

# Department of Justice Criminal Division Will Increase its Review of False Claims Act Cases for Criminal Prosecution

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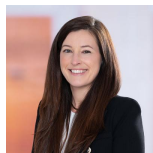
*Written by Laurence J. Freedman and Samantha P. Kingsbury*

On Wednesday, during a speech before the Taxpayers Against Fraud Education Fund conference in Washington, D.C., Leslie R. Caldwell, Assistant Attorney General for the Department of Justice's (DOJ) Criminal Division, announced that her office will be stepping up its review of False Claims Act (FCA) *qui tam* complaints for potential criminal prosecution. She also invited potential *qui tam* relators (whistleblowers) to contact criminal authorities prior to filing *qui tam* complaints in the event there is potential criminal conduct.

Ms. Caldwell stated that the Criminal Division has implemented a procedure so that all new *qui tam* complaints are shared by the Civil Division with the Criminal Division as soon as the cases are filed. Under this process, she said, experienced prosecutors in the Criminal Fraud Section are immediately reviewing these *qui tam complaints* to determine whether to open a parallel criminal investigation. Ms. Caldwell noted that the Criminal Division has "unparalleled experience prosecuting health care fraud, procurement fraud and financial fraud" and that it will "bring that expertise to bear by increasing [its] commitment to criminal investigations and prosecutions that stem from allegations in False Claims Act lawsuits." Beyond its expertise, the Criminal Division has relationships with foreign governmental agencies and criminal investigative tools (e.g., search warrants, wire taps, undercover operations and confidential informants) that it will be able to contribute to FCA cases.

By reviewing FCA *qui tam* complaints immediately, the Criminal Division will be able to streamline the process of assessing these cases for possible criminal charges. Ms. Caldwell also indicated that her division's deeper involvement in FCA cases will mean a shift in priorities with respect to the types of defendants on which DOJ focuses its attention. Specifically, Ms. Caldwell **commented** that "cases involving fraud by executives at health care providers, such as hospitals, are [ ] a high priority" and that DOJ may increasingly bring criminal charges against corporate entities.

## Authors



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Samantha advises clients on regulatory and enforcement matters. She has deep experience handling violations of the federal ant-kickback statute and FCA investigations for clinical laboratories and hospitals.