

Why GAO Did This Study

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects the employment and reemployment rights of individuals who leave their employment to perform uniformed service. Concerned with the timeliness of USERRA complaint processing and data reliability of agency reports, Congress imposed timeliness requirements for the Department of Labor (DOL), Department of Justice (DOJ), and Office of Special Counsel (OSC) under the Veterans' Benefits Improvement Act of 2008 (VBIA 2008) and required agencies to submit quarterly reports to Congress on the extent of their compliance with the requirements. As required by VBIA, this report assesses whether the agencies (1) met VBIA timeliness requirements for USERRA complaint processing, and (2) submitted reliable and timely quarterly reports. GAO analyzed data in each agency's USERRA database, and the extent to which those data were consistent with the quarterly reports.

What GAO Recommends

GAO recommends that the three agencies use consistent reporting criteria and that the Attorney General and Secretary of Labor improve maintenance of data. Congress should consider amending USERRA to apply VBIA 2008 deadlines to state cases and add reporting requirements. The agencies generally agreed with GAO's recommendations but expressed concern over some of the matters for congressional consideration.

View [GAO-11-55](#) or key components. For more information, contact Laurie E. Ekstrand at (202)512-6806 or ekstrandl@gao.gov.

SERVICEMEMBER REEMPLOYMENT

Agencies are Generally Timely in Processing Redress Complaints, but Improvements Needed in Maintaining Data and Reporting

What GAO Found

DOL, DOJ, and OSC generally were timely in meeting VBIA 2008 deadlines to process complaints, but issues remain regarding notification of rights. Under VBIA 2008, DOL must complete its investigation within 90 days of receiving a complaint. If the complaint is not resolved and the servicemember requests to have the complaint referred, DOL must send the case to DOJ (if against a nonfederal employer) or OSC (if against a federal employer) within 60 days of receiving the request for referral. Within 60 days of receiving the case from DOL, DOJ, and OSC must make a decision on whether to represent the servicemember. Any of the three agencies may seek consent to extend the applicable deadline. GAO's analysis showed that DOL, DOJ, and OSC generally met the original or extended deadlines to process complaints. Although DOL does not maintain data in its USERRA database on notifying servicemembers of their USERRA complaint processing rights within 5 days of receiving the complaint, GAO estimated that in about 7 percent of the cases, DOL did not document notification of rights. Because VBIA 2008 does not require DOL to report on this requirement and DOL does not maintain and monitor such data, Congress and DOL cannot be assured that all servicemembers are adequately being informed of their USERRA process rights in accordance with VBIA 2008.

According to DOJ, the 60-day statutory deadline does not apply to state employer cases. GAO's analysis showed that 6 of 12 cases against state employers took more than 60 days to process. Comparatively, 23 of 189 cases against private or local government employers exceeded the 60-day deadline. Therefore, servicemembers who are employed by state governments may not be receiving the same treatment in terms of timeliness that other servicemembers are receiving under USERRA. In addition, GAO's analysis showed that in 6 of 13 cases where the servicemember was involved in settlement negotiations and DOJ declined representation, DOJ notified the servicemember of its decision but continued to aid the parties with facilitating a settlement. VBIA 2008 does not require agencies to report on their time spent after making a decision on representation.

For DOL, DOJ, and OSC, the data contained in the quarterly reports during the time of our review were generally consistent with our analysis. However, the three agencies did not use the same criteria for including the number of cases that exceeded or met the statutory deadline in their quarterly reports. DOL and DOJ were consistently late in submitting quarterly reports to Congress, by as much as 46 days for DOL and by as much as 40 days for DOJ. DOL does not always correct errors in its USERRA database after preparing its quarterly reports and therefore cannot ensure it has accurate, readily available data to monitor its performance in meeting USERRA requirements. DOJ does not have a standard, repeatable process to input USERRA data and produce its quarterly reports.