



**Homeland
Security**

January 18, 2021

MEMORANDUM FOR

Sharon Block
Official Performing the Delegated Duties of Administrator,
OIRA
Office of Information and Regulatory Affairs
Office of Management and Budget

THROUGH:

Eric Hysen
Chief Information Officer
Department of Homeland Security

FROM:

Debra Rogers
Director
Immigrant Military Members and Veterans Initiative
Office of the Secretary
Department of Homeland Security

SUBJECT: Immigrant Military Members and Veterans Webform Application

This memorandum requests an emergency approval for the collection of information under the Paperwork Reduction Act (PRA) for the Department of Homeland Security (DHS), Immigrant Military Members and Veterans Initiative (IMMVI) Veteran's Webform. The Webform will assist DHS in facilitating the return of non-citizen current and former members of the United States Military and their families who have unjustly been removed from the United States. These individuals are commonly known as "deported veterans". The veteran population that this project would serve is a portion of the public that can accurately be viewed as at particularly high risk for many health and social welfare issues.

As discussed in greater detail below, use of normal PRA clearance procedures resulting in delay of this project would be reasonably likely to result in public harm resulting in real world and potentially far-reaching consequences. Without access to benefits from Veterans Affairs (VA) that will only become available through the successful identification of "deported veterans" through this information collection, this population can become susceptible to a variety of negative health outcomes. Additionally, not returning to the United States limits their access to the U.S. legal system. This preventable result is even more tragic if the underlying health conditions are the direct result of honorable service to our Nation and need for legal justice derives from their desire to share in the services that we traditionally provide to our veterans honoring that service. Moreover, the effect of further delay on the larger population (tens of thousands) of noncitizens currently serving in our military and witnessing the treatment of these veterans is nebulous but could hardly be deemed positive for our national security (i.e., military

morale and recruitment issues are probable, especially for service members concerned about the immigration status of immediate family members unjustly removed from the country who are also targeted by the program supported through this information collection request).

Background

On February 2, 2021, President Biden signed Executive Order 14012 (E.O. 12012), *Restoring Faith in Our Legal Immigration Systems and Strengthen Integration and Inclusion Efforts for New Americans*. In response to E.O. 14012, on July 2, 2021, the Secretaries of DHS and the VA announced a joint initiative, the Immigrant Military Members and Veterans Initiative (IMMVI), to support our Nation's noncitizen service members, veterans, and their immediate family members and directed their departments to identify and prioritize the return of military service members, veterans, and their immediate family members who were unjustly removed from the United States and ensure they receive the benefits to which they may be entitled.¹

In recognition of the profound commitment and sacrifice that current and former military service members and their families have made to the United States of America, the U.S. Department of Homeland Security (DHS) will accept and consider, on a case-by-case basis, parole requests from noncitizen service members, veterans and their family members who are outside the United States under section 212(d)(5) of the Immigration and Nationality Act (INA) so that they may return to the United States to better avail themselves of U.S. legal counsel and systems and gain access to certain veterans' benefits, such as critical medical care. DHS is implementing a Department-wide and interagency approach to reviewing requests from previously removed noncitizen service members, veterans, and their family members to support humane and consistent outcomes.

To carry out the goals of IMMVI, DHS is proposing this new data collection to offer current and former military members and their families an opportunity and process to seek immediate assistance from DHS. The purpose of this information collection is to achieve efficiencies in making contact with these individuals, better understand their needs, and track and report the number and type of inquiries received. This information will assist DHS in improving access to the US immigration and legal system, VA benefits and critical medical services. DHS plans to collect relevant information to provide assistance at the point the individual submits this information on the new webform and will track the inquiry to final resolution. The information collected through this public facing webform will be voluntarily provided by the users.

The new Webform hosted on dhs.gov will be established to allow for "deported veterans" to submit the necessary information to make contact with the government to seek assistance. The information to be collected for self-disclosure would include: A-Number, Name, Date of Birth, Country of Birth, Country of Citizenship, Proof of Military Service, Address, Reason for Requesting Assistance, Name and Contact Information of Representative, if applicable. This information will be voluntarily provided by individuals seeking assistance from the government.

¹ DHS Press Release, "DHS, VA Announce Initiative to Support Noncitizen Service Members, Veterans, and Immediate Family Members," (Jul. 2, 2021) <https://www.dhs.gov/news/2021/07/02/dhs-va-announce-initiative-support-noncitizen-service-members-veterans-and-immediate> (accessed Jan. 14, 2022).

This will be a public facing Webform that allows individuals to submit this information and receive DHS support throughout the entire process. All information related to the individual's request and actions taken by the government will be captured in a DHS case management system for tracking purposes and appropriate follow through and action.

1. Public Harm is Reasonably Likely to Result if Normal Clearance Procedures are Followed.

Public harm is very likely to result if this information is not immediately collected. Failure to have a platform for individuals to self-identify, and to collect their inquiries, will cause delays and inefficiencies in reviewing and responding to requests. The needs of this population are many, from the need for urgent life-saving medical care to access the U.S. legal system to pursue of naturalization and other immigration and legal services. The unique circumstances of each veteran's case require extensive inter-governmental coordination and significant engagement with the veteran or their attorney. Experience demonstrates that this effort will require the participation of at least four agencies. (DHS, DoD, VA, and DOJ) The need to bring multiple agency partners together for a common effort often delays the provision of services to the target population. Following normal PRA clearance procedures could result in delays in any needed health interventions and other extremely negative outcomes for this target population, immediate family members of military personnel, the morale of their military colleagues of "deported veterans" and veteran support community organizations, and even current military personnel with immediate family members unjustly removed from the country experiencing the wait for paperwork to catch up with actual need while engaged in active service. On this last point in particular: placing immediate family members of active-duty personnel in limbo to comply with normal PRA procedures would almost certainly create public harm to the morale of the military.

The Webform and back-end case management system will provide DHS with the tools needed to carefully track the progress of each case. DHS does not presently have a clear process to identify the population of "deported veterans" or track these complex cases and currently relies on the veterans themselves or their advocates to proactively engage with DHS.² While IMMVI did create a dedicated email to assist current and former members of the United States Military and their families who seek return to the United States, it is not widely known and is an inefficient way to manage and track cases. If these individuals are not connected to veteran's support organizations or have legal counsel, they may not know how to seek assistance from DHS. Having this Webform will increase public access and awareness and allow DHS to closely monitor the requests for assistance from receipt to resolution. It will also allow DHS to prioritize and closely monitor urgent cases where veterans, their family members, or the immediate family of active-duty personnel are experiencing a life-threatening health issue or are in high risk living situation.

The Webform will provide an opportunity for DHS to connect veterans, their families, and immediate family of active-duty personnel to accredited legal and social services, veterans' benefits experts and U.S. immigration and legal resources. Many veterans who have been removed from the United States live in poverty, are homeless or are isolated from their families

² GAO Report, "Immigration Enforcement, Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans," GAO-19-416 (Jun 2019) <https://www.gao.gov/pdf/product/699549> (accessed Jan. 14, 2022).

and communities. Based upon the experience of these veterans, it is reasonable to assume that similar hardships face immediate family members of veterans and active-duty military personnel as well if they are removed.³

The impact of this situation is not limited to a small population of veterans and immediate family members of veterans and active-duty military personnel. A Government Accountability Report from June 2019 (Immigration Enforcement: *Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans*) cited Department of Defense data to note that between fiscal years 2013 and 2018, more than 44,000 noncitizens enlisted in the military.⁴ As also noted in the same report, this number represents the continuation of an historical trend of noncitizens serving with honor in our Nation's armed services. Delay in addressing the problem of deporting veterans who served in our military has resulted in a spate of understandably negative news stories about these veterans feeling abandoned by their country (see e.g., Maria Ines Zamudio, "Deported U.S. Veterans Feel Abandoned by the Country They Defended", National Public Radio, June 21, 2019 and other news reports).⁵ Furthermore, the impact of adding additional burdens to active-duty military service members concerned about the welfare of their immediate family after removal creates an obvious public harm that the country should remedy without delay.

In sum, the "deported veterans" issue raises the possibility of creating additional public harm to the United States Armed Forces in terms of morale for the larger noncitizen population currently serving or the sizable number of veterans and immediate family members connected to these issues if the government takes several months to follow through on the President's promise to assist this population. Finally, lack of an immediate remedy through this information collection could result in recruitment challenges among this population that currently provides tens of thousands of persons to serve our country or an even larger population eschewing a military career to help immediate family members unjustly removed from the country.

2. Information is Essential to the Mission of the Agency

As already discussed, there is no uniform way for DHS to receive inquiries from non-citizen current and former members of the United States Military and their families who have been removed from the United States. This has caused inconsistent support and public confusion on

³ ACLU Southern California Website, "Discharged, then Discarded" (Jul. 7, 2016) <https://www.aclusocal.org/en/publications/discharged-then-discarded> (accessed Jan. 14, 2022).

⁴ GAO Report, "Immigration Enforcement, Actions Needed to Better Handle, Identify, and Track Cases Involving Veterans," GAO-19-416 (Jun 2019) <https://www.gao.gov/pdf/product/699549> (accessed Jan. 14, 2022).

⁵ *Military Times*, "Fighting on All Fronts!: Deported US Veterans Cautiously Optimistic Biden Will Bring Them Home," (Apr. 10, 2021) <https://www.military.com/daily-news/2021/04/10/fighting-all-fronts-deported-us-veterans-cautiously-optimistic-biden-will-bring-them-home.html> (accessed Jan. 14, 2022); *ABC7-Los Angeles*, "Lawmakers meet with deported veterans in Tijuana, Mexico," (Jun. 6, 2017) <https://abc7.com/compton-veteran-deported-veterans-support-house-democrats-congress/2067673/> (accessed Jan. 14, 2022); *NYTimes*, "Deported Veterans Long to Return From Exile. Some Will Get the Chance.," (Jul. 26, 2021) <https://www.nytimes.com/2021/07/26/us/deported-immigrants-us-veterans.html> (accessed Jan. 14, 2022).

how to seek assistance. It is vital that the DHS implement the information collection, as soon as possible, to make contact and to start assisting “deported veterans” and the immediate family members of active-duty military personnel if the government seeks to avoid further public harm.

In the case of the “deported veterans” that this information collection would allow DHS to serve, the situation can be especially dire. Throughout U.S. history, noncitizens have honorably served in the U.S. Armed Forces. Although most noncitizen service members are eligible to apply for naturalization, some may not have applied for naturalization or may have been denied naturalization and became subject to administrative immigration enforcement and removal due to several possible factors. Allowing certain individuals to return to the United States to apply for and fully access these benefits will yield a significant public benefit by fulfilling our obligation to support the men and women who defend our Nation and to care for them and their families.

Due to their service, “deported veterans” are particularly at risk if the Department cannot collect this information under its immigration mission. Military personnel are commonly exposed to health-harming conditions during their service, resulting in higher rates of physical and mental health conditions compared with the general population. Studies have shown that military veterans report higher rates of many health conditions compared with the general population, including physical health symptoms (e.g., pain, fatigue), chronic conditions (e.g., diabetes), mental health disorders (e.g., post-traumatic stress disorder [PTSD], depression) and harmful substance use. In many cases, barring a former service member from entering the United States limits their access to VA health services to which they may otherwise be entitled. Availability of and access to healthcare while living outside of the United States may be limited for reasons including barriers to enrolling in public insurance plans, challenges navigating unfamiliar health systems, and stigma and discrimination towards deported former service members. Additionally, quality of available care may be sub-optimal due to limited expertise in service-related health issues and lack of evidence-based treatment for some health conditions (e.g., substance abuse/dependence).⁶ As the Nation’s foremost government agency in the immigration arena, DHS has a special role to play in immediately stopping or mitigating these outcomes through the proposed program that will rely upon this information collection.

A consideration of parole for noncitizen current and former military service members generally would provide a significant public benefit to the United States by recognizing the profound commitment and sacrifice that military service members and their families have made to the United States. This action promotes family unity among military service members and assists former military service members who may be eligible for naturalization or other immigration benefits or post-conviction relief. In certain cases, there may be an urgent reason to permit former service members to return to the United States to receive critical, life-saving medical treatment at a VA health facility, including care for physical and mental health conditions arising from their service, that may only be available in the United States.

3. Paperwork Reduction Act Timeframes

⁶ Horyniak D, Bojorquez I, Armenta RF, Davidson PJ. Deportation of non-citizen military veterans: A critical analysis of implications for the right to health. *Glob Public Health*. 2018 Oct;13(10):1369-1381. doi: 10.1080/17441692.2017.1413123. Epub 2017 Dec 15. PMID: 29243564; PMCID: PMC6561474.

The Immigrant Military Members and Veterans Initiative has been tasked by the DHS Secretary and the VA Secretary to provide better access to current and former members of the United States Military and their families who seek return to the United States. Through the initiative's public engagement efforts, DHS has found that many veterans who are living outside the United States have an urgent, time-sensitive need to return for reasons described above. Since IMMVI was announced veteran support groups and advocates have formed a coalition in support of "deported veterans" and began sharing information on individuals who are in need of immediate DHS and VA assistance. As of December 2021, the coalition identified over 200 current and former members of the US military in need of immediate assistance. This number does not include immediate family members. These veterans are already connected with legal advocates and veteran support groups.

There are many more veterans in need of assistance that have not been identified. The veterans, and the community and legal organizations that support them, are eagerly awaiting the launch of the Webform to have their cases reviewed by DHS. Delaying implementation of this important information collection until after DHS has completed the PRA process would delay critical, life-changing support and erode public confidence in DHS's commitment to provide support for current and former US military members and their families. Put another way, when weighing the paperwork burden imposed upon the population that will actually be filling out the Webform against negative health outcomes for "deported veterans", morale issues concerning removal of immediate family members among active-duty military personnel, and intangible negative impacts for morale and recruitment for the military as a whole, the balance should be in favor of mitigating these public harms. There is a reason why the PRA allows OMB to grant emergency clearance when "public harm is reasonably likely to result if normal clearance procedures are followed" and the rationale for the exception clearly applies to the immediate need for this information collection.

While the initiative was launched in July 2021, an appropriate technical solution for IMMVI was not identified until November 2021. From August 2021 through October 2021, DHS was in discussions and engaged in discovery sessions with the DHS CIO, USCIS IMMVI Technical leads, and stakeholders to consider the best, most expeditious, solution to serve these veterans and their families. The design and development effort for this project began just before the Thanksgiving holidays with an 8-week timeline for delivery. The entire team -- DHS, USCIS, and the vendor -- have been on an accelerated timeline to launch the project by January 28th, 2022. This includes confirming the information needed for the collection, understanding the capabilities and limits of the system being used, completing user acceptance testing, and fulfilling the requirements for the PRA and Privacy.

The DHS team are submitting this emergency request with the details for the collection confirmed. We appreciate OIRA's response to this accelerated timeline for delivery and approving the emergency request.

4. Conclusion

This request for an emergency approval for the collection of new information to successfully assist current and former U.S. service members and their families is in the public interest given the profound commitment and sacrifice these service members and their families have made in support of our Nation and their urgent need for support.

As Director of the Immigrant Military Members and Veterans Initiative, I certify that this request meets the requirements of 5 C.F.R 1320.13(a) and it is vital that this new collection of information be implemented immediately because: (1) this information is essential to the mission of the Agency, (2) this information is necessary prior to the timeframes established under the PRA, and (3) public harm will result if normal clearance procedures are followed.

Thank you for your consideration.

Upon approval and after implementation of the information collection process, DHS will address public comments as necessary under the normal PRA approval process.