

VETERAN ADVOCACY PROJECT

THE COUNCIL OF THE CITY OF NEW YORK

COMMITTEE ON IMMIGRATION
Hon. Carlos Menchaca, Chair

COMMITTEE ON VETERANS
Hon. Eric Dinowitz, Chair

Oversight: City Services for Foreign-Born Veteran Families

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VETERAN ADVOCACY PROJECT

Good morning, Chair Menchaca and Chair Dinowitz and members of the Committees on Immigration and Veterans. My name is Coco Culhane and I am the founder and executive director of the Veteran Advocacy Project, or VAP. We provide free legal services to low-income veterans and their families with a focus on those living with post-traumatic stress, brain injury, and substance use disorders.

I had not planned to testify today since my organization does not provide representation in immigration proceedings. However, when my team and I started talking about some of the clients' stories we have witnessed over the last decade I thought it important to share a few because the veterans are not here to do so with their own voices.

"Sunny" was the widow of a Vietnam Veteran. She had tried to naturalize in 2006 but was denied because of a bankruptcy filing. She was having a hard time finding work because of her age and came to VAP asking about survivor's benefits and immigration assistance. Someone had told her that her husband's status as a veteran should help her. Every legal services referral we gave her she would come back to us with the same line: they said they didn't know about military law. She eventually moved out of state hoping to find better resources and a lower cost of living.

Another vet reached out to us about naturalization and we referred him to legal services providers in Fall 2018. When we followed up on that referral, the veteran told us that the attorneys advised him not to apply given the political climate. He had no justice-involvement or other risks that we could identify, only his veteran status distinguished him from any other applicant. He said he was told it wasn't a good time for vets.

Our sense over the years is that most legal services attorneys, generally, are not familiar with the legal provisions that apply to servicemembers and veterans; the laws that provide expedited pathways to citizenship by lowering residency requirement times and other hurdles.

We have also served a good number of veterans worried about family members. One of the first clients in our college campus outreach was a young soldier named Rohan who had come home from the Iraq War and enrolled at John Jay. His GI Bill living stipend, at the time over \$4,000 a month, was paying the rent and supporting his entire family. But Rohan's undiagnosed PTSD soon took over his life and he failed out of classes. He was asked to leave John Jay, and overnight that \$4,000 was cut off. He spent his savings trying to keep his family housed. When that ran out, he came to VAP with eviction papers. He refused to ask for any city assistance when we urged him to apply for a one-shot deal; it was only in court, with no legal defenses left to argue, that he finally told us why—his parents were undocumented and terrified of being found. With the new political era of our current president, outreach in all of New York's communities is still needed as that fear doesn't not easily dissipate when there are so many stories of families holed up in apartments waiting for ICE raids.

These are examples of our clients who had pathways before them and needed to find the right advocacy. Some of the greatest heartache lies in the stories of veterans who worked hard, served

VETERAN ADVOCACY PROJECT

and sacrificed for their notion of the American Dream, and then made one mistake and had it all taken away. So often it is a veteran's less-than-honorable discharge is the barrier to citizenship.

We are currently working on a discharge upgrade reconsideration for a veteran I will call Edgar who came from Belize to the Bronx as a young teen; he overstayed his visa when he had a chance to enroll in school. After 9/11, Edgar wanted more than anything to serve in the military. Despite his undocumented status he found a recruiter who told him it was not an issue and presented Edgar with what he would later find out were fake papers. Years into Edgar's impeccable service as a Marine, the recruiter's scheme was uncovered. Edgar was offered a deal: he'd receive a General discharge for testifying against the recruiter. Command announced Edgar's situation as fraudulent enlistment in front of his entire unit. That shame and humiliation was soon compounded by hazing and racial slurs. He began drinking heavily to numb himself as he awaited the recruiter's trial. Two years went by with much of his time spent on restriction, having to muster every hour, until one day he lost it, and in a drunken moment of frustration shoved a noncommissioned officer. He faced court martial and received a Bad Conduct Discharge, the second lowest possible. Edgar's dream of proudly serving as a United States Marine ended with him in removal proceedings.

For ten years we have been fighting his case with pro bono counsel. He cannot get a job because of both his immigration and his military discharge statuses. He cannot get health care from the VA because his Bad Conduct Discharge bars him.¹ His life is in indefinite limbo with the constant fear of deportation looming. Far too many are in Edgar's position or have been deported already for even less. Veterans groups like the American Legion have come out in favor of Biden's initiative to stop deporting veterans and to bring *some* veterans home.² They have issued press releases in support of those former servicemembers with nonviolent crimes who were honorably discharged.³

There is a fundamental disconnect that the rest of the country doesn't pick up: many of those less than honorably discharged veterans committed "crimes" that were not even crimes in civilian life (late to formation too many times, disrespecting or getting into arguments with people in the chain of command) or they smoked a joint, drove under the influence, or shoved someone once after two years of being hazed and humiliated. If these servicemembers had done the same thing in their civilian life it would be okay. It should be okay that they did it while in uniform, or while trying to self-medicate after risking their lives in war.

¹ See 38 U.S.C. § 5303.

² Maria Sacchetti, "Biden administration formally launches effort to return deported veterans to U.S.," WASHINGTON POST (July 2, 2021), available at: https://www.washingtonpost.com/immigration/biden-deported-veterans-return/2021/07/02/a557285e-db63-11eb-9bbb-37c30dcf9363_story.html.

³ See e.g., American Legion press release: <https://www.legion.org/citizenship/252979/biden-administration-provides-pathway-citizenship-deported-veterans>.

VETERAN ADVOCACY PROJECT

Finally, I want to end with the words written to us just last month by a veteran who has been out of the country for over a decade:⁴

Good Day ... I am a military veteran that fought in "Desert Storm". I was deported in august of 2009. I was a green card holder up until my deportation. I came to the USA in 1983, went to grade school, high school and attended college in the states. I even missed my high school graduation to the anger of my dad, just so I could enlist in the Marines.... My record will show that I did not even get a citation until I came back from "Desert storm". All my trouble start[ed] after the war! I came home feel[ing] out of place... I felt a missing, yearning sensation, I did not feel any purpose any more. School did not interest me any more, my focus was gone. i found ... if a car door slam[med] too hard i was ready to hit the ground, you drop a pot, hit the floor... i did not hear about PTSD till many years later during the a[A]fghan war. I tried to fill that void in anyway possible, try to get a focus, hence illegal activity seep[ed in]. It became a roller coaster ride[and] from there, [I] could not find my way back until my eventual deportation.

I have for years [known] that my downfall was due to the fact that after the war, I did not know that I had a problem, or the military did not afford service members, especially reserves the mental[] help they would need. I was in the Reserves, so we get call[ed] up from our normal life, go[] to war, when the war is over, they give us two weeks of "R and R" on the home base. Then they send you back to your normal civilian life again. That was the problem...my mind was not functioning normal again.

I am the one that committed the crimes and I take full responsibility for them, but I feel that the Government should also look [at] what and how I was led down that road. I believe...being willing to sacrifice your precious life should have carried more weight ... banishing me from the country [] I was willing to die for was cruel and unjust.

... I did not have to go to Desert Storm. I had an ... operation [10 days before] my unit was schedule to [deploy].... The doctor said I was unfit, would not clear me medically. I cried [my] eye[s out] to my commanding officer that I wanted to go. He called the doctor, told him he is a marine and if he said he can manage, let him go. That's how g[u]ng ho I was. [M]ost guys in my unit thought I was crazy, cause if they had gotten an out, they would have taken it. Now thinking back maybe I should have, then in all probability, I would not be writing this email. I have read that President Biden have heard our plea, and has set up away to return some of us if not all. I would like to know if you can assist me to return. I have ... not seen my daughter in person in 12 years. If you are not able to assist[], I would appreciate if you could point me in the right direction and or forward this email to the agency that may be able to assist me.

I have no agency to send him to. I hope that after today, and with new legislation being passed, and renewed attention on those who have served, sacrificed, and been banished, that it will change. Thank you for your time today.

⁴ Edited for length and clarity for reading purposes at the hearing. All edits indicated in the text.