



DOJ has announced that it will increase efforts to investigate and prosecute criminal actions under the False Claims Act.

In a recent [address](#) to the False Claims Act plaintiffs' bar, Leslie R. Caldwell, Assistant Attorney General for the Criminal Division, described the Criminal Division's recent successes in prosecuting healthcare and government procurement fraud and its renewed efforts to coordinate with DOJ's Civil Division and the plaintiffs' bar to pursue larger, high-profile criminal False Claims Act cases. A component of DOJ's recent efforts is a new procedure whereby the Civil Division will share all newly filed False Claims Act complaints with the Criminal Division for a determination of whether the Criminal Division will open a parallel criminal investigation. DOJ's new procedure could mean bigger, more protracted investigations and a greater number of parallel proceedings

in False Claims Act cases. Caldwell encouraged the plaintiffs' bar to also partner with the Criminal Division in cases involving potential criminal wrongdoing, noting that the benefits to such a partnership include more effective evidence-gathering, made possible by investigative tools at the Criminal Division's disposal, such as search warrants and undercover operations. In her discussion of likely areas of focused attention, Caldwell noted the success and experience of the Medicare Fraud Strike Force (comprised of investigators and prosecutors from the DOJ and other law enforcement agencies), which has had a 95% conviction rate since its inception in 2007, and which has recently won big profile cases (example [here](#)). The DOJ reports that in 2013 alone, the strike force charged 345 individuals, secured 234 guilty pleas, and won 46 jury trial convictions. Going forward, the strike force will focus on large health care providers and their high ranking executives for potential criminal prosecution. Criminal prosecutions of high ranking executives have been rare in the past, due in part to the difficulty of proving such executives' nexus to the fraud at issue, often carried out by lower level employees.

That trend may well turn, however, as DOJ dedicates more resources in this area. DOJ is also likely to continue using corporate integrity agreements--whereby executives personally certify compliance with federal health care program requirements--to hold executives accountable.

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