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THESIS

NATURALIZATION THROUGH MILITARY SERVICE

by

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March 2022

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NATURALIZATION THROUGH MILITARY SERVICE

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requirements for the degree of

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ABSTRACT

This thesis analyzes the accelerated process for immigrants to become naturalized citizens in the United States and the arguments made for and against the allowance of the process and having immigrants serve in the U.S. military. Immigrants have been serving in the U.S. armed forces since the Revolutionary War and have had an expedited pathway to citizenship since 1952, when the Immigration and Nationality Act (INA) of 1952 established guidelines to the process. The Trump administration enacted policy changes that impacted the ability of the Military Accessions Vital to National Interest (MAVNI) program to recruit service members and the ability for members to be naturalized. This thesis explores the history of changes made to the immigration and naturalization policy and how that has influenced the policy in place today. The standard and accelerated policies are described as well as the goals of the MAVNI program. The discussion continues into the main arguments made for the allowance of immigrants to serve in the U.S. Armed Forces and those against, as well as recommendations for the path forward with allowing immigrants to serve in the armed forces and the continued use of the process for naturalization through military service.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACLU	American Civil Liberties Union
DHS	Department of Homeland Security
DOD	Department of Defense
DREAM Act	Development, Relief, and Education Act for Alien Minors
EO	Executive Order
INA	Immigration and Nationality Act
LPR	Lawful Permanent Resident
MAVNI	Military Accessions Vital to National Interest
NPS	Naval Postgraduate School
ROTC	Reserve Officer Training Course
U.S.	United States
USC	United States Code
USCIS	United States Citizenship and Immigration Services
WWI	World War I
WWII	World War II

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I. INTRODUCTION

The Nationality Act of 1940 established a process for immigrants to gain United States citizenship through naturalization that remains today. Afterward, the Immigration and Nationality Act of 1952 was passed and included the provision that a member of the armed services can be naturalized through military service if they served honorably. Specifically, military service members could gain their citizenship after only one year of service—in contrast to the five years of permanent residence that is normally required of naturalizing citizens, if they served during a period of hostilities.¹ Military Accessions Vital to National Interest (MAVNI) is a program that helps immigrants wishing to enlist, and they work with the Armed Forces to establish service contracts. This thesis asks: How does the accelerated process for service members differ from that of the standard process and which arguments are made for and against allowing immigrants to serve in the Armed Forces?

A. SIGNIFICANCE

As recently as October 2017, former President Donald J. Trump attempted to make changes to the pathway to citizenship for foreign-born people who volunteer to serve in the U.S. armed forces.² The Trump administration changed the requirements for applicants to include first completing their military training requirements, a minimum of 180 consecutive days of active-duty service, or at least one year of service in the reserves.³ They must also pass an extensive background check.⁴ The new requirements replaced the

¹ “Immigration and Nationality Act,” U.S. Citizenship and Immigration Services, July 10, 2019, <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act>.

² Aline Barros, “US Court Clears Path for Fast-Track Citizenship for Foreign-Born Military Service Members,” Voice of America, September 3, 2020, <https://www.voanews.com/usa/immigration/us-court-clears-path-fast-track-citizenship-foreign-born-military-service-members#:~:text=Under%20the%20Nationality%20Act%20of,process%20to%20seek%20U.S.%20citizenship>.

³ Barros, “US Court Clears Path.”

⁴ Barros, “US Court Clears Path.”

ability for someone to begin the application process shortly after reporting to basic training and completing at least one day of service.⁵

In April 2020, a class-action lawsuit was filed on behalf of six military service members, who represented a class of thousands, challenging the 2017 policy by the American Civil Liberties Union (ACLU).⁶ The delay in process placed noncitizens serving at heightened risks while serving. The consequences included a lack of access to consular services, if overseas, less protection afforded as their citizen counterparts, and risk of deportation.⁷ The policy change, also, prevented service members from advancing their careers as more specialized roles are reserved for those members who have a security clearance which is reserved for U.S. citizens. In August 2020, the federal district court ruled that the policy's requirements were unlawful.⁸ Currently, the case is being appealed, but with the district court's ruling, the six service members plus the thousands they represent benefit by having the accelerated process become accessible again.

The 2016 and 2017 changes have left the Military Accessions Vital to National Interest (MAVNI), the program that allows immigrants to enlist, in a state of limbo due to the promised contracts that have been left unfulfilled.⁹ Approximately 4,000 noncitizen enlistees have been put at risk for deportation.¹⁰ When the Trump administration froze the program, there were about 2,400 recruits with signed contracts and drilling in the reserves and another 1,600 waiting for background checks. The freeze caused many to fall out of legal status while waiting also preventing them from working legally.¹¹ These recruits

⁵ Barros, "US Court Clears Path."

⁶ "Samma V. U.S. Department of Defense—Lawsuit Challenging Policy Denying U.S. Military Service Members Expedited Path to Citizenship," American Civil Liberties Union, January 27, 2021, <https://www.aclu.org/cases/samma-v-us-department-defense-lawsuit-challenging-policy-denying-us-military-service-members>.

⁷ American Civil Liberties Union, "Samma V. U.S. Department of Defense—Lawsuit Challenging Policy Denying U.S. Military Service Members Expedited Path to Citizenship."

⁸ American Civil Liberties Union, "Samma V. U.S. Department of Defense."

⁹ Joey Antohi, "I Dream of Serving in the Military, but Can't until U.S. Policy Changes," *The Philadelphia Inquirer*, March 31, 2021, <https://www.inquirer.com/opinion/commentary/mavni-program-non-citizen-immigrant-military-recruits-20210331.html>.

¹⁰ Antohi, "I Dream of Serving in the Military."

¹¹ Antohi, "I Dream of Serving in the Military."

were beginning to feel the strain as they struggled to make enough money and lived at risk of deportation.¹²

The hope now is that President Joe Biden and his administration will restore the programs and honor the contracts of those recruits. The administration needs to fully overturn the 2017 policy in order for those promised contracts to continue enlisting. The policy change will allow a crucial part of the U.S. armed forces to continue to grow.

This thesis is relevant to both current and future military recruits. With a better understanding of the accelerated naturalization process, future leaders can help young recruits gain citizenship. This thesis is relevant to government institutions and policy makers as well. The accelerated process is misunderstood by many people, and a thesis containing information may prevent changes that could prevent recruits from missing out on an opportunity to not only serve the United States but gain their citizenship.

B. HISTORY OF IMMIGRANTS IN THE US MILITARY

The history of immigrants and noncitizens serving in the military goes back to the Revolutionary War. Citizenship was used as an incentive to attract people to fight for the states' militias and the Continental Army.¹³ The Mexican-American War created an opportunity for the use of immigrants in service. By the 1940s 47 percent of Army enlistees were immigrants. Congressional legislation had narrowed eligibility though, and in 1863, only declarant aliens could enlist. In 1864, the policy changed to "any non-declarants who had voted or held public office" became eligible as well.

From 1880 to 1920 legislation reflected the anti-immigration sentiment of the country.¹⁴ During peacetime, it was required that an applicant for enlistment must be able to read, write, and speak English and had to be or declare their intention to be a U.S.

¹² Antohi, "I Dream of Serving in the Military."

¹³ Huseyin Yalcinkaya and Melih Can, "The Effect of Executive Order 13269 on Noncitizen Enlisted Accessions in the U.S. Military" (Master's thesis, Naval Postgraduate School, 2013), 5, <http://hdl.handle.net/10945/32921>.

¹⁴ Yalcinkaya and Can, "The Effect of Executive Order 13269," 6.

citizen.¹⁵ World War I saw those restrictions relax and non-declarants were accepted once again. Approximately 18 percent of Army enlistees were immigrants and the need for manpower kept that number high. After the end of WWI, the legislator prohibited enlistment of non-declarants until World War II.¹⁶

The Cold War, also, saw a need for increased manpower, and in turn, non-declarants were able to enlist.¹⁷ In times of need, the legislation tends to relax and allow for more people to enlist. The relaxation is apparent in history and sees that in times of need, enlistment requirements are reduced, and more people are allowed to join the services. During peacetime, there are more restricted policies and programs. This restriction is reflected in the INA of 1952. The requirements for an applicant being present in the United States are waived if a person has served during a period of hostility. If a person is currently serving, it falls under a period of hostility, allowing for an applicant to fall under the accelerated pipeline.

C. LITERATURE REVIEW

The idea of who is a citizen and what citizenship is has been debated since the term came about. A citizen of a nation usually falls under the jurisdiction of that country and is a member who participates in the political community. There have been debates on how exactly that status should be obtained. There are four major ways a person can become a citizen, by birth to parents who are citizens, birth within the territory of a country, through marriage, or naturalization.¹⁸ The biggest argument for citizenship is through birth to citizens or birth within a territory and many countries form their models off of that argument.

¹⁵ Yalcinkaya and Can, “The Effect of Executive Order 13269,” 6.

¹⁶ ¹⁶ Yalcinkaya and Can, “The Effect of Executive Order 13269,” 6.

¹⁷ Yalcinkaya and Can, “The Effect of Executive Order 13269,” 6.

¹⁸ James Brown Scott, “Nationality: Jus Soli or Jus Sanguinis,” *American Journal of International Law* 24, no. 1 (January 1930): 58–64, <https://doi.org/10.2307/2189299>.

Jus soli refers to citizenship based on where a person is born.¹⁹ If a person is born within a territory that a certain country overseas, he or she is granted automatic citizenship by said country. This model is seen in countries like Argentina, Barbados, Brazil, Canada, Columbia, Jamaica, Mexico, Pakistan, Peru, Romania, the United States, and Uruguay.²⁰ *Jus sanguinis* is citizenship by bloodline. If a person is born to a parent or parents of the nationality of that state, then they gain that citizenship as well.²¹ Most European countries use this concept.²² The difficulty comes when a person can claim citizenship in multiple ways. For example, if a country follows *jus sanguinis* and both parents are from different countries, a person gains both citizenships. If they are born in a *jus soli* territory, then they gain that citizenship as well.²³

Some theorists most notably, James Brown Scott, argue that these are the only way someone can gain “full” citizenship. The ideas of *jus soli* and *jus sanguinis* offer enough inclusivity to cover all persons within a nation and create a favorable path for nationality acquisition.²⁴ Both principles are used in a majority of European nations and therefore sets an example for other countries to follow as they set their laws.

Scott also concludes that one of the main problems with *jus sanguinis* is the passage of time. Scott believes that the bloodline should not extend beyond two or three generations, especially if that person is not born within the territory, but in a foreign country.²⁵ Distant claiming has occurred in the past, especially in Europe where some have tried to claim citizenship through their ancestors. *Jus sanguinis* does not have a time period limitation, which can cause an influx of citizens that are not in the immediate area of the territory.

¹⁹ T.A. Aleinikoff, D.B. Klusmeyer, and C.E.I. Peace, *Citizenship Today: Global Perspectives and Practices*, A Carnegie Endowment Book, Carnegie Endowment for International Peace, 2001, <https://books.google.com/books?id=iVnb-HA3K6sC>.

²⁰ Aleinikoff, Klusmeyer, and C.E.I. Peace, *Citizenship Today: Global Perspectives and Practices*.

²¹ Aleinikoff, Klusmeyer, and C.E.I. Peace, *Citizenship Today: Global Perspectives and Practices*.

²² Scott, “Nationality: Jus Soli or Jus Sanguinis.”

²³ Scott, “Nationality: Jus Soli or Jus Sanguinis.”

²⁴ Aleinikoff, Klusmeyer, and C.E.I. Peace, *Citizenship Today: Global Perspectives and Practices*.

²⁵ Scott, “Nationality: Jus Soli or Jus Sanguinis.”

Even with both those concepts, one thing can still occur, statelessness. A person who is stateless does not enjoy citizenship under national laws, according to Benjamin Lawrance.²⁶ Statelessness can be caused by a lack of birth certificates or registration or birth to stateless parents. The lack of paperwork proving the place of birth or who the parents are, means a person cannot gain access to citizenship. This is one of the main arguments as to why there needs to be other ways to gain citizenship, these two do not cover all the bases.²⁷ Even with the addition of gaining citizenship by marriage, there are still people left without ties to a certain country.

Assimilation is another topic associated with the negative sides of citizenship. Many critics like Rick Goings are weary of having people try to assimilate into the culture they are trying to join. Some believe that assimilation is the only way that a person can fully become a citizen, while others believe that assimilation will destroy the many cultural backgrounds a person has and the abilities they can offer.

Those against assimilation most notably Goings, contend that instead of assimilation, we need acceptance.²⁸ Goings argues that assimilation is not a quick thing to do and can take many generations, leaving many people to struggle until they are accepted. What people believe is needed is the participation to accept a person and offer opportunities for those to keep their native languages. They believe that this will allow more people to feel as if they fit into a new environment. Hellen McDonald and Pallassana Balgopal believe that forcing a person to try to fit into mainstream America is impossible.²⁹ They argue that barricades and barriers that are put in place do not allow a person to fall into the mainstream and create challenges that do prevent them from adjusting. Whether those come from a language barrier, education barriers, or the lack of work experience, critics

²⁶ Lawrance, Benjamin N., and Jacqueline Stevens, eds., *Citizenship in Question: Evidentiary Birthright and Statelessness*, Duke University Press, 2017, <https://doi.org/10.1215/9780822373483>.

²⁷ Scott, "Nationality: Jus Soli or Jus Sanguinis."

²⁸ Goings, Rick, "Stop Telling Immigrants to Assimilate and Start Helping Them Participate," World Economic Forum, January 14, 2017, <https://www.weforum.org/agenda/2017/01/stop-telling-immigrants-to-assimilate-and-start-helping-them-participate/>.

²⁹ McDonald, Hellen G, and Pallassana R Balgopal, "Conflicts of American Immigrants: Assimilate or Retain Ethnic Identity," *Migration World Magazine*, 26, no. 4 (May–June 1998), http://maxweber.hunter.cuny.edu/pub/eres/SOC217_PIMENTEL/immigrant-assimilation.pdf.

believe that for someone to enter the country those will be things they cannot overcome. They believe that the United States needs to break down those barriers to allow someone to live here peacefully.³⁰

Those for assimilation, like Roy Beck, maintain that the only way a person can belong in this country is to assimilate and fit in and they need to shed their old identities to better protect the country.³¹ It was expected that all immigrants assimilate into the American mainstream by “melting” into the dominant society. For most people to become a citizen, they need to have a basic understanding of English. Those for assimilation believe that English should be the only language spoken in the United States so those wishing to become a citizen must drop their native language and take up English.³² The culture and ideologies of immigrants can be a major concern to anti-immigration groups. These groups think that when a person comes to the United States, they bring their bad culture and ideas and can spread that throughout the area.³³ They also see it as a source for crime.³⁴ The belief is that by making a person give up their native culture, they can prevent the bad ideas and crime from spreading.

A major argument for assimilation comes through the idea of a person retaining allegiances to their native country. Beck argues retention can be seen as posing a major risk of terrorism.³⁵ This idea is not a new one as it has been seen in the past. In 2010 a terrorist attempted to place a bomb in Times Square, have it ignite, and destroy part of the city.³⁶ The attempt was unsuccessful, and it was found that he was a Pakistan born

³⁰ Goings, “Stop Telling Immigrants to Assimilate and Start Helping Them Participate.”

³¹ Roy H. Beck, *The Case against Immigration: the Moral, Economic, Social, and Environmental Reasons for Reducing U.S. Immigration Back to Traditional Levels*, New York: Norton, 1996.

³² Peter Skerry, “Do We Really Want Immigrants to Assimilate?” Brookings, March 1, 2000, <https://www.brookings.edu/articles/do-we-really-want-immigrants-to-assimilate/>.

³³ Beck, *The Case against Immigration*.

³⁴ Beck, *The Case against Immigration*.

³⁵ Beck, *The Case against Immigration*.

³⁶ “Faisal Shahzad Sentenced in Manhattan Federal Court to Life in Prison for Attempted Car Bombing in Times Square,” Federal Bureau of Investigation, October 5, 2010, <https://archives.fbi.gov/archives/newyork/press-releases/2010/nyfo100510.htm>.

American citizen. The fear is that more attacks are going to take place if assimilation and full adoption of American culture is not achieved.

Assimilation is a topic that is not only a discussion in the United States but in other countries in Europe as well.³⁷ This debate will continue to cause controversy as the numbers of immigrants and refugees continue to increase around the world.

D. ARGUMENTS

There are three major camps for the arguments about the accelerated track for military members. Those are the camps for supporting the current process, those against having an accelerated process, and those who think the current process needs some changes, but there should still be one. This thesis aims to analyze the three camps' arguments and offers the reader a chance to make an informed decision.

The arguments for allowing noncitizens an opportunity for naturalization through an accelerated process focus on the sacrifice and oath they make to a country voluntarily that has not fully accepted them as a citizen. These members swear the same oath to the Constitution as a citizen and they willingly take to heart those words that they speak.³⁸ Most immigrants who serve in the Armed Forces do so honorably and without concern. Members are vetted through background checks and interviews before they become a citizen and they are not awarded a security clearance until they become a citizen. A lack of a security clearance keeps a person from obtaining information labeled as SECRET or holding positions that allow them access to any information that could be classified as SECRET. The accelerated process allows a member to obtain a job and advance their career alongside their peers and not affect their careers in the Armed Forces. Immigrants also offer vast knowledge that is useful to the Armed Forces. Many speak languages other than

³⁷ Goings, "Stop Telling Immigrants to Assimilate and Start Helping Them Participate."

³⁸ *Contributions of Immigrants to the United States Armed Forces: Hearing before the Committee on Armed Services, United States Senate*, 109th Cong. 2 (2006), <https://www.govinfo.gov/content/pkg/CHRG-109shrg35222/html/CHRG-109shrg35222.htm>

English by which offers vast opportunities to the military to form relations or complete assignments in areas that could not have been done before.³⁹

The arguments against the naturalization process for military members tend to follow suit with those arguments against immigration in general. One of the biggest arguments advanced by anti-immigration groups is that the United States would be allowing people access to secrets about the United States and the military that they could later use against the United States or sell to other countries.⁴⁰ This belief leads people to think that by allowing immigrants to join the military and become citizens could create terrorists or extremists. There is also the argument made by Alex Nowrasteh, in his article refuting claims made by anti-immigration groups, that by allowing immigrants into the military, we are allowing them to bring in bad habits, culture, and ideas into the military and it could corrupt it.⁴¹ The notion about spreading bad habits and culture is one that many people use to decrease immigration into the United States in general. It is believed by those groups that by allowing immigrants into the country, we are allowing the country to be corrupted and allowing in bad influences. Finally, a major argument against the process to gain citizenship through military service is that this could lead to allowing illegal immigrants to join the armed forces made by Dan Stein. The ENLIST Act has been brought before Congress and this would allow illegal immigrants the possibility to be naturalized through the military.⁴² Illegal immigrants could pose a security concern as they do not always have the proper documentation to verify their identities and conduct the thorough background checks needed according to Stein.⁴³ This act would bring the military into a realm of immigration policy and that should not be allowed to happen.

³⁹ Antohi, "I Dream of Serving in the Military."

⁴⁰ Nowrasteh, Alex, "The 14 Most Common Arguments against Immigration and Why They're Wrong," *cato.org*, CATO Institute, May 2, 2018, <https://www.cato.org/blog/14-most-common-arguments-against-immigration-why-theyre-wrong>.

⁴¹ Nowrasteh, "The 14 Most Common Arguments against Immigration and Why They're Wrong."

⁴² Dan Stein, "Our Military is Working Just Fine. It's Immigration Policy That is Broken," *USA Today*, May 22, 2018, <https://www.usatoday.com/story/opinion/2018/05/22/military-should-not-be-backdoor-citizenship-editorials-debates/35228661/>.

⁴³ Stein, "Our Military is Working Just Fine. It's Immigration Policy That is Broken."

The last group of arguments, formed by Former President Donald Trump and his administration, stem from the idea that there should be a policy for immigrants in the Armed Forces to have a fast track to naturalization, but there needs to be some changes made to it.⁴⁴ Former President Donald J. Trump attempted to change the requirements of service, and his supporters and administration agree with that process. They believe that the service members should have a more stringent process and the requirements should be increased to allow for more evaluation of a persons' performance. Currently, the biggest argument is to increase the days of service required before a person can apply.⁴⁵

E. RESEARCH DESIGN

This thesis examines the changes that have been made to the naturalization policy over time and compares the differences and changes that were made. It will also compare all sides of the arguments presented around the accelerated process for naturalization.

This thesis will utilize government documents containing information about the acts that had been passed throughout history to provide background information on the overall process and changes. It will also utilize Senate and House of Representative hearing and meeting notes focusing on immigration and naturalization. Finally, some opinion pieces will be used to examine the arguments made by the public about the overall process of naturalization.

F. THESIS OVERVIEW

This thesis addresses the process, the history of changes, and the arguments posed for and against the accelerated process of naturalization for those who decide to join the armed forces of the United States.

Chapter II looks at the history of changes to the naturalization policy. This chapter will include early naturalization laws up until the 2020 court ruling for the civil suit alleging the changes made in 2017 to the accelerated process for military members were

⁴⁴ Barros, "US Court Clears Path."

⁴⁵ Barros, "US Court Clears Path."

unconstitutional. This chapter will look at the history of immigrants in the Armed Forces as well.

Chapter III addresses the current processes. It will look at the standard process to become an American citizen and compare the differences to that of the accelerated process. It will lay out the requirements for both processes and what information is required of an applicant. Finally, it will explore the program created to help recruit members into the Armed Forces that have vital skills.

Chapter IV analyzes the arguments both for and against the naturalization process for service members and if immigrants should be allowed to serve in general. Both sides offer their opinions on if immigrants should be allowed to serve and if they are beneficial or detrimental to the military culture.

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II. HISTORY

The process of gaining citizenship has been a point of contention since the development of the United States. The process has reflected changes as the country itself moves through different waves of immigration from around the world. This chapter reviews the most significant changes the process has seen focusing on two major acts that had specific effects on the process of gaining citizenship through military service. It will, also, highlight the use of immigrants in the military.

A. VIGNETTE: FACING DEPORTATION, THE STORY OF PANSHU ZHAO

Panshu Zhao moved to the United States from China in 2010 to attend college and study.⁴⁶ He received a graduate degree and pursued a doctorate in geography from Texas A&M. Since being in the United States he grew to deeply appreciate the country and the military. In 2016, Zhao enlisted and began his service in the Army Reserve. During this time, he was waiting for orders for full-time training. In 2018 he found himself in a position that many others were in as well; discharged from the service with no explanation. Zhao told NPR in an interview that “this is a whole disaster.”⁴⁷ His recruiter had to deliver the news that “for unspecified reasons, he had failed the background check.”⁴⁸ He said his recruiter told him that he “can’t be a soldier anymore without telling me specifically why and even not giving me any chance to appeal.”⁴⁹ Zhao formed an organization called Asian-American Soldiers for America and has met with several senators and congressmen and written letters to former President Trump discussing the situation. He is worried, that if deported, he could face ramifications from the Chinese government. He says “I’m pretty

⁴⁶ Romo, Vanessa, “U.S. Army Is Discharging Immigrant Recruits Who Were Promised Citizenship,” *NPR*, July 9, 2018, sec. National, <https://www.npr.org/2018/07/09/626773440/u-s-army-is-discharging-immigrant-recruits-who-were-promised-citizenship>.

⁴⁷ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁴⁸ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁴⁹ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

sure the Chinese government knows what I did, and they know my name. I don't know what will happen if I go back.”⁵⁰

Many recruits who had been released from the program, were not given reasons as to why they were. Lt. Col. Margaret Stock, the creator of MAVNI and an immigration lawyer, says that she has been “contacted by several dejected and confused MAVNI recruits who were ‘administratively discharged’ over the last couple months.”⁵¹ She argues that the military had ordered several new background checks that they could not complete. She says the response then becomes, “Let’s just get rid of these people because it’s too much trouble to process them.”⁵² Many of the recruits are receiving an explanation of “national security reasons” as they are discharged with no way to appeal the ruling. Stock argues that the military is “violating its own regulations, which state that when a person is discharged based on the security investigation, they have to be notified and given an opportunity to contest the findings.”⁵³

B. HISTORY OF GAINING CITIZENSHIP

Citizenship has not always been a guarantee for immigrants. The first naturalization act was passed on March 26, 1790, and stated that any “free, white, adult alien, male or female” that had lived in the United States for two years could apply for citizenship.⁵⁴ During this period, and up to 1906, there was no law or oversight as to what form would be used for applications, and all records varied geographically.⁵⁵ The process for application could be completed through any common law court of record and citizenship

⁵⁰ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁵¹ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁵² Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁵³ Romo, “U.S. Army Is Discharging Immigrant Recruits.”

⁵⁴ Eileen Bolger, “Naturalization Process in U.S.: Early History,” Social Welfare History Project, Virginia Commonwealth University, April 28, 2020, <https://socialwelfare.library.vcu.edu/federal/naturalization-process-in-u-s-early-history/#:~:text=The%20first%20naturalization%20act%2C%20passed,years%20was%20eligible%20for%20citizenship.>

⁵⁵ “History of the Certificate of Naturalization (1906-1956),” U.S. Citizenship and Immigration Services, January 6, 2020, [https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/history-of-the-certificate-of-naturalization-1906-1956.](https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/history-of-the-certificate-of-naturalization-1906-1956)

was granted to those who could prove they “were of good moral character and who took an oath of allegiance to the U.S. Constitution.”⁵⁶

On January 29, 1795, the next act was passed that would increase the requirement of residence to five years.⁵⁷ It was required that an applicant must denounce their alliance to another country, prince, state, etc., and announce their intentions to become a citizen three years prior to applying. On April 14, 1802, the policy directed that the court clerk had to record the entry of any alien into the United States.⁵⁸ The clerk would collect the name, birthplace, age, their allegiance, where they immigrated from, and where they intended to settle. The clerk would proceed to grant a certificate that could be given to the court as evidence of the time they arrived and how long they had been in the United States.⁵⁹ This act confirmed that state and territorial courts were considered to be the same as district courts and had the ability to naturalize citizens. Those people maintained the same rights and privileges that were afforded to them if they had been naturalized at a district or circuit court.⁶⁰ This act was the last piece of legislation on naturalization passed during the 19th century.

Congress passed their next act on June 27, 1906, to expand the Immigration Bureau to the Bureau of Immigration and Naturalization.⁶¹ The updated agency was put in charge of any and all matters that concerned naturalization. Up until 1906, this period was referred to as the “Old Law Period.”⁶² Before 1906, certificates of naturalization were not regulated or had supervision, which resulted in various sizes, shapes, colors, and preservation of records. The 1906 act established a basic procedure that would stay in place until 1952. The application process began with the filing of a “declaration of intention, which recorded

⁵⁶ Bolger, “Naturalization Process in U.S.: Early History.”

⁵⁷ Bolger, “Naturalization Process in U.S.: Early History.”

⁵⁸ Bolger, “Naturalization Process in U.S.: Early History.”

⁵⁹ Bolger, “Naturalization Process in U.S.: Early History.”

⁶⁰ Bolger, “Naturalization Process in U.S.: Early History.”

⁶¹ Bolger, “Naturalization Process in U.S.: Early History.”

⁶² U.S. Citizenship and Immigration Services “History of the Certificate of Naturalization (1906-1956).”

the applicant's oath to the clerk of the court."⁶³ This oath stated that the applicant intended to become a U.S. citizen, to reside within the United States permanently, and renounce any and all allegiances to any other nation or sovereignty.⁶⁴ Within two to seven years, the applicant could then petition the court for citizenship.⁶⁵ They would present affidavits of two witnesses that stated that "the applicant had resided in the United States for at least five years and possessed a good moral character."⁶⁶ The petition would then be investigated by officials of the Bureau, and they would present their findings and recommendation in front of a judge where they would rule if it was favorable and satisfactory.⁶⁷ The applicant takes an oath of allegiance to the U.S. Constitution and laws while renouncing all foreign alliances. The judge would then issue an "order of admission to citizenship" and grant the applicant a certificate of citizenship."⁶⁸ The judge could also order an investigation to continue or deny a petition if they thought it was needed.⁶⁹

Both 1918 and 1922 saw two more immigration-related acts passed by Congress. On May 9, 1918, the act stated that "any alien who had been a member of the Armed Forces for 3 or more years could file a petition for naturalization without proof of the 5-year residency requirement."⁷⁰ It also stated that any member who had served during World War I did not have to file a declaration of intention.⁷¹ On September 22, 1922, the enacted law changed how the process worked for married women.⁷² Before this law went into effect, if a woman was married to a U.S. citizen or naturalized citizen, she would become a U.S. citizen automatically from that marriage.⁷³ It was now required any woman who

⁶³ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁴ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁵ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁶ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁷ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁸ Bolger, "Naturalization Process in U.S.: Early History."

⁶⁹ Bolger, "Naturalization Process in U.S.: Early History."

⁷⁰ Bolger, "Naturalization Process in U.S.: Early History."

⁷¹ Bolger, "Naturalization Process in U.S.: Early History."

⁷² Bolger, "Naturalization Process in U.S.: Early History."

⁷³ Bolger, "Naturalization Process in U.S.: Early History."

married after that date who wanted to become a citizen had to meet the requirements for naturalization, the same as any other applicant.⁷⁴ Applicants did not need to declare intention and they needed to reside in the United States for one year versus the normal five.

C. THE NATIONALITY ACT OF 1940

The Nationality Act of 1940 established the base for the current process of naturalization through the standard and accelerated processes. The law decisively changed the process for the naturalization of aliens and made some major changes to the previous acts. The major changes included:

- Declaring that “a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who resided in the United States or one of its outlying possessions prior to the birth of such person” will have American nationality at birth.⁷⁵ It specifies who receives citizenship at birth and the process for children to become naturalized.
- A person who had served in the military must have served for three years before applying.
- A person can lose their citizenship by “taking an oath or making an affirmation” to another country; “entering or serving in the armed forces of a foreign state”; “accepting or performing the duties of [an] office, post or employment” in another state; voting in an election of another country; making a “formal renunciation of nationality” in front of an officer; deserting the military of the United States during a time of war; and, “committing any act of treason against the United States, or attempting by force to overthrow or bearing arms against the United States.”⁷⁶

⁷⁴ Bolger, “Naturalization Process in U.S.: Early History.”

⁷⁵ Knight, George S., “Nationality Act of 1940,” *American Bar Association Journal* 26, no. 12 (December 1940): 938–40, <http://www.jstor.org/stable/25712994>, 939.

⁷⁶ Knight, “Nationality Act of 1940,” 939.

- A more uniform process to becoming a naturalized citizen.
- What can be given as proof to claim U.S. citizenship, such as being born overseas to citizen parents.⁷⁷

The Nationality Act of 1940 was the biggest piece of legislature passed on the subject of Naturalization and many of the components are still used presently. The establishment of a framework and standard process allows for alterations and improvements as necessary.

D. THE IMMIGRATION AND NATIONALITY ACT OF 1952

The most recent piece of legislation passed was the Immigration and Nationality Act (INA) of 1952, which has gone through some minor changes through amendments and Executive Orders. It collected and reorganized many of the past provisions of immigration law and contains some of the most important provisions.⁷⁸ It has been amended over the years but is still the largest piece of legislature passed in recent history. It contains provisions on immigration and nationality and naturalization. The INA includes:

- The allocation of visas for immigrants – visas can be granted by family sponsors, for employment-based options, or in cases of diversity. A visa is needed for a person to apply for naturalization.⁷⁹
- The procedure for granting immigration status – provides the procedures for petitioning and gaining an immigration status.⁸⁰
- Issuance and application for visas – issuance specifies the conditions for visas including registration, photographs, waiver requirements, validity periods, the difference between immigrant and nonimmigrant visas, and

⁷⁷ Knight, “Nationality Act of 1940,” 939.

⁷⁸ U.S. Citizenship and Immigration Services, “Immigration and Nationality Act.”

⁷⁹ Immigration and Nationality Act, 8 U.S.C. § 1153 (1952).

⁸⁰ Immigration and Nationality Act, 8 U.S.C. § 1154 (1952).

ways a visa can be revoked. The application specifies the documentation needed and how to apply for a visa.⁸¹

- Departure or removal of aliens – explains how the removal of a visa is initiated and the procedure for the removal of a visa holder.⁸²
- Persons born in territories and their status – these areas include Puerto Rico, the Canal Zone or the Republic of Panama, Virgin Islands, and Guam. These sections specify the status of citizenship for people who are born in the areas.⁸³
- Authority, eligibility, and requirements for naturalization – grants who has the authority to administer oaths and who has the authority to naturalize citizens, as well as who is eligible for naturalization, and the requirements a person must meet in order to become a citizen.⁸⁴
- Naturalization through service in the Armed Forces – these laid the basis for naturalization through military service, and remain in place today.⁸⁵

The collection and presentation of provisions offers the best and most recent collection on the requirements and processes to become a citizen of the United States.

Specifically, sections 328 and 329 allocate requirements for noncitizens to be eligible for citizenship if they served or are serving in the military.⁸⁶ INA 328 specifies

⁸¹ Immigration and Nationality Act, 8 U.S.C. § 1201 (1952); Immigration and Nationality Act, 8 U.S.C. § 1202 (1952).

⁸² Immigration and Nationality Act, 8 U.S.C. § 1229 (1952); Immigration and Nationality Act, 8 U.S.C. § 1229a (1952).

⁸³ Immigration and Nationality Act, 8 U.S.C. § 1402 (1952); Immigration and Nationality Act, 8 U.S.C. § 1403 (1952); Immigration and Nationality Act, 8 U.S.C. § 1406 (1952); Immigration and Nationality Act, 8 U.S.C. § 1407 (1952).

⁸⁴ Immigration and Nationality Act, 8 U.S.C. § 1421 (1952); Immigration and Nationality Act, 8 U.S.C. § 1422 (1952); Immigration and Nationality Act, 8 U.S.C. § 1427 (1952).

⁸⁵ Immigration and Nationality Act, 8 U.S.C. § 1439 (1952); Immigration and Nationality Act, 8 U.S.C. § 1440 (1952).

⁸⁶ Immigration and Nationality Act.

that “a person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating one year” can be eligible for naturalization.⁸⁷ INA 329 allowed noncitizens to be eligible if they served during a period of hostilities, waiving the requirement of being present in the United States.⁸⁸ Those periods of hostilities include the Korean War, Vietnam War, the World Wars, Gulf War, and from September 11, 2001 to the present. Executive Orders 12081 and 12939 amended the INA of 1952 to include those who served in the Vietnam conflict (EO 12081)⁸⁹ and the Gulf War (EO 12939).⁹⁰

E. MILITARY ACCESSIONS VITAL TO THE NATIONAL INTEREST AND THE TRUMP ADMINISTRATION

In 2008, the Military Accessions Vital to the National Interest (MAVNI) program was created to allow noncitizens, who possess critical skills, enlist in the armed forces.⁹¹ The program expanded in the 2010s and what started as a pilot program began a necessary part of recruitment. In 2017, the process for naturalization for military members changed.⁹² Two policies were released that affected those who were entering or who were in the armed services currently. The first change was to the security and suitability screening of green cardholders.⁹³ A complete background investigation and security suitability determination must be made prior to entering the armed forces. Before, people who possessed a green card could go to basic training with the investigations initiated, but not completed.⁹⁴ The

⁸⁷ Immigration and Nationality Act.

⁸⁸ Immigration and Nationality Act.

⁸⁹ Exec Order No. 12081, 3 C.F.R. 225 (1978), <https://www.archives.gov/federal-register/codification/executive-order/12081.html>.

⁹⁰ Exec Order No. 12939, 3 C.F.R. (1994), <https://www.archives.gov/files/federal-register/executive-orders/pdf/12939.pdf>.

⁹¹ Department of Defense, “Military Accessions Vital to National Interest (MAVNI) Recruitment Pilot Program,” 2016, <https://dod.defense.gov/news/mavni-fact-sheet.pdf>

⁹² Jim Garamone, “DOD Announces Policies Affecting Foreign Nationals Entering Military,” U.S. Department of Defense News, October 13, 2017, <https://www.defense.gov/News/News-Stories/Article/Article/1342430/dod-announces-policies-affecting-foreign-nationals-entering-military/>.

⁹³ Garamone, “DOD Announces Policies Affecting Foreign Nationals Entering Military.”

⁹⁴ Garamone, “DOD Announces Policies Affecting Foreign Nationals Entering Military.”

requirement of having the background checks completed before entrance into the armed services by applicants may be delayed as there have been backlogs for security clearances, which may take up to a year to complete.

The second change affected those who were in the MAVNI program and currently serving.⁹⁵ This change establishes a qualifying service standard for those applying for citizenship. An applicant must be given an honorable service characterization, which will happen after a member has served a minimum of 180 days after basic training.⁹⁶ Prior, the determination could be made after a few days of basic training.

The current process of naturalization includes filling out a form and providing documents that confirm your eligibility for naturalization, submitting biometrics., completing an interview with U.S. Citizenship and Immigration Services (USCIS), taking and passing a citizenship test which includes both an English and History test, and take an oath of allegiance to the United States.⁹⁷ The overall process of becoming a citizen can take up to ten years.

In 2017, the Trump administration passed legislation that restricts the MAVNI program. In April 2020, the ACLU, ACLU of Southern California, and the ACLU of District of Columbia filed a class-action lawsuit challenging the 2017 policy.⁹⁸ Six non-citizens service members filed the lawsuit arguing that legislation negatively affected their military careers and blocked their paths to naturalization.⁹⁹ In *Samma vs. DOD*, the plaintiff alleges that the Department of Defense (DOD) adopted an unlawful policy by depriving service members of the accelerated naturalization process and preventing them from obtaining the honorable service certificate required to gain citizenship.¹⁰⁰ As a result, the government is denying thousands of men and women in uniform the citizenship they

⁹⁵ Garamone, “DOD Announces Policies Affecting Foreign Nationals Entering Military.”

⁹⁶ Garamone, “DOD Announces Policies Affecting Foreign Nationals Entering Military.”

⁹⁷ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” February 23, 2021, <https://www.uscis.gov/citizenship/learn-about-citizenship/10-steps-to-naturalization>.

⁹⁸ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

⁹⁹ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

¹⁰⁰ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

were promised.¹⁰¹ The district court held that the policy from 2017 violated the INA, which intended for immigrants to gain citizenship soon after entering the service and prior to deploying, which could delay the process of naturalization.¹⁰² The district court held “the new Defense Department policy violated the INA, which authorized the Department only undertake the simple administrative task of verifying whether a non-citizen has served honorably” and violated jurisdiction laid out in the INA.¹⁰³

The court ruled in favor of the service members on August 26, 2020, but the ruling was appealed by the Trump administration shortly after.¹⁰⁴ The appeal has not been commented on nor has the ruling been used to implement changes into the policy. The 2017 legislator and requirements are in place currently, even after the unconstitutional ruling, and will remain until the Biden administration changes the policies in place.

F. THE BIDEN ADMINISTRATION

The current administration has promised to make changes to immigration laws. The U.S. Citizenship Act of 2021 establishes a new system to help keep our borders secure, and manage migration.¹⁰⁵ This act will “provide pathways to citizenship and strengthen labor protections,” “prioritize smart border controls,” and “address root causes of migration.”¹⁰⁶ The new act shows that the current administration is open to taking on immigration reform. There has been some movement in the issues concerning deported veterans.¹⁰⁷ Servicemembers are not guaranteed an expedited path to citizenship and some who do serve will not qualify for citizenship. Servicemembers have been deported, but the Biden

¹⁰¹ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

¹⁰² American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

¹⁰³ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

¹⁰⁴ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

¹⁰⁵ U.S. Citizenship Act, H.R. 1177, 117Th Cong. (2021).

¹⁰⁶ “Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize Our Immigration System,” The White House, January 20, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>.

¹⁰⁷ Reichlin-Melnick, Aaron, “Biden Administration Commits to Returning Deported Veterans,” Immigration Impact, July 8, 2021, <https://immigrationimpact.com/2021/07/08/deported-immigrant-veterans-biden/>.

administration announced in 2021 that many veterans will be allowed to enter the United States and be given a second chance at citizenship.¹⁰⁸ The Department of Homeland Security (DHS) Secretary Alejandro Mayorkas said that the administration is committed to “bringing back military service members, veterans, and their immediate family members who were unjustly removed.”¹⁰⁹ Opportunities for veterans and their families and removing barriers to citizenship will be protected and expanded on by DHS.

The bill has been presented to the House of Representatives and was referred to the Subcommittee on Immigration and Citizenship on April 28, 2021.¹¹⁰ The bill has been introduced, but not passed by the House of Representatives as of February 2022.¹¹¹

G. CONCLUSION

The process for naturalization has been in place since the creation of the United States and has gone through some changes to establish the process in place today. The INA of 1952 established a framework and streamlined process that is applied throughout the country. The framework allows for the process to remain the same for every applicant and there is no variation or confusion on if he or she is truly a United States citizen.

The expedited or accelerated process put in place for service members, during peacetime and in hostile times, has impacted the armed forces. The ability to become a naturalized citizen through service in the military has been challenged by the 2017 policy change and has delayed the entrance of thousands of recruits into the armed forces. With the Biden administrations’ proposed changes to immigration laws, there is a possibility that the 2017 changes will be overturned, and the recruits stuck in limbo will be able to carry out their promised contracts.

¹⁰⁸ Reichlin-Melnick, “Biden Administration Commits to Returning Deported Veterans.”

¹⁰⁹ Reichlin-Melnick, “Biden Administration Commits to Returning Deported Veterans.”

¹¹⁰ U.S. Citizenship Act, H.R. 1177, 117Th Cong. (2021).

¹¹¹ U.S. Citizenship Act.

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III. PROCESS OF GAINING CITIZENSHIP

The process for naturalization differs slightly between a military member and a “regular” immigrant. The standard process can be quite onerous at times and can take up to 12 years to complete with all requirements met and the time it takes to process an application, with the mean time being 7.1 years.¹¹² The process is slightly reduced for members of the armed service. Overall, the “fast track” offered through military service eliminates the requirement for an applicant to be present in the United States if they served during a period of hostilities. If a member did not serve during a period of hostility, they may have to go through the standard process with additional forms required. The majority of people who use the accelerated process are between the ages of 22 and 30.¹¹³ The lower average age allows for applicants to meet the age requirements for the military and not exceed the maximum age of prospective enlistees which is 35.

According to the USCIS Naturalization Statistics for fiscal year (FY) 2020, 625,400 new citizens were welcomed into the country.¹¹⁴ Only 0.6 percent of the citizens applied under military service designators, meaning there were 4,570 members who received citizenship.¹¹⁵ Since the Trump administration stalled the MAVNI program, there was a steep decline in naturalization through military service.¹¹⁶ FY2017 had 7,110 approvals for citizenship while FY2018 had 4,680, FY2019 4,360, and FY 4,570. FY2021 saw a major increase of 90 percent from the previous year with 8,800 approvals.¹¹⁷

¹¹² “Naturalization Statistics,” U.S. Citizenship and Immigration Services, October 14, 2021, <https://www.uscis.gov/citizenship-resource-center/naturalization-statistics>

¹¹³ “Military Naturalization Statistics,” U.S. Citizenship and Immigration Services, November 9, 2021, <https://www.uscis.gov/military/military-naturalization-statistics>

¹¹⁴ U.S. Citizenship and Immigration Services, “Naturalization Statistics.”

¹¹⁵ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

¹¹⁶ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

¹¹⁷ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

The process for service members offers a chance for Naturalization Ceremonies to take place overseas as well.¹¹⁸ There have been ceremonies hosted in more than 30 nations across the globe from Albania to the United Arab Emirates.¹¹⁹ This process offers service members a chance to become a part of the country that they swear to defend and uphold its values. The provisions made under the Immigration and Nationality Act (INA) recognize the sacrifice veterans and current members of the armed forces made by reducing or eliminating certain general requirements for naturalization.¹²⁰ The waived requirements can include paying application fees and residing physically in the United States for specific periods of time.

This chapter compares the standard process with the accelerated one reserved for military members. It looks at the prerequisites, steps, and overall timeline for both. This chapter then examines the program that allows immigrants to apply for service in the military.

A. VIGNETTE: A CRUSHED DREAM OF JOINING THE MILITARY, THE STORY OF JOEY ANTOHI

Joey Antohi has dreamed of serving in the U.S. military since she came to the United States.¹²¹ As of March of 2021, she has been in the process of joining the military. Her reason, she says “I love this nation so deeply.”¹²² Unfortunately for her, MAVNI has been in limbo since the legislation changes in 2017. In that time approximately 4,000 noncitizens that are enlisted have been put at risk of deportation with new would-be recruits having no way to join. She describes her situation as “a devastating situation for those of us who dream of serving the United States, a significant loss to the armed forces, and a departure from time-honored military tradition.”¹²³

¹¹⁸ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

¹¹⁹ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

¹²⁰ U.S. Citizenship and Immigration Services, “Military Naturalization Statistics.”

¹²¹ Antohi, “I Dream of Serving in the Military.”

¹²² Antohi, “I Dream of Serving in the Military.”

¹²³ Antohi, “I Dream of Serving in the Military.”

In 2017, 2,400 MAVNI recruits had signed contracts and were drilling with reserve units, and more than 1,600 were waiting to clear the required background checks.¹²⁴ They were told they should still be admitted, but many would fall out of legal status after the increased process time of the background checks. The pause in the program left recruits without the ability to work legally and lived at risk of deportation.¹²⁵

Antohi believes the next steps are for the Biden administration to order the military to honor the existing MAVNI contracts and restore the program.¹²⁶ President Biden will have to overturn the 2017 policy in order to allow continue forward. Antohi also asks that the age limits for MAVNI be raised or have age waivers offered for those who were unable to enroll during the program pause.¹²⁷

B. STANDARD PROCESS

The current process one must go through to obtain citizenship includes filing paperwork, receiving a green card, going through a background check, passing a citizenship test, and proving an applicant has resided in the country for five years.

According to the United States Citizenship and Immigration Services (USCIS), to become a U.S. citizen, an applicant must:

- Be a lawful permanent resident (LPR) or have had a Permanent Resident (Green) Card for at least five years, or at least three years if filing as the spouse of a current U.S. citizen.
- Be at least 18 years of age

¹²⁴ Antohi, “I Dream of Serving in the Military.”

¹²⁵ Antohi, “I Dream of Serving in the Military.”

¹²⁶ Antohi, “I Dream of Serving in the Military.”

¹²⁷ Antohi, “I Dream of Serving in the Military.”

- Show that the applicant is a “lawfully admitted permanent resident of the United States”¹²⁸
- “Have been physically present in the United States for at least 30 months”¹²⁹
- Be of “good moral character”¹³⁰
- “Be able to speak, read, write, and understand the English language”¹³¹
- Understand “the fundamentals of the history, and of the principles and form of government, of the United States”¹³²
- Demonstrate an attachment to the principles of the Constitution
- Be willing and able to take an Oath of Allegiance to the United States¹³³

Once a person meets eligibility requirements, they can begin the process of applying for naturalization. The U.S. Citizenship and Immigration Services offers a guide that provides the “10 Steps to Naturalization.”¹³⁴ The first step in the process is for an applicant to determine if they are already a U.S. citizen. The two major questions that help a person determine their status are:

- “Were you born in the United States or a territory of the United States?”¹³⁵ Or

¹²⁸ “Naturalization Fact Sheet,” U.S. Citizenship and Immigration Services, June 25, 2019, <https://www.uscis.gov/news/news-releases/naturalization-fact-sheet>

¹²⁹ U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet.”

¹³⁰ U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet.”

¹³¹ U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet.”

¹³² U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet.”

¹³³ U.S. Citizenship and Immigration Services, “Naturalization Fact Sheet.”

¹³⁴ “10 Steps to Naturalization; Understanding the Process of Becoming a U.S. Citizen,” U.S. Citizenship and Immigration Services, April 2019, <https://www.uscis.gov/sites/default/files/document/brochures/M-1051.pdf>.

¹³⁵ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 2.

- “Is at least one of your parents a [US] citizen?”¹³⁶

U.S. citizens are generally born in the United States or are born abroad to U.S. citizens. If an applicant is a minor, they can gain citizenship if one or both parents are naturalized citizens.¹³⁷ If the determination is made that an applicant is not a citizen, move on to step two. In step two, an applicant needs to determine if they are eligible to become a citizen.¹³⁸ If a person meets the eligibility requirements discussed above, they may proceed to fill out the necessary forms.

Step 3 includes the preparation of an applicant’s *Form N-400, Application for Naturalization*.¹³⁹ Form N-400 collects the necessary information needed to gain citizenship. The document is broken into 18 parts across 20 pages.¹⁴⁰ The form is broken down into the following parts:

1. Part 1: Information About Your Eligibility¹⁴¹ – Different options in which an applicant is eligible for naturalization. Only one can be selected, or the process can be delayed.
2. Part 2: Information About You (Person applying for naturalization)¹⁴² – Information on the applicant’s legal name and how the name appears on their Permanent Resident Card, date of birth, country of birth, country of citizenship, and date the person became an LPR. It also includes questions that may exempt them from taking the English Language Test.

¹³⁶ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 2.

¹³⁷ Immigration and Nationality Act.

¹³⁸ U.S. Citizenship and Immigration Services, ““10 Steps to Naturalization; Understanding the Process of Becoming a U.S. Citizen,” 3.

¹³⁹ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 4.

¹⁴⁰ Department of Homeland Security, “Form N-400, Application for Naturalization,” September 17, 2019, <https://www.uscis.gov/sites/default/files/document/forms/n-400.pdf>.

¹⁴¹ Department of Homeland Security, “Form N-400.”

¹⁴² Department of Homeland Security, “Form N-400.”

3. Part 3: Accommodations for Individuals With Disabilities and/or Impairments¹⁴³ – Includes descriptions of different impairments and what accommodations are available or what the applicant may need.
4. Part 4: Information to Contact You¹⁴⁴ – List of phone numbers and email addresses an applicant can be reached at.
5. Part 5: Information About Your Residence¹⁴⁵ – List of addresses an applicant may reside at.
6. Part 6: Information About Your Parents¹⁴⁶ – General information about both the Mother and Father of the applicant
7. Part 7: Biographic Information¹⁴⁷ – Description of applicant’s physical appearance. Ethnicity, and race.
8. Part 8: Information About Your Employment and Schools You Attended¹⁴⁸ – List of any employment or schools an applicant has attended and a basic description of the time they occupied such role.
9. Part 9: Time Outside the United States¹⁴⁹ – List of places visited, and the amount of time spent there in the five years prior to application.
10. Part 10: Information About Your Marital History¹⁵⁰ – General information about the applicant’s marital status and how many marriages they have been in if they have been married. If the applicant is currently married it asks for information on the current spouse including if they are

¹⁴³ Department of Homeland Security, “Form N-400.”

¹⁴⁴ Department of Homeland Security, “Form N-400.”

¹⁴⁵ Department of Homeland Security, “Form N-400.”

¹⁴⁶ Department of Homeland Security, “Form N-400.”

¹⁴⁷ Department of Homeland Security, “Form N-400.”

¹⁴⁸ Department of Homeland Security, “Form N-400.”

¹⁴⁹ Department of Homeland Security, “Form N-400.”

¹⁵⁰ Department of Homeland Security, “Form N-400.”

a member of the armed forces, name, date of birth, marriage date, permanent address, employer, citizenship status, and how many times the spouse has been married with information on their past spouses. If an applicant has been married more than once, information on their previous spouse's is required as well.

11. Part 11: Information About Your Children¹⁵¹ – If an applicant has children, information about each child is required. Included are the name, date and country of birth, current address, and the relationship to the applicant. This includes biological children, stepchildren, or adopted children. An applicant must include any child who is alive, missing, or deceased.
12. Part 12: Additional Information About You¹⁵² – List of YES or NO questions asking about an applicant's background including illegal activity, group affiliation, service in the armed forces, and the applicant's willingness to carry out the responsibilities of U.S. citizens.
13. Part 13: Applicant's Statement, Certification, and Signature¹⁵³
14. Part 14: Interpreter's Contact Information, Certification, and Signature¹⁵⁴
15. Part 15: Contact Information, Declaration, and Signature of the Person Preparing This Application, if Other Than the Applicant¹⁵⁵
16. Part 16: Signature at Interview¹⁵⁶ – Will be completed at the interview with the USCIS Officer. The applicant will certify that they know of the contents of the form and that it is correct.

¹⁵¹ Department of Homeland Security, "Form N-400."

¹⁵² Department of Homeland Security, "Form N-400."

¹⁵³ Department of Homeland Security, "Form N-400."

¹⁵⁴ Department of Homeland Security, "Form N-400."

¹⁵⁵ Department of Homeland Security, "Form N-400."

¹⁵⁶ Department of Homeland Security, "Form N-400."

17. Part 17: Renunciation of Foreign Titles¹⁵⁷ – If an applicant holds any foreign titles, they will renounce them in this section and sign off saying they no longer hold such titles.
18. Part 18: Oath of Allegiance¹⁵⁸ – If the application is approved, the applicant will participate in a public oath ceremony. They will sign this section acknowledging the willingness and ability to take the oath.

The fourth step an applicant must complete is to submit *Form N-400* and pay any fees that are required.¹⁵⁹ Once the *Form N-400* is filled out, it will be sent along with any fees and documentation needed to USCIS. The application cost is \$640, and if biometrics are needed, an additional \$85 is required. Some additional documentation that may be required include:

- A photocopy of both sides of the Permanent Resident Card
- A copy of a marriage certificate (if applicable)
- Any documentation of a name change, if it is different from that on the Permanent Resident Card
- *Form N-426, Request for Certification of Military or Naval Service* (if applicable)
- Any court documentation if an applicant had any arrest or conviction vacated, set aside, sealed, expunged, or otherwise removed from their record. Included is if the applicant has been placed in alternative sentencing programs or rehabilitation programs.

¹⁵⁷ Department of Homeland Security, “Form N-400.”

¹⁵⁸ Department of Homeland Security, “Form N-400.”

¹⁵⁹ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 5.

- *Form N-648, Medical Certification for Disability Exceptions.*¹⁶⁰

If applicable, the fifth step includes going to a biometrics appointment.¹⁶¹ If a person needs to have biometrics taken, USCIS will send an appointment notice with the date, time, and location of the appointment. Each applicant is required to be fingerprinted and photographed.¹⁶² Biometrics aid in the conducting of FBI criminal background checks. The background checks must be completed before an interview will be scheduled.

Step six consists of the interview process with a USCIS official.¹⁶³ USCIS will schedule the interview with an applicant to complete the naturalization process. They will send an appointment notice containing the date, time, and office location of the interview.¹⁶⁴ During the interview, an applicant will be asked questions about their background and take an English and civics test. The English test is used for an applicant to “demonstrate an understanding of the English language, including the ability to read, write, and speak basic English.”¹⁶⁵ During the interview, the USCIS officer will determine the ability to speak and understand the language through the discussions had.¹⁶⁶ To demonstrate the ability to read in English, an applicant is asked to read allowed one out of three sentences correctly that focuses on civics and history topics.¹⁶⁷ To demonstrate the ability to write in English, an applicant is asked to write one of three sentences correctly that focuses on civics and history topics.¹⁶⁸

¹⁶⁰ “Form M-477, Document Checklist,” Department of Homeland Security, December 23, 2016, <https://www.uscis.gov/sites/default/files/document/forms/attachments.pdf>.

¹⁶¹ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 6.

¹⁶² U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 6.

¹⁶³ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 7.

¹⁶⁴ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 7.

¹⁶⁵ “Study for the Test (2008 Version),” U.S. Citizenship and Immigration Services, Accessed March 7, 2022, <https://www.uscis.gov/citizenship/find-study-materials-and-resources/study-for-the-test>.

¹⁶⁶ U.S. Citizenship and Immigration Services, “Study for the Test (2008 Version).”

¹⁶⁷ U.S. Citizenship and Immigration Services, “Study for the Test (2008 Version).”

¹⁶⁸ U.S. Citizenship and Immigration Services, “Study for the Test (2008 Version).”

The civics test focuses on questions about the American government and history.¹⁶⁹ In the 2008 version, the applicant is asked 10 questions out of a possible 100 and must get at least six correct.¹⁷⁰ Recently the 2020 version increased the number of questions asked. An applicant will be asked 20 questions out of a possible 128 and must get 12 correct.¹⁷¹

After the interview, USCIS will mail a notice of a decision made on the *Form N-400* if citizenship is granted, denied, or continued.¹⁷² If citizenship is granted, there is substantial evidence that an applicant is eligible for naturalization.¹⁷³ If citizenship is denied, there is evidence that a person is not eligible for naturalization.¹⁷⁴ If a person is denied, they will receive a notice explaining the reasons for the denial. A hearing can be requested to appeal the decision if a person feels that their *Form N-400* is incorrectly denied.¹⁷⁵ In order to appeal the decision, a *Form N-336, Request for a Hearing on a Decision in Naturalization Proceedings*, must be filed and a fee of \$700 must be paid.¹⁷⁶ The *Form N-336* must be filed within 30 days of the *Form N-400* decision date. If the deadline is missed, then the decision is final.¹⁷⁷ Continued is when an application will continue to be processed and an applicant may need to provide additional documentation, provide correct documentation if it was not included with the *Form N-400*, or the applicant failed the English and/or Civics test on their first try.¹⁷⁸ If it is determined more documentation/evidence is needed, the USCIS officer will issue a *Form N-14, Request for*

¹⁶⁹ U.S. Citizenship and Immigration Services, “Study for the Test (2008 Version).”

¹⁷⁰ U.S. Citizenship and Immigration Services, “Study for the Test (2008 Version).”

¹⁷¹ “Study for the Test (2020 Version),” U.S. Citizenship and Immigration Services, September 16, 2021, <https://www.uscis.gov/citizenship-resource-center/the-2020-version-of-the-civics-test/study-for-the-test-2020-version>.

¹⁷² U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 9–10.

¹⁷³ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 10.

¹⁷⁴ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 11.

¹⁷⁵ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 11.

¹⁷⁶ “Request for a Hearing on a Decision in Naturalization Proceedings (Under Section 336 of the INA),” U.S. Citizenship and Immigration Services, December 23, 2021, <https://www.uscis.gov/n-336>.

¹⁷⁷ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 11.

¹⁷⁸ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 9.

*Additional Information, Documents, or Forms.*¹⁷⁹ The form will outline the needed information, and the applicant must provide it to continue the naturalization process. If the English and/or civics tests are failed, USCIS will schedule another interview within 60–90 days of the first interview.¹⁸⁰ The applicant will only be tested on the parts they previously failed, and if failed a second time, their *Form N-400* will be denied.

Steps eight and nine involve the Naturalization ceremony and the oath of allegiance an applicant must participate in.¹⁸¹ If the *Form N-400* is approved, the applicant will participate in an oath ceremony. The ceremony can take place the same day, or if none are available, USCIS will mail a notification with a date, time, and location of the ceremony.¹⁸² If the applicant cannot attend a ceremony, a *Form N-445, Notice of Naturalization Oath Ceremony*, can be sent to USCIS.¹⁸³ It must include a letter explaining why the applicant cannot attend the ceremony and ask to be rescheduled.

An applicant is not considered a citizen until the “Oath of Allegiance” is taken during a naturalization ceremony.¹⁸⁴ Prior to the ceremony, a *Form N-445* must be completed and upon reporting to the ceremony, an officer will review the form responses.¹⁸⁵ An applicant will turn in their Permanent Resident Card and take their oath. The Oath of Allegiance is:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United

¹⁷⁹ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 9.

¹⁸⁰ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 9.

¹⁸¹ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 12–13.

¹⁸² U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 12.

¹⁸³ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 12.

¹⁸⁴ “Naturalization Oath of Allegiance to the United States of America,” U.S. Citizenship and Immigration Services, July 5, 2020, <https://www.uscis.gov/citizenship/learn-about-citizenship/the-naturalization-interview-and-test/naturalization-oath-of-allegiance-to-the-united-states-of-america>.

¹⁸⁵ U.S. Citizenship and Immigration Services, “Naturalization Oath of Allegiance to the United States of America.”

States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.¹⁸⁶

Once the oath is taken, applicants receive their Certificate of Naturalization, and they are U.S. citizens.¹⁸⁷

The final step, step ten, helps applicants, now American citizens, understand what it means to be a citizen and their rights and responsibilities.¹⁸⁸ Some of the responsibilities are “legally required of every citizen,” but most of those emphasized by USCIS are important to ensure the continuation of democracy within the United States.¹⁸⁹ Those rights and responsibilities include:

- Rights
 - Freedom to express yourself.
 - Freedom to worship as you wish.
 - Right to a prompt, fair trial by jury.
 - Right to vote in elections for public officials.
 - Right to apply for federal employment requiring a [US] citizenship.
 - Right to run for elected office.
 - Freedom to pursue “life, liberty, and the pursuit of happiness.”¹⁹⁰
- Responsibilities
 - Support and defend the Constitution.
 - Stay informed of the issues affecting your community.
 - Participation in the democratic process.
 - Respect and obey federal, state, and local laws.
 - Respect the rights, beliefs, and opinions of others.
 - Participation in your local community.
 - Pay income and other taxes honestly, and on time, to federal, state, and local authorities.

¹⁸⁶ U.S. Citizenship and Immigration Services, “Naturalization Oath of Allegiance to the United States of America.”

¹⁸⁷ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 13.

¹⁸⁸ U.S. Citizenship and Immigration Services, “10 Steps to Naturalization,” 14.

¹⁸⁹ “Should I Consider Citizenship?” U.S. Citizenship and Immigration Services, July 5, 2020, <https://www.uscis.gov/citizenship/learn-about-citizenship/should-i-consider-us-citizenship>.

¹⁹⁰ U.S. Citizenship and Immigration Services, “Should I Consider Citizenship?”

- Serve on a jury when called upon.
- Defend the country if the need should arise.¹⁹¹

C. ACCELERATED PROCESS FOR MILITARY MEMBERS

The accelerated process of naturalization for military members can occur during, or after a period of service.¹⁹² There are two different avenues for service members to apply to receive citizenship. INA 328 and 329 develop the necessary requirements and paths for applicants. INA 328 is used for those who served in the armed services during peacetime and INA 329 specifies if a person served during a period of hostilities.

Under both INA 328 and 329 an applicant must:

- Be 18 years of age
- Submitted a completed *Form N-426, Request for Certification of Military or Naval Service*, with the *Form N-400*
- “Demonstrate the ability to read, write, and speak English”¹⁹³
- “Demonstrate knowledge of [US] history and government”¹⁹⁴
- Demonstrate “good moral character” for at least five years prior to filling out the *Form N-400* through the day of naturalization¹⁹⁵
- Demonstrate an “attachment to the principles of the U.S. Constitution”¹⁹⁶

INA 328 specifies that an applicant must:

¹⁹¹ U.S. Citizenship and Immigration Services, “Should I Consider Citizenship?”

¹⁹² “Naturalization Through Military Service,” U.S. Citizenship and Immigration Services, December 1, 2021, <https://www.uscis.gov/military/naturalization-through-military-service>.

¹⁹³ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

¹⁹⁴ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

¹⁹⁵ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

¹⁹⁶ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

- “Have served honorably at any time in the U.S. armed forces for a period or periods totaling at least 1 year”¹⁹⁷
- Be able to demonstrate that they were never separated except under honorable conditions, if separated from the service
- Be a LPR at the time of the interview
- Meet certain residence and physical presence requirements¹⁹⁸

To qualify under INA 329, an applicant must:

- Have served or are currently serving honorably during a designated period of hostilities, and if separated from the armed services, have been separated under honorable conditions. Those periods include:
 - April 6, 1917 – November 11, 1918 (World War I)
 - September 1, 1939 – December 31, 1946 (World War II)
 - June 25, 1950 – July 1, 1955 (Korean War)
 - February 28, 1961 – October 15, 1978 (Vietnam War)
 - August 2, 1990 – April 11, 1991 (Gulf War)
 - September 11, 2001 – Present
- Be a LPR or have been physically present at the time of enlistment, reenlistment, or extension of service or induction:
- In the United States, the Canal Zone, American Samoa, or Swains Island, or

¹⁹⁷ Immigration and Nationality Act.

¹⁹⁸ Immigration and Nationality Act.

- On board a public vessel owned or operated by the United States for non-commercial service¹⁹⁹

What makes the process accelerated for military members is that the required time for residence may be waived.²⁰⁰ An applicant who files on the basis of military service during a period of hostility is exempt from the general requirements of continuous residence before the process begins.²⁰¹

The overall process remains the same with the addition of the *Form N-426*, which is filed along with the *Form N-400*.²⁰² The *Form N-426* is broken into nine parts. These include:

1. Part 1: Information About You²⁰³ – General information including military service number, full legal name, other names used, social security number, place of birth, country of citizenship, and physical address.
2. Part 2: Enlistment Information²⁰⁴ – General information about past a current enlistment such as where an applicant enlisted, and residence at time of enlistment. If an applicant has reenlisted, there are additional questions about the place of reenlistment and residence at that time.
3. Part 3: Periods of Military Service²⁰⁵ – General information about all periods of enlistment. This includes the branch of service, service start, and end date, and the type of service, if it was active duty or in the Selected Reserve of the Ready Reserve.

¹⁹⁹ Immigration and Nationality Act.

²⁰⁰ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

²⁰¹ U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

²⁰² U.S. Citizenship and Immigration Services, “Naturalization through Military Service.”

²⁰³ Department of Homeland Security, “Form N-426, Request for Certification of Military or Naval Service,” March 1, 2021, <https://www.uscis.gov/sites/default/files/document/forms/n-426.pdf>.

²⁰⁴ Department of Homeland Security, “Form N-426.”

²⁰⁵ Department of Homeland Security, “Form N-426.”

4. Part 4: Requestor’s Contact Information, Certification, and Signature²⁰⁶
5. Part 5: Character of Service (To be completed by certifying official)²⁰⁷ – A certifying official will indicate whether the applicant severed honorably or not during the periods of service the applicant identified in Part 3.
6. Part 6: Separation Information²⁰⁸ – Options on if and how the applicant was separated or discharged.
7. Part 7: Remarks²⁰⁹ – Provide any “derogatory information” in records relating to the applicant’s “character, loyalty to the United States, disciplinary action, convictions, other than honorable discharges, or other matters concerning his or her fitness for citizenship.”²¹⁰
8. Part 8: Certification (To be completed by certifying official)²¹¹ – Authorization that the information provided is correct.
9. Part 9: Additional information²¹² – Space to include any information that would not fit in the above parts.

An individual may be granted citizenship posthumously if they served in the military. A person has to have served “honorably in the [US] armed forces during designated periods of hostilities and dies as a result of injury or disease incurred in or aggravated by that service” to be eligible.²¹³ An applicant is recognized as a citizen as of their date of death. Under special provisions of the INA, a spouse or children of the member

²⁰⁶ Department of Homeland Security, “Form N-426.”

²⁰⁷ Department of Homeland Security, “Form N-426.”

²⁰⁸ Department of Homeland Security, “Form N-426.”

²⁰⁹ Department of Homeland Security, “Form N-426.”

²¹⁰ Department of Homeland Security, “Form N-426.”

²¹¹ Department of Homeland Security, “Form N-426.”

²¹² Department of Homeland Security, “Form N-426.”

²¹³ U.S. Citizenship and Immigration Services, “Policy Manual, Chapter 8 – Posthumous Citizenship (INA 329A),” February 8, 2022, <https://www.uscis.gov/policy-manual/volume-12-part-i-chapter-8>.

may be eligible for immigration benefits as well.²¹⁴ A *Form N-644, Application for Posthumous Citizenship*, must be submitted by the next of kin, or the Secretary's designee within USCIS on the behalf of the deceased and must be done within two years of the date of death.²¹⁵ A copy of the "DD Form 214, Certificate of Release or Discharge from Active Duty," and a copy of the "DD Form 1300, Report of Casualty/Military Death Certificate," or other military or State issued death certificate must be included with the application.²¹⁶ A Certificate of Citizenship will be issued by USCIS establishing, posthumously, that he or she was a citizen at the date of their death.²¹⁷

D. MILITARY ACCESSIONS VITAL TO THE NATIONAL INTERESTS (MAVNI)

Many of the service members who utilize the accelerated process are recruited through the Military Accessions Vital to the National Interest (MAVNI) program. MAVNI is a recruitment program by the U.S. DOD that was developed to allow legal noncitizens that have critical skills to be recruited into the U.S. military service.²¹⁸ The program initially began as a one-year pilot program in 2008 and was spearheaded by an immigration attorney, former U.S. Army Reserve officer, and West Point professor Margaret Stock.²¹⁹ In 2014, the program was extended until 2016 with an increased cap of 5,200 recruits for FY2016.²²⁰ As of December 2016, the program is under review and closed to new recruits.²²¹ In 2017, the Trump administration announced new requirements for applicants (see Chapter 2). As recently as August 2020, the previous closure was ruled

²¹⁴ U.S. Citizenship and Immigration Services, "Policy Manual, Chapter 8."

²¹⁵ U.S. Citizenship and Immigration Services, "Policy Manual, Chapter 8."

²¹⁶ U.S. Citizenship and Immigration Services, "Policy Manual, Chapter 8."

²¹⁷ U.S. Citizenship and Immigration Services, "Policy Manual, Chapter 8."

²¹⁸ Department of Defense, "Military Accessions Vital."

²¹⁹ Barros, "US Court Clears Path."

²²⁰ Department of Defense, "Military Accessions Vital."

²²¹ Barros, "US Court Clears Path."

unconstitutional by the U.S. District Court.²²² The ruling has allowed the program to be reopened to applications if the current administration reverses the previous changes.

To be eligible for the program, an applicant must meet all standard requirements for military service, as well as the following:

- The applicant must be in one of the following categories at time of enlistment a. asylee, refugee, Temporary Protected Status (TPS), or nonimmigrant categories...
- The applicant must have been in valid status in one of those categories for at least two years immediately prior to the enlistment date, but it does not have to be the same category as the one held on the date of enlistment; and
- An applicant who may be eligible on the basis of a nonimmigrant category at time of enlistment (see 1b above) must not have had any single absence from the United States of more than 90 days during the two-year period immediately preceding the date of enlistment.
- An applicant who is eligible under 1–3 above is not rendered ineligible by virtue of having a pending application for adjustment of status to lawful permanent residence. In the specific case of an alien with H nonimmigrant status at the time of filing a pending application for adjustment of status who has lost such status while his or her application for adjustment was pending, and who is otherwise eligible for enlistment under the MAVNI program, the military Service may on a case-by-case basis waive the requirement that the alien be in a status described in 1 above at the time of enlistment.
- Individuals who have been granted deferred action by the Department of Homeland Security pursuant to the Deferred Action for Childhood Arrivals process are eligible for consideration.²²³

MAVNI looks for applicants with certain skills such as health care professionals and those who have special language or cultural backgrounds.²²⁴ As of April 2015, there are over 50 most sought-after languages.²²⁵ Those included are mostly from the regions of the Middle East, South-Central America, Asia, North Africa, and the Baltics.²²⁶ For the

²²² Barros, “US Court Clears Path.”

²²³ Department of Defense, “Military Accessions Vital.”

²²⁴ Department of Defense, “Military Accessions Vital.”

²²⁵ Department of Defense, “Military Accessions Vital.”

²²⁶ Department of Defense, “Military Accessions Vital.”

full list of languages, see the appendix. For those with the Special Language and Cultural Background, applicants must meet all existing criteria needed for enlistment, enlist for a minimum of four years of active-duty service, poses specific language or cultural capabilities critical to the DOD, and have language proficiency that is proved through a test and oral interview.²²⁷

Another focus for MAVNI includes Health Care Professionals. An applicant may be recruited to fill specific needs and positions that are experiencing a shortage.²²⁸ As well as meeting the existing enlistment eligibility, the applicant must “meet all qualification criteria required for their medical specialty, and the criteria for all foreign-trained DOD medical personnel recruited under other authorities,” demonstrate proficiency in English, and commit for three years of active duty or six years in the Selected Reserves.²²⁹

MAVNI does have security requirements that were introduced by the DOD in September of 2016.²³⁰ Applicants will be expected to undergo extensive security and suitability screening processes. They will complete an initial screening and be continuously monitored and complete annual background checks. For the initial screening, prior to entering basic training or serving for any period of time, an applicant must:

- “Complete a Tier 3 or Tier 5 background investigation.”²³¹ If negative information is found, such as “having a foreign relative or a family member who worked for a foreign government,” the applicant may be asked to take a polygraph examination or keep the applicant for continuing the process²³²

²²⁷ Department of Defense, “Military Accessions Vital.”

²²⁸ Department of Defense, “Military Accessions Vital.”

²²⁹ Department of Defense, “Military Accessions Vital.”

²³⁰ Department of Defense, “Military Accessions Vital.”

²³¹ National Immigration Forum, “FACT SHEET: Military Accessions Vital to the National Interest (MAVNI),” accessed February 25, 2022, <https://immigrationforum.org/wp-content/uploads/2017/07/The-MAVNI-Program-Fact-Sheet-Final.pdf>.

²³² National Immigration Forum, “FACT SHEET: Military Accessions Vital.”

- Pass a National Agency Check. This will run the applicant’s name through seven different government and security databases.
- Undergo a “counterintelligence interview”²³³
- Receive a “national security determination” by the DOD and earn military suitability determination.²³⁴

E. CONCLUSION

The overall process for becoming a naturalized citizen is broken down into 10 steps by the USCIS, but the reality of the process is that it can be arduous and take many years to complete. The accelerated process waives the requirements of residence time and fees, but overall, the process is remotely the same. The MAVNI program offers an aid to recruitment in order to bolster the armed forces and critical needs in order to complete missions. With the increase in recruitment abilities, the armed forces can meet critical needs like language speakers, technological developments, and skills, especially in the medical field. With those opportunities and policies in place, the country can continue to accept immigrants and help them use the skills they have available to provide opportunities for themselves and their families.

The accelerated process intends to expedite the path to citizenship for those who honorably served in the armed forces. Congress intended for military members to gain citizenship “almost immediately upon entering service” during a period of hostility.²³⁵ Many of the typical requirements for naturalization are waived, allowing for a service member to become a citizen before an intended deployment. Allowing a service member to expedite the process of naturalization before deployment allows them access to resources they may not have while serving overseas. Gaining citizenship is important to a service member’s career and the ability to gain needed security clearances to complete tasks of the

²³³ National Immigration Forum, “FACT SHEET: Military Accessions Vital.”

²³⁴ National Immigration Forum, “FACT SHEET: Military Accessions Vital.”

²³⁵ American Civil Liberties Union, “Samma V. U.S. Department of Defense.”

armed services. Security clearances become important when a member is trying to advance in rank or position.

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IV. ARGUMENTS MADE IN SUPPORT OF AND AGAINST HAVING AN ACCELERATED PROCESS FOR MILITARY MEMBERS

Today the United States boasts 18.6 million veterans nationwide.²³⁶ Of this total, 530,000 were born outside of the United States, which is 3 percent of all veterans. Arguments made in support of keeping the policy that allows immigrants to enlist and serve in the armed forces stem from the ideas that these members can greatly benefit the military, the individual, and that the ability to become a citizen is the least that can be done for the service members. Arguments against the allowance of immigrants in the armed forces stem from the overall idea that immigrants will create an environment that will negatively affect the culture of the military and those immigrants will use this opportunity to gain knowledge that they can sell and spread to our enemy forces. One major argument against the continuation of the allowance of immigrants is that this will allow the military to be a “backdoor” to immigration and allow anyone to use it as only a means to gain citizenship. This chapter will examine the main arguments for and against allowing immigrants to serve in the military and be allowed an accelerated process for naturalization.

A. VIGNETTE: THE OWED REWARD, THE STORY OF ANKIT GALUREL

Ankit Gajurel was a native of Nepal and in May of 2016, he signed an eight-year contract with the U.S. Army Reserves.²³⁷ He had received a bachelor of science in mechanical engineering from the New Mexico Institute of Mining and Technology.²³⁸ Gajurel realized that even with his degree, and a focus in the STEM field, it would not be easy to secure a visa from an employer. A friend told him about a “special program” for immigrants in the military and he proceeded to contact a recruiter.²³⁹ The recruiter offered

²³⁶ Zong, Jie and Batalova, Jeanne, “Immigrant Veterans in the United States,” Migration Policy Institute, May 16, 2019, <https://www.migrationpolicy.org/article/immigrant-veterans-united-states-2018>.

²³⁷ Gajurel, Ankit, “What We Owe Foreign-Born Recruits,” Military Times, March 12, 2021. <https://www.militarytimes.com/opinion/commentary/2021/03/12/what-we-owe-foreign-born-recruits/>.

²³⁸ Gajurel, “What We Owe Foreign-Born Recruits.”

²³⁹ Gajurel, “What We Owe Foreign-Born Recruits.”

him a “simple and honorable exchange: a pathway to American citizenship in return for defending the country I hoped to call home,” a Gajurel notes.²⁴⁰ The simple exchange he was told about faced many roadblocks and proved to be more difficult to complete. While drilling with his unit in Colorado, Gajurel was told to turn in his military ID and he was considered a “MAVNI loss” by his detailer.²⁴¹ Gajurel recognizes that his journey was not as taxing as others as he was able to get a job and retain his visa, and kept him from deportation.²⁴² Gajurel felt blindsided when his contract was not honored and has joined a class-action lawsuit against the Pentagon, *Samma vs. DOD*.²⁴³ Gajurel believes that his experience should offer some instruction for the new administration and that the focus needs not to be on just a more “welcoming and fair immigration system” but one that cannot forget the foreign-born recruits that “put their lives and livelihoods on the line to fight for America.”²⁴⁴

Gajurel offers that President Biden cannot ignore the foreign-born recruits that serve the United States and put their lives on the line. He says that they are a “part of a historic legacy of immigrants, yes, but we are also vital to the military and American national security.”²⁴⁵ He argues that the restrictions put in place in 2016 have left about 4,000 MAVNI recruits in a place where their lives have been disrupted and many fell out of status and are at risk of deportation.²⁴⁶ The restrictions have led to a drop of immigrant enlistees by 72 percent, reducing the manpower of the nations’ services.²⁴⁷

Gajurel believes that the military should honor the contracts it made with these foreign-born recruits and that what happened to the MAVNI recruits

²⁴⁰ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴¹ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴² Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴³ American Civil Liberties Union, “*Samma V. U.S. Department of Defense—Lawsuit Challenging Policy Denying U.S. Military Service Members Expedited Path to Citizenship*”; Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴⁴ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴⁵ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴⁶ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴⁷ Gajurel, “What We Owe Foreign-Born Recruits.”

dishonors the legacy of foreign-born enlistees. Immigrants have proudly served in the military from its origins – just look at Alexander Hamilton, who played a decisive role in the America’s victory against the British at Yorktown. Immigrants or their offspring were 43 percent of the Union Army during the Civil War. Three hundred thousand immigrants fought for the Americans in World War II. Roughly a third of them were naturalized through their service.²⁴⁸

The drop in immigrants in the armed forces, currently at five percent, is problematic for national security. Roughly 14.6 percent of the recruits in the MAVNI program speak one of the three dozen languages that the military has a shortage of translators.²⁴⁹ These quotas can be filled by those who wish to fulfill their dream of serving in the U.S. armed forces.

B. ARGUMENTS FOR

Allowing noncitizens into the military increases the overall readiness of the armed forces. Immigrants can fill quotas and bolster the size of the fighting force. In times of hostilities, the armed forces needs a greater fighting capacity, and including the recruits waiting for contracts in the MAVNI, there could be thousands of additional service members.²⁵⁰ These members can provide language skills, cultural knowledge, or healthcare skills depending on what category they apply under.

The service members will benefit as well. Serving in the armed forces allows a member to gain experiences that they can apply to the civilian sector afterward. They are provided with jobs, experience, and money that can keep them from utilizing the welfare system, which is a concern of critics against migration.²⁵¹ The final argument in support of the accelerated process comes from the idea that if a person puts their life on the line for the country, they deserve the right to become a citizen and call that country home.

²⁴⁸ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁴⁹ Gajurel, “What We Owe Foreign-Born Recruits.”

²⁵⁰ Antohi, “I Dream of Serving in the Military, but Can’t until U.S. Policy Changes.”

²⁵¹ Nowrasteh, “The 14 Most Common Arguments against Immigration and Why They’re Wrong.”

1. Benefits for the Military

The greatest benefit that immigrants offer the military is through the languages and cultures they offer. Being fluent in more than one language and more obscure languages increases the ability for our armed forces to communicate with other forces, civilians, contractors, etc. Currently, the armed forces are having trouble finding fluent speakers in three dozen languages, most notably Arabic, Korean, Tagalog, Chinese (Mandarin), Portuguese, and French/Haitian Creole.²⁵² These immigrants can act as interpreters within the communities and better the relationship between the armed forces and other nations.

Similarly, cultural knowledge allows the armed forces to better interact with groups of people. If there is an individual within the armed forces that understands what is considered appropriate, not appropriate, a sign of respect, or in general how members of a certain culture view actions or words, it better assists the relationship building. If an immigrant can point out what is expected and how to act, then there is less likely a chance of causing an international incident.

Increased numbers in times of hostilities is the most recognizable benefit for the military. As discussed in Chapter II, there tends to be a relaxation in the policy that dictates naturalization. The INA of 1952 has a specific section for those who served during a period of hostility and that they are eligible for an expedited naturalization process.²⁵³ The increase in members helps bolster the forces and possibly prevents people from being drafted. Although we do not know that to be true, it can be inferred that with a large enough fighting force, there would be no need to force people into service.

2. Benefits for the Members

Military members, whether born in the United States or not, have an opportunity to prepare themselves for the civilian workforce and life. Military members have the ability

²⁵² New American Economy Research Fund. "Outside the Wire: How Barring the DACA-Eligible Population from Enlisting Weakens Our Military," New American Economy Research Fund, November 8, 2017, <https://research.newamericaneconomy.org/report/outside-the-wire-how-barring-the-daca-eligible-population-from-enlisting-weakens-our-military/>.

²⁵³ Immigration and Nationality Act.

to claim experience as they transition to civilian life which helps them gain and retain employment. Many critics of immigrants claim that immigrants are more likely to rely on the welfare system.²⁵⁴ By having the ability to gain employment outside of the military, a person is less likely to need government assistance.

The military sets up many of its members for success in the civilian world, and that success would benefit the communities of immigrants. If one person is able to bring in experience to a community, then it can help others succeed as well. A family sees the success of one of its members and they want to emulate that for themselves.

3. Deserving of the Honor

Not all immigrants risk their lives for a country that may not accept them in return. When a person enlists, they swear an oath to protect the United States and the constitution which is very similar to that of the one they take at a naturalization ceremony.²⁵⁵ The commitment is seen as an offering of good faith and should be returned through an expedited pathway to citizenship.²⁵⁶ In 2006, Senator John McCain made a statement at a Congressional hearing.²⁵⁷ In it, he stated that 20 percent of Congressional Medal of Honor recipients were immigrants and they have been responsible for developing many of the key technologies we use today in the military.²⁵⁸ He said “if we do not provide the same opportunities for future immigrants that were provided for our forefathers, it is an affront to our national ideals. We owe these servicemen more for the sacrifices that they have made for this country.”²⁵⁹

²⁵⁴ Nowrasteh, “The 14 Most Common Arguments against Immigration and Why They’re Wrong.”

²⁵⁵ “5 Things To Know About Immigrants in the Military,” FWD.US (blog), January 6, 2021, <https://www.fwd.us/news/immigrants-in-the-military/>.

²⁵⁶ FWD.US, “5 Things To Know About Immigrants in the Military.”

²⁵⁷ S., Contributions of Immigrants to the United States Armed Forces.

²⁵⁸ S., Contributions of Immigrants to the United States Armed Forces.

²⁵⁹ S., Contributions of Immigrants to the United States Armed Forces.

C. ARGUMENTS AGAINST

The arguments against an accelerated process and the continuation of the MAVNI program stem from the idea that immigrants will change the culture for the worse, cause security concerns, and increase terrorism and extremism within the ranks. Allowing immigrants to enlist in the armed forces, there has been legislation supported in the House of Representatives that would allow undocumented immigrants to enlist as well. The allowance is a concern as there is no way to perform a proper background check. These arguments against allowing immigrants reflects the overall feeling of critics of immigration within the United States as a whole

1. Bad Influence on the Military Culture

Many arguments against having immigrants in the military stem from the main critics of immigration in general. Increased crime rates, destruction of the rule of law, and the idea that immigrants bring their bad cultures and ideas will influence the “upstanding military culture.”²⁶⁰ It is a belief that immigrants are more likely to commit and be convicted of crimes.²⁶¹ The assertion is hard to prove or disprove as many states do not keep such records. The belief that immigrants are more likely to commit a crime and be in the armed forces will influence the military culture overall and have a negative impact. The “bad habits” will begin to integrate into military culture.

With different cultures and views becoming more present in the military, there is concern that those differences between the different groups and nationalities will create divides and cleavages between people.²⁶² The divide created can break the cohesion a military unit needs to remain an effective fighting force. If there are cultural divides, there can be tensions between the groups that stems from backgrounds, and past or current ideals. The divides can create discrimination and rifts between groups. A division amongst groups

²⁶⁰ Nowrasteh, “The 14 Most Common Arguments against Immigration and Why They’re Wrong.”

²⁶¹ Brittany Hopkins, “Immigration Pros and Cons: What Both Parties Think,” The Flag, June 20, 2021, <https://theflag.org/glossary/immigration-pros-and-cons/>.

²⁶² Beck, *The Case Against Immigration: the Moral, Economic, Social, and Environmental Reasons for Reducing U.S. Immigration Back to Traditional Levels*, 37.

leads to an unwillingness to work and get along with each other, breaking up what is needed to succeed.

2. Security Concerns

Background checks must be completed for an applicant to be able to join the armed forces, but even those cannot predict what a person will do once in the services. A major concern is that of an applicant having ties to their previous country of residence and offering to sell or provide SECRET or TOP SECRET information to the governments. The information can be sold to different groups as well, not just governments. The Defense Personnel Security Research Center in Monterey, California developed a list of espionage cases from 1975 to 2004. It identified 75 cases that involved military members, and of those, 11 were of immigrants who joined the military. Those cases show that some immigrants will continue to support their countries of birth, and not remain faithful to the oath they swear as a service member.

The Defense Personnel Security Research Center in Monterey, California developed a summary list of espionage cases from 1975 to 2004.²⁶³ The publication is used to educate people on “security awareness among cleared employees and military service members by showing that espionage involves real people in workplace situations like their own.”²⁶⁴ The list includes people in all branches of the military, NSA, DHS, DOS, FBI, and other federal agencies.

One of the cases is that of George Trofimoff, who was raised in Germany by Russian parents.²⁶⁵ Trofimoff immigrated to the United States, where he enlisted in the U.S. Army in 1948.²⁶⁶ He gained citizenship in 1951, and was commissioned into the Army Reserves in 1953. In 1957, Trofimoff retired as a colonel and began working with the Army 66th Military Intelligence Group as a civilian.²⁶⁷ Throughout his time, as a

²⁶³ *Espionage Cases 1975–2004*, Monterey, CA: Defense Personnel Security Research Center, 2006.

²⁶⁴ *Espionage Cases 1975–2004*.

²⁶⁵ *Espionage Cases 1975–2004*, 46–47.

²⁶⁶ *Espionage Cases 1975–2004*, 46–47.

²⁶⁷ *Espionage Cases 1975–2004*, 46–47.

civilian, he had access to SECRET and TOP SECRET material and intelligence. Around 1969, Trofimoff was recruited by Igor Susemihl into spying for the KGB.²⁶⁸ Officials believe he passed more than 50,000 pages of classified documents and in 1994 he was arrested by German authorities for suspected espionage.²⁶⁹ Germany was unable to carry the case since the statute of limitations was up, but the investigation was continued by the United States. In 2000, Trofimoff was arrested in Florida after an FBI agent posed as a Russian officer who offered “special payment” for information.²⁷⁰ During the meetings, the FBI agent filmed Trofimoff admitting to past espionage, but when the trial commenced, he plead not guilty. Trofimoff is the highest-ranking official to be charged and convicted of espionage and was sentenced to life imprisonment.²⁷¹ He was charged with spying for Russia over a 25-year period and receiving \$250,000 for documents provided to the KGB.²⁷²

The summary does not include every instance where an immigrant has tried to spread secrets to other countries, but it does suggest an argument as to why immigrants should not be allowed to join the armed forces. The number of cases discussed involving immigrants seems small relative to the overall number of cases, but in comparison to the number of immigrants in the armed services, it creates a more compelling argument for those that believe immigrants are at a higher risk for becoming an insider threat.

3. Terrorists and Extremists within the Ranks

Terrorism and National Security are at the forefront of concerns the military faces. The concern for an increase in terrorism comes from a review of the recent terrorist attacks. Alex Nowrasteh wrote in his analysis on terrorism and immigration, “Foreign-born terrorist who entered the country, either as immigrants or tourists, were responsible for 88 percent (or 3,024) of the 3,432 murders caused by terrorists on United States soil from 1975

²⁶⁸ *Espionage Cases 1975–2004*, 46–47.

²⁶⁹ *Espionage Cases 1975–2004*, 46–47.

²⁷⁰ *Espionage Cases 1975–2004*, 46–47.

²⁷¹ *Espionage Cases 1975–2004*, 46–47.

²⁷² *Espionage Cases 1975–2004*, 46–47.

through the end of 2015.”²⁷³ Those statistics cause people to reflect on what if someone was allowed access to some of the military’s capabilities and the damage they could inflict. The background checks would not be able to determine if a person will become a terrorist, which means that someone could become one and have access to weapons they could use, or an opportunity to greatly affect the United States and cause devastation to the military forces while trying to spread their ideology. The average age of the military is 25 and under, with 45.6 percent falling into that category.²⁷⁴ These younger individuals are more at risk of being recruited by groups and conforming to their ideals.

Extremism within the ranks has become more of a concern recently due to the attack on the Capital on January 6, 2020.²⁷⁵ The military does not prohibit members from belonging to extremist groups, but it does condone any activities like fundraising, protesting, or advocating for a particular group.²⁷⁶ A service member can belong to an extremist group that could be against a particular race or ideology, and if the number of immigrants is increased within the military, these particular people could create more of a divide and try to recruit those who do not agree with those of immigrants. More problems would express themselves, but they would not necessarily be from the immigrants themselves, but those who oppose them or vice versa. Overall, the clash of ideologies from these groups could lead to a lack of cohesion and turn a force against itself.

4. Allowing Illegal Immigrants into the Military

One of the major arguments against the continuation of allowing members to gain their citizenship through military service is that it has allowed foreign nationals to serve for the purpose of gaining financial or immigration benefits. The concern is that as the

²⁷³ Alex Nowrasteh, “Terrorism and Immigration: A Risk Analysis,” CATO Institute, September 13, 2016, <https://www.cato.org/policy-analysis/terrorism-immigration-risk-analysis>.

²⁷⁴ Department of Defense, *2018 Demographics Report* (Alexandria, VA: Department of Defense, 2018), <https://download.militaryonesource.mil/12038/MOS/Reports/2018-demographics-report.pdf>.

²⁷⁵ Jeff Seldin, “Rise in Extremism in U.S. Military Linked to Key Mobilization Events,” VOA, July 14, 2021, https://www.voanews.com/a/usa_rise-extremism-us-military-linked-key-mobilization-events/6208262.html.

²⁷⁶ Odette Yousef, “The Pentagon Has Announced New Rules to Counter Extremism within the U.S. Military,” NPR, December 20, 2021, sec. National Security, <https://www.npr.org/2021/12/20/1066017218/the-pentagon-has-announced-new-rules-to-counter-extremism-within-the-u-s-militar>.

program moves forward, it will be opened up to illegal immigrants next.²⁷⁷ The Encourage New Legalized Immigrants to Start Training (ENLIST) Act would allow for this development. The ENLIST Act would “grant [LPR] status to undocumented immigrants who were brought to America as children and enlist in the U.S. Armed Forces.”²⁷⁸

The ENLIST Act is being advocated for by Representative Jeff Denham, a Republican from California, who is on the House – Armed Services Committee.²⁷⁹ It would allow aliens who are unlawfully present in the United States to enlist in the armed forces if they

- have been continuously present in the United States since December 31, 2012;
- were younger than 15 years of age when they initially entered the United States; and
- are otherwise eligible for original enlistment in a regular component of the Army, Navy, Air Force, Marine Corps, or Coast Guard.²⁸⁰

A person could lose their LPR status if they are discharged with an Other Than Honorable Conditions before they complete their enlistment.²⁸¹

The ENLIST Act is seen as having an impact on the overall security of the Armed Forces. With the lack of proper documentation on a person, there is no way to perform a background check.²⁸² The lack of documentation could allow someone who has markers that would originally disqualify someone from the service to enter it. The ENLIST Act could lead to an influx of personnel faking identities or lying about their status to enlist in

²⁷⁷ Stein, “Our Military is Working Just Fine. It’s Immigration Policy That Is Broken.”

²⁷⁸ “The ENLIST Act Supports Military Readiness,” National Immigration Forum, 2017, <https://immigrationforum.org/wp-content/uploads/2017/06/ENLIST-Act-One-Pager-Final.pdf>.

²⁷⁹ ENLIST Act, H.R. 60, 115 Cong. (2017).

²⁸⁰ National Immigration Forum, “The ENLIST Act Supports Military Readiness.”

²⁸¹ National Immigration Forum, “The ENLIST Act Supports Military Readiness.”

²⁸² Stein, “Our Military is Working Just Fine. It’s Immigration Policy That Is Broken.”

the Armed forces. The ENLIST Act has not been passed, and the future implications are still unknown. Those who oppose the ENLIST Act feel it could be a detriment to military readiness due to those who pose a security concern from having an incomplete background check or missing information that could flag them as an insider threat.²⁸³

D. CONCLUSION

Allowing immigrants to serve in the U.S. armed forces greatly benefits the military by providing the personnel to fill billets and quotas that are in need. The languages, cultural backgrounds, and experiences offer new perspectives and abilities that can be used to build relations between the military and civilians, create new technologies, and strengthen the military. The allowance also benefits the service member. They are afforded a job and experiences that can help in the civilian sector. The immigrants who put their lives on the line for a country that may, or may not, allow them to become a citizen deserve to have an expedited path to gain that citizenship that was promised to them upon recruitment.

The arguments against tend to focus on the idea that immigrants will disrupt the good military culture in place. The arguments of creating a bad influence, creating security concern, and terrorism and extremism within the ranks are used the most often but are the hardest to prove. Those instances can happen even if a person is not an immigrant. Of the 75 espionage cases involving the military, 11 involved immigrants, the rest of the cases involved US-born recruits.²⁸⁴ To blame one particular group of people for a change in an institution is not fair nor can it be proven.

The ENLIST Act creates some concern with the allowance of illegal immigrants into the services. If the ENLIST Act were to pass, there would need to be some very specific directives put in place. With the requirements in place for the individual to be present continuously in the United States since December 2012, and having initially entered the country before they were 15 years old allows for the individual to gain some of the

²⁸³ Stein, "Our Military is Working Just Fine. It's Immigration Policy That Is Broken."

²⁸⁴ *Espionage Cases 1975–2004*.

necessary paperwork that could be used to run a security and background checks.²⁸⁵ The inclusion would allow for an increase in potential recruits that were previously disregarded. These individuals offer untapped potential in education, aptitude, fitness, and qualifications, according to the 2006 Hearing before the Committee on the Armed Services.²⁸⁶ Many of these younger immigrants do not have the availability to gain citizenship due to their parents being illegal or undocumented immigrants, and this would be an avenue for them to gain citizenship and influence the country that many have called home for a majority of their lives.

The continuation of the MAVNI program and the acceptance of immigrants in the U.S. armed forces are in the hands of the current administration. The 2016 policy change has been ruled unconstitutional and the next step is to revoke the policy and reinstate the MAVNI program. With those put back in place, immigrants that were once promised contracts can have those reinstated and not be put at risk of deportation. The acceptance would help create a larger and more capable military. With the reinstatement of the MAVNI program, the contracts that were drawn up prior to 2016 should be honored, and the age limit should be waived in those circumstances in which it applies. These men and women were willing to put their lives on the line and should be compensated in return.

The accelerated process was intended to allow immigrants to expeditiously obtain citizenship to those who served. This process alleviates some of the requirements of permanent residence for a period of time, and waives some of the fees associated with applying for naturalization. The backlog of security and background checks has caused the process to slow. The new requirements for honorable service are greatly expanding the process. For the process to return to the intentions of Congress, there needs to be a continuation to decrease the number of applications that are in limbo due to the backlog of checks. Decreasing that backlog should be a priority as the process moves forward to reinstate the expedited pathway to naturalization.

²⁸⁵ National Immigration Forum, “The ENLIST Act Supports Military Readiness.”

²⁸⁶ National Immigration Forum, “The ENLIST Act Supports Military Readiness.”

APPENDIX. LIST OF SOUGHT-AFTER LANGUAGES

The following list consists of the languages MAVNI classifies as the “most sought-after” languages.²⁸⁷ This list consists of:

- Albanian
- Amharic
- Arabic
- Azerbaijani
- Bengali
- Bulgarian
- Burmese
- Cambodian-Khmer
- Cebuano
- Chinese
- Czech
- Dhivehi (language of Maldives)
- French (limited to individuals possessing citizenship from an African country)
- Georgian
- Haitian-Creole
- Hausa
- Hindi
- Hungarian
- Igbo
- Indonesian
- Kashmiri
- Korean
- Kurdish
- Lao
- Malay
- Malayalam
- Moro
- Nepalese
- Pahari
- Persian [Dari & Farsi]
- Polish
- Portuguese
- Punjabi

²⁸⁷ Department of Defense, “Military Accessions Vital.”

- Pushtu (aka Pashto)
- Russian
- Serbo-Croatian
- Sindhi
- Sinhalese
- Somali
- Swahili
- Tagalog
- Tajik
- Tamil
- Thai
- Turkish
- Turkmen
- Ukrainian
- Urdu
- Uzbek
- Yoruba²⁸⁸

²⁸⁸ Department of Defense, “Military Accessions Vital.”

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