

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

February 18, 2026

Senator Elizabeth Warren
United States Senate
Washington, DC 20510

Dear Senator Warren:

Thank you for your September 2, 2025 letter to the Department of Homeland Security (DHS).

On April 10, 2025, U.S. Immigration and Customs Enforcement (ICE) issued ICE Policy Memorandum 10039.3, *Consideration of U.S. Military Service During Civil Immigration Enforcement Actions*.¹ ICE values the contributions of all those who have served in the U.S. military; however, U.S. military service alone does not automatically exempt aliens from the consequences of violating U.S. immigration laws.

ICE Enforcement and Removal Operations (ERO) protects the homeland through the arrest and removal of aliens who undermine the safety of U.S. communities and the integrity of U.S. immigration laws. As part of this mission, ERO officers use a range of law enforcement and intelligence techniques to identify aliens who are removable from the United States.

ERO arrests aliens for administrative and criminal violations of U.S. laws within the interior of the United States. In certain instances, this may include former members of the U.S. Armed Forces, or family member(s) of an alien veteran of the U.S. Armed Forces, whom ERO has reason to believe are in the country illegally or have committed certain criminal offenses that render the individual removable.

While it is possible that aliens who are lawfully in the United States and actively serving in the military could be convicted of a crime of moral turpitude that results in loss of status and renders them removable from the United States, this is rare and such individuals would first go through an appropriate legal process. Please note that ICE does not statistically track active alien service members.

ICE provides data on its public-facing website,² to include how many former members of the U.S. Armed Forces were arrested, booked into custody, and removed.

¹ <https://www.ice.gov/doclib/foia/policy/10039-3.pdf>

² <https://www.ice.gov/detain/detention-management>

Regarding your question about how many alien service members have been arrested, detained, and/or placed in removal proceedings, ICE arrested 125 aliens who were former members of the U.S. Armed Forces between January 20, 2025, and January 26, 2026. Of the 125 arrested aliens, 73 were placed in detention and 34 were placed in removal proceedings. ICE notes that 46 of the 125 aliens had active criminal warrants when they were arrested.

You also ask about immediate family members of service members who are aliens and have been arrested, detained, and/or placed in removal proceedings. ICE does not track that data point; however, ICE can provide that from January 20, 2025, to January 26, 2026, a total of 282 aliens comprised of both former members of the U.S. Armed Forces and their immediate family members, were placed into removal proceedings.

U.S. Citizenship and Immigration Services (USCIS) issued 113 Notices to Appear to immediate relatives of former members of the U.S. Armed Forces whose requests for military parole in place were denied by USCIS, placing these aliens into Section 240 removal proceedings. Denials of immigration benefit requests filed on behalf of immediate relatives of former members of the U.S. Armed Forces stem from various disqualifying factors, such as a sponsor's dishonorable military discharge or failure to prove a legitimate or bona fide relationship. Further denials were triggered by family members possessing criminal records posing public safety risks, including aggravated felonies outlined in 8 U.S.C. § 1101(a)(43).

Additionally, DHS offers the Immigrant Military Members and Veterans Initiative which is available to certain current and former alien military service members (who did not receive a dishonorable discharge) and their qualifying family members. This initiative provides those who qualify with certain benefits, including the opportunity to apply for parole into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act.

As part of the USCIS's Notice to Appear process, officers must initiate or complete the following checks, subject to age restrictions, before issuing a Notice to Appear: Federal Bureau of Investigation (FBI) fingerprint checks; FBI National Crime Information Center checks; FBI name checks; alien change of address checks; and departure-related systems checks intended to determine whether an alien departed the United States, such as Arrival and Departure Information System checks. These checks are the baseline requirements for USCIS screening and vetting immediately preceding the issuance of a Notice to Appear. Furthermore, the security checks required for Notice to Appear issuance are in addition to any security checks that may be required by USCIS for adjudication of an application, petition, or benefit request.

With respect to current and former military service members and their families, ICE refers to the aforementioned Policy Memorandum 10039.3, Consideration of U.S. Military Service During Civil Immigration Enforcement, signed April 10, 2025, for determining whether to issue a Notice to Appear.³ USCIS generally issues a Notice to Appear in the circumstances detailed in the policy memorandum, Issuance of Notices to Appear (NTAs) in Cases Involving

³ ICE Directive 100392.2, [Consideration of U.S. Military Service When Making Discretionary Determinations with Regard to Enforcement Actions Against Noncitizens](#), issued May 23, 2022, was rescinded and superseded by [ICE Directive 10039.3](#).

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Inadmissible and Deportable Aliens, issued on February 28, 2025.⁴ Prior military service may be considered a factor when USCIS exercises prosecutorial discretion in determining to issue a Notice to Appear. USCIS may refer aliens to ICE for enforcement action when USCIS is unable to place an alien in removal proceedings or in cases that warrant immediate enforcement action due to national security or public safety concerns.

DHS defers to our partners at the Department of War to provide responses to the remaining questions in your letter.

Thank you again for your letter. Should you like to discuss this matter further, please contact the DHS Office of Legislative Affairs at [REDACTED].

Sincerely,



Kristi Noem
Secretary of Homeland Security

⁴ See [Issuance of Notices to Appear \(NTAs\) in Cases Involving Inadmissible and Deportable Aliens](#), PM-62-0187, issued February 28, 2025.

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