

October 23, 2023

Re: Co-sponsor the Veteran Service Recognition Act (H.R. 4569)

Dear Representative:

On behalf of the American Civil Liberties Union (“ACLU”),ⁱ we write to urge you to co-sponsor the Veteran Service Recognition Act (“VSRA”), H.R. 4569, a bipartisan bill that would make it easier for members of the Armed Services to become citizens and create opportunities for deported veterans to return home.

The American public overwhelmingly supports these measures—across partisan lines, and even among the most conservative voters in the country, according to a new YouGov poll commissioned by the ACLU. The poll shows 83 percent of Republicans, 82 percent of Independents and 96 percent of Democrats support expanding opportunities for servicemembers to become citizens. Among those who identify as “very conservative Republicans,” 81 percent support making it easier for deported noncitizen veterans to return home and 75 percent support making it harder to deport noncitizens or their families if the noncitizen served. (YouGov’s polling memo is annexed to this letter).

These poll results illustrate our nation’s shared value of fairness: Americans believe that those who have sworn to protect this nation with their lives deserve a real chance to become citizens, and the opportunity to return home.

Noncitizen Servicemembers: Vital to the Nation

Foreign-born servicemembers have served the United States since the founding of the Republic. Their dedication to the military and to the country they love—indeed, for those who came here as young children, the only country they’ve ever known—is unmistakable.

A noncitizen is eligible to join the military if they are a U.S. National, a Lawful Permanent Resident (a.k.a. Green Card Holder), or a national of Micronesia, Marshall Islands, or Palau.ⁱⁱ Studies show that immigrants join the military out of patriotism, as a way of paying back the nation, and to access a sense of belonging—including by becoming citizens.ⁱⁱⁱ



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Military and national security experts regard recruitment of noncitizens as vital to the national interest and military readiness. The Department of Defense (DoD) is facing its worst recruitment crisis in 25 years.^{iv} The Army and Air Force have shortfalls of 10,000 individuals each, and the Navy 6,000 individuals.^v While the military has attempted to increase recruitment of native-born Americans, “these efforts have largely fallen short, leaving crucial gaps that could be filled by noncitizens.”^{vi} As a result, the Army and Navy are increasing recruitment efforts aimed at legal residents.^{vii}

“Noncitizens are a potential source of language and cultural skills that are of strategic importance to military operations outside of the U.S,” states a Center for Naval Analyses report.^{viii} Noncitizens bring language skills that “matter both for operating on the ground with allies or for gathering intelligence,” according to a security expert.^{ix} Noncitizens are also a badly needed source of medical expertise and trained medical workers for the military.^x The center-right group American Action Network argues that obstacles to military naturalization mean “the U.S. military could be forgoing an opportunity to enhance and diversify its skills;” by contrast, creating “paths to citizenship through military service could result in a stronger military.”^{xi}

At least 8,000 noncitizens join each year, and about 45,000 noncitizens are actively serving in the military.^{xii} By many measures, noncitizens perform exceptionally in the military. They have higher retention rates, with the dropout rate for noncitizens nearly half that of U.S. citizens when their service reaches four years.^{xiii} Marine Corps Gen. Peter Pace, the former Chairman of the Joint Chiefs of Staff, testified before Congress that “[noncitizens] 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.”^{xiv}

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.^{xv}

Ensuring Citizenship for Service

The VSRA reflects this bedrock principle: Those who are willing to make the ultimate sacrifice for this nation have demonstrated exceptional character and commitment, and deserve the opportunity to become citizens.



Over the last 200 years, Congress has passed successive laws promising a path to citizenship in exchange for service to the nation. Under current law, during peacetime, a lawful permanent resident (“LPR”) may naturalize after serving honorably in the military for one year (compared to three to five years for other LPRs). During wartime, any noncitizen who serves honorably in the military may naturalize after one day of active-duty service.^{xvi} Between 2010 and 2021, about 105,000 servicemembers filed naturalization applications.^{xvii}

But the government has failed to ensure that servicemembers naturalize when they are eligible. Many veterans never applied to naturalize and become citizens during their service because they were incorrectly told by recruiters or their chain of command that their service automatically made them citizens. Many other veterans applied for naturalization while serving, but the government lost or failed to file their applications.^{xviii}

The VSRA would address these issues by directing the Department of Homeland Security (DHS) and DoD to establish a joint program to ensure that servicemembers have a path to citizenship, including allowing eligible noncitizens to apply for naturalization at any point on or after their first day of active service or service in Selected Reserve; and requiring government officials trained in immigration law to be at each Military Entrance Processing Station so they can inform recruits about the naturalization process.

Struggles to Reintegrate After Service – And Vulnerability to Deportation

Many veterans struggle to reintegrate into life following discharge from service. Traumatic brain injuries, serious mental health issues including post-traumatic stress disorder (PTSD) and experiences in active combat zones have lasting effects on them. Many struggle with substance abuse, experience homelessness, or cope with injuries and disabilities for the rest of their lives.

With this context, it is unsurprising—though deeply troubling—that an estimated one in three veterans have been arrested or jailed at least once.^{xix} When veterans serve their sentences, they return home, and we know they deserve the chance to rehabilitate and rebuild their lives. But veterans who are noncitizens are not afforded a second chance. Instead, they are dealt a second punishment: After serving time, they may face deportation and a life-long bar on becoming citizens of the nation they swore to protect.



It was not always this way. Until the mid-1980s, judges frequently used their discretion to protect noncitizen veterans from deportation based on their service, long-time residence and deep family roots. But draconian laws passed as part of anti-crime, “War on Drug” legislative waves sharply limited judge’s ability to consider military service, making deportation mandatory in many cases.^{xx}

For many categories of crimes, judges are now precluded from considering the experiences that factor into an individual’s commission of a crime—such as PTSD, sexual abuse and other trauma, combat injuries, military training that contributes to trouble reintegrating as a civilian—despite their inextricable link to the military service that ought to make them eligible for citizenship. They are also precluded from considering whether deportation is a fair and just outcome, including when the individual is a lawful permanent resident, immigrated as a child, served in the U.S. military, and has no remaining ties to their country of birth.

The 1990s’ “tough on crime” legislative wave also massively expanded the category of crimes that make an individual vulnerable to deportation. Now, veterans—including those honorably discharged—face deportation for non-serious criminal offenses, including in cases where they did not receive even a single day’s jail sentence, which in previous generations were not bases for deportation. Examples include shoplifting, marijuana possession, and writing a bad check—“crimes for which U.S. citizens often get probation or a suspended sentence, but for which noncitizens can lead to deportation, even when prosecutors choose not to proceed with the case or even if the sentence is suspended.”^{xxi}

Furthermore, the government has deported many veterans without knowing of their military service. The GAO found numerous failures to follow policies that instructed immigration officials to inquire about military service.^{xxii}

The VSRA would require DHS to establish a system for identifying noncitizen veterans before initiating a deportation. It would also create a Military Family Advisory Committee to review and recommend whether discretion is warranted regarding the deportation of members of the armed forces, veterans, and covered family members. While limited, these steps would begin to ameliorate the harmful laws noted above.

Consequences of Deportation

Deportation causes grave hardship to veterans. The ACLU has worked with many individuals with young children. The children experienced heartbreaking trauma from the loss of a parent in their lives. Many



deported veterans have U.S. children or spouses who cannot relocate to the country of deportation, meaning families are permanently separated and broken apart.

The lifetime bar on re-entry after deportation has meant veterans are forced to live the remainder of their lives isolated from everyone they know and love. Far too many have been unable to say goodbye to dying parents, children and spouses or attend their funerals. Many have lived in destitution, unable to work or make ends meet in a country where they do not speak the language or where they are shunned as an outsider. Unable to reenter the United States, they have also been cut off from lifesaving VA medical care, to which they are entitled, and often struggle to obtain quality medical care or appropriate mental health treatment for veterans suffering PTSD.

In some foreign nations, including in Mexico and Central America, veterans have faced threats and violence by drug cartels and armed gangs that seek to recruit them for their military experience.

The VSRA would create opportunities for deported veterans who were not convicted of serious crimes to re-apply for LPR status and to return home. Its modest provisions provide an avenue for consideration, but do not require the government to repatriate individuals.

Through the VSRA, Congress can demonstrate its respect and commitment to servicemembers, their parents, spouses, and children. We urge your office to co-sponsor this bill and support passage of its provisions, including through larger legislative packages. Thank you and please contact Naureen Shah, ACLU Deputy Director of Government Affairs for Equality, at nshah@aclu.org, with any questions.

A handwritten signature in black ink, appearing to read "Deirdre Schifeling".

Deirdre Schifeling
ACLU Chief Political & Advocacy Officer

A handwritten signature in black ink, appearing to read "Naureen Shah".

Naureen Shah
ACLU Deputy Director of Government Affairs, Equality Division

A handwritten signature in blue ink, appearing to read "Jennie Pasquarella".

Jennie Pasquarella
Director of Immigrants' Rights, ACLU of Southern California



ⁱ Since 2015, the ACLU of Southern California and the ACLU of San Diego and Imperial Counties have advocated on behalf of deported veterans in partnership with veteran advocacy groups. In 2016, we published a comprehensive policy report, *Discharged, then Discarded: How U.S. veterans are banished by the country they swore to protect*, analyzing 59 cases of veterans who were deported or facing deportation. Over the years, we have conducted legal intakes with more than 300 deported veterans and, with our pro bono law firms and partner organizations, have represented dozens of them in their legal bids to return home to the United States. We have also worked to prevent the deportation of veterans and to challenge 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.

ⁱⁱ 10 U.S.C. § 504. Between 2008-2016, a Defense Department program allowed the military to enlist certain non-citizen, non-LPRs if they had skills considered vital to the national interest. See U.S. Citizenship and Immigration Services (USCIS), “Military Naturalization Statistics,” <https://www.uscis.gov/military/military-naturalization-statistics>.

ⁱⁱⁱ See Sofya Aptekar, “Why Immigrants Enlist in the U.S. Military,” The Conversation, July 24, 2023, <https://theconversation.com/i-asked-immigrants-from-28-countries-why-theyre-serving-in-the-us-military-and-its-not-primarily-to-gain-citizenship-209649>.

^{iv} Center for New American Security, “Bad Idea: Relying on the Same Old Solutions to Meet the Military Recruitment Challenge,” March 10, 2023, <https://www.cnas.org/publications/commentary/bad-idea-relying-on-the-same-old-solutions-to-meet-the-military-recruitment-challenge>.

^v USA Facts, “Military Recruitment is down. Why don’t young Americans want to join?” Aug. 8, 2023, <https://usafacts.org/articles/military-recruitment-is-down/>; Lolita C. Baldor, “Join the military, become a US citizen: Uncle Sam wants you and vous and tu,” June 11, 2023, Associated Press, <https://apnews.com/article/army-air-force-recruiting-shortfall-immigrants-citizenship-2cd690352210606945010d1800c5bdbe>; NewsNation, “Military turns to immigrants to fight recruiting shortfalls,” June 12, 2023, <https://www.newsnationnow.com/us-news/military/immigrants-military-recruitment-shortfall-army-air-force/>.

^{vi} Migration Policy Institute, “Policy Brief: Noncitizens in the U.S. Military,” May 2019, <https://www.migrationpolicy.org/sites/default/files/publications/MPI-Noncitizens-Military-Final.pdf>.

^{vii} Lolita C. Baldor, “Join the military, become a US citizen: Uncle Sam wants you and vous and tu,” Associated Press, June 11, 2023, <https://apnews.com/article/army-air-force-recruiting-shortfall-immigrants-citizenship-2cd690352210606945010d1800c5bdbe>.

^{viii} David Gregory, Molly F. McIntosh, Seema Sayala, Non-Citizens in the Enlisted U.S. Military 5, Center for Naval Analyses (Nov. 2011), available at <https://timemilitary.files.wordpress.com/2012/04/non-citizens-in-the-enlisted-us-militaryd0025768-a2.pdf>.



^{ix} Yagmur Fitzwater, “Restore the MAVNI program to help solve the military’s recruiting problem,” Stars and Stripes, March 8, 2023, <https://www.stripes.com/opinion/2023-03-08/restore-the-mavni-program-9428195.html>.

^x Migration Policy Institute, “Policy Brief: Noncitizens in the U.S. Military,” May 2019, <https://www.migrationpolicy.org/sites/default/files/publications/MPI-Noncitizens-Military-Final.pdf>; Government Accountability Office (GAO), “Military Personnel: Additional Actions Needed to Address Gaps in Military Physician Specialties,” GAO-18-77, Feb. 2018, <https://www.gao.gov/assets/gao-18-77.pdf>.

^{xi} American Action Forum, “Naturalizations for Non-Citizens in Military Service,” Oct. 29, 2020, <https://www.americanactionforum.org/insight/naturalizations-for-non-citizens-in-military-service/>.

^{xii} FWD.us, “5 Things to Know About Immigrants in the Military,” Sept. 14, 2022, <https://www.fwd.us/news/immigrants-in-the-military/>

^{xiii} Catherine N. Barry, *New Americans in Our Nation’s Military: A Proud Tradition and Hopeful Future*, Center for American Progress, Nov. 8, 2013, <https://www.americanprogress.org/article/new-americans-in-our-nations-military/>.

^{xiv} 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), <https://www.gpo.gov/fdsys/pkg/CHRG-109shrg35222/html/CHRG-109shrg35222.htm>.

^{xv} Catherine N. Barry, *New Americans in Our Nation’s Military: A Proud Tradition and Hopeful Future*, Center for American Progress, Nov. 8, 2013, <https://www.americanprogress.org/article/new-americans-in-our-nations-military/>.

^{xvi} 8 U.S.C. § 1439; 8 U.S.C. § 1440; 8 C.F.R. § 329.2(a).

^{xvii} GAO, “Military Naturalizations: Federal Agencies Assist with Naturalizations, but Additional Monitoring and Assessment Are Needed,” Sept. 2022, <https://www.gao.gov/assets/gao-22-105021.pdf>.

^{xviii} See ACLU of Southern California, *Discharged, Then Discarded*, July 2016, <https://www.aclusocal.org/en/publications/discharged-then-discarded>.

^{xix} Courtney Kube, “Commission will study why veterans are more likely than nonveterans to get in trouble with the law,” NBC News, Aug. 23, 2022, <https://www.nbcnews.com/news/crime-courts/commission-will-study-veterans-are-likely-non-veterans-get-trouble-law-rcna44326>.

^{xx} See 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,” Oct. 29, 2019.

^{xxi} See Deenesh Sohoni and Yosselin Turcios, “Discarded Loyalty: The Deportation of Immigrant Veterans,” Lewis & Clark Law Review (2020).

^{xxii} See GAO, “Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans,” GAO-19-416, June 6, 2019, <https://www.gao.gov/products/gao-19-416>; ACLU of Southern California, *Discharged, Then Discarded: How U.S. veterans are banished from the country they swore to protect* (July 2016), <https://www.aclusocal.org/en/publications/discharged-then-discarded>.

From: YouGov

To: The American Civil Liberties Union

Re: Veterans Policy Polling

Date: October 23, 2023

On behalf of the American Civil Liberties Union, YouGov fielded a national survey of 1,051 registered voters in May of 2023. The survey concerned attitudes toward military service in the US, particularly military service and benefits for non-citizens who serve in our military. This brief memo summarizes key results.

- **Large majorities of US voters support making it easier for non-citizen servicemembers to become citizens, including 83 percent of Republicans, 83 percent of Independents and 94 percent of Democrats.**
- Similarly **overwhelming shares of Democrats, Independents, and Republicans support expanding opportunities for non-citizen Armed servicemembers**, such as making it easier for **non-citizen veterans to return home** if they get deported (including 96 percent of Democrats, 82 percent of Independents, and 83 percent of Republicans) and **making it harder to deport non-citizen veterans or their families** in the first place (including 95 percent of Democrats, 81 percent of Independents, and 81 percent of Republicans).
- About 70 percent of US voters say the US military isn't doing enough to protect our veterans.
- Large majorities of Republicans (75 percent), Independents (75 percent), and Democrats (94 percent) support new legislation to allow deported veterans to both return to the US and obtain permanent resident status.

In historical context, these results represent remarkable levels of support for policies to support non-citizens who are in the United States, or have been deported from the United States, among Independents and Republicans. Overwhelming majorities of Republicans and Independents - about 75 percent of Republicans, and about 76 percent of Independents - support policies that would make it easier for non-citizens to participate in this crucial pillar of American civic life. These results suggest remarkable cross-partisan support for these policies.

The extent of cross-partisan support for this policy is remarkable in several ways.

Even looking at the most conservative, most traditionally anti-immigration voters in the country, the results suggest overwhelming support for policies to support non-citizen servicemembers and veterans.. For example:

- 76 percent of voters who identify as "very conservative Republicans" support making it easier for non-citizen Armed servicemembers to become citizens
- 81 percent making it easier for deported non-citizen veterans to return to the US

- 75 percent support making it harder to deport non-citizens or their families if the non-citizen has served. Statistically identical shares of voters who are traditionally even more conservative - such as the subset of voters who say they participate in Republican primaries - also share this view.

Survey methodology

This survey is based on 1,051 interviews conducted by YouGov on the internet of registered voters. The sample was weighted according to gender, age, race/ethnicity, education, and U.S. Census region based on voter registration lists, the US Census American Community Survey, and the U.S. Census Current Population Survey, as well as 2020 Presidential vote. Respondents were selected from YouGov to be representative of registered voters. The weights range from 0.24 to 5.22 with a mean of 1 and a standard deviation of 0.5.

The margin of error (a 95% confidence interval) for a sample percentage p based upon the subsetting sample is approximately 3.4%. It is calculated using the formula:

$$\hat{p} \pm 100 \times \sqrt{\frac{1 + CV^2}{n}}$$

where CV is the coefficient of variation of the sample weights and n is the sample size used to compute the proportion. This is a measure of sampling error (the average of all estimates obtained using the same sample selection and weighting procedures repeatedly). The sample estimate should differ from its expected value by less than margin of error in 95 percent of all samples. It does not reflect non-sampling errors, including potential selection bias in panel participation or in response to a particular survey.