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National Guard, Reserve members face issues when returning home

The National Guard and the Reserve component of the U.S. military provide tremendous service to the United States. Given the unique status and operation of the National Guard and Reserve forces in times of war or crises, these service men and service women can also face unique challenges in after returning from active duty.

The citizen-soldier dates back to colonial militiamen fighting the British during the American Revolution. From World War I to the present, National Guard and Reserve units have comprised a significant portion of deployed forces. Like prior wars, the end of the Cold War led to a substantial reduction in active duty and reserve forces. However, the country faced a new reality on Sept. 11, 2001. Reserve, National Guard and Air Guard units were activated in large numbers immediately after the attacks to provide increased military readiness and heightened security at potential terrorist targets. About 75,000 Guard and Reserve members were activated in advance of the 2001 Afghanistan invasion and about 700,000 have deployed. Hundreds of thousands of citizen-soldiers also served in Iraq. Reserve components were over a quarter of the American forces in Afghanistan and Iraq.

The role of the citizen-soldier in the current military will not change in the near future because Reserve components are more cost effective than active duty forces. Reserve components contributed about a million service days a year in the 1980s, about 10 million in the 1990s and about 50 million since Sept. 11.

Service men and service women in the National Guard train with their units pursuant to a drill schedule of one weekend drill a month and about two weeks of annual training. They also have various periods of advanced training throughout their military careers. In contrast, active duty units train as a unit, deploy as a unit and return as a unit. The unit remains intact and continues to

train and prepare. If an active unit member is experiencing transition or more serious issues, he or she has access to medical facilities and other resources at his or her base. In contrast, National Guard and other Reserve component units return to their base and shortly thereafter return to their civilian lives. They return to the unit for drill and annual training but do not remain on active duty with their unit once they return. Their issues are faced in their communities and without the support of their comrades. And many transition issues can be difficult for civilians to recognize in a returning citizen-soldier or veteran.

The employment situation can also be difficult for returning members. In 2010, the unemployment rate for Iraq and Afghanistan veterans reached nearly 22 percent.

When Operation Desert Storm began in 1991, about 40 percent of ground forces were National Guard or Reserve units. The large mobilizations and deployments led to complaints from unit members about their civilian employment. Congress responded with the Uniformed Service members Employment and Re-employment Rights Act (USERRA) in 1994. USERRA has two components: Anti-discrimination prohibitions and re-employment protections upon return from service. The law went largely untested because the nation was at peace until Sept. 11.

Unit member complaints about civilian employment increased following the large mobilizations after Sept. 11. However, the program for addressing these complaints, the Department of Defense's Employer Support of the Guard and Reserve Program (ESGR) is often only marginally able to assist the member and is sometimes seen as a liability. ESGR resolves complaints of workplace disputes through a network of volunteer mediators in the Ombudsman Program — many of whom the Government Accounting Office (GAO) has noted have little training in USERRA and are tasked

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with performing informal mediation. ESGR has no enforcement powers and the member must file a complaint with the Department of Labor if ESGR's "informal mediation" does not resolve the employment issue.

The employment situation is even more difficult for returning soldiers suffering from post-traumatic stress disorder (PTSD). Current PTSD estimates for unit members who deployed to Iraq or Afghanistan are 13 percent for male veterans and nearly double that for female veterans. Symptoms of insomnia, hyperarousal and avoidance of stimuli cause many to struggle to hold their jobs. Although USERRA allows a returning member up to 90 days to return to the workplace, USERRA does not protect an employee who must take time off to address lingering issues after returning to work. The situation can grow more grim for a veteran who has filed a claim for VA benefits for PTSD. The veteran must first wait for a physical examination and then wait for the VA's decision — many times over a year passes before the VA decides the claim. For a person suffering from PTSD, such delays in treatment can cause the condition to worsen.

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The location of the member's residence can further complicate the situation. A significant portion of enlistees come from rural America. An urban veteran in need of VA services has access to a variety of services that are not easily accessible in rural America. Further, the urban veteran has access to public transportation that is nonexistent in rural America. Without an automobile or somebody to transport them, the Pope County veteran in need of services or treatment is effectively abandoned. This example is repeated in thousands of rural communities across the nation.

Veterans of Iraq and Afghanistan and members of the National Guard and Reserve are at substantial risk for unemployment upon return to civilian status. The resolution of their re-employment or discrimination issues is unfortunately entrusted to a network of poorly trained mediators. The ESGR program lacks enforcement and the National Guard or Reserve member must file a complaint with the Department of Labor.

Illinois leads the nation in its legislative response to the needs of active duty personnel, National Guard and Reserve, and veterans. However, there is still a need for attorneys to become involved. Attorneys interested in assisting service men, service women or veterans have a number of available programs to contact, such as the American Bar Association's Committee on Legal Assistance to Military Personnel and the Legal Aid Foundation of Chicago Veterans Project.

The John Marshall Veterans Legal Support Center and Clinic (VLSC) administers a Pro Bono Network of about 300 trained volunteer attorneys. The VLSC also conducts regular training for attorneys interested in providing pro bono assistance and offers legal staff and student support as well.

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