

# Safeguarding Civilian Jobs

## ESGR supports Guard/Reserve troops' reemployment rights

By Sgt. Jimmy Norris

They leave their homes, friends, family and the jobs they've worked for years to defend our country. Almost 100,000 members of the Army Reserve and National Guard are currently training, mobilized or deployed.

Some are serving at Army posts across the nation, others are deployed in Iraq or Afghanistan.

They may be gone a month or up to a year, depending on the mission. When it's over, they return home to their friends and family, go back to their civilian jobs and pick up where they left off – hopefully.

For many Guard and Reserve soldiers, returning to their former civilian jobs may be the toughest battle they have to fight.

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, members of the Army National Guard and Reserve can perform military duty for as long as five years and still return to the same or equal jobs as those they had prior to activation.

Upon their return to the civilian workplace, these soldiers are entitled to a position and salary equal to the ones they left when called to active duty.

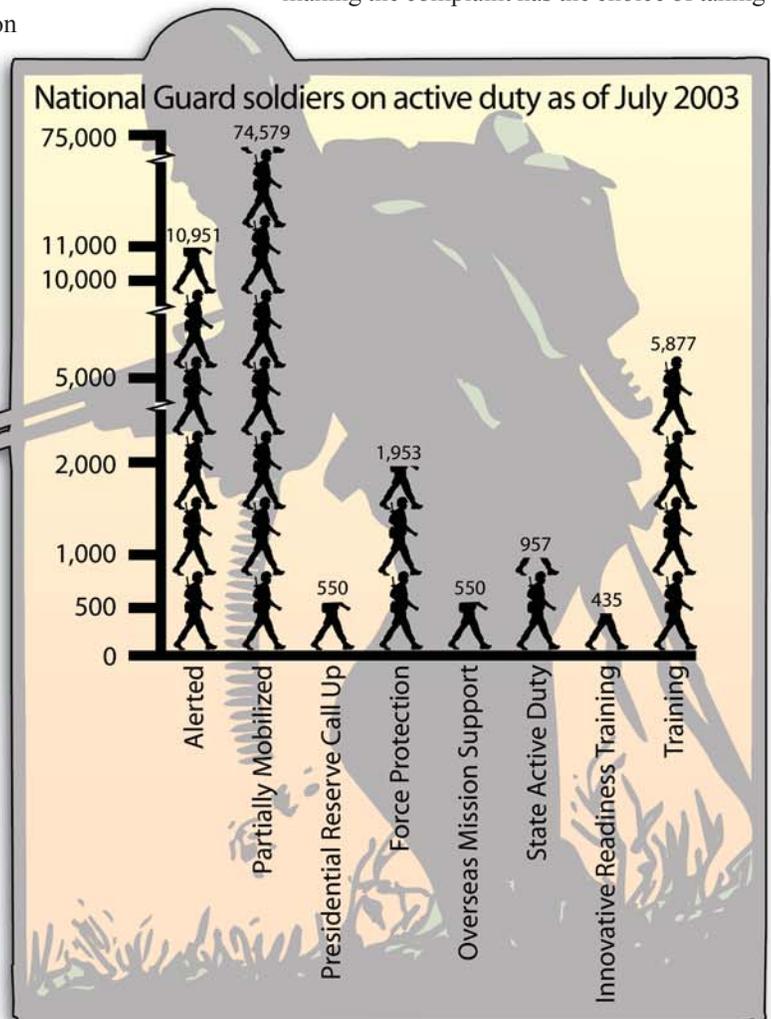
"I get about 200 calls a week. [Complaints] will range anywhere from employers saying [employees serving with the Reserve and National Guard] can't leave to [Reserve and National Guard members] coming back home and the employers saying 'sorry, we don't have anything for you,'" said Barbara Leonard, a civilian ombudsman with the National Committee for Employer Support of the Guard and Reserve (ESGR), a Department of Defense organization that helps safeguard the employment rights of both citizen soldiers and their employers. Leonard is one of about 500 ESGR ombudsmen nationwide.

Ombudsmen mediate disputes between National Guard and Reserve servicemembers and their civilian employers.

ESGR is currently training 100 more ombudsmen in anticipation of a sharp increase in calls – from about 17,000 last year, to as many as 22,000 over the next fiscal year.

Most of the calls ESGR receives can be handled by an ESGR ombudsman. Those an ombudsman can't handle are referred to the Department of Labor.

If the Department of Labor is unsuccessful, the individual making the complaint has the choice of taking



it to the Department of Justice, or hiring an attorney, Leonard said.

According to Marine Col. Alan Smith, director of ESGR Ombudsman Services, most of the employers and employees who call ESGR have inquiries, not complaints.

“Three fourths of the calls are really just requests for information,” Smith said. “30 to 33 percent of the calls are from employers whose primary concerns are ‘what is USERRA and what are my responsibilities?’”

ESGR is supported by more than 4,200 volunteers. Headquartered in Arlington, Va., ESGR has 55 local committees – one in each state and U.S. territory, another in Washington D.C. and one in Europe. In addition to providing information about USERRA and Ombudsman Services, ESGR offers a number of programs to gain and reinforce the support of citizen-soldiers’ employers. ESGR presents briefings and exhibits to employers to inform them of the importance of employer support. The group sponsors “Bosslifts,” during which employers are taken to Reserve and National Guard training sites where they can see first hand the contribution their employees make to the Total Army. ESGR also has an awards and recognition program which recognizes outstanding employer support of the Guard and Reserve.

In addition to providing protection for National Guard and Reserve members, USERRA provides protection for civilian employers. In accordance with USERRA, Guard and Reserve members are required to notify their employers as soon as possible concerning leave from their civilian work for military training, mobilizations or deployments.

USERRA also sets time limits for citizen-soldiers to return to work. Soldiers who serve 31 days or less are required to report for work at the beginning of the first

regularly scheduled work period on the first full calendar day following the completion of the period of military service.

Soldiers who serve between 31-180 days are required to submit an application for reemployment within 14 days after the end of the period of military service.

Soldiers who serve 181 days or more must submit an application for reemployment within 90 days.

The deadlines may be extended up to two years if the soldier is hospitalized or convalescing for a service-related injury or illness.

Smith said employers as a whole have been very supportive of their citizen soldiers. “The employers have been really helping out. When Guard and Reserve members come back they’re coming back to positions of like seniority and pay as per the law,” he said. “The key is the employers are working in partnership with the DoD.”

Guard and Reserve members or their employers who need more information may check the Employer Support of the Guard and Reserve Web site at <http://www.esgr.org> as well as the DoL Website at <http://www.dol.gov>.

The site offers information about USERRA, employer and employee rights and responsibilities and other information that may be useful to citizen soldiers and their employers. They may also call 1-800-336-4590.

“The spirit of the law is to make the servicemember whole upon returning to the workplace, meaning they are not discriminated against and do not fall behind their peers because of their service to their country,” said Smith. “The way we translate that is a person has like seniority, status and pay to the position they’d be in had they not been mobilized.”

## What else can ESGR do for you?

**Briefings with the Boss:** Briefings with the Boss provides an informal forum in which local employers, unit commanders, ESGR members and community leaders meet to network and discuss issues that may arise from employee participation in the National Guard and Reserve.

**Bosslifts:** Bosslifts transport employers and supervisors to military training sites where they observe National Guard and Reserve members on duty as part of the Total Force. This provides the employer a better understanding of what their Reserve members do when they are away from their civilian jobs for military duty. Employers see firsthand the type and quality of military training and leadership activities National Guard and Reserve members receive. The selected sites for Bosslifts usually emphasize National Guard and Reserve training and, whenever possible, include multiple branches of the military.

**Ombudsmen Services:** The Ombudsmen Services Program was established in 1974 to provide information,

counseling, and informal mediation of issues relating to compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). The Ombudsmen Services Program provides information, informal mediation and referral service to resolve employer conflicts. ESGR is not an enforcement agency and does not offer legal counsel or advice. More than 95 percent of all such requests for assistance are resolved in this informal process, without requiring referral to the Department of Labor for formal investigation.

**Awards Program:** The National Committee of Employer Support of the Guard and Reserve sponsors an Awards Program designed to recognize employers for employment policies and practices that are supportive of their employees’ participation in the National Guard and Reserve. All employer recognition and awards originate from nominations by individual Reserve and National Guard members. Depending on the degree of support, the level of recognition rises to the “Employer Support Freedom Award,” presented by the Secretary of Defense.