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CONTRIBUTIONS OF IMMIGRANTS TO THE UNITED STATES ARMED FORCES

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

JULY 10, 2006

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CONTRIBUTIONS OF IMMIGRANTS TO THE UNITED STATES ARMED FORCES

MONDAY, JULY 10, 2006

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Miami, FL.

The committee met, pursuant to notice, at 11:00 a.m., at Miami-Dade Community College, 245 NE. 4th Street, Miami, Florida, Senator John Warner (chairman) presiding.

Committee members present: Senators Warner, McCain, Graham, and Kennedy.

Other Senator present: Senator Martinez.

Other Representative present: Congresswoman Ros-Lehtinen.

Committee staff member present: Charles S. Abell, staff director.

Majority staff members present: Sandra E. Luff, professional staff member; and Richard F. Walsh, counsel.

Minority staff member present: Gerald J. Leeling, minority counsel.

Staff assistants present: Jessica L. Kingston; Benjamin L. Rubin; and Pendred K. Wilson.

Committee members' assistants present: John Ullyot, press secretary to Senator Warner; Becky Jensen, assistant to Senator McCain; Matthew R. Rimkunas, assistant to Senator Graham; and Ester Olavarria, assistant to Senator Kennedy.

Other assistant present: Nilda Pederosa, assistant to Senator Martinez.

OPENING STATEMENT OF SENATOR JOHN WARNER, CHAIRMAN

Chairman WARNER. Good morning, everyone. The Senate Armed Services Committee is very pleased to come together here in this historic part of America for what we regard as a very important and, indeed, historic hearing.

Our committee members are pleased to be joined by the distinguished Senator from Florida, Senator Martinez.

The committee meets today to receive testimony on the contributions of immigrants to the United States Armed Forces throughout America's history.

I recognize our distinguished colleague, Senator Martinez of Florida, and thank him for his participation; and I also note that Congresswoman Ros-Lehtinen is present, and we welcome her.

I'm pleased to have before the committee, on our first panel, the distinguished Chairman of the Joint Chiefs of Staff, General Peter Pace, United States Marine Corps; and the Honorable David Chu,

Under Secretary of Defense for Personnel and Readiness. We welcome you, gentlemen.

General Pace has been the Chairman of the Joint Chiefs of Staff since September 30, 2005. He is the first United States marine to hold this office; and, as Chairman, serves as the principal military advisor to the President of the United States, the Secretary of Defense, and the National Security Council.

General Pace, who is himself the son of an Italian immigrant, graduated from the United States Naval Academy in 1967, and served thereafter with distinction in Vietnam as a rifle platoon leader with the First Marine Division.

He also served at every level of command in the United States Marine Corps during his remarkable career, and was commander of the U.S. Southern Command in 2000 and 2001, and Vice Chairman of the Joint Chiefs of Staff from August 2001 through September 2005.

Secretary Chu, likewise, has a very distinguished record of public service. He advises the Secretary of Defense on policy related to readiness, recruitment, career deployment, pay, and benefits for military members, and was appointed in June 2001.

He began his distinguished career of public service in 1981 as the Director of Program Analysis and Evaluation in the Office of the Secretary of Defense, serving under three Secretaries of Defense in that period.

Gentlemen, we thank you for joining us today.

In our Armed Forces today, there are over 60,000 immigrants and naturalized American citizens serving on active duty and in the Guard and Reserve. They follow in the footsteps of soldiers, sailors, airmen, and marines, from previous generations who immigrated from foreign lands, and, likewise, served with distinction.

I might add that when I was Secretary of the Navy, one of my principal advisors, and a man I admired greatly, the "Father of the Nuclear Navy," Admiral Rickover, was an immigrant.

In our nation-wide debate today on the very important issues regarding immigration, and as part of the oversight responsibilities of Congress regarding proposed legislation now pending before both Houses, we receive this testimony.

Today, the committee will listen to these two panels of witnesses, on the historic and contemporary role of immigrants in the United States military, and about issues affecting the continuing ability of immigrants to serve in the Armed Forces of the United States.

The ability to become a naturalized citizen by virtue of military service has been authorized in law since 1952.

Recent changes since the attacks of September 11, 2001, brought about by statute and Presidential Executive order, have simplified the process of achieving citizenship by military members.

We've all read about recent naturalization ceremonies held in Iraq, Afghanistan, United States, and around the globe.

The committee will cover in this hearing how to further enhance opportunities for immigrants to serve in the Armed Forces and achieve that citizenship.

Further, the Armed Services Committee today, since we have responsibility for the Guard and Reserve, given the important new mission the President of the United States has assigned to the Na-

tional Guard, Operation Jump Start, in which the National Guard augments the Border Patrol along our southern border, I will also seek testimony from both of these witnesses about this operation.

The National Guard has been performing a mission on our border for some period of time, but this presidential directive adds a very significant strengthening to the security of that border.

Before I turn to Senator McCain, I note that I've received a letter from Congressman Diaz-Balart, that, without objection, I'll put in the record.

[The information referred to follows:]

LINCOLN DIAZ-BALART
21ST DISTRICT, FLORIDA

COMMITTEE ON RULES
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CHAIRMAN,
SUBCOMMITTEE ON
LEGISLATIVE AND BUDGET PROCESS

HOUSE POLICY COMMITTEE
CHAIRMAN,
SUBCOMMITTEE ON FOREIGN AFFAIRS
AND FREEDOM

COMMITTEE ON
INTERNATIONAL RELATIONS
(SENIORITY RETAINED)

ASSISTANT MAJORITY WHIP

Congress of the United States
House of Representatives
Washington, DC 20515–0921

July 7, 2006

The Honorable John Warner
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

I would like to welcome the Senate Armed Services Committee to South Florida and thank you for scheduling this important field hearing on the contributions made by immigrants to the U.S. Armed Forces. This strong immigrant community is keenly aware of the countless sacrifices made day after day by the men and women who bravely defend freedom by serving in the military.

The 21st Congressional District of Florida, that I am honored to represent in the U.S. Congress, is home to one of the highest percentages of immigrants in the United States. Our state is also proud to be among the top five states with enlisted non-citizens serving in the Armed Forces. Frequently my office receives correspondence from immigrants serving abroad, who eloquently express the principles that guided them toward serving the United States.

Mr. Chairman, as we continue to debate immigration reform, it is important to note that the immigrants, who have served and are today serving throughout the world in our military, are no different than the American born citizens who, at great personal sacrifice, also volunteer to serve our country. They are both guided by the same values. In fact, throughout all the wars that this nation has taken part in, immigrants have stepped forward on behalf of American principles, regardless of immigration status.

According to the Migration Policy Institute, over half of the foreign born serving in the armed forces are naturalized citizens. This important statistic best highlights the commitment of immigrants to the United States. I commend the Bush Administration and the Bureau of Citizenship and Immigration Services for the steps they have taken to improve the process to make certain that the citizenship applications of the men and women serving in the Armed Services are processed in a timely manner.

As we continue to address immigration reform, we need to work on the passage of legislation that will recognize the historic contribution of immigrants who have served in the

military. That is why I have sponsored the American Dream Act, H.R. 5131, which would permit certain immigrant students who have grown up in the U.S. to apply for temporary legal status and eventually obtain permanent status if they serve in the U.S. military for two years.

Once again, thank you and the Members of the Senate Armed Services Committee for drawing attention to such an important issue.

Cordially,

Lincoln Diaz-Balart

Chairman WARNER. I also received a letter from General Colin Powell, former Chairman of the Joint Chiefs of Staff, that Senator McCain will speak to momentarily.

Senator Kennedy.

Senator KENNEDY. Thank you very much. I want to thank Senator Warner, who is the chairman of the Armed Services Committee, for having this extremely important committee meeting today about the role of immigrants and their service in the military of this country, which has been one of great distinction. I think we'll hear from General Pace on that in a few moments.

I also want to say what a pleasure it is to be here with our host, Senator Mel Martinez, and thank him so much for his generosity in welcoming us all here, and also for his eloquence and passion on so many issues; but, particularly, on the issues of immigration reform.

It's a great honor, as well, to be here with Senator McCain, who has provided such leadership in bringing this country to a sensible and responsible view and position on the quite complex issue of immigration reform.

Senator Lindsey Graham, who is also here, has been absolutely indispensable in helping to bring good insights into this issue on the floor of the Senate.

It is a real honor for me to be here, and I join the chairman of the committee in thanking the campus president, Dr. Montoya, for welcoming us all here; and the chair of the board of trustees, Helen Ferre, for welcoming us all.

This is an urban community college that provides vital educational opportunities to so many individuals here in this community and in the greater community, and it's an educational institution of distinction; I think all of us feel greatly honored that they would help provide us the chance to come together and have this important hearing today.

When immigrants join the military, they take the same oath of enlistment as any American soldier, sailor, airman, or marine.

This is what they say: "I do solemnly swear I will support and defend the Constitution of the United States against all enemies, foreign and domestic; I'll bear true faith and allegiance to the same; I'll obey the orders of the President of the United States, and the orders of the officers appointed over me according to the regulations and the Uniform Code of Military Justice. So help me, God."

I can think of no greater commitment to their adoptive land. They take that solemn promise to heart, and, in all of our wars, immigrants have fought side by side with Americans with great valor.

Immigrants make up 5 percent of our military today. They earn 20 percent of the Congressional Medals of Honor, and at least 101 have made the ultimate sacrifice to our country in Iraq and Afghanistan.

I understand they have also been awarded 150 bronze stars for valor and gallantry in Iraq and Afghanistan, and 2 silver stars. It's an extraordinary record.

Naturalization has a special place in our society, and it is a uniquely powerful moment when new citizens embrace our Nation and our Nation embraces them. Naturalized citizens are Americans by choice, and that choice is a great tribute to our country and its ideals.

Given the deep commitment of these immigrants to our land, it is an affront to their noble military service to declare the 12 million undocumented immigrant men, women, and children to be criminals, as some in Congress have done; and it is an insult to their dedication to our defense when the far right in Congress makes the wrong-headed bumper-sticker claim that the solution to our immigrant problem is just to build more fences and add more Border Patrols.

Clearly, we must take serious steps to secure our borders and enhance enforcement, but common sense suggests that we are not going to deport 12 million undocumented immigrants.

Instead, we owe it to our Nation to take into account what these hardworking immigrant families have to offer to America and provide them with a path to earn the privilege of American citizenship.

Once again, we honor the immigrants who serve in our military, especially in these difficult and dangerous times. I commend the committee for convening this hearing, and I thank the distinguished witnesses for their testimony here today.

Thank you, Mr. Chairman.

[The prepared statement of Senator Kennedy follows:]

PREPARED STATEMENT BY SENATOR EDWARD M. KENNEDY

Mr. Chairman, I commend you for holding this important hearing on the contributions of immigrants in the United States Armed Forces to the defense of our Nation.

I also want to commend Senator Warner, Senator McCain, Senator Graham, and Senator Martinez for their leadership in moving us forward toward realistic immigration reform.

If anyone doubts the many benefits that immigrants bring to our country, they need to look no farther than their valiant service in the United States military.

These immigrants could easily have taken civilian jobs to care for their families. But today, more than 60,000 naturalized citizens and permanent residents now wear the uniform of the United States of America. They take the same oath of enlistment as any American soldier, sailor, airman, or marine.

> "I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me God."

I can think of no greater commitment to their adopted land.

They take this solemn promise to heart. In all of our wars, immigrants have fought side by side with Americans—and with great valor. They make up 5 percent of our military today, but over our history have earned 20 percent of the Congressional Medals of Honor. At least 101 have made the ultimate sacrifice for our country in Iraq and Afghanistan.

Since the President and Congress made changes to expedite citizenship applications filed by immigrant men and women in our armed services, more than 13,000 servicemembers have naturalized. I have had the honor and privilege of participating in military naturalization ceremonies for some of these "green card troops."

Naturalization has a special place in our society. It is the uniquely powerful moment when new citizens embrace our Nation, and our Nation embraces them. Naturalized citizens are Americans by choice, and that choice is a great tribute to our country and its ideals.

Given the deep commitment of these immigrants to our land, it is an affront to their noble military service to declare the 12 million undocumented immigrant men, women, and children to be criminals, as some in Congress have done. It is an insult to their dedication to our defense when the far right in Congress makes the wrong headed bumper sticker claim that the solution to our immigration problems is just to build more fences and add more Border Patrols.

We have tried that before and it doesn't work. This simplistic proposal led by the far right in Congress is a formula for failure. It would leave us weaker and less secure.

Americans know that our immigration system is broken. But they also understand that immigration is a complex issue that requires a comprehensive solution.

Clearly, we must take serious steps to secure our borders and enhance enforcement. But common sense suggests that we are not going to round up 12 million undocumented immigrants and deport them. Instead, we owe it to our Nation to take into account what these hard working immigrant families have to offer to America's strength, security, and values in the years ahead. We must provide a path for them to learn English, pay their taxes, show a steady work history, and earn the privilege of American citizenship. We must establish a means for future immigrants to come here legally to meet the legitimate needs of our employers for more workers.

We must also enact the Development, Relief, and Education for Alien Minors (DREAM) Act, which is included in the Senate bill. This bipartisan compromise will enable immigrant students to pursue higher education like citizens, or join the military, as many are eager to do. The DREAM Act is the right title, since the act will give thousands of bright, hard-working immigrant students a chance to pursue their "American Dream." By denying them these opportunities, we deny our country their intelligence, their creativity, their energy, and often their loyalty.

President Bush and a bipartisan majority in the United States Senate support this comprehensive immigration reform. Religious leaders, business leaders, and community leaders are calling on Congress to pass it this year.

These leaders support comprehensive reform because they are eyewitnesses to the patriotic spirit of our courageous immigrants in uniform as well as the many, many other immigrants who are part of our extraordinary history and heritage. Immigrants are an indispensable element of what makes America the Promised Land. They have contributed immensely to our communities. They have created new jobs, and even whole new industries, and have helped make America the land of freedom, hope, and opportunity that it is today.

Once again, we honor those immigrants who serve in our military, especially in these dangerous and difficult times. I commend this committee for convening this hearing on such an important subject, and I thank the distinguished witnesses for their testimony today.

Chairman WARNER. Thank you very much, Senator Kennedy. Senator Kennedy, you've been a great leader on the floor of the Senate with regard to the immigration bill, and you have collaborated with my long-time good friend, Senator McCain.

I want to particularly thank Senator McCain, together with Senators Graham and Martinez, because the original concept of this hearing was provided by these three distinguished senators.

Senator McCain.

Senator MCCAIN. I thank you, Mr. Chairman. I would like to thank you for holding and chairing this hearing, and also for your involvement in this issue.

I'm always pleased that Senator Kennedy, and my friends, Senators Graham and Martinez, are here. I would like to thank the community college for their hospitality again, and of course, we would like to thank Mayor Manny Diaz for his hospitality here in Miami.

As everyone knows, Congress has been engaged in an immigration debate for over a year now. I would like to begin by saying that any reform—any reform—that is ultimately adopted by both bodies of Congress, and signed into law by the President, must address all aspects of the immigration debate. It cannot, should not, and will not be an enforcement-only policy. An enforcement-only strategy will not make our Nation safer or more economically sound.

Though our hearing today will primarily focus on one aspect of the contributions immigrants make in our society, we cannot lose sight of the fact that our Nation cannot survive as a leader in this world without the life blood and vitality provided by immigrants.

It is not enough to secure our borders and go home. We must recognize this need for immigration in our country, and deal with those immigrants that are already here in a humane, fair, and just way.

Immigration reform is a very important and complex subject that is among the most difficult and divisive we face. Without comprehensive immigration reform, our Nation's security and economy are vulnerable.

Those of us from border States witness every day the impact illegal immigration is having on our friends and neighbors, our country, and cities' services, our economy, and our environment. We deal with the degradation of our lands and the demands imposed on our hospitals and other public resources.

It's a matter of life and death for many living along our border. We have hundreds of people flowing across our borders every day, and an estimated 11 to 12 million people living in the shadows in every State in our country.

Our current system doesn't protect us from people who want to harm us. It does not meet the needs of our economy, and it leaves too many people vulnerable to exploitation and abuse.

Mr. Chairman, we need immigrants in this country. The current immigration system does not adequately and lawfully address this need.

As long as the situation exists without a legal path for immigrants to enter the country, we will have desperate people illegally crossing our borders and living in the shadows of our towns, cities, and rural communities. That is not acceptable, particularly when we are fighting a war on terrorism.

The vast majority of individuals attempting to cross our borders do not intend to harm our country. They're coming to meet our demand for labor and to earn money to feed their families.

We've seen time and again that as long as there are jobs available in this country for people who live in poverty and hopelessness in other countries, those people will risk their lives to cross our borders no matter how formidable the barriers.

Most will be successful. By the Border Patrol's own estimates, 99 percent of those apprehended coming across the border are doing

so for work. However, the Border Patrol is overwhelmed by these individuals. They cannot possibly apprehend every crosser being smuggled in, no matter how many resources we provide.

That's why any new immigration law must establish a legal channel for immigrants to enter the United States, after they have passed background checks and have secured employment. Then we can free up Federal officials to focus on those individuals intending to do harm through drug smuggling, human trafficking, and terrorism.

Throughout our Nation's history, immigrants have proven to be hardworking, ingenious, and prosperous. The armed services provide a unique opportunity and ability for immigrants to better their place and position.

More than 20 percent, as you noted, Mr. Chairman, of the recipients of the Congressional Medal of Honor, the Nation's highest decoration, have been immigrants. The creation of the submarine, the helicopter, and the ironclad ship, all resulted from newcomers to our country.

Additionally, during World War II, a combat team made up of the sons of Japanese immigrants was the most decorated regiment of its size. Some of our most decorated and famous service men, including former Secretary of State, Colin Powell, are first-generation Americans or immigrants themselves.

Mr. Chairman, with your indulgence, I would like to read the letter submitted for this hearing by Secretary Powell, former Chairman of the Joint Chiefs of Staff.

> Dear Chairman Warner: I am pleased to hear that the Senate Armed Services Committee will be convening a hearing regarding the contributions of immigrants to our armed services.
>
> I deeply appreciate your invitation to give testimony, and regret being unable to attend. I hope you will permit me to convey my experiences as the son of immigrants and articulate both the important role immigrants' service plays in our Armed Forces, and the need to enact comprehensive immigration reform.
>
> My parents, Luther and Maud Ariel Powell, emigrated from Jamaica in the 1920s, and settled in a neighborhood in the South Bronx, New York. My father worked as a shipping clerk; my mother, a seamstress. I grew up surrounded by two cultures, and took pride in my immigrant roots.
>
> Upon graduating from college, I took a commission in the Army, and found, in that institution, opportunities to strive and succeed beyond my imagination. From the greens of Lexington and Concord, to the sands of Iraq, Americans have continually answered the call to arms and successfully defended our way of life. I am proud that much of that military success can be attributed to the contributions of immigrants.
>
> The burden of defending our ideals and freedom has always been shared by those who were not yet citizens. I have witnessed time and again the bravery and valor of soldiers defending a country that they consider their

adopted home. They are grateful for the opportunities the United States provides, and we are grateful for their sacrifices.

As President Bush has stated, our Nation is in desperate need of an overhaul of our immigration laws. This must be done in a comprehensive manner to ensure that we provide the same opportunities for future immigrants as were available to my parents.

While we ensure our national security and secure our borders, we must also recognize the socially, economically, and culturally revitalizing force immigrants play in America. America's diversity is the basis for its greatness, and we're a country that prides itself on our openness to change.

Those wishing to cause us harm cannot alter this fundamental American ideal, and, in order to preserve it, we must continue to embrace those who come to our shores, not just those who have already benefited from the American dream.

Again, thank you for the opportunity to add my voice to this important discussion.

Sincerely,

COLIN POWELL.

[The information referred to follows:]

General Colin L. Powell, USA (Retire)
909 North Washington Street
Suite 700
Alexandria, Virginia 22314
July 5, 2006

The Honorable John W. Warner
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510-6050

Dear Chairman Warner:

I am pleased to hear that the Senate Armed Services Committee will be convening a hearing regarding the contributions of immigrants to our armed services. I deeply appreciate your invitation to give testimony and regret being unable to attend. I hope you will permit me to convey my experiences as the son of immigrants and articulate both the important role immigrants' service plays in our armed forces and the need to enact comprehensive immigration reform.

My parents, Luther Powell and Maud Ariel Powell, emigrated from Jamaica in the 1920s and settled in a neighborhood in the South Bronx, New York. My father worked as a shipping clerk, my mother a seamstress. I grew up surrounded by two cultures and took pride in my immigrant roots. Upon graduating from college I took a commission in the Army and found, in that institution, opportunities to strive and succeed beyond my imagination.

From the greens of Lexington and Concord to the sands of Iraq, Americans have continually answered the call to arms and successfully defended our way of life. I am proud that much of that military success can be attributed to the contributions of immigrants. The burden of defending our ideals and freedom has always been shared by those who were not yet citizens. I have witnessed time and again the bravery and valor of soldiers defending a country that they consider their adopted home. They are grateful for the opportunities the United States provides and we are grateful for their sacrifices.

As President Bush has stated, our nation is in desperate need of an overhaul of our immigration laws. This must be done in a comprehensive manner to ensure that we provide the same opportunities for future immigrants as were available to my parents. While we ensure our national security and secure our borders, we must also recognize the socially, economically, and culturally revitalizing force immigrants play in America.

America's diversity is the basis for its greatness, and we are a country that prides itself on our openness to change. Those wishing to cause us harm cannot alter this fundamental American ideal, and in order to preserve it, we must continue to embrace those who come to our shores, not just those who have already benefited from the American dream.

Again, thank you for the opportunity to add my voice to this important discussion.

Sincerely,

2

Senator MCCAIN. Mr. Chairman, let me just say, there are numerous examples of immigrants who have already given their lives, as our witnesses will testify. I'm hopeful that at the end of the immigration debate, we can show the American people that we addressed a serious and urgent problem with sound judgment, honesty, common sense, and compassion.

We must address immigration reform in a comprehensive—yes, comprehensive—manner. We cannot throw money at our borders and call it a day. If all we do is attempt to secure our borders, and nothing else, we will have failed the American people.

I have no doubt that we will learn today of the sacrifices that many immigrants have made for their adoptive home. 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.

In closing, I hope we will move forward in a thoughtful, productive manner, and call on both Houses to put the rhetoric and demagoguery aside, and sit down for meaningful discussions. It's past time to act, and the American people are losing patience.

I thank you, Mr. Chairman, for your indulgence.

Chairman WARNER. I've been privileged to have known Senator McCain since we were associated together in the war in Vietnam in the Navy. I was his boss then. Now he orders me around.

Senator MCCAIN. Barely.

Chairman WARNER. Anyway, Senator McCain brings a very important, rugged, tough, determined brand of courage to this effort, as he does to many efforts. I associate myself with your goals on immigration, Senator McCain, and pledge to work with you and others to achieve them on behalf of our country.

Senator MCCAIN. Thank you, Mr. Chairman. I appreciate that.

Chairman WARNER. Thank you.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman. I would like to recognize your courage for even having this hearing.

Miami's a good place to have it, by the way. It's really a pretty place. I'm not running for mayor, so you can relax.

But this is the summer of hearings. This is the battle between the House and the Senate. We're going to different places in the country, talking to different people, not so much to be informed, I think, as to persuade.

I really appreciate Chairman Warner allowing the Senate to have hearings, because the House started this; and I hope when it's all said and done that something good will come from it.

The reason I think it's important to focus on the military, number one, if there was an easy solution to the immigration problem, I would have already found it, because I pride myself on being the master of the obvious. This is not easy.

President Bush deserves a lot of credit, in addition to the members on this panel and all those who wade into this. Our President understands it very well. He comes from a border state. He understands that there's more than one thing that we have to do to solve this problem.

It is about jobs. Forty percent of the people who come into our country illegally never cross the border. They're visa overstays. They have a legal path for a temporary period. They come here, they like it, and they won't leave.

What is it about America that makes people want to cross the desert and die to get here? What is it about America that people literally risk their lives to come here? What is it about America that somebody will flee Cuba when they're a teenager to come?

We know what it's about, and I hope we don't lose that in this debate. To me, this is a welcome debate.

How many countries have this problem of so many people wanting to come and be part of it?

I think it is a testament to who we are, and the way we've lived our lives for 200 years; and I hope, when this debate is over, that people will still see America as a place they want to come.

To those who engage in this debate, your words are being listened to. You're writing a new chapter in American history. I hope it's a chapter you'll be proud of. Twenty years from now, when this is all long behind us, I hope what you said, your grandchildren will be proud of.

To the politicians who are engaging in this debate, you're writing yet another chapter in American history; and I want this chapter to end like all chapters have ended, on a positive note.

In the 1890s, it was the Chinese. In the 1920s, it was anybody and everybody who came. Now it's mostly Hispanic groups coming into the country in large numbers, wanting to be part of America.

We have every right to make sure it's on our terms. We have a right as a Nation to make sure that laws are observed, and obeyed, but we also have an obligation when we're trying to come up with a way to solve this problem not to change who we are.

Mr. Chairman, I think the worst thing we could do as a Nation is to tell a young marine in Iraq, General Pace, who's fighting and literally risking his life for this country, who is an American citizen by virtue of his birth in the U.S. but whose parents or grandparents are here illegally, while you're off in Iraq, fighting and sacrificing for our country, we made your parents and grandparents felons, and we're going to deport them.

That is not a message that needs to be sent. That is not a solution to this problem, but that is a proposal on the table. The reason we need to have this hearing is to understand that the policies we pursue speak volumes about who we are and who we want to be.

I'm honored to be part of this great debate that's been long overdue. I want to help our President fix this problem. I look forward to working with Senator Kennedy in a bipartisan fashion to come up with a solution to a real problem that America faces. If the solution does not embrace who America is, if the punishment for the crime is disproportionate to the crime and doesn't render justice, what good have we achieved?

We have a hearing today where the Chairman of the Joint Chiefs of Staff is a first-generation immigrant whose family came here for opportunity. He will be asked questions by a United States Senator who fled an oppressive regime when he was a teenager. To me, that shows what America's all about, and what America will continue to be.

The answer to the immigration problem lies in our past, and our past has been a welcoming society who believes not only in the rule of law, but also in justice. Thank you.

Chairman WARNER. Thank you, Senator Graham, for your strong leadership on this issue, and the acknowledgment of the importance of having our President committed to the need for this legislation.

He, likewise, has been tough and determined on this issue. I think, by and large, the group before you today want to stand and back him with regard to his goals, which are not really just his, but our Nation's goals. Thank you, Senator Graham.

Senator Martinez.

STATEMENT OF SENATOR MEL MARTINEZ, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator MARTINEZ. Mr. Chairman, thank you very much. I appreciate so much your courtesy to allow me to participate in this hearing. I want to welcome all of you, my dear colleagues, to the State of Florida, a place that I'm so proud to represent, and particularly the city of Miami, where, under the great leadership of Mayor Diaz, we are so proud to host this event here today.

I also want to just extend my thanks to the Chief of the Miami Police Department for all of the assistance they have provided to make this event possible.

I'm also extremely proud to be at Miami-Dade College. Helen Ferre, Chairman of the Board, and President Padron, who is the President of the college, as well as President Montoya, who presides over this particular campus, are also here.

We are all so proud to host this event here at this college. It's a place that I think could not provide a more fitting backdrop for the debate and the discussion that we're having.

It is a college which provides a way forward to so many people who otherwise would not have an opportunity for higher education. It also serves a population and a community that, as was pointed out to me when I was proud to be a part of the commencement exercises this past May, there were at that time 82 flags on the stage where we were presiding, and those 82 flags represented the 82 countries that were represented in that graduating class that I was addressing that day. That is very symbolic.

This is a college where 8 out of 10 students began their lives speaking a language other than English. So, it is important that we recognize at this point in time the importance of the immigration issue not only to our Nation, but very much to the State of Florida, as well.

This morning in the news, we saw a report where 3 to 6 million boxes of oranges are going to remain on the trees this year because there simply wasn't the labor available to harvest that crop.

That's an economic loss to our State. It is a significant loss to the citrus industry, but it also highlights the problem. In finding the solution to this issue, while it's obvious that we have to protect our border, that we must do all that we can, not only to protect the land border between us and our southern neighbors in Mexico, but we also have a very big border that, as General Pace so well knows, around the State of Florida, where there's a lot of opportunity for people to come in, in a way that could provide a security threat to our Nation.

It is important that we secure our border, but, beyond that, we will not have done our job, we will not have acted responsibly if we stop there and don't go forward to also deal with the issue of the need that our Nation has for workers, the need that our Nation has to have a labor force that can do the work that needs to be done in so many industries, not only agriculture.

The hearing today is about the Nation's armed services and the fact that we have had over our history such a connection between immigrants and service to our Nation.

I can't help but be reminded of a very early immigrant to our Nation, who came just as our Nation was becoming a nation, who

ended up here as a 15-year-old boy, immigrated here from the Caribbean—I relate to that—and within a matter of a very few years, became the indispensable right-hand person to General George Washington as he was leading our Armed Forces.

It was Alexander Hamilton, who came from Nevis in the Caribbean, to become the indispensable right hand of George Washington during the most difficult times over this Nation's struggle to become an independent nation.

I am then more recently reminded by the painful loss of my own cousin, Manuel Mesa, who served this country only a very few years after arriving in this country from Cuba, and died somewhere near Pleiku in Vietnam.

I remember the searing pain our family felt at that loss, his parents, obviously, and sisters and brother, but also the fact that all of us recognized that he had died doing what he wanted to do. He volunteered to be a member of our Armed Forces, and he was proud to serve in Vietnam, in standing up for this Nation, for our country.

One of the other salient points, Mr. Chairman, that this debate attempts to address is the issue of human trafficking.

This very weekend, in the news in this community, we were jolted by the tragic learning of the death on the high seas of a person that was seeking to enter this country by the opportunity provided through a smuggler in a fast boat. In a confrontation with the Coast Guard, in which they were trying to stop the boat and save lives from this unsafe situation, the smugglers continued on their path, not only injuring this woman, but then failing to render timely assistance, which brought her death.

Over 6 months ago, the death of a 6-year-old boy, who was again in similar circumstances.

It is important that this bill pass and move forward, because we need to stiffen the penalties, which this bill does, for human trafficking. It is necessary and it is important.

Let me just conclude—because I appreciate so much the very distinguished panel we have with us today—but just pointing out to our guests that just slightly north of here, just a couple of blocks, stands the Freedom Tower.

To those of us who knew it in the 1960s, it was called "El Refugio," a place of refuge. For the Cuban-American community, it is our Ellis Island. It is the place where it all began.

I can specifically remember my life in America beginning right here in this city, at the airport where I landed this morning, on a sunny afternoon in February 1962, my life beginning there; and, then, some months later, walking to "El Refugio," the Freedom Tower; my little brother, taking him there, for the necessary things that had to happen there to those who were new to this country.

It is such a symbolic place to this community, and I think that, within the shadows of that building, for us to hold this hearing and for me to have an opportunity to participate in it is only yet another testament to the power of America, to the power of this country and what it stands for, and the beacon of opportunity that it is to all in the world; and how proud I am to play a role in shaping the immigration laws in this country for the future in a way that represents the best of America, and the best that we are, in the

hopes that we can continue to be that great shining city on the hill for many years to come.

Thank you, Mr. Chairman.

Senator MCCAIN [presiding]. Thank you very much, Senator Martinez. We again want to express our gratitude for the important role that you have played. Every morning, you and I, and Senator Graham, Senator Kennedy, and others, who gather to work on the strategy for the day and the week. We thank you for your incredible participation and what you bring to the debate. I thank you.

On our first panel are the Honorable David Chu, who is the Under Secretary of Defense for Personnel and Readiness, and General Peter Pace, who is, as we all know, the Chairman of the Joint Chiefs of Staff.

Secretary Chu, thank you. Would you begin? As always, your entire statement will be made part of the record.

STATEMENT OF HON. DAVID S.C. CHU, UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

Secretary CHU. Thank you, Mr. Chairman and members of the committee. It's a privilege to be here this morning.

We are, as is often observed, a Nation of immigrants, and the service of immigrants in the Nation's military is an honored tradition. That includes noncitizens.

Noncitizens have served in America's Armed Forces since the earliest days of the Republic. In more recent decades, I think members of this committee can remember the Lodge Act, and subsequent legislation, which allowed the military to recruit from citizens formerly of Eastern European countries, but not yet citizens of the United States.

Likewise, the United States Navy, right through the early 1990s, continued to recruit citizens of the Philippines for its forces.

Congress has recently revised the statutes governing the Department of Defense (DOD) to consolidate the authority for the recruitment of noncitizens, permitting, for all military Services, those who are legal permanent residents of the United States, to join.

Of course, under the President's Executive order, while under this declaration of national emergency, noncitizens enjoy expedited citizenship procedures. Your changes in Congress have further strengthened their ability to apply and be considered rapidly for citizenship.

I recognize that Congress and the Senate bill pending action are considering further changes with provisions that would affect the military service of noncitizens.

Today, we have on the order of 25,000 noncitizens serving in the Active Forces of the United States military. I should note that over 10,000 of these individuals score at what's called 2/2, or better, on the foreign language proficiency test. That means they score well enough to be able to use that language in an effective way to support our military operations.

One of the benefits of recruiting noncitizens to the military force of the United States is to be able to have a more diverse, and, specifically, a linguistically more competent military force than we could otherwise recruit.

I should note that nearly 20,000 members of the Reserve components are, likewise, noncitizens, including, I should report, approximately 1 percent of the Army National Guard.

The chairman's opening statement mentioned the current service of the Army National Guard. Its most recent contribution to the Nation's security, of course, is to staff the effort to secure the southwestern border of the United States.

I'm pleased to report that as of today there are just under 3,000 Army National Guard personnel serving in that capacity: over 300 at the Joint Task Force Headquarters; nearly a thousand already assigned to the Customs and Border Patrol missions; and just under 1,600 who are in the process of joining that force.

I know members of this committee are familiar with the Army's 09 Lima Program, as it's called, after the military occupational specialty (MOS) program that is employed.

This represented a specific effort by the Army to recruit heritage speakers of languages in high demand in current operations, especially Arabic, Pashtu, and Dari.

With over 300 members of this group, the Army seeks to expand this military occupational specialty. I should report approximately three-quarters of these individuals are not citizens of the United States, although many have applied for citizenship, and most of those who have applied have completed that process within a year.

To sum up, noncitizens have long served in the American military. They continue to serve to this day. They serve well in the American military, and they supply critical capacities that are essential to our current military operations.

Thank you, Mr. Chairman.

[The prepared statement of Secretary Chu follows:]

PREPARED STATEMENT BY THE HON. DAVID S.C. CHU

Mr. Chairman, distinguished members of the committee, I am pleased to be here today to discuss the role of immigrants in our Armed Forces. Our great Nation—a Nation of immigrants—has a long and distinguished history of the valor and sacrifices made by those who call the United States home, but are not yet citizens.

I want to focus my remarks today on two areas surrounding immigrants in the Armed Forces. First, I want to talk about the contributions noncitizens are making in today's military. Second, I want to discuss future issues regarding the enlistment of noncitizens.

Since the Revolutionary War, certain noncitizens have been eligible to enlist in the military. noncitizens have served in the U.S. Armed Forces for much of our country's history, including the War of 1812, the Civil War, and both World Wars. Almost half of Army enlistees in the 1840s were immigrants (noncitizens), and more than 660,000 military veterans became citizens through naturalization between 1862 and 2000. The Lodge Act of 1950 (and subsequent Acts in 1951, 1955, and 1957), for example, permitted noncitizen Eastern Europeans to enlist between 1950 and 1959.

Another example is the Navy's recruitment of Filipino nationals. The United States officially began recruiting Filipino nationals into the U.S. Navy in the late 1940s, when it signed the Military Bases Agreement of 1947 allowing U.S. military bases in the Philippines. Changes in the agreement and policy capped the number of Filipino enlistments at 1,000 in 1952, 2,000 in 1954, and 400 from 1973 on. Navy policy restricted Filipinos to the steward and mess attendant ratings from WWII until 1973. In total, over 35,000 Filipinos enlisted in the Navy through the program between 1952 and 1991. The Navy stopped recruiting Filipino nationals and closed its recruiting facilities in the region in 1992 because of the end of the Military Bases Agreement, base closures, and force reduction measures.

Prior to the National Defense Authorization Act (NDAA) for Fiscal Year 2006, title 10, United States Code, sections 3253 and 8253, stated that to be eligible for enlistment in the Army or Air Force in time of peace, an individual must be an

American citizen or lawfully admitted to the United States for permanent residence—that is, possess the so-called Green Card. While there was no equivalent statute limiting enlistment in the Navy and Marine Corps, the same citizenship requirements were applied to those Services as a matter of policy.

The NDAA for Fiscal Year 2006 repealed the Army and Air Force specific sections of title 10, and established a uniform citizenship or residency requirement for enlistment in the Armed Forces of the United States in section 504 of title 10. Enlistment is now authorized for:

- A national of the United States
- An alien who is lawfully admitted for permanent residence (green card)
- A person enlisting in the military under one the following compacts:
  - The Compact of Free Association between the Federated States of Micronesia and the United States
  - The Compact of Free Association between the Republic of the Marshall Islands and the United States
  - The Compact of Free Association between Palau and the United States

Notably, that amendment to section 504 also establishes that ". . . the Secretary concerned may authorize the enlistment of a person [other than one listed above] if the Secretary determines that such enlistment is vital to the national interest."

Since September 11, 2001, there have been several policy changes complementary to both the current and pending legislation that may encourage more noncitizens to consider military service. For example, today's servicemembers are eligible for expedited citizenship, and the military services have worked with U.S. Citizenship and Immigration Services (USCIS) to streamline the citizenship application process for servicemembers. In fact, we find that many servicemembers attain their citizenship while serving. President Bush's executive order allowing noncitizens to apply for citizenship after only 1 day of Active-Duty military service is still in effect.

Further, the NDAA for Fiscal Year 2004 permanently modified section 328 of the Immigration and Nationality Act, reducing the peacetime waiting period before application for citizenship from 3 years to 1 year of honorable Active-Duty service. Under current Department of Defense (DOD) policy, applicants may be granted emergency leave and priority on government transportation if needed to complete citizenship processing. The military also has initiated several new programs, including opportunities for those with language skills, which may hold particular appeal for noncitizens.

In addition, the 2004 NDAA eliminated all application fees for noncitizens in the military and allowed for the completion of citizenship applications to be extended to U.S. consulates, embassies, and overseas U.S. military installations effective October 1, 2004. Previously, Service personnel were urged to delay their applications until they were stateside, to avoid missed appointments with immigration officials or missed mailings.

Today, more than 40,000 noncitizens serve in the military (Active and Reserve) and about 8,000 permanent resident aliens enlist for Active-Duty every year. They serve worldwide in all Services and in a variety of jobs. They represent the United States both at home and abroad—even on the front lines in the global war on terrorism. Over 25,000 have earned citizenship while serving, and over 100 have made the ultimate sacrifice in war and have given their lives for this nation since September 11, 2001.

As you can see, noncitizens are a vital part of our country's military. Those who serve are patriotic, with over 80 percent completing their initial enlistment obligation, compared with 70 percent for citizens. noncitizen recruits continue to provide the Services with a richly diverse force in terms of race/ethnicity, language, and culture.

Section 1059 of the NDAA for 2006 also provided for up to 50 "Special Immigrant Translators" per year—a category afforded special treatment to recognize their sacrifices for national defense in Iraq and Afghanistan—to be granted lawful permanent resident status, along with their families. DOD and USCIS are currently implementing this provision.

According to an April 2006 study from the National Immigration Law Center, there are an estimated 50,000 to 65,000 undocumented alien young adults who entered the U.S. at an early age and graduate from high school each year, many of whom are bright, energetic, and potentially interested in military service. They include many who have participated in high school Junior Reserve Officers' Training Corps programs. Under current law, these young people are not eligible to enlist in the military, until and unless the armed services determine that it is vital to the national interest as provided by section 504.

If their parents are undocumented or in immigration limbo, most of these young people have no mechanism to obtain legal residency even if they have lived most of their lives here. Yet many of these young people may wish to join the military, and have the attributes needed — education, aptitude, fitness, and moral qualifications. In fact, many are high school diploma graduates, and may have fluent language skills—both in English and their native language. Provisions of S. 2611, such as the Development, Relief, and Education for Alien Minors Act, would provide these young people the opportunity of serving the United States in uniform.

In his May 15, 2006 speech setting forth his view on immigration reform, President Bush underscored the fact that certain illegal immigrants with long-established roots in America should have an opportunity to pursue citizenship:

> "I believe that illegal immigrants who have roots in our country and want to stay should have to pay a meaningful penalty for breaking the law, to pay their taxes, to learn English, and to work in a job for a number of years. People who meet these conditions should be able to apply for citizenship, but approval would not be automatic, and they will have to wait in line behind those who played by the rules and followed the law. What I've just described is not amnesty, it is a way for those who have broken the law to pay their debt to society, and demonstrate the character that makes a good citizen."

Thank you, this concludes my statement. I would be happy to answer any questions from the committee members.

Senator MCCAIN. Thank you.

General Pace, welcome.

STATEMENT OF GEN. PETER PACE, USMC, CHAIRMAN, JOINT CHIEFS OF STAFF

General PACE. Thank you, sir.

Senator McCain, thank you, sir, to you, and Chairman Warner, Senator Kennedy, Senator Graham, and Senator Martinez. This is truly a distinct honor for me to be with you today.

When I received the letter of invitation from Chairman Warner and Senator Levin, they were kind enough to say in their letter that if my schedule did not permit me to be here, that I could send a representative.

There is no place today that I would rather be than sitting here before you representing the thousands of U.S. servicemembers, both those who have become citizens through their service, and those who are seeking to become citizens. This is an incredible honor for me, both professionally and personally.

We have had thousands of servicemembers—since September 11, some 26,000-plus—who have served in our Armed Forces and have become citizens. Currently, we have another 3,800 who have applied, and that process is ongoing. We look forward to having the opportunity to swear them in as new citizens.

Just 14,000 in the last 2 years have become citizens through service to their country. Each year, over 8,000 non-U.S. citizens join our Armed Forces, and they bring with them an incredible diversity; intellectual diversity, cultural diversity, and an enormous amount of courage.

I know the second panel has one of the numerous Medal of Honor recipients who would like to have a chance to sit before you, and we do him great honor and respect by having him represent so many.

As you mentioned, Senator Kennedy, just shy of 200 awards, significant awards, have gone to non-U.S. citizens in this current war.

As was also mentioned, General Shalikashvili left Poland at age 16, came to the United States and became Chairman of the Joint

Chiefs of Staff. General Powell, who is the son of Jamaican immigrants; and now General Pace, son of an Italian immigrant.

This country has given to me and my family incredible opportunity. My dad came here, sometimes worked three jobs, but the jobs were there for him, and the opportunity was there for him. He and my mom together provided the opportunity to their four children.

My older sister earned a master's degree and a law degree. She got a law degree at age 60, just because she wanted to, and she could in this country.

My older brother went to the Naval Academy, spent 6 years in the United States Marine Corps, was twice wounded in combat, and earned the Silver Star medal. He is still my personal hero.

I've had an incredible run myself.

Our younger brother, Tom, earned his master's degree, a law degree, and is a very successful businessman. There is no other country on the planet that affords that kind of opportunity to those who come here.

I am still on active duty today for one primary reason, and that is, I still owe those who served with me in Vietnam.

I made a promise to Lance Corporal Guido Farinaro, a young man from Bethpage, New York, who had gone to Chaminade High School. Every other member of his class, to my knowledge, went to college.

Guido was a first-generation American, and Guido wanted to serve his country before he went to college. Guido was the first marine I lost in combat. I promised Guido that as long as I had the strength, I would serve this country.

He and so many others who have given their lives that we might hold these kind of hearings—as Chairman of Joint Chiefs of Staff, I sit in front of the Senate of the United States to answer questions—that we might do what we do here today and in Congress so often. We owe so much to so many of our immigrant families.

Lastly, Chairman Warner, you mentioned, sir, our Guard on the border. We are so proud of the National Guard. Last year alone, whether it was tsunami relief in Indonesia, hurricane relief along our coasts, earthquake relief in Pakistan, or currently all that they're doing to assist our southern border States, our Guard has simply performed magnificently.

Dr. Chu mentioned the numbers, and discussed what they're doing right now. I will not repeat that, but they are doing a fabulous job for our country.

It's a pleasure to be here in front of you gentlemen, and to answer your questions. Thank you.

Chairman WARNER [presiding]. I believe those who are now following these hearings, whether in this room or from afar, recognize why we decided as a committee to hold the hearing and to have you as our first witness, General.

I've known the General ever since the day I took the office as Secretary of the Navy. He was a young captain in the Marines, and he was at that ceremony that day, and we've been bonded ever since.

I cannot tell you the emotion I felt as you were speaking, and I apologize. I just received a call from the White House, again

stressing the importance of this hearing, from the National Security Advisor. I had to step out, but I was able to hear it, and I thank you, sir.

General PACE. Thank you, sir.

Senator MARTINEZ. Chairman Warner.

Chairman WARNER. Yes.

Senator MARTINEZ. I failed during my initial remarks to introduce a group that's here, and I think it's very relevant to the hearing, as well. It's a group of Cuban-American veterans who served our Nation honorably in the Armed Forces, and are now continuing to be very active in the community. They are here to watch our hearing today.

I want to give them a special welcome to our hearing.

Senator MCCAIN. Maybe they could stand.

[Cuban-American veterans recognized.]

Chairman WARNER. We'll now go to a 6-minute round of questions, and I'm going to ask Senator McCain to lead off with those questions.

Senator MCCAIN. Thank you very much, Mr. Chairman. Thank you, Secretary Chu, and thank you, General Pace, for being here today.

General Pace, all of us are very moved by your heartfelt statement.

Secretary Chu, have you spoken with servicemen who were working towards citizenship who have already earned their citizenship while serving?

Secretary CHU. Yes, sir, I have.

Senator MCCAIN. What reasons do they give for wanting to serve in the military and gain citizenship?

Secretary CHU. The first reason, typically, is they feel, just as General Pace's comments underscored, an obligation, a debt, a sense of service to this country. That tends to be often the principal reason.

They, of course, would like to regularize their citizenship; and, under expedited procedures now in effect, they can do so quickly.

Senator MCCAIN. General Pace, on July 4, I understand 76 soldiers serving in Iraq swore their oath of allegiance to become citizens of the United States. I've heard reports about ceremonies like this that have become a common occurrence in the combat theater.

How many soldiers, sailors, airmen, and marines typically earn their citizenship each month in the combat area?

General PACE. Sir, it's about 40 per month, usually in ceremonies like General Casey was able to conduct in Baghdad at the beginning of this month. There were 70-plus in Baghdad, some 60-plus in Afghanistan, but over the course of the last 2 years, it's averaged out about 40 per month, sir, in the combat zone.

Senator MCCAIN. What impact does this have?

General PACE. Sir, it has enormous impact. It just sends a thrill through your body when you stand there next to a fellow soldier or a marine, and you're in combat, and you see the energy and the difficulties of the duties that they're conducting; and, in the middle of all of that, they stand there, proud, and put their hand in the air and say, they love this country as much as anybody who was

born here. They want to serve it as honorably as anybody who was born here.

It just makes you proud, as an American citizen, to be able to open the doors and say, welcome, we are proud to be with you, and for them to say to you that they admire who you are, and they want to serve alongside you and be like you, it just energizes the whole unit to have that happen.

Senator MCCAIN. Thank you, General Pace. I hope that every American has an opportunity to have viewed your statement here today.

I thank you, Mr. Chairman.

Chairman WARNER. I thank you very much.

Senator Kennedy.

Senator KENNEDY. Thank you, both. I must say, General Pace, you had an enormously moving and real statement and comments, and you said it so well. We just hope that our colleagues in Congress that are concerned could listen to it, because it really is what the legislation is about. We thank you so much for your service to the country, and for continuing to meet that commitment to that young courageous soldier that you commented on.

General PACE. Thank you, sir.

Chairman WARNER. Might I suggest that for those members of Congress who weren't able to see it, those constituents that did see it should call and share with their member the sincerity of those remarks, and how those remarks are so heartfelt, not only to you, but families like yours all over this Nation.

General PACE. Thank you, sir.

Senator KENNEDY. That's why he's our chairman. I agree with him. Thank you.

Chairman WARNER. Thank you, Senator.

Senator KENNEDY. Let me ask General Pace several questions here. There are some commentators who wonder whether we should allow noncitizens to serve in the military. They question their loyalty. Some even go so far as to say that limiting military service to citizens would reduce desertions and treason. You've been in the armed services a long time, and have served with and commanded immigrants. Are they good, dependable soldiers? Are they good, dependable marines?

General PACE. Sir, they are extremely dependable. I can get you the precise numbers, but I do know from historical background that some 8, 9, or 10 percent fewer immigrants wash out of our initial training programs than do those who are currently citizens. Some 10 percent or more than those who are currently citizens complete their first initial period of obligated service to the country.

Senator KENNEDY. Those are important numbers, those completing the training course, and then completing their service, are impressive.

So, you've found that they're reliable and they're disciplined. Are they courageous in battle? You've been in battle, you've had every kind of position, as the chairman has pointed out in his introduction.

General PACE. Sir, they are reliable, they are courageous. As you have pointed out, or one of the senators has pointed out, more than

20 percent of those who have received our Nation's highest award for heroism in combat have been immigrants.

Not only are they courageous, but they bring, as I mentioned, and many of you have mentioned, a diversity, especially in a current environment where cultural awareness, language skills, and just the family environment from which they come, are so important to our understanding of the enemy and our ability to deal with them.

Senator KENNEDY. I'm going to come to that in just a moment, but Americans, therefore, shouldn't be concerned about their loyalty?

General PACE. They should not. That's correct, sir.

Senator KENNEDY. Have there been increases in desertions because of immigrants in the service?

General PACE. Not to my knowledge, no.

Senator KENNEDY. Now, on the issue of language ability and cultural understanding, our enemies don't speak or fight in English, at least the ones that we're involved in today.

I think you've mentioned this but can you elaborate just briefly on some of the special sorts of recruitment programs that the military offers to a person with a certain language skill, and how important that is in today's world? Where does that fit, in terms of a priority?

General PACE. Sir, it's a very high priority. In fact, the United States Army has a program that Dr. Chu mentioned, that deals with interpreters who are able to join the Army, and go forward with our units into combat and provide the very essential link of being able to talk, in a culturally aware way, with citizens in a town like Fallujah, Iraq, for example, where the understanding, not only of what's being said, but what's not being said, is so important. Only someone with cultural background can do that.

We have currently, I think it's 282 individuals who are in that program. We are looking, in all the Services, to entice others who would like to serve this country, to join, so we can take advantage of their very unique skills.

Senator KENNEDY. I was listening to Senator Martinez talk about 82 flags being here at the time of the graduation, and we're very mindful about where our service men and women are serving, in all kinds of different areas, different cultures and language; and to hear your stressing the importance of both language, training, and cultural understanding and awareness as being important is, I think, very significant.

Thank you, Mr. Chairman.

Chairman WARNER. Thank you very much.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

Are your parents still alive, General Pace?

General PACE. My mother is, sir. My father died when I was a lieutenant colonel.

Senator GRAHAM. I'm just imagining that she's bubbling over with pride; and I'm sure your dad's looking down, very proud, too. It was a great statement. I think it's what America is about. It's very hard to talk about your family, even if you're a marine. Marines cry, that makes you a stronger marine, not a weaker marine.

General PACE. When you have Italian blood in you, yes, sir, sometimes it wells up and grabs your heart.

Thank you, sir.

Senator GRAHAM. What percentage of the military is Hispanic? Do you know, Dr. Chu?

Secretary CHU. I would guess it is around——

Chairman WARNER. Perhaps you better not make a guess. If you can provide for the record an accurate number.

Secretary CHU. I'll provide that.

Senator GRAHAM. Do you know what percentage of the Marine Corps is Hispanic, General Pace?

General PACE. Sir, I do not. I could guess, but I'll get you the records, sir.

Senator MCCAIN. Could I ask, Dr. Chu, roughly what you think it is?

Secretary CHU. My belief is it would be on the order of 8 percent, or so; but I'll get you the exact numbers.

Chairman WARNER. I didn't hear it. What did he say?

Secretary CHU. Approximately 8 percent would be my recollection, but let me get you the exact numbers.

[The information referred to follows:]

Active Duty
Number of Hispanics
(May 2006)

Service	Freq	Total Active Duty Members	% Hispanic
Army	51,673	487,898	11%
Navy	43,703	349,301	13%
Marine Corps	24,075	178,190	14%
Air Force	19,105	347,758	5%
Total DoD	**138,556**	**1,363,147**	**10%**
Coast Guard	3,732	39,937	9%
Total	**142,288**	**1,403,084**	**10%**

Selected Reserve
Number of Hispanics
(May 2006)

Component	Freq	Total Reserve Members in the Selected Reserve	% Hispanic
Army National Guard	25,159	339,844	7%
Army Reserve	21,585	186,140	12%
Navy Reserve	7,129	70,632	10%
Marine Corps Reserve	5,130	39,226	13%
Air National Guard	6,211	105,150	6%
Air Force Reserve	5,154	74,924	7%
Total DoD	**70,368**	**815,916**	**9%**
Coast Guard Reserve	658	8,091	8%
Total	**71,026**	**824,007**	**9%**

Senator GRAHAM. The reason I mention that is, it's been my impression—growing up in South Carolina, it wasn't much of a Hispanic community, to be honest with you. The first Hispanic community I was associated with was in the Air Force. I guess we can tell stories here. I have the microphone, so I'll tell a story.

The first person I met, General Pace, when I got to active duty, was Dan Garza. I don't know if Dan's still out there, but he was the noncommissioned officer-in-charge (NCOIC) of our office. You could eat off his uniform. The guy was immaculate. He was the most prideful-looking military member I've seen yet.

He took a captain under his wing, and made sure I was not mistreated by the other NCOs on the base, which was very helpful to me. Through that association, I have found that there's so many different cultures that come into our military, but we're here talking, basically, about an illegal immigration problem that is disproportionately Hispanic.

My time in the military has convinced me that not only—whatever percentage it is, I have found no better group to serve with than our Hispanic members of the military.

I would dare say, General Pace, that some members of the Marine Corps who came here as children, or maybe were born here have parents who are undocumented.

Do you believe that's a reality?

General PACE. I do, sir.

Senator GRAHAM. What message would we be sending to those young marines if those of us in Congress with the power we have made their parents or grandparents felons?

General PACE. Sir, I don't know the exact message you would be sending to them; but I do know that those who are in uniform, fighting for the values of this country, would look to those in leadership to find an honorable path for those who would like to live here.

Senator GRAHAM. Thank you for your service.

General PACE. Yes, sir.

Senator GRAHAM. No further questions.

Chairman WARNER. Thank you very much.

Senator Martinez.

Senator MARTINEZ. Thank you, Mr. Chairman.

General Pace, I thank you very much for your statement and for your comments; and the same to you, Secretary Chu.

It was very moving to hear your comments about your family, General Pace, and what they went through in order for you to be able to do the things that you've been able to accomplish in your life. I, like you, am filled with a great sense of service and the need for giving back, which I know is much of the feeling that the veterans here today, and so many others in my community, feel.

I don't know which of you might know the answer to this, but I know that from time to time we have granted citizenship to those who have paid the ultimate price on the field of battle. I wonder if, whichever one of you wants to handle the question, could talk to us a little bit about that; how that is done, and how many, if you know.

General PACE. Sir, I'll start; and Dr. Chu can add, if he would like to.

We've had just over a hundred non-U.S. citizens die since September 11, in uniform, defending our country.

The process, then, is that their families are all then eligible for citizenship. If their families apply for citizenship, then that process is brought forward.

My understanding is that just over 70 of the families have applied, and those individual deceased servicemembers have been granted, citizenship posthumously.

I would ask Dr. Chu if he has anything further.

Secretary CHU. Yes. What's interesting is that they come from all over the world; a significant number from Latin America, I grant, but some from Africa, for example.

These upgraded procedures which Congress and the administration put in place have greatly facilitated this process. It extends, of course, the opportunity of citizenship to the families, as well. I think that is most gratefully received, a great step on the part of our Nation.

Senator MARTINEZ. Thank you, Mr. Chairman. I don't have any other questions.

Chairman WARNER. Thank you, Senator Martinez.

Senator KENNEDY. That isn't the only way, losing their life, to obtain citizenship if they're in the Service?

Secretary CHU. No, sir; you're absolutely right.

Senator KENNEDY. If you could finish the concept. So, if they're in the Service, and if they have their resident green card, or if they're permanent resident aliens, and in the military, or if they're in the Guard or Reserve, we ought to change that to permit individuals to be able to become citizens within a year, but they have to complete their Service.

Secretary CHU. Actually, sir, the 1-year period of service is the peacetime standard. Under the declaration of national emergency from the President, and his subsequent executive order on this point, any servicemember who is serving honorably, which means you only have to serve at least one day, may apply for citizenship.

The Customs and Immigration Service (CIS) has worked hard to improve the procedures through which they complete that application. The processing application itself has been cut down to approximately 60 days. It is possible now for a serving servicemember to complete his or her citizenship process in less than 1 year from initiation.

Senator KENNEDY. We waive the fees?

Secretary CHU. We waive the fees, also.

Senator KENNEDY. We also permitted them to be able to do that overseas, rather than having to return, so that they could be in combat at the time, and they would be able to do that overseas, even in areas which are in combat?

Secretary CHU. Yes, sir, that is correct. CIS—Dr. Gonzalez, can speak to this in his testimony—has further facilitated the process of doing the paperwork, and so forth.

Senator KENNEDY. I thank you. It's important that we've tried to express our appreciation to those service men and women who are going into combat, have been in combat, in danger—maybe not danger, but of going into combat, to be able to be treated fairly and equitably, and to have that service recognized; and I thank you.

Secretary CHU. Thank you.

Chairman WARNER. Thank you, Senator Kennedy.

This document was just been handed to me, prepared by one Ester Olavarria, who took her original papers here in the Freedom Tower.

Would you stand, please? I don't believe she's recognized.

Senator MCCAIN. She has the additional burden of having to work for Senator Kennedy. [Laughter.]

Chairman WARNER. We understand that your mother's proudly here to join us. We would thank you for coming.

All of us in the United States Senate are very grateful to our staffs. A number of our staffs came down last night to prepare for this hearing. So far as I know—I've just inquired—all of the mechanicals, the acoustics, and everything else, is working fine; and we thank the university here, and so forth.

These facts which were given to us, which I'll put in the record, are rather interesting: noncitizens killed in action during Iraq and Afghanistan: Army, 60; Marine Corps, 38; Navy, 3. Total, 101.

Active-duty citizenship status in the U.S. military as of May 2006: non-U.S. citizens, 23,127, 2 percent; officers, non-U.S. citizens, 291. Total, then, of non-U.S. citizens serving in our forces today, 23,418; roughly just under 2 percent.

America owes a great obligation, and what our duty is now is to make sure that we prepare the proper laws to enable this magnificent contribution to continue with regard to the Armed Forces of the United States.

This panel needs to return to the DOD. I'd ask my colleagues, are there other questions?

Senator MCCAIN. Mr. Chairman, I just had one question for General Pace.

General, the Guard is being dispatched to the border in various border States. Is that having any effect on Guard readiness, maintenance, and training? What's your view of this evolution that's taking place?

General PACE. Sir, I've talked at great length with the leadership of the Guard, to include, early this month, all the Guard Adjutants General gathered together in Williamsburg, Virginia. I spent a couple of hours with them.

This is not a readiness problem, sir. Having 6,000 out of some 400,000-plus Army and National Guard on the borders is not a readiness problem. In fact, it's a point of great pride to the National Guard that they were able to provide support to several authorities in those States.

Senator MCCAIN. The job that they're doing, are they prepared to do that?

General PACE. Sir, they are. Not only are they prepared to do it, but it actually enhances their skills, because they'll be doing the jobs that they're in the military to do.

This will be active duty for training, it will give them a chance to hone their skills, instead of doing it in their own home States, perhaps, just as an exercise, instead of being able to add value, as they are.

Senator MCCAIN. Thank you, Mr. Chairman.

Chairman WARNER. Thank you. I wanted to ask a follow-up question. The relationship between the Governor—and the Governor is, so to speak, the commander in chief of the Guard in his or her State, as the case may be—are those relationships working out, given you have several Governors in this equation?

General PACE. Sir, they have worked out. Inside of each State, there's a joint task force that's working for the Governor; and, then, as National Guard members from other States come into those States, there are memorandums of agreement between the Governors of the States that have established how they'll serve. That's all done before the first soldier gets on a plane or a bus to go.

Chairman WARNER. That's fine. Secretary Chu, a follow-up on that question. As you well know, you're trying to manage an unusual set of dynamics, in that many of these guardsmen are taking their normal, should we say, summer rotation, on to an active status. That could be 30 days or less, so, some of these people will come for short periods of time, which the general said is very valuable training, equal to that, which they could perform in their own States.

As a matter of fact, in my visits with the Guard on this, they say, so often during the summer we have to go out and build a bridge and then tear it down, because we have to clean up where we've been practicing. Here, we build a bridge, and the bridge stays up. Whatever is being done becomes a permanent part of the security system that we're putting in on the border.

Could you elaborate, first, on the rotation base, and the ability to handle that, and how those commissions are training them as well, if not better, and to some of the opportunities in their respective States or other training scenarios?

Secretary CHU. I'd be delighted to, sir. Let me take the second part first, the value of training.

As you've suggested, from the Guard perspective, it's so much more rewarding to be doing something that you think has a direct mission effect in sustaining the Nation. I think that's the core of what we offer here. To the enthusiasm that you see in the field on the part of the guardsmen and guardswomen, that's why they're so positive in their response.

To the first issue, some personnel will stay longer, and they will be volunteers. They will be, typically, in various pay statuses like that which we call active duty for special work. They'll provide, essentially, the cadre, the reception capability, the coordination of effort, the ongoing infrastructure, so to speak, for the larger mission. The majority will be coming in on short rotational periods, just as you described.

Chairman WARNER. Now, you're integrating that rotational base very carefully with those Guard units which have just returned from assignments in Iraq or Afghanistan, are you not, so as not to impact on the families and the guardsmen?

Secretary CHU. Yes, sir. As I emphasized, those who are staying longer will be volunteers. They will have made a choice that they would like to do this. A number of people would like to do this. It's another chance to contribute. The Guard is terrific in contributions it has been making to our country's interest, as I know you appreciate.

For those who are coming for the so-called summer training, we had already put into place right after the mobilizations of September 11, 2001, a hiatus, so to speak, after they return from Iraq or Afghanistan, or other deployments, before they again do their

monthly drills, and before they go back to so-called summer training. That is already a built-in part of our apparatus.

Chairman WARNER. I thank both witnesses. I'm going to forebear from asking a series of technical questions. I'll consider submitting in the record, and invite my colleagues here with me today, and other colleagues on the committee, to submit for the record questions regarding this important hearing between now and the close of business on Thursday, for the witnesses to give us written replies.

Gentlemen, we thank you very much for making this long trip down this morning and back to the DOD.

General, you have made history, sir. I say that as a former marine myself, and with deepest respect for you.

General PACE. Thank you, Mr. Chairman.

Chairman WARNER. Thank you, sir. We'll take a 4-minute stretch. [Recess.]

Thank you, ladies and gentlemen. We'll now have our second panel. I now invite this panel to come forward.

We welcome Dr. Emilio Gonzalez, Director of the United States Citizenship and Immigration Service (USCIS). That's his current post, but, prior to that, he had a distinguished career as an international affairs expert, and served 26 years on active duty in the United States Army after immigrating to the United States.

Following his military career, Dr. Gonzalez served as a national security and foreign policy advisor to President Bush, and was Director for Western Hemisphere Affairs on the National Security Council. Now, I just spoke to him, and may I add that one other bit of information that you just gave me about General Pace?

Go ahead.

Mr. GONZALEZ. Yes, sir. During the period where I served at the U.S. Southern Command, I was a Chief of Special Assistants for General Pace; so, I've had an opportunity to serve with the General upclose and personal, if you will.

What you saw today was the reason he is the Chairman of the Joint Chiefs of Staff. I've never come across a finer individual, a better officer, and a greater leader in the 26 years that I've served on active duty.

Chairman WARNER. Thank you, Doctor. I compliment you on your written statement, the historical perspectives that you offered about immigrant heroes in the revolutionary and civil wars, at the Alamo, at Pearl Harbor, in Vietnam, and Iraq; and specifically about Sergeant Rafael Peralta, who died in Fallujah while saving the lives of his fellow marines.

These wonderful historical perspectives are timely reminders of the role of immigrants in the Armed Forces, and their commitment to duty, honor, and country.

We welcome, also, Alfred Rascon, a very distinguished member of our United States military. He immigrated with his family from Mexico as a child, and enlisted in the Army in 1963.

He was belatedly—that is, many years after the fact—given a Medal of Honor by the President of the United States and your Nation—that was in 2000—for your heroic service as a combat medic with the 173rd Airborne Brigade in Vietnam in 1966.

After a career with the Department of Justice, and the Drug Enforcement Agency (DEA), and Immigration and Naturalization Services (INS), he was appointed as Director of the Selective Service in 2001.

Shortly after the attacks on September 11, however, as a U.S. Army reservist she voluntarily returned to active duty, and deployed to both Iraq and Afghanistan, motivating and supporting soldiers in the field. We thank you, and our Nation thanks you, Mr. Rascon, for your service.

We also welcome Professor Margaret D. Stock. Professor Stock is a graduate of Harvard and Radcliffe Colleges, the Harvard Law School, and the John F. Kennedy School of Government.

She served on active duty in the United States Army from 1986 to 1988, and has continued to serve in the U.S. Army Reserve, achieving the rank of lieutenant colonel, and now instructing in the Department of Social Services at the United States Military Academy at West Point.

Professor Stock has written extensively on immigration law and issues affecting immigrant military members who serve and those who wish to serve in the Armed Forces. Thank you all for joining us today.

Do you have any comments, Senator Kennedy?

Senator KENNEDY. No. I just welcome the panel.

Chairman WARNER. Any comments of my colleagues? If not, then we'll ask you to lead off, Director Gonzalez.

Your written statements—and all of you prepared excellent written statements—will be put into the record in the full text. So, there will be times for you to shorten some of your remarks, but knowing full well that the entire statement is in the record.

Thank you, Director.

STATEMENT OF EMILIO T. GONZALEZ, DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Mr. GONZALEZ. Yes, sir. Thank you, Mr. Chairman, Senator Kennedy, Senator McCain, Senator Graham, and Senator Martinez.

My name is Emilio Gonzalez, and I'm the Director of the United States Citizenship and Immigration Services. Thank you for the opportunity to appear before this Committee on Armed Services today to testify about the contributions of immigrant soldiers to our Nation's Armed Forces, and describe improvements to USCIS processes and operations designed to facilitate the expedient naturalization of immigrant servicemembers as new citizens.

As an immigrant to our country, and as a veteran of her Army, I can relate countless stories of what my service means to me, how it affected me personally, and positively shaped my life. However, my story is only one of many when compared to the more than 45,000 nonimmigrant soldiers, Active and Reserve, currently serving across the world, and the hundreds of thousands of immigrants who have served under the Stars and Stripes throughout our history.

The common bond that unites every soldier, sailor, airmen, and marine is a commitment to duty, honor, and country. Whether native-born, naturalized, or not yet U.S. citizens, servicemembers are unified not by common heritage, race, religion, or creed, but rather

by this universal code that builds character, breeds conviction, and encourages valor. The code has a way of superceding nationalities.

The placement of foreign-born and native soldiers together within a platoon, on a ship at sea, attached to an air squadron or a fire team, ensures that the only true measure of a fighting man or woman is their steadfast dedication to the mission and the reverence to the chain of command.

Throughout their military service, immigrants have gained valuable insight into the purest forms of our democracy, and gain an appreciation for the truly American values that allow any individual, regardless of social class or family pedigree, to achieve whatever heights he or she sets for themselves.

Immigrant servicemembers experience firsthand that the same standards that apply in combat, those of tenacity, grit, and toughness, are transferable to the pursuit of prosperity and success in the civilian world, as well.

This concept of the American dream is alive and well today within the Armed Forces. Record numbers of lawful permanent residents continue to enlist, spurred on by the promise of expedited citizenship; but, more importantly, a desire to earn their place in their new communities, and the prospect for a secure, stable, and successful military career.

By defending the Constitution, immigrant servicemembers gain an added respect for the enduring civic principles it guarantees: Those of freedom and opportunity for all men, equality before the law, respect and tolerance for differences, and the primacy of individual citizens, and their right to govern their Nation.

Assimilation, or the patriotic integration of immigrants into the civil fabric of our Nation, is one of the most complex challenges we face as a Nation, but also represents one of our most essential objectives.

Citizenship is not a simple benefit. The certificate of naturalization is not a handout. American citizenship is an invaluable distinction and privilege that involves much more than stamped paperwork and a printed certificate. Rather, citizenship is an identity that must be cultivated and nourished by the individual. It is a lifelong journey that begins with the first step an immigrant takes on American soil, and ends with their last breath.

We've made improvements at the USCIS to facilitate the naturalization of foreign-born soldiers, sailors, airmen, and marines.

The most recent improvements to the military and naturalization process became effective May 1 of this year. In collaboration with the Federal Bureau of Investigation and the DOD, USCIS instituted a change in our fingerprint process to better serve U.S. military personnel applying for naturalization.

Under this process, military members applying for citizenship sign a Privacy Act Statement and Release Authorization, explicitly consenting to the use of their fingerprints at the time of enlistment for immigration benefits purposes, rather than having to wait after they come back from deployment.

When deployments don't allow for State-side naturalizations, USCIS conducts overseas ceremonies for men and women serving at installations abroad.

Under the authority granted by the 2003 amendment, USCIS officials have volunteered—and I reiterate, they volunteered—to travel to Camp Anaconda in Afghanistan, Camp Victory in Iraq, they've stood on the deck of the U.S.S *Kitty Hawk* during exercises in the Sea of Japan, along the demilitarized zone (DMZ) in South Korea, and traveled from Iceland to Nairobi to naturalize almost 2,400 men and women who have earned the right to share in the liberties and freedoms they help to preserve.

In fact, 176 soldiers from almost two dozen countries took the oath of allegiance to become U.S. citizens at July 4th ceremonies in Afghanistan and Iraq. In total, USCIS has naturalized more than 26,000 service men and women since September 11, 2001, in the U.S. and overseas.

General Douglas MacArthur said, "The soldier, above all men, is required to perform the highest act of religious teaching, that of sacrifice."

I do not possess the ability to comprehend the suffering of losing a spouse, a child, or a parent to war, nor the eloquence to accurately describe the emotion I feel when I sign a posthumous naturalization certificate, but when I put pen to paper, the reality hits me that these individuals are no longer with us because they've made the ultimate sacrifice to this great Nation.

As a veteran, husband, parent, and the director of this great agency, I am proud and extremely honored to serve in supporting our military men and women and their families. As such, I'm committed to exhausting every effort to ensure that all military naturalization applications are processed expeditiously, so that servicemembers receive this honor on behalf of a grateful Nation.

I recently traveled to Fort Hood, Texas, to swear in 39 members of the Army's Third Corps, and I joined 150 sailors, marines, airmen, and coastguardsmen aboard the U.S.S. *George Washington* in Norfolk, Virginia, for their naturalization ceremony. Many of these brave men and women have recently returned from service in Iraq, and had already reenlisted for a second tour.

During my time in the Army, I've served under three Chairmen of the Joint Chiefs of Staff with immigrant roots. We have spoken about General John Shalikashvili, an immigrant from Poland, born of Georgian parents. General Colin Powell, our former chairman, and our current chairman, General Peter Pace, a friend and mentor. They are first-generation Americans.

America gave these men and their families home and hope, and they reciprocated with distinguished service, exceptional leadership, and boundless patriotism.

Closer to home, Captain Felix Sosa-Camejo followed a similar path. He came here to Miami as a 20-year-old refugee from Castro's tyranny and enlisted in the United States Army in 1963. He served on active duty for only 5 years, but Captain Sosa-Camejo earned 12 citations, including 2 Bronze Stars, 3 Silver Stars, and 2 Purple Hearts.

On February 13, 1968, in the heat of the Tet Offensive, on the streets of Hue, his lead platoon was pinned down by enemy fire and unable to reach a wounded comrade. With complete disregard for his safety, Captain Sosa-Camejo ran through intense enemy fire and pulled the wounded man to safety. This action would earn him

his second Bronze Star with a V-device, but it would also cost him his life.

The battlefield acts as the greatest equalizer amongst men. From the streets of Hue to the sandy alleyways of Fallujah, heroes were born of men who came to the United States, not as mercenaries, but as migrants. Men from Cuba who fought courageously alongside men from Indiana are buried together in Arlington, and each are equally regarded as Americans in memoriam.

It is the promise of equality and the hope for a better future that has encouraged immigrants over the years to enlist in our Armed Forces. The prospect of gaining citizenship has increased these ranks of brave men, but it's the lifelong commitment to duty, honor, and country that has shaped the will of men to lay down life and limb, and sacrifice for their adopted country and comrades in arms. These are qualities that can only be gained, I believe, through military service.

America is America because of its immigrants. We would not be the greatest country in the world were it not for our immigrant roots. Immigrants nourish the tree of liberty. They strengthen the social fabric. They strengthen everything that is good about America.

I would be remiss if I did not remind our outside visitors of what a wonderful city, what a diverse city we're sitting in today, the city of Miami. Over 60 percent of everybody in this city was born somewhere overseas. Sixty percent.

In this room, if I might embarrass them: we have our chief of police, who was born in Ireland, who came to this country in 1961; our mayor, Manny Diaz, who was born in Cuba, came in 1961; my Congresswoman, Ileana Ros-Lehtinen, also an immigrant; my Senator, Mel Martinez; and the first lady of my State.

Immigration is what made this country what it is; and, for me, it is a signal honor to be sitting here before you as an immigrant, heading the largest immigration service in the world.

Thank you for the opportunity to be here to testify about this important subject. This concludes my prepared remarks, and I would be pleased to take any questions later.

Thank you, sir.

[The prepared statement of Mr. Gonzalez follows:]

PREPARED STATEMENT BY EMILIO T. GONZALEZ

Mr. Chairman and members of the committee: My name is Emilio Gonzalez and I am the Director of U.S. Citizenship and Immigration Services (USCIS). Thank you for the opportunity to appear before the Armed Services Committee today to testify about the contributions of immigrant soldiers to our Nation's Armed Forces, and describe improvements to USCIS processes and operations designed to facilitate the expedient naturalization of immigrant servicemembers as new American citizens.

As an immigrant to our country, and a veteran of her Army, I could relate countless stories of what my service means to me, how it affected me personally and positively shaped my life. However, my story is only one of many when compared to the more than 45,000 noncitizen immigrant soldiers (Active and Reserve) currently serving across the world, and the hundreds of thousands of immigrants who have served under the Stars and Stripes throughout our history.

The common bond that unites every soldier, sailor, airman, and marine is a commitment to duty, honor, and country. Whether native born, naturalized, or not U.S. citizens at all, servicemembers are unified not by a common heritage, race, religion or creed, but rather by this universal code that builds character, breeds conviction and encourages valor. The code has a way of superceding nationalities. The placement of foreign-born and native soldiers together within a platoon, on a ship at sea,

attached to an air squadron or a fire team, ensures that the only true measures of a fighting man or woman is their steadfast dedication to the mission and reverence for the chain of command. Under fire, all other considerations are irrelevant.

The battlefield acts as the greatest equalizer amongst men. On the fields of Gettysburg, in the Argonne forest, on the beaches of Normandy, Iwo Jima, and Inchon, on the streets of Hue and along sandy alleyways in Fallujah, heroes were born from men who came to the United States not as mercenaries, but as migrants. Men from Ireland who fought courageously alongside men from Indiana are buried together at Arlington, and each are equally regarded as Americans in memoriam.

By learning from the example of their honorable service, our Nation has graciously welcomed immigrants from every corner of this earth and come to assign a high value to their aptitude for military service. This is not a new phenomenon. Soldiers of the Continental Army, whether native or immigrant, swore "to be true to the United States of America and to serve them honestly and faithfully."

A Polish and French-trained artillery and engineering officer, Thaddeus Kosciusko came to the United States to enlist in the fledgling Continental Army. According to a wonderful legend, Kosciusko presented himself before a tired General Washington, who was not quite sure what to do with another foreign volunteer lacking English skills. "I've come to fight for American independence," Kosciusko told Washington, so the legend goes. "What can you do?" Washington asked. The response was simple and profound. "Try me," responded the foreigner. Kosciusko served with distinction throughout the Revolutionary War making significant contributions to the successful American retreat from the battle of Ticonderoga and victory at Saratoga in 1777.

He later became a naturalized American and was promoted to Brigadier General by Congress. Thomas Jefferson would write of this soldier, "He was as pure a son of liberty as I have ever known."

It is this same "Try me" spirit seen again and again through the years that has brought us other immigrant veterans, anxious for the chance to prove themselves and contribute to their adopted nation. One of the founding fathers of our Navy, Admiral David Farragut, was the son of Jordi Farragut Mesquida, a Spanish—Catalan merchant captain from Minorca, who had joined the American Revolutionary cause and was a cavalry officer in the Tennessee militia. By the 1840s, almost half of all U.S. military recruits were not U.S. citizens, but rather immigrants enlisted right off the boat they came in on.

At the battle of the Alamo, 28 men, hailing from Ireland, Scotland, Wales, England, Germany, and Denmark, lost their lives on a barren Texas battlefield, thousands of miles from their European homelands. They crossed a line in the sand that day and chose to fight and die for their adopted land and independent rights. Today, their memory lives on, and has come to represent the strength of character and fighting spirit that defines our American identity.

During the Civil War, noncitizens constituted as much as 20 percent of the 1.5 million-man Union Army. Three hundred sixty-nine immigrant soldiers were awarded the Medal of Honor for their heroism in the Union cause, including Captain William Joyce Sewell of Ireland, who would later go on to become Senator Sewell of New Jersey, and was elected to two terms in office by his peers.

Through their military service, immigrants gain valuable insight into the purest forms of our democracy and learn an appreciation for the truly American values that allow any man, regardless of social class or family pedigree, to achieve whatever heights he sets for himself. Immigrant servicemembers experience first hand that the same standards applying to combat, those of tenacity, grit and toughness, are transferable to the pursuit of prosperity and success in the civilian world as well.

This concept of the American Dream is alive and well today within the U.S. Armed Forces. Record numbers of lawful permanent residents continue to enlist, spurred on by the promise of expedited citizenship, a desire to earn their place in their new communities and the prospect of a secure, stable, and well-compensated military career.

One hero who followed this distinctly American path was born in a Balkan village called Prolog, now in western Bosnia. Peter Tomich was 20 years old when he came here in 1913, with nothing but opportunity in his pocket.

He decided to join the Navy, and on December 7, 1941, Chief Watertender Peter Tomich was below deck on the U.S.S. *Utah,* stationed at Pearl Harbor. At the age of 48, he had 22 years of naval experience, having served longer than many of the senior officers he served under. The Navy was his life, and Chief Wartertender Tomich forged his own American identity in the literal melting pot of the engine boiler rooms aboard the steam-propelled dreadnoughts of the Pacific Fleet.

Just before 8 a.m. on that fateful December morning, two Japanese torpedoes struck the Utah and the ship began to list heavily to port. Below deck, in the engineering plant, water rushed towards the huge boilers. Tomich, ever mindful of his crew, ran in to warn them of the danger and relayed the order to evacuate. Knowing that the boilers would explode if not properly secured, he ignored his own evacuation order and set himself to the job that had to be done.

As the crewman began up the ladders and headed for daylight above, they turned one last time to watch their Chief. He calmly moved from valve to valve, setting the gauges, releasing steam pressure, stabilizing and securing the huge boilers that otherwise would have turned the entire ship into a massive inferno. His time for escape had run out. But before the ship rolled over, he completed his mission and prevented an explosion that would have killed hundreds of men trying to swim to safety.

For his "distinguished conduct and extraordinary courage" Peter Tomich was awarded the Medal of Honor.

Felix Sosa-Camejo followed a similar path. He came here, to Miami, as a 20 year-old refugee from Castro's regime and enlisted in the Army in 1963. Serving for 5 years, Captain Sosa-Camejo earned 12 citations, including the Bronze Star, 3 Silver Stars, and 2 Purple Hearts. On February 13, 1968, in the heat of the Tet Offensive on the streets of Hue, his platoon was pinned down by enemy fire and unable to reach a wounded comrade. With disregard for his safety, Captain Sosa-Camejo ran through the intense enemy fire and pulled the wounded man to safety. This action would earn Captain Sosa-Camejo his second Bronze Star and would cost him his life.

Fast forward to Iraq. November 15, 2004. A platoon scout assigned to perimeter security, 25-year-old Marine Sergeant Rafael Peralta of Alpha Company, 1st Battalion, 3rd Marine Regiment, 3rd Marine Division volunteered to go door to door through the streets of Fallujah with an assault team. Peralta could have stayed back, as this was not his assignment, but it wasn't in this hero's nature to let his brothers fight without him.

Peralta was born in Mexico, joined the Marines the day after he became a lawful permanent resident and earned his citizenship while on Active-Duty. He was serving his first tour in Iraq on that day in November, when he led a stack of six marines through a suspected terrorist hide out. In the ensuing fire-fight, Sergeant Peralta was shot in the face and chest as he burst into a closed room and fell into the line of fire. When four marines maneuvered into the room where he lay wounded, one of the terrorists tossed a grenade landing close to Peralta. In his final moments, he pulled the grenade close to him, smothered its blast with his body, and saved the lives of his fellow marines.

"Be proud of being an American . . . I'm going to do something I always wanted to do," Peralta wrote to his brother Ricardo, 14, in a letter that arrived home the day after he died. A true American hero, Sergeant Rafael Peralta has been recommended for the Medal of Honor.

General Douglas MacArthur said, "The soldier, above all other men, is required to perform the highest act of religious teaching-sacrifice." Peter Tomich and Rafael Peralta made the ultimate sacrifice in the name of their adopted country, giving their lives to save those of their fellow countrymen. Their heroic actions are testimony to the profound patriotism of those immigrants who chose to serve, and die, for our great Nation.

By fighting to defend the Constitution, immigrant servicemembers gain an added respect for the enduring civic principles it guarantees: those of freedom and opportunity for all men, equality before the law, respect, and tolerance for difference, and the primacy of individual citizens and their rights to govern the Nation.

Assimilation, or the patriotic integration of immigrants into the civic fabric of our Nation, is one of the most complex challenges we face as a nation and also represents one of our most essential objectives. Citizenship is not a simple benefit. The Certificate of Naturalization is not a hand out. American Citizenship is an invaluable distinction and privilege that involves much more than stamped paperwork and a printed certificate. Rather, Citizenship is an identity that must be cultivated and nurtured by the individual. It is a life-long journey that begins with the first step an immigrant takes on American soil and ends with their last breath.

It is quickly understood that those immigrants who volunteer to serve in our Armed Forces are more easily integrated into our Nation, foster a greater attachment to our national and political institutions, and are transformed into committed and loyal Americans who voluntarily accept the obligations and responsibilities of citizenship.

Before turning to what we at USCIS are doing in the area of military naturalization, it may be useful briefly to summarize our current authorities. Congress re-

cently clarified, in section 504 of title 10, U.S. Code, the eligibility of noncitizens to enlist for military service. In brief, lawful permanent resident aliens, certain nationals of three Pacific nations in free association with the United States (the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau), and any other person "if the Secretary [of the armed service] concerned . . . determines that such enlistment is vital to the national interest", are eligible to enlist in the Armed Forces.

Once in the military, there are a number of special provisions of the Immigration and Nationality Act (INA) for servicemembers and veterans that modify the eligibility requirements for naturalization as a U.S. citizen that otherwise apply. The most relevant of these currently is section 329 of the INA, which authorizes the naturalization of any person who is honorably serving, or has honorably served during any period of armed conflict designated by the President without having previously to be a lawful permanent resident alien or to satisfy any requirements relating to period of residence or physical presence in the United States (in particular, the general requirement otherwise in the INA that a person has to have been a lawful permanent resident for 5 years before being eligible for naturalization). By Executive Order on July 2, 2002, President Bush designated the period beginning on September 11, 2001 and continuing until further notice as such a period of armed conflict for the purposes of INA section 329. In November 2003, Congress provided us with some additional useful military naturalization authorities, in particular, the authority to naturalize servicemembers outside the United States. Additionally, the statute provided for the waiver of processing fees for military naturalization.

Under the direction of the President, USCIS is taking steps to ensure that the application process for immigrant servicemembers is convenient, quick, and secure. In order to expedite processing, we established a specialized unit at our Nebraska Service Center where all up-front processing on military naturalization takes place. Specialists within USCIS Field Offices and Headquarters have been selected to handle military naturalization packets. Many consider this responsibility a privilege and an honor, and do all that they can to ensure that applications are processed and completed, in as many cases as possible, before these brave men and women are deployed to combat zones overseas. In all of our military naturalization efforts, we work very closely with our Department of Defense (DOD) counterparts.

The most recent improvement to the military naturalization process became effective May 1, 2006. In collaboration with the Federal Bureau of Investigation (FBI) and the DOD, USCIS instituted a change in our fingerprint process to better serve U.S. military personnel applying for naturalization. Under this improved process, military members applying for naturalization may sign a Privacy Act Statement and Release Authorization Form, explicitly consenting to the use of the fingerprints provided at time of enlistment for immigration benefits purposes, rather than having to appear at one of our Application Support Centers post-deployment to provide a new set of fingerprints. Furthermore, if we are aware of an impending deployment, we expedite FBI name checks for soldiers.

This new procedure applies to all noncitizen members of the U.S. Armed Forces seeking naturalization and eliminates a significant obstacle that previously delayed some military naturalization cases. But sometimes, we can't process the applications quickly enough.

I do not possess the ability to comprehend the suffering of losing a spouse, child or parent to war, nor the eloquence to accurately describe the emotion I feel when signing a posthumous naturalization certificate. When I put pen to paper, the reality hits me that they are no longer with us because they have made the ultimate sacrifice for this nation. The experience leaves me without words. As a veteran, a husband, a parent, and the Director of USCIS, I am proud and extremely honored to serve this agency in supporting our military men and women and their families.

As such, I am committed to exhausting every effort to ensure that all military naturalization applications are processed expeditiously so that servicemembers receive this honor on behalf of a grateful Nation. I recently traveled to Fort Hood, Texas, to swear in 39 members of III Army Corps, and joined 150 sailors and marines on the U.S.S. *George Washington* for their naturalization ceremony while stationed at Norfolk. Many of these brave men and women had recently returned from service in Iraq, and had reenlisted for a second tour.

When deployments don't allow for stateside naturalization, USCIS conduct overseas ceremonies for men and women serving at U.S. installations abroad. Under authority granted by the 2003 Amendment, USCIS officials have volunteered to travel to Camp Anaconda in Afghanistan and Camp Victory in Iraq, stood on the deck of the U.S.S. *Kitty Hawk* during exercises in the Sea of Japan, along the demilitarized zone in South Korea, and traveled from Iceland to Nairobi to naturalize almost 2,400 service men and women who have earned the right to share in the liberties

and freedoms they help to preserve. In fact, 176 soldiers from almost two dozens different countries took the oath of allegiance to become U.S. citizens at July 4 ceremonies in Afghanistan and Iraq.

In total, USCIS has naturalized more than 26,000 service men and women since September 11, 2001 in the U.S. and overseas.

USCIS also actively engages in conducting outreach to military personnel interested and eligible in becoming citizens. USCIS Community Liaison Officers regularly visit military installations to answer questions and help with citizenship paperwork. At the national level, USCIS is launching an extensive public outreach effort targeting service men and women who may be eligible to naturalize. The efforts include local outreach initiatives, the development and dissemination of educational materials, a USCIS military brochure and media efforts designed to reach this constituency both in the United States and overseas.

During my time in the Army, I served under three Chairmen of the Joint Chief's of Staff with immigrant roots. General John Shalikashvili, Chairman from 1993 to 1997, was an immigrant from Poland, born of Georgian parents. General Colin Powell and our current Chairman, General Peter Pace, are first-generation Americans themselves.

America gave these men, and their families, home and hope and they reciprocated with distinguished service, exceptional leadership and boundless patriotism. Their success proves that our Nation is a land of unlimited opportunity, and their loyalty and valor prove that immigrants deserve every opportunity to contribute to our national defense.

It is the promise of equality and the hope for a better future that has encouraged immigrants over the years to enlist in our Armed Forces. The prospect of gaining citizenship has increased these ranks of brave men and women. But it is the lifelong commitment to Duty, Honor and Country that has shaped the will of men to lay down life and limb, and sacrifice for their adopted country and comrades in arms. These are qualities that can only be gained through military service.

Thank you for the opportunity to be here today to testify about this important subject. This concludes my prepared statement, and I would be pleased to take any questions you may have at this time. Thank you.

Chairman WARNER. Thank you very much, Director Gonzalez. This is a memorable moment for all of us, but I think particularly for you. Given this is not the capstone for your career, many things are to come, but this is certainly a day that you will remember, too.

Now, Mr. Rascon, we're awaiting your testimony.

STATEMENT OF ALFRED RASCON, FORMER DIRECTOR, SELECTIVE SERVICE

Mr. RASCON. Senator Warner, thank you very much for having me here. Senator McCain, Senator Kennedy, Senator Graham, Senator Martinez, it's a great honor to be here. I have a short prepared speech here, and I'll get with it, and we'll get finished with it.

Chairman WARNER. There's no hurry. We owe a great deal to you, and to so many like you who have shown that extraordinary courage on the battlefield such that we can be here today enjoying the freedoms that we enjoy every day.

Mr. RASCON. Thank you, sir. I am Alfred Rascon, one immigrant of approximately 3,450-plus, or 20 percent of the service men and women to have been presented the Medal of Honor, the highest citation for valor.

At the time of the action leading to the Medal of Honor, I was not yet a citizen, but a legal permanent resident. I fought in Vietnam twice; I was in Operation Just Cause in Panama in 1989; in 2003, in Iraq and Afghanistan; and again in Iraq in 2004.

I left my subcabinet-level position with the Bush administration to join my fellow soldiers recalled to active duty, when I could have been exempt because of my position as Director of the Selective Service.

My fellow soldiers in Vietnam simply knew me as Al or Doc. These men that fought with me, and died beside me, never asked anything of my legal status in the United States.

Oddly enough, when presented the Medal of Honor in 2000, some 34 years after the action, the members of my paratrooper reconnaissance platoon at the ceremony were startled to learn that I was born in Mexico and was not yet a citizen of the United States, or, in fact, that I was of Mexican descent.

When bullets were flying, little was asked of your birthplace. Those receiving incoming bullets never asked anything, or were they even involved with equal opportunity. Equal opportunity was equal opportunity death.

We served in the American Revolution under many names like Cargill, O'Malley, Richardson, Hinkle, Gustav, to that of Gonzalez and Johnson.

We were the first Inspector General of the Continental Army. We were present at the American Revolution. We were there when it started, and we were there when it finished.

I was born in Chihuahua, Mexico, and raised in the United States from an early age in childhood in Oxnard, a small town in Southern California.

By the fact that I was seen as a "wetback," or other not-so-nice names, I made it a point to learn and know more about this Nation's rich heritage than many of my citizen friends. I simply loved my adopted country.

Ironically, my neighbors were of Japanese-American descent. I learned to speak Japanese before I spoke English. I was a little boy to them, who showed no adverse actions to how they looked or what they ate. I was just their neighbor.

I was to learn later that the father of that family, along with his mother and family, had been interned in a relocation camp during World War II, but he was not bitter. He ended up joining the military in World War II, and fought with the 442nd Regimental Combat Team, the highest decorated military regiment in the United States Army.

We many thousands of past and present proud immigrants to this great country did not have the choice of choosing our place of birth or choice of parents. We did have the choice to be called immigrants by birth and Americans by choice. We were always Americans in our hearts.

We immigrants who serve and are today in the Armed Forces of the United States of America continue to honor and serve to defend whatever is asked of us in keeping our country—our country—free, or to go where we're asked for freedom.

We are all byproducts of immigrants, or descendents of them, with the exception of our great American Indians. We are a Nation of immigrants who will fight to the death to protect this great Nation, and we will never be brought to our knees by any nation or any terrorists, and we will fight for freedom. Thank you very much.

Chairman WARNER. Thank you very much. Another moment in history today, your testimony. Thank you very much.

Professor Stock.

STATEMENT OF MARGARET D. STOCK, ASSOCIATE PROFESSOR OF CONSTITUTIONAL AND MILITARY LAW, UNITED STATES MILITARY ACADEMY

Ms. STOCK. Senator Warner and distinguished senators of the committee, my name is Margaret Stock. I am honored to be here today in my capacity as an expert in the fields of immigration, constitutional, military, and national security law.

For the past 5 years, I have served on the faculty of the Department of Law at the United States Military Academy at West Point, New York. In my capacity as a lieutenant colonel in the Military Police Corps in the United States Army Reserve, I'm currently assigned as an associate professor in the Department of Social Sciences at West Point.

The statements, opinions, and views I express today, however, are my own, and do not reflect the views of the United States Military Academy, the Department of the Army, the DOD, or any other Government agency.

As I mentioned previously, I have served for the past 5 years on the faculty at West Point. During my service on the West Point faculty, and through the legal assistance officers of the Judge Advocate General's Corps (JAGC), I have advised military members and civilian employees of the DOD with regard to U.S. immigration and citizenship matters.

Prior to joining the West Point faculty, I was an attorney in private practice, and, over the years, I assisted numerous military members and their families with U.S. immigration matters. Thus, I have more than 10 years of experience with the issues and problems that military members and their families face with regard to U.S. immigration and citizenship law.

I'm honored to be appearing before you today to discuss immigrants and the U.S. military. This hearing could not be more important or timely, because it comes as our Nation is engaged in an important debate over how we should reform our immigration laws.

This debate comes as we are fighting a global war on terrorism, with an enemy who speaks many languages, travels internationally, and attempts to fight our forces here at home and across the globe.

Immigrants play a vital role in this struggle, and the outcome of the debate over reform of our immigration laws will have a dramatic impact on our ability to prevail in the global war on terrorism.

We need comprehensive immigration reform to win the war on terrorism. An "enforcement only" approach, the approach that we have essentially been pursuing unsuccessfully for the past 10 years, will continue to hurt our ability to recruit and retain immigrants for the Armed Forces. "Enforcement only" will also continue to add significant stress to military families, as many of our military families include family members who are legally present in the United States, and others who are not.

Currently, many military members fighting overseas find that they must also fight their government at home, when that government seeks to deport their parents, their spouses, their children, and other family members. While recruiting for the Armed Forces continues to be a challenge, military recruiters daily turn away

high-quality, American-educated young people who would make excellent recruits, but who lack lawful permanent resident status and have no means to attain it.

Comprehensive immigration reform, especially if it includes the bipartisan Development, Relief, and Education for Alien Minors (DREAM) Act, will enhance our ability to obtain high-quality recruits for the United States Armed Forces.

Comprehensive reform will also reduce the cost to our military families of hiring lawyers and dealing with the stress of trying to stop the deportation of their family members.

It's important to note that the current state of immigration law is poor, and only promises to get worse unless Congress enacts comprehensive reform. The current immigration system is an obstacle to enhancing our security because it is dysfunctional and irrational.

The most apt description of the state of our immigration laws comes from former INS spokesperson, Karen Kraushaar, who said, as reported in the Washington Post, that U.S. immigration law is a mystery and a mastery of obfuscation.

As military members encounter these laws and this system, they often experience the same difficulties and frustrations that civilians experience. They must deal with the complex system that requires years of study to understand and a system that makes it nearly impossible for many people to immigrate legally to the United States, unless, perhaps, they have the funds to hire one of the rare attorneys who knows how to navigate the system successfully.

In the military, military members often turn to the JAGC for advice and assistance with their immigration matters, but few JAG attorneys have the expertise needed to help them with anything more than the most simple immigration matters. Often, then, they must turn to private sector immigration attorneys; but, in many places where military members are deployed, lawyers with the necessary expertise are not to be found, or may be too expensive for military members to afford.

Congress has done much in recent years to try to help noncitizen military members become citizens more quickly. I applaud this effort which has been highly beneficial to the U.S. Armed Forces in allowing them to obtain and retain qualified enlisted personnel and officers. Yet, changing the law regarding citizenship or naturalization of military members is not enough, and not always enough. In navigating the very complex bureaucratic immigration system, even having the law on your side doesn't always guarantee success.

By way of example, I want to offer today the case of Private Abbas Malik, a U.S. Army soldier currently serving in Baghdad. He does roadside checkpoints in the infantry.

Private Malik was born in Pakistan, speaks fluent English and Urdu, and immigrated to the United States when he was a child. He joined Junior Reserve Officers Training Corps in high school, and, after high school, attempted to join the Army. He was turned away by recruiters at first, because he was on the waiting list for a green card, but he did not have it yet.

When he finally obtained his green card, he immediately enlisted in the infantry in 2003. As soon as he reported for basic training, he applied for his U.S. citizenship, as the law allows him to do,

and, yet, more than 2 years later, he still does not have his U.S. citizenship; not because he's not qualified for it, or because the law stands in his way, but because he's not been able to navigate the system successfully.

At every step of the way, he has encountered a chain of command and legal assistance officers who are not familiar with the procedures to speed him towards citizenship.

I want to note that USCIS has attempted to help him, but he's had some problems getting fingerprints overseas, and so his case has languished.

Today, although Private Malik would like to volunteer for elite units serving in Afghanistan and elsewhere, where his Urdu language ability would be useful. He cannot, because he lacks U.S. citizenship.

I mention this case as just one example, but my experience has been that military members face similar obstacles in many parts of the immigration process, and not only in their attempts to obtain citizenship.

They face consular officers who deny their family members visas, because the consular officers say that the DOD pay scale is too low, and the military members will not be able to support their families on their military pay.

They face Department of Homeland Security (DHS) officials who deny their spouses benefits because the military members have been deployed and are unable to attend interviews, or because the military members have moved and DHS has not yet updated their address in the system. Often, their only recourse is to seek congressional assistance.

Problems like these can be resolved with appropriate training of immigration officials, more resources, and perhaps some reorganization of the process; but some problems can't be solved without comprehensive legal immigration reform.

A very serious problem today is the fact that many military family members cannot become legal under the current immigration system. Some have entered the U.S. illegally and cannot adjust their status; some have overstayed a visa; most cannot leave the United States for fear of triggering a 3-year, 10-year, or permanent bar from the United States; and even their U.S. citizen spouses, who are lawful permanent spouses, cannot help them to overcome those barriers.

A guest worker program alone will not help many of these military family members. "Enforcement only" means that these military family members face exile in a foreign country, and the U.S. military may eventually lose the U.S. military member, who may not want to continue to serve in the United States Military when his or her family has been banished to Mexico, the Philippines, or some other faraway place. Without legal reform, these problems cannot be resolved.

Finally, this committee should be aware that the Pentagon has learned from a recent study by the Center for Naval Analyses that noncitizens, on average, offer many benefits to the U.S. Military.

The report notes that noncitizens are more diverse than citizen recruits, not just racially and ethnically, but also linguistically and

culturally. This diversity is particularly valuable as the United States faces the challenges of the global war on terrorism.

Second, noncitizens do extremely well in the military. In fact, black, Asian, Pacific Islander, and Hispanic noncitizens have 3-month attrition rates that are 7 to 8 percentage points below those for white citizens. Furthermore, noncitizens have 36-month attrition rates that are 9 to 20 percentage points lower than the attrition rates of white citizens.

There are additional figures and numbers in that report that are very useful for painting a picture of the value that noncitizens give to the United States military today.

When the Pentagon recruits a noncitizen for the military, the bottom line is, it tends to get a better bang for its recruiting buck. Because current law theoretically allows noncitizens to get virtually instant citizenship by joining the U.S. military, assuming they meet all the other requirements, and serve honorably, there are no legal barriers to encouraging noncitizens to join.

Comprehensive immigration reform—and, in particular, the bipartisan DREAM Act—will help provide more of these high-quality recruits at a time when our Nation needs them more than ever.

That concludes my prepared remarks, and I'm ready to take your questions.

[The prepared statement and additional inserts of Ms. Stock follow:]

PREPARED STATEMENT BY MARGARET D. STOCK

Mr. Chairman and distinguished members of the committee, my name is Margaret Stock. I am honored to be here in my capacity as an expert in the fields of immigration, constitutional, military, and national security law. For the past 5 years, I have been a professor in the Department of Law at the United States Military Academy at West Point, New York. In my capacity as a Lieutenant Colonel in the Military Police Corps, U.S. Army Reserve, I am currently assigned as an Associate Professor in the Department of Social Sciences at the Military Academy. The statements, opinions, and views I express today are my own, however, and do not represent the views of the United States Military Academy, the Department of the Army, the Department of Defense (DOD) any other Government agency.

As I mentioned previously, I have served for the past 5 years on the faculty at West Point. During my service on the West Point faculty, and through the Legal Assistance officers of the Judge Advocate General's (JAGs) Corps, I have advised military members (and civilian employees) of the DOD with regard to U.S. immigration and citizenship matters. Prior to joining the West Point faculty, I was an attorney in private practice, and over the years I assisted numerous military members and their families with U.S. immigration matters. Thus, I have more than 10 years experience with the issues and problems that military members and their families face with regard to immigration and citizenship law.

I am honored to be appearing before you today to discuss immigrants and the U.S. military. This hearing could not be more important or timely because it comes as our Nation is engaged in an important debate about how we should reform our immigration laws. This debate comes as we are fighting a global war on terrorism, with an enemy who speaks many languages, travels internationally, and fights our forces here at home and across the globe. Immigrants playa vital role in this struggle, and the outcome of the debate over reform of our immigration laws will have a dramatic impact on our ability to prevail in the global war on terrorism.

We need comprehensive immigration reform to win the global war on terrorism. An "enforcement only" approach—the same approach that we have essentially been pursuing for the past 10 years—will continue to hurt our ability to recruit and retain immigrants for the Armed Forces. "Enforcement only" will also continue to add significant stress to military families, as many of our military families include family members who are legally present in the United States, and others who are not. Currently, many military members fighting overseas find that they must also fight their own government at home, as that government seeks to deport their parents,

spouses, and children residing in the United States. While recruiting for the Armed Forces continues to be a challenge, military recruiters daily turn away high-quality young people who would make excellent recruits but who lack lawful permanent resident status and have no means to attain it. Comprehensive immigration reform—especially if it includes the bipartisan Development, Relief, and Education for Alien Minors (DREAM) Act—will enhance our ability to obtain high-quality recruits for the United States Armed Forces. Comprehensive reform will also reduce the cost to our military families of hiring lawyers and dealing with the stress of trying to stop the deportation of their family members.

It is important to note that the current state of immigration law is poor, and only promises to get worse—unless Congress enacts comprehensive reform. The current immigration system is an obstacle to enhancing our security because it is dysfunctional and irrational. The most apt description of the state of our immigration laws comes from former Immigration and Naturalization Service spokesperson Karen Kraushaar, who said that U.S. "immigration law is a mystery and a mastery of obfuscation." As military members encounter these laws and this system, they often experience the same difficulties and frustrations that civilians experience. They must deal with a complex system that requires years of study to understand-a system that makes it nearly impossible for many people to immigrate to the United States legally unless they have the funds to hire one of the rare attorneys who knows how to navigate the system successfully. In the military, they often turn to the JAG Corps for advice and assistance with their immigration matters—but few JAG attorneys have the expertise to help them with anything more than the most simple immigration matters. Often, then, they must turn to private sector immigration attorneys—but in many places where our military members are deployed, lawyers with the necessary expertise are not to be found, or may be too expensive for military members to afford.

Congress has done much in recent years to try to help non-citizen military members become citizens more quickly. I applaud this effort, which has been highly beneficial to the U.S. Armed Forces in obtaining and retaining qualified enlisted personnel and officers. Yet changing the law is not always enough; in navigating the very complex bureaucratic immigration system, even having the law on your side does not always guarantee success. By way of example, I offer the case of Private Abbas Malik, a U.S. Army soldier currently serving in Baghdad. Private Malik was born in Pakistan, speaks fluent English and Urdu, and immigrated to the United States when he was achild. He joined Junior Reserve Officers' Training Corps (ROTC) in high school, and after high school, attempted to join the Army. He was turned away by recruiters at first because he was on the waiting list for a green card, but did not have it yet. When he finally obtained his green card, he immediately enlisted in the infantry—in 2003. As soon as he reported for basic training, he applied for his U.S. citizenship, as the law allows him to do. Yet more than 2 years later, he still does not have his U.S. citizenship—not because he is not qualified for it, or because the law stands in his way, but because he has not been able to navigate the system successfully. At every step of the way, he has encountered a chain-of-command and legal assistance officers who are not familiar with the procedures to speed him towards citizenship. Today, although Private Malik would like to volunteer for elite units serving in Afghanistan and elsewhere, where his Urdu language ability would be useful, he cannot because he lacks U.S. citizenship.

I mention this case as just one example—but my experience has been that military members face similar obstacles in many parts of the immigration process, and not only in their attempts to obtain citizenship. They face consular officers who deny their family members visas because the consular officers say that the DOD payscales are too low to allow the military members to support their families; they face Department of Homeland Security (DHS) officials who deny their spouses benefits because the military members have been deployed and are unable to attend interviews, or because the military members have moved and DHS has not updated their address in the system. Often their only recourse is to seek congressional assistance.

Problems like these can be resolved with appropriate training of immigration officials, more resources, and perhaps some reorganization of the process. But some problems cannot be solved without comprehensive legal reform. A very serious problem today is the fact that many military family members cannot become legal under the current immigration system. Some have entered the United States illegally and cannot adjust their status; some have overstayed a visa; most cannot leave the United States for fear of triggering a 3-year, 10-year, or permanent bar to their return. A guestworker program alone will not help many of these military family members. "Enforcement only" means that these military family members face exile in a foreign country—and the U.S. military may eventually lose the U.S. military

member, who may not want to continue to serve in the United States military when his or her family has been banished to Mexico, the Philippines, or some other far away place. Without legal reform, these problems cannot be resolved.

Finally, this committee should be aware that the Pentagon has also learned—from a recent study by the Center for Naval Analyses—that noncitizens, on average, offer many benefits to the U.S. military. The report notes that noncitizens are "more diverse than citizen recruits—not just racially and ethnically, but also linguistically and culturally. This diversity is particularly valuable as the United States faces the challenges of the global war on terrorism. Second, . . . noncitizens do extremely well in the military. In fact, black, Asian and Pacific Islander (API), and Hispanic non-citizens have 3-month attrition rates that are 7 to 8 percentage points below those for white citizens. Furthermore, non-citizens have 36-month attrition rates that are 9 to 20 percentage points lower than the attrition rates of white citizens." (Non-Citizens in Today's Military: Final Report, April 2005, at 1)

So, when the Pentagon recruits a noncitizen for the military, it tends to get a better bang for its recruiting buck. Because current law theoretically allows noncitizens to get virtually instant citizenship by joining the U.S. military and serving honorably, there are no legal barriers to encouraging noncitizens to join.

Comprehensive immigration reform—and in particular, the bipartisan DREAM Act—will help provide more of these high-quality recruits at a time when our Nation needs them more than ever.

RESEARCH BRIEF—CENTER FOR NAVAL ANALYSES
http://www.cna.org/news/releases/researchbriefs.aspx

Non-citizens in Today's Military

Anita U. Hattiangadi, Aline O. Quester, Gary Lee, Diana S. Lien, and Ian MacLeod with David L. Reese and Robert Shuford

EXECUTIVE SUMMARY

The U.S. military offers many opportunities to a growing population of young immigrants, who could help fill current gaps and meet future needs. But despite a large pool of roughly 1.5 million potential non-citizen recruits, there are obstacles to their recruitment. The military services require that at least 90 percent of its recruits have a high school diploma, and many recent immigrants have not completed high school. Limited English proficiency among non-citizens can be another challenge.

Increased security concerns since September 11 may also restrict the military's ability to enlist non-citizens, undermining even the best efforts of recruiters. Policymakers have worked to enhance existing incentives, but there is still more they can do.

Despite these potential obstacles to their service, non-citizen service members offer a variety of benefits to the military:

- **Increasing Numbers of Potential Recruits**

Today's foreign-born U.S. population is the largest in history, accounting for 11.7 percent of the population in 2003 (up from 9.3 percent in 1995). Immigrants will fuel much of the growth in America's youth population. About a third of the world's population is currently under age 15, and the overwhelming majority lives in developing countries. Because many will have difficulty finding work in their native countries, large numbers of young adults emigrate—either alone or with families—with many choosing the United States as their destination. Of the 16 million foreign-born people who came to the United States between 1990 and 2002, almost a quarter were under age 21.

HISTORY

Legal permanent residents of the United States have been eligible to enlist in the military since the Revolutionary War. Almost half of Army enlistees in the 1840s were immigrants, and between 1862 and 2000, more than 660,000 military veterans became citizens through naturalization. Today, about 35,000 noncitizens serve in the military and about 8,000 enlist every year.

▸ **Diversity of Recruitment Pool**

Legal permanent residents (LPRs), or green card holders, are more racially, ethnically, linguistically, and culturally diverse than citizen recruits. This is valuable on many levels, particularly at a time when the military is addressing the challenges of fighting terrorism.

▸ **Military Career Success**

Non-citizen service members have a long track record of military success. Non-citizens, once they have joined the military, are also far more likely to complete their enlistment obligations successfully than their U.S.-born counterparts. Thirty-six month attrition rates for non-citizens are between 9 and 20 percentage points lower than those for white citizens, the largest demographic group in the military.

Just as non-citizen recruits offer distinct opportunities for the military, military service offers distinct opportunities for recruits, particularly in clearing the path to citizenship.

Policy changes since September 11, 2001—including an executive order that allows non-citizens to apply for expedited citizenship after only one day of active duty and provisions in the 2004 defense authorization bill that ease the way to citizenship—may encourage noncitizens to consider military service.

The military services and the U.S. Citizenship and Immigration Services (USCIS) also have worked together to streamline the citizenship application process for service members, and the military has initiated several programs, including creating opportunities for translators, that may hold particular appeal for non-citizens.

While the demand for non-citizen recruits is strong, the market is constrained because green card holders may not have high school diplomas or speak English sufficiently well to meet enlistment standards.

Recommendations for Improving Non-citizen Recruitment

Although policy changes have made applying for citizenship while serving in the military simpler, more convenient, and more attractive for non-recruits, more can be done.

To facilitate recruitment and retention of non-citizens in the military, the Department of Defense should:

- Provide military recruiters with more information for non-citizen recruits by developing materials for applicants and new recruits that explain eligibility for expedited citizenship, the advantages of filing for citizenship while in the military, and the benefits of attaining citizenship.

- Consider more structured, installation-based assistance that would help non-citizen service members and their dependents with the citizenship process.
- Investigate, through the Office of the Secretary of Defense, whether more uniform treatment of noncitizens across the military services is needed.

ANALYSIS

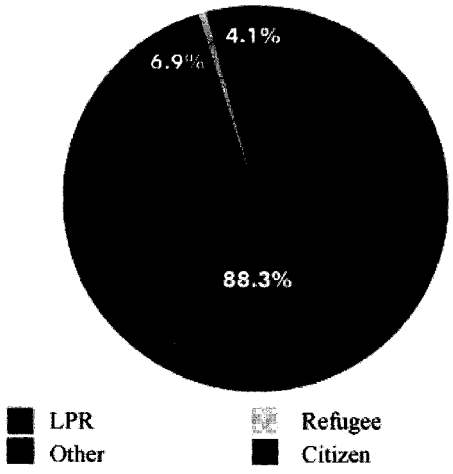
Tapping the Pool of Non-citizen Recruits

In fiscal year 2004, the U.S. government spent about $2.7 billion to recruit 182,000 active-duty enlisted service members.

Most immigrants will not be U.S. citizens, but many will become legal permanent residents, which makes them eligible to enlist in the Armed Forces and which has created a pool of potential recruits that has expanded significantly over the years. For example, from 1973 to 2002, an estimated 21.5 million people obtained LPR status, with more than 1 million immigrants becoming LPRs in 2002 alone.

The chart below shows the population of "recruitable age" (18 to 24) by citizenship status. Although most of these people are citizens, about 4.1 percent are LPRs, which translates to roughly 1.5 million potential recruits.

18-24 Year Old Population
4.1% = 1.5 Million Potential LPR Recruits



Note: Estimates by Dr. Jeffrey Passel, Urban Institute, based on data from March 2000-2003 Current Population Surveys.

Roughly 8,000 non-citizens enlist in the military every year. The Defense Manpower Data Center estimates that about 35,000 non-citizens currently serve in the active military, with an additional 12,000 serving in the Guard and Reserve.

The Navy has the largest number of non-citizens. In 2003, 15,880 non-citizens were Sailors, 6,440 were Marines, 5,596 were Army soldiers, and 3,056 were enlisted in the Air Force.

Although non-citizens constitute a relatively small share of new recruits and of America's overall military force, their proportion is expected to increase, in part because of the projected growth in the U.S. youth population over the next two decades as a result of immigration.

Additional factors that may increase the numbers of non-citizen recruits include the valuable linguistic and cultural diversity benefits that non-citizens bring to the services at a time when the United States is waging the war on terrorism, as well as interest in expedited citizenship opportunities available via military service to non-citizens.

In this environment, the Office of the Secretary of Defense and the services should be cognizant of opportunities as well as challenges they may face in recruiting non-citizens, especially in areas where security concerns may limit certain job opportunities.

Recent Policy Changes as Inducements to Enlist

Non-citizens who become citizens reap such benefits from military service as the right to apply for security clearances and to receive substantial bonuses for language skills. Citizenship also opens the door to a broader array of jobs and opportunities within the military, and confers all basic rights of being an American, such as:

- The right to vote
- Automatic granting of citizenship to dependent children
- Ability to sponsor family members living overseas
- Special naturalization or LPR preference for a service member's immediate family
- Free entry and exit from the United States
- The right to hold public office (excluding the presidency).

In addition, since September 11, 2001, policymakers have implemented several changes that confer more benefits to non-citizen recruits, and that may encourage more non-citizens to consider military service:

- An executive order, issued by President Bush in July 2002, allows non-citizens serving in the U.S. military to apply for expedited citizenship after only one day of active-duty service.
- The 2004 National Defense Authorization Act (NDAA) reduced the peacetime waiting period for citizenship application, allowing applicants to be granted emergency leave and priority government transportation to complete citizenship processing. It also eliminates all application fees for non-citizen service members and allows for military citizenship applications to be finalized at U.S. consulates, embassies, and overseas U.S. military installations.
- The military services and the U.S. Citizenship and Immigration Services (USCIS) also have worked together to streamline the citizenship application process for service members. We find that many non-citizen service members apply for and obtain their citizenship while in the military.
- Posthumous citizenship, granted to an alien or non-citizen national who dies as a result of injury or disease incurred on active duty, traditionally was an honorary status and did not convey any benefits under the Immigration and Nationality Act to any relative of the deceased. Provisions in the fiscal 2004 defense authorization law, however, now stipulate that the service member's immediate family—spouse, children, and parents—get special preference for immigration purposes. Immediate families of non-citizens are normally subject to long waiting periods and annual quota restrictions for immigration, but this special provision waives these quotas and expedites the process. Immediate family members who do not have LPR status may get it based on the deceased service member's newly granted citizenship. In

short, the new provisions effectively place the immediate family on the same footing as those of naturalized U.S. citizens.

Policy Differences Among the Services

Military policy is generally uniform across the services, but in matters of recruitment, reenlistment, and use of non-citizen service members, the policies of each service branch differ.

It may be time for the Department of Defense (DoD) to explore whether more uniform treatment of non-citizens across the military services is needed. If, for example, the Air Force would like to grow a more diverse force, it may want to reexamine its re-enlistment restrictions.

A REEXAMINATION OF RESTRICTIONS

DoD manages non-citizen policy through an arm of the Office of the Secretary of Defense, which coordinates with the USCIS office in Nebraska. Overall DoD policy for the services stems from this interagency coordination. Each branch of the military is tasked with providing a point of contact for service members applying for expedited citizenship, but no further direction is given to the services as to how to best provide assistance. The Navy and Marine Corps have delegated the duty to their JAG Officers and civilian lawyers, whereas the Air Force and Army have delegated the process to their personnel commands.

Navy - The Navy requires each naval command to appoint a representative for citizenship processing, and also requires that Sailors reporting to a new command be advised of the expedited process available to them. Non-citizen applicants are briefed on their eligibility for expedited citizenship by their recruiters. Basic policy is formulated in the Legal Assistance Policy Branch at the Navy Yard in Washington, D.C., and disseminated to all commands.

Marine Corps - The Marine Corps centrally manages the process of naturalizing non-citizens. Each major command has a Staff Judge Advocate and a citizenship coordinator to assist Marines with their applications, and legal assistance can track the status of applications. The Legal Administrative Manual provides guidance. In conjunction with the personnel division of the Marine Corps, the JAG Division at Marine Corps headquarters sends quarterly e-mails to non-citizens notifying them of their eligibility for the expedited process. Alien applicants are informed of the option during their pre-enlistment brief. The JAG division estimates that it processes about 900 applications annually and that most are approved within 6 months (down from a previous average of approvals taking 2 years).

Army - The Army handles naturalization of non-citizen Soldiers through military personnel offices at each command. Army JAGs do not typically get involved with the process, as they do in the Navy and Marine Corps. Recruiters advise and counsel non-citizen recruits on the expedited citizenship process available to them. The Army Public Affairs Office has distributed information on expedited citizenship to Spanish-language newspapers.

Air Force - The personnel branch of the Air Force is required to distribute a USCIS brochure on citizenship to all non-citizens, produce a quarterly listing of all non-citizens assigned to the base, report information to headquarters about those who have filed applications by quarter so that processing times can be tracked, and brief Airmen on Air Force rules and occupational restrictions relating to non-citizens and the naturalization process.

Differing Reenlistment Standards

The reenlistment standards for non-citizens also differ among the services. The Navy and Marine Corps have no statutory restrictions on the reenlistment of non-citizens, although the ability to obtain a security clearance may become a practical restriction beyond a certain point. The Army allows non-citizens to serve 8 years, either consecutive or not, which coincides with the 8-year universal military service obligation incurred by every military enlistee. The Air Force limits non-citizens to one enlistment term of either 4 or 6 years and requires them to get their citizenship to reenlist.

Top Ten Birth Countries of Enlisted Non-citizens

1. Mexico	**6. Haiti**
2. Philippines	**7. Colombia**
3. Jamaica	**8. South Korea**
4. Dominican Republic	**9. Trinidad and Tobago**
5. El Salvador	**10. Peru**

Occupational Obstacles for Non-citizen Recruits

The biggest practical limitation on non-citizens in the military is the ability to obtain a security clearance, which currently requires U.S. citizenship. Many military jobs require a clearance for entry and/or promotion.

The services have different needs in terms of billets and proportions of their force that require clearances. The Marine Corps and the Army have relatively fewer Military Occupational Specialties (MOSs) and a lower proportion of the force requiring security clearances, while the Air Force has a relatively higher number and proportion of billets requiring clearances. In fact, the Air Force estimates that only 40 career fields are open to non-citizens.

Even MOSs that do not require a security clearance may require one for particular billets. For example, Marines in the Infantry MOS do not need security clearances, but they may need them to be placed in a Security Guard billet.

Occupational Opportunities for Non-citizens with Varied Language Skills

The military is in greater need of personnel with varied language capabilities. Although the military can train recruits, language lessons are intensive and time-consuming. Language teachers estimate, for example, that it takes 2 to 3 years for an English speaker with no prior familiarity with Arabic to become fluent.

The services are exploring a number of language initiatives. The Army, for example, has developed a program to attract citizen and non-citizen speakers of a variety of languages, with the goal of producing soldiers who can work as translator's aides, a position that does not require a security clearance.

As part of the program, the Army has relaxed certain enlistment requirements, including age and English proficiency. Recruits who are not proficient in English undergo intensive English language training for up to 6 months.

Most of the program's enlistees are non-citizens; at the end of their training, they are offered assistance and an expedited application process if they wish to apply for citizenship.

ADDRESSING SECURITY CONCERNS

Although there is a clear demand in the military for those with foreign language ability, particularly those fluent in Middle Eastern languages, there are a number of concerns about accessing native speakers, including security concerns about recruits from countries that are considered hostile. Because of these concerns, the language initiatives are proceeding carefully.

The list below shows the number of speakers within the DoD population of languages that DoD has determined will be important in future years:

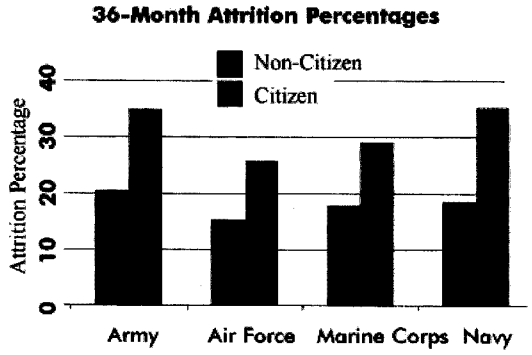
+ Arabic/3,686
+ Chinese/2,157
+ Farsi/892
+ Philippine/5,391
+ Hindi/197
+ Indonesian/289
+ Korean/3,462
+ Kurdish/2
+ Russian/4,125
+ Serb-Croat/956
+ Spanish/48,337
+ Turkish/311

Source: Major BJ Sanchez, "Department of Defense: Our Language Capability," DoD Briefing, April 8, 2004.

Non-citizen Military Success

How do immigrants do once they have enlisted in the armed forces? We gauge successful adaptation to military life by the completion of entry-level training (i.e., boot camp) and the first term of service, and we measure these attainments by the lack of attrition.

We first looked at 3-month and 36-month attrition in a simple cross-tabulation of the data. Three-month attrition rates were 5.9 percent for non-citizens and 10.9 percent for citizens.



Notes: Data from Department of Defense's Defense Manpower Data Center, FY 1995 - FY 2000 accessions.

We then used regression analysis to estimate 36-month attrition for more than one million recruits who enlisted between fiscal years 1995 and 2000. The attrition rate for citizens was 32.2 percent, nearly twice the rate of attrition for non-citizens, which was 18.7 percent.

Black, Asian and Pacific Islander (API), and Hispanic non-citizens are predicted to have 3-month attrition rates that are 7 to 8 percentage points below those for white citizens, the largest demographic group in the military. All else being equal, other non-citizens who are white or not included in the above-cited groups are predicted to have 3-month attrition rates of 3.3 percent and 5.8 percentage points below those of white citizens. Only Native American non-citizens (a very small group of Canadian Native Americans) have higher attrition rates than white citizens.

In short, when the race/ethnic backgrounds of non-citizens are included in the non-citizen definitions, the marginal effect on attrition from non-citizen status increases. The majority of non-citizens are Hispanic or API; all else being equal, these two categories of non-citizens have 3-month attrition rates that are less than half the rate for white citizens.

Conclusion

Non-citizens are a vital part of the U.S. military, and have been since the Revolutionary War. Demographic trends and new incentives (including new language programs and expedited citizenship) make it likely that the number of non-citizens within the military's ranks will grow. Non-citizen recruits will provide the services with a more richly diverse force, not only racially and ethnically, but also in terms of language and culture.

We find that non-citizens do remarkably well in the military—both throughout boot camp and in the first term of service—and that the effects are strong and statistically significant. Many pursue citizenship while in the military, and this is positively correlated with retention. If the obstacles to recruitment can be overcome, non-citizens can provide the military with a rich pool of diverse recruits who have significant potential to succeed. ■

This Research Brief represents the best opinion of CNA at the time of issue.

11 Bender's Immigration Bulletin 63 January 15, 2006

THE DREAM ACT: TAPPING AN OVERLOOKED POOL OF HOMEGROWN TALENT TO MEET MILITARY ENLISTMENT NEEDS

by Margaret D. Stock

Participants at the third annual Marine Advanced Technology Education Center's Remotely Operated Vehicle (ROV) Competition were shocked when four illegal aliens from Mexico—part of an ill-funded high school team from a rundown Hispanic neighborhood in West Phoenix, Arizona—beat sophisticated competitors from the Massachusetts Institute of Technology and several other U.S. colleges to win a national competition to build the best underwater robot.[57] Luis Aranda, Cristian Arcega, Lorenzo Santillan, and Oscar Vasquez—all of whom had been living in the United States illegally since they were children—won not only the overall award, but also the design award and the technical writing award. Judges, including one from the U.S. Navy's Office of Naval Research, were so impressed by the team's accomplishments that they created a special judge's recognition award for the four young men.

Winning this prestigious technical competition, however, could not help these talented high school students with a greater problem: Because of their lack of immigration documents, these young men are unlikely to benefit the United States with their technical abilities. Although they have been educated at taxpayer expense in U.S. public secondary schools, none of these young men can attend a U.S. college or even legally get a job in the United States. In fact, despite his Junior ROTC experience and obvious smarts, when Oscar Vasquez tried to enlist in the U.S. military, he was told that his illegal alien status barred him from joining.[58]

Experts estimate that there are currently more than half a million young men and women in this same situation, and more than 65,000 more graduate each year from U.S. high schools.[59] Under current U.S. immigration law, they have no means of legalizing their status. To allow the United States to benefit from the talents of those like Oscar Vasquez and his teammates, in 2003, Senator Orrin Hatch (R-Utah) introduced the "Development, Relief, and Education Act for Alien Minors" ("the DREAM Act").[60] The DREAM Act would legalize young undocumented aliens who have been present in the United States since childhood, graduated from a U.S. high school, and stayed out of trouble with the law. Although the DREAM Act failed to pass during the 108th Congress because of election year concerns, many of its sponsors continue to push the bill, and it was introduced as Senate S.2075 on November 18, 2005. The concept has bipartisan support, and has attracted more than two hundred cosponsors from both sides of the political aisle.

Although opponents of the DREAM Act have argued that it is a "sugar-coated amnesty" rewarding those who have violated U.S. immigration laws, passage of the DREAM Act would be highly beneficial to the United States military. The DREAM Act promises to enlarge dramatically the pool of highly qualified recruits for the U.S. Armed Forces. In a time when several military services are experiencing difficulties recruiting eligible enlisted soldiers, passage of this bill could well solve the Armed Forces' enlisted recruiting woes and provide a new source of foreign-language-qualified soldiers. Because the DREAM Act requires no change to military rules for enlisting recruits and allows the military to tap into an overlooked pool of homegrown talent, the Department of Defense should support passage of the DREAM Act.

America's news media have recently reported the heartbreaking stories of potential DREAM Act beneficiaries. In addition to reports about the winners of the ROV contest, the media have reported on such illegal residents of the United States as Kamal Essaheb, a twenty-four-year-old Fordham Law honors student from Morocco whose parents overstayed their visas when he was eleven;[61] Alan Morales, a California high school honors student and varsity volleyball player who has been in the United States since he was ten months old;[62]

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[1] Joshua Davis, *La Vida Robot*, Wired, 13.04 (April 2005), *available at* http://www.wired.com/wired/archive/13.04/robot_pr.html.

[2] *Id.*

[3] *See infra* note 9.

[4] The Development, Relief, and Education for Alien Minors Act of 2003 ("DREAM Act"), S. 1545, 108th Cong. (2003). A similar bill, the Student Adjustment Act, was introduced in the House by Representative Chris Cannon (R-Utah). H.R. 1684, 108th Cong. (2003).

[5] Daniella Gerson, *Fordham Student Inspires Immigrants Backing Passage of DREAM Act*, N.Y. Sun, July 14, 2005, at 4.

[6] American Immigration Lawyers Association, Issue Paper:

Marie Gonzalez, a nineteen-year-old Costa Rican resident of Missouri who came to the United States at the age of five and was recently named one of the top ten women of the year by *Latina* magazine;[63] and Griselda Lopez Negrete, a sixteen-year-old Presidential Scholar from South Carolina who has been here since she was two.[64] These are just a few of the hundreds of stories about potential DREAM Act beneficiaries reported in the media in the past few years.

According to the Pew Hispanic Center, more than 750,000 such young people are residing in the United States today, many of them brought here by parents or smugglers when they were infants or toddlers.[65] Although the United States Supreme Court, in the case of *Plyler v. Doe*,[66] said that illegal alien children present in the United States have a constitutional right to attend United States public schools until high school graduation, these children cannot expect to hold a job or go to college after they complete their taxpayer-funded education. Instead, if they are discovered by the Department of Homeland Security, DHS will deport them to their "home" country, even if it is a country they cannot remember and where they have no friends, family, or support network.

Recognizing that it makes little sense to deport these U.S.-educated children to countries where they have no memories or ties, Senator Hatch and others proposed the DREAM Act. To qualify for benefits under the DREAM Act, an alien must have come to the United States while under the age of fifteen, and must have lived here for at least five years. A DREAM Act beneficiary must be of "good moral character" and must have completed high school in the United States.[67] Upon applying for benefits under the DREAM Act, an alien will be granted six years of "conditional lawful resident" status; during that time, the alien must (1) graduate from a two-year college; (2) complete at least two years towards a four-year college degree; or (3) serve honorably in the United States military for at least two years.[68] At the end of the six years, if the alien has continued to show "good moral character," the alien will be granted permanent lawful resident status without conditions.[69] Because attending college is a very expensive proposition, the third option—joining the US Armed Forces—is a likely option for many of the affected young people, hundreds of whom have already demonstrated an interest in joining the U.S. military.

As discussed above, experts estimate that there are upwards of 750,000 young people in the United States today who may be eligible for benefits if the DREAM Act passes, and about 65,000 are added to the pool every year.[70] They are part of the group of more than eight million undocumented or illegal aliens present in the United States today,[71] of which at least 1.6 million are undocumented children.[72] As young people who have just graduated from high school, DREAM Act beneficiaries are in the age cohort of people whom the Armed Forces seek to recruit.[73]

Potential DREAM Act beneficiaries are also likely to be a military recruiter's dream candidates for enlistment; they are not "bottom of the barrel" recruits even if they have no legal status. They have lived in the United States for at least five years, unlike new lawful permanent residents whom the military currently enlists. They have no adult period of residence in a foreign country, which might make a background check difficult for security clearance purposes. They often speak both English and another language fluently. Many have participated in Junior ROTC in high school. They do not have criminal records or other evidence of bad character. They have graduated from a U.S. high school. If approved as DREAM Act beneficiaries, they will have passed rigorous criminal background and security checks from the Department of Homeland Security. They will have "conditional lawful residence," a status that is recognized under current military recruiting regulations; thus, the military will not have to change its regulations or process their enlistments differently from other recruits. Finally, they will be motivated to serve the United States so as to be given a chance to stay here:

DREAM Act—Student Adjustment for Deserving Children (Wash., D.C., 2005).

[7] Brian DeBose, *Alien still hopes for DREAM Act*, Wash. Times, July 5, 2005, at A10.

[8] AILA, *supra* note 6.

[9] Jeffrey Passel, Pew Hispanic Center, Unauthorized Migrants: Numbers and Characteristics; Background Briefing Prepared for Task Force on Immigration and America's Future (Wash., D.C., June 14, 2005).

[10] 457 U.S. 202 (1982).

[11] S. 1545, 108th Cong. (2003).

[12] *Id.*

[13] *Id.*

[14] Jeffrey Passel, Urban Inst., Further Demographic Information Relating to the DREAM Act (Wash., D.C., October 21, 2003).

[15] Ruth Wasem, Cong. Research Serv., Report No. RS21938, Unauthorized Aliens in the United States: Estimates Since 1986 (Sept. 15, 2004).

[16] Jeffrey Passel, Randy Capps, & Michael Fix, Urban Inst., Undocumented Immigrants: Facts & Figures (Wash., D.C., January 12, 2004).

[17] Anita Hattiangadi, Aline Quester, Gary Lee, Diana Lien, & Ian MacLeod, Center for Naval Analyses, CRM D0011092.A2/Final, Non-Citizens in Today's Military: Final Report (April 2005) (discussing characteristics of noncitizens of "recruitable age").

> [They] include honor roll students, star athletes, talented artists, homecoming queens, and aspiring teachers, doctors, and U.S. soldiers. They are young people who have lived in the U.S. for most of their lives and desire only to call this country their home. Even though they were brought to the U.S. years ago as children, they face unique barriers to higher education, are unable to work legally in the United States, and must live in constant fear of detection by immigration authorities.[74]

The DREAM Act is a particularly attractive legislative option because several of the military services have experienced difficulty enlisting new soldiers in recent months. In March 2005, the Army reported missing its enlistment goals for the first time in five years, the Marine Corps reported similar troubles, and "five of the six military reserve components failed to meet their recruiting goals for the first four months of" FY2005.[75] These recruiting shortfalls are expected to grow over the coming years, making it particularly important for the U.S. Armed Forces to consider all options to attract qualified recruits. If the DREAM Act passes, the Armed Forces will not need to resort to lowering enlistment standards—as has allegedly happened recently—to meet recruiting goals.[76]

Interestingly, current laws regarding military enlistment do not prohibit the Armed Forces from enlisting even *illegal* aliens in wartime. Title 10, United States Code, section 3253 states, "*In time of peace*, no person may be accepted for original enlistment in the Army unless he is a citizen of the United States or has been lawfully admitted for permanent residence. . . ."[77]

The obvious inference from this statutory language is that qualified aliens of any kind can enlist in the Army in time of war. The Air Force is governed by a similar statute.[78] There is no statute limiting enlistment in the Regular Navy and Marine Corps, but those services usually apply the same citizenship requirements as the Army and Air Force.

Congress has also made it clear in other statutes that it expects illegal aliens to serve in the military if necessary. Under the Selective Service law, all male aliens aged eighteen to twenty-six, including illegal aliens, who reside in the United States, are required to register for Selective Service and subject themselves to the draft, if one is instituted.[79]

Finally, Congress long ago also passed another law, section 329 of the Immigration and Nationality Act,[80]

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[18] National Immigration Law Center, DREAM Act: Basic Information (Feb. 2005), *available at* http://www.nilc.org/immlawpolicy/DREAM/DREAM_Basic_Info_0205.pdf.

[19] Eric Schmitt, *Army Officials Voice Concern Over Shortfalls in Recruitment*, N.Y. Times, Mar. 4, 2005, at 16.

[20] Damien Cave, *Army Recruiters Say They Feel Pressure to Bend Rules*, N.Y. Times, May 3, 2005, at 23.

[21] 10 U.S.C. §3253 (2005). Similar rules and laws govern enlistment in the Air Force, Navy, and Marine Corps, although the Navy and Marine Corps are not statutorily barred from enlisting all categories of aliens, even in time of peace. *See* Dep't of Defense Directive 1304.26, Qualification Standards for Enlistment, Appointment, & Induction, E1.2.2.1 (Dec. 21, 1993) (``To be eligible for enlistment in the Regular Army or Air Force, an individual must be an American citizen, or lawfully admitted to the United States for permanent residence (10 U.S.C., 3253 and 8253 ...). There is no equivalent statute limiting enlistment in the Regular Navy and Marine Corps, but they usually apply the same citizenship requirements as those required for the Army and Air Force."). Army Reserve enlistments are governed by 10 U.S.C. § 12102 (2003) (``no person may be enlisted as a Reserve unless--(1) he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or (2) he has previously served in the armed forces or in the National Security Training Corps."). The National Guard has sometimes allowed aliens to enlist despite their lack of lawful permanent resident status, and several states permit ``able-bodied aliens'' to enlist in the state militia.

[22] 10 U.S.C. §8253 (2005).

[23] 50 U.S.C. Appx § 453 (2005). The Selective Service Act states (emphasis added):

> (a) Except as otherwise provided in this title, it shall be the duty of every male citizen of the United States, and *every other male person residing in the United States*, who, on the day or days fixed for ...registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined. ... The provisions of this section shall not be applicable to any alien lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States.

Clearly, this means that any illegal or undocumented male alien must register for the draft.

[24] Section 329 of the Immigration & Nationality Act [8 U.S.C. §1440] states:

> (a) Requirements. Any person who, while an alien or a noncitizen national of the United States, has served honorably in an active-duty status in the military, air, or naval forces of the United States . . during any [] period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile

which gives the President authority to proclaim when the nation is engaged in armed conflict such that any aliens who are serving honorably in the military can obtain their U.S. citizenship, regardless of their immigration status, if they are otherwise qualified. No declaration of war is necessary to invoke this authority. Presidents have long invoked this statute to bestow citizenship benefits on illegal aliens serving in the military in wartime, and President George W. Bush did so on July 3, 2002, when he proclaimed that all aliens who have served honorably in the U.S. Armed Forces after September 11, 2001, shall be eligible to apply for expedited U.S. citizenship, regardless of their immigration status.[31] His order covered illegal aliens, several of whom subsequently naturalized.[32]

In the Global War on Terrorism, however, military recruiters have been enlisting only illegal aliens who present false papers showing that they are citizens or lawful residents. The Department of Defense appears to be officially unaware that it has statutory authority to enlist all aliens who are qualified, regardless of their immigration status. Recruiters have been turning away even legal aliens who have been granted asylum in the United States, accepting only those immigrants who have "lawful permanent residence." It appears that there is a disconnect between the statutory authority given to the Department of Defense and the regulations of the Services, and military recruiters have been following their service regulations. Those regulations do not distinguish between wartime and peacetime. Typical is the Army regulation, AR 601-210, which fails to

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foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment, reenlistment, extension of enlistment, or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, or on board a public vessel owned or operated by the United States for noncommercial service, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: Provided: however, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section....

(b) Exceptions. A person filing an application under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that -- (1) he may be naturalized regardless of age, and notwithstanding the provisions of section 318 [8 U.S.C. § 1429] as they relate to deportability and the provisions of section 331 [8 U.S.C. § 1442]; (2) no period of residence or specified period of physical presence within the United States or any State or district of the Service in the United States shall be required; and (3) service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the applicant served or is serving, which shall state whether the applicant served honorably in active duty status ... during any [] period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions.

(c) Revocation. Citizenship granted pursuant to this section may be revoked in accordance with section 340 of this title [8 U.S.C. §1451] if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions....

[25] Exec. Order No. 13,269 (July 3, 2002), 67 Fed. Reg. 45,287 (July 8, 2002). The Executive Order states:

> By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 329 of the Immigration and Nationality Act 8 U.S.C. § 1440) (the "Act"), and solely in order to provide expedited naturalization for aliens and noncitizen nationals serving in an active-duty status in the Armed Forces of the United States during the period of the war against terrorists of global reach, it is hereby ordered as follows:
>
> For the purpose of determining qualification for the exception from the usual requirements for naturalization, I designate as a period in which the Armed Forces of the United States were engaged in armed conflict with a hostile foreign force the period beginning on September 11, 2001. Such period will be deemed to terminate on a date designated by future Executive Order. Those persons serving honorably in active-duty status in the Armed Forces of the United States, during the period beginning on September 11, 2001, and terminating on the date to be so designated, are eligible for naturalization in accordance with the statutory exception to the naturalization requirements, as provided in section 329 of the Act. Nothing contained in this order is intended to affect, nor does it affect, any other power, right, or obligation of the United States, its agencies, officers, employees, or any other person under Federal law or the law of nations.

[26] Florangela Davila, *Army Says Illegal Immigrant Soldier Can Stay*, Seattle Times, Oct. 3, 2003, at A1.

distinguish between wartime and peacetime, stating only that no one is allowed to enlist in the regular Army unless that person is a lawful permanent resident, a U.S. national, a U.S. citizen, or a citizen of Micronesia, Palau, or the Marshall Islands (the latter being covered by a special treaty that allows them to enlist if they wish, even in peacetime).[27] The other services, and the Reserve components, apply similar rules. None of the U.S. Armed Forces make an exception for the current wartime situation, despite their statutory authority to do so, and thus all continue to ban all illegal aliens (and many legal ones) from enlisting, no matter how qualified those aliens are. As a result, more than half a million qualified young people in the United States are deemed "off limits" to military recruiters. Many of these potential recruits have been turned away by recruiters, despite scoring well above their U.S. citizen peers on military entrance tests.

Opponents of the DREAM Act have not specifically argued against the military benefit to legalizing young illegal aliens; instead, their opposition rests on the argument that granting conditional status to these teenagers would reward lawbreaking[28] and encourage more illegal immigration.[29] They argue that these young people should all be deported to their native countries. This alternative, however, has never been pursued on a large scale by U.S. immigration authorities, and a mass deportation of more than half a million children and teenagers is not a reasonable possibility.

Furthermore, the benefit to the United States from keeping these United States-educated individuals and legalizing them is far greater than the benefit, if any, of deporting them all; their deportation hurts the United States by depriving it of a substantial U.S.-educated cohort of young people. As U.S. Representative Chris Cannon (R-Utah), sponsor of the House version of the DREAM Act, said, "The real tragic thing is, of course, that you have these children who had nothing to do with coming here and breaking the law in the first place and are some of our brightest students, and down the line they get sent back."[30] Perhaps opponents of the DREAM Act would be more convinced of its merits if they realized that deporting these young people confers a massive benefit on their countries of birth while depriving the United States of their talents.

The DREAM Act offers a bipartisan "fix" that would allow military recruiters to enlist this highly qualified cohort of young people, and enactment of the DREAM Act would be a "win-win" scenario for the Department of Defense and the United States. Deporting these young people is not possible as a practical matter and deprives the United States of a valuable human asset that can be put to work in the Global War on Terrorism. In a time when qualified recruits—particularly ones with foreign language skills and foreign cultural awareness—are in short supply, enforcing deportation laws against these young people makes no sense. Americans who care about our national security should encourage Congress to pass the DREAM Act.

* * * *

Associate Professor, Department of Law, United States Military Academy, West Point, N.Y. The statements, opinions, and views expressed herein are those of the author only and do not necessarily represent the views of the United States Military Academy, the Department of the Army, or the Department of Defense. This article is reprinted with permission from the Federalist Society, in whose *Engage* publication it ran previously (Volume 6, Issue 2, page 99).

[27] Army Reg. 601-210, Regular Army & Army Reserve Enlistment Program, ¶2-4 ("Applicant is eligible for enlistment if any of the following apply: (1) Citizen of the United States. (2) Alien who has been lawfully admitted to the United States for permanent residence. (3) National of the United States. (4) Citizens ... of the Federated States of Micronesia (FSM), Palau and the Republic of the Marshall Islands (RMI).").

[28] Juan Mann, Illegal Alien's D.R.E.A.M.—Patriot's Nightmare (Oct. 28, 2003), *available at* http://www.vdare.com/mann/dream_act.htm.

[29] Press Release, Federation for American Immigration Reform, The "DREAM Act": Hatch-ing Expensive New Amnesty for Illegal Aliens (Oct. 23, 2003), *available at* http://www.fairus.org/site/PageServer?pagename=media_mediaf23a (last visited Dec. 20, 2005).

[30] Brian DeBose, *Alien still hopes for DREAM Act*, Wash. Times, July 5, 2005, at A10.

Chairman WARNER. Thank you very much. Given that our host for today is Senator Martinez, the panel now defers to you to initiate the questions. Senator.

Senator MARTINEZ. Thank you, Mr. Chairman, you're so kind. I appreciate that very much.

Let me begin by asking if I might submit for the record a letter from a group of Honduran and Nicaraguan community-based

groups that work with many immigrants? They have extended a very warm welcome to the committee.

Chairman WARNER. Without objection, it will be included as part of the record.

Senator MARTINEZ. Thank you, sir.

[The information referred to follows:]

Unidad Hondurena-Fraternidad Nicaraguense
Honduran Unity-Nicaraguan Fraternity

Miami, Florida
Monday, July 10, 2006

The Honorable Chairman John Warner
U.S. Senate Committee on Armed Services
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Warner:

On behalf of Unidad Hondurena-Honduran Unity and Fraternidad Nicaraguense-Nicaraguan Fraternity, (both non-profit community based and immigrant advocacy groups founded over 15 years ago), we wish to welcome you to our city of Miami, Florida along with your fellow Senate colleagues and staff of the U.S. Senate Committee on Armed Services.

We feel honored and very much appreciate you having considered and selected our city of Miami, Florida to hold a field hearing of the U.S. Senate Committee on Armed Services which testimonies will highlight the contributions of Immigrants to the United States Armed Forces.

Whether it be a battle, special mission and war , we all pray for the safe being and return of our men and women serving in our Armed Forces however many including immigrants have either lost their lives or resulted harmed in the midst of fighting for the defense of our nation and the values by which our country stands.

The contributions of our immigrants to our armed forces are many by many of them and we take the opportunity to make the following recommendations for your consideration:

1. **By approving an expedited naturalization is a way to honor and recognize them.**
2. **By approving a comprehensive immigration reform one which priorities spouses, daughters, sons, parents, brothers, sisters, and relatives of members of the armed forces is another way to honor them by the expedited process for their family unity.**
3. **It is also recommended to approve a comprehensive immigration reform as many immigrants wish to enlist in our armed forces to serve our nation , however are unabled due to lack of same. Please consider its positive impact as by having these immigrant men and women enlist it will reinvigorate and strengthen even more our Armed forces.**
4. **Approval of a comprehensive immigration reform is warranted in the best interest of our nation, national security and as a matter of justice and fairness.**

Please feel free to contact us for any additional information and/or assistance you may require,

Thanking you in advance,
Sincerely,

Jose Lagos
President
Unidad Hondurena
1421 SW 8th Street Suite # 4
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Senator MARTINEZ. Director Gonzalez, I wanted to, first of all, thank you for your testimony. It was very moving and touching. Mr. Rascon, it was great to hear from you as well.

I must say that I find this whole hearing very exhilarating and emotional at times.

I know, Director Gonzalez, that over the last many weeks your job has been difficult and challenging, and I know that you, as I, have been the subject of a lot of phone calls, and sometimes faxes that put in question your patriotism, your citizenship, your birthplace, and everything else.

I'm delighted to have a chance for you to be here today, for us to honor your service to our country over the many years in the military, and now more recently in a civilian role.

I wanted to ask, first of all, if you can tell us what improvements to the naturalization process for military personnel you have made during your time as director of the USCIS.

Mr. GONZALEZ. Thank you, Senator. The most significant one, at least since I've been there since January, has been to accept fingerprints submitted at the time of enlistment for our military personnel.

In the past, military personnel were required to produce another set of fingerprints as part of the application package. We have done away with that, and we now accept, with the soldier authorizing a release, his original enlistment fingerprints, which allows us to speed up the process even more.

Furthermore, we're in the process now of starting a 1–800 telephone line dedicated only to military personnel. Right now we do have 1–800 numbers available, and the individuals who answer those are trained to answer questions, but we want to go a step further and have an 1–800 number dedicated only to military personnel, where they can get them an immediate response, either for information, or to any pending issue on their status.

Senator MARTINEZ. The other issue that you touched on earlier was the posthumous naturalizations that have also been taking place. I think General Pace said some 75 of these have happened in his testimony.

I was wondering what happens to the surviving spouses. Do they have any opportunity, once their loved ones are now gone, in service to our Nation? What happens to the surviving spouse, and what does USCIS do for them?

Mr. GONZALEZ. Thank you, sir. I will tell you that the hardest part of my job is signing posthumous citizenship certificates. It's not something that I do easily. In fact, given the opportunity, I also call the parents or the next of kin of the servicemembers who are killed in action.

As an anecdote—and I'm going to answer your question here, but you opened the door for me—I spoke to the father of a young man who was killed in Iraq. This gentleman, I believe, was from Guatemala, just a salt-of-the-earth individual.

What do you say to a man who's lost his son, a young marine? I said, sir, what are your plans?

He said, I was thinking about going back home, but that's all changed now, because home is not where you live, home is where you bury your children.

That's really tough. What can you say to that man?

He has my phone number, and he wants to be a citizen. I told him I would do everything I can to help him.

With regard to surviving spouses, they do have opportunities. Spouses and parents qualify under the law. I believe it's a 2-year time period.

I had the opportunity a couple of weeks ago to naturalize the wife of an Army warrant officer who was killed in Iraq in January. I did this at Fort Hood. She's the first such individual that I naturalized.

It was an incredibly moving ceremony, because after we naturalized her, she led 39 other members of the Army's Third Corps in the pledge of allegiance. I have to tell you, there wasn't a dry eye in that room.

We do have provisions, and we do fast-track, and we do everything we can to facilitate the naturalization process for the servicemembers' surviving spouses and children, if we can.

Senator MARTINEZ. Professor Stock, I was also intrigued by your mention of the DREAM Act on several occasions. I guess you're suggesting that by having better educated people, that those who choose then to enter the service will be in a better posture to serve our Nation and the military.

Is that the connection between the DREAM Act and the military that you're drawing?

Ms. STOCK. Senator, the DREAM Act provides the option of serving in the military to get your green card. You would get conditional, lawful, permanent resident status. Then you would join the military, serve for a certain period of time, and the conditions would be lifted on that green card.

The DREAM Act doesn't require that you serve in the military, of course. We have an All-Volunteer Force, and we don't want to force people to join the military to get their green cards.

It offers other alternatives, such as attending college, if you can't qualify for the military, or you don't want to join the military, but I believe that the large numbers of young people in the country who have been educated at taxpayer expense are an enormous resource that our country should take advantage of. Rather than deporting them back to their country of origin just as they reach the point when they're ready to contribute to our community, and just at the point when they want to contribute to our community, it's key to offer them the option of serving in the United States Armed Forces.

Many of these folks are very bright. The DREAM Act requires that they be of good moral character, have no criminal record, and, of course, meet all the other military requirements for enlistment.

They're going to have to be stellar candidates to get in, and the only thing DREAM Act does is it offers them the option of serving in their country's Armed Forces in order to obtain that final permanent resident status.

Senator MARTINEZ. Part of your work, I know, is working with immigrant families, providing legal advice, and so forth. I also heard in your remarks the fact, if I understood it correctly, that the members of our military are spending a good bit of their time and

attention and money to legalize or regularize or attempt to keep their parents from being deported. Is that what I heard you say?

Ms. STOCK. Yes, Senator. It's not just their parents. It's their wives, husbands, and sometimes children. I get calls and e-mails from attorneys and military members who are stressed out because they're over there in Baghdad, trying to fight for their country, and they're getting calls or e-mails from home saying, help, they're cracking down on immigrants here in the United States, and I'm worried about getting deported.

In fact, there was a soldier from Florida who was quoted in a Florida newspaper, saying that he was very concerned that while he was deployed overseas, immigration was going to come and pick up his wife, who was an undocumented illegal immigrant.

His wife is not able to get status because of the crackdown that's occurred since 1996, the "enforcement only" provisions that Congress has been enacting over and over again.

In 1996, you probably recall they passed the Illegal Immigration and Immigrant Responsibility Act. As part of that, they made a whole pile of people ineligible to get green cards, even though they're married to citizens and lawful permanent residents. The soldier's wife was one of those people who just has no ability to become legal under current law.

She also won't benefit from a guest worker program, unless you think that being the wife of a military member is a job that most Americans don't want. She's going to be stuck unless we get comprehensive immigration reform.

Senator MARTINEZ. Mr. Chairman, thank you very much.

Chairman WARNER. Thank you, Senator.

I have advised my colleagues that we will have a media availability in an adjoining room here that will start in about 10 or 12 minutes. Several of our colleagues have to make another commitment.

At this time, we'll turn to Senator Kennedy.

Senator KENNEDY. Just briefly, I want to thank Mr. Gonzalez for all of his help to our committee on immigration, and the Judiciary Committee. He's been an enormous source of information and guidance, and has had a very distinguished career.

Let me just, very quickly—because I know others want to, and I'll just take a few moments—there are, at the present time, a number of pending cases before you—as I understand, close to 35,000 servicemembers—but reference has been made about what happened on the Fourth of July by members of the panel. This was 76 U.S. troops on duty in Iraq taking the oath of citizenship.

It was referred to earlier in the hearing.

Those are the lucky ones that are actually taking the oath of office. There's a lot pending now, as I understand.

Can you tell us how we can be helpful to make sure, or maybe you want to provide some additional material to us—because it seems to me if we're going to talk about these gallant men and women that are serving on the firing line, who want to become citizens, we don't, on the other hand, just want to say it's a promise, and then not follow through on it.

How can we help you get the job done?

Mr. GONZALEZ. Thank you very much. I also thank you for your leadership and the reforms that we made that ease the experience for naturalized Americans.

I think "pending" may be a misnomer. "Pending" is not necessarily any kind of a backlog or a wait, it's just as these naturalization requests come in, they come to our Nebraska service center, and we turn them around as quickly as possible. "Pending" could very well be an availability to reach out to a soldier because the soldier's overseas. We then have to send somebody out to naturalize that person, and we can't do that any other way. We can't delegate that authority. It may very well be it's a misnomer that the individual——

Senator KENNEDY. Maybe you could give us some detail, because we waive, for example, the fees.

Mr. GONZALEZ. Correct.

Senator KENNEDY. As I understand, you use those fees for processing.

Mr. GONZALEZ. Correct.

Senator KENNEDY. It would be interesting to find out from you, if you need more resources to be able to get the job done more quickly? Maybe you could just give us the facts, since we did suspend the waiving of it.

Let me just move on.

I want to thank Mr. Rascon. I was there with Spencer Abraham 2 or 3 years ago when you appeared before our Judiciary Committee, and you had that magnificent line which you mentioned here.

You said, "That time provided me with an opportunity to serve my adopted country. Above all, it gave me the opportunity to give something of myself to this great Nation. I was once asked by a reporter why as a noncitizen of the United States I volunteered to join the military and serve in Vietnam, not once, but twice. I answered, I was always an American in my heart."

That's pretty powerful.

The passage from the transcript is only a couple of pages, Mr. Chairman. Could we put this testimony that he had at that time in today's record?

Chairman WARNER. Yes, put that in.

[The information referred to follows:]

STATEMENT OF ALFRED RASCON

Mr. RASCON. Thank you very much, sir. First of all, I want to thank you for bringing Ray Compton here. The last time that I did see him was 33 years ago, and we weren't having a very good day. Again, I can't thank you enough for having him here.

I have a prepared statement that I would like to come back and give to you.

Senator ABRAHAM. Sure.

Mr. RASCON. First of all, Mr. Chairman, members of the committee, had my parents not made the difficult decision to emigrate from Mexico to the United States when I was a young boy, I would not be here before you today. I am grateful for this opportunity from the committee to add my dialog on the contributions of immigrants to the U.S. Military.

I want to personally thank you, Senator Abraham, not only for this opportunity, but for other opportunities in which you have highlighted the distinguished service to the country of immigrants in the military and other fields. If it wasn't for your initiatives, many people would not be aware of the contributions of immigrants not only in the military, but the contributions immigrants as a whole have made to the country. So for this and for the many things you have done for immigrants, on behalf of immigrants across this Nation I want to thank you personally.

Although by birth immigrants are from other nations, they have served and continue to serve with pride and great distinction in the U.S. Armed Forces. The U.S. Military affords immigrants the opportunity to demonstrate their commitment to this great Nation, with some making the ultimate sacrifice, as you had stated before, giving their lives.

When I began attending grade school in Southern California, I could not speak a word of English. I spent my youth wanting to assimilate into America. I gradually learned to speak English, even without an accent, or I thought I didn't have one. Learning English was a difficult task before me. Other than in school, Spanish was the language in my home and in the community.

Living near three military bases and watching convoys head for ports or debarkation on their way to the Korean War in the 1950's, I developed a fascination for the military. In fact, at the age of 7, I made a parachute and jumped off the roof of our home. Well, in military airborne jargon, my parachute had a total malfunction and I streamed in, resulting in a broken wrist.

As soon as I graduated from high school, at the age of 17, I joined the military. Being underage, I pressured my parents into signing the age waiver, and I think they still regret it. I volunteered to be a paratrooper, my first love. My first bad jump at the age of 7 did not deter me at that time. As a legal permanent resident of this great country, I wanted to give back something to this country and its citizens for the opportunities it had given me and my parents.

In 1963, I completed basic advanced individual training in airborne school and was then sent to Okinawa, Japan, as an airborne medic. In May 1965, I arrived with the 173d Airborne Brigade in South Vietnam, where I served as a reconnaissance platoon medic with the 1–503d Airborne Battalion. Until recently, those paratroopers who served with me in the reconnaissance platoon knew nothing of my immigrant status. It was never an issue with them. In fact, they were rather surprised. They simply knew me as "Doc," and they still know me as "Doc."

In March 1966, my military career was curtailed because of combat wounds, which eventually lead to an early honorable discharge. I returned to Southern California with a more mature outlook on life and with a motivation to continue in service to this country. Again, my love for the military gravitated me back into service.

Overcoming more injuries, I was able to rejoin and enter the Army's Infantry Officers Candidate School. I was commissioned a second lieutenant of infantry, eventually making it back to Vietnam to serve a second term. I completed 6 additional years of military service, until my active military service ended due to combat-related wounds.

The Army provided me with an opportunity to serve my adopted country. Above all, it gave me the opportunity to give something of myself to this great Nation. I was once asked by a reporter why, as a noncitizen of the United States, I volunteered to join the military and to serve in Vietnam, not once but twice. I answered "I was always an American in my heart."

Again, thank you, Senator Abraham, Senator Feingold, as well as the other Senators who will be here, for giving me this chance to express my love for this great country and its military. Thank you very much, sir.

Senator ABRAHAM. Mr. Rascon, thank you for being here and for all you have done and your contributions. We appreciate them.

Senator KENNEDY. Finally, I'll ask Professor Stock, most people don't know much about the DREAM Act. You comment you have to be here for 5 years, at least; you have to have been able to graduate from high school.

Many of these young people don't even know that they're illegal, some of them, as I understand it, but the military is offering, if they want to go in and sign up and do a job for the United States of America, they're conditionally let in. They serve the 2 years.

Their officers are able to make an evaluation, and then they have to continue to serve us in there, but they have the assurance that they're going to be able to get a green card. It's an opportunity for people that want to serve to be able to serve at a time that we're under some pressure.

Am I correct?

Ms. STOCK. You're absolutely correct, Senator.

Senator KENNEDY. Do I understand from your own experience that there's a real desire to be able to do that?

Ms. STOCK. There is a tremendous desire, Senator. If the DREAM Act were passed today, you would have far more recruits than you need for the United States Armed Forces. There are so many young people.

That's because the folks who are going to benefit from the DREAM Act are not people who ran across the border yesterday, they're people who grew up in America. For the most part, they have been here since they were very young. There's a 5-year minimum requirement.

The 5 years has to have occurred when they were under the age of 18, when they were young people.

They are the more long-term residents, they were here when they were 2 or 3 years old.

In fact, most of these folks who are going to benefit from the DREAM Act, when they walk into a military recruiter's office, a recruiter can't tell that they're not American citizens; they look, talk, act exactly like somebody born in the United States.

The only thing that's preventing them from being accessed by the military, enlisting in the military, is the fact that they do not have documentation showing that they're long-term permanent residents.

Senator KENNEDY. If I could just ask a final question. Have you talked this over with the DOD? Can you give us quick action, or should we be the ones trying to answer that?

Ms. STOCK. I think if the DREAM Act were passed, that's probably what would help the most. I know that there is no resistance in the Pentagon to the idea of the DREAM Act.

Chairman WARNER. Thank you.

Senator McCain.

Senator MCCAIN. I'll be brief, Mr. Chairman.

I want to note the presence of the "legalizetheirish.com," who are here today. Members of that wonderful organization have joined me around the country at various places, and I must compliment them on their behavior today. It's far less unruly than I have noticed in the past, and I thank you very much.

Director Gonzalez, do you support the President's proposal of comprehensive immigration reform?

Mr. GONZALEZ. Absolutely, sir.

Senator MCCAIN. Suppose that we pass enforcement only, and we have a permanent class of immigrants who would never be able to become citizens. What effect does that have on our society, briefly?

Mr. GONZALEZ. Sir, just from the DHS, which is what my agency is a part of, we have a universe of people now that we have no idea who they are, we have no idea where they work, where they live, we have no idea what their background is.

The President's policy for comprehensive reform makes sense, because it's the right path. It's the middle road; it's not the extreme policy.

I look at the extremes as those that want amnesty on one side, and those who want to kick everybody out on the other. We have to come up with a middle ground that addresses not just border security, but internal enforcement, and we have to find a way to deal——

Senator MCCAIN. Earn citizenship.

Mr. GONZALEZ. —sir, with the numbers of individuals who are undocumented within our borders today.

Senator MCCAIN. Professor Stock, you came a long way to this hearing, and we thank you very much for this and your long involvement in this issue.

Maybe you don't have an answer to this question. How do you account, with your long involvement in this issue, for the very emotional opposition to comprehensive reform, or a path to citizenship? What's your view?

It puzzles many of us as to how really combative this issue seems to be when we believe it deserves mature dialogue and discussion.

Ms. STOCK. Senator McCain, I think the big problem is that immigration law is so complicated that people don't understand it. I found that when you sit down and talk to audiences who are emotional about it, if you can explain to them, for example, that today there's virtually no way to become legal, they start to understand the issue, and they become less emotional.

There's a myth out there that all you have to do to immigrate to America is go stand in some line somewhere. That's not the case today. There is no line to stand in.

What I hear from people who get very emotional and are anti-immigrant, in a way, is that they think people should be forced to go stand in a line, and that sort of thing, because they think there is such a line. But there is no line, because we don't have a way for these people to legally immigrate.

Comprehensive immigration reform is going to set up an avenue for earned adjustment. It will create a line for people to stand in to earn the privilege of becoming lawful, permanent residents, and then citizens.

It won't let them jump to the front of the line. They'll have to get in the back of the line, but at least there will be a line.

I think when you explain that to people, and you explain the fact that there's going to be penalty fees, and that the government will actually benefit greatly from enacting this reform, people start to understand. The answer is public education.

Senator MCCAIN. It's funny. When I have town hall meetings, I find the same thing, that once you explain what the situation is, and how unacceptable the status quo is, people seem to be much more reasonable about it. Obviously, all of us have been strongly encouraging a dialogue amongst all of our citizens so that we can reach a conclusion.

I thank the witnesses. Mr. Rascon, finally, rereading your citation again, I find it hard to comprehend, and thank you for, your service and your courage.

Mr. Chairman.

Chairman WARNER. Thank you, Senator McCain.

Senator Graham.

Senator GRAHAM. Thank you, Mr. Chairman.

Professor Stock, is there any way to put a number on how many military members, whether you be a legal resident or actual citizen, have family members who are undocumented?

Ms. STOCK. I don't think so, Senator Graham, because immigration law, again, is so complicated, only the individual knows. They're afraid right now, and they're afraid because the House says they're all going to become felons here shortly, and the military members themselves might become felons for helping them out.

Senator GRAHAM. Let's walk through that. Would you hazard a guess and say it's thousands?

Ms. STOCK. I would say it's thousands, Senator Graham.

Senator GRAHAM. So, we have thousands of people who are related to military members, whether they're citizens or noncitizens, that are basically in a legal no-man's land. Is that correct?

Ms. STOCK. That's correct. It's not just military members, either, it's Federal employees. We have lots and lots of Federal employees who have illegal spouses, parents, children.

Senator GRAHAM. Mr. Gonzalez, what would be the effect on this problem if one of the solutions Congress pursued was to make every person who crossed the border, or overstayed a visa, a felon?

Mr. GONZALEZ. Sir, the agency that I'm privileged to head is not a law enforcement agency. We're a benefits agency.

I think I'm out of my lane in trying to answer that question for you.

Senator GRAHAM. What would common sense tell you?

Mr. GONZALEZ. Common sense would tell me that we would have some very busy Immigration and Customs Enforcement agents out there.

Senator GRAHAM. Professor Stock, what would the legal answer be?

Ms. STOCK. Senator Graham, I believe, from your background, when you make something a felony, you have to start providing lawyers to all the people.

Senator GRAHAM. So, if you want more lawyers, vote——

Ms. STOCK. If you want more lawyers——

You're going to need more prosecutors, more defense attorneys, more judges. In fact, immigration is going to take over the whole legal system.

Senator GRAHAM. So, is the House legislation the "Lawyer Employment Act?"

Ms. STOCK. It's not just that, it's the "Immigration Lawyer Full Employment Act."

Senator GRAHAM. The reason that we kind of laugh about this a bit is that the policies that we're pursuing really do matter to people. I'm trying to come up with, along with my colleagues, proposals that punish people who violate our laws, but will have a just result.

To me, a just result would be to allow people to be punished for what is a misdemeanor offense, get right with the law, pay taxes, learn English, go through many hurdles before you can get that green card, but justice would demand, I think, Professor Stock, that the punishment be proportionate to the crime.

Do you believe a felony offense for illegal immigration violation is proportionate to the crime?

Ms. STOCK. No, Senator, I don't. I also think it hurts our national security to focus all those resources on pursuing that type of offense. In law enforcement, we know that good law enforcement means setting priorities. It's the same with national security. We need comprehensive immigration reform. We need the Senate bill.

Senator GRAHAM. Last question. To our Medal of Honor winner, how does this debate that's been going on in the country strike you?

Mr. RASCON. It is very odd that you mention that. I was an immigration officer at one time, a senior special agent. The impact of the border is really not the issue. It ends up being people with concepts, people with misconceptions, and literally people who are ignorant of what's going on.

As everybody else has mentioned here, you end up having to deal with the law. The law specifies an issue to an end. The immigration law ends up being—as was mentioned by Professor Stock, you better know what you're getting into before you get out of it, because it ends up being literally a bag of worms.

We ended up with issues back in 1986, with the Salvadorans, and it's a no-winner. The situation is we, as immigrants, are here for one purpose, to give back to this country for what this country has given us.

Yes, we have people that are bad. That's the way life is. Someplace along the line, someplace within Congress, within the Senate, somebody has to get away from means and end up dealing with the issue of what is the end product.

Are you going to come back and put somebody in jail? Are they really felons? Are they terrorists? No.

They end up being people who want to come to this country because it's the opportunity that no other country gives you, the choice to seek freedom. What other country will give you that?

I don't see anybody lining up to go back to Afghanistan, or to go back to Iraq. We are a country of immigrants, no matter how they like it or not. We have to make something with it, and we have to deal with common sense and get away from our predilections. That's all there is to it.

Chairman WARNER. Thank you very much. We're greatly indebted to each of you who have taken the time to join us today.

Professor Stock, you traveled all the way from Alaska, and you get back on a plane and go right back tonight. That's the sort of contribution that's important.

My one question to you is—and you can answer it for the record, if you so desire, later—but your collective contributions this morning have put my mind to work to make certain that all of these good ideas are before those members of the House and the Senate that are working, hopefully, at this very moment, to construct a piece of legislation.

Is there anything missing from, say, the House debate or the Senate debate, that was overlooked, so that it's not a part of the record today, that you feel is essential to be included in whatever legislation Congress eventually enacts?

Ms. STOCK. Thank you, Senator, for that opportunity. I would like to say that the one thing I think is missing has been brought out today at this hearing, which is the contribution that immigrants make to the military.

I don't think that anyone has taken that into account to date until this committee hearing was held, and so I thank you very much for holding this hearing today. I know that the information provided at this hearing will now go before the House and the Senate as they go to conference on the comprehensive immigration reform bill.

Chairman WARNER. Thank you very much for that.

Mr. Rascon, your views? Anything that you think is missing?

This hearing itself, the record, of course, will be available to those who—the conferees, as we refer to them, working on this legislation. Is there anything specifically you would like to add?

Mr. RASCON. No, Senator Warner, not really. I think, like I mentioned before, it's just an issue of common sense.

Chairman WARNER. All right. I like that, common sense. Good point.

Director Gonzalez, you have a means by which to work through the administration, and, indeed, through the President, who has shown enormous strength and wisdom and conviction to get this done. I presume that you don't feel there's any deficiency thus far in the record.

Mr. GONZALEZ. No, sir. I think this is a much deserved hearing, because it's a very important aspect of the immigration debate that has gone unnoticed.

It's not abstract. Immigrants are people. When you start to think that the person next door to you may be an immigrant, and you don't know it—your doctor, your college professor, your banker—it brings the whole subject into a whole new light.

I'm lucky to be in an agency where most of the people, the professionals and the career individuals that are still with me today, have in the past been through lifetimes where we looked at ways of regularization, and we look forward to working with you on any information or any technical advice we can give you as we move forward. I appreciate the opportunity, sir.

Chairman WARNER. Thank you. I believe that we saw this morning, in the testimony of General Pace, a message that will resonate throughout our Nation about the importance of this legislation and how it should be put together.

As you said, Mr. Rascon, good, old-fashioned common sense and fairness and decency to those human beings put on this Earth by God Almighty, and we should treat them that way.

I thank the President of this distinguished Miami-Dade College, Mr. Montoya, and Chief Timoney, thank you very much.

Thanks to the audience. As Senator McCain opined and observed, you've been very courteous and very much a part of this hearing. I think when you look back that you'll find that this was a memorable day in your life, as it is to, I think, tens of thousands

of other Americans who can see this by virtue of the television that was taken today.

Senator KENNEDY. Mr. Chairman, could I just mention some members of the Service Employees International Union, who I understand were here, and some of them have relatives who are serving over in Iraq at this time. They have joined the audience, as well.

Chairman WARNER. Thank you very much. Senator McCain has asked for me to submit for the record a letter I received from John M. Shalikashvili, the former Chairman of the Joint Chiefs of Staff and I will do so at this point.

[The information referred to follows:]

July 5, 2006

The Honorable John W. Warner
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510-6050

Dear Chairman Warner,

I regret being unable to give testimony at the Committee's hearing on the contribution of immigrants to the armed forces. I would, however, like to offer for the Committee's consideration my own background and military service.

My parents and I were first-generation immigrants who left war-torn Europe in 1952 to pursue a better life in the United States. Our immigration was sponsored by the president of Peoria Bank, who had no reason to extend my family such kindness. When I swore my oath as an American citizen in 1958, it was the first citizenship I had known. That same year, I graduated from college and received a draft notice to serve in the United States Army. It was a call I was happy to accept.

I note with pride the thousands of other immigrants who have also stepped forward to serve their new homeland. In doing so, they have demonstrated their commitment to the same ideals our forefathers sought for our great country. That they fight today so other countries may also know the benefits of liberty serves as further proof of the contributions they bring to our society. I have fought alongside many of these great men and women and have seen them embrace hardship and sacrifice such as would make any American proud.

Because I believe firmly that we can achieve domestic security and border control while upholding our fundamental values as Americans, I urge the Congress to adopt comprehensive immigration reform. The United States of America accepted me and my family in 1952 and I believe we must continue to afford these opportunities future immigrants.

Sincerely,

John M. Shalikashvili
Chairman, Joint Chiefs of Staff (retired)

Chairman WARNER. If there's nothing further from my colleagues, we will now adjourn quickly to a press conference. Thank you. We are adjourned.

[Questions for the record with answers supplied follow:]

QUESTIONS SUBMITTED BY SENATOR JOHN MCCAIN

IMMIGRANTS IN THE U.S. ARMED FORCES

1. Senator MCCAIN. Secretary Chu, what is the estimated number of immigrants presently serving in the United States Armed Forces?

Secretary CHU. As of May 31, 2006, there were 23,645 noncitizen legal residents serving in the Active Forces, and 9,723 in the Reserves and National Guard.

2. Senator MCCAIN. Secretary Chu, is this number growing and if so, why?

Secretary CHU. The total number of non-United States citizens serving in the United States Armed Forces has declined over the past few years—from about 49,000 in 2003 to 33,368 in May 2006. Our recruiting of noncitizen legal residents continues to be strong—averaging almost 9,000 per year from 2001 to 2005. We believe that more of our noncitizen servicemembers are becoming naturalized United States citizens.

Two major changes in the naturalization processing of noncitizens serving in the Armed Forces have contributed to the increased naturalization rate:

- The application fees have been waived, citizenship ceremonies are being conducted overseas, and this has resulted in doubling the average number of naturalization processing from 324 per month (from September 11, 2001 to September 30, 2004) to 649 per month (from October 1, 2004 to the present); and
- The United States Citizenship and Immigration Service has reduced the average time it takes to process military member citizenship applications from 9 months to less than 60 days.

3. Senator MCCAIN. Secretary Chu, what is the draw for immigrants to serve in our military?

Secretary CHU. Noncitizens join our Armed Forces for similar reasons as citizens: service to the United States (in their case, their adopted country), training, education, adventure, travel, experience, etc. There is the additional draw of an accelerated path to citizenship by virtue of military service.

4. Senator MCCAIN. Professor Stock, how do noncitizens perform in the military as compared to citizens?

Ms. STOCK.[1] According to a recent study by the Center for Naval Analyses, noncitizens in the military perform extremely well. The study, titled "Noncitizens in Today's Military: Final Report." CRM D0011O92.A2/Final, April 2005, showed that across the board, noncitizens are a very valuable asset for the Armed Forces, providing linguistic and cultural diversity to our military forces. They also perform better in some respects than citizen recruits. To give one example, the study showed that noncitizens "have 36-month attrition rates that are 9 to 20 percentage points lower than the attrition rates of white citizens." The study also noted that "much of the growth in the recruitment-eligible population will come from immigration," making it more and more important for the armed services to attract and retain noncitizens.

5. Senator MCCAIN. Professor Stock, what is your experience with the motivations of immigrants who join the military?

Ms. STOCK. Immigrants who join the military are motivated by the same reasons that motivate native-born Americans to join the military—they are patriotic, they wish to serve their country, they see the military as an opportunity to help others, they believe that the military will provide them with a fulfilling career opportunity.

[1] Attorney (admitted in Alaska); Lieutenant Colonel, Military Police, U.S. Army Reserve; and Associate Professor (Individual Mobilization Augmentee), Department of Social Sciences, United States Military Academy, West Point, NY. The statements, opinions, and views expressed herein are those of the witness only and do not necessarily represent the views of the United States Military Academy, the Department of the Army, or the Department of Defense.

6. Senator MCCAIN. Professor Stock, do immigrants join the military just to gain expedited citizenship, or are there other motivations?

Ms. STOCK. Just like native-born recruits, they enjoy the military lifestyle and embody military values such as honor and selfless service. They also appreciate the educational and travel opportunities that military service provides. While most immigrants arc very much aware of the opportunity to obtain American citizenship faster through their military service, this is not their only motivation for joining.

7. Senator MCCAIN. Professor Stock, what is your experience with the motivations of immigrant cadets who join the United States Military Academy?

Ms. STOCK. With the exception of foreign exchange cadets, all cadets at the United States Military Academy are United States citizens, because U.S. citizenship is required for admission. Many cadets, however, are naturalized United States citizens. They all obtained their American citizenship before taking the oath to become cadets, and so entering the Academy does not give them an advantage in obtaining American citizenship. When I talk to them about their reasons for joining the military, they cite the same reasons as native-born cadets—the opportunity to serve their country and become leaders of character, among other things. In addition, however, many of them tell me that they feel a unique obligation to serve their adopted country, the United States of America.

8. Senator MCCAIN. Professor Stock, how do refugees and asylees contribute or potentially contribute to the Armed Forces?

Ms. STOCK. Refugees and asylees constitute an untapped, highly qualified potential source of military manpower. They often come from conflict-ridden countries in which our military forces are deployed or may deploy in the future, and they have language and cultural skills that are highly valued by our Armed Forces. They have also been screened by DHS to ensure that they are not terrorists, and they are admitted to the United States permanently so that eventually most will become lawful permanent residents. Many of the military Services, however, will not permit refugees and asylees to enlist until they have obtained their lawful permanent residence—a process that can take years, and which is dependent on DHS processing times. Congress has given the Armed Forces the statutory authority to enlist these persons where it is "vital to the national interest," and should encourage the military to take advantage of this untapped source of potential recruits.

ILLEGAL IMMIGRANTS IN THE ARMED FORCES

9. Senator MCCAIN. Professor Stock, are illegal immigrants subject to Selective Service?

Ms. STOCK. Undocumented or illegal immigrants are required to register for Selective Service under the terms of 50 U.S.C.S. Appendix § 453 (requiring all foreign-born males age 18 to 26 who are residing in the United States to register).

10. Senator MCCAIN. Professor Stock, can illegal immigrants be drafted in the event of a draft?

Ms. STOCK. If a draft is instituted, they can be drafted (although they can decline to serve and leave the United States, if they wish, thereby incurring a permanent bar to obtaining American citizenship).

11. Senator MCCAIN. Professor Stock, if illegal immigrants serve in the military, are they treated differently in wartime than in peacetime?

Ms. STOCK. If they serve in the military during wartime, they can obtain U.S. citizenship without first obtaining lawful permanent residence, under the provisions of section 329 of the Immigration and Nationality Act. In peacetime, however, illegal or undocumented immigrants cannot obtain lawful permanent residence or U.S. citizenship through military service.

12. Senator MCCAIN. Professor Stock, are there groups of noncitizens who are legally present in the United States—but not yet lawful permanent residents—who should or could be allowed to serve in the U.S. Armed Forces?

Ms. STOCK. Yes, there are many noncitizens who are present in the United States who could potentially serve in the Aimed Forces, but who are currently not permitted to enlist because of Service policy. These included refugees, asylees, applicants for adjustment of status, and certain nonimmigrants such as M–1B workers and foreign students. Under the current enlistment statute, the Armed Forces are permitted to enlist such persons if the Secretary of the Service concerned deter-

mines that it is "vital to the national interest." To dale, no Service Secretary has made such a determination. Yet these noncitizens constitute a pool of highly-qualified potential recruits.

U.S. CITIZENSHIP FOR IMMIGRANTS

13. Senator MCCAIN. Secretary Chu, what effect does gaining citizenship have on the morale and motivation of a U.S. serviceman?

Secretary CHU. It improves morale. Noncitizens who become citizens can reap other benefits from military service, such as the ability to apply for security clearances and receive substantial bonuses for language skills. Naturalized servicemembers get other rights and privileges of United States citizenship, such as the right to vote, automatic granting of citizenship to dependent children, and the ability to sponsor family members living overseas.

Noncitizens perform well, both throughout boot camp, and throughout the first term of service. Many of them pursue citizenship while in the military, which is positively correlated with retention. Noncitizens provide the military with a rich pool of diverse recruits who have significant potential to succeed.

14. Senator MCCAIN. Secretary Chu, what programs are currently offered to immigrants for an accelerated path to citizenship? Please explain.

Secretary CHU. Title 8, U.S.C., requires immigrants to be resident aliens for 5 years before they can apply for United States citizenship. Section 328 of title 8, U.S.C., allows noncitizens serving in the United States Armed Forces during peacetime (including members of the Selected Reserve of the Ready Reserve) to apply for United States citizenship after 1 year of honorable service.

Section 329 of title 8, U.S.C., allows the President to authorize noncitizens serving in the United States military during times of conflict to apply immediately for United States citizenship. Executive Order 13269, signed July 3, 2002, authorized this exception, effective September 11, 2001.

The National Defense Authorization Act for Fiscal Year 2004 required the United States Citizenship and Immigration Service (USCIS) to provide overseas naturalization interviews, tests, and oaths, and to waive the citizenship application fee for military personnel beginning October 1, 2004.

The USCIS has established a special office in its Nebraska Processing Center to expedite citizenship applications for military members and their families. The average processing time has been reduced from 9 months to less than 60 days.

15. Senator MCCAIN. Secretary Chu, how are immigrants recruited and evaluated for this program?

Secretary CHU. The Department of Defense (DOD) has no specific program to recruit noncitizens specifically for an accelerated path to citizenship. Nonresident aliens, eligible for enlistment under section 504, title 10, U.S.C., are screened and evaluated under the same criteria as all other potential enlistees. Once in the Service, of course, there is a program for accelerated citizenship.

16. Senator MCCAIN. Director Gonzalez, how important is it to an immigrant to have the opportunity to become a U.S. citizen?

Mr. GONZALEZ. Mr. Gonzalez did not respond in time for printing. When received, answer will be retained in committee files.

17. Senator MCCAIN. Director Gonzalez, what advantages does citizenship afford immigrants in society?

Mr. GONZALEZ. Mr. Gonzalez did not respond in time for printing. When received, answer will be retained in committee files.

18. Senator MCCAIN. Director Gonzalez, if the U.S. had a permanent class of immigrants that were never able to become citizens, what affect do you think it would have on that immigrant community and our society as a whole?

Mr. GONZALEZ. Mr. Gonzalez did not respond in time for printing. When received, answer will be retained in committee files.

19. Senator MCCAIN. Director Gonzalez, what improvements to the naturalization process for military personnel have been made during your time so far as Director of the USCIS?

Mr. GONZALES. The most recent improvement to the military naturalization process became effective May 1, 2006. In collaboration with the Federal Bureau of Inves-

tigation (FBI) and the DOD, USCIS instituted a change in our fingerprint process to better serve U.S. military personnel applying for naturalization. Under this improved process, military members applying for naturalization may sign a Privacy Act Statement and Release Authorization Form, explicitly consenting to the use of the fingerprints provided at time of enlistment for immigration benefits purposes, rather than having to appear at one of our Application Support Centers post-deployment to provide a new set of fingerprints. Furthermore, if we are aware of an impending deployment, we expedite FBI name checks for soldiers. This new procedure applies to all noncitizen members of the U.S. Armed Forces seeking naturalization and eliminates a significant obstacle that previously delayed some military naturalization cases.

20. Senator MCCAIN. Director Gonzalez, how many posthumous naturalizations have been granted by USCIS so far?

Mr. GONZALES. As of July 9, 2006, USCIS has granted posthumous citizenship to 75 servicemembers stemming from the war on terror.

DIVERSE MILITARY CULTURE

21. Senator MCCAIN. Secretary Chu, overall, what are the effects of having a diverse military workforce and culture?

Secretary CHU. The United States military values and strives to achieve a diverse workforce, because we believe that diversity produces the strongest, most adept workforce with the most intelligence leaders. Reflecting this consistent effort, on many fronts, the United States military has been a leading institution providing equal opportunities for racial and ethnic minorities and women. We welcome people with disabilities in our civilian workforce and the military community, which includes wounded servicemembers and many individuals with disabilities among dependents and retirees.

Having a diverse military workforce and culture has several positive effects on military readiness and accomplishment of the military mission.

- Having a diverse military workforce and a military community that welcomes diversity provides an inclusive environment that encourages everyone to participate, put forward his best efforts, and excel. This helps us attract the best talents from every sector of the population. With the best talents from all backgrounds, the United States military will continue to be the best military in the world.
- Diversity begets more diversity. The United States Census Bureau projects that the country is increasingly diverse, especially among youth. The military will face an increasingly diverse recruiting market and it will need to attract youth from diverse backgrounds. A diverse workforce may be an attractive feature for potential recruits and a cause for current members to remain in the military.
- It is essential that the military reflect the country. In a democracy, the strength of the military depends on the trust of the people, and the American people are increasingly diverse.
- The global war on terrorism is being fought in different corners of the globe, where minorities may be better able to blend in with local populations. Winning the global war on terrorism requires more than directly engaging the enemy in the battlefields. Military members who come from diverse backgrounds often bring language skills and familiarity with other cultures and customs that may enhance unit effectiveness in intelligence gathering and building relationships with the local populations.
- The global war on terrorism is also fought virtually, from desks and offices throughout the United States, as well as physically, in far-flung locations. Age and disability need not be barriers to the effectiveness of DOD civilians in supporting our troops.
- Having a diverse military workforce and culture communicates to coalition forces, allies, and the world, an America that is culturally and religiously tolerant. In this way, the United States military can help change negative perceptions of Americans around the world.

IMMIGRATION REFORM

22. Senator MCCAIN. Professor Stock, how will comprehensive immigration reform help military members and their families?

Ms. STOCK. Comprehensive immigration reform will help military members and their families. Among the estimated 8 to 20 million illegal or undocumented immigrants in America today are the families of military members, and sometimes military members themselves. Many military members have spouses, parents, siblings, and children who are unable to obtain legal status in the United States today because our current laws do not allow them to become legal. For example, many military members have spouses who cannot obtain status in the United Stales, but who cannot process for visas overseas because once they depart the United States to try to obtain a visa, they trigger a permanent bar to returning. These spouses are essentially trapped in the United States as a result of the immigration "reforms" enacted in 1996. Comprehensive immigration reform will help these family members obtain legal status.

23. Senator MCCAIN. Professor Stock, does the "enforcement only" approach help or hurt them?

Ms. STOCK. An "enforcement only" approach will hurt them, because they will be deported and barred from returning to the United Stales permanently. We have already seen cases where military members fighting in Iraq have experienced serious added stress because they fear that the Department of Homeland Security (DHS) will deport their family members while they are overseas fighting for this country. In some cases, DHS has even moved to deport the military members themselves.

Comprehensive immigration reform will also help the Armed Forces generally by adjusting the status of many undocumented or illegal immigrants who are currently residing in the United Slates. Once these persons have been cleared by DHS and obtained legal status, many will likely enlist in the Armed Forces. The armed services are currently turning away many highly-qualified recruits because these recruits do not have legal status.

24. Senator MCCAIN. Professor Stock, what sorts of immigration problems do members of the U.S. Armed Forces and their families encounter? Please provide examples.

Ms. STOCK. Military members and their families of course encounter the same problems with our immigration system that nonmilitary people experience, including slow processing of cases. In addition, they experience special problems as a result of their military duty and the fact that military families move frequently. For example, some military members have had applications by their spouses denied because the military member has been unable to appear at an interview in the United States because he or she is deployed; in these cases, the DHS officers have denied the petition or application, rather than rescheduling it or conducting a telephone interview. In other cases, the military member's frequent moves have caused the petition or application to be delayed or denied because DHS sends notices to old addresses, or the application or petition must be transferred to a new office. Finally, consular officers have denied visas to the family members of immigrants because the consular officers believe that military salaries are too low to meet the "public charge" requirements of the immigration laws. These problems create added stress for military families.

25. Senator MCCAIN. Professor Stock, has the Judge Advocates General Corps been effective in providing legal assistance on immigration and citizenship problems to members of the U.S. Armed Forces and if not, why not?

Ms. STOCK. The Judge Advocate General (JAG) Corps legal assistance officers try very hard to help military members with their immigration problems. When dealing with very simple mailers, JAG officers do a reasonable job of helping military members and their families. Unfortunately, however, immigration law is extremely complex, and the vast majority of JAG attorneys do not have the background or training necessary to spot or solve complex military-related immigration problems. JAG officers are generally trained only in the basics of immigration law. I have had opportunity to provide immigration-related legal assistance to military members, alongside JAG officers, and have observed many cases in which well-meaning JAG officers have provided incorrect advice about U.S. immigration law to military members. In some cases, this incorrect advice has led to very serious consequences for the military members and their families.

JAG officers who are aware of the complexity of U.S. immigration law do refer military members to outside lawyers with immigration law expertise. In those cases, however, the military members must usually pay the legal fees of these private lawyers, which can be substantial. In many cases, military members cannot afford to hire private attorneys, and are forced to handle the immigration matter themselves, which can lead to disastrous results.

26. Senator MCCAIN. Professor Stock, what are some of the ways that the immigration system could be reformed to make it more responsive to the needs of members of the Armed Forces?

Ms. STOCK. First, comprehensive immigration reform will help—especially if it makes it possible for military family members to become legal, and if the immigration system becomes less complex and possible to navigate without the assistance of a highly-trained attorney. Next, central handling of military-related cases is useful, because a central office is more likely to be sympathetic and able to handle military-related problems such as frequent moves and deployments. Third, military members would be greatly assisted by a specific statute preventing DHS from initiating deportation or removal proceedings against them and their family members, and a statutory waiver for certain technical violations of the immigration laws that affect military members and their families. Finally, DHS should be encouraged to provide more training to its employees with regard to the special situations of military personnel.

DREAM ACT

27. Senator MCCAIN. Professor Stock, how would enactment of the Development, Relief, and Education for Alien Minors (DREAM) Act help the U.S. Armed Forces?

Ms. STOCK. Passage of the DREAM Act (S. 1545) would help the armed services considerably by dramatically expanding the numbers of highly-qualified American-educated young people who are eligible to enlist in the military.

28. Senator MCCAIN. Professor Stock, do you foresee any problems with the DREAM Act?

Ms. STOCK. The committee should be aware, however, that the DREAM Act does pose some problems for the military: Because of language in the law, DREAM Act beneficiaries who serve in the military will take much longer to get their U.S. citizenship than other noncitizens who join the military. This problem arises because the latest draft of the DREAM Act prohibits DREAM Act beneficiaries from becoming naturalized U.S. citizens until they have had the conditions lifted on their lawful permanent residence status—and this process is entirely dependent on DHS processing times, which may take years. Finally, the committee should be aware that some of the armed services have a policy of refusing to enlist conditional lawful permanent residents, for reasons that relate to an apparent misunderstanding of what "conditional lawful permanent residence" means. Thus, although conditional lawful permanent residents today are permitted by law to enlist in the Armed Forces, some military branches have a policy against enlisting them until the conditions are lifted on their status. If this policy continues after passage of the DREAM Act, these branches of the military will presumably prohibit DREAM Act beneficiaries from enlisting (all DREAM Act beneficiaries will be conditional lawful permanent residents). Essentially, these beneficiaries will be in a "Catch 22" with regard to their status, at least with regard to military service. Congress should direct the Armed Forces to stop prohibiting conditional lawful permanent residents from enlisting.

[Whereupon, at 1:25 p.m., the committee adjourned.]