

Publications

June 25, 2025 • Updates

DOJ Civil Division Refocuses Affirmative Enforcement Priorities

Key Takeaways from DOJ's 2025 Civil Division Mandate

- **Expanded Use of the False Claims Act (FCA)** ¹
The government is broadening its application of the FCA beyond traditional garden-variety fraud. As discussed in Polsinelli's May 27 update, the expansion includes a focus on bringing actions against entities receiving federal funds that allegedly discriminate on the basis of race, sex or religion through unlawful or overbroad DEI programs. Similarly, the DOJ will pursue institutions that allow or fail to prevent antisemitism under a false certification theory of liability under the FCA.
- **Increased Risk for Healthcare Providers**
Providers offering gender-affirming care to minors may face FCA liability for billing practices, diagnosis coding and drug use, especially where services contravene the administration's policy objectives.²
- **Litigation Against "Sanctuary" Jurisdictions**
The government intends to bring affirmative preemption lawsuits against jurisdictions that have state and local laws that allegedly obstruct federal immigration enforcement.
- **Denaturalization as a Weapon of Civil Enforcement**
The government has been tasked with expanding denaturalization actions beyond national security cases to include fraud, material omissions, or criminal conduct that would have rendered individuals ineligible for naturalization.

On June 11, 2025, Assistant Attorney General for the Civil Division, Brett A. Shumate issued a memorandum titled *Civil Division Enforcement Priorities* (Enforcement Memo) directing all Civil Division lawyers to prioritize investigations and enforcement actions advancing the following five priorities: (1) combating alleged discriminatory practices such as certain DEI initiatives; (2) addressing antisemitism; (3) investigating gender-related medical interventions performed on minors; (4) challenging the legal validity of sanctuary jurisdictions; and (5) prioritizing denaturalization proceedings. These enforcement priorities mark a significant realignment of the Civil Division's focus and signal a more assertive and ideologically driven use of civil enforcement tools – particularly the FCA – to advance policy objectives tied to discrimination, immigration, gender-related healthcare and federal benefits programs.

Related People

- Ellen H. Persons
- Jessica M. Andrade
- Angela C. Powers

Related Capabilities

- Government Investigations

While in recent years the FCA has largely been used to combat fraud in healthcare and government contracting, under the Enforcement Memo, any organization receiving federal funds – including educational institutions, healthcare providers and local governments – should expect heightened scrutiny over compliance with civil rights laws. Recipients of federal funds that use race- or sex-based preferences in ways the government views as discriminatory may now face FCA liability under the umbrella of “civil rights fraud.” Additionally, Civil Assistant United States Attorneys (AUSAs) are to prioritize cases against entities alleged to have permitted antisemitism, particularly in educational settings, and to focus on whether such conduct violates federal grant conditions or constitutes a false certification for FCA liability purposes.

The Enforcement Memo further directs Civil AUSAs to pursue FCA claims against healthcare providers and pharmaceutical companies that bill federal programs for “impermissible services” related to gender dysphoria, including puberty blockers, hormone therapies, surgical interventions and other treatments used in gender-affirming care.³ This includes scrutiny of diagnosis coding practices and potentially alleging violations of the Food, Drug, and Cosmetic Act.⁴ Additionally, billing for gender-affirming care provided to minors, particularly in jurisdictions with restrictive laws, may be construed as knowingly submitting a false claim.

The Enforcement Memo also articulates a robust denaturalization initiative, expanding denaturalization as a potential consequence for those who obtained citizenship through fraud or were later involved in terrorism, trafficking or other disqualifying conduct.⁵ While denaturalization has long existed as a legal remedy, using it as a central civil enforcement mechanism marks a profound shift in DOJ Civil Enforcement. The prioritization of denaturalization carries significant legal and operational implications for both individuals and institutions. This approach may lead to an increase in civil litigation initiated by the government, particularly in cases where criminal prosecution is not feasible or has already concluded. This structured approach underscores the DOJ’s intent to use denaturalization not only as a corrective measure but also as a deterrent and enforcement tool.

The DOJ’s new enforcement priorities reflect a strategic realignment of civil enforcement tools to advance specific policy objectives. Polsinelli’s experienced Government Investigations team can help clients assess their risk exposure and navigate compliance in this evolving landscape.

[1] 31 U.S.C. §§ 3729–3733 (2023).

[2] See, e.g., Exec. Order No. 14,168, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, 90 Fed. Reg. 8615 (Jan. 30, 2025); Exec. Order No. 14,187, *Protecting Children from Chemical and Surgical Mutilation*, 90 Fed. Reg. 8771 (Feb. 3, 2025); Memorandum from Pamela Bondi, Att’y Gen., *Preventing the Mutilation of American Children* (Apr. 22, 2025).

[3] See *id.*

[4] 21 U.S.C. §§ 301–399i (2023).

[5] 8 U.S.C. § 1451(a) (2023).