

SERVICEMEMBERS AND VETERANS INITIATIVE ACT OF
2020

DECEMBER 7, 2020.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 8354]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8354) to establish the Servicemembers and Veterans Initiative within the Civil Rights Division of the Department of Justice, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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Purpose and Summary

H.R. 8354, the “Servicemembers and Veterans Initiative Act of 2020,” is a bipartisan bill that would permanently establish the Servicemembers and Veterans Initiative (SVI) within the Department of Justice’s (DOJ) Civil Rights Division. The Servicemembers and Veterans Initiative Act details SVI’s responsibilities to promote the legal interests of servicemembers, veterans, and their families within the Department of Justice. Among the responsibilities of the

SVI would be to make policy on behalf of the Attorney General on legal issues that impact servicemembers, veterans, and their families and appoint a liaison to the Assistant Attorney General for the Criminal Division to coordinate Federal prosecutions involving cases of fraud against servicemembers.

SVI currently has no formal statutory authorization. Its existence, placement within DOJ, and assignment of personnel has changed a number of times since DOJ initiated the effort. Presently, SVI draws on personnel from multiple Civil Rights Division sections, as well as from the Office of Justice Programs. SVI and DOJ's efforts to protect servicemembers, veterans, and their families have been successful and should become a permanent element of the Civil Rights Division. Doing this will provide for the permanent assignment of personnel. Having an element within DOJ that can serve as the primary representative to the Department of Defense and provide recommendations to the Attorney General on policy or legal changes would significantly enhance the federal government's efforts to protect servicemembers.

Background and Need for the Legislation

Over the past decade, DOJ has focused attention and resources on a number of efforts to defend the legal interests of military servicemembers, veterans, and their families. Under current DOJ regulation and policy, the SVI has three general missions—to provide policy recommendations to the Attorney General; to represent DOJ on servicemember and veterans issues; and to enforce a series of applicable laws, including the Uniformed Services Employment and Reemployment Rights Act (USERRA),¹ the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA),² the Servicemembers Civil Relief Act (SCRA),³ and the Military Lending Act (MLA).^{4,5} On the laws it enforces, the SVI offers legal information through outreach, training, and educational events for military members, veterans, and legal practitioners.⁶

The SVI also assists with the identification of resources for legal assistance, and maintains a website (accessible at servicemembers.gov), which serves as an online tool for servicemembers and veterans to access information about their legal rights and available benefits. On its website, the Initiative allows servicemembers to submit queries or complaint forms directly to DOJ regarding USERRA-, UOCAVA-, and SCRA-related rights. On a regular basis, the SVI initiates or intervenes on behalf of servicemembers and veterans who are victims of fraud.⁷

¹The Uniformed Services Employment & Reemployment Rights Act, Pub. L. 103–353 (Oct. 13, 1994), *codified at* 38 U.S.C. § 4301 *et seq.* (2018).

²The Uniformed & Overseas Citizens Absentee Voting Act, Pub. L. 99–410 (Aug. 28, 1986), *codified at* 42 U.S.C. §§ 1973ff–6, 39 U.S.C. § 3406, 18 U.S.C. §§ 608–609 (2018).

³Soldiers' & Sailors' Relief Act, 54 Stat. 1178 (Oct. 17, 1940), *codified at* 50 U.S.C. § 3901 *et seq.* (2018).

⁴Military Lending Act of 2007, *codified at* 10 U.S.C. § 987 *et seq.* (2018).

⁵Dep't of Jus., *About the Initiative*, <https://www.justice.gov/servicemembers/about-initiative> (last visited Sep. 26, 2020).

⁶See Erin Rogers, *Delery visits Hood, Discusses New Initiative*, Ft. Hood Sentinel (Dec. 22, 2015), http://www.forthoodsentinel.com/news/delery-visits-hood-discusses-new-initiative/article_0ae748cc-5361-51d7-8348-646f02e33066.html.

⁷See Dep't Just., Off. Pub. Affairs, *Justice Department Obtains \$20,000 Settlement Against Tampa, Florida Towing Company for Unlawfully Selling Deployed Servicemember's Car* (Sep. 20, 2020), <https://www.justice.gov/opa/pr/justice-department-obtains-20000-settlement-against-tampa-florida-towing-company-unlawfully>.

A. BACKGROUND ON THE SERVICEMEMBERS AND VETERANS INITIATIVE

In the final months of his tenure, in December of 2014, Attorney General Eric Holder established the Servicemembers and Veterans Initiative.⁸ At the outset, the Servicemembers and Veterans Initiative was a program within the Office of the Associate Attorney General and primarily used personnel from the Office of Justice Programs and the Civil Rights Division to carry out its mission of supporting servicemembers, veterans, and their families. In its first six months, the Initiative convened a meeting with the Judge Advocates General of each military service branch and civilian leaders from nearly all the Cabinet departments to spotlight cases of fraud targeting servicemembers and veterans as victims.

Under Attorney General Loretta Lynch, the Initiative became an independent component of DOJ and began enforcing USERRA, UOCAVA, SCRA, and the Military Lending Act (MLA). In his first year, Attorney General Jeff Sessions moved SVI into the Civil Rights Division. Moving SVI to the Civil Rights Division placed the Initiative in the Division from which most of its personnel were detailed from, but it severed its direct link to the Deputy Attorney General, who has responsibility over the criminal elements of DOJ.

B. FRAUD INVOLVING SERVICEMEMBERS

Unfortunately, fraudulent schemes targeting military servicemembers, veterans, and their families remain pervasive. The number of fraud cases in which servicemembers and veterans have been victimized is staggering. Between 2015 and 2019, the Federal Trade Commission (FTC) received over 163,000 reports of fraud involving military retirees and veterans, and over 12,000 reports of fraud from active duty servicemembers.⁹ In 2019, the FTC found that the median loss to servicemembers and veterans due to fraud was significantly higher than losses to their civilian counterparts. While the median loss in fraud cases reported by civilians was \$658, the median loss for active duty servicemembers was \$775, and for military retirees and veterans, it went up to a shameful \$950 (an amount 70% higher than the loss to civilians).¹⁰ One report identified victims that were defrauded of up to \$41,500.¹¹ In another matter, John Bash, the U.S. Attorney for the Western District of Texas, referred to the scheme as “the largest criminal case ever involving identity theft of military affiliated personnel.”¹²

In recent years, much of the attention on fraud targeting servicemembers has focused on the provision of military housing by private owners.¹³ Recent reports of substandard housing at Fort

⁸Military.com, *Justice Department Announces Legal Support for Military Communities* (Nov. 2, 2016), <https://www.military.com/benefits/2016/11/02/scra-expansion-program-announced-by-justice-dept.html>.

⁹Carol Kando-Pineda, *Veterans, Servicemembers, and Fraud: By the Numbers*, FTC (Nov. 18, 2019), <https://www.consumer.ftc.gov/blog/2019/11/veterans-servicemembers-and-fraud-numbers>.

¹⁰*Id.*

¹¹Neil Vigdor, *5 Indicted in Identity Theft Scheme That Biked Millions From Veterans*, N.Y. Times (Aug. 23, 2019), <https://www.nytimes.com/2019/08/21/us/military-identity-theft-scheme.html>.

¹²*Id.*

¹³Reuters, *Ambushed at Home: The Hazardous, Squalid Housing of American Military Families*. <https://www.reuters.com/investigates/section/usa-military/>.

Meade, Maryland, garnered national attention.¹⁴ In 2019, a number of military families filed a class action lawsuit alleging that housing provided to servicemembers by private contractors contained, among other things, moldy walls and rotting beams, causing detrimental financial and health problems for residents.¹⁵ Just in the past few years, similar cases have been identified in Texas and Oklahoma.¹⁶ Some of these complaints include the falsification of maintenance records and attempts to hide or misrepresent the detrimental living conditions at homes leased to military servicemembers and their families.¹⁷

The SCRA, which in the modern era has been used to protect National Guard and Reserve servicemembers called to active duty, has also been a means for DOJ to bring civil claims. In 2018, the DOJ filed a complaint against BMW Financial Services, N.A. (“BMW”) for violating the SCRA by failing to refund up-front lease payments to 492 servicemembers who lawfully terminated their motor vehicle leases.¹⁸ The same day the complaint was filed, BMW entered into a settlement agreement, requiring the company to deposit over \$2 million into an escrow account for the purpose of compensating the servicemembers whose rights were violated under the SCRA.¹⁹ This is just one of dozens of civil actions the DOJ has filed, through the SVI, to address allegations of fraud against servicemembers.

Hearings

The Committee has not had any hearings on the SVI or related topics.

Committee Consideration

On September 29, 2020, the Committee met in open session and ordered the bill, H.R. 5053, favorably reported, by a voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no recorded votes occurred during the Committee’s consideration of H.R. 8354. The bill was favorably reported by a voice vote.

¹⁴ Aaron Gregg, *Military Families Decry ‘Outrageous’ Mold-Infested Housing at Fort Meade*, Wash. Post (Nov. 13, 2019), <https://www.washingtonpost.com/business/2019/11/12/military-families-decry-outrageous-mold-infested-housing-fort-meade/>.

¹⁵ Joshua Schneyer, *U.S. Army Vows to Fix ‘Broken’ Housing at Fort Meade in Wake of Reuters Report*, Reuters (Jan. 17, 2019), <https://www.reuters.com/article/us-usa-military-meade/u-s-army-vows-to-fix-broken-housing-at-fort-meade-in-wake-of-reuters-report-idUSKCN1PB140>.

¹⁶ CBS News, *Military Housing Contractor Ignored Dangerous Filth & Mised Air Force, Investigation Shows*, (Jun. 18, 2019), <https://www.cbsnews.com/news/balfour-beatty-mold-ant-infestations-and-leaks-inside-homes-managed-by-one-of-the-militarys-largest-housing/>.

¹⁷ CBS News, *Military Housing Company Allegedly Falsified Records as Families Lived with Roaches and Black Mold* (Nov. 20, 2019), <https://www.cbsnews.com/news/balfour-beatty-falsified-maintenance-records-as-military-families-lived-with-roaches-black-mold-former-employee/>.

¹⁸ *United States v. BMW Financial Services, N.A., L.L.C.* (D.N.J.), Civ. No. 2:18-cv-02495 (2018).

¹⁹ SVI, Dep’t of Just., Independence Day Message from the Servicemembers and Veterans Initiative, <https://www.justice.gov/file/1077511/download> (last visited Sep. 26, 2020).

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office (CBO). The Committee has requested but not received from the Director of the CBO a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

Duplication of Federal Programs

H.R. 8354 simply provides formal authorization to an existing office that does not have statutory authorization. This legislation is not otherwise duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5053 does not have any performance goals or measures.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 8354 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the “Servicemembers and Veterans Initiative Act of 2020.”

Sec. 2. Servicemembers and Veterans Initiative

(a) Establishment. This subsection provides for the establishment of the Servicemembers and Veterans Initiative within the Civil Rights Division of the Department of Justice.

(b) *Duties.* This subsection details the purpose and functions of the Servicemembers and Veterans Initiative. It would:

(1) serve as legal and policy advisor to the Attorney General on issues related to the Department of Justice's enforcement of criminal and civil laws that impact military servicemembers, veterans, and their families;

(2) create and provide policy recommendations for the Attorney General related to the improvement of support for servicemembers, veterans, and their families through Federal law enforcement;

(3) serve as the liaison and point of contact between the Department of Justice and military departments;

(4) serve as a counselor to the Assistant Attorney General for the Office of Justice Programs to represent the interests of servicemembers, veterans, and their families in funding decisions;

(5) consult with the relevant components and personnel in the Department of Justice for the promotion of civil legal aid provisions to servicemembers, veterans, and their families;

(6) serve as a liaison to the Assistant Attorney General for the Criminal Division and coordinate Federal prosecutions involving cases of fraud against servicemembers; and

(7) enforce other Federal laws deemed relevant by the Attorney General for the protection of servicemembers and veterans.