NO HOME FOR THE BRAVE: UNDERSTANDING AMERICA'S VETERAN DEPORTATION SYSTEM

By Andrew Steinberg

Introduction and Methods

I met Ricardo in January 2020. He wore a black wool jacket, which seemed like overkill in the Tijuana sun. While in Mexico, I heard many narratives that challenged my worldview. However, I never anticipated Ricardo's story.

He explained how his family moved to the United States on a green card when he was three years old. After 9/11, he enlisted in the Air Force and served honorably for seven years. Ricardo was told that since he had served in the US military, he would automatically receive US citizenship. However, this was not the case. Instead, the government deported him. He tearfully expressed hope that someday, Congress will pass a bill allowing him to return to his real home: America.

The United States has relied on immigrant soldiers in every major conflict since the Revolutionary War.[1] For over a century, the government has promised expedited citizenship to bolster its military and add essential skills. According to the Department of Defense (DoD), 44,000 noncitizens joined the military between 2013-2018.[2] Although they represent 4% of the current Armed Forces, immigrant soldiers consistently score higher on aptitude tests than their native-born peers. In fact, 20% of Congressional Medal of Honor recipients are immigrants.[3]

However, over the past forty years, America has betrayed its promise to noncitizen servicemembers. The United States is currently home to 94,000 immigrant veterans who do not have

[1] Mason, Jeff. "Immigrants in the Military: A History of Service." *Bipartisan Policy Center*, 16 Aug. 2017. bipartisanpolicy.org/blog/immigrants-in-the-military-a-history-of-service/.

[2] Kaplan, Adiel. "Watchdog: ICE Doesn't Know How Many Veterans It Has Deported." *NBCNews.com*, NBCUniversal News Group, 7 June 2019. www.nbcnews.com/politics/immigration/watchdog-ice-doesn-t-know-how-many-veterans-it-has-n1015026.

[3] Anderson, Stuart. *The Inspiring Story Of Immigrant Medal Of Honor Recipient Alfred Rascon*. Forbes Magazine, 8 May 2019. www.forbes.com/sites/stuartanderson/2019/05/08/the-life-of-immigrant-medal-of-honor-recipient-alfred-rascon/.

American citizenship.[4] Most of them are legal permanent residents (LPRs), who enlisted to protect their country and achieve such status.[5] Beyond the failure to naturalize these veterans, the United States has created a system that deports them. These ex-servicemembers suffer from all the harms deported people face, as well as unique ones stemming from their military service.

After meeting Ricardo, I reached out to the Deported Veterans Support House (DVSH) in Tijuana. Founded by deported veteran Hector Barajas, DVSH provides support for deported veterans in 51 countries as they attempt to reconstruct their lives and pursue legal recognition. Mr. Barajas asked me to interview deported veterans around the world to document their experiences before, during, and after their service. These biographies were used by attorneys at national advocacy organizations to lobby for repatriation through executive pardons. Additionally, I researched policy remedies as part of the DVSH's "Bring Vets Home: Coalition to End Veteran Deportation" campaign. To determine the origins and impacts of veteran deportation, this paper draws from conversations with deported veterans, interviews with advocates, and primary/secondary sources available online and in print. By building upon the limited literature on veteran deportation (such as a 2016 report by the ACLU of California and a 2017 St. Mary's Law Review on Race and Social Justice article by Alejandra Martinez) through separating the process into three chronological categories, this paper creates a framework for nonlegal experts to understand the system's sources and outcomes. It also argues that understanding the "before, during, and after" of veteran deportation is essential to recognizing the systemic nature of the problem and fixing it.

Historical Relation between Naturalization and Military Service

Article 1, § 8, clause 4 of the Constitution grants Congress the power to establish a "uniform Rule of Naturalization."[6] Congress first exercised this power on May 26, 1790 when it passed the

[4] "Essentials of Naturalization for Military Service Members and Veterans." *National Immigration Forum*, 24 Oct. 2018. immigrationforum.org/article/essentials-of-naturalization-for-military-service-members-and-veterans/.

[5] Vakili et al., Discharged then Discarded: How U.S. Veterans are Banished by the Country They Swore to Protect, American Civil Liberties Union of California, July 2016.
https://www.aclusocal.org/sites/default/files/dischargedthendiscarded-acluofca.pdf

[6] U.S. CONST. art. 1, § 8, cl. 4.

Naturalization Act.[7] This law allowed "free white persons" to apply for citizenship as long as they lived in the United States for two years, demonstrated "good character," and swore an oath to the Constitution. Within five years, Congress expanded the residency requirement from two to five years and added the term "moral" to the good character requirement.[8]

In 1802, Congress passed a law expanding pathways for naturalization. As long as "free white [people]" expressed their wish to become a US citizen three years before entering the country, lived in it for five years, and demonstrated "good moral character," they could become naturalized.[9] Following the passage of this act, the immigrant population of the United States grew immensely.[10]

In need of soldiers during the Civil War, Congress passed the Alien Soldiers Naturalization Act of 1862 (ASNA).[11] The ASNA enticed noncitizens to enlist in the military by repealing the requirement to declare one's intent to become a citizen and reducing the five-year residency requirement to one.[12] The law contributed to an influx of noncitizens joining the Union Army, resulting in 20% of its 1.5 million soldiers being immigrants.[13]

Decades later, the United States once again relied on immigrant soldiers to bolster its forces in a time of crisis. In WWI, both citizen and noncitizen residents were eligible for conscription. Immigrants composed 8% of America's army during this time.[14] To reward these veterans for their service, Congress passed the Act of May 26, 1926, that extended the window to naturalize by two years.[15]

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[7] Act of Mar. 26, 1790, ch. 3, § 1, 1 Stat. 103 (repealed 1795).

[8] Martinez, Alejandra. "Veterans Banished: The Fight to Bring Them Home." *Scholar: St. Mary's Law Review on Race and Social Justice,* vol. 19, no. 3, 2017, p. 330. *HeinOnline*.

[9] Act of Apr. 14, 1802, ch. 28, § 1, 2 Stat. 153.

[10] Martinez, *supra* note 8, at 331.

[11] Act of July 17, 1862, ch. 200, § 21, 12 Stat. 597 (1862).

[12] Ibid.

[13] Jeanne Batalova, Immigrants in the U.S. Armed Forces, Migration Policy Institute, May 15, 2008, http:// www.migrationpolicy.org/article/immigrants-us-armed-forces.

[14] "The Immigrant Army: Immigrant Service Members in World War I." *USCIS*, 5 Mar. 2020, www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/the-immigrant-army-immigrant-service-members-in-world-war-i.

[15] Act of May 26, 1926, Pub. L. No. 69-398, 44 Stat. 654, 654-55, repealed by Immigration and Nationality Act of 1952 (INA), Pub.L. No. 82-414, § 403, 66 Stat. 163, 280.

As debates raged throughout the United States about the country's role in WWII, Congress adopted the "Nationality Act of 1940."[16] Noncitizens who served honorably in the US Armed Forces were now exempted from the five-year residency requirement as long as they filed the application while serving or up to six months afterward.[17] The new naturalization law played a major role in recruiting 109,000 noncitizen soldiers to serve in the US military come war time.[18]

The "Immigration and Naturalization Act of 1952" (INA) further expanded opportunities for noncitizen veterans to naturalize in exchange for honorable service.[19] As the Korean War strained the armed forces, Congress repealed the Nationality Act of 1940 in favor of a new naturalization regime which exists to this day. Sections 328 and 329 laid out the requirements for active and former servicemembers to gain citizenship in peacetime and wartime.[20] These new pathways sought to expedite naturalization, positioning military service as an easier alternative to applying as a civilian.

The INA also limited veteran deportations by expanding judicial discretion in the form of "Judicial Recommendations Against Deportations" (JRAD).[21] During this time, if LPRs committed a crime of "moral turpitude," defined as a crime committed within five years of entry with a sentence of at least one year, they could lose their legal residency.[22] However, JRAD gave sentencing judges "conclusive authority to decide whether a particular conviction should be disregarded as a basis for deportation."[23] This rule allowed judges to pressure the Attorney General not to levy deportation when it would constitute "an unduly harsh penalty for the crimes committed."[24] Such recommendations were binding for federal officials and served as the legal basis that protected many veterans from deportation.[25]

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[16] Nationality Act of 1940, Pub. L. No. 76-853, § 324, 54 Stat. 1137, 1149
[17] Ibid.
[18] Mason, *supra* note 1.
[19] INA of 1952, Pub. L. No. 82-414, ch. 477, §§ 101-407, 66 Stat. 16.3 [20] Martinez, *supra* note 8, at 332.
[21] INA of 1952, Pub. L. No. 82-414, ch. 5, § 241(b)(2), 66 Stat. 204, 208.
[22] Vakili et al., *supra* note 5, at 32.
[23] Ibid.
[24] Martinez, *supra* note 8, at 337-338.
[25] *Id.* at 337.

Immigration judges would often consider one's military service when deciding whether someone should be able to stay in the country.[26]

Failure to Naturalize Servicemembers (The "Before")

Contrary to what many Americans believe, service in the US Armed Forces does not automatically result in citizenship. For more than a century, the two have been inextricably linked, but the path for servicemembers to realize their government's promise is filled with roadblocks. The rise in veteran deportations stems from the failure of the government to naturalize them in the first place. Under law, US citizens cannot be deported.[27] But as long as veterans do not have this ultimate legal status, they are vulnerable to forced removal.

Nearly every deported veteran was eligible for naturalization during his/her military service.[28]. However, according to the ACLU, the federal government fails to properly assist noncitizen servicemembers, neglecting to advise them about the proactive steps they need to take.[29] Additionally, many military recruiters mislead noncitizen soldiers to believe that their service will automatically grant them citizenship.[30] Many veterans I spoke with expressed how they thought they were citizens until the immigration judge ordered their removal. Failure in this first critical stage leads many veterans to believe they are citizens upon their discharge and never file to become one.

While the INA established the rules of naturalization for civilians and servicemembers alike, it expedited the process for those who served. LPRs looking to naturalize under the INA must have "resided continuously" in the United States for five years and be "physically present" for half of that time.[31] They also must have demonstrated "good moral character" for five years before applying, defined as

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[26] Vakili et al., *supra* note 5, at 3.
[27] "Preventing Immigration from Deporting You from The U.S." *MassLegalHelp*, Nov. 2009, www.masslegalhelp.org/immigration/preventing-deportation.
[28] Vakili et al., *supra* note 5, at 3.
[29] Ibid.
[30] *Id*. at 2.
[31] *8 U.S.C. § 1427(a)(1); 8 C.F.R. § 316.2(a)(1-4).*

"attach[ment] to the principles of the Constitution of the United States, and favorabl[e] dispos[ition] toward the good order and happiness of the United States."[32]

Section 328 of the INA creates the rules for military naturalization during peacetime.[33] A LPR can enter this fastrack if they served honorably for more than one year. If a servicemember files under this statute while in the service or within six months after discharge, the residency and physical-presence requirements no longer apply.[34] Traditionally, honorable service in the US Armed Forces fulfills the "good moral character" requirement for naturalization.[35]

Section 329 of the INA establishes an easier pathway for military naturalization during wartime.[36] Many preconditions for peacetime naturalization do not apply for INA § 329. Servicemembers do not have to be LPRs, serve in the military for a minimum amount of time, file their applications in a predetermined period, reside in the US, or demonstrate "good moral character" – service to the country in times of war constituting "good moral character" on its own.[37] This smoother path to citizenship for servicemembers during wartime reflects America's consistent reliance on immigrant soldiers during times of crisis. Under these rules, soldiers applying under INA § 329 can file for citizenship on their first day of basic training.[38] In 2002, President George Bush signed Executive Order 13269, labeling the War on Terror as a "period of hostilities" and opening this legal avenue to servicemembers.[39]

Despite these pathways to obtain citizenship, servicemembers face many barriers in realizing them. For example, although INA § 329 makes no reference to "good moral character," the United States Citizenship and Immigration Services (USCIS) interpreted the statute as requiring it for at least one year

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[32] *8 U.S.C. § 1427(a); 8 C.F.R. § 316.2(a)(7).*

[33] Vakili et al., *supra* note 5, at 20.

[34] 45 8 U.S.C. § 1439(a).

[35] Vakili et al., *supra* note 5, at 21.

[36] Ibid.

[37] *Id.* at 21-22.

[38] Hartsfield, Cathy Ho. "Deportation of Veterans: The Silent Battle for Naturalization." Rutgers Law Review, vol. 64, no. 3, Spring 2012, p. 842. HeinOnline.

[39] "Chapter 3 - Military Service during Hostilities (INA 329)." *USCIS*, 8 Oct. 2019, www.uscis.gov/policy-manual/volume-12-part-i-chapter-3.

before filing the application.[40] This arbitrary one-year character requirement diverged from Congress' intended language, which held honorable military service in wartime as satisfactory.[41] This statute prevented many veterans from naturalizing after their discharge, due to punitive laws which barred them from ever demonstrating "good moral character" (discussed in later sections).[42]

Additionally, the complicated process and onerous demands levied on servicemembers to file under the INA shows how the government does not prioritize their naturalization. To apply for citizenship, military members must procure a N-400 form and receive a signed certificate of honorable service from a DoD official.[43] A commissioned officer of a certain pay grade must also sign a N-426 (Certification of Honorable Service) form.[44] However, no procedure exists to obtain this signature. Servicemembers must also schedule appointments with USCIS to provide fingerprints and conduct interviews. If the applicant does not show, their request becomes closed. If they lose contact for over a year, their application is denied.

Servicemembers must navigate this overly-complicated process, juggling affirmative obligations to naturalize with the demands of their service. Even if members of the Armed Forces are educated about how to apply for citizenship, a feat in itself, they must complete it in the midst of basic training, deployments, and change of duty stations. Before 2004, interviews could only happen in the US, preventing deployed servicemembers from naturalizing. Additionally, USCIS often misplaces or fails to file applications, leaving servicemembers who follow the appropriate steps in legal limbo. Given that

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[40] Vakili et al., *supra* note 5, at 22.

[41] Ibid.

[42] Martinez, *supra* note 8, at 335.

[43] Naturalization Process for Military Members and Their Spouses, United States of America Green Card of America Green Card Lottery Official U.S. Government Entry Program, http://www.usadiversitylottery.com/news/us-citizenship/naturalizationprocess-for-military-members-and-their-spouses.php

[44] Immigration Legal Resource Center, National Immigration Forum, "Changes to the Expedited Naturalization Process for Military Service Members," p.2, Mar. 2018, ilrc.org/sites/default/files/resources/changes_expedited_natz_process_military-20180329.pdf

many immigrants are misled by recruiters to believe that they will automatically receive citizenship, it is clear that the system is not working to make their naturalization easier.

Since 2017, the federal government has made several policy changes undermining INA § 328 and 329. First, in October 2017, the DoD made it harder for servicemembers to receive N-426 forms. Previously under INA § 329, military members could obtain the form after one day of wartime service and begin their application. However, the new code changed the prerequisite to 180 days. While certifications could be issued by any supervising officer before, the new rule made it that only "the Secretary of the applicable Military Department" could provide them. Although a federal judge in Washington, DC struck down this arbitrary waiting period as "contrary to law" in August 2020, thousands of noncitizen servicemembers were denied this expedited process due to DoD policy.[45]

Second, the Pentagon altered its policies regarding background screenings. Before, LPRs received an expedited background screening (Military Service Suitability Determination) before attending basic training, which otherwise could take more than a year. As long as the screenings were initiated, they could begin basic training. However, the DoD changed this rule so that the screenings had to be completed before basic training. This new process created a backlog of more than 700,000 ready-to-go servicemembers and prevented them from completing their active service requirements to apply under INA § 329.[46]

In 2018, the Trump administration cancelled the "Naturalization at Basic Training Initiative."[47] In August 2009, USCIS created the program to help noncitizen Army members naturalize during basic training.[48] The military proactively helped eligible active duty members with their applications,

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[45] Sisk, Richard Sisk, and Patricia Kime. "Judge Strikes Down Minimum Service Requirement for Troops Applying for US Citizenship." *Military.com*, 26 Aug. 2020, www.military.com/daily-news/2020/08/26/judge-strikes-down-minimum-service-requirement-troops-applying-us-citizenship.html

[46] Immigration Legal Resource Center, *supra* note 44, at 2.

[47] Habib, Yamily. "You Can Serve, but You Can't Stay." *AL DÍA News*, 6 Mar. 2018, aldianews.com/articles/politics/you-can-serve-you-cant-stay/51924

[48] Vakili et al., *supra* note 5, at 30.

interviews, and naturalization ceremonies. Such a policy was possible due to the fact that servicemembers only needed one day of active duty under INA § 329 to apply for citizenship.[49] Because of the program's success in raising naturalization rates, USCIS expanded it to all military branches in 2013.[50] However, when the Trump administration disbanded the program, many servicemembers lost the ability to become educated about their legal status and naturalize before leaving the military.[51]

Perhaps the most pronounced policy change stifling military naturalization under the INA is the curtailing of international offices to process such claims. In 2019, USCIS announced that it would cut the 23 offices providing naturalization services for overseas servicemembers in 20 countries to four.[52] Servicemembers were tasked with arranging transportation to these new "hubs" and each location would only be open one week in each quarter of the year.[53] Despite the fact that naturalization requests increased by 50% from 2018 to 2019, Defense Secretary Mark Esper cited a "precipitous drop" in the number of noncitizen servicemembers applying for US citizenship.[54]

This concerted effort to limit military naturalization has taken its toll. Due to the barriers enacted by the government, it may now be faster for immigrants seeking citizenship to apply as civilians rather than military personnel.[55] Since 2001, USCIS has naturalized 130,000 members of the military, officially welcoming noncitizens as full members of the nation they swore to protect.[56] However, after the changes in 2017, military naturalizations dropped by 44%.[57] By limiting how servicemembers can learn about their

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[49] Ibid.

[50] U.S. Citizenship & Immigration Servs., Naturalization Through Military Service: Fact Sheet (2015).

[51] Habib, *supra* note 47.

[52] Sisk, Richard. "The Naturalization Process Just Got Harder for Noncitizen Troops Stationed Overseas." *Military.com*, 30 Sept. 2019, www.military.com/daily-news/2019/09/30/naturalization-process-just-got-harder-noncitizen-troops-stationed-overseas.html.

[53] Ibid.

[54] Ibid.

[55] Immigration Legal Resource Center, *supra* note 44, at 3.

[56] "Military Naturalization Statistics." *USCIS*, 6 Dec. 2018, www.uscis.gov/military/military-naturalization-statistics.

[57] United States, Congress, Cong. House, Committee on the Judiciary House of Representatives. 116th Congress, 1st session, document 116–62. Page 12. The Military Officers Association of America. www.govinfo.gov/content/pkg/CHRG-116hhrg38752/pdf/CHRG-116hhrg38752.pdf.

legal status, fill out naturalization applications, and see them accepted in a timely manner, the government allows tens of thousands of veterans to leave the military without citizenship (see Appendix A). This deliberate status quo represents a consistent campaign to erode military service as a legal path to naturalization and leaves veterans vulnerable to the nation's punitive immigration laws.

Failure of Unforgiving Immigration Laws and Deportation ("The During")

Several policies coalesced in the late 1980s and early 1990s to form America' deportation machine. Expanded grounds for deportation, mass incarceration, and limited judicial discretion created disproportionate criminal punishments for immigration violations, ensnaring many noncitizen veterans.[58]

From 1952 to 1988, noncitzens could face deportation for crimes of "moral turpitude". As previously mentioned, such crimes had to be committed within five years of entry into the United States and have a sentence of at least one year.[59] For example, offenses for controlled substances and possession of automatic weapons often placed noncitizens in criminal proceedings.[60] However, policies like JRAD allowed judges to take into consideration one's deep ties to the US.[61] Honorable military service often was one of these factors[62]. As such, relatively few noncitizen veterans faced deportation, only serving finite time in US prisons for their transgressions.[63]

This legal regime changed with the "Anti-Drug Abuse Act of 1988" (ADAA) and the creation of "aggravated felonies."[64] Rising anti-immigrant sentiment and toughening attitudes towards crime created a culture that conflated the two.[65] The ADAA constituted the first modern domino towards veteran deportation. The law amended INA § 101(a) by adding § 101(a)(43), creating a new class of crime which

[58] Vakili et al., *supra* note 5, at 16.
[59] *Id*. at 8.
[60] Ibid.
[61] Ibid.
[62] *Id.* at 3.
[63] Martinez, *supra* note 8, at 335.
[64] Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, §§ 7341-7344, 102 Stat. 4470 (1988).
[65] Vakili et al., *supra* note 5, at 32.

included only murder, narcotics trafficking, and trafficking of firearms.[66] Initially, the "aggravated felony" class was supposed to cover the most morally abhorrent and violent threats to public safety. Upon an aggravated felony conviction, noncitizens would face mandatory detention from immigration authorities after serving their criminal sentence.[67]

Later amendments to the ADAA created extraordinary harm for noncitizen veterans. In 1990, Congress changed the definition of "good moral character," an essential prerequisite to military naturalization, to exclude anyone who had committed an aggravated felony.[68] This change established a lifetime bar for veterans convicted of such crimes from ever naturalizing under INA § 328 or 329, regardless of the circumstances of the crime or whether the veteran had rehabilitated.[69]

While some may rationalize the ADAA's harsh deportation rules as necessary to protect public safety, later laws expanded the definition of "aggravated felony" to include nonviolent crimes that can hardly be considered existential threats. The "Immigration Act of 1990" (IMMACT) amended section 101(a)(43) of the INA so that aggravated felonies included any "crime of violence" with a prison sentence of more than five years.[70] Perhaps most devastating, the law eliminated JRAD, an essential tool that allowed judges to prevent the deportation of US veterans.[71] Four years later, the "Immigration and National Technical Corrections Act" further expanded the definition of aggravated felonies to include nonviolent offenses such as tax evasion and burglary with a sentence of at least five years.[72]

However, the most substantial growth of aggravated felonies occurred with the "Anti-terrorism and Effective Death Penalty Act" (AEDPA) and "Illegal Immigration Reform and Immigrant

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[66] Martinez, *supra* note 8, at 336.
[67] Ibid.
[68] Immigration Act of 1990, Pub. L. No. 101-649, § 509, 104 Stat. 4978, 5051 (codified as amended at 8 U.S.C. §1101(f)(8) (2012)).
[69] 8 C.F.R. § 316.10(b)(1)(ii) (2016) .
[70] Immigration Act of 1990, Pub. L. No. 101-649, § 501, 104 Stat. 4978, 5048 (codified as amended at 8 U.S.C. § 1101(a) (2012)).
[71] Martinez, *supra* note 8, at 338.
[72] *Id. at* 341.

Responsibility Act" (IIRIRA) of 1996.[73] Congress passed both laws in the aftermath of the 1993 World Trade Center and 1995 Oklahoma City bombings.[74] These attacks placed heightened scrutiny on the relationship between immigration and threats to national security due to "a perceived connection between terrorists and noncitizens convicted of crimes."[75] The AEDPA and IIRIRA added 21 crimes to the list of aggravated felonies and lowered the minimum sentence from five years to one year.[76] They also further stripped judges of discretionary tools to limit deportations such as 212(c) waivers, which previously protected green card holders from forced removal.[77] While Congress replaced the system with "cancellation of removal" relief, noncitizens convicted of aggravated felonies were not eligible for it.[78] In eight years, aggravated felonies had expanded from crimes like murder to minor ones like drug possession and "disturbance of the peace."[79] However, the punishment of automatic deportation with limited rights to contest it still remained. With increasing punishments for low-level crimes, more noncitizens were convicted of "aggravated felonies" and removed. Furthermore, recidivist misdemeanors could result in felony charges, meaning that minor crimes could trigger mandatory deportation without being felonies themselves.[80]

The creation and expansion of aggravated felonies, combined with the government's failure to naturalize servicemembers, meant veterans were more vulnerable to deportation than ever before (see Appendix B). Without the protections of citizenship, noncitizen veterans found themselves serving prison sentences in the US, then facing exile. According to the ACLU, most crimes deported veterans committed were not considered aggravated felonies before the 1990s.[81] The curtailing of JRAD also meant that

[73] Vakili et al., *supra* note 5, at 33.
[74] Martinez, *supra* note 8, at 342.
[75] Forced Apart, Human Rights Watch, 16 July 16, 2007, https://perma.cc/6DJF-76K5
[76] Immigration and Nationality Technical Corrections Act of 1994, Pub. L. No. 103-416, § 222, 108 Stat. 4305 (1994).
[77] Vakili et al., *supra* note 5, at 34.
[78] Ibid.
[79] Kao, Joanna S. "Deported Vets: Life in 'the Bunker'." *Al Jazeera America*, 2014, projects.aljazeera.com/2014/deported-veterans/; Hartsfield, *supra* note 38, at 844.
[80] *Id.* at 858.
[81] Vakili et al., *supra* note 5, at 34.

judges had to levy the "harshest deportation consequences" for "nonviolent, fairly trivial misdemeanors [82]. They also could not consider a noncitizen's honorable military service or ties to the United States in their decision.[83] Politicians essentially overrode judges' ability to perform individualized justice, instead favoring mass deportation.

These new rules disproportionately entrapped veterans, who found themselves at higher risk of violating the law due to service-connected trauma. According to the National Center for PTSD, 11-20% of Operations Iraqi Freedom (OIF) and Enduring Freedom (OEF) veterans suffer from PTSD.[84] Similar rates are recorded for Gulf and Vietnam War veterans, if not higher.[85] Without adequate support systems to find jobs and readjust to civilian life, many veterans violate the law to make ends meet.[86] Many ex-servicemembers I interviewed used illicit substances to self-medicate after failing to access adequate care at the VA, leading to possession and distribution charges that triggered deportation proceedings.[87] Sadly, the role race plays in these proceedings is impossible to ignore, as most noncitizen veterans were born in countries like the Philippines, Mexico, Jamaica, and the Dominican Republic.[88]

The "Double Punishment" and the Harms of Deportation

Under this system, deported veterans receive a "double punishment" compared to their citizen counterparts. If foreign-born ex-servicemembers commit "aggravated felonies," they serve time in the US prison system, then face deportation.[89] However, if a naturalized American committed the same offense,

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[82] American Immigration Council, "Aggravated Felonies: An Overview." 12 Aug. 2017, www.americanimmigrationcouncil.org/research/aggravated-felonies-overview.

[83] Vakili et al., *supra* note 5, at 34.

[84] "How Common Is PTSD in Veterans?" *U.S. Department of Veterans Affairs*, National Center for PTSD, 24 July 2018, www.ptsd.va.gov/understand/common/common_veterans.asp.

[85] Ibid.

[86] Vakili et al., *supra* note 5, at 16.

[87] Ibid.

[88] 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/issues/immigration/report/2013/11/08/79116/new-americans-in-our-nations-military.

[89] Vakili et al., *supra* note 5, at 34.

they would re-enter society after incarceration. Rather than make efforts to reintegrate these veterans into society, the government exiles them to countries that many have not seen since childhood. These ex-servicemembers should be treated the same for their transgressions as citizens. They swore an oath to defend the Constitution, but the Constitution did not defend them.

The psychological harm of exile is only one of the many struggles deported veterans face. Many are separated from American-born families and lack social networks in their birth countries.[90] These dynamics, in addition to linguistic barriers, contribute to a suffocating sense of isolation once they are deported.[91] Additionally, many veterans exhaust their savings to fight their deportation proceedings, leaving them without resources in a foreign world.[92] In Mexico, drug cartels prey on this desperation, coercing ex-servicemembers to join criminal operations for their combat skills.[93] If the veterans refuse, gangs are known to threaten their families and retaliate with violence.[94] In this way, some American veterans find themselves back on the battlefield fighting for groups that subvert American law. This system makes both countries less safe and puts the veterans in harm's way.

The legal consequences for veterans convicted of "aggravated felonies" are permanent. As previously mentioned, since the passage of IMMACT in 1990, such convictions prevent them from ever demonstrating "good moral character" for naturalization under the INA.[95] The system treats immigrant veterans who violated the law as "beyond redemption" and prevents them from ever applying for US citizenship. Noncitizens removed from committing an aggravated felony are not eligible for asylum.[96]

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[90] *Id.* at 42.

[91] Ibid.

[92] Zamudio, María Inés. *Deported U.S. Veterans Feel Abandoned By The Country They Defended*. WBEZ Chicago, 23 Apr. 2020, www.wbez.org/shows/wbez-news/deported-veterans/4bfad4a2-2407-42f2-9bf4-243fdad21510.

[93] Swenson, Ali. "Deployed, Then Deported: How a US Navy Vet from Phoenix Was Exiled to Mexico." *Phoenix New Times*, 19 Feb. 2020, www.phoenixnewtimes.com/news/deployed-then-deported-how-us-vets-who-served-their-country-get-kicked-out-11 390471.

[94] Ibid.

[95] Martinez, *supra* note 8, at 335.

[96] American Immigration Council., *supra* note 80.

Unless they receive a pardon from a governor for their crime or temporary parole, they remain permanently exiled.

In a case of cruel irony, noncitizen veterans do not have to demonstrate "good moral character" for posthumous wartime naturalization under INA § 329A.[97] The clause allows servicemembers who died from an injury sustained during wartime to become US citizens.[98] Like INA § 329, Congress never included good moral character as a requirement for naturalization.[99] Additionally, the bodies of all honorably discharged servicemembers are eligible to enter the country for proper military burials.[100] Paradox epitomizes America's relationship with its deported veterans. The country "honors" them by allowing entrance upon death, yet does not let them see their families and live in their country with dignity. Through this system, it is easier for many deported veterans to become citizens and/or enter the country as corpses.

Padilla v. Kentucky (2010)

All the ways the government fails noncitizen veterans came together in the landmark *Padilla v. Kentucky* case. *Padilla* involved an immigrant veteran, Jose Padilla, who was born in Honduras and later immigrated to the United States as a LPR.[101] He received an honorable discharge after serving in the Vietnam War.[102] Never naturalized under the INA, Jose lived in the United States for over forty years and worked as a truck driver. In 2001, he was arrested in Kentucky for transporting marijuana.[103] Jose's violation made him subject to mandatory deportation, a punishment levied for all narcotics-related

[97] Vakili et al., *supra* note 5, at 23.
[98] Ibid.
[99] Ibid.
[100] Binkowski, Brooke. "FACT CHECK: Does the U.S. Deport Military Veterans?" *Snopes.com*, 8 Feb. 2016, www.snopes.com/fact-check/united-states-deporting-veterans/.
[101] Files, Buck. "Is the Supreme Court About to Limit Habeas Relief Under Padilla?" *Tyler TX Criminal Defense Lawyer*, Bain, Files, Jarrett, & Harrison, 18 Jan. 2017, www.bainfiles.com/is-the-supreme-court-about-to-limit-habeas-relief-under-padilla/.
[102] Ibid.
[103] Padilla v. Kentucky, 559 U.S. 356, 359 (2010).

convictions except for those from possession of thirty grams of marijuana or less.[104] However, his lawyer did not notify him of this fact and even told him that he "did not have to worry" about deportation because he had been in the United States for so long.[105] Because of this advice, Jose pleaded guilty to the drug charges in hope of a shorter criminal sentence.[106] While his plea lessened the time he would spend in jail, it did not shield him from deportation.

In 2004, Padilla filed a pro se motion, claiming that he would not have pleaded guilty if his attorney had notified him of the punishment of deportation.[107] The case went to the US Supreme Court, raising questions about the Sixth Amendment's right to counsel and whether attorneys had to make their clients aware of immigration consequences of criminal convictions. The Supreme Court of Kentucky dismissed Padilla's claim, judging that "the advice he sought about the risk of deportation concerned only collateral matters."[108] According to the state court, the Constitution did not require counsels to discuss noncriminal punishments such as deportation, as defendants did not receive them in criminal proceedings.

In determining whether Padilla's counsel violated his Sixth Amendment rights, the Supreme Court applied a two-part test first created in *Strickland v. Washington* (1984).[109] To constitute adequate counsel, legal representation first must not fall "below an objective standard of reasonableness."[110] Second, the counsel's advice must not cause a punishment that otherwise would not have happened.[111] According to the US Supreme Court in *Padilla*, the punishment of deportation was so clear and harmful that Jose's counsel should have told him that entering a guilty plea would cause it.[112] Therefore, the

[104] Ibid.
[105] Files, *supra* note 99.
[106] Ibid.
[107] Padilla v. Commonwealth, No. 2004-CA-001981-MR (Ky. Ct. App. Mar. 31, 2006).
[108] 130 S. Ct. 1473, 1481 (2010).
[109] 466 U.S. 668, 687, 693-700 (1984).
[110] Strickland, 466 U.S. at 688.
[111] *Id.* at 687.
[112] Hartsfield, *supra* note 38, at 856.

attorney failed the first part of the *Strickland* test and violated Jose's constitutional right to effective counsel.[113]

Using this logic, the Supreme Court reversed the lower court's decision, labeling deportation as an "integral" part of criminal punishment. The Court noted that due to policy changes over the last few decades, "[t]he 'drastic measure' of deportation or removal [was] now virtually inevitable for a vast number of noncitizens convicted of crimes."[114] The two were inseparable. Criminal defense attorneys now had the obligation to inform their clients of immigration consequences under the Sixth Amendment.[115]

Padilla was a major win for noncitizens going through the criminal justice system, ensuring that they have adequate counsel and are fully informed about their legal status before entering a guilty plea. However, the ruling did not apply retroactively.[116] According to a report by the ACLU of California, many veterans who were deported before 2010 were never told that their crimes impacted their residency status.[117] Many deported veterans I met suffered this fate. Similar to how some recruiters promise that military service leads to automatic citizenship, these lawyers failed to accurately portray the consequences of their clients' decisions. For many of these veterans, the first time they heard about their deportation was after they pleaded guilty. While *Padilla* lowered the chance that this will happen again, it did nothing for those whose rights were violated before.

ICE's Role in Veteran Deportation

After noncitizen veterans serve time in prison, US Immigration and Customs Enforcement (ICE) takes them into custody, failing them in multiple ways. In 2004, a memorandum instructed the agency to "inquire about military service" during processing.[118] The memo instructed ICE to review veterans'

[113] *Id. at* 855-856.
[114] Padilla, 559 U.S. at 363
[115] Hartsfield, *supra* note 38, at 856.
[116] Chaidez v. United States, 133 S. Ct. 1103, 1105 (2013).
[117] Vakili et al., *supra* note 5, at 2.
[118] Memorandum of Marcy M. Forman, Acting Director, U.S. Immigration and Customs Enforcement, Issuance of Notices to Appear, Admin. Orders of Removal, or Reinstatement of a Final Removal Order on Aliens with U.S.

military status (years of service, awards, warzone service) and eligibility to naturalize under the INA to slow or cancel deportation proceedings.[119] A Special Agent in Charge (SAC) could authorize deportation once reviewing the detainees' service record, but the system was supposed to give veterans the inside track for staying in the country.[120]

However, ICE failed to follow its own rules for years. A 2019 Government Accountability Office investigation revealed that the organization did not consistently ask detainees whether they were veterans, track the number of ex-servicemembers in custody, or slow deportation proceedings due to military service.[121] The 2004 memo tips its hand for the discrepancy, stating that "aggravated felonies…are to be viewed as a threat to public safety and normally the positive factors of any military service will not deter" deportation.[122] Veterans convicted of aggravated felonies, most of which are not major threats to public safety, have almost no legal protections and deserve extra discretion. Nevertheless, ICE looked beyond their contributions to national security and did not consider the context of their crimes.

Failure to Deliver VA Healthcare and Benefits ("The After")

The final failure of America's veteran deportation system is its unwillingness to fulfill legal obligations regarding their healthcare and benefits. Under IIRIRA, "benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces" are exempted from cancellation due to deportation.[123] Veterans and experts expressed to

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Military Service, 21 June 2004, https://www.ice.gov/doclib/foia/prosecutorial-discretion/aliens-us-military-service.pdf

[119] *Id.* at 2.

[120] *Id.* at 1.

[121] United States, Congress, Cong. House, Committee on the Judiciary House of Representatives. 116th Congress, 1st session, document 116–62. P. 15. The Military Officers Association of America.

[122] Forman Memo, *supra* note 116.

[123] United States, Congress, Cong. House. *Illegal Immigration Reform and Immigrant Responsibility Act of 1996: Conference Report (to Accompany H.R. 2202)*, U.S. G.P.O., 1996, p. 129. 104th Congress, 2nd session, document.

me that even if an ex-servicemember is deported, they remain eligible for the same VA benefits as before.[124]

Accessibility immediately becomes an issue when a veteran gets placed in Bureau of Prisons (BOP) or ICE detention. Neither agency offers a substantial tracking mechanisms for veteran status among those in custody.[125] The lack of coordination between BOP, ICE, and the VA leads to most deported veterans losing access to their VA benefits once the government detains and later exiles them.[126] Without knowledge of a veterans' deportation, VAs continue to send correspondence to their old address.[127] Without consistent contact with the VA, veterans can lose access to lifesaving medicine or treatment they are legally owed.

Even with the proper information, deported veterans face structural barriers to obtain proper healthcare. Three types of VA benefits are available to veterans outside of the United States, regardless of citizenship status.[128]

1) Disability Compensation: A monthly tax-free benefit for veterans who are at least 10% disabled because of injuries/diseases that began or worsened during active service.[129] The program represents an attempt by Congress to reimburse veterans for the earning potential they lost due to physical/mental disabilities incurred while in the military.[130]
2) Pensions: Certain veterans who served during wartime and are disabled are eligible for monthly payments from the VA.[131]
3) Foreign Medical Program (FMP): Under FMP, veterans living abroad may receive hospital care and medical services at the VA's expense if they have a "VA-rated,

[124] Vakili et al., *supra* note 5, at 44.
[125] Dr. Rudy Melson, President and Founder of Consultants For America's Veterans, personal communication, July 27, 2020.
[126] Dr. Rudy Melson, *supra* note 125.
[127] Ibid.
[128] Vakili et al., *supra* note 5, at 45.
[129] Ibid.
[130] Dr. Rudy Melson, *supra* note 125.
[131] Vakili et al., *supra* note 5, at 47.

service-connected disabilit[y]."[132] This means that a doctor must examine and determine that the injury was sustained in the service.[133] Veterans pay healthcare providers in their country of residence and apply for reimbursement from the VA.

Except for pensions for veterans older than 65, all of the aforementioned benefits require a Compensation and Pension (C&P) examination by a VA doctor.[134] The C&P exams determine whether disabilities are service-connected and rate them to determine appropriate compensation.[135] Without this exam, the VA does not recognize veterans' injuries and subsidize their healthcare.[136] Due to the exam's essential nature to obtain VA benefits, the process should be as easy as possible for veterans abroad, especially those who cannot enter the United States.

Given the United States' rejection of noncitizen veterans throughout their lives, it should not be surprising that C&P exams are near impossible for deported ex-servicemembers to access. The lack of VA medical facilities abroad means that veterans may seek exams at US embassies.[137] However, "no working relationship" appears to exist between the VA and embassies to facilitate them.[138] Furthermore, deported veterans often do not have the means to travel to an accredited VA facility if one exists in their country of residence[139]. In the United States, veterans are reimbursed for travel-related expenses for C&P exams.[140] However, as mentioned before, the VA may not even know a deported veteran lives in a foreign country to make them aware of their eligibility and nearest location to complete a C&P exam.[141] Additionally, many deported veterans are homeless, making it near impossible to receive mail about the nearest

[132] Vakili et al., *supra* note 5, at 45.
[133] *Id.* at 47.
[134] *Id.* at 8.
[135] *Id.* at 48.
[136] Ibid.
[137] Ibid.
[138] Ibid.
[139] Dr. Rudy Melson, *supra* note 125.
[140] Ibid.
[141] Ibid.

VA-accredited location.[142] The combination of lack of information, facilities, and rules permitting VA exams in the United States through parole prevent many deported veterans from completing the first step towards getting the benefits they are due under law. This leads to physical and mental wounds of war going untreated, contributing to increased levels of drug abuse and suicide.[143]

Even if deported veterans complete the herculean task of obtaining a C&P exam, structural deficiencies impede their ability to access their benefits. In the US, the VA Pittsburgh Regional Office is the Veterans Benefits Administration (VBA) regional office with jurisdiction over nearly all foreign benefits claims and appeals.[144] Yet, it is one with the smallest staff. Even if a claim is properly processed, many deported veterans cannot receive their medications in the mail, which they could do if they lived in the United States or American territories.[145] Deported veterans also experience difficulties accessing technical support to navigate their benefits through VA's designated online portals.[146] For example, if an ex-servicemember gets locked out of their e-benefits account, they often must often go to a US-based regional office to verify their identity. Given their deported status, they cannot enter the country to do so.

The US government draws a clear line between veterans that live inside the United States and those who reside outside. Many deported veterans cannot pay the initial fees for their service-related medical care, barring them from accessing FMP reimbursements. Unlike in the US, where veterans can be eligible for VA healthcare services for nonservice-related disabilities, overseas veterans cannot access subsidized preventative care.[147] This discrepancy often denies deported veterans of lifesaving treatment before it is too late. The COVID-19 pandemic has only intensified this problem. American ex-servicemembers are more likely to die from the virus due to their inability to access proper healthcare

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[142] Ibid.
[143] Zamudio, Maria Ines. *Deported U.S. Veterans Feel Abandoned By The Country They Defended*. NPR, 21 June 2019, www.npr.org/local/309/2019/06/21/733371297/deported-u-s-veterans-feel-abandoned-by-the-country-they-defended
[144] Dr. Rudy Melson, *supra* note 153.
[145] Melson, Rudy S. "RSM-VA SEC-RECOMMENDATIONS ." Consultants for America's Veterans (CAV), LLC, 6 Dec. 2019.
[146] Dr. Rudy Melson, *supra* note 125.
[147] Ibid.

and service-related injuries that lead to conditions that make them more vulnerable (i.e. diabetes, hypertension).[148]

The VA cannot mitigate the experience of deported veterans because the system is "not equipped to handle their existence."[149] Veterans, regardless of citizenship status, rely on the VA to provide specialized services for wartime injuries and mental health treatment.[150] If they lived in the United States, they would be able to receive quality healthcare for these disabilities. However, due to their deported status, many veterans do not receive any medical care from the VA at all, leading to deaths from preventable causes.[151]

Conclusion

There is nothing permanent about American veteran deportation. Between failing to naturalize servicemembers, to stripping judicial discretion while expanding deportation, to not fulfilling VA obligations once they are removed, we know how the United States forsakes them at every level. To properly thank veterans for their service and fulfill America's promise, leaders and activists must understand the three interconnected failures presented in this paper, as well as their interdisciplinary implications for racial justice, immigrant justice, healthcare access, and national security. Veterans cannot be deported if they have citizenship. They cannot lose benefits if they are not deported. Policies which only address one or two of these failures (i.e. freezing veteran deportation and expanding parole programs) are constructive but will not help every veteran who is victimized by the system. While it might be tempting to silo these harms and target the "lowest hanging fruit," the system will continue without a holistic view. Damming a river does not help people whose homes are already flooded. For this

[148] Hector Barajas, Executive Director of Deported Veterans Support House, personal communication, January 21, 2021.
[149] Ibid.
[150] Vakili et al., *supra* note 5, at 44-45.
[151] *Id.* at 45.

reason, a multipronged strategy that focuses on all three failures is necessary to stop the suffering and ensure it never returns.

Condensed histories and remedies for each failure are laid out in Appendices A-C. For the first, Congress should re-establish the Naturalization at Basic Training Initiative so veterans are never subject to deportation in the first place. It also should amend the INA so that aggravated felonies do not automatically bar someone from demonstrating "good moral character". Additionally, the President should direct the DoD to investigate recruiters who lie to/mislead noncitizens with promises of citizenship and order USCIS to reopen overseas offices providing naturalization services. For the second failure, the President should immediately freeze all deportations of veterans. The Chief Executive should also order agencies such as ICE, BOP, and the VA to track active-duty servicemembers/veterans in their jurisdiction and share that information among themselves. Congress should also amend the INA to bring back JRAD and redefine aggravated felonies to cover the most serious crimes. For the third failure, Congress should bolster FMP benefits and reimbursements for C&P exams. The President should also order executive agencies to expand parole programs for VA appointments.

During my work at DVSH, veterans from all branches of the military expressed how when they served, "no man was left behind". It is time for the United States to heed these words and end the shameful system of veteran deportation. They fought our battles. We should be there when they fight theirs.

Appendix A

Military Naturalization History

Policy	Description
Naturalization Act and amendments (1790-1795)	Allowed “free white persons” to apply for citizenship as long as they lived in the US for two years, demonstrated “good character,” and swore an oath to the Constitution. Within five years, Congress expanded the residency requirement from two to five years and added the term “moral” to the good character requirement.
1802 Law	Expanded pathways for naturalization. As long as “free white [people]’ expressed their wish to become a US citizen three years before entering the country, lived in it for five years, and demonstrated “good moral character,” they could become naturalized.
Alien Soldiers Naturalization Act of 1862	Enticed noncitizens to enlist in the military by repealing the requirement to declare one's intent to become a citizen and reducing the five-year residency requirement to one.
Nationality Act of 1940	Exempted noncitizens who served honorably in the US Armed Forces were from the five-year residency requirement as long as they filed the application while serving or up to six months afterward.
Immigration and Naturalization Act of 1952, Sections 328/329/329A	Repealed the Nationality Act of 1940 in favor of a new naturalization regime which exists to this day. Sections 328 and 329 laid out the requirements for active and former servicemembers to gain citizenship in peacetime and wartime. Under Section 329, one day of active service during wartime made a noncitizen eligible for naturalization. INA § 329A allows servicemembers who died from an injury sustained during wartime to

	become US citizens. Does not require good moral character as a requirement for naturalization. Also created Judicial Recommendations Against Deportations (JRAD).
Executive Order 13269 (2002)	Labeled the War on Terror as a "period of hostilities" and opened INA § 329 to to servicemembers.
Naturalization at Basic Training Initiative (2009-2018)	In August 2009, USCIS created the program to help noncitizen Army members naturalize during basic training. Disbanded by the Trump administration in 2018.
Restrictive DoD Policies (2017-2020)	DoD made it harder for servicemembers to receive N-426 forms. Previously under INA § 329, military members could obtain the form after one day of wartime service and begin their application. However, the new code changed the prerequisite to 180 days (struck down by a federal judge in 2020). DoD also altered rules so screenings had to be completed before basic training, creating an extra barrier for noncitizen servicemember to naturalize.
USCIS Closing of Overseas Offices (2019)	In 2019, USCIS announced that it would cut the 23 offices providing naturalization services for overseas servicemembers in 20 countries to four.

Appendix B

Immigration Laws and Policies Contributing to Veteran Deportation

Policy	Description
Immigration and Naturalization Act of 1952	Made it that noncitzens could face deportation for crimes of "moral turpitude." Such crimes had to be committed within five years of entry and have a sentence of at least one year.
Judicial Recommendations Against Deportation (JRAD)	Established in INA of 1952. Allowed judges to take into consideration one's deep ties to the United States. Honorable military service often was one of these factors. Relatively few veterans faced deportation, only serving time in US prisons for their transgressions.
Anti-Drug Abuse Act of 1988 (ADAA) and the creation of aggravated felonies.	Amended INA §101(a) to create a new class of crime that mandated detention and deportation. Originally included only murder, narcotics trafficking, and trafficking of firearms.
The Immigration Act of 1990 (IMMACT)	Expanded definition of aggravated felonies and eliminated JRAD. Created "good moral character bar," preventing those with an aggravated felony from naturalizing under the INA.
Immigration and National Technical Corrections Act" (1994)	Expanded the definition of aggravated felonies to include nonviolent offenses such as tax evasion, fraud, and burglary.
Anti-terrorism and Effective Death Penalty Act (AEDPA) and Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (1996)	Added 21 crimes to the list of aggravated felonies and lowered the minimum sentence from five years to one year.
Padilla v. Kentucky (2010)	Supreme Court decision that defense attorneys have to inform clients of immigration consequences under the Sixth Amendment. Did not apply retroactively to veterans who entered plea bargains.

Appendix C

Policy Recommendations

Actor	Policy	Failure Addressed	Description
US Congress	Pass H.R.1078: Repatriate Our Patriots Act	Failure of Unforgiving Immigration Laws and Deportation	Would prohibit the removal of veterans with nonviolent felonies and open pathways to expedite their naturalization.
US Congress	Pass H.R.2098: Veterans Visa and Protection Act of 2019	Failure of Unforgiving Immigration Laws and Deportation and Failure to Deliver VA Healthcare and Benefits	Would "establish a visa program through which deported veterans may enter the United States as legal permanent residents...and extend military and veterans benefits to those who would be eligible for those benefits if they were not deported."[152]
US Congress	Pass H.R.928: Immigrant Veterans Eligibility Tracking System (I-Vets) Act	Failure to Naturalize Servicemembers and Failure of Unforgiving Immigration Laws and Deportation	Would require the Department of Homeland Security (DHS) to annotate all immigration and naturalization records to reflect service records. This information would compel DHS to "fast track" veterans and servicemembers applying for naturalization.[153]
US Congress	Re-Establish the Naturalization at Basic Training Initiative	Failure to Naturalize Servicemembers	Would restore the initiative in law so veterans are never

[152] H.R. 2098, 116th Cong. (2019).
[153] H.R. 928, 116th Cong. (2019).

			subject to deportation in the first place.
US Congress	Redefine Aggravated Felonies	Failure of Unforgiving Immigration Laws and Deportation	The dramatic expansion of the definition of aggravated felonies in 1990s exposed thousands of people to the risk of deportation. Aggravated felonies should be reserved for crimes that threaten national security and are irredeemable, not minor/nonviolent offenses.
US Congress	Amend the INA of 1952 to restore JRAD	Failure of Unforgiving Immigration Laws and Deportation	Before 1988, JRAD allowed immigration judges to consider external factors, such as military service, in deciding whether someone should be deported. In the 1990s, several bills forced judges to authorize deportations when they knew the punishment did not fit the crime. Congress should amend the INA to bring back JRAD.
US Congress	Dismantle the "Good Moral Character Requirement"	Failure to Naturalize Servicemembers	In 1990, an amendment to the INA made committing an aggravated felony a permanent barrier to demonstrating "good moral character". This change made it impossible for deported veterans to apply for American citizenship. In addition, the "good

			moral character requirement" should not apply to INA § 329. Congress should amend INA § 329 and repeal 8 CFR 329.2(d) to codify this belief, eliminate the lifetime ban, and allow deported veterans to obtain US citizenship.
US Congress	Expand FMP Benefits	Failure to Deliver VA Healthcare and Benefits	In nearly all cases, overseas veterans are ot eligible for subsidized healthcare for nonservice-related disabilities. Congress should expand the FMP for veterans who are 30% service-connected or more. A veteran's residency and/or citizenship status does not lessen the government's obligation to them, nor should it deny them preventive care.
White House	Establish interagency task force	Failure to Deliver VA Healthcare and Benefits	The Chief Executive should establish an interagency task force between BOP, ICE, and the VA to coordinate information sharing and benefit administration overseas.
White House	Mandate that DHS/ICE improve recordkeeping and reporting on veteran deportation	Failure of Unforgiving Immigration Laws and Deportation	Mandate that officials ask detainees about their military service and record it before initiating removal proceedings. Report to Congress semi-annually the number of

			active-duty members and veterans the agency detains, initiates removal proceedings against, and deports.
White House	Freeze active-duty/veteran deportation	Failure of Unforgiving Immigration Laws and Deportation	Create a policy freezing the deportation of active-duty US servicemembers or honorably discharged veterans.
White House	Order USCIS to reopen and expand overseas offices offering naturalization services	Failure to Naturalize Servicemembers	Reverse the 2019 USCIS policy cutting overseas offices.
Customs and Border Protection	Expand medical parole programs	Failure to Deliver VA Healthcare and Benefits	Expand parole programs for deported veterans to enter the United States for medical appointments and family visits.
Department of Defense	Investigate unethical practices by military recruiters.	Failure to Naturalize Servicemembers	Investigate unethical practices by military recruiters to entice noncitizens to enlist. Additionally, educate noncitizens about the proper paths to naturalization before they sign.
Department of Defense	Reverse restrictive policies	Failure to Naturalize Servicemembers	Reverse restrictive policies described in Appendix A.
Department of Veterans Affairs	Expand access to C&P exams	Failure to Deliver VA Healthcare and Benefits	Reopen and expand US Consulates and appropriate locations to perform legitimate C&P exams abroad. Reimburse overseas veterans for transportation costs to

			C&P exams. Expand the number of offices overseas veterans can interact with or bolster the Pittsburgh's Regional Office's staff to handle such applications.