

**IMMIGRATION NEEDS OF AMERICA'S
FIGHTING MEN AND WOMEN**

HEARING
BEFORE THE
SUBCOMMITTEE ON IMMIGRATION,
CITIZENSHIP, REFUGEES, BORDER SECURITY,
AND INTERNATIONAL LAW
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED TENTH CONGRESS
SECOND SESSION

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IMMIGRATION NEEDS OF AMERICA'S FIGHTING MEN AND WOMEN

TUESDAY, MAY 20, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,
REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:39 p.m., in Room 2141, Rayburn House Office Building, the Honorable Zoe Lofgren (Chairwoman of the Subcommittee) presiding.

Present: Representatives Lofgren, Gutierrez, Jackson Lee, Waters, King, Goodlatte, Lungren and Gohmert.

Also Present: Representative Conyers.

Staff Present: Traci Hong, Majority Counsel; Ur Mendoza Jaddou, Majority Chief Counsel; Andres Jimenez, Professional Staff Member; and George Fishman, Minority Counsel.

Ms. LOFGREN. The hearing of the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law will come to order.

This is a hearing that I think is very important because it is about the duty we owe to those we ask to pay the last full measure of devotion. This duty should transcend politics and partisanship, and in this we can find agreement. We owe no greater duty than the one we owe to the members of the Armed Forces and their families.

As we ask our troops to stand in harm's way as we send them to war, our duty to our soldiers, airmen and women and Marines must remain paramount. As they protect us, we must protect them. Each of them is a son or a daughter, a husband or a wife, a parent or a child, a brother or a sister.

Tens of thousands are immigrants. Countless others have spouses or other close relatives who are immigrants or have immigration issues. Our duty to these brave men and women obligates us to ensure that their focus stays on their mission and on the safety and security of those they serve with. We must do all we can to reduce the stresses of war on the families of these brave men and women. The wives, husbands, children, parents, brothers and sisters of our soldiers agonize every minute of every day for their loved ones who stand in harm's way. They do double and triple duty while their loved ones are away.

For our troops, peace of mind about the home front is the ultimate comfort. When our soldiers or their family members face immigration issues, it clouds their effectiveness and their focus. We

must do all we can to relieve the burden that our service members face.

Last year, I was privileged to meet Petty Officer Second Class Eduardo Gonzalez when he testified before the Immigration Subcommittee. A United States citizen, he enlisted in the U.S. Navy in 2003 after graduating from high school and going on to earn an associate's degree in occupational studies.

Eduardo has been deployed to Iraq three times on ship and on shore. He was married in 2004 to his long-time girlfriend. They now have a son.

When they married, Eduardo's wife had been waiting for more than 4 years to get her Green Card. What neither Eduardo or his wife realized was that, simply by getting married, she would no longer be eligible to get her Green Card because her application was dependent on her being the single child of her mother. Eduardo's wife came to the U.S. from Guatemala when she was 5 years old. She had waited for years for USCIS to process her case, but she was in danger of being deported.

When I talked to Eduardo, he expressed the great burden his wife's immigration difficulties placed upon him. They were distracted. He told me how he constantly worried about her and how he feared that she might be deported while he was at sea or in a combat zone. He worried that their child would be left without a mother and a father.

Another soldier whose wife arrived legally in the U.S. at age 13 but overstayed her visa thereafter feared that his wife would be deported and worried that his 2-year-old son would be in limbo while he was deployed for the third time. Quote, "I joined the Army, and I take pride in what I do," Angel Rodriguez said, "but it is hard being away and defending a country that doesn't want your family."

These stories, real stories, are happening every day to soldiers serving our Nation; and that is the reason why I believe we must change the law to provide immigration assistance to family members of American soldiers. It would be one small measure we could do for those we ask to pay the last full measure of devotion for us.

I look forward to hearing from our witnesses today who can each provide us their own perspectives on the need for immigration changes for our soldiers, from the perspective of a 3-star general who has commanded many soldiers in need of immigration help, soldiers trying to navigate an immigration system that has thus far failed them and from an attorney who volunteers her time to help soldiers around the country solve their immigration cases where she can.

I would like to recognize the sister of one of our witnesses, Airman Karla Rivera, who is with us today in the audience. Ms. Daisy Maldonado, who is 12 years old, has traveled all the way from Tustin, California, to watch her sister testify. And we welcome you, and we hope that you enjoy your day here.

I would also like to note that Sergeant Yolanda Guevara has come all the way from North Carolina with her husband and three kids to show her support at this hearing. She, too, is experiencing the labyrinth of immigration law and has not yet found a way out. Thank you for being here today.

I would now like to recognize our distinguished Ranking Minority Member, Steven King, for his opening statement.

[The prepared statement of Ms. Lofgren follows:]

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRWOMAN, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

The duty we owe to those we ask to pay “the last full measure of devotion” transcends politics and partisan pettiness. In this we can find agreement—we owe no greater duty than the one we owe members of the Armed Forces and their families.

As we ask our troops to stand in harm’s way, as we send them to war, our duty to our soldiers, sailors, airmen and marines must remain paramount. As they protect us, we must protect them.

Each of them is a son or a daughter, a husband or a wife, a parent or a child, a brother or a sister. Tens of thousands are immigrants. Countless others have spouses or other close relatives who are immigrants or have immigration issues.

Our duty to these brave men and women obligates us to ensure that their focus stays on their mission and on the safety and security of those they serve with.

We must also do all we can to reduce the stresses of war on the families of these brave men and women. The wives, husbands, children, parents, brothers and sisters of our soldiers agonize every minute of every day for their loved ones who stand in harm’s way. They do double and triple duty while their loved ones are away.

For our troops, peace of mind about the home front is the ultimate comfort. When our soldiers or their family members face immigration issues, it clouds their focus and effectiveness.

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Last year, I was privileged to meet Petty Officer Second Class Eduardo Gonzalez when he testified before the Immigration Subcommittee. A United States citizen, Eduardo enlisted in the United States Navy in 2003 after graduating from high school and going on to earn an associate’s degree in occupational studies. Eduardo has been deployed to Iraq three times, on ship and shore.

Eduardo was married in 2004 to his longtime girlfriend. They now have a son. When they married, Eduardo’s wife had been waiting for more than four years to get her green card. What neither Eduardo nor his wife realized was that simply by getting married she would no longer be eligible to get her green card because her application was dependent on her being the single child of her mother.

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When I talked to Eduardo, he expressed the great burden his wife’s immigration difficulties placed on him. They were distracting. He told me how he constantly worried about her, and how he feared that she might be deported while he was at sea in a combat zone. He worried that their child would be left without a mother and a father.

Another soldier whose wife arrived legally in the U.S. at age 13, but overstayed her visa thereafter, feared that his wife would be deported and worried that his two-year-old son would be in limbo while he was deployed for the third time. “I joined the Army and I take pride in what I do,” Angel Rodriguez said. “But it’s hard being away and defending a country that doesn’t want your family.”

These real stories happening every day to soldiers serving our nation in harm’s way is the reason I believe we must change the law to provide immigration assistance to family members of American soldiers.

It would be one small measure we could do for those we ask to pay the last full measure of devotion for us.

I look forward to hearing from our witnesses today who can each provide us their own perspective on the need for immigration changes for our soldiers, from the perspective of a three-star General who has commanded many soldiers in need of immigration help, a soldier trying to navigate an immigration system that has thus far failed her, and from an attorney who volunteers her time to help soldiers around the country solve their immigration cases where she can.

I’d like to recognize the sister of one of our witness, Airman Karla Rivera, who is with us today in the audience. I’d also like to note that Sergeant Yolanda Guevara has come all the way from North Carolina with her husband and three kids to show her support of this hearing. She too is experiencing the labyrinth of immigration law and has not yet found a way out. Thank you for being here today.

Mr. KING. Thank you, Madam Chair; and I want to thank the witnesses for being here today and for your testimony that I anticipate.

Our Nation owes a debt of gratitude to those legal, permanent residents who serve in the U.S. Armed Forces, the same debt we owe to citizen soldiers. And since September 11, 111 noncitizen service members have made the ultimate sacrifice and have been granted posthumous citizenship. They have a special place in our hearts.

Congress has long sought to facilitate the naturalization of non-citizens serving in the Armed Forces. In fact, our immigration laws contain three special naturalization provisions just for service members. The first is section 328 of the Immigration and Nationality Act, which permits a permanent resident who has served honorably in the U.S. Armed Forces for a year during peacetime to naturalize. In the 108th Congress, we reduced the period from 3 years. This is in contrast to most legal permanent residents who must be in that status for 5 years before they can naturalize, one way of respecting and appreciating service in our Armed Forces.

The second, section 329 of the Immigration and Naturalization Act, permits an alien who has served honorably in an active duty status in the U.S. Armed Forces during a time of war to immediately naturalize. We are now in such a war. As of July 3, 2002, President Bush officially designated the period beginning on September 11, 2001, as a period of hostilities.

Third, section 329(a) of the Immigration Nationality Act provides that an alien who has honorably served in the military during a period of hostilities and died as a result can be granted posthumous citizenship if requested by their next of kin.

After we learned that some of the members of the military who died in combat during Operation Iraqi Freedom were not U.S. citizens, Congress acted to provide enhanced benefits to permanent resident service members and their families.

As I mentioned, Congress reduced the peacetime military service requirement for expedited naturalization from 3 years to 1 year. We prohibited fees from being charged to service members who are applying for naturalization. We require that naturalization applications, interviews, filings, oaths and ceremonies be available through United States embassies, consulates and, as practicable, through U.S. military installations overseas. We provided that the spouses, children and parents of U.S. citizens who died as a result of serving in active duty status, including service members granted posthumous citizenship, would retain the immigration benefits available to the immediate relatives of U.S. citizens.

However, this hearing is about a much different proposition. It is not about easing the naturalization of U.S. service members and providing substantive immigration benefits to the legally present family members of service members who were killed in action. Rather, this hearing is about whether to grant amnesty to illegal immigrants who are family members of U.S. service members. This hearing is about whether to waive many grounds of removability for noncitizens who are serving in or who have ever served in the military and for noncitizen family members of service members, including those grounds predicated on the most serious of crimes.

Our soldiers fight and, in some cases, give their lives to preserve the rule of law. It seems ironic indeed that some would propose to disregard the rule of law just as another reward or inducement to serve our country.

How do I know this? Let's take a look at H.R. 6020 introduced by Chair Lofgren. This bill waives many grounds of inadmissibility and deportability for aliens in the military. These benefits also go to most aliens who have ever served in the military, no matter how short or how long ago were their periods of service. And they go to aliens who are the spouses, minor children, adult children, parents and minor siblings of service members.

Just what grounds are waived? Well, among them are illegal entry into the U.S. and the 3- and 10-year bars to re-entry for aliens who have been illegally present in the U.S. more than 6 months.

Additionally, immigration judges are given the discretionary authority to waive most other nonterrorism-related grounds, including the authority to waive most criminal grounds and document fraud. Falsely claiming citizenship would be waived potentially as well as illegal voting.

And how soon we forget that the abuse of discretion by liberal immigration judges forced Congress to remove much of their discretion in 1996. Thus, the aliens who arrive in the U.S. illegally cannot be removed and can re-enter the U.S. despite having been in the U.S. illegally for extended periods of time. Immigration judges will have the ability to waive all the criminal grounds of deportability for murder, gang crimes and rape on down. Remember, these waivers apply not just to service members but to their family members and to most aliens who have ever served in the military.

What else does the bill do? It prohibits the use of expedited removal against illegal immigrants and immigrants convicted of aggravated felonies as long as they served honorably in the military at any time. It also would prohibit the reinstatement of removal orders against such aliens who illegally return to the U.S. after being removed.

This bill will create a perverse incentive for persons who intentionally enter the military for the express purpose of procuring amnesty or relief from the immigration consequences of serious crimes for themselves or for their extended family members. This is not what service to this country is about. We do need to stand for the rule of law here.

I am, though, interested in this testimony; and I do appreciate greatly the service to this country by the witnesses here and all those they represent.

Madam Chair, I thank you; and I yield back the balance of my time.

Ms. LOFGREN. The gentleman's time has expired.

I would turn now to the Chairman of the full Judiciary Committee, Congressman John Conyers, for any statement he may have.

Mr. CONYERS. Thanks, Chairman Lofgren and Ranking Member Steve King, Dan Lungren.

I am trying to work out a way to talk to National Commander of the American Legion, Mr. Martin Conatser, but we weren't able

to communicate before the hearing began. But it might be useful if we meet informally and see if we can work out our differences; and the first person I would like to ask to join myself and Dan Lungren is the Ranking Member, Steve King, if we can work out a mutual time to do this.

Ms. LOFGREN. Mr. Chairman, if you would yield to me, I would note also that this bill has a good bipartisan group of original cosponsors. Mac Thornberry, who is a member of the Armed Services Committee, is the lead Republican. I would hope that he would be included along with Mike Pence, a Member of the Judiciary Committee, as well as Mike Turner, also a Member of the Armed Services Committee.

Mr. CONYERS. It's a good idea. And Lungren and I just thought it up a few minutes ago. This has not been laying around a long time.

Mr. LUNGREN. Mr. Chairman, this is a meeting without preconditions.

Ms. LOFGREN. Diplomacy.

Mr. CONYERS. You know, what I keep thinking of, I don't know who else served in combat as I have. It is one thing to wonder how your family is doing back home. It is another thing to wonder if your Government has locked up your spouse or kicked her out of the country or whatever could happen.

Mr. KING. If the Chairman would yield. And certainly my response to that offer is yes. I would be very happy to sit down and discuss this.

Mr. CONYERS. Thank you.

Mr. KING. If I could just make a point. Having those kind of discussions really helps us flush out some of the unintended consequences. And I don't question the heart. I just question some of the potential unintended consequences.

Mr. CONYERS. Thank you. Thank you for that clarification. And then we need a little flexibility in the law, and I think the Lofgren legislation may cover that.

You know, to require a person to show up at the immigration office when he is in Iraq and the office is in the United States as a condition to your wife getting the clearance would be funny except that it is so tragic. And so if we really want to do this, we would get more efficient about this.

And then of course our colleague from Texas, Gene Green, has another bill that is not under discussion here today that also makes this a little more efficient and a little smoother.

And I am proud of all the witnesses that are here today, and I ask that my statement be made a part of the record.

Ms. LOFGREN. Without objection, that is so ordered.

[The prepared statement of Mr. Conyers follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY

We have heard too many tragic stories of people being arrested or deported while their loved ones are overseas in Iraq and Afghanistan.

Patriotism doesn't start only with a naturalization ceremony. Over 45,000 non-citizens serve in the U.S. military, and countless more servicemembers have close immigrant family members.

The first American killed in Iraq—Lance Corporal Jose Antonio Gutierrez—came to the United States illegally. He loved this country so much that he dedicated himself to service, and gave his life for his new country. We need to honor his sacrifice by recognizing that today’s undocumented immigrant might be tomorrow’s American hero.

Immigration is a military issue. It affects readiness of native and foreign-born troops alike. At worst the broken and inflexible system can prevent us from tapping the skills and energy of immigrants who want to serve their new country. We *must* address the immigration issues that affect our troops.

First, active duty soldiers and veterans should be able to become citizens expeditiously. They should not be sidetracked into “conditional” permanent residence.

Second, our troops should not be forced to wait for years to be reunited with their spouses or children.

Administrative functions, such as in-person interviews, should have flexibility.

A family’s applications should not fall through the cracks when we are deploying these men and women all over the world and they cannot attend an in-person interview.

Third, there needs to be a rational system for dealing with undocumented family members.

Nobody should be distracted from their mission, fearing that their parents or siblings, or spouses will be arrested and deported.

Nobody should have to go into combat fearing that if they are killed, their spouse will lose their ability to adjust to lawful status.

I welcome our witnesses—on active duty, in the reserves, and members of veterans’ organizations. I look forward to tackling this important issue.

Ms. LOFGREN. I know that Mr. Smith is not yet present, but his statement will be invited, should he appear later. And in view of the time and in order to hear from the witnesses, without objection, opening statements of all other Members will be made part of the record.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND MEMBER, SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW

Chairwoman, Lofgren, and ranking member King, thank you for convening today’s very important hearing on “Immigration Needs of America’s Fighting Men and Women.”

This Subcommittee is well aware of the problems caused by our broken immigration system. U.S. citizens and employers must wait years before close family members or needed workers can legally immigrate to the United States. U.S. citizens and employers must wait years before close family members or needed workers can legally immigrate to the United States. If the family members or the workers are undocumented, they have no realistic way to gain legal status, even though they may be eligible to become permanent residents through family or employment petitions. Immigration officials lack the discretion to determine which noncitizens should be removed and which noncitizens deserve relief based upon their contributions to the United States and the impact on their U.S. citizen family, employer, and/or community.

Due to the nature of military service and the hardship that such service imposes on the soldiers and their families, U.S. citizen soldiers with noncitizen family members, or lawful permanent resident soldiers and veterans are particularly impacted by our dysfunctional immigration system. This hearing will examine the immigration problems that our soldiers, veterans, and their families face, and discuss solutions to these problems that recognize their unique predicament and the service that they render our country.

The following witnesses will assist the Subcommittee in examining the immigration problems that our soldiers, veterans, and their families face, and discuss solutions to these problems that recognize their unique predicament and the service that they render our country.

Welcome Lt. Col. Margaret Stock, of the Military Police Corps, U.S. Army Reserve; Airman Karla Rivera, of the U.S. Navy; Capt. Christine Navarro, of the U.S. Air Force; Lt. Gen. (retired) Edward Baca, on behalf of the American GI Forum;

and, Mark Seavey, Assistant Director of the National Legislative Commission, American Legion. Again, welcome, and I look forward to hearing your insightful testimony.

Thank you, I yield the balance of my time.

Ms. LOFGREN. We now turn to our panel.

It is my pleasure to introduce Margaret Stock. Ms. Stock is an attorney and a Lieutenant Colonel in the United States Army Reserve. She is currently assigned as an Associate Professor, Drilling Individual Mobilization Augmentee, in the Department of Social Sciences at the U.S. Military Academy at West Point.

Ms. Stock earned her bachelor's degree in government at Harvard-Radcliffe and a juris doctorate at Harvard Law School and master's in public administration at John F. Kennedy School of Government, also at Harvard University. She is a 2006 graduate of the Army War College, which awarded her a master's of strategic studies degree. She is a nationally recognized expert in issues related to immigration and citizenship law, and she has testified on these issues before Congress in the past.

Next, I would like to introduce Karla Arambula de Rivera. A native of Mexico, Airman Rivera was brought to live in the United States as a little girl and has lived here ever since. She married a U.S. citizen in 2004 and later became a conditional permanent resident. In March of 2007, she enlisted in the Navy. She is currently assigned to the USS Carl Vinson, where she serves as an aviation boatswain's mate airman.

Next, I am pleased to welcome Captain Christine Navarro. Captain Navarro is an aircraft commander pilot, assigned to the 91st Air Refueling Squadron at MacDill Air Force Base. As a graduate of the Air Force Academy in 2002, Captain Navarro received her commission and degree in aeronautical engineering with a minor in mathematics. She is currently attending Texas A&M University distance learning master's degree program in industrial engineering. Captain Navarro has a 3-year-old son with her husband, Jose Navarro.

Our next witness is retired Lieutenant General Edward Baca, who is testifying on behalf of the American G.I. Forum. His military career included 41 years of distinguished service, culminating in appointment by the President of the United States to the Chief National Guard Bureau. In his position, General Baca oversaw the Army and the Air National Guard in 54 States, territories and the District of Columbia. General Baca began his military career with the New Mexico National Guard. At the onset of the Vietnam conflict, he volunteered for active duty and overseas deployment and served in the Republic of Vietnam.

Just a few of his numerous awards and decorations include the Department of Defense Distinguished Service Medal, two Army Distinguished Service Medals, and the Air Force Distinguished Service Medal and the Legion of Merit.

General Baca is a graduate of numerous military schools, has a bachelor's of science degree in liberal arts from the State University of New York at Albany. He was also awarded an honorary doctorate of law degree from New Mexico State University at Las Cruces, New Mexico. After retiring from active duty military service and prior to forming the Baca Group, General Baca consulted

in both the public and private sectors and devoted his time to community service.

Finally, I would like to introduce Mark Seavey. Mr. Seavey began his career with the American Legion in 1997. Prior to his employment with the American Legion, he served in the active duty Army, the U.S. Army Reserve and the Virginia Army National Guard.

As an infantry squad leader with the Virginia Army National Guard, he was activated for service in Bosnia Herzegovina in 1997. In 2004, he deployed to Afghanistan for 1 year, performing a variety of functions, including providing security for Afghan President Hamid Karzai and serving as an infantry squad leader on combat patrols.

Mr. Seavey is a recipient of the Combat Infantryman's Badge, two Armed Forces Expeditionary Medals, the NATO Medal, two Army Achievement Medals, and other medals from his service. He is a graduate of The Citadel, the Military College of South Carolina, and has a juris doctorate from George Mason University School of Law.

As I mentioned before our hearing began, the written statements of each of the witnesses will be made part of our official record of this hearing. We would ask each witness to testify for about 5 minutes, and then we will have an opportunity to pose questions to you.

So may we begin with you, Ms. Stock, on your testimony; and thanks again for being here.

TESTIMONY OF MARGARET STOCK, ATTORNEY AND LIEUTENANT COLONEL, MILITARY POLICE CORPS, UNITED STATES ARMY RESERVE

Ms. STOCK. Madam Chairwoman and distinguished Members of the Committee, I am honored to be here today to talk with you about the field of U.S. citizenship and immigration law and its effect on military members, veterans and their families. The statements, opinions and views that I will express today are my own. They are not necessarily the opinions of the United States Military Academy, the Department of the Army, the Department of Defense or any other Government agency.

For the past several months, I have been volunteering with the American Immigration Lawyers Association Military Assistance Program, a new collaborative effort between the American Immigration Lawyers Association and the Legal Assistance Offices of the Judge Advocate Generals of the United States Armed Forces. The military Legal Assistance Offices provide free legal assistance to military members and their families, including active duty, reserve component and retired military personnel in order to maintain the highest level of readiness possible in the event a military member is deployed.

Recently, JAG attorneys in these offices have been inundated with immigration problems, complex immigration problems. And to resolve these cases successfully, they often need the assistance and experience of immigration lawyers who have been dealing with this complex area of the law.

AILA MAP, this new program with the American Immigration Lawyers Association, has brought these two groups together for the first time in a dynamic partnership. And as a volunteer with AILA MAP, I have been able to see the wide range of immigration problems that U.S. military members, veterans and their families face today.

And I will just mention that the U.S. military members who are present here today have all contacted AILA MAP for assistance, and I became aware of their issues because of that program.

Thus, I am honored to be appearing, as I said, before you today to discuss the immigration law problems faced by members of the U.S. military and their families. These problems are numerous and result from the fact that immigration law is an extremely complex area of the law, often arbitrary, and many of the laws and regulations that affect immigrants and their family members don't take into account the situation of members of the Armed Forces fully.

The U.S. is a global power, and members of the military are deployed in more than 100 countries around the world. And while our Armed Forces are engaged in fighting a global war on terrorism with an enemy who speaks many languages and travels internationally and fights our forces here at home and across the globe, America's immigration laws often detract from our ability to fight that war.

Currently, many military members fighting overseas find that they have to fight their Government back home, as that Government creates bureaucratic obstacles that impede military readiness by preventing family members from accessing benefits or getting benefits under the immigration law, by refusing to allow family members into the United States altogether, or even seeking to deport military members or their families.

It is important to emphasize—and I know that many Members of this Committee are fully aware of the complexity of immigration law, but it is important to emphasize the current state of the law. It is dysfunctional and irrational, and it only promises to get worse.

As military members encounter these laws and this system, they are often experiencing the same difficulties and frustrations that civilians experience. They have to deal with a complex system that requires years of study to understand, a system that makes it nearly impossible for many people to immigrate legally to the United States unless they can find and have the funds to hire an extremely experienced immigration lawyer. These military members face the added burden that they must cope with these complexities of the immigration law while at the same time they are coping with the stresses of the military lifestyle.

I applaud Congress for its efforts in recent years to smooth the citizenship application process for military members, and I would like to note for the record that United States Citizenship and Immigration Services has a very dedicated team of professionals at the Nebraska Service Center who have been doing everything they can to naturalize military members as fast as possible. I know they have received some criticism, but, in my view, the criticism is probably undeserved, because they have been working really, really hard to naturalize our military members. I would also note, however, that sometimes their efforts are stymied by other agencies

that are required to do name checks and process fingerprints and that sort of thing; and that has caused problems for our military members.

Congress has also made some recent changes to the law so that family members sent overseas will not lose their entitlement to continue with citizenship and Green Card processes simply because they have gone overseas on orders with their military family members. We have had a problem in the past with that. The fact that you got deployed to Germany meant that you lost your ability to naturalize as a U.S. citizen.

But more needs to be done, and I want to give you some examples of immigration problems that still exist and that are hurting military readiness.

First, active duty members of the military are still being placed into removal proceedings and forced to hire private attorneys, seek assistance from AILA MAP or represent themselves. While the Department of Homeland Security is represented in removal proceedings by qualified attorneys, it does not provide defense attorneys to aliens who are in removal proceedings or even U.S. citizens who are mistakenly put into removal proceedings. So you have to find a lawyer on your own.

And although, theoretically, there is a policy with the Immigration and Customs enforcement folks that they won't try to deport active duty military, that policy doesn't apply across the board to everybody in Homeland Security. So they have been doing that today.

I know that Airman Rivera is going to tell you more about that later, so I will defer to her personal story on that front.

A second problem military members face is their inability to obtain permanent legal status for their family members in a timely manner. This doesn't just affect people who are unauthorized. This affects legal people. Government processing times are slow, the procedures are complex, and the fees are often unaffordable for many military families.

We are finding through AILA MAP that many military spouses can't get driver's licenses, can't get Social Security numbers and are facing situations where their spouse is being deployed overseas by the military and they are left back home without the ability to drive, without a Social Security number. This puts tremendous strain on the family support groups on the bases which have to go and take these people around and take them to appointments and things since there is no mass transit readily available on a lot of the bases. So this has been a problem.

Another problem, military families are able to file applications for immigration benefits, but sometimes they often run afoul of the complex laws through no fault of their own. They move frequently, so DHS notices don't reach them. We are having a little technical problem with DHS where they don't recognize APO and FPO addresses in their computer system. So military family members don't get notified about things, and then they lose their entitlement or become illegal because they didn't show up at an appointment or they were ordered to go overseas while an application was pending. When these things happen, DHS will deny the applications or sometimes put them into removal proceedings. We have had a

number of military spouses put into removal proceedings simply because notices didn't reach them on time.

We have problems with fingerprints where family members have to travel more than 100 miles just to get fingerprinted by the U.S. Government. We have problems with medical exams where military doctors are not recognized by Homeland Security as being allowed to do the perfunctory immigration medical examine that is required to get benefits.

But our worst problem right now is the problem faced by military family members who are out of compliance with immigration law. This is mainly due to the 1996 changes to the immigration laws which are extraordinarily harsh. They punish people who have been here illegally in the United States and leave to go get a visa overseas. In some cases, people have a legal status, such as temporary protected status, but they are barred from getting a Green Card. So even though they have some status that allows them to be here, they can't get permanent residence.

And then there are many military family members who are simply barred from getting Green Cards altogether. They have no hope of getting a Green Card because there are no waivers to many of the violations of immigration law that they are involved with. These laws have a particularly harsh effect on military families and force them to make a choice between abandoning their families—military members have to decide whether to abandon their families or to leave the United States military altogether.

Ms. LOFGREN. Ms. Stock, I mentioned to all of you that I would not have a heavy gavel out of respect for our military, but we do need to ask you to summarize at this point.

Ms. STOCK. I will.

Madam Chairwoman, I will just give you one case in point. George Mayicka, who is an Army soldier who serves in the critical health care field. His wife was told by an immigration judge, and an immigration attorney working for the Government, that if she simply left the United States and went overseas to a consulate she would get her immigrant visa and be back in 6 months. When she went overseas to get her visa at the instruction of the immigration judge, the State Department told her that she was barred permanently from the U.S. and could never be allowed back in.

George Mayicka now is facing a really difficult choice. He has to now decide whether to join his wife in Africa, where she is now being forced to live, or leave the military, seek a hardship waiver from the military to join his wife in Africa, or abandon her to stay in the military.

I offer that as just one case. I know that you will hear about others.

But I want to summarize by saying that President Bush emphasized the important contributions of military families in his State of the Union address earlier this year. He lauded the contributions military families make and how they sacrifice for America. It is time that we honor those sacrifices by allowing some flexibility in the immigration laws for military families. This will enhance military readiness.

Ms. LOFGREN. Thank you.

[The prepared statement of Ms. Stock follows:]

PREPARED STATEMENT OF MARGARET D. STOCK

Madam Chairwoman 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 field of immigration and citizenship law and to discuss its effect on military members, veterans, and their families.

I am an attorney admitted to the bar in the State of Alaska, where I have practiced primarily in the area of immigration and citizenship law for nearly fifteen years. I have also been a member of the Army Reserve for more than twenty-six years; currently, in my capacity as a Lieutenant Colonel in the Military Police Corps, US Army Reserve, I am assigned as an Associate Professor (Drilling Individual Mobilization Augmentee) in the Department of Social Sciences at the United States Military Academy at West Point, New York. As an attorney in private practice and as an employee of the Department of the Army, I have assisted numerous military members and their families with US immigration matters. 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, or any other government agency.

For the past several months, I have been volunteering with the American Immigration Lawyers Association Military Assistance Program, a new collaborative effort between the American Immigration Lawyers Association (AILA) and the Legal Assistance Offices of the United States military Judge Advocate General Corps. The military Legal Assistance Offices provide free assistance to military members and their families, including active duty, reserve component, and retired military personnel in order to maintain the highest level of readiness possible in the event a military member is deployed. Recently, JAG attorneys have been inundated with complex immigration legal questions. To resolve these cases successfully, they often need the assistance and experience of seasoned immigration attorneys. AILA MAP has brought these two groups together for the first time in a dynamic partnership. As a volunteer with AILA MAP, I have been able to see the wide range of immigration problems that US military members, veterans, and their families face today.

Thus, I am honored to be appearing before you today to discuss the immigration law problems faced by members of the US military and their families. These problems are numerous and result from the fact that Congress and the Executive Branch have created an extremely complex and often arbitrary system of immigration laws and regulations without full attention to the detrimental impact that this system has on the readiness of the US Armed Forces. The United States is a global power and members of its military are deployed in more than a hundred countries around the world. And while our Armed Forces are engaged in 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, America's immigration laws often detract from the military's ability to fight that war. Currently, many military members fighting overseas find that they must also fight their own government at home, as that government creates bureaucratic obstacles that impede military readiness by preventing family members from accessing immigration benefits, refuses to allow family members into the United States altogether, or even seeks to deport military personnel or their family members.

It is important to emphasize—as Members of this Committee know very well—that the current state of immigration law is dysfunctional and irrational, and only promises to get worse. The most apt description of the state of our immigration laws comes from former INS spokesperson Karen Kraushaar, who said that US 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 can find, and have the funds to hire, one of the rare attorneys who knows how to navigate the system successfully. And these military members face the added burden that they must cope with these complexities at the same time that they are coping with added stresses necessitated by today's military lifestyle.

Congress has done much in recent years to try to help non-citizen military members become citizens more quickly, and the process for expediting military naturalization cases has improved greatly in the past few years. I applaud this effort, which has been highly beneficial to the US Armed Forces in obtaining and retaining qualified enlisted personnel and officers. Congress also made some recent changes to the law so that family members sent overseas will not lose their US residency or eligibility to naturalize simply because they have spent time overseas with their military spouse or parent. But much more must be done. Let me give you some ex-

amples of immigration problems that still exist, and that are hurting military readiness:

First, active duty military personnel are still being placed into removal proceedings and forced to hire private attorneys, seek assistance from AILA MAP, or represent themselves. The Department of Homeland Security is represented by qualified attorneys when it moves to deport aliens, but it does not provide defense attorneys to aliens (or even United States citizens) who are placed into proceedings, even if those individuals are active duty military members. DHS has a policy—laid out in a document called the “Forman memo”¹—that its officers are not supposed to try to deport active duty military personnel without checking with their headquarters. Lately, however, DHS officers have been ignoring the policy. Active duty military personnel have been placed into proceedings—or threatened with being placed into proceedings—for technical violations of immigration law. To give one example, Navy sailor Karla Rivera was recently placed into removal proceedings because she failed to file Form I-751 to lift the conditions on her permanent residence—despite the fact that she is eligible for a waiver of the timely filing of the form, and despite having a pending citizenship application. It is unlikely that the United States Government will ever deport Karla—or that there would be any rational reason to deport Karla—but this sailor has had to attend removal proceedings on the other side of the country, at her own expense, despite having a pending citizenship application that will likely be approved. Not only is Karla’s time being wasted with this exercise, but the US taxpayers are paying for the time of immigration judges and DHS attorneys so that Karla can be forced to engage in a Kafkaesque dance with the immigration bureaucracy. And she must take time away from her Navy job to do so.

Another problem that military members face is their inability to obtain permanent legal status for their family members in a timely manner. This is a problem that does not just affect military personnel whose family members have violated immigration law—it affects perfectly legal people as well. Slow government processing times, complex filing procedures, and huge fees can often mean that family members awaiting their lawful residency cannot obtain Employment Authorization Documents, Social Security numbers, or driver’s licenses for months or sometimes years. Military personnel deployed overseas often have spouses and children back home in the United States who cannot work or drive legally—and military bases are often very large places in isolated areas where mass transit is not readily available. Military units are forced to provide transportation and other support to these family members because the Department of Homeland Security takes so long to approve their applications for the basic legal documents that they need to survive on their own in today’s America.

Even when military families are able to file applications for immigration benefits, they often run afoul of our complex laws through no fault of their own. Because of military requirements, they move frequently, so that DHS notices do not reach them timely. The military will order them to go overseas while their applications are pending, and they often thereby lose eligibility for the benefit they seek. When these things happen, DHS will deny their applications or even put them into removal proceedings, forcing them again to incur significant time and expense to resolve the problem. They also live on military bases that are often very far away from the DHS offices with which they must file their applications. Many military family members must travel more than 100 miles just to have their fingerprints taken for immigration benefits. They are also required to take medical exams with DHS-designated civil surgeons because DHS does not recognize most military doctors as being qualified to provide these exams. Thus military members and their families are forced to pay large fees and travel to obtain the required exams.

Even worse are the problems faced by military personnel whose family members are out of compliance with immigration law. Due to the 1996 changes to the immigration laws, many of these family members are unable to obtain legal status in the United States. In some cases, they have a legal status such as Temporary Protected Status, but are unable to obtain lawful permanent residence. In other cases, they must leave the United States to have any hope of obtaining an immigrant visa—but once they leave, they will trigger a bar that prevents their return. And finally, there are those who are simply barred from permanent residence altogether due to harsh provisions of the immigration laws that provide no waivers for even very minor transgressions. In a country that professes to value the ideals of family unity,

¹ Marcy M. Forman, Acting Director, Office of Investigations, Immigration & Customs Enforcement, Memorandum, Issuance of Notices to Appear, Administrative Orders of Removal, or Reinstatement of A Final Removal Order on Aliens with United States Military Service, June 21, 2004, available at <http://www.bibdaily.com/pdfs/Forman%206-21-04.pdf>.

forgiveness, and rehabilitation, it is hard to explain why past minor violations of immigration law can never be forgiven, but lead to permanent banishment from the United States and force the break-up of many families, both military and civilian. These laws have a particularly harsh effect on military families, forcing military members to make a choice between abandoning their families, or leaving the United States military altogether.

The plight of U.S. military family members with these types of immigration problems is no better illustrated than by reference to the well-publicized case of Yaderlin Hiraldo and Alex Jimenez. Yaderlin's situation came to national media attention in mid-2007, when her husband, Specialist Alex Jimenez of the United States Army, was reported Missing In Action (MIA) after his squad was ambushed in Iraq.² Prior to his disappearance, Alex had filed papers seeking to obtain lawful permanent residence status for his wife.³ Unfortunately for Alex, Department of Homeland Security (DHS) officials decided that Yaderlin was not eligible for lawful permanent residence (LPR) status because she had entered the United States in an irregular manner.⁴ She was placed into removal proceedings, and for several years the Department of Homeland Security tried to deport her. She was in removal proceedings when her husband was reported missing, and had been told to leave the US and seek a visa overseas; and yet without his presence and support, she could not hope to obtain permission to return to the United States, and would be barred for ten years from returning to the United States.⁵ But the Department of Homeland Security stood firm; she was not to be granted any special grace due to her status as the spouse of a deployed soldier.

And yet when Senator John Kerry wrote a letter to Secretary of Homeland Security Michael Chertoff, and major news media began highlighting Yaderlin's predicament,⁶ Secretary Chertoff suddenly exercised his authority to grant "discretionary parole" to Yaderlin.⁷ Once she had been granted parole, Yaderlin was immediately eligible to adjust her status, despite her unlawful entry. Within a matter of days, USCIS granted her application to adjust status, and she was given a "green card."⁸ The story would have had a happy ending but for the continued status of Alex Jimenez, who remains MIA as of this writing.⁹

Other military families remain in the same predicament. Yaderlin's case was resolved successfully, but their cases have not; although DHS has a parole policy for Cubans who enter the United States unlawfully, it has no such policy for US military family members. An example is Army Sergeant Yolanda Guevara, a top-notch soldier whose husband is from El Salvador and has Temporary Protected Status. The couple have three children who were all born in the United States. Sergeant Guevara tried to obtain legal status for her husband; she filed all the required papers and paid the required fees, only to be told that her husband was not eligible for a green card and would have to go back to El Salvador for ten years when his Temporary Protected Status expires next year. Under current law, Sergeant Guevara's husband is unable to obtain permanent status, and she fears that he may be deported during her next deployment, leaving her children without a parent. Secretary Chertoff could order that Sergeant Guevara's husband receive discretionary parole so that he could be eligible for a green card, but as of today, he has not. Furthermore, no system can operate successfully and fairly if it depends on the personal intervention of the Secretary of Homeland Security.

²Marcus Baram & David Schoetz, *A Military Wife's Rock and Hard Place: Husband Missing in Iraq; Wife Facing Potential Deportation at Home*, ABC News, June 20, 2007, <http://abcnews.go.com/TheLaw/story?id=3297537>.

³Marcus Baram & David Schoetz, *A Military Wife's Rock and Hard Place: Husband Missing in Iraq; Wife Facing Potential Deportation at Home*, ABC News, June 20, 2007, <http://abcnews.go.com/TheLaw/story?id=3297537>.

⁴Marcus Baram & David Schoetz, *A Military Wife's Rock and Hard Place: Husband Missing in Iraq; Wife Facing Potential Deportation at Home*, ABC News, June 20, 2007, <http://abcnews.go.com/TheLaw/story?id=3297537>.

⁵Associated Press, *Wife of Mass. Soldier missing in Iraq faces deportation, attorney says*, June 21, 2007.

⁶See Greg Simmons, *Feds Say Missing Soldier's Illegal Immigrant Wife Not Likely To Be Deported*, Fox News, June 20, 2007, <http://www.foxnews.com/story/0,2933,284832,00.html>.

⁷Chertoff Agrees to Kerry's Request to Protect Wife of Missing Soldier, June 21, 2007, available at <http://kerry.senate.gov/cfm/record.cfm?id=277541> (containing text of letter from DHS Secretary Chertoff to Senator John Kerry of Massachusetts, describing how Secretary Chertoff had directed that "ICE will grant Ms. Hiraldo discretionary parole into the United States").

⁸Associated Press, *Illegal Immigrant Wife of Missing Soldier Awarded Green Card to Stay in U.S.*, July 2, 2007.

⁹Neil Graves & Douglas Montero, *New Hope for GI; Qaeda 'Kidnap' Busts*, N.Y. Post, December 28, 2007, at 27.

Hundreds of other US military families face similar dilemmas, with family members who cannot adjust status facing possible deportation at the hands of the same government that employs their military member relatives. Still others have foreign family members who have been denied entry to the United States because of minor immigration law violations, and are essentially trapped overseas with no hope of joining their US military family members in America. Ironically, this same government often lauds the families' contributions to military morale, praises their sacrifices, and provides them with military-related benefits—but will not permit them to obtain the legal status that would truly allow their loved ones to focus on service to their country.

Some of these problems might be resolved if the Department of Homeland Security would issue the same sort of policy memo with regard to military family members that it has issued for Cubans, but other problems cannot be solved without changes to the law. A very serious problem today is the fact that many military family members are completely barred from obtaining lawful permanent residence, and the law does not permit waivers. Some have entered the United States illegally and cannot adjust their status; some have worked unlawfully; many cannot leave the United States for fear of triggering a 3-year, 10-year, or permanent bar to their return. The current stepped-up enforcement efforts by the Department of Homeland Security have forced many military family members into exile in a foreign country. When this happens, the US military may eventually lose the US 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, Kenya, or some other far away place. Without legal reform, these problems cannot be resolved.

A case in point is the plight of George Mayieka, an Army soldier who serves in the critical health care field. George's wife was told to leave the United States and go to a U.S. consulate abroad for her green card processing by the well-meaning but mistaken advice of a trained U.S. Government immigration attorney and a trained Immigration Judge. At the consulate, the consul—whose decision is final and not subject to judicial review in any U.S. court—determined that George's wife is not, under current law, eligible for a green card after all, nor for any waiver that would make her eligible. George's wife is now trapped in a conflict-ridden country in Africa while he worries constantly about her well-being, and agonizes about whether to see a hardship discharge from the Army so that he can live with her overseas. If George leaves the service, America's Army will lose yet another critical health care worker at a time when they are in short supply.

I mention this case as just one example—but America's grounds of exclusion and deportation—now inadmissibility and removability—have become so strict, so tight, and so unforgiving that few home-grown Americans could ever qualify for green cards. Those grounds need wholesale revision. In the meantime, as a stopgap, we should improve our system of executive branch waivers to allow families to stay together. Many families could benefit from such waivers, but a good starting point would be to allow DHS to grant waivers to military families. This is not just a matter of fairness, but a matter of military readiness.

On January 28, 2008, in his State of the Union address, President George W. Bush emphasized the important contribution that military families make to America's national defense. "Our military families also sacrifice for America," President Bush said. "They endure sleepless nights and the daily struggle of providing for children while a loved one is serving far from home."¹⁰ It is time that we honor the sacrifices of non-citizen military families by fixing our broken immigration laws so that these families can enter and remain legally in the United States, where they provide critical support to our fighting men and women.

Ms. LOFGREN. Captain Rivera, we would be pleased to hear from you now. Could you turn on the microphone, please.

**TESTIMONY OF KARLA ARAMBULA DE RIVERA, E2 OFFICER,
UNITED STATES NAVY**

Ms. DE RIVERA. Good afternoon, Chairwoman Lofgren and Members of the Subcommittee. I am pleased to provide you an overview of my experience as an immigrant to the United States.

¹⁰ President George W. Bush, State of the Union Address (Jan. 28, 2008), available at <http://www.whitehouse.gov/news/releases/2008/01/20080128-13.html>.

My name is Karla Arambula de Rivera. I am a native of Mexico. I was brought to live in the United States as a little girl, and I have lived here ever since.

I married a U.S. citizen in 2004 and became a conditional permanent resident that was set to expire in 2 years. In March of 2007, I enlisted in the Navy. In July of 2007, I was supposed to apply to adjust my status to that of a lawful permanent resident, removing the condition.

While in a school in Pensacola, Florida, I went to seek help from Navy Legal Service Office Central, where they helped me to file the I-751 to adjust my status based on my marriage to a citizen. This form was returned due to a postdated check. I returned to the Naval Legal Service Office Central, where I was advised I could file instead an N-400 to become a naturalized citizen based on my military status.

Naval Legal Service Office Central filed an N-400. I then reported to the USS Carl Vinson in August of 2007. The Vinson checked on my immigration package to find out that the Nebraska Service Center had no record of me filing an N-400. The Vinson helped me file a new N-400 in December of 2007.

In January of 2008, I was sent a notice to appear in an immigration court in Los Angeles, California, due to the fact that my status was terminated because I failed to file the petition to remove the conditions based on my marriage to a U.S. citizen. My hearing date was on February 28, 2008.

I went to my new local legal assistance office, Naval Legal Service Office Mid-Atlantic in Norfolk, Virginia. With their help, I filed a motion to change venue to Arlington, Virginia, but the court would not rule on that motion until the day of the hearing, which required me to travel to California. At the hearing, I was fortunate to be represented by pro bono counsel who had helped me file my original paperwork for residency. The counsel asked the judge to terminate the proceedings based on the form and memo put out by U.S. Immigration and Customs Enforcement which states that ICE should not initiate removal proceedings against military members who are eligible for naturalization under section 328 or 329 of the INA.

Despite the fact that I had an N-400 application pending based on my military service, ICE objected to the termination on the judge and the judge would only grant the motion written by Naval Legal Service Office Mid-Atlantic to change the venue to Arlington.

I have a new hearing date set for July 1, 2008, in Arlington. Naval Legal Service Office Mid-Atlantic helped me find an organization that would help provide an attorney for free and got me started toward citizenship. I have an interview with the Norfolk Field Office for my naturalization scheduled for May 27, 2008.

Hopefully, by the time my hearing in Arlington comes, I will be a citizen, and this nightmare will be behind me. The situation has been extremely difficult for me both professionally and personally as an enlisted member of the Navy, stationed onboard the USS Carl Vinson, a carrier that frequently deploys. I am worried about letting my shipmates down and working out of my rate if left behind during deployment, which would have an effect on my mili-

tary career. I know the ship will ensure that I make the hearing, but it is difficult for them and for me.

I have also had to spend my own time and money travelling to Los Angeles for the removal hearing. I am grateful that I have had the assistance of Naval Legal and opportunities to find pro bono legal services to help me with this complex issue. If it hadn't been for their help, I would not have been able to afford legal counsel on my own.

Thank you for your continued support.

Ms. LOFGREN. Thank you very much and for your service to our country.

[The prepared statement of Ms. de Rivera follows:]

PREPARED STATEMENT OF KARLA ARAMBULA DE RIVERA

Chairwoman Lofgren and members of the subcommittee, I am pleased to provide you an overview of my experience as an immigrant to the United States.

My name is Karla Arambula de Rivera. I am a native of Mexico. I was brought to live in the United States as a little girl and have lived here ever since. I married a U.S. citizen in 2004 and became a conditional permanent resident that was set to expire in two years. In March of 2007, I enlisted in the Navy. In July of 2007, I was supposed to apply to adjust my status to that of a lawful permanent resident, removing the conditions. While in A school in Pensacola, Florida, I went to Navy Legal Service Office Central where they helped me to file the I-751, to adjust my status based on my marriage to a citizen. This form was returned due to a post-dated check. I returned to Navy Legal Service Office Central where I was advised I could file instead an N-400 to become a naturalized citizen based on my military status. Navy Legal Service Office Central filed the N-400. I then reported to the USS CARL VINSON in August 2007. The VINSON checked on my immigration package to find out that the Nebraska Service Center had no record of me filing the N-400. The VINSON helped me file a new N-400 in December 2007. In January 2008, I was sent a Notice to Appear in Immigration Court in Los Angeles, California, due to the fact that my status was terminated because I failed to file the petition to remove the conditions (based on my marriage to a U.S. citizen). My hearing date was on February 28, 2009. I went to my new local legal assistance office, Navy Legal Service Office Mid Atlantic in Norfolk, Virginia. With their help, I filed a Motion to Change Venue to Arlington, Virginia, but the court would not rule on that motion until the day of the hearing, which required me to travel to California. At the hearing I was fortunate to be represented by pro bono counsel who had helped me file my original paperwork for residency. The counsel asked the judge to terminate the proceeding based on the Forman Memo put out by U.S. Immigration and Customs Enforcement which states that ICE should not initiate removal proceedings against military members who are eligible for naturalization under sections 328 or 329 of the INA. Despite the fact that I had an N-400 application pending based on my military service, ICE objected to the termination and the judge would only grant the motion written by Navy Legal Service Office Mid Atlantic to change venue to Arlington. I have a new hearing date set for July 1, 2008 in Arlington. Navy Legal Service Office Mid Atlantic helped me find an organization that would provide an attorney for free and got me started toward citizenship. I have an interview with the Norfolk Field Office for my naturalization scheduled for May 27, 2008. Hopefully, by the time my hearing in Arlington comes, I will be a citizen and this nightmare will be behind me. This situation has been extremely difficult for me both professionally and personally. As an enlisted member of the Navy, stationed on board the USS CARL VINSON, a carrier, that frequently deploys, I am worried about letting my shipmates down and working out of my rate if left behind during deployment, which would have an effect on my military career. I know the ship will ensure that I make the hearing, but it is difficult for them and for me. I have also had to spend my own time and money traveling to Los Angeles for the removal hearing. I am grateful that I have had the assistance of Navy legal and opportunities to find pro bono legal services to help with this complex issue. If it hadn't been for their help, I would not have been able to afford legal counsel on my own.

Thank you for your continued support.

Ms. LOFGREN. Captain Navarro, we would be pleased to hear from you now.

**TESTIMONY OF CHRISTINE NAVARRO, KC-5 AIRCRAFT
COMMANDER, UNITED STATES AIR FORCE**

Ms. NAVARRO. Chairman Lofgren, Members of the Subcommittee and special guests, good afternoon.

I attended pilot training in Pensacola and Vance Air Force Base, and my first assignment was at MacDill. I have been deployed three times since my commissioning, all in support of Operation Iraqi and Enduring Freedom. My next deployment is in September of this year for 4 months. The statements and opinions expressed today are my own and do not represent the views of the Air Force, the Department of Defense or any other Government agency.

Now let me take you back to my humble beginnings and tell you about the positive impact a bill like this would have on me and my family. I come from a family of migrant workers. I grew up in a small town. My husband and I were neighbors. Prom, high school graduation, acceptance to the academy, he was there. He moved out to Colorado in 1999 to be close to me and be part of what I wanted to become, a pilot. Academics, football games, parades, jump school, and in 2002 graduation, he was there.

We were married 2 days after I graduated the Academy by the justice of the peace. Three weeks later, we found an immigration attorney to help us start drafting papers to adjust his status.

After my leave was over, I was back to work, water survival, resistance training, pilot training. Three military moves later, he was there. In August, 2004, my son was born. By then we were settled in Florida, and I had done what I had set out to do, fly. The TDYs, the two trips around the world in a month, safety school and two deployments, he was there as a loving, supportive military spouse. All the while, we were both waiting to hear from immigration.

I received word from my attorney while I was deployed that on 13 November, 2006, we were to go to Juarez, Mexico, for my husband's consulate interview. We arrived 3 days prior to be sure we had time to get all our paperwork in order. His interview consisted of a 5-hour wait in line, followed by a 2-minute question and answer period about how he had entered the country. Our lawyers had warned us that his prior entry and false claim to citizenship could bar him from the country, but we were confident that after 4 years of waiting and thousands of dollars we would be able to move on.

But what you hear on television from so-called experts is not the truth. It is not easy to stand in line and get legal. Our application was denied, and my husband was told he was barred forever from entering the U.S.

I flew home the next day a single parent, and I flew my husband to Mexico. I didn't cry, because I had not accepted defeat. I made it a priority to find a way to get us together. I would find a way. It could not be possible that my husband, who had never been convicted of any crimes, could be barred permanently. In the meantime, I could take an assignment overseas for a few years while we worked out a waiver.

In March, 2007, 5 months later, my son was diagnosed with cerebral palsy. I was crushed. The EEG, the CAT scan, two surgeries, therapies, the doctor's appointments, my husband was not there. My better half, my shoulder to cry on is not here.

I refocused my attention on my son. His medical condition takes overseas assignments out of reach for us. So from worrying about child care to now worrying about my next mission now that my husband is not here, I carry that load alone. I have accepted defeat. I could not get us back together. I could not find a waiver because there is no waiver.

I don't work for a one-mistake Air Force or even a two-mistake Air Force. I maintained that, throughout all of this, honesty was the best policy; and it would work out in our favor. I don't condone my husband's actions, although in the scheme of things what he did was not horrible. He comes from humble beginnings. My husband is not a criminal. He is worse off than a criminal. Even criminals can pay their debt and are afforded the opportunity to be reintegrated into society. Yet under U.S. immigration law today, there is no forgiveness process.

I do not know how to love someone and never have an opportunity to make a life. Am I supposed to file for divorce papers? Should I break up my family to comply with the law? To love is to let go, and I need closure and to move on. It is only fair to give him permission to rebuild a life in a country he never grew up in. I can't imagine what it must feel like for your wife to choose country before you and then to choose your son before you.

I suppose I could apply for a hardship and go live in Mexico like others. But I am an American soldier. My life, my family, my job is here in the U.S.

I am proud to do my part today, and I know by testifying today I can make you aware of the horrible decision I am being forced to make, to choose between husband and country. I hope you do your part by passing a bill that will spare other fellow soldiers in similar situations my pain. So as long as I can, I am honored to serve you in uniform.

Thank you.

Ms. LOFGREN. Thank you very much.

[The prepared statement of Ms. Navarro follows:]

PREPARED STATEMENT OF CHRISTINE NAVARRO

Chairwoman Lofgren, Members of the Committee, and Special Guests: Good afternoon. Let me start off by thanking you for this opportunity. I am a US Air Force Academy graduate, with a degree in astronautical engineering and a minor in mathematics. Currently I am working on my master's degree in Industrial Engineering from Texas A&M. I attended pilot training in Pensacola and Vance AFB, with my first assignment being at MacDill AFB. I have been deployed three times since my commissioning, all in support of Operation Iraqi and Enduring Freedom. My next deployment is in September of this year for four months. The statements and opinions I express today are my own and do not represent the views of the Air Force, the Department of Defense or any other government agency.

Now let me take you to my humble beginnings and tell you about the positive impact a bill like this would have on me and my family. I come from a family of migrant workers. I grew up in a small town. My husband and I were neighbors. Prom, high school graduation, acceptance to the Academy, he was there. He moved out to Colorado in 1999 to be close to me and a part of what I wanted to become—a pilot. Academics, football games, parades, jump school and then in 2002, graduation, he was there. We were married two days after graduating the Academy, by

the justice of the peace. Three weeks later, we found an immigration attorney to help us start drafting papers to adjust my husband's status.

After my leave was over, it was back to work. Water survival, resistance training, pilot training, three military moves, he was there. In August of 2004, our son was born. By then we were settled in Florida and I had done what I had set out to do. Fly. The TDYs, the two trips around the world in one month, safety school and two deployments, he was there. As the loving, supportive military spouse. All the while, we were both waiting to hear from immigration.

I received word from our attorney, while I was deployed, that on November 13, 2006, we would go to Juarez, Mexico for my husband's consulate interview. We arrived three days prior, to be sure we had enough time to get all our paperwork in order. His interview, consisted of a five hour wait in line, followed by a two minute question and answer period about how he had entered the country. Our lawyers warned us that his prior entry and false claim to citizenship, could bar my husband from the country. But we were confident that after four years of waiting, and thousands of dollars, we would be able to move on.

But what you hear on television from so-called experts, is not true—it is not easy to stand in line and get legal. Our application was denied and my husband was told that he was barred forever from entering the United States. I flew home the next day a single parent. I flew my husband to his mother's house in Mexico. But I did not cry—because I had not accepted defeat, I made it a priority to find a way to get us together again. I would find a way. It could not be possible, that my husband, who has never been convicted of any crimes, could be barred permanently. In the mean time, I could take an assignment overseas for a few years while we worked out a waiver.

Then in March 2007, five months later, my son was diagnosed with cerebral palsy. I was crushed. The EEG, CatScan, two surgeries, therapies, the doctor's appointments, my husband was not there. My better half, my shoulder to cry on . . . is not here. I refocused my attention and energy on my son. His medical condition, takes overseas assignments out of reach for us. From worrying about child care to worrying about my next mission, now that my husband is not here, I carry the load alone.

I have accepted defeat. I could not get us together again. I could not find a waiver, because there is no waiver. I do not work for a one-mistake Air Force, or even a two-mistake Air Force. I maintained throughout all of this, that honesty was the best policy and that it would all work out in our favor. I don't condone my husband's actions, although in the scheme of things, what he did was not horrible. He too comes from humble beginnings. My husband is not a criminal. He is worse off than a criminal—even criminals can pay their debt and are afforded the opportunity to be reintegrated into society. Yet under US immigration law today, there is no forgiveness process.

And I do not know how to love someone and never have an opportunity to make a life together. Am I supposed to file divorce papers? Should I break up my family to comply with the law? To love is let go. I need closure, and to move on. It's only fair to give him permission to try and rebuild his life in a country he never grew up in. I can't imagine what it must feel like for your wife to choose country before you and then again to choose your son before you.

I suppose I could apply for a hardship separation from the military and go live in Mexico, as others have done. But, I am an American soldier, my life, my family, my job, is here in the US. I'm proud to do my part. I want my family intact. I know by testifying today I can make you aware of the horrible decision I am being forced to make—choosing between husband and country. I hope you do your part by passing a bill that will spare other fellow soldiers in similar situation, my pain. So as long as I can, I am honored to continue to serve you in uniform. Thank you.

Ms. LOFGREN. General Baca.

**TESTIMONY OF LT. GENERAL (RETIRED) EDWARD D. BACA,
PRESIDENT AND CEO, BACA GROUP**

Mr. BACA. Thank you, Madam Chairwoman.

As you mentioned, Commander Morales and I are here representing the American G.I. Forum. I feel that I am somewhat qualified to testify before this Subcommittee on this topic since I spent over 41 years, as you mentioned, wearing the uniform of the

Armed Forces of the greatest Nation in the world, the United States of America.

Let me make it clear that I am not an immigrant, but I do understand and can relate to them. I am not sure how to categorize my grandparents, who were arguably some of the first settlers who came to this continent from the Iberian Peninsula to what is now New Mexico. I believe it was called New Spain then. My grandparents didn't cross the border. The border crossed them.

My maternal grandparents, who lived with us and helped raise me, never learned the English language. We spoke Spanish at home, and I had to go to school to learn how to speak English. We spoke Spanish as our first language. They and my parents taught me a sense of patriotism and love of God and country that compelled me to join the military and rise from the rank of private to lieutenant general. Only in America is that possible, and no one loves and appreciates this country more than I do.

I am here because I have seen and experienced firsthand the sacrifices that members, like the ones sitting next to me today testifying, and their families endure in the interest of gaining and maintaining the freedom that all of us, as Americans, enjoy.

In my service, my duties took me to every corner of the world. I was in all seven continents and more countries than I could have ever imagined. I was also fortunate in that I had been in all 54 States at least once. And all these travels made me realize one thing that I have known all my lifetime, that with all its warts and sores and weaknesses, we live in the greatest country in the world, the United States of America; and I am proud to be an American.

I also realize that it is American service members which have made and kept this the greatest Nation in the world. These are men and women who have taken a solemn oath to protect and defend the oldest living democratic document in the history of the world. They subscribe to the code of conduct which first article says, I am American fighting man/woman. I serve in the forces that guard our country and its way of life. I am prepared to give my life in its defense.

Most women who have taken that oath, that solemn oath have upheld it. All have sacrificed, and some have made the ultimate sacrifice, giving up their precious lives.

However, it is not only the service member but their families also pay the price for our freedom. The hardships they endure are unimaginable for those who have not experienced them. Unfortunately, some veterans and members of our families have not always been afforded the same rights and privileges that our Constitution guarantees most citizens of our society. That is why the American G.I. Forum, whom I represent today, exists. That is why I am here today to testify before this Committee. It is your responsibility, as well as all of us, to ensure that if we are willing to send our troops in harm's way, that they and their families are guaranteed all the benefits of our Constitution, to include citizenship.

Service members have a right to expect all of us to do our part in not only supporting them but also their family members. The last thing they need when they are deployed in a dangerous situation is to worry about the well-being of their loved ones.

Let me conclude, Madam Chairwoman, by saying once again how proud I am to be an American and to say that I am proud of my Hispanic heritage. Hispanic Americans have answered this Nation's call in every crisis this country has ever faced, starting with a Revolutionary War.

In 1993, I had the privilege of narrating a documentary for Telemundo called Hispanic Heroes. It highlights the contribution of Hispanics to our national defense. This documentary was awarded three Emmys, not for my performance, I might add. The American G.I. Forum and the producer and director of this film are planning to make a sequel to the original film to include Hispanic contributions since 1993 to include all that has occurred post-9/11. We are meeting with the producer and, as I said, and asked them if they will produce it and air it—excuse me—if they will air it afterwards. These documentaries tell the stories and show actual interviews with some of those brave veterans that we speak of during this testimony.

Please let me add that Hispanics are one of the many ethnic minorities and other proud veterans that have served our country in its time of need, many that were immigrants like the ones we represent today. We urge you, Madam Chairwoman and Members of the Subcommittee, to support our immigrant service members and their families and pass this legislation.

Ms. LOFGREN. Thank you very much, General.

[The prepared statement of Mr. Baca follows:]

PREPARED STATEMENT OF EDWARD D. BACA

I am Lieutenant General (Retired) USA, (Retired). Commander Morales and I are here representing the American G. I. Forum I feel that I am somewhat qualified to testify before this sub committee on this topic, since I spent over 41 years wearing the uniform of the Armed Forces of the greatest Nation in the world, the United States of America.

Let me make it clear that I am not an immigrant but I do understand and can relate to them. I am not sure how to categorize my Grandparents who arguably were some of the first settlers who came to this Continent, from the Iberian Peninsula, to what is now the State of New Mexico. I believe it was called New Spain then. My Grandparents didn't cross the border the border crossed them. My maternal Grandparents, who lived with us and helped raise me, never learned the English language. We spoke Spanish at home and I had to learn to speak English in my first year of school. They and my parents taught me a sense of patriotism and love of God and Country that compelled me to join the Military and rise from the rank of Private to Lieutenant General. Only in America is that possible. No one loves and appreciates this Country more than I.

I am here because I have seen and experienced, first hand the sacrifice that members and their families endure in the interest of gaining and maintaining peace and freedom for not only the U.S. but for the entire world. In my service my duties took me to every corner of the world. I was on all seven Continents and in more countries than I could have ever imagined. I was also fortunate in that I have been in all 54 States and Territories at least once. Over a lifetime I have been aware that we are not a perfect nation, we never have claimed to be, but with all its warts and sores and weakness we live in the greatest Country in the world, our United States of America and I'm extremely proud to be an American.

I have also realized that it is American Service Members which have made and kept us the greatest Nation in the world. These are men and women who have taken a solemn oath to protect and defend the oldest living Democratic document in the history of world. They subscribe to a code of conduct which states in its first article "I am an American Fighting Man/Woman, I serve in the forces that guard our Country and its way of life, I am prepared to give my life in its defense". Most men and women who have taken the oath have upheld it. All have sacrificed and some have made the ultimate sacrifice giving up their precious lives.

However; it is not only the Service Members but their families also pay the price for our freedom. The hardships they endure are unimaginable for those who have not experienced them. Unfortunately some Veterans and members of our Military and their families have not always been afforded the same rights and privileges that our Constitution guarantees most Citizens of our Society. That is why the American GI Forum, whom I represent today, exists. That is why I am here today to testify before this Committee. It is your responsibility, as well as ours, to insure that if we are willing to send our troops in harms way that they and their families are guaranteed all of the benefits of our Constitution to include citizenship. Service members have a right to expect all of us do our part in not only supporting them but also their family members. The last thing they need when they are deployed in a dangerous situation is to worry about the well being of their loved ones.

Let me conclude by saying once again how proud I am to be an American and also to say that I am proud of my Hispanic heritage. Hispanics Americans have answered this nation's call in every crisis this Country has ever faced starting with the Revolutionary war. In 1993 I had the privilege of narrating a documentary for Telemundo, Hispanic Heroes that highlights the contribution of Hispanics to our national defense. This Documentary was awarded three Emmys. The American GI forum and the Producer and Director of this film are planning to make a sequel to the original film to include Hispanic contributions since 1993 to include all that has occurred post 9/11. We are meeting with Officials from PBS this Friday to discuss a proposal that we have sent to them asking them when it is produced if they will air it. These Documentaries tell the stories and shows interviews with some of those brave Veterans that we speak of during this testimony.

Please let me add that Hispanics are one of the many ethnic minorities and other proud veteran's that have served our Country in it's time of need. Many that were immigrants like the ones we represent today.

We urge you Mr. Chairman and members of the Committee to support our Immigrant Service Members and their families and pass this legislation.

Thank You.

Ms. LOFGREN. Finally, we turn to you, Mr. Seavey.

**TESTIMONY OF MARK C. SEAVEY, ASSISTANT DIRECTOR OF
THE NATIONAL LEGISLATIVE COMMISSION, AMERICAN LE-
GION**

Mr. SEAVEY. Madam Chairwoman, Mr. King, thank you for the opportunity to appear before you today and present the views of the nearly three million wartime veterans who make up the American Legion.

The American Legion has been a leader in mentoring candidates for United States citizenship dating back to the beginning of the organization in 1919. Early on, the American Legion worked closely with Federal courts to assist in naturalization schools throughout the country by aiding legal immigrants in learning English, U.S. history and American Government.

Under the Department of Homeland Security's Task Force on New Americans Program, the American Legion has partnered with the USCIS to again provide assistance to legal immigrants moving through the naturalization process on their way to becoming American citizens. The early efforts in renewed support to those who arrive on our shores legally stems from the American Legion's long-standing position on immigration.

The American Legion remains opposed to any great influx of legal immigrants and has called for immigration quotas to be set on a moderate and regulated scale in numbers that enable the immigrants to be readily absorbed into the culture and life stream of the United States. It is expected that all who would be citizens arrive in this country legally and while within the United States that

they be law-abiding residents. Those unable or unwilling to do so should be held accountable.

In recent years, the American Legion has supported much legislation that was outlined by Mr. King earlier. We have supported legislation that allows noncitizen veterans with less than 3 years of active duty service and who are legally in the U.S. at the time of enlistment to seek naturalization.

The American Legion has also encouraged Congress to amend the INA to allow immigrant spouses of U.S. military personnel who die whether in training or on military installations or overseas in hostile conflict to continue their petition for permanent resident status within the current 2-year eligibility restrictions.

Additionally, the American Legion argued that the Immigration and Nationalization Act should be amended to waive fees for posthumous citizenship, assessed to survival family members who lose a relative in hostile combat while a member of the U.S. Armed Forces and who has a pending application for United States citizenship.

The American Legion opposes any legislation with provisions which waives certain grounds of inadmissibility for citizenship for both permanent residents who served honorably in the Nation's Armed Forces and for their family members. This would seem to reward lawbreakers and possibly illegal immigrants with a shortcut to citizenship that is nothing less than an official pardon for illegal acts or an amnesty.

Alien service members' relatives who have entered this country illegally or overstayed a visa or who may be fugitives from justice deserve no special adjustment to their alien status. Honorable service in the military of the United States must be no more an asset to the family of a permanent resident alien than it is to the family of an American citizen who has served this Nation with honor.

No special pardon, no reprieve for lawlessness, no exoneration for bad behavior is given to the service person or the family simply because one wore the uniform of the United States military. The same should be applied to the individual or the family of the individual who lacks the status of United States citizenship.

Laws that prohibit illegal entry or continued unlawful residency in the U.S. exist for good reason. These reasons include national security, the Nation's economy, and a general impact that certain aliens would have upon the American society.

The American Legion continues to welcome and strongly support legal immigration into the United States.

One thing I did want to say is that I apologize that our National Commander was unable to make it here today. Mr. Conyers had mentioned that perhaps he would like to have a meeting set up, and we are more than amenable to do that. Our National Commander travels extensively, but we would love to work—

Ms. LOFGREN. No offense is taken by the Committee. We understand there are scheduling conflicts, and we will reach out and see if we can have such a meeting.

Mr. SEAVEY. Wonderful. Thank you, Ma'am.

[The prepared statement of Mr. Seavey follows:]

PREPARED STATEMENT OF MARK C. SEAVEY

The American Legion has been a leader in mentoring candidates for US citizenship, dating back to the beginning of the Organization. Early on, the Legion worked closely with federal courts to assist naturalization schools throughout the country. By aiding legal immigrants with learning English and by teaching US history and American government the Legion helped the new citizens to become contributing members of our society.

Just recently, The American Legion began this effort anew. Under the Department of Homeland Security's "Task Force on New Americans" program, the Legion has partnered with the U.S. Citizenship and Immigration Service to again provide assistance to legal immigrants moving through the naturalization process on their way to becoming American citizens.

The early efforts and the renewed support to those who arrive on our shores legally, stems from the Legion's long-standing position on immigration. The American Legion remains opposed to any great influx of legal immigrants and has called for immigration quotas to be set on a moderate and regulated scale in numbers that enable the immigrants to be readily absorbed into the culture and life stream of the United States.

Of all who would become American citizens, it is expected that they would have arrived in our country legally, and while within the United States been law abiding residents. Those unable or unwilling to do so should be held accountable.

The American Legion has supported legislation that allows non-citizen veterans with less than three years of active duty service and who were legally in the US at the time of enlistment, to seek naturalization if they are injured or their injuries were aggravated while on active duty with the US Armed Forces, resulting in a discharge under honorable conditions. The American Legion also encouraged the Congress of the United States to amend the Immigration and Nationality Act to allow immigrant spouses of U.S. military personnel who die whether in training on military installations or overseas in hostile conflict to continue their petition for permanent resident status without the current two-year eligibility restriction. Additionally, The American Legion argued that the Immigration and Nationality Act should be amended to waive the fees for posthumous citizenship assessed to surviving family members who lose a relative in hostile combat while a member of the U.S. Armed Forces and who has a pending application for United States citizenship.

The American Legion opposes any bills with provisions to waive certain grounds of inadmissibility for citizenship for both permanent residents who served honorably in the nation's Armed Forces and their family members. This would seem to reward law breakers and—possibly—illegal immigrants with a short cut to citizenship that is nothing less than an official pardon for illegal acts: an amnesty. Alien service members' relatives who have entered our country illegally or overstayed a visa or who may be fugitives from justice deserve no special "adjustment" to their alien status.

Honorable service in the military of the United States must be no more an asset to the family of a permanent resident alien than it is to the family of the American citizen who has served the nation with honor. No special pardon, no reprieve from lawlessness, no exoneration for bad behavior is given to the service person or their family because one wore the uniform of the United States military. The same should apply to the individual or the family of the individual who lacks the status of United States citizen.

Laws that prohibit illegal entry or continued unlawful residency in the U.S. exist for good reason. Those reasons include national security, the nation's economy, and the general impact that certain aliens would have upon American society.

Ms. LOFGREN. At this point, we will go to the part of our proceedings when Members of the Committee have an opportunity to pose questions to our witnesses.

Before I do, let me just note, as I mentioned earlier, that there is a bill that has been introduced, H.R. 6020. There are also several other bills in the House relating to immigration and our soldiers. I would just note that H.R. 6020 was authored by myself, with Mr. Thornberry on the Armed Services Committee as the principal co-author; Mr. Conyers; Mr. Pence; Mr. Loretta Sanchez, who is also on the Armed Services Committee; Mike Turner, who is also on the Armed Services Committee; and Mr. Silvestre Reyes, who is Chair

of the House Intelligence Committee. So it was my hope that we would show a bipartisan but also very solid effort toward making our soldiers' lives easier. You do a lot for us. It seems to me that we should do what is necessary for you, for your families to be safe and for you to serve our country with that knowledge.

I would like to just note that the provision of the bill questioned by the Ranking Member, and inferentially questioned by Mr. Seavey, could be misunderstood and, in fact, was changed to a waiver provision from an earlier draft at the suggestion of Mr. Sensenbrenner so that it would match what is currently the state for service in the military.

And here is the point. According to published reports, about 12 percent of current Army recruits entered basic training this year with a special waiver for so-called criminal records. And what the military is doing on a case-by-case basis is taking a look at what the conviction is and seeing whether, really, it is serious or not serious, and if not serious, they are allowing those individuals to serve their country in the military.

So here is the situation we end up in. Say, for example, you have an offense, it sounds serious when you read it. You know, you have been convicted of a sex offense, indecent exposure, but it turns out you were actually mooning somebody at your high school prom. Not that I approve of that, but it is a little different than what you might have imagined by the charge itself. In that circumstance, the military is going to let that kid join the Army and serve his country.

However, there is no waiver for naturalization purposes. So you end up with a situation where a person joins the military, they are waived in for an offense that is actually not serious enough to keep them out, so they can go and get shot at in Iraq, but they can't raise their right hand and swear allegiance to become a citizen of the United States.

Mr. SEAVEY, do you think that is reasonable?

Mr. SEAVEY. I think our problem is less with it waiving for an active-duty military person as much as it is the fact that this benefit would accrue to family members who might not be—

Ms. LOFGREN. But the question I posed, you have an offense, it lets you serve, lets you get shot at and risk your life, but prevents you from becoming a citizen. Do you think that is reasonable?

Mr. SEAVEY. If you are asking if I think it is the same offense, in other words—

Ms. LOFGREN. If it is the exact same offense.

Mr. SEAVEY. If offense A initially kept you out of the military and a waiver was done so that you were put in, I would think that that specific incident of that same specific person should be waived to become a citizen, if you are in the military. And, again, I think our—

Ms. LOFGREN. That is the question I posed.

Mr. SEAVEY. Right. I think, again, our issue is more the accrual to family members.

Ms. LOFGREN. And we can have another discussion about those other issues. But I just wanted to get clear on that point.

Let me turn to you, Captain Navarro. And your testimony is enormously moving. First, your story is the American dream. I

mean, from humble beginnings through the academy, I mean, what an achievement, and how patriotic you are. And then for this terrible result for you, it is really heart-breaking to listen to.

I guess it is obvious to ask, but would life be easier for you if your husband were back in the United States to help you take care of your child with cerebral palsy and do your duty to your country in the Air Force?

Ms. NAVARRO. Yes, ma'am, it would. As soon as we got married, my husband pretty much became a stay-at-home dad while we waited for immigration to do everything. So that was his job, is he was a stay-at-home dad.

Ms. LOFGREN. Let me turn to you, Colonel Stock. And your testimony is extensive, and I read it, and it is very interesting. And I recommend that all of the testimony from all of the witnesses will be posted on the Subcommittee Web site.

But you talk about the 1996 act. I personally have problems with much of the 1996 act. I voted against the 1996 act.

But when it comes to, say, a false claim of citizenship, I mean, that is pretty easy to do in a nonmalicious way. As a matter of fact, we have one of our colleagues, Mr. Gohmert of Texas, who has a private bill that he introduced for a person who signed with his alien registration number that he was a U.S. citizen. Obviously, it was an error. He signed something his lawyer prepared for him. He is permanently barred under the law, unless we enact legislation.

Before 1996, was there a possibility to show some common sense, for a judge to take a look at it and say, "This outcome isn't reasonable"?

Ms. STOCK. Yes, ma'am. Before September 30, 1996, if you made a false claim, then the Government could take into account the factors and possibly give you a waiver. It didn't mean they had to give you a waiver, but there was flexibility within the law that would allow you to possibly, if you merited it, get favorable exercise of discretion.

I think it is also important to point out that this false claim can simply be an allegation made on some form. There doesn't have to be a conviction for this at all. It is just somebody in the Government writing down on a form that you made a false claim, and you are just permanently barred for life. You have no chance to refute that information. You can't go to court and argue that this information was incorrect. And it does happen inadvertently. Sometimes it happens on purpose. But the point is you don't need a criminal conviction to be permanently barred from the United States. This is an awfully harsh provision of the law, and it just can't be justified on principles of fairness. There has to be some flexibility in the law for minor things like this.

Ms. LOFGREN. Let me ask you, based on your experience, of the things that cause problems for soldiers, you mentioned, I think, the false-claim-of-citizenship issue we just discussed, the fact that soldiers aren't getting notices because they are moving, and because they don't get notice, then things proceed.

Have you come across circumstances, other than Ms. Rivera here, where you have an American soldier doing combat in Iraq and yet another arm of the U.S. Government is moving to deport them?

Ms. STOCK. Well, they get told that—it is a little bit complicated. They get told that they are going to be deported or that a notice to appear has been issued. And, normally, the military scrambles with these folks and tries to get them to—

Ms. LOFGREN. I am not criticizing the military. I am just examining what the law ought to be.

Ms. STOCK. Well, the interesting thing about the law is, if a notice to appear is issued to you and you don't show up for your hearing, then a deportation order is issued in absentia because you didn't show up for your hearing. And then you get your name put into the database and you are considered to be a fugitive. And the next time you get stopped for a traffic stop, you get arrested and deported, basically.

Now, this is a system that kicks in, and this is one of the reasons why Airman Rivera was anxious to go to her hearing in California, because if military duty prevented her from going to that hearing, the judge would simply issue an in absentia order. And then the next thing you know, if she ran into law enforcement for some reason, she would get deported.

Ms. LOFGREN. But if she never got the notice because they are not using APO boxes or because she moved from one base to another, then that circumstance would just fall into place?

Ms. STOCK. It would fall into place. Now, theoretically, she could fight it and say, "I didn't get notice," and try to fight it, but there is no lawyer given to you to do that. You have to have the resources to hire a lawyer. The lawyer has to file a motion within a certain period of time.

Ms. LOFGREN. And that is not paid for? And we know how much we pay our military.

Ms. STOCK. No, none of this gets paid for. And that is why we have created the AILA MAP program to try to provide this assistance.

Ms. LOFGREN. With volunteers.

Ms. STOCK. It is a pro bono program, right.

Ms. LOFGREN. My time has expired.

I will turn now to the Ranking Member for his 5 minutes of questions.

Mr. KING. Thank you, Madam Chair.

And I thank the witnesses for your testimony.

Ms. Stock, just picking up with you, as I listened to your testimony, a number of questions occur to me. And I will just take you back to—you put together a pretty complete list of issues that I think should be brought before this Committee.

But I would ask you generally overall, are there crimes that you would join with, I will say, me in excluding them from waivers, crimes that are so egregious that they should be excluded from waiver, with regard to this bill that is before us?

Ms. STOCK. Well, sir, I think the problem with generally excluding crimes is the same one that Madam Chairwoman identified. Sometimes when you look at the details, it turns out that the situation is not as bad as it may appear from the definition of the crime.

And we were talking about the waivers earlier—

Mr. KING. Murder?

Ms. STOCK [continuing]. But there was somebody let into the Army, and the press made hay about it because this person had an arson conviction—

Ms. LOFGREN. Would the gentleman yield?

Mr. KING. I would yield.

Ms. LOFGREN. Because it occurred to me, I mean, the military is not waiving in murderers into the U.S. Military. I mean, if you have a conviction of murder, they are not allowing you to enlist in the military.

And I yield back. I thank the gentleman for yielding.

Mr. KING. Perhaps, Madam Chair, reclaiming my time. I don't know that it is a misunderstanding. I am here, thinking in terms of someone who has gotten into the military, then who has applied under this bill for them or their family members to have a path to citizenship, say, a green card. And then if this is a blanket permission that allows the judge to waive crimes, then, you know, I think we need to build a very tight fence around that.

And I understand your argument about the indecent exposure, which I don't know that that is a sex crime. I don't think that we actually prosecute that in my part of the country. So I am concerned about that.

And rather than press for an answer, though, let me just go another way. Who would you say no to? If you were in charge of writing the immigration policy for the United States of America, philosophically, would you draw a line? And where would you draw that line, Ms. Stock?

Ms. STOCK. I would go back to the definition prior to 1996 of aggravated felony, which actually meant serious crimes. Today—

Mr. KING. But excuse me. Aside from that, the legal discussion then about waivers or aggravated felonies, to set an overall immigration policy—let me ask this another way.

Is immigration policy for the United States, is that a whole that we look at as, as I think I heard come out of Mr. Seavey, an overall number of people that we legally allow to come into the United States, and then a whole that has a sum of its part to stay within the whole? Or is it simply the sum of its parts and if there is any component of immigration that we find that someone had a bad experience with, that we should open that up and not be paying attention to the breadth of whole?

What would your policy look like? Would you put a cap on the overall number of legal immigrants coming into the United States? Because I don't see any restraints there when I listen to your testimony.

Ms. STOCK. Well, first of all, as far as I can tell, the bill does absolutely nothing to eliminate all the family quotas for the whole, entire immigration system. The only thing it does is relax some of those quotas for certain—

Mr. KING. Without regard to the bill, your own personal philosophy, is 1.3 million people too many or too few? Would you put a cap at 2 million, 10 million? Would you cap it at all?

Ms. STOCK. Well, with regard to people in the military, I think the problem you run into is we are a global military. And when you deploy people all around the world, they do fall in love with foreigners.

Mr. KING. But with regard to your personal philosophy?

Ms. STOCK. My personal philosophy is that in a global society, currently our immigration quotas are too low to meet the needs of our—

Mr. KING. What would you set them at then, Ms. Stock?

Ms. STOCK. I would set them at substantially higher than what they are today, because they have—

Mr. KING. Two million, 5 million, 10 million a year? In what range would you be? Or would you cap them at all?

Ms. STOCK. I think I would at least double the current quotas. Because, to me, they are artificially low. They were set decades ago. And they haven't—

Mr. KING. Roughly 2.5 million a year?

Ms. STOCK [continuing]. They haven't kept pace with our population growth.

Mr. KING. Really?

Ms. STOCK. But I think the critical point here—and I will give you an example. Earlier, we were talking about crimes. I spoke to a Navy sailor last week who is serving honorably in the Navy but he cannot become an American citizen. And the reason he cannot become an American citizen is because, 9 years ago, he stole a bicycle, and he was sentenced to 365 days in jail—

Mr. KING. Thank you, Ms. Stock. My clock is running down, and I am sorry. I have to move on, or I won't be able to get my last question in. I appreciate your testimony.

And I would turn to Mr. Seavey and pose this question. And I heard it come out of your testimony, Mr. Seavey. When a soldier takes an oath, and takes an oath also to the Constitution of the United States, is it not implicit to uphold the rule of law? And is it not inconsistent then to waive the rule of law for those who have taken that oath?

Mr. SEAVEY. Well, certainly, we would argue that it is.

And if I could real quick on your previous question about the discretion, I think that the DOD, when it makes a waiver for someone coming in, has a more vested interest than perhaps an immigration judge in granting this waiver.

So I am not a big fan of waivers into the military, having served as an infantry squad leader, but they happen, and I have enough faith in the DOD that they are using this discretion wisely. I am a little nervous about what an open-ended waiver might be, going back to the earlier discussion.

But certainly, when you raise your hand and swear allegiance and everything else when you join the military, I think the rule of law is the fundamental precept to which you are pledging your allegiance.

Mr. KING. I thank you, Mr. Seavey.

And, Madam Chair, I yield back.

Ms. LOFGREN. I would just note before recognizing Mr. Gutierrez that the number assigned for family preference every year is 226,000.

And, Mr. Gutierrez, you are recognized for 5 minutes.

Mr. GUTIERREZ. Madam Chair, thank you so much for calling this hearing.

And I thank the witnesses for coming forward, and specifically Ms. Rivera and Ms. Navarro for coming and sharing their plight with this Committee. I think it is very, very important to establish a record that will allow us the legislative action necessary in order to stop these things from happening in the future. I mean, you are obviously representative of a class of people that need Congress to respond.

I will say that I find it amazing that people could come forward since—somebody to my left or somebody is to my right, and they are having an immigration issue, and they helped save my life and we are in combat together, I don't know, I don't know if the soldier asks his comrade in arms next to him. It kind of reminds me of my dad. He couldn't speak English, but it wasn't a problem, he was sent to Korea, as I know tens of thousands of others who could never speak the language, the English language, have served in the military without a problem.

As a matter of fact, if memory serves me correctly, a young man from Guatemala who entered this country illegally, then applied under false pretenses saying that he was really not 20 but he was 17 and thereby got his legal permanent residence, the first thing he did was join the Marines, and he was the first casualty in Iraq. That just happens to be the history of what goes on here.

So, you know, let's look at things not from this legal, illegal—let's look at what people do and how they participate, and then let's do the right thing based on that. Because I think that the law and the consequences of the law should have some relationship with what it is they supposedly did wrong.

So we have people that are obviously heroes in anyone's view whose wives are being deported, whose husbands are being deported, and I think that other men and women in the military might want to stand up.

I bet that if I went back on that ship with Petty Officer Gonzalez, and I went to all of the people who were on that ship—I don't know if you all know about Petty Officer Gonzalez, whose wife now is an LPR—and it is amazing what happens when you testify before this Committee; your problems get resolved. But that is a positive note.

But if I went to all of fellow sailors and said, "What do you think we should do? Should we deport his wife, or should we allow her to stay in the United States with Petty Officer Gonzalez?", I bet I know what the men and women in uniform would decide instantaneously that they would do with their fellow brother. I mean, come on, just think of this from a logical point of view, in terms of what people would do. Obviously it would be there.

But then we have a situation where, let me see, Roosevelt thought during World War II, "You know, after this war, we should make sure that all of those men and women who come back here, that they are able to buy a home and go to college." Now we have legislation that has over 300 sponsors here in the House to allow anybody who went to war in Iraq, that served in our military, that after they have served be able to go to college. And we have a President of the United States who it is said was in the National Guard during the Vietnam War, and a Vice President who on five different occasions said, "I have something more important to do than to serve in Vietnam," and got five deferments, we have that

Administration saying, no, if that legislation comes before us, although the war was our idea and we really think it is a terrible thing that all of these men and women have died in combat and all of these tens of thousands, we are going to veto that legislation.

So that is the kind of quandary that you find yourself in. We have a Congress of the United States and we have an executive government who extols the virtues of those who serve in our Armed Forces but won't stand up to make sure that, at the end of the day, you get a fair shake, that your family is sacrosanct. We go thousands of miles away in order to establish democracy while the basic foundation of any democracy, I think, is the family. We should do everything we can to preserve that family.

So I thank you all for your testimony here today.

Ms. LOFGREN. The gentleman yields back.

I would turn to Mr. Goodlatte for his questions.

Mr. GOODLATTE. Well, thank you, Madam Chairman. I appreciate your holding this hearing.

I would like to ask all of the witnesses if, in their opinion, H.R. 6020 grants more favorable treatment to illegal aliens serving in the military than current law grants to legal residents serving in the military?

Ms. Stock, do you want to comment on that first?

Ms. STOCK. I am sorry, but I am not quite sure I understood what you were asking. If it grants more favorable treatment to—

Mr. GOODLATTE. To people who are illegally in the United States serving in the military than it grants to legal residents serving in the military?

Ms. STOCK. No, I don't believe that it does. People who are legally here currently, for the most part, can adjust their status, can obtain benefits.

I mean, the problem we are having with the legal people is that they become illegal because the laws are so complicated and they have trouble complying with them, and then they fall out of status and become illegal, and then they can't get their status straightened out. In fact, that is a lot of the cases that we are dealing with, are people who entered legally at one point but ran afoul of the immigration laws.

I am not sure that you can separate the two out so neatly, as everybody likes to try to do.

Mr. GOODLATTE. Are there requirements that are relaxed for illegal aliens that are not relaxed for similarly situated legal residents serving in the military?

Ms. STOCK. Well, I will just throw out one thing. People keep talking about they are against an amnesty, but we have an amnesty going on right now for everybody from Cuba. If you are—

Mr. GOODLATTE. Okay. So your answer is yes.

Let me ask Mr. Seavey if he would care to respond to that.

Mr. SEAVEY. I would certainly say that I know of no other circumstance where someone gains a benefit from having a relative serving in the active duty. So I guess I would have to say yes.

If the question was whether the American Legion feels it is appropriate to deport the spouse of someone serving in Iraq, our answer is no. But we think that could be more easily solved through

something like the Soldiers and Sailors Relief Act or something of that nature.

The fact that this benefit is accruing to such a wide range of people in such a wide range of ways certainly makes us very, very leery. So, in short, yes, I think it is safe to say that this benefit does accrue more rapidly, at least, to someone who is here illegally than someone who here legally or family members.

Mr. GOODLATTE. Does anyone else want to respond to that?

Well, let me ask, then, Mr. Seavey and Ms. Stock too, if she cares to respond, if the Army found out that a member of the Armed Forces got a job with the military by committing fraud in his or her paperwork about their legal status, which would seem to amount to a fraud against the U.S. Government, what punishment would be imposed?

Do you know, Mr. Seavey?

Mr. SEAVEY. I honestly don't know.

Mr. GOODLATTE. Do you know, Ms. Stock?

Ms. STOCK. Well, I think it depends on the case, because military justice is administered by commanders. But there was a Senator from Washington who committed fraud a long time ago by joining the military. He lied about his age and was allowed into the military, and later on went on to become a United States Senator. He was not punished because it was determined that, although he had lied about his age and used a false birth certificate in order to enlist in the Navy at the time, he went on to have a great career and serve his Government, so he was not punished.

Commanders take into account the individual circumstances of people and their background and the equities when administering military justice.

Mr. GOODLATTE. So do you think it is a national security concern for foreign nationals in the country illegally to commit fraud to obtain positions in the Armed Forces?

Ms. STOCK. Well, I do believe that any time anybody enters the United States military, there is always a security issue. You need to vet people, fingerprint them. But the Armed Forces are doing that right now. We check their status with Homeland Security. We fingerprint people. We run background—

Mr. GOODLATTE. Well, that doesn't really answer my question. If they commit fraud to enter the military, is there a national security concern?

Ms. STOCK. Well, there could be. Again, I throw the example of the Senator out when—

Mr. GOODLATTE. Mr. Seavey, do you want to respond to that?

Mr. SEAVEY. Absolutely, we think there is. And that is something that obviously should be focused on. We would hope that the military entrance processing would pick up on that, but obviously that is not always going to be the case, particularly when they are receiving faulty information from the get-go. So, yes, we think clearly it is a national security issue.

Mr. GOODLATTE. And wouldn't this legislation provide relief for the very individuals who committed that fraud?

Mr. SEAVEY. My cursory reading of it is, yes, yes, it would.

Mr. GOODLATTE. You know, I think there are some good objectives in this legislation, but I would hope that some of the issues that have been raised here—

Mr. BACA. Sir, may I—

Mr. GOODLATTE. Sure, just 1 second—related to family members and related to these types of actions, related to fraud, ought to be addressed before the legislation moves forward.

And I will be happy to recognize you.

Mr. BACA. Individuals that enlist in the Armed Services are screened, all screened thoroughly.

And in terms of people that take the oath, my mentor and the person that enlisted me came into the service and served as a World War II hero and a Korean War hero, and he came in under false pretenses in that he lied about his age. He was 16 years old. And he served well and was never punished for it. Eventually it came out. He just wasn't given credit for that 1 year between 16 and 17.

Mr. GOODLATTE. Well, we certainly understand that these things have to be addressed on a case-by-case basis, as Ms. Stock suggested. But I wouldn't give the kind of latitude that this legislation provides, because it might not be just lying about your age. It might be lying about some other aspects of your status. And it might be for the purpose of entering the military for the purpose of engaging in activities that are not helpful to the United States. So I think we need to be very careful about that as we move this legislation before.

I thank you, Madam Chairman.

Ms. LOFGREN. I thank you. The gentleman's time has expired.

I would recognize the gentlelady from California, my colleague, Congresswoman Waters.

Ms. WATERS. Thank you very much, Madam Chairman. I have said on several occasions that the work that you have done on immigration is commendable. It is remarkable that you have spent so much time taking up issues that I never even dreamed existed with immigration. And I am very appreciative for the opportunity to learn a lot more about the complications of this issue and very appreciative that you have dedicated so much of your time to dealing with these issues.

I am a little bit in awe of the witnesses, some of our witnesses that are here today, particularly our two members of the military, who are describing to me what I consider to be an unbelievable situation.

I have worked in this Congress long enough to know that we hold our soldiers, our military, our troops in high esteem, and we hear on a daily basis how much we support them. I didn't know that there was a difference between some soldiers and soldiers who may—are military who may have served, who are not, as it was described, in complete compliance with military law in some way, based on their immigration status. And it is hard for me to internalize and to understand how it is someone could serve this country and make those sacrifices and we not want to do everything that we can to honor that service with citizenship.

I guess the case can be made that somehow they are getting something that others are not getting. But if others don't have the

problem of trying to keep their families together and of having been brought to this country when they were babies, having lived here, attended school here and worked here and gone into the military, and only then to be told at some point that, not only will the military service perhaps not be honored, but they may be separated from their families, they may be sent to countries that they know nothing about, on and on and on, it is just amazing to me.

It seems to me that the best thing that we could do for many of these situations is to try and come up with a way that we can honor those who serve with citizenship certainly after they have demonstrated their support for this country and their ability to serve satisfactorily in the service.

I feel a little bit strange that, as I listened, I don't and most of us don't really understand what the 1751 is and what an M-400 is and what a 328 and a 329, and on and on and on, but it sounds as if it is the kind of run-around that nobody should have to experience.

So I think, with all of these hearings—I don't know if I have any questions. I mean, we have heard—I guess maybe just one.

Colonel Rivera, have you discussed with your lawyer if or how your immigration status would be affected if you were to leave the United States while you were still in removal proceedings? I mean, what is your lawyer saying about that?

Ms. DE RIVERA. Well, thank you, Congresswoman Waters.

I have not quite discussed what would happen if I were to leave—if I were to get ordered removed from the country. We are not really focusing on that right now, to be honest with you. However, it does affect me greatly to know that that is even a possibility.

Ms. WATERS. What if you are not able to deploy when they deploy, what happens to your career?

Ms. DE RIVERA. I could quite possibly lose my rate, my job—

Ms. LOFGREN. Would the gentlelady yield?

Ms. WATERS. Yes.

Ms. LOFGREN. Because I think the answer is that if Ms. Rivera is deployed outside the United States, she would be, under immigration law, she would be perceived as self-deporting, and she would not be readmitted with her unit if she had to go. She would be considered deported, even though she is active-duty military.

And I thank the gentlelady for yielding.

Ms. WATERS. Thank you very much.

So there is a possibility, if you are deployed, you could be considered as just described and not allowed to come back in. There is a possibility if you stay here and you don't deploy when they do, that you could lose your rank? Is that what you said? Or your rate?

Ms. DE RIVERA. My rate, which would be my job. I would not be able to perform my job. And, more importantly, I would not be able to return to the United States. Say we deployed to Kuwait, once I hit port, once I get off the ship, I am not allowed to come back.

Ms. WATERS. So if you were deployed to Kuwait, we would leave you there?

Ms. DE RIVERA. Yes, ma'am.

Ms. WATERS. That is shocking.

Ms. DE RIVERA. And then it would be up to that government to return me back to Mexico.

Ms. WATERS. Well, I suppose I have no other questions. I just want to be a part of the solution.

I yield back the balance of my time.

Ms. LOFGREN. I thank the gentlelady.

And I would recognize the gentleman from California, Congressman Lungren.

Mr. LUNGREN. Thank you very much, Madam Chairman.

I am glad that most of this hearing has been nonpartisan. I am sorry we had to have some swipes, the usual bash Bush and bash Cheney, and then hit and run, because I don't think that really adds anything to our discussion, and I think that is to be lamented.

Colonel Stock, as I understand some of your testimony at the very beginning, you suggested that we have some problem with the slowness with which there is naturalization for military members as a general rule. Is that correct?

Ms. STOCK. No. As a general rule, the citizenship process for military personnel is going very well. But we do have an ongoing problem with the FBI name checks and with the quick processing of enlistment fingerprints. The enlistment fingerprints don't get processed very fast.

Mr. LUNGREN. And you also mentioned sometimes they won't recognize military doctors for the physical examines? Is that what I heard you say?

Ms. STOCK. Yes. Homeland Security only recognizes the persons that they have certified to perform medical examinations, and most of the military doctors can't qualify because of the arcane rules relating to the civil surgeons.

Mr. LUNGREN. So they are good enough to take care of our military people but not good enough to do physicals?

Ms. STOCK. Yes.

Mr. LUNGREN. It seems to me that is a simple thing we might be able to check on.

Ms. LOFGREN. One would think.

Mr. LUNGREN. No, I am serious.

Ms. LOFGREN. I agree.

Mr. LUNGREN. We could at least say, what is the nonsense here? And you and I both serve on Homeland Security Committee. It seems to me that we ought to be able to—

Ms. STOCK. I think it would be great to give an automatic certification to all of the military doctors to do—

Ms. LOFGREN. If the gentleman will yield, I will be happy to prepare a letter that bipartisan Members can sign.

Mr. LUNGREN. Now, what is the problem with fingerprints?

Ms. STOCK. Well, right now, in order to expedite military naturalizations, we have an agreement with Homeland Security that they will accept military enlistment fingerprints, so that soldiers, sailors, airmen and Marines don't have to go to an application support center and have their fingerprints redone.

Mr. LUNGREN. Right. We have that. So what is the problem?

Ms. STOCK. Well, the problem is that the enlistment fingerprints don't get processed fast. Sometimes they take 9 or 10 months to process.

Mr. LUNGREN. So that is a military problem?

Ms. STOCK. It is not the military. It is apparently related to another Federal agency outside the Department of Homeland Security.

Mr. LUNGREN. And who is that?

Ms. STOCK. I believe it is the FBI.

Mr. LUNGREN. Madam Chair, again—

Ms. LOFGREN. We actually have flagged some of these items from the testimony, and we are preparing a letter.

Mr. LUNGREN.—it seems we could do something on that, as well.

And the other thing you mentioned was the address for the notices, that somehow DHS doesn't recognize the military addresses? Is that correct?

Ms. STOCK. This is a software computer problem where their system doesn't recognize APO and FPO addresses.

Mr. LUNGREN. Are they addressing that?

Ms. STOCK. Not as far as I know.

Mr. LUNGREN. Again, Madam Chairman, we all agree on that. I mean, these are dumb things for bureaucracy that ought to be taken care of. And I don't think there would be any disagreement among all of us on those sorts of things.

Ms. LOFGREN. I would hope.

Mr. LUNGREN. Now let me address something else. And, again, I am sorry that one of our fellow members has left, because he said, "legal, illegal, let's get away from that; it doesn't matter." Well, it does matter. And what we do here and how we fashion the bill is important.

In 1986, I was the Republican floor manager for the Simpson-Mazzoli bill, the largest single legalization in the history of this Nation. We thought it was appropriate at that time. We thought it would, with enforcement, stop the tremendous amount of illegal immigration we had.

We legalized a lot of people; I am proud of that, frankly, under the circumstances. But it didn't have the intended effect, which was to close off illegal immigration into this country.

So I would just say that it is important how we fashion a bill, it is important how we enforce the bill.

So, Captain Navarro, I just want to get a little bit of your story. And that is, what is the basis of your husband's illegal status? He came to the country illegally when he was a young boy, young man? What is that deal?

Ms. NAVARRO. Honestly, sir, I am really not prepared to answer any questions on the specifics of my case. But I can prepare something in writing for you, so I don't give you any false information or misquote anything. It has been almost 2 years since when all this happened, so I honestly don't want to give you any wrong information.

Mr. LUNGREN. Okay, but let me just ask you this. When you went to the Air Force Academy and your now-husband, then-boy-friend, followed you there, did you realize that he was not in the country legally at that time?

Ms. NAVARRO. Again, sir, I don't believe any of that really has anything to do with what—

Mr. LUNGREN. Well, here is the reason I am asking. You have come forward as an example of the reason why we ought to change the law, and I respect that very much. And so maybe you are here to testify on that, but we can't ask you questions because you think it might jeopardize your husband's case. And, okay, I can appreciate that.

But, as I said, having been involved in immigration law structure in the past, how we fashion a law to take care of perceived problems is extremely important so that we avoid unintended consequences.

Ms. LOFGREN. Would the gentleman yield?

Mr. LUNGREN. I would be happy to yield.

Ms. LOFGREN. I would note, the captain's testimony, on page 2, is that her husband was not permitted to receive his visa because of a prior entry and false claim to citizenship. As we know, there is no waiver, no matter what the circumstances, on an allegation of a false claim to citizenship.

Rather than question Captain Navarro—and I appreciate that all these military people have come forward, I would think—and we will diligently follow up her offer to provide the details of this case.

And I thank the gentleman for yielding.

Mr. LUNGREN. Well, I appreciate the gentlelady, but, you know, it does make it difficult for us to hold hearings to try and gather information if, when we have witnesses here, we can't ask a question. I am not asking the question to embarrass anybody. I am trying to get a kind of idea of the circumstances that occur that we think we ought to take care of.

Because, as the Ranking Member has said, this bill has a wide scope. I have some sympathy for parts of the bill, but the bill has a wide scope. It is asking us in many cases to make waivable different disqualifiers, including crimes. When I got the original memo on the bill, it included crimes such as human trafficking was to be one of the waivable offenses. I thought that was one of the things we ought not do, and there were several other things.

So all I am trying to do is try and figure out stories, figure out how they specifically applied to the language of the bill. And I am kind of disappointed that I can't ask those questions.

Ms. LOFGREN. I thank the gentleman.

And noting that there are no additional Members here seeking to ask questions, let me at this point first thank you for your service.

Oh, Mr. Gohmert, you have arrived. I didn't see you there. Mr. Gohmert, are you interested in asking questions?

Mr. GOHMERT. No, Madam Chairman. Thank you.

Ms. LOFGREN. Then I will note that, number one, we thank you for your service to our country. I am personally committed—I can't guarantee success, but I can guarantee effort—to try and make sure that we do the right thing when it comes to our men and women serving in the military and their families.

I would note that, you know, no bill is necessarily perfect. This one may be no exception. But we have worked hard to try and make sure that it is a solid, rational approach.

I think that it is a mistake for the Congress to think that they can micromanage every case. Because that takes a judge looking at

the facts of each and every case to make a decision that is a just one.

I would just note that the stated law is today, if you are an American citizen serving in the military in Iraq, and you got married to a woman from another country, say you married somebody from Paris, but you get killed by an IED before that visa is processed, is your widow honored? No, she is deported. So I don't think that is the kind of America I believe in, and I think there are some things we need to do to clean this up.

As we look forward to Memorial Day, I hope that we can sort through. I think there has been maybe some confusion on some of the details of this bill. I think Mr. Conyers's idea to have a sit-down session and sort through the details is a good one. I plan to do that in the spirit of bipartisanship and in the hopes that we can honor our military for their tremendous service to us.

And let me just further say to the two servicewomen who are here, if there is anything that we can do, that I can do personally, to assist either of you in your personal situations, I would very much like to do that.

With that, we may have further questions. If so, we will forward them to you, and we ask that you answer them as promptly as possible.

The hearing record for this hearing will be open for the next 5 days.

And, with that, we thank you very much, and the hearing is adjourned.

[Whereupon, at 4:12 p.m., the Subcommittee was adjourned.]

