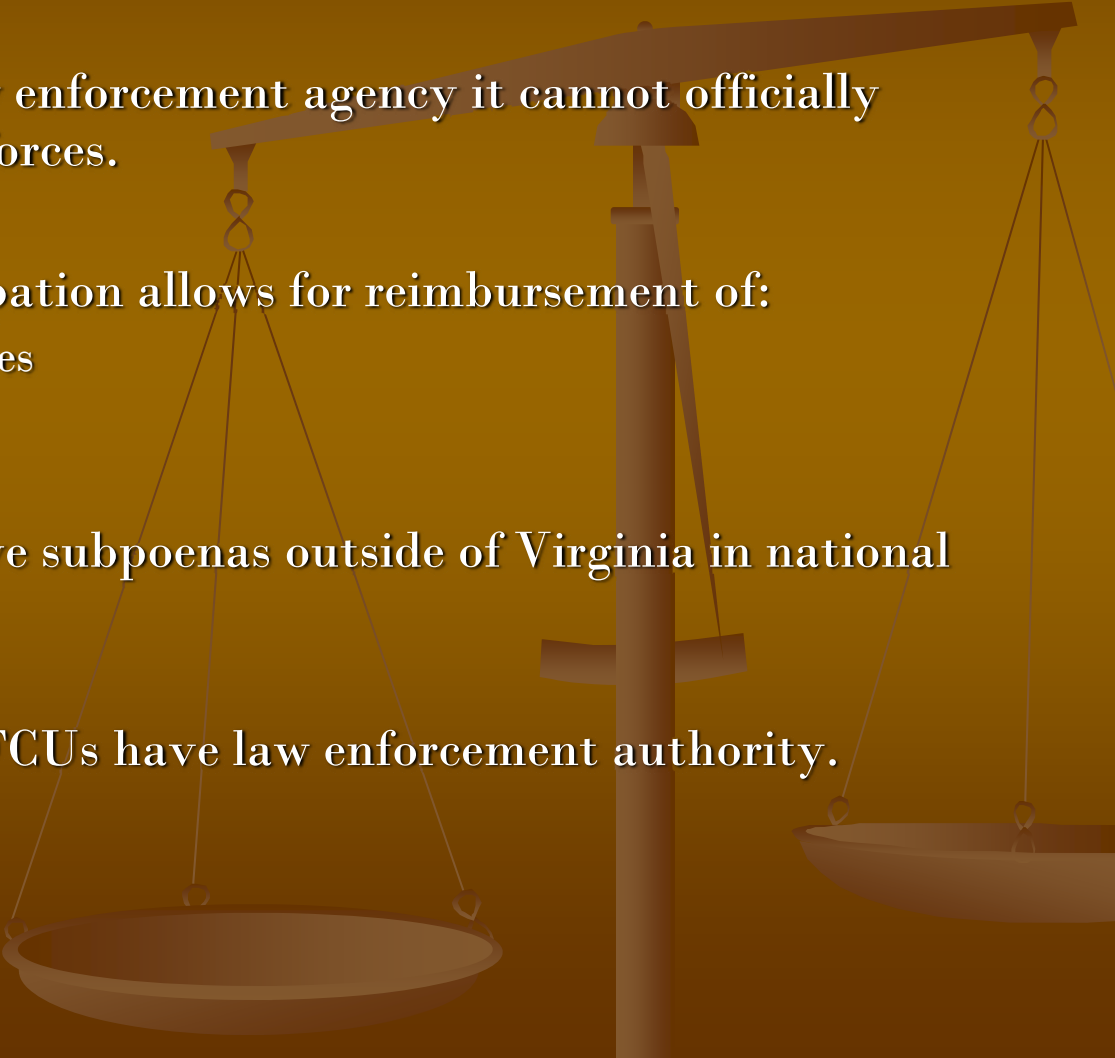
## *La. insurance agent kills 2 fraud investigators*

- Insurance agent John Melvin Lavergne had been in business for almost 40 years — but had a history of troubles...he provided fraudulent proof of vehicle insurance several times. He was 64 at the time.
- Investigators believe Lavergne shot state investigators about 1 p.m. after they'd come to collect information at his office, Louisiana State Police Superintendent Mike Edmonson said. Veteran insurance fraud investigators Rhett Jeansonne and Kim Sledge were killed, according to Insurance Department Commissioner Jim Donelon.
- The investigators were not armed.



# Access to federal funds

## Federal Task Force Participation

- Because MFCU is not a law enforcement agency it cannot officially participate in federal task forces.
  - Federal Task Force participation allows for reimbursement of:
    - Case related travel expenses
    - Overtime compensation
  - Allows investigators to serve subpoenas outside of Virginia in national cases.
  - Currently 36 of 50 state MFCUs have law enforcement authority.
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# Additional Investigative Tools



- Va. Code § 18.2-460 – Class 1 misdemeanor – making false statements to law enforcement officer.
- 18 U.S.C. § 1518 - Federal crime (punishable by 5 years in prison) to provide false statements to health care fraud investigators.
- Neither tool is currently available to MFCU.

# Streamlining cases



- MFCU currently relies on outside law enforcement agencies to serve subpoenas, execute search warrants, and sit-in on interrogations – causes unnecessary delay and duplication of efforts.
- Reliance on outside agencies is a drain on state and local law enforcement resources – takes away from their core function to investigate/prevent violent crime.
- LEO status will improve MFCU response time to fraud/abuse referrals and return funds to the Commonwealth faster.

# Conclusion

- Four core purposes – HB 2454
    1. Protecting investigators – increased violence in fraud investigations.
    2. Access to federal funds – task force participation.
    3. Enhance investigative tools – obstruction and false statements to fraud investigators.
    4. Streamlining cases – improving efficiency and returning money to the Commonwealth faster.
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