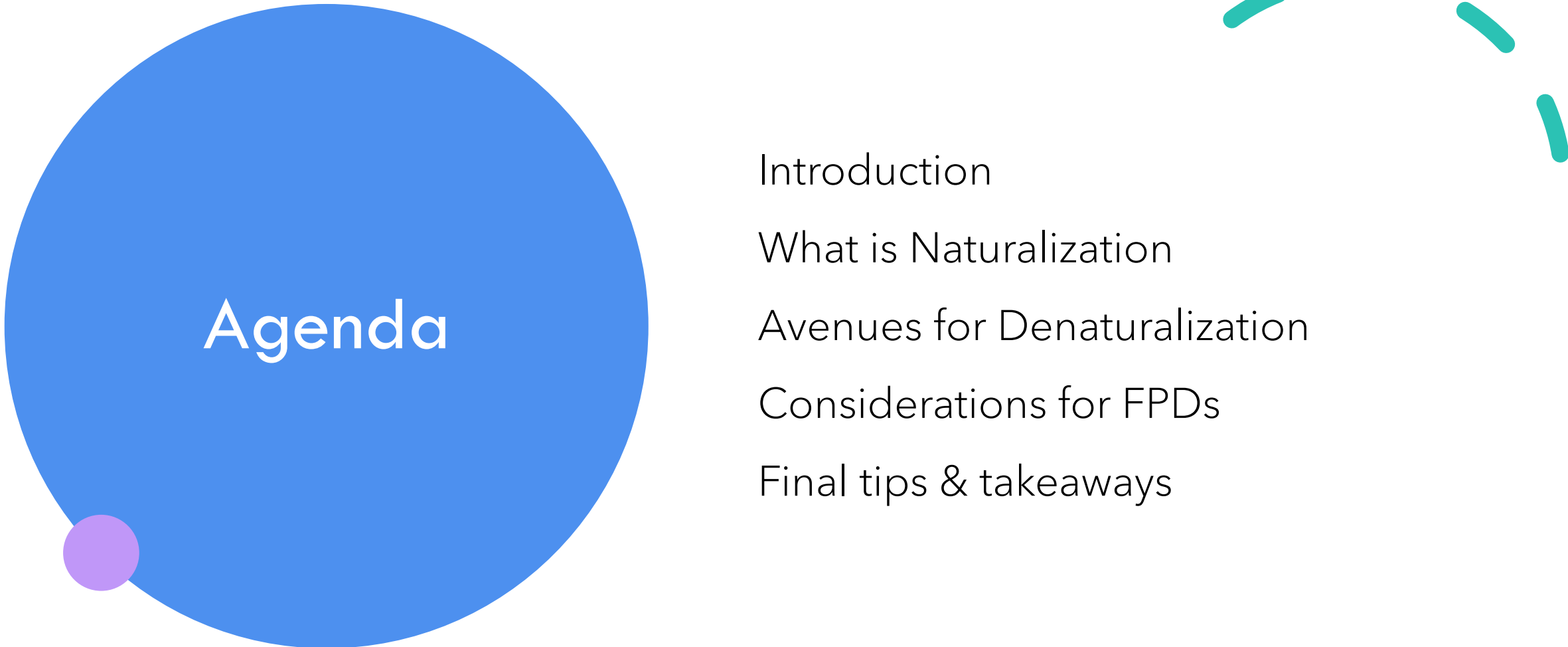




Duty to Advise Naturalized Citizen Clients



Agenda

Introduction

What is Naturalization

Avenues for Denaturalization

Considerations for FPDs

Final tips & takeaways



What is
Naturalization?

Avenues to Citizenship

NO. 24000249

OFFICE OF  **IMMIGRATION AND NATURALIZATION SERVICE**

Personal description of holder as of date of naturalization:

Date of birth: JULY 19, 1996

Sex: FEMALE

Height: 5 feet 07 inches

Marital status: UNMARRIED

Country of former nationality:
REPUBLIC OF SEYCHELLES

INS Registration No. A12 345 678

I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

Mina Melitiz
Complete and true signature of holder

Be it known that, pursuant to an application filed with the Attorney General at: SAN ANTONIO, TX

The Attorney General having found that:

JOSE GUADALUPE REYES
then residing in the United States, intends to reside in the United States when so required by the Naturalization Laws of the United States, and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the

U.S. FEDERAL COURT
FOR THE WESTERN DISTRICT OF TEXAS

at: SAN ANTONIO, TX *on:* SEPTEMBER 16TH, 2017

that such person is admitted as a citizen of the United States of America.

David Meisner

IT IS PUNISHABLE BY U. S. LAW TO COPY.



1. Five years as a lawful permanent resident
2. Three years if married to a United States citizen
3. Application and test
4. There are 24.5 million naturalized Americans in the U.S.

How can they take it back?

- The general grounds for civil revocation of naturalization are:
 - Illegal procurement of naturalization; or
 - Concealment of a material fact or willful misrepresentation
 - 8 USC § 1451(a)
- For criminal revocation of naturalization, the U.S. Attorney's Office files criminal charges in Federal District Court
 - A criminal conviction under 18 U.S.C. 1425 results in automatic revocation of naturalization under INA § 340(e) (8 USC § 1451(e)).
- Note: Cancellation of a Certificate of Naturalization is NOT the same.

**Kungys v. United
States, 485 U.S.
759 (1988)**

In 1982, the United States filed a complaint pursuant to § 1451(a) to denaturalize petitioner, who came to the United States in 1948 under an immigration visa which he had applied for in Germany in 1947 and was naturalized as a United States citizen in 1954



The Kungys and Maslenjak cases

- For the "concealment or misrepresentation" provision, the test of whether concealments or misrepresentations are "material" is whether they can be shown by clear, unequivocal, and convincing evidence it had a natural tendency to affect, the Immigration and Naturalization Service's decisions.

In order for a naturalized American citizen to be stripped of her citizenship, the government has to prove that she obtained her citizenship illegally; if the underlying illegality is a false statement to government officials, the government must prove that the false statement influenced the citizenship process. Justice Elena Kagan delivered the opinion for the 9-0 majority. The Court held that the plain text of the naturalization fraud statute required a causal connection between the illegal action and obtaining citizenship.

Maslenjak v. United States, 582 U.S. 335 (2017)



The April 2025 DOJ memo

1. Cases against individuals who pose a potential danger to national security, including those with a nexus to terrorism, espionage, or the unlawful export from the United States of sensitive goods, technology, or information raising national security concerns.



2. Cases against individuals who engaged in war crimes or human rights violations.



3. Cases against individuals who committed very serious felonies that were not disclosed during the naturalization process. In determining whether there was a very serious felony, the following factors should be assessed:

- A. Whether the conduct shows the individual presents a significant ongoing risk to public safety or to vulnerable persons. Relevant to such a determination is whether the individual committed human trafficking, sex offenses, or violent crimes, or held a public-trust position.
- B. Whether the conduct resulted in conviction and involved substantial culpability or responsibility for an extensive and sustained criminal enterprise, or caused extraordinary harm to individuals or entities in the United States, including significant financial loss to individuals, entities, or the United States.

Where does this commonly come up for FPDs?

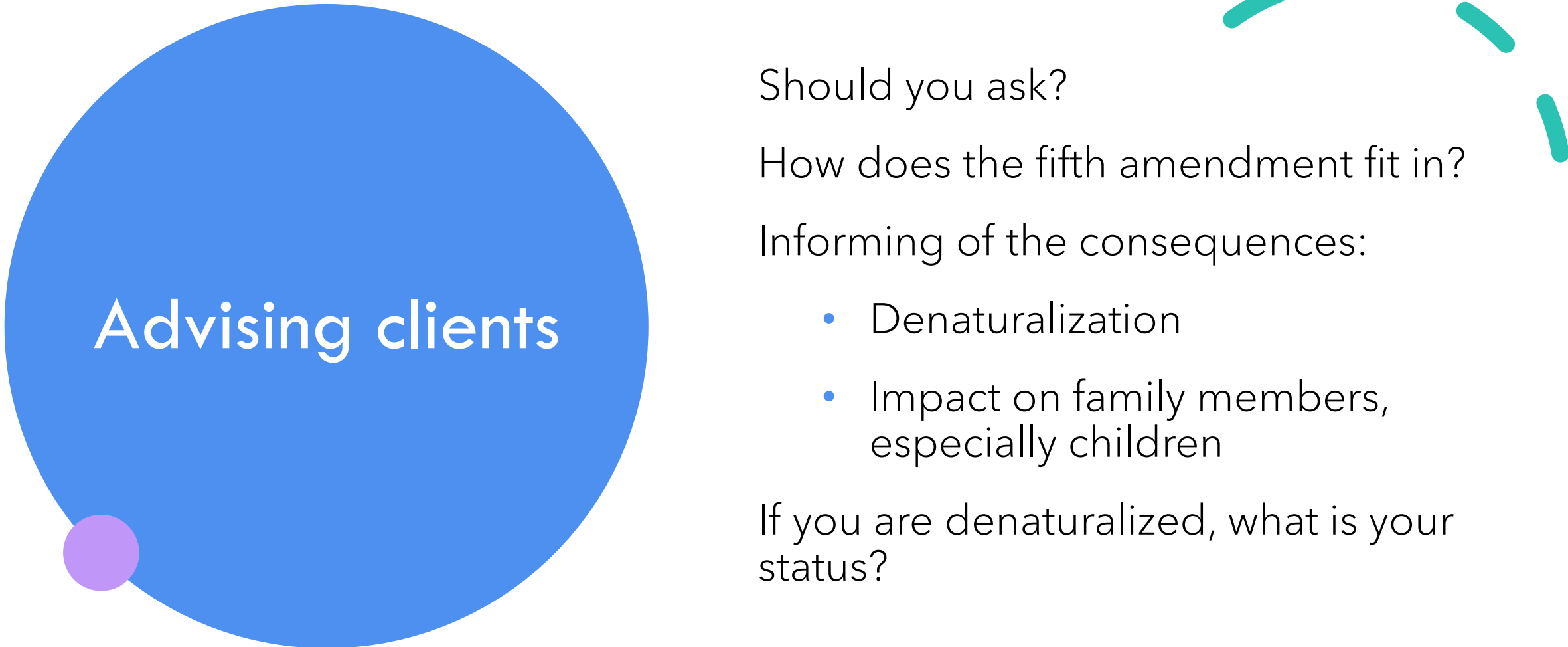
- Defendant is accused of lying in response to the following question on the application:
- "Have you ever committed a crime or offense for which you have not been arrested?"
- Just about everyone is going to answer "no",





But consider the following chain of events:

1. Client engages in some unlawful, but undetected, conduct in the past.
2. Maybe it was participating in a genocide, possessing child pornography or involvement in a conspiracy to distribute meth.
3. Client fills out naturalization application and answers "No" to that question.
4. Client goes to interview and maintains their negative response.
5. Client is naturalized and breaths big sigh of relief!
6. FBI investigates conduct and client is indicted for, and convicted of, conduct that occurred before they filled out the application.
7. Did they lie? Who knows what a "crime" or "offense" is? Was it knowing and willful?
8. Unless it was very minor, it is probably material.



Advising clients

Should you ask?

How does the fifth amendment fit in?

Informing of the consequences:

- Denaturalization
- Impact on family members, especially children

If you are denaturalized, what is your status?



My client has been
denaturalized,
now what?

Do they have any status now?

Can they be put in deportation?

Hypo:

- Your client was involved in a conspiracy to commit credit card fraud. Loss is well in excess of \$10,000
- The scheme was cooked up starting in 2018.
- In 2019, your client successfully filed for naturalization, answering "no" to the \$64,000 question.
- In 2021, your client is indicted for a conspiracy dating back to 2018 and is convicted.
- In 2022, your client is charged under 1425 with obtaining naturalization by fraud and misrepresentation



Consequences?

Client is denaturalized

Certificate of citizenship is cancelled
"ab initio"

Client reverts to being a lawful
permanent resident and should apply
for a replacement card.

But, but, but....

- What if the underlying crime is a deportable offense?
- Can DHS try to deport my client?



The good news!

The answer is a very clear, "NO".

Why on earth not?

- Citizenship is revoked ab initio, right?
- Client is a lawful permanent resident, right?
- Fraud in excess of \$10,000 is an aggravated felony, right?
- An aggravated felony makes a resident deportable, right?

DHS in the past deported lots of people under this theory and would love to do so now.

Enter *Hylton v. United States AG*, 992 F.3d 1154 (11th Cir. 2021)



How it works

Mr Hylton was a permanent resident when he committed a Hobbs Act robbery for which he was convicted after his naturalization ceremony.

He was stripped of his naturalization after a 1425 conviction and DHS commenced deportation.

The relevant provision states that, "Any *alien* who is convicted of an aggravated felony at any time after admission is deportable." 8 U.S.C. § 1227(a)(2)(A)(iii).

The Eleventh Circuit held that Mr. Hylton was not an alien when he was convicted, regardless of the fact that he was subsequently denaturalized ab initio.

Mr. Hylton could not be deported.

Duh!

Why do we care about an Eleventh Circuit case?



Mr Garcia's case

In early 2007, Mr. Garcia filled out a naturalization form and answered "no" to our \$64,000 question.

In May 2007, Mr. Garcia pled guilty to two counts of credit card fraud in WDNC.

In August 2007, Mr. Garcia was sworn in as a United States citizen.

In April 2008, Mr. Garcia was sentenced in the federal case.

In 2019 (before *Hylton*), DHS served notice they intended to deport Mr. Garcia.

Based on the argument later endorsed by *Hylton*, the immigration court dismissed deportation, and all government appeals were withdrawn following the publication of *Hylton*.

What are some of the things your client may have done prior to naturalizing that make them a priority?

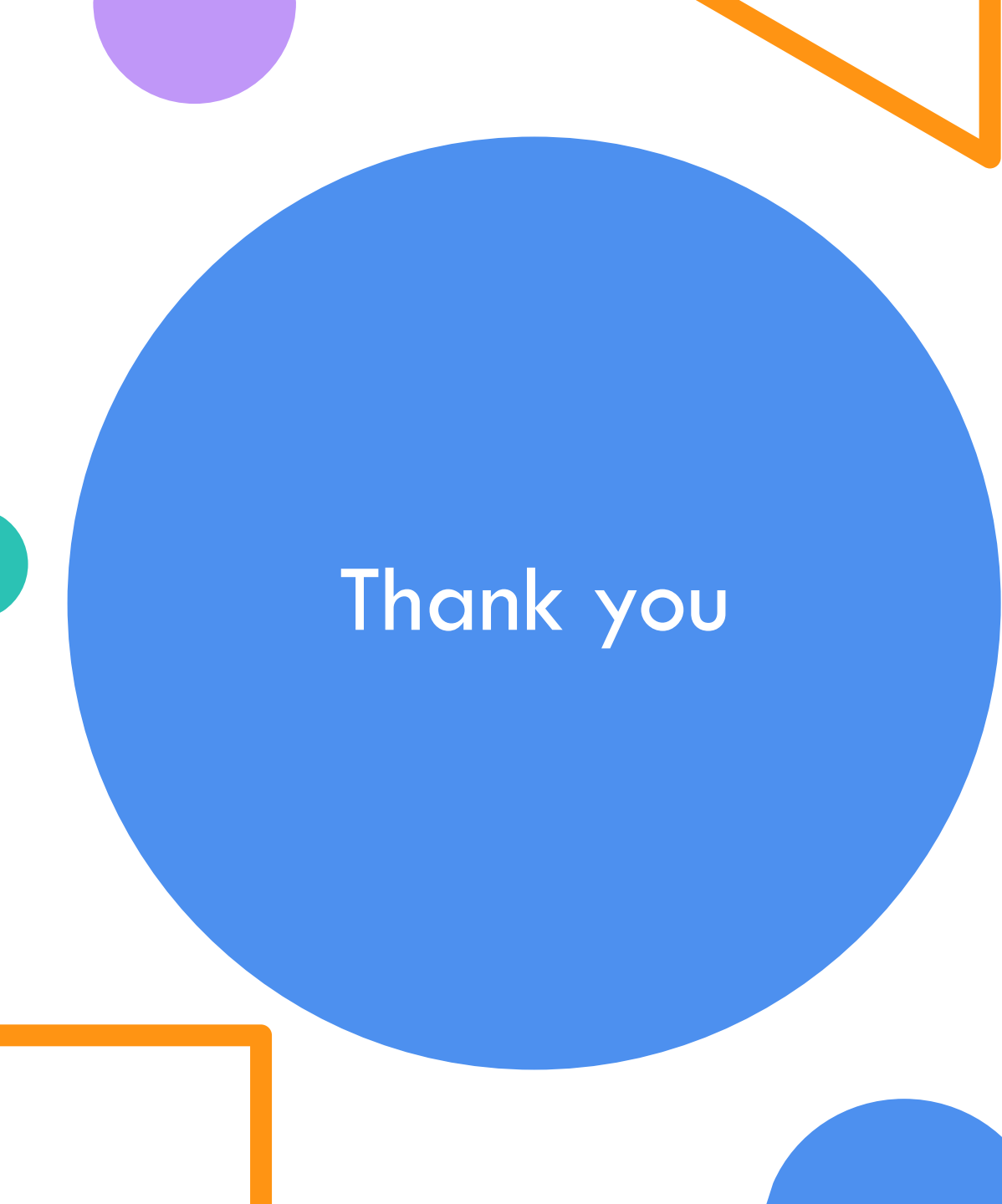
According to the April 2025 DOJ memo, the following activities are now a priority for denaturalization:

- Threats to national security/terrorism
- War crimes
- Organized crimes and cartels (RICO)
- Human trafficking and sex offenses
- Medicaid/Medicare/welfare fraud



Other targets?





Thank you

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