

Highlights of [GAO-12-362](#), a report to the Ranking Member, Committee on the Judiciary, U. S. Senate

Why GAO Did This Study

Whistleblowers help guard the federal government against waste, fraud, and abuse. The Military Whistleblower Protection Act provides servicemembers with a means to seek relief from reprisals and to hold subjects accountable. GAO was asked to determine the extent to which the Department of Defense (DOD) has (1) satisfied statutory timeliness requirements for processing military whistleblower reprisal cases, (2) established and implemented oversight mechanisms for its process, and (3) taken corrective action in cases where the DOD Inspector General (DODIG) substantiated reprisal claims. GAO also analyzed case characteristics. GAO examined laws, regulations, and guidance documents; interviewed officials from DODIG, service IGs, service Boards for the Correction of Military Records (BCMRs), and the Office of the Undersecretary of Defense for Personnel and Readiness; and collected and analyzed case data. GAO also conducted a detailed file review using a representative sample of cases closed between January 1, 2009 and March 31, 2011.

What GAO Recommends

GAO recommends that DOD implement procedures to track and report data on its case processing timeliness, take actions to improve oversight of its investigative process, and develop processes to ensure appropriate corrective actions are taken in substantiated cases. DOD concurred with all of GAO's recommendations.

View [GAO-12-362](#). For more information, contact Zina Merritt at (202) 512-5257 or merrittz@gao.gov.

February 2012

WHISTLEBLOWER PROTECTION

Actions Needed to Improve DOD's Military Whistleblower Reprisal Program

What GAO Found

DODIG has taken multiple steps, in collaboration with the service IGs in some instances, to improve DOD's ability to process military whistleblower reprisal cases in a timely manner. Timeliness is important to ensure the reliability of evidence and appropriate resolution of reprisal allegations. However, DODIG has generally not met statutory requirements to report on investigations within 180 days, or to provide alternative notification. DODIG has undertaken efforts to improve timeliness by, for example, eliminating a time-consuming phase of its investigative process. However, DOD's efforts are hampered by unreliable and incomplete data. For instance, GAO found that DODIG has not consistently or accurately recorded key dates to track how long investigations take to complete. Without key timeliness data, DODIG may have difficulty in identifying process areas requiring improvement and evaluating the impact of reforms. Further, the absence of this information limits congressional decision makers' ability to provide oversight of DOD's whistleblower reprisal investigative program.

DODIG has begun executing an action plan that includes acting on prior external and internal review recommendations in order to improve its oversight of the department's whistleblower reprisal process, but implementation of this plan is not yet complete and challenges exist in three areas:

- *Performance metrics.* DODIG has not yet established performance metrics to ensure the quality of reprisal investigations.
- *Guidance.* DOD's guidance related to the whistleblower program is outdated and does not reflect current investigative processes. Additionally, some of the guidance is unclear, leading to inconsistent implementation among the service IGs. Moreover, DODIG has not been consistently adhering to standards regarding the maintenance of its case files, resulting in generally incomplete files.
- *Case monitoring processes and procedures.* DODIG lacks standard case monitoring processes and procedures, which may hinder its ability to consistently maintain visibility and assess the status of outstanding reprisal investigations including those conducted by service and component IGs.

Until it further addresses the challenges it faces in regard to oversight mechanisms, DODIG cannot be assured that it is effectively conducting its oversight responsibilities or implementing the whistleblower reprisal program as intended.

DOD's efforts to ensure that appropriate corrective action is taken—both for whistleblowers and against those who repress against whistleblowers—are hampered by disconnected investigative and corrective action processes and the limited visibility of the corrective actions taken. DODIG and the service BCMRs are not consistently identifying and tracking data on action taken to undo the reprisal damage done to whistleblowers. Further, unreliable data regarding corrective action taken against those found to have reprised against whistleblowers is hindering oversight of this key aspect of whistleblower protections. Without addressing these issues, whistleblowers may not be getting the full protection and resolution they deserve.