HOUSE MILITARY NATURALIZATION BILLS

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 1685, H.R. 1714, H.R. 1799, H.R. 1275, H.R. 1814 and H.R. 1850

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HOUSE MILITARY NATURALIZATION BILLS

TUESDAY, MAY 6, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:04 a.m., in Room 2141, Rayburn House Office Building, Hon. John H. Hostettler [Chairman of the Subcommittee] presiding.

Mr. HOSTETTLER. This Subcommittee will come to order. At the outset we will hear opening statements. And given that the Chair's opening statement will probably exceed the 5-minute limit, that will also hold true for the rest of the Subcommittee.

Since the beginning of Operation Iraqi Freedom and, more specifically, the news that some of the members of our Armed Forces who died in combat were permanent residents, several bills have been introduced to either ease their naturalization requirements or provide immigration benefits to surviving family members of those killed in combat, or both.

The purpose of this hearing today is to examine these bills and to examine current law to determine what changes, if any, should be made to military naturalization.

To join the United States military, an alien must be at least a lawful permanent resident. To hold certain specialized positions in the military such as a Navy SEAL, a person must be a U.S. citizen. Currently, over 37,000 active duty members of the Armed Forces are noncitizens out of a total of 1.4 million men and women on active duty. In other words, about 2.6 percent of the United States military is made up of non-U.S. citizens. Likewise, about 11,800 members of the National Guard and Reserve are noncitizens out of a total of 1,353,000. This amounts to about 0.87 percent of our National Guard and Reserve being noncitizens.

Under current immigration law, there are three mechanisms by which a member of the Armed Forces may become a naturalized U.S. citizen:

First, section 328 of the Immigration and Nationality Act, or INA, permits a person who has served honorably at any time in the U.S. Armed Forces, for a period or periods aggregating 3 years, and who if separated from such service was never separated except under honorable conditions, to naturalize. As a comparison, lawful permanent residents generally must have a green card for 5 years before they may be naturalized. However, lawful permanent residents married to U.S. citizens may apply for naturalization after 3

years instead of 5 years. Applicants pay fees totaling $310 to naturalize.

Second, section 329 of the INA permits an alien who has served honorably in an active duty status in the U.S. military during World War I, World War II, the Korean War, the Vietnam War, or in other periods of military hostilities designated by the President by Executive order and who have separated from such service, was honorably separated, to naturalize. An alien in this category may apply for naturalization immediately.

We are currently in a period of military hostilities designated by the President by an Executive order. On July 3, 2002, President Bush officially designated the period beginning on September 11, 2001 as a period of hostilities which triggered immediate naturalization eligibility for active duty U.S. Military service members under section 329 of the INA.

The Department of Defense and the Bureaus of Citizenship and Immigration Services, formerly the INS, in the Department of Homeland Security work closely together to expedite military naturalization applications in what both Departments describe as a smooth process; 6,753 lawful permanent resident military personnel have filed naturalization applications since July 3rd of last year, the date of the President's Executive order.

The third way a noncitizen member of the Armed Forces may become a U.S. Citizen is subsequent to death while on active duty service under section 329(a) of the INA. An alien who honorably served in the military during a named hostility mentioned above, and died as a result of injury or disease incurred in or aggravated by that service, may be granted posthumous citizenship if applied for by the next of kin no later than 2 years after the date of enactment of the Posthumous Citizenship Restoration Act of 2002 or the date of the person's death, whichever date is later. Posthumous citizenship does not confer any immigration benefits onto any family member of the deceased alien.

Currently, military personnel must be in the United States to file a naturalization application, to be interviewed for the application, and to take the oath of citizenship. This requirement causes some military personnel to have to leave their post abroad and return to the United States at their own expense. Many complain that this is both expensive and impractical. Accordingly, some of the bills introduced require the Department of Homeland Security, the Department of State, and the Department of Defense to ensure that naturalization applications, interviews, filings, oaths, and ceremonies are available at U.S. embassies, consulates, and, military installations abroad. Several Members' bills also waive the fees for the naturalization petition and the naturalization certificate to ease the financial burden for members of the Armed Forces.

I support a change in the naturalization process to permit members of the Armed Forces abroad to apply for naturalization interview and take the oath of citizenship at U.S. embassies, consulates, and abroad, as practicable. Forcing military personnel stationed abroad to return to the U.S. to apply for naturalization and to take the oath is impractical and causes unnecessary interruption in their military activity.

Likewise, I do not oppose waiving the application fees for our military personnel. They perform an outstanding service for our country, and the current procedure is more than just an inconvenience to that service.

A number of Members also wish to lower the number of years a member of the Armed Forces must be in the military before becoming eligible to apply for naturalization. H.R. 1275 and H.R. 1814 lower the 3-year military service requirement to 2 years. One bill, H.R. 1714, lowers the 3-year requirement to zero years. In conjunction with immediate eligibility, H.R. 1714 requires revocation of citizenship for other than honorable separation from the military. H.R. 1814 also permits Reservists during named hostilities to naturalize immediately.

I have misgivings about reducing the military service requirement below 3 years, as well as permitting aliens who join the Reserves during named hostilities to be able to naturalize immediately. While noncitizens currently serve in our Armed Forces, they must demonstrate their loyalty and their character for 3 years before they become U.S. Citizens. Let me reiterate. Current law already recognizes the unique nature of military service by noncitizens by reducing the waiting period from the standard 5 years to 3 years for those who serve. To permit an alien to sign on the dotted line to join the military and then immediately become eligible for U.S. Citizenship diminishes what it means to be a citizen of the United States of America.

In addition, to push aside concerns about a brand-new recruit becoming a citizen because the law permits that citizenship to be taken away if they are subsequently discharged under other than honorable conditions neither holds U.S. Citizenship sacrosanct nor acknowledges the difficulty and rarity in denaturalizing someone.

Last year 573,708 aliens naturalized. Around 60 naturalized citizens were denaturalized. Many judges are loath to take a lawful permanent resident's green card away. Think how reluctant judges would be to take away a person's citizenship. And remember, it is a Federal judge who decides and has discretion to denaturalize someone, not the military.

Furthermore, we already know that al Qaeda has sought to recruit U.S. citizens because they can travel abroad, cannot be deported, and blend easily into American society. If September 11th taught us anything, it taught us that terrorists who wish to harm us are very creative and that we need to be more creative to stop them. That means that we cannot create more immigration loopholes which terrorists can easily exploit. It doesn't take much creative thought to realize that if a noncitizen soldier can naturalize immediately upon joining the military and work in the most sensitive positions, the lure of the military for terrorists will only increase. Terrorists have already recruited members of our Armed Forces who are trained in our military, learn our tactics, and gain access to our weapons. Opening this loophole would be irresponsible.

The second area in which these bills legislate is in granting immigration benefits to the survivors of members of our Armed Forces killed in combat. These changes include waiving the 2-year marriage requirement for the spouse of a U.S. citizen soldier killed

in action to remain an immediate relative for immigration benefits, waiving the fee for the posthumous citizenship application, and permitting family members of posthumous-granted U.S. Citizens to receive immigration benefits while waiving the affidavit of support filing requirement and other grounds of inadmissibility.

I do not oppose letting a spouse of a U.S. citizen killed in combat retain the same immigration status as an immediate relative, as would have occurred had the U.S. citizen not died, nor do I oppose waiving the fee for the next of kin to apply for posthumous citizenship for members of the Armed Forces who are killed during their service. I do, however, have concerns with granting immigration benefits to family members of those granted posthumous citizenship. While the numbers of aliens this would affect may be minimal, this is a significant departure from longstanding law. What makes such a change necessary now that didn't exist before? In addition, what will we say to the family members of Armed Forces personnel granted posthumous citizenship prior to 9/11/2001? Those family members will certainly ask that they, too, be able to pursue immigration benefits based on their deceased family member.

Having said all that, I now yield to the Ranking Member, Ms. Jackson Lee, for an opening statement.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. And I am very pleased that we were able to hold this hearing and proceed with the very instructive legislative initiatives by the very able Members that appear before us this morning. And I want to thank the Members very much for the leadership that they have shown on this I think very unique and singular issue.

Might I say, Mr. Chairman, that on behalf of the Members on this side—and I appreciate the presence of Ms. Sánchez—that many of our Members are en route to Washington and would have liked to have been here. But because of their schedules—and some of whom have come from or are in California, as far as California—some were not able to be here with us this morning. And I know that the Members of this Subcommittee would like to equally compliment all of you for the leadership that you have shown.

Mr. Chairman, the one thing that I know about the hearings this morning is that we are doing the right thing. There is no doubt that the present configuration of the immigration law is wrong as relates to patriots who happen not to be citizens, as relates to those who were willing to give the ultimate sacrifice who happen not to be citizens, as relates to family members of those who have given the ultimate sacrifice and who happen not to be citizens. So clearly we are doing the right thing. I think, Mr. Chairman, it has to be a question of how do we do a better thing.

Might I share with you the story of Jose Gutierrez, who was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, as a minor with no parents, he qualified for permanent residency and was taken in by a foster family. He graduated from high school and studied at a junior college before joining the Marine Corps. On March 21st, 2003, in a battle with Iraq's Republican Guard troops, Lance Corporal Jose Gutierrez was killed in the service of the country he so loved.

According to Martha Espinosa, one of his former foster mothers, he once said to me: I was born the day I arrived in this country.

Jones was one of—Jose, rather, was one of four fallen Marines who deserve special mention because they died in service to a country or in a country that they could not yet call their own. The other three were Private First Class Francisco Martinez Flores, Corporal Jose Angel Gabray, and Lance Corporal Jesus Sorres Del Solar, all born in Mexico.

Immigrants have long seen service in the United States as a gateway to citizenship, education, economic opportunity; and the deaths of these four marines echo those of other noncitizens who died for their country before them. Their valor is well documented. Their love is well documented. Their commitment is well documented. Their patriotism is well documented.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for noncitizen members of the United States military even in peacetime. For example, section 328 of the Immigration Nationality Act allows noncitizen members of the military in peacetime to become citizens after 3 years of service instead of the usual 5-year wait requirement of nonmilitary applicants. In addition, section 329 of INA allows noncitizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities. Yet there is much work for us to do. This opportunity becomes available when the President designates by Executive order that the Armed Services are or were engaged in armed conflict with a hostile foreign force. Under section 329 of the INA, 143,000 noncitizen military participants in World Wars I and II and 31,000 members of the U.S. Military who fought during the Korean War became naturalized American citizens. Executive orders following Vietnam and the Persian Gulf collectively led to more than 100,000 members of the U.S. Military becoming American citizens.

Those are fine processes, but we need to have new law on this issue. It is well overdue. Notwithstanding this history of generosity toward people who have served in our Armed Forces, the provisions of military service-based naturalization can be improved.

The bills that are the subject of this hearing offer improvements in a number of areas. For instance, some of the bills would reduce the 3-year wait for peacetime. Some of my colleagues would like the time reduced to 2 years; others would eliminate the wait entirely and permit a peacetime soldier to begin the naturalization process immediately when he or she begins activity duty in the Armed Forces.

Let it be very clear that at the time of an individual's willingness to sign the papers, they have made the commitment to be able to stand for this Nation and to offer the ultimate sacrifice. If there is any litmus test, it should be simply that. They have been willing to sign up, they are willing to stand on behalf of all of our freedoms.

The area that concerns me most is the posthumous naturalization which is granted when a soldier dies while on active duty during a period of military hostility. As presently written, the post-

humous naturalization provisions explicitly state that the soldier's spouse and children will not benefit from the grant of posthumous citizenship. Several of the bills would remove this exclusion and specify that the spouse and children will be eligible for immigration benefits on the basis of the posthumous grant of naturalization.

We must move quickly on this aspect, but I believe that we must go further. We need to show the extent of our gratitude toward the soldiers who died for this country by making citizenship readily available for their surviving spouses who are already lawful permanent residents of the United States. Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of 3 years before he or she can apply for the naturalization as a spouse of a United States citizen. Section 319(d) of the act waives that requirement in the case where the lawful permanent resident spouse is married to a citizen spouse who dies during a period of honorable service. That provision should be revised to apply in a case where the soldier's citizenship is received posthumously.

The only difference between the two situations is that the one addressed by the current law applies to a soldier who receives his citizenship while he is alive; while, as in the second situation, the citizenship is received posthumously. In both cases, the soldier is a citizen who is killed during a period of honorable service. If anything, the posthumous situation is more compelling than any other situation. Posthumous situation citizenship is given when a soldier dies during a period of military hostility.

In conclusion, Mr. Chairman, I believe we can work together. We might be able to work together even in spite of your comments this morning as we listen to our colleagues about the 2-year waiver regarding the marriage requirement. The fees that are presently utilized, I believe we have common agreement: the eligibility time frame for the naturalization period, the 3-year eligibility period for naturalization, to a certain number of years; the fees, both in the Federal level and the State level; the requirement for the Department of Homeland Security, Department of State, Department of Defense that we might look at; and, as well, the requirements regarding the Department of Defense in facilitating the final naturalization processes. There are many aspects of these particular legislative initiatives that I would hope the Judiciary Committee would find common ground, and that we would be able to work together to ensure that when we finally pass legislation it will answer the question do we in fact pay tribute to these great and valiant soldiers, those living and those who have been willing and have given their lives.

I yield back.

Mr. HOSTETTLER. I thank the gentlelady.

Are there any other Members who wish to make opening statements? Ms. Sánchez from California.

Ms. SÁNCHEZ. Thank you, Mr. Chairman.

Good morning, and thank you to all of the witnesses who have come here today to talk about the legislation on the issue of military naturalization. I applaud my fellow Members of Congress for recognizing the need for legislation in this area.

In this country, noncitizens have worn our military uniforms and fought in our battles throughout history. In fact, one of my uncles

served while a noncitizen. More recently, the percentage of noncitizens serving in our military has been on the rise. The Department of Defense now estimates that approximately 3 percent of our military are legal permanent residents. It seems only fair to recognize and reward these individuals for the sacrifices they have made and are willing to make. Without being citizens and without having the protections that status would give them, these immigrant men and women are willing to risk their own lives to defend this Nation. The very least we can do is to give them something in return. And the kinds of things recommended by these bills are the kinds of things that we all can support. No one is asking that everyone who signs up for the military should become citizens with no requirements whatsoever. We are talking about checking all the proper criteria, dotting the i's and crossing the t's and then, if everything checks out, giving them citizenship.

Let us take the case of spouses and children of noncitizen soldiers who die while serving this country. If those spouses and children are waiting for immigration applications to be processed, it seems like the height of insult to take that away from them. Again, no one is suggesting that they should automatically be granted citizenship or other legal status. What is being suggested is that they be given the opportunity to continue pursuing their application.

I am sure it is an honor for individuals whose spouse or parent died to know that that person was granted posthumous citizenship, but we need to seriously ask ourselves if that is enough. If somebody gives the most that they can give this country, their very life, then doesn't it seem like this country should give them something back? Since the soldier is no longer alive to receive those benefits, it seems only fitting to pass those benefits on to the soldier's spouse and children.

As a co-sponsor of the Frost and the Solis bills, I wholly support these efforts to thank our legal permanent residents for their efforts and sacrifices. I urge my fellow Subcommittee Members to do the same.

I yield back.

Mr. HOSTETTLER. Thank you, Ms. Sánchez.

At this time we will hear from our witnesses and colleagues.

First of all, Representative Doc Hastings won election to the U.S. House of Representatives in 1994 to serve Central Washington's Fourth Congressional District. He was reelected to a fifth term in 2002. Congressman Hastings sits on the House Rules Committee as well as the Budget Committee. He is also the Republican assistant majority whip for the House. He has introduced H.R. 1714, the "Armed Forces Citizenship Act of 2002," about which he will testify today.

Mr. HOSTETTLER. Representative Martin Frost is serving his 13th term, representing the 24th Congressional District of Texas. He serves as the Ranking Democrat Member of the House Rules Committee, and was the Chairman of the House Democratic Caucus from 1999 through 2002. Congressman Frost's wife is a Major General on active duty in the United States Army. And I didn't realize that until today, Congressman. And I understand you probably have a very unique perspective of this issue, and we appreciate her service as well.

He has introduced H.R. 1275 to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States, about which he will testify today.

Representative Walter Jones is serving his fifth term representing the Third Congressional District of North Carolina. He sits on the Committees on Armed Services, Financial Services, and Resources. He has introduced H.R. 1799, the "Fallen Heroes Immigrant Spouse Fairness Act of 2003," the subject of his testimony here today.

Mr. HOSTETTLER. Representative Luis Gutierrez is serving his sixth term as the Representative from the Fourth District of Illinois. He sits on the Financial Services and Veterans' Affairs Committees. Mr. Gutierrez has introduced H.R. 1850, the "Fairness for America's Heroes Act," about which he will testify today.

Mr. HOSTETTLER. Representative Darrell Issa is serving his second term as the Representative for the 49th Congressional District of California. He sits on the Energy and Commerce Committee, and formerly was a Member of the Judiciary Committee during the 107th Congress, including this Subcommittee. Congressman Issa enlisted in the Army during his senior year of high school and attained the rank of captain after attending college on an ROTC scholarship. Mr. Issa has introduced H.R. 1685, to amend the Immigration and Nationality Act relating to posthumous citizenship through death while on active duty service during periods of military hostilities, to eliminate the prohibition on immigration benefits for surviving family members, and to provide such benefits for spouse and children, the subject of his testimony here today.

Mr. HOSTETTLER. Representative Hilda Solis was first elected to Congress in 2000, and is currently serving her second term representing the 32nd Congressional District of California. Congresswoman Solis serves on the Energy and Commerce Committee, and is the Ranking Member of the Environmental and Hazardous Material Subcommittee. She is also the assistant whip chairwoman of the Congressional Hispanic Caucus's Task Force on Health, and Democratic Vice Chair on the Congressional Caucus of Women's Issues. Ms. Solis has introduced H.R. 1814, the "Naturalization and Family Protection for Military Members Act of 2003," about which she will testify today.

Mr. HOSTETTLER. Lady and gentlemen, thank you very much for being here and for your service. The Chair now recognizes Representative Doc Hastings for your opening statement. And without objection, all opening statements will be made available to the record. So you are free to testify.

STATEMENT OF HONORABLE DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you very much, Mr. Chairman, and Members of the Subcommittee. I appreciate the opportunity to testify this morning, and I would like to commend you for holding this hearing that is of great importance both to the Nation and to many of our men and women in uniform.

Last week when President Bush welcomed home the officers and crew serving aboard the USS Abraham Lincoln, he took special

care to note the sacrifices made during the war in Iraq by soldiers, sailors, airmen, and marines who will not be returning home to their loved ones. Tragically, under current law, some of those who died wearing the uniform of the United States gave their lives before they were truly entitled to call themselves Americans. To me, that is just plain wrong and is an injustice that I hope Congress will move quickly to correct.

Simply put, Mr. Chairman, this is our chance to do the right thing for those who are doing the right thing for America. Now, I am not referring to illegal aliens or undocumented workers or those here in the U.S. on various kinds of temporary permits or visas. Rather, I am talking about legal permanent residents of this country, those born overseas and who by law are entitled to live and work in this country for the rest of their lives if they choose to. What they are not entitled to do, not yet anyway, is to become U.S. citizens with all the rights that are guaranteed to U.S. citizens under our Constitution.

Mr. Chairman, you alluded to the fact that there were 37,000 noncitizen immigrants serving in the Armed Services. Frankly, that number surprised me, but those 37,000 patriotic men and women have sworn an oath to protect and defend a Nation whose ideals they love and respect and believe in. Is there any better way to demonstrate your fitness for citizenship than to make that kind of commitment to what our Nation stands for? Aren't these precisely the kind of individuals that we want to be U.S. citizens?

Under existing laws, if you never enter the military, legal permanent residents—and those are the types of people we are talking about—can simply wait 5 years and become naturalized citizens; or, by joining the military they can apply for citizenship sooner, after serving 3 years on active duty or in the Reserves.

Mr. Chairman, I believe 3 years simply is too long a waiting period for men and women who have made the kind of commitment to our Nation that you make by enlisting in the Armed Forces. And I should also note that most of the individuals we are talking about were already here and had been legal permanent residents for some time period before beginning their military service.

Shortly before the April recess, I introduced H.R. 1714, the "Armed Services Citizenship Act," which would have made active duty personnel immediately eligible for citizenship. My bill would also waive the customary administrative fees required for naturalization, and make it possible for service men and women to take their citizenship oaths overseas.

Finally, a critically important section of my bill provides for citizenship gained in this fashion to be revoked if the serviceman is discharged under other than honorable circumstances. In other words, they must follow through on their commitment. They have to do their part to become a citizen.

I am pleased that in just the few days that we have been in session since the break, over 25 of my colleagues have joined on a bipartisan basis to cosponsor my bill. However, after extensive conversations with immigration officials, the military services, and a number of my colleagues, I have made several changes that are to be incorporated in my new bill which has not yet been assigned a number by the clerk.

First, in response to Members who are reluctant to grant immediate eligibility for citizenship, I would now propose to establish eligibility after 1 year of military service. According to the Defense Department, the vast majority of those failing to complete their initial enlistments are gone before the first year that they have been in uniform. For the most part, by the end of the year of service, we know what kind of people these individuals are.

Second, because the current law accelerating naturalization for military personnel makes no distinction between active duty service and Reserves, I have removed that distinction from my original bill.

Finally, I would strongly urge the Committee to make it possible for military personnel to begin the paperwork process for naturalization upon entering military service in the hope that once they have served the required time in uniform, there would be no unnecessary further delay in administering their oaths of office. Ideally, by the time any individual was ordered into harm's way, he or she would be made eligible to become citizens of the country that they serve to defend.

So in closing, Mr. Chairman, let me say that I am pleased that several of my colleagues have introduced legislation conferring citizenship on those servicemen who have lost their lives before becoming citizens. And while I support their efforts, I am hopeful that this Committee will work to ensure that it is never again necessary to grant citizenship to an American soldier who has died in service of this country before that individual experiences the tremendous pride felt by those who can say five very simple words, and I quote, "I am an American citizen," end quote.

Thank you very much, Mr. Chairman.

Mr. HOSTETTLER. Thank you, Congressman Hastings.

[The statement of Mr. Hastings follows:]

PREPARED STATEMENT OF THE HONORABLE DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify this morning and I'd like to commend you for holding this hearing on an issue of great importance both to the nation and to many of our men and women in uniform.

Last week, when President Bush welcomed home the officers and crew serving aboard the USS Abraham Lincoln, he took special care to note the sacrifices made during the war in Iraq by soldiers, sailors, airmen and marines who *won't* be returning home to their loved ones.

Tragically, under current law, some of those who died wearing the uniform of the United States gave their lives before they were truly entitled to call themselves "Americans."

That's just plain wrong, and it's an injustice I hope Congress will move quickly to correct.

Simply put, Mr. Chairman, this is our chance to do the right thing—for those who are doing the right thing for America.

I'm not referring to illegal aliens, or undocumented workers, or those here in the U.S. on various kinds of temporary permits and visas. Rather, I'm talking about Legal Permanent Residents of this country—those born overseas, but who by law are entitled to live and work in this country for the rest of their lives if they so choose.

What they are *not* entitled to do—not yet, anyway—is become U.S. citizens, with all the rights that are guaranteed to U.S. citizens under our Constitution.

It might surprise members of this committee—because I know it surprised me—to learn that there are currently more than 37,000 non-citizen legal immigrants serving on active duty in our armed forces.

37,000 patriotic men and women who have sworn an oath to protect and defend a nation whose ideals they love and respect and believe in. Is there any better way to demonstrate your fitness for citizenship than to make that kind of commitment to what our nation stands for? Aren't these precisely the kind of individuals we should want as U.S. citizens?

Under existing law, if they never enter the military, Legal Permanent Residents can simply wait five years and become naturalized citizens. Or, by joining the military they can apply for citizenship sooner—after serving for three years on active duty or in the reserves.

Mr. Chairman, I believe three years is simply too long a waiting period for men and women who have made the kind of commitment to our nation that you make by enlisting in the armed forces. And I should also note that most of the individuals we're talking about here have already had Legal Permanent Resident status for some period of time before beginning their military service.

Shortly before the April recess, I introduced legislation (HR 1714—"The Armed Forces Citizenship Act") which would have made active duty military personnel immediately eligible for citizenship. My bill would also waive the customary administrative fees required for naturalization, and make it possible for service men and women to take their citizenship oaths overseas. Finally, a critically important section of my bill provides for citizenship gained in this fashion to be revoked if the serviceman is discharged under "other than honorable" circumstances. They must follow through on their commitment—they have to do their part.

I'm pleased that in just the few days we've been in session since the break, 25 of my colleagues have joined as co-sponsors of my bill.

However, after extensive conversations with immigration officials, the military services, and a number of my colleagues, I have made several changes that are incorporated in my new bill, which has not yet been assigned a number by the Clerk.

First, in response to Members who are reluctant to grant "immediate eligibility" for citizenship, I would now propose to establish eligibility after one year of military service. According to the Defense Department, the vast majority of those failing to complete their initial enlistments are gone before the end of their first year in uniform. For the most part, by the end of a year in the service, we know what kind of people these individuals are.

Second, because the current law accelerating naturalization for military personnel makes no distinction between active duty and service in the reserves, I have removed that distinction from my bill as well.

And finally, I would strongly urge the Committee to make it possible for military personnel to begin the paperwork process for naturalization upon entering military service, in the hope that once they have served the required time in uniform, there would be no unnecessary further delay in administering their oaths of office. Ideally, by the time any individual was ordered into harms way, he or she would be made eligible to become citizens of the country they serve to defend.

In closing, Mr. Chairman, let me say that I am pleased that several of my colleagues have introduced legislation conferring citizenship on those servicemen who lost their lives before becoming citizens. And while I support their efforts, I am hopeful that this committee will work to ensure that it is never again necessary to grant citizenship to an American soldier who has died in the service of his country—before experiencing the tremendous pride felt by all those who can say five very simple words, "I am an American *citizen*."

Thank you very much, Mr. Chairman.

Mr. HOSTETTLER. Congressman Frost.

STATEMENT OF HONORABLE MARTIN FROST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. FROST. Mr. Chairman, I am going to summarize my written testimony, if I may, and submit my entire statement for the record.

Mr. HOSTETTLER. Without objection.

Mr. FROST. Mr. Chairman, my legislation predated the President's Executive order of last year and predated the involvement in Iraq. My legislation was first suggested to me by the then Adjutant General of the United States Army, Major General Kathy Frost, my spouse. And the reason it was suggested to me was that as Adjutant General of the Army, she observed the great difficulty that legal residents had in applying for citizenship under current

law; that is, not being able to apply at their duty station wherever they were around the world, having to fly back to the United States at their own expense, perhaps as much as $1,000 required for air fare, the difficulty in scheduling their appointments, their interviews here in the United States, and that really current law did not work.

The question also involved the amount of time; under current law, as has previously been stated, there was a 3-year requirement. My legislation would reduce this to 2 years.

I listened with interest to the testimony of my colleague, Doc Hastings. The 1-year provision in his new bill is an interesting idea. I think that there must be a specific period of time. I suggested 2 years because that was the minimum tour of duty in the United States Army. Perhaps this Committee would want to consider 1 year. I believe 2 years is an appropriate period of time. And the reason that I provided 2 years, as was previously testified by Doc Hastings, is that 25 percent of the men and women who sign up for our military leave before they have completed their 2 years of service.

And, more specifically, there is a period of basic training that I went through as an enlisted man in the Army. There is a period of advanced individual training. All this occurs before you are ever assigned to a unit. And that is when our services make the basic decision as to whether this is an appropriate person to serve, and that is also when many of the people who have volunteered are unable to fulfill the requirements of service in our Army or our other branches.

So I think a time period is very important, whether it be the 2-year period as suggested by my legislation, or perhaps the 1-year period as suggested by my colleague Mr. Hastings. This, doing something, is very very important, however. We all know about the President's Executive order, an Executive order that has been issued by other Presidents in times of wartime. There is the remedy in time when our country is engaged in war to provide for a shorter period of time, as the President has appropriately done.

We need permanent legislation that will apply no matter whether we are in war or whether we are simply building up our Armed Services. That is why I introduced the legislation that would reduce the 3-year period, and that is why I introduced legislation that would eliminate the fees and make it possible for people to be processed in their duty station wherever they are around the world.

I would hope that the Chair would reconsider his position as to the 3-year requirement. I believe that is too long. And also I think that it is imperative that we pass some legislation to recognize the soldiers who have fallen in this most recent battle. You have heard their names, some of them previously stated: PFC Francisco Martinez Flores, Corporal Jose Anhel Gadabay, Lance Corporal Jesus Suarez De Solar, Lance Corporal Jose Gutierrez, and others who have given their lives or risked their lives for this country.

I represent a very large Hispanic constituency. My district is 38 percent Hispanics. Hispanics evidence a high degree of support for this country. They are very proud of being in the United States and of serving our Nation. And I believe this legislation is long overdue.

I hope the Committee will listen carefully to the testimony of all my colleagues who all offer constructive suggestions, and that you fashion some legislation that will recognize the service of these brave men and women to our country.

Thank you very much.

Mr. HOSTETTLER. Thank you, Congressman Frost.

[The statement of Mr. Frost follows:]

PREPARED STATEMENT OF THE HONORABLE MARTIN FROST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, I appreciate and thank you for this opportunity to testify today on an issue of such great importance to our Armed Forces and our nation.

In the war against Saddam Hussein, non-citizen soldiers were among the first brave men and women to fall. Some were born in Mexico before joining the U.S. military—like Pfc. Francisco Martinez Flores, Cpl. Jose Angel Garibay and Lance Cpl. Jesus Suarez del Solar. Others were born in Guatemala—like Lance Cpl. Jose Gutierrez. But all died fighting for a country where they couldn't even cast a vote.

These brave individuals earned the respect and gratitude of every American citizen. All of those who've chosen to make ultimate sacrifices for the defense of our country certainly have earned the full rights and privileges of U.S. citizenship.

Thousands of our troops, including many who just faced combat in the Iraq, are not U.S. citizens. According to the Department of Defense, the number of legal permanent residents serving on active duty has risen to 37,401 or about 3 percent of our military. Additionally, thousands of immigrants serve in the reserves and were called up for active duty.

The ranks of non-citizens serving in the Armed Forces are growing, and today's immigrants are building upon a rich legacy of service in the U.S. military—immigrants have fought in every American conflict, from the Revolutionary War to the War with Iraq. The military service of immigrants reflects the strong strain of patriotism among generations who've chosen to come to America. And the patriotism of today's large Hispanic immigrant communities is particularly strong.

However, thousands of those troops are still not citizens today because of the significant obstacles that remain.

The sacrifices of legal permanent residents in our military are unique—they choose to defend the freedom of American citizens while not sharing in the full rights and privileges of citizenship themselves. Unfortunately, the process for granting citizenship to immigrants within the U.S. military still places heavy burdens upon them, especially those serving in the toughest overseas assignments.

Under current law, immigrant troops who have served three years in the military may apply for citizenship. All citizenship interviews however, must be done in the U.S. Therefore, troops must pay their own way back and are subject to burdensome immigration fees. In total, a low-paid G.I. deployed overseas could easily have to spend more than $1,000 on fees and travel expenses to complete the naturalization process. These costs, and the difficulty of scheduling appointments months in advance, make it all but impossible for the non-citizens fighting for America in Iraq or Afghanistan to become U.S. citizens while they serve on the front lines.

Congress has an opportunity to relieve immigrant troops of these burdens—and to pay tribute to their sacrifices—by passing H.R. 1275, the "Citizenship for America's Troops Act," a bi-partisan bill that I first introduced last May.

My bill would remove unfair and unnecessary obstacles to facing thousands of legal permanent residents serving honorably in the U.S. military trying to obtain their citizenship. My legislation does the following:

- Lowers the military service year requirement from three years to two years in order to apply for citizenship
- Allows citizenship interviews and oath ceremonies to be conducted overseas at U.S. embassies, consulates, and military installations.
- Exempts these troops from paying all fees relating to naturalization.

Last year, following the precedent of previous administrations in time of military conflict, President Bush signed an Executive Order making those who had been on active duty since September 11th immediately eligible for citizenship. However, this executive order is only good only in times of conflict and not peace.

It is often said that the best offense is a good defense. Our military is undisputed as the most powerful in the world. This is due in no small part because of the contributions of legal permanent resident soldiers. Their efforts in times of peace

should not go unrecognized and unrewarded. As we have seen in the last months' of war, legal permanent resident troops were all too willing to pay the ultimate sacrifice when called to serve their country at war.

H.R. 1275 has the support of several prominent immigrantion and military organizations—the League of United Latin American Citizens, the National Council of La Raza, the National Association of Latino Elected Officials, the American Immigration Lawyers Association, and the Air Force Association.

This is not a partisan issue—both Republican and Democratic Members are cosponsoring the Citizenship for America's Troops Act. That's because the "Citizenship For America's Troops Act" contains simple, common sense measures to make life easier for dedicated, military personnel who dearly wish to become U.S. citizens.

Thank you again for the opportunity to testify today.

NALEO Educational Fund empowering Latinos to participate fully in the American political process

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President, Hispanic Elected Local Officials National League of Cities

Executive Director
Arturo Vargas

May 1, 2003

Honorable Martin Frost
United States House of Representatives
Washington, D.C. 20510

Dear Representative Frost:

On behalf of the National Association of Latino Elected and Appointed Officials Educational Fund (NALEO), the leading organization that empowers Latinos to participate fully in the American political process, I write in strong support of H.R. 1275, the "Citizenship for America's Troops Act."

As you may know, U.S. citizenship remains the cornerstone of our efforts to empower the Latino community. This mission, combined with our belief that the naturalization process should be efficient, accessible and affordable, particularly for those who are serving our country in the military, make us proud to support this important legislation.

Throughout our history, the patriotism of Latino communities has been evident, as immigrant soldiers have made enormous contributions to our military. One need look no further than the fact that more Latinos have been recipients of the Congressional Medal of Honor—the highest honor given to our war heroes—than any other ethnic population.

We look forward to working with you in ensuring that Congress will act quickly in allowing our troops access to full political participation.

Sincerely,

Arturo Vargas
Executive Director

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AMERICAN IMMIGRATION LAWYERS ASSOCIATION

April 30, 2003

The Honorable Martin Frost
2256 Rayburn Building
Washington, DC 20515-4324
VIA E-mail: Martin.Frost@mail.house.gov

Dear Representative Frost:

On behalf of the American Immigration Lawyers Association (AILA), a voluntary bar association of 8,000 immigration attorneys, we thank you for introducing the Citizenship for America's Troops Act (H.R. 1275). Your legislation, which would facilitate the naturalization of immigrant men and women in our military, recognizes the tremendous sacrifices immigrants make to the armed forces of the United States.

By reducing the number of years required for immigrants serving in the military to become naturalized, exempting them from naturalization filing fees, and enabling them to naturalize while stationed abroad, this bill makes it easier for dedicated military personnel to become citizens. These men and women deserve our utmost respect and gratitude for putting their lives on the line to defend this country. Simplifying their naturalization process is the very least we can do to demonstrate our appreciation.

The measures contained in your bill are a significant first step and have been incorporated in another important bill, the Naturalization and Family Protection of Military Members Act of 2003 (H.R. 1814). H.R. 1814, based on your bill, also offers an additional important provision: extending immigration benefits to surviving immediate family members of immigrants who die while serving their country in the armed forces.

AILA thanks you for your leadership on this important issue and is pleased to offer our full support. We urge Congress to approve it without delay.

Sincerely,

Jeanne A. Butterfield
Executive Director

Judith E. Golub
Senior Director of Advocacy & Public Affairs

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April 11, 2003

The Honorable Martin Frost
U.S. House of Representatives
2256 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Frost:

On behalf of the National Council of La Raza (NCLR), the largest national constituency-based Hispanic civil rights organization in the U.S., thank you for your leadership in introducing the "Citizenship for America's Troops Act." NCLR strongly supports this legislation and your efforts to reward those defending this nation with the expedited opportunity to become U.S. citizens.

As you know, immigrants eager to make the U.S. their permanent home have demonstrated a profound patriotism. Since September 11, 2001, legal permanent residents have heeded the call to defend the U.S. and have joined the armed forces in large numbers. More than 36,000 service members are noncitizens, and approximately 10,000 are from Latin American countries. Another 20,000 permanent residents are serving in the Reserves and the National Guard. Several of the first U.S. soldiers to make the ultimate sacrifice for the U.S. and die in Iraq were immigrants from Latin America.

Clearly, immigrants have demonstrated their allegiance to the U.S. and are fighting and dying for this country. These individuals deserve the benefits included in your legislation, including expedited eligibility for citizenship, fee waivers, and the ability to take the citizenship oath abroad.

NCLR applauds your efforts and fully supports the "Citizenship for America's Troops Act" and looks forward to working with you to pass this important legislation.

Sincerely,

Raul Yzaguirre
President and CEO

Program Offices: Phoenix, Arizona • Los Angeles, California • Sacramento, California

Air Force Association
1501 Lee Highway, Arlington, Virginia 22209-1198 (703) 247-5800
An Independent Nonprofit Aerospace Organization

DONALD L. PETERSON
Executive Director

February 25, 2003

The Honorable Martin Frost
2256 Rayburn House Building
Washington, DC 20515

Dear Congressman Frost:

Thank you for your leadership during the 107th Congress for introducing the "Citizenship for America's Troops Act." We laud your efforts to re-introduce this important legislation in the early days of the 108th. We pledge our assistance and our support.

Every day we hear from some outstanding men and women in our Air Force who would benefit greatly by this legislation. In fact, during our recent meetings in Orlando, we learned that one of the 12 Outstanding Airmen of the Air Force, SSGT Vivianna Van Hassel, is caught in this situation. While making good progress toward her citizenship, she now is being transferred from Colorado to Germany and is gravely concerned about how to financially meet the burden of having to come back to the States to complete the necessary arrangements. The legislation you propose would solve this problem and many more for those who serve in our military and are seeking to obtain US citizenship.

The Air Force Association applauds your efforts, Mr. Frost. We look forward to working with you to enact this important legislation.

Sincerely,

Donald L. Peterson
Lt General, USAF (Ret)

DLP/KAG

Mr. HOSTETTLER. Congressman Jones.

STATEMENT OF HONORABLE WALTER B. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. JONES. Mr. Chairman, thank you. And I thank the Ranking Member and the men and women on this Committee for this opportunity to discuss H.R. 1799, the "Fallen Heroes Immigrant Spouse Fairness Act." Mr. Chairman and Committee Members, this does two very simple things: It eliminates the 2-year marriage threshold for immigrant spouses petitioning for permanent legal residence, and it waives the $80 fee charged to the family seeking post-

humous citizenship for their loved ones who have died in the line of duty.

Mr. Chairman and Committee Members, I can very briefly tell you how this came to my attention. Several weeks ago, Sergeant Michael Bitts was killed in Iraq. His wife Janina is from Australia. They had three children. One was 3 years old, a little boy; then Michael had twins born that he never saw, and they were born after he was deployed. I went down to the funeral of Sergeant Michael Bitts down at Camp Lejeune, and I had the opportunity to speak to the family to convey my sympathy on behalf of my colleagues in the House and the Senate.

Also, at that time I had the opportunity to speak to Pat Millish. She is the immigration liaison for the Judge Advocate at Camp Lejeune, which is in my district. Also Fort Bragg and Pope Air Force Base; those two bases are not in my district. We discussed the need for this legislation, because what has happened is that if by chance Mrs. Bitts had been in this country 1 year and 11 months, then she would have to start the whole naturalization process from the beginning, from day one. As it worked out, she had been here 2 years and 1 month prior after her husband's death. So basically what we are trying to do is to say to that family member who has lost a loved one, whether it be in a non-wartime situation or in a wartime situation, that you may continue the process where you are when that loved one dies.

And it is very simple legislation. It is to the point. And, quite frankly, Ms. Millish says that she hopes that the House and the Senate would pass this very simple legislation to help the loved one who has lost an individual who has been in the service.

I am pleased to tell you and the Committee that we do have the written support of the Fleet Reserve Association, the National Military Families Association. And again, this is a bill that does two simple things. But I think it is so important to that spouse so that when she or he loses a loved one and they are in the naturalization process, they don't have to go back to the very beginning of the process. They continue where they are at that point in the process when that loved one has lost their life.

So Mr. Chairman, with that, again I thank you and the Committee for giving me this opportunity to testify, and I will thank you and be glad to answer any questions when that time comes forward. Thank you, sir.

Mr. HOSTETTLER. Thank you, Congressman Jones.

[The statement of Mr. Jones follows:]

PREPARED STATEMENT OF THE HONORABLE WALTER B. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Chairman Hostettler, Ranking Member Jackson Lee, thank you for inviting me to speak on the topic of House Military Naturalization Bills. I am pleased to have this opportunity to speak about legislation aimed at amending current immigration law to eliminate the 2-year marriage threshold for immigrant spouses petitioning for permanent legal residence and to waive the $80 fee charged to families seeking posthumous citizenship for their loved one who has died in the line of duty.

I have recently introduced legislation, the Fallen Heroes Immigrant Spouse Fairness Act, H.R. 1799, to address the two issues I have mentioned. As the current law is written, should a U.S. citizen spouse die before a 2-year period of marriage is reached, the pending application of the non-citizen spouse is vacated. Widows and widowers of our men and women in uniform who are in the process of applying for

a green card should not have their application process terminated if they are unfortunate enough to have lost their loved one prior to reaching the 2-year threshold.

In the 3rd District of North Carolina, where there are numerous military installations and facilities, one of my constituents was killed during Operation Iraqi Freedom. This constituent's spouse is a legal immigrant seeking to become a citizen and had been living in the 3rd District for 2 years and one month prior to her husband's death. Consequently her paperwork for a green card will proceed. However, it is incomprehensible to me that should this immigrant spouse have been married for 1 year and 364 days her paper work would have been voided due to the death of her husband. That is wrong. The time limit should be eliminated for spouses whose loved ones have given their lives serving our Nation.

The Fallen Heroes Immigrant Spouse Fairness Act would amend Section 201(b)2(A)(i) of Immigration and Nationality Act to eliminate the 2 year marriage requirement for foreign spouses of U.S. citizens who die while serving. Additionally this legislation seeks to remedy a practice of charging families of non-citizen soldiers who are killed in the line of duty an $80 fee for processing an application for posthumous citizenship. These brave men and women have made the ultimate sacrifice protecting the freedom and interests of the United States. As such, the imposition of a fee for the application process for posthumous citizenship is an insult to the contribution these service men and women made to our national defense.

It is my sincere wish that we can make these common sense changes to our immigration process. We should not punish the families of our soldiers simply because they are unfortunate enough to have incurred the greatest loss of all with the death of their loved one in the service of our country.

Mr. HOSTETTLER. Congressman Gutierrez.

STATEMENT OF HONORABLE LUIS V. GUTIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. GUTIERREZ. Chairman Hostettler and Ranking Member Jackson Lee, Members of the Committee, thank you so much for allowing us to come before you this morning. I want to thank my colleagues, Congressman Hastings and Congressman Frost and my good friend Walter Jones and Issa and Hilda Solis. I think, and I hope, Mr. Chairman—and I heard your opening remarks, and I apologize, the plane was a little late this morning. I really do apologize. I hope you don't take that as any consideration as a lack of importance of this hearing.

But look at this wonderful group of Congressmen, if I may so include myself.

Mr. HOSTETTLER. Without objection.

Mr. GUTIERREZ. I just can't think of another moment in my 11 years in the Congress of the United States where we have brought together such a diverse grouping of Members of Congress from different—obviously the two political parties, and even within the political parties, different ideological bents within those political parties. But we have all come together because we see an injustice. And I hope you will take that into consideration as you and the Ranking Members and other Members of the Subcommittee make your deliberations on this issue.

I too will follow my colleague, Congressman Jones, and simply try to explain a little bit about the Fairness for America's Hero's Act, H.R. 1815. And what it does, Mr. Chairman and Members of the Committee, it simply says that when the Commander in Chief of the Armed Forces of the United States, the President, calls you to combat duty, that at that moment you become conferred with American citizenship.

I say this because you shouldn't have to die in order to be posthumously given American citizenship. Someone shouldn't have to

go out and pay for and search out a death certificate for someone who has died defending this Nation in order to be granted American citizenship. I mean, think about it, Mr. Chairman. You apply for permanent residency. That takes time. By the time you sign up—and you know, we don't take everybody these days. We make sure that we take the best qualified into our Armed Forces these days.

Then, as Martin Frost, Congressman Martin Frost, you go into training. They check you out, they take your fingerprints. They find out who you are. They find out something about you during that time. And then you get more training. I mean, by the time this soldier takes that gun and is called to combat duty, of the 37,000 noncitizens that currently are in the Armed Forces of the United States, about 10 percent of them are called to combat duty. So that is who we are talking about.

And so all my bill proposes to do is to say, look, if you are willing to pay the highest tax in this body—which is the taxing body—of this great Nation of ours, if you are willing to pay the highest tax that any citizen or any member of a nation can pay, which is the tax of their life and their limb and their health, then at that moment that Nation should respond and say you are a complete member of this great body of the United States of America. We are not going to wait for you to die.

I mean, think about it. They have applied. We all have casework in our office where people have applied. And then, Mr. Chairman, they send them to combat duty, they send them to training, they can't get back, they miss the exam date.

Why are we waiting to give somebody on combat duty a civics test so they can become an American citizen? I mean, they have given us all a lesson in civics. An English test? They got that when they were in basic training. They wouldn't have made it through without having a command of the English language. Security test, Mr. Chairman? What security clearance could they possibly need? We have given them the most sophisticated weapons known to mankind for them to use in defense of this Nation. So, obviously we have already crossed those thresholds. These are bureaucratic measures that we should somehow try to overcome.

And secondly, Mr. Chairman, it says that those that gave life to that valiant soldier—their mother, their father, and those who will cary on life for that soldier, the spouse and the children, that immediate family, something that we defend and cherish so much in everything that we do here in the Congress—that that soldier who makes sure that I am able to go back to my grandson that was born a couple of days ago and my children, and allows us to go back to our families and our spouses and see my mom and my dad and continue to cherish in that relationship, that that application doesn't die. Because that literally is what happens. A permanent resident; it dies. Let it live because the Congress of the United States saw fit to do so.

Thank you very much, Members of the Committee, and thank you very much, Mr. Chairman.

Mr. HOSTETTLER. Thank you very much, Mr. Gutierrez.

[The information follows:]

PREPARED STATEMENT OF THE HONORABLE LUIS V. GUITIERREZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Chairman Hostettler and Ranking Member Jackson Lee, thank you for holding this important hearing. I am grateful for the opportunity to testify before this Subcommittee on my bill, the "Fairness for America's Heroes Act" (H.R. 1850), which grants automatic citizenship to servicemembers called to combat duty and provides immigration protections to immediate family members who lose a loved one in military service to our nation.

The war in Iraq has, once again, highlighted the very important contributions and sacrifices non-citizen soldiers make to our military. Currently, there are more than 37,000 non-citizens on active duty in our military and each year approximately 7,000 new non-citizens join the armed forces. The presence of these brave men and women in our military is nothing new. Immigrants have fought in every war since the American Revolution. In fact, they account for 20 percent of Congressional Medal of Honor recipients.

The war on terrorism and the war in Iraq have poignantly, and even tragically, highlighted the need to reform how immigration policy affects the brave, legal permanent residents currently serving in our military. I believe we all agree there is a need for laws that reflect the heroism and patriotism of our non-citizen soldiers.

Although permanent residents on active duty usually have to wait three years before they can apply for citizenship, President Bush issued an Executive Order in July 2002 that allows them to apply for citizenship immediately. This was an appropriate, timely, and commendable use of his executive powers. Servicemembers, however, must still comply with the naturalization process and submit an application and supporting documentation, pay related fees, take an exam, participate in an interview and often have to wait long periods of time due to backlogs in application processing. A soldier's ability to pursue citizenship continues to be further complicated by their deployment to bases all over the world, well out of the reach of immigration service centers.

My colleagues testifying today have proposed some important and creative solutions to remove these barriers that non-citizen soldiers face in their pursuit of U.S. citizenship. I commend their efforts and express my whole-hearted support for their legislative initiatives to streamline the naturalization process for active duty servicemembers. I also ask your support, Mr. Chairman, and the support of this Subcommittee for the central provision of my bill that takes immigration reform a step further for those who are called to risk their lives in the most dangerous conflicts around the globe. I am talking about the brave men and women who are called to serve in combat zones.

Of the tens of thousands of immigrant servicemembers on active duty, approximately 3,200 are currently serving in a combat zone. These brave men and women are willing to die defending our nation and it is imperative that we recognize their selflessness and their spirit—not only when one of them is killed in battle, but from the moment they are called up for combat duty.

My bill would grant immediate citizenship to non-citizen soldiers who are serving honorably and called to combat duty service. The date they become citizens would coincide with the date they officially qualify for the combat zone exemption as defined by the Internal Revenue Code.

Within 30 days of being notified of the soldier's naturalization, the Secretary of the Department of Homeland Security would issue an appropriate citizenship document reflecting the date the soldier was sent into combat.

An additional provision of H.R. 1850 would also create a contingency for surviving family members of noncitizen soldiers granted posthumous citizenship by protecting their eligibility to adjust status even after a soldier's death. This and all other provisions of my bill would take effect as if passed on September 11, 2001, thereby making its reforms available to any servicemember who has served, or died, since that date.

Unfortunately, because of needless barriers to citizenship, soldiers have been killed on the battlefield without ever realizing their dream of U.S. citizenship. I believe we need laws that accurately reflect their service and their sacrifice. All of those who serve—regardless of race, gender, or country of origin—are recognized as America's heroes. My bill would allow them, rightfully and justly, to also be recognized as Americans—a distinction they have earned and deserve.

Mr. Chairman, I ask that the key provisions of my bill be included in any legislative vehicle that is considered and approved by this Subcommittee. No soldier serving our nation should ever have to come home in a body bag to be recognized as an American. I appeal to this Subcommittee for its support of my bill, and I thank you again for the opportunity to testify today.

I would be happy to answer any questions you may have. Thank you.

Mr. HOSTETTLER. Congressman Issa.

STATEMENT OF HONORABLE DARRELL ISSA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ISSA. Thank you, Mr. Chairman. And I would like to give special thanks to the Ranking Member, Ms. Lee. We worked together on authoring my, I believe, narrow but importantly crafted piece of legislation. And without her help I don't believe it would be the document it is here today.

I will submit my printed statement for the record, and take the liberty of expressing perhaps an opinion borne both of my service on this Committee and my service in the military, to say that as the Chair and as the Chair of the full Committee deliberate how to roll together all of this legislation into what I believe will be a single bill, one that I look forward to supporting, there is a balancing act.

And I think that all of us here below the dais are in agreement that we need to reform immigration as to our service members. We need to do it not in a rush to judgment because we were very proud of our military and what they did in faraway lands both in Afghanistan and in Iraq, but because it is the right thing to do and it is long overdue.

I particularly would like to take note that the normal prohibition on active duty members of the military lobbying Members of Congress was fortunately waived with Mr. Frost, and for a good reason. I believe that Mr. Frost has hit on some very important points:

First of all, that somebody could serve 2 years in the military, be honorably discharged, and find themselves less than the existing 3 and having to go through this process.

I also share with Congressman Frost the concern that we not lower to a level so low that someone could simply join the military, serve for a very short period of time, get their citizenship, depart the military under what might be characterized as honorable discharge, but often isn't. And I want to make a point, as someone who has been both an enlisted man and an officer and has discharged men and women, we often discharge under what are called general, under honorable condition, honorable conditions, soldiers who their service wasn't all that honorable. It wasn't dishonorable, but it wasn't all that honorable. And I think that practice in the military has to be taken into consideration when we look at shortening the period.

I do believe that there is one thing that none of us as far as I can tell addressed specifically, and that is that if we are going to look at the period of service—and let us just say that we go with the 2-year for a moment. That if someone becomes injured—not killed, but injured, due to no fault of their own, and discharged as a result, we need to ensure that that does accelerate their consideration to service. As you may all know, during that basic training and that advanced individual training and then when soldiers go into the training beyond that—I was airborne qualified. Jumping out of an airplane can be done pretty safely, but sooner or later, if you jump often enough, you may get injured and injured severely enough not to be able to continue to serve—that that is an area of

unique consideration that you may want to add to all of this legislation.

I will summarize and be available for questions by saying that although my piece of legislation with Ms. Jackson Lee is probably one of them that is narrow enough that it is not in doubt, when we look at adding all of these others, let us balance, please, Mr. Chairman, balance the possible shortening with the possibility that we would shorten it so much that we would create unfairly an ability for people to join the military for other than the honorable and right reasons that people should and do join the military. Citizenship is granted for those who serve honorably in the military, not you join the military to get citizenship and then get out as fast as you can. And I hope we would keep with that tradition.

Last, but very much not least, those who have died in performance of their duty for their country, we often talk about are they legal or are they not legal. I would hope that this Committee would never question somebody who has enlisted in the military, served their country, a country that wasn't theirs, died honorably, we should never question whether or not they were in legal status when they enlisted. This should be the one exception to any and all consideration, because I believe that it is too late to second-guess whether someone should have been admitted into the military or not. And I would hope as we look to that in this type of legislation, that we not second-guess that, just as, Mr. Chairman, you said very well, it is almost impossible to second-guess citizenship once granted; and, therefore, citizenship must be as it is today, nearly irrevocable.

Thank you, Mr. Chairman. I stand ready for questions.

Mr. HOSTETTLER. Thank you, Congressman Issa.

[The statement of Mr. Issa follows:]

PREPARED STATEMENT OF THE HONORABLE DARRELL ISSA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, thank you for holding a hearing on House military naturalization bills including H.R. 1685, a bill I introduced to eliminate the prohibition on benefits for surviving spouses and children of non-citizen military personnel killed while on active duty during times of military hostilities.

Camp Pendleton Marine Corps Base in my Congressional district is home to over 50,000 Marines. Many of these Marines were deployed to the Middle East to free the people in Iraq from Saddam Hussein's oppressive regime. In the early stages of the war in Iraq, uniformed Marines, nearly every day, presented me with next of kin (NOK) notices for those Marines killed in action from my district. One of the Marines that died for this country was an active duty non-U.S. citizen. I was told that he would receive posthumous citizenship—under current law, a strictly honorary award.

Existing immigration and naturalization law permits the President to award posthumous citizenship to non-citizens killed in any military hostility, but denies immigration benefits for their spouse and children. Honorary posthumous citizenship is a hollow benefit for a fallen hero if his spouse and children are subsequently asked to leave the country that he died defending. We should honor the sacrifice of fallen heroes by allowing their spouses and children to enjoy the benefits and freedoms of the country they were fighting to defend, and would have eventually gained had their loved one not perished.

My bill will amend the Immigration and Nationality Act (INA) to allow spouses and children of those granted posthumous citizenship to self petition because their primary sponsor has died in combat. This bill does not automatically grant anyone citizenship. Spouses and children will still need to apply for citizenship and meet certain background requirements defined in the INA.

There are nearly 38,000 non-U.S. citizens serving in our nation's armed forces. When these men and women are again called upon to protect this nation, I want

to them to know that if they make the ultimate sacrifice for America their family will not face a cruel and unnecessary legal sanction.

Mr. Chairman, thank you again for the opportunity to testify before for your committee. I stand ready to answer any questions you may have.

Mr. HOSTETTLER. Congresswoman Solis. I must say at the outset I apologize for the mispronouncing your name. With my last name, I should be more sensitive to this. I apologize for that. And Congresswoman Solis, you are welcome to give your testimony.

STATEMENT OF HONORABLE HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. SOLIS. Thank you very much, Mr. Chairman, and also Ranking Member Jackson Lee and Members of this Subcommittee that are here today. I am especially happy to be here to be able to present H.R. 1814, the "Naturalization and Family Protection for Military Members Act."

As you know, during the past month and a half we have all been saddened by the many deaths of our soldiers that have been killed in Iraq. And like many other service men and women before them who have lost their lives in defense of our country, these soldiers are true heroes, and we honor them and their families.

Over 100 U.S. military members have been killed in the war on Iraq. Many in Congress and around the country have been surprised to learn that among these fallen heroes were at least 10 soldiers that were not U.S. citizens. One of them happened to be one of my constituents. It is a young man, Lance Corporal Francisco Martinez Flores from the city of Duarte in the 32nd Congressional District of California, Los Angeles County. He was 20 years old. Martinez Flores was born in Guadalajara, Mexico, and came to the U.S. with his family at the age of 3. He attended our public schools there in Duarte, participated in the Boy Scouts, and played football in high school. At the age of 18, he enlisted in the Marines. He was killed in action on March 25th when his tank plunged into the Euphrates River in Iraq; 1,500 people packed a local church that I went to in attendance for the ceremony to memorialize him. It is the first time that I had seen so many people in our community unite around one flag and one soldier and one family, a family that gave their son, their oldest son.

Lance Corporal Francisco Martinez Flores was just two weeks shy of earning his U.S. citizenship, but he died. He never got to realize that. His family felt enormous pride when he was granted citizenship by the President. But that didn't go far enough. It doesn't go far enough for his siblings, for his brothers and sisters, and for his parents.He was just one of thousands of lawful permanent residents who currently serve our military now. And now, as we welcome home our men and women in uniform, we should honor the sacrifices of soldiers like Lance Corporal Martinez Flores and their families for ensuring the ability of immigrant soldiers, legal permanent soldiers, to gain citizenship in a timely manner.

The legislation that I have introduced is the most comprehensive, in my opinion, to help provide the military with the tools to naturalize these individuals. It includes provisions in Congressman Frost's Citizenship for American Troops Act, of which I am a strong supporter. And these provisions would waive naturalization fees,

allow naturalization interviews and citizenship oath to take place abroad, and shorten the 3-year service requirement to 2 years. It is—and I have to state that it is a hardship for many of our young men to come back to this country after serving abroad, having to pay for their air fare and then pay for those legalization fees to come here to receive the oath of office. Why can't we open up our doors in our local consulate offices abroad to allow them to go through the ceremonies there and waive those fees?

I want to commend Congressman Frost, who was working on this issue long before the war on Iraq. H.R. 1814 builds upon his provisions by ensuring that the ability of members of the Selective Service Reserves would also be included in this act. This provision is included because recruiting needs are immediate during wartime. And I say that because I also had an opportunity to meet with local Reservists in my own district, some of whom are young women who were preparing to go to war. Two days before I had met with them, they were already scheduled to go to Seattle, Washington and then be departed out to the Middle East.

And I say that because many of them were perhaps, for at least the past 6 months, in preparation for war. Why can't they also be a part of those individuals that would be granted, at least in a timely manner, citizenship?

They too deserve, in my opinion, special recognition for their bravery and sacrifice. The final aspect of my bill, one that I feel very strongly about, would establish immigration protections for the immediate family. And I say that because the family of soldiers like Francisco, whose parents may not have obtained their permanent legal status here, who not be eligible because their son had died serving our country, I think it is only fitting that we allow them an opportunity, they play by the rules, they pay taxes, they have no criminal background, they are here, they gave their son or daughter. They should also be allowed those protections.

So my bill goes in that direction. And I am proud to say that this is a comprehensive bipartisan piece of legislation, and I am happy that Congressman Cannon, a Member of the Subcommittee, is also a co-author. I thank the gentleman for his support.

Other Ranking Members include Congressman Conyers, Chairman David Dreier, who sits next to me in my neighboring district there in Los Angeles County, Congressman Chris Smith, Lane Evans and other Members. In addition, this bill has a companion measure in the Senate, Senate bill 922, and that also enjoys bipartisan support.

This bill is supported also by a broad range of organizations. We have worked very hard with this Committee staff and my staff to see that we could get a bipartisan piece of legislation that could take care of the concerns that our constituents are feeling, but also those various service groups that we also place honor upon. And I would like to list them: The Veterans of Foreign Wars, the Blue Star Mothers of America, the National Guard Association of the United States, and the Noncommissioned Officers Association of the United States. It includes various other organizations that are also helping to advocate for this measure.

I also have received the endorsement of the congressional Hispanic caucus, most of—more than half of the Members that have

come on the bill. I would ask that this bill be given consideration. I also would like to mention in this hearing the possible opportunity to see the 2-year limit reduced to one. That is something that we should talk about, definitely. But I also know that there are individuals outside of this particular hearing room that would like to see that we keep at least the limit at 2 years because we are looking at military service. And that is currently a requirement. Thank you very much, Mr. Chairman and Members.

Mr. HOSTETTLER. Thank you, Congresswoman Solis.

[The statement of Ms. Solis follows:]

PREPARED STATEMENT OF THE HONORABLE HILDA L. SOLIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Chairman Hostettler and Ranking Member Jackson-Lee for inviting me to speak before the Subcommittee today about H.R. 1814, the Naturalization and Family Protection for Military Members Act.

During the past month and half, we have all been saddened by the news of soldiers who have been killed while serving in Iraq. Like the many other servicemen and women before them who have lost their lives in defense of our country, these soldiers are true heroes, and we honor them and their families.

Over 100 U.S. military members have been killed in the war with Iraq. Many in Congress and around the country have been surprised to learn that among these fallen heroes were at least ten soldiers that were not U.S. citizens.

One of them, Lance Corporal Francisco Martinez Flores, was from Duarte, California, in my district. Martinez Flores was born in Guadalajara, Mexico, and came to the U.S. with his family at age 3. He attended public schools, participated in Boy Scouts, and played football for his high school. At the age of 18, Martinez Flores enlisted in the Marines. He was killed in action on March 25th when his tank plunged into the Euphrates River. Fifteen hundred people packed his church and the surrounding streets for his funeral to show their love and respect for this fallen hero.

Lance Corporal Martinez Flores was just two weeks shy of earning his U.S. citizenship when he was killed. His family felt enormous pride when he was granted citizenship posthumously.

Martinez Flores joins a long tradition of immigrant soldiers who have died in service to the United States. He was just one of thousands of lawful permanent residents who currently serve in the military.

Now, as we welcome home our men and women in uniform, we should honor the sacrifices of soldiers like Lance Corporal Martinez Flores and their families by ensuring the ability of immigrant soldiers to gain citizenship in a timely fashion.

The legislation I introduced, H.R. 1814, is the most comprehensive of the military naturalization bills. It includes the provisions in Congressman Frost's Citizenship for America's Troops Act, of which I am a strong supporter. These provisions would waive naturalization fees, allow naturalization interviews and the citizenship oath to take place abroad, and shorten the three-year service requirement to apply for naturalization to two years. I want to commend Congressman Frost, who was working on this issue long before the war in Iraq as part of his continuing commitment to protect the rights of all military families.

H.R. 1814 builds upon the Frost provisions by ensuring the ability of Members of the Selective Reserves to expedite their naturalization application during times of hostility. This provision is included because recruiting needs are immediate during wartime and readiness is essential. During the war with Iraq, many reservists were activated, and many more were expected to be called up at a moment's notice to defend our country. They too deserve special recognition for their bravery and sacrifice.

The final aspect of my legislation—one I feel very strongly about—would establish immigration protections for immediate family members of soldiers killed in action. These military families have paid the ultimate sacrifice in losing their loved one in service to our country. The least we can do for these grieving families is to express our collective gratitude for their sacrifices by ensuring their ability to apply for U.S. citizenship.

I am proud to say that this comprehensive legislation has been met with strong bipartisan support. Congressman Cannon, a Member of this Subcommittee, is a coauthor. Other cosponsors include: Ranking Member Conyers, Chairman Dreier, and

Congressmen Chris Smith and Lane Evans, Chairman and Ranking Member of the House Veterans Affairs Committee.

H.R. 1814 is supported by a broad range of organizations, including the Veterans of Foreign Wars, the Blue Star Mothers of America, the National Guard Association of the United States, the Non-Commissioned Officers Association of the United States, the National Council of La Raza, the National Asian Pacific American Legal Consortium, the American Immigration Lawyers Association, and the Air Force Sergeants Association. It has also been endorsed by the Congressional Hispanic Caucus.

Several weeks ago, I had the opportunity to help relaunch a support hotline that serves the many Latino immigrant families in the Los Angeles area who have loved ones serving in the military. The hotline is crucial to immigrant families who may find it difficult to obtain information about their loved ones due to language barriers.

At the event, I had the opportunity to meet many of these proud family members. The families displayed photographs of their loved ones, and I've brought several of these pictures here today.

The soldiers in these pictures may not yet be U.S. citizens, but it is clear that they and their families love this country. On their behalf, I am proud to be working with my colleagues in Congress to enact a comprehensive bill that recognizes the sacrifices of these soldiers and their families.

I'm pleased that this Subcommittee has agreed to address this important issue.

I want to thank the Chairman and Ranking Member again for allowing me to testify today. I also want to thank Chairman Sensenbrenner and Ranking Member Conyers for their commitment to this issue and for the assistance of their staff throughout this process.

Thank you.

Mr. HOSTETTLER. We will now enter the time of questions based on the 5-minute rule. First of all, Congressman Hastings, why did you decide to lower the current 3-year military service requirement to 1 year now in your new legislation?

Mr. HASTINGS. It is probably just the reality of the legislative process. I feel very strongly in my initial bill that it should be zero very simply, because of what we all read of those that gave their life. So I felt the proper time period would have been zero. But we all know that when you introduce legislation that is the start of the process and not the end of the process. And so, in discussions that I had with a number of Members, discussions with various organizations, I felt that a compromise there has to be a time period, then it should be 1 year. But it was simply the reality of trying to get something that can pass.

Again, if I had my druthers and I were a benevolent dictator, like all of us would be, individually we would have ideal legislation with the one that we would introduce. I recognize this is the start of process and not the end, and I feel a one year time period is appropriate. I might add also from the time that I was in the service the training is much more extensive now in a longer period of time. Congressman Frost alluded it to that in his testimony and I certainly agree. So by the time you get to a point where somebody would be potentially in a combat situation or in a death situation probably he would have satisfied that 1 year any way. So, it is a combination of all of those factors that I think it is—I just think bottom line the time period ought to be shortened. That is the bottom line.

Mr. HOSTETTLER. Very good. Thank you. Congressman Jones, did you consider lowering the 3-year military service requirement as part of your legislation?

Mr. JONES. No, sir. Primarily my concern was when I communicated with the wife of the fallen hero as well as to the lady who is in charge of working with the judge advocates office at Camp

Lejeune. My bill just primarily dealt with the fact that the spouse, the surviving spouse of a fallen hero should not have to as they are trying to become American citizens start the process again. So what we basically are saying is that we should eliminate the 2-year limit in that situation where you have a spouse who has been killed or died in training for this country.

Mr. HOSTETTLER. I don't think I asked the question correctly. Did you consider it? And if not, was there a reason why you did not consider lowering the requirement?

Mr. JONES. No, basically I did not.

Mr. HOSTETTLER. Okay. Congressman Gutierrez, I understand that your bill currently to mean that a soldier ordered to service would be automatically granted citizenship without having to apply for naturalization; is that correct, that has been called into combat?

Mr. GUTIERREZ. At the moment that soldier is called into combat, and I want to reiterate there are 37,000, but only a little over 3,000 that are called into active duty combat, that the moment, so that we would never go into a situation where we have to go search for a death certificate and apply for one and go through this process, which is a process in which most cases works out, but it is after the death of the soldier. The Internal Revenue Code, for example, there is a provision in the Internal Revenue Code when you go into active duty, combat duty, you get a tax break. I would think that as a country if we are thinking of a tax break for someone, we would think of that citizenship. And that comes because when Cardinal Mahoney in Los Angeles presided over the memorial service of Lance Corporal Gutierrez, suggested that he felt such a burden as an American citizen and as a leader of a religious community that that Lance Corporal would now have to go about the process of searching and seeking that American citizenship.

Mr. HOSTETTLER. Thank you. Congressman Solis, in your bill, in your statement, you refer to permitting brothers and sisters to receive immigration benefits. But your bill seems not to include them. Is that a correct——

Ms. SOLIS. Actually, we would want to allow for their brothers or sisters or siblings, if they hadn't, to self-petition. If, for example, this young man that I indicated passed away and his sister or brother did not have an application pending, they could self-petition. If they were already in the process, then this would continue, you know, in that process there. So it would be uninterrupted. But I would also just like to clarify what we are looking at here, in many cases, are families that have lived here for several years.

And in this case of this young individual who passed away, was here at the age of 3, went through our public school system and what have you. And it is unfortunate that he was not eligible at the time to receive citizenship in his family. There are still members there that are not citizens, are now precluded or not given any advantage. So to me it is an advantage or benefit that is well deserved.

Mr. HOSTETTLER. Thank you, Congressman. I now yield to the Ranking Member, Ms. Jackson Lee for questions.

Ms. JACKSON LEE. Thank you very much. As I said earlier, all of the presentations and the ideas of the legislative initiatives are excellent. Mr. Chairman, I think our challenge will be to ensure

that we fully represent the talents and the intent of these legislative initiatives. I would like to first pose a question to Mr. Frost and acknowledge, as my good friend and colleague from California has done, is Mr. Frost has brought this to our attention some time ago in over a period of more than a year.

So Mr. Frost, you have insight through the very fine expert that you have had contact with, the hardship of not being able to process at duty post and maybe some occurrences that may have negotiated the very fine service of individuals who have not been able to process.

Mr. FROST. Well, I thank the gentlelady for her question. I really appreciate your service on this particular Subcommittee and on behalf of our delegation, it has been very important for the time that have you devoted to it. There aren't individual stories, there are a lot of stories in terms of the difficulty it is. The key thing is that as I indicated in my testimony and several others have alluded to, the cost of coming back here of buying a round-trip ticket to the United States from wherever they may be station can be very, very significant.

And many of these individuals come from basically a modest means. And to have to spend $1,000 or $1,500 for a round-trip ticket rather than being interviewed at the consulate where they may be or at their duty station really is a barrier they shouldn't have to face when they are risking their lives for our country.

And also there are great scheduling delays when someone is on active duty in a foreign country and they have to schedule an interview with their particular, back here in the United States, I have had my caseworkers, not just my wife, but caseworkers who work for me in my office in Texas have told me the great problem this causes and that sometimes people have to rescheduled several times because they can't get away from their unit, they can't come back to meet the initial appointment.

I had a press conference in my district where I had three soldiers, two of whom were women, one is a young man who came and talked about the difficulty that they had had in just scheduling when they would do their interviews when they were back in the United States, when they were stationed abroad. And this was a very real problem. And we shouldn't be posing those kind of barriers, we shouldn't be electing those kind of barriers for something that should be easy. We want to recognize this service. We want to honor this service and ought to make this as easy as possible.

Ms. JACKSON LEE. I think all of us have found individuals in our respective districts that have had this encounter. And I would venture to say that if you would ask any American whether or not that was a process or the procedure, they would be shocked to see a document that they have to leave their duty post in order to complete their paperwork. And I am going to—I would like to raise this question for Congresswoman Solis and Issa and Gutierrez, and you can follow up, I would like to hear particularly because I think this is a very important point, the hardship that your deceased constituents family now faces with respect to the question of their status or their ability to petition for citizenship.

Ms. SOLIS. Well, it becomes very, very difficult for them. And I think is even one other example that is currently in play in Los

Angeles. There is a soldier who is serving right now, and he is a legal permanent resident. His mother is from Guatemala. She is now in the process of being deported. And unfortunately, there is no recourse in the law right now for this parent.

This bill that I am proposing would actually help to provide protections for her. And of course, there is sensitivity around this entire issue and I understand that. It is very complicated. But there are a lot of good things that I think can come out of this. And families currently that I have come into contact with and I have recently seen many of them in my district in the area of east Los Angeles that I represent, the high number of young men that are currently serving us whose parents are LPRs, are hoping to seek some status here as well, knowing that their child, their son or their daughter may not come back. Many of them are on very fixed low incomes. They even rely on the support of that soldier that is abroad. Once that is in jeopardy, you can see where this is going.

It is indeed a hardship. It isn't just Hispanic community, it is also the Asian community, the Filipinos, people from other countries who are serving us right now to protect our freedoms.

Ms. JACKSON LEE. Ask your kind indulgence of additional minute for the Members to responds to the question.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Representative Issa, let me just build on Congresswoman Solis's point, and Representative Gutierrez may want to add to the earlier question that I posed, but in the legislation that we have had the pleasure of working together on, we allow the spouse and child to petition for immediate relative status. Looking at the criteria and the hurdles that they have to ascend, meaning all the listing of good credentials and no criminal activity, can we consider the idea of having a self-petition for the immediate relative in looking at that to see where that would take us in terms of the numbers? I think the deportation is a separate issue. I want to narrow it to the issue of the first, I think, set of circumstances of the deceased individual who Congresswoman Solis mentioned and those brothers and sisters. But let me yield to you.

Mr. ISSA. First of all, I think you are exactly right that no matter what the numbers are, the numbers who have given their lives are relatively small, and we owe them something we can't give them. It was one of the reasons that when you and I talked about this whole question of giving posthumous citizenship and nothing else, it is specifically taking away what would otherwise be the rights of citizenship, it became obvious what we were giving was pretty empty to the dead and we were giving nothing to the living.

I think the interesting thing about the deportation of somebody whose member is serving overseas, I find it interesting that I even watched an episode of MASH from many years ago in which that was the scenario of how to keep the mother of a soldier from being deported. They finally, I guess, she was Swedish, they finally got her a job with diplomatic status at the Swedish consulate because that was MASH and they could do that.

The reality is if a soldier is serving overseas we have a statute that says that you, in fact, cannot divorce that soldier while he or she is overseas. We have that for a reason. The soldier or sailor or Marine is not there to fight for their rights and to make their case.

It would seem just as reasonable that you not deport an immediate family member who lives under the support or help or assistance of that soldier, sailor, or Marine during their deployment overseas. It is a small request, but it is very consistent with what we do with other domestic questions.

And last but not least, I think the biggest question you are going to decide that will be very big and very different, will force the State Department to make material changes, is this question of citizenship being granted while overseas. And I would only say that just less than a year ago in the air coming out of Kuwait, I reenlisted a soldier. And by the way, because it was combat, there were no taxes on it. But if I can reenlist somebody any place a soldier's foot stands, and it is considered good enough to be the United States, isn't an American embassy or consulate or, in my opinion, any place a soldier's foot stands on foreign soil, American enough to reenlist—or to grant them citizenship there? I would strongly suggest that we allow the broadest definition of what the United States is in our legislation so that we can, in fact, allow for citizenship to be granted anywhere, any time an appropriate officer is there to give the oath and the soldier is qualified. Thank you.

Ms. JACKSON LEE. Thank you very much.

Mr. Gutierrez.

Mr. GUTIERREZ. Anybody, one, we all know that the INS, when they take the fingerprints of an applicant, only considers them reliable for 6 months, so that we have issues of soldiers on active duty on the combat front, which are sent notices to come back to take fresh fingerprints. Again, what is the security issue here for that soldier? I don't see any. We have given them a gun, we have given them the highest technology, we want them to take a fingerprint test again.

Secondly is that permanent residents are only allowed to petition for their children and their spouses. Well, what about their parents? Should mom or dad be deported because that petition is not available to that soldier? And so I looked at all of the different legislation, and one of the areas I just looked at I said combat duty, they have got the gun, they are on the front, should we wait for them to die before they become an American citizen? Given the fact that we all know that there are delays, and all of them have them in our offices of 2, 3, 4 years in the immigration process to become an American citizen. We shouldn't have that delay.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. HOSTETTLER. The Chair now recognizes the gentleman from Iowa, Mr. King for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. I would like to thank all the panelists for your testimony here. It is unusual to see this kind of a panel with such a bipartisan cross-section, and one that has so much in common with their viewpoint that you brought to this table. Each testimony has been interesting to me. I just reflect that as I evaluate this, I really want to take a piece of paper and draw a line down through it and list all the categories that you have addressed here, and the nuances of those categories, and then try to sort through and say where do I disagree with you, because it is hard for me to find those.

I would say, Mr. Gutierrez, your testimony has been the most compelling. Maybe it is because you emote better, but also you focused on the call to combat duty. That is the issue that I think would have the least resistance by any part. So I propose my first question to you, one that I am having trouble answering myself, what is going to be the other side of this argument? I mean, you all come to the table with essentially a theme that is consistent here and it is legitimate here, but what are we going to hear as criticism on the other side of the argument.

Mr. GUTIERREZ. They will say people are going to sign up so they can become citizens right away. Well, number one, let's remember that the President of the United States has already waived the 3 years. So I really don't understand what the discussion and the debate is about. He did it. It was almost unanimous, the applause and the acclaim for an action well taken by the President of the United States in a time of war. These are our best, that is what we call them when we recruit them, our best and brightest in our Nation. They are legally in the United States. No one, I think, in their right mind, is going to think that somebody is going to join the Armed Forces of the United States to go from a 5-year wait to a 3-year wait in order to process a citizenship application. And so, I think they might think that that is what they are going to do.

I would just say that, look, even being born in this country and having served in the Armed Forces, as Timothy McVeigh did, does not guarantee that you are not going to be involved in some act of terrorism. I wish that was the test. It would be such a more wonderful country. So I thank you for your comments. I think that might be the thing. I don't think we diminish it because they are giving their lives.

Mr. KING. Mr. Issa.

Mr. ISSA. I think one more item, Mr. King, would be this whole question of honorable service. And I think the Congressman said it very well. Your going to the service isn't to get citizenship. On the other hand, your raising your right hand and agreeing to go to basic training doesn't make you a good soldier or your service characterizable as honorable. It is one of the reasons that I am a little bit concerned about going to zero under any conditions other than posthumously, because whatever time is expired, that is all we have. But I have no doubt that once the military can make a determination that the service can be characterized as honorable, whether you choose to reduce it to 1 year, or perhaps go with Mr. Frost's 2-year proposal, I think you achieve what you want to achieve, and completely shun all criticism of whether or not people have earned a unique acceleration of their citizenship.

Mr. FROST. If I could add, Mr. King, I have met with a cross-section of veterans organizations in my district in Texas. They have emphasized the same point that Mr. Issa did, as long as the service is honorable and there is a sufficient period of time to determine that the service is honorable, then they fully embrace this also. But they do have that threshold of honorable service.

Mr. KING. I am a little unclear about what the definition is for a call-to-combat duty. Does that include stateside duty during a time of crisis?

Mr. GUTIERREZ. We use the Internal Revenue Code. So if they qualify under the Internal Revenue Code for combat duty is—we tried to find a test.

Mr. KING. So that would be consistent with that?

Mr. GUTIERREZ. With combat duty, yes.

Mr. KING. Thank you. I would add, also, as I listen to these things, something that I think is essential—citizenship needs to be precious. It needs to have value in order for it to be—also have value to this country. Certainly service in the military is a very powerful indicator of that commitment to that value. The citizenship test portion of the naturlaization requirements as applied to the military and asking that it be provided within the military doesn't seem to me to be too much to ask.

It is a civics lesson that prepares one for the citizenship test. I think that is essential. I think that goes with the person for a lifetime. I have met people that have been in this country for 20 years and didn't know they weren't citizens. I think it would be essential for them to go through that process, but I don't think it is difficult to do that on a foreign land either.

Mr. Frost.

Mr. FROST. I do want to go back, too, to the point that we should avoid air situation where you are going to have a revocation of citizenship. I think the period of time should be long enough, whatever that period is agreed upon, so that you won't have a large number of attempts by our Government to revoke someone's citizenship. I think that is a direction that we should avoid at all costs.

Mr. KING. Mr. Issa.

Mr. ISSA. I might mention in my travels around the world although Mexico allows dual citizenship, as some other countries do, for a great many countries taking the oath of citizenship in the U.S., revokes permanently your citizenship. So if you quickly enlist somebody and give them citizenship you might very well find out that no, their country is not going to accept them back just because you have revoked it. So then you end up with something that we deal with a nightmare, which U.S. take away their citizenship and nobody else wants them either.

So I do agree with Mr. Frost that this is the most important item is to balance it so that we don't have to increase the amount of revocations of citizenship.

Mr. KING. Thank you, Mr. Chairman.

Mr. HOSTETTLER. Thank you, Mr. King. The Chair now recognizes the gentlelady from California, Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. And thank you to all our panelists who have taken the time to come and testify today. Mr. Frost, you mentioned your bill would reduce the time requirement down to 2 years, and there seems to be some debate whether 2 years is too short or whether 1 year is long enough. Do you have any concerns with Mr. Hastings' recommendation of reducing it down to a year, that is to say, I know that you mentioned the attrition rates in the first 2 years. Is there a significant difference between the second versus first year?

Mr. FROST. I don't fully know the answer to that question. That is a question the Committee may want to pose to people in the military to people with the Department of Defense. The only infor-

mation I have is the attrition rate during the first 2 years, although I am being handed something which may be more helpful.

Ms. SÁNCHEZ. I will allow you a moment.

Mr. FROST. My very efficient staff has—I will have to ask them—let me ask a question. The information that I have been provided by my staff, which I believe they obtain from the Defense Department, was that DOD-wide, that is, all the services, and this is by year and we would be happy to submit this into the record, that the percent loss during the first 6 months seems to be in the range of 11 to 12 percent, as high as 15 percent in 1 year—in 2 of the years, 1993 and 1994, percent lost at 12 months, it seems to me as high as 20 percent in 1 year, and percent lost at 14 months then is as high as 26 percent.

So there is—it does increase in terms of the amount of time. It is not a flat amount, if that is what your asking, Ms. Sánchez. It is something that has to be considered. Because the services themselves have different amounts of time for their basic training and for their advanced individual training. And I think the key is having a long enough period of time so that we don't have a great deal of—so that we have compensated for whatever attrition will occur, if it is high, it does rise to as high as 25 percent over a period of 2 years, although that 25 percent doesn't occur just during the first 6 months or during the first 12 months, it is cumulative and occurs the longer that you are in.

Ms. SÁNCHEZ. Thank you, Mr. Frost. Mr. Jones, from your testimony, I am not sure that I gathered whether or not—I know your bill specifically deals with spouses who have applied for citizenship and are somewhere in the process. Is your bill—would your bill, and I believe that your bill addresses those who are killed during active military service, would it also cover soldiers killed while they are enlisted, although they may not be involved in combat service?

Mr. JONES. Yes, ma'am, it does. This is the—this would cover anyone that is in uniform and should they be killed in a car accident or training and they have the spouse who is in the process, they would be covered.

Ms. SÁNCHEZ. Thank you. Mr. Issa, you expressed a little bit of concern about shortening the length of service required from the 3 years. Are you—would you be opposed to shortening it to 2 years?

Mr. ISSA. Not at all. As a matter of fact, I think 2 years is the optimum date. If we reinstate a draft, as Mr. Rangel is asking to us do, it would be a 2-year draft. The 2-year enlistment still exists in some services. So to say that you need 3 years when you can actually only be in 2 years in some cases, as I said, also the possibility that for medical, let's just say the chute doesn't open properly and you end up broken into pieces, which really does happen during training, in original training and later training, there is a possibility you would need to have to deal with that.

I am very concerned about the 1 year or zero, because I know altogether too well that you can go through 8, 9 months of training, some people do fine in training, and then they immediately, immediately prove that they are not terribly interested in being soldiers once they get through the training. I think optimally 2 years is the compromise. I think Mr. Frost's figures looking at the attrition

rate, we don't want to grant citizenship to that 25 percent who got in the military and didn't serve honorably.

Ms. SÁNCHEZ. I would ask unanimous consent for one more minute to ask one last question.

Mr. HASTINGS. Could I respond to that?

Mr. HOSTETTLER. Without objection.

Mr. HASTINGS. Just to put the figures correctly here, if those enlisted in 1998 and 1999, the fallout in DOD-wide in both cases in the first year was nearly 20 percent; 1 year it was 20 percent, the next year it was 19 percent. So the biggest fallout is going be the first year. You have a very small fallout the second year. The implication of that is very obvious. The period of getting the best people to stay longer is more pronounced the longer they are in. You are going to get the people that are less desirable, presumably, out the first year. That is one of the reasons in response to the Chairman's question that one of the factors that I offer the 1 year compromise rather than the zero.

Ms. SÁNCHEZ. Point very well made.

Ms. Solis, currently it seems that we have some bills that will address the specific situation where a spouse who is married to a citizen—or married to a legal permanent resident who is serving in the military, has submitted her application, his or her, I should say, application for citizenship, and then the spouse dies and is awarded the posthumous citizenship, and there are some bills specific to addressing if she hasn't been married—he or she has not been married for 2 years.

What is the current status of the law if the noncitizen spouse has—is not in the process or hasn't yet applied for citizenship when their spouse is deployed? Do they have any protections whatsoever?

Ms. SOLIS. No. That is the purpose of our legislation is to provide an opportunity for an individual in that situation to hopefully self-petition, be allowed that opportunity, and in the case of some of the soldiers that have passed away in Iraq, I know that in the case of, say, a parent, the parent has—is an LPR also, but having had their son killed, they still at this time would have to wait a longer duration period. If this bill is enacted, it would actually help to discontinue to secure that they are not disadvantaged and that they are not lost in that process. To me, this is one of the better attempts to try to secure that all those family members that haven't petitioned have an opportunity to do that. And those that are in play continue to have their applications processed and be taken care of appropriately with have guarantees written into the law.

Ms. SÁNCHEZ. Thank you, Mr. Chairman.

Mr. HOSTETTLER. I thank the gentlelady from California. In conclusion, I want to thank the Members of this panel——

Ms. JACKSON LEE. If you would yield for just one question, I would appreciate it.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Again, I want to emphasize, I appreciate the Chairman and I appreciate the Chairman of the full Committee and the Ranking Member of the full Committee for the urgency behind this legislation. Mr. Chairman, I think this is a signal to the Members here, and I look at the number, evenly divided between Republicans and Democrats that maybe this Subcommittee on Im-

migration will be open to many more immigration-legislative initiatives. You see, I have my Chairman smiling. That will help us gain——

Mr. ISSA. Here, here.

Ms. JACKSON LEE.—earned access to legalization as we look to the future. But I think this is a very fine signal that we can work together around common issues that are clearly important. I want to just pose a question to Congresswoman Solis, and if the other Members would answer it because I think in her legislation that there is a singular point besides the other very excellent proposals and the excellent analysis given by Members of this question of relatives. I define it, I don't want to misspeak, siblings. I know you can get relatives far and wide, and those of us who come from minority communities and maybe immigrant communities, Mr. Chairman, and I think the whole Nation is an immigrant community, you know how extended families are.

So I am trying to be sensible about this. I would think, in light of your constituent, you had a mother and father and then siblings. So I would ask you about this family member scenario, whether you would be willing, or whether your legislation would focus on the siblings. You say relatives, but keeping it in that definition. And then also your flexibility on, you know, some of the waivers.

As you well know, there are many, many waivers here, but I think this is an excellent idea and I would like to find common ground. I would like the Members to comment on what they think about the sibling concept as it relates to including them in this process.

Ms. SOLIS. You are absolutely right. This issue is a very important issue. I am very open to crafting something a little bit more definitive. In the case of Francisco Flores Martinez, his sister is currently not in status. And this certainly would be an opportunity for someone like that to be able to petition.

Ms. JACKSON LEE. I appreciate it.

Mr. ISSA. I think what I said earlier when we are talking about fallen heroes we are talking about a very small group that we can give nothing to that person any longer. We can grant them citizenship, but what is that—I don't see written it on the tombstone normally, it probably won't say Lance Corporal U.S. Citizen Posthumously. So it may be the best example where we can reach out and try to expand anything and everything that we can give, if you will, to say thank you to that soldier. And perhaps siblings could be that appropriate stretch that would be uniquely granted to those who gave this last measure.

Mr. GUTIERREZ. Yes, just to reiterate the point you shouldn't have to die to finally become an American citizen. There are so many other ways that people are becoming American citizens, number one. I think what Congresswoman Solis does and what many of the other proposals do is very excellent because if I am a national of Mexico, as many of those who have died recently in Iraq or of Guatemala, and I apply for my spouse, takes, 5, 6, probably close to 7 years before that visa becomes available. So in other words, I join the Armed Forces, I serve for my 3 years, whatever I am still waiting another 3 years, 4 years before her visa becomes

available. And that of my minor children. My mom and dad, I can't even do it.

So I think it would be good for this Committee to fashion something so that a soldier doesn't die, pay the ultimate tax, has his wife waiting for that visa, and because he died his petition for his wife died with it, that that doesn't happen in this country anymore. I think it is a great suggestion. And maybe one of the things is to have some charts, count how long it takes for minor children, spouses, and who is eligible. And I think the Committee can do a wonderful job in helping to remedy that.

Mr. FROST. Can I make one other observation, Chairman?

Ms. JACKSON LEE. We were going down the row.

Mr. JONES. Ms. Jackson Lee, I would be very open to reviewing such a proposal as it would move forward. I am one that with Camp Lejeune, Cherry Point, Seymour Johnson Air Force base, I think all of our men and women in uniform are very special and their needs are very special. There are family needs as well. And we need to review it as a Congress.

Mr. FROST. The only other observation I would make is that I would urge the Committee to keep in mind that what we are doing is changing permanent law and do that in a comprehensive and forward looking way as you can. The President, under existing law, has the right to issue executive orders as he did in this particular case, which, in fact, shortened the time frame. But what we are looking—by this legislation, what all of us are looking to do is to a change in permanent law, which would bring some order out of all of this.

And it would extend through peacetime, not just through a particular national emergency, that we just faced. Because we need some certainty and some fairness in dealing with immigrants to this country who are being asked to join our Armed Services, not just in an immediate wartime situation, but in the interim. And there will be a lot of interims, I believe, in the future as we are the only superpower in the world and may be called upon to address a variety of situations. I would hope the Committee would keep that in mind of bringing some refinement and order to current, to permanent laws as it exists right now. Thank you.

Mr. HASTINGS. The focus of this Committee, the focus of all of our legislation because of what happened in Iraq to people that were not soldiers, that were not citizens of this country. Whenever you draft legislation like this, there are always consequences that go beyond what you are focusing on initially. I would just—I would certainly be open to looking at whatever those consequences would be. But I think what I would advise the Subcommittee to look on is how that, how some of these suggestions would either complement or not, complement current law as it relates to those. So that would be my only condition. But I would certainly be open to looking at all of them. But let's not lose sight of what we are trying to do is for the individual who gave his or her life in defense of our country, and that is where we ought to be focusing on.

Ms. JACKSON LEE. I think that is an excellent situation. Whenever we write legislation, we have to be sure that we have our T's crossed and I's dotted, and certainly, you know, every Member I know knows the complexity of immigration law, hear about it from

your district offices. I think your point, along with Mr. Frost's point and the other Members, consistency and order would help a great deal. If we can get that out of this, I think that would be very important.

I thank the Chairman very much for yielding to me. Again, I think you have moved us quickly forward, but I do think that this is appropriate time to move quickly on this issue. Thank you very much.

Mr. HOSTETTLER. Thank the gentleman. And this Subcommittee is used to second rounds of questioning so we have another Member, Mr. King, that would like to ask the panel another question. Recognize the gentleman for 5 minutes.

Mr. KING. Thank you, Mr. Chairman. In the interest of time, I would just ask for a quick answer to a couple of questions. One would be the percentage of those who were killed in action that were non citizens. Does someone on the panel have that number?

Mr. GUTIERREZ. I don't know the exact number. I think it was seven.

Ms. SOLIS. Excuse me, there were 10.

Mr. ISSA. It is roughly the same percentage as who served.

Mr. KING. The question was going to be——

Mr. FROST. 3 to 5 percent is what you are saying.

Mr. KING. Does that extrapolate across the full services for those also that were killed in training?

Mr. ISSA. No. Killed in training?

Mr. KING. Yes.

Mr. ISSA. I don't think anyone had training figures. But it probably is fairly similar. In this case, Marines took the heaviest percentage of combat deaths just because of their role.

Mr. KING. I raise this question because of Mr. Jones' testimony. Killed while in the service, killed while—my concern is this: That if we go down that path we also are careful that we don't also confer automatic and honorary citizenship on someone who is happens to be in the service who is killed while committing an act that does not contribute to an honorable discharge.

Mr. ISSA. The posthumous award has its own criteria. It is not just you die you get a posthumous citizenship. So we never envisioned changing the rules for posthumous citizenship in my legislation. It has its own rules. But I will say that you know, the second—first lieutenant who replaced me as XO of a company a week after I left, he went on Return of Forces to Germany which used to be call REFORGER, and a helicopter hit a power line and flipped over and he was killed. That could have just easily been me. We were in time of peace, but we were preparing for the Soviets coming over the Czech border. I do believe when we look at training accidents most often, those accidents they are not the guy who is off duty in a Jeep, but those training accidents have everything to do with being prepared for the kind of success we just had in Iraq.

Mr. KING. Absolutely. We overlook those training accidents and those deaths. I think we should bring that to more light than we do, because it is a sacrifice. And maybe as many as 5 to 6,000 accidents in the period of time between Desert Storm 1 and our oper-

ation in Iraq, just to be ready. So I want to take a careful look at that language.

I didn't hear any testimony that addressed that particular criteria, but I think it needs to be service that contributes to an honorary discharge rather than if we have somebody off base who commits an act.

Mr. HASTINGS. I do say that your citizenship would be revoked on other than honorable discharge. You may want to look at that and tighten it up and make some adjustments, but my legislation does specifically address that issue.

Mr. KING. We come at it with the same philosophy. So that concludes my curiosity. Thank you, Mr. Chairman. I want to thank the panel for an excellent presentation today.

Mr. HOSTETTLER. Thank the panel for your presence and your contribution to the record as well as this very important issue. And Members of the Subcommittee are advised that the record will stay open for five legislative days to revise and extend. That the point the business of the Subcommittee being completed, the Committee is adjourned.

[Whereupon, at 11:48 a.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE

Jose A. Gutierrez was an orphan from Guatemala when he hitchhiked on railcars into Mexico in 1997. He entered the United States illegally. Later, however, as a minor with no parents, he qualified for permanent residency and was taken in by a foster family. He graduated from high school and studied at a junior college before joining the Marine Corps.

On March 21, 2003, in a battle with Iraq's Republican Guard troops, Lance Cpl. Jose Gutierrez was killed in the service of the country he loved. According to Martha Espinosa, one of his former foster mothers, "He once told me, 'I was born the day I arrived in this country.'"

Jose was one of four fallen Marines who deserve special mention because they died in service to a country they could not yet call their own. The other three were Pfc. Francisco Martinez Flores, Cpl. Jose Angel Garibay, and Lance Cpl. Jesus Suarez del Solar, all born in Mexico.

Immigrants have long seen service in the U.S. military as a gateway to citizenship, education and economic opportunity, and the deaths of these four Marines echo those of other non-citizens who died for this country before them. Their valor is well documented.

Service in the United States military, particularly in times of conflict, is the ultimate act of patriotism. Our immigration laws traditionally have allowed for expedited citizenship consideration for non-citizen members of the United States military, even in peacetime.

For example, Section 328 of the Immigration and Nationality Act allows non-citizen members of the military in peacetime to become citizens after three years of service, instead of the usual five-year wait required of non-military applicants.

In addition, Section 329 of INA allows non-citizens to receive immediate naturalization eligibility through their active duty service in the Armed Forces during periods of military hostilities. This opportunity becomes available when the President designates by Executive Order that the armed services are or were engaged in armed conflict with a hostile foreign force.

Under Section 329 of the INA, 143,000 non-citizen military participants in World Wars I and II, and 31,000 members of the U.S. military who fought during the Korean War, became naturalized American citizens. Executive Orders following Vietnam and the Persian Gulf War collectively led to more than 100,000 members of the U.S. military becoming American citizens. Notwithstanding this history of generosity towards people who have served in our armed forces, the provisions on military service based naturalization can be improved.

The bills that are the subject of this hearing offer improvements in a number of areas. For instance, some of the bills would reduce the three-year wait for peacetime service. Some of my colleagues would like the time reduced to two years. Others would eliminate the wait entirely and permit a peacetime soldier to begin the naturalization process immediately when he or she begins active duty in the armed forces.

The area that concerns me the most is posthumous naturalization, which is granted when a soldier dies while on active duty during a period of military hostility. As presently written, the posthumous naturalization provisions explicitly state that the soldier's spouse and children will not benefit from the grant of posthumous citizenship. Several of the bills would remove this exclusion and specify that the spouse and children will be eligible for immigration benefits on the basis of the posthumous grant of naturalization.

I believe that we must go further. We need to show the extent of our gratitude towards the soldiers who die for this country by making citizenship readily available

to their surviving spouses who are already lawful permanent residents of the United States.

Ordinarily, a lawful permanent resident must be married to a United States citizen for a period of three years before he or she can apply for naturalization as the spouse of a United States citizen. Section 319(d) of the Act waives that requirement in the case where the lawful permanent resident spouse is married to a citizen spouse who dies during a period of honorable service in the Armed Forces. That provision should be revised to apply in the case where the soldier's citizenship is received posthumously.

The only difference between the two situations is that the one addressed by current law applies to a soldier who receives his citizenship while he is alive, whereas in the second situation, the citizenship is received posthumously. In both cases the soldier is a citizen who is killed during a period of honorable military service. If anything, the posthumous situation is more compelling than the other situation. Posthumous citizenship is given when a soldier dies during a period of military hostility.

This additional step should be taken. Thank you.

PREPARED STATEMENT OF CONGRESSMAN BOB FILNER

Chairman Hostettler, Ranking Member Jackson-Lee and Members of the Subcommittee:

I have come here today as California's Border Congressman to try to make clear what it means to live on the border between the United States and Mexico. To those of us who live there, the border is not merely a line separating the United States from Mexico, but it is an inter-related community where people conduct business and cultures meld together. The people living on the other side of that line are not merely Mexicans—they are family and friends—and shoppers!

For generations in the border region, children and their parents have been participating in events in both countries that range from shopping, to joining in a holiday parade, to receiving medical care. Unfortunately, the tragic events of September 11, 2001 have put those activities and that community at risk.

Recently, Secretary of Homeland Security Ridge and Undersecretary for Border and Transportation Security Hutchinson visited my district. I appreciated the chance to discuss these new policies with them. I will share with you now the main issues we discussed:

1. Border and Transportation Security and the Bureau of Citizenship and Immigration Services are concentrating too many resources and personnel on ALL who want to cross the border, rather than focusing their attention on high-risk crossers—and using modern technology to handle the frequent crossers. Studies have shown that more than 95% of the 150,000 daily crossers at San Ysidro, the world's busiest border crossing, are "frequent crossers"—crossing at least once a week, sometimes crossing many times a day—for school, work, housing family and shopping. Our economy—not to mention our families—requires efficient crossing, not unpredictable waiting times of sometimes 2 or 3 hours. ALL crossing gates should be open 24 hours and high-technology "smart cards"—issued after extensive background checks and containing fingerprints or other biometric data. Any desired level of security could be built into the cards—and the border can become both secure and efficient!
2. In the past, in order to accommodate the unique relationship in the border area, the local Port of Entry Directors had the authority to grant tourist visa waivers to some low-risk, non-immigrant border crossers, including children with regular medical appointments or children who are competing in sporting events or cultural activities. Since the terrorist attacks however, the Department of Homeland Security has changed their policy and now the visa requirements, costing $100 per person, are strictly enforced. This has had devastating effect on the border community. Over the last four decades, the Valley Orthopedic Center in Calexico, CA, has treated 125,00 children with severe deformities resulting from birth defects or serious injury without charge, using volunteer doctors and nurses. These children are very poor and cannot afford the specialized care they require. The $100 fee for a tourist visa is simply out of reach for these families. Let me point out that a minimum wage worker in Mexico makes only $94.50 a MONTH. This clinic is often their only hope, but without the visa, they are turned away when they try to enter the U.S. Denying these children visa waivers for regular medical care makes the U.S. an uncaring neighbor. The same could be said about

school trips to the world-famous San Diego Zoo and school bands participating in Christmas parades. Visa crackdowns on low-risk crossers from Mexico are hurting our relationship with our neighbors rather than building a strong relationship in order for us to work TOGETHER with them in the fight against terrorism.

3. I also discussed with them the poorly handled National Security Entry-Exit Registration System (NSEERS), hundreds of men who came to register were arrested, and their families were not told what happened to them. These were people who were following our rules and coming to register, and our government arrested them and did not grant them due process. We should be working with the immigrant community and encouraging them to cooperate with the government—not using un-American scare tactics. This only encourages immigrants to avoid contact with our government. When that happens, we lose a great opportunity to instill confidence in the government and, more importantly, we have the potential to miss out on key security information that could be provided by the immigrant community.

I was encouraged by the Secretary's and Undersecretary's responses to my concerns and look forward to the opportunity to work with them to ensure that our borders are safe, but also efficient and that the United States continues to be a good neighbor and a bastion of freedom and justice for all.