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Deported Veterans for Second Chance at Citizenship

Nate Stewart

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Deported Veterans for Second Chance at Citizenship

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EMPA 396 Graduate Research Project in Public Management

6/23/2018

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Abstract

The purpose of this research paper is to provide further exposure to the issues surrounding the deportation of veterans who have served honorably in the U.S. Armed Forces. Very few people realize that veterans who served, could be deported. Because of limited publicity, legislative efforts to mitigate and resolve the veteran deportation issue has not gained much traction. This paper examines scholarly literature regarding the varying levels of support for veterans that are deported. Some scholars argue that veterans should never be deported regardless of type of crimes committed, while others maintain that if the deported veteran commit a violent act, that individual surrenders their right to obtain US citizenship. A crucial advocate on behalf of the deported veteran can be those American veterans who served alongside the potential deportee. A sense of comradery can be very strong among veterans, especially amongst those who have seen combat. American veteran support can lend more credibility to a deported veteran's efforts to obtain citizenship.

The first portion of the study examines how much veterans support the plight of deported veterans with data collected through surveys which measure support when the deported veterans are placed in varying circumstances. The second part of the study examines the target group of deported veterans through key informant interviews on the effects of deportation for veterans.

Chapter One: Introduction

Background and History

¹From 2013 to 2015, I had the pleasure of serving as the U.S, Marines Corps Regimental Legal Officer with Combat Logistics Regiment-17. While serving in this capacity one of the Marines who served with me had a rather unique backstory. I've served with Marines from all over the U.S. but this one was unique --- he was not born in this country. His accent was very American, so I was a bit confused when he told me he was not an American citizen. I had an ignorant preconceived notion that those not native to this country spoke with accents, I did not even realize in my own ignorance that there were thousands of service members who were not American citizens. This Marine later explained that he entered the US illegally and was currently attempting to become a citizen. While his enlistment contract with the USMC was legal, he had to "jump through several loop holes to attain a green-card" in order to enlist. His on the job work ethic and knowledge was well above average for his military rank, Corporal, and he was my reliable source for background knowledge on current policy and procedures within the Regiment. I was surprised to find out that he would not be guaranteed citizenship, although his service included tours in Iraq and Afghanistan.

While those with honorable service have an expedited path to citizenship, some immigrants are unaware and assume naturalization and citizenship is conferred to them upon enlistment into the United States Military. Those immigrants that for some reason are unable to complete the naturalization process to become a citizen, can be left in a limbo once they leave the service. Many service members suffer from PTSD and other service related issues. Some of

¹ The following excerpt is from the author's own experience with veterans who are not American citizens.

these issues require extended mental treatment and some members turn to drugs because of these treatments. (Bennet, Morris and Sexton)² This situation creates an especially hazardous situation for non-citizen veterans. If immigrants commit crimes here in the U.S. there is no protection from deportation, whether that immigrant be a veteran or not. An immigrant veteran can be deported for committing a crime as minor as possession of marijuana. Once the judge issues that deportation order there is no coming back. (Chagin)³

Some of the issues faced by immigrant veterans are service related and their problems are compounded if or when they are deported and do not have access to the resources such as Veteran's Administration healthcare and mental health services. While some legislative solutions have been brought up, there has been little to no traction in getting a legislative solution through. (Aguilera)⁴

This study first examines and analyzes the plight of those veterans affected by deportation. A determination was made that the group best able to sympathize and provide a real voice to these issues, are veterans that are now U.S. citizens. No other group can speak to the bravery and sacrifice required of someone who has served. In the second part of the study, this researcher examines and analyzes the real human impact of these deportations and a study of the lives some of these individuals lead once deported from the U.S. and determine whether a case can be made for a second chance at citizenship for these veterans.

² Bennett DC, Morris DH, Sexton MB, Bonar EE, Chermack ST. (October 2017) Associations Between Posttraumatic Stress and Legal Charges Among Substance Using Veterans.

³ Chagin, R, Craig (July 2013) *Deporting Our Troops* retrieved from: <http://0-web.a.ebscohost.com.library.ggu.edu/ehost/pdfviewer/pdfviewer?vid=1&sid=e7e01320-e73b-413a-a3e2-4a5ee0b96ad9%40sessionmgr4006>

⁴ Aguilera, Elizabeth (June 2017) Discharged. Deported. Why California may cover vets' legal bid to return retrieved from: <https://calmatters.org/articles/discharged-deported-california-may-cover-legal-bid-return/>

Significance of the Study

This study is significant because it can potentially bring more publicity to the plight of deported veteran efforts to become US citizens. The hope for this study is to change the process for deported veterans and repay deserving deported veterans with a stream lined process to citizenship.

For the purpose of this discussion the paper is including both active duty service members and veterans when using the word veteran. The following paragraph will define the difference between naturalization and citizenship. “A Certificate of Citizenship is available to people who were born abroad and automatically acquired or derived U.S. citizenship through birth to or adoption by a U.S. citizen parent or parents (whether U.S. citizens by birth or naturalization), while a Certificate of Naturalization is given to a lawful permanent resident after he or she fulfills the requirements established by Congress in the Immigration and Nationality Act (INA).”⁵ This distinction can be a big one, as citizenship cannot be revoked, however veterans who are dishonorably discharged from the United States Military can be denaturalized if their naturalization status was established through military service.

For veterans seeking citizenship, first that veteran must establish eligibility. The U.S. Citizenship and Immigration Services stipulates application under INA 328 and INA 329, so the default position will be naturalization. The primary difference between the two INA forms is that INA 328 uses qualifying experience of 1 year of active duty service. This active duty service must have been completed honorably. Any characterization of service outside of honorable

⁵ U.S. Citizenship and Immigration Services (2018) *What is the difference between a Certificate of Citizenship and a Certificate of Naturalization?* Retrieved from: <https://my.uscis.gov/helpcenter/article/what-is-the-difference-between-a-certificate-of-citizenship-and-a-certificate-of-naturalization>

would automatically disqualify an individual for naturalization and as stated previously if that individual has been naturalized the veteran can be denaturalized.⁶ With form INA 329 the service stipulates that it be completed during a period of active conflict. The periods according to the act are: “World War I, World War II, The Korean Hostilities, The Vietnam Hostilities, Or In Other Periods Of Military Hostilities”. The current period covers service during the War on Terrorism which extends from 2001 to the present day. (USCIS)⁷ Service members can also be granted naturalization through the Naturalization at Basic Training Initiative. This program started in 2009, allows the naturalization process to occur from start to finish during basic training, with the primary tasks being, “the capture of biometrics, the naturalization interview, and administration of the Oath of Allegiance.” (Salmon, Haas)⁸ This is the most straight forward and preferred method for naturalization. For individuals who have not attained a green card or fall under the Deferred Action for Childhood Arrivals (DACA) program, the process can become a bit more complicated. As of right now only 900 members currently serve who are from the DACA program. These service members are special as they are a part of the Military Accessions for Vital National Interests (MAVNI) Program.⁹ This program provides the United States Military with recruits that fill special needs the U.S. deems as vital to national security interests. The final way veterans become U.S. citizens, and as often the case with veteran deportations, is

⁶ U.S. Citizenship and Immigration Services (2018) *INA: ACT 328 - NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES* retrieved from: <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-10108.html>

⁷ U.S. Citizenship and Immigration Services (2018) *INA: ACT 329 - NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES* retrieved from: <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-10163.html>

⁸ Salmon & Haas (2018) *NATURALIZATION THROUGH MILITARY SERVICE* retrieved from: <http://www.salmonhaas.com/naturalization-through-military-service/>

⁹ U.S. Department of Defense (2018) *MILITARY ACCESSIONS VITAL TO NATIONAL INTEREST (MAVNI) RECRUITMENT PILOT PROGRAM* retrieved from: <https://www.defense.gov/news/mavni-fact-sheet.pdf>

posthumously granting citizenship. Deceased deported veterans who served honorably are entitled to full military honors and are shipped back to the U.S. and buried as such.

(Debusmann)¹⁰

¹⁰ Debusmann, Bernd (May 2014) The US is now deporting its decorated, even wounded, war veterans retrieved from: <https://www.pri.org/stories/2014-05-05/us-now-deporting-its-decorated-even-wounded-war-veterans>

Chapter Two: Literary Review

The literature review will consist of scholarly articles and case law applicable to veteran deportations. The first portion of the literature review will examine crime statistics as it pertains to veterans. This will bring into the focus of the primary reason for deportations and the heightened probability of committing a crime if the veteran has some level of PTSD. The second portion of the literature review will examine case law as it pertains to veterans and crime, with an emphasis on leniency granted for crimes committed. The third portion of this literature review will examine authors/legislators who have support for the plight of deported veterans. The final portion of this literature review will consist of reasons for a lack or no support in cases of deported veterans.

Veterans and PTSD Linked Crime

For veterans who fail to complete the process for naturalization, deportation is a real threat. Committing any crime regardless of the severity would result in deportation. Crime among all veterans has become a concern as it is estimated that 181,500 were incarcerated in 2011-2012, with half of that population being incarcerated for violent crimes.¹¹ Substance abuse is especially prevalent amongst this population group. (Bennet, Morris and Sexton) To that end substance abuse appears to be the primary indicator for future incarceration and repeated offenses. The other large indicator is diagnoses with Post Traumatic Stress Disorder (PTSD). “Substantial evidence supports the link PTS symptoms have with violence perpetration and criminal involvement and its mediating role in trauma’s effect on criminal offending.” (Bennet,

¹¹ U.S. Department of Justice (December 2015) Veterans in Prison and Jail, 2011–12

Morris and Sexton)¹²Other studies show that combat experience can have either a positive or negative impact on the deploying servicemember's return home. It is suggested that there can be post-traumatic "growth". There are, "several features of posttraumatic growth (for example, increased compassion, self-discipline, resilience, and spirituality) could reduce the propensity to engage in violent behavior." (Anderson)¹³ Deported veterans are faced with these same exact issues with high rates of substance abuse and PTSD related crimes with the added punishment of deportation.

Leniency for Veterans in the Court System

Veterans can actually receive some leniency in the courts for past military service as referenced in *Porter v. McCollum*, "the United States Supreme Court, citing a long tradition of according leniency to veterans in recognition of their service, held that a defense lawyer's failure to present his client's military service record as mitigating evidence during his sentencing for two murders amounted to ineffective assistance of counsel." (Lee) The impact of this ruling shows a clear distinction and potential leniency granted for past military service. Furthermore, Lee continues, "this Article then argues that a military veteran who commits a crime should not be blamed to the full extent of his blameworthiness, not necessarily because of his mental capacity nor because of his social contribution, but because the State's hand in producing his criminality undermines its standing to blame him."(Lee)¹⁴ When applied to the deported veteran, this raises a potential legal precedent in how the State deals with veterans who were deported as

¹² Bennett DC, Morris DH, Sexton MB, Bonar EE, Chermack ST. (October 2017) Associations Between Posttraumatic Stress and Legal Charges Among Substance Using Veterans.

¹³ Anderson, Walter (January 2008)

Measuring Growth With the Posttraumatic Growth Inventory retrieved from: <https://eric.ed.gov/?id=EJ783352>

¹⁴ Lee, Youngjae (March 2013) Military Veterans, Culpability, and Blame retrieved from: <http://0-web.a.ebscohost.com.library.ggu.edu/ehost/pdfviewer/pdfviewer?vid=6&sid=fde70edd-dd92-4108-92dc-acd87b7b3472%40sessionmgr4008>

the State can potentially shoulder blame in creating the conditions that lead to the criminality of the deported veteran.

Jurors also have the tendency to show leniency for crimes committed by veterans. A study was conducted which measured juror's responses when the perpetrator was a normal citizen and when the individual was a veteran. "Protectors who incur harm in the line of duty might be treated with more leniency than non-protectors for the same crime. Even when people bear no responsibility for the harm the protector incurred, they can feel collective guilt for that harm, which motivates them to make reparations in the form of lenient punishment. This phenomenon is dependent on the extent to which people are likely to classify the protector as an in-group member—even when there is no explicit attention drawn to the in-group's responsibility for the harm done to the protector. Finally, we demonstrated one way in which this psychological phenomenon might manifest in legal judgments with serious consequences: Americans' collective guilt toward veterans' suffering translating to more lenient sentences when a veteran subsequently commits a violent crime." (Jay)

Support for Second Chance at Citizenship

In defending the re-instatement of deported veterans Craig R. Shagin in *Deporting Our Troops*, argues that the residence status of immigrants has no bearing on the conduct expected and execution of duties in relation to the Articles of the Code of Conduct. The first Article of the Code of Conduct literally states:

"I am an American, fighting in the forces which guard my country and our way of life. I am prepared to give my life in their defense."¹⁵

¹⁵ Code of Conduct (2018) http://www.au.af.mil/au/awc/awcgate/readings/code_of_conduct.htm

The servicemember is bound to this code of conduct, so this statement can lend a powerful anecdote to the argument that deported veterans, through past duties to the United States should be given another chance at citizenship. Shagin argues further that immigrant veterans are treated as nationals while wearing the uniform and that crimes committed should have no bearing on a decision for deportation, specifically stating that “the indictment against the practice of deporting veterans should not be centered on the comparative ease and low level nature of crimes that could render one deported. Nor is it on the merits of an individual’s military service. It is instead a categorical view that because when we conscript or place by enlistment noncitizens into uniform, we treat them as nationals, we ought to treat them as nationals once the uniform comes off. It is nothing more than providing the recognition in law of the de facto treatment of these individuals as nationals when in the military.” This view however would struggle to gain traction as Shagin notes that Congressmen distance themselves from individuals who have criminal backgrounds.¹⁶

In 2017, Representative Mark Takano (D-Calif) introduced a bill to the House which addresses the specific issue of deportation of veterans and seeks to put an end to the practice. The bill is titled the *Second Chance for Service Act*. Within this bill Mr. Takano stipulates that:

“Notwithstanding section 101(f), a finding that an applicant under this section is described in any of paragraphs (1) through (9) of section 101(f) (except in the case of an applicant who is described in any such paragraph because of having been convicted of an aggravated felony described in subparagraph (A), (I), (K), or (L) of section 101(a)(43)) shall not preclude a finding that the applicant is of good moral character. In determining whether the applicant is of good

¹⁶ Chagin, R, Craig (July 2013) *Deporting Our Troops* retrieved from: <http://0-web.a.ebscohost.com.library.ggu.edu/ehost/pdfviewer/pdfviewer?vid=1&sid=e7e01320-e73b-413a-a3e2-4a5ee0b96ad9%40sessionmgr4006>

moral character, the applicant's service under honorable conditions shall be weighed against any finding that the applicant is described any such paragraph.'¹⁷

The paragraph requires that servicemembers must have been convicted of non-felony related crimes as well as only non-violent offenses. His bill does not address PTSD related issues and instead hinges on whether the immigrant committed an act of violence. This will eliminate a pool of candidates for this program but would be a much easier bill to argue on the House Floor with the omission of individuals who have committed violent crimes. If more are attuned to passing the bill, then a solution will effectively be made for a portion of those facing deportation after honorable service.

Reasons for Supporting/Ignoring Veteran Deportations

Many can argue, why give them a second chance? The argument that the deported veteran was given ample time to become naturalized is a fair observation and may apply in most cases. It is not too farfetched to believe that ignorance of programs available to become naturalized can play a factor, with some deported veterans believing that the Oath of Enlistment also included citizenship. This can be attributed to recruiters eager to meet their recruitment goals and not fully explaining the process to the immigrant recruit. Another issue is that there is a relatively small population affected. For a total number of immigrant veterans, from the Migration Policy Institute: “approximately 511,000 foreign-born veterans of the U.S. armed forces resided in the United States in 2016, accounting for 3 percent of the 18.8 million veterans nationwide. Of that number, 1.5 million were U.S. born with a parent who was an immigrant. While the share of veterans who are foreign born is much lower than the immigrant share of the

¹⁷ Takano, Mark (October 2017) Second Chance for Service Act retrieved from:
<http://takano.house.gov/imo/media/doc/Second%20Chance%20for%20Service%20Act.pdf>

overall population (14 percent), veterans with an immigrant parent composed a larger share than the first generation (8 percent). Together, approximately 2 million veterans (11 percent of all veterans) were from an immigrant background.”¹⁸ This provides a picture of the amount of immigrant veterans in service which can be compared to the small number of those deported after honorable service, which is estimated to be at around a few hundred to 3,000. This is a relatively insignificant number compared to those who have been naturalized, with over 125,000 since 2002¹⁹. So, this is yet another reason that legislators have been relatively idle on this issue.

¹⁸ Zong, Jie (October 2016) Immigrant Veterans in the United States retrieved from: <https://www.migrationpolicy.org/article/immigrant-veterans-united-states>

¹⁹ U.S. Citizenship and Immigration Services (2018) Naturalization Through Military Service: Fact Sheet retrieved from: <https://www.uscis.gov/news/fact-sheets/naturalization-through-military-service-fact-sheet>

Chapter Three: Research Methods Formatting

Introduction

This chapter will explain the data collection procedures associated with support for deported veterans and provide a reasonable methodology for the process and procedures used to collect the data. The independent and dependent variables will be discussed and analyzed along with reasons for selecting the target population group.

Research Question: Will current service members and veterans support a legislative solution to halt the deportation of veterans and provide a second chance for citizenship to those who are deported?

Sub Question: Will the level of crime committed have an effect on the support for or against deportation?

Hypothesis: Veterans and current service members will support a legislative solution to halt the deportation of veterans and provide a second chance for citizenship. For this stated hypothesis the independent variables will be the deported veteran's characterization of service as well as level of crime committed (felony or misdemeanor). The dependent variables will be the demonstrated levels of support for deported veterans which may vary in relation to the independent variables of characterization of service and level of crime committed.

Data Collection Plan Overview

Population sampling strategy

The population determined by the researcher that would best be able to empathize with the plight of deported veterans are other veterans and service members. There was a total of 153 survey participants, with most of the population being commissioned officers. The two key informant interviews are with current/former deported veterans from the Deported Veteran Support House in Tijuana and Juarez. The key informant interviews will shed light on current issues facing deported veterans.

Procedure

The survey was conducted over the course of 3 weeks through the Facebook Survey Application. Most questions involved the binary “yes” or “no” response, to build a quantitative data base for support for or against. The two key informant interviews took place over telephone and were questions that help describe firsthand experience with deportation.

Data Processing and Analysis

Using a survey as the primary source of data collection allows the researcher to build a quantitative data set that can provide a concise illustration of support or non-support of the stated hypothesis. Along with data collection surrounding the support of deported veterans, the survey will also act as a standard setting tool, with independent variable questions such as whether the deported veteran committed a felony or misdemeanor. This will allow the researcher to gauge support based on the severity of crimes committed. Open ended answers such as “Should be determined on a case by case basis” allow variability when the question is not a clear cut yes or

no to the survey participant. This ambiguity reflects the variability in veteran deportation cases. Post Traumatic Stress Disorder (PTSD) is surveyed to build a consensus on support when it can be linked to the deported veterans conduct.

Internal and External Validity

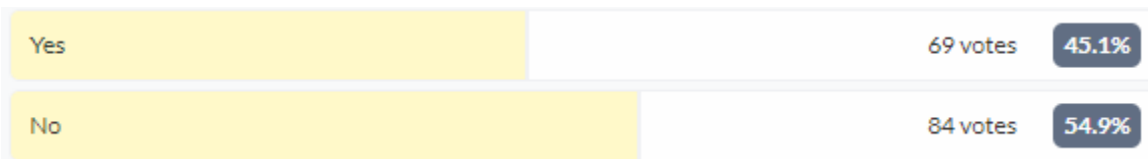
The process of testing internal validity involves observing an adjustment of independent variables and the effect those variables have on the dependent variable of support for deported veterans. If the majority of respondents report support for deported veterans that committed misdemeanor offenses but do not support deported veterans who committed felonies, then the conclusion is that the shift in independent variable directly caused a variation in the dependent variable. In testing the external validity of the study, the population group represents different geographic areas but will mainly consist of Junior Officers (O-1 to O-3). This can be a weakness to external validity as the vast majority of veterans and service members serve or have served as enlisted members. There is no internal test to verify that officers and enlisted would necessarily answer questions surrounding the deportation of veterans in a different manner, but the rank differences are significant enough to make note of.

Chapter 4 – Results and Findings

The objective of this study is to establish whether veterans will or will not support cases where the state has decided to deport an individual who has served honorably in the U.S. Military. The data collection was completed with the use of survey questions. The survey questions are provided at Appendix A. These survey questions were designed to collect data on the issue of deported veterans. The survey also acted as a standard setting tool which could help determine what is acceptable which would then give justification for additional legislative support. There were 153 respondents in this survey. Two key informant interviews were also completed to cover some of the effects of deportation on deported veterans.

Survey Data

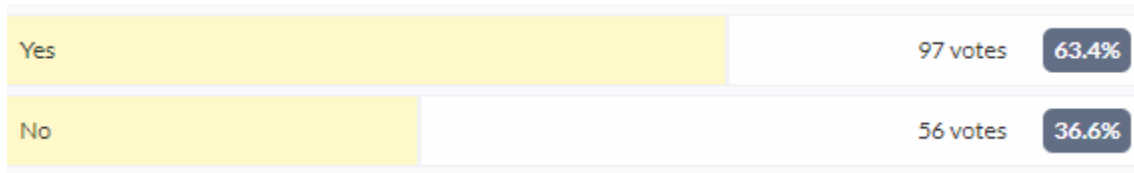
1. Did you know that it is possible to deport immigrant veterans who served honorably in the U.S. Military?



This question was used as an introduction question to properly gauge the respondent's knowledge of veteran deportations. The results could confirm whether veteran deportations are a widely known phenomena. With 54.9% of respondents selecting no, the data suggests that it is not widely known, but a statistically significant percentage (45.1%) did have knowledge of veteran deportation. This supports the assertion that it is not a widely known phenomena, however the percentage of respondents who responded in the affirmative regarding their knowledge about veteran deportations is significant enough to note and points out that a large portion of respondents,

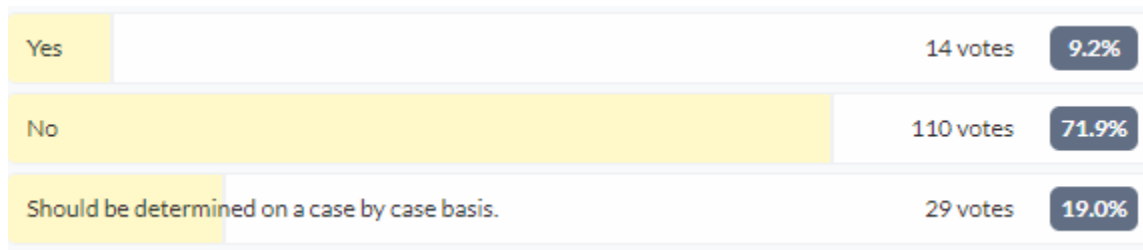
almost half, were aware that it is possible to deport immigrant veterans who served honorably in the U.S. Military.

2. Have you ever served with a service member who has not yet become a U.S. citizen?



The question of service with a non-U.S. citizen was posed to determine whether there would be any correlation between serving with a non-citizen and support for a measure to halt and/or give second chance to veterans who have been deported (stated hypothesis). Most respondents did serve with a service member who has not yet become a U.S. citizen with 63.4% responding in the affirmative. This data represents a correlation but not necessarily causation between having served with a service member who has not yet become a U.S. citizen and the stated hypothesis. This data is useful to establish some of the background of respondents with respect to other data gathered which supports the stated hypothesis.

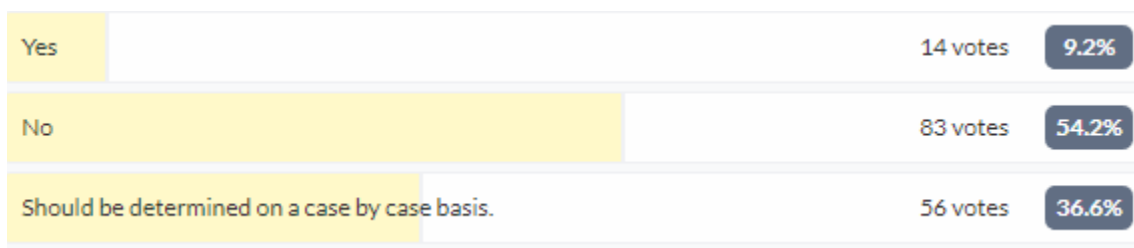
3. Do you believe veterans who served honorably but have not yet attained citizenship, should be subject to deportation?



This is the first question that directly asks the respondents about their opinion on veteran deportations. This question was asked without any other pre-conditions intentionally in order to

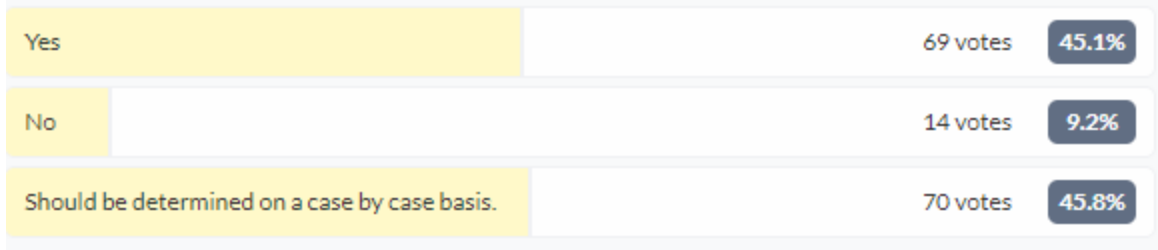
establish whether respondents are open to the deportation of veterans in general. This data reveals that it is generally a distasteful proposition to deport veterans as only 9.2% of those surveyed believed that veterans should be subject to deportation when no other pre-conditions are identified. The option for a case by case basis was added in order to gather opinions from respondents who are not completely opposed to or in support of veteran deportations.

4. If an immigrant veteran committed a crime that rises to misdemeanor level, does that veteran deserve deportation?



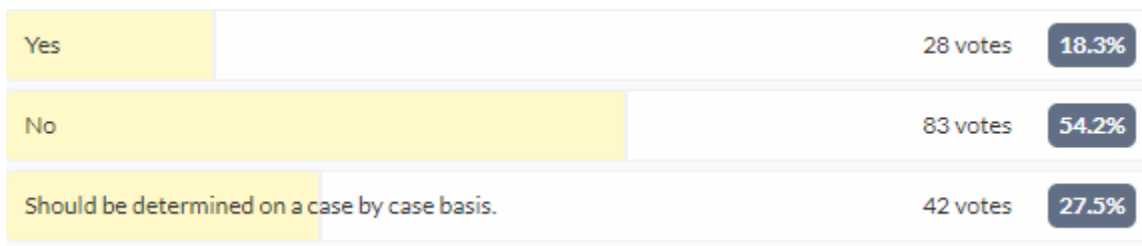
Adding a precondition such as the level of crime being a misdemeanor, establishes a minimum threshold for deportation directly linked to the veteran’s conduct. The data from this question can be applied to policy formulation as a standard setting metric. The results of this question show that the majority (54.2%) of respondents believe that veterans who have committed a misdemeanor should not be subject to deportation. However, the number of respondents who selected on a case by case basis increased to 36.6%, signaling that a veteran’s conduct definitely can play a role in their opinion on whether a veteran should be subject to deportation.

5. If an immigrant veteran committed a crime that rises to the level of felony (kidnapping, murder), does that service member deserve deportation?



Raising the severity of crime with a felony level precondition establishes the opposite end of the threshold for deportation directly linked to the veteran’s conduct. Predictably, respondents find that committing acts that constitute a felony, grounds for deportation with 45.1% responding in the affirmative. 45.8% of the respondents believe it should be handled on a case by case basis, up from 36.6% for committing misdemeanors. The results of the data show that there is an inverse relationship between felonies and misdemeanors with 9.2% saying that veterans should not be subject to deportation even after committing felony offenses and 9.2% believing that veterans should be subject to deportation after only committing misdemeanor level offenses. This further illustrates the primary mechanism for the support or the opposition to veteran deportation rests with the level of crime committed.

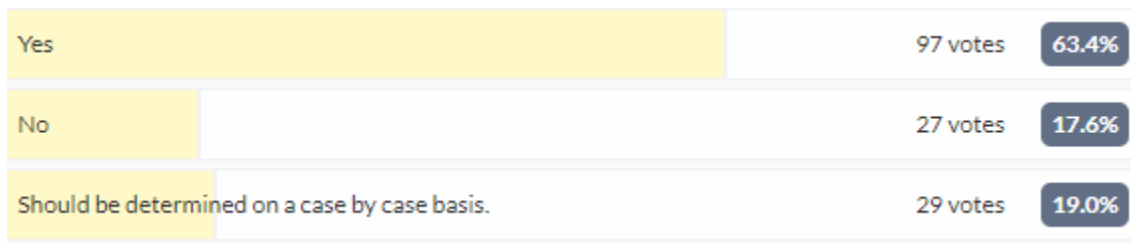
6. Do you believe deportation should be the answer in cases where the crime can be directly linked to PTSD?



Post-Traumatic Stress Disorder (PTSD) was added as a precondition variable in order to determine whether or not it conveyed support for additional leniency when diagnosed with

service related disorders. PTSD can play a very large part in the criminality of the veteran and thus should be considered when discussing the formulation of a policy surrounding the deportation of veterans. The results of the survey show that the majority (54.2%) believe that veterans should not be subject to deportation in cases where the crime can be directly linked to PTSD, with another 27.5% believing that it should be handled on a case by case basis. This data represents that most veterans do support not deporting veterans to some extent when that veteran has been diagnosed with PTSD.

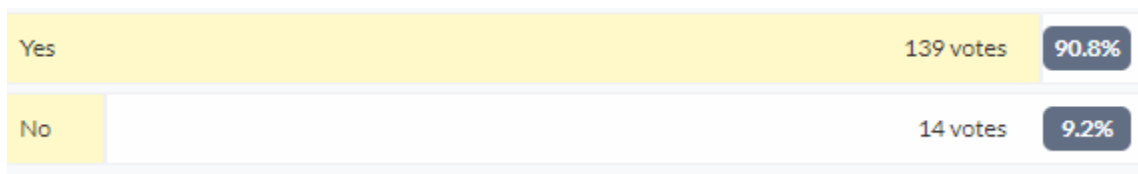
7. Do you believe service members should have access to the Veterans Affairs benefits they were promised for serving honorably, if in fact they are deported?



Every service member is promised Veteran Affairs benefits upon honorable discharge from the various services (provide the reference for this statement as it possibly does not include deported veterans; check this out thoroughly). These benefits can range from specialized VA home loans, to critical medical and mental health care. In many cases VA benefits cover service related disorders such as PTSD. Service members who are deported but diagnosed with PTSD, in most cases, cannot get proper care for the disorder and thus regress further with additional substance abuse disorders. This cycle makes it nearly impossible to recover and results in a complete destruction of the deported veteran’s life. According to the key informant interview with Francisco there was a casualty recently due a deported veteran being unable to access medical

help through the VA. Most respondents (63.4%) believed that veterans should be able to keep the VA benefits they earned upon honorable discharge. Some respondents (19%) believe that benefits should be received on a case by case basis. Almost one-fifth, of the respondents (17.6%) believe that veterans should receive no benefits if deported. This data supports that other veterans would, for the most part, want leniency in the decision to keep or revoke VA benefits upon deportation.

8. Would you support a bill designed to halt veteran deportation and/or give a second chance at U.S. citizenship for veterans who have been deported?



This final question uses a portion of the stated hypothesis specifically to illustrate support for or against a bill designed to halt veteran deportation and/or give a second chance at U.S. citizenship for veterans who have been deported. The data collected shows an overwhelming majority of those polled (90.8%) would support legislation. This data supports the stated hypothesis.

Key Findings

Veteran deportations are not a widely known phenomena for the general population; this is inferred by the fact that the majority of veterans surveyed were not aware of the issue. however the percentage of veterans in this study who responded in the affirmative for knowledge about veteran deportations is significant enough that it would not be out of the ordinary for a veteran to know about veteran deportations. The data collected for service members as it relates to serving

with veterans who have not attained U.S. citizen is useful as it established some of the background of respondents and draws a correlation to data gathered that supports the stated hypothesis. The data revealed that it is generally a distasteful proposition to deport veterans as only 9.2% of those surveyed believed that veterans should be subject to deportation when no other pre-conditions are identified.

The number of respondents who selected in the affirmative for deportation of veterans who commit felony level offense versus the amount who sided against deportation for committing misdemeanor level offenses, signals that a veteran's conduct definitely can play a role in their opinion on whether a veteran should be subject to deportation. The data collected with the addition of the PTSD variable shows that most veterans do not support deporting veterans when that veteran has been diagnosed with PTSD and that veterans will for the most part support keeping earned VA benefits. The results of the survey support the hypothesis that veterans will support a measure to halt and/or give second chance to veterans who have been deported.

Interview Data

For the second portion of the study two key informant interviews were conducted one with the founder of the Deported Veteran Support House in Tijuana, Mexico, Hector Barajas and the second was with Francisco Lopez director of the Deported Veteran Support House in Juarez, Mexico.

Barajas Interview

1. Do you have an approximate number of total deported veterans that have come through the support house?

Hector: There is approximately 389 deported veterans that we support through the Tijuana support house. I am away from my computer right now, but that is the closest number I can give you right now.

2. How did your case get the attention of the Governor and do you feel legislators are doing enough to address the issue of veteran deportations?

Hector: Three of us were selected and two of us ended up getting pardoned. The other pardoned veteran also recently regained citizenship. The HR3352 is the most supported bill with I think 60 Democrats supporting the measure. The bill introduced by Mark Takano. I believe that Congress could definitely do more to correct this issue. We are partnering with certain legislators to get more help for veterans. This issue needs more publicity, I did not realize that I was not a citizen or naturalized when I was arrested and subsequently deported.

3. How is the transition for those that are deported? Do many struggle to find employment once back in Mexico?

Hector: Deported veterans are on their own when it comes to medical and there is limited support. Most deported veterans end up working at call centers that have propped up around areas where veterans are deported.

4. Do you believe PTSD is a primary driver honorably discharged veterans committing crimes?

Hector: Yes, especially among combat vets. The proportion of those diagnosed with PTSD at the support house is very high.

5. Deportations are not supposed to be able to disrupt VA benefits, but obviously it does, have any deported veterans been able to access VA services they were promised while at the deported veteran support house?

Hector: Veterans with service connected disabilities have access to VA care through the Foreign Medical Program. This program is designed for ex-pats living in other countries. If a deported veteran does not have a service connected disability it is next to impossible to receive adequate care.

Lopez Interview

1. Do you have an approximate number of total deported veterans that have come through the support house?

Francisco: There are about 28 deported veterans being supported at the house in Juarez.

2. Do you feel legislators are doing enough to address the issue of veteran deportations?

Francisco: Legislators are doing very little to help us. It is frustrating because there are many of us in real need and it seems like no one is listening.

3. How is the transition for those that are deported? Do many struggle to find employment once back in Mexico?

Francisco: It is very hard for veterans who are deported to find jobs. Many only can get jobs that pay around \$50 to \$60 a week. This is not enough to support them, and it is only getting worse.

4. Do you believe PTSD is a primary driver honorably discharged veterans committing crimes?

Francisco: PTSD is a very large factor in the issues surrounding these veterans and no help is given to them in that regard.

5. Deportations are not supposed to be able to disrupt VA benefits, but obviously it does, have any deported veterans been able to access VA services they were promised while at the deported veteran support house?

Francisco: The veterans have no access to the VA. Two weeks ago, a veteran passed away due to the inability to access the VA. We really need a lot of help out here. This is a desperate situation for these veterans. If there is anything you can do to assist us over here it would be greatly appreciated.

Interview Findings

The first question addressed the number of deported veterans currently being serviced at the home. This question was asked to get an idea of the magnitude of the issue for deported veterans at the Tijuana Support House. This is the only reliable number in regard to numbers of veterans being deported as the U.S. does not track this. Total number of 389 shows that most of the veteran deportation support activity is occurring in Tijuana as opposed to 28 at the Juarez Support House. The second question addresses support from a legislative standpoint and attempts to ascertain steps that have been taken and what needs to be done. Both key informants lamented that more support and publicity is necessary for this issue and acknowledge that legislative solutions have not gained much traction. The third question addresses the current living situation and also highlighted the desperate situation that deported veterans face because of the negative economic effects of being removed from the United States and having to seek

employment in a nation that many did not spend much time in. Deported veterans are mostly confined to low skill and low paying jobs once they are deported.

The fourth question specifically addresses PTSD as it is shown as a contributor to delinquency in veterans in general as discussed previously, and both responded that there are a high number of veterans at the homes whom also are reported to have PTSD. This finding lends itself to one of the issues which should be addressed within a legislative solution in regard to proper access to care for veterans diagnosed with PTSD. The fifth question revolves around VA care with Hector responding that deported veterans with service connected disabilities have access to care through the Foreign Medical Program. This fact represents a partial solution to those who are deported as the veterans without service connected disabilities will not be granted access.

Chapter 5 – Conclusions and Recommendations

Conclusions

In building support for a case to present legislation to halt and provide a second chance for citizenship to deported veterans, support for the legislation should come from members of the populace. Findings in the study reveal that veteran deportations are a relatively unknown phenomena. This lack of publicity is one of the primary reasons legislative solutions for veteran deportations have been few and far between. Without wide spread public support politicians find little reason to sponsor a solution through legislation. While the majority of veterans who were surveyed did not have any knowledge that veterans can be deported, a significant amount were aware of the issue but there is no evidence that any action was taken beyond acknowledging the issue. This is understandable as the issue is complicated and involves coordination with immigration authorities from both countries and thus would require substantial backing and resources to reach a feasible solution.

The findings which show the majority of those surveyed, served with a service member who has not attained citizenship, points to a veteran population that may have experience with issues that non-citizen service members face in gaining citizenship. This shared experience can lead to empathetic thoughts and attitudes toward the plight of deported veterans. These findings correlate with the service members support for a legislative solution, however, further research would need to be done to determine exact motivations for support as this correlation does not mean causation.

The majority of veterans surveyed did not believe veterans should be subject to deportation. The question in the survey was asked without any pre-conditions, such as level of

crime committed, to establish what the base level of support is for veterans being subject to deportation. This data was then compared to the data received with criminal pre-conditions and a determination was made that committing a crime plays a significant role in support for or against veterans being subject to deportation. The following question in the survey added the pre-condition of a misdemeanor level offense. The total number of respondents that voted “NO” remained the same for the misdemeanor level offense, however, the number of respondents that voted for a “case by case basis” increased. This finding reflects that misdemeanor offenses while much more palatable than more severe crimes, the particular type of misdemeanor crime will affect support for or against veterans being subject to deportation. Further research would need to be conducted to determine which misdemeanor crimes in particular would have an impact.

When the crime is a felony level offense a much larger percentage of the respondents answered “YES” to being subject to deportation, the “case by case basis” also greatly increased. A small percentage voted “NO”. This data reveals that if a veteran commits a felony level offense, the support for deportation increases dramatically. This outcome is not surprising given that felony level convictions involve conduct far outside of social norms. Felony level convictions also carry the stigma of placing the perpetrator in the category of “felon”. This felon status means revocation of rights even when applied to American citizens. This loss of rights is deemed an acceptable punishment for the commission of the more egregious acts which constitute a felony. According to the findings, when extended to veteran felons who aren’t citizens, deportation is an acceptable punishment. In developing policy or legislation, understanding acceptable levels of conduct is key to form a widely supported policy or bill. Committing felony level offenses can cause politicians to distance themselves from a legislative solution which would alleviate the burden of deportation.

The findings which address support for veterans who have been diagnosed with PTSD reflect that most would not want a veteran deported when the crime can be directly linked to PTSD. With respect to crimes committed, veterans who are diagnosed with PTSD have a higher rate of being convicted of criminal conduct. This strong correlation can be applied to veterans being subject to deportation. This is confirmed in the key informant interview with Hector Barajas, who stated that PTSD is a large factor “especially among combat veterans” and PTSD makes up a large percentage of veterans at the Deported Veteran Support House in Tijuana. Since there is demonstrated support, language within the bill could specifically address veterans that are diagnosed with PTSD and provide some leniency or access to benefits which could alleviate the veteran’s condition.

Linked to treatment of PTSD is having access to Veteran’s Affairs benefits. Most respondents believe that deported veterans should retain their earned VA benefits. This reflects an understanding that these benefits are granted upon honorable discharge and are not revoked even after the commission of felony offenses (although benefits can be restricted in some cases). These benefits are not currently revoked in the case of deported veterans, but access can be severely limited. According to Hector Barajas, deported veterans who have service connected disabilities can receive healthcare through the Foreign Medical Program. This program is designed to aid ex-pat veterans living in other countries. If a veteran does not have a service connected disability it can be close to impossible to get the treatment needed. The legislation put forward must address VA access as a whole and attempt to bring about a resolution to the issue.

Recommendations

In formulating recommendations for this issue, the survey has determined that there is strong support among veterans for a legislative solution. Starting advocacy groups made up of veterans and others with strong support for the legislation would set the foundation and tone moving forward. Educating and providing publicity on the issue should be the first step as constituents have great power in large numbers. Immigration in this country is in crisis and at the Federal level both Republicans and Democrats want some type of immigration reform. In the current unstable political immigration environment, an issue such as deported veterans can be amplified.

In order to ensure strong support for the bill, the proposed legislation would exclude felony level offenses, as most of those surveyed, support deportation if the veteran committed a felony. The proposed legislation will ensure that those diagnosed with PTSD are able to receive medical treatment through the Foreign Medical Program until processed back into the United States. The bill will stipulate that in immigration cases, veterans should be given automatic prosecutorial discretion unless a felony level offense has been committed. This discretion can be in the form of additional time for the veteran to get citizenship paperwork together to full dismissal of the case.

Judicial Consideration for Immigrant Veterans Act

Problem Recognition

The first step in the policy making process is problem recognition. This involves first identifying the problem and then accurately defining it. The problem of veteran deportations is an easily identifiable problem, also the effects of the problem on the targeted group is obvious from an economic perspective. Understanding the amount of support available to these deported veterans is a problem directly addressed by this research paper.

As established, citizenship is not automatically conferred on immigrant service members and this becomes especially problematic if the service member is not aware that they are not granted this automatically upon enlistment. While serving, immigrant veterans are susceptible to the same issues that other service members face, particularly PTSD. Upon discharge from their respective service, the immigrant veteran may run afoul of the law. At this point their non-citizen status becomes apparent to federal authorities. Veteran status plays little to no part in the decision to deport in the vast majority of deportation cases. The preceding research paper established through survey and first-hand interviews that support exists for a second chance for citizenship for veterans who are deported. The problem of veteran deportations stems directly from the passage of the Illegal Immigration and Immigrant Responsibility Act, in 1996. With the passage of this act, the number of deportable offenses greatly increased. The U.S. also does not keep track of the number of veterans it deports, so the true magnitude of the problem is mostly unknown.

Agenda Setting and Policy Formulation

Setting a proper agenda involves identifying specific issues to address within the problem and with policy formulation, provide possible solutions. There are several key issues surrounding the deportation of veterans. The first issue is that veterans must be properly educated on the process to become naturalized and/or citizens of the United States. This education should come in the form of the recruiter being absolutely up front about the citizenship status of those who enlist. Formal briefings should be conducted at recruit/basic training which further outlines the process for citizenship. This education should continue in the fleet where mandatory briefs will be conducted for individuals who have not yet attained citizenship within the unit. Programs such as Transitional Readiness Seminars (TRS) help to educate all veterans on the opportunities open to them in civilian life, this should go further for veterans who have not attained citizenship, which will encompass a specialized briefing which highlights the opportunities to become a citizen and to warn of the danger of deportation if they run afoul of the law. If the veteran is discharged prior to becoming a citizen or naturalized, the second issue is that committing a violation/crime puts the veteran in a position to be exposed to federal agencies. Once the crime is committed and Immigration and Customs Enforcement (ICE) are involved and the veteran status of the deportee has little to no bearing on the outcome of the deportation hearing. There should be a mechanism put in place that immediately identifies the deportee is a veteran at which point the process will be slowed or halted until further information is gathered on the veteran's service record and discharge status. The level of crime the veteran committed will be taken into account, misdemeanor offenses will immediately halt deportation and felony offenses will be examined on a case by case basis. If the veteran is deported, a statistical note should be made within federal databases that tracks all deportations so that the federal

government can track and try to prevent further deportations through means discussed above. Another huge issue for deported veterans as highlighted within this paper is the inability to access Veteran Affairs benefits. The complexity of this issue lies in the fact that the veteran is residing in a foreign nation and therefore formal interaction with a sovereign U.S. entity like the Veteran Affairs Administration, can be close to impossible. A possible solution is non-profit entities, as they can operate fluidly in both the host nation and the United States. A non-profit with close ties to the VA could provide direct assistance to deported veterans and act as a liaison between the deported veteran and the VA.

Policy Implementation

Purpose: The Judicial Consideration for Immigrant Veterans Act will amend the current practice of automatic deportation of individuals with demonstrated service to the country under honorable conditions.

Section I: Department of Defense (DOD) directive for the establishment of educational programs and specialized briefs at each stage of training and follow on duty assignment, in order to educate non-citizen service members of the opportunity to receive naturalization or citizenship.

Section II: Amendment to immigration policy which mandates deportation upon finding of guilt in criminal proceedings.

Section III: Federal judicial requirement for consideration in any case brought forward with a veteran defendant. The Judge will consider past honorable service along with the severity of criminal activity and then make a decision based on this information. PTSD diagnosis will also be part of overall consideration.

Section IV: Veteran Affairs partnership with non-profit entities to provide a liaison for veterans who are currently deported with PTSD being a heavy priority for the non-profit entity. These non-profit entities will give legal support and ensure that proper documentation is being submitted to immigration services and to the VA.

Section V: Requirement that U.S. Citizenship and Immigration Services (USCIS) gives priority and expedite handling of requests for citizenship in appeal hearings for veterans who have been deported. Section III requirements will apply to judges hearing these cases.

Section VI: Requirement that U.S. Customs and Border Protection (US CBP) keep statistical documentation on the number of veterans who are deported, regardless of discharge status. The department will also tally the total number of veterans re-admitted and subsequently granted citizenship, after being deported.

Policy Evaluation

The policy will be considered successful if the overall number of deported veterans decreases and the number of veterans re-admitted to the U.S. increases over a 10 year time span. This will be measured through the requirement set forth in Section VI.

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Appendix A

Survey Questions

1. Did you know that it is possible to deport immigrant veterans who served honorably in the U.S. Military?
2. Have you ever served with a service member who has not yet become a U.S. citizen?
3. Do you believe veterans who served honorably but have not yet attained citizenship, should be subject to deportation
4. If an immigrant veteran committed a crime that rises to misdemeanor level, does that veteran deserve deportation?
5. If an immigrant veteran committed a crime that rises to the level of felony (kidnapping, murder), does that service member deserve deportation?
6. Do you believe deportation should be the answer in cases where the crime can be directly linked to PTSD?
7. Do you believe service members should have access to the Veterans Affairs benefits they were promised for serving honorably, if in fact they are deported?
8. Would you support a bill designed to halt veteran deportation and/or give a second chance at U.S. citizenship for veterans who have been deported?

Interview Questions

1. Do you have an approximate number of total deported veterans that have come through the support house?
2. How did your case get the attention of the Governor and do you feel legislators are doing enough to address the issue of veteran deportations?
3. How is the transition for those that are deported? Do many struggle to find employment once back in Mexico?
4. Do you believe PTSD is a primary driver honorably discharged veterans committing crimes?
5. Deportations are not supposed to be able to disrupt VA benefits, but obviously it does, have any deported veterans been able to access VA services they were promised while at the deported veteran support house?