THE IMPACT OF CURRENT IMMIGRATION POLICIES ON SERVICE MEMBERS AND VETERANS, AND THEIR FAMILIES

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND CITIZENSHIP

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

OCTOBER 29, 2019

Serial No. 116–62

Printed for the use of the Committee on the Judiciary

Available via the World Wide Web: http://judiciary.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE
38–752 WASHINGTON : 2020

COMMITTEE ON THE JUDICIARY

JERROLD NADLER, New York, *Chairman*

ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
STEVE COHEN, Tennessee
HENRY C. HANK JOHNSON, JR., Georgia
THEODORE E. DEUTCH, Florida
KAREN BASS, California
CEDRIC L. RICHMOND, Louisiana
HAKEEM S. JEFFRIES, New York
DAVID N. CICILLINE, Rhode Island
ERIC SWALWELL, California
TED LIEU, California
JAMIE RASKIN, Maryland
PRAMILA JAYAPAL, Washington
VAL BUTLER DEMINGS, Florida
J. LUIS CORREA, California
MARY GAY SCANLON, Pennsylvania, *Vice-Chair*
SYLVIA R. GARCIA, Texas
JOE NEGUSE, Colorado
LUCY MCBATH, Georgia
GREG STANTON, Arizona
MADELEINE DEAN, Pennsylvania
DEBBIE MUCARSEL-POWELL, Florida
VERONICA ESCOBAR, Texas

DOUG COLLINS, Georgia, *Ranking Member*
F. JAMES SENSENBRENNER, JR. Wisconsin
STEVE CHABOT, Ohio
LOUIE GOHMERT, Texas
JIM JORDAN, Ohio
KEN BUCK, Colorado
JOHN RATCLIFFE, Texas
MARTHA ROBY, Alabama
MATT GAETZ, Florida
MIKE JOHNSON, Louisiana
ANDY BIGGS, Arizona
TOM MCCLINTOCK, California
DEBBIE LESKO, Arizona
GUY RESCHENTHALER, Pennsylvania
BEN CLINE, Virginia
KELLY ARMSTRONG, North Dakota
W. GREGORY STEUBE, Florida

PERRY APELBAUM, *Majority Staff Director & Chief Counsel*
BRENDAN BELAIR, *Minority Staff Director*

SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

ZOE LOFGREN, California, *Chair*
PRAMILA JAYAPAL, Washington, *Vice-Chair*

J. LUIS CORREA, California
SYLVIA R. GARCIA, Texas
JOE NEGUSE, Colorado
DEBBIE MUCARSEL-POWELL, Florida
VERONICA ESCOBAR, Texas
SHEILA JACKSON LEE, Texas
MARY GAY SCANLON, Pennsylvania

KEN BUCK, Colorado, *Ranking Member*
ANDY BIGGS, Arizona
TOM MCCLINTOCK, California
DEBBIE LESKO, Arizona
KELLY ARMSTRONG, North Dakota
W. GREGORY STEUBE, Florida

DAVID SHAHOULIAN, *Chief Counsel*
ANDREA LOVING, *Minority Counsel*

CONTENTS

OCTOBER 29, 2019

OPENING STATEMENTS

WITNESSES

LETTERS, STATEMENTS, ETC. SUBMITTED FOR THE HEARING

APPENDIX

THE IMPACT OF CURRENT IMMIGRATION POLICIES ON SERVICE MEMBERS AND VETERANS, AND THEIR FAMILIES

TUESDAY, OCTOBER 29, 2019

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP
COMMITTEE ON THE JUDICIARY
Washington, DC.

The subcommittee met, pursuant to call, at 2:32 p.m., in Room 2141, Rayburn House Office Building, Hon. Zoe Lofgren [chairman of the subcommittee] presiding.

Present: Representatives Lofgren, Nadler, Jayapal, Correa, Garcia, Neguse, Mucarsel-Powell, Escobar, Jackson Lee, Scanlon, Buck, Collins, Biggs, and Steube.

Staff Present: Betsy Lawrence, Counsel; Joshua Breisblatt, Counsel; Rachel Calanni, Professional Staff Member; Andrea Loving, Minority Counsel; and Andrea Woodard, Minority Professional Staff Member.

Ms. LOFGREN. We will now ask the Subcommittee on Immigration and Citizenship to come——

STAFF. We need to bring out the witnesses.

Ms. LOFGREN. Oh. We're going to bring out the witnesses before I start this. We moved too fast.

Mr. BUCK. We like fast.

Ms. LOFGREN. The subcommittee will come to order and with the indulgence of our witnesses before we proceed to the hearing, I think many of us would like to say a comment or two about the late John Conyers, who was a member of this committee for many decades, who gave his life to public service, and who loved this committee very greatly.

He passed away just a few days ago, having served his country, both in the Armed Forces and in the Congress, and so we do mourn his passing, and it would be not in keeping with our traditions to proceed without at least giving our condolences to his family and to those who sent him to Congress for so many decades to represent them.

At this point, I would like to recognize Mr. Nadler, the chairman of the full committee, for remarks on Mr. Conyers.

Chairman NADLER. Thank you, Madam Chairperson. Americans across the country are mourning the loss of John Conyers today, but nowhere is his loss felt more deeply than here in the Judiciary

Committee, which he served for more than 50 years as a member of this committee, including more than 20 years as either as chairman or ranking member.

John Conyers was a true champion for civil rights and justice for the oppressed and the disenfranchised. Prior to his service in Congress, he was on the forefront of the civil rights movement, and was in Selma, Alabama, for the Freedom Day voter drive in 1963. He also holds the distinction of being the only Member of Congress to be endorsed by Dr. Martin Luther King, Jr.

Once in office, he hired Rosa Parks to work on his staff when her civil rights activism caused other employers to shun her. Throughout his career, John was a leader of progressive causes, even when doing so was a lonely pursuit. He authored universal healthcare legislation long before it became a mainstream idea, and he first introduced H.R. 40, legislation to study reparations for the legacy of slavery and Jim Crow back in 1989.

At the same time, he had a long track record of working across the aisle to enact important bipartisan legislation, such as the Violence Against Women Act, the Fair Sentencing Act, the USA Freedom Act, and the Voting Rights Act.

As a leader in the Judiciary Committee, Congressman Conyers spearheaded and passed such important legislation as the Martin Luther King, Jr. Holiday Act, hate crimes legislation, and the Innocence Protection Act. But his impact in the House cannot just be measured in terms of how many bills he sponsored or considered in committee. He was a founding member of the Congressional Black Caucus, and he was a mentor to many members, including me, who benefited from his wisdom and grace.

John was my colleague, my friend, and my chairman. I'm honored and humbled to serve in his footsteps leading this committee, and I'm comforted by the portrait that hangs above me knowing that he is watching us and hopefully approving as we attempt to carry on his legacy. My thoughts are with his family, and all those whose hearts are heavy today because of his loss. My hearts are with the country, which has lost the benefit of his leadership. May his memory be a blessing.

Ms. LOFGREN. The gentleman yields back. I now recognize the ranking member of the full committee, Mr. Collins, for his statement.

Mr. COLLINS. Thank you, Madam Chair. I echo the chairman's statements about the accomplishments and the long list of accomplishments that have been listed out. Mr. Conyers was amazing in the length and breadth and statements of what he made, but I choose to emphasize also the—what he accomplished from his time as chair, and also as ranking member when I worked with him on many occasions before his leaving the House.

But the thing that I remember the most is just his kindness, his sense of humor, his dress. He's the sharpest dresser always in the room, and especially on codels, and especially when we got together at one of the highlights of my time in Congress was a few years ago working on the police working group. We went to Detroit, and he was host for that, and it was just a really neat time to let him show his city and where he came from, and I was pleased at that. But the last memory that I will hold dearest for me was is when

you get to Washington, you're amazed, and still I am by everything. But I can remember one day leaving this committee, and we were going to the floor for a vote, and we went down to the trains that take us to the Capitol for this vote, and we're coming back to the hearing room and it just happened to be me and him, and I had only been here about a month or two.

So I was introducing myself and I introduced and he said, now, you're from Georgia, right? And I said, yes, sir. And we talked back and forth. I said, just curious, I said, you've been here a long time, I said, what brought you—I said, I'm going to ask this question a lot, what brought you to Congress? And he starts chuckling a little bit and he looks at me and says, Well, I really wanted to come be a part of the Judiciary Committee to work on the Voting Rights Act of 1964. And I stopped for a second and I looked at him and said, you do realize that was 2-1/2 years before I was born? And he laughed and he said, Yep, I've been here a while. He said, if you stick around, you'll see a lot of things. That was the gentleman that I got to know and it's—the Nation mourns that and this committee mourns that, and it would be, as the chairwoman said, it would be remiss if we did not recognize that today.

And with that, I yield back.

Ms. LOFGREN. The gentleman yields back and all other members will be invited to submit whatever comments they might wish on Mr. Conyers at this time.

It's now my pleasure to welcome everyone to this afternoon's hearing on the Impact of Current Immigration Policies on Servicemembers and Veterans and Their Families. Over the last 2-1/2 years, the administration has implemented numerous policy changes that have made life more difficult for noncitizen members, of the United States Armed Forces veterans and their families. In addition, the administration's heavy emphasis on immigration enforcement, as well as the elimination of prosecutorial discretion when it comes to immigration enforcement, has resulted in the removal, or attempted removal, of far too many lawful permanent resident veterans who honorably served our country, but struggled with the transition back into civilian life, some who were disabled by PTSD.

This hearing will allow the subcommittee to explore how these policy changes and the unforgiving nature of our immigration laws have impacted Active Duty servicemembers, veterans, and their families. At this point I would like to, without objection, recognize my colleague, Representative Correa as a champion of this very important issue who will preside over this hearing, and to whom I yield the remainder of my time for his opening statement.

Mr. CORREA [presiding]. Good afternoon and welcome. Without objection, first, I'd like to request permission to submit these letters as part of the record. These are letters on the impact of current immigration policies on servicemembers, veterans, and their families.

[The information follows:]

REP. CORREA FOR THE RECORD

Statement of Asian Americans Advancing Justice | AAJC

U.S. House Committee on the Judiciary
Immigration and Citizenship Subcommittee

Hearing on "The Impact of Current Immigration Policies on Service Members and Veterans, and their Families"

October 29, 2019

Contact Information:
Marita Etcubañez
Director of Strategic Initiatives
metcubanez@advancingjustice-aajc.org

The Filipino World War II Veterans Parole (FWVP) program is a policy change that went into effect in June 2016 that has enabled elderly Filipino World War II veterans to have their family members join them in the United States to help provide much-needed care and support. The FWVP program was created by U.S. Citizenship and Immigration Services in recognition of "the extraordinary contributions and sacrifices of Filipino veterans who fought for the United States during World War II." In reuniting with their families, the veterans have the benefit of the love and care of their family members in their old age.

On August 2, 2019, USCIS announced that it would be terminating the Filipino World War II Veterans Parole program. Asian Americans Advancing Justice | AAJC opposes the termination of FWVP and has urged USCIS and the Trump administration to preserve this important program that has had a profound impact on the lives of our Filipino World War II veterans.

Organizational Background

Asian Americans Advancing Justice | AAJC ("Advancing Justice | AAJC") is a national non-profit organization founded in 1991 dedicated to advancing civil and human rights for Asian Americans. Advancing Justice | AAJC is the leading national advocate for immigration policy on behalf of the Asian American community, and in this capacity, we work to reunite and keep immigrant families together. Asian Americans Advancing Justice | AAJC advocated for the creation of the Filipino World War II Veterans Parole program and organized with other advocacy organizations to push for its implementation. We appreciate this opportunity to submit a written statement and thank the subcommittee members for holding this hearing to examine the impact of immigration policies on service members, veterans, and their families.

The Filipino World War II Veterans Parole Program

The Filipino World War II Veterans Parole Program program allows Filipino WWII veterans to apply for parole for family members who have pending immigrant visa applications. In most cases, the veterans who hope to benefit from the Filipino World War II Veterans Parole program submitted immigration petitions for their family members years ago. Many of the Filipino veterans were only able to become U.S. citizens as a result of legislation passed in 1990 after decades of community advocacy. Many of these veterans filed immigration petitions shortly after the veterans became eligible to sponsor family members to immigrate. Due to lengthy visa backlogs, however, their family members have been waiting for many years, even decades, for their visas to be approved.

The Filipino World War II Veterans Parole program has had a profound impact on the veterans and their families who have now been reunited. Upon approval for parole, the veteran's family members are able to travel to the United States. Once in the United States, they can apply for work authorization and complete the visa application process from here. Now that they are together, these families are able to care for one another and provide support on a daily basis, which has been of tremendous benefit for the elderly veterans.

In making the case for parole to be extended to the family members of Filipino World War II veterans, we argued that the advanced age of the remaining veterans coupled with the visa backlogs meant that many more veterans would pass away before their relatives would finally be granted their green cards. Furthermore, the elderly veterans have increasingly greater need to have family near to provide vital care and support. We felt – and many agreed – that it was clear that expediting the reunification of the veterans with their family members would yield "significant public benefit" and serve an "urgent humanitarian" purpose.

Letters have been submitted to USCIS by Members of Congress calling for a reversal of the decision to terminate the Filipino World War II Veterans Parole program. The September 18, 2019 letter led by Senator Mazie Hirono was joined by Senators Richard Blumenthal, Jacky Rosen, Tammy Duckworth, Kamala Harris, Brian Schatz, Amy Klobuchar, Catherine Cortez Masto, Cory Booker, Tim Kaine, Elizabeth Warren, Sherrod Brown, Chris Coons, and Dianne Feinstein. The letter also dated September 18, 2019, led by Representative Ed Case was joined by Representatives Don Young; Jan Schakowsky; Derek Kilmer; Jackie Speier; Alan Lowenthal; Elaine Luria; Judy Chu; Gilbert R. Cisneros, Jr.; Adam Smith; James P. McGovern; Tulsi Gabbard; Grace F. Napolitano; TJ Cox; Ted W. Lieu; Juan Vargas; Eric Swalwell; André Carson; Susie Lee; and Raúl M. Grijalva.

In its announcement to terminate the Filipino World War II Veterans Parole program, USCIS stated that it must exercise parole authority on a "case-by-case" basis and that categorical parole programs allowed individuals to "skip the line and bypass the proper channels established by Congress." The decision of whether to approve parole under FWVP is still a discretionary matter for USCIS and decisions are made on a case-by-case basis. In applying for parole, Filipino World War II veterans and their surviving spouses have to submit proof of their family relationship to the intended parole beneficiaries – and this is on top of the proof of familial relationship they had already submitted with their initial immigration petitions. They also must submit documentation of their veteran status. In addition, the veterans must provide proof that

they are able to provide financial support for the family members they are sponsoring to immigrate to the United States. As part of the approval process, the family members are also subject to screening. Family members have to go through an interview at the U.S. consulate and provide their identity documents, passport, documents demonstrating eligibility for FWVP, and medical examination results.

The approval of an application for parole is by no means automatic. As of June 30, 2019, over the three years since the FWVP program was implemented in June 2016, 648 applications have been submitted, and 301 have been approved. Approximately 40% of applications have been denied. As of June 30, 2019, 84 applications were still pending.

In its August announcement, USCIS expressed its commitment to exercising parole authority in a way that "does not encourage aliens to unlawfully enter the United States." Under the FWVP program, parole is only available to those with pending immigration petitions. These are individuals who, in time, would have had their family immigration petitions approved and been admitted to the United States as lawful permanent residents. The FWVP program in no way creates incentive for unlawful entry. If anything, FWVP beneficiaries have come forward of their own accord and proactively solicited permission for expedited entry in accordance with the law.

Over the years, the United States has taken steps to recognize the Filipino World War II veterans and honor their service. Just two years ago, the Filipino World War II veterans were awarded one of our country's highest honors, the Congressional Gold Medal. The award ceremony in the U.S. Capitol included many tributes to the valor and sacrifices made by Filipinos who answered the United States' call to arms during World War II. The veterans had waited more than 70 years for this honor to be bestowed. With the parole program, we hoped that they would not have to wait for more years before they could be reunited with their families. Ending the Filipino World War II Veterans Parole program extinguishes the hopes of these veterans that they will live to see their family members approved to immigrate to the United States.

There are estimated to be only a few thousand surviving Filipino World War II veterans in the United States. The youngest of these veterans are now in their 90s. They deserve to have the care and support of family members here in the United States. They have more than earned the right to be reunited with their families. The Filipino World War II Veterans Parole program was created to support those who defended the United States during the war. We urge the U.S. government to honor our veterans by preserving the Filipino World War II Veterans Parole program.

CLMP
CENTER FOR LAW AND MILITARY POLICY

4952 Warner Avenue, Suite 230
Huntington Beach, CA 92649
(562) 592-5522
www.centerforlaw.org
dwight@centerforlaw.org

October 28, 2019

RE: October 29, 2019 hearing on "The Impact of Current Immigration Policies on Service Members and Veterans, and their Families"

To: Chairman Nadler, Members of the U.S. House Committee on the Judiciary and, specifically, members of its subcommittee on Immigration and Citizenship,

The Center for Law and Military Policy (CLMP) is a nonprofit think tank dedicated to strengthening the legal protections of those who serve our nation in uniform. The CLMP aims to improve the lives of the nation's protectors by developing solutions for their most pressing problems. For veterans, homelessness, unemployment, mental health conditions, and suicide are among the most grievous problems. Service members, veterans, and their families are at higher risk for all of these destabilizing conditions if their pathways to citizenship are disrupted.

The CLMP stands for the ideas that every individual who serves in the U.S. military should have the opportunity to become an American citizen. Moreover, it supports making this idea a reality through policies that facilitate the naturalization process. Currently, there are needless and harmful policies that effectively bar some legal permanent resident service members and veterans from becoming American citizens. These include internal Department of Defense memoranda that effectively prevent many legal permanent resident service members from applying for citizenship and practices of mischaracterizing discharge statuses to disqualify veterans from pursuing the naturalization process processes.

There is also the Military Service Suitability Determinations for legal permanent residents. This internal policy's alleged security screen is a pretext for discrimination. It ignores the long and rich history of immigrants serving in our forces, and the detrimental impact it has on recruitment and maintaining the diverse and strong makeup of our military.

The CLMP supports legislative action that would reshape current policy to rehabilitate our country's commitment to enlisting immigrants in its forces and including them as equals by ensuring a pathway to citizenship that is in fact expedited if they do.

The military is accountable to the people, and, by extension, to lawmakers. This subcommittee, as policymakers, must oversee the Department of Defense internal policies closely and take action against discriminatory, punitive practices that prevent service members, veterans, and their families from remaining and thriving in the country they served.

The CLMP is available for more detailed policy analysis on any legislation this subcommittee is considering.

Respectfully,

Dwight Stirling
Chief Executive Officer and Chairman of the Board
Center for Law and Military Policy

Deportation Division of the Center for Law and Military Policy Members including:
Laura Riley, Esq.
Director of Experiential Learning and Adjunct Assistant Professor of Law
University of Southern California Gould School of Law

STATEMENT FOR THE RECORD

THE MILITARY OFFICERS ASSOCIATION OF AMERICA (MOAA)

before the

House Judiciary Committee
Subcommittee on Immigration and Citizenship

On

The Impact of Current Immigration Policies on Service Members and Veterans, and their Families

October 29, 2019

CHAIRMAN LOFGREN AND RANKING MEMBER BUCK. On behalf of the Military Officers Association of America (MOAA), we are grateful for this opportunity to express our views and appreciate the subcommittee for hosting this hearing on the impact immigration policies have on our nation's servicemembers and their families.

MOAA does not receive any grants or contracts from the federal government.

We are truly grateful for your unwavering commitment to not just the men and women who defend our fine nation, but to their families as well.

Executive Summary

There have been many changes to Department of Homeland Security policy in recent years that impact the military and veteran population and their families. While some policy and rule changes may seem minor, the compounding effect it is having on our nation's military is substantial.

MOAA does not support any policy changes that fail to credit military service as a path to citizenship for servicemembers and their families. Our association is greatly concerned with the below issues impacting military families:

- Erosion of Parole in Place for military families
- Decline in military naturalizations
- Definition change of residency for military children overseas
- Public charge rule impact on veterans and their families
- Recruitment potential with the Dream Act of 2019
- Deportation of veterans without proper screening

Parole in Place for Military Families

Simply put, Parole in Place for military families makes an individual eligible for lawful permanent residency in the US, while also eliminating any legal grounds for deportation. This policy was implemented in order to reduce stress on military members, which impacts military preparedness, to minimize periods of family separation, and to continue supporting and caring for veterans and their families. In the 2016 memo, the Secretary of Homeland Security noted that policies outlined were intended to facilitate military morale, aid in efforts to recruit foreign nationals with critical skills, and to ensure that our nation is supporting its military personnel and their families.

In January 2017, President Trump signed executive order 13767 to increase border security and immigration enforcement. This EO requires paroling to be used only in a

case by case basis, rather than across the board; undermining Parole in Place for military families.
Earlier this summer, DHS announced a review of the Parole in Place for military families. A determination regarding the longevity of the policy was to be announced at the end of July. The U.S. Citizenship and Immigration Services (USCIS) website states Parole in Place for military families is a discretionary policy used on a case-by-case basis.

To preserve the policy for military families, MOAA joined several other organizations, including the American Immigration Lawyers Association (AILA), in sending a letter to Acting DHS Secretary Kevin McAleenan, Secretary of Defense Mark Esper, and Acting Director of USCIS Ken Cuccinelli opposing the removal of Parole in Place. The letter also highlights the importance of this policy to military readiness.

Recently, DHS announced the termination of two categorical Parole in Place programs (Filipino World War II veterans and Haitian Family Reunification), but Parole in Place for military families was left alone. However, in response to Sen. Tammy Duckworth's inquiry on the Parole in Place policy, DHS officials suggested the policy is still under review, leaving military families unclear of their protections. Additionally, members of the AILA have reported higher rates of increased wait time and denials for military Parole in Place applications at local USCIS field offices.

There has been very little transparency with regard to this issue from DHS. DoD has declined to discuss these issues with military service organizations because it is a DHS policy, despite the impact it has on military readiness. Lack of transparency and reports of increased denials are a cause for concern and give the appearance that despite no formal terminations being made for this policy, it is currently being eroded.

MOAA and The Military Coalition also voiced support for Sec. 1099T in the House Version of the FY20 National Defense Authorization Act, which would ensure military families are considered for Parole in Place.

We ask Congress to ensure Parole in Place for military families is not diminished in any way and for the Department of Defense to play an active role in determinations made under this policy.

Decline in military naturalizations

Military naturalizations have dropped 44% between FY17 and FY18 after an Oct. 17 policy change which makes it harder for servicemembers to naturalize due to additional background checks prior to basic training and increased duty requirements to be granted status. There have also been higher denial rates for military naturalization between FY17 and FY18.

According to the National Immigration Forum, "Because of these changes, it may now be faster for legal permanent residents (LPRs) seeking citizenship to remain civilians when

applying for naturalization. Military service no longer serves as an expedited path to citizenship.

MOAA opposes the erosion of expedited paths to citizenship for servicemembers. This is a key recruitment resource for vital growth of the all-volunteer force.

We ask Congress and DoD to review the military naturalization process to ensure the process is more expeditious than civilian naturalizations. We also ask Congress to examine trends in naturalization approvals/denials among servicemember applicants and the impact this may have on the all-volunteer force. We ask Congress and DoD to allow recruits to complete basic training while their background check is in process.

OCONUS Residence term change for military children

Open sources announced yet another DHS policy change on Aug. 28, this time impacting military children born overseas. The policy change, which sparked national outrage, would not consider certain military children born overseas for automatic citizenship. It came after DHS determined its definition of "residency" does not align with definitions used in statute and at the State Department.

While initial headlines suggested a far larger scope of impact than the 24-families-per-year figure cited by immigration officials, the American public voiced great concern over the suggestion that military children may not be granted automatic citizenship. While most military families will not be affected by this policy, USCIS says these populations will be affected and will have to file Immigration Form N600k to apply for citizenship for their child, effective Oct. 29, 2019:

- Children of non-U.S. citizen parents who are adopted by a U.S. citizen, U.S. government employee or U.S. servicemember after their birth;
- Children of non-U.S. citizen parents (such as a lawful permanent resident U.S. government employee, or U.S. servicemember) who are naturalized only after the child's birth; or
- Children of two U.S. citizen government employee or U.S. servicemember parents who do not meet the residence or physical presence requirements to transmit citizenship to their child at birth (or have one non-U.S. citizen parent and one U.S. citizen parent who does not meet these requirements).

MOAA opposes this definition change as it creates undue obstacles for military families and discredits military service as a path to citizenship for servicemembers and their families. DHS claims the term change better aligned with State Department definitions however military families should be considered differently than civilian families due to unique overseas service requirements. While it will not affect the majority of U.S, servicemembers, we are concerned with the added stress and effect it may have on adopting families, blended families and non-citizen servicemembers.

We ask Congress and DHS to review this definition change with additional consideration for requirements of the military lifestyle and the impact on their families.

Public Charge Rule Change

A rule change regarding citizenship requirements – one that outlines grounds for inadmissibility related to whether an applicant for citizenship has or is receiving government assistance, such as food stamps or housing assistance – was scheduled to take effect Oct. 15, 2019.

The rule exempts active duty and Ready Reserve members and their families who have received this assistance, but others who have served this country such as National Guard members, veterans, and their families could be affected by this rule.

In a disappointing move, The Department of Veteran Affairs did not comment during the open comment period for this rule change, making it harder for veterans and their families to gain citizenship. Many veterans rely on public benefits for a variety of reasons; some being due to service-connected disabilities. About 100,000 noncitizen veterans live in the U.S., however it is unclear how many don't have green cards or have spouses who don't. It is also unclear how many use public benefits.

The rule change is on hold pending lawsuits that claim it unfairly targets low-income immigrants of color.

MOAA opposes the inclusion of veterans and National Guard in this rule change as it doesn't carefully consider how their military service impacts their families use of public assistance.

We ask Congress and DHS to create an exemption for the public charge rule for veterans and the National Guard until better consideration is taken on the impact service has on these families and their use of public assistance.

Recruiting issues for Dreamers:

Dreamers are undocumented immigrants who were brought to the U.S. as children and have lived here most of their lives. The Dream Act of 2019, a bipartisan piece of legislation, would allow dreamers the opportunity to obtain legal status without the threat of deportation. In 2017, the Migration Policy Institute estimates 71,000 dreamers would utilize military service as a path to citizenship. Currently only 900 dreamers serve in the military which they were able to do through the Military Accessions Vital to the National Interest (MAVNI) program, which was terminated in 2016.

The military has struggled with their recruitment and retention goals in recent years. Just last year, the Army missed its recruiting goal by 6,000. With current record-low

unemployment rates, our country is struggling to maintain an all-volunteer force. Our association supports increasing recruitment opportunities for the military and opportunities to serve and gain lawful permanent resident status for Dreamers as provided by S. 874, The Dream Act of 2019.

We ask Congress to consider the impact the Dream Act of 2019 may have on a sustained all-volunteer force.

Deported Veterans

A 2019 Government Accountability Office (GAO) report indicates ICE agents were unaware of the policies in place for special consideration of veterans prior to any removal. Additionally, the report details difficulties veterans have accessing their benefits living overseas. The American Civil Liberties Union reports approximately 239 cases of deported veterans, however, the true number is difficult to track due to the inconsistent use of special consideration for veterans. Deported veteran groups, such as the Deported Veterans Support House indicate the number is much higher.

Our association is greatly troubled by the blatant neglect of policies in place to give special consideration to veterans prior to their separation from the military and during any removal proceedings, which negatively impact their access to earned military and veterans benefits. MOAA applauds the GAO for their detailed report and recommendations.

We ask Congress to provide greater oversight on existing policies and laws aimed to assist servicemembers in becoming citizens prior to separation from the military. We also ask Congress to oversee improvements made by DHS as the agency works to implement recommendations provided by GAO.

October 28, 2019

NaFFAA Leaders surge the Reinstatement of the Filipino World War II Veterans Parole Program

The National Federation of Filipino American Associations (NaFFAA) strongly encourages the US federal government to reinstate the Filipino World War II Veterans Parole Program.

"The Filipino World War II Veterans Parole Program represents America's sacred promise to these brave warriors, who risked their lives and livelihoods on behalf of this great nation, all in the shared pursuit of peace and prosperity," states NaFFAA National Chairman Brendan Flores. "The program promotes the reunification of these brave veterans—who are now US citizens or lawful permanent residents—with spouses and other foreign-born family members who are likely to provide them with care in their final years."

According to San Francisco area resident Aida Nacua, wife of Filipino World War II veteran Reggie Nacua, the program has allowed for Mr. Nacua's Filipino-born children to join him here in the United States. Before the program was suspended earlier this year, three of his five adult sons relocated to the US after applying for the parole program. The significance of the financial support and familial care provided by his children is immeasurable for Mr. Nacua, who is now 91 and no longer able to hear.

Chairman Flores reflects on the Nacua family's story: "Therein lies the tragedy. The elimination of the parole program forecloses on the opportunity for these selfless veterans—such as the brave Mr. Reggie Nacua—to enjoy the love, support, and care of their family in their final years. I cannot say this strong enough: eliminating this program amounts to promises broken and dignity denied."

Carissa Villacorta, NaFFAA's newly appointed Executive Director, concurs on the consequences of halting the parole program. "It is clear that the importance of this program cannot be overstated, and that consideration of its reinstatement demands urgency, says Villacorta. "In 2016, USCIS estimated that 2,000-6,000 remain alive in the United States. Frankly, time is running out. With each day, we continue to mourn the loss of these brave veterans. Before we lose the opportunity, is imperative that we substantively and meaningfully honor them and their sacrifice. While the Congressional Gold Medal was a rare and incredible honor that was hard won and well deserved, such recognition feels shallow with the absence of good faith action."

NaFFAA, on behalf of the more than 4 million Filipinos and Filipino Americans in the US, urge the fair reinstatement of this monumental humanitarian program, to show that this great nation's noble commitment to service and sacrifice is not taken for granted.

###

About NaFFAA

The National Federation of Filipino American Associations (NaFFAA) is a non-profit, non-partisan organization. Established in 1997, NaFFAA promotes the welfare and well-being of the more than 4 million Filipinos and Filipino Americans throughout the United States. NaFFAA's vision is to serve as the voice of all Filipinos and Filipino Americans by uniting, engaging, and empowering diverse individuals and community organizations through leadership development, civic engagement, and national advocacy.

www.naffaa.org

U. S. House Committee on

THE JUDICIARY

C/o CHAIRMAN JERROLD NADER
2141 Rayburn House Office Building
Washington, DC 20515

Dear Committee Members.

My name is Mario Antonio Martinez. I am an honorably discharged U.S Army Veteran who ascended to the rank of Sergeant. I served from 1980-1986 during the Cold war in West Germany. I was stationed there to help protect the United States and Europe against a foreign invasion. After my tour there, I returned to the United States. I was stationed at Fort Bragg North Carolina 82nd Airborne Division for the remainder of my active duty enlistment. During my Army career my primary military occupation (MOS) was 52D-20: Power Generation Technician. I studied at the Fort Belvoir Virginia Army Corps of Engineers Academy. I have been in the engineering field most of my life, since the age of 18 or so. I have worked for 2 large corporations; Air Products and Chemicals and C.B. Richard Ellis (CBRE) through the Local 501 International Operating Engineers Union. I am currently still employed with them.

I have lived in the U.S. legally for nearly 52 years, since 1968. I became a legal permanent resident on April 14th, 1971. The United States in the only place I have ever known as my home. This is where I have raised my children, now 30 and 28. I am a grandfather to a little girl, Maddison. I am also a proud homeowner since February 2017. My entire extended family has their citizenship and live here in the United States, mostly in California and Arizona. I have no family ties in Mexico.

I served four years and three months of a five-year prison sentence for a domestic conviction. I also spent six months in ICE/DHS immigration custody. While there, I fought for the right to a bond hearing, and won my limited and temporary freedom to the cost of $10,000. I have, in all respects, turned my life around. I am gainfully employed building engineer; a position I secured within 3 weeks of being released from ICE custody. In fact, it is with the same company that I worked for prior my conviction, CBRE.

On May 10th, 2019 I submitted an application for a Gubernatorial Pardon from Gov. Gavin Newsom (D-CA). I am asking for the opportunity to stay in the U.S.—the ONLY country I call home. Like so many of my brothers and sisters in arms, I struggled. My conviction occurred over ten years ago. I have built a life and stable home in every way possible. It is unfair that I have to beg for the opportunity to stay in this country while other veterans exactly like me are released to their homes after serving their time.

The deportation of U.S. Veterans must end. It is immoral and unpatriotic. We, noncitizen veterans did not turn their back on America in her many times of need. The U.S. cannot continue to turn its back on us.

Sincerely,

Mario Antonio Martinez

[redacted]

Mario Antonio Martinez

WRITTEN TESTIMONY OF PABLO DILBERT, DEPORTED VETERAN

HEARING ON THE IMPACT OF CURRENT IMMIGRATION POLICIES ON SERVICE MEMBERS AND VETERANS, AND THEIR FAMILIES

SUBMITTED TO THE HOUSE SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

OCTOBER 29, 2019

The Honorable Zoe Lofgren
Chairwoman, Subcommittee
on Immigration and Citizenship
House Judiciary Committee
U.S. House of Representatives
2141 Rayburn House Office Building
Washington DC 20515

Dear Chairwoman Lofgren and Members of the Subcommittee,

I am writing to provide my experience as a deported veteran, in hopes that it will help you better understand my situation and the situation of other veterans like me.

I entered the United States with my parents in 1970 when I was only a year old. In 1972, I became a legal permanent resident. Having lived in Michigan for most of my life, I moved to Grand Rapids in 1990 after earning my G.E.D. In 1997, I decided to serve my country and join the United States Marine Corps. I was awarded the Rifle Sharpshooter Badge, the Meritorious Mast, and a letter of appreciation before being honorably discharged.

However, the Marine Corps was also a source of great trauma for me. During my service, I was raped and while I reported the incident at the time, the U.S. Naval Criminal Investigative Service did not investigate further. Around the same time, my mom was diagnosed with cancer. The emotional trauma of the rape and my mom's cancer diagnosis drove me into a period of drug addiction and homelessness.

During that stage of my life, I was convicted of two non-violent crimes — one for cashing a fraudulent check amounting to less than $600 and another for accepting $20 from two undercover police officers seeking to purchase cocaine. Although I did not deliver the police officers any cocaine, I was found in possession of a pipe and arrested. I am not proud of this period and I sought to rebuild my life. I was rehabilitated at the Pine Rest Jellema House rehabilitation and mental health center in Grand Rapids. After rehabilitation, I obtained a job repairing computers at an Ann Arbor veterans facility. I earned an honest living as I worked to help fellow veterans. I bought a house and made a life for myself.

In 2014, I applied for naturalization in hopes of completing my American journey by finally becoming a full citizen of the only country I have ever known as home. Instead, ICE used the

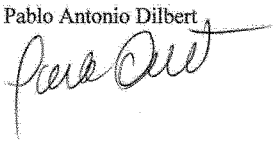
information in my application to detain and ultimately remove me from the United States to Honduras based on my criminal record.

In Honduras, I have experienced significant challenges. I care for my partner and my stepchildren, but I worry that the healthcare that we have access to in Honduras is not adequate. For example, my stepson consumed tainted meat at a childcare facility and now, after five surgeries, can no longer walk or speak and must be tube fed. I suffer from high blood pressure, diabetes, and sleep apnea, which I used to receive care for through the U.S. Department of Veterans Affairs.

After approximately 40 years of living in the United States, it is difficult to adjust to living in an unfamiliar place. The non-violent mistakes that I made nearly a decade before I applied for naturalization, during a period of homelessness and addiction, which I deeply regret, should not result in my exile. I do not believe that this is what the State of Michigan intended when I was convicted and I do not believe that the United States should abandon its veterans to such a fate. I hope that Congress will understand my hardships and those of my fellow deported veterans and help us to return home. Thank you for the opportunity to submit this testimony.

Respectfully submitted,

Pablo Antonio Dilbert



WRITTEN TESTIMONY OF SALOMON LOAYZA, DEPORTED VETERAN

HEARING ON THE IMPACT OF CURRENT IMMIGRATION POLICIES ON SERVICE MEMBERS AND VETERANS, AND THEIR FAMILIES

SUBMITTED TO THE HOUSE SUBCOMMITTEE ON IMMIGRATION AND CITIZENSHIP

OCTOBER 29, 2019

The Honorable Zoe Lofgren
Chairwoman, Subcommittee
on Immigration and Citizenship
House Judiciary Committee
U.S. House of Representatives
2141 Rayburn House Office Building
Washington DC 20515

Dear Chairwoman Lofgren and Members of the Subcommittee,

I am a Vietnam War-era veteran of the United States Navy who was deported to Ecuador in 2000. Despite my years of service to the United States and the life I had built there, I was deported due to a nonviolent mail fraud offense that was not a deportable offense at the time I was convicted. In my deportation proceedings, the Immigration Judge erroneously denied me the chance to apply for a waiver to stay in the United States. I am currently attempting to re-open my deportation case so I can apply for this waiver, but the Board of Immigration Appeals has refused to hear my case, and so my case is now on appeal at the Fifth Circuit Court of Appeals. The United States is and always will be my home. I long to return and be reunited with my son, who still lives in Virginia. I hope that this testimony will help me or others along that path.

I grew up in Ecuador deeply admiring the United States, watching the Apollo missions on television and listening to the Voice of America radio program with my dad. He was also a great admirer of the United States. I remember telling him that one day, I would travel to the United States, study there, and become a part of the country's amazing future. I kept pursuing my dream and in 1973, I came to the United States to make it a reality.

In 1975, only two years after I arrived in the United States, I volunteered for the U.S. Navy. A Naval recruiter offered me citizenship, money for college, and an opportunity to travel the world in return for enlisting. I felt that if I wanted to be a citizen, I should defend the country when called upon to do so. I served in active duty for four years and deployed four separate times.

In June 1976, I participated in OPERATION FLUID DRIVE, which evacuated hundreds of U.S. citizens and other non-combatants from Beirut during the Lebanese Civil War. For our role in the operation, the USS RALEIGH crew, including myself, was awarded the Humanitarian Service Medal. Over the next several years, I participated in a number of other operations

throughout Europe.

In 1979, I was honorably discharged from active service, but decided to serve another two years in the Naval Reserve. After my service, I relocated to Norfolk, Virginia and attended Old Dominion University. Based on the Naval recruiter's offer and loyal service to my adopted country during a time of need, I always thought of myself as just another American.

Eventually, I got married, had a son, Jeremy, who is a U.S. Citizen and still lives in Virginia. In 1986, I became a legal permanent resident.

I am in my current situation because I made a mistake in doing business with the wrong people. After first owning my own used car business, and then working for an insurance company, I decided to start a small insurance business with a colleague. To my dismay, I was arrested in 1991, for allegations of mail fraud based on what I believe to have been the actions of that colleague. I was eventually convicted and sentenced to forty-six months of imprisonment. I served this time well, as a model prisoner, took as many educational courses as possible, and wrote often to my son.

When I had served my time in prison and was due to be released, I was instead sent to an immigration detention center in Oakdale, Louisiana where the government initiated deportation proceedings against me, even though at the time of my sentencing, the offense I was convicted of was not a deportable offense under the law. I tried everything I could to prevent myself from being deported and attempted to complete my naturalization application. Nothing worked. After more than twenty-five years in the United States, including time in military service, I was deported to Ecuador.

Exile from the United States, my adopted home, has been a nightmare. Being ripped from my community and thrown into a country I left so long ago has been a terrible challenge. My permanent separation from my son caused him severe depression and me plenty of heartache. I do not believe my family and I should be punished for the rest of our lives through my permanent exile from the country to which I gave some of the best years of my life. I have been fighting to return ever since I left.

Over the past few years, ACLU and my pro bono counsel, Latham & Watkins, have helped to appeal my case based on errors of law. My case is currently pending before the United States Court of Appeals for the Fifth Circuit. I hope that my case will be successful and that I will be able to return home. But even if I can, the reality is that for many deported veterans it is difficult, if not impossible, to find an attorney who can help them and they simply do not have any legal opportunities to return home. I ask that you do something about that. We answered our country's call to serve. Please answer our call now and help us return home.

Sincerely,

Salomon Loayza

LAW OFFICE OF BEVERLY W. CUTLER
[redacted]
[redacted]

October 27, 2019

Honorable Zoe Lofgren, Chair
Honorable Pramila Jayapal, Vice Chair
US House of Representatives Committee on the Judiciary
Subcommittee on Immigration and Citizenship
2138 Rayburn House Office Building
Washington, DC 20515

SUBMISSION FOR HEARING RECORD OCTOBER 29, 2019, 2:00 PM

THE IMPACT OF CURRENT IMMIGRATION POLICIES ON SERVICE MEMBERS AND VETERANS, AND THEIR FAMILIES

MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST PROGRAM (MAVNI)

Dear Chairwomen Lofgren and Jayapal,

I am a lawyer in the Northwest who has assisted more than 250 military enlistees in the MAVNI program over the last several years. I've been doing so pro bono due to numerous immigration and enlistment problems that stem from various DOD and DHS changed policies.

To give you my background, I served actively as a state Superior Court judge for nearly four decades. Rarely while I worked in our criminal and civil courts did I have the privilege of being as impressed with the competency and commitment of young adults as I have been in coming to know the soldiers known as MAVNIs. Not only do most MAVNIs come from countries where they witnessed early in life that military service is a civic duty and honor, but MAVNIs also are a talented, well educated and motivated pool of individuals.

MAVNIs became US Army enlistees by responding to **recruitment** from the USAREC (United States Army Recruiting Command) to serve and earn citizenship, yet years later they have not been allowed to become citizens. Further, they are not newcomers. To qualify, a MAVNI had to have been lawfully present in the US for at least two years under a valid work or dependent visa. All by now have been in the US five years, and many much longer, but without a "green card" path. Some are DACA recipients who have been here an extremely long time. A great many committed to Active Duty, and yet are still waiting.

All MAVNIs now coming to Congress for help were promised Expedited Naturalization as soon as they were called to Basic Training. Yet deportation now looms suddenly for many due to no fault of their own. The root of the delay is that our DOD decided after these MAVNIs

enlisted to intensify greatly the amount and type of background investigations it would conduct before shipping them, presently requiring them to pass our nation's highest level National Security Determination but calling it their Military Services Suitability Determination. However, all MAVNIs tested Military Services Suitable back when they enlisted, the same as any citizen enlisting, and also had to score considerably higher than a citizen recruit on the Armed Services Vocational Battery Aptitude test.

The DOD has been doing about faces for three years on honoring the contracts for the current MAVNI enlistees. In part this is because the "deep investigations" became so cumbersome and expensive that they have proven completely unworkable. Many MAVNIs were dropped without any satisfactory explanation. A process evolved to correct that occurrence, but has involved so much other unexplainable gross delay that DOD's holdup has completely upended the MAVNIs' immigration timelines as well as kept them from other opportunities, far beyond what anyone on either side of their contracts expected when these enlistments were solicited. For some MAVNIs, the delay now has resulted in them being in deportation proceedings.

Assuming neither our Congress nor our Courts ever will force the military to keep in its ranks any non-citizen non-green card holder that the military does not want to keep, we must recognize that these delayed or discharged MAVNIs still deserve significant immigration status relief. No activity on their part caused these outcomes. All have committed their skills to the US military for more than three years now, holding off accepting other employers or careers. Many also passed up other US immigration pathways that might have been available to them and given them citizenship. Further, our country is missing out because virtually every MAVNI is a very functional young adult of excellent character, skill and eagerness to succeed.

1. Help Sought from Congress

The main help I seek from Congress is immigration status relief for MAVNIS that leaves them NO WORSE OFF THAN THEY WERE WHEN THEY SIGNED, if indeed the Army does not honor their contracts. Despite the Durbin/Harris amendment to the NDAA in late 2017, which exacted from DOD a promise that no MAVNIs would be dropped without the full investigations, there has been an utter lack of adequate follow through on DOD's part. While some in the Pentagon may say there were budget problems, and some may say there were training issues with the screeners, and some even may agree there has been negligence in the left hand not knowing or anticipating what the right hand should be doing, the plain fact is that the MAVNI enlistees themselves are completely innocent. Anything short of leaving our MAVNI recruits no worse off than they were when they were recruited is grossly unfair, and un-American. MAVNI recruits are proficient young adults whose ability to contribute should be mined and appreciated, not rejected. They came here by the rules, and they followed the rules.

3. Possible Solution

If the military does not want them for reasons our branches of government may continue to argue about for another decade, the current MAVNI enlistees should at least be given immediately a two year conditional residency, considering they now have waited so long that they could be far along the path to citizenship with green card status if only they hadn't been enticed by the military to sign. We must recognize that they relied on the representations of the world's most trusted organization— the US Army. Such conditional residency would give them a chance to "prove up" and move along the pathway to become actual LPRs, and then citizens.

There can be no question that MAVNIs in general are extremely well qualified for USA citizenship. It is unfortunate that there is a lot of confusion in Congress' and the public's eye about the significance of the aforementioned DOD background investigations. I cannot state too strongly that for a MAVNI to not pass DOD's newly imposed and extremely high level NSD

Background Investigation (which is being used to qualify them for military service as if they were going to become a general or be working at the highest level of the State Department the moment they get to training) in no way signifies they will not pass DHS's normal criteria for citizenship. I am not asking that anything less than the regular tests of good character for their ultimate citizenship be applied to them.

Many MAVNIs married during their years of being here, as normal young adults do. Some now have US Citizen children. We should want to keep these bright young families. Most are wizards in their fields (technology, healthcare, logistics) and easily will qualify to become officers in the Army if the Army ever ships them.

Can such a 2 year conditional residency be provided for them through a bill, or amendment to a bill, putting them under current USCIS law that provides 2 year conditional residence categories called "Green Card Through Other Categories" or "Green Card as a Special Immigrant"? (The former includes Diversity Immigrant Visa recipients, Cuban Adjustment Act recipients, American Indians born in Canada, dependents under Haitian Refugee Act, persons born here to foreign diplomats or diplomats themselves who can't return safely home; the latter contains subcategories of abused juveniles, international broadcasters, persons who served as translators in Afghanistan or Iraq, etc.) As a practical matter many MAVNIs cannot actually return home safely now anyway, having been in contract to serve the US Army for several years, and having sworn allegiance to the United States long ago when they signed their enlistment contracts. Yet having them seek asylum seems particularly unnecessary and prolonged, especially because we recruited them to begin with.

Many MAVNIs have experienced multiple other hardships by signing with us, besides their exposure to possible nefarious treatment from their home countries in retaliation (as was the case for our interpreters in Afghanistan and Iraq.) For example, not only have MAVNIs for years been unable to travel outside the US even to a parent's funeral, but they have been extremely compromised in their ability to function in the US lawfully in basic ways like maintaining driver's licenses. Our MAVNIs did not expect no sacrifices on the road to citizenship, but the time is well past that our country recognize their deep commitment, their endurance and all they have forfeited. Their sincerity lasts to this day notwithstanding the hardships they've encountered. We must allow them a pathway to functionality and future life in the US if our military is not going to keep them after all this time. The military's reasons for so doing have nothing to do with them lacking good character for citizenship.

I would look forward very much to an opportunity to meet you, or someone on your staff, in person to discuss this, as well as to bring with me to meet you some MAVNIs who are in the DC, MD and VA area. I now am retired with a second home in the Washington DC area so am easily available.

Very truly yours,

Beverly W. Cutler

[redacted]

Mr. CORREA. First of all, let me thank my colleague, Representative Lofgren, chairwoman of the Immigration Citizenship Subcommittee for her leadership, and I appreciate the opportunity to preside over this most important hearing today. And as we approach Veterans Day, we have to recognize and honor all our veterans, including immigrant veterans who have served our country honorably in the Armed Forces from the Revolutionary War to the recent conflicts in Afghanistan and Iraq. And today, there are over half a million foreign-born veterans in the United States.

As recently as 2012, there were 24,000 immigrants as part of our Active Duty force. The Philippines, Mexico, Jamaica, and South Korea, account for the greatest number of these foreign-born veterans, and regardless of where they were born, immigrant servicemembers are Americans in every sense of the word. More than once, I've shared the story of Marine Corporal Jose Garibay, who was born in Mexico. Corporal Garibay was killed in action in 2003, after Iraqi forces pretending to surrender ambushed him and his fellow Marines. He was one of Orange County's first combat casualties in the Iraq War, and Corporal Garibay was posthumously given American citizenship. He chose to defend his country as a Marine and made the ultimate sacrifice, and he was a dreamer.

When foreign-born servicemembers and veterans are willing to defend the United States, a country they love, we have an obligation to uphold their promise to provide for these patriots American citizenship.

Sadly, since 1996, thousands of noncitizen veterans who took the oath of allegiance and were honorably discharged have been deported. No one puts the uniform on and who is honorably discharged should be subject to deportation. And as every soldier knows, you never leave a soldier behind.

Sadly, the U.S. Immigration and Custom Enforcement, or ICE, does not follow policies for solving cases of potentially removable veterans, and does not always identify and track such veterans. As a result, ICE does not know how many veterans it has deported. And recently, the administration has adopted policies that affect the naturalization process for military servicemembers and veterans.

As a result, military naturalizations have decreased by 44 percent, from 7,300 in fiscal year 2017, to about 4,000 in fiscal year 2018. And in August of 2019, U.S. Citizenship and Immigration Service announced a change to the definition of the term "residents." And, in fact, children born to certain U.S. servicemembers stationed abroad will now be required to naturalize under a lengthier and more complicated application process.

Together with my colleague, Representative Veronica Escobar of Texas, we wrote a letter to the U.S. Citizenship and Immigration Service, Acting Director Ken Cuccinelli, asking for reconsideration of this policy. And without objection, I'd like to submit that letter as part of this record.

[The information follows:]

REP. CORREA FOR THE RECORD

Congress of the United States
Washington, DC 20515

September 4, 2019

The Honorable Kenneth T. Cuccinelli
Acting Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave. NW
Washington, D.C. 20529

Dear Acting Director Cuccinelli:

We write to urge you to reconsider the August 28, 2019 Policy Alert, "Defining 'Residence' in Statutory Provisions Related to Citizenship"[1] and express our serious concerns with the manner by which this policy guidance was issued.

Since 2004, USCIS policy provided that children of U.S. government employees and members of the U.S. Armed Forces who are employed or stationed abroad are deemed to be "residing in the United States" for purposes of automatic acquisition of citizenship under INA § 320. We understand that under the new policy, effective October 29, 2019, USCIS will no longer consider these children to be "residing in the United States," thereby foreclosing INA § 320 as a means of recognizing citizenship. Instead, all such children will be required to apply for citizenship under INA § 322, a process which can be more difficult and time consuming for the families of public servants. We are deeply concerned that this policy change will have a significant impact on the many individuals who are already under great pressure serving our country overseas. We should support our troops and federal workers, not hinder the ability of their children to obtain citizenship.

Further, the release of this policy guidance has created significant and unnecessary confusion for all servicemembers and government employees living abroad – including those that are not even affected by the policy change. The misinformation surrounding this guidance was so significant that it necessitated an immediate statement clarifying that "the policy update doesn't deny citizenship to the children of US gov employees or members of the military born abroad."[2] Given the complexity of immigration law, as well as the extremely personal nature of the impact of these policies, we hope you would take greater care to appropriately educate affected persons and the public on the intent and effect of your policies in the future.

[1] https://www.uscis.gov/sites/default/files/policymanual/updates/20190828-ResidenceForCitizenship.pdf.
[2] https://twitter.com/USCISCuccinelli/status/1166826012421840899?s=20

In order to better understand the process by which this guidance was finalized and issued to the public, we request your prompt responses to the following questions:

1. The underlying policy guidance regarding residence requirements has been in place since 2004. Why change it now?

2. What studies, data, or other information did your office draw on when designing this policy? Please provide copies for our review.

3. How many military members and government workers do you estimate will be impacted by this policy change in the coming years? How was this estimate made?

4. How many children of government employees and service members obtained citizenship under INA 320 and 322 respectively in the last 5 years?

5. Why was this change announced in a haphazard manner that confused service members and government workers already stationed overseas? Why were the Defense Department and other impacted federal agencies not consulted in advance? Please provide copies of any announcement publicity plans.

Thank you for your time and attention to this matter. We look forward to your response.

Sincerely,

Veronica Escobar
Member of Congress

Gilbert R. Cisneros, Jr.
Member of Congress

Jackie Speier
Member of Congress

J. Luis Correa
Member of Congress

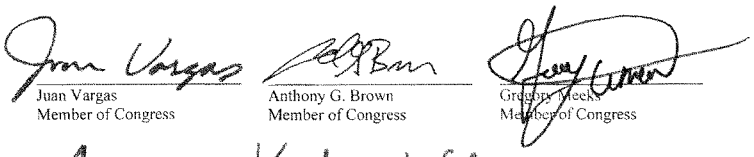
Ruben Gallego
Member of Congress

Salud O. Carbajal
Member of Congress

Adam Smith
Member of Congress

Eliot L. Engel
Member of Congress

Lucille Roybal-Allard
Member of Congress



Juan Vargas
Member of Congress

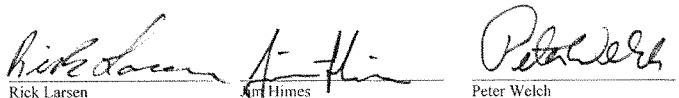
Anthony G. Brown
Member of Congress

Gregory Meeks
Member of Congress

Adriano Espaillat
Member of Congress

Katie Hill
Member of Congress

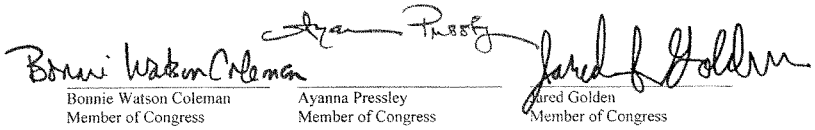
Barbara Lee
Member of Congress



Rick Larsen
Member of Congress

Jim Himes
Member of Congress

Peter Welch
Member of Congress



Bonnie Watson Coleman
Member of Congress

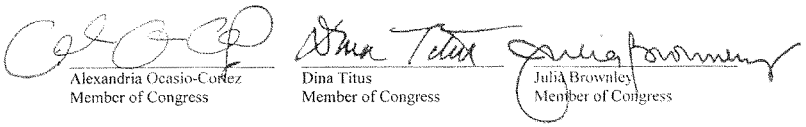
Ayanna Pressley
Member of Congress

Jared Golden
Member of Congress

Joe Courtney
Member of Congress

Deb Haaland
Member of Congress

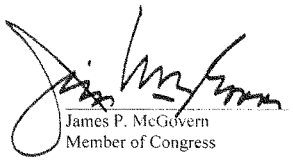
Earl Blumenauer
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress

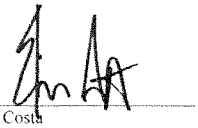
Dina Titus
Member of Congress

Julia Brownley
Member of Congress

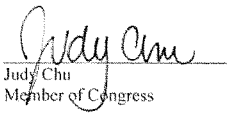


James P. McGovern
Member of Congress

Sean Patrick Maloney
Member of Congress

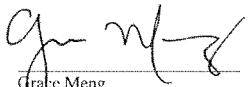


Jim Costa
Member of Congress



Judy Chu
Member of Congress

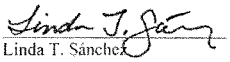
Nydia M. Velázquez
Member of Congress



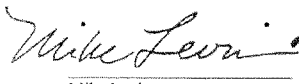
Grace Meng
Member of Congress

Debbie Mucarsel-Powell
Member of Congress

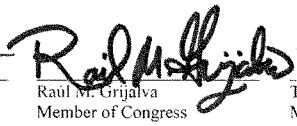
Mark Takano
Member of Congress



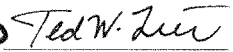
Linda T. Sánchez
Member of Congress



Mike Levin
Member of Congress



Raúl M. Grijalva
Member of Congress



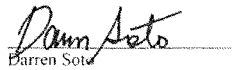
Ted W. Lieu
Member of Congress

C.A. Dutch Ruppersberger
Member of Congress

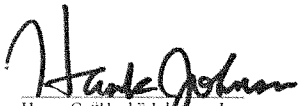
Madeleine Dean
Member of Congress

Diana DeGette
Member of Congress

Conor Lamb
Member of Congress



Darren Soto
Member of Congress



Henry C. "Hank" Johnson, Jr.
Member of Congress

Lori Trahan
Member of Congress

Daniel T. Kildee
Member of Congress

Jason Crow
Member of Congress

Betty McCollum
Member of Congress

Tony Cárdenas
Member of Congress

Sylvia R. Garcia
Member of Congress

Susan A. Davis
Member of Congress

Brenda L. Lawrence
Member of Congress

Chrissy Houlahan
Member of Congress

Ann Kirkpatrick
Member of Congress

Mr. CORREA. In total, these policy changes negatively affect military recruitment and effectiveness, and turn our back on immigrant servicemembers, veterans, and their families. This is unacceptable, and we need to correct the situation. And I look forward to hearing the testimony of the witnesses today. And it's now my pleasure to recognize the ranking member of the subcommittee, the gentle member from Colorado, Mr. Buck, for an opening statement.

Mr. BUCK. Thank you, Mr. Chairman. Immigrants have served in our Armed Forces throughout our country's history. Recognizing their sacrifice, Congress has provided, in law, for the expedited naturalization of foreign nationals who serve honorably in the U.S. Armed Forces. In periods of hostility, which includes September 11, 2001, to present, a noncitizen member of the Armed Forces may apply to become a U.S. citizen if the individual has served honorably in an Active Duty status.

Naturalization is voluntary, not automatic, and noncitizen members of the military who qualify for naturalization must apply for it, receive a favorable adjudication, then take the oath of allegiance to become a naturalized U.S. citizen.

As part of this process, the Department of Defense must certify honorable service, which they often do after background checks have been completed, and the alien has met the time and service requirements, in most cases, 180 days. This policy is a reasonable requirement to ensure an informed determination that the servicemember has served honorably as required by statute.

Since October 1, 2001, the United States Citizen and Immigration Services Agency has naturalized approximately 130,000 members of the military, many of those members naturalizing while deployed abroad. Today, we will discuss the difficult issue of noncitizen veterans of the U.S. military who have been removed from the United States. It's important to note that no one is above the legal consequences, criminal or otherwise, of their behavior. The cases of veterans in removal proceedings should be handled according to guidance that has been in place through several administrations, and with sensitivity to those who may have suffered from mental health problems due to their service. I am also honored to be an original cosponsor with Ranking Member Collins, Chairman Nadler, Chairman Lofgren of H.R. 4803, the Citizenship For Children of Military Members and Civil Servants Act.

This bipartisan bill makes a technical change to the residency requirements of Section 320 of the Immigration and Nationality Act. This will ensure that children of the U.S. Armed Forces, members stationed abroad, can automatically acquire citizenship where all other requirements are met. It will make sure they are not disadvantaged simply because their U.S. citizen parent is stationed abroad. We introduced H.R. 4803 earlier this month. I am proud of our work on this bill, since it shows that when a change in the law is necessary, it is possible for us to work together to get it done.

I look forward to hearing from the witnesses today.

And I yield back the balance of my time.

Mr. CORREA. Thank you, Mr. Buck. I will now recognize the chairman of the Judiciary Committee and gentle member from New York, Mr. Nadler, for his opening statement.

Chairman NADLER. Thank you, Mr. Chairman. Immigrants have served in the U.S. Armed Forces in every major conflict since the Revolutionary War. According to the bipartisan policy center in 2016, there are approximately 511,000 foreign-born veterans of the Armed Forces residing in the United States. The children of immigrants also make up a substantial portion of today's veteran population. Every day, these great men and women risk their lives in service to our country. We rely on them to keep our Nation safe, to provide stability in politically fragile regions, and to protect U.S. global interests. In return, we must honor their sacrifices, ensure that they and their families are supported, and give them every opportunity to become U.S. citizens.

Unfortunately, as a result of the unforgiving nature of our immigration laws and numerous policy changes implemented by the Trump administration, it appears that the opposite is happening.

Under the Trump administration, the Department of Defense and U.S. Citizenship and Immigration Services, USCIS, have implemented numerous policy changes that have undermined Congress's clear intent to provide an expedited naturalization process for military servicemembers and veterans. For example, in October 2017, the Pentagon made it more difficult for military servicemembers to receive a certification of honorable service, a document which is essential to expedite the naturalization process. Previously, certifications could be issued as soon as individual began Active Duty. Now, however, one must first complete at least 180 consecutive days of such service, or one year in the selected reserve of the ready reserve. In addition, where certifications could previously be issued by any supervising officer, they must now be certified by the secretary of the applicable military branch, or a commissioned officer serving in a specific pay grade.

These changes are unnecessary and cruel. They serve no purpose but to make it harder for individuals serving our country to become citizens, and they've had a measurable impact. The total number of military authorizations declined 44 percent from 7,360 in fiscal year 2017 to just 4,135 in fiscal year 2018. In addition, because USCIS has dramatically cut the number of its international offices, naturalization services for those who are stationed overseas have become much more limited.

USCIS used to provide such services at 23 international offices in 20 countries. The change that took effect last month, this was cut from 23 international offices to just four offices.

With USCIS personnel on site to conduct naturalization interviews, only 1 week per calendar quarter. Why would we make it more difficult for the men and women who are risking their lives in service of this country to become permanent members of our society? This is both short-sighted and cold-hearted. During this hearing, we will also discuss the plight of U.S. veterans who struggle with the transition back to civilian life, and who are eventually deported to the country they so nobly served.

Many of these veterans have been removed from the United States as a result of convictions or other transgressions tied to Post-Traumatic Stress Disorder, PTSD, brain injury, and other physical traumas suffered while on Active Duty that make the transition back to civilian life extremely difficult. In other words,

they served this country; they had a medical condition as a result of it, which impaired their judgment; they committed some crime as a result of that medical condition; and, therefore, they're deported.

We can all agree that individuals who are rightfully convicted of a crime should serve any reasonable sentence imposed, but once that sentence has been served, we should not simply turn our backs on those who sacrificed so much in service to our country, especially if that may have been service-related.

There must be a better way to address these cases. Our veterans deserve better, and we owe it to them to find a way to bring compassion and discretion back into our immigration laws.

I want to end on a positive note. Last week, I introduced the Citizenship for Children of Military Members and Civil Servants Act, along with Ranking Member Collins, who has served honorably in the Armed Forces himself, as well as several of my esteemed colleagues, including Subcommittee Chair Lofgren and Ranking Member Buck. This bill will fix the problem that resulted from a policy change announced in August that takes effect today, which makes it more difficult for children of U.S. citizens serving our country abroad to be recognized as U.S. citizens.

Our bill would reverse this misguided policy, and would make it easier for such children to be granted automatic citizenship. I'm glad we were able to work together across the aisle to introduce this important legislation. I look forward to advancing our efforts in the coming weeks.

I want to thank Chair Lofgren and Representative Correa for holding this important hearing. I thank all of today's witnesses for testifying. I look forward to their testimony.

And I yield back the balance of my time.

Mr. CORREA. Thank you, Chairman Nadler. I would now like to recognize the ranking member of the Judiciary Committee, the gentle member from Georgia, Mr. Collins, for his opening statement.

Mr. COLLINS. Thank you, Mr. Chairman. I am pleased to have the opportunity to discuss military issues today because of the lieutenant colonel in the U.S. Air Force reserve command. I understand the issues surrounding military service. It is Congress's place to determine if changes should be made to U.S. law governing the treatment of men and women who have served us.

Last week, as the chairman just mentioned, he and I, along with Chairperson Lofgren and Ranking Member Buck, and other colleagues from across the political spectrum, introduced H.R. 4803, the Citizenship for Children of Military Members and Civil Servants Act. The U.S. Citizenship and Immigration Services recently aligned a technical interpretation of the law with the Department of State's correct interpretation. This exposed a loophole. Some children of the U.S. Armed Forces members would not automatically acquire citizenship merely because their parents' deployment abroad prevents them from meeting the residency requirement imposed in the statute. H.R. 4803 would fix this unfortunate loophole.

It's important to remember that immigrants also wear the uniform, and have since the founding of our Nation. In fact, historically, the average number of foreign national enlistees has been

around 5,000 a year. That number jumped to 7,000 in 2019. Many of these patriots will go on to be naturalized for their service, and from fiscal year 2001 to fiscal year 2018, U.S. Citizenship and Immigration Services naturalized 129,587 members of the military, including more than 11,000, who, at the time, were deployed abroad protecting our country.

Our immigration laws recognize the sacrifice made by the immigrant members of our military, and lay out provisions for the expedited naturalization of foreign nationals. Any foreign national who serves in the military during hostilities, including the time period after September 11 attacks is eligible to apply to naturalize upon honorable service.

The Department of Defense issued a policy memo in 2017 to require servicemembers to have served at least 180 days for the Department to certify honorable service, which is required to apply—which is required to apply to naturalize. This aligns with longstanding Department of Defense policy that the Department does not issue a characterization of service for any one citizen, or noncitizen alike, who has not served for 180 days. Not all foreign nationals who serve in the military will choose to naturalize, and those who do not remain subject to our immigration laws. Although, we should not shield servicemembers or veterans from the necessary and lawful consequences of their actions, agencies handling rule cases should be particularly sensitive to a veteran's honorable service.

To that end, I expect Immigration and Customs Enforcement to consistently apply policies that impose special handling procedures on removal cases for veterans and take into account the nature of that veteran's services in the Armed Forces.

We must be vigilant about any enlistee, citizen or foreign national alike, to ensure that they do not intend harm. To that end, the Department of Defense, under the Obama administration, became aware of risk presented by some individuals recruited through the Military Accessions Vital to the National Interests program, and halted enlistment, but Military Accessions Vital to a Natural Interest program permitted foreign nationals with language or health skills vital to the national interest to enlist in the Armed Services, even though they were only here on temporary visas.

While well-intentioned, the security screening processes were simply not up to the challenge of vetting a population who had spent very little time in the U.S., in addition to lacking verifiable records, investigators discovered security issues with many applicants, including questionable allegiance to the U.S., a preference for a foreign country. Susceptibility of foreign influence and unexplained affluence.

There's an even one publicly known case in which a Chinese spy enlisted through the Military Accessions Vital to the National Interests program. I know the Department of Defense is improving its security screening procedures, but I remain concerned about vulnerabilities that could be presented by enlisting individuals here on temporary status, and I have supported the Obama administration's decision to halt the Military Accessions Vital to National Interest program.

I believe it would be extremely helpful to have the Department of Defense representative testify here today in order to hear the Department's reasoning behind the halting of Military Accessions Vital to the National Interests program enlistments, this time in service requirement and the other policies we will discuss today. I look forward to the witnesses' testimony and thank them very much for being here.

And with that, Mr. Chair, I'll yield back my time.

Mr. CORREA. Thank you very much, Ranking Member Collins. It's now my pleasure to introduce today's witnesses. Mr. Hector Barajas-Varela, good to see you again, sir, is a U.S. army veteran and the Director and founder of the Deported Veteran Support House in Tijuana, Baja, California. Mr. Barajas was born in Mexico, grew up in California, and enlisted in the Army in 1995. He served for 6 years, during which time he received multiple awards, such as the Army Commendation Medal, Humanitarian Service Medal, and despite his service to his country, he has been deported twice since honorable discharge from the Army in 2001. Last year, Mr. Barajas-Varela became a U.S. citizen and remains committed to his organization in providing support to other deported veterans. We thank him for his service and for being here today to share your story, sir.

Second witness, Jennie Pasquarella is the Director of Immigrant Rights of the ACLU of California, and serves as a senior staff attorney at the ACLU of Southern California, where she has worked since 2008. She specializes in immigrant rights and litigation in policy advocacy related to immigration enforcement and policy. She received her B.A. from Bernard College, and her J.D. from Georgetown University Law Center.

Margaret Stock is a retired lieutenant colonel in the military police, U.S. Army Reserve, and principal immigration attorney with the Cascadia Cross Border Law Group in Anchorage, Alaska. In 2013, she received the distinguished MacArthur Foundation Fellowship for her outstanding work in immigration and national security. She has testified before both Chambers of Congress, including this very subcommittee, to discuss the issues ranging from DREAM Act to the effects of immigration law on the military. She holds three degrees from Harvard, including her J.D., M.P.A., and holds a master's in strategic studies from the U.S. Army War College. We welcome her as well. Welcome back, ma'am, to this committee.

The Honorable Mark Metcalf is a former immigration judge on immigration court in Miami, Florida, and a former Federal and State prosecutor in his home State of Kentucky. Mr. Metcalf also held various positions with the U.S. Department of Justice and the Department of Defense from 2002 to 2008. He's worked as a private practitioner. He is a Lieutenant Colonel in the Army National Guard, and served as command judge advocate for the 149th Maneuver Enhancement Brigade in Kentucky.

Like Ms. Stock, Mr. Metcalf has previously testified before Congress, and is an expert on immigration law. Including his testimony before this subcommittee and the 111th Congress, he received his B.A. and J.D. from the university of Kentucky. We wel-

come him back to the subcommittee and look forward to your testimony, sir.

Mr. METCALF. It's a pleasure, sir. Thank you.

Mr. CORREA. We welcome all of our distinguished witnesses and thank you for your participation. Now, if you could please rise, I'm going to swear you in. Please raise your hand. Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God? Thank you.

Let the record show that the witnesses answered in the affirmative, and thank you and please be seated.

Please note that each of your written statements will be entered into the record and I will ask each one of you to summarize your testimony in 5 minutes. And to help you stay within that time limit, please look at those clocks in front of you. And we'll begin with Mr. Barajas, welcome.

TESTIMONIES OF HECTOR BARAJAS-VARELA, DIRECTOR AND FOUNDER, DEPORTED VETERANS SUPPORT HOUSE, JENNIE PASQUARELLA, DIRECTOR OF IMMIGRANTS' RIGHTS, ACLU OF CALIFORNIA AND SENIOR STAFF ATTORNEY, ACLU OF SOUTHERN CALIFORNIA; MARGARET D. STOCK, IMMIGRATION ATTORNEY AND LIEUTENANT COLONEL (RETIRED), MILITARY POLICE CORPS, U.S. ARMY RESERVE; AND HON. MARK METCALF, FORMER IMMIGRATION JUDGE AND LIEUTENANT COLONEL, ARMY NATIONAL GUARD

TESTIMONY OF HECTOR BARAJAS-VARELA

Mr. BARAJAS-VARELA. Hello? Okay. Chairman Lofgren, Congressman Correa, Ranking Member Buck, and other distinguished members of the committee, thank you for the opportunity to appear before the subcommittee to testify about these important issues. My name is Hector Barajas. I am a U.S. veteran who was deported to Mexico in 2004. I'm honored to join you today to speak on behalf of my fellow deported veterans about my personal experience. I would like to acknowledge that some formerly deported veterans and supporters have joined us in the room today, including Miguel Perez, Jorge Salcerro, AGC (ph), and the Green Card veterans that are supporters.

I am not proud of what led to my deportation, but I am proud of my military service and the positive accomplishments in my life, including starting the Deported Veterans Support House in Tijuana.

I grew up in Compton, California. My family and I moved to the U.S. when I was 7 years old. As a child, I remember pledging allegiance to our American flag every school morning. I enlisted in the U.S. Army in 1995 when I was 17 years old. I was a lawful permanent resident at the time. I wanted to serve my adopted country, and I saw service as a way to leave the environment in Compton and possibly to afford to go to college.

I arrived in Ft. Bragg and soon volunteered for airborne school, serving in the 82nd airborne from 1996 to 1999. I re-enlisted for another 3 years and left the service with an honorable discharge in October of 2001. After I left the service, I had some troubles ad-

justing and made mistakes. I eventually found myself in prison for an incident where a firearm was discharged at a vehicle. I was sentenced to 3-1/2 years in the State of California, and served my prison sentence. I was deported in 2004 due to my criminal record, and because I was not a U.S. citizen.

I came back to the U.S. illegally that same year, started a family, and worked as a roofer. Eventually, I was deported in 2010 for a traffic incident that I had, and they reinstated my deportation. I made the toughest decision in my life in 2010. I decided to stay in Tijuana and fight to return to the U.S. legally.

I wanted to reunite with my daughter and live in America without the fear of deportation. In 2013, through a combination of hard work and determination, I opened up the Deported Veterans Support House. I wanted a place that could help deported veterans in situations like mine navigate the hardship of deportation, the separation from our families, and the country we loved and served.

The Support House is a lifeline for many deported veterans living in Tijuana and around the world. We provide housing, help them find jobs, file for their V.A. benefits, and connect with pro bono attorneys. We also help with burial details so that our veterans who died can return to their families in America.

Under today's laws, most deported veterans will only come home to America with an American flag draped around their casket, like Enrique Salas and Jose Lopez. There's no honor in bringing deported veterans home to be recognized or thanked for their service only when they die.

I proudly became an American citizen on April 13 of 2018. I qualified for citizenship due to my military service and a pardon from Governor Jerry Brown of California. I am blessed to be back home in America, and to be a father to my daughter.

Once again, I want to emphasize that I am a firm believer in people being held accountable. Being a veteran does not mean that you get a free pass and never have to pay the consequences for your actions. At the same time, it does not make sense to me to deport our veterans after they have completed their sentence and paid for their actions. For veterans, deportation is a double punishment. As an example, my friend, Roberto Salazar, is a former U.S. Marine who was deported. Today he runs a men's drug rehab center in Tijuana. Roberto's daughter and his son also joined the U.S. Marine Corps. Roberto's daughter was a lively and inspiring young woman, but she passed away in an accident in 2017. We held a funeral service and burial in Tijuana, because Roberto was unable to go to San Diego to bury his daughter.

I have a few recommendations on how to ensure we protect our veterans from deportation and encourage all servicemembers and veterans to naturalize. I am blessed to be a U.S. citizen today, but I believe U.S. citizenship only acknowledges what many deported veterans already believe in their hearts. We believe ourselves to be Americans. I know current law requires us to deport our veterans. I do not think it makes it morally right. We must find a solution to protect our veterans. Thank you again for the opportunity to testify, and may God bless you and may God bless America.

[The statement of Mr. Barajas-Varela follows:]

Testimony of

Mr. Hector Barajas-Varela
Director and Founder
Deported Veterans Support House

Hearing on
"The Impact of Current Immigration Policies on Service Members and Veterans, and their Families"

Before the
Committee on the Judiciary
Subcommittee on Immigration and Citizenship

U.S. House of Representatives
Washington, D.C.

Tuesday, October 29, 2019

Introduction

Chairwoman Lofgren, Ranking Member Buck, Chairman Nadler, and Ranking Member Collins. Thank you for the opportunity to appear before the Judiciary Subcommittee on Immigration and Citizenship to testify about these important issues.

My name is Hector Barajas. I am a U.S. veteran who was deported to Mexico in 2004. I am honored to join you today to speak on behalf of my fellow deported veterans about my personal experience.

I am not proud of what led to my deportation, but I am proud of my military service and the positive accomplishments in my life, including starting the Deported Veterans Support House in Tijuana. Through that work, we have identified over 300 veterans like me who were deported or are facing deportation. I think there could be thousands more who have faced deportation. We do not know the exact number because the government does not keep an accurate track.

For Love of Country

I grew up in Compton, CA. My family and I moved to the U.S. at the age of seven. As a child, I remember pledging allegiance to our American flag every school morning and watching G.I. Joe on the television in the weekends.

I enlisted in the U.S. Army in 1995, when I was 17 years old. I was a lawful permanent resident at the time. I wanted to serve my adopted country, and I saw the service as a way to leave the environment in Compton and possibly to afford to go to college. I arrived in Fort Bragg and soon volunteered for Airborne School, serving in the 82nd Airborne from

1996 to 1999. I was part of the All Americans – as we were called. We were all Paratroopers, ready and willing to fight for our country and our values. We risked our lives on many days, performing dangerous air evacuations and dealing with multiple injuries as a result. I re-enlisted for another three years. I was eventually chaptered from the service with an Honorable Discharge in October 2001.

After I left the service, I had some troubles adjusting and made mistakes. I eventually found myself in prison for an incident where a firearm was discharged at a vehicle. I was sentenced to three-and-a-half years in the state of California and served my prison sentence. I was a veteran and a green card holder, but not a U.S. citizen at the time. I had not naturalized because I did not understand why I should naturalize and had no information about the process to naturalize through the military or anywhere else. Because I was not a U.S. citizen, I was deported in 2004 due to my criminal record.

I came back to the U.S. illegally that same year, started a family and worked as a roofer. I was deported again in 2009 after I was caught for a warrant for a traffic ticket.

I made the toughest decision of my life in 2009. I decided to stay in Tijuana, Mexico and fight to return to the U.S. legally. I wanted to reunite with my U.S. citizen daughter and live in America without the fear of deportation.

Building the Deported Veterans Support House

My work to support deported veterans began in earnest in 2010. I was open about my deportation for the first time. I thought I was the only one going through this ordeal, but I soon connected with other deported veterans living in Tijuana. In 2013, through a combination of hard work and determination, I opened the Deported Veterans Support House.

The Deported Veterans Support House started out of my apartment, but eventually we moved into an office. I wanted a place that could help deported veterans in situations like mine navigate the hardship of deportation and the separation from our families and the country we love and served.

The Deported Veterans Support House is a lifeline for many deported veterans living in Tijuana. We provide housing and help them find jobs, file for their VA benefits, and connect with pro-bono attorneys who can take up their case. We also observe Veterans Day, hold Thanksgiving dinners, and plan toy drives for the Christmas holidays for their children. Finally, we help deported veterans with burial details, so that our veteran brothers and sisters who die in Tijuana can return to their families to be buried at a military cemetery in America.

I also worked to raise media awareness about deported veterans by sharing our stories through social media. I connected with Members of Congress and eventually welcomed multiple congressional delegations to Tijuana so they could visit the Deported Veterans Support House. In addition, with the help of fellow veteran Representative Mark Takano, I was able to work with the U.S. Department of Veteran's Affairs to establish a VA health

clinic in Tijuana where deported veterans are examined to see if they can access some VA benefits.

I am here today because of my advocacy and help from my attorneys, my family and many others. I applied for U.S. citizenship in 2016, which we determined I qualified for due to my military service and my Honorable Discharge. Then, on Easter Sunday in 2017, I received a pardon from Governor Jerry Brown of California. Because of the pardon, I finally met all the requirements to return to America and complete the naturalization process. I proudly became a U.S. citizen on April 13, 2018. I am blessed to be back home in America and to be a father to my daughter once again.

I want to emphasize that I am a firm believer in people being held accountable. Being a veteran does not mean that you get a free pass and never have to pay the consequences for your actions. At the same time, it does not make sense to me to deport our veterans after they have completed their sentence and paid for their actions. For veterans, deportation is a double punishment.

Better Action Needed on Deported Veterans

I believe we need better mechanisms to protect veterans who face deportation. While working at the Deported Veterans Support House, I connected with hundreds of veterans who were deported or face deportation. At least 14 of them served in the Vietnam era.[1] Based on my conversations, almost all deported veterans faced similar problems.

First, Immigration and Customs Enforcement (ICE) is not properly considering most veterans' record and health issues before placing them in deportation proceedings, as required by the agency's own rules. The U.S. Government Accountability Office (GAO) published a report on June 6, 2019 that found ICE "did not consistently follow its policies involving veterans" to ensure veterans receive an appropriate level of review before they are placed in deportation. The report said ICE failed to consistently follow its procedures because the agency was "unaware of the policies." The report identified at least 250 veterans who faced deportation between fiscal years 2013 through 2018, including 92 who were eventually deported.[2]

In addition, veterans who face deportation are not guaranteed an attorney. The immigration court system allows individuals to hire lawyers but does not provide a lawyer if you cannot afford one. I had to represent myself for almost one year while in custody at the Eloy Detention Center in Arizona. I lost my case in 2004 and decided not to appeal it,

---

[1] "Discharged, Then Discarded: How U.S. Veterans are Banished by the Country They Swore to Protect," American Civil Liberties Union (ACLU) of California (July 2017), 13: https://www.aclusandiego.org/wp-content/uploads/2017/07/DischargedThenDiscarded-ACLUofCA.pdf.

[2] "Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans," U.S. Government and Accountability Office (GAO) (June 2019), 2-5: https://www.gao.gov/assets/700/699549.pdf.

leading to my deportation. Many veterans are deported simply because they do not have access to a proper legal defense.

Once deported, veterans are still eligible for VA benefits and services but living abroad limits our ability to access them. For instance, deported veterans cannot receive comprehensive health care because they live abroad. While living in Tijuana, I could only request reimbursement through the Foreign Medical Program for the treatment of service-connected conditions. As deported veterans, we are eligible for the same VA benefits and services as any other veteran, but we face limited access.[3]

We also face very personal challenges. My friend Roberto Salazar, a former U.S. Marine in the mid-1990s, was deported in 2005. Today, he runs a men's drug rehab shelter in Tijuana. Roberto's daughter joined the U.S. Marine Corps. His family continued to serve after his deportation. She was a lively and inspiring young woman, but she passed away in an accident in 2017. We held a funeral service and burial in Tijuana, since Roberto was unable to go to San Diego to bury his daughter.

Our challenges are multifold. We must also recognize that many veterans return to America under difficult circumstances, sometimes suffering from PTSD after facing trauma. These circumstances may increase their likelihood of coming into contact with law enforcement. We must make a commitment to provide proper services to our veterans so that they do not end up homeless or take their lives. We must ensure veterans have an opportunity to receive drug treatment, attend anger management classes, and receive other services if necessary, so that they do not end up in our criminal system.

I believe we can find better ways to ensure veterans who face deportation are screened properly, have proper legal representation, and have access to the VA benefits and services they earned through their military service. I do not believe deporting veterans is the right policy. I am not excusing criminal behavior and recognize that we must accept responsibility for our crimes, but after we serve our criminal sentences, we should not subject veterans to the additional punishment of deportation.

Naturalization Promotion Can End Veterans Deportation

I also would like to speak about the importance of promoting naturalization in the military. The U.S. is home to approximately 94,000 immigrant veterans who do not have U.S. citizenship.[4] The vast majority are lawful permanent residents and likely eligible for naturalization but have not taken the necessary steps to become U.S. citizens. Naturalization could protect them against deportation.

---

[3] "Immigration Enforcement: Actions Needed to Better handle, Identify, and Track Cases Involving Veterans," 23-25.

[4] "Essentials of Naturalization for military Service Members and Veterans," National Immigration Forum (October 24, 2018): https://immigrationforum.org/article/essentials-of-naturalization-for-military-service-members-and-veterans/.

I was a lawful permanent resident during and after my military service, but I failed to naturalize in part because I received no information about the process to naturalize from the military or anywhere else. There was no program to encourage noncitizens in the military to ensure they became U.S. citizens. I do not recall receiving any information about my eligibility for naturalization after I separated from the military. I believe the military must designate a time to ensure all immigrant service members learn about their eligibility for U.S. citizenship.

My experience is not unique. The GAO report found shortcomings in the government's efforts to ensure immigrants serving in the military know about the process to become U.S. citizens. Of 87 deported veterans identified in the report, 85 percent were lawful permanent residents but had not naturalized.[5] I believe we can do better to inform immigrant in the military and veterans that they may be eligible to become U.S. citizens.

The Department of Defense (DoD) and U.S. Citizenship and Immigration Services (USCIS) have an opportunity to create a program that actively promotes military naturalization and ensures all noncitizen service members are aware that they can likely naturalize before they separate from the military. The Department of Veterans Affairs could also create a program to ensure our veterans know about their eligibility for naturalization and are encouraged to apply. The VA already provides multiple programs to assist veterans with their education, job training, housing and health care. Creating an assistance program to inform and help veterans with their naturalization would be a helpful addition. By increasing the number of military naturalizations, we can help reduce the number of deported veterans.

Conclusion

I am blessed to be a U.S. citizen today. But, I believe U.S. citizenship only acknowledges what many deported veterans already believe in their hearts. We believe ourselves to be Americans. We put our Oath into action many years ago, when we enlisted in the military to uphold the Constitution and serve our country in war or peacetime. We love America.

Under today's laws, most deported veterans will only come home to America once they die. They will come back to the U.S. with an American flag draped around their casket so that they can be buried in a military cemetery. I can share many stories of deported veterans, like Enrique Salas and Jose Raul Lopez, who came home to be buried in America. There is no honor in bringing deported veterans home to be recognized or thanked for our service only when we die.

I know current law requires us to deport our veterans. I do not think that makes it morally right. We must find a solution to prevent veterans from deportation. We must also bring our deported veterans home.

---

[5] "Immigration Enforcement: Actions Needed to Better handle, Identify, and Track Cases Involving Veterans," 17.

Finally, it is also important to mention that every deported veteran must leave behind his or her spouse, children and parents. Our families are left at times suffering economically and emotionally as a result of our deportation. I am blessed to once again be a father to my daughter and be together with my family, but it was painful to be separated from my daughter and family for many years.

I would also appreciate an opportunity to recognize Miguel Perez, a recently repatriated veteran, and Carlos Luna, from Green Card Veterans, who turned in letters on this issue that I would like to submit for the record.

Thank you again for the opportunity to testify about these important issues and to speak on behalf of my fellow deported veterans.

May God bless you and God bless America.

Mr. CORREA. Thank you, Mr. Barajas. I'd like to call on Ms. Pasquarella for her statement.

TESTIMONY OF JENNIE PASQUARELLA

Ms. PASQUARELLA. Congressman Correa, Chairwoman Lofgren, Ranking Member Buck, and distinguished members of the subcommittee. For more than 200 years, Congress has promised immigrant recruits expedited citizenship in exchange for their military service. But since 1996, the United States has betrayed that promise. We've, instead, deported thousands of our veterans, and every day we deport more.

Just last week, ICE deported Jose Segovia Benitez, a two-time Iraq and Afghanistan war veteran, combat veteran, who suffered a traumatic brain injury, and who, like many, struggled with severe PTSD and substance abuse. Jose came to the U.S. as a 3-year-old child. He knows no other home than the United States. Now he fears for his life in El Salvador.

These deportations are unconscionable and immoral. They are the result of three forces working together: first, the punishing and unforgiving 1996 laws that created lifetime bars to naturalization and mandatory deportation; second, the failure of the U.S. Government to naturalize noncitizen servicemembers while they are serving; and third, hyperaggressive immigration enforcement, particularly over the past decade.

Deported veterans are nearly all former lawful permanent residents. Of those we interviewed for our 2016 policy report, half of them served during periods of war, and most came to the U.S. under the age of 10, meaning the United States is the only country they know as home. Changes made to our immigration laws in 1996 were so excessively punitive that certain criminal convictions, even convictions, such as writing a bad check or possession for the sale of marijuana, even convictions for which a person may serve no time in jail at all, required deportation and bar naturalization for life.

The 1996 laws dramatically expanded the definition of the category of deportable offenses known as aggravated felonies. Today, that term encompasses a whole host of nonviolent misdemeanors that are neither aggravated, nor are they felonies. The law made deportation mandatory for any LPO with an aggravated felony by eliminating all forms of judicial discretion, meaning a single criminal conviction, one mistake, can equal a lifetime of banishment with no exceptions.

It means that when Mario Martinez, who wrote a statement for the record of this hearing, when he goes before an immigration judge in March, the judge will not be permitted to consider whether deportation for his domestic violence conviction that occurred more than 10 years ago, is a fair outcome. The judge will not be able to consider whether it's a fair outcome for a man who served honorably in the U.S. Army, earning the rank of Sergeant, for 6 years he served, who has lived in the United States for 52 years since he was 4 years old, who has a successful engineering career, two grown sons, a granddaughter, and an extended family who are all U.S. citizens.

The judge will not be able to consider that deportation means forcing him to live the remainder of his life estranged from everything he knows and loves, because the law says one mistake and you're out.

Citizen and noncitizen veterans equally struggle with reentry into civilian life following discharge. Substance abuse, mental health issues, and anger can lead to contact with the criminal justice system. And as a society, we look to rehabilitative solutions to address the scars of war, to address the trauma that inflicts our veterans, but our immigration policy looks the other way.

Jorge Salcedo, who is here today and sitting beside—behind me with his daughter, was deported for the crime of spitting on a police officer, which the law at the time defined as an aggravated felony. He paid for that crime. He served 1 year in Connecticut prison. But at the conclusion of his sentence, ICE was at the prison door. ICE arrested him and detained him for 3½ years, 3½ years without the right to be released on bail while he fought his deportation case, and then it deported him. It didn't matter that he served 8 honorable years in the Army; it didn't matter that deportation denied his two young daughters their father. One mistake. Jorge sits here today because a change in law allowed him to get his green card back. He's one of the lucky few. Most deported veterans have no such option for return.

The U.S. would not be deporting its veterans had the government kept its promise to them in the first place, and made them citizens while they were in the military. But over the years, numerous obstacles have stood in the way of servicemembers naturalizing. None of those obstacles, none are greater than the obstacle servicemembers are facing today, due to Department of Defense and U.S. citizenship and immigration service policies.

The repatriated and naturalized veterans in this Chamber today, Hector, Jorge, Miguel Perez, who sits behind me, the AGC who sits behind me, embody the hope of deported veterans around the world, that one day too they will get the chance to come home. Their hopes lay at the feet of Congress. They did not turn their backs on our country in its time of need. We must not turn our backs on them. Thank you.

[The statement of Ms. Pasquarella follows:]

ACLU

Written Testimony of:

Jennie Pasquarella
Director of Immigrants' Rights and Senior Staff Attorney
ACLU of Southern California

Submitted to the
U.S. House Committee on the Judiciary
Subcommittee on Immigration and Citizenship

For a Hearing on:

The Impact of Current Immigration Policies on Service Members and Veterans, and their Families

October 29, 2019

The American Civil Liberties Union ("ACLU") thanks the U.S. House of Representatives' Committee on the Judiciary, Subcommittee on Immigration and Citizenship, for the opportunity to testify at today's hearing addressing the impact of current immigration policies on service members and veterans, and their families.

The ACLU is a nonpartisan public interest organization with four million members and supporters, and 53 affiliates nationwide—all dedicated to protecting the principles of freedom and equality set forth in the Constitution. The ACLU has a long history of defending civil liberties, including immigrants' rights.

The ACLU of Southern California ("ACLU SoCal") is an affiliate of the national ACLU. Since 2015, ACLU SoCal and the ACLU of San Diego and Imperial Counties have advocated on behalf of deported veterans in partnership with the Deported Veterans Support House and the Honorably Discharged, Dishonorably Deported Coalition. In 2016, we published a comprehensive policy report, "Discharged, then Discarded: How U.S. veterans are banished by the country they swore to protect," profiling 59 deported veterans and exploring the reasons why veterans have been deported in recent years.[1] Over the years, we have conducted legal intakes with more than 300 deported veterans and, with our pro bono partner Latham & Watkins, have represented more than a dozen of them in their legal bids to return home to the United States.

In addition to our advocacy on behalf of deported veterans, we have also worked to prevent the deportation of veterans and to challenge the Trump administration's efforts to block the naturalization of service members and the enlistment of Lawful Permanent Residents ("LPRs"). In 2018, we successfully sued to obtain citizenship for Specialist Yea Ji Sea, who joined the Army through the Military Accessions Vital to the National Interest ("MAVNI") program as a healthcare specialist and native Korean speaker. And in July 2018, together with Latham & Watkins, we sued the Department of Defense in *Kuang v. United States Dep't of Def.*, 18-cv-03698 (N.D. Cal.) to invalidate a 2017 policy that dramatically changed the enlistment process for LPRs, effectively preventing their enlistment and service.

I. Introduction

Immigrants have served in the United States military since the founding of the Republic. Going back more than 200 years, Congress began incentivizing non-citizens to join the military by rewarding them with an expedited path to citizenship. The promise of citizenship is not just an important recruitment tool, it is a moral imperative embedded in our history, values, and laws. The message has been unequivocal: *If you are willing to make the ultimate sacrifice for this country, we will give you citizenship.*

But since 1996, the United States has broken its promise of citizenship to untold numbers of people who have valiantly and honorably served our country. Instead, due to sweeping changes in immigration laws in 1996—described in detail below—and increasingly draconian immigration enforcement policies, we have shamefully turned our backs on immigrants' service and permanently banished thousands, if not tens of thousands, of veterans from the country.[2] We owe these deported veterans the opportunity to return to the country they served and call home. And it is incumbent on Congress to reform the unforgiving and punishing 1996 laws that turn a blind eye to a person's service to this country—and instead bar naturalization and mandate deportation.

The deportation of our veterans is unconscionable enough. But since 2017, the Trump administration has also sought to unwind U.S. history to not only exclude noncitizens from the ranks of our military, but also to thwart the naturalization of the men and women presently serving our country at home and abroad. These actions are not only unlawful, they are immoral.

In my statement, I will first explain the role of immigrants in our military and the history of military naturalization laws. Then I will explain why, since 1996, we have deported many veterans instead of naturalizing them during their service. And I will describe Trump administration policy changes that are deliberately designed to keep immigrants out of the military and to ensure that naturalization is not awarded to those who serve the country. I conclude with recommendations for Congress.

II. History of Immigrant Service, Military Naturalization and Enlistment

a. Immigrant Service

Since the American Revolution, immigrants have been eligible to enlist and have played a significant role in the U.S. military.[3] By 1840, half of all military recruits were immigrants.[4] During the Civil War, 20 percent of the Union Army were immigrants.[5] During World War I, 18 percent (or roughly 500,000) of the U.S. Army were immigrants.[6] And 300,000 immigrants served during World War II.[7]

Today, immigrants represent a smaller percentage of American troops,[8] but their participation nonetheless remains vital. Indeed, by many measures, noncitizens outperform their U.S. citizen counterparts in the military.[9] Noncitizen service members have higher retention rates. One study found that approximately 32 percent of citizens left the military within four years, compared to only 18 percent of noncitizens.[10] Noncitizens also tend to have higher academic qualifications and perform better than citizens on the Armed Forces Qualification Test.[11] Tellingly, 20 percent of all individuals awarded the Congressional Medal of Honor are immigrants—even though in recent years the percentage of noncitizens servicemembers has been closer to 4 percent.[12]

As one report put it, "relative to citizen recruits, noncitizen recruits generally have a stronger attachment to serving the United States, which they now consider to be 'their country,' and have a better work ethic."[13]

b. Expedited Naturalization

For over 200 years, Congress has repeatedly passed laws to incentivize immigrants to join the military by offering an expedited path to citizenship. Congress first authorized the expedited naturalization of non-citizens serving in the military during the War of 1812. The law permitted immigrants to become U.S. citizens immediately upon enlistment.[14] During the Civil War, the Union passed several laws providing an expedited path to naturalization to noncitizens who enlisted or were drafted into the Union's armed forces.[15]

Congress again provided an expedited path to naturalization for immigrants during World War I.[16] Following that war and into World War II, Congress passed at least nine bills providing an expedited path to citizenship for immigrant service members and honorably discharged veterans.[17] This trend continued even after World War II.[18]

With the passage of the Immigration and Nationality Act ("INA") in 1952, Congress adopted the expedited military naturalization laws we have today.[19] Section 328 applies during peacetime, allowing LPRs to naturalize after serving honorably in the military for one year (compared to three to five years for non-military LPRs).[20] Section 329 applies during wartime, allowing *any* noncitizen who serves honorably in the military to naturalize upon enlistment.[21] Both sections waive typical residence and physical presence requirements and fees associated with the naturalization process. As of today, Section 329 applies to the naturalization of any service member or veteran who has served after September 11, 2001.[22]

c. Enlistment

In 2006, Congress unified the enlistment requirements for all branches of the armed services regarding noncitizen applicants, limiting eligibility to LPRs, U.S. nationals, and persons from Micronesia, the Marshall Islands, and Palau.[23] Prior to 2006, each military branch had separate statutes or policies governing enlistment—all primarily allowed LPRs to enlist.[24] Congress's 2006 enlistment requirements left open the possibility for non-LPR foreign nationals to enlist, but only "if the Secretary of Defense determines that such enlistment is vital to the national interest."[25]

III. The Deportation of Veterans and the Broken Promise of Citizenship

Since 1996, the United States has deported thousands, if not tens of thousands, of its own veterans.[26] And every day it deports more. Just last week, Immigration and Customs Enforcement ("ICE") deported long-time resident and combat veteran **Jose Segovia Benitez** to El Salvador.[27]

These unconscionable deportations are the result of three forces working together:

(1) The punishing and unforgiving 1996 immigration laws that created lifetime bars to naturalization and mandatory deportation;

(2) The failure of the U.S. government to naturalize noncitizen service members while they are serving; and

(3) Hyper-aggressive immigration enforcement over the past decade, fueled by a criminal justice-to-deportation pipeline.

With Congressional leadership, each one of these problems can be turned into solutions to reduce and eventually end the deportation of veterans and put them back on their earned path to naturalization.

The deported veterans we interviewed for our 2016 report provide a snapshot of who deported veterans are. All the veterans we interviewed were LPRs when they joined the military. More than half served during wartime, including during the Vietnam War, Gulf War, and post-9/11.

Most were under the age of 10 when their parents brought them to the United States. Deported veterans who came to the United States as young children didn't just serve their country—everything they know and everyone they love is in the United States.

Most deported veterans are separated entirely from their families. In nearly all the cases of we documented, the parents, siblings, spouses, and children of the deported veterans were U.S. citizens or LPRs living in the United States.

a. Merciless Immigration Laws

In general, LPRs cannot be deported unless an immigration judge orders them removed, usually due to a criminal conviction(s). This is the situation of every deported veteran we have met.

Under the pre-1996 immigration laws, most of the deported veterans we interviewed would be eligible to naturalize and they would not have been subject to deportation. Even if they were deportable, immigration judges could still have considered their military service and other equities to determine whether deportation was warranted.

In 1996, Congress enacted two laws, the Anti-Terrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), that overhauled immigration law. The 1996 laws added 21 crimes to the definition of "aggravated felony,"[28] a category of deportable crimes first introduced into immigration law in 1988 and understood at that time to include only crimes of murder, drug trafficking, and trafficking in firearms.[29] The 1996 laws also dramatically lowered the threshold for many crimes to qualify as aggravated felonies—for instance, lowering the required sentence for theft offenses and crimes of violence from five years to one year.[30] So long as a person is sentenced to a year, even if they serve far less time, their crime may be considered an aggravated felony.

Today, an "aggravated felony," as it is defined in the INA, may be neither "aggravated" nor a "felony." Indeed, numerous non-violent misdemeanors are now considered "aggravated felonies" in immigration law, with the definition covering more than 30 types of offenses. Such offenses include misdemeanor theft, writing a bad check, filing a false tax return, and failing to appear in court—hardly what an average person would consider an "aggravated felony."[31] The 1996 laws also eliminated all forms of discretionary relief for people with convictions falling within the expanded "aggravated felony" definition, meaning that immigration judges were stripped of their ability to consider military service, long-term residence, and other factors in deciding whether to order deportation.[32]

Preceding the 1996 laws was the 1990 elimination of a critical feature of judicial discretion in immigration law: Judicial Recommendations Against Deportation ("JRAD").[33] From 1917 to 1990, Congress enabled sentencing judges to issue recommendations against deportation that were binding on federal immigration officials.[34] The JRAD enabled judges to consider deportation as part of the sentence imposed and to avert deportation where, based on the judge's knowledge of the crime and facts, deportation would be an unfair and disproportionate punishment for the crime.[35] With the elimination of the JRAD in 1990 and the later elimination of immigration judge discretion in 1996, deportation became mandatory for anyone with an "aggravated felony"—with no ability for an immigration judge to balance equities, even for veterans.

The 1990 law also imposed a lifetime bar to naturalization for any person with an "aggravated felony."[36] With the expansion of the definition of "aggravated felony" in 1996, the deported veterans we

interviewed were not only made subject to mandatory detention and deportation, they were also barred for life from the very benefit they were promised when they entered military service—citizenship.

There may be no better illustration of how unduly punishing today's immigration laws are for LPRs with criminal convictions considered "aggravated felonies" than the experience of veterans. Struggles with reintegration into civilian life following discharge from service are all too common for citizens and noncitizens alike. Substance abuse, mental health issues, and anger can lead to contact with the criminal justice system.

Approximately 30 percent of the veterans we interviewed for our report were deported for drug crimes considered "aggravated felonies." Although quantities involved can be very small, possession for sale can be considered an "aggravated felony." For example, **Marine Lance Cpl. Enrique Salas Garcia** was deported for a 2004 conviction for possession of a controlled substance for sale, for which he was sentenced to six months in jail.

Others were deported because their convictions were considered "aggravated felonies" as "crimes of violence" because the 1996 amendments lowered the threshold sentences from five years to one year. For example, **Army Spc. Jorge Salcedo** was ordered deported for a 2004 conviction for assault on a public safety officer for having spit at a Connecticut police officer, for which he was sentenced to one year. **Navy Petty Officer 3rd Class Frank De La Cruz** was deported for a 1996 conviction for driving while intoxicated, for which he served no time and was placed under community supervision for five years. (In 2004, the Supreme Court clarified that a DWI is not a crime of violence and thus not an aggravated felony.[37])

Still others were deported because their theft, fraud, or perjury crimes were considered "aggravated felonies" because the 1996 amendments lowered the threshold sentences from five years to one year. For example, **Army Spc. Fabian Rebolledo** was deported for a 2007 conviction of check fraud in California and sentenced to 16 months, of which he served eight. (His conviction is now a misdemeanor in California.)

But while citizen veterans convicted of "aggravated felony" crimes may serve sentences and go home, for noncitizen veterans with "aggravated felony" convictions, serving their sentence in criminal custody is only part of the punishment they suffer. They can be arrested and detained by ICE in immigration prison with no right to release on bond pending the resolution of their removal case.[38] Then, if an immigration judge concludes their crime is an "aggravated felony," the law *requires* the immigration judge to order deportation, providing no opportunity for a judge to consider military service or longtime residence or for an individual to apply for discretionary forms of relief from deportation.[39]

With only a few exceptions, all of the deported veterans we interviewed for our report were jailed in ICE detention facilities prior to their deportation—some of them were detained for years while they fought their cases. This incarceration can only logically be understood one way: as additional punishment for the crime committed. To make matters worse, incarceration in immigration jails—often located in remote areas—makes access to immigration counsel much more difficult. Indeed, of the veterans we interviewed, only 27 percent had the assistance of immigration lawyers during their removal proceedings.

But the worst punishment of all is the lifetime of banishment that the law requires on account of a person's criminal conviction. For the veterans we interviewed, deportation is experienced as an ongoing life

sentence for the crime committed—an excessive penalty that does not fit the crime—because to them home is in the United States.

b. Failure to Naturalize in the Service

U.S. veterans would not be deported had the government delivered its promise of citizenship to them when they were serving in the military. Over the years, noncitizen service members have encountered numerous obstacles to naturalizing while in the service—mainly, misinformation and administrative hurdles.

Many deported veterans we interviewed never applied for naturalization during their service because they were led to believe that their service automatically made them citizens. In fact, many had been told just that by their recruiters or their military chain of command, so they thought they did not need to bother with applying.

Misinformation in the military also led veterans to believe that when Presidents Bill Clinton and George W. Bush signed their executive orders respectively declaring Operations Desert Storm and Enduring Freedom (the period after Sept. 11, 2001) periods of hostility for purposes of naturalization under INA § 329, that these executive orders automatically made them citizens, without the need for an application.

Many other veterans *did* apply for naturalization, only to have the government lose, misplace, or fail to file their applications. In some cases, deployments prevented them from following through with their applications because, prior to 2004, naturalization fingerprinting, interviews, and ceremonies could only be performed inside the United States. In other cases, because of the transient nature of training and deployment, notices from the former Immigration and Naturalization Services ("INS") or the current U.S. Citizenship and Immigration Services ("USCIS") to complete various steps of the naturalization process never reached them. No caseworkers or immigration liaisons were assigned to their cases.

Between 2003 and 2017, Congress and USCIS took some important steps to improve naturalization access for service members. But most of those gains—which significantly increased naturalization rates of noncitizen service members—have been eviscerated by the Trump administration.

c. Hyper-aggressive Immigration Enforcement

The federal government's aggressive focus on immigration enforcement—rather than addressing legalization or other priorities—has contributed to the growing swell of banished veterans in the last decade. The increased reliance on state and local law enforcement to assist with federal immigration enforcement through ICE's Secure Communities program is primarily responsible for the explosive numbers of deportations over the last decade. Beginning in 2008, the Secure Communities program began to link ICE to information about every person arrested and booked into criminal custody anywhere in the country, enabling ICE to screen and arrest record numbers of people for removal purposes.

While it pursued record numbers of deportations, ICE ignored 2004 agency policies that instructed its officers to inquire about military service and required the most senior ICE official in the relevant field office to approve initiating deportation proceedings against a veteran.[40] The 2004 policies instruct senior ICE

officials to consider the veteran's overall criminal history, evidence of rehabilitation, family and financial ties to the United States, employment history, health, and community service, as well as military service, assignment to a war zone, number of years in service, and decorations awarded.[41] To authorize removal proceedings, the policy requires ICE senior officials to complete a memo and include it in the veteran's A-File.[42]

Despite the 2004 policies—which remain in place—ICE officers do not consistently ask whether an individual is a veteran before initiating removal proceedings. In our review of the immigration files of dozens of veterans, we have not once encountered a memo by an ICE official, let alone a senior one, assessing whether to proceed with removal despite a person's military service. In the Government Accountability Office's ("GAO") June 2019 investigation of ICE's handling of veteran cases, it found that ICE Homeland Security Investigation ("HSI") officials did not follow the policies *at all* because they did not know about them.[43] There is no better proof of ICE's failure to exercise discretion than in the cases of veterans fighting removal charges today.

The experiences of deported veterans reflect two sets of U.S. laws and values at odds with one another. On the one hand, we honor those who serve our military with citizenship. As a society, we also understand the trauma and struggles that service members and veterans endure and we look to rehabilitative solutions. But on the other hand, our immigration laws are unduly punitive, providing no grace from deportation, not even for veterans whose criminal convictions often are attributable to their experiences in the military, including Post-Traumatic Stress Disorder ("PTSD").

For veterans unable to naturalize in the service due to administrative hurdles or misinformation, far too many instead have been unfairly caught in the crosshairs of deportation.

IV. The Trump Administration's Efforts to Block Naturalization of Service Members and Veterans and to Rid the Military of Immigrants

The Trump administration has adopted a series of policies and practices deliberately designed to thwart the more than 200 years of Congressional directives to expedite the naturalization of service members and to encourage noncitizens to enlist in the military. It has taken calculated steps to curtail the enlistment of LPRs altogether, thereby slowly eliminating the time-honored role immigrants have played in the U.S. armed forces.[44] And it has adopted policies that—in plain contravention of INA § 329—make it impossible for service members to naturalize expeditiously, eviscerating important programs adopted over recent years to improve naturalization services for current service members. Finally, rather than facilitate an expedited and sensible process for deported veterans who are nonetheless eligible to naturalize, USCIS under Trump has delayed adjudication for years and erected roadblocks.

These policy changes have resulted in a dramatic decline in military naturalization. In the first quarter of FY 2018 (the first quarter in which numerous policy changes impacting service member naturalization came into effect), military naturalization applications filed dropped by more than 65 percent (1,069) from the previous fourth quarter of FY 2017 (3,132).[45] Overall, applications dropped more than 70 percent FY 2018 (3,233) compared to FY 2017 (10,979).[46] As application rates declined, USCIS denials of service member naturalization applications significantly increased, from 7 percent denied in the fourth quarter of FY2017 to 18 percent denied in the first quarter of FY 2018 (and from 7 percent denied overall in

FY 2017 to 20 percent denied overall in FY 2018).[47] Troublingly, these rates of denials outstrip those for civilian naturalization applications (11 percent in the first quarter of FY 2018, as well as overall for FY 2018).[48]

a. Service Member Naturalization

The Trump administration has stymied the ability of LPRs currently serving in the military to naturalize in several fundamental ways. First, the Department of Defense ("DoD") has adopted policies that intentionally thwart the ability of any service member to expeditiously naturalize under INA § 329. Second, USCIS has rolled back critical services that had facilitated the ability of service members to naturalize while on active duty and had largely addressed prior challenges to naturalizing noncitizen service members.

1. *Department of Defense 2017 Policy Changes: Form N-426*

For a current service member to naturalize while in the service, the DoD must first certify that the person's service has been "honorable" on USCIS's Form N-426. With this certification, a service member may then apply to naturalize under INA § 329. Before 2017, a service member could obtain this certification from a commanding officer or local service record holder after a single day of service.[49] The certification involved a cursory records check to determine if the service member was serving in an active-duty status or in the Selected Reserves, had valid dates of service, and had no information in his or her service record indicating non-honorable service.[50]

On October 13, 2017, the DoD introduced policy changes erecting new substantive and procedural hurdles to impede service members' ability to expeditiously naturalize, as provided under INA § 329.[51] The DoD now requires LPR service members to complete an enhanced background screening process before the DoD will certify their honorable service on Form N-426. This background screening is completely unrelated to the question of whether a person's service has been "honorable," which is all the statute requires—indeed, no background checks have ever been required to certify a person's honorable service. The DoD has projected that completion of this new screening requirement is likely to exceed one year.[52]

Once a person completes the enhanced background check, the new DoD policy provides that the Form N-426 may *only* be signed by the Secretary of the applicable branch. Alternatively, the Secretary of each branch may also delegate this authority "to a commissioned officer serving in the pay grade of 0-6 or higher."[53] The policy sets out no process for LPR service members to request the certification from the relevant Secretary.[54] Overall, there is a total lack of clarity and consistency and significant confusion within each of the branches as to how to process an N-426 and who may sign it. By contrast, before 2017, LPR service members could obtain N-426 certifications at basic training, which could be easily signed by a commanding officer or a local service record holder.

The DoD's N-426 policy is deliberately designed to impede the ability of service members to expeditiously naturalize, as INA § 329 requires. And it goes a step further. The DoD's 2017 policy also states that service members may not obtain a Form N-426 until they have served in active-duty status for 180 consecutive days or one year for enlistees in the Selected Reserves.[55] This not only violates the statute, but

flies in the face of Congress's intent for more than 200 years that wartime service members should be able to naturalize upon enlistment.

2. *USCIS Naturalization Services for Service Members*

In August 2009, USCIS established the Naturalization at Basic Training Initiative with the Army to enable noncitizen enlistees to complete the naturalization process during basic training. According to USCIS, "under this initiative, USCIS conducts all naturalization processing including the capture of biometrics, the naturalization interview and administration of the Oath of Allegiance on the military installation."[56] Viewed as a success, by 2013 USCIS had expanded the initiative to all branches of the military.[57]

The Naturalization at Basic Training Initiative was an important answer to the problem of deported veterans because it ensured that new noncitizen enlistees would not leave the military without being naturalized. But under President Trump, USCIS has now ended the program and shuttered its naturalization centers at basic training locations, citing the DoD's October 2017 policy changes which made it impossible to start, let alone finish, the naturalization process in the first few months of service.[58]

Additional changes were made during the wars in Iraq and Afghanistan that improved the ability of service members to naturalize, particularly while deployed overseas. For example, the National Defense Authorization Act ("NDAA") for Fiscal Year 2004 authorized overseas military naturalization ceremonies.[59] Prior to this, service members could only naturalize while physically in the United States, preventing deployed service members from naturalizing.[60] Between Fiscal Years 2005 and 2018, USCIS naturalized 11,483 service members in overseas ceremonies.[61]

USCIS, however, has now announced that it will only provide naturalization services to service members in just four "hubs" one week each quarter at the following locations: Camp Humphreys, South Korea; U.S. Army Garrison Stuttgart, Germany; Naval Support Activity Naples, Italy; and Commander Fleet Activities Yokosuka, Japan.[62] These limitations will undoubtedly impede access to naturalization for deployed service members.

b. Roadblocks for Deported Veterans to Naturalize

The Trump administration is also making it procedurally impossible for deported veterans eligible to naturalize under INA § 329 to do so. An honorably discharged wartime veteran can be eligible to naturalize under Section 329, despite having been deported, because Section 329 waives not only the general naturalization requirements of physical presence and continuous residence in the United States, but it waives the requirement that a person be an LPR to naturalize. So long as a veteran does not have a conviction considered an "aggravated felony," which serves as a lifetime bar to naturalization, they can be eligible to naturalize.

Most deported veterans, as described above, were deported for "aggravated felony" convictions. However, what constitutes an "aggravated felony" is constantly shifting and changing as courts interpret the definition. So, some veterans have become eligible to naturalize based on clarification from the courts that their conviction was not in fact an "aggravated felony." Others become eligible because of post-conviction relief, such as executive pardons that can waive the immigration effect of certain convictions.

I am aware of a handful of deported veteran naturalization applications currently pending before USCIS for prolonged periods, including two whom I represent myself. Despite their eligibility to naturalize, USCIS has erected roadblock after roadblock to the ability of these individuals to pursue their statutory entitlement to citizenship.

First, the agency has subjected these applications to unreasonable delays in processing. For example, **Frank De La Cruz** filed his application for naturalization more than three years ago. To date, USCIS has made no effort to process his application, failing even to schedule an interview.

Second, once the agency finally schedules the interview, it refuses to conduct it at a location where the individual can travel. Instead, it schedules the interviews inside the United States, despite knowing that these individuals are inadmissible because of their prior removal orders and/or criminal histories. A simple solution in many cases would be for USCIS to schedule interviews at the nearest port of entry, as USCIS did in Hector Barajas' case. Instead, it takes the position that the veteran must exhaust every possible means to seek permission to return to the United States—including through costly, time consuming, and generally futile visitor visa requests with the Department of State and parole applications with DHS—before they will consider providing an interview at a port of entry. Congress explicitly provided that fees would be waived for military naturalization—yet by refusing to make accommodations at the outset to conduct interviews in a location accessible to deported veterans, USCIS has transformed what is meant to be an expeditious and free process, into a time consuming and expensive process.

For example, deported veteran **Erasmo Apodaca** applied for naturalization nearly three years ago. More than two years after he applied, in April 2019, USCIS finally issued an interview notice, scheduling him for an interview in San Diego. At USCIS's direction, Mr. Apodaca applied for a visa to enter the U.S. to attend the interview but was denied. He applied for humanitarian parole with Customs and Border Protection ("CBP") and ICE, and was rejected. He applied for an I-212 waiver for permission to reapply for admission into the U.S. after removal from USCIS, and reapplied for parole from ICE. Through all of this, he has spent $1500 on filing fees.

In fact, today was supposed to be Mr. Apodaca's naturalization interview at USCIS offices in San Diego. But USCIS canceled the interview last week, citing the pending applications, and thus far has not rescheduled it, even though two days later ICE granted his parole request. This all could have been averted if a USCIS officer simply drove the 22 miles from downtown San Diego to the San Ysidro Port of Entry to conduct Mr. Apodaca's interview.

Rather than facilitating a reasonable process to make these individuals the citizens they should have become years ago, USCIS has instead prolonged and impeded deported veterans' bids to naturalize.

V. Conclusion

Throughout our history, the United States has encouraged the participation of noncitizens in our military and has benefited immeasurably from their sacrifices. For their commitment and service, we have provided an expedited path to naturalization. In recent history, however, the United States has failed to deliver its promise of expedited citizenship due to administrative hurdles and misinformation, leaving

veterans without citizenship and vulnerable to a post-1996 unforgiving deportation regime. The banishment of our veterans is immoral and must end. But, as the Trump administration works to block military naturalization, veteran deportations will only increase, unless Congress acts. I urge Congress to adopt legislation—with some recommendations from the ACLU to follow—to correct these injustices and to honor the contributions of our service members and veterans.

Recommendations for Congress

Congress should enact legislation to:

- Address the 1996 laws to redefine so-called "aggravated felonies" and restore the ability of immigration judges to consider equities—such as military service—of a person's case.

- Amend INA §329 to clarify that honorable service in the U.S. armed forces during a period of hostility satisfies the "good moral character" requirement for naturalization. Doing so would ensure that honorably discharged veterans do not become permanently barred from naturalization if convicted of an aggravated felony.

- Enable honorably discharged deported veterans to apply to return to the United States as LPRs, waiving grounds of inadmissibility and permanent bars to admission. Such legislation would reunite veterans with their families.

- Amend the INA to restore Judicial Recommendations Against Deportation (JRAD) in state and federal criminal sentencing. Deportation of LPR veterans is a consequence of the criminal process, as the Supreme Court has recognized.[63] Criminal court judges should be able to determine whether deportation is an appropriate punishment for a crime.

- Require the DoD to certify honorable service on the N-426 form within five days for active duty service and three weeks for the reserved force. If a service member's service has been other than honorable, require the DoD to provide the member notice that a certification will not be granted, and for what reason, within the same timeframe. Clarify that refusal to certify honorable service may not be based on anything other than a person's service record, such as the completion of background checks.

- Clarify that applications filed under INA § 329 may be filed after one day of active duty service.

- Require USCIS to process military naturalization applications within four months of their receipt, subject to exceptional circumstance delays. Because Congress has directed that regular naturalization should take six months from the date of filing to the date of adjudication,[64] four months seems like a fair benchmark to prioritize and expedite military naturalization applications.

- Require DHS and DoD to provide naturalization services during basic training and on military installations, codifying the now-disbanded USCIS Naturalization at Basic Training Initiative and ensuring the continuing existence of such assistance at basic training and military installations into the future.

- Provide that military naturalization interviews and oath ceremonies may take place overseas at U.S. embassies or consulates and U.S. military installations for both veterans and service members.

- Require USCIS to make biometric, interview, and oath ceremony accommodations at ports of entry, U.S. embassies or consulates, or U.S. military installations for deported veterans with naturalization applications who are statutorily barred from reentering the United States.

- Mandate that ICE to ask every person whether they are a U.S. service member or veteran before initiating removal proceedings and to statistically track that information. Require ICE to report to Congress on a semi-annual basis the number of service members and veterans for whom ICE has initiated removal proceedings, detained, and/or deported. Such reporting should include information about the person's branch of service; whether the person served during a period of hostility as defined under INA § 329 and by Executive Order; whether the person served honorably and/or was separated under honorable conditions; the basis for which removal was sought; and, if the basis for removal was a criminal conviction, what the underlying criminal conviction was.

[1] ACLU of California, *Discharged, Then Discarded: How U.S. veterans are banished by the country they swore to protect*, July 2016. https://www.aclusocal.org/en/publications/discharged-then-discarded

[2] This is the ACLU's own estimate based on its more than 300 interviews with deported veterans, the size of the noncitizen veteran population and its knowledge of immigration enforcement trends over the last decade. There are no statistics on the true numbers of veterans the United States has deported. ICE does not track whether the individuals it deports are veterans, making such statistics impossible to come by. See ACLU of CA, *Discharged, Then Discarded, supra* note 1, at 39; Government Accountability Office, *Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans*, GAO-19-416, June 2019, at 13 ("ICE has not developed a policy to identify and document all military veterans it encounters").

[3] *See* Muzaffar Chishti, et al, *Noncitizens in the U.S. Military: Navigating National Security Concerns and Recruitment Needs*, MIGRATION POLICY INSTITUTE, May 2019, https://www.migrationpolicy.org/research/noncitizens-us-military-national-security-concerns-recruitment-needs; Jie Zong & Jeanne Batalova, *Immigrant Veterans in the United States*, MIGRATION POLICY INSTITUTE, May 16, 2019, https://www.migrationpolicy.org/article/immigrant-veterans-united-states.

[4] *See* Jeanne Batalova, *Immigrants in the U.S. Armed Forces*, MIGRATION POLICY INSTITUTE, 2008, https://www.migrationpolicy.org/article/immigrants-us-armed-forces.

[5] *See id.*

[6] USCIS, *The Immigrant Army: Immigrant Service Members in World War I*, https://www.uscis.gov/history-and-genealogy/our-history/immigrant-army-immigrant-service-members-world-war-i; *see* National Immigration Forum, *For Love of Country: New Americans Serving in our Armed Forces*, 2017, at 8, http://immigrationforum.org/wp-content/uploads/2017/11/FOR-THE-LOVE-OF-COUNTRY-DIGITAL.pdf.

[7] *See* Immigration and Naturalization Service, U.S. Dep't of Justice, *Foreign-Born in the United States during World War II, with Special Reference to the Alien*, 6 MONTHLY REVIEW 43, 48 (1948), https://www.uscis.gov/sites/default/files/USCIS/History%20and%20Genealogy/Our%20History/INS%20History/WWII/INSMRev1948_10.pdf.

[8] Between 1999 and 2008, noncitizens represented 4 percent of all new enlistments. David Gregory, et al., *Non-Citizens in the Enlisted U.S. Military*, CENTER FOR NAVAL ANALYSES, Nov. 2011, at 5, https://timemilitary.files.wordpress.com/2012/04/non-citizens-in-the-enlisted-us-militaryd0025768-a2.pdf. Approximately 530,000 (or 3 percent) of today's veterans are foreign-born. Zong, *Immigrant Veterans*, *supra* note 3. Mexico and the Philippines are the top two countries of birth for today's immigrant veterans and each represent 17 percent of all foreign-born veterans. *Id.* Other top countries of birth include Germany (5 percent), Colombia (4 percent), and the United Kingdom (4 percent). *Id.*

[9] Marine Corps Gen. Peter Pace, *Contributions of Immigrants to the United States Armed Forces: Hearing Before the S. Comm. on Armed Services*, 109th Cong. (2006), *available at* https://www.gpo.gov/fdsys/pkg/CHRG-109shrg35222/html/CHRG-109shrg35222.htm (Marine Corps Gen. Peter Pace, the former Chairman of the Joint Chiefs of Staff, testifying before Congress, stated that noncitizen service members "are extremely dependable. . . some eight, nine, or ten percent fewer immigrants wash out of our initial training programs than do those who are currently citizens. Some ten percent or more than those who are currently citizens complete their first initial period of obligated service to the country.").

[10] Gregory, *Non-Citizens in the Enlisted U.S. Military*, *supra* note 8, at 26. *See also* Catherine N. Barry, *New Americans in Our Nation's Military: A Proud Tradition and Hopeful Future*, CENTER FOR AMERICAN PROGRESS, Nov. 8, 2013, *available at* https://www.americanprogress.org/issues/immigration/ report/2013/11/08/79116/new-americans-in-our-nations-military/

[11] *See* Chishti, *Noncitizens in the U.S. Military*, *supra* note 3, at 11.

[12] Barry, *New Americans in Our Nation's Military*, *supra* note 10; Gregory, *Non-Citizens in the Enlisted U.S. Military*, *supra* note 8 (providing percentage of noncitizens serving in the military).

[13] *Id.*

[14] *See* An Act Supplementary to the Acts Heretofore Passed on the Subject of a Uniform Rule of Naturalization, 3 Stat. 53 (1813), http://www.loc.gov/law/help/statutes-at-large/13th-congress/c13.pdf.

[15] *See* An Act to Define the Pay and Emoluments of Certain Officers of the Army, and for Other Purposes, U.S. Statutes at Large 12 (1862): 594. www.loc.gov/law/help/statutes-at-large/13th-congress/c13.pdf; An Act for Enrolling and Calling Out the National Forces, and for Other Purposes, 12 Stat. 731 (1863), www.loc.gov/law/help/statutes-at-large/37th-congress/session-3/c37s3ch75.pdf.

[16] *See* An Act to Amend the Naturalization Laws and to Repeal Certain Sections of the Revised Statutes of the United States and Other Laws Relating to Naturalization, Pub. L. No. 65-144, 40 Stat. 542 (1918), http://www.loc.gov/law/help/statutes-at-large/65th-congress/session-2/c65s2ch69.pdf.

[17] *See* An Act to Amend the Naturalization Laws and to Repeal Certain Sections of the Revised Statutes of the United States and Other Laws Relating to Naturalization, and for Other Purposes, ch. 69, § 1, 40 Stat. 542 (1918), https://www.loc.gov/law/help/statutes-at-large/65th-congress/session-2/c65s2ch69.pdf; An Act to Admit to the United States, and to Extend Naturalization Privileges to, Alien Veterans of the World War, Pub. L. No. 69-294, 44 Stat. 654 (1926), http://www.loc.gov/law/help/statutes-at-large/69th-congress/session-1/c69s1ch398.pdf; An Act to Supplement the Naturalization Laws, and for Other Purposes, Pub. L. No. 70-962, 45 Stat. 1512 (1929), http://www.loc.gov/law/help/statutes-at-large/70th-congress/session-2/c70s2ch536.pdf; An Act to Further Amend the Naturalization Laws, and for Other Purposes, Pub. L. No. 72-149, 47 Stat. 165 (1932), http://www.loc.gov/law/help/statutes-at-large/72nd-congress/session-1/c72s1ch203.pdf; An Act to Extend Further Time for Naturalization to Alien Veterans of the World War Under the Act Approved May 25, 1932 (47 Stat. 165), to Extend the Same Privileges to Certain Veterans of Countries Allied With the United States During the World War, and for Other Purposes, Pub. L. No. 74-160, 49 Stat. 395 (1935), http://www.loc.gov/law/help/statutes-at-large/74th-congress/session-1/c74s1ch288.pdf; An Act to Authorize the Naturalization of Certain Resident Alien World War Veterans, Pub. L. No. 74-162, 49 Stat. 397 (1935), http://www.loc.gov/law/help/statutes-at-large/74th-congress/session-1/c74s1ch290.pdf; An Act to Extend Further Time for Naturalization to Alien Veterans of the World War Under the Act Approved May 25, 1932 (47 Stat. 165), the Extend the Same Privileges to Certain Veterans of Countries Allied With the United States During the World War, and for Other Purposes, Pub. L. 75-338, 50 Stat. 743 (1937); http://www.loc.gov/law/help/statutes-at-large/75th-congress/session-1/c75s1ch735.pdf; An Act to Extend Further Time for Naturalization to Alien Veterans of the World War Under the Act Approved May 25, 1932 (47 Stat. 165), to Extend the Same Privileges to Certain Veterans of Countries Allied With the United States During the World War, and for Other Purposes, Pub. L. 76-146, 53 Stat. 851 (1939), http://www.loc.gov/law/help/statutes-at-large/76th-congress/session-1/c76s1ch234.pdf; Second War Powers Act, Title X, Pub. L. No. 77-507, 56 Stat. 182 (1942), https://www.loc.gov/law/help/statutes-at-large/77th-congress/session-2/c77s2ch199.pdf.

[18] *See, e.g.*, An Act Relating to the Naturalization of Persons Not Citizens Who Serve Honorably in the Military or Naval Forces during the Present War, Pub. L. No. 78-531, 58 Stat. 886 (1944), http://www.loc.gov/law/help/statutes-at-large/78th-congress/session-2/c78s2ch662.pdf; An Act to Amend the Second War Powers Act, 1942, as Amended, Pub. L. No. 79-270, 59 Stat. 658 (1945), http://www.loc.gov/law/help/statutes-at-large/79th-congress/session-1/c79s1ch590.pdf; An Act to Amend the Nationality Act of 1940, Pub. L. 80-567, 62 Stat. 281 (1948), http://www.loc.gov/law/help/statutes-at-large/80th-congress/session-2/c80s2ch360.pdf.

[19] Immigration and Nationality Act, Pub. L. 414 (1952), https://www.govinfo.gov/content/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf

[20] 8 U.S.C. § 1439.

[21] 8 U.S.C. § 1440.

[22] President George W. Bush designated September 11, 2001 as the start date of a period of hostility for purposes of naturalization under INA § 329, but provided no end date. Ex. Ord. No. 13269, July 3, 2002, 67 F.R. 45287. Rather, he stated "For the purpose of determining qualification for the exception from the usual requirements for naturalization, I designate as a period in which the Armed Forces of the United States were engaged in armed conflict with a hostile foreign force the period beginning on September 11, 2001. Such period will be deemed to terminate on a date designated by future Executive Order." *Id.*

[23] 10 U.S.C. § 504(b)(1); *see* Margaret D. Stock, *Essential to the Fight: Immigrants in the Military Eight Years after 9 11*, AMERICAN IMMIGRATION COUNCIL, Nov. 2009, at 6, available at https://www.americanimmigrationcouncil.org/sites/default/files/research/Immigrants_in_the_Military_-_Stock_110909_0.pdf

[24] *Id.*

[25] 10 U.S.C. § 504(b)(2).

[26] *See supra* note 2.

[27] Roxana Kopetman, *U.S. Marine Combat Veteran, Long-Time Long Beach Resident, Deported to El Salvador*, OC REGISTRAR, Oct. 23, 2019; Derrick Bryson Taylor, *Marine Veteran is Deported to El Salvador*, NY TIMES, Oct. 25, 2019.

[28] *See* Human Rights Watch, *Forced Apart: Families Separated and Immigrants Harmed by U.S. Deportation Policy*, July 16, 2007, at 18.

[29] American Immigration Council, *Aggravated Felonies: An Overview*, Dec. 2016, http://www.immigrationpolicy.org/sites/default/files/research/aggravated_felonies.pdf

[30] *See* HRW, *Forced Apart*, *supra* note 28, at 19.

[31] AIC, *Aggravated Felonies*, *supra* note 29. *See* 8 U.S.C. § 1101(a)(43) (definition of aggravated felony); 8 U.S.C. § 1227(a)(2)(A)(iii) (aggravated felony grounds of removal).
[32] *See* AIC, *Aggravated Felonies*, *supra* note 29; IIRIRA, Pub. L. No. 104-208, § 348, 110 Stat. 3009-628 (2005).
[33] *Padilla v. Kentucky*, 559 U.S. 356, 361-62 (2010).
[34] *Id.*
[35] *Id.*
[36] 8 C.F.R. § 316.10(b)(ii) (an aggravated felony committed on or after November 29, 1990 is defined as permanent bar to "good moral character" needed for naturalization). *See* 8 U.S.C. §1101(f)(8) (aggravated felony is lifetime bar to "good moral character").
[37] *Leocal v. Ashcroft*, 543 U.S. 1 (2004).
[38] 8 U.S.C. § 1226(c).
[39] 8 U.S.C. § 1227(a)(2).
[40] ICE, Acting Director of Investigations Marcy M. Forman, *Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service*, Jun. 21, 2004; ICE, Acting Director of Detention and Removal Operations Victor Cerda, *Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service*, Sept. 3, 2004.
[41] GAO, *Immigration Enforcement*, *supra* note 2, at 10.
[42] *Id.* at 11.
[43] *Id.* at 12.
[44] *See generally Kuang v. United States Dep't of Def.*, 340 F.Supp.3d 873 (N.D. Cal. 2018), *vacated and remanded* 778 F. App'x 418 (9th Cir. 2019) (class action challenging DoD policy requiring LPR service members clear enhanced background checks before they can begin basic training).
[45] This data was obtained from the quarterly data sets related to naturalization applications published by USCIS. *See* USCIS, Immigration and Citizenship Data, N-400 Quarterly Reports, https://www.uscis.gov/tools/reports-studies/immigration-forms-data?topic_id=All&field_native_doc_issue_date_value%5Bvalue%5D%5Bmonth%5D=&field_native_doc_issue_date_value_1%5Bvalue%5D%5Byear%5D=&combined=n-400&items_per_page=10&page=1. These data sets separate civilian and military naturalizations and provide the numbers of applications received, approved, denied and pending for each category.
[46] *Id.*
[47] *Id.*
[48] *Id.*
[49] *See Kirwa v. United States Dep't of Def.*, 285 F.Supp.3d 21, 27-28 (D.D.C. Oct. 25, 2017) (describing DoD past practice in issuing Form N-426).
[50] *See id.* at 27-29, 37-38.
[51] *See* DoD, *Memorandum from Office of the Under Secretary of Defense to Secretaries of the Military Departments, Commandant of the Coast Guard, Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization*, Oct. 13, 2017, https://www.aila.org/infonet/dod-memo-on-certification-of-honorable-service.
[52] *See Kuang*, 340 F.Supp.3d at 920.
[53] *See* DoD, Memorandum, *supra* note 51, at 3.
[54] The Secretary of the Navy has delegated this authority to the Chief of Naval Operations and the Commandant of the Marine Corps (who may further delegate this authority to commissioned officers serving in the 0-6 pay grade or higher). *Memorandum from the Secretary of the Navy to Chief of Naval Operations, Commandant of the Marine Corps, Honorable Service Certification Authority for Members of the Selected Reserve of the Ready Reserve and Active Duty Members of the Naval Forces for Purposes of Naturalization*, Jan. 18, 2018, https://www.jag.navy.mil/organization/documents/SECNAV_Memo_18_Jan_18.pdf. It is unclear whether the Secretaries of the other services have made similar delegations.
[55] LPR service members may also, in the alternative, serve one day "in a location designated as a combat zone, a qualified hazardous duty area, or an area where service in the area has been designated to be in direct support of a combat zone, and which also qualifies the member for hostile fire or imminent danger pay. Memo from Office of the Under Secretary of Defense, *Certification of Honorable Service*, *supra* note 51, at 3.
[56] USCIS., *Naturalization Through Military Service: Fact Sheet* (2015), https://www.uscis.gov/news/fact-sheets/naturalization-through-military-service-fact-sheet.
[57] *Id.*
[58] Vera Bergengruen, *The US Army Promised Immigrants a Fast Track for Citizenship. That Fast Track is Gone*, BUZZFEED NEWS, Mar. 5, 2018, https://www.buzzfeednews.com/article/verabergengruen/more-bad-news-for-immigrant-military-recruits-who-were.
[59] Nat'l Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat 1392; USCIS, *Press Release: First U.S. Military Naturalizations in Europe and the Middle East*, Oct. 6, 2004, https://www.uscis.gov/sites/default/files/files/pressrelease/AfghanNatz_10_60_04.pdf.
[60] *Id.*
[61] USCIS, *Military Naturalization Statistics*, https://www.uscis.gov/military/military-naturalization-statistics.
[62] *See* Haley Britzky, *USCIS is reducing when and where naturalization services are available to US troops around the world*, TASK & PURPOSE, Sept. 30, 2019, https://taskandpurpose.com/uscis-military-naturalization-services-overseas.
[63] *See Padilla*, 559 U.S. at 364 ("deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes").
[64] 8 U.S.C. §1571(b) ("It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial date of filing of the application").

Mr. CORREA. Thank you very much.
Ms. Stock, welcome.

TESTIMONY OF MARGARET D. STOCK

Ms. STOCK. Thank you. Congressman Correa, Chairwoman Lofgren——
Mr. CORREA. Can you hit your microphone?
Ms. STOCK. Sorry about that.
Mr. CORREA. Thank you.
Ms. STOCK. Congressman Correa, Chairwoman Lofgren, Ranking Member Buck, and distinguished members of the subcommittee. My name is Margaret Stock, and I'm honored to testify today. The last 3 years have witnessed the administration using internal memos to undermine long-standing laws, in an effort to stop immigrants from joining the military, stalling their naturalization when they do join, and preventing them from continuing to serve. The new policies do not make our country safer. They harm military recruiting, they hurt military readiness, and they prevent the United States Armed Forces from utilizing talented immigrants. The new policies hide behind false national security rationales to conceal xenophobic motives. They also represent broken promises made to those who would put their lives on the line for the United States.

The previous efforts of Congress to help noncitizen military members become citizens, and the improvements to the process for expediting military naturalization cases, have been practically eradicated. In 2018, the media reported that there had been a 65 percent drop in the numbers of servicemembers applying for naturalization after DOD issued a new policy memo preventing them from applying. A follow-on story explained that immigrants serving in the military were more likely to be denied citizenship than civilians.

Military members cannot file for citizenship unless they receive a certified Form N–426, stating that they are serving honorably. Three years ago, getting the formed signed merely required a trip to the nearest military personnel office and spending a few minutes with any official who could verify one's service.

Recently, however, the Department of Defense has changed the rules whereby this form can be certified. DOD now requires an officer in the grade of O-6 to certify the form. Enlisted soldiers report they have grave difficulty finding an officer of this grade who is willing to sign their forms.

Under the 2008 Military Personnel Citizenship Processing Act, USCIS was required to process military naturalization applications within 6 months. However, the law contained a sunset date. When the law was in effect, USCIS processed military naturalization applications very quickly. Today, however, USCIS takes the position that there is no deadline for processing these cases, and they are now often taking years to process.

In mid-2009, USCIS had started a highly successful program whereby noncitizen military recruits filed for naturalization when they reported to training, and in accordance with previous, long-standing wartime practice, these applications were processed so that the soldiers graduated from training, and became U.S. citizens

at the same time. The current administration terminated this program in early 2018.

Last Thursday, I was at the USCIS office at 26 Federal Plaza in New York City, only a few short blocks from the World Trade Center in one direction, and in the other, Chatham Square with its eye-catching monument to Chinese Americans who have fought in the U.S. military. While I was waiting, a TV monitor on the wall played a continuous loop of a USCIS film promising expedited citizenship to immigrants who enlist. The promises made in that film are false. There is no more expedited military naturalization.

Today, it takes much longer for a military member to naturalize than his or her civilian counterpart, and a military member's application is much more likely to be denied.

Military members have had to resort increasingly to the courts just to get the agencies to follow the law. Last week, Alina Kaliuzhna, an Active Duty soldier with no criminal record, had to sue DHS because the agency refused to make a decision on her naturalization. The law mandates that decisions must be made within 120 days of an interview. Alina was interviewed more than 3 years ago. USCIS officials told her that they had decided not to naturalize her until she was discharged, citing new DOD policies. She was discharged honorably last month without her citizenship.

As I said earlier, it's now much easier for a civilian green card holder to naturalize than for similarly situated green card holders to naturalize through their military service. As a result, immigration lawyers are now advising green card holders not to join the military because it will make their naturalization process more difficult.

DOD has also made it much more difficult for noncitizens to join the military in the first place. While immigrants make up about 13.5 percent of the U.S. population, they are now less than 4 percent of the military. Military recruiters report to me that they are meeting recruiting quotas by enlisting less qualified, native born Americans. In some cases, the Armed Forces just simply can't find enough qualified candidates among the native-born population, so the billets go unfilled.

USCIS has also recently changed certain policies, or has plans to change certain policies in ways that harm the family members of military personnel and veterans. Policy changes are being made without transparency or accountability, and without asking key stakeholders first.

I would be remiss if I did not mention the broken promises made to certain foreign nationals who worked with the U.S. Government in Iraq or Afghanistan. Many of these workers have tried to get the special immigrant visas promised to them by Congress, but they remain in danger while they await background checks that drag on for years.

When the United States Government breaks the promises that it made to these individuals who put their lives on the line for the United States, and previously passed rigorous background checks, American foreign policy and the lives of American military members are put at risk.

Our national security depends on keeping the promises that America makes to the immigrants who come here and keeping the

promises we make when someone stands before an American flag, raises her right hand, and takes an oath of allegiance to the United States. Our security depends on keeping the promise that America is a Nation of immigrants.

Given that DOD and DHS together show no interest in reversing their misguided policy changes, Congress must act.

In my written testimony, I make 10 suggestions for things that Congress can do to force the bureaucrats to keep the promises that the U.S. Government has made to America's fighting men and women. I thank you for the opportunity to testify, and I'm ready to take your questions.

Mr. CORREA. Thank you very much, Ms. Stock, for your comments.

[The statement of Ms. Stock follows:]

Statement of

Margaret D. Stock

Attorney, Cascadia Cross Border Law Group LLC;

Lieutenant Colonel (Retired), Military Police Corps, US Army Reserve

On

"The Impact of Current Immigration Policies on Service Members and Veterans, and their Families"

Before the

Committee on the Judiciary

Subcommittee on Immigration and Citizenship

October 29, 2019

Washington, DC

Mr. Chairman and distinguished Members of the Committee, my name is Margaret Stock. I am honored to be here in my capacity as an expert in the field of immigration, citizenship, and national security law and to discuss the impact on military members, veterans, and their families of the recent new, anti-immigrant policies at the Department of Defense (DOD) and the Department of Homeland Security (DHS).

My Background

I am the managing attorney of the law firm Cascadia Cross Border Law Group in Anchorage, Alaska. I am also a retired Lieutenant Colonel in the Military Police Corps, U.S. Army Reserve. I previously taught at the United States Military Academy, West Point, New York, for nine years (five years on a full-time basis, four years on a part-time basis), and I have also taught on a part-time basis in the Political Science Department at the University of Alaska Anchorage. My professional affiliations include membership in the Alaska Bar Association, American Bar Association (where I served for several years as a member of the Commission on Immigration), the American Immigration Lawyers Association, and other civic and professional organizations. As an attorney and a graduate of the Harvard Law School, I have practiced in the area of immigration and citizenship law for more than twenty-five years. I have represented hundreds of businesses, immigrants, and citizens seeking to navigate the difficult maze of the U.S. immigration system, and I volunteer regularly to handle "pro bono" cases with the American Immigration Lawyers Association Military Assistance Program (AILA MAP). In 2009, I concluded work as a member of the Council on Foreign Relations Independent Task Force on U.S. Immigration Policy, which was headed by Jeb Bush and Thomas F. "Mac" McLarty III. Prior to my transfer to the Retired Reserve in June 2010, I worked for several years on immigration and citizenship issues relating to military service while on temporary detail to the U.S. Army Accessions Command, the Assistant Secretary of the Army for Manpower and Reserve Affairs, and the United States Special Operations Command. I am also a recipient of a 2013 Fellowship from the John D. and Catherine T. MacArthur Foundation for my work relating to immigration law and national security. Finally, I am the author of the

book "Immigration Law and the Military," now in its second edition. The opinions I am expressing today are my own.

Immigration-Related Military Programs Have Been Dismantled Recently

I am honored to be appearing before you today to discuss the immigration law problems faced by members of the U.S. military, veterans, and their families. This is not the first time that I have testified before a House Judiciary Subcommittee on these issues; in fact, I was honored to testify before a similar hearing on the "Immigration Needs of America's Fighting Men and Women," on May 20, 2008. I would have hoped that eleven years later, at this hearing, I would have good news to report, but I do not. While considerable progress was made in the eight years following the 2008 hearing, that progress has almost all been reversed in the last three years. In the last three years, the Department of Defense has created new policies that prevent immigrants from joining the military, stall their naturalization as United States citizens, and inhibit them from continuing to serve in the military. The Department of Homeland Security has similarly made it harder for immigrants in the military to naturalize, has been denying the naturalization applications of military members more often that it denies the applications of their civilian counterparts, and is now more likely to refuse immigration benefits to family members of military members and veterans than it was three years ago. Finally, as the other witnesses at this hearing have attested, it is more likely today that DHS will try to deport a military veteran than it was when I testified more than eleven years ago. The new DOD and DHS policies do not make our country safer; in fact, they harm military recruiting, hurt military readiness, and prevent the United States Armed Forces from utilizing the talents of the

immigrants who are willing to serve. The new policies hide behind false "national security" rationales to conceal xenophobic motives.

As we all know, the United States is a global power and members of its military are deployed in more than a hundred countries around the world. And while our Armed Forces are engaged in fighting in many countries, with enemies who speak many languages, travel internationally, and try to harm Americans across the globe, DOD and DHS policies towards immigrants and immigrant family members detract from the military's ability to fight that war. Military members find that they must also fight their own government, as that government creates bureaucratic obstacles that impede military readiness by preventing military members and veterans from naturalizing, preventing their family members from accessing immigration benefits, refusing to allow family members into the United States altogether, and even seeking to deport military personnel, veterans, and their family members.

DOD and DHS Now Ignore Longstanding Statutes

Congress has in the past enacted laws that were intended to help military members, veterans, and their families naturalize quickly and gain other immigration benefits in return for their service. In the last three years, however, the Department of Defense has chosen to undermine those laws through unconstitutional, internal executive memos, and the Department of Homeland Security has similarly chosen to ignore the laws passed by Congress by intentionally stalling the processing of military naturalization applications. The previous efforts of Congress to help non-citizen military members become citizens more quickly and the improvements to the process for expediting military naturalization

cases have been practically eradicated. The destruction of programs that have allowed for rapid military naturalizations severely inhibit our nation's military readiness. The current Administration has created Kafkaesque barriers to timely military naturalization and has increased its efforts to deport military members and their families.

Longstanding Military Naturalization Statutes Allow Rapid Naturalization

Until recently, a significant advantage of military service has been that noncitizens serving in the military traditionally have been permitted to obtain U.S. citizenship in an expedited fashion; statutes providing for such expedited citizenship date back to the Civil War era.[1] Expedited citizenship benefits not only the noncitizens; it also benefits the U.S. military by reducing or eliminating legal problems relating to military service by noncitizens[2] and allowing them to be used fully in more jobs and duty assignments.[3]

---

[1] Act of July 17, 1862, (sec. 2166, R.S., 1878) (making special naturalization benefits available to those with service in the "armies" of the United States).

[2] Such legal problems can include claims by foreign countries that those of their citizens who serve in the U.S. military are under the jurisdiction of the foreign government for various purposes. These problems are often lessened when noncitizen service members naturalize in the United States, because the naturalization can sometimes work as a renunciation of the foreign citizenship. Once a noncitizen naturalizes through military service, the United States may also require that noncitizen to renounce his or her foreign citizenship as a condition of service; the United States cannot require such a renunciation when the person does not yet have U.S. citizenship.

[3] A noncitizen serving in the U.S. military cannot normally obtain a security clearance or serve in any job that requires one, including the Army job of military linguist. *See* Executive Order No. 12968 (Aug. 2, 1995), 60 Fed. Reg. 40243–54 (Aug. 7, 1995) ("Where there are compelling reasons in furtherance of an agency mission, immigrant alien and foreign national employees who possess a special expertise may, in the discretion of the agency, be granted limited access to classified information only for specific programs, projects, contracts, licenses, certificates, or grants for which there is a need for access. Such individuals shall not be eligible for access to any greater level of classified information than the United States Government has determined may be releasable to the country of which the subject is currently a citizen ....").

Although most lawful permanent residents (LPRs) are required to wait three to five years before applying for U.S. citizenship, two special military-related immigration statutes provide that qualified members of the U.S. Armed Forces are permitted to apply for U.S. citizenship after one year of service (when no presidential order regarding ongoing hostilities is in effect)[4] or immediately (when a presidential executive order regarding wartime hostilities is in effect).[5] In return for expedited citizenship, however, military members can lose their citizenship if they subsequently fail to serve honorably for at least five years.

The two military naturalization statutes - Immigration and Nationality Act (INA) § 328, the peacetime military naturalization statute, and INA § 329, the wartime military naturalization statute - contain significant differences from naturalization statutes that apply to civilians. These differences have in the past made them attractive options for many noncitizens and have enhanced military recruiting. President George W. Bush issued a Congressionally ratified executive order on military naturalization on July 3, 2002, retroactive to September 11, 2001, and that order remains in effect as of this date.[6]

Noncitizens filing for military naturalization must meet many of the requirements applicable to all other applicants for naturalization. They must be attached to the principles of the Constitution and well disposed to the good order and happiness of the United States;[7] they must be willing to bear arms on behalf of the United States;[8] they must demonstrate

---

[4] *See* Immigration and Nationality Act (INA) § 328, 8 USC §1439.
[5] *See* INA § 329, 8 USC § 1440.
[6] Executive Order No. 13269 (July 3, 2002), 67 Fed. Reg. 45287 (July 8, 2002).
[7] INA §316(a)(3); 8 USC §1427(a)(3); 8 Code of Federal Regulations (CFR) §316.11.
[8] INA §337(a)(5)(A)–(C); 8 USC §1448(a)(5)(A)–(C).

knowledge of the English language and U.S. history and government;[9] and they are required to show good moral character.[10] Other requirements are either waived or modified.

As mentioned above, a significant difference between military naturalizations and civilian naturalizations is that persons naturalized through military service after November 24, 2003, may face possible revocation of their U.S. citizenship based on post-naturalization misconduct or failure to serve honorably for a period or periods aggregating five years.[11]

Thanks to changes made by the National Defense Authorization Act of 2004,[12] both military naturalization statutes also allow current service members and veterans to apply for naturalization without paying application or biometrics fees, effective October 1, 2004.[13] The same law allows the overseas naturalization of currently serving military personnel, although DHS takes the position that this law only applies to active duty military members, and not to Reservists or National Guard members.[14] Both statutes further provide that military naturalization applicants may be naturalized notwithstanding the pendency of

---

[9] INA §312(a); 8 USC §1423(a).
[10] INA §§316(a)(3), 319(a)(1); 8 USC §§1427(a)(3), 1430(a)(1); 8 CFR §§316.2(a)(7), 316.10, and 329.2(d).
[11] INA §§328(f), 329(c); 8 USC §§1439(f), 1440(c).
[12] National Defense Authorization Act for Fiscal Year 2004 (NDAA 2004), Pub. L. No. 108-136, 117 Stat. 1392 (2003).
[13] NDAA 2004, sec. 1701(b).
[14] NDAA 2004, sec. 1701(d); *see also* American Forces Press Service, "Troops Earn U.S. Citizenship in Iraq" (Mar. 4, 2009), *available at* www.defenselink.mil/news/newsarticle.aspx?id=53336 (describing how more than 250 American military members were sworn in as U.S. citizens in Baghdad, Iraq, during the 13th U.S. naturalization ceremony conducted overseas since U.S. Citizenship and Immigration Services (USCIS) began overseas military naturalization ceremonies). USCIS takes the position that overseas naturalization is not available unless the person is a currently serving active duty member of the U.S. military. Veterans and Reserve or National Guard members must therefore naturalize inside the United States, even if they claim eligibility for naturalization under INA §328 or §329.

removal proceedings.[15] Finally, both statutes require an applicant to show good moral character,[16] but the period of good moral character has been reduced to one year for most applicants.[17]

If a military naturalization applicant is not barred statutorily from showing good moral character, he or she may still be denied naturalization if the totality of the circumstances show a lack of good moral character in the one-year period and continuing to the date of naturalization. Conduct prior to the one-year period may also be taken into account.

---

[15] INA §328(a)(2), 8 USC §1439(a)(2) ("notwithstanding section 318 insofar as it relates to deportability, such applicant may be naturalized immediately if the applicant be then actually in the Armed Forces of the United States, and if prior to the filing of the application, the applicant shall have appeared before and been examined by a representative of the Service"); INA §329(b)(1), 8 USC §1440(b)(1) ("he may be naturalized regardless of age, and notwithstanding the provisions of section 318 as they relate to deportability and the provisions of section 331").

[16] INA §328 has previously been interpreted by USCIS to allow a presumption of good moral character if the person has served honorably as documented in military records by an honorable discharge; this presumption, however, can be overcome by contrary evidence. *See Yuen Jung v. Barber*, 184 F.2d 491 (9th Cir. 1950) (rejecting argument that honorable discharge is conclusive evidence of good moral character that prevents immigration authorities from inquiring further). The latter case involved the question of whether the applicant's behavior prior to his military service could be considered; it remains to be seen whether the presumption of good moral character based on an honorable discharge can be challenged by information about a lack of good moral character during the time an applicant was in the military.

[17] The one-year good moral character requirement under INA §329 is not statutory, but rests on a regulation and an agency interpretation that has been upheld by the courts. See 8 CFR §329.2(e) and *Lopez v. Henley*, 416 F.3d 455, 457–58 (5th Cir. 2005) (upholding agency requirement that a person seeking citizenship through military service must establish good moral character); *Nolan v. Holmes*, 334 F.3d 189 (2d Cir. 2003) (although nothing in INA §329 requires a showing of good moral character, *Chevron* deference will be applied to uphold regulation requiring one year of good moral character). Accord, *Castiglia v. INS*, 108 F.3d 1101, 1102 (9th Cir. 1997); *Cacho v. Ashcroft*, 403 F. Supp. 2d 991, 994 (D. Hawaii 2004).

Another notable difference between INA § 328 and 329 is that INA § 328 does not require any specified type of service, while INA §329 requires service in active-duty status[18] or in the Selected Reserve of the Ready Reserve. The inclusion of the latter type of service is a relatively recent change to the statute. As noted earlier, Congress in 2003 passed the National Defense Authorization Act for Fiscal Year 2004 (NDAA 2004),[19] which amended the INA to extend the benefit of naturalization under INA §329 to individuals who have served honorably as members of the Selected Reserve of the Ready Reserve of the U.S. Armed Forces during designated periods of hostilities.[20] This amendment was intended to correct inequities that resulted when, for example, National Guard members were placed on extended "state" duty after the 9/11 terrorist attacks because of the ongoing national emergency, yet could not qualify for military naturalization because they had not been on federally recognized active duty.[21] Prior to passage of NDAA 2004, service members needed federal active-duty service in order to qualify under INA § 329, but today, Selected Reserve service also qualifies a military member for naturalization. This amendment became effective as of September 11, 2001.[22]

---

[18] In 10 USC §101(d), "active duty" is defined as "full-time duty in the active military service of the United States [including] full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty."

[19] Pub. L. No. 108-136, 117 Stat. 1392 (2003).

[20] NDAA 2004, sec. 1702 ("Section 329(a) of the Immigration and Nationality Act [8 USC 1440(a)] is amended by inserting 'as a member of the Selected Reserve of the Ready Reserve or' after 'has served honorably'").

[21] *See* 10 USC §101(d) (definition of active duty does not include full-time National Guard duty).

[22] *See* INA §329(a); 8 USC §1440(a) (2003); *see also* NDAA 2004, sec. 1702 (effective as if enacted on Sept. 11, 2001).

Sixty Five Percent Drop in Military Naturalizations After DOD Memo

On May 3, 2018, Tara Copp, the Pentagon Bureau Chief for the Military Times, broke the story that there had been a dramatic drop in the numbers of service members applying for naturalization and being naturalized after DOD issued a new policy memo that took aim at expedited military naturalization.[23] As reported in the story,

> The number of service members applying for and earning U.S. citizenship through military service has dropped 65 percent since Defense Secretary Jim Mattis directed additional background checks for non-citizen troops, Military Times has found.
>
> In October 2017, Mattis directed policy changes . . . that added additional reviews of non-citizen service members and extended time in service before they could receive necessary paperwork to pursue naturalization. In the first set of data available since the new policy, the number of applicants dropped from 3,132 in the last quarter of fiscal year 2017 to 1,069 in the first quarter of fiscal year 2018, the most recent data available.
>
> The number of service members approved to become naturalized U.S. citizens dropped from 2,123 in the last quarter of fiscal year 2017, which ended Sept. 30, to 755 in the first quarter of fiscal year 2018, which ended Dec. 31, according to the U.S. Citizenship and Immigration Services, or USCIS, agency, which tracks the data.

Later reports showed similar declines, including a National Immigration Forum report, titled "Naturalizations in the Military: A Recent Decline." The latter report showed a fifty-seven percent decline in the first half of Fiscal Year 2018 compared to the same period in Fiscal Year 2017. The report further showed that 18.52% of military naturalization applications were denied.[24] A follow-on story by reporter Tara Copp explained that immigrants serving in the military were more likely to be denied citizenship than civilians:

---

[23] Tara Copp, "Naturalizations Drop 65 Percent For Service Members Seeking Citizenship After Mattis Memo," Military Times, May 3, 2018.
[24] "Naturalizations in the Military: A Recent Decline," National Immigration Forum, September 17, 2018.

> According to the most recent USCIS data available, the agency denied 16.6% of military applications for citizenship, compared to an 11.2% civilian denial rate in the first quarter of fiscal year 2019, a period that covers October to December 2018.
>
> The fiscal year 2019 data is the eighth quarterly report of military naturalization rates since Trump took office. In six of the last eight reports, civilians had a higher rate of approval for citizenship than military applicants did, reversing the previous trend.[25]

As an example of one such denial, consider the case of Xilong Zhu, an honorably discharged military veteran from China, whose story was covered in a Washington Post article in April 2018.[26] Although Zhu has an honorable discharge from the Army, and has no criminal record, U.S. Citizenship and Immigration Services (USCIS) has denied his application for citizenship for lack of "good moral character" and ICE is seeking to deport him. USCIS says he lacks "good moral character" because before he enlisted, Zhu had enrolled briefly in the University of Northern New Jersey (UNNJ), a fake university set up by DHS to catch brokers of fraudulent student visas. DHS enrolled Zhu in the University, charged him tuition, gave him a valid I-20 document to certify that he was allowed to work legally for Apple Inc., promised him academic credit for his work at Apple, and told the Army that he was in lawful immigration status because he was enrolled at UNNJ. Later, however, DHS changed its mind and decided to try to deport Zhu, and he is in removal proceedings in Seattle right now. U.S. Department of Justice lawyers told the Third Circuit Court of Appeals that Zhu and other foreign students who enrolled at UNNJ were innocent victims of the DHS "sting" operation, but nevertheless, DHS continues to try to deport him and refuses to allow him to naturalize.

---

[25] Tara Copp, "Immigrant Service Members Are Now Denied US Citizenship At a Higher Rate Than Civilians," McClatchy News, May 15, 2019.
[26] Alex Horton, "ICE Is Moving to Deport A Veteran After Mattis Assured That Would Not Happen," Washington Post, April 5, 2018.

Military Members Can No Longer Easily File for Naturalization

The key to naturalization through military service is that the military service must have been "honorable," as determined by the branch of the U.S. Armed Forces in which the person served or is serving. If the person is still serving at the time that the naturalization application is filed, then the character of the person's service is determined by the statements on the Form N-426, which must be filed with the N-400 application package. A representative of the military branch will complete Form N-426 and certify the person's service as honorable or otherwise.[27] Recently, however, the Department of Defense has severely restricted the rules whereby this form can be certified. DOD now requires an officer in the grade of O-6 (colonel or Navy captain) to certify the form. Enlisted soldiers attempting to apply for naturalization report that they have grave difficulty finding an officer of this grade who is willing and able to sign their form. DOD has also elected to disregard the statutory mandate that military members may seek naturalization immediately upon entering active duty; by internal executive memo, DOD has mandated that military members may only get the form signed once they have completed at least six months of active duty, one year of Reserve service, or one day in a combat zone. This DOD directive almost entirely eliminates the distinction between the two military naturalization statutes, and is unlawful and unconstitutional, but no service member has yet sued DOD to have the internal memo declared to be unlawful and unconstitutional.

[27] The certification was previously made by any military official who has access to the individual's military personnel file; military personnel files are now maintained online, so a military personnel official need not have a "paper file" to certify the form.

When Military Members Do File for Naturalization, USCIS Stalls Them

Under the Military Personnel Citizenship Processing Act, enacted on October 9, 2008, USCIS was required to process military-related citizenship applications within six months of filing, or provide the service member with an explanation of why the case had not been processed.[28] However, the provision of the law setting the deadline contained a sunset date and is no longer in effect. While the law was in effect, USCIS processed military-related naturalization applications very quickly; absent some unusual circumstances, cases inside the United States were typically processed in one or two months after filing.[29] Today, however, USCIS takes the position that there is no deadline for processing military cases, and they are often taking years to process. In a court case in Texas recently, U.S. Army Specialist Peter Mathenge sued USCIS because his N-400 had

---

[28] INA §328(g) stated:

"Not later than 6 months after receiving an application for naturalization filed by a current member of the Armed Forces under subsection (a), section 329(a), or section 329A, by the spouse of such member under section 319(b), or by a surviving spouse or child under section 319(d), United States Citizenship and Immigration Services shall—

(1) process and adjudicate the application, including completing all required background checks to the satisfaction of the Secretary of Homeland Security; or

(2) provide the applicant with—

(A) an explanation for its inability to meet the processing and adjudication deadline under this subsection; and

(B) an estimate of the date by which the application will be processed and adjudicated."

For more information, see USCIS Letter, W. Janssen, "Notification of Processing Delay - Form N-400" (May 16, 2011).

[29] *See, e.g.*, USCIS Press Release, "USCIS Naturalizes First Soldier in Military Pilot Recruiting Program," (July 27, 2009), *available at* www.uscis.gov/portal/site/uscis/menuitem.5af9bb9591 9f35e66f614176543f6d1a/?vgnextoid=cc095341bf982210VgnVCM100000082ca60aRCR D&vgnextcha nnel=a2dd6d26d17df110VgnVCM1000004718190aRCRD (reporting a processing time of one month).

been deliberately stalled by USCIS.[30] Here are direct quotes from the Assistant United States Attorney, Lacy McAndrew, who was defending USCIS's inaction:

> * "[B]ecause Plaintiff's application remains in the **pre-examination** stages of the N-400 adjudication process, there is no congressionally-imposed deadline or timeframe to complete the adjudication of his N-400 application." (Dkt. 7, p. 12, emphasis in the original)
>
> * "[T]he pace of adjudication during the naturalization application pre-examination period is **wholly** within agency discretion" (Dkt. 7, pp. 10, 14, emphasis added; see also Dkt. 15, pp. 6, 7, 8)
>
> * "[T]here was a new policy memo that USCIS put out [in 2017] basically saying, we're **not going to complete our internal investigations** of MAVNI N-400 applicants until the DoD background check clears them. The USCIS is not entirely sure what the process is for DoD background checks . . ." (Transcript of 3/28/19 hearing, Dkt. 27, pp. 3 – 4, emphasis added)
>
> * "[H]e's just going to have to wait because under the statute for naturalization there is no time frame by which the USCIS has to complete its pre-interview investigation." (Transcript of 3/28/19 hearing, Dkt. 27, p. 6)
>
> * "THE COURT: But here you guys aren't doing it [an investigation]; right? Because here you're not doing anything until the DoD does something; . . . that is the way I understand it? MS. McANDREW: That is correct, your Honor." (Transcript of 3/28/19 hearing, Dkt. 27, p. 6)
>
> * THE COURT: . . . "[T]he natural consequence of that argument though is that this thing can be held in perpetuity; right? MS. McANDREW: Right, Your Honor." (Transcript of 3/28/19 hearing, Dkt. 27, pp. 19 - 20)

On July 1, 2019, the Court denied the government's Motion to Dismiss, thereby rejecting USCIS's argument that, as a matter of law, the agency has complete discretion to

[30] Mathenge v. Dep't of Homeland Sec'y, Case No. 5:18-cv-00788-XR (W.D. Texas).

determine the length of the pre-examination investigation process. The Court's Order further tersely stated that the Court "will not tolerate any further unnecessary delay in processing the application." A month later, on August 2, 2019, Specialist Peter Mathenge was naturalized as a U.S. citizen. Many other military members have recently had to resort to filing lawsuits in order to get USCIS to process their naturalizations timely. Lawsuits, however, are expensive and lengthy endeavors even when the service member can find an attorney who will agree to take on the matter.

ICE Ignores Agency Policy and Seeks Regularly to Deport Veterans

Because military naturalization offers a unique avenue of relief to potentially removable foreign nationals, Immigration and Customs Enforcement (ICE) has in the past sometimes exercised its discretion favorably when determining whether to place a military member or veteran into removal proceedings or to reinstate a removal order against a noncitizen with prior military service. In a 2004 internal memorandum, an ICE official stated that "ICE should not initiate removal proceedings against aliens who are eligible for naturalization under sections 328 or 329 of the INA, notwithstanding an order of removal."[31] The same memorandum also explained that an honorable discharge "by no means serves to bar an alien from being placed in removal proceedings," but that several factors should be taken into account when deciding whether to do so.[32] In a June 17, 2011, memorandum to all ICE officials, then ICE Director John Morton also reiterated that ICE

[31] ICE Memorandum, M. Forman, "Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service" (June 21, 2004).
[32] *Id.*

employees should exercise prosecutorial discretion using all relevant factors, one of which is "whether the person, or the person's immediate relative, has served in the U.S. military, reserves, or national guard, with particular consideration given to those who served in combat."[33] Mr. Morton further stated that being a veteran or member of the U.S. Armed Forces is a positive factor that "should prompt particular care and consideration."[34] These past internal directives, however, no longer being consistently followed by ICE personnel: A recent Government Accountability Office (GAO) report, "Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans," June 2019, found that:

> U.S. Immigration and Customs Enforcement (ICE) has developed policies for handling cases of noncitizen veterans who may be subject to removal from the United States, but does not consistently adhere to those policies, and does not consistently identify and track such veterans. When ICE agents and officers learn they have encountered a potentially removable veteran, ICE policies require them to take additional steps to proceed with the case. GAO found that ICE did not consistently follow its policies involving veterans who were placed in removal proceedings from fiscal years 2013 through 2018. Consistent implementation of its policies would help ICE better ensure that veterans receive appropriate levels of review before they are placed in removal proceedings. Additionally, ICE has not developed a policy to identify and document all military veterans it encounters during interviews, and in cases when agents and officers do learn they have encountered a veteran, ICE does not maintain complete electronic data. Therefore, ICE does not have reasonable assurance that it is consistently implementing its policies for handling veterans' cases.

Military Members Face Obstacles When Trying to Naturalize

In the past, one key difference between military and civilian naturalization applications was that military naturalization applications could typically be filed much

---

[33] ICE Memorandum, J. Morton, "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities" (June 17, 2011).
[34] *Id.*

earlier than civilian naturalization applications. By law, a military member who is applying for naturalization under INA § 329 (naturalization through U.S. military service during a designated period of hostilities) need not be an LPR and may file the Application for Naturalization (Form N-400)[35] after having completed one day of honorable service on active duty or in the Selected Reserve of the Ready Reserve.

In the past, INA § 329 naturalization applications could be submitted for enlisted persons during basic training, but the current Administration terminated the popular Basic Training Naturalization Initiative in January 2018. Current law does not allow military members enlisted through the delayed entry program (DEP) to apply for naturalization until they report for basic training, and they may be summarily discharged from the DEP without any due process and without receiving a DD-214 to document their service.

By law, members of the military who apply for naturalization under INA § 328 (naturalization with one year or more of U.S. military service) may file the N-400 as soon as they have LPR status and have completed one year of honorable military service of any type—but USCIS refuses to accept their application unless the application is accompanied by a Form N-426, which they cannot obtain unless they have served on active duty or in the Selected Reserve. USCIS has not developed any alternative Form or method to allow applications under INA § 328, and as result, these applications are quite rare today.

Members of the military must complete the biometrics requirements that apply to any naturalization applicant. By law, military personnel also used to be able to elect to sign a form authorizing the release of their enlistment fingerprints to the Department of

[35] The Form N-400, Application for Naturalization, is *available at* www.uscis.gov/files/form/n-400.pdf.

Homeland Security (DHS) so they do not have to report to a USCIS Application Support Center (ASC) for biometrics. Unfortunately, in recent years, USCIS has refused to accept this form and demands that military members report to an ASC for fingerprinting. USCIS no longer sends mobile fingerprinting teams to military basic training sites, however, and many military members cannot easily get their fingerprints taken at USCIS ASCs because such ASCs are often located many hours' drive from the nearest military base. Service members stationed overseas may have their fingerprints taken manually at U.S. military installations or U.S. embassies and consulates using the FD-258 fingerprint card but are often told to report to an ASC in the United States before their application can be processed.

Basic Training Naturalization Ended in January 2018

In mid-2009, USCIS started a highly successful program whereby noncitizen military recruits were able to file their naturalization applications when they reported to basic training, and those applications were adjudicated so that the soldiers graduated from basic training and became U.S. citizens at the same time.[36] Although USCIS is still advertising the existence of this program during films shown in USCIS offices nationwide,[37] the current Administration terminated this program in early 2018. The demise of this program has created havoc.

---

[36] USCIS News Release, "52 Soldiers Become U.S. Citizens at Army Basic Training," May 6, 2010, *available at*: http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=ead760657dd68210VgnVCM100000082ca60aRCRD&vgnextchannel=a2dd6d26d17df110VgnVCM1000004718190aRCRD. *See also* Congressional Letter Exchange Between Z. Lofgren, M. Thornberry, *et al.*, (July 9, 2010) and DHS Secretary J. Napolitano, (Aug. 30, 2010).

[37] The author was in the USCIS waiting room at 26 Federal Plaza in New York City on October 24, 2019 with several Army soldiers who were waiting for naturalization

As a result of USCIS eliminating the Basic Training Naturalization initiative, currently serving U.S. military members now encounter many difficulties filing their military naturalization applications. They report being told that they are not allowed to file for citizenship until they are discharged; being told that their application cannot be filed until they report to their first permanent duty station; and being told that their military unit will process the application locally when in fact it must be mailed to a USCIS Service Center in Chicago. The most significant issue is to obtain certification of the N-426 certificate of honorable service. Military members now experience significant difficulties when trying to get this form certified. Under new DOD policies, only an officer in the rank of O-6 can certify that a person is serving honorably for purposes of naturalization, and this requirement has caused significant delays and obstacles for servicemembers. To give just one example, in the State of Alaska, in one Army Reserve unit, there is no officer in the rank of O-6 in the entire state, so that an individual seeking to get the form signed must reach out through his or her chain of command to an officer in a different state many thousands of miles away. A form that previously could be signed and certified in a matter of hours cannot be obtained now without weeks or even months of bureaucratic wrangling.

In the National Defense Authorization Act for Fiscal Year 2018, Congress enacted a law requiring DOD to provide information on naturalization through military service to

---

interviews. The television on the wall was playing a USCIS film that showed clips of Army soldiers naturalizing at basic training and stated that military naturalizations would be processed during such training. The soldiers in the room were all aghast because they were aware that they were being interviewed in New York City that day because basic training naturalization had been eliminated. Some of the soldiers present had waited several years for their N-400s to be processed.

servicemembers.[38] However, DOD has to date done nothing public to comply with this law.

Untrained Adjudicators Wrongly Deny Military Applications

Previously, when the Basic Training Naturalization Initiative was operating, USCIS had specially trained teams of adjudicators who were responsible for military naturalization applications. Now that the program has been eliminated, dozens of untrained USCIS officers, many of whom are unfamiliar with the special military statutes, are responsible for adjudicating military N-400 applications. USCIS has failed to supervise these officers to ensure that they follow the USCIS Policy Manual, DHS regulations, and the law. For example, in Houston, Texas on Tuesday, October 22, 2019, Immigration Officer Darren Howard refused to approve a naturalization application for an Army Reservist who resides in Canada because Officer Howard believes that a person must reside in the United States in order to naturalize.[39] USCIS refuses to process the naturalization applications of Reservists who live outside the United States, although the law allows them to do so; accordingly, this Reservist had to fly from Canada to Texas to appear for his

---

[38] Section 530 of the 2018 NDAA states:

> The Secretary of Defense shall ensure that members of the Army, Navy, Air Force, and Marine Corps who are aliens lawfully admitted to the United States for permanent residence are informed of the availability of naturalization through service in the Armed Forces under section 328 of the Immigration and Nationality Act (8 U.S.C. 1439) and the process by which to pursue naturalization. The Secretary shall ensure that resources are available to assist qualified members of the Armed Forces to navigate the application and naturalization process.

[39] Officer Howard is correct that *civilian* naturalization applicants must reside in the United States, but this requirement does not apply to *military* naturalization applicants.

naturalization interview. The Reservist had received a special visa from the U.S. Department of State in order to enter the United States to appear at his naturalization interview. Officer Howard incorrectly advised this Soldier that military members are required to reside in the United States in order to naturalize. Officer Howard had unfortunately not been trained to read his own agency policy manual, which explains clearly that the Immigration & Nationality Act does not impose any such requirement on military members,[40] and in 8 USC § 1443a,[41] Congress specifically stated that military members can even naturalize overseas (although DHS takes the position that only active duty service members, not Reservists, are allowed to do so).

Civilians Now Naturalize More Easily & Quickly Than Military Members

As a result of these changes in DOD and DHS policy, it is now much easier for a civilian green card holder to naturalize under the "regular" naturalization statutes than for similarly situated green card holders to naturalize through military service. Civilian applications are processed more quickly and are less likely to be denied. Civilians do not

---

[40] See USCIS Policy Manual, Chapter 3, Section A, *available at* https://www.uscis.gov/policy-manual/volume-12-part-i-chapter-3: "An applicant who files on the basis of military service during hostilities is exempt from the general naturalization requirements of continuous residence and physical presence."

[41] See 8 USC § 1443a. Naturalization proceedings overseas for members of the Armed Forces and their spouses and children:
Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces, and persons made eligible for naturalization by section 319(e) or 322(d) of such Act [8 U.S.C. 1430(e), 1433(d)], are available through United States embassies, consulates, and as practicable, United States military installations overseas.

have to find an O-6 officer to authorize them to file their applications. As a result, immigration lawyers are now advising LPRs not to join the military because it will make their naturalization process more difficult.

Demise of MAVNI Program, But Hundreds Remain in Limbo

DOD has also made it much more difficult for noncitizens to join the military in the first place. While the Bush Administration had previously authorized lawful immigrants who did not yet have green cards to enlist through the Military Accessions Vital to the National Interest (MAVNI) program, and the Obama Administration had allowed some DACA (Deferred Action for Childhood Arrivals) recipients to enlist through MAVNI, the current Administration has ended the MAVNI program. Today, only United States nationals, green card holders, and some Pacific Islanders are permitted to enlist. This change has hurt the military's ability to attract talented immigrants and reduced the percentage of immigrants serving. While immigrants make up about 13.5% of the United States population, they are less than four percent of the military at this time. Military recruiters report to me that they are meeting recruiting quotas by enlisting less prepared native-born Americans. In some cases, the Armed Forces simply cannot find enough qualified candidates among the native-born population, so the billets go unfilled.[42]

The MAVNI program ended three years ago, and there have been no MAVNI enlistments since October 2016. DOD has also made efforts to unlawfully discharge MAVNI soldiers, including many who have been waiting for more than three years to clear

[42] Jackson Barnett & Ann Klein, "As Economy Roars, Army Falls Thousands Short of Recruiting Goals," New York Times, September 21, 2018.

new DOD "background checks." The non-citizen soldiers who enlisted in the U.S. Army under MAVNI program have filed several lawsuits challenging USCIS and DOD policies and practices that have adversely affected both their ability to continue serving in the military and their right to citizenship based on that service. MAVNI soldiers have won significant and meaningful victories in these lawsuits, and many have obtained relief as a result, but issues remain, including one that would be best addressed through legislative action.

The U.S. Army recruited MAVNI soldiers because each one has specialized language or medical skills that the military could not find through its traditional enlistment pool. At the time of their enlistment, all MAVNI soldiers held lawful immigration status—mostly as F-1 students, H1-B professional workers, or through the Deferred Action for Childhood Arrivals (DACA) program. When these soldiers were recruited, the Army and DHS promised them a "fast-track" to U.S. citizenship as Congress provided and intended through 8 U.S.C. § 1440. Each of these soldiers enlisted in the U.S. Army on or before September 30, 2016, which was when certain DOD policies applicable to MAVNIs began to change. There have been no MAVNI enlistments since that date because DOD has halted the MAVNI program. Under the "normal" process for MAVNI soldiers that was in place when these soldiers enlisted, thousands of MAVNI soldiers had been naturalized as U.S. citizens within months of their enlistment. But, as of mid-2017, approximately 4,000 MAVNI soldiers remained in immigration limbo, with many falling out of status during the wait and facing the risk of deportation, including to countries that would prosecute and persecute them for having joined the U.S. military.

The *Nio* and *Kirwa* Cases

The MAVNI class action lawsuits now pending in the United States District Court for the District of Columbia began with the *Nio v. DHS* case in May 2017. MAVNI soldiers serving in the Selected Reserve of the Ready Reserve and who already had applied for naturalization pursuant to 8 U.S.C. § 1440 brought a class action against USCIS and DOD challenging policies that were precluding USCIS's adjudication of their naturalization applications. The *Nio* class's primary claim challenged the USCIS policy of refusing to adjudicate naturalization applications for these soldiers until after the Army completed new and complicated "background checks" that were taking several years to complete. The new "background checks" included a convoluted and Kafkaesque process whereby no MAVNI soldier was permitted to attend basic training or become an officer until he or she had completed several years worth of investigations that culminated in a new bureaucratic determination called a "Military Service Suitability Determination" (MSSD). DOD adjudicators have proven to be incompetent in performing these "background checks," and have regularly "failed" military members and ordered their discharge because, for example, the immigrant military members has noncitizen parents.[43]

[43] I have read dozens of the "counterintelligence" screening reports on MAVNI soldiers, and the level of incompetence displayed by the DOD personnel writing these reports should be alarming to Congress. While examples are endless, a particularly striking one has been the recurrent DOD determination that a military recruit from South Korea must be discharged from the U.S. Army because he has male relatives who served in the South Korean (Republic of Korea) Army. South Korea is a strong US ally; has a military draft; and drafts all males, so it is very common for anyone from South Korea to have male relatives who served. Moreover, members of the ROK Army serve side by side with U.S. Army personnel in Korea through the KATUSA (Korean Augmentee to the U.S. Army) program. To remove a U.S. Army soldier out of the U.S. Army because one of his relatives was member of the ROK Army is patently absurd.

A few months after the *Nio* case began, MAVNI soldiers initiated a second action, called *Kirwa v. DoD*, to challenge the Army's then-recent practice of refusing to provide MAVNIs with N-426 forms, which are the primary method by which the U.S. Army certifies to USCIS that a naturalization applicant has served honorably in the military. USCIS will not adjudicate a MAVNI's military naturalization application without a certification from the military. In October 2017, the Army formalized its practice by issuing a policy that withheld N-426s from MAVNI soldiers, including by revoking previously-issued N-426s, until after MAVNI soldiers jumped over a series of new and imposing hurdles that attempted to re-define honorable military "service." In response, MAVNI soldiers pursued and obtained preliminary injunctions in both the *Nio* and *Kirwa* actions to block that policy. As a result, hundreds of MAVNI soldiers have had their honorable service recognized by the military and have been able to apply for naturalization. Once soldiers in the *Kirwa* class receive N-426s and apply for naturalization, they become members of the *Nio* class. In total, the two classes are made up of approximately 2500 soldiers. Were it not for these lawsuits, none of these soldiers would have been able to serve and the Army would have lost the enormous investment it had made in recruiting them.

In May 2019, the federal court overseeing the MAVNI class action lawsuits set aside the primary remaining barrier to these soldiers' naturalization by enjoining the USCIS policy of waiting for a final decision on their Military Service Suitability Determinations (MSSDs) on the grounds that the policy was arbitrary and capricious. The Court recognized that the MSSD, wherein many MAVNI soldiers are determined to be a security risk simply because they have family in a foreign country, is not a valid

background check and is more restrictive than the statutory standards for naturalization of, among other things, good moral character and attachment to the Constitution.

Due to the *Nio* litigation, more than 1,400 MAVNI soldiers have been naturalized as U.S. citizens, but hundreds of these soldiers still are waiting to have their naturalization applications processed to completion, primarily because USCIS has not dedicated the resources necessary to complete these naturalization adjudications and because USCIS has not properly educated its personnel about the Court's orders and USCIS's obligations to MAVNI soldiers. Beyond these USCIS implementation problems, however, other MAVNI soldiers have not even received an N-426 yet—and thus have not been able to apply for naturalization—primarily because some Army personnel do not understand and have therefore misinformed these MAVNIs about their right to pursue naturalization. Whereas, under past practice, nearly every one of these soldiers would have been naturalized within months of enlisting, they now have been waiting for years for naturalization, with many unable to maintain their visas and unable to obtain work authorization although USCIS had created a Deferred Action option that was meant to prevent these hardships. The delays have harmed military readiness because the soldiers cannot perform their military duties or deploy until they are naturalized and often cause severe personal hardship to these soldiers. In several cases, for example, U.S. licensed doctors have waited several years to naturalize and cannot be commissioned as officers in the U.S. Army Medical Corps until they are citizens. Their military contracts will be more than half over before they are permitted to serve as doctors.

This is not the expedited processing for service members that Congress mandated, nor the way that those willing to serve this country should be treated.

The *Calixto* Case

The third related MAVNI case pending in the same Washington, D.C. federal court, filed in mid-2018, is *Calixto v. Army.* The MAVNI plaintiffs in that case, in which a request for class action status is pending, include immigrant U.S. Army soldiers in the Selected Reserve of the Ready Reserve, the Delayed Entry Program (DEP) of the Regular Army (which means that the soldiers currently are enlisted and serving in a reserve component such as the Individual Ready Reserve while they wait to report for active duty with the Regular Army), and the Regular Army. The *Calixto* MAVNIs are challenging Army discharge actions taken against them without due process. For example, many of these soldiers were discharged from the Army without any notice, without an opportunity to respond to the reason for discharge, and/or without being advised of how their discharge would impact their ability to naturalize pursuant to 8 U.S.C. § 1440.

In response to the *Calixto* litigation, and in acknowledgement of the fact that these discharges violated military regulations requiring pre-discharge due process, the Army issued a policy suspending certain types of discharges and offering reinstatement to MAVNI soldiers who had been discharged because they had received a negative MSSD. The Army now is purporting to give these MAVNI soldiers notice of the intent to discharge and an opportunity to respond. However, many of these MAVNI soldiers still are suffering the harms due to the discharge actions, including being removed from their Reserve unit drill rosters and having their medical insurance and other benefits cancelled. In addition, the Army's attempts to notify soldiers of their reinstatement and their negative MSSDs are inadequate, leaving many soldiers still in the position of being discharged without notice.

Moreover, the Army has refused to reinstate hundreds of other MAVNI soldiers who were discharged from the Army without due process. Instead, the Army is taking the position that MAVNI soldiers in the DEP can be discharged from the military without any prior notice or opportunity to respond.

USCIS Ignoring 8 U.S.C. § 1440

In addition, the Army is refusing to revoke the discharges of certain other soldiers, including MAVNI soldiers who were injured or discovered a medical concern during training and were not properly advised that the discharge, if not challenged, would result in them losing their opportunity to naturalize based on their military service. For these soldiers, if USCIS failed to naturalize them before they were shipped to training, naturalization is being denied simply because they received an "uncharacterized" discharge from the military when they reported for active duty. In other words, USCIS is taking the position that a soldier who was fully eligible and approved for naturalization before being shipped to training, and who could have been a U.S. citizen before entering training if only USCIS had arranged for the oath ceremony before the soldier's ship date, can become ineligible for naturalization if he or she is injured or becomes medically unable to continue serving during training.

This USCIS policy is patently unfair and contrary to law. There is no minimum period of service requirement under 8 U.S.C. § 1440. Moreover, while under military regulations and 10 U.S.C. § 12685, the military recognizes an "uncharacterized" discharge as an "under honorable conditions" discharge, USCIS refuses to acknowledge the Army's position and is denying naturalization applications, claiming that the veteran has not been

able to prove an "under honorable conditions" discharge from the face of the discharge order. But USCIS should not be making this assessment. Under 8 U.S.C. § 1440, Congress specified that the military's assessment of honorable service controls for naturalization purposes. USCIS's policy and practice is contrary to law and should be stopped.

DEP MAVNI Soldiers Need Congressional Assistance

As described above, DEP MAVNI soldiers enlist and serve in a Reserve component, such as the Individual Ready Reserve, while waiting to report for duty with the Regular Army (*i.e.*, "active duty"). Because 8 U.S.C. § 1440 is worded as applying to those "in the Selected Reserve of the Ready Reserve or active duty," DEP MAVNIs who are waiting to perform active duty with the Regular Army or who are being discharged out of their reserve component, are not being allowed to apply for naturalization, although they have been members of the U.S. Army for more than three years at this point. Congress can remedy this circumstance by amending 8 U.S.C. § 1440 to include all MAVNI soldiers who enlisted on or prior to September 30, 2016. This simple fix would enable hundreds of U.S. military soldiers and veterans who enlisted through the MAVNI recruiting program prior to October 2016 to apply for naturalization, and if able to demonstrate their eligibility for naturalization (*i.e.*, English and civics understanding, good moral character, and an attachment to the Constitution), to naturalize as a U.S. citizen. Once naturalized, they could then sign a new enlistment contract and report for training.

USCIS Policies Harm Family Members of Military Personnel

USCIS has also recently changed certain policies, or has plans to change certain policies, in ways that harm the family members of military personnel and veterans.

In August, USCIS announced that it was changing the meaning of the term "residence" as it has been applied to certain children who have in the past automatically derived United States citizenship through their United States citizen parents. USCIS and DOD together stated publicly but falsely that few children would be affected by the change. The agencies should be aware that thousands of children are potentially harmed by this policy change and it is not at all minimal; it also punishes United States citizens who are serving overseas by preventing their children from naturalizing automatically under the Child Citizenship Act. I support the bipartisan fix for this ill thought out policy change by USCIS; the "Citizenship for Children of Military Members and Civil Servants Act" introduced by Chairman Jerrold Nadler and Ranking Member Doug Collins will reverse the disastrous USCIS policy change and allow these children to naturalize equally with their counterparts who reside in the United States.

Military Parole in Place and Deferred Action Programs Threatened

The current Administration has internally floated proposals to end the popular military "Parole in Place" and "Deferred Action" programs that began under the Bush Administration and were formalized under the Obama Administration. These longstanding programs have prevented military members, veterans, and their family members from being deported. They have also allowed family members to adjust status in the United States, rather than enduring lengthy waits for immigrant visas overseas. The

Administration apparently intended to end or curtail these programs in July 2019, but a public outcry has delayed implementation of the plan to end them.

Special Immigrant Visa Delays Break Promises Made to Allies

I would be remiss if I did not mention yet another broken promise made to noncitizens who have put their lives on the line for America. After 9/11, Congress created three different programs that applied to Iraqi and Afghan nationals who worked with the U.S. Armed Forces or the U.S. Department of State (DOS) in Iraq or Afghanistan. These programs have allowed certain Iraqis and Afghans to obtain special immigrant visas (SIVs) that allow them to enter the United States as LPRs or adjust status to LPR while legally present in the United States. These three different programs have been extended and changed repeatedly by Congress. But many of the interpreters and other Iraqi or Afghan workers who have tried to get these Special Immigrant visas have struggled to get them, and many of them have family members who remain in danger in Iraq or Afghanistan while they await "background checks" that drag out for years. The latest "travel ban" has also affected them. The number of individuals granted Special Immigrant Visas to come to the United States in recent years has dropped dramatically. Rebecca Giblan, a reporter for Public Radio International (PRI), recently publicized the dilemma in a September 19, 2019 article:[44]

> [Muhammad] Kamran, a former interpreter for the United States Army, fled with his family from his native Afghanistan due to threats from both the Taliban and

[44] See Rebecca Giblan, The US Promised Thousands of Foreign Military Interpreters Special Immigrant Visas, But Now They Are Trapped and In Danger, https://www.pri.org/stories/2019-09-19/us-promised-thousands-foreign-interpreters-special-immigrant-visas-now-they-re

> villagers. The threats were related to his work with the US. The family now lives illegally and in constant fear of being discovered and sent back to Afghanistan, where Kamran believes they would face near-certain death. Sometimes he has to sleep in the desert to avoid police raids, bribes and beatings.
>
> Kamran became a translator for the US military when he was 18 because he wanted to do something good for Afghanistan, he said. He spent a decade with American troops, living and working directly alongside them. But now, he is one of the thousands of interpreters who have been left behind and are in danger because of their service to the US.
>
> "Ten years I spent with the US Army," he said during a phone interview. "I went with them on a lot of patrols, a lot of missions, a lot of fights, and I spent the night and days in the mountains with them, in small holes with them, in the bases, everywhere, in the villages, in cold weather and hot weather. But I was working with them as a brother and they were calling me brother. I was ... an important part of their mission."
>
> Legislation passed in 2008 was supposed to provide a pathway to safety for translators and interpreters who serve alongside American forces in Iraq and Afghanistan by granting them Special Immigrant Visas (SIVs) to the US after their service. But due to security review slowdowns, President Donald Trump's travel ban, and the demise of the Iraqi SIV program, hundreds of thousands of translators are left behind in dangerous—and even deadly—situations.

The story went on to report that the U.S. Department of State reported earlier this year to Congress that only 1,649 Afghan SIVs were issued in 2018, which represents a 60% decrease from the 4,120 visas issued the prior year. Government agencies, as is typical, claim that "national security" requires them to process the cases very slowly, rather than complying with the statutory nine month deadline. Many recipients of initial visa approvals also report that the new "security reviews" sometimes results in inexplicable reversals of their initial approval, and attempts to appeal go nowhere.

The same individuals who are eligible for SIVs can, as an alternative, try to seek admission through the US Refugee program—but that, too, has been severely reduced.

"Overall, the number of Iraqi refugees admitted to the United States has declined from 9,880 in 2016 to 140 in 2018."[45]

When the United States Government breaks the promises that it made to these individuals, who put their lives on the line for the United States and previously passed rigorous security checks, American foreign policy and the lives of American military members are put at risk. As Representative Steve Stivers (R-Ohio) said, "What kind of message does that send next time that we go somewhere and ask people to help us if they realize that people who helped us last time, we turned our back on them and didn't help them?"

Harm to National Security from Anti-Immigrant Policy Changes

One of the grievances in the Declaration of Independence, against King George, was that he "has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither . . ." The Founders knew that immigrants were a powerful asset to the United States, and particularly to the United States military, which could not have won the American Revolution without the contributions of the immigrant soldiers in the Continental Army.

Today it is no different: America cannot fight global wars without the contributions of immigrants. The recent DOD and DHS policy changes have harmed national security by reducing recruitment of immigrants, preventing those who join the military from reporting to training and otherwise performing their duties, halting their overseas

[45] Id.

deployments, and requiring them to leave the service early because they cannot be promoted or reenlist. Key commands like Special Operations Command can't employ them in important jobs because they don't have citizenship. Their family members cannot get visas or green cards because the military members cannot naturalize. Military members, veterans, and their family members find themselves to be trapped in limbo, with no immigration status, unable to travel, obtain driver's licenses, or even rent an apartment. Many face deportation, in some cases to countries where they will be tortured or killed. American citizens in the military are also harmed when their family members cannot obtain any immigration status and potentially face deportation.

Congress Must Act to Reverse These Misguided Policies

Given that DOD and DHS together show no interest in reversing their misguided policy changes, Congress must act. I recommend the following:

1. Direct USCIS to restore the Basic Training Naturalization Initiative.

2. Direct DOD to stop violating 8 U.S.C. § 1440 and provide service members with certified N-426s as soon as they begin serving.

3. Investigate the procedures and standards being applied by DOD in the Military Service Suitability Determination (MSSD) process for immigrants who enlist.

4. Amend 8 U.S.C. § 1440 to include all MAVNI service members who enlisted on or prior to September 30, 2016.

5. Codify the military Parole in Place and Deferred Action programs.

6. Enact legislation to prevent the deportation or removal of honorably discharged military veterans.

7. Provide adequate Congressional oversight of the Iraqi/Afghan Special Immigrant Visa (SIV) programs and extend these programs again.

8. Enact legislation to reverse the USCIS change in the definition of "residence" for the purposes of the Child Citizenship Act.

9. Repeal the sunset date on the Military Personnel Citizenship Processing Act.

10. Investigate DOD's failure to follow the laws passed by Congress, such as the law directing DOD to inform servicemembers how to apply for naturalization under 8 U.S.C. § 1439.

Mr. Metcalf, welcome.

TESTIMONY OF HON. MARK H. METCALF

Mr. METCALF. Mr. Correa, thank you. It's an honor to be here. Members of the committee, it's an honor to be here. I thank all of you, and I thank the panelists for their statements.

I'm a Lieutenant Colonel, a soldier in my 28th year of service, and a combat veteran of Iraq. I served a victory-based complex as garrison Command Judge Advocate. My unit, the 149th Maneuvering Enhancement Brigade, better known as the MEB, closed American operations in Iraq and did the handover of all military installations to the Government of Iraq. With us were soldiers born in Jamaica, Cameroon, and Ukraine. In at least one case, a naturalized citizen served as a combat arms company commander. All had earned their citizenship. Thorough background checks were the rule, and this brings me to the points I believe critical to good policy.

First of all, we may have differences of opinions today, but all of us are Americans. The policies conceived to advance the experience of immigrants is wide, large, and it is generous. I favor a 180-day Active Duty service requirement for noncitizens. This allows basic, yet thorough background checks to be completed that can better identify individuals whose histories require further investigation before they continue to more rigorous and sensitive training. This requirement is not onerous in light of the great responsibilities and opportunities service in the American military offers. Time in service requirement permits suitability assessments as financial, criminal, and loyalty issues are raised. I agree with policies that make this service possible that military service by the foreign-born, and the consequent American citizenship received are conferred upon those for whom no credible doubts about their suitability exists.

I'll turn now, if I may, please, Mr. Chairman, to the MAVNI program. It was created to enhance force readiness. Medical and language skills were augmented through its application, and through it, some 10,400 foreign nationals were enlisted. Still, MAVNI was halted by the Obama administration in the fall of 2016. Generally, U.S.-born recruits have verifiable public and private records; recruits from outside the U.S. do not, making the need to scrutinize their histories all the more important, so that no worthy candidate is denied membership in our Armed Services and moves on to citizenship.

I favor approaches to scrutiny already put in place by DOD. Recent Army experiences with the MAVNI program justifies this rigor and this flexibility. And I want to point out in my more illustrated statement to you, the incidents involving fraudulent applications. In one case, a Chinese national posing as a MAVNI recruit, only to be found as a Chinese espionage asset.

I want to move on to the removal of veterans. First of all, if I had been an immigration judge sitting on Mr. Barajas' case, I would have canceled his removal from the United States. As a judge in Miami, I awarded 75 -- granted 75 to 80 percent of all cancellation applications. His was a perfect case, in my opinion, for the grant of cancellation. And, by the way, my grant of 75 to 80 percent cancellations was not unusual.

The numbers from the immigration courts, if you start parsing them, Mr. Chairman, will show our immigration judges are very generous with the grant of cancellation, both the LPRs as well as NPRs. And that's something that we can talk about at further hearings, but I want to point out that Mr. Barajas is a perfect example of what cancellation was intended to relieve.

I also want to point out that the cancellation process takes into consideration the kind of deep dive into the facts that the elements now being used by ICE should have been using all along. I note veteran's overall criminal history, his rehabilitation, or her rehabilitation, family and financial ties to the U.S., employment history, health and community service, in addition to the duty status, whether active or reserve, war zone duty, years in service, and decorations awarded.

All of these are proper considerations. To remove one veteran who should not be removed is one too many. To consider each case on a case-by-case basis, looking at all the facts applicable, is the right approach and will always be the right approach. I thank you for your time today, Mr. Chairman. I'm happy to answer any questions you and members of the panel will have.

[The statement of Mr. Metcalf follows:]

MARK H. METCALF
COUNTY ATTORNEY

7 PUBLIC SQUARE
LANCASTER, KENTUCKY 40444

COMMONWEALTH OF KENTUCKY
OFFICE OF THE GARRARD COUNTY ATTORNEY

Testimony of Mark H. Metcalf delivered October 29, 2019 before the House Committee on the Judiciary, Subcommittee on Immigration and Citizenship Regarding the Impact of Current Immigration Policies on Service Members, Veterans, and their Families.

Madame Chair, Ms. Lofgren, Ranking Member, Mr. Buck, and distinguished Members:

Thank you for this opportunity to testify today. It is an honor. As a youth, I served in this, the finest deliberative body the world has ever known. I briefed bills and attended hearings for my boss and your colleague, Harold Rogers of Kentucky. I am a grateful son of this great Nation and this sacred Chamber.

I am a lieutenant colonel, a Soldier with 28 years' service, and a combat veteran of Iraq. I served at Victory Base Complex in Baghdad, as Garrison Command Judge-Advocate. My unit, the 149th Maneuver Enhancement Brigade (Combat Support), closed American operations in Iraq and did the handover of all military installations and non-tactical property to the Government of Iraq. It was a mission fraught with difficulty, danger, and unique challenges. We were at once warriors, diplomats, and police. Our patrols frequently took fire and insurgents routinely launched rockets into our cantonment. But it was all in a day's work. We suffered casualties, but thankfully, no killed-in-action. Serving side-by-side with their American-born counterparts were men and women from Jamaica, Cameroon, and Ukraine. All had earned their citizenship and all served bravely and honorably.

Thorough background checks were the rule for everyone. Many Soldiers possessed security clearances as their MOS (military occupation/specialty) coupled with their duty assignment required. Over the course of the mission, no one violated their clearance nor was anyone removed due to a security breach. In at least one case, a naturalized citizen served as a combat-arms, company commander. He was respected as demanding, tough, and fair. This brings me to those points I believe critical to good policy.

1. 180-Days Active Duty Service Requirement

In order to naturalize a Service Member under expedited naturalization provisions set out in the Immigration and Nationality Act, the DoD must certify honorable service. And that certification must be provided to U.S. Citizenship and Immigration Services as part of the naturalization application. Prior to late 2017, the Department of Defense allowed aliens to apply for naturalization during basic training – which only lasts a few weeks. Surely, this policy was conceived when manpower needs were more critical.

On October 13, 2017, DoD issued a memo aimed at preventing individuals from gaining U.S. Citizenship by enlisting in the Armed Forces and naturalizing before counterintelligence checks were completed. From the date of the memo forward those aliens enlisting in an active component must not have any pending disciplinary action or investigation, must have received favorable screening and suitability requirements, and have at least 180 days of active duty service, including successful completion of basic training.[1] This is consistent with prior DoD policy not to issue a characterization of service for any individual prior to 180 days. Reservists must complete basic training and then complete one year of service. Alien Service Members in a hazardous duty area must complete basic training and serve at least one day of active duty service in a location designated as a combat zone, qualified hazardous duty area, or area where service has been designated to be in direct support of a combat zone. An example of this would be a deployment to Kuwait serving a unit located in Iraq or Afghanistan. Service Members must have "served in a capacity, for a period of time, and in a manner that permits an informed determination that the Service Member has served honorably ..."

As stated, I agree with these policies. They make as certain as possible that military service by the foreign-born and the consequent American citizenship received are conferred upon those for whom no credible doubts about their suitability exists. The very least we can do for those Service Members, both native-born and foreign-born, who already serve is to assure that the new Soldiers who join them are those whose loyalty and mission readiness are above question.

2. Military Accessions Vital to the National Interest Program

The Military Accessions Vital to the National Interest (MAVNI) Program was envisioned as a valuable program for force readiness. Medical and language skills could be augmented through its application and through it some 10,400 foreign-nationals were enlisted. Regardless, MAVNI's obvious defects urged reassessment and reform.

Recruitment of Soldiers is as much as about national security as it is filling the ranks with capable warfighters. Generally, recruits from the U.S. have verifiable public and private records. Recruits from outside the U.S. frequently do not, making the need to scrutinize their histories all the more important. So that no worthy candidate is denied membership in our Armed Services and the consequent citizenship it brings, I favor approaches to scrutiny, already put in place by DOD. Recent Army experience with the MAVNI program justifies both this rigor and flexibility.

Separate reviews conducted by Army and DoD representatives in May 2016 found problems with the vetting of MAVNI personnel. Among their findings, they concluded (1) a number of individuals accessed into the military used fraudulent visas to attend universities that did not exist in the U.S., (2) other MAVNI recruits falsified transcripts from universities owned by a Foreign National Security Agency and a State Sponsored Intelligence Organization (notably, most of the university classmates of one MAVNI recruit later worked for the same State Sponsored Intelligence Organization), and (3) one MAVNI recruit who entered the U.S. on a student visa

[1] Memorandum for Secretaries of the Military Departments, Commandant of the Coast Guard Re: Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization (Oct 13, 2017), at 2, available at https://dod.defense.gov/Portals/1/Documents/pubs/Naturalization-Honorable-Service-Certification.pdf

professed support for the 9/11 terrorists and said he would voluntarily help China in a crisis situation.[2] In another instance, a MAVNI applicant failed to list foreign contacts from Eastern Europe and Russia, even though the recruit's father managed the military department of a foreign factory and his brother-in-law worked for a foreign political party. Altogether, these examples indicated insufficient vetting of MAVNI personnel, contrary to the goal of avoiding accessions of individuals who would constitute potential security threats.[3] More compelling instances also urge reform of this program.

Based on these security concerns, in 2016 Obama Administration officials implemented new procedures for those enlisting through MAVNI. Specifically. they required additional initial and ongoing screening and monitoring.[4] These officials finally determined to suspend enlisting new recruits under MAVNI following discovery of verified security risks from applicants who had entered the program.[5]

In fact, DoD revealed more than 20 recruits into MAVNI had been the subject of FBI or DoD counterintelligence or criminal investigations since 2013.[6] The case of Ji Chaoqun is one frightening example. Chaoqun was a Chinese national who enlisted in the U.S. Army Reserves as an E4/Specialist under MAVNI in May 2016. He was eventually charged with criminal failure to register as a foreign agent after discovery of his work for Chinese intelligence officers.[7] Ji never disclosed this relationship. Had he done so, he would not have been a MAVNI selection nor a valuable asset for Chinese espionage.

3. Veterans and Removal Proceedings

From FY2013 to FY2018, some 250 veterans were placed in removal proceedings after having been convicted of a criminal offense making them removable from the United States. Ninety-two were removed.[8]

Immigration and Customs Enforcement (ICE) adopted procedures for foreign national veterans who are subject to removal from the United States.[9] Beginning in 2004, ICE officers must obtain

---

[2] *MAVNI troops falsified records, were a security risk, DoD says.* Military Times, Tara Copp, July 17, 2018, www.militarytimes.com/news/your-military/2018/07/17/mavni-troops-falsified-records-were-security-risk-dod-says/

[3] *See generally* Declaration of Christopher P. Arendt in *Tiwari, et al. v. Mattis*, No. 2:17-cv-00242 (TSZ), United States District Court, Western District of Washington, Document 23-1.

[4] Memorandum from Under Secretary of Defense Re: Military Accessions Vital to the National Interest Pilot Program Extension (Sep. 30, 2016).

[5] Letter from Solicitor General Noel J. Francisco to Speaker Nancy Pelosi, *Tiwari v. Shanahan* (Apr. 12, 2019), available at https://www.justice.gov/oip/foia-library/osg-530d-letters/4_12_2019_tiwari_v_shanahan/download

[6] Baldor, Lolita. *Problems for Pentagon's immigrant recruit program*, Associated Press, (Sept. 30, 2018), available at https://www.apnews.com/84530d3799004a0a8c15b3d11058e030

[7] Criminal Complaint, *U.S. v. Ji Chaoqun*, 18 C.R. 611 (N.D. Ill Sept. 21, 2018), available at https://www.justice.gov/opa/press-release/file/1096411/download

[8] Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans, Government Accountability Office, June 2019 (GAO-19-416), available at https://www.gao.gov/assets/700/699549.pdf

[9] U.S. Immigration and Customs Enforcement, Acting Director of Investigations Marcy M. Forman, Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service (Jun. 21, 2004); U.S. Immigration and Customs Enforcement, Acting Director of

approval from the Special Agent-in-Charge or Field Office Director, and consider, at a minimum, whether the veteran's criminal history, rehabilitation, ties to the United States (family or financial), employment history, health, and community service in addition to duty status, assignment to a war zone, number of years in service, and decorations awarded. The ICE officials must substantiate in the veteran's alien file those grounds warranting removal. As an additional safeguard, the policy requires ICE to determine if the service Member became a U.S. citizen.[10]

Deportation of any person is a remedy only to be imposed when no other form of relief under the INA is available. Imposing deportation on veterans should only occur when those factors reviewed by ICE officials—*i.e.*, the veteran's overall criminal history, evidence of rehabilitation, family and financial ties to the United States, employment history, health, and community service in addition to duty status (active or reserve), assignment to a war zone, number of years in service, and decorations awarded—fail to present a case for leniency in light of a meritorious service record. I favor the swift removal of all alien violators pursuant to rule of law and that military service alone should not immunize them from deportation as in the case of any other non-citizen. But I do believe the deeper review of alien veterans' cases is justified by their prior service.

****

Threats to American national security are real. Our enemies seek all avenues of opportunity to inject into our institutions and among our military ranks agents who will compromise our strategic goals and tactical operations and sow counterfeit dissension into our political and military discourse. The value of the programs that recruit the foreign-born into the ranks of our Armed Forces must be seen in the wider context of serving the interests of the United States through combat readiness rather than as a means to advance an immigration agenda beyond those who stand to directly benefit from citizenship through service. Likewise, not applying our laws to those who have violated them creates a class of criminals immune to the punitive remedies of the INA based solely on military service rather than law-abiding conduct that both citizens and aliens are expected to observe.

I thank you again, Madam Chair, Ms. Lofgren, and you, Ranking Member, Mr. Buck, and the entire panel for your time and devoted efforts on behalf of our Nation. I will gladly answer any questions.

Respectfully submitted,

MARK H. METCALF

Detention and Removal Operations Victor Cerda, Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with United States Military Service (Sept. 3, 2004).

[10] U.S. Immigration and Customs Enforcement, ICE Directive 16001.2: Investigating the Potential U.S. Citizenship of Individuals Encountered by ICE (Nov. 10, 2015).

Mr. CORREA. Thank you, Mr. Metcalf, for your testimony.

And now I'd like to proceed under the 5-minute rule for questions, and I'll begin by recognizing myself.

First of all, Mr. Metcalf, you're absolutely right; this is not a Democrat or Republican issue. This is an issue about justice for all our veterans who have served their country, have put, essentially, their life on the line for our country.

And if I may respectfully ask the deported veterans, could you just please raise your hand, please, that are here today? I just want to thank you very much for your service to our country.

And my question is the basic one, Senor Barajas, which is: Why, when these soldiers are in the service, why do you not become citizens? Are those resources not given to you? Is that not an issue? Or were you promised automatic citizenship when you enlisted?

Mr. BARAJAS-VARELA. Thank you, Congressman, for that important question.

There's two things that happen. I think the government needs to be held accountable when they promise citizenship, and there needs to be some kind of program in place——

Mr. CORREA. When you say the government promise citizenship, what does that mean?

Mr. BARAJAS-VARELA. The recruiters.

Mr. CORREA. The recruiters promise——

Mr. BARAJAS-VARELA. They promise you citizenship. And, basically, one of the things that doesn't happen is nobody sits down with you and actually makes sure that you know what kind of forms needs to be filled out.

And, also, it's an individual responsibility, but definitely the U.S. Government needs to make sure that there is some kind of program in place, that they set aside either time or have somebody that can show you what path needs to be done.

Mr. CORREA. Thank you.

Ms. Stock, you mentioned the program they terminated, that when you graduate, you know, from training, in terms of putting you on a fast track to become a citizen, you said that problem has been canceled or suspended?

Ms. STOCK. The problem has been canceled. It's a problem that existed during World War I, World War II, the Korean War, the Vietnam War. It makes sense legally for the United States not to deploy people overseas when those people are not American citizens and they're fighting in our Armed Forces.

The background checks, by the way, that are done on military members are done before they enter the service, or they——

Mr. CORREA. Right.

Ms. STOCK [continuing]. Should be done before they enter the service.

Mr. CORREA. So let me ask you, is there a difference right now, quantifiable difference, if you're a Marine, Air Force, Army, in terms of level of citizenships that may—folks that may become citizens after they are discharged?

Ms. STOCK. Well, all of the services had basic training naturalization until January 2018, when it was canceled. So now we have chaos. And we have service——

Mr. CORREA. Can you be more specific, when you say "chaos"?

Ms. STOCK. Yes. Every day, I get a call from a green-card holder in the military who says, "Nobody will help me file for citizenship. I don't know how to file. I can't get anybody to sign my N–426. They're telling me I'm not eligible for citizenship. Nobody's willing to assist me."

Mr. CORREA. So when you mention it's harder for a green-card holder in the military than a green-card holder outside the military to become a citizen, how is that?

Ms. STOCK. Well, civilians don't need to go through convoluted, multiyear background checks by the Department of Defense before they become citizens. They don't need to get an N–426 certified. They don't need to find an officer in the rank of 06——

Mr. CORREA. And I asked you that because—I bet in my district—I bet I have the most Latino district in the country. These kids I know from my high schools that are residents don't ask, how hard is it going to be for me to become a citizen? They just enlist.

Ms. STOCK. That's true.

Mr. CORREA. Marine recruiters are in their high school, and these kids with honors say, "I'm going to sign up," and I don't think the thought of becoming a citizen is there. They're there to serve their country.

And this concerns me because we need to move ahead and revert back to that program that was just canceled to make sure that these soldiers that are serving with honor have the right to become a citizen and that right is a meaningful one.

Ms. STOCK. The program was highly successful——

Mr. CORREA. So where do we go here? Do we present some legislation, something that maybe my colleagues can also support us, to move in that direction?

Ms. STOCK. Well, the law allows programs like this to exist, and they were common, as I said. World War I, World War II, the Vietnam War, the Korean War, this was the standard practice of the United States Government.

It was only reversed by the Department of Defense through internal memos that undermined the express intent of Congress in a statute passed by Congress more than 100 years ago. We have here lawlessness by the Department of Defense. They're simply undermining a statute with internal executive memos.

Mr. CORREA. Judicial discretion, did you mention that?

Or was that you, Ms. Pasquarella? Did you mention that? Did the 1996 act take away some judicial discretion? I know Mr. Metcalf had a different perspective on that. Tell me.

Ms. PASQUARELLA. Yes. And that is one of the most troubling aspects of the 1996 changes that were made to the immigration law, that it removed all forms of judicial discretion for any person who has an aggravated felony and, again, expanded the definition of aggravated felony. So you have more people who are subject to deportation, even for misdemeanors, for things we don't classify as actual—as aggravated——

Mr. CORREA. I'm out of time, but I just want to say, in Orange County, we were the first—one of the first pioneers on creating veterans courts. I know these issues are very complex, so I look forward to working with you on this issue.

And now I'd like to recognize Mr. Biggs for 5 minutes of questions.

Mr. BIGGS. Thanks, Mr. Chairman.

I think we all understand that many of our veterans have struggled with reintegration due to TBI or PTSD issues. And that's why I've introduced a bill and a piece of legislation to advocate for—I advocate today for my colleagues across the aisle to join me to make access to HBOT therapy more available—that is—and more easily. It is coldhearted to withhold support for this important therapy for our veterans.

So when I see Mr. Barajas-Varela indicate that he was struggling to reintegrate, I don't think that's unusual for many of our servicemen and -women who come back. HBOT therapy is going to be helpful for that.

But you also said that there's no free pass and that deportation is a double punishment. Let me explain why that's not so. There's no free pass because you did serve the time for shooting at a vehicle. I mean, that was the charge, you were convicted, you served your time. It became a specific as well as a general deterrent.

You were later deported because of that because you were not a citizen. There's nobody else that would get an exception to that who is here because of any other rationale. They would still be deportable, as you were. And you left, were deported, and then you reentered illegally and were deported again. And I'm happy for you that you received a pardon and now you've received your citizenship.

But to say it's a double punishment is illogical. The first punishment for violating the crime—or committing the crime is the actual criminal sentence itself. The deportation is applicable to any person who's in the country that is not a citizen who is engaged in criminal conduct. That is not a second penalty. That is just—that's the penalty that comes for failing to obtain citizenship.

And I read your statement and listened to you testify. You might have had a misunderstanding of what you needed to do to obtain citizenship. That's fair. That's a fair comment.

But I also want to point out some data that I think is absolutely mind-boggling that it—this wasn't brought out. Ms. Pasquarella pointed out a person named Jose Segovia Benitez. And yet this individual—who was deported after being a combat veteran. This person was convicted of, among other things, corporal injury to a spouse, for which he received an 8-year sentence, assault with a deadly weapon, and false imprisonment.

Well, you know what? He didn't naturalize when he was in the military; thus, he is subject to deportability. That's the way the law works. That type of criminal conduct do constitute aggravated felonies. They aren't the misdemeanors that you said are a result of this expansion of the term "aggravated felonies."

We've also heard about the higher denial rate for U.S. military applications for citizenship. That rate is 17 percent. Overall it's 11 percent, but for military it's 17 percent.

But you need to understand you're talking apples and oranges here. Because from April 1 to June 30, 2019, there were only 2,353 pending military naturalization applications, compared to 683,000

civilian applications. USCIS had received 875 military applications, compared to 209,000 civilian applications.

So there are some interesting things when you manipulate statistics in the way that I heard here today.

GAO reviewed the cases involving 87 of the 92 veterans who were ultimately deported from 2013 through 2018. Eighteen of those veterans, 21 percent of the total, were convicted for sexually abusing a minor. Two others were convicted of sexual abuse. Twenty-one were convicted of a violent felony such as homicide, assault, or attempted homicide or assault. That's 24 percent of the total. Nine were deported for having been convicted of firearms- or explosives-related crimes.

And those cases that I'm talking about, over half of them were removals during the Obama administration and not under the Trump administration, as so many of you want to focus on.

So, Mr. Chairman, I ask unanimous consent to enter into the record the following documents: the Department of Justice press release from September 25, 2018, entitled, quote, "Chinese National Arrested for Allegedly Acting Within the United States as an Illegal Agent of the People's Republic of China," close quote, which summarizes the alleged facts surrounding the case of Ji Chaoqun, who enlisted in the U.S. Army through the MAVNI program and who was subsequently believed to be working at the direction of a high-level intelligence officer at the Chinese Ministry of State.

Also, the October 2017 Department of Defense memo specifying that the certification of honorable service may not take place until security checks are complete and at least 180 days of Active Duty service has been completed, demonstrating that DOD takes seriously its role in the naturalization of those who serve our country honorably.

And, three, USCIS publicly available web pages outlining, one, the process for naturalization through military service and, two, the military helpline number.

And I see my time has expired. Thank you, Mr. Chairman.

Mr. CORREA. Without objection, we'll receive that letter.

[The information follows:]

REP. BIGGS FOR THE RECORD

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE Tuesday, September 25, 2018

Chinese National Arrested for Allegedly Acting Within the United States as an Illegal Agent of the People's Republic of China

Ji Chaoqun, 27, a Chinese citizen residing in Chicago, was arrested in Chicago today for allegedly acting within the United States as an illegal agent of the People's Republic of China.

The arrest and complaint were announced by Assistant Attorney General for National Security John C. Demers, U.S. Attorney John R. Lausch, Jr. for the Northern District of Illinois, and Special Agent in Charge Jeffrey S. Sallet of the FBI's Chicago field office.

Ji worked at the direction of a high-level intelligence officer in the Jiangsu Province Ministry of State Security, a provincial department of the Ministry of State Security for the People's Republic of China, according to a criminal complaint and affidavit filed in U.S. District Court in Chicago. Ji was tasked with providing the intelligence officer with biographical information on eight individuals for possible recruitment by the JSSD, the complaint states. The individuals included Chinese nationals who were working as engineers and scientists in the United States, some of whom were U.S. defense contractors, according to the complaint.

The complaint charges Ji with one count of knowingly acting in the United States as an agent of a foreign government without prior notification to the Attorney General. He will make an initial court appearance today at 5:00 p.m. EDT (4:00 p.m. CDT) before U.S. Magistrate Judge Michael T. Mason in Courtroom 2266 of the Everett M. Dirksen U.S. Courthouse in Chicago.

According to the complaint, Ji was born in China and arrived in the United States in 2013 on an F1 Visa, for the purpose of studying electrical engineering at the Illinois Institute of Technology in Chicago. In 2016, Ji enlisted in the U.S. Army Reserves as an E4 Specialist under the Military Accessions Vital to the National Interest (MAVNI) program, which authorizes the U.S. Armed Forces to recruit certain legal aliens whose skills are considered vital to the national interest. In his application to participate in the MAVNI program, Ji specifically denied having had contact with a foreign government within the past seven years, the complaint states. In a subsequent interview with a U.S. Army officer, Ji again failed to disclose his relationship and contacts with the intelligence officer, the charge alleges.

A criminal complaint is merely an accusation. The defendant is presumed innocent unless and until proven guilty. The charge carries a maximum sentence of ten years in prison. The statutory maximum penalty is prescribed by Congress and is provided here for informational purposes only, as any sentencing of the defendant will be determined by the judge.

The U.S. Army 902nd Military Intelligence Group provided valuable assistance. The government's case is represented by Assistant U.S. Attorney Shoba Pillay of the Northern District of Illinois and Senior Trial Attorney Heather Schmidt of the National Security Division's Counterintelligence and Export Control Section.

Attachment(s):
Download 2018 09 25 Ji Complaint

Topic(s):
Counterintelligence and Export Control

Component(s):
National Security Division (NSD)
USAO - Illinois, Northern

Press Release Number:
18-1253

Updated September 25, 2018

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

OCT 13 2017

PERSONNEL AND READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
COMMANDANT OF THE COAST GUARD

SUBJECT: Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization

This memorandum provides formal guidance regarding the certification of honorable service of members of the Selected Reserve of the Ready Reserve and members of the active components of the military or naval forces of the United States for the purpose of supporting Service Member applications for naturalization under section 1440 of Title 8, U.S. Code.

This guidance is effective immediately.

Background:

Federal law affords certain Service Members a statutory exception to certain naturalization requirements otherwise applicable to them, providing a much-expedited path to U.S. citizenship. To qualify for this exception, a Service Member must serve honorably during a period that the President designates, by Executive Order, as one in which the Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force. By Executive Order 13269, dated July 3, 2002, the President designated the period of the war against terrorists of global reach, beginning September 11, 2001, as such a period. Accordingly, military service during this period may permit certain Service Members to avail themselves of a statutory exception. Once the Department of Defense certifies a member's service as honorable, the U.S. Citizenship and Immigration Services (USCIS) completes the citizenship process.

USCIS Form N-400, *Application for Naturalization,* initiates the naturalization process. USCIS Form N-426, Request for Certification of Military or Naval Service, is a necessary and indispensable part of the military naturalization application process. The USCIS Form N-426 records the determination of the Military Department as to whether a Service Member has served honorably. An individual seeking citizenship based on military service must submit a completed *original* USCIS Form N-426. Subject to, and in accordance with, the provisions in this memorandum, the Military Department concerned will determine whether a Service Member is serving or has served honorably, and as applicable, whether separation from such service was under honorable conditions. The Secretary of the Military Department concerned will make the certification. The Secretary may delegate this certification authority, in writing or by regulation, to a commissioned officer serving in the pay grade of O-6 or higher. None of the standards set forth herein as applicable to certifications of honorable service create or imply the creation of a residency or physical presence requirement for the purpose of naturalization pursuant to 8 U.S. Code § 1440.

SECTION I.

Standards and Procedures Applicable to Cases in which the Date of the Member's ***Enlistment or Accession was On or After the Date of this Memorandum.***

Upon receipt of a Service Member's "request for certification of honorable service" (N-426), the Secretary of the Military Department concerned may certify such service as honorable only if all of the following criteria are met:

1. Legal and Disciplinary Matters: The Service Member is not the subject of pending disciplinary action or pending adverse administrative action or proceeding, and is not the subject of a law enforcement or command investigation; **AND**

2. Background Investigation and Suitability Vetting: The Service Member has completed applicable screening and suitability requirements, as follows:

a. Persons enlisted or accessed under the Military Accessions Vital to the National Interest (MAVNI) Pilot Program are the subject of a completed National Intelligence Agency Check (NIAC); Tier 3 or Tier 5 Background Investigation, as applicable; counterintelligence-focused security review; counterintelligence interview; and a Military Service Suitability Determination (MSSD), favorably adjudicated in accordance with Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) memorandum of September 30, 2016, *Military Accessions Vital to the National Interest Pilot Program Extension*, and OUSD(P&R) memorandum of October 13, 2017, *Military Accessions Vital to the National Interest Pilot Program*; **OR**

b. Persons accessed under 10 U.S. Code §§ 504(b)(1)(B)[1] and (b)(1)(C)[2] who have met prescribed screening requirements set forth in Department of Defense Instruction 1304.26, "Qualification Standards for Enlistment, Appointment and Induction," and other applicable DoD or Military Department policy, and are the subject of a favorably adjudicated MSSD; **AND**

3. Military Training and Required Service: The Service Member has served in a capacity, for a period of time, and in a manner that permits an informed determination as to whether the member served honorably, as set forth below.

a. For Service Members in an Active Component:

- Successfully completed the basic training requirements of the armed force of which he/she is a member; **AND**
- Completed at least 180 consecutive days of active duty service, inclusive of the successful completion of basic training; **AND**
- The characterization of the member's service is honorable, as determined by the Secretary of the Military Department concerned.

[1] An alien lawfully admitted for permanent residence.
[2] Persons described in the Compact of Free Association between the Federated States of Micronesia and the United States; the Compact of Free Association between the Republic of the Marshall Islands and the United States; and the Compact of Free Association between Palau and the United States.

b. For Service Members in the Selected Reserve of the Ready Reserve:

- Successfully completed the basic training requirements of the armed force of which he/she is a member; **AND**
- Completed at least one year of satisfactory service towards non-regular retirement in accordance with Department of Defense Instruction 1215.07, "Service Credit for Non-Regular Retirement," as a member of the Selected Reserve, inclusive of the member's successful completion of basic training; **AND**
- The characterization of the member's service is honorable, as determined by the Secretary of the Military Department concerned.

c. For Service Members in an Active Component, or in the Selected Reserve of the Ready Reserve, who have served in an active duty status in a hazardous duty area:

- Successfully completed the basic training requirements of the armed force of which he/she is a member; **AND**
- Satisfactorily served at least one day of active duty service in a location designated as a combat zone, a qualified hazardous duty area, or an area where service in the area has been designated to be in direct support of a combat zone, and which also qualifies the member for hostile fire or imminent danger pay under sections 310 or 351(a)(1) or (3) of Title 37, U.S. Code; **AND**
- The characterization of the member's service is honorable, as determined by the Secretary of the Military Department concerned.

SECTION II.

Standards and Procedures Applicable to Cases in which the Date of the Member's ***Enlistment or Accession in either the Active or Reserve Component was Prior to the Date of this Memorandum.***

The Military Department concerned may certify such a Service Member's service as honorable for purposes of supporting the member's naturalization application only if all of the following criteria are met:

1. Legal and Disciplinary Matters: The Service Member is not the subject of pending disciplinary action or pending adverse administrative action or proceeding, and is not the subject of a law enforcement or command, investigation; **AND**

2. Background Investigation and Suitability Vetting: The Service Member has completed all applicable screening and suitability requirements as set forth in Section 1, paragraph 2 above; **AND**

3. Military Training and Required Service: The Service Member has served in a capacity, for a period of time, and in a manner that permits an informed determination that the member has served honorably as a member of the Selected Reserve of the Ready Reserve or member of an active component of a military or naval force of the United States, as determined by the Secretary of the Military Department concerned.

SECTION III.

Decertification and Recertification.
The Military Department concerned will recall and de-certify the Form N-426 for a Service Member described below:

1. The Service Member's accession was prior to the date of this memorandum; **AND**

2. The Service Member has submitted to the USCIS a complete application for naturalization that includes both a Form N-400 and a Form N-426, certifying the member's honorable service for purposes of naturalization, signed by a representative of the Military Department concerned, and USCIS has not adjudicated such application or, if USCIS has granted such application, the member has not yet naturalized; **AND**

3. The Service Member has ***not*** completed all applicable screening and suitability requirements as set forth in Section 1, paragraph 2 above.

The Military Department concerned will subsequently certify a new Form N-426 and advise the USCIS within five business days of the date on which the affected Service Member is determined to meet the criteria set forth in Section I, paragraph 2, above. The Service Member is responsible for submitting the new Form N-426 to USCIS in support of his/her application for naturalization.

SECTION IV.

Exceptions or Clarifications. Exceptions to, or clarifications of, the standards, policies, or procedures set forth in this memorandum, may be requested from the OUSD(P&R). A written response to a request for exception or clarification must be received in advance of any action by or for the requester that is not clearly in accord with the standards, policies, and procedures set forth herein.

A. M. Kurta
Performing the Duties of the Under Secretary of
Defense for Personnel and Readiness

cc:
Chairman of the Joint Chiefs of Staff
Under Secretary of Defense for Intelligence
Under Secretary of Defense for Personnel and Readiness
Chief of the National Guard Bureau
Assistant Secretary of the Army for
Manpower and Reserve Affairs
Assistant Secretary of the Navy for
Manpower and Reserve Affairs
Assistant Secretary of the Air Force for
Manpower and Reserve Affairs

U.S. Citizenship and Immigration Services

Naturalization Through Military Service

If you are serving or have served in the U.S. armed forces and are interested in becoming a U.S. citizen, you may be eligible to apply for naturalization under special provisions of the Immigration and Nationality Act (INA).

Eligibility

If you meet all of the requirements of either section 328 or 329 of the INA, you may apply for naturalization by filing Form N-400 under the section that applies to you. You will not have to pay any fees for applying for naturalization under INA 328 or 329. As a member or veteran of the U.S. military, certain other naturalization requirements may not apply to you; for example, if you are currently active duty you may not have to reside in or be physically present in the U.S. for any length of time before you apply for naturalization. The requirements for naturalization are explained in greater detail below.

One Year of Military Service During Peacetime

If you served honorably in the U.S. armed forces for at least one year during a period of peacetime, you may be eligible to apply for naturalization. While some general naturalization requirements apply under INA 328, other requirements may not apply or are reduced. To establish eligibility under INA 328, you must:

- Have served honorably, during a period of peacetime, in the U.S. armed forces for a period or periods totaling one year;
- Have submitted a completed Form N-426, Request for Certification of Military or Naval Service (PDF, 313 KB), at the time of filing the N-400 to demonstrate honorable service;
- Be a lawful permanent resident at the time of your naturalization interview;
- Meet certain residence and physical presence requirements;
- Demonstrate the ability to read, write, and speak English;
- Demonstrate knowledge of U.S. history and government;
- Demonstrate good moral character for at least five years before filing your N-400 through the day you naturalize; and
- Demonstrate an attachment to the principles of the U.S. Constitution.

For additional information on eligibility USCIS Policy Manual Volume 12, Part I - Military Members and Their Families.

Service During Periods of Hostility

INA 329 applies to all current military service members or veterans who served honorably in an active-duty status or in the Selected Reserve of the Ready Reserve during any of the designated periods of armed conflict listed below:

- Sept. 1, 1939 – Dec. 31, 1946

- June 25, 1950 – July 1, 1955
- Feb. 28, 1961 – Oct. 15, 1978
- Aug. 2, 1990 – April 11, 1991
- Sept. 11, 2001 – present

Applying for Naturalization

Many military installations have a designated USCIS liaison to help you with the naturalization application process. These liaisons are typically assigned to the installation's community service center. Place your request through your chain of command to obtain a certification of your honorable military service on Form N-426, Request for Certification of Military or Naval Service. If you have already separated from the U.S. armed forces, you may submit an uncertified Form N-426 with a photocopy of your DD Form 214, Certificate of Release or Discharge from Active Duty, or NGB Form 22, National Guard Report of Separation and Record of Service, for the applicable periods of service listed in Form N-426. Mail your completed application and all required materials to:

USCIS
P.O. Box 4446
Chicago, IL 60680-4446

We will review your application and conduct required security checks, which include obtaining your fingerprints. This can be done in one of the following ways:

- If you were fingerprinted for a previous immigration application, we will use these fingerprints, if available.
- If stationed abroad, you may submit two properly completed FD-258 fingerprint cards and two passport-style photos taken by the military police or officials with the Department of Homeland Security, U.S. embassy, or U.S. consulate.
- If you have questions regarding your biometrics, you can contact the Military Help Line at 877-CIS-4MIL (877-247-4645, TTY 800-877-8339) or militaryinfo@uscis.dhs.gov.

NOTE: To help you in the process, USCIS allows you to submit your fingerprints at an application support center before you file your Form N-400. Be sure to include your A-Number and show your unexpired military ID card or Delayed Entry Program ID card.

We will review your application and send it to a USCIS field office to schedule you for an interview. You can request an interview at a specific office in a cover letter attached to your application or leave the choice of location to us.

The field office will schedule your interview to review your eligibility for naturalization and test your knowledge of English and civics. If we find that you are eligible for naturalization, we will inform you of the date you can take the Oath of Allegiance and become a U.S. citizen.

Forms

You must complete and submit:

- N-400, Application for Naturalization
- N-426, Request for Certification of Military or Naval Service (The military must certify this form before you send it to USCIS unless you are separated from the military at the time you file your Form N-400. In that case, you may submit an uncertified Form N-426 with your DD Form 214 or NGB Form 22.)

Posthumous Citizenship for Military Members

Generally, individuals who served honorably in the U.S. armed forces and died as a result of injury or disease incurred while serving in an active-duty status during specified periods of military hostilities may be eligible for posthumous citizenship under section 329A of the INA.

You must file Form N-644, Application for Posthumous Citizenship, on behalf of the deceased service member within 2 years of their death. Upon approving the application, we will issue a Certificate of Citizenship in the name of the deceased veteran establishing posthumously that they were a U.S. citizen on the date they died.

Other provisions of the law extend immigration benefits to the service member's surviving spouse, children, and parents. For information, see the Family Based Survivor Benefits page.

Last Reviewed/Updated: 09/30/2019

U.S. Citizenship and Immigration Services

Military Help Line

We have established a toll-free military help line, 877-CIS-4MIL (877-247-4645, TTY 800-877-8339) and e-mail address at militaryinfo@uscis.dhs.gov exclusively for current members of the military and their families, as well as veterans. Our representatives are available to answer calls Monday through Friday from 8 a.m. to 4 p.m. Central, excluding federal holidays.

If you call after hours, you will receive an email address to contact us for help with immigration-related information, such as:

- Checking the status of your Form N-400, Application for Naturalization;
- Notifying us of a new mailing address or duty station;
- Obtaining posthumous citizenship for a deceased member of the U.S. armed forces; and
- Submitting an application for expedited processing of military N-400 and N-600 applications.

If you are a service member or an eligible family member stationed in the U.S. or overseas, you may also access the help line using the toll-free number through their base telephone operator or using the Defense Switched Network (DSN).

Operators will ask members of the general public to call our main service line available under the Contact Us link.

Last Reviewed/Updated: 09/30/2019

Mr. CORREA. I'd now like to call on our chairman, Mr. Nadler, for 5 minutes of questions.

Chairman NADLER. Thank you, Mr. Chairman.

Mr. Barajas, thank you for coming here and sharing your story. It appears stories like yours are all too common.

A June 2019 GAO report identified 250 veterans placed in removal proceedings from fiscal years 2013 through 2018 and at least 92 veterans who were deported. As I mentioned in my opening statement, many of these veterans have been removed from the United States as a result of transgressions tied to PTSD, brain injury, and other physical trauma suffered while on Active Duty.

How could the government, especially the Department of Defense, better inform military servicemembers and our Nation's veterans about their eligibility for naturalization?

Mr. BARAJAS-VARELA. Could you say that question again?

Chairman NADLER. How could the government, especially DOD, the Department of Defense, better inform military servicemembers and veterans about their eligibility for naturalization?

Mr. BARAJAS-VARELA. We need to have some kind of program in place, again, where they can explain the forms that need to be done or—that's my suggestion for that.

Chairman NADLER. Okay.

Now, Ms. Stock, let me turn to you. In your testimony today, you laid out how the Trump administration has made life more difficult for green-card holders who join the military and then apply for naturalization.

Were military servicemembers and/or immigration attorneys working on military naturalizations informed about these changes ahead of time or able to provide any input before the changes were implemented?

Ms. STOCK. No, they were not.

Chairman NADLER. Was there any outreach?

Ms. STOCK. No. And there was no cost-benefit analysis.

Chairman NADLER. That was my next question. There's no cost-benefit analysis to support this with the——

Ms. STOCK. None. In fact, the services have pushed back at the requirements because they say they're unreasonable and they're making it hard to recruit people.

Chairman NADLER. They've pushed back on the requirements that DOD has imposed.

Ms. STOCK. Against DOD. The services have sent emails to DOD saying they don't agree with these new requirements.

Chairman NADLER. So this didn't come from the services; it came from DOD upper levels.

Ms. STOCK. It came from DOD, which did not do any cost-benefit analysis. There was no congressional hearing, no discussion about it externally with stakeholders, no cost-benefit analysis on the impact it was going to have on the force or on military recruiting.

Chairman NADLER. Was there a process in place for LPRs serving in the military to have their Form N–426, the Request for Certification of Military or Naval Service, which is essential to the naturalization process, signed by the proper authorities, as required by the October 13, 2017, DOD policy changes?

Ms. STOCK. They put out the memo, but they didn't do anything to educate people generally about what should be done. There was kind of haphazard memos put out that didn't reach to the lowest levels. In fact, if you talk to recruiters today, they'll still tell you that, oh, soldiers can be naturalized at basic training. They don't even realize things have changed.

People are told that it's easy to get your N–426 certified but you have to wait till you get to your first unit. And then when you get there, you can't find anybody who will certify it, because there's no public education effort to tell people how to get it certified.

Chairman NADLER. From your experience, what's the average time it takes for a servicemember to receive a response to a request for certification of honorable service once they complete the N–426?

Ms. STOCK. It's taking months, the exception being that if they email it to me, I have a special email and I can send it to somebody who will get one signed in a couple of weeks if you're in the Army.

Chairman NADLER. A couple of weeks.

Ms. STOCK. But it's only if you know enough to email me your N-246 that that happens.

Chairman NADLER. And if you don't, it takes months.

Ms. STOCK. It can take months. The forms are getting lost. People just never hear back after they submit them.

Chairman NADLER. Now, what signal do you think that these DOD policy changes send to LPRs who are thinking about joining the military, and what signal do they send to LPRs currently serving in the military or who are veterans?

Ms. STOCK. Unfortunately, they send a signal that their service is not valued, that they are not welcome in the military. And they also send a signal that they should not join the military until after they get their citizenship, because they're going to face a very long haul to get their citizenship if they try to do it after joining the military.

Chairman NADLER. And what DOD or USCIS support services are available to servicemembers seeking citizenship while in the military?

Ms. STOCK. There used to be very strong services because the basic training naturalization sites had teams that were dedicated to handling military cases on each of the basic training sites throughout the country. Those have been dismantled, so now it's rather ad hoc. There is a military helpline you can call, but you often get wrong information when you call the military helpline.

Chairman NADLER. So, in other words, the bureaucratic requirements are increased, and the resources were decreased at the same time.

Ms. STOCK. That's correct.

Chairman NADLER. Now, from your experience, what's the average length of time it takes to process a military naturalization application?

Ms. STOCK. It used to only take a few months when they had basic training naturalization in place. Now, in many cases, it's taking upwards of a year or 2 or sometimes 3 or 4 years.

Chairman NADLER. And USCIS plans on closing most of its international field offices and consolidated overseas military naturalization—consolidating them into four hubs. I think they had 26 field

offices; they're now going down to 4 hubs. How will these changes impact servicemembers and their families who are seeking citizenship while stationed abroad?

Ms. STOCK. Those closures will make it much harder for individuals to get United States citizenship.

Chairman NADLER. And one more question. How can we stop the deportations of military veterans?

Ms. STOCK. Restore basic training naturalization. We will not have any deported vets if everyone gets naturalized before they leave the military.

And I should point out that Congress put an important safeguard in the law allowing expedited naturalization. The law says that if you don't serve honorably for a period or periods aggregating 5 years, you can lose your citizenship that you gained through military service.

So there is no reason for these misguided policies, because the legal means already is in the law to take care of anybody who's a bad actor and misbehaves after they get their citizenship.

Chairman NADLER. No reason other than ill will. I thank you.

I yield back.

Mr. CORREA. Thank you, Mr. Chairman.

I'll recognize Mr. Buck, the ranking member, for 5 minutes of questions.

Mr. BUCK. Thank you.

Ms. Stock, do you have a security clearance currently?

Ms. STOCK. Currently? No. I'm retired.

Mr. BUCK. Do you have any access to classified information that was involved in making the decisions about who would receive—which veterans would receive citizenship?

Ms. STOCK. I only reviewed unclassified summaries.

Mr. BUCK. And would you be surprised to know that there were thousands of folks who for classified reasons were not allowed to receive citizenship because they had ties to foreign countries?

Ms. STOCK. That's not correct.

Mr. BUCK. You don't believe that?

Ms. STOCK. No. The citizenship applications are actually not classified, so——

Mr. BUCK. No, it's classified information as to why they did not receive citizenship.

Ms. STOCK. It's not classified. They give you a written decision telling you why you're being denied citizenship.

Mr. BUCK. And so you believe that if someone has ties to China, to Chinese intelligence services, that there will be a public statement identifying that person as having ties to Chinese intelligence services. Is that what you're saying?

Ms. STOCK. No. What I'm saying is, when you go through the naturalization process, you have to complete a form, you have an interview, and if you're denied naturalization, you are given a written statement in writing explaining why you're denied naturalization.

Mr. BUCK. And that written statement in writing may not include the reasons for—the classified reasons for you not to be given that privilege of becoming a U.S. citizen.

Ms. STOCK. No, they will tell you directly why you're being denied.

Mr. BUCK. So, seriously, you're saying here today that a top-secret relationship—a top-secret information that has been developed during the Obama administration, by the way, that identifies an individual as having a relationship with a Chinese intelligence service, that that is going to be identified in a public document. That's what you're saying?

Ms. STOCK. No, that's not what I'm saying, Congressman. What I'm saying is, when you apply for citizenship, there is a form that asks you questions, including things like, you know, whether you've done this, that, or the other thing, and you have to answer those questions under oath. And if you lie under oath, they will deny you naturalization, and they will say, "We're denying you naturalization because you lied to us and said X, and X wasn't true."

It's given to the individual. They don't need to rely on classified information, and they don't.

Mr. BUCK. Well, they certainly have access to classified information when they make a decision about whether to grant someone citizenship or not.

Ms. STOCK. They don't normally, no.

Mr. BUCK. The Department of Defense doesn't have access to classified information?

Ms. STOCK. The Department of Defense doesn't naturalize people. It's DHS.

Mr. BUCK. I understand, but——

Ms. STOCK. It's the United States Citizenship and Immigration Services.

Mr. BUCK [continuing]. One agency of the government will work with another agency of the government to determine whether someone has a relationship that would be threatening to this government.

Ms. STOCK. Interestingly, DOD doesn't pass that information along to USCIS. This came out in a court proceeding recently, that DOD, if they have that information, they don't give it to USCIS anyway.

Mr. BUCK. Okay. So——

Ms. STOCK. But the naturalization proceeding is not classified.

Mr. BUCK. So it's your understanding that no one has been denied a—no veteran has been denied citizenship based on a relationship with a foreign intelligence service.

Ms. STOCK. Well, I think the case that was raised earlier, Chaoqun Ji, he was never naturalized.

Mr. BUCK. But that's not my question. My question is, your understanding is that there has never been an individual denied citizenship—a veteran denied citizenship as a result of relationship with a foreign intelligence service.

Ms. STOCK. I can't answer that because the country's been fighting wars since 1775 and I don't know every single case of somebody being denied citizenship for more than 200 years.

But I do know that the concerns about national security that have been raised regarding the MAVNI program are overblown. And that was proven in a court case in Seattle where the Department of Defense came into court and presented the facts to the

judge and the judge dismissed these concerns and said they were not valid.

Mr. BUCK. Well, let's get to a real simple question. Would you be in favor of naturalizing an individual—or for an individual to become a naturalized citizen if that individual had a relationship with a foreign intelligence service?

Ms. STOCK. Well, I'm not sure what you mean by a relationship with a foreign intelligence service, but——

Mr. BUCK. How about they worked for and received money from a foreign intelligence service to provide information about the United States of America?

Ms. STOCK. If the individual was a spy and they failed to reveal that information in their naturalization application and they got naturalized by accident, they could be denaturalized as soon as the government found out that information. They could be prosecuted and deported. And I'm certainly in favor of that.

Mr. BUCK. Again, that isn't my question. My question is, would you be in favor of naturalizing that person?

Ms. STOCK. I'm not in favor of naturalizing anybody who doesn't meet the requirements to become an American citizen, and certainly a foreign spy does not meet the requirements to become an American citizen.

Mr. BUCK. I appreciate the answer. Thank you very much.

I yield back.

Mr. CORREA. Thank you.

Ms. Jayapal, you're recognized for 5 minutes, ma'am.

Ms. JAYAPAL. Thank you, Mr. Chairman.

And I thank the witnesses for being here.

The U.S. military has long relied on immigrants to protect our country. Within the United States, we have 2.4 million veterans with immigrant ties. But we also rely on assistance from foreign nationals abroad, including in Afghanistan and Iraq.

In January of 2006, Congress created a Special Immigrant Visa, or an SIV, to provide a path to safety in the United States for Iraqi and Afghani translators who worked for the U.S. military and are subsequently facing danger. This is simple common sense, in my view. When people put their lives on the lines to defend our country, the only right thing to do is make sure that they and their families are protected.

For over a year now, I have worked with Congressman Raskin and a number of Republican offices to advocate for a gentleman that I will call Muhammad Kamran, a translator who worked with the U.S. military and several national and international agencies for nearly a decade in Afghanistan.

Ms. Stock, in your experience as a lieutenant colonel in the Military Police Corps and U.S. Army Reserve, would you agree that the assistance of native translators in countries like Afghanistan and Iraq have been critical to U.S. military operations in those countries?

Ms. STOCK. Yes, they're absolutely critical.

Ms. JAYAPAL. And what it is that makes them so critical?

Ms. STOCK. We can't operate in those countries effectively if we don't have people by our side who speak the local language and understand the local culture.

Ms. JAYAPAL. And what level of danger are those translators putting themselves in when they agree to do that job?

Ms. STOCK. They're putting themselves in extreme danger. Many of them have been killed, their family members have been murdered because they've sided with the United States in a conflict overseas.

Ms. JAYAPAL. Unsurprisingly, people like Mr. Kamran face persecution and retaliation, as you mentioned, due to their service. In fact, Mr. Kamran and his family have faced persistent persecution, including assassination threats from the Taliban. Just 1 week ago, Mr. Kamran was arrested by military police, and there's a possibility that he will be disappeared. And yet State has denied Mr. Kamran's application on a, quote, "discretionary basis."

His case is part of a larger trend. State Department data shows a 60-percent drop in SIVs issued to Afghanis. The drop among Iraqis is even worse, from 2,500 in 2017 to 181 in 2019, a drop of over 90 percent.

Ms. Stock, in your opinion, what is causing these delays and drops in admission?

Ms. STOCK. A lot of it is fear on the part of the bureaucrats who are supposed to be conducting background checks on these individuals. They're afraid to approve anyone.

And it's also a lack of resources and a lack of attention by the leadership, who doesn't seem to want to focus on the essential process of saving folks who put their lives on the line for America.

Ms. JAYAPAL. How do we improve those programs to ensure access to safety for our Iraqi and Afghani allies under the SIV program?

Ms. STOCK. Well, Congress did pass a statute that set a deadline, but unfortunately the bureaucracy is ignoring the deadline. So I think Congress needs to provide strong oversight to ensure that those statutes are followed.

Ms. JAYAPAL. And what does the vetting process currently look like for SIV applicants? They've already been vetted to serve alongside our troops. Isn't that quite a bit of heavy vetting that has already been done for these individuals?

Ms. STOCK. They're already heavily vetted. And they have huge files filled with testimonials about their loyal service to the United States, sometimes over a period of many, many years. It's unclear what exactly is going on in the subsequent vetting that seems to take years and years. From what I can tell, most of it is simply a file being put on a shelf and nothing happening.

Ms. JAYAPAL. And beyond the immediate humanitarian concerns to protect those who have risked their lives for us, another thing that concerns me is the message that we're sending to potential future allies.

So how does this failure to protect these people impact our national security interests and the ability of our troops to safely do their jobs in Iraq and Afghanistan today?

Ms. STOCK. It's quite bad. The people who are potentially out there that might be willing to help us in the future are going to turn and look at how Muhammad was treated and say, "I don't want to take a chance. I'm not going to help you next time."

Ms. JAYAPAL. Mr. Chairman, the treatment of people who have put their lives on the line defending our country is just unacceptable. Whether it's immigrants living here who have signed up to protect our country or people abroad who have done so despite significant threats to their and their families' lives, it is our duty to stand alongside these communities and demand justice.

I thank you for holding this hearing, and I yield back.

Mr. CORREA. Thank you, Ms. Jayapal. I fully agree with you.

And now I'd like to call on Ms. Garcia from the good State of Texas.

Ms. GARCIA. Thank you, Mr. Chairman. And thank you for convening this hearing on this very important topic. I know that this is something that many of us in Texas are very concerned about.

Over 20 percent of people who have been awarded the Medal of Honor were not born in the United States. My State of Texas is home to both the second-highest number of noncitizens and the second-highest number of veterans in the Nation. Therefore, Texas is home to a high number of noncitizen veterans, making this topic especially important to many of us, particularly many of my constituents.

According to a 2017 report from the National Immigration Forum, about 40,000 immigrants currently serve in the Armed Forces and about 5,000 noncitizens enlist each year.

We must not forget the people behind these numbers, like Mr. Frank de la Cruz, who came to the United States as a young boy with his family in 1978 and settled in Texas. De la Cruz graduated from high school and joined the Navy, as he says, out of pride for his country. Following an honorable discharge, de la Cruz went on to serve in the Army National Guard. He also worked at his local Department of Veterans Affairs office.

While serving in the Navy during the Persian Gulf War, de la Cruz and the ship crew would do what many do when they would dock: They would go out drinking, perhaps using it as a way to cope with their anxiety about the war.

Later in life, unfortunately, he was convicted of a DWI. He was unable to afford an attorney. He was deported back to Mexico. When his wife asked him why he can't adjust to life in Mexico, de la Cruz responds simply with, "This isn't my life."

It is true that immigrants are often the most patriotic Americans, as they have experienced different places and are able to truly appreciate the contrast of how wonderful it is to live in the United States.

As has been noted, noncitizens have in fact joined the Armed Services since the Revolutionary War and, since then, have likewise joined ranks and fought alongside their citizen counterparts during every major conflict, from World War—not "World War," but War of 1812 to the current conflicts in the Middle East.

So I thank our witness here today who speaks for the veterans that have been deported and all those that join him today. Muchisimas gracias.

And I begin my question with you, sir, Mr. Barajas. You said that you don't really get the details about the process. Do you get any legal assistance?

Mr. BARAJAS-VARELA. Unfortunately, when I was in the military, there was—actually, there was. There was, I believe, JAG that you could go through. But, again, there was nobody that really directed me towards the path. And then a failure on my part. But I really think that we need to make sure either our squad leaders or somebody at some point, you know, makes sure that that happens.

Ms. GARCIA. But do you know if they get legal assistance now?

Mr. BARAJAS-VARELA. I'm not sure what the—what it is right now, if there's JAG or some kind of department that the military has. I've been out for almost 20 years.

Ms. GARCIA. All right.

Well, my colleague, Congressman Vicente Gonzalez, also a Texan, introduced the Repatriate Our Patriots Act, a simple bill that would allow special veterans a path to citizenship. These special veterans include those individuals who are honorably discharged from the Armed Forces, have not been convicted of a voluntary manslaughter, murder, rape, sexual abuse of a minor, or any offense related to terrorism.

Do you support passage of this bill?

Mr. BARAJAS-VARELA. Yes.

Ms. GARCIA. That's good.

Do you, Ms.—is it "Baquelera"?

Ms. PASQUARELLA. Thank you. "Pasquarella."

Ms. GARCIA. "Pasquarella." Okay. I didn't need Spanish for that.

Ms. PASQUARELLA. I have not reviewed the bill, so I can't give you an affirmative "yes" or "no," but it sounds like something I'd support.

Ms. GARCIA. Right.

And there was something said by one of my colleagues about how this wasn't really double punishment, but I'm going to read straight out of "The Land of the Free, No Home to the Brave." It's a report from the Texas Civil Rights Project, which I'd like to be entered into the record. I ask for unanimous consent.

Mr. CORREA. Without objection.

[The information follows:]

REP. GARCIA FOR THE RECORD

Texas Civil Rights Project Report entitled, "Land of The Free, No Home to the Brave: A Report on the Social, Economic, and Moral Cost of Deporting Veterans"— https://docs.house.gov/meetings/JU/JU01/20191029/110150/HHRG-116-JU01-20191029-SD014.pdf

Ms. GARCIA. And it says noncitizens have, in fact, joined the Armed Forces, and it says that it really is a double punishment, because you do go through the criminal justice system and you are convicted; then that conviction then is used to deport you, and then you're deported. So it's double punishment.

And he said—I forget what my colleague said, but he said that there was no logic to that. And do you agree or disagree that that is double punishment? You, ma'am.

Ms. PASQUARELLA. Thank you. Absolutely agree. It is 100 percent double punishment. People serve their time in criminal custody, they pay the price for that crime, and they should go home, the same way that citizen veterans go home. Instead, they face lifetime banishment. It's as if they're serving a life sentence, because they can't be with their families, they can't be with everything they know in life, which is here in the United States.

Ms. GARCIA. Thank you.

I yield back, Mr. Chairman.

Mr. CORREA. I thank you very much.

And now I'd like to call on Mr. Neguse from the State of Colorado.

Mr. NEGUSE. Thank you, Mr. Chair, and thank you for hosting this important hearing.

Also, I want to start by thanking our veterans in the room for your bravery and service to our country. It is thanks to you and others fighting for our country's security that we can be here today.

As has been said by many of my colleagues, under this administration, in my view, immigrants have been under constant attack, including those fighting for our freedom.

Immigrants have served in the U.S. military since the Revolutionary War and continue to serve today. Most are lawful permanent residents. About 511,000 foreign-born veterans are residing in the U.S. and represent 3 percent of the total veteran population of 18.8 million.

They fill vital roles in the military when there are not enough U.S. citizen recruits. For example, certain nationals of Iraq and Afghanistan, as has been mentioned, serve as translators or interpreters. They would be allowed to apply for LPR status through a Special Immigrant Visa, but their applications are being delayed, which can make them at risk of being targeted for assisting the U.S.

The changes in numerous policies are atrocious and hurting veterans and their families. They have made it harder for military servicemembers to naturalize, for their families to adjust status, and to receive protection for deportation.

Instead, in my view, we should be focusing on ensuring that veterans receive the medical care they earned, as well as help them with their immigration cases.

The U.S. Immigration and Customs Enforcement have policies that require them to take additional steps when handling cases of potentially removable noncitizen veterans. However, a report by the U.S. GAO found that agencies were unaware of the policies in place for veterans in removal proceedings.

It is beyond disheartening to hear that our veterans are not being given the appropriate level of review on their immigration

cases. And let us be clear: It is un-American to deport immigrants fighting for our safety and our freedom. We should not leave them to feel abandoned and to feel hopeless.

Mr. Hector Barajas-Varela, I want to first thank you for your service to our country.

Mr. BARAJAS-VARELA. Thank you.

Mr. NEGUSE. You chose to enlist in the Army at age 17. You served for 5 years, and you earned an honorable discharge in 2001. As a veteran and as a green-card holder, you lacked the protection of citizenship, and you were deported after serving time for a criminal charge after discharge.

Could you please walk us through how this may have been different if you would have received guidance from the U.S. military on how to apply for citizenship, either during or after your service to this country?

Mr. BARAJAS-VARELA. I firmly believe that if, you know, my squad leader would have sat me down and—you know, some people say that we shouldn't hold your hands to, you know—that we're not there to hold your hands. But, literally, we're there to show you how to march; we make sure that your power of attorney is done. So why not make sure we sit down with our soldiers and make sure that that's taken care of so before they go off to Afghanistan or Vietnam that they're already U.S. citizens?

So it's very important to take care of our soldiers.

Mr. NEGUSE. Thank you.

Lieutenant Colonel Stock, thank you for your service as well, and thank you for being here today.

In your testimony, I believe—certainly in your written testimony, which I reviewed, but I suspect in your oral testimony as well, you mentioned that the Department of Defense issued two significant policy changes on October 13, 2017, that made it harder for military servicemembers to naturalize.

From your experience, what is the average time that it takes for a servicemember to receive a response to a request for certification of honorable service once they complete their USCIS Form N–426?

Ms. STOCK. As I mentioned earlier, it varies dramatically, but right now—sometimes they don't get a response at all, but it's taking many, many months since the policy change.

It used to happen in a matter of minutes. You could walk into your local military personnel office, hand them the one-page form and say, could you please certify that I'm serving honorably? A clerk would look up your record on the system, and you would get an officer signing your form almost immediately. But now it's taking months and months.

Mr. NEGUSE. A matter of minutes——

Ms. STOCK. Previously.

Mr. NEGUSE [continuing]. To, now, a matter of months, to potentially never receiving an answer.

Ms. STOCK. A lot of people tell me they never get an answer. They send the form in, and they never hear anything.

Mr. NEGUSE. What message does that send to LPRs who are thinking about joining the military?

Ms. STOCK. It sends a terrible message. And it's one of the reasons why a lot of LPRs are now contacting me and telling me

they've decided not to join the military. They're going to wait until they get their citizenship as a civilian, which takes less than 6 months right now in many parts of the country.

They can file electronically if they're civilians. They can't do that if they're in the military. They have to send a paper packet in to Chicago through the mail, which gets lost. Military people are often told their packet's been lost.

I was in Sacramento a few weeks ago with a green-card holder who had finished all his training, was supposedly eligible for citizenship. He walked into the building for his naturalization interview, and the officer said, "I'm sorry your lawyer flew here several thousand miles to be with you today, but we can't find your packet in the building. It was barcoded into the building, and we've lost it. And we'll let you know when we find it." We have not heard from them ever since.

Mr. NEGUSE. Thank you, Lieutenant Colonel. And the stories you share today are stories we certainly need to hear, and I hope that the administration is listening.

And thank you, Mr. Chairman.

Mr. CORREA. Thank you, Mr. Neguse.

Now I'd like to call on Ms. Mucarsel-Powell from Florida.

Ms. MUCARSEL-POWELL. Thank you, Mr. Chairman.

And thank you, for all the witnesses, for being here this afternoon and sharing your stories.

Florida is home to one of the largest veteran populations in the country. We actually have the third-largest population of veterans in Florida in the country, around 1.5 million who live there. My district is also home to some veterans that have been waiting for the naturalization process.

And one of the things that I just want to make very clear is that, for those members that have served our country, several of you here today, we owe you our deepest respect and our gratitude. But I also hear from servicemembers and veterans about the stress that serving our country puts on their families and their children. Servicemembers sacrifice a great deal, and so do their loved ones. We should not be making the lives of servicemembers, veterans, and their families any harder.

Our men and women in uniform put their lives on the line and have earned the privilege to live and work in our country. And I am a naturalized citizen myself, and I know how arduous the process is to become a legal U.S. citizen. But if we're asking our servicemembers to put their lives on the line to fight for our freedom, we need to make sure that the naturalization process is much easier for them.

But, under this administration, we've seen that the number of military naturalizations has declined by 44 percent, almost half. And it's just unacceptable. We should not be making it more difficult for honorable members of our military service to naturalize.

And my first question: Ms. Stock, can you explain to us why those numbers have dropped significantly in these past 2 years?

Ms. STOCK. Well, they've dropped for a couple of reasons. One is DOD has made it harder for green-card holders to join the military. Second—and if you don't join, you can't apply for naturalization.

Second, they've made it harder for them to get the form signed that they need in order to apply. And you can't apply without this form, and if you can't get it signed, then you're not eligible to apply.

And then they've made it more difficult to get citizenship. They're applying different standards to military people that are inappropriate.

An example is a woman who's sitting in the audience today, Yea Ji Sea. She was wrongly denied naturalization by U.S. Citizenship and Immigration Services. They denied her application while she was serving on Active Duty in the military. She then reapplied for naturalization. She was discharged from the military and approved for naturalization after the ACLU took her case and filed a lawsuit against the government.

So we have a case of somebody serving honorably on Active Duty who gets wrongly denied citizenship; she leaves Active Duty and is approved for citizenship. This makes no sense.

Ms. MUCARSEL-POWELL. And I'm assuming she wasn't a Chinese spy.

Ms. STOCK. Well, I think she's from South Korea.

Ms. MUCARSEL-POWELL. Oh. Okay.

But was there a reason given to her when she was serving that her citizenship was denied?

Ms. STOCK. Yes. They said she lacked good moral character. She was serving honorably on Active Duty, and she was told that she lacked good moral character.

This is a catchall term they use when they have come up with some excuse for you're in the military and we don't think you should be a citizen, so we're going to accuse you of lacking good moral character.

Ms. MUCARSEL-POWELL. Okay. Well, it seems like a lot of these changes in these procedures are just cruel, without an explanation to that. So what's the purpose of changing this policy, do you think?

Ms. STOCK. As I said earlier, it's driven by xenophobia.

Ms. MUCARSEL-POWELL. And how—can you prove that to us right now?

Ms. STOCK. I can prove it.

Ms. MUCARSEL-POWELL. Can you give us——

Ms. STOCK. In fact, I'm hoping——

Ms. MUCARSEL-POWELL [continuing]. Some clear evidence of that?

Ms. STOCK. I can prove it.

Ms. MUCARSEL-POWELL. Because I don't think my colleagues sometimes understand that that exists in this country.

Ms. STOCK. It does exist. And I can prove it by directing the distinguished members of the subcommittee to start taking a look at some of the so-called background checks that DOD is doing on immigrants who join the military. They are laughable and bizarre.

And they say things like, you have a relative who served in the South Korean military; therefore, this is derogatory information and requires your discharge from the military, making you ineligible for American citizenship. They say things like, your parents are from a foreign country; that's derogatory information.

Now, of course, DOD, when these individuals got recruited, knew they were immigrants. By definition, all of their parents are foreign.

Ms. MUCARSEL-POWELL. Yeah.

Ms. STOCK. If their parents were citizens, they wouldn't be immigrants. And yet they're being told that this is derogatory information requiring their discharge from the military.

Ms. MUCARSEL-POWELL. Thank you, Ms. Stock.

One last question. I want to ask you, if you could, speak a little bit about what just happened with the USCIS decision to no longer consider children of military servicemembers and other government employees as residing in the U.S., for purposes of acquiring U.S. citizenship. So kids that are born outside of the United States but their parents are U.S. citizens are now being denied U.S. citizenship.

Can you talk briefly about that? I'm very concerned about this new rule.

Ms. Stock. Yes. This was not something that the agency warned anybody about ahead of time, although I'm told internally within DOD they floated it, but they didn't float it with anybody who understood immigration law. If they had floated it ahead of time, they would've learned that lots and lots of children were going to be affected by this. But because the agency doesn't understand immigration law, they didn't realize -- they claimed there were only 25 children affected, when that's not true.

So what happened was they said basically they're going to punish people who choose to be stationed overseas or who are sent overseas. If they lived in the U.S., their kids would automatically get citizenship, but because they're not living in the U.S., the kids are not going to get automatic citizenship, and the parents are going to have to file convoluted and expensive applications to get them recognized as citizens.

Ms. MUCARSEL-POWELL. And this is for kids of servicemembers who are American citizens.

Thank you. I've run out of time. Thank you so much.

Ms. STOCK. That's correct.

Mr. CORREA. Thank you very much.

I'd like to call on Ms. Escobar from the good State of Texas.

Ms. ESCOBAR. Thank you, Mr. Chairman. And thank you for having this very important hearing today.

Many thanks to our witnesses. Really appreciate the time that you've spent helping educate this subcommittee on these issues.

I want to thank the veterans and their families who are in the audience, who flew all the way to Washington, D.C., to make sure that it wasn't just your voices that were heard but the voices that you bring with you of all veterans who have had to endure, really, the trauma that you all have endured after having served our country and protected our Nation.

Thank you for your service. And please share my gratitude and the gratitude that so many of us have with your fellow servicemembers who have had to endure the same kind of trauma. Please tell them we're grateful for their service.

I represent El Paso, Texas, which is a great, safe, secure community on the U.S.-Mexico border, which is also a home to Fort Bliss,

one of the most important military installations in the country. And so, many of these issues, for me—El Paso is an intersection of those issues, of immigration and, really, the attacks on migrants that we've seen under this administration, but also trying to uplift and support veterans and military personnel.

And it is—really, it's been very difficult to watch how our country has turned our backs not just on allies but turned our backs on servicemembers who have fought honorably for our country. And, yes, this is a double punishment; there is absolutely no doubt.

You know, I just—I want to remind some of my colleagues that we seem to have come a long way in recognizing how veterans, after they have served honorably, face these really incredible challenges reentering into communities after—especially after being in-theater and serving in war. And so we go the extra step. We've created veterans services programs. We've created specialty courts for veterans convicted or being tried for DWI or for drug-related offenses so that we can be there for veterans who have been there for us. But it's a different story when the veteran is an immigrant, it appears.

Ms. STOCK, you mentioned something that I kind of—I want to touch a little bit on. You mentioned the DOD background checks. And you said some really interesting things about the challenges with those DOD background checks.

Is there an appeals process for personnel who want to appeal some of the things that you outlined when Ms. Mucarsel-Powell was questioning you?

Ms. STOCK. There wasn't until some of the immigrants filed a lawsuit, and now there's a lawsuit pending in the District Court for the District of Columbia. The Army, in response to the lawsuit, has decided to institute some sort of process, due process. Because the immigrants were being kicked out of the military without being told why they were being kicked out, and now the Army has agreed that it will provide some due process.

And, again, if you look at these backgrounds checks, they're not—they don't have anything to do with citizenship eligibility. The military is applying the top-secret adjudicative guidelines to immigrants, and the top-secret adjudicative guidelines say that anything foreign is derogatory.

So it's a mismatch and a mistake to apply those adjudicative guidelines to determine whether an immigrant is eligible to serve in the military. It causes massive failure rates of the background checks, because all the immigrants have foreign parents. They have foreign bank accounts because they emigrated from a foreign country and they had a foreign bank account. They have foreign relatives who served in the South Korean military, one of our allies, for example, and that's something that causes a failure.

So DOD internally has acknowledged that they have a problem, but they can't get out of it because there's a bureaucratic struggle going on between the folks at the consolidated adjudications facility, who cling to their adjudicative guidelines even though they don't apply to immigrants—and there is now supposed to be some due process, but it's spotty. And there are still immigrants being discharged who are not being told why they're being discharged.

They're not given a chance to refute wrong information in the record.

It is a travesty, and it's something I hope Congress will look into. I think it's ripe for a GAO investigation into these background checks. And I would add that they're costing the government thousands upon thousands of dollars. They are spending thousands of dollars to figure out that immigrants have foreign parents.

Mr. CORREA. Thank you, Ms. Escobar.

Ms. ESCOBAR. Thank you. I yield back.

Mr. CORREA. I'd like to call on Ms. Jackson Lee from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

Thank you to the witnesses that are here.

If I might have those who have served in the United States military raise their hands?

Let me thank you so very much for your service. My applause to you, if my hands could go.

Are there men and women here that have served in combat?

Thank you so very much.

I recall being here for 9/11, and I'm not trying to give ancient stories, but I remember, as the call came for individuals with a passion and commitment to one's country, Mr. Chairman, there were numbers and numbers of legal permanents residents who heeded the cry, both for the war in Afghanistan and the war in Iraq.

Interestingly enough, I have no recollection of any ICE involvement on anything. I do remember a series of legislative initiatives to provide for opportunities for soldiers in-theater to be naturalized. Naturalization ceremonies were going on.

Isn't it interesting? The country was in need. Men and women who were either immigrants themselves or immigrant parents took the oath, put on the uniform unselfishly, and offered their lives. There are legal permanent residents who are in the Nation's military cemeteries or in cemeteries today from the Iraq and Afghan war.

So I am baffled about where we are today. And I think this is a very important hearing, but I also believe that this should be brought to the attention of the Armed Services Committee. Because if there is joint legislation, it would have to be in combination with the Armed Services Committee so the Department of Defense can wake up.

So let me just—and forgive me if these questions have been asked and answered. But there is a standard that ICE is supposed to utilize when they're addressing veterans. They need to consider criminal history, evidence of rehabilitation, family and financial ties to the United States, employment history, health, and community service. And it's come my attention, with our report, that some of the folk in ICE don't even know they're supposed to do that or have the list of criteria to even address.

So if I could ask both Hector Barajas-Varela and Jennie Pasquarella—first, Hector, if you can tell me what kind of complexity that puts your members or who you interact with, when they're not given any fair assessment by the local ICE officer. Because they're not seeing Washington; they're seeing ICE where they are. Could you answer that, please?

Mr. BARAJAS-VARELA. Sure. I mean, it creates a problem where—one of the things that—the way it could be fixed is where—you know, when I went to L.A. County jail, they actually asked me whether I was a veteran or not, and then they go through certain procedures. And definitely in immigration there's, you know—they don't even ask you if you're a veteran or not. So they probably don't even—you know, they don't know what procedures to take. So they definitely need to make sure that we hold the government accountable to that.

Ms. JACKSON LEE. So we need to put in a separate construct for veterans. We should require both Immigration Services, our ICE component, "You have to ask the question. And you have to prioritize veteran immigrants in your assessment of naturalization or processing," rather than, "I've lost your packet. It's so insignificant that I've lost your packet."

Jennie, can you help us with the work that you do and the frustration, I guess, that you face?

Ms. PASQUARELLA. Thank you, Congressman. Yes.

We have to address it on two fronts. First, on the front end, when a person is encountering ICE, there should be a requirement that, at a minimum, ICE asks every person they encounter whether or not they are either serving in the military or are a veteran. That's the first thing that we know they're not doing.

Second, they should actually implement the policies that they have and, ideally, improve the policies to actually do that assessment—once they know the person is a veteran, to do that assessment to determine, by weighing all the equities, their service, everything else about their life, whether removal actually is a sensible policy decision.

But then on the back end, we also have to ensure that, even if ICE is putting somebody into proceedings, that our law accounts for the fact that somebody may have served our country and deserves to remain in the United States.

And I want to correct something that was said earlier by Mr. Metcalf because it's very important. The law in 1996 eliminated all judicial discretion, including cancellation of removal. Cancellation of removal was not available for Hector when he was being deported from this country because the law in 1996 eliminated any ability for a judge to consider military service as well as any other equities in a person's life.

So we have to address it with ICE through sensible policy, but we also have to reform the law.

Ms. JACKSON LEE. Okay.

Mr. METCALF. Ms. Jackson Lee.

Mr. CORREA. Mr. Metcalf, do you want to respond to that?

Mr. METCALF. Thank you. I do. I really do. Thank you, Mr. Chairman.

Ms. Jackson Lee, I just want to tell you, I was a judge in Miami. I can't tell you that every case that would've come before me under the rubric that's been testified to would have survived a challenge on cancellation from the government. I know that I granted 75 percent to 80 percent of the applications that came before me. And let me also add, I was typical of judges across the country.

Now, when you add—and if you may, ma'am—or, if I may, ma'am, when you add the veteran's overall criminal history, his or her rehabilitation, family and financial ties to the U.S., his employment history, his health, his community service, in addition to duty status, war zone duty, years in service, and decorated—decorations awarded, that is calling on the judge to do a much deeper dive. It calls also on the agency looking at that person to do a deeper dive.

Now, I suggest to you that when judges have that kind of blush in front of them on an administrative take, they're going to consider that and be informed by that in their judgments. It certainly informed mine on people who were not in front of me as veterans but as people who had had a host of problems which prompted the U.S. to seek their removal.

So I want to—I want to balance——

Ms. JACKSON LEE. Thank you, Mr. Metcalf.

Mr. METCALF [continuing]. The opinion of Ms. Pasquarella by that information.

Mr. CORREA. Thank you.

Ms. JACKSON LEE. Thank you.

Mr. CORREA. If I can——

Ms. JACKSON LEE. Are you going to yield to this gentlelady in——

Mr. CORREA. Yes. I would like to yield to Ms. Stock to—you raised your hand?

Ms. STOCK. I think the disconnect here is that the statute bars judges from granting any relief under cancellation of removal to green-card holders who are convicted of a so-called aggravated felony.

And, if I may, I can give you an example. I know of an individual serving currently on Active Duty in the Navy. He's a career Navy person who, long ago, got convicted of something called obstruction of justice in Virginia—at the time, a very minor offense. He was told that it would not have any impact on his military career, and he went on to serve a full career in the United States Navy.

When he applied for citizenship, he was told that this is an aggravated felony under immigration law and he's not eligible for citizenship. They told him he would not be deported until he leaves the Navy. So he's trying to put off his retirement. But if he were in front of the Honorable Mark Metcalf, he would not be eligible for cancellation of removal because the government considers his conviction to be an aggravated felony and makes him ineligible for cancellation.

Mr. METCALF. I would take that deeper dive, Mr. Chairman.

Mr. CORREA. Thank you very much. With that——

Ms. JACKSON LEE. Due process, Mr. Chairman, requires us to look to the options of the individual who's being victimized.

So I yield back. I thank you.

Mr. CORREA. Thank you.

If I can, I call on Ms. Scanlon from Pennsylvania.

Ms. SCANLON. Thank you very much.

And thank you for your testimony, all of you, on this important issue, the impact of current immigration policies on servicemembers and their families.

I think it's really important that we look at the impact of the—and the cost to our national security and our national honor of the current administration's policies and the impact they're having on our Armed Forces and those who work with us. The fact that we are breaking our word to men and women who've put their lives on the line for this country is profoundly disturbing to me.

I also want to note the irony that, of the two portraits that hang on the floor of the House of Representatives, one is George Washington, and another is a foreign national who fought for us, and that would be the Marquis de Lafayette. So, certainly, we have a very long history in this country of relying upon persons of goodwill who may not be American citizens.

But with respect to the impact on our national security, I have some familiarity with the issue of the SIV applicants, the Iraqi and Afghani nationals who have worked with our Armed Forces. Before I came here almost a year ago, I worked with the IRAP group, which was a coalition of law students and law firm volunteers who would represent Iraqi and Afghani translators and drivers who worked with our Armed Forces.

And, in particular, I recall one gentleman who had worked with our Armed Forces in Afghani, who had worked with our Armed Forces as a translator for 5 years. And when he recognized a Taliban member on one of our bases and reported him, thereby saving the lives of many of our forces, he then had to go into hiding. And he remained in hiding with his family for 4 years while his application was processed.

He did finally get here, but it was a long process. And I've certainly heard of additional folks who have had more difficulty and that have been unable to get their applications processed.

So just the, you know, impact on national security is huge. And I can't recall if you had figures on what the processing rates are at this point. If you could respond to that?

Ms. STOCK. It's in my written testimony.

Ms. SCANLON. Okay.

Ms. STOCK. I would refer to that.

Ms. SCANLON. And those processing rates have gone down?

Ms. STOCK. They have dropped significantly. And the travel ban has also affected the ability of Special Immigrant Visa applicants.

We're also seeing an uptick in people who have been approved initially but now suddenly, for mysterious reasons unknown to anyone, they've been—approvals have been revoked.

And there's an appeal process that doesn't work. They send in their requests for information to rebut the allegations, and they never hear anything again.

In fact, I got an email today, right before the hearing, from somebody who had sent in a response to completely erroneous allegations made against him after he was granted a visa but then they revoked it, and he sent in his rebuttal, proving conclusively that these allegations were incorrect, and he hasn't heard anything.

Ms. SCANLON. All right. Our case was very similar. We had to do a FOIA request to various officials and take it all the way up to the court of appeals. Yes.

With respect, I was also concerned about the testimony concerning folks who join our military with the expectation that they

would become citizens and the fact that our military is now having trouble recruiting citizens to fill those slots.

Can anyone on the panel speak that?

Ms. STOCK. Special Operations Command has conveyed to me that they are having trouble finding people that speak the languages of the countries in which they're operating and that this has reached a critical point. They can't find people.

The other group of people that were helpful are the folks that know about cyber war. It's just a fact that we have a lot of legal immigrants in the United States who have great cyber skills. But they can't put them to work for the United States unless they're American citizens, because you have to be an American citizen to get a security clearance. And if they can't get into the military and can't get their citizenship, then they can't fill the ranks of Cyber Command. And Cyber Command is short of skilled people right now.

Ms. SCANLON. So, in a country that has always relied upon the skills and talents of immigrants, we're turning folks away for one of our highest and most important duties.

Ms. STOCK. That's correct.

Ms. SCANLON. Thank you.

I yield back.

Mr. CORREA. Thank you very much, Ms. Scanlon.

Let me, first of all, conclude today's hearing, but, first, I wanted to make a couple of comments, which is: A lot of the policies we're talking about here, it's not a Democrat or Republican issue. A lot of the policies we're fighting today precede the current administration and go back to Democratic administrations. And I'm hoping my colleagues from the other side of the aisle will join us in coming up with some good, commonsense legislation.

You witnesses here today, you identified some very solid public policy decisions, proposals that we need to move forward. And I hope we can, because this is about America. It's about keeping our commitment to our veterans and making sure that no soldier is left behind. So I'm hoping we can move forward.

And let me thank all of the witnesses here today, our veterans that are here today. We can never thank you enough for your service to our country.

And I want to conclude this hearing by once again thanking the panelists, our witnesses.

And, without objection, all members will have 5 legislative days to submit additional written questions for the witnesses or additional materials for the record.

Mr. CORREA. And look forward to continuing to work with you.

And, without objection, this committee is now concluded.

[Whereupon, at 4:31 p.m., the subcommittee was adjourned.]

APPENDIX

SUPPLEMENTAL TESTIMONY OF
MARGARET D. STOCK

Before the

Committee on the Judiciary
Subcommittee on Immigration and Citizenship

October 29, 2019
Washington, DC

I have reviewed the letter testimony of Mark H. Metcalf to this Committee dated October 29, 2019. I disagree with many of the assertions in his testimony but focus here on the following paragraph in his statement:

> Separate reviews conducted by Army and DoD representatives in May 2016 found problems with the vetting of MAVNI personnel. Among their findings, they concluded (1) a number of individuals accessed into the military used fraudulent visas to attend universities that did not exist in the U.S., (2) other MAVNI recruits falsified transcripts from universities owned by a Foreign National Security Agency and a State Sponsored Intelligence Organization (notably, most of the university classmates of one MAVNI recruit later worked for the same State Sponsored Intelligence Organization), and (3) one MAVNI recruit who entered the U.S. on a student visa professed support for the 9/11 terrorists and said he would voluntarily help China in a crisis situation. In another instance, a MAVNI applicant failed to list foreign contacts from Eastern Europe and Russia, even though the recruit's father managed the military department of a foreign factory and his brother-in-law worked for a foreign political party. Altogether, these examples indicated insufficient vetting of MAVNI personnel, contrary to the goal of avoiding accessions of individuals who would constitute potential security threats.

(Metcalf testimony p. 2 – 3) The above paragraph is taken nearly verbatim from a Declaration filed in the case of Tiwari v. Mattis (U.S. District Ct., Western District of Washington) by Roger Smith, Chief of Personnel Security for DOD, Office of Under Secretary of Defense for Intelligence. I am familiar with the Tiwari case because an attorney in my office litigated the

case and I testified as a fact and expert witness for the plaintiffs at trial.[1] [2] The merits of the above assertions were addressed in that trial and found by the Court to be erroneous, exaggerated, and/or generally unsubstantiated or unpersuasive. After explaining what the Tiwari case was about, I provide some examples that illustrate this point.

Tiwari v. Mattis involved a lawsuit challenging a number of discriminatory policies DOD applied to MAVNI soldiers who had become naturalized U.S. citizens. These MAVNI soldiers had almost all been naturalized during basic training. One new policy DOD adopted was to deny security clearances to all naturalized U.S. citizen MAVNI soldiers across-the-board (that is, without any individualized cause) for the first term of their enlistment (typically six or eight years). A security clearance is required for most positions in the military (i.e., to serve as an officer, to deploy overseas, to work in an office where there is access to personnel social security numbers, to work as a translator, etc.) This rule resulted in highly skilled U.S. citizen MAVNI soldiers (often with engineering, science, business, accounting, and medical and dental degrees) being relegated to jobs like power washing dirty trucks. DOD withdrew this policy in June 2017 shortly before the Court in Tiwari was highly likely to rule that this policy was illegal as constituting national origin discrimination in violation of the equal protection clause of the U.S. Constitution.

DOD next unofficially and without public notice implemented a policy to deny **interim** clearances across the board (again, without any individualized cause) to U.S. citizen MAVNI soldiers. This policy again had a major negative effect on U.S. citizen MAVNI soldiers' military careers since there is a huge backlog in issuing permanent clearances. Once this new policy

[1] Mr. Smith's Declaration dated 4/3/18, p. 13 – 14, states " For example, the review uncovered that (1) a number of individuals accessed into the military based on receiving fraudulent visas to attend universities that did not exist; (2) some MAVNI recruits attended, and later falsified transcripts from, universities owned by a Foreign National Security Agency and a State Sponsored Intelligence Organization (notably, most of the university classmates of one MAVNI recruit later worked for the same State Sponsored Intelligence Organization); and (3) one MAVNI recruit who entered the United States on a student visa professed support for 9/11 terrorists and said he would voluntarily help China in a crisis situation. In addition, the review uncovered a case where a MAVNI applicant failed to list foreign contacts from Eastern Europe and Russia, even though the recruit's father manages the military department of a foreign factory and his brother-in-law worked for a foreign political party. In DoD's judgment, these examples indicated that sufficient vetting of MAVNI personnel was not occurring at the accessions stage, contrary to the goal of avoiding altogether the accessions of individuals who present potential counter-intelligence, security, or insider threats." This same language was also found in a declaration filed by Christopher Arendt, the Deputy Director, Accession Policy Directorate, in the Office of the Under Secretary of Defense for Personnel and Readiness, earlier in the Tiwari litigation. (Arendt Declaration dated 5/8/17)

[2] Regarding my testimony, the Court observed "Having observed Lt. Col. Stock's demeanor on the witness stand and during the course of the trial, the Court finds her testimony, which was primarily factual in nature, credible and consistent with the documents admitted as evidence and the historical events about which the Court may take judicial notice, *see* Fed. R. Evid. 201." Tiwari v. Mattis, 363 F. Supp.3d 1154, 1168 n. 23 (W.D. Wash. 2019).

came to light, DOD claimed it was all a mistake and issued memos disavowing this practice. The judge in Tiwari was no longer willing to accept DOD's representations at face value, however, and issued a preliminary injunction expressly prohibiting this practice. Tiwari v. Mattis, 2018 WL 1737783 *7 (W.D. Wash. April 11, 2018) ("Defendant shall consider requests for interim security clearance eligibility for U.S. citizen MAVNI soldiers in the same manner as it would for any other soldier who is a U.S. citizen.")

The Tiwari case eventually went to trial on the legality of DOD's policy of indefinitely "continuously monitoring" all U.S. citizen MAVNI (but not other) soldiers without any individualized cause. DOD argued this policy was necessary as a matter of national security citing the reasons listed in Mr. Smith's Declaration (and copied by Mr. Metcalf into his written testimony). The Court was unimpressed with these arguments. A few examples illustrate why DOD's assertions did not withstand scrutiny.

On cross-examination, Mr. Smith was asked about the "MAVNI recruit" who professed support for the 9/11 terrorists and said he would voluntarily help China in a crisis situation. Mr. Smith testified:

> Q If you look at page 11 [of a DOD memo that addressed this individual], . . . they're describing a situation where the subject was born in China, entered on a U.S. student visa. According to the source interview: Subject professes support for 9/11 terrorist[s] and said he, the subject, would voluntarily help China in a crisis situation. Does that look like the fellow we're talking about?
>
> A Yes, it does, sir.
>
> Q It goes on to say that this person openly admitted to being a communist, loving socialism, and subject openly identifies himself as Joseph Stalin. Do you see that?
>
> A Yes, I do, sir.
>
> Q Then farther down, the last paragraph says, "He's been seen on his campus in a Nazi uniform." Do you see that? A Yes, I do, sir.
>
> Q The last sentence says, "He was removed from campus housing and suspended from the university," right?
>
> A I believe it says the subject was not arrested.
>
> Q Right. However, he was removed from campus housing and suspended from the university?
>
> A Yes, sir.

Q And then under the first bullet point, the last dash says, "Army recruiting personnel reported having subject on their radar." Do you see that?

A The first bullet, sir?

Q Well, there's a first bullet and three dashes underneath it.

A Got it, right.

Q And the last dash says, "Army recruiting personnel reported having subject on their radar."

A Yes, sir.

Q So this guy wasn't even a recruit, right?

A Sir, if he's involved with Army recruiting personnel, then they would be recruiting him, right.

Q It looks like they have him on their radar as a mentally ill person, right?

A Right. But I'm sorry, sir, they wouldn't have this particular individual on their radar if they weren't in the recruitment process.

Q Well, in any event, this guy is obviously mentally ill, right?

MR. DUGAN: Objection, argumentative.

THE COURT: Overruled. You may answer, if you can.

A I don't think I'm qualified to diagnose someone's mental condition based on the few bullets on a slide dec from 2017, sir.

Q There's no way that the Army is ever going to enlist this person?

A I couldn't say that definitively, sir. I would hope not.

Roger Smith testimony in Tiwari v. Mattis, 11/29/18 pp. 66 – 68. As apparent from the above testimony (and nowhere apparent from the Smith Declaration or Mr. Metcalf's testimony), this obviously unstable mentally-ill individual was never going to be accepted into the MANVI program. The Court in Tiwari observed:

> While this person (and others like him) might pose a risk to community safety, defendant has not shown how he or similar individuals would escape detection

> through the MAVNI, or even the more lax non-MAVNI, enlistment protocols, and thus, defendant's reliance on this example as evidence that MAVNI soldiers constitute a national security threat is unpersuasive.

Tiwari v. Mattis, 363 F. Supp.3d 1154, 1169 (W.D. Wash. 2019).

The only "university that did not exist" that DOD could actually identify was an on-line University that the United States government **itself created** to appear to the world to be a real university: the "University of Northern New Jersey" or "UNNJ".[3] DHS went so far as to list UNNJ on its website as a DHS-certified Student and Exchange Visitor Program (SEVP) participating institution. UNNJ's marketing was directed in part to non-citizens who graduated from U.S. universities and who sought to extend their lawful F-1 status by working full-time at a job that qualified for Curricular or Optional Practical Training (and not to take academic courses). A number of MAVNI recruits were forced to cast about for ways (such as CPT or OPT) to remain in legal status pending shipping to basic training because (1) they were required by their enlistment contracts to remain in lawful immigration status prior to shipping to basic training, (2) DoD repeatedly put off their ship dates because of DoD's inability to timely implement DoD's ever growing extreme MAVNI vetting program, and (3) in addition to the above problems, many of these MAVNI recruits needed to be able to work legally to avoid becoming street people while waiting for DoD to fulfil the promises it made to them at their enlistment. Regarding this "fake university" issue, the Court in Tiwari observed:

> In a declaration filed in connection with motion practice, the DoD's Chief of Personnel Security, Roger Smith, indicated that "a number of individuals accessed into the military [through the MAVNI program] based on receiving fraudulent visas to attend universities that did not exist." Smith Decl. at ¶ 25 (docket nos. 131-1 & 132-1). The only example Mr. Smith could provide at trial concerned the University of Northern New Jersey, *see* Tr. (Nov. 29, 2018) at 60:14-23 (docket no. 190), which was a fake school created by the Department of Homeland Security as part of a "sting" operation aimed at trapping brokers who were unlawfully referring foreign students to academic institutions for a fee, *see* Tr. (Nov. 27, 2018) at 173:10-17 (docket no. 188). The Court is unimpressed with any assertion that MAVNI recruits who were deceived by an agency of the United States into believing that they were enrolled in, or engaged in either curricular or optional practical training through, a legitimate school constituted a threat to national security.

Tiwari v. Mattis, 363 F. Supp.3d 1154, 1169 (W.D. Wash. 2019).

DOD witnesses in Tiwari (and Mr. Metcalf in his written testimony to this Committee) also refer to the situation of Chinese student Chaoqun Ji. Mr. Ji was charged with sending

---

[3] UNNJ's 20-plus page professional website can still be found by entering http://www.unnj.edu into the search feature on the internet archive site "Wayback Machine" at https://web.archive.org.

publicly available information to a Chinese intelligence operative.[4] U.S.A. v. Ji Chaoqun, 18 C.R. 611 (N.D. Ill. 2018). The Court in Tiwari stated

> At trial, defendant's witnesses were asked about Chaoqun Ji, a Chinese national who attempted to access through the MAVNI program, but did not advance out of the Delayed Entry Program or ship to basic training. *See* Tr. (Nov. 29, 2018) at 45:1-5, 45:19-20, 153:2-7 (docket no. 190). Mr. Ji was arrested and is currently facing prosecution, as a result of an investigation dating back to 2015 or 2016, conducted by the Federal Bureau of Investigation. *Id.* at 46:4-6, 143:17-144:2. Although the charges against Mr. Ji seem to support some alarm about the efforts of other governments to infiltrate the United States military, the record also reflects that Mr. Ji was unsuccessful in avoiding detection, even before extraordinary screening protocols were set in motion by the [September 2016] Levine memorandum. In addition, defendant's witnesses acknowledged that no MAVNI soldier who has become a naturalized citizen has ever been charged or convicted of espionage or any other criminal offense or been denaturalized.

Tiwari v. Mattis, 363 F. Supp.3d 1154, 1169 (W.D. Wash. 2019).

Ultimately, the Court in Tiwari found that DOD had not justified on national security or any other ground the extraordinary across-the-board screening measures it sought to apply to U.S. citizen MAVNI soldiers. The Court concluded that DOD:

> has provided no explanation for engaging in flagrant profiling, *i.e.*, equating MAVNI status with national security risk, rather than justifying on a case-by-case basis the heightened monitoring or screening that the DoD wishes to conduct. . . . The Court agrees with plaintiffs that this stigmatizing persistent vetting protocol constitutes impermissibly unequal treatment of United States citizens on the basis of national origin. It is inconsistent with the representations made to plaintiffs upon their enlistment that they would be "treated like any other Soldier" and that they would enjoy "all the same opportunities afforded to ... any other Soldier" in the United States Army, *see* Ex. 15 at §§ E & R; Exs. 69 & 90 at §§ E & Q; Ex. 71 at §§ E & P, and it violates the military's own principles against discrimination based on immutable characteristics like national origin, *see* Ex. 37 at ¶ 3(e) ("The DoD shall not discriminate nor may any inference be raised on the basis of race, color, religion, sex, national origin, disability, or sexual orientation."); *see also* Ex. 36 at § 3.1(c) (Exec. Order No. 12,968). It deals unfairly with citizens who have volunteered to serve their nation by enduring extreme hardships and

[4] Another DOD witness at the Tiwari trial, Joseph Simon, the Senior Counterintelligence Advisor to the Army G2 and Chief of Staff of the Army, testified that "I believe the FBI brought him [Chaoqun Ji] to our attention." Mr. Simon further testified that: "Q And the information he obtained, that was some Intelius reports that if somebody paid 50 bucks, or whatever, anybody could download? A That's to my understanding, yes." (Simon testimony, 11/29/18 pp. 144, 153)

> lengthy deployments, during which they are often separated from family and friends, and by preparing each and every day to make the "ultimate sacrifice of their lives if necessary" to protect our country, its people, and the constitutional rights we hold so dear. [citations omitted] It is unconstitutional, and it must be enjoined.

Tiwari v. Mattis, 363 F. Supp.3d 1154, 1172-73 (W.D. Wash. 2019).

Lawrence
Romo
National
Commander

American GI Forum of the United States
A Veterans Family Organization Since 1948 Chartered by Congress 1998
National Office
635 W. Corona Ave, Suite 114 • Pueblo, CO 81004
(719) 299-4838/4839

Founded
March 26,
1948

AGIF CALLS FOR LEGISLATION FOR THE REPATRIATION OF DEPORTED VETERANS AND TO PREVENT VETERANS FROM BEING DEPORTED

PUEBLO, CO – The American GI Forum whole-heartedly supports the recruitment of United States citizens and qualified non-citizens into our all-volunteer armed forces. Numerous non-citizen immigrants from many countries have proudly served in the US military and have received recognition to include the Medal of Honor. Many have paid the ultimate sacrifice giving their life in service to this nation.

Numerous non-citizen immigrants have separated or retired honorably from military service. Several have become United States citizens, and some have not yet completed the citizenship process. Some of these veterans face deportation while others have been unjustly deported.

The American GI Forum proudly supports all of our military veterans to include our immigrant and non-citizen veterans. We call for the repatriation of any deported veteran that has not been found guilty of committing a violent crime. We support federal legislation in the 2019-2020 Congressional term to ensure that we protect our veterans' rights and that they receive fair judicial process and access to the benefits they earned for their honorable service to the United States. We must protect veterans from being deported and bring back the veterans home that have not been found guilty of committing a violent crime. We must leave no one behind!

The American G.I. Forum (AGIF) is a Congressionally Chartered Hispanic Veterans and Civil Rights organization founded in 1948. Our motto is "Education is Our Freedom and Freedom should be Everybody's Business". AGIF operates chapters throughout the United States, with a focus on veterans' issues, education, and civil rights.

For more information call 210-219-1905 or email llromo@sbcglobal.net

November 1, 2019

The Hon. Zoe Lofgren, Chair
Subcommittee on Immigration and Citizenship
2138 Rayburn House Office Building
Washington, D.C. 20515

Re: The Impact of Current Immigration Policies on Service Members and Veterans, and their Families

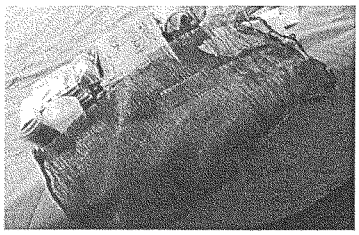
Dear Representative Lofgren,

LULAC Council #5310: Green Card Veterans works with non-citizen US service members, veterans and their families that either are in process of being or have been exiled through deportation. I write to you on behalf of the countless American veteran families who have been separated as a result of immigration policies. We would like to thank you and the Subcommittee on Immigration and Citizenship for investigating this phenomenon. There were a couple of points that were not covered in the short time allotted to for each witness testimony that we would like to submit for the record.

US Immigration and Customs Enforcement (ICE) inhumane detention and deportation of veterans. The June 2019 Government Accountability Office (GAO) report (Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans) concluded that policies exist for US veterans to consider military service during removal procedures. The report also concluded that the same policies were not being implemented nor enforced. What the report failed to mention, however, was the inhumane and despicable treatment our US Veteran men and women have experienced during their detention and while being deported. The cases of Miguel Perez, Jr. and Jose Segovia-Benitez, both veterans suffering from service-connected disabilities incurred in combat, are examples of this.

Segovia-Benitez is one of fifteen detainees named in a federal suit against ICE and GEO Group alleging medical neglect and horrific conditions. Segovia-Benitez's VA disability compensation for Severe PTSD and Traumatic Brain Injury was jeopardized and lost because ICE facilities did not allow for the appropriate evaluations to occur. He was deported, without notice to his family, his attorney, nor to the ICE attorney assigned to his case. Like Segovia-Benitez, when Perez was taken into custody by ICE rather than being released on parole, access to medication for his PTSD, as well as evaluations necessary for the appropriate level of disability to be awarded was also taken away.

Today, we are learning more and more that policies ICE considers lawful are not necessarily humane. For most of the veterans who Green Card Veterans council has met and helped, this inhumane treatment is an extension of our country's infatuation with incarceration as the preferred method for addressing social problems. The psychological abuse towards these disabled veterans, at the hands of guards hired by ICE and for-profit contractors, has been reported by our veterans. In the case of Miguel Perez, for example, he was misled to believe that he was simply being transferred to another detention facility while he continued to fight his legal battle; when in fact, a veteran working for ICE escorted him off the plane and across the border into Mexico, throwing the ripped potato sack with Perez' belongings (pictured right) over the fence that now separated the disabled veteran from any life he ever knew.



Criminalization of symptoms. While there seems to be discussion among members of this subcommittee as to whether or not deportation for criminal offenses is to be considered a "double punishment," we stand firm that it is indeed double punishment because the criminal offense is used against the individual facing removal; most often after serving their sentence at the appropriate jurisdiction. We do not condone criminal behavior; but we do understand that freedom from our justice system is often associated with a defendants' access to resources. Immigrant veterans often face the same stressors and limitations as their non-military counterparts, including lack of access to resources and capital needed for appropriate defense from a system found to have thrived on communities of color. The now infamous Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) was mentioned during the hearing, but we cannot look at that without considering the adverse effects of our tough-on-crime policies that preceded, at all levels of government, that made immigrants subject to removal under IIRAIRA. Essentially, we passed laws that increased the punishment for criminal offenses while at the same time lowered the bar for what would be considered deportable.

Jose Segovia-Benitez is a US Marine Corps combat veteran. He was born in El Salvador before his mother brought him to the US when he was three years old. He served as a cannoneer during notable military operations including the invasion of Iraq; earning a Combat Action Ribbon and Presidential Unit Citation. He was honorably discharged in 2004; a time when our country was more focused on in going to war rather than preparing proper resources and treatment for those returning from its front lines. While it is true that Mr. Segovia-Benitez was deported as a result of being convicted for aggravated felonies, a closer look into those convictions show that he was not given the appropriate level of defense a combat veteran deserves. For example, in 2008, Judge Bruce Marrs of Los Angeles prohibited medical evidence to be submitted as part of Segovia-Benitez' defense including any mention of his military service or combat related incidents that resulted in severe PTSD and a traumatic brain injury.

As was the case for thousands of troops returning from Vietnam, our contemporary veterans often had to rely on their own means to cope with traumas when appropriate ones were not readily accessible. This is by no means an attempt to place blame on the VA system, alone; there are countless systemic gaps service members, veterans and their families fall through before immigration removal proceedings. Ten years after Mr. Segovia-Benitez and Perez were discharged, VA Secretary Eric Shinseki referred to the VA system as "a systemic, totally unacceptable, lack of integrity" during his resignation. Today, there are Veteran Treatment Courts (VTC) across the country because of our growing understanding that military trauma and behavior are connected. In fact, it is even known among us who work in assisting veterans that involvement with the justice system can be used as evidence for claims to the VA for service-connected disability compensation. In other words, being arrested for some criminal behavior is seen as evidence that a veteran is suffering from one or more disorders related to their military service.

Characterization of Discharge as a metric for inclusion. Discharge characterization is often mistakenly considered a binary factor (i.e. honorable vs. dishonorable). In fact, there are several discharge characterizations a member could have been granted upon leaving service. Not all of those injured in service to our country are necessarily eligible for necessary treatments. Eligibility requirements for many of these systems often uses merit-based factors to determine inclusion; rather than needs-based approach. Access to VA treatment, for example, has traditionally relied on honorable or under honorable conditions discharge characterization to access. And, while some may argue that service members with undesirable discharge statuses did something egregious to earn it, the truth is that there was a time when members would be discharged for something as simple as being found to be gay.

Further, while honorable discharge is the most common, a 2014 GAO report found that less than honorable discharge characterizations have been punitively awarded for behavior occurring as a result of PTSD and traumatic brain injury. In other words, less desirable discharge characterizations bar members of already marginalized communities from access to resources need to overcome any service-connected injuries they may have incurred prior to their discharge and regardless of characterization.

In short, we believe that if these veterans had access to the same medical resources more affluent Americans have, they would have never ended-up in a court room. Further, if they had access to the level of defense in a criminal court that we have seen affluent Americans have, they would have never ended-up in removal proceedings. We appreciate any and all attention Congress is giving these forgotten US service members and veterans, but the conversation needs to expand to include those who were forgotten and discarded long before they were deported. Understanding the scope of this phenomenon is difficult; particularly given the lack of official data that was reported in the June 2019 GAO report mentioned previously. We are concerned that the discussion regarding this topic, thus far, does not include those whose service, and by default disabilities incurred during that service, are not considered for a myriad of reasons.

The recent cases of veterans who have been repatriated as American citizens or permitted to re-enter with Legal Permanent Resident (LPR) status have done so because of outstanding legal work done on their behalf and community involvement. Currently, LULAC's Green Card Veterans Council is developing a network of attorneys who can provide pro bono services at the federal immigration level, as well as attorneys to represent on veterans' behalf at the criminal court jurisdiction adjudicating their deportable offense. As Allen J. Lynch, Medal of Honor recipient, life-long veteran advocate and our council's advisor stated, "the crimes our men and women commit after serving this country are our burden to bear." And, in the words of Mr. Roy Petty who represents Mr. Segovia-Benitez from Dallas, Texas, "it is our duty to help these men and women."

Please feel free to contact me with any questions, comments or concerns this letter may provoke.

Sincerely,

Carlos O. Luna, MA
President, LULAC Council #5310: Green Card Veterans
601 South California Avenue
Chicago, IL 60612
[redacted]

LULAC Council #5310
Green Card Veterans

MR. BARAJAS-VARELA FOR THE RECORD

STATEMENTS AND LETTERS FROM DEPORTED VETERANS AND THEIR FAMILIES

October 24th, 2019

To whom it may concern,

My name is Alejandra Juarez. I am the wife of a Marine and Veteran Corps veteran.

I was deported on August 3th 2018. Some of you may be familiar with my case as it made international news.

Fifteen months ago. I was deported despite not having criminal record. I lived in the US for 20 years and always tried to be a good person.

The broken immigrations laws never allowed me to fix my immigration status despite being married to my Veteran husband for more than 19 years.

I have blamed my deportation on the current administration due to the cruel immigrations laws they have put in place. This time being away from the people I love the most has giving me time to reflect and analyze things.

And although I must accept, that I am responsible for my actions such as crossing illegally the border in 1998 when I was a teenager in search of safety and a better life.

I must and have to say this to you. The current immigration laws are broken and outdated.The current broken laws are hurting many Americans such as my husband and my US born kids.

My husband honorably served the US multiple times and for brave man like him , you and many Americans are safe.

My husband never asked the US for anything other than his wife of nearly twenty years allowed to be there with him.

So I am appealing today to all of you, regardless what political party you may belong to. Could you please fix the broken immigration laws so that me and many others like myself can reunite with our families. Thank you.

With respect,

Alejandra Juarez

[redacted]

Dear Congress, November 3, 3019

While serving my sentence I was informed that an INS hold was placed on me. I kept telling myself, they can't deport me, i'm a US Navy veteran, plus there's a Federal law that states that any legal resident that has served in the US Armed Forces for a year or more and is Honorably Discharged is exempt from deportation. Little did I know that the Clinton's Administration has implemented a new law stating that any legal resident that commits a felony and does a year or more in state or federal prison will be deported with no exceptions. This was brought to my attention at the INS deportation hearing. At that moment, I felt my whole world come crumbling down all around me. I was dumbstruck, disoriented, afraid, scared, lost, but most of all I felt abandoned, thrown away like trash...violated. How can this be happening to me, the US is my home, not Mexico. All I've known is The United States of America is my home, has been and always will be. Yes, I was born in Mexico, but it has never been my home. My father immigrated us (my mother, my brothers, my sister and myself) to the United States of America when I was 5 years old. I've done all my schooling in the United States, from the 1st grade of elementary, up to 2yrs of Junior college, where I received an AS degree in Business Administration. I served 4 glorious years in the US Navy. The United States has given me more then what I could ever expect. Yes, I committed a crime and I paid my debt to society. I feel that I'm still paying. I keep asking myself; when is this punishment going to end. I minus well of gotten a life sentence, at least I would still be in the country that I call and consider my home. I was deported in January of 1999, and let me tell you, it has not been easy, especially if you are not familiarized with the custom's. I've been spit on, cussed at, insulted, humiliated, robbed, almost tabbed, slapped, beaten up, I've even been shot at, just for not being familiar with the customs. Said the wrong thing at the wrong time. Acted a certain way at the wrong time. I've gotten a little familiarized but not the way people from here are. Trying to make a living to survive has been a nightmare. No one wants to hire you and if you do get hired, they take advantage of you because they know that you don't have a choice, either accept what they give you or take a hike. If you're lucky enough to find a half as paying job, I won't last for long, there's always someone willing to work for a lot less, just to survive. The day I got deported was the worst day of my life but at the same time I had a moment of clarity. I felt my past life flash before me. All the mistakes that I've ever made were right there in front of me. At that moment I decided that I am going to change my life. I know what got me to where I'm at right now, and I will not make that mistake again. It's been a real struggle and it still is, but at least I'm not drunk or high and I can face the everyday struggles to survive with a clear mind.

Respectively,
Augie Garcia USN

You don't have to be US born to belong, stand for and represent what it means to be AMERICAN.

As soon as you enter the military, words like discipline, honor, honesty, dedication, determination, courage, integrity, are instilled into all of us who dare take that gigantic step of offering our lives if necessary for the good of country, period.

Once you become a Marine or a soldier, you are taught to be ruthless and relentless, become a fighting machine, fear nothing or no one.

Your eyes see things that most eyes would never see. You end up being affected by so many things, things you have to do, things you have to endure, deal with, 'suck up', as we Marines would put it.

Yet, when you come to the end of enlistment (EOS), you don't get that transition assistance needed to insert yourself back into civilian life. It becomes another battle to deal with.

You come home with conditions unknown to you and your loved ones. You end up finding out, the hard way, that your mind is not similar to the ones around you anymore. You don't see bad things as bad as others do. You make mistakes that must be paid for sometimes with time, but if you are not US born, then the Price to pay is much higher.

I wanted to be a Marine as of my sophomore year in highschool. There was nothing I wanted more than to become a US MARINE.

I understood I would probably see myself in dangerous situations, but that didn't prevent me from becoming a Marine. When I signed the dotted line, I undestood I signed a blank check payable up to my life. I still made the decisión willingly.

Not being US born didn't make me less of a Marine. Even after all these years, I still call the US home.

I was deported on a first offense. Funny thing is that it wasn't even aggravated. No one took into account the fact that I had been in the military. No one took time out to speak to me in regards to that. The process was really simple, you committed a crime, not US born, 'DEPORTED'.

It has been 21 years since I was sent to continue what I call a "life sentence" for a first time nonagravated felony. I've had to learn how to live in a culture very different from the one I was accostumed to.

I have had to deal with discrimination at its highest level, to the point of losing job opportunities because of it, being feared, classified as the worst of our kind, having to exclude myself from cetain types of professional environment. I have had to become a "grey man" in order not to be noticed and to be able to try to live a somewhat decent life. Even after all these years, things have not gotten any easier.

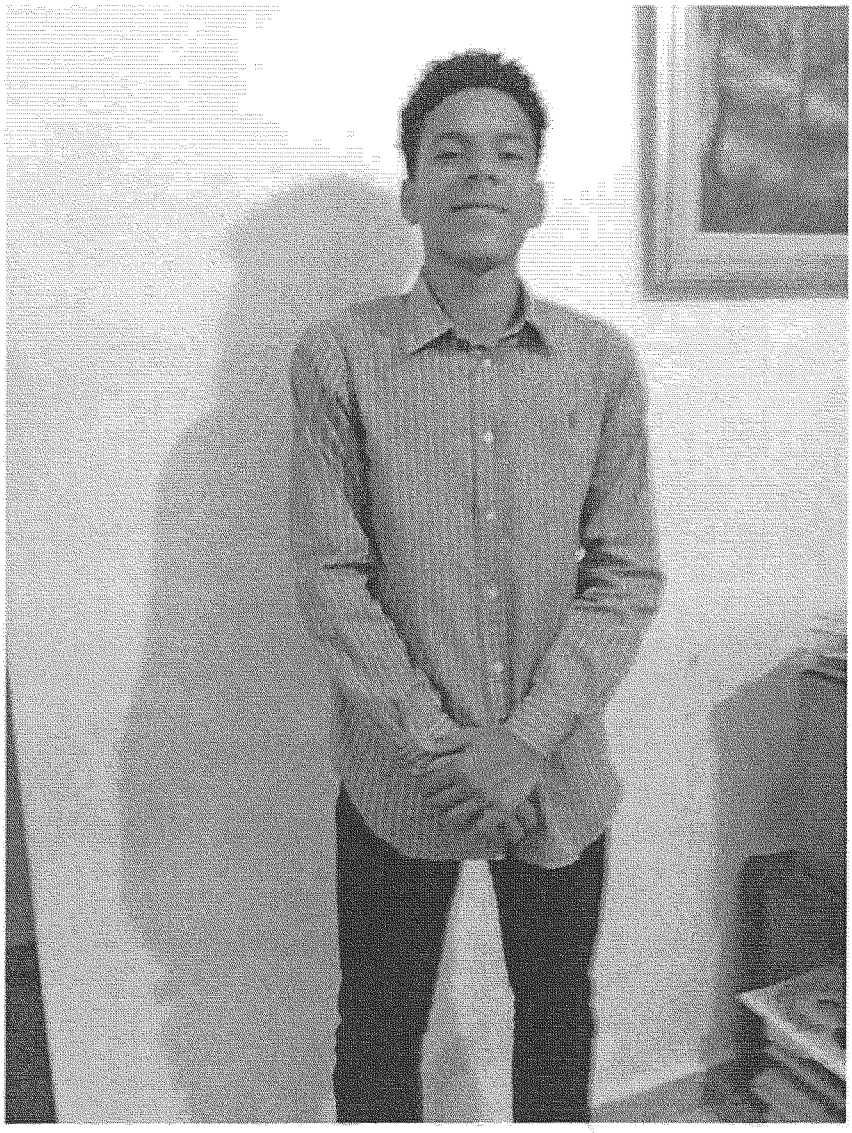
I always think of "when will I be able to return home?", only to come to the crude reality that it would only be in a casket. I feel betrayed, abandoned, homeless, hopeless at times. I still ask the same question over the years, 'How can the US kick me out of my home for a mistake in life that I already paid for?'. I find it really heartbreaking to see no progress has been made over the years to fix this terrible, horrific experience we, non US veterans have to go through once we fall down. Instead of providing the help needed, we are kicked out and forgotten.

I'd like to thank Hector Barajas for all his hard work into giving us, deported veterans, hope.

Thank you all for the time taken to read this cry for help.

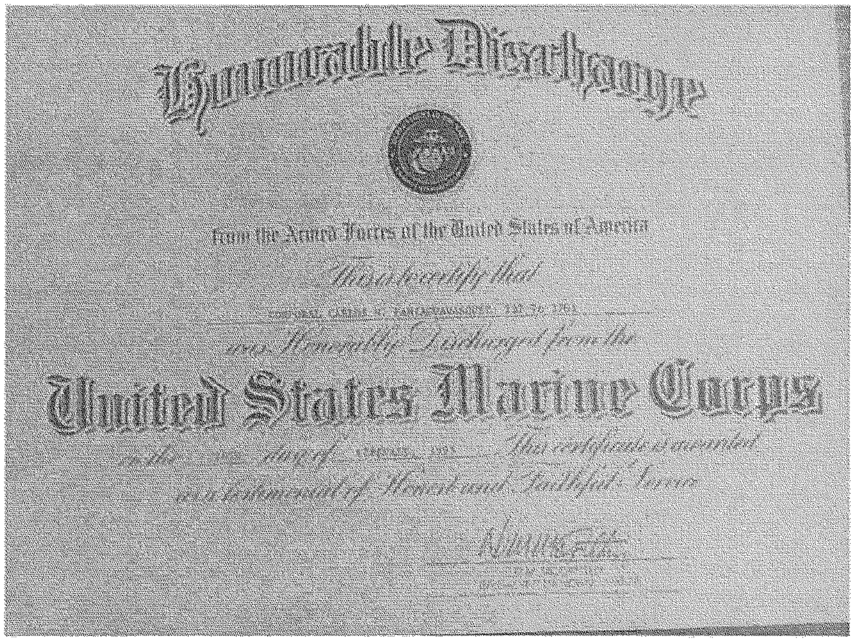
Carlos Paniagua,

USMC

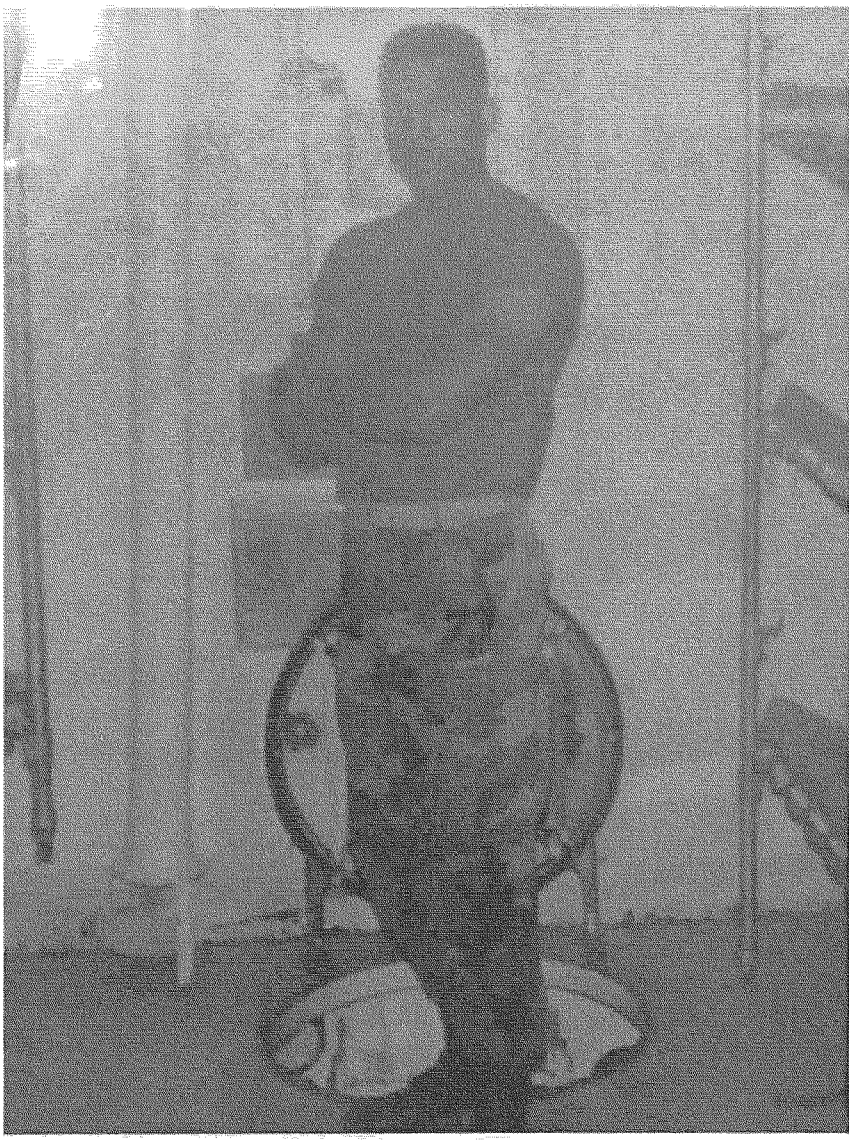


Angel Carlos Paniagua

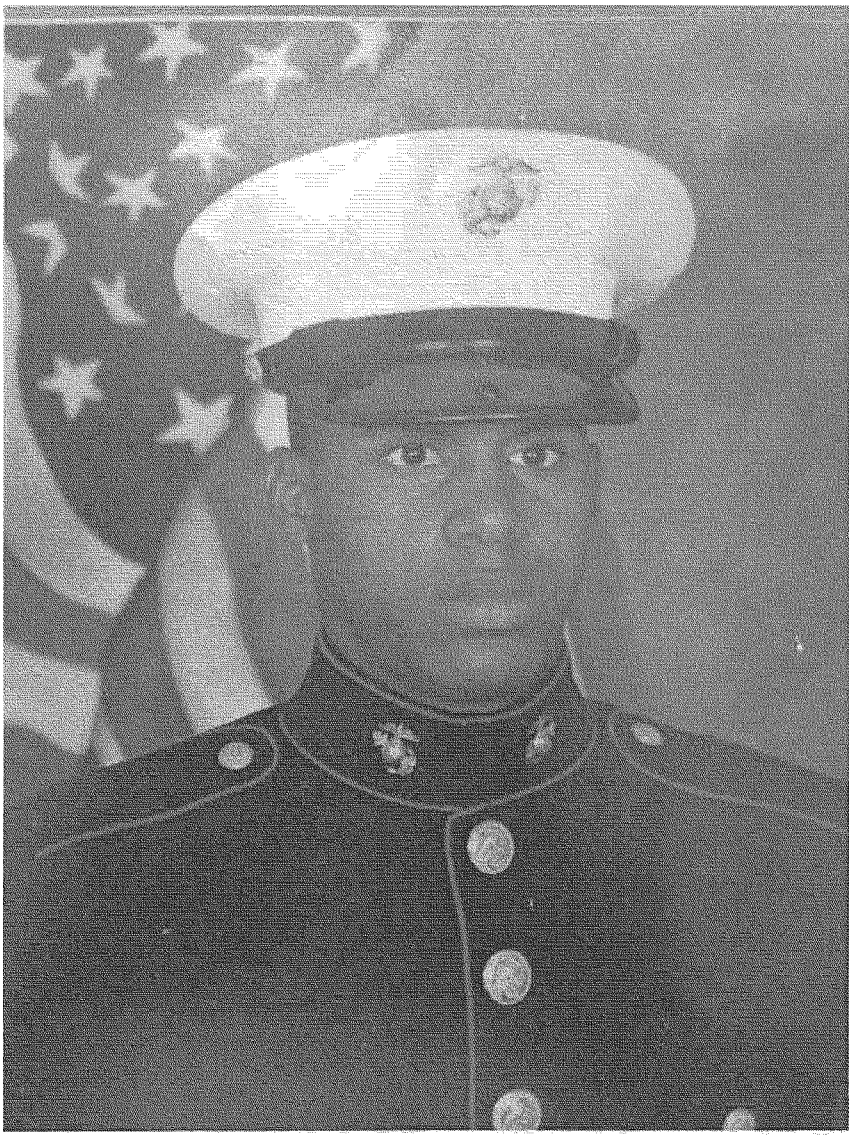
Carlos Paniagua Family



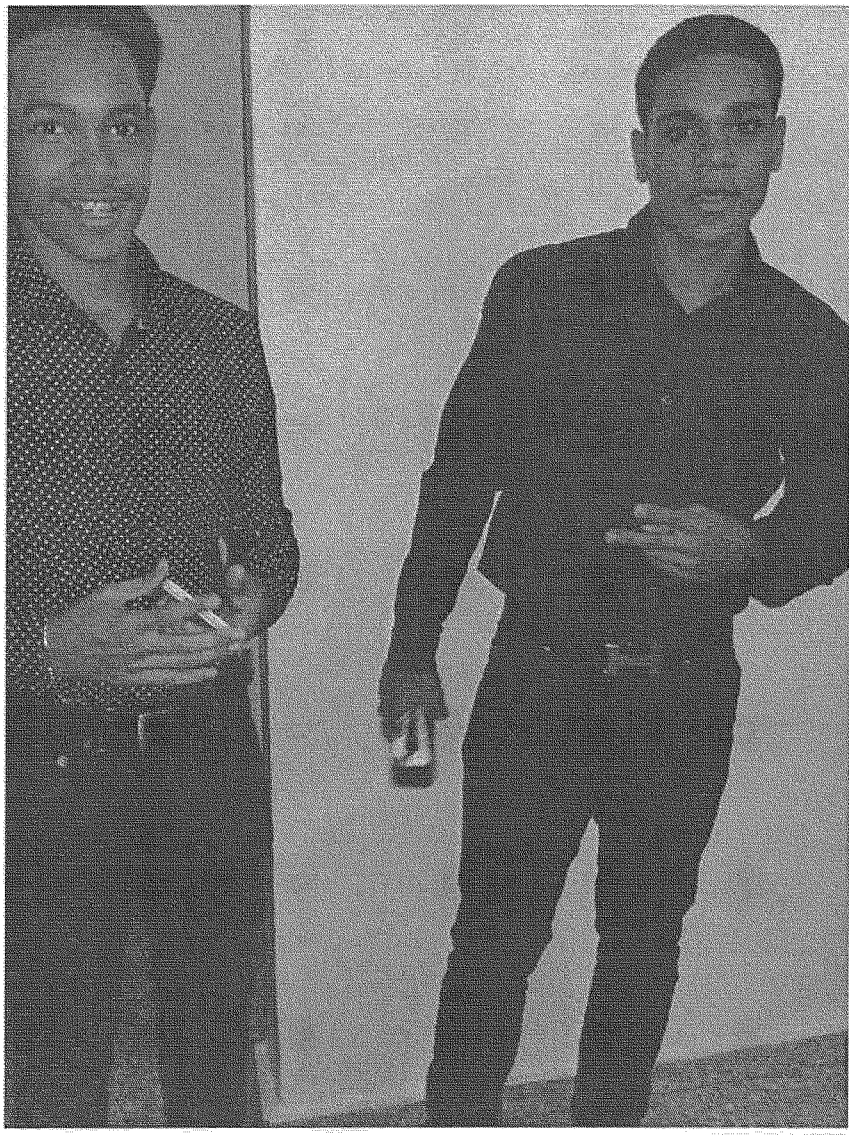
Carlos Paniagua Honorable Discharge Certificate



Carlos Paniagua



Carlos Paniagua



Carlos and Emanuel

October 24, 2019

To: Whom it may concern,

My name is Cuauhtemoc Juarez. I am a US Marine, and combat veteran of Operation Iraqi Freedom. I served nine years in the military.

The reason of this letter is to ask all of you for your help.

My wife Alejandra Juarez was deported to Mexico last year despite not having criminal record other than her illegal entry in 1998 before we met.

For years and after many efforts and money spent on lawyers, we tried unsuccessfully to adjust her status but it was never possible. We tried everything and nothing worked.

I have been told that the only way to bring my wife back is by changing the laws.

We all know our immigration laws are broken. My wife is not the only Military spouse deported. Sadly, there are many more Military families going through this.

I proudly served my country and will do it again If ask. All I want in return for my service is to have my wife back with my two US born daughters.

So, I would like to humbly ask you to please fix our immigration laws. Can both political parties work together to fix this? Can you please help me bring my wife back to our home in Davenport, Florida?

My local Congressman, Darren Soto has been working with us and he introduced a private bill H.R. 581. Unfortunately, this bill still sitting on the Immigration Committee desk.

Can you help me pass this bill? I served this beautiful country three times and all I am asking in return is for someone to give my wife a second chance. Thank you.

Sincerely,

Cuauhtemoc Juarez

[redacted]

[redacted]

David Kinyua Bariu,
P.O. Box[redacted]
Nairobi – Kenya.
Cell: +[redacted]
Email: [redacted]

Oct 1998		I, David Kinyua Bariu, was born in Nairobi Kenya 20th June 1976. I came to the United States of America in October 1998 to further my education at Southern Arkansas University (SAU) with an F-1 Student Visa. I flew from Nairobi Kenya on British Airways to London Heathrow, connected via Gatwick Airport to DFW Dallas Texas.
17 Sep 1999	i)	I attended 2 semesters at SAU before being recruited in Dallas. I did not pay SGT Gregory Wilson, a US Citizen, any money for recruiting me. He assured me that my F1- Student visa was good enough to join the US Army.
	ii)	**I was promised to get school benefits and be naturalized respectively.**
	iii)	The Army Recruiter SGT Wilson fraudulently recruited me into the Army.
	iv)	SGT Wilson was court marshalled and found guilty as charged at Ft. Hood Texas – **US v STG Wilson).**
	v)	My Basic Training was at Ft. Benning Georgia: **Charlie Rock 347, 4th Infantry Platoon, Commandos.**
	vi)	My AIT was at Ft. Lee Virginia: Alpha Company, **MOS – Automated Logistics Specialist 92A10.**
	vii)	**Quartermaster Affiliated Certification.**
April 2000	i)	1st Duty Station was at Ft. Lewis HHC 593rd CSG, WA 98433.
	ii)	I was accredited for **Supervisor Development Course (SDC)**
	iii)	I was accredited for **Protecting Secret & Confidential Documents Course (CRS)**
21st May 2001	i)	I was **granted voluntary departure from the United States by an immigration judge in Seattle, Washington to depart on or before 9/18/01,** with an alternate order of removal to Kenya if Bariu failed to depart by time given.
	ii)	I opted for **a second opinion from Craig Miley's Attorneys in Dallas, who filed for my Naturalization under Section 329 of the Immigration Act – Military Service during Hostilities. 9-11 Twin Tower Attack.**
15 Sep 2001		I was **Honorably Discharged** with and a recipient of an **Army Achievement Medal.**
2002	i)	I was recruited into the USAFR with a recruiter Msgt Hurlington or Wellington who saw my naturalization application by Craig Miley's Attorneys and my US Army DD Form 214. While Detained at Haskell Texas for a Year, Craig Miley did not see me or fight for my case. I had fully paid for the naturalization process.
	ii)	My AIT was at Shepherd AFB Wichita Falls Texas – **Surgical Technician (4N171)**
	iii)	I later upgraded my AFSC to **Optometry Technician (4V151)**
	iv)	I was accredited for **Surgical and Optometry Correspondent Courses.**
	v)	I was accredited for **Medical Readiness Certifications (Surgical Tech)**
	vi)	I was accredited for **Srts Program Qualified (Optometry Tech)**
	vii)	These Correspondent Courses got me promoted to **TSgt – E6.**

DAVID BARIU 4/11/19

2002 - 2007	i)	I used my **MG-I Bill to take the Aircraft Dispatcher Course.** I have always had interest in the Airline industry because I used to work for my father back in Kenya as a freight clearing and forwarding agent before coming to the US.
	ii)	I attended **North Lake College with the use of my MG-I Bill**
	iii)	My medical was facilitated at **VA Outpatient Clinic, Ft. Worth TX**
April 2007	i)	ICE came to my Irving Texas Apartment – **Estelle Creek Apt 1198,** and detained me.
	ii)	**ICE took my Military Uniforms and Certifications.**
	iii)	ICE processed me at ICE Dallas Branch.
	iv)	ICE transferred me to **Haskell Texas where I was detained for a Year (April 2008).**
	v)	I was labelled a **"High Risk Detainee."**
	vi)	While being detained at Haskell Texas for a Year, **Craig Miley did not see me or fight for my case. I had fully paid for the naturalization process.**
April 2008	i)	I was **deported to Nairobi Kenya via DFW Airport.**
	ii)	I was **escorted to 3 ICE Officers.**
	iii)	I was **deported with a mere A4 size document because I had no passport.**
	iv)	I was **released to my parents at the Airport.**
	v)	**No US-Kenya Authority handover whatsoever.**
Family	Currently I have a Wife (Caroline Waithaka), Son (Leandro Sobayeni Bariu) and Daughter (Liana Kinyua) and struggling to support them because of lack of stable job opportunities in Kenya.	
Security	The security in Kenya is not stable due to the terrorist attacks from the Neighboring country Somalia. **Why Deport a US Veteran in Hostile Areas with Al-Shabaab infiltrators all over Kenya?**	

I, David Kinyua Bariu, confirm that the above statement, based on the years stated, coincides with my recruitment in the US Armed Forces (Army and Air Force Reserve). That I pray for all deported Veterans who have gone through the injustice of diligently serving and protecting the sovereignty of the US, be repatriated back.

Regards and God Bless,

4/11/19

David Kinyua Bariu,
Deported US Veteran,
Cell: +[redacted]
Email: [redacted]

The Last Goodbye

So many events and not much to say. So, I will start with writing about my vacation or as I call it "The last goodbye".

First, let us hop on board the DeLorean and take a blast to past and discover the event that shaped who I became today.

September 11th 2001 was the most chaotic moment that I had lived; so, I thought, not knowing the effect that this would cause me down the line. It was just turning out to be a decent day at High School of Graphics Communication Arts until the loud speakers were going crazy with warnings and restrictions stating for "all students to remain in their class room". So, we were trapped in class with no clue to what the heck was going on, until cellphones started ringing, and understanding the truth of what was happening. Everyone was worried about their love ones, those who had cellphones were trying to communicate, but the phonelines were all clogged due to the high call volume.

After being trapped in the facility for hours some student and I decided that it was time for us to leave or may I say escape, since the school wouldn't let us out. It turned out to be a very long walk nearly 90 blocks without any communication with my relatives.

The city was going crazy and I was walking home from school for the first time. After reaching my home I noticed that my sister was the only one there, and we had no clue to the where about of my mother and brother. My sister and I tried using the phones to call our mother but still no way to get through, all source of feeling was going through our mind at the time. After a couple hours of not knowing what to do, my mother and brother walked in house.

Four years have passed and during this time I would see men in uniform, soldier who have gone and come back from the sandbox fighting and serving their country, and there I was sitting and thinking in front of this stranger making a decision and signing papers that will change my life once again. That same day February 14 2015 I enlisted to the United States Army, now I understood what I really wanted to do all this time, I had felt different, wanting to be part of the change or may I say the pay back to those who had disrupted our stability of life. I had felt bad that I didn't consult this with my family, but I had to let them know that this was my choice and that my mind was already setup.

Time had passed and I was getting ready to board a plane to Kuwait, everyone's family was there at green ramp giving their last goodbye to there love ones while I sat at side seeing that no one was there for me, because of my family economical condition. This didn't make me fragile, just made me want to be a better soldier, as everyone was getting ready to board the plane I heard my name called, it was my buddies wife, she wanted to say goodbye and wish me a safe journey, I could still remember this day like it was yesterday.

Finally arrived at Kuwait and everything was definitely different, you now can see soldiers walking around with their weapons out, yea boy! this was no longer training it was the real deal. Kuwait was hot, hotter than then states so we stood there for nearly a month while we would climatize to the hot weather.

On board a CH-47 chinook bound to Iraq observing the land scape as we transported ourselves to our next destination. Now, this was no Kuwait and we sure wasn't going to climatize, this was war, the red zone, where you need to keep your head in the game, be diligent at all times and cover your buddies six. I thought to myself how different was the culture, everything seems strange, but understood that this was all we had trained for and we were ready to get the job done, I thought to myself as we dash by different villages.

Months had passed by and we were all settled in our outpost, which was petty much a school that we had taken over with a great view of the surrounding area and the smell of fresh air that you wouldn't get in New York city. While being out on a mission we can hear the rest of the team calling for help on the radio chatter, we didn't know what was going on, but we had to return. You can hear the fire fight as we gotten closer, and all of a sudden, a large boom, we have been hit, and hit hard. That day we lost half our building and 9 soldiers as a car bomb enter the barricade and exploded; they had distracted us with small arms fire. Some of us didn't get there on time to be in the fight, but we saw the bodies of our brothers as we picked them up from the rubbles, thinking to ourselves, goodbye, we'll take it from here as their body were taken away.

We finally moved since we no longer had a home or a secure place to spend our nights. Every other night we would be attacked by the same people we would sit and talk and drink tea with.

On our way home after yet another sit-down with the local elders the convoy had been attacked, you can hear the bullets breaking wind over our heads, this was no training, here the target was shooting back at us and they wanted us dead. That day we lost 2 of our own and we couldn't say goodbye, the fight lasted over two weeks receiving its named Turkey Bowl. I can see the bodies of our enemies laying down in front of us, no longer moving just there being part of the ground where they lay.

Fights continue all throughout our deployment we weren't thinking about home anymore, we were just surviving every second, minute, hours as we could, holding on until we can finally return home.

A month before we can return back one of our guys was shot and killed, I can hear his screaming as he struggle for his life, I wanted to help but the medics were already there, we was supposed to return home, talk about the good times, and this was not going to happen, because my brother will now make part of the ground he had walked on. This was the hardest of them all, because the fight was over, we weren't expecting this incident, we lost a brother and we had to take him home. I dint say goodbye, even though I see him struggling for his life inside my head, he is now in a better place.

Not everyone came back with visible scars some brought them in their mine, some speak about it, other shutdown, everyone needs help some way somehow. After being imprisoned for 4 years I was now being deported to a country which I had not fought for, or even known. This was strange and I couldn't believe this was happening, I almost gave my life for United States, my country, and now I'm being told that my service was not enough. How is it possible that the same people who are fighting in Iraq, Afghanistan are able to be deported and there is no one that can help.

I was once again onboard a plane handcuffed reminiscing "so many events and not much to say" while I observe and smell the country that I had fought for, but this time there was no one saying goodbye.

By: Edwin Melendez

To Whom it May Concern:

My name is Erasmo Apodaca, "USMC", Finished Recruit Training Sept. 15th 1989, and soon stationed at "Bravo Battery, 1st Batallion, 11th Marines", an Artillery Division, in Camp Pedleton Ca., as a "3531", Vehicle Operator, I would haul Howitzers, 9er 8's, and 05's, with my truck, so I was pretty much in charge of the Artillery unit riding in the back of it, and the Howitzer.

On or about July of 1990 we were on an overseas deployment, "West Pack", when the news came, that we were to go to the Gulf of Oman, for "Operation Desert Shield", I remember that day well, because it was the "only" time I was Afraid...

We spent 11 Months in the Gulf of Oman, just leaving to resupply the ship and give us 1 or 2 days of Liberty in various Ports, our only comunication was receiving letters from our loved ones, which came once every 2 weeks, or did not.

When "Operation Desert Storm Hit", we were glad, thus meaning we would go home some time soon, we were sick and tired of weaponds training, PT, inspections, more PT, and the life of 11 Months living on a ship when a west Pack does not exceed 6 Months, but Op. Desert Storm lasted 2 days or so and it was over, we were sent to take over an island on "L-Cac's", amazing hoovering on sea and land Machines that could carry entire platoons and our artillery...

By the time we got to the Island the Iraqui's Surrendered, their Communications and Supply lines had been cut off and they were starving and did not know what was going on, So no, no Combat Action for us, but to this day I thank Our Lord...

We were back by June of 1991, and Glad...

When I Got out of the Marines, in 1992, I went to work in LA County and found a Girlfriend which I soon started living with, We needed more Income so I decided to go and take a Technical Course, "AA" Asociates in air conditioning and refrigeration, in Phoenix AZ. Well that din't go well after a year we weren't doing well, and well there was somebody else. One Drunken evening I broke into her place and stole some of her dresses, I guess I missed her, and after I left I got caught by the Police for DUI, in the Morning there was a Warrant out for my arrest for breaking an entry... Which I was found Guilty for, and received an Agravated Felony that carries 2 yrs and a strike in the State of California.

So I did my term of 14 Months for good Conduct, and got out and Deported to the Country of Birth, Mexico, Because I already thought I was a U.S. Citizen, but I only had a Green Card , I have been Fighting my case for 22 years now, and maybe sometime soon The U.S. will put me in their good Graces and let me back in.

During these years I have a Bachelors in Mexico for Social Studies, "International Relations", And a Financial Administration "Asociates Degree", was re-married in Mexicali, Baja, Mexico, where I've been all this time, and have four wonderful Children, 2 which were born in the U.S., and I haven't seen in years.

So it's been pretty tough throughout the years but I cannot loose hope, and pray every day for a Miracle.

I received a Governors Pardon, by the Honorable Gov. of CA, Gerard Brown, on the 15th of April of 2017, for my crime.

So I don't have a Crime anymore... And may posses a fire arm and vote once more... If I ever get back States Side...

Thankyou for your Intrest in this Matter...

Erasmo Apodaca M.

USMC Gulf War Veteran

Honorably Discharged, Dishonorably Deported...

American GI Forum – Paso del Norte
Legacy of Valor
"Serving Veterans and Families Since 1948"
P.O. Box 972291
El Paso, Texas 79997-2291
Phone: (915) 255-8877
Email: [redacted]

Carlos M. Rivera, Commander / President Dr. Hector P. García, Founder

August 31, 2016

Re: Francisco De La Cruz

This letter is submitted in support of Mr. Francisco De La Cruz' application to return to the United States of America. The American GI Forum, a Congressionally Chartered Nonprofit Veterans and Family Organization, is working to build partnerships for the success of Veterans, Active Duty Military Service members, National Guardsmen, Reservists, and their families. Our mission is to advocate for and promote the interests of U.S. Armed Forces Veterans, Active Duty Military Personnel, and family members. Our objectives include: developing employment, training, education, benefits, and entrepreneurial opportunities for our constituents. This mission is being carried out in partnership with entities at the local, state, and federal levels, both in the public and private sectors.

In building partnerships for the success of our Veteran community, it is important for Veterans to explore avenues for self-improvement, and to utilize lessons learned from their life experiences to pay it forward by helping other Veterans and Families. This objective is consistent with efforts to promote cutting-edge ideas, approaches, and assistive technologies that help Veterans push through personal challenges and barriers.

In reference to Mr. De La Cruz, I have become familiar with his situation over the past six months. Although I have been familiar with the issues facing deported Veterans for several years, through telephonic and electronic communications, I became aware of Mr. De La Cruz' immigration status and the challenges he has faced as a deported Veteran. Subsequent to these communications, I visited Mr. De La Cruz and two other deported Veterans and their families in Ciudad Juárez, Chihuahua, Mexico on Saturday, August 27, 2016. This visit further illuminated my knowledge about our deported Veterans' challenges, their goals of returning to the United States, as well as their struggle to survive in a foreign land.

Two significant observations stood out based on my visit with Mr. De La Cruz and his fellow Veterans and Families. In addition to being an honorably discharged U.S. Navy Veteran, he is a dedicated family man. In spite of his deported status, he continues to work closely with his wife to ensure that the Family stands together to face the challenges that deportation presents to the entire family. He has sought and maintained employment at extremely low wages to help support his family.

At the same time that he has striven to keep his family together, Mr. De La Cruz has been instrumental in the development of an informal group of deported Veterans who provide each other with moral support in facing the challenges of deportation. Their primary objective is to return to the home they know and to the country they swore to serve, protect, and defend through their honorable military service. As a leader of the group, Mr. De La Cruz has taken steps to formalize the group as a non-profit organization to help Veterans, Families, and the Community in forming a stronger union to help manage the challenges that deportation brings, but also to develop plans to prepare for the anticipated return home to the United States. This includes exploring self-development and education opportunities to prepare for the possible small business development opportunities while they wait for decisions regarding their applications to return home, as well as for family financial sustainability once the decision is finalized.

In his current leadership position as a deported Veteran, Mr. De La Cruz has been pro-active in the community, particularly in attending to his family's welfare, as well as in assisting his fellow U.S. Armed Forces Veterans in their readjustment after military service, and after deportation. He has demonstrated leadership and team member skills that will prove invaluable in helping fellow Veterans and their families now, and in the future. Mr. De La Cruz' military and civilian leadership skills are assets as he works with Veterans to explore new ways to successfully handle the challenges of deportation, as well as readjustment to post-military life.

As Past National Commander of American GI Forum, as Commander of the local Paso del Norte Chapter, and in my current capacity as President of Legacy of Valor, an IRS 501©3 nonprofit tax-exempt established to assist Veterans and Families with post-military service adjustment, I offer our organization's expertise and service to support Mr. De La Cruz in his current application and future development.

Mr. De La Cruz' has initiated a quest for self-improvement, for his family's sustainability, and for his fellow Veterans, Families, and the community. This is a positive reflection on his efforts to improve opportunities for success as they face the challenges of readjusting to civilian life. I am confident that his self-motivation and passion for helping others will guide him well as he continues to advance his professional career and better serve his Family, his fellow Veterans, and our country that he already served honorably during his military service.

I ask for your favorable consideration of Mr. De La Cruz' application for returning to the United States of America. If you have any questions, or need more information, please feel free to contact me at (915) 255-8877.

Sincerely,

Carlos M. Rivera, MSSW, Past National Commander, American GI Forum
President, Legacy of Valor

Dear members of Congress. And to every one who is concerned about our veterans.

.....my name is Howard Bailey I am an Honourable discharge Navy veteran..now presently living in exile in jamaica...

I am a God fearing man that loves my country the " United States of America..".and I love it even more now been separate from my community family ,my mother my brothers my sister's my aunt any uncles niece's and nephew's and most of all my children..

I Howard Bailey serve my country..not for praise or a thank you for your service but sincerely did so because I love and enjoyed been standing for something greater than myself and so I signed up to serve and protect my country at whatever cause and I did so while serving during desert storm and dessert providing comfort...something I would proudly do again today no questions asked

I was deported to jamaica for possession of marijuana charge that happened in 1995 .a mistake I made some 25 years ago but my sentence have not ended...I am still paying dearly for my one offence.

I was once a proud father of two American born kids a good husband a business and home owner. That all came to an end in june of 2010 .

The thing I thought I was already has got me deported 14 years after my incarceration ...you see I applied for my citizenship in 2005. And after almost five years of delay....from INS at the time...while awaiting a call back for my interview that never came ..as I later found out they couldn't call me as I have answered a question honestly on the citizenship application.."have I ever been charged with a crime" which I answers yes.....however the background check came back negative...so they ask me to explain what happened and ask if I could go back to the courts in which this happen. And bring back a deposition of the case which I did only to be told then I was barred from citizenship...as that is lack of moral character..A few months later my home was invaded by men I learn later was ice agents .based on the info I provided them with earlier..

I was taken into ice custody since June of 2010 were I spent two full years ..more time than I spent in jail for my marijuana offenses...i was then deported may 30th 2012 with no remedy or any chance whatsoever to fight my case which I tried in vain..I have been in jamaica ever since a place where I was born but this is not home.. I live in constant fear of my life as deporte's or stigmatized and treated horrible and or targets of discrimination and vicious crimes. I have not seen my kids ever since that cool day of June 4th 2010 I was sent to jamaica with just the clothing on my back which was a pair of oversized jeans and state issue thermo wear shirt as I had lost over 45lbs during my time In Detention .

Please am asking not just for me but for my brothers and sisters, my fellow veterans in deportation proceeding and we the deported...please see it in your hearts and correct this unjust and death sentence....we.serve our country and was and is

still willing to give the ultimate sacrifice...But to be exile is the worst form of betrayal I think there is...am not bitter but disappointed yes...am not saying we don't make mistakes and I do take full responsibility for my actions of which I did redeem myself and was and still is a productive member of society.The burden is extremely heavy not only for me but my American family that suffers also.

I Thank you very much for listening I am waiting everyday to hear the calling to come home something I will never give up hope on ....and I have faith in America I pray the right thing will be done soon...

Your truly waiting to come home .Howard Bailey

My name is Iván Ocon i'm 42yrs old. I was born in Cd. Juárez, Chihuahua Mexico I came to the United States at the age of 7yrs old as a Legal Permanent Resident who grew up in Las Cruces, New México once i graduated High School I decide to serve my Country, Die for my Country if the need be, The Only Country I knew to he my Home! I Enlisted in the U.S ARMY in Jan 1997 - Dec 2003 and Reenlisted 2 more times while in Service achieving the Rank of E-5/SGT.. I have served in númerous duty stations, trained in Combat Lifesaver, Air Assault, OPFOR (where we trained Soldiers in similares desert battles to prepare for war, I was part of the Funeral Detail Honor Guard where we traveled to four different States to Honor & Bury Service members, been TDY to Japan to train with the Japanese Self Defence Force, I also served 1 overseas tour to S. KOREA with 2nd INF. DIVISION. In 2002 I was assigned to 108thADA, XVIII AIRBORNE CORPS. And in 2003 we Deployed to Amman, Jordán in Direct Support of 'Operation Iraqi Freedom' where my daily routine while deployed was 8hrs Guard Duty + 8hrs QRF(Quick Reaction Force)/Patrols plus an extra Guard shift 1am - 3am and any little time u did get you spent it doing other DETAILS. After my return from Deployment I started to suffer from sleep deprivation, severe fatigue, Depresión, anxiety and all sorts of other mental, emotional problems which made it hard for me to adjust back to Garrison life. Shortly after returning from deployment my daughter was born. Upon Discharging from the Army things for me became harder without a purpose and the way of the military life I became lost, then quickly turned to drug abuse as an escape, Shortly after I had a run in with the law which Landed me in Federal custody for 9yrs and was reléased early for 'Good Conduct' only to Find myself in ICE custody fighting for my legal status to not get Deported from the only Country I called Home! I know Veterans are not above the Law but we have paid not only our Debt to society but as well have paid a greater Debt to América with our service to a Country that was never really ours... So Please Help Reunite us with our loved ones back on U.S Soil, a life in the only Country we are willing to Die for if need be! We Deserve a second chance, one mistake should not define the rest of our life... EXILED and Torn from our Loved ones & Country or only to be able to return to U.S Soil in a Body Bag!!!

Sincerely,

Iván Ocon, Sgt.

U.S Army 97-04

'OIF 03'

Deported Veteran 2016

October 23, 2019

Dear Leader,

When my unit returned to the states after our deployment to Afghanistan in support of Operation Enduring Freedom in the fall of 2003, we were each presented with a case containing our nation's colors. On the wooden case is a small brass plate with the words "...in recognition of your service and sacrifice in the cause of freedom. Your service will never be forgotten. From the grateful people of this nation." *In the cause of freedom* are powerful words. Every service member regardless of rank or branch has a strong sense that everything they endure from a minuscule task like raking sand to the ultimate task of putting one's life on the line is all done for the freedoms of each and every one of the three-hundred plus million people at home. We are securing and continuing for all Americans what was achieved by those who fought and sacrificed before us. We do it for the greater good of our society and country, not for personal gain—only a gain for our children the same way our older generations sacrificed for us. However, not all of our children can reap what was sown.

I hope this letter finds someone with an understanding of it's true meaning. I have written this letter a thousand times and given it to every representative I can find over a span of nine years and during my dozens of visits to D.C. and across my state. Today I write it a bit different. I am no longer in the business of begging leaders to have compassion for my "story", but now in the business to respectfully hold them accountable.

The plate on my case is a falsehood. They are only words. My service was forgotten the moment I signed out after 10 years and two branches. My leaders, those who we as Americans trust and elected, have left me behind and abandoned me--and many other veterans and service members--because they are too weak to stand up in the face of adversity the way my brothers and sisters in arms have done now and for centuries before us.

My husband, Marcos, was deported to Mexico in 2010. Nine years later and after a heavy advocacy campaign with the support of literally a few hundred thousand from my state, he's still there. We have four children and make trips to visit Marcos on the years we can afford it, but as our family has grown, and the trips have become too dangerous and costly, they are less-frequent. After a second attempted move to Mexico failed, we have not been back to see him in well over a year. We have gone without a visit as long as almost three years. The emotional and financial strain is devastating for me, but minute compared to that of our children.

Children process in different ways. I deeply fear for my oldest's (9 y/o) safety as the trauma of his dad's deportation for nine years now manifests in very dark ways where he wants to leave this world sometimes so he can be happy with Jesus. They really love their dad and have a natural bond that never ceases to amaze me. This has deeply affected my second son too (8 y/0), but his trauma manifests in bouts of rage and anger that are difficult for me to control on my own. My daughters are so young (3 y/o and 2 y/o), but are already full of anxiety and looking for attention to fill in for their dad. My children are no different though than the millions of other American children who have a parent deported. Little children living in fear with anxiety as high as a combat veteran because their young minds can't process the way an adult's does.

Many young children commit suicide after a parent is deported. After a deportation, the remaining parent must support a family on their own and with no planning. The sudden stress is heavy and many children must fill in adult roles. The despair is unbearable. What do you think happens after a parent is deported? What does nine years later look like? The trauma does not go away like when one processes grief from a death. Their parent is still alive and they have the ever-lingering question running through their minds continuously for years...Will my daddy/mommy ever come home? Do they love me anymore? The yearning does not decrease, it increases with each year. Your hands are dirty of those who take their lives if you choose to allow this to continue. These may seem like harsh words, but somebody needs to tell you the truth. Until a change is made, it falls on you. The nation has already told you we the majority support reunification of families.

Stop separating families. Start reuniting them. Stop making good, hard-working people into criminals. Stop making weak justifications because it helps you to sleep at night, sparing oneself from the truth that lives are being devastated and destroyed by your lack of leadership on immigration. Regardless of what your personal value is, --you may be appalled, or may have tried to do something-- many veterans and families like mine are still separated and many more are being ripped apart. Not agreeing with a broken immigration system is not enough if the system is still broken. You must change it.

I could go on for pages about the injustices from a broken immigration system, but you already know them. You get the letters, I know. I just want you to know that as an American, a mother, a veteran, a social worker, and a human being, I am sickened and saddened at what I see, but mostly with my leaders who continue to defend their positions to save themselves and their careers instead of defending the defenders who put them there. Actions not words. I want my husband home. I want my fellow veterans' spouses home, I want

my fellow man to be treated with dignity and respect as we all deserve as simple human beings.

Thank you for your time and concern in this matter.

Respectfully Submitted,
Elizabeth A. Perez, LSW
USMC veteran/SSgt
[redacted]
Semper Fidelis

October 29, 2019

Luis Andres Puentes Romero
Tijuana B.C. 22414
[redacted]

To whom it may concern:

My name is Luis Andres Puentes Romero and I am deported veteran. I served in the United States Army as a Paratrooper for the 82nd Airborne Division for six (6) years. On April 25, 2004, I was arrested and charged with three (3) assaults in the first degree, subsequently I was sentenced to thirteen (13) years in prison.

On April 5, 2017, I was processed and deported to Mexico and I am currently residing in Tijuana Baja California, Mexico. I have always taken full responsibility of my terrible mistake, however, being deported after serving my full sentence has only reinstated a longer sentence. I am trying to live life full of peace and remain positive, but the truth of the matter is that I am terrified with the uncertainty of where I will end up. The living conditions, the high volume of violent crimes, corruption here in Tijuana, Mexico, I am forced to stay to myself and live a lonely life. I usually drive from and to work as I don't feel safe or comfortable out in the streets. It's hard to trust people.

I have many regrets and no excuses for my past behavior, all I am asking for is for another opportunity. I am humbly requesting for the opportunity from the country I took an oath to defend, even risking my own life to allow me to return to the United States and be reunited with my family.

Your attention to this matter is greatly appreciated.

Sincerely yours,

Luis Andres Puentes Romero

For any and all who are proud to be Americans, My name is Richard Avila.

I am one of many Veterans, who find ourselves abandoned by the very Government we swore an Oath of Allegiance to. When I was first told that I would be placed in Removal Proceedings, to determine if I would be allowed to stay in my Homeland, my first thought was that it had to be a mistake. Then reality sunk in, and I could not understand the contradiction. A Veteran fights to defend his Homeland, and then one day is told, "since the Homeland doesn't need you anymore, we might have to deport you". It took the wind right out of me.

My Military Service began in 1972, when I enlisted at the age of 17, and it ended in 1975, 3-years of a 4-year contract, during Viet Nam. I shipped overseas in 1974, and for half of a 13-month deployment, I was aboard the USS New Orleans with HMH 462, stationed at NAS Subic Bay, on float in the South China Sea. Although our mission did involve patrols off the coast of Viet Nam, our primary mission was to train, prepare for, and eventually executed Operation Eagle Pull, evacuation of the U.S. Embassy in Saigon. I was proud to know that our dedicated training, which could very soon be put to the test, would prove to save American lives, and in the end it was Mission Accomplished.

During my deployment, and like thousands of other troops who served in Viet Nam, I was introduced to and eventually became addicted to heroin. It was this Service-connected Disability, which began to control my behavior, and eventually led to my Other Than Honorable Discharge. In my case, protocol for the separation of an addicted Marine was not followed, and I did not receive the standard rehabilitation prior to discharge. I went back into civilian life with a full blown addiction, and because benefits are not available for OTH Veterans, I did not have access VA Drug Rehab. My OTH, was a direct result of the addiction I suffered during a Loyal and Patriotic Service to my Country. Volunteer for service, suffer a Service-connected disability, discharged because of the disability, total irony. The monster of addiction put my life in a vicious circle for the next 30 years or more, then by the grace of God and help from Narcotics Anonymous, I changed my life and have been drug free for 15 years.

When Immigration Judges' option to use discretion was eliminated, my service-connected addiction no longer mattered, it was now a foregone conclusion, I would be deported. Stripping Immigration Judges of their power of discretion, also opened a floodgate for the deportation of any and all non-citizens in the US, including Veterans who are Lifelong Legal Permanent Residents. This may very well have been an oversight, to increase the number of deportations for Funding or Political purposes, and if so, easily remedied by Reinstatement. Moreover, Veterans should be exempt from any immigration jurisdiction and have the designation of U.S. Nationals. The Deportation of US Military Veterans is an American disgrace, and should definitely be reversed.

The unjust and Illegal practice of deporting U.S. Military Veterans, who are Lifelong Legal Permanent Residents, is a "skeleton in the closet" of Congress. But given the way extras are always added to bills that are eventually passed, it's not surprising that many Representatives are barely aware of this dishonorable practice. Setting a precedent, in the Courts, will definitely stop any future deportations of U.S. Military Veterans.

AVILA-TORRES v RENO (around 1999) and AVILA-TORRES v HOLDER (around 2010). Please research either of the two, HOLDER in the 9th Cir, has a stronger argument. Any consent you might need from me, please feel free to email [redacted]

It is absolutely false, to claim that the deportation of U.S. Military Veterans/Lifelong Legal Permanent Residents, is a Repatriation to their Homeland, they've never known or lived in. These Vets/LPRs owe their Permanent Allegiance and Patriotism to only one Homeland, the United States of America. 8 US Code § 1101 is clear on Nationality/Allegiance, and although proof is not needed for what is owed, any U.S. Military Veteran has proven that Allegiance.

****8 U.S. Code § 1101 - Definitions (22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States****

Ironically the Immigration and Nationality Act, which is authorized under Federal Law, contradicts the Federal Legal Definition of a U.S. National. Under ACT 308 of the INA, U.S. Nationality only applies to residents/inhabitants of certain outlying possessions of the United States, captured during war.

****INA: ACT 308 - NATIONALS BUT NOT CITIZENS OF THE UNITED STATES AT BIRTH: Unless otherwise provided in section 301 of this title, the following shall be nationals, but not citizens of the United States at birth: (1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession.****

These questionable INA provisions were added/amended due to America's involvement in long past wars, they are OLD at least and OBSOLETE for sure. Moreover, Mexico has never been an outlying possession of the U.S., therefore INA 308 cannot take precedence over the claim of US Nationality, from a Mexican citizen. Any Ambiguity in language or interpretation, must fall under the Plain Language Doctrine and default to 8 U.S. Code § 1101 (22), INA Regulations cannot supersede USC Statutes.

There are a vast number of U.S. Nationals, on Outlying Possessions of the U.S., who have never had the need, nor desire to travel off of their islands. Its an Absolute Disgrace and Injustice, when one who has **NEVER SET FOOT ON AMERICAN SOIL,** is granted U.S. Nationality, while another who has **NEVER STEPPED OFF AMERICAN SOIL**, is denied the very same thing.

****MAXIMILIAN KOESSLER Yale Law Journal Vol. 56 Issue 1 Article 12 "SUBJECT," "CITIZEN," "NATIONAL," AND "PERMANENT ALLEGIANCE"

.....It would also seem to be no unreasonable guess that domicile rather than birthplace or filiation may in the future be the favorite fact of attachment for the acquisition of nationality.****

The Appellate Courts are duty bound to hear all allegations of Constitutional Rights Violations, and until the Courts Rule on what these Illegal Deportations truly are, Discrimination, Basic Human Rights Violations, and Unconstitutional, our Military Veterans and other deported U.S. Nationals will continue to be placed in Harm's Way, suffering Cruel and Unusual Punishment.

1) There is Discrimination when Lifelong Legal Permanent Residents, who are Military Veterans and U.S. Nationals, are classified as Alien to the United States, and deported in a Class as Illegal Aliens. These Lifelong LPRs are Americans, Mexican/American, African/American, Asian/American, etc. Without a Doubt, Americans, and alien only to the country of their birth.

2) There is Cruel and Unusual Punishment when Lifelong Legal Permanent Residents, who are Military Veterans and U.S. Nationals, are ripped from their families, freedoms and homes, forbidden to ever return, and forced to accept and assimilate into a Corrupt Culture with a murderous Government.

3) There is Human Rights Violations when Lifelong Legal Permanent Residents, who are Military Veterans and U.S. Nationals, are Denied their Culture, Ideals, and Identity as Americans. FOR ALL INTENTS AND PURPOSES, THEY ARE AMERICANS, foreign only by heritage.

U.S. Nationals do not fall under the Jurisdiction of any Immigration Authority, and are therefore non-deportable. In turn the DHS relies on the Outdated and Obsolete INA Provisions to keep Fully Documented U.S. Nationals in what can only be described as Chains of Bondage/Indentured Servitude/Modern Day Slavery, never allowing for real freedom. Kept in this stranglehold and denied their Nationality, Military Vets and Lifelong LPRs, will always be in danger of getting swept into the Illegal Immigration Fish Nets, like DOLPHINS in with the TUNA, and deported as if they were Illegal Aliens themselves. We should not allow Old and Outdated arguments to stand the test of time, with regards to same issues under different circumstances, and most certainly when it affects our Military Veterans. America has come a long way since WWI and WWII, we have Adapted, Accepted, and Changed the Law. Human Rights, Civil Rights, Women's Rights, LGBTQ, I think it's time we add LPR to the list "Legal Permanent Resident".

One last note, by using only INA 308 as precedence in Nationality Claims, Immigration Authorities have the Power to Write, Regulate, and Enforce their own Policies, like leaving a Match in charge of Dynamite.

DEPORTED VETERAN/RICHARD AVILA [redacted] USMC 1972-1975

Statement to Congress Regarding the Circumstances of Deported American Veterans

My name is Ronald Mervyn Dale Cruickshank. I implore you to pass the legislation that will end my decade long exile so I may tend to my terminally ill wife and soften her last months of life. Further that I may rejoin my children, brothers and grandkids in the United States after ten years of forced exile.

Below is a statement in the third-party voice that gives an overview of my history.

Before Mr. Cruickshank's conviction for avoiding taxes in 2008, he was a Canadian citizen who in 1966 *voluntarily joined the Army and served in Vietnam*. While in Vietnam, Mr. Cruickshank was charged with helping hemorrhagic septicemia infected water buffalo of remote farmers survive via inoculation, thus gaining trust, while gathering actionable intelligence.

He was often in the midst of hostile forces of local guerillas, was targeted for assassination twice by enemy ambush and was constantly in harm's way. During his Vietnam tour of duty, he was assigned to an Air Recon Unit in Phu-Loi, in the infamous Iron Triangle, and worked directly in multiple Special Forces A Camps carrying out his 'hearts and mind' mission. During his entire tour he worked directly for Special Forces Captain Kenneth L. Wronke (Ret LTC National Guard).

After his honorable discharge in 1969, Mr. Cruickshank began a new life as an academic and a scholar. He returned to his family in North Carolina and enrolled in Guilford College in Greensboro, North Carolina, where he received his BA degree in Sociology. As a sophomore at Guilford, Mr. Cruickshank was given a full academic scholarship by recommendation from their Committee of Professors. This prestigious *Charles Dana Scholar* recognition is awarded for academic excellence for both distinguished contributions to college life and the community. His senior year he was elected Class President.

After graduation, and while working full- time for the National Conference doing community anti-discrimination work, he initiated his Masters work in Sociology at UNC-G under a post-graduate grant and scholarship. He would go on to receive his PhD in Sociology from Cal-Western University in Southern California.

In 1983, Mr. Cruickshank married Holly Colette Poston-Cruickshank. They remain married and have two children; Blade (age 27) a golf pro and business executive

in Oklahoma and Jennifer Alexis Noonan Cruickshank (age 40), a Social Worker for Baptist Hospital in Winston Salem, North Carolina. They have two grandchildren, Aiden and Andrew. Andrew is currently serving on his second deployment to the middle east for the US Air Force.

After receiving his doctorate, Mr. Cruickshank had a remarkable career as an academic and business professional. His novel applications of Neuro Linguistic Programming were applied by the U.S. Army to its M-14 shooting program and later published by the science journal called The *Rapporter.* He co- founded Motorola's Emerging Technology Center under industry giants Chris and Bob Galvin and served as Director. He concepted and developed the original digital book design and jointly holds the patent for what later became known the Kindle. His team won national awards in recognition of creativity and innovation including the SIGGRAPH Cyberedge Award and Motorola's International Innovation Award. He also helped found and ran several companies with focuses ranging from pioneering biofeedback for pre-cognitive insight into emotional states used for advertising testing ("AnswerStream, LLC") to developing ultra-high-speed wireless data services for Internet users in the residential markets ("Deeplight, Inc.").

However, in 2008, Mr. Cruickshank lost everything because of his hubris and stupidity. Between 2001-2005, Mr. Cruickshank attempted to avoid and avoided paying the full amount of income taxes required of him. He accepted responsibility and was convicted of three counts of avoiding taxes in November 2008.

Upon conviction, Mr. Cruickshank served his mandated 32 months in federal prison without incident, and despite both his prior exemplary military service and 25-year marriage to a U.S. citizen, he was summarily deported to Canada upon release in 2009.

Since his exile, Mr. Cruickshank has lived lawfully and without any subsequent arrest or criminal charge.

Though Mr. Cruickshank was formally sentenced to less than three years in prison, his conviction and exile from his family, friends and support system have

deprived him of all military benefits, his social security and have left him few job prospects but abroad. And while Mr. Cruickshank has sustained himself over the last few years, his economic disadvantages have curtailed his ability to provide life-saving medical care for his wife. Despite his wife's worsening kidney disease and debilitation from three strokes he has continued to provide both care and aid to her. Mr. Cruickshank has accepted only legal employment, paid his share of taxes, and has rededicated himself to the virtues of hard work for an honest day's pay. Further, Mr. Cruickshank has never sought out or taken any opportunity to travel to or stay illegally in the United States, though that has meant watching his wife waste away from afar.

Mr. Cruickshank and his family have suffered the pain and grief of separation for nearly eleven years – a period longer than two-thirds of the total maximum sentence he could have received in 2008. He now asks that the United States Government will pass the legislation quickly that will allow him to see his brothers and nephews, hug his children and tend to his wife of 36 years before she passes.

Respectfully submitted on November 2, 2019

_____

THE HILL

Filipino war veterans deserve better

BY TONY TAGUBA, OPINION CONTRIBUTOR — 11/05/19 02:00 PM EST
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

Just In...

Democrats release transcript of top Pentagon official as part of impeachment inquiry
NATIONAL SECURITY — 19S AGO

What America's Thinking: November 11, 2019
WHAT AMERICA'S THINKING — 8M 22S AGO

De Blasio slams Bloomberg run for president: He 'epitomizes the status quo'
CAMPAIGN — 24M 35S AGO

Ilhan Omar blasts Pete King as an 'Islamophobe' after he announces retirement: 'Good riddance'
HOUSE — 39M 55S AGO

New Quinnipiac poll finds Biden leading in New Hampshire
CAMPAIGN — 42M 33S AGO

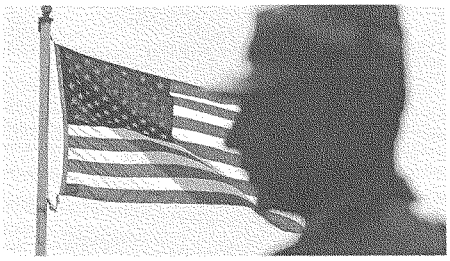
Microsoft pushes for DACA legislation
BUSINESS & LOBBYING — 45M 19S AGO

Giuliani considers launching impeachment podcast
BLOG BRIEFING ROOM — 46M 20S AGO

Why Voyager 2's discoveries from interstellar space have scientists excited
OPINION — 52M 43S AGO

VIEW ALL

View Latest Opinions >>



Getty Images

Two years ago, I stood in the Capitol as Filipino Veterans of World War II were awarded one of the highest honors of our country, the Congressional Gold Medal. It was a proud moment as the United States recognized, "The Filipino veterans of World War II fought alongside, and as an integral part of, the United States Armed Forces. The United States remains forever indebted to the bravery, valor, and dedication that the Filipino Veterans of World War II displayed." But it seems those words were hollow.

This year, the United States Citizenship and Immigration Services issued a notice that it intended to terminate a program intended to support our veterans, known as the Filipino World War II Veterans Parole Program. The same government that recognized the "bravery, valor, and dedication" of the Filipino World War II veterans and announced that it was "forever indebted" to them is now turning its back on them once more.

The advocacy campaign for the Congressional Gold Medal for our Filipino World War II veterans was one in a series of campaigns to win recognition and justice for their military service. Many people do not know that the Philippines was a territory of the United States during World War II. The Philippines was attacked by Japan on the same day as the attack on Pearl Harbor and was occupied by Japan for the duration of the war. Filipinos who fought with American forces were promised American citizenship for their service, but this offer was then rescinded after the war.

The advocacy campaign for our Filipino World War II veterans to receive the benefits they earned for their military service and bravery has gone on for decades. In 1990, legislation was passed that finally granted American citizenship to Filipino World War II veterans. Many filed petitions as soon as they were able to sponsor family members to reunite with them in the United States. Since the wait times for most of the family immigration categories are so long, however, many veterans who had petitioned their family members still faced decades long waits for their relatives to be approved for green cards to immigrate to the United States.

The Filipino World War II Veterans Parole Program, a policy that has been in effect for three year, allows certain family members of Filipino World War II veterans who have pending immigrant visa applications to travel to the United States and wait for their visas here. The policy enabled elderly Filipino World War II veterans to have their family members join them in

the United States to provide care and support, and it has had a profound impact on the veterans and their families who are now together and able to care for one another and provide support on a daily basis.

In terminating the policy, the federal government is again breaking faith with the Filipino World War II veterans. I urge all to join me in calling on the United States Citizenship and Immigration Services and the White House to preserve the Filipino World War II Veterans Parole Program. Our veterans deserve and have more than earned the right to live out their days with dignity and in peace, with family to care for them, and secure in the knowledge that the United States honors their service.

More than 57,000 people were killed in the Philippines in World War II, and thousands more were wounded for life or missing in action. There is an immeasurable cost of life in war, and soldiers like my father defended the United States at a huge risk to their lives and freedom. Being granted American citizenship for completing their mission is not an entitlement or benefit. Soldiers were willing to die for our country, to suffer the brutality and ravages of war, and many lost their homes and livelihood.

The United States must honor the commitment made to these veterans and their families. Our remaining veterans are now in their nineties, and some have passed the centennial mark. The Filipino World War II Veterans Parole Program was created to support those who bravely defended the United States during the war. There is no honor in ending it.

Tony Taguba is a retired major general of the United States Army and now the chairman of the Filipino Veterans Recognition and Education Project.

TAGS GOVERNMENT IMMIGRATION CITIZENSHIP PHILIPPINES VETERANS CONGRESS MILITARY

BOUNDLESS

November 6, 2019

To: The Honorable Zoe Lofgren
Chair
Subcommittee on Immigration and Citizenship
House Committee on the Judiciary
Washington, D.C. 20510

The Honorable Ken Buck
Ranking Member
Subcommittee on Immigration and Citizenship
House Committee on the Judiciary
Washington, D.C. 20510

Dear Chair Lofgren and Ranking Member Buck:

On behalf of Boundless, we are grateful for the opportunity to express our concerns about the impact of current immigration policies on service members, veterans, and their families.

At Boundless, we strive to empower families to navigate the immigration system confidently, rapidly, and affordably. In recent months, we have seen firsthand the adverse effect that the government's sweeping new immigration policies have had on immigrants and their loved ones.

Among the recent measures that U.S. Citizenship and Immigration Services (USCIS) has pursued to restrict legal immigration, the "public charge rule" could have the biggest impact. The policy would deny immigrant visas to applicants who are deemed likely to use public benefits, using a multi-factor test so confusing and subjective that it will no doubt lead to chaos and delays throughout the legal immigration system.

If enacted, the public charge rule could prove devastating to the families of U.S. citizens, including military families. In our public comment opposing the rule, we wrote that it "will prevent the families of U.S. military veterans from living together in the United

States, despite DHS's assertion that the government is 'profoundly grateful for the unparalleled sacrifices of the members of our armed services and their families.'" My team at Boundless created the Public Charge Risk Estimator, a free tool that helps families estimate their risk of denial under the new rule. For a deeper understanding of just how complex the USCIS public charge test would be, I encourage Members of the Subcommittee to visit our website and try out the calculator for themselves.

Another pending version of the public charge rule, led by the Department of Justice, would make it easier to deport U.S. lawful permanent residents who have used public benefits to which they are legally entitled by Congress. The policy could affect thousands of veterans who are eligible to receive public benefits, including healthcare and nutritional assistance — the same benefits penalized under the public charge rule.

Barriers to U.S. citizenship have also measurably worsened over time, including a policy change in Oct. 2017 that makes it harder for service members to receive expedited citizenship due to additional background checks and increased active duty requirements. Military naturalizations have since dropped by 44 percent between FY2017 and FY2018. The government has also denied more military naturalization applications, from 10 percent in FY2017 to 15 percent in FY2018.

In a widely-criticized move, DHS announced another policy change that would deny automatic citizenship to children born to certain U.S. military members abroad. While the rule only affects relatively few individuals, it places unnecessary hurdles before military families who already have enough challenges to contend with. "In what possible universe does it make sense to make it harder for our service members overseas to do this and who want to serve overseas?" former White House policy advisor and Boundless co-founder Doug Rand told NBC.

In another harmful action to veterans, the government announced in August that it would terminate the Filipino World War II Veterans Parole program, which allowed family members of Filipino soldiers who supported the U.S. during WWII to enter the United States while they waited for their visas to be approved. The government gave no convincing reason for ending the program, with USCIS Acting Director Ken Cuccinelli calling out parole programs as a way for would-be immigrants to "skip the line."

Another parole program, called Military Parole in Place (PIP), has been left alone so far, but its future is uncertain. The government is currently reviewing the program, which allows certain undocumented family members of U.S. military members to stay and work in the U.S. Although PIP hasn't yet been terminated, members of the American

Immigration Lawyers Association (AILA) have reported a higher rate of denials and long wait times for applications at local USCIS field offices.

These policies all add up to a net loss for this country and its core values, and show a stunning disregard for the sacrifices that members of the U.S. military have made for this country. Thank you for your time and attention to these critical matters. If you have any questions regarding this letter for the record, please don't hesitate to contact me at xiao@boundless.com.

Sincerely,

Xiao Wang
CEO and Co-Founder
Boundless Immigration Inc.

○