

Veterans Fighting for Their Jobs Can Get Lost in Paperwork

Robert Traut works on Alaska's Kodiak Island, known for big bears and a remoteness that can be reached only by airplane or ferry from his home and family 300 miles away.

And that's a positive development.

Traut has the frustrating distinction of having the nation's longest unsettled case against an employer who refused to rehire a veteran returning from active-duty service, as the law requires.

He filed his complaint seven years ago.

And then it languished, lost in a maze of bureaucracy, government missteps and piles of paperwork weighing more than a loaded military rifle.

"It's just exasperating to not really see the end," Traut said last week from the island. "It's rough, you know. I'm hanging in there, trying to get this settled."

Receiving his civilian job with the Coast Guard in 2005 was a compromise, coming nearly five years after the federal government refused to rehire him at a hospital near his home in Palmer, Alaska, following his service in the Air National Guard. He sees his family about once every two months.

Two days after Traut spoke with *The Eagle*, federal investigators finalized a settlement between him and his former employer, Indian Health Service. The amount is confidential, but one government source close to the negotiations said Traut would receive about \$225,000 in back pay and benefits.

More than ending an embarrassing chapter, however, the settlement underscores the ongoing challenges experienced by thousands of veterans returning from active duty. Some of them face government delays, bureaucratic shuffling and sometimes tepid protection by the government they served faithfully, according to interviews and public documents reviewed by *The Eagle*.

No one knows precisely how many veterans have been prevented from returning to their pre-service jobs. But the problem is larger than government statistics reveal, according to officials and a report by the Government Accountability Office.

"We need to get this problem fixed before we have a Walter Reed moment," said James Mitchell, communications director at the Office of Special Counsel, which handles complaints appealed by federal employees. He was referring to the national medical facility that housed injured veterans in decrepit dwellings.

Here is what is known: About 16,000 reservists filed complaints under the Uniform Services Employment and Re-employment Act after suffering problems in the workplace when they

returned from active duty between 2004 and 2006.

But the actual number is probably a multiple of that, officials warn. That's because thousands of reservists returning from one of the nation's largest civilian deployments in history never report their work problems.

A Defense Department survey earmarked for "official use only" until it was released to Congress last fall shows that 77 percent of returning soldiers had job trouble but did not seek any help in 2006.

The survey also found that almost 11,000 soldiers were not promptly rehired after their service, more than 22,000 lost workplace seniority, nearly 20,000 had their pensions reduced, and almost 11,000 returned to find their health insurance gone.

"This gross abdication of responsibility to our veterans is unacceptable," Sen. Edward M. Kennedy, D-Mass., said in a Senate hearing in November. "These brave men and women have risked their lives to protect us — yet we are failing to protect them."

Kennedy introduced a bill last year that would force the U.S. Labor Department to conduct faster investigations into employer misconduct. The agency, which has about 115 investigators nationwide, would have 90 days to resolve each case. The bill has not been voted on.

Meanwhile, some veterans are waiting almost a year or more for the outcome of their cases, months after their military pay has halted. Most of them are not teenagers who simply left restaurant jobs. The average age of enlisted soldiers in the Army Reserve is 31.

Delays are normal. If Department of Labor investigators fail to convince an employer to rehire a veteran or forge a settlement for back pay, it takes about eight months to refer the case to the Office of Special Counsel or the Justice Department for possible litigation, according to the Government Accountability Office.

That's because two different offices within the Labor Department review the cases: Investigators present their findings to a team of department lawyers, who then write a legal opinion. When the cases reach the Office of Special Counsel or the Justice Department, the process begins over again.

Special Counsel Scott Bloch, head of the OSC, said his office has to "reinvent" investigations conducted by Department of Labor investigators who are not lawyers and who sometimes wrongly rule against veterans.

"If our people don't know the case, how can they prosecute it?" he said in an interview. "And often we find the Labor investigators didn't look at the right issues and didn't call the case correctly."

Bloch has been fighting within the Beltway to take cases at their outset. His office would be tougher on employers, would close cases sooner and would provide larger settlements for veterans, he said.

Bloch oversaw Traut's settlement, after receiving it from the Department of Labor in November.

"It's bad enough to be in one bureaucracy, but to be shuffled around among them to me is a greater injury than the job loss initially," he said.

But it's unclear whether his office would have significantly better — or faster — results. A test program that permitted OSC to accept some cases from the outset for more than three years found that the office took an average of 115 days to close them. The office settled about 25 percent of the cases, dismissing the rest.

The Labor Department, for its part, successfully settled about 20 percent of its cases in less than 86 days, according to the GAO.

Those results are embarrassing, said Mathew Tully, who tried his own case after returning from Korea in 1998. He settled with the Justice Department, his former employer, for a "six-digit" figure and used it to attend law school.

Now he's a bulldog for other veterans.

His firm, in Albany, N.Y., has sued about 8,000 employers nationwide since 2003. He said he successfully settled 75 percent of the time — a victory rate that raises questions about how strenuously the government fights for veterans in similar cases.

"We're more of a hammer, and the Department of Labor is more of (a) nice little mediator," said Tully, whose solo firm has grown to 20 lawyers in five years. "When we come in, we go for the throat."

The Labor Department, meanwhile, emphasizes reconciliation between the veterans and their employer, meant to minimize the disruption of returning to civilian life.

"Our people are very talented because their objective is to preserve or to make sure the employer and the employee relationship is maintained, and not to poison the well," said Charles Ciccolella, assistant secretary of Labor's Veterans Employment Training Services, which conducts the investigations.

Labor investigators are limited by the law. The agency does not bring cases to court. Instead, it refers a few to the Office of Special Counsel to litigate cases for federal employees and to the Justice Department for court action against private employers.

But that rarely happens. And the number of cases that those agencies actually bring to court is even rarer.

The Boston office for Labor's Veterans Employment Training Services received 114 complaints between Sept. 11, 2001, and April 2007. In 28 of them, it helped the veteran get his job back or receive back pay in amounts ranging from a few hundred dollars to \$54,000.

The office dismissed half of the cases, saying the complaints were unfounded. The remaining cases, or 18, were withdrawn by the soldiers who filed them.

But in 2006, the Justice Department filed just four cases in federal court. The Office of Special Counsel, which oversees federal employers, successfully settled four cases.

So why isn't the government taking more cases to court?

"That's the million-dollar question," responded Tully, the lawyer. "And I don't think anybody has an answer for you."