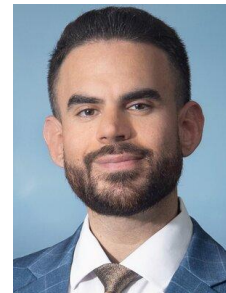


Fraud Enforcement, Sentencing Face Unusual Convergence

By **David Tarras** (April 15, 2026)

A palpable tension has emerged in federal white collar enforcement. The Trump administration is building out an ambitious new institutional apparatus to investigate and prosecute fraud, while the U.S. Sentencing Commission is simultaneously poised to scale back one of the most criticized features of the federal sentencing framework: the loss table under Section 2B1.1 of the Guidelines Manual.



David Tarras

These are not parallel developments moving in the same direction. They are pulling against each other. One signals that more defendants may face investigation and prosecution for fraud. The other suggests that those who are convicted may face materially lower advisory guideline ranges than they would under the current regime.

For practitioners on both sides, this collision of policy priorities will reshape how fraud cases are charged, negotiated and sentenced for years to come.

The Administration's Fraud Enforcement Buildup

On March 16, President Donald Trump signed Executive Order No. 14395 creating the task force to eliminate fraud, a new interagency body chaired by Vice President JD Vance and composed of representatives from nearly a dozen federal agencies.[1] The executive order directs the task force to coordinate what the White House has described as a comprehensive national strategy to combat fraud, waste and abuse across federal benefit programs, including housing, food assistance, healthcare and cash assistance programs administered jointly with state and local partners.[2]

The order requires participating agencies to identify, within 30 days, which benefit programs and transactions are most susceptible to fraud. Within 60 days, agencies must adopt minimum anti-fraud standards based on those findings, including prepayment integrity controls and enhanced eligibility verification.[3] The task force is also directed to maximize enforcement coordination across federal, state and local agencies, and the order contemplates the use of third-party contractors to assist in fraud detection.[4]

Days later, on March 24, the U.S. Senate confirmed Colin McDonald, a veteran federal prosecutor and former top aide to then-Deputy Attorney General Todd Blanche, to serve as the first-ever assistant attorney general for national fraud enforcement.[5] McDonald will lead the newly created National Fraud Enforcement Division within the U.S. Department of Justice, a unit designed to centralize civil and criminal fraud enforcement under a single leadership structure with a direct reporting line to the White House through Vance's task force.[6]

On April 7, Blanche, now serving as acting attorney general, used his first public remarks following the departure of former Attorney General Pam Bondi to formally announce the operational launch of the National Fraud Enforcement Division. Blanche described the division as a first-of-its-kind centralized unit and announced that 93 additional prosecutors would be deployed across every federal district in the country to focus exclusively on fraud enforcement, with specialized expertise in healthcare, tax, benefits and corporate fraud.[7]

McDonald joined Blanche at the podium. The timing and scale of the announcement leave little ambiguity about the administration's intentions.

The institutional message could hardly be clearer. Fraud enforcement is being elevated, centralized and resourced at a level that has few recent precedents. The Criminal Division's existing Fraud Section reported charging 265 individuals in fiscal year 2025 and led the largest coordinated healthcare fraud takedown in DOJ history, involving nearly \$15 billion in false claims.[8] The new division, now formally operational with dedicated prosecutors in every district, is positioned to build on that momentum with broader authority and tighter coordination across agencies.

The Loss Table and Its Discontents

While the executive branch ramps up enforcement, the Sentencing Commission is taking aim at the guideline mechanism that has done more than any other provision to define sentencing outcomes in federal fraud cases.

Section 2B1.1 of the Guidelines Manual governs sentencing for fraud, theft, embezzlement and related economic offenses. Although the guideline includes enhancements for factors like sophisticated means, number of victims and role in the offense, it is the loss table that typically drives the final advisory range.

The table currently contains 16 tiers of monetary loss, each adding two offense levels. In large-scale cases, the loss enhancement alone can add as many as 30 levels to the base offense level, dwarfing every other consideration in the calculation.[9]

The problem is well documented. The table's thresholds have not been adjusted since 2015, and the commission has acknowledged that they no longer reflect current economic realities.[10] But the criticism runs deeper than inflation. Courts, practitioners and academics have argued for years that the loss-driven framework routinely produces guideline ranges untethered from individual culpability.

Loss figures often reflect intended rather than actual loss, market fluctuations or downstream consequences far beyond a defendant's control. In large but diffuse fraud schemes, the table can treat a peripheral participant the same as a principal architect, so long as the aggregate loss figure is the same.

The result has been a growing gap between the advisory ranges the guidelines produce and the sentences courts actually impose. Federal judges have responded by varying downward with increasing frequency in high-loss cases, a pattern that itself suggests the guidelines have drifted from the proportionality principles they are supposed to reflect.

What the Commission Is Proposing

The commission published its proposed amendments in two phases, in December 2025 and January 2026, and received public comment through February and March 2026.[11] The proposals address the loss table on two fronts.

First, the Commission proposes adjusting all monetary thresholds in the Guidelines Manual to account for inflation, using the same Consumer Price Index methodology it employed in its 2015 amendments.[12] This adjustment alone is consequential. According to the commission's own data briefing, approximately 37% of defendants sentenced under Section 2B1.1 would receive a two-level reduction in their offense level if the inflation adjustment

were applied to the current loss table.[13]

Second, and more ambitiously, the commission proposes restructuring the loss table itself, collapsing it from 16 tiers to eight broader categories with higher thresholds.[14] The stated goal is simplification: reducing litigation over marginal loss amounts and limiting the extent to which small differences in loss produce large differences in sentencing outcomes. But the practical effect goes further. Broader tiers mean that incremental increases in loss will no longer correspond to automatic two-level jumps in offense level. The restructured table would blunt the mechanical severity that has drawn so much criticism.

Alongside these structural changes, the commission is proposing new specific offense characteristics designed to rebalance the guidelines around culpability and victim impact rather than loss alone.[15] Among these are a new enhancement for offenses causing substantial noneconomic harm, such as psychological trauma or reputational injury, and new mitigating factors for defendants who acted under employer pressure or coercive relationships, or who voluntarily ceased the offense and attempted to make restitution before learning of any investigation.

The commission is also revisiting the sophisticated means enhancement, which has been applied inconsistently across circuits and has drawn particular criticism for its tendency to function as a near-automatic add-on in fraud cases rather than a true differentiator of unusually complex conduct.[16] The commission is scheduled to vote on these amendments on April 16.[17]

If adopted and transmitted to Congress by May 1, the amendments would take effect on Nov. 1, absent congressional action to reject or modify them.[18]

The DOJ's Resistance

The DOJ has not been silent. In its public comment on the proposed amendments, the DOJ offered only limited support, endorsing the inclusion of noneconomic harm considerations, but pushing back forcefully against the overall direction of the reforms. The department characterized the trend toward lower guideline ranges as sending the wrong message at a time when economic crime continues to harm individual victims and public entities.[19]

That position is instructive. It highlights the internal tension within the federal government itself.

The same administration that is building a new fraud enforcement infrastructure is, through its DOJ representatives on the commission, resisting the sentencing reforms that would moderate the consequences of the very prosecutions it intends to bring. Whether the commission's independent judgment will prevail over the executive branch's objections remains to be seen, but the dynamic underscores the complexity of the current moment.

Practical Implications for Sentencing Advocacy

If the amendments are adopted, the effects on day-to-day practice will be significant. For defense counsel, the restructured loss table creates new space to argue that loss should not dominate the sentencing calculus to the extent it has in the past.

In cases involving high nominal loss but limited personal gain, or where a defendant's actual role in the scheme was peripheral relative to the aggregate loss figure, the revised framework may produce materially lower guideline ranges. The new mitigating factors for coercion and voluntary remediation offer additional tools that have no analogue in the

current guideline.

Broader loss tiers may also reduce the incentive to litigate marginal loss disputes. Under the current framework, a few thousand dollars can move a case across an enhancement threshold, producing a two-level swing with real consequences at sentencing. Wider bands should diminish the impact of those fights and redirect attention to the conduct-specific factors the commission is trying to elevate.

For prosecutors, the amendments may shift charging and negotiation strategies. Where guideline ranges decrease, the government may place greater emphasis on aggravating enhancements, such as leadership role or the new noneconomic harm provision to maintain sentencing leverage. There may also be increased focus on restitution, forfeiture and other remedies that directly address victim harm outside the guideline calculation.

For courts, a revised framework may bring the advisory ranges closer to actual sentencing practice. Many federal judges have long expressed skepticism about loss-driven ranges and have varied downward in high-loss cases with regularity. If the guidelines better reflect judicial assessments of proportionality, the need for such variances may diminish, and the guidelines themselves may regain some of the credibility they have lost.

The Paradox

What makes this moment unusual is the convergence of two developments that, taken together, point in opposite directions. The executive branch is making clear that it intends to investigate and prosecute fraud more aggressively than at any point in recent memory. New task forces, a new DOJ division, a new Senate-confirmed leadership role, and heightened interagency coordination all signal a significant expansion of enforcement activity.

At the same time, the Sentencing Commission is on the verge of adopting reforms that would reduce sentencing exposure in a meaningful share of fraud cases by moderating the loss table's outsized influence. The result may be a federal system in which more defendants are charged, but fewer face the extreme advisory ranges that have characterized high-loss white collar prosecutions for the past decade.

That is not necessarily a contradiction. It may reflect a maturing recognition that effective fraud enforcement does not require sentencing outcomes that courts and practitioners have increasingly recognized as disproportionate. Or it may simply reflect the fact that enforcement policy and sentencing policy are made by different institutions with different mandates and different constituencies.

Either way, the practical implications are real. Practitioners who understand both the enforcement landscape and the evolving sentencing framework will be better positioned to advise clients, negotiate resolutions and advocate at sentencing in the months and years ahead. This is a period that rewards close attention and creative advocacy.

David Tarras is the founder at Tarras Defense PLLC.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

- [1] Exec. Order No. 14395, Establishing the Task Force to Eliminate Fraud, 91 Fed. Reg. 13,485 (Mar. 19, 2026).
- [2] Id. § 3(a).
- [3] Id. §§ 3(a)(i) – (iv).
- [4] Id. § 3(a)(v).
- [5] 172 Cong. Rec. S1588 (daily ed. Mar. 24, 2026) (confirming Colin McDonald as Assistant Attorney General for National Fraud Enforcement, 52 – 47).
- [6] Press Release, U.S. Dep't of Justice, Senate Confirms Colin McDonald as Assistant Attorney General for National Fraud Enforcement (Mar. 24, 2026).
- [7] Press Release, U.S. Dep't of Justice, Office of Public Affairs, Acting Attorney General Todd Blanche Announces Establishment of National Fraud Enforcement Division (Apr. 7, 2026).
- [8] U.S. Dep't of Justice, Criminal Division Fraud Section Year in Review 2025 (Jan. 2026).
- [9] U.S. Sentencing Guidelines Manual § 2B1.1(b)(1) (U.S. Sentencing Comm'n 2025).
- [10] U.S. Sentencing Comm'n, Proposed Amendments to the Sentencing Guidelines, 90 Fed. Reg. 59,660 (Dec. 19, 2025).
- [11] Id.; U.S. Sentencing Comm'n, Proposed Amendments to the Sentencing Guidelines, 91 Fed. Reg. 5556 (Feb. 6, 2026).
- [12] U.S. Sentencing Comm'n, Proposed Amendment 2 (Inflationary Adjustments), 90 Fed. Reg. 59,660 (Dec. 19, 2025).
- [13] U.S. Sentencing Comm'n, 2026 Economic Offenses Data Briefing (Jan. 8, 2026, updated Feb. 5, 2026).
- [14] U.S. Sentencing Comm'n, Proposed Amendment 3, Part A (Restructuring the Loss Table), 90 Fed. Reg. 59,660 (Dec. 19, 2025).
- [15] U.S. Sentencing Comm'n, Proposed Amendment 3, Part B (Specific Offense Characteristics), 90 Fed. Reg. 59,660 (Dec. 19, 2025).
- [16] Id.
- [17] U.S. Sentencing Comm'n, Public Meeting Notice (Apr. 16, 2026), <https://www.ussc.gov/policymaking/meetings-hearings/public-meeting-april-16-2026>.
- [18] 28 U.S.C. § 994(p).
- [19] U.S. Dep't of Justice, Comment on Proposed Amendments to the Sentencing Guidelines (Feb. 10, 2026), available at <https://www.ussc.gov>.