

**The Office of Servicemember Affairs at the Consumer
Financial Protection Bureau:
The Twenty-Ninth Charles L. Decker Lecture in
Administrative and Civil Law¹**

*Hollister (Holly) K. Petraeus**

Thank you, Colonel Ohlweiler. Good morning, everyone. It's great to be here in Charlottesville. This is actually my first visit here and to have a chance to tell you, all of you, about setting up the Office of Servicemember Affairs at the new Consumer Financial Protection Bureau. I'd like to thank Major Brooker for recommending me for this honor and Colonel Diner for inviting me to be here today. I was very honored to be asked. And thank you, General Miller, for hosting this great event.

I appreciate all everyone in this room and everyone who's listening out there does to help our servicemembers with both professional and personal legal issues. Up front I have to confess I was more than a little surprised to be asked to give a named lecture in Civil and Administrative Law. My first thought was definitely they do realize I'm not a lawyer and I did not stay at a Holiday Inn Express last night either **[laughter]**. I have to say I am working with so many lawyers now at the CFPB that I am quickly becoming one by osmosis so I hope that counts for something. And just a fun little factoid for all of you, I'm also the great-granddaughter of the prosecuting attorney in the Lizzie Borden ax murder case **[laughter]**. You all—how many of you know about that case, hands? **[Audience raised hands as directed.]** Oh, lots of you, okay. Well you may recall that he did not win that case **[laughter]**. It was notable for the really awful judge's instructions to the jury, so he didn't win and he was quoted as saying, "Innocent? She's guilty as hell," so **[laughter]**. Anyway, that was my great-grandfather. Luckily, he did go on to greater things. He was the Attorney General of

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¹ This lecture is an edited transcript of a lecture delivered on 25 March 2011 by Mrs. Hollister K. Petraeus, Director, Office of Servicemember Affairs, consumer Financial Protection Bureau, U.S. Department of the Treasury at The Judge Advocate General's Legal Center and School, Charlottesville, Virginia. The lecture is named in honor of Major General Charles L. Decker, the founder and first Commandant of The Judge Advocate General's School, U.S. Army, in Charlottesville, Virginia, and the 25th Judge Advocate General of the Army. Every year, The Judge Advocate General invites a distinguished speaker to present the Charles L. Decker Lecture in Administrative and Civil Law.

Massachusetts, so I figure I do have a little bit of DNA going on that justifies my being here, but it was kind of intimidating to read the list of previous presenters, including Justice Scalia, Judge Bork, and then me. Seriously? **[Laughter]** But here are what I think are my real credentials for being here today to give this lecture.

As I think you all probably know, I do happen to be an Army spouse, married to a guy whose name you might recognize. I have been married for thirty-six years to my Soldier, and in that time—years, those thirty-six years, we've moved twenty-three times; that's a whole lot of visits to JAG Legal Assistance for powers of attorney to move the household goods and cars, and I should point out that in my personal experience the active duty spouse is very good at finding ways to be otherwise occupied or better still out of town when the moving crew shows up **[laughter]**. So I have used a lot of those powers of attorney over the years.

One thing you may not know about me is that I'm also an Army daughter. My father was General Bill Knowlton, who served in the Army also for over thirty-six years. He fought in both World War II and Vietnam and he was the Superintendent of West Point for four years. And now I'm a military mom, as well. My son is a lieutenant who just finished a tour in Afghanistan as an infantry platoon leader. And I have to tell you it's way harder to be a mom. You know your spouse does what they do but your child you always want to protect, so from that perspective I'm learning some new things.

But anyway, I've been around this unique military community of ours for my entire life. I've seen the problems that can arise from too much mouth and not enough money as well as the scams that are out there, and I hope to bring my knowledge of the financial issues that can cause our servicemembers problems to my new job within the Consumer Financial Protection Bureau. I feel it is very important for our military to have strong advocates working on its behalf, and it's my intent that this new Office of Servicemember Affairs be one of those strong advocates, both educating and looking out for military personnel and their families.

During my years as an Army wife after working a series of low-level civil service jobs for the first seven years, I spent a lot of years, over twenty, as a volunteer on the Army post where we were assigned, just one of that army of military spouses who do so much for the communities in which they live. I was a neighborhood mayor, and I served on a ton of boards: the Child Development Council, the PTA, the Spouses' Club, charitable foundations, and so forth. There was no paycheck involved but there were a lot of great opportunities to learn about military families and the unique challenges they face every day.

During the first year of the Iraq War when my husband was the Commander of the 101st Airborne Division (Air Assault), at Fort Campbell, Kentucky, I served as a senior Family Readiness Group advisor, and in that capacity I saw the unforeseen problems that came with deployment and I worked on those issues with DoD officials as well as local, state, and national legislatures. A year later, I was invited to become the Director of BBB Military Line, a program of the Council of Better Business Bureaus providing consumer education and advocacy for servicemembers and their families, a position that I held for 6 years, from 2004 to 2010. The BBB was looking for a military family subject matter expert and that was certainly a title that I could claim. It was my good fortune that they were willing to think outside the box and overlook my very unconventional résumé. In fact, I have to laugh. Really they hired me without any paperwork at all and I'd only been there about a week and the HR Director came by and said, "Do you have a résumé?" and I said, "Well, I could write one," and she said, "Would you please, just for the files?" So anyway they were very flexible. They knew what they were looking for, and apparently it was someone that had the knowledge that I had and I was very—I learned a lot in that job and hopefully did some good things as well.

During my time in that job, the Better Business Bureau received approximately 50,000 military consumer complaints per year, so I learned a lot about the problems and scams that military consumers were facing. Based on that knowledge, my team and I developed six military consumer workshops that have been taught to over 20,000 military personnel and family members around the country. I also traveled around the country doing military outreach, and I wrote a monthly military consumer newsletter that went out to about 3000 subscribers.

It was in my BBB capacity that I first connected with the CFPB, the Consumer Financial Protection Bureau, last fall. I was part of an ad hoc group that included representatives from the military legal assistance community and various nonprofits that met with Treasury officials soon after the financial reform law, the Dodd-Frank Act, was passed. We wanted to give our suggestions as to how the Office of Servicemember Affairs, created by the act, should be set up. Not long afterwards, President Obama asked Professor Elizabeth Warren to serve as an assistant to the President and Secretary of the Treasury Geithner asked her to serve as his special advisor on the Consumer Financial Protection Bureau.

In October I was called to meet with Professor Warren one-on-one and offer my ideas on how the Office of Servicemember Affairs might interact with and serve the military. Apparently, unbeknownst to me, what I was actually doing was having a stealth job interview. My advice session, at least, turned into that. She invited me back a couple weeks later and offered me the job of setting up the Office of Servicemember Affairs, and I couldn't resist the chance to be in on the ground floor of building this new

agency and the opportunity to participate as an advocate for you, military personnel, and their families. And I have to say that Professor Warren's enthusiasm for what we can accomplish is contagious.

So what is the Consumer Financial Protection Bureau going to do? We have one core mission, which is to protect consumers; as simple as that. Once the CFPB is fully established, it will significantly consolidate under one roof authorities to issue rules, conduct compliance examinations, and enforce 18 different federal consumer financial laws that are currently spread out among seven federal agencies. And, of course, we will also enforce part of the Dodd-Frank Act itself.

Since this is an audience of lawyers, I'm actually going to go into a little more detail on the laws that we will enforce because I want you to know what they are, but do keep in mind that I'm not a lawyer. I have to give you that disclaimer. I did have a lawyer write this part, though [laughter]. And we'll have a chat later about now that I'm back working for the Government, everything has to be vetted and I have this ongoing battle with the lawyers at CFPB who want to change everything I write and make it very boring, frankly [laughter]. I'm just saying.

And so—and this is the boring bit now but pay attention because it's important [laughter]. So, law number one: The Truth in Lending Act, or TILA, which requires that lenders provide clear disclosures to consumers about the cost of a mortgage, credit card, payday loan, or other consumer credit. For example, TILA requires that credit card issuers disclose a standard annual percentage rate to give consumers a chance to make meaningful comparisons between offers. Congress has amended TILA many times, including by the passage of two related laws: the Consumer Leasing Act and the Home Ownership and Equity Protection Act. These two laws expanded TILA to provide special protections for leases and high-cost mortgages. Two other important TILA amendments include the Fair Credit Billing Act, which provides certain protections regarding billing errors, grace periods, and other matters, and the Credit Card Act of 2009, which prohibits certain credit card practices, improves disclosures, and creates other important consumer protections.

Another major consumer financial law we will enforce is the Fair Credit Reporting Act, which governs the behavior of credit bureaus and entities that use credit reports or report information to credit bureaus. For example, the Fair Credit Reporting Act entitles the consumer to obtain a free copy of his or her credit report once a year from each of the three largest credit bureaus, and I suspect you all know what website they can get that from: AnnualCreditReport.com.

More laws. The Real Estate Settlement Procedures Act, which regulates settlement services provided in connection with residential real estate purchases and requires certain

disclosures in mortgage transactions on top of those that TILA already requires.

The Equal Credit Opportunity Act, which prohibits discrimination in lending on the basis of race, color, religion, national origin, sex, marital status, age, or because a person receives public assistance or has exercised a right under certain consumer credit laws.

The Home Mortgage Disclosure Act, which requires lenders to disclose certain data about their mortgage lending, mostly so that the public can determine whether lenders are, in the words of the statute, fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they are located.

The Electronic Fund Transfer Act, which establishes the rights and responsibilities of consumers in connection with electronic money transfers. Among other important protections, the Electronic Fund Transfer Act provided the basis for the recent rule prohibiting banks from automatically enrolling customers in costly overdraft programs for ATM withdrawals and point-of-sale (POS) debit card transactions.

The Fair Debt Collection Practices Act, which provides protections against harassment and other unfair or deceptive practices and provides for a private right of action by consumers against debt collectors who violate this law.

The Truth in Savings Act, which requires uniform disclosures of rates and fees for deposit accounts, such as early withdrawal fees on a CD.

The Gramm-Leach-Bliley Act, which requires financial institutions to provide consumers with privacy notices, including notice of the right to direct that the institution not disclose the consumer's nonpublic personal information to unaffiliated third parties in some circumstances.

The Safe Mortgage Licensing Act, which provides for registration and some licensing of mortgage loan originators, meaning brokers and mortgage loan officers, and establishes minimum standards for state licensing and registration of those originators.

The Omnibus Appropriations Act, which includes a provision that granted the FTC authority to prohibit unfair or deceptive acts or practices related to mortgage lending.

And finally, the Dodd-Frank Act itself, which created the CFPB and authorizes us to write rules and take enforcement actions to prevent unfair, deceptive, or abusive acts or practices by companies and individuals that provide consumer financial products or services that fall under our authority. Included in Dodd-Frank are important new mortgage protections, such as: one, a requirement that mortgage lenders document and verify a borrower's income before making a loan and take other steps to ensure that the

borrower can afford to repay it; and two, prohibitions on brokers and bankers being paid more for steering borrowers into higher cost loans.

So, got that? **[Laughter]** Did anyone tell you there will be a quiz after my talk? Believe it or not there are a few other laws we'll be responsible for as well, but that kind of gives you the bulk of them. Seriously, those laws will obviously give us plenty to do at the CFPB. In order to focus our work a bit, we've outlined three priorities right now for the CFPB. The first is to make it easier for a family to see the cost and risks of a mortgage up front and to give them the tools to choose the mortgage product that is right for them. The second is to empower consumers to make direct comparisons between credit card products which will help to enhance competition and help people decide which card to use and how they want to use it. And third, to be the first 21st Century consumer agency, a voice for families and a cop on the beat, making sure lenders are playing by the rules. The CFPB will carry out its work through the following three important functions. First, enforcing the Federal Consumer Financial Laws I mentioned earlier, and related to this enforcement power examining a range of financial services companies, including the nations' largest banks, thrifts, and credit unions, that's those with over ten billion in assets, and their affiliates; mortgage-related non-bank companies like lenders, brokers, and servicers; payday lenders and private student loan providers; and larger non-bank providers of other consumer financial products and services, such as credit bureaus and debt collectors, so some of this is very groundbreaking that we will have that authority over the non-bank sector. Number two would be conducting research, monitoring markets, and issuing regulations and other guidance to promote fairness, transparency, and competition in markets from mortgages, credit cards, and other consumer financial products and services. And third, providing consumer assistance and education, including financial literacy programs, online resources, and a consumer complaints hotline.

So how is my office, the Office of Servicemember Affairs, going to fit into that equation? Well, the law specifically contemplates—and I have to stop there and say, do you think a lawyer wrote that phrase? **[Laughter]** You know, I always put “the law intends” and they cross it out and put “specifically contemplates,” and I have—I just have this mental vision of a lawyer looking at a bust of Oliver Wendell Holmes, you know, contemplating the law. Anyway, so **[laughter]** according to the lawyers, the law specifically contemplates **[laughter]** that the Office of Servicemember Affairs will work to see that military personnel and their families receive a strong financial education; that it will monitor their complaints about consumer financial products and services and the responses to those complaints; and that it will coordinate the efforts of federal and state agencies to improve consumer protection measures for military families. And we're authorized to enter into formal agreements with the Department of

Defense to carry out the OSA's work and to make sure that we achieve those goals.

Within the CFPB, we'll make sure that the agency understands the unique financial issues that impact military families. We'll ask CFPB examiners to keep an eye out for military-specific issues; encourage CFPB enforcement teams to take action against financial providers who break the law to harm servicemembers; and make sure that the CFPB Consumer Response Division is attuned to the military community and responsive to its complaints. We also plan to work closely with the Consumer Financial Education Team at the CFPB. History has shown us that best practices developed in support of the military can translate to the larger U.S. community and that the military can be a great testing ground for innovative financial education products that could have an application to the population at large.

So what are we doing right now? First of all, let me say that I just started in mid-January so I don't expect too much just yet. The first priority has obviously been to figure out organization and staffing of this brand new startup organization and then hire employees. And I wasn't kidding when I said my entire staff is here, all two, you know, two of them, so I'm very happy to have them on board. And I want to mention to this audience especially that the CFPB wants to get the word out to qualified veterans and military spouses that we are hiring in all divisions, not just my office, and that includes lots of slots for lawyers if you know any who might be interested. We are posting our jobs on our web site right now, so please help us spread the word about that. You can go to consumerfinance.gov, that's our—it's kind of the Beta version of our site, and click on "Jobs" to find the listings and they're going up fast and furious now, so I—and I hope that if you go to the site, look around, too. We'd love to hear your feedback and what you think of it. And if you're really cool you can actually follow us on Twitter CFPB, **[laughter]** so; you'll get cool points for doing that.

Aside from organizing and hiring, there's a lot of work to do before we are fully up and running this summer. We can talk to the military community and listen to what they have to say, and that certainly includes the JAG Corps. As a first step, in late-January Professor Warren and I took the first of what I hope will be many trips to Lackland Air Force Base in San Antonio, or as it's now known, Joint Base San Antonio. While we were there, we had two roundtable discussions. The first was with military service providers, including JAGs, financial counselors, mental health professionals, and chaplains, as well as Lackland's brass. Our role was to ask questions about what scams and other financial problems those service providers were seeing and to ask for insights from them on how they thought those financial problems might be addressed and hopefully prevented from happening in the first place. We heard from them that payday loans were still an issue in Texas, where they fall outside the 36 percent interest rate cap imposed by the Talent Amendment for military on active duty and their dependents. You might ask why they fall outside that law.

Because they are now offered for more than ninety-one days, which puts them outside of the definition that was in the Talent Amendment.

The attendees also were concerned about military indebtedness. They saw that as a big problem. They told us the average trainee enters the military \$8500 in debt, some of it incurred during the waiting period between recruitment and entering into the service when new recruits get out there thinking big and buy that car, that phone, and that computer in anticipation of their military salary to come.

The providers had ideas about follow-up financial training after Basic and also made an interesting suggestion that the Leave and Earnings Statement have a separate column for special deployment pay to make it really obvious what money would go away when you would come back from deployment, and we thought that was an interesting idea and we've actually talked about it with the folks at DA, so hopefully something may come of that.

The second roundtable we did was with military personnel and spouses. The meeting was definitely joint, as we had representation from three of the services: Air Force, Army, and Navy. No Marines, sorry. It was a terrific group and all of us learned from them. They felt strongly that doing mandatory financial training only in Basic Training was not enough. You know, they told us basic trainees are so tired and so stressed and focused on the next chow call and the next formation that they don't absorb a whole lot; what you're teaching them tends to go, shoo, you know, right by. And also, frankly I've experienced if you take that group and you put them in a comfortable chair and you turn the lights down, what happens? **[Laughter]** They fall asleep. So a number of the attendees suggested a sort of continuing education through the various professional development schools, such as Basic Noncommissioned Officer Course (BNCOC) and Advanced Noncommissioned Officer Course (ANCOC), both for personal education and also because they wanted to be better leaders for their soldiers. One suggested that it be a quarterly mandatory requirement like EO training, and to our surprise when we said, "Well how many of you out there think it should be mandatory?" the entire room raised their hands, so they were serious about it and they felt it was important.

The military spouses in the room brought up some very good points about the challenges of deployment for dual military couples just trying to manage their affairs during a situation like that when they were both deployed or coming and going; the difficulties and temporary loss of income when moving a spouse's civilian career job because of a permanent change of station (PCS) move and the basic financial strains of frequent moves, and I could certainly relate to that considering the number of times I've moved. And I will say this past year has been a personal record for me as I have lived at four different addresses in the last twelve months, so very hard. I got really tired of changing my address with all of our accounts.

We also had a good discussion about something that the CFPB won't receive but that is very pertinent to this audience: the problem of powers of attorney. I'm sure many of you won't be surprised when I tell you that powers of attorney can be a really vexing issue during deployment. It's important for Soldiers to have someone enabled to handle their financial affairs in their absence, but sadly the person to whom they give that power of attorney is not always trustworthy and then financial abuses happen. I've seen really bad situations where Soldiers had to be brought back from deployment because they had been cleaned out by someone at home: a spouse, friend, or even a parent. And I will also say that even after some years of experience it's possible to be surprised by some of the situations that these young people can get themselves into. I recall during the preparation for the invasion of Iraq that Soldiers at Fort Campbell, for example, were strongly encouraged to have powers of attorney. Well, several of these single troops found the perfect designee for their powers of attorney: a very engaging young lady who worked as a dancer at the local gentlemen's club [laughter]. This young woman had collected about five powers of attorney before somebody sharp-eyed at JAG said, "Wait a minute. I've seen that name before" and her little scheme, that was the end of that. That one kind of surprised me; and then, we set up our Family Assistance Center right away and one of the first people who came in was a spouse who—lived on post, had a young child, and was distraught because she had no access to their money, she was running out of cash, and we said, "Didn't . . ."—well I asked the folks at ACS, "Didn't he fill out a power of attorney before he left?" and they said, "That's the first thing we looked up and, yes, he did, for his girlfriend." So prepare to be surprised at what you may see. People are always capable of doing things that you really would not expect them to do and to realize that your legal advice may sometimes need to extend into good life lessons, as well.

So, anyway, we are listening a lot right now at the Office of Servicemember Affairs and we're not just listening to military personnel and their families; we're also listening to the nonprofit organizations that work with them in the financial arena, as well as to the business community. We want to hear about not only the problems but also the best practices that have been developed and we're definitely interested in innovative, interesting financial education models, too, as well as ideas for how best to reach out and respond to the military community both online and in person. And then it will be our job to translate that feedback and those best practices into the best financial education and consumer response programs that we can possibly provide.

Aside from listening, I've already had some opportunities for public engagement and education. Quite recently you may have read in the news about major banks allegedly violating the Servicemembers Civil Relief Act (SCRA). The SCRA is certainly a law that you in the audience will be involved with on numerous occasions—you probably already have—but I did not expect it to be one of my first areas of public engagement. As it happens, the CFPB will not enforce that particular law; that responsibility remains with the prudential regulators in the Justice Department's Civil Rights Division. But that didn't stop me from taking the opportunity to speak out on behalf of our servicemembers on the issue, including testifying before the House Committee on Veterans Affairs in February on the same panel with your colleague, Colonel Shawn Shumake, from DoD. I took the opportunity to help raise awareness about what the SCRA does and what it doesn't do. And in addition I wrote a letter to the chief executive officers (CEOs) of our nation's twenty-five largest banks, asking them to review their policies and procedures to ensure that they were complying with the SCRA; and I've heard back from a number of them detailing what they are doing to ensure compliance.

So I hope that gives you a basic idea of how I come to be standing here in front of you today and what we intend to achieve in the Office of Servicemember Affairs. It's exciting to work for an agency that will be an enforcer and an educator on behalf of our military families who serve so faithfully and deserve the best treatment from both government and business. But in order to be successful, we need to benefit from the collective wisdom of people like you who are actually out there every day hearing the problems and working the issues. We need to hear from you. And even before our stand-up date this summer, please feel free to send me your comments and suggestions at military@treasury.gov. If you e-mail that, military@treasury.gov, I will see it.

So again, Colonel Diner, thank you for inviting me here today. I think my lawyer grandfather and great-grandfather would be proud, and I just appreciate the opportunity to be in the same room with you and to tell you personally, thank you for what you all do. The service you provide to our military personnel is amazing; it's free. You know I know they pay many thousands of dollars for it on the outside and the advice you provide the commanders also is amazing. My husband would be the first to say that he's a huge fan of the military lawyers. So from the Petreaus family, thank you for all that you do.

Subsequent to the Decker Lecture, the CFPB's Office of Servicemember Affairs and Office of Enforcement executed a Joint Statement of Principles with the TJAGs of all five services on 6 July 2011. Among other things, the Statement includes a mechanism for JAG attorneys to get prompt assistance from the CFPB with their consumer law questions and issues. The Statement created a single point of contact with the Office of Enforcement. Currently, Angela Martina, a long-time JAG civilian legal assistance attorney, is the designated contact. The single point of contact can be reached at military@cfpb.gov. JAGs in the field should encourage their clients to submit complaints to the CFPB on-line at www.consumerfinance.gov.