

# CRAIN'S

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### THE PRIVATE SIDE OF

# Pat Fitzgerald

After decades as a successful prosecutor, he's adjusting to the realities of having to win business

BY CLAIRE BUSHEY

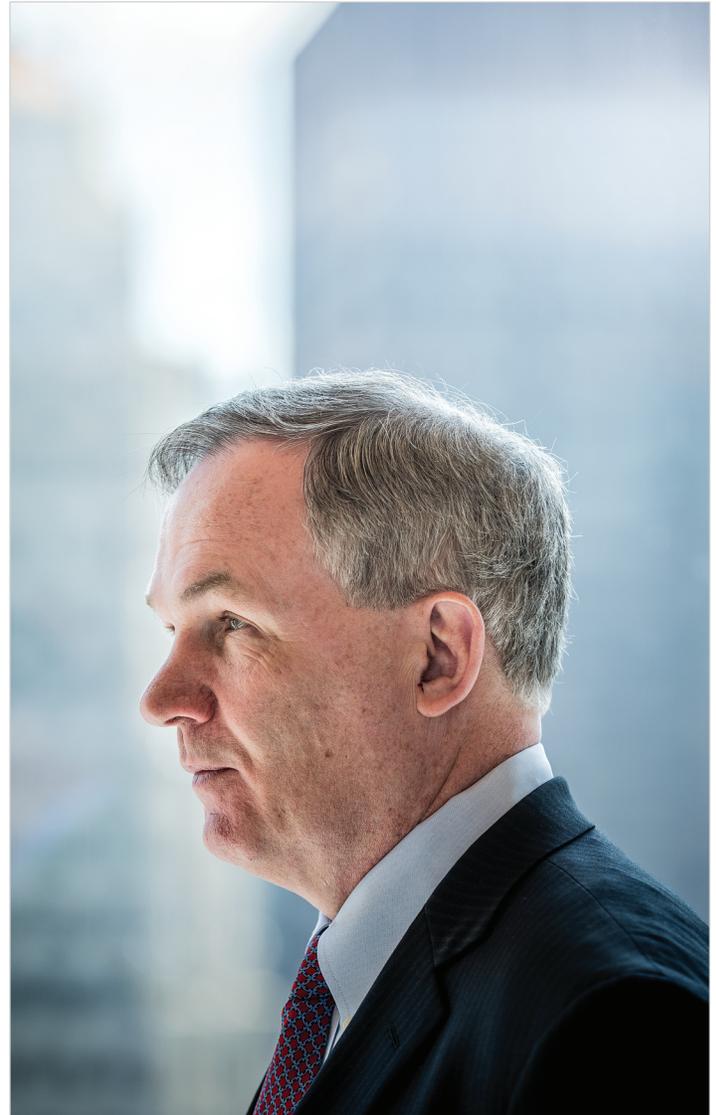
The way Pat Fitzgerald sees it, he had to fight for business long before he entered private practice.

It's a counterintuitive claim. For years, the former U.S. attorney was supplied by law enforcement agents with a steady stream of cases against mobsters, terrorists and corrupt politicians. Unlike private practice attorneys who jostle for clients, prosecutors don't chase work so much as it chases them.

Yet Fitzgerald spent the first half of his career as a federal prosecutor in New York, a city split between the Manhattan and Brooklyn U.S. attorneys' offices and five state district attorney jurisdictions. Investigators often had their pick of prosecutors, so lawyers needed to hustle, lest a case originating in Brighton Beach be gobbled up by an assistant U.S. attorney in Manhattan or a Chinatown case go to a Brooklyn prosecutor.

"Being a prosecutor in New York is like being in a big Irish family," he says. "If you see the food on the plate, you better eat it quickly."

Fitzgerald, 54, has been at Skadden Arps Slate Meagher & Flom in Chicago for two and a half years. He left the Chicago U.S. attorney's office in 2012 after a record-breaking 11 years in the top job, having prosecuted two former Illinois governors and investigated the leak of CIA officer Valerie Plame's identity. Except for three years at a litigation boutique after graduating from Harvard Law School, he's been a government lifer. So he had to adjust to new realities: wearing a visitor's badge in the Dirksen Federal Building, life without subpoena power and, crucially, the need to drum up business. On



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the other hand, he doesn't have to deal with government copy machines anymore.

### NOT A SURE THING

Law firms like to hire former prosecutors for their contacts, but success in private practice requires an entrepreneurial personality. No matter how well-regarded a prosecutor is, he or she doesn't bring a list of clients when entering private practice, says Sean Berkowitz, global chair of litigation at

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Latham & Watkins in Chicago and a former prosecutor who led the task force that investigated Enron. Moreover, some clients are skeptical of ex-prosecutors, wondering if their loyalties remain with the government. “They’re not lining up to hire you,” he says.

But Fitzgerald says his New York years prepared him to win business. In addition to clients in banking, manufacturing and pharmaceuticals, his roster includes struggling for-profit education company Corinthian Colleges and the University of North Carolina at Chapel Hill, which is being sued in relation to an academic fraud probe. His practice is focused on internal investigations, corporate monitoring and advising the boards of troubled companies. He declines to disclose his hourly rate, but trade journal *American Lawyer* reports that he and three other Skadden partners on the UNC case are being paid at a discounted, blended rate of \$990 an hour. Skadden paid partners an average of \$2.7 million in profits in fiscal 2013.

The formidable memory that once helped him connect the dots in terrorism prosecutions was on display during his negotiations with Skadden. He comes across as genial, but at times he reminded partners of details related to practice development or compensation that they’d floated five meetings earlier, Chicago office leader Brian Duwe recalls. “He always has the facts available to him in a way that few people do. It can be very disarming when you’re trying to put together a deal.”

Fitzgerald says he considered but decided against working as a general counsel. When choosing a firm, he consulted with a number of former prosecutors, including his best friend, FBI Director James Comey; Dan Webb, the U.S. attorney in Chicago from 1981 to 1985, who now is chairman of Winston & Strawn; and Reid Schar, who led the prosecution in both corruption trials of former Gov. Rod Blagojevich and now practices at Jenner & Block.

Schar says he counseled his former boss to hold out for a firm with the patience to help him build his practice over time, rather than one that would move on to the next big hire in a few years if the prosecutor turned out not to be a natural rainmaker. “You don’t want a firm that just collects names,” he says.

The man who joked, “Can you see me as a defense attorney?” when leaving government has in fact steered clear of defending individuals accused of criminal wrongdoing. It’s “not a moral judgment,” Fitzgerald says, just an acknowledgement that he feels more comfortable dealing with organizations than individuals.

He accepts that in private practice he no longer has control over what happens once he presents the results of an investigation to a client. “No one gets to say, ‘Yeah, that’s a really good presentation—if you took out 5 percent of the truth, it’d be much more persuasive,’” he says. “That part doesn’t get edited. But then what people do on the basis of that presentation is their call.”

#### DIFFERENT SKILLS

That’s an adjustment for any lawyer, says Ronald Safer, a partner at Schiff Hardin in Chicago and chief of the criminal division in the U.S. attorney’s office in the late 1990s. “Instead of deciding (whether a case proceeds), you have to persuade, and that’s a little different,” he says.

Although Fitzgerald says he doesn’t keep any extra socks in his Skadden office—stories abound about the hours he used to work as a prosecutor, which sometimes required an intra-

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Ronald Safer, partner, Schiff Hardin

office wardrobe change—he still works long hours. But since firms are set up to enable lawyers to work remotely, he’s now more likely to log the hours from home. He and his wife, Jennifer Letzkus, have two children, ages 3 and 5. She is a former investment banker who now is a Head Start teacher.

So does he miss the life of a prosecutor?

Yes, but. . . It’s like the way a person might look back nostalgically at being a student. “I loved every day (in government). I wouldn’t give a day back, but it was time for me to go. I loved college, but you have to leave. I can’t be the 54-year-old guy hanging out in the dorm.”

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