

FACTS ABOUT IMMIGRANT PARTICIPATION IN THE MILITARY

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There are many myths and misconceptions about immigrant participation in the United States military. Often, people do not know that a significant proportion of those who fight and die for our country were born in other countries. Others are unaware that nearly all categories of immigrants -- including the undocumented -- are required to register for the Selective Service, even though many categories are barred from military service. Here are the facts.

Marine Lance Cpl. José Gutiérrez was the first U.S. serviceman killed in combat in Iraq. Gutiérrez came to the U.S. from Guatemala as an undocumented teenager. His parents died during the Guatemalan civil war, and he lived on the streets and in a home for orphaned boys until he made his way to the U.S.. He attended high school and community college before he joined the Marines. He hoped to earn enough money to further his education and to continue to support his sister in Guatemala. Gutiérrez was shot and killed during a gun battle in Umm Kasr on March 21, 2003.¹

Diego Rincon received his citizenship posthumously at the age of 19. He came to the U.S. from Colombia and helped his father clean carpets before he joined the Army five months after the terrorist attack on the World Trade Center. He was killed during a suicide bombing attack in Iraq in March of 2003.²

Who may enlist?

Only United States citizens or lawful permanent residents (also known as “LPRs” or “green-card holders”) are eligible to enlist in any branch of the U.S. military.³ Those unable to enlist include undocumented immigrants, refugees, asylees, and persons lawfully admitted to the United States on a nonpermanent basis.

Who must register?

Most male immigrants ages 18 through 25 are required by federal law to register with the Selective Service System.⁴

- Almost all male U.S. citizens are required to register.

¹ See Jennifer Barrett, Citizenship Comes too Late for Some, *Newsweek*, Apr. 29, 2003; see also Simon Crittle, In Death, a Marine Gets His Life Wish, *Time*, Mar. 28, 2003, available at <http://www.time.com/time/nation/article/0,8599,438626,00.html>.

² Rachel L. Swarns, Aftershocks: Immigration; Allowing Those Who Fight for Their Country to Be a Part of It, *N.Y. Times*, May 7, 2003, at A20.

³ See 10 U.S.C.S. §§ 3253, 8253, 12102 (2004); see also United States Department of Defense, <http://www.defenselink.mil/faq/questions.html>.

⁴ See 50 U.S.C.S. Appx. § 453 (2004); see also Fast Facts: Who Must Register, <http://www.sss.gov/FSwho.htm>



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- Most male noncitizens are also required to register unless they hold diplomatic, student, or tourist visas. This means that lawful permanent residents, refugees, asylees, and undocumented immigrants are all required to register even though some are not permitted to enlist.

Fighting and Dying for Our Country

There are many foreign-born and noncitizen members of the armed forces today.

Of the U.S. members of the military killed in the Iraqi war, about one in every ten was foreign-born.⁵

Throughout our history, immigrants have distinguished themselves in the military. Immigrants have received 716 of the 3,406 (more than 20 percent) Congressional Medals of Honor awarded by the President.⁶

As of April, 2003:

- There were 68,826 foreign-born persons serving in the United States armed forces -- almost 5 percent of those serving. These individuals served in every branch of the military.⁷
- About half of those serving in the armed services are naturalized citizens. The other half have not yet become citizens.⁸

Military Service and Eligibility for Citizenship

In general, an immigrant must wait at least five years after being granted lawful permanent residence status to become a naturalized U.S. citizen. But noncitizens who serve in the United States armed forces may apply for citizenship under special provisions of the Immigration and Nationality Act that reduce the waiting period and provide other benefits to noncitizen military personnel and recent veterans.

- During times of peace, lawful permanent residents may apply for naturalization after one year of honorable service in the armed forces. They must file their applications while still in service or within six months of termination of service.⁹

⁵ Barrett, *supra* note 1.

⁶ U.S. Soldiers from Around the World, **Am. Immigr. L. Found.**, Mar., 2003, available at http://www.aifl.org/ipc/policy_reports_2003_pr001_soldier.asp.

⁷ Elizabeth Grieco, **The Foreign Born in the Armed Forces**, **Migration Pol'y Inst.**, July 1, 2003, available at <http://www.migrationinformation.org>.

⁸ *Id.*

⁹ 8 U.S.C.S. § 1439 (2004).

- During authorized periods of conflict -- including the period from September 11, 2001 until the present -- military personnel may apply for naturalization without *any* waiting period if they were physically present in the United States or a qualifying territory at the time of enlistment or if they meet certain other requirements.¹⁰
- The Armed Forces Naturalization Act of 2003, passed by Congress, allows the spouses, children, and certain parents of U.S. citizens who die during military service, and of noncitizens granted posthumous citizenship, to apply for immigration benefits as though the service member had not died. In addition, the Act provides that, starting in October of 2004, servicemembers will have their naturalization application fee waived and will be able to apply while abroad through embassies, consulates, and military installations.

More than 13,000 members of the armed forces have applied for citizenship since July of 2002, when the President signed the Executive Order designating the current period as a period of conflict.¹¹

¹⁰ 8 U.S.C.S. § 1440 (2004); Exec. Order No. 13,269, 67 Fed. Reg. 45, 287 (July 3, 2002).

¹¹ Leonel Sanchez, New U.S. Citizens Greeted by Governor, **San Diego Union Trib.**, Jan. 31, 2004, at B1,4.