



Highlights of [GAO-07-907](#), a report to congressional committees

## Why GAO Did This Study

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) protects the employment and reemployment rights of federal and nonfederal employees who leave their employment to perform military service. The Department of Labor (DOL) investigates and attempts to resolve claims filed by servicemembers, and if not successful, DOL is to inform the federal claimants that they may request to have their claims referred to the Office of Special Counsel (OSC). Under a demonstration project, from February 8, 2005, through September 30, 2007, OSC is authorized to receive and investigate certain USERRA claims, with DOL continuing its investigative role for others. As required by Pub. L. No. 108-454, this report describes the (1) processes, (2) outcomes, and (3) major changes during the demonstration project. GAO selected a random sample of cases from DOL's and OSC's databases and traced data for selected elements from the electronic files to source case files.

## What GAO Recommends

GAO recommends that the Secretary of Labor develop an internal review mechanism for all unresolved claims before they are closed and claimants are notified and establish internal controls to ensure the accuracy of data entered into DOL's database. DOL agreed with our recommendations.

[www.gao.gov/cgi-bin/getrpt?GAO-07-907](http://www.gao.gov/cgi-bin/getrpt?GAO-07-907). To view the full product, including the scope and methodology, click on the link above. For more information, contact George H. Stalcup on (202) 512-9490 or at [stalcup@gao.gov](mailto:stalcup@gao.gov).

## MILITARY PERSONNEL

# Improved Quality Controls Needed over Servicemembers' Employment Rights Claims at DOL

## What GAO Found

Since the start of the demonstration project on February 8, 2005, both DOL and OSC have had policies and procedures for receiving, investigating, and resolving USERRA claims against federal executive branch employers, with DOL investigating the ones from claimants with even-number social security numbers, and OSC those from claimants with odd social security numbers as well as those with related allegations of prohibited personnel practices. Under the demonstration project, DOL's process for investigating USERRA claims remains unchanged: DOL uses a nationwide network of over a hundred investigators from offices in every state. Under the demonstration project, OSC has instituted a centralized approach for investigating USERRA claims, with a single office of about half a dozen investigators and attorneys in its Washington, D.C., headquarters.

Data for reporting outcomes were not reliable at either agency. At DOL, inaccurate data were included in the agency's annual report to Congress, which could adversely affect Congress's ability to assess how well federal USERRA claims are processed and whether changes are needed in the future. GAO also found that DOL did not consistently notify claimants concerning the right to have their claims referred to OSC for further investigation or to bring their claims directly to the Merit Systems Protection Board. Citing GAO's preliminary findings, in December 2006, DOL officials required each region to revise its guidance regarding notifying claimants in the closure letter of their rights. GAO found that for the period of its review—February 8, 2005, through September 30, 2006—DOL received a total of 166 unique claims, although 202 claims were recorded as opened in DOL's database. Duplicate, reopened, and transferred claims accounted for most of this difference. During a review of a random sample of DOL's case files to assess the reliability of DOL's data, GAO found the closed dates in DOL's database, which it uses to report to Congress on the number and percentage of claims it closes within 90, 120, and 365 days, were not reliable. From the start of the demonstration project, through September 30, 2006, OSC received 269 claims and took an average of 115 days to process these claims. The closed dates in OSC's case tracking system were sufficiently reliable.

Three primary changes have occurred in federal employees' USERRA claims' processing since the demonstration project. First, two agencies now investigate claims from federal employees using two different models for investigations. Second, both DOL and OSC officials said cooperation and communication between the two agencies on claims has increased under the demonstration project, in turn raising awareness of issues related to servicemembers who are federal employees. Finally, technological enhancements have occurred, including an enhancement to DOL's database enabling the electronic transfer of information between agencies, which began in October 2006.