

**STATEMENT
OF
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BEFORE THE
SENATE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND BORDER SAFETY
ON
“HONORING VETERANS AND MILITARY FAMILIES: AN EXAMINATION OF
IMMIGRATION AND CITIZENSHIP POLICIES FOR US MILITARY SERVICE
MEMBERS, VETERANS, AND THEIR FAMILIES”**

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Chairman Padilla, Ranking Member Cornyn, and distinguished members of the subcommittee, on behalf of our National Commander, James W. “Bill” Oxford, and our nearly 2 million members, we thank you for inviting The American Legion to submit a statement for the record on veteran deportation and the military naturalization process.

The American Legion believes in and endorses naturalization – the legal act or process by which a non-citizen of this country may acquire citizenship or nationality of this country. Providing assistance and instruction to those following the legal path to citizenship has been a longstanding and proud American Legion tradition since our founding. The American Legion has fought for servicemembers and veterans to receive U.S. citizenship through military service for more than 100 years. The American Legion’s first position on U.S. citizenship through honorable military service is stated in a 1919 resolution which recommends “that American Indians who honorably served in the Army, Navy, or Marine Corps of the United States during the World War be given the full rights of citizenship.” Over the next century, numerous resolutions were passed urging the federal government to continue providing naturalization classes open to all who are seeking citizenship instruction, urging Legion posts to assist with naturalization programs, and several more which will be noted in more detail below.

In short, The American Legion believes in honoring the promise this nation makes to immigrants who seek naturalization through military service: if you enlist and serve honorably, this nation will make you a citizen.

Background

Since the founding of our nation, non-citizen immigrants have served in the United States military and have served faithfully in every major conflict. Around 760,000 immigrants have gained U.S.

citizenship through military service during the past century.¹ The *Lodge Act of 1950* permitted non-citizen Eastern Europeans to enlist between 1950 and 1959, and in the late 1940s the United States recruited Filipinos to enlist in the Navy. Under a July 2002 Executive Order, military branches have worked closely with the United States Citizenship and Immigration Services (USCIS) to streamline citizenship processing for servicemembers since September 11, 2001.² Following September 11, 2001, over 109,250 members of the Armed Forces have attained their citizenship through honorable service.³ Each year, around 24,000 non-citizen immigrants actively serve in the military and 5,000 join. These servicemembers come from a wide range of countries like Mexico, the Philippines, South Korea, and Jamaica.⁴

Veteran Deportation

In recent years, it has been reported from citizenship organizations, national and local news sources, and members of Congress that hundreds, possibly thousands, of veterans have been deported. Many of those deported who were interviewed said they were led to believe that citizenship was automatically granted due to their service. In reality, the branches of the Armed Services must work with U.S. Citizenship and Immigration Services (USCIS) to begin the process of establishing citizenship for the servicemember. As such, the servicemember was unaware of the need to begin the process through USCIS and the individual service branches failed to inform the servicemember while on active duty. Many of the veterans deported are as a result of minor, non-violent, and/or substance related crimes. According to the Texas Civil Rights Project, substance abuse is highest amongst veterans.⁵ Substance abuse is often related to post-traumatic stress disorder (PTSD) and other mental health concerns resulting from military service.⁶

The *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* toughened U.S. immigration laws, adding penalties for undocumented immigrants who commit crimes while in the United States. The Act also allows for the deportation of non-citizen servicemembers who commit a misdemeanor or a felony.⁷ Therefore, despite their honorable service, non-citizen immigrant veterans are not shielded from deportation. Between 2013 and 2018, 250 non-citizen

¹ Jeanne Batalova Jie Zong and Jeanne Batalova Jie Zong, "Immigrant Veterans in the United States," migrationpolicy.org, February 2, 2021, <https://www.migrationpolicy.org/article/immigrant-veterans-united-states-2018>.

² "Expedited Citizenship Through Military Service: Current Law, Policy, and Issues." EveryCRSReport.com. Congressional Research Service, February 25, 2009. https://www.everycrsreport.com/reports/RL31884.html#_Toc223754272.

³ "DOD Fact Sheet on MAVNI Recruitment Pilot Program," American Immigration Lawyers Association, accessed June 17, 2021, <https://www.aila.org/infonet/dod-fact-sheet-mavni-recruitment-pilot-program>.

⁴ "Naturalizations for Non-Citizens in Military Service." AAF, October 29, 2020. <https://www.americanactionforum.org/insight/naturalizations-for-non-citizens-in-military-service>

⁵ "Land of the Free, No Home of the Brave, A Report on the Social, Economic, and Moral Cost of Deporting Veterans." txcivilrights.org. Accessed June 17, 2021. <https://txcivilrights.org/reports-and-publications/report-land-of-the-free-no-home-of-the-brave/>.

⁶ "PTSD and Substance Abuse in Veterans." VA.gov. https://www.ptsd.va.gov/understand/related/substance_abuse_vet.asp.

⁷ "Illegal Immigration Reform and Immigration Responsibility Act." Legal Information Institute. Legal Information Institute. Accessed June 17, 2021. https://www.law.cornell.edu/wex/illegal_immigration_reform_and_immigration_responsibility_act.

immigrant veterans were placed in extradition proceedings resulting in the deportation of 92 US veterans.⁸

Roughly 200,000 servicemembers transition from the military each year. Transitioning veterans can face multi-layered challenges, including unemployment, poor mental health, and other factors which could result in criminal charges. The process is exacerbated when a non-citizen immigrant veteran transitions from the military, has encounters with law enforcement agencies, and faces deportation. Many veterans are deported due to non-felony crimes. Some of these crimes may even result in being barred from naturalization for life, despite meeting all the other criteria.

Those deported face significant hurdles applying for citizenship or having their cases appealed. Some crimes permanently bar deported veterans from ever returning to the United States. Those not permanently barred must go through the already complicated immigration process to remedy their status. Very few of those deported are allowed to return and receive their citizenship. The toll on these veterans and their families can be severe.⁹

Immigration and Customs Enforcement Deportation Process Problems

If a non-citizen veteran violates immigration law, Immigration and Customs Enforcement (ICE) may seek to remove the veteran from the country. However, ICE policies require it to take additional steps prior to removal actions, such as considering their service record.¹⁰ A 2019 Government Accountability Office (GAO) report indicates ICE agents were largely unaware of their own policies regarding veterans and did not consistently follow these policies from 2013-2018.¹¹ The GAO report found over 20 percent of immigration interview cases involving veterans failed to note their veteran status.¹² Not designating potential deportees as veterans prevents those veteran's honorable service from being considered during deportation proceedings. Between 2013 and 2018 the United States knowingly deported 92 U.S. veterans.¹³ It is highly likely the actual number of veterans deported during this time far exceed the numbers reported, due to a lack of tracking by ICE.

Naturalization Problems

At its root, the problem is that immigrant servicemembers who served honorably are at risk of deportation if they did not receive citizenship prior to leaving service. It is a failure of all those involved that servicemembers do not receive citizenship, unless they specifically do not desire citizenship or had done something during their service which resulted in a dishonorable discharge.

⁸ U.S. Government Accountability. "Immigration Enforcement - Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans." GAO, June 2019. <https://www.gao.gov/products/gao-19-416>

⁹ "Thank You & Goodbye," The American Legion Magazine, June 2021. <https://drive.google.com/file/d/12knzujMrNBRsX4J2mMYjuPDJ8F6ERZWA/view?usp=sharing>.

¹⁰ U.S. Government Accountability. Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans, April 15, 2021. <https://www.gao.gov/products/gao-19-416>.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

New policies have made naturalization more difficult for immigrant recruits. By extending the amount of time the Department of Defense (DoD) is required to wait before servicemembers can begin the process, they are no longer able to begin applying during basic training. This Basic Training Initiative, administered by USCIS, provided on site resources so enlistees could begin naturalization during basic training was terminated in 2018.¹⁴ Prior to its elimination, the Basic Training Initiative allowed a single controlled point where all immigrant soldiers could learn about and begin the naturalization process.

Access to continue the naturalization process have caused problems as well. Deployments abroad, lost applications, unit transfers, lack of access to facilities and other factors affect how quickly servicemembers can apply for naturalization. For example, in 2019 USCIS reduced the number of locations overseas where non-citizen servicemembers can be naturalized from 23 to four. Those deployed may not have any ability to continue the naturalization process at all until they return from their deployment. This could delay their application for months or years through no fault of their own as they serve in the U.S. military.

Some immigrants, particularly those who entered the U.S. Armed Forces in the Military Accessions Vital to the National Interest (MAVNI) program, have had the rules change on them.¹⁵ Not only does this cause confusion in the process but leaves them in danger of losing their legal status and subsequent deportation while they wait for their application and security clearances to receive final approval.

There is also a fundamental misunderstanding among immigrant servicemembers on how the naturalization process operates. Many servicemembers and veterans did not receive appropriate information about the application process such as misunderstanding that their oath of enlistment constituted them becoming citizens.

These new policies and the pre-existing barriers have caused a severe decline in naturalizations among military personnel. The latest data from 2018, shows that 4,135 service members were naturalized that year, down 43 percent from 2017.¹⁶ 2018 saw the lowest number of naturalizations since 2002, when 2,434 service members were naturalized. USCIS has denied military naturalization applications at a higher rate than civilian applications for every quarter since the beginning of FY2018.¹⁷ This exacerbates the abovementioned issue which is the deportation of immigrant servicemembers who did not receive their citizenship prior to discharge.

Recommended Solutions

¹⁴ “Immigrants in the Military: 5 Things To Know.” FWD.us, May 27, 2021. <https://www.fwd.us/news/immigrants-in-the-military/>.

¹⁵ Lolita C. Baldor, The Associated Press. “How Trump Administration Policies Stymie the Pentagon's Immigrant Recruit Program.” Military Times. Military Times, September 30, 2018. <https://www.militarytimes.com/news/pentagon-congress/2018/09/30/how-trump-administration-policies-stymie-the-pentagons-immigrant-recruit-program/>.

¹⁶ “Naturalizations for Non-Citizens in Military Service.” AAF, October 29, 2020. <https://www.americanactionforum.org/insight/naturalizations-for-non-citizens-in-military-service/>.

¹⁷ “Immigrants in the Military: 5 Things To Know.” FWD.us, May 27, 2021. <https://www.fwd.us/news/immigrants-in-the-military/>.

Men and women who served honorably should not face barriers to citizenship or face deportation from the country they served or fought to defend. That is why The American Legion has passed many resolutions as part of our advocacy on the issue of immigrant and deported veterans. Most recently, these include: Resolution No. 15: *Expedited Citizenship Through Military Service*;¹⁸ Resolution No. 10: *Expedited Citizenship Applications For Deported Veterans*;¹⁹ Resolution No. 19: *Oppose Deportation of Non-Citizen Immigrant Veterans*;²⁰ and Resolution No. 20: *Oppose Deportation of Immediate Family Members of Non-Citizen Immigrant Veterans*.²¹ Together these resolutions urge Congress to pass legislation to stop deporting veterans, ensure immigrant servicemembers can expeditiously become citizens, and bring deported veterans home.

Based on these resolutions, The American Legion recommends the following changes:

- Implement measures within the DoD to ensure the process of naturalization through honorable military service is completed prior to discharge.
- Maintain the requirement that immigrants must have a completed background check prior to going to basic training but reinstitute the USCIS Naturalization at Basic Training Initiative to provide onsite immigration resources and staff to support recruits beginning the naturalization process.
- Reopen the 19 field offices abroad to support the naturalization process for deployed service members.
- Permit the reopening of naturalization applications that were denied or abandoned when an applicant was unable to follow the naturalization process through to completion.
- Provide training to military recruiters and military chain of command about the naturalization process for servicemembers and veterans.
- Provide expedited citizenship applications and the resources to complete the applications to deported veterans if their discharge is honorable and they do not have a felony conviction.
- On an annual basis, mandate the DoD and the Department of Homeland Security (DHS) to report to Congress the number of non-citizens serving at that time in the U.S. Armed Forces, including in each branch of the military, the numbers of naturalization applications filed by U.S. servicemembers, and the status and results of those applications.
- Cease the deportation of immediate family members of non-citizen servicemembers and veterans who have not been convicted of a felony.
- Allow immediate family members of noncitizen servicemembers and veterans who are at risk of deportation to apply for Parole in Place and Deferred Action while in removal proceedings.
- Establish a pathway to lawful permanent residence for immediate family members of noncitizen servicemembers and veterans and strengthen the pathway to citizenship.

The American Legion supports two bills which would implement some of these recommendations. In the Senate, we support the *Veterans Visa and Protection Act of 2021*. It amends the *Immigration and Nationality Act* to adjust the treatment of eligible noncitizen veterans by the DHS:

¹⁸ <https://archive.legion.org/bitstream/handle/20.500.12203/9912>

¹⁹ <https://archive.legion.org/bitstream/handle/20.500.12203/9277>

²⁰ <https://archive.legion.org/bitstream/handle/20.500.12203/14650>

²¹ <https://archive.legion.org/bitstream/handle/20.500.12203/14652>

- Prohibits the deportation of noncitizen veterans.
- Establishes a visa program through which deported veterans may enter the United States as legal permanent residents and allows noncitizen veterans in the U.S. who are ordered for removal to adjust their immigration status to that of a legal permanent resident.
- Enables legal permanent residents to obtain naturalization through military service.
- Extends military and veterans benefits to those who were deported who would otherwise be eligible for those benefits.

In the House Committee on Veterans Affairs, we support H.R. 1182, the *Veteran Deportation Prevention and Reform Act*. This legislation is a comprehensive reform package that would implement critical reforms across agencies for noncitizen veterans and prevent their deportation. The bill would specifically direct the DHS to create a program and application process to allow eligible deported veterans residing outside of the U.S. to return to the country as noncitizens lawfully admitted for permanent residence. The package also calls for the DoD and DHS to jointly establish a program to ensure members of the Armed Services and their spouses and children have a pathway to citizenship.

Currently, the U.S. lacks consistent statistics on the scope and magnitude of the deportation of U.S. military veterans. Under this bill, the Departments of Defense, Veterans Affairs, and Homeland Security would be mandated to conduct a joint study and report on all veterans that have been deported in the past two decades. In June 2019, the GAO found that ICE has not been tracking the number of veterans who have been deported, or been adhering to internal policies regarding potentially removable veterans. This study would allow Congress to better understand how many veterans have been forcibly removed. In addition, it directs DHS to establish a Military Family Immigration Advisory Committee that would provide recommendations on whether an individual should be granted a stay of removal, deferred action, parole, or be removed from the country. It also provides a pathway to citizenship for spouses and children of members of the Armed Services through a joint program between DoD and DHS.

Conclusion

Immigrants have served in the United States Military since the founding of our nation. In recognition of their honorable service, we have promised the opportunity to become American citizens. Although the pathway to citizenship has been accomplished for many non-citizen immigrant servicemembers and veterans, there are still many barriers. The American Legion's position is clear. These brave men and women served our nation honorably. It is only right that we recognize their service with the pathways to citizenship they deserve.

The American Legion thanks this subcommittee for the opportunity to explain the position of the nearly 2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Jeffrey Steele at The American Legion's Legislative Division at (202) 230-1695 or jsteele@legion.org