



Highlights of [GAO-08-229T](#), a testimony before the Committee on Veterans' Affairs, U.S. Senate

## 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 or other uniformed service.

Under a demonstration project from February 8, 2005, through September 30, 2007, and subsequently extended through November 16, 2007, the Department of Labor (DOL) and the Office of Special Counsel (OSC) share responsibility for receiving and investigating USERRA claims and seeking corrective action for federal employees.

In July 2007, GAO reported on its review of the operation of the demonstration project through September 2006. This testimony describes the findings of our work and actions taken to address our recommendations. In response to your request, we also present GAO's views on (1) factors to consider in deciding whether to extend the demonstration project and the merits of conducting a follow-up review and (2) options available if the demonstration is not extended.

In preparing this statement, GAO interviewed officials from DOL and OSC to update actions taken on recommendations from our July 2007 report and developments since we conducted that review.

To view the full product, including the scope and methodology, click on [GAO-08-229T](#). For more information, contact George H. Stalcup at (202) 512-9490 or [stalcupg@gao.gov](mailto:stalcupg@gao.gov).

## MILITARY PERSONNEL

### Considerations Related to Extending Demonstration Project on Servicemembers' Employment Rights Claims

#### What GAO Found

Under the demonstration project, OSC receives and investigates claims for federal employees whose social security numbers end in odd numbers; DOL investigates claims for individuals whose social security numbers end in even numbers. Among GAO's findings were the following:

- DOL and OSC use two different models to investigate federal USERRA claims, with DOL using a nationwide network and OSC using a centralized approach, mainly within its headquarters.
- Since the demonstration project began, both DOL and OSC officials have said that cooperation and communication increased between the two agencies concerning USERRA claims, raising awareness of the issues related to servicemembers who are federal employees.
- 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 if DOL did not resolve their claims.
- DOL had no internal process to routinely review investigators' determinations before claimants were notified of them.
- Data limitations at both agencies made claim outcome data unreliable.

DOL officials agreed with GAO's findings and recommendations and are taking actions to address the recommendations. In July 2007, DOL issued guidance concerning case closing procedures, including standard language to ensure that claimants (federal and nonfederal) are apprised of their rights, and began conducting mandatory training on the guidance in August 2007. In addition, according to DOL officials, beginning in January 2008, all claims are to be reviewed before the closure letter is sent to the claimant. These are positive steps and it will be important for DOL to follow through with these and other actions.

If the demonstration project were to be extended, it would be important that clear objectives be set. Legislation creating the current demonstration project was not specific in terms of the objectives to be achieved. Clear project objectives would also facilitate a follow-on evaluation. In this regard, GAO's July 2007 report provides baseline data that could inform this evaluation. Given adequate time and resources, an evaluation of the extended demonstration project could be designed and tailored to provide information to inform congressional decision making. GAO also presents potential benefits and limitations associated with options available if the demonstration project is not extended.