

Branches Nationwide

THE RECENT CORPORATE fraud scandals have given the U.S. Department of Justice a wealth of targets, which it's been sharing with prosecutors across the country. In the pre-Enron era, most major securities cases were handled out of Justice's D.C. headquarters or the U.S. attorney's office in Manhattan. In the past three years, however,

The Justice Department has assigned securities fraud cases to prosecutors across the country.

big cases have been prosecuted by the U.S. attorney's offices in San Francisco, Boston, Chicago, and elsewhere.

The dispersal of cases isn't just a temporary reaction to the fraud scandals either, says Justice spokesman Bryan Sierra. "That is the way it is going to stay for quite a while," he says.

Leslie Caldwell saw the transformation in the Justice Department's approach firsthand during her 17 years as a federal prosecutor. She began her career in the U.S. attorney's office in Brooklyn, going after mobsters and the occasional white-collar criminal defendant. In 1999 Robert Mueller, then the U.S. attorney in San Francisco, recruited Caldwell to head a new securities fraud prosecution unit in his office.

Mueller (now director of the Federal Bureau of Investigation) recognized that a U.S. attorney has to focus on the issues in his district, says Caldwell. Northern California wasn't the drug capital or the organized crime capital of the nation, but "it was the white-collar crime capital of America," says Caldwell, who adds, "With Silicon Valley booming, there was a lot of sloppiness."

What was worse was that "people had no fear because there was not a lot of enforcement or punishment," Caldwell says.

"Historically, the [Securities and Exchange Commission] was passive in white-collar enforcement. They would complete a case and then get the U.S. attorney involved. [But] nothing might happen criminally for several years down the road," she explains. "It didn't make sense, and Mueller wanted it to change."

Caldwell's fraud unit went on to bring indictments against the executives of HBO & Company, which was acquired by San Francisco-based McKesson Corporation in 1999. Some of the executives have pled guilty while others are still fighting their charges. Caldwell's successes in San Francisco were rewarded in 2002, when she was picked to head the Justice Department's Houston-based Enron task force, in which she oversaw the indictment of former CEOs Kenneth Lay and Jeffrey Skilling and CFO Andrew Fastow. Last year Caldwell left Justice to become a partner in the New York office of Morgan, Lewis & Bockius, where she specializes in corporate investigations and criminal defense.

The Justice Department has been opening fraud prosecution franchises in other cities besides San Francisco and Houston. Government probes of Birmingham-based HealthSouth Corporation, Chicago-based Hollinger International, Inc., and Cambridge, Massachusetts-based TAP Pharmaceutical Products Inc., for example, have all been handled by the local U.S. attorney's office.

These prosecutors have scored some major victories. The Birmingham U.S. attorney's office secured guilty pleas from 15 HealthSouth executives, while Boston prosecutors reached a \$875 million settlement with TAP. But there have been setbacks too, particularly at trial. Last year ten TAP officials were acquitted of the fraud charges against them by a Boston jury and judge.



JEFF MOORES

Likewise an Alabama jury acquitted HealthSouth CEO Richard Scrushy this summer.

Still, Michael Sullivan, the U.S. attorney in Boston who oversaw the TAP prosecution, says that he's been encouraged by the Justice Department to tackle more fraud probes. And Sullivan adds that as a result of the publicity from the TAP case, his office is getting more tips about corporate wrongdoing elsewhere.

Justice spokesman Sierra says that despite the occasional defeats, the department remains committed to letting prosecutors nationwide tackle securities fraud cases when it makes sense. He says, "We are not making a blanket change in policy because of any one [loss]." —PAMELA A. MACLEAN

A version of this story originally appeared in The National Law Journal, a sibling publication of Corporate Counsel.

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Leslie Caldwell spent 17 years with the U.S. Department of Justice, where she served as Director of the special task force investigating the Enron corporate scandal, overseeing the prosecution of more than 30 individuals. Prior to her work with the Enron Task Force, she served as an Assistant United States Attorney in both the Northern District of California and the Eastern District of New York, successfully trying more than 30 criminal cases. In California, Ms. Caldwell was chief of the Criminal Division of the U.S. Attorney's office, and also served as chief of the Securities Fraud Section. In New York, she held various management positions, including Senior Trial Counsel, Chief of the Violent Criminal Enterprises Section, and Deputy Chief of the General Crimes and Narcotics Sections.

Currently, Ms. Caldwell co-leads the Corporate Investigations and White Collar Defense practice at Morgan, Lewis & Bockius LLP. Our attorneys advise clients on all aspects of white collar criminal matters, including crises that might give rise to criminal and government enforcement proceedings, as well as grand jury investigations, indictments, plea negotiations and trials. We also regularly conduct internal investigations for corporate boards and audit committees and provide advice regarding cooperation and self-disclosure.

For additional information on Ms. Caldwell and our Corporate Investigations and White Collar Practice, please visit our website at www.morganlewis.com.

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