

## DOJ's Embrace Of Data Sets Off Compliance 'Arms Race'

By **Phillip Bantz**

*Law360 (May 20, 2026, 2:09 PM EDT)* -- The U.S. Department of Justice's increased reliance on advanced data analytics and data-mining whistleblowers to detect fraud is shrinking the amount of time that companies have to find and report potential wrongdoing to the government in order to receive leniency for voluntary self-disclosure, experts say.

Corporate compliance teams are "competing against machines that might be identifying issues before an average human could pick up on it," which "ups the ante on voluntary self-disclosure," Mark Cipolletti, a white-collar partner at Thompson Hine LLP and former senior official in the DOJ's Fraud Section, told Law360.

"Now, there's less time to do it," he said.

Companies, especially those that are under more scrutiny because they receive federal funding or operate in foreign jurisdictions where fraud and corruption is more prevalent, are "starting an at-bat with two strikes against them" if they're not using data analytics tools like DOJ investigators and third-party data miners, Cipolletti warned.

"This takes the idea of self-reporting and compliance programs being swift and efficient to a whole new level," he said.

Two recent DOJ developments have underscored the government's intent to leverage data analytics to root out fraud more quickly than ever before.

In early April, acting Attorney General Todd Blanche trumpeted the creation of the National Fraud Enforcement Division, along with the launch of a new National Fraud Detection Center "dedicated to identifying fraud across taxpayer-funded programs and generating leads for investigators and prosecutors."

Blanche said at the time that the fraud-enforcement effort will involve representatives from all 93 U.S. attorneys' offices and DOJ prosecutors who are focused on healthcare, tax and corporate fraud, along with the backing of a new "multi-agency data analytics team working to ferret out the most harmful actors defrauding federal government programs."

"We now see the DOJ focusing on using data analytics to bring fraud cases across the country," said Agustin Orozco, a white collar partner at Crowell & Moring and former federal prosecutor who focused

on fraud and public corruption.

"This is something companies should be aware of and definitely something that helps increase the potential of the DOJ reaching out to companies first," he added.

In another move expected to hasten the clock on uncovering fraud, the DOJ's Civil Division announced an initiative in late April to prioritize whistleblower or qui tam actions brought by third-party data miners looking to root out fraud and collect a percentage of the money the government ultimately recovers through settlements or judgments.

The Civil Division is steering the FOCUS initiative, or "fraud oversight through careful use of statistics." Still, the effort will "undoubtedly have an impact on criminal enforcement as well, both informally and because of the explicit DOJ instruction that the Civil and Criminal Divisions should ensure that they are simultaneously informed of matters in which they have an interest," Nicole Sprinzen, vice chair of white collar defense and investigations at Cozen O'Connor and former federal fraud prosecutor, told Law360.

"This has become a full-time job for some data analysts," Sprinzen said of the whistleblowers. "So there is financial motivation and there is definitely an increased pressure that companies are going to feel."

Whistleblower complaints about potential False Claims Act violations jumped from 980 in fiscal 2024 to nearly 1,300 last year, a 32% increase, according to an April memo from the DOJ. The Department reported in the same memo that it had received more than 780 complaints so far this year.

Data miners have been "particularly active" in probing potential fraudulent pandemic-assistance loans from the government, according to the DOJ. The Department reports that there have been about 840 settlements and judgments in those cases totaling more than \$850 million, but noted that the DOJ initiated more than three-quarters of those actions, "suggesting a lower overall success rate for these qui tams relative to Department-originated FCA complaints."

The DOJ is now encouraging data miners to "increase the quality and success of their qui tams by ensuring that they utilize only focused data analytics that identify reliable data signals with a reasonable correlation to fraud."

"We are interested in hearing from data miners who believe they have developed particularly effective tools for detecting fraud against the government," Deputy Assistant Attorney General Brenna E. Jenny of the DOJ's Civil Division said in a statement.

Before the rollout of the new fraud task force and whistleblower initiative, the DOJ unveiled a department-wide enforcement policy in March for corporate criminal cases that gives companies the opportunity to avoid prosecution by voluntarily disclosing misconduct, cooperating with investigators and working to remediate wrongdoing.

"Having helped craft the department-wide policy, our prosecutors will continue to reward good corporate behavior, seek individual accountability, and root out criminal conduct in our mission to protect the American people," Assistant Attorney General Tysen Duva, head of the DOJ's Criminal Division, said at the time.

The combination of the DOJ's new corporate criminal enforcement policy with its leveraging of data analytics and whistleblowers to uncover fraud is turning up the pressure on companies to self-report

issues to the government sooner than ever before, experts said.

"The faster the government recognizes the problem, the smaller the window is" to self-disclose, Aaron Zelinsky, a partner at Zuckerman Spaeder LLP who specializes in white collar defense, investigations and complex civil litigation, told Law360.

"In that sense, it's kind of an arms race," he said. "So I expect to see more clients wanting to use the same or related technologies [as the government and whistleblowers] to be able to monitor and move quickly so that if there is an issue they can get to the Department before the Department locates it."

But quicker is not always better when it comes to self-reporting potential corporate wrongdoing to the government, according to experts.

Data analytics might flag what turns out to be a minor or nonissue — and if a company doesn't take the time to investigate whether it has a real problem on its hands before self-reporting, it could unnecessarily open itself up to government scrutiny. Companies must balance that risk against the risk of waiting too long to self-disclose.

"No company should be making a hasty decision to quickly report something just because it set off a red flag," said Cipolletti at Thompson Hine. "What's more important is being able to get the information you need to make that decision as quickly or faster than the government is able to do it."

--Additional reporting by Courtney Bubl  and Sarah Jarvis. Editing by Alex Hubbard.