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FIGHTING FOR WHAT WAS PROMISED

Honoring Noncitizen Service Members through Permanent Immigration Relief

ACLU SoCal

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DEDICATION

We dedicate this report to the many deported veterans whose grassroot advocacy built this movement, the over 150 deported veterans who have repatriated, and the thousands of other deported veterans still fighting to come home.

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I. EXECUTIVE SUMMARY

Immigrants have served in the U.S. military since our nation's founding. Immigrants serve not only honorably but exceptionally: 20% of all Congressional Medal of Honor recipients are immigrants. Despite this exceptional service, the United States government has deported hundreds if not thousands of its own veterans over the past few decades alone and continues to do so to date. In response to the cruelty of this practice and building on extraordinary organizing by deported veterans themselves, advocates have long sought a mechanism for deported veterans to repatriate.

This report chronicles the resounding success of these advocates' tireless efforts to repatriate deported veterans — first piecemeal, and then via the Immigrant Military Members and Veterans Initiative (IMMVI) established during the Biden Administration. Launched July 2021, 138 deported veterans returned home to the United States under IMMVI. Each veteran was granted humanitarian parole, which allowed them to return temporarily (typically for one year) to the United States to reunite with their families, obtain V.A. healthcare, and work on restoring their immigration statuses. A small number of veterans also paroled in their spouses or children. Of these 138 veterans, roughly half restored their Lawful Permanent Resident status ("green cards") or naturalized (became U.S. citizens), allowing them to remain in the United States permanently.

Section II of this report offers a description of how and why the United States deports immigrant veterans, as well as the toll of deportation on former service members. Section III chronicles early attempts to repatriate immigrant veterans. Section IV tells the story of how deported veterans and advocates both at home and abroad pushed the Biden Administration to streamline and facilitate veteran repatriation. Section V offers an analysis of the IMMVI program, highlighting the strengths and weaknesses of the initiative. Finally, the conclusion takes stock of the current grim reality deported veterans (like so many other beneficiaries of government programs) face during the Trump Administration.

II. THE HISTORY OF IMMIGRANT SERVICE MEMBERS AND VETERAN DEPORTATION

The United States military has always relied on immigrant service. Immigrants have served in every war since the American Revolution. United States Citizenship and Immigration Services, or USCIS, estimates that foreign-born individuals composed half of all military recruits by the 1840s. Noncitizens made up 20% of the 1.5 million service members in the Union Army during the Civil War and 10% of U.S. armed forces in World War I.[1]

Since the Civil War, Congress has incentivized immigrants to serve and honored their sacrifices by relaxing the general naturalization requirements for immigrant service members and veterans.[2] Most importantly, Congress provides a swifter path to naturalization for service members and veterans, with requirements varying and depending on whether the nation is at a time of peace or war.

But, as the following stories demonstrate, the promise of these laws has often gone unfulfilled. For reasons ranging from administrative hurdles to deliberate attacks on military naturalization, immigrants in active service and immigrant veterans are often denied the opportunity to naturalize that they are entitled to under law. As a result, thousands of veterans were left vulnerable to deportation.

1 American Civil Liberties Union of California, D*ischarged, Then Discarded: How U.S. Veterans Are Banished by the Country They Swore to Protect 13* (July 2016).

2 114 Cong. Rec. S18346 (June 24, 1968) (stating, in 1968, that legislation has provided for the "expeditious naturalization of noncitizens who have rendered honorable service in the Armed Forces of the United States" for more than 100 years).

FEATURED STORY: ANGE SAMMA

Ange came to the United States as a teenager, and as a lawful permanent resident. After studying electrical engineering at community college, he decided to enlist in the U.S. Army in 2018. Ange wanted to give back to his adopted country and hoped joining the military would help him achieve his goal of becoming an electrical engineer.

After he shipped to basic combat training, he attempted to initiate the naturalization process by requesting a certification of honorable service — an N-426 document — from his drill sergeant.

But he faced numerous bureaucratic hurdles and delays, which continued while he served on active duty in South Korea. Without citizenship, he faced unique peril while serving abroad. For example, he had no right to consular protection and services while enlisted, and certain military roles were closed off to him.

In 2020, the ACLU filed a class action lawsuit on behalf of Ange and thousands of noncitizens like him.[3] The lawsuit challenged an October 2017 Trump administration policy change, which deprived service members of this path to citizenship by preventing them from obtaining an honorable service certification required to apply for naturalization. A district court struck down the requirement that service members serve for six months or a year before being eligible to apply for expedited naturalization.[4] The case remains on appeal.

Since then, Ange naturalized — finally obtaining the citizenship he was entitled to. Ange returned to school and went on to earn his bachelor's degree in electrical engineering.

3 U.S. Military Members File Class Action Suit Against Pentagon Over Broken Citizenship Promise, ACLU (Apr. 24, 2020), https://www.aclu.org/press-releases/us-military-members-file-class-action-suit-against-pentagon-over-broken-citizenship.

4 *Samma v. DOD*, Case No. 20-CV-1104 (ESH) (Apr. 24, 20202 D.D.C.), https://www.aclu.org/documents/samma-v-dod-memorandum-opinion.

FEATURED STORY: YEA JI SEA

Yea Ji Sea was brought to this country from South Korea by her parents in 1998 and grew up in the Los Angeles area. She enlisted in the U.S. Army in 2013 under the Military Accessions Vital to the National Interest (MAVNI) program, which allows recruitment of noncitizens who have skills critical to the needs of the U.S. military, including physicians, nurses and experts in certain foreign languages. Yea Ji is fluent in Korean and a healthcare specialist.

She earned two Army Achievement medals for "exceptionally meritorious service." While stationed in South Korea, she served as an ambulance aid driver and was the only pharmacy technician for the entire Camp Casey Combined Troop Station that served more than 1,800 soldiers. During her off hours, she served as a translator for doctors and cared for injured soldiers.

The MAVNI program required inductees to apply for U.S. citizenship upon entering the military. She applied, but unbeknownst to her, the owner of the school through which she had previously received a student visa had been working with a corrupt immigration agent to create false forms for visa applications (the school owner was later convicted and sent to prison). During Yea Ji's interview about her citizenship application, she nervously stated that a date was accurate though it was not. Because of this mistake, her initial citizenship application was denied. But she was permitted to reapply after demonstrating, for at least one year, "good moral character."

Yea Ji did just that, but waited in limbo for two years – leaving her vulnerable to deportation by the country she served honorably. Following an ACLU lawsuit, her citizenship application was approved.[5]

5 *Sea v. Nielsen*, Case No. 2:18-cv-10267 (CD Cal. Jul 19. 2018), https://www.aclusocal.org/sites/default/files/aclu_socal_sea_v_dhs_20180719_complaint.pdf.

Varying Naturalization Requirements

The challenges that immigrant service members face in obtaining U.S. citizenship mean that many immigrant veterans — whether they know it or not — are at risk of deportation. That risk is higher for the veteran population than it might be for the average immigrant because all service members and veterans are disproportionately more likely to have interactions with the criminal legal system. One in three veterans will be arrested or jailed in their lifetime,[6] often for crimes directly related to their traumatic military service like substance use. Like everyone else, immigrant veterans serve their sentences after they are convicted of a crime. But unlike other veterans, immigrant veterans often face a second, life-long punishment: mandatory deportation.

The obstacles to naturalization that immigrant service members face have dire consequences, exacerbated by the punitive, draconian immigration laws in the United States. In the 1990s, Congress rehauled the country's immigration laws placing hundreds of thousands of people in peril, skyrocketing rates of deportations, and leaving large numbers of immigrants in the United States without a path to lawful status.

Among other changes, Congress created the concept of an "aggravated felony," a category of crime typically resulting in deportation. This list ballooned to include nonviolent offenses that are neither aggravated nor felonies in many states, such as wire fraud and drug offenses. Under this new immigration system, the effects of an "aggravated felony" are devastating and life-long. For many veterans, a single offense — often a single drug-related offense — meant that they were barred for life from naturalizing, stripped of their Lawful Permanent Resident status, and subject to mandatory deportation. Immigration judges were even stripped of their discretion to consider the individual facts before them, including veteran status, in virtually every deportation case involving an "aggravated felony."

6 Ugur Orak, *From Service to Sentencing: Unraveling Risk Factors for Criminal Justice Involvement Among U.S. Veterans* (Oct. 2023), https://councilonj.org/from-service-to-sentencing-unraveling-risk-factors-for-criminal-justice-involvement-among-u-s-veterans/.

> "The respondent provided to the Court a rather eloquent statement of his positive equities which include service in the United States military for over three years during which he served in Iraq and Kuwait. Unfortunately, the Court has no discretion to consider the respondent's positive equities based upon the severity of his conviction and based upon how the United States Congress has chosen to write the Immigration [sic] laws."
>
> – Immigration Judge order deporting a combat veteran for a drug conviction.

Depending on why they were deported, a deported immigrant is banned from reentering the United States for up to twenty years after their deportation, or for life. Many deported veterans fall into the latter category. For many of these veterans, the only path back home to the United States after they were deported was through posthumous naturalization.

III. DEPORTED VETERANS FIGHT FOR REPATRIATION

Faced with the cruelty of expulsion from a country they swore to defend, deported veterans organized and fought back. Veterans and legal advocates in the United States combed through the immigration code to develop creative ways to repatriate deported veterans. What emerged was a patchwork collection of tools — and a shared conviction that the United States needs a unified system for veteran repatriation.

Understanding Parole, the Principal Tool to Repatriate Deported Veterans

USCIS, Customs and Border Patrol (CBP), and Immigration and Customs Enforcement (ICE) have the power to temporarily "parole" (or grant entry to) noncitizens into the United States. Parole is used for urgent, case-by-case bases or for categories of parolees, such as the United for Ukraine program of 2022 for Ukrainians fleeing the Russian invasion. For many immigrants, including most deported veterans, parole is the only actionable option for entering the United States.

- Congress has recognized and upheld humanitarian parole since 1952, the beginning of the United States' modern immigration system.
- Historically and today, parole is typically granted for urgent, temporary needs, such as attending a family member's funeral or obtaining urgent medical care within the U.S.
- Parole is not an immigration "status." It can be revoked at any time by DHS and does not protect the recipient from deportation.
- Parole is not a pathway to permanent immigration status; however, parolees can apply for immigration statuses they are eligible for, such as asylum or family-sponsored visas.
- Parolees are eligible to apply for work permits for the duration of their parole.
- Parole is intended to be a relatively faster process. Some parolees are granted parole same-day for urgent needs when applying at the border; however, parole processing times can extend into months and years for noncitizens applying for advanced parole through USCIS.

MILITARY NATURALIZATION				
	General Naturalization	**Peacetime Naturalization**	**Wartime Naturalization**	**Posthumous Wartime Naturalization**
Age	18 years of age	18 years of age	No requirement	No requirement
Immigration Status	Lawful permanent resident (LPR)	LPR	No requirement	No requirement
Time period for residence, physical presence, good moral character	Five years continuous residence and good moral character; half that time for physical presence	No U.S. residency or presence requirement unless application filed more than six months after discharge	No requirement; no time period (other than the GMC requirement imposed by the regulation).	No requirement
Good moral character	Good moral character, attachment to the Constitution, and favorable disposition toward the good order and happiness of U.S for five years prior to application.	During periods of service, proof of honorable service satisfies good moral character requirement. Demonstration of good moral character required for periods of time as civilian – i.e. any periods of gaps in service or between discharge and application.	No requirement (other than that imposed by the regulation).	No requirement
Years of military service	N/A	Aggregate of one year	One day of active-duty service	One day of active-duty service

a. Repatriation relies on a patchwork of legal tools, applied differently in each case.

Repatriation is complicated and case-specific. There is no one path, legal mechanism, or application for a deported person to return to the United States. Until there is a change in immigration law creating a vehicle for deported people to return to the United States, "repatriation" refers to the use of various legal mechanisms to accomplish two ends: 1) physically returning a deported person to the United States (often temporarily through humanitarian parole); and 2) acquiring permanent legal status for the deported person to remain in the United States through a variety of means.

Within immigration law, deported veterans are uniquely situated in a few respects.

First, because of enlistment requirements, nearly every deported veteran was a Lawful Permanent Resident, or LPR, until their deportation. As a result, most deported veterans can restore their Lawful Permanent Resident status by challenging their deportation order in immigration court. Most repatriated veterans who restored their immigration status did so through immigration court.

Second, nearly every deported veteran was deported because of a criminal conviction, many of which are considered "aggravated felonies." Convictions weigh adversely to great effect in nearly every immigration case or application, especially "aggravated felonies."

Finally, service members and veterans have expedited paths to U.S. citizenship: so-called "peacetime" and "wartime" naturalization, and posthumous naturalization. Deported veterans eligible for "wartime" naturalization could uniquely apply to naturalize without first challenging their deportation order or restoring their LPR status; however, in effect, many otherwise eligible veterans were barred for their "aggravated felonies" or remained in limbo for years as USCIS refused to adjudicate their applications or facilitate their interviews.

Tragically, for many years, the primary means to repatriate a deported veteran was via posthumous naturalization.

FEATURED STORY: HECTOR BARAJAS

Hector Barajas-Varela came to the US with his family when he was seven, growing up in California. After graduating high school, he enlisted in the U.S. Army in 1995 at 17.

> "I wanted to serve my adopted country, and I saw the service as a way to leave the environment in Compton and possibly to afford to go to college," he said.

He arrived in Fort Bragg and soon volunteered for Airborne School, serving in the 82nd Airborne from 1996 to 1999. "We were all Paratroopers, ready and willing to fight for our country and our values. We risked our lives on many days, performing dangerous air evacuations and dealing with multiple injuries as a result," says Hector, who re-enlisted and served until his honorable discharge in 2001.

Hector could have applied for naturalization when he enlisted, but army recruiters gave him the mistaken impression that honorable service in the military automatically made him a citizen.

Hector struggled upon re-entry to civilian life and entered a plea of no contest in 2002 to a charge of shooting at an occupied vehicle. After spending two years in prison and nearly a year in immigration detention, he was deported to Mexico. With his family in the U.S. and difficulties finding employment in Mexico, he re-entered the U.S. and was again deported in 2010 after being pulled over in a traffic stop.

In April 2017, Hector was granted a full pardon in 2017 by Gov. Jerry Brown. He was granted U.S. citizenship in 2018, reuniting him with his daughter, parents, siblings, and extended family.

Hector is the founder and director of the Deported Veterans Support House in Tijuana, Mexico.

b. Immigrant advocates pave the way

Prior to IMMVI, a number of deported veterans successfully returned home to the United States, forging a path of repatriation long thought impossible. These victories required relentless advocacy and long legal battles to restore the deported veterans' immigration status. Their cases taught advocates about the patchwork of opportunities available to achieve repatriation, and cast into stark relief the importance of a centralized mechanism to repatriate deported veterans.

Each veteran's return home relied on some extraordinary development in the law or fact in their case. These veterans were able to restore their immigration statuses through herculean efforts and through mechanisms like a state pardon, a new state law, or a state supreme court ruling benefitting their case. Unfortunately, not all veterans could avail themselves of these intervening changes. Only a handful of states offer immigration-effective post-conviction relief[7] or meaningful access to state pardons.[8] Furthermore, this specific path home required each veteran to first vacate their deportation order and restore their immigration status — legal efforts that took several months to years — before they could even reenter the United States. Many deported veterans are older and have serious medical needs. Years of waiting could be the difference between life and death for these veterans, and tragically has been for an untold number of veterans.[9]

Even in the rare circumstances where a deported veteran had a viable path to restoring their status, they often faced procedural impasses. In two cases involving deported veterans who were eligible to naturalize, the veterans' attorneys had to sue USCIS to compel adjudication of the applications. Even after these long-fought wins, their cases were stopped again when USCIS required the veteran to interview in person, but DHS would not allow the veteran back into the country for the interview.

These early repatriations paved the way for later efforts and reignited calls for repatriation of deported veterans and immigrants altogether. Still, the many hurdles involved in each of these veterans' return home made evident that support from the federal government would greatly streamline the process and would be necessary for mass repatriation. Without this support, repatriation on a larger scale would require years of individualized advocacy without guaranteed success and would be limited to a subset of eligible deported veterans.

7 *Post-Conviction Relief State Summary Chart: Guide for Select States*, Immigrant Defense Project (Apr. 2022), https://www.immigrantdefenseproject.org/wp-content/uploads/Post-Conviction-Relief-State-Summary-Chart-04.2022-FINAL.pdf.

8 *50-State Comparison: Pardon Policy & Practice*, Restoration of Rights Project, https://ccresourcecenter.org/state-restoration-profiles/50-state-comparisoncharacteristics-of-pardon-authorities-2/.

9 Salvador Rivera, *Deported veteran dies while waiting to return home to US*, KTSM (Apr. 22, 2024), https://www.ktsm.com/news/state-regional/deported-veteran-dies-while-waiting-to-return-home-to-us/.

IV. THE IMMIGRANT MILITARY MEMBERS AND VETERANS INITIATIVE

Against the backdrop of successful repatriations like Hector, and seeing an opportunity to create a uniform path home for veterans under the Biden administration, veteran leaders and community activists pushed for the creation of the Immigrant Military Members and Veterans Initiative (IMMVI) — and won. As this report shows, that Initiative — while not without its challenges — made it possible for around 150 veterans to return home in the few years following its creation. Its success shows the massive impact that targeted federal resources can have in standing by its veterans and healing the effects of decades of horrific immigration policy.

a. Advocates push the Biden Administration to streamline a path home for deported veterans

In 2020, legal advocates met repeatedly with incoming DHS officials to discuss military naturalization and the deportation and repatriation of U.S. veterans. Through these discussions, the advocates provided critical information regarding the existing legal mechanisms and challenges of repatriating veterans using those mechanisms. These discussions would shape IMMVI and reflect one central tenet of the initiative's success: consistent, thorough stakeholder engagement.

At every stage, IMMVI relied on stakeholders, including deported veterans, veteran advocates, and legal service providers. Repatriated veterans identified and connected hundreds of other deported veterans, many of whom were not in correspondence with DHS previously, to the initiative. Veteran advocates assisted deported veterans in connecting with the VA for benefits and healthcare and often in re-entering the United States Legal service providers offered subject matter expertise to shape and refine the initiative's policy.

The initiative was most successful when it engaged most heavily with stakeholders. In the first two years of the program, leadership and staff met regularly with stakeholders through virtual and in-person stakeholder events. These events were pivotal for providing DHS with feedback on the initiative and building rapport with those most impacted. Furthermore, this engagement assisted in humanizing deported veterans to ICE and CBP officers assigned to the initiative.

b. President Biden signs Executive Order 14012 and establishes the Immigrant Military Members and Veterans Initiative ("IMMVI")

On February 2, 2021, former President Biden signed Executive Order 14012, "Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans."[10] Alongside broader changes to promote access to the naturalization process, the Order directed the Secretary of State, Secretary of Homeland Security, and Attorney General, to "develop a plan . . . [to] facilitate naturalization for eligible candidates born abroad and members of the military, in consultation with the Department of Defense."

On July 2, 2021, in support of Executive Order 14012, former Secretary of Homeland Security Alejandro N. Mayorkas and former Secretary of Veteran Affairs, Denis R. McDonough announced IMMVI. The joint initiative sought to "identify and prioritize the return of current and former U.S. military service members and their immediate family members who were removed from the United States to ensure they receive any benefits to which they are entitled or eligible."[11]

At the time of its announcement, IMMVI leadership identified the following goals for the program:

1. Ensure robust interagency coordination (including via a DHS Military Resource Center) to support current and former members of the military with immigration-related applications and to facilitate the receipt of VA benefits to which they are entitled.
2. Restore naturalization to noncitizens during basic training.
3. Create a separate parole adjudication pipeline for veterans.
4. Establish an interagency team known as "ImmVets" trained and tasked with adjudicating veteran parole applications, and maintain ImmVets website with resources for noncitizen veterans.

To facilitate implementation of IMMVI initiative, DHS created an

10 Exec. Order No. 14102, 86 Fed. Reg. 8277 (February 2, 2021), https://www.federalregister.gov/documents/2021/02/05/2021-02563/restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts.

11 IMMVI Policy at 8.

c. The Biden Administration details DHS officers to an inter-agency team, ImmVets, whose collaboration was pivotal to IMMVI's success.

inter-agency team called "ImmVets." ImmVets was composed of officers from USCIS, ICE, and CBP who were assigned to ImmVets for 90-180 days, later extended to 1-year or multi-year periods. The officers were tasked primarily with adjudicating the special deported veteran parole program. They received special training on parole, applying for the parole program, and issues pertinent to deported veterans.

Under the current legal landscape, returning a deported person to the United States is possible but deceptively complicated. For nearly every deported person, veteran or otherwise, humanitarian parole is often the only option for reentering the United States. Since the federal government split its one immigration agency into three in 2002, a parole application from a deported veteran inherently requires the coordination of all three immigration agencies within DHS: ICE, CBP, and USCIS. Prior to ImmVets, this crossing of jurisdictions was typically enough for a parole request to be significantly delayed if not outright denied.

ImmVets' inter-agency collaboration was pivotal to the success of the initiative. At its high point, ImmVets leadership and staff ensured that the many immigration offices across the country were informed about IMMVI when they received a request or application from a deported veteran. ImmVets would sometimes extend its assistance to ensuring non-parole requests and applications were properly routed and responded to, instead of lost in limbo, often to great effect. Finally, ImmVets staff's direct outreach to and correspondence with deported veterans was key to the filing and approval of the many successful *pro se* parole applications. Putting names and faces to the program was critical to rebuilding trust with deported veterans, especially since the program was housed within the same government sectors that facilitated their deportations.

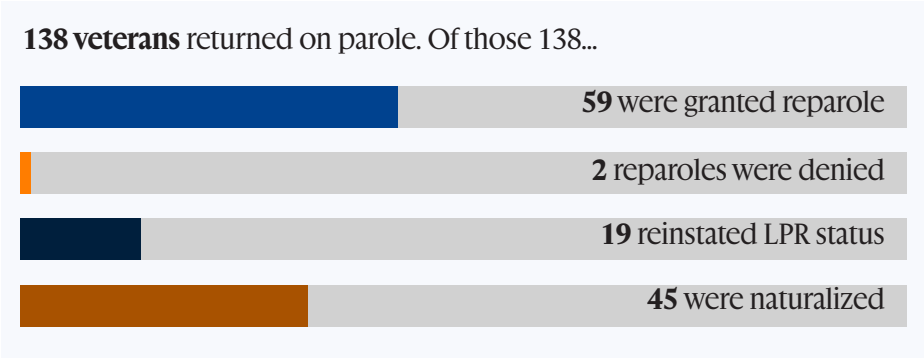
In addition to the team of inter-agency detailees, ImmVets established a website for noncitizen service members to learn about naturalization, parole, legal assistance, translation services, and repatriation. The ImmVets website also hosted a portal for deported veterans to begin the process for repatriation. Veterans were instructed to answer a few yes-or-no questions and, upon establishing eligibility, submitting biographical information and details about their military service. ImmVets staff then used veterans' submissions to track cases, establish contact with veterans, and provide information about applying for parole.

Recommendations for ImmVets

- ImmVets was pivotal to the success of the initiative and exemplified effect cross-collaboration.
    - **RECOMMENDATION**: Budget for permanent staff or longer details. If staff turns over every six months, it is difficult to build relationships among agencies and between veterans and the government. Permanent staff or longer details would also permit staffers to develop expertise in this arcane area of law.
- USCIS, not ICE, has expertise in adjudicating parole.
    - **RECOMMENDATION**: Keep ImmVets housed within USCIS to maximize expertise and non-adversarial approach to parole applications, with ICE/CBP detailees as needed.
- The ImmVets website is a valuable portal and hub of information.
    - **RECOMMENDATION**: Automatically link to an online parole application to streamline veterans' access to critical programs.

V. REPATRIATION IN ACTION UNDER IMMVI

Between the launch of IMMVI in July 2021 and December 2024,[12] 138 deported veterans returned home to the United States under IMMVI. Each of these veterans was granted humanitarian parole, which allowed them to return temporarily (in most cases, for one year) to the United States to reunite with their families, obtain V.A. healthcare, and work on restoring their immigration statuses. A small number of veterans also paroled in their spouses or children. Of these 138 veterans, roughly half restored their Lawful Permanent Resident status ("green cards") or naturalized (became U.S. citizens), allowing them to remain in the United States permanently.



Each veteran's path home was case-specific and often complicated. Some veterans restored their LPR status or naturalized without ever applying for parole. Tragically, over half of the veterans who returned on parole never obtained permanent immigration status.

12 The ultimate number of veterans repatriated under IMMVI is unknown but estimated to be around 150. The last count provided by IMMVETs was in December 2024; however, an unconfirmed but presumed small number of veterans continued to be paroled into the United States and/or have their parole extended in 2025. Furthermore, these statistics do not reflect direct family members of veterans who were paroled into the United States or granted parole-in-place under IMMVI.

The disparity between the number of veterans granted parole and those who obtained status to remain in the United States permanently is not without cause. To great effect, IMMVI developed a separate, specialized process to review veteran parole requests which resulted in a relatively faster and more *pro se* friendly parole program. By contrast, there was sparse policy and no one track for *restoring* veterans' immigration statuses, which left nearly every veteran in need of an attorney and often entirely at the mercy of individual ICE offices.

Although the program stands to be refined, there is much to be celebrated about IMMVI's parole program. The program accomplished something long-thought impossible: mass repatriation of deported immigrants. It stands as testament to the deep impact the federal government can have on deported veterans and all parole applicants through existing legal mechanisms. On the other hand, the initiative also reflects the need for more defined and forceful policy to facilitate the restoration of veterans' immigration statuses to effectuate the purpose of the initiative — bringing home deported veterans — and not leaving them to renew their status every year.

The Good: Parole Program

Rubber met pavement for IMMVI in the Supplemental Parole Guidance[13] issued by the directors of ICE, CBP, and USCIS on February 11, 2022. This internal memorandum outlined the process through which deported veterans would be repatriated and set the tone for this process.

i. Acknowledging veterans' challenges and the harms of deportation

The policy does the critical work of acknowledging of the particular challenges faced by deported veterans, veterans with criminal convictions, and immigrants with criminal convictions altogether. It opens by noting that "prior removal, or certain criminal behavior, does not automatically disqualify some individuals from naturalization or other immigration benefits," nor does it "automatically disqualify former service members from [VA] benefits." The policy acknowledges the specific challenges veterans face, including "physical [and] mental health disorders [and] harmful substance use," lack of access to healthcare for issues like substance dependence, and the "stigma and discrimination towards deported former service members."

The policy then justifies the need for a special IMMVI parole program. Invoking the Secretary of Homeland Security's discretion to grant parole for "significant public benefit and urgent humanitarian" reasons[14] and to set the conditions of parole,[15] the policy states:

> [Parole] generally would provide a significant public benefit to the United States by recognizing the profound commitment and sacrifice that military service members and their families have made to the United States. A grant of parole may promote family unity among military service members or assist former military service members (and their family members) who may be eligible for naturalization or other immigration benefits or post-conviction relief.

13 Supplemental Parole Guidance for Certain Noncitizen Current and Former Service Members and Qualifying Family Members of Current and Former Service Members Seeking to Return to the United States (February 11, 2022).

14 Under the law, the Secretary of Homeland Security, who is appointed by the president, has the authority and discretion to temporarily admit noncitizens "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." INA 212(d)(5)(A).

15 "The Secretary may set the duration of the parole based on the purpose for granting the parole request. Parole is neither an immigration status nor an admission to the United States, and individuals who may be otherwise inadmissible may be paroled into the United States. DHS may terminate the parole at any time . . . ." Parole Guidance at 3 (emphasis added).

> In certain cases, there also may be an urgent humanitarian reason to permit former service members (or their family members) to return to the United States to receive medical treatment and access VA benefits, including care for physical and mental health conditions arising from their service, that may only be available in the United States.

As justification for the parole of qualifying family members, the policy explains, "There is generally a significant public benefit to the parole of the qualifying family member due to family unity considerations and to recognize their sacrifice as a family member of a current or former service member."

Using the Executive's long-held parole power, which allows the Secretary of Homeland Security to temporarily admit noncitizens "on a case-by-case basis for urgent humanitarian reasons or significant public benefit," the policy guidance introduced a separate, specialized parole process for deported veterans.

ii. Proclaiming a preference for granting parole

While many parole programs preceded it, the IMMVI Parole Guidance is unique for its focus — paroling deported people — and for its strong directive in favor of parole. Although parole is evaluated "on a case-by-case basis . . . weigh[ing] all relevant considerations," and the applicant bears the burden of establishing their case, the policy makes the following remarkable statement of principle:

> Absent significant negative factors, including any factors indicating that the applicant poses a national security or current public safety threat, **parole would generally be an appropriate exercise of discretion for certain current and former U.S. military service members and the qualifying family members described above**.

Later, the policy reiterates that "military service ordinarily weighs heavily in favor of parole" and that "DHS will consider, as an exceptionally strong favorable factor" whether the applicant is eligible for "wartime" naturalization and has filed to naturalize. Indeed, USCIS's website directs veteran applicants to concurrently file their naturalization application and parole application or to submit a receipt for their naturalization application if they have already filed.

iii. Training adjudication officers in the special considerations required to assess veterans' applications

To seize on the promise of the preference for granting parole, the IMMVI policy requires specialized training for the DHS officers adjudicating service members ' applications. Officers are instructed to consider veteran-specific factors, including:

- A person's pathway to naturalization or other immigration status;
- Their need to access the U.S. legal system to assist with appeals of criminal convictions, discharge upgrade requests, and reopening removal proceedings, if appropriate;
- Any medical conditions related to military service; and,
- An applicant's need for medical services with the VA that can only be accessed in the United States.

The policy requires expedited consideration and supervisory review over any parole request that falls within its guidelines, and it instructs USCIS to exempt veterans (though not qualifying family members) from any filing fees. The policy limited each agency to granting parole "of up to 12 months with the option for additional periods of authorized parole, also known as re-parole, in increments of up to 12 months, as appropriate."

Recommendations for Parole Program

ISSUE: One-year parole periods are highly disruptive to the veteran's repatriation. They leave the veteran in constant limbo, where they must reapply for parole every 9 months without knowing whether their extension will be granted or they will have to leave the country. Furthermore, there are often processing delays which result in months between parole gaps, during which the veteran is subject to deportation and loses vital eligibilities, such as for social security, drivers licenses, and work authorization.

SOLUTION: Multi-year grants of parole. DHS has the authority to set the terms of parole and indeed grants longer parole periods for other parole categories.

ISSUE: Default single-entry parole and irregularly granted multi-entry parole. Veterans often must stay in contact with their family and children outside of the U.S. or otherwise need to temporarily leave the country. Single-entry parole requires them to forfeit their parole and reapply if they do so.

SOLUTION: Multi-entry parole should be the default for all grants of parole. Most deported veterans spent decades outside of the U.S. They should be granted necessary grace to reenter the country as needed rather than be forced to leave everything behind unless and until they can restore their immigration status.

ISSUE: The re-parole process is complicated and unclear.

SOLUTION: Simplify the re-parole process by, among other things, permitting resubmission of the initial form and deferring to the positive adjudication of the facts from the person's first parole application.

ISSUE: Parolees inconsistently receive proof of lawful presence documentation.

SOLUTION: Several states only accept I-94s as proof of lawful presence for parolees, such that they can apply for a driver's license, access state benefits, etc. Parolees were not always issued I-94s at the border and very few re-parolees received I-94s. This needs to be issued in a standard manner to all parole and re-parole recipients.

The Bad and The Ugly: Obtaining Permanent Relief

In contrast to the depth of guidance regarding parole, IMMVI directed DHS only generally to facilitate the restoration of immigration statuses. Many veterans returned to the United States without guidance on restoring their status, much less assurance that they could remain once they returned.

Until Congress changes the law, restoring a deported veteran's immigration status to ensure they can remain in the U.S. will likely require the assistance of a specially trained immigration attorney to identify and navigate the various legal mechanisms involved. Given the few pro bono attorneys with relevant experience, many veterans waited months to years before being able to proceed with their cases. Sadly, some veterans who were paroled in never obtained counsel and were unable to attempt to restore their status.

To fully realize the Initiative, the IMMVI policy would have had to make additional changes. This report offers three possibilities: expansions to post-conviction relief alongside restoring the efficacy of post-conviction relief in immigration court; directing ICE to exercise favorable discretion to reopen and terminate immigration proceedings; and pressing Congress to expand a path to citizenship for deported veterans. Absent these changes, veterans repatriated through IMMVI run the risk of yet another deportation.

Option A
Vacating Removal Order Where No Longer Removable

As discussed in Part III, most deported veterans once had Lawful Permanent Resident status and lost that status due to a criminal conviction. If a deported veteran obtains post-conviction relief (i.e., has that conviction vacated), a pardon, or a ruling from a federal court that the state conviction cannot be the basis for deportation, then that person can restore their status through immigration court. Obtaining post-conviction relief is no simple task. Post-conviction relief is not available in many states or for those with federal convictions; therefore, the fight to repatriate veterans likewise consists of advocacy at the state level to expand access to pardons and post-conviction relief.

Worse yet, the federal government has consistently worked to limit the impact of post-conviction relief in immigration court — thus stripping states and elected officials in dictating and making progress on their own criminal legal systems. Even immigrants who obtain post-conviction relief face additional barriers imposed

by the Board of Immigration Appeals and DHS. Through a line of decisions, the Board of Immigration Appeals and Attorney General have increasingly restricted what kinds of post-conviction relief are effective for immigration purposes, especially in recent years.[16] DHS likewise introduced stringent limits on when and how an immigrant must file to reopen their case following them no longer being removable. The Board of Immigration Appeals, Attorney General, and DHS have the power to quickly and effectively roll back these restrictions which serve no purpose other than undermining post-conviction relief and bolstering deportations.

The benefits of expanding post-conviction relief or restoring its efficacy in immigration court (or both!) are massive. A veteran who vacates their conviction or obtains a pardon is no longer removable and can apply to reopen their case. They can restore their LPR status and often their naturalization eligibility alongside it. They are also spared the risk of being deported again for the same conviction. Therefore, expanding post-conviction relief and streamlining the process for immigrants to vacate their removal orders in court will solidify pathways to bring — and keep — deported veterans home.

Option B Vacating Removal Order through ICE's Discretion

ICE (through their attorney branch, OPLA) is the "prosecutor" of deportation proceedings, such that they have wide-sweeping prosecutorial discretion to dictate the course of the case. This includes the discretion to file to reopen removal proceedings and to terminate removal proceedings. Although an immigration judge must grant the motions before they are given effect, such motions are typically granted out of respect for OPLA's discretion and where both parties have jointly filed to reopen and terminate, such that there is nothing in dispute.

Reopening and terminating deportation proceedings restores the immigrant's previous immigration status. Many deported veterans restored their LPR status through this method. Because this is based on OPLA's discretion, this method is available to all deported veterans, and deported immigrants altogether, assuming OPLA agrees to favorably exercise its discretion.

16 *Beyond* Roldan *and* Pickering: *Arguing that* All *Post-Conviction Relief* Must *Be Recognized By Immigration Law*, Immigrant Defense Project, https://www.immigrantdefenseproject.org/wp-content/uploads/Beyond-Roldan-and-Pickering.pdf.

The limits of this approach are two-fold and considerable: first, vacating the removal order does not mean that the veteran is no longer removable. ICE can re-initiate deportation proceedings based on the same conviction at any point in the future, unless the veteran becomes non-removable thereafter.

Second, this approach relies on OPLA's discretion. There is no law or regulation to compel OPLA to exercise its discretion or to obtain review of a denial; however, DHS does influence OPLA's exercise of discretion through internal policy guidance. During the Biden administration, Principal Legal Advisor Kerry Doyle issued a memorandum directing OPLA offices on the favorable exercise of prosecutorial discretion — i.e., exercising its discretion to the benefit of immigrants in removal proceedings, such as reopening and terminating proceedings. The memo listed veteran status among other favorable but not dispositive factors. That policy, alongside the IMMVI initiative, was a main factor in the unprecedented success of veteran prosecutorial discretion requests during the Biden Administration. Roughly half of known requests were approved, restoring the veterans' LPR statuses.

On the other hand, the lack of additional policy or directive from OPLA leadership was likely a cause of the roughly 50% failure rate. Exercise of prosecutorial discretion varied wildly between ICE offices, such that comparable cases received opposite outcomes between offices. Even after repeated advocacy and meetings with OPLA leadership, OPLA leadership insisted on deference to each office's discretion to decide prosecutorial discretion requests, even in contradiction to some policy issued by the same leadership. Because these discretion-based requests were many veterans' only option for restoring their immigration statuses, this failure rate left dozens of veterans without means to remain in the United States.

Option C
Naturalization

For centuries, Congress has recognized the sacrifice of immigrants serving our nation's military with expedited citizenship, with the most expedited path reserved for those who serve honorably during wartime. In 1991, the government reneged on this promise by imposing, by regulation, a "good moral character" requirement. Because "aggravated felonies" impose a lifetime bar to establishing "good moral character," veterans who served honorably during wartime with single convictions are barred for life from the citizenship they earned through their service.

Many deported veterans would be eligible to naturalize were it not for the good moral character requirement. Restoring their naturalization eligibility would allow these veterans to apply directly for citizenship without the hassle of first challenging their deportation orders or restoring their LPR statuses. For many of these veterans, naturalization is the only option for ensuring that they are protected from being deported once again for the same, decades-old conviction.

The regulation is at odds with the law. Congress explicitly left off the good moral character requirement for wartime naturalization. DHS must rescind this regulation, particularly given the many veterans who would have naturalized, but not for the mishandling of naturalization of applications by former U.S. Immigration and Naturalization Services (INS) and DHS, and the failure by these agencies to effectuate access to naturalization while these veterans were serving.

CONCLUSION

Between 2021 and the end of 2024, this country began—finally—to chip away at the debt it owes to deported veterans.

The IMMVI initiative, while not perfect, streamlined the process for deported veterans to return home. Critical to its success was the policy's acknowledgement that veterans face particular challenges both upon reentry from service and in seeking to repatriate. The IMMVI initiative focused on amending the country's deportation regime by repatriating deported people and showed the good work that strong, humanitarian federal policy can do for those the government has harmed. It also showed the limits of an executive solution, highlighting the need to change the nation's immigration laws for good.

On September 26, 2025, the Trump Administration announced a plan by USCIS that decided uncategorized discharges no longer meet the requirement of a separation from the service "under honorable conditions" for purposes of military naturalization. USCIS will also cease coordination with CBP to perform naturalization interviews and oath ceremonies at ports of entry, requiring service members abroad to seek visas or parole instead. These actions complete the turn away from supporting deported veterans and toward, once more, casting out noncitizens who offered their country the ultimate sacrifice.

The story is not over for the nearly 150 veterans who repatriated during the IMMVI era nor the hundreds more who remain abroad. Future administrations should build on the lessons of IMMVI—and of the veterans' own advocacy—to secure a just future for noncitizen members of the military.