

The Criminal Division of the US Department of Justice (DOJ) is ramping up prosecutions of physicians, executives, hospitals and healthcare companies. In a recent [speech](#), Leslie R. Caldwell, Assistant Attorney General for the Criminal Division, announced an initiative for the Criminal Division to increase resources for reviewing whistleblower or *qui tam* lawsuits alleging violations of the False Claims Act. The DOJ goal is to speed up criminal investigations and prosecutions of healthcare fraud. Previously, the Criminal Division had concentrated on its Strike Force efforts in nine cities deemed to have the worst healthcare fraud problems, identification of fraud through analysis of CMS data, and identification of a select number of cases identified through False Claims Act lawsuits filed by private individuals for criminal prosecution.

Now, the Criminal Division is stepping up its review of civil False Claims Act cases filed by whistleblowers for potential criminal investigation and prosecution. The Division's Health Care Fraud Unit is increasing the resources dedicated to these cases, with 40 attorneys (almost half of the attorneys in the Fraud section) that Ms. Caldwell describes as "the largest and most prolific unit of criminal prosecutors dedicated solely to health care fraud in the country." These lawyers are in addition to those found in the 94 US Attorney's Offices located across the country.

Also new is an internal DOJ process that will give the Criminal Division immediate access to all of the *qui tam* or whistleblower actions filed as soon as the Civil Division sees them. The Civil Division will still maintain its leading role in these matters, but this new, streamlined process may mean more targets will be facing civil and criminal issues at the same time. Tellingly, Ms. Caldwell's remarks began and ended with an invitation to the members of [Taxpayers Against Fraud Education Fund](#), a nonprofit funded by successful whistleblowers and their lawyers. "[W]hen you are thinking of filing a *qui tam* case that alleges conduct that potentially could be criminal, I encourage you to consider reaching out to criminal authorities, just as you now do with our civil counterparts in the department and the U.S. Attorney's Offices," Caldwell said. She explained that the DOJ's Criminal Division is interested in "working alongside" plaintiff's lawyers in developing not only civil, but also criminal cases.

This increased focus on criminal prosecutions means that careful responses are in order anytime a healthcare provider is the subject of a whistleblower lawsuit or receives a subpoena from the DOJ. Squire Patton Boggs of counsel [Thomas E. Zeno](#), a former prosecutor specializing in healthcare fraud with the US Attorney's Office in Washington DC, advises clients to develop robust internal processes for early detection of Medicare and Medicaid claim issues and to respond carefully to every lawsuit or government request for information received.

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