



Restoring Access to Citizenship and Immigration Benefits

Citizenship is a treasured goal for many immigrants in America. Our immigration system is inspired by the belief that anyone can become an American — regardless of race, ethnicity, religion, or any other identity — and the principle that all citizens should be treated equally under the law. To obtain citizenship, one must meet a series of requirements and complete a rigorous and financially burdensome process. While not everyone will qualify, the Constitution and federal law require that those seeking citizenship be afforded fundamental fairness and due process. The government has frequently failed to honor these guarantees and has blocked pathways to citizenship, including through long delays in the application process and denying military members the expedited process provided to them through the Immigration and Nationality Act (INA).

The Trump administration has taken these tactics to a new level, cruelly targeting Black and Brown immigrants at every turn. It has increasingly withheld citizenship from certain people, and stripped it away from others. This anti-immigrant agenda serves the purpose of denying eligible individuals — including those who are already citizens — from exercising the rights and responsibilities of citizenship. Of course, one of the most critical rights denied in this context is the right to vote.

Three substantial threats to citizenship for Black and Brown immigrants include (1) the indefinite delay of immigration benefits, including citizenship, through the Controlled Application Review and Resolution Program (CARRP), which has targeted Muslims or people from Muslim-majority countries since 2008; (2) the obstruction of the expedited path to citizenship for non-citizens serving in the U.S. military; and (3) escalated denaturalization efforts.¹

It is critical that the new administration end these attacks on Black and Brown immigrants by terminating discriminatory programs like CARRP and dismantling the new infrastructure of denaturalization once and for all.

CARRP

Over the years and particularly after 9/11, many programs, policies, and laws have targeted Muslim, Arab, Middle Eastern, and South Asian communities, and often have been expanded to target other Black and Brown communities. CARRP is a particularly egregious program that has prevented thousands of eligible individuals and their families from obtaining immigration benefits, including citizenship. This program formalized U.S. Citizenship and Immigration Services' (USCIS) post-9/11 practices that prohibit the approval of applications for naturalization, green cards, asylum, refugee status, and many other immigration benefits, to anyone the agency flags as a possible "national security concern," despite an individual's eligibility for the benefit. CARRP — which was never approved by Congress — profiles immigrants from predominantly Muslim-majority countries as "concerns" based on national origin and railroads their applications. Tens of thousands of meritorious applicants have had

¹ Katie Traverso and Jennie Pasquarella, "American Civil Liberties Union of Southern California Practice Advisory: USCIS's Controlled Application Review and Resolution Program," ACLU of Southern California, Jan. 6, 2017, https://www.aclusocal.org/sites/default/files/carrp_practice_advisory_final.pdf.

their applications denied or delayed for years since the program began, leaving many unable to naturalize under the guise of national security.²

USCIS subjects applicants to CARRP in secret, without ever revealing to the applicant the agency's "concern" or providing them an opportunity to respond — an egregious violation of fundamental fairness and due process. Under CARRP, individuals are flagged as "national security concerns" based on mere suspicion and according to subjective criteria that can include national origin, associations, professions, and viewpoints. People can be subjected to CARRP and typecast as "concerns" based on nothing more than who they know or are related to; their travel back to their country of birth or origin; the mere refusal to voluntarily serve as an FBI informant; financial support sent to relatives or friends in their home countries; or even a person's "re-tweets" on social media. Once an applicant is subject to CARRP, officers are instructed to find ways to deny the application or withhold adjudication.

From its creation in 2008 to 2016, USCIS reported its use of CARRP in over 41,800 immigration applications with people from India, Iran, Iraq, Pakistan, and Yemen as the top five countries of origin impacted.³ Unsurprisingly, this program disproportionately impacts Muslims and those perceived to be Muslim, such as Arab, Middle Eastern, and South Asian community members — much like other policies that use the blanket term "national security." In fact, approximately 80 percent of all people subjected to this program are from Muslim-majority countries. Others, including applicants from China, are also viewed with baseless suspicion, particularly during times of political or diplomatic tension with those countries.

Thousands of aspiring citizens, from refugees and spouses of U.S. citizens to those seeking nonimmigrant visas, are left in the lurch for years because of this discriminatory, unfair, and undemocratic program, and as a result, unable to retain the rights afforded to U.S. citizens, such as voting.

Military Naturalization

Immigrants have served in the United States military since the founding of the republic. Going back more than 200 years, Congress began incentivizing non-citizens to join the military by rewarding them with an expedited path to citizenship. The promise of citizenship is not just an important recruitment tool, it is a moral imperative embedded in our history, values, and laws. The message has historically been unequivocal: *If you are willing to make the ultimate sacrifice for this country, we will give you citizenship.*

The Trump administration sought to unwind U.S. history by adopting policies to prevent the enlistment of non-citizens, including lawful permanent residents, and to thwart the naturalization of those presently serving our country at home and abroad. The administration's actions were illegal and immoral, and left tens of thousands of servicemembers in limbo: unable to ship to basic training, be deployed, or start their duty assignment; unable to complete their naturalization process; uncertain of their future in the country they swore to defend. Too many of the nation's servicemembers and veterans, to whom the law promises expedited citizenship, are now deportable because of the administration's efforts to frustrate their naturalization.

² Katie Traverso, "Time to End Unlawful and Discriminatory Citizenship Practices," American Civil Liberties Union of Southern California, June 30, 2015, <https://www.aclusocal.org/en/news/time-end-unlawful-and-discriminatory-citizenship-practices>.

³ Yesenia Amaro, "Little-Known Law Stops Some Muslims from Obtaining U.S. Citizenship," LAW VEGAS REVIEW-JOURNAL (April 16, 2016), <https://www.reviewjournal.com/news/little-known-law-stops-some-muslims-from-obtaining-us-citizenship/>.

In October 2017, the Department of Defense introduced policy changes to impede the enlistment of immigrants and their ability to expeditiously naturalize under INA § 329. It eliminated the Military Accessions Vital to the National Interest (MAVNI) program, through which non-citizens with critical medical or linguistic skills, including DACA recipients, may enlist and earn their citizenship through service. The administration also ended USCIS' Naturalization at Basic Training Initiative, a critical program adopted in August 2009 that facilitated the naturalization process of new recruits during basic training, and closed naturalization centers at basic training locations for all branches of the military. The Trump administration also has closed numerous USCIS offices overseas, despite laws passed in the early 2000s to enable and facilitate the naturalization process for servicemembers wherever they are deployed.⁴ Meanwhile, ICE has ignored agency policies for handling the cases of veterans and USCIS has refused to process the applications of deported veterans eligible to naturalize under INA § 329.

These changes resulted in precipitous drops in military naturalization. From FY2017 to FY2018, the number of military naturalization applications dropped 72 percent.⁵ At the same time, the rate of USCIS denials of military naturalization applications dramatically rose from 7 percent in FY2017 to 20 percent in FY2018.⁶

Immigrants play a vital and time-honored role in our military, just as they do in all aspects of American life. The Trump administration's attacks on these servicemembers and veterans are unconscionable, illegal, and destabilize our military. These policies must be immediately reversed.

Denaturalization

The Trump administration has made unprecedented efforts to denaturalize U.S. citizens. Historically, denaturalization was an extraordinary measure used against human rights violators like war criminals and Nazis. Under the Trump administration, however, people are being targeted for denaturalization at an escalating rate, discarding longstanding legal norms and protections and adding U.S. citizens to its long list of targeted individuals. The Trump administration has set up new denaturalization offices that involve a number of agencies, including components of the Department of Homeland Security (DHS) (including Immigration and Customs Enforcement (ICE), USCIS) and the Department of Justice (including the Office of Immigration Litigation (OIL), and U.S. Attorney's offices). Additionally, the administration has used two named government investigations as tools for identifying cases — Operation Janus and Second Look. Finally, the State Department is denying and revoking U.S. passports, which has the practical effect of stripping citizenship from many U.S. citizens whether naturalized or by birth.⁷

⁴ See Nat'l Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat 1392; Kendall Fredrick Citizenship Assistance Act, Pub. L. No. 107-296.

⁵ See GAO, Immigration Enforcement: Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans (2019), 20, <https://www.gao.gov/assets/700/699549.pdf>.

⁶ See USCIS, Immigration and Citizenship Data, N-400 Quarterly Reports, https://www.uscis.gov/tools/reports-studies/immigration-forms-data?topic_id=All&field_native_doc_issue_date_value%5Bvalue%5D%5Bmonth%5D=&field_native_doc_issue_date_value_1%5Bvalue%5D%5Byear%5D=&combined=n-400&items_per_page=10&page=1.

⁷ "Unmaking Americans: Insecure Citizenship in the United States," Open Society Justice Initiative, Sept. 2019, <https://www.justiceinitiative.org/uploads/08cbf518-8a19-4601-897b-7187f04cea27/unmaking-americans-insecure-citizenship-in-the-united-states-fact-sheet-20190916.pdf>.

Under the Trump administration, civil denaturalization filings are three times higher than the yearly average of the last eight administrations, and criminal denaturalizations have risen to an average of 51 per year.⁸ People from Bangladesh, India, Haiti, Mexico, Nigeria, and Pakistan have been targeted at high rates, indicating a pattern consistent with the administration's fear-based narrative against Black and Brown people.⁹ Civil denaturalization, a tool rarely used before, is the DOJ's favored procedure because there is no statute of limitations, no right to appointed counsel, and a lesser burden of proof than in criminal proceedings.

U.S. citizens are now fearful that mistakes made years ago on past applications could be used to target them, take away their citizenship, and destroy their lives and the security that they have earned as citizens. The administration's denaturalization push also sows fear among lawful permanent residents about pursuing citizenship and fully engaging in American civic life.¹⁰

It is critical that a new administration re-evaluate these denaturalization efforts and ensure that all U.S. citizens are equal under the law and able to act on their rights and responsibilities without fear.

Recommendations to the President

CARRP

First 100 Days

- Publish USCIS guidance and memos terminating CARRP because it violates the INA, denies applicants basic due process, and discriminates against Muslim, Arab, Middle Eastern, and South Asian communities; and
- Publish USCIS guidance and memos requiring officers to apply uniform standards to all naturalization applicants and ensuring that all naturalization applications are held to the same statutory eligibility requirements.

Beyond the First 100 Days

- Release all applications currently subject to CARRP to the normal adjudicative track and grant all benefit-eligible applicants within 180 days;
- Clarify that USCIS officers may not deny benefits to applicants based on information not disclosed to applicants or based on third-agency information not relevant to eligibility;
- Publish USCIS guidance and memos clarifying that the only national security concerns relevant to the grant or denial of an immigration benefits are those that determine statutory eligibility under the INA;
- Publish joint DHS-DOJ guidance prohibiting the use of (1) an immigration benefit as contingent on cooperation with any law enforcement agency, including the FBI; (2) information in a pending immigration benefit to coerce or pressure applicants or their contacts into serving as an informant; and (3) information obtained by USCIS by any agency or component for any purpose other than the adjudication of the immigration benefit; and
- Publish USCIS FAQs regarding the definition of "affiliation," "membership," and "association" used on the N-400 naturalization application.

⁸ *Id.*

⁹ *Id.*

¹⁰ Stephanie deGooyer, "Why Trump's Denaturalization Task Force Matters," *The Nation*, July 10, 2018, <https://www.thenation.com/article/archive/trumps-denaturalization-task-force-matters>.

Military Naturalization

First 100 Days

- Repeal the DoD October 2017 policy memo on immigrant enlistment, enhanced background screening, and honorable service certification;¹¹
- Repeal the DoD April 24, 2020 policy memo on N-426 certification;¹²
- Adopt a permanent moratorium on the deportation of servicemembers and veterans, in recognition of the fact that they should have been naturalized;
- Restart the Naturalization at Basic Training program in all basic training sites; and
- Reopen shuttered USCIS offices worldwide.

Beyond the First 100 Days

- Clarify that service members may seek an honorable service certification (N-426) and apply for naturalization under INA § 329 after one day of service;
- Clarify that the local service record holder, including an S-1, the Military Personnel Division, or Military Processing Operations, may certify honorable service;
- Require the DoD to certify honorable service within five days for active duty service and three weeks for service in the Selected Reserve;
- Require USCIS to process military naturalization applications within four months of their receipt, if not sooner, subject to exceptional circumstance delays only;
- Direct USCIS to conduct naturalization interviews and ceremonies at U.S. embassies and consulates, U.S. military installations, and ports of entry for both veterans and servicemembers.;
- Reopen and/or terminate removal proceedings against honorably discharged veterans who are or were lawful permanent residents;
- Amend 8 C.F.R. § 329.2(d) to remove the one-year “good moral character” requirement and replace with clarification that honorable service during a period of hostilities satisfies the good moral character requirement for naturalization under INA § 329. This change would ensure that honorably discharged veterans are not permanently barred from naturalizing if convicted of an “aggravated felony”; and
- Reinstitute the MAVNI program.

Denaturalization

First 100 Days

- Issue an executive order suspending all denaturalization efforts across all government agencies until a review has been conducted and a DHS-DOJ report published (see *Beyond the First 100 Days* recommendation);
- Issue DOJ and DHS guidance and policy memos suspending all denaturalization efforts, including specifically from OIL, U.S. Attorneys, ICE, and USCIS;
- Issue DOS guidance and policy memos suspending all passport revocations until a review has been conducted; and
- Dismantle the Denaturalization Task Force and Operations Janus and Second Look.

¹¹ Military Service Suitability Determinations for Foreign Nationals Who Are Lawful Permanent Residents; Military Accessions Vital to the National Interest Pilot Program; Certification of Honorable Service for Members of the Selected Reserve of the Ready Reserve and Members of the Active Components of the Military or Naval Forces for Purposes of Naturalization.

¹² Certification of Honorable Service for Purposes of Naturalization.

Beyond the First 100 Days

- Publish a DHS and DOJ report on the number of cases reviewed, investigated, filed, denaturalized, and removed, including the number of people who become stateless as a result, from 2017-2021, including country of origin, year of entry, manner of entry, jurisdiction, and alleged denaturalization grounds;
- Publish a DHS and DOJ prioritization policy for investigations potentially leading to denaturalization and suspend civil denaturalizations until legislation providing appropriate protections for U.S. citizens, including due process, has been signed into law;
- Publish clear and limiting DOJ guidance to U.S. Attorney's offices on appropriate cases for denaturalization, taking into consideration factors that should weigh against denaturalizing including number of years in the United States, hardship to individual or family members, primary caretaker responsibilities, and resulting statelessness;
- Publish clear and limiting DOJ guidance discouraging the denaturalization of derivatives and dependents of those with denaturalization cases against them in order to reduce collateral effects and stop the use of family members as a tool to pressure individuals into denaturalization; and
- Implement recommendations of the Office of the Inspector General in its October 2018 report to DOS on denial and revocation of passports, in particular:
 1. Issue guidance on the procedures required to revoke and confiscate passports,
 2. Electronically track and manage passport revocations, retentions, and confiscations,
 3. Require appropriate legal oversight and review of passport-related determinations within DOS.

Legislative Recommendations

- Champion legislative reforms to provide protections for U.S. citizens against civil denaturalization, including a statute of limitations, right to counsel, right to a jury trial, codified burden of proof, and requiring intent