

February 2007

MILITARY PERSONNEL

Additional Actions Needed to Improve Oversight of Reserve Employment Issues



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Why GAO Did This Study

Since September 11, 2001, the Department of Defense (DOD) has mobilized more than 500,000 reservists. As reservists demobilize, concerns exist about difficulties with their civilian employment. Public Law 109-163 required GAO to report on reservists' civilian employer data and employment matters. GAO assessed (1) the status of DOD's efforts to capture reservists' employer data; (2) DOD, Labor, Justice, and Office of Special Counsel processes to track and address reservists' USERRA complaints; and (3) the four federal agencies' efforts to track reservists' USERRA complaints related to disabilities incurred while on active duty. GAO reviewed policies and procedures for reporting and tracking complaints; DOD's civilian employer database for reservists and reservists' USERRA complaints; and data reliability and quality checks.

What GAO Recommends

To improve oversight of reservists' complaints, Congress should consider changing the law to require Labor's annual report to include DOD complaint data; DOD should improve its reporting of employer information; Labor should make aggregate complaint data available to DOD; and agencies should adopt uniform data elements, and track disability-related USERRA complaints. In commenting on a draft of this report, DOD, Labor, and Office of Special Counsel generally agreed with GAO's recommendations. Justice had no agency comments. www.gao.gov/cgi-bin/getrpt?GAO-07-259.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-5559 or stewartd@gao.gov.

MILITARY PERSONNEL

Additional Actions Needed to Improve Oversight of Reserve Employment Issues

What GAO Found

DOD has made progress in capturing employment information on reservists, but challenges remain. The percent of reservists reporting employer information increased from about 60 percent in August 2005 to about 77 percent as of August 2006. However, only one of seven reserve components has met DOD's employment reporting goal of 95 percent for the Selected Reserve—the largest category of reservists. DOD does not have specific time frames for reserve components to achieve the reporting goals. In addition, some employment information reported may not be current because the services have not established a formal mechanism to remind reservists to update their reported employment information. Finally, DOD's verification process is not adequate to verify civilian employer data for 24 percent of reservists that reported employer information.

The four federal agencies responsible for assisting reservists with USERRA complaints—DOD, the departments of Labor and Justice, and the Office of Special Counsel—track and address these complaints. Between fiscal years 2004 and 2006, the four agencies addressed approximately 16,000 informal and formal complaints. However, no one agency has total visibility over all the complaints, and only a small percentage of complaints are reported to Congress. For example, DOD has visibility over all complaints in its system, but its visibility over complaints in Labor's system is limited to those originally filed with DOD and then later refiled with Labor. The Department of Labor does not make aggregate complaint data available to DOD. Furthermore, Labor's annual report to Congress on reservists' complaints for fiscal years 2004 and 2005 did not include almost 10,000 informal complaints filed with DOD, or 80 percent of the total informal and formal complaints addressed by the four agencies during this period. Labor is required to report formal complaints addressed by the three agencies, but not DOD. Consequently, Congress does not have the comprehensive information necessary to allow for complete oversight of reservists' employment and reemployment problems. Finally, the information GAO obtained on the approximately 16,000 reservists' complaints filed between fiscal years 2004 and 2006 showed that the nature of those complaints has not been uniformly categorized to completely reveal trends in the kinds of problems some returning reservists experience because the agencies use different complaint categories to characterize the complaints.

Agencies responsible for assisting reservists with USERRA issues can not systematically record and track disability-related employment complaints because they do not use consistent and compatible complaint categories or have a mechanism in place for distinguishing disability-related complaints from others. Without the ability to track disabled reservists' USERRA complaints, DOD may be unaware of the effect disabilities incurred while on active duty have on reservists' employment and what additional assistance may be needed to help transition this population back into the workforce.

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Abbreviations

GAO	Government Accountability Office
DOD	Department of Defense
USERRA	Uniformed Services Employment and Reemployment Rights Act

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United States Government Accountability Office
Washington, DC 20548

February 8, 2007

The Honorable Carl Levin
Chairman
The Honorable John McCain
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Ike Skelton
Chairman
The Honorable Duncan Hunter
Ranking Minority Member
Committee on Armed Services
House of Representatives

Since September 11, 2001, the Department of Defense (DOD) has mobilized more than 500,000 members of the National Guard and Reserves in support of the Global War on Terrorism. As DOD continues to rely heavily on reservists,¹ and as demobilized reservists eventually return to civilian life, their civilian employment and the difficulties they face in dealing with reemployment matters remain areas of interest. In addition, a recent estimate indicated that one in four reservists returning from Iraq and Afghanistan has filed for disability benefits. Consequently, reservists returning from active duty with a disability may be further challenged in their ability to resume their civilian employment.

DOD's Ready Reserve is comprised of military members of the Reserve and National Guard, organized in units, or as individuals, liable for recall to active duty to augment the active component in time of war or national emergency. Within the Ready Reserve there are three subcategories: the Selected Reserve, Individual Ready Reserve, and the Inactive National Guard. The Selected Reserve consists of units and individuals designated by their respective services and approved by the Chairman of the Joint Chiefs of Staff as so essential to the initial wartime mission that they have

¹For the purpose of this report, the terms reserve component and reservists refer to the collective forces of the Army National Guard, Air National Guard, Army Reserve, Air Force Reserve, Navy Reserve, Marine Corps Reserve, and Coast Guard Reserve.

priority for training, equipment, and personnel over all other categories of reservists. The Individual Ready Reserve consists of about 260,000 servicemembers who have had training and served previously in the active component or selected reserve and have some period of their military service obligation remaining. The Inactive National Guard has over 1,900 members² who are Army National Guard personnel who are attached to a specific National Guard unit. Although they do not participate in training activities, members of the Inactive National Guard are required to come together once a year with their unit and would mobilize with their units if recalled to active duty.

DOD maintains and uses employer information to help manage its reserve forces. For example, the department considers several factors when deciding which reservists should be activated, including the civilian occupations of reservists such as emergency responders—police officers, firefighters, and medical personnel—necessary to maintain the national health, safety, and interests. In addition, DOD and the Department of Labor have a responsibility to inform reservists and their civilian employers about their rights and responsibilities under the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994.³ Among other things, USERRA requires employers to promptly reemploy those eligible servicemembers returning from active duty, generally in the same or like position, and to provide the seniority, rights, benefits, and promotions they would have received if they had remained continuously employed. Likewise, USERRA requires reservists to provide their employers with advance notice prior to departure for military duty. DOD's Employer Support of the Guard and Reserve organization retains reservists' employer information to conduct employer outreach, education, and training. Reservists have both informal and formal options to report their USERRA complaints. Informal sources include their military chain of command and DOD's Employer Support ombudsmen services, which are available to provide informal mediation of USERRA-related issues. Servicemembers may also contact the Department of Labor's Veterans' Employment and Training Service to formally report

²Numbers are as of August 2006.

³Pub. L. No. 103-353 (1994), as amended, codified at 38 U.S.C. §4301-4334.

USERRA-related issues.⁴ At the reservist's request, the Department of Labor can also transfer the complaint for possible litigation to the Department of Justice—if the complaint involves State or local governments and private employers—or to the Office of Special Counsel—if the complaint involves federal executive agencies. Under a demonstration project,⁵ the Office of Special Counsel now receives some USERRA complaints directly from certain servicemembers.

In prior reports, we cited problems with DOD's ability to track civilian employment data and address reservists' USERRA complaints.⁶ DOD did not have sufficient information on employers of reservists and the agencies addressing reservist complaints did not have the ability to efficiently and effectively address complaints because the data systems were incompatible and the processes they used hindered visibility. In response to the recommendations in these reports, DOD required its reservists to provide contact information for their civilian employers and status of their civilian employment. In addition, the four agencies responsible for addressing USERRA complaints began measures to improve interagency information exchange and data-sharing capabilities.

The National Defense Authorization Act for Fiscal Year 2006⁷ required GAO to report on reservists' civilian employer data and the reemployment difficulties faced by reservists as a result of active duty service, including those related to disabilities incurred while activated. For this report, our objectives were to determine: (1) the status of DOD's efforts to capture data identifying employers of reservists, (2) the extent to which agencies track and address USERRA complaints from reservists, and (3) the extent to which agencies track and address USERRA complaints related to reservists' disabilities incurred while on active duty.

⁴Federal agencies use a variety of terms to describe allegations of USERRA violations, including "complaints," "claims," "matters," and "referrals." For clarity and consistency throughout this report, we use the term complaint to describe these allegations. We refer to complaints to DOD as "informal complaints" and complaints to the Department of Labor, Department of Justice, and Office of Special Counsel as "formal complaints."

⁵Veterans Benefits Improvement Act of 2004, Pub. L. No. 108-454, § 204 (2004).

⁶GAO, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and their Employers*, [GAO-02-608](#) (Washington, D.C.: June 13, 2002); and GAO, *Military Personnel: Federal Management of Servicemember Employment Rights Can Be Further Improved*, [GAO-06-60](#) (Washington, D.C.: October 2005).

⁷Pub. L. No. 109-163, §517 (2006).

To accomplish these objectives, we reviewed agency policies, procedures, and processes for reserve employment reporting and for tracking and addressing USERRA complaints including the informal complaints filed with DOD's Employer Support and the formal complaints filed with the Department of Labor's Veteran's Employment and Training Service and the Office of Special Counsel.⁸ We obtained and analyzed employer data for the Ready Reserve from DOD's civilian employment information database as of August 2006 and DOD's reserve disabled totals from fiscal years 2003 through 2006. In addition, we obtained information on the over 16,000 total USERRA informal complaints filed with DOD's Employer Support, and the formal complaints filed with the Department of Labor's Veterans' Employment and Training Service, and the Office of Special Counsel for fiscal years 2004 through 2006, including any identified as related to disabilities. We interviewed officials from the Office of the Assistant Secretary of Defense for Reserve Affairs and the Reserve Components about civilian employer reporting; and we talked to representatives from DOD's Employer Support of the Guard and Reserve (including ombudsmen, who are civilian volunteers throughout the country who assist reservists in resolving employment disputes), the Department of Labor's Veterans' Employment and Training Service, the Department of Justice, and the Office of Special Counsel about reservist USERRA complaints. In addition, we visited Army National Guard, Army Reserve, Air Force Reserve, and Marine Corps Reserve units that were previously activated and held group discussions with over 100 officers and enlisted personnel about their knowledge of USERRA and the rights it provides them, reporting of employment information, and any USERRA issues they may have experienced as a result of their activation. We also discussed reservist-related USERRA and disability issues with several military relief, veterans, and reserve organizations. Finally, we reviewed the reliability of data that we used from the four agencies.⁹ Our work was performed from April 2006 to December 2006 in accordance with generally

⁸The Attorney General is assigned enforcement responsibilities under USERRA, but the Department of Justice is not authorized to receive USERRA complaints directly from servicemembers. It may represent individuals involving private sector or State or local government complaints that are referred from the Department of Labor.

⁹Reliability refers to the accuracy and completeness of computer-processed data. We conducted a mix of electronic testing and reviews of data quality controls the agencies have in place. We found the data we used from three of the data sources to be sufficiently reliable for the purposes of this engagement. However, an ongoing review within our agency continues to assess the Department of Labor's USERRA data. We found two of the data sources to be of undeterminable reliability for the purpose of this engagement.

accepted government auditing standards. Additional information on our scope and methodology is presented in appendix I.

Results in Brief

DOD has made progress capturing employment information on its reservists since August 2005, but several challenges remain. In August 2004, DOD changed employer reporting by reservists from voluntary to mandatory. The number of reservists reporting employer information to DOD increased from 60 percent in August 2005 to about 77 percent in August 2006. However, we found that reservists have not fully reported civilian employment information, reported employment data are not necessarily current, and DOD's employer verification process is not adequate. Complete and current civilian employer information is important to DOD for several reasons, including its ability to provide sufficient outreach to employers. In August 2004, DOD established a 95 percent goal for reporting employment information for the Selected Reserve and a 75 percent reporting goal for the Individual Ready Reserve and Inactive National Guard. As of August 2006, about 91 percent of Selected Reserve members had reported this information, whereas only 30 percent of Individual Ready Reserve or Inactive National Guard Members with good addresses had complied. Currently, the Army Reserve has met the Selected Reserve reporting goal and the Army National Guard has met the Inactive National Guard reporting goal and nearly met the Selected Reserve goal, while the other reserve components have met neither goal. Moreover, DOD does not have specific time frames for when reserve components are to achieve their reporting goals, and has not directed the service components to take actions to assure compliance. In addition, the DOD instruction¹⁰ requires reservists to update their employment information when changes occur; however, during focus groups we found that reservists generally were not aware of the need to update employer information when employers changed. As such, some employer information in DOD's database may not be current because the services have not established a formal mechanism to remind reservists to review their personnel information and update it as necessary to reflect changes in their current employment. Lastly, DOD relies on Dun and Bradstreet to verify the accuracy of the employer data provided by reservists and to provide DOD with additional employer business characteristics. However, DOD has not been able to determine the accuracy of all of its reported employer information, including small businesses that employ less than 50

¹⁰DODI 7730.54, enclosure 10 (Aug. 6, 2004).

people. For example, of the 453,596 reservists reporting civilian employer information, DOD was unable to verify employer information for approximately 24 percent, or 108,125 reservists reporting employment. DOD acknowledges that its process for verifying employment data has been particularly difficult for small business and is working to identify alternative sources for this information. Without better information for these employers of reservists, DOD may be limited in its efforts to provide outreach to employers. We are making a number of recommendations to the Secretary of Defense to improve the reporting of reserve employment information, and to encourage reservists to keep their employer data current.

The four federal agencies responsible for assisting reservists with USERRA complaints—DOD’s Employer Support of the Guard and Reserve, the Department of Labor, the Department of Justice, and the Office of Special Counsel—track and address these complaints; however, Congress does not have the comprehensive information necessary to allow for complete oversight of all reservists’ USERRA complaints. For example, the Secretary of Labor is required by law to provide an annual report to Congress that includes information on the number of cases it reviewed, the nature and status of each case reported, as well as the number of cases referred to the Attorney General or Office of Special Counsel.¹¹ The Department of Labor and the Office of Special Counsel, for fiscal years 2004 and 2005, tracked and addressed 2,446 formal USERRA complaints, which were reported to Congress. However, the Secretary’s report to Congress for fiscal years 2004 and 2005¹² was not required to include 9,975 informal USERRA complaints that were tracked and addressed by DOD’s Employer Support of the Guard and Reserve. Additionally, DOD’s Employer Support of the Guard and Reserve organization lacks complete information on all reserve USERRA complaints filed because the Department of Labor does not provide DOD with aggregate USERRA complaint data by complaint type. Although DOD’s Employer Support is able to produce aggregate reports on complaints that originate within the agency, it is not able to produce aggregate reports for cases that begin

¹¹38 U.S.C. § 4332.

¹²The Department of Labor’s USERRA Annual Report to Congress includes information on all reemployment complaints reported to the Department of Labor, which include complaints from all persons protected under USERRA. At the time we performed our analysis, the Department of Labor had not provided its fiscal year 2006 report to Congress. The fiscal year 2006 report to Congress is not due until February 2007.

with the Department of Labor. According to the Standards for Internal Control,¹³ management should ensure that there are adequate means of communicating with, and obtaining information from, others who may have a significant impact on the agency's ability to achieve its goals. Finally, we obtained information on the over 16,000 total informal and formal USERRA complaints filed by reservists between fiscal years 2004 and 2006.¹⁴ These data showed that the nature of those complaints has not been uniformly categorized to completely reveal trends in the types of problems that some returning reservists experience—such as being refused job reinstatement, denied an appropriate pay rate, or being denied vacation time—because the four agencies involved use different complaint categories to characterize USERRA complaints. In line with the Standards for Internal Control in the Federal Government, it is essential that different sets of related data be compared and assessed so that analyses of the relationships can be made and corrective actions taken, if needed. Current reporting practices limit congressional oversight of reserve USERRA complaints and DOD's awareness of complaints filed with other agencies and the nature of these issues. To gain a full perspective on the number and nature of USERRA complaints filed by reservists upon returning from active duty, Congress should consider amending 38 U.S.C. §4332 to require the Department of Labor to include data from DOD's Employer Support of the Guard and Reserve in its annual report to Congress. We are also recommending that the Secretary of Labor provide aggregate USERRA complaint data to DOD's Employer Support of the Guard and Reserve, and we are recommending that the Secretary of Labor and Secretary of Defense adopt uniform complaint categories in the future that will allow aggregate trend analysis to be performed across their agencies' databases.

Agencies responsible for addressing reservists' USERRA issues cannot systematically record and track disability-related employment complaints because they do not use consistent and compatible complaint categories for tracking purposes and they do not have a system in place for distinguishing disability-related complaints from other types of complaints. Our analysis of DOD's Employer Support of the Guard and

¹³GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 9, 1999).

¹⁴This total includes informal complaints filed by reservists with DOD's Employer Support between fiscal years 2004 and 2006, and the formal complaints reported by the Department of Labor's Veterans' Employment and Training Service in its fiscal year 2004 and 2005 reports to Congress. The fiscal year 2006 report was not available within the time frames of our review.

Reserve and the Veterans' Employment and Training Service data indicated that about 200 reservists' USERRA complaints filed and addressed in fiscal years 2004 to 2006 were identified as disability-related. We believe, however, that the number of disability-related complaints may be understated because the agencies may have recorded disability-related complaints in categories other than the specific categories we analyzed. Without systematic tracking of disabled reservists' complaints to provide visibility over this group, DOD may not be fully aware of (1) the effect disabilities received by reservists while on active duty had on reemployment if the reservists filed formal complaints directly with the Department of Labor and (2) what additional assistance may be needed to help transition this population back into the workforce. In order for agencies to have more complete information regarding the numbers and types of disability-related USERRA complaints from disabled reservists, we are recommending that the Secretary of Labor develop a system for recording and tracking these types of complaints and share it with the other agencies responsible for addressing USERRA complaints.

In written comments on a draft of this report, DOD and the Department of Labor generally concurred with our findings and recommendations that were directly applicable to their respective agencies. The Office of Special Counsel also provided written comments indicating that it concurred with our recommendations and found the report to be comprehensive and accurate as it related to the responsibilities of the Office of Special Counsel. Also, the Department of Labor and the Office of Special Counsel concurred with our matter for congressional consideration that Congress should consider amending 38 U.S.C. §4332 to require the Department of Labor to include complaint data from DOD's Employer Support of the Guard and Reserve in its annual report to Congress. The Department of Justice reviewed a draft of this report and had no comments. The other agencies' comments and our evaluation of them are discussed later in this report.

Background

DOD’s Reserve Components

The purpose of the reserve components is to provide trained units and qualified persons available for active duty in the armed forces in time of war or national emergency or as otherwise required for national security.¹⁵ Since the end of the Cold War, the nation has relied more heavily on the reserves as an integrated part of the military services. As of August 2006, reserve components comprised about 1.1 million members or 44 percent of the nation’s total military force. Reserve units are primarily filled by members of the Selected Reserve, who are authorized training consisting of regularly scheduled unit training period in an Inactive Duty Status (48 periods a year). Reservists can also volunteer to serve on active duty or be involuntarily mobilized to active duty.

The strength numbers for DOD’s Ready Reserves as of August 2006 by reserve component are shown in table 1 below.

Table 1: DOD and Reserve Components’ Ready Reserve Strength, August 2006	
Reserve component	Strength numbers
Army National Guard	345,207
Army Reserve	285,611
Navy Reserve	131,739
Marine Corps Reserve	100,678
Air National Guard	105,517
Air Force Reserve	118,472
Coast Guard Reserve	12,659
DOD total	1,099,883

Source: DOD summary strength report.

USERRA Coverage and Protections

In 1994, Congress passed USERRA to “encourage non-career service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service.”¹⁶

¹⁵10 U.S.C. §10102.

¹⁶38 U.S.C. §4301.

The act protects millions of individuals¹⁷ as they transition between their federal duties and their civilian employment. Prior to USERRA, reemployment rights were set forth in the Vietnam Era Veteran's Readjustment Act of 1974.¹⁸ Congress reviewed the effectiveness of the 1974 act after receiving a number of questions and complaints about reemployment rights from military servicemembers and employers following the 1991 Gulf War.¹⁹ USERRA covers not only those individuals who have served in the reserve components, but also large numbers of active duty servicemembers and veterans, including those who served prior to the passage of the act. Servicemembers retain reemployment rights under USERRA as long as they meet a few basic requirements. Among the eligibility requirements are (1) the absence of the receipt of a dishonorable or other disqualifying discharge, (2) giving proper notice prior to departure, and (3) returning to work or applying for reemployment in a timely manner after conclusion of service. Provided servicemembers meet their USERRA requirements, they are entitled to

- prompt reinstatement to the position they would have held if they had never left their employment, or to positions of like seniority, status, and pay;
- health coverage for a designated period of time while absent from their employers and immediate reinstatement of health coverage upon return;
- training, as needed, to requalify for their jobs;
- periods of protection against discharge based on the length of service; and
- nonseniority benefits that are available to other employees with similar seniority, status, and pay who are on leaves of absence.

¹⁷In addition to military servicemembers and veterans, the act covers the commissioned corps of the Public Health Service and other persons designated by the President in time of war or national emergency.

¹⁸Pub. L. No. 93-508 (1974).

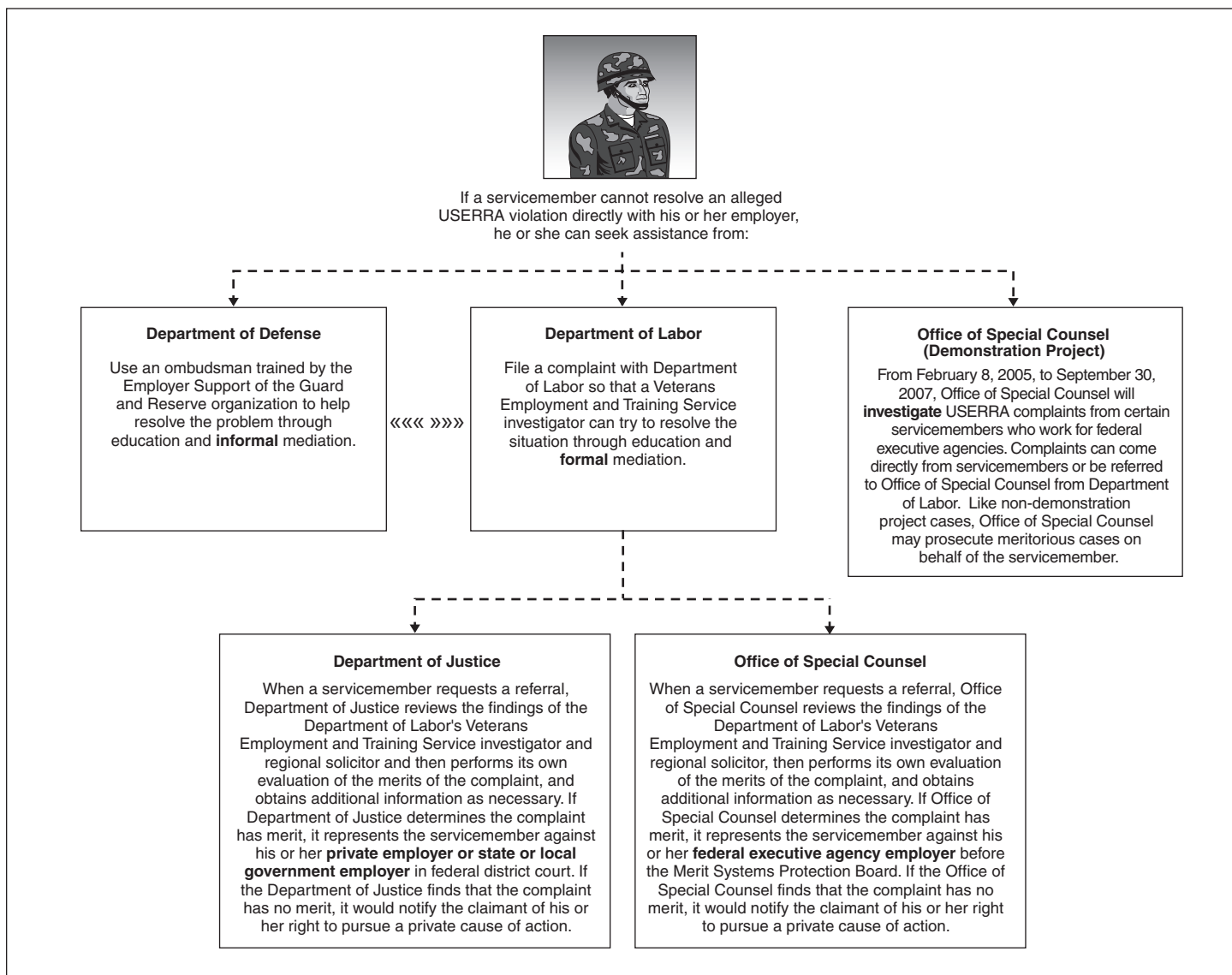
¹⁹According to DOD, an interagency committee was formed in 1987 with representatives from DOD, the Department of Labor, the Department of Justice, and the Office of Personnel Management to review existing law and recommend legislative changes. This committee forwarded proposed legislation to Congress in March 1991.

USERRA also provides employment and reemployment protection to reservists who incur or aggravate a medical disability during their military service.²⁰ In these instances, generally a three-part reemployment scheme is required. First, the employer must make reasonable efforts to accommodate a person's disability so that the person can perform the position that he or she would have held if continuously employed. Second, if regardless of accommodation efforts a person is not qualified for his or her original position due to a disability, he or she must be offered employment in a position of equivalent seniority, status, and pay—so long as the employee is qualified to perform the duties of that position or could become qualified with reasonable efforts by the employer. Finally, if the employee cannot become qualified for his or her prior position or its equivalent, he or she must be offered employment in a position that most nearly approximates the prior position in terms of seniority, status, and pay consistent with the circumstances of the person's case.

Figure 1 shows the process for servicemembers to resolve a USERRA complaint using federal assistance.

²⁰ 38 U.S.C. §4313 (a)(3).

Figure 1: Process to Resolve a USERRA Complaint Using Federal Assistance



Source: GAO, Art Explosion.

DOD shares responsibility with the Department of Labor to inform servicemembers and their employers of their rights, benefits, and

obligations under USERRA.²¹ DOD's Employer Support of the Guard and Reserve provides this training to reservists. The Office of the Under Secretary of Defense (Personnel and Readiness) develops the policies, plans, and programs that manage the readiness of both active and reserve forces, and within that office, the Assistant Secretary of Defense for Reserve Affairs oversees that activities of Employer Support. Much of Employer Support's work is done through its more than 4,000 volunteers, who help to educate servicemembers and employers about USERRA. A subgroup of about 800 specially trained volunteers act as impartial ombudsmen to informally mediate USERRA issues that arise between reservists and their employers. Ombudsmen handle complaints of reservists who are located geographically nearby. When ombudsmen cannot resolve a complaint informally, they notify the reservist of other options available to formally address complaints, such as filing a complaint with the Department of Labor or hiring private counsel.

The Department of Labor provides assistance to servicemembers with USERRA formal complaints primarily through its Veterans' Employment and Training Service. When a servicemember leaves active duty and a USERRA-related complaint develops against his or her civilian employer, the servicemember can file a formal complaint via computer at www.vets1010.dol.gov or can file a printed copy of the complaint with the Secretary of Labor. A Veterans' Employment and Training Service investigator located close to the employer will examine the complaint and attempt to resolve the complaint between servicemember and employer. If the Department of Labor is unable to resolve the complaint, it informs the servicemembers that the complaint can be referred to the Department of Justice or to the Office of Special Counsel. Before formal complaints are sent to the Department of Justice or the Office of Special Counsel, the Veterans' Employment and Training Service prepares a memorandum of referral, which includes an analysis of the key evidence and issues so as to ensure that the investigations were thorough and documentation is accurate and sufficient. The referrals are also reviewed by a Department of Labor Solicitor's Office, which analyzes all legal issues raised by the complainants. Although both the Veterans' Employment and Training Service and the Solicitor's Office determine if the complaints have merit, the Department of Labor is required to pass the complaints onto the

²¹The law also gives outreach responsibilities to the Secretary of Veterans Affairs, but we did not review actions of the Department of Veterans Affairs in supporting USERRA because its role is more limited than that of the other four federal agencies.

Department of Justice or the Office of Special Counsel if requested by servicemembers.

The Department of Justice receives employment complaints from the Department of Labor related to State or local government or private employers. The Department of Justice reviews the file and determines whether a complaint has merit. If so, the Department of Justice offers the claimant representation and may pursue litigation; if not, it declines representation. The Employment Litigation Section of the Civil Rights Division handles most of the USERRA complaints, and under some circumstances may refer a complaint to the appropriate United States Attorney's Office for review or prosecution.

The Office of Special Counsel enforces USERRA rights on complaints the Department of Labor receives about federal executive agencies. Under a demonstration project authorized by the Veterans Benefits Improvement Act of 2004,²² the Office of Special Counsel may now receive USERRA complaints as soon as they are filed by certain members.²³ Thus, the Office of Special Counsel can use information from the Department of Labor to review a referred complaint, but it can also review a complaint directly from a servicemember without Department of Labor input. If the Office of Special Counsel determines that the complaint has merit, it negotiates with the servicemember's federal employer. If an agreement cannot be reached, the Office of Special Counsel may represent the servicemember before the Merit Systems Protection Board and can appeal a decision in the U.S. Court of Appeals for the Federal Circuit. In response to a congressional mandate, we are currently assessing the Office of Special Counsel's demonstration project and will issue a separate report in the spring of 2007.

²²Pub. L. No. 108-454, §204 (2004).

²³Under the demonstration project, established by the Veterans Benefits Improvement Act of 2004, the Secretary of Labor refers to the Office of Special Counsel all federal sector USERRA claims that contain an allegation of a prohibited personnel practice over which the Office of Special Counsel has jurisdiction. The Secretary transfers all USERRA claims against a federal executive agency brought by claimants whose social security numbers end in odd numbers.

DOD Has Made Progress Capturing Reserve Employment Information, but Challenges Remain

Although DOD has established reporting requirements and compliance goals for reservists to provide their employer information and has made progress capturing much employer information, most reserve components have not met these reporting goals. In addition, DOD does not know whether the employer data it has obtained are current. Lastly, DOD has been unable to verify employer data for approximately 24 percent of its reservists reporting civilian employment. DOD acknowledges its verification process is not adequate for determining the accuracy of all employer information, particularly for small business.

DOD Has Made Progress Capturing Employer Information, but Most Components Have Not Met Reporting Goals

Although DOD and the reserve components have made progress in capturing employer information, most of the established reporting compliance goals have not been met. In 2001, DOD established a database to collect voluntarily reported employer information from reserve component members, but few servicemembers submitted the data. Following a recommendation in our 2002 report,²⁴ DOD took steps to make the submission of employer information mandatory. In March 2003, the Under Secretary of Defense for Personnel and Readiness signed a memorandum²⁵ directing each military department to implement a civilian employment information program for the collection of employer information and cited the need to utilize the information in accomplishing employer outreach. Having complete civilian employer information is also important to DOD's ability to make informed decisions concerning which reservists should be called for active duty to minimize the impact that mobilizations might have on occupations such as law enforcement, and to determine how businesses may be affected by reserve activation. In August 2004, DOD implemented regulations that required each military department to implement employment-related information reporting requirements for each officer, warrant officer, and enlisted person assigned to the Ready Reserve. These Reservists are required to report employment data—including whether they are employed part-time or full-time, are a student, have specified voluntary service,²⁶ or are not currently

²⁴GAO, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers*, [GAO-02-608](#) (Washington, D.C.: June 13, 2002).

²⁵Under Secretary of Defense for Personnel and Readiness Memorandum on Civilian Employment Information Program, March 21, 2003.

²⁶Specified voluntary service includes activities such as those performed in the United States Coast Guard Auxiliary and the Civil Air Patrol, or as a volunteer to a community service organization.

employed. If the reservist is employed, the reporting instruction also asks for the employer's name and address, date of employment, occupation code, and whether the reservist is self-employed. According to DOD policy, this employment reporting is to be accomplished when a member affiliates with the reserves, either through DOD's Defense Manpower Data Center's Guard-Reserve Employer Web site or through their reserve component, which then forwards the employment information to DOD on a weekly basis. The Army National Guard, Air Force Reserve, Air National Guard, and Marine Corps Reserve members input their data in the Defense Manpower Data Center's Guard-Reserve Employer Web site. The Navy Reserve, Coast Guard Reserve, and Army Reserve members first enter their employment data into their personnel systems and then the components forward the information to the Defense Manpower Data Center. We have included details as of August 2006 on the civilian employment status reported by reservists in the Selected Reserve from DOD's civilian employment information program in appendix II and on the profiles of reported employers of reservists in the Selected Reserve from DOD's civilian employment information program in appendix III.

The department has established a 95 percent reporting compliance goal for the Selected Reserve and a 75 percent compliance goal for the Individual Ready Reserve and Inactive National Guard. Prior to 2004, DOD had limited success in obtaining employer-related data from the reserve components. However, the percentage of Ready Reservists in compliance with employment-related reporting requirements has increased from about 60 percent in August 2005 to about 77 percent in August 2006. DOD statistics show an overall compliance rate of 91 percent for the Selected Reserve and 30 percent for the Individual Ready Reserve and Inactive National Guard with good addresses as of August 2006. Table 2 illustrates the employment reporting compliance rates and strength numbers for Selected Reserve members as well as the Individual Ready Reserve and the Inactive National Guard in each of the seven reserve components and DOD.

Table 2: Reserve Population and Percent of Compliance Achieved Toward Civilian Employment Reporting Goals by DOD and the Reserve Components, August 2006

Reserve components	Percent of component compliance achieved toward DOD's 95% goal for Selected Reserve	Selected Reserve population	Percent of component compliance achieved toward DOD's 75% goal for Individual Ready Reserve and Inactive National Guard population	Individual Ready Reserve and Inactive National Guard population
Army National Guard	93%	302,538	95%	1,927
Army Reserve	97	165,518	24	58,606
Navy Reserve	89	55,885	45	56,940
Marine Corps Reserve	71	33,819	25	58,664
Air National Guard	85	90,265	^a	^a
Air Force Reserve	85	71,339	23	38,545
Coast Guard Reserve	78	7,922	13	4,284
DOD total	91%	727,286	30%	218,966

Source: DOD.

^aThe Air National Guard does not have any Inactive National Guard or Individual Ready Reserve members.

As table 2 shows, compliance rates vary widely among the different reserve components, and few have met the established reporting goals. The Army National Guard, which accounts for 32 percent of all members of the reserve components, has met the Inactive National Guard reporting goal and has nearly met the Selected Reserve goal, and the Army Reserve, which accounts for an additional 26 percent of all reservists, has met the Selected Reserve reporting goal. The other reserve components have not met either of DOD's established compliance goals. The compliance rates for the Individual Ready Reserve and Inactive National Guard are substantially lower for the most part than they are for the Selected Reserve. Selected Reservists in some reserve components such as the Army Reserve and Air Force Reserve have established certain checks to capture their employment information. For example, the Army's Human Resources Command call center has an automatic pop-up screen which identifies soldiers with missing employer data when they call in for assistance. According to a Command official, if a soldier has not reported his or her employment information, he or she is automatically routed to the Communications Hub Office to get this employment data entered before obtaining assistance with other matters. Career Managers have the same pop-up screen if the soldier is able to bypass the main call line, so the manager can acquire and enter employment data if a soldier has not reported that information. Further, Air Force's online personnel system has similar reminders to prompt airmen about this employment data.

Although the Army Reserve and Army National Guard have met some of the reporting goals for the Selected Reserve and the Individual Ready Reserve and Inactive National Guard, other reserve components have not. DOD does not have specific time frames for reserve components to achieve their reporting goals, and has not directed the service components to take actions to assure compliance. According to the DOD official responsible for managing the employment information database, the services' civilian employment reporting requirements are relatively new and while the consequences for noncompliance are defined, the official was not aware of any enforcement actions that reserve components have taken at this time. The Under Secretary of Defense for Personnel and Readiness mandated the collection of employer information in a March 2003 memorandum. According to the memorandum, a member of the Ready Reserve who refuses to provide the information or who knowingly provides false information may be subject to administrative action or punishment under the Uniformed Code of Military Justice. However, reserve component officials we interviewed indicated that they were not aware of situations where the department had imposed any punishment or administrative action for members failing to report employment-related information. DOD acknowledges a need to obtain additional information on members of the Individual Ready Reserve and Inactive National Guard, which, as of August 2006, comprised approximately one-quarter of the Ready Reserve, with over 218,000 members. However, DOD has not placed emphasis on collecting employer information for these reservists. The Office of the Assistance Secretary of Defense for Reserve Affairs acknowledged that it has concentrated its efforts on obtaining employment information for members of the Selected Reserves, especially the Army Reserve and Army National Guard, which are the larger part of the Ready Reserve and are more frequently deployed. According to a DOD official, compliance is more difficult with regard to the Individual Ready Reserve and Inactive National Guard, because the reserve components face challenges in locating these members.

In recent years, we have issued a number of reports highlighting concerns regarding the availability of Individual Ready Reservist contact

information.²⁷ Specifically, in April 2003, we reported that many of the Individual Ready Reserve members were not available for mobilization because the services did not have valid contact information (addresses or phone numbers) for these individuals. At that time, we recommended that the Secretary of Defense direct the service secretaries to develop and use results-oriented performance metrics to guide service efforts to gain and maintain improved information on Individual Ready Reserve members and review and update their Individual Ready Reserve policies. Also, in September 2004, we recommended that DOD should gather better information about its reserve component forces. Additionally, in September 2006, we reported that the time needed to identify, locate, and contact members of the Army's Individual Ready Reserve would be a significant drawback for meeting future requirements. Without better employment information, DOD's ability to conduct employer outreach and make mobilization decisions that might affect first responders and communities is limited.

Some Reserve Employment Data May Not Be Current

Some of reported employer data in DOD's employer database may not reflect current employment since the services have not established a formal mechanism to encourage reservists to keep this information up to date. Although reservists are required to update their employment information when changes occur, the extent to which this update is occurring and the extent to which DOD's employer data include current employer information is unknown. Information obtained during our site visits to Reserve and National Guard units raised doubts about the currency of reported employment data. We held a total of 17 group discussions with over 100 reservists—which were stratified to include senior officers, junior officers, senior enlisted, and junior enlisted members—to discuss employer reporting and USERRA issues. A common theme that emerged from these discussions was that reservists generally were aware of the DOD requirement to report employer information and had at some point reported their employment status, but were not aware of the requirement to update their employer information when they

²⁷ GAO, *Military Personnel: DOD Needs to Address Long-term Reserve Force Availability and Related Mobilization and Demobilization Issues*, [GAO-04-1031](#) (Washington, D.C.: Sept. 15, 2004); GAO, *Force Structure: DOD Needs to Integrate Data into Its Force Identification Process and Examine Options to Meet Requirements for High-Demand Support Forces*, [GAO-06-962](#) (Washington, D.C.: Sept. 5, 2006); GAO, *Military Personnel: DOD Actions Needed to Improve the Efficiency of Mobilizations for Reserve Forces*, [GAO-03-921](#) (Washington, D.C.: Aug. 21, 2003).

changed employers. After our initial site visits, we discussed the issue of current employer data with the DOD official responsible for managing the employer database. The official confirmed that DOD policy requires reservists to update their employer information when changes occur, but DOD does not have a formal mechanism in place to encourage reservists to do so.

While not a formal review process, some reserve components such as the Army Reserve and Air Force Reserve indicated they have a tool in place that prompts their members to review and update employment information and other personnel data yearly on the month of their enlistment anniversary. Further, reservists in these components are reminded to update their employer information when accessing their online personnel or human resources system. The Office of the Assistant Secretary of Defense for Reserve Affairs is considering revising its employment reporting instruction to require annual reviews and updates of reported employer information, but DOD and the services do not currently have a formal review mechanism in place to encourage reservists to review employment-related data on a recurring basis.

Even if DOD and the services meet established civilian employment reporting goals, it means little if the employer data are not current. Without current data, DOD's ability to determine which reserve members to activate, including those employed in civilian positions related to health care and law enforcement that are essential to maintaining national health and safety, is limited. The extent to which reservists' employer data are not current also affects DOD's ability to conduct employer outreach.

Current Data Verification Process Is Not Adequate for Some Civilian Employers

Although DOD has taken steps to verify the accuracy of reservist-reported employment data, its process is not adequate for verifying some civilian employers, including small businesses that employ less than 50 people. The department has a particular interest in obtaining information on small businesses that employ reservists and self-employed reservists because of the potential impact that mobilizations may have on small business and self-employed reservists. The impact of reservists' mobilizations on businesses depends upon the position or function performed by the reservist employed. Although large and small businesses are both affected by mobilizations, the loss of a single employee from a small business is more likely to have an immediate and significant impact on the business.

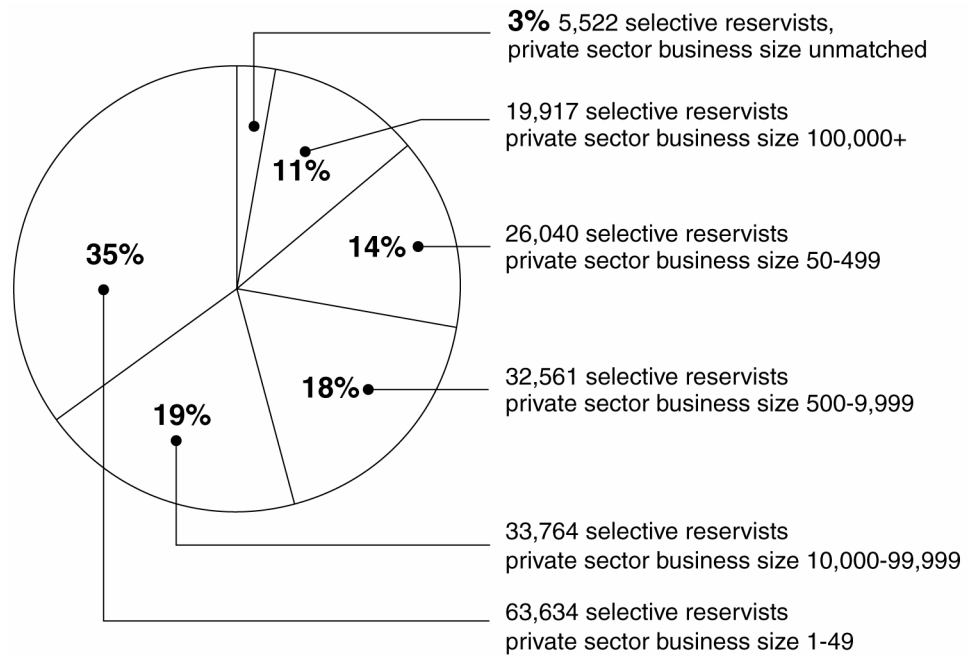
The department currently relies on Dun and Bradstreet to verify and supplement employer data submitted by reserve members. Dun and

Bradstreet maintains a comprehensive global business database, consisting of over 107 million companies. Its database contains data elements on each of those businesses that range from basic identification to value-added business intelligence information. Basic data identification elements include items such as company name, physical address, mailing address, and phone number. Value-added business intelligence includes information such as number of employees, and standard industrial codes.

DOD has been unable to verify employer information for approximately 24 percent of reservists (108,125 of 453,596) reporting full-time or part-time civilian employment as of August 2006. Dun and Bradstreet have been unable to verify this information for DOD because either the employer information did not match its data or some industry details were missing. DOD and Dun and Bradstreet officials acknowledge the difficulties involved in capturing data on some employers, especially those that are small businesses. A challenge to collecting small business data involves employing mechanisms for collecting accurate information on new businesses and for tracking changes to the businesses, such as location and mergers. Verification of employer information for small business represents a particular challenge since small businesses in general such as doctors, lawyers, accountants, and carpenters are far less likely to be captured in the verification process than large corporations.

Figure 2 illustrates the breakout of the 181,438 selected reservists employed in the private sector by business size whose reported employment has been verified as private sector related. For this group, the data show that 35 percent (63,634 of 181,438) were employed by small businesses with less than 50 employees.

Figure 2: Number and Percent of Selected Reservists Reporting Work in the Private Sector by Business Size (Number of Employees)



Source: DOD's Civilian Employment Information Database.

Note: The unmatched category includes employer information that was partially verified but incomplete information was available to determine company size.

Table 3 shows a breakdown of these 63,634 Selected Reserve members with verified employer information who are employed in small businesses for each reserve component by number and percent. The Army National Guard and the Army Reserve have the greatest number and percent of members who are employed in small business when compared to the DOD total.

Table 3: Number and Percent of Selected Reservists Reporting Employment by Small Businesses with Less than 50 Employees by Reserve Component and Total

Reserve component	Number of reservists employed in small business^a	Percent of component's reservists employed in small business	Percent of component's reservists employed in small business compared to total
Army National Guard	23,698	37%	37%
Air National Guard	5,769	31	9
Army Reserve	19,172	37	30
Air Force Reserve	4,968	27	8
Navy Reserve	7,799	33	12
Marine Corps Reserve	1,784	38	3
Coast Guard Reserve	444	40	1
Total	63,634	35%	100%^b

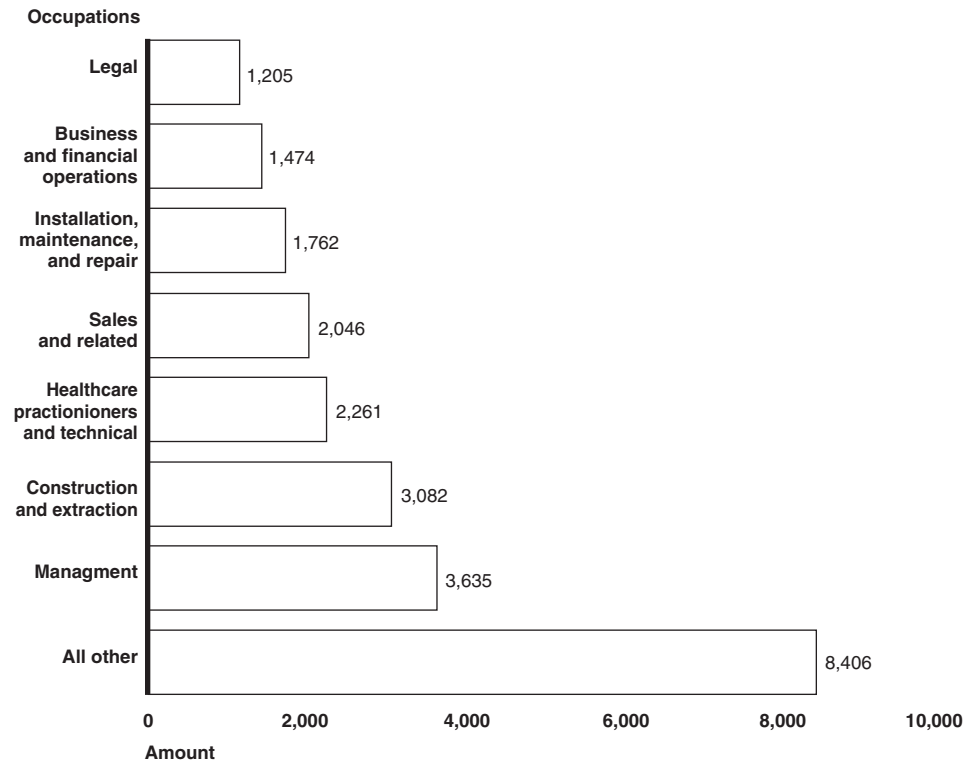
Source: DOD's Civilian Employment Information Database.

^aFor purposes of this report, small businesses are identified as businesses having 50 employees or less.

^bPercent may not add due to rounding.

As of August 2006, about 5 percent of employed reservists, 23,871 of the 453,596, reported they were self-employed. As shown in figure 3, the largest number of self-employed reservists report working in occupations related to management, construction and extraction, and healthcare practitioners and technical occupations.

Figure 3: Occupations with the Greatest Amount of 23,871 Self-Employed Reservists Reporting



Source: DOD's Civilian Employment Information Database.

According to Office of the Assistant Secretary of Defense for Reserve Affairs officials, they are currently exploring alternative resources for verifying small business employer information. DOD has begun discussions with the Census Bureau to obtain aggregate information on small business addresses. Additionally, DOD is in the process of working with the Small Business Administration in an attempt to develop strategies to improve the collection and management of employer information on small businesses.

Congress and DOD Do Not Have the Comprehensive Information Necessary to Allow for Oversight of Reservists' USERRA Complaints

The four federal agencies responsible for assisting reservists with USERRA complaints—DOD's Employer Support of the Guard and Reserve, the Department of Labor's Veterans' Employment and Training Service, the Department of Justice, and the Office of Special Counsel—track and address these complaints; however, Congress does not have the comprehensive information necessary to allow for complete oversight of all reservist USERRA complaints. The Secretary of Labor is required by law to provide an annual report to Congress on the number of formal USERRA complaints reviewed by the agency and referred to the Attorney General or Office of Special Counsel. However this report does not include informal complaints filed with DOD's Employer Support of the Guard and Reserve, which account for approximately 80 percent of all reservists' reemployment complaints. In addition, DOD lacks complete information on all reservists' USERRA complaints filed because it does not have visibility over complaints reported directly to the Veterans' Employment and Training Service or the Office of Special Counsel. Finally, the information we obtained on the more than 16,000 total informal and formal complaints revealed that the nature of these USERRA complaints could not be uniformly categorized to completely reveal trends in the types of problems that reservists returning from deployment experience because of differences in complaint categories.

Data in the Department of Labor's Report to Congress Represent Only 20 Percent of Complaints Filed

The complaint data that the Department of Labor reported to Congress for fiscal years 2004 and 2005 did not include 80 percent, or 9,975 of the 12,421 total informal and formal USERRA complaints filed by reservists during that period. The Secretary of Labor is required by law to provide an annual report that includes information on the number of cases it reviewed, the nature and status of each case reported, as well as the number of cases referred to the Attorney General or the Office of Special Counsel.²⁸ Relatively few formal complaints reach the Department of Justice and the Office of Special Counsel each year since the formal process begins at Veterans' Employment and Training Service, and complaints may be resolved there and not forwarded to the Department of Justice or the

²⁸Section 4332 of Title 38, U.S.C. requires that the Secretary of Labor, in consultation with the Attorney General and the Special Counsel, prepare an annual report to Congress. The law previously specified that the report was to be transmitted by February 1, 1996, and annually thereafter through 2000. The act was amended in 2004 to require a report by February 1, 2005, and annually thereafter.

Office of Special Counsel.²⁹ Nonetheless, the Secretary of Labor is required by law to include information on the number of complaints filed by the Attorney General, as well as an indication of whether there are any apparent patterns of violation and recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of USERRA. In addition to filing formal complaints with these agencies, complainants can also file informal USERRA complaints with DOD's Employer Support of the Guard and Reserve. However, Congress is not informed about these informal complaints because USERRA does not require the Secretary of Labor to include informal complaint information from DOD in its annual report to Congress. Further, DOD's Employer Support of the Guard and Reserve does not provide information to Congress, in any form, on the number and nature of informal USERRA complaints that it receives each year. The informal complaints filed with DOD's Employer Support are similar in nature and no less significant than the formal complaints filed with the Department of Labor or other agencies. For example, in fiscal year 2006, discrimination for military obligations was the top complaint filed with both DOD's Employer Support and the Veterans' Employment and Training Service. By contacting DOD's Employer Support, reservists' USERRA issues may be resolved more expeditiously, as the organization tries to resolve pay-related USERRA complaints in 7 days and other USERRA complaints within 14 days. According to the agency data, more than 95 percent of informal complaints reported to DOD's Employer Support are resolved without being forwarded to the Department of Labor for action.

According to a ranking DOD official, based on projections from the May 2004 Defense Manpower Data Center survey, of the reservists who sought assistance for a USERRA issue, between 53 and 79 percent sought assistance from DOD's Employer Support, but only between 15 and 37 percent sought help from the Veterans' Employment and Training Service. As shown in table 4, reservists filed a total of 9,975 informal USERRA complaints with DOD's Employer Support in fiscal years 2004 and 2005. These numbers represent USERRA complaints that reservists filed and do not include the many calls that DOD's Employer Support receives for basic

²⁹ As noted earlier, the demonstration project will affect the number of complaints filed at the Office of Special Counsel since it has received complaints directly from certain servicemembers since the project began.

information.³⁰ However, the Secretary of Labor's annual report to Congress included only the 2,446 formal USERRA complaints filed for that same time period.

Table 4: Informal and Formal Complaints Reservists Filed with DOD's Employer Support of the Guard and Reserve, the Veterans' Employment and Training Service, and the Office of Special Counsel,^a Fiscal Years 2004 and 2005

Fiscal year	Informal complaints reported to DOD's employer support ^b	Formal complaints reported to Veterans' Employment and Training Service	Formal complaints reported to the Office of Special Counsel	Grand total of informal and formal complaints
2004	5,839	1,280	^c	7,119
2005	4,136	1,054	112	5,302
Total	9,975	2,334	112	12,421

Source: GAO based on the Department of Labor's USERRA Annual Report to Congress, fiscal years 2004 and 2005 and data from DOD's Employer Support.

^aThe data reported by the Office of Special Counsel in the Department of Labor's Annual Report to Congress includes information on all USERRA complaints filed with the agency under the demonstration project, including reservists, veterans (including disabled veterans), and others, including members of the Commissioned Corps of the U.S. Public Health Service, former active duty personnel who alleged USERRA rights violations based on their enlistment in the Armed Forces, persons who filed both on the bases of their prior military service (i.e., veteran status) and present military service obligation (i.e., Guard or Reserve duty), persons whose connection with a uniformed service was unknown, and persons who could not establish membership in a uniformed service.

^bThe complaint data from DOD's Employer Support are based on the number of cases closed for fiscal years 2004 and 2005. The complaint data from the Veterans' Employment and Training Service and the Office of Special Counsel are based on the number of cases opened for that same time period.

^cThe Office of Special Counsel demonstration project did not begin until February 8, 2005; therefore, there were no formal complaints filed with the Office of Special Counsel included in the Department of Labor's Annual Report to Congress in fiscal year 2004.

Without data from DOD's Employer Support of the Guard and Reserve, Congress has limited visibility over the full range of USERRA issues that reservists face following deployment. Further, without these data, Congress may lack the information for its oversight of reserve employment matters needed to take actions that may be necessary to more effectively implement USERRA.

³⁰DOD's Employer Support also receives calls that it refers to as "information only." The calls pertain to any issue that is not a potential USERRA violation.

DOD Lacks Complete Information on All USERRA Complaints

DOD's Employer Support does not have information on, and therefore cannot track, reservists' USERRA complaints reported directly to the Veterans' Employment and Training Service and the Office of Special Counsel. As noted in the Standards for Internal Control in the Federal Government,³¹ management should ensure there are adequate means of obtaining information from others that may have a significant impact on the agency achieving its goals. However, despite recent enhancements to the Veterans' Employment and Training Service database which were designed to increase interagency coordination in managing USERRA case information, the Department of Labor's system allows each agency visibility over only those complaints that originate within their agency.

Following a recommendation in our 2005 report,³² the Veterans' Employment and Training Service implemented an enhancement to its USERRA Information Management System in October 2006 to enable the four USERRA coordinating agencies to electronically transfer case information between agencies. The database enhancement allows DOD's Employer Support of the Guard and Reserve, the Veterans' Employment and Training Service, the Department of Justice, and the Office of Special Counsel to access and update the status of cases using the internet.³³ In cases where a reservist files a formal complaint with the Veterans' Employment and Training Service and identifies DOD's Employer Support involvement in the case, the enhanced database will send an automated e-mail message to DOD's Employer Support. The e-mail will contain a link by which DOD's Employer Support can enter case information on the claimant. In addition, DOD's Employer Support will receive an e-mail notification each time the status of cases originating with it changes. An automatic e-mail notification will also be sent to the Department of Justice or the Office of Special Counsel when a reservist decides to refer a case to either agency. Additionally, the Office of Special Counsel's USERRA unit chief will receive an automated e-mail notification when the Veterans'

³¹ [GAO/AIMD-00-21.3.1](#).

³² GAO, *Military Personnel: Federal Management of Servicemember Employment Rights Can be Further Improved*, [GAO-06-60](#) (Washington, D.C.: Oct. 19, 2005).

³³ All information related to Office of Special Counsel demonstration project cases will be stored in a separate dataset throughout the entire life cycle of all demonstration project cases.

Employment and Training Service opens, refers, or resolves a federal sector claim opened during the term of the demonstration project.³⁴

Officials from each agency are able to see USERRA complaint information such as whether a case is open or closed, which agency is currently addressing it, and how long it took to resolve, and they are able to produce a report containing aggregate USERRA complaint data on the cases over which they have jurisdiction. However, only the Veterans' Employment and Training Service has visibility over the entire USERRA complaint process for all USERRA cases from submission—with the Veterans' Employment and Training Service—to resolution. Even though DOD's Employer Support of the Guard and Reserve has coresponsibility with the Veterans' Employment and Training Service for overseeing implementation of USERRA,³⁵ the system does not make aggregate reservist USERRA complaint data available to DOD's Employer Support. DOD's Employer Support has visibility over only those complaints that originated with its office, provided the complainant notified the Veterans' Employment and Training Service that he or she had previously notified DOD's Employer Support. Likewise, the Department of Justice and Office of Special Counsel have visibility over only those complaints that have been reported or referred to them, but the number of reservists' USERRA complaints that these two agencies address are relatively few in comparison to the total.

According to Veterans' Employment and Training Service officials, when the enhancement was being developed, the Department of Labor's Solicitor's Office determined that, due to the sensitive nature of the information that could be contained in the database, each agency's access would be limited to information about which it has a need to know. However, just as it is important for the Veterans' Employment and Training Service to have visibility over all USERRA cases, it is also important for DOD's Employer Support of the Guard and Reserve to have aggregate information on all reserve USERRA cases, excluding those details of a sensitive nature, even if those cases did not originate with their Employer Support organization. DOD's Employer Support also has direct

³⁴The demonstration project runs from February 8, 2005, through September 30, 2007. According to Veterans' Employment and Training Service officials, the Office of Special Counsel will begin entering case information into the system for fiscal year 2007 through the end of the pilot project.

³⁵ 38 U.S.C. § 4333.

responsibility for the reservists who are experiencing USERRA issues. Without knowledge of the USERRA complaints filed with the Veterans' Employment and Training Service and the Office of Special Counsel, DOD does not have complete information on the reemployment issues that its reservists have experienced.

USERRA Complaints Could Not Be Uniformly Categorized to Reveal Trends on the Types of USERRA Issues Experienced by Reservists

The information we obtained on the more than 16,000 total informal complaints filed with DOD's Employer Support and formal complaints filed with the Department of Labor's Veterans' Employment and Training Service and the Office of Special Counsel between fiscal years 2004 and 2006 showed that the nature of those complaints could not be uniformly categorized in order to reveal trends on the kinds of problems that returning reservists experience because the four USERRA agencies responsible for addressing complaints use different complaint categories to characterize these issues.³⁶ In line with the *Standards for Internal Control in the Federal Government*,³⁷ it is essential that different sets of related data be compared and assessed so that analyses of the relationships can be made and corrective actions taken, if necessary. However, because the databases of the four agencies responsible for USERRA were created for different purposes, the data collected are not conducive to a meaningful comparison. In particular, the two agencies that see the highest volume of cases, DOD's Employer Support of the Guard and Reserve and the Department of Labor's Veterans' Employment and Training Service, use different complaint categories to identify reservists' USERRA complaints, such as being refused job reinstatement, denied an appropriate pay rate, or being denied vacation time.

USERRA Coordinating Agencies' Databases Collect Different Data for Different Purposes

The databases of the USERRA coordinating agencies were created for different purposes. For example, Veterans' Employment and Training Service developed its database to track USERRA complaints to fulfill its reporting requirement to Congress.³⁸ However, DOD's Employer Support

³⁶ As noted earlier, this total includes informal complaints filed by reservists with DOD's Employer Support between fiscal years 2004 and 2006, and the formal complaints reported by the Department of Labor's Veterans' Employment and Training Service in its fiscal year 2004 and 2005 reports to Congress. The fiscal year 2006 report was not available within the time frames of our review. In addition, the Department of Justice is assigned enforcement responsibilities under USERRA, but the Department of Justice is not authorized to receive USERRA complaints directly from servicemembers.

³⁷ [GAO/AIMD-00-21.3.1](#).

³⁸ 38 U.S.C. § 4332.

began tracking USERRA complaint information in a centralized database as a result of our 2002 finding³⁹ that it did not have an accurate count of complaints handled by ombudsmen. Because these two agencies created their databases for different purposes, they do not have uniform complaint categories. For example, for DOD's Employer Support there are several issues that fall under the category of pay:

- employee paid less than others in comparable positions;
- employee not given a raise;
- pay of salaried employee reduced because of military absence; and
- employee did not receive paid military leave in accordance with employer policy.

For the Veterans' Employment and Training Service, the pay rate complaint category addresses the following:

- failure to meet the requirement that the reservist be restored to a position with the same rate of pay as would have been paid had the reservist not been absent for military service.

Unlike DOD's Employer Support, this category does not include complaints regarding paid military leave.

While the complaint categories used by the Department of Justice and the Office of Special Counsel to categorize USERRA complaints are also different from DOD's Employer Support and the Department of Labor, the number of complaints that these two agencies address are few in comparison to the total. In addition, complaints do not originate with the Department of Justice; they are referred from the Department of Labor. Therefore the complaints contained in the Department of Justice's database would already be contained in the Department of Labor's system. Further, although the Office of Special Counsel has directly received certain Federal USERRA complaints under the demonstration project,⁴⁰ to

³⁹GAO-02-608. This report found that reporting by ombudsmen had been sporadic and some field offices had gone an entire year without reporting any complaints at all.

⁴⁰The demonstration project was authorized by the Veterans Benefits Improvement Act of 2004, Pub. L. No. 108-454, § 204 (2004).

date it has received few, relative to the total number of complaints filed (federal and nonfederal).⁴¹

The complaint categories used by DOD's Employer Support and the Department of Labor's Veterans' Employment and Training Service, which handle the largest number of USERRA complaints, are not completely compatible. As a result of the incompatibility of the complaint categories, neither DOD nor the Veterans' Employment and Training Service have yet to consolidate information to identify complete trends on the nature of reservists' USERRA complaints that may not be readily apparent. As reservists continue to demobilize and the possibility of a USERRA complaint exists, this trend information on USERRA issues may assist Congress and DOD in making informed decisions concerning USERRA.

Disabled Reserve Members' USERRA Complaints Are Not Systematically Recorded or Tracked

The four agencies—DOD's Employer Support, the Department of Labor's Veterans' Employment and Training Service, the Office of Special Counsel, and the Department of Justice—responsible for addressing and tracking USERRA claims cannot systematically record and track disability-related employment complaints. In essence, these agencies do not record disability-related complaints using consistent and compatible complaint categories or distinguish disability-related complaints from other types of complaints for tracking and reporting purposes.⁴² Therefore, the nearly 200 disability-related USERRA claims filed with DOD's Employer Support and the Department of Labor's Veterans' Employment and Training Service from fiscal year 2004 through fiscal year 2006 may be understated. Further, DOD may only have knowledge of those claims initially filed with Employer Support. DOD may not be aware of 43 formal disability-related complaints if they were filed directly with the Veterans' Employment and Training Service. Without tracking disabled reservists' employment complaints, DOD may not be completely aware of the effect that disabilities incurred by reservists while on active duty have on their

⁴¹According to the Department of Labor's most recent report to Congress, fiscal year 2005, the Office of Special Counsel opened 112 federal cases under the demonstration project, which began February 8, 2005. In this report, the Department of Labor reported opening 1,241 (federal and nonfederal) new cases. This number includes reservists, military veterans, and persons with no prior or current military membership.

⁴²The Office of Special Counsel recently modified its database to permit the identification of eight additional allegation categories, including Injured Reservist-Discrimination, Injured Reservist-Reemployment, Injured Guardsman-Discrimination, and Injured Guardsman-Reemployment.

reemployment, and what additional assistance may be needed to help transition this population back into the workforce.

Agencies Do Not Use Consistent, Compatible Categories to Track Disability-Related Complaints

Specifically, agency officials indicated that all four agencies involved in tracking and addressing USERRA disability-related complaints, such as an employer's failure to provide reasonable accommodation, like any other type of USERRA complaint; however, they do not record disability-related complaints using consistent and compatible categories to allow information analysis and reporting. For example, DOD's Employer Support classifies USERRA disability-related complaints within three categories including medical benefits, job placement, and time limits for reemployment, while the Department of Labor's Veterans' Employment and Training Service uses one category, reasonable accommodation and retraining for disabled, to classify USERRA disability-related complaints. The Department of Justice classifies and tracks USERRA complaints, including those that may be disability related, within 11 categories such as assignment, benefit, discharge, reemployment, and termination; and the Office of Special Counsel uses four categories—reprisal, discrimination, disabled veteran discrimination, and reemployment rights—to record USERRA complaints, including those that may be disability related. Table 5 shows the complaint classifications used by DOD's Employer Support, the Department of Labor's Veterans' Employment and Training Service, the Department of Justice, and the Office of Special Counsel to record disability-related complaints.

Table 5: Type of USERRA Disability-Related Complaint Classifications by Agency

How disability-related claim may be classified by agencies	DOD's Employer Support	Veterans' Employment and Training Service	Department of Justice	Office of Special Counsel
Medical benefits: Employee incurred/ aggravated medical disability during service	X			
Job placement: Employer does not accommodate returning disabled employee	X			
Time limits for reemployment: Employee incurred/aggravated disability during service	X			
Reasonable accommodations/retraining for disabled		X		
Disabled veteran discrimination				X
Reprisal				X
Reemployment			X	X
Discrimination			X	X
Assignment			X	
Benefit			X	
Discharge			X	
Discipline			X	
Hiring			X	
Promotion			X	
Retaliation			X	
Termination			X	
Miscellaneous			X	

Source: GAO analysis of agency reporting codes.

Agencies Do Not Have a System to Distinguish Disability-Related Complaints from Other Types of Complaints

While the categories depicted above may include disability-related cases, other disability-related complaints may not be classified as such. Some claimants may not have identified their disability when filing a case or the case worker may not have classified the disability as the primary complaint. For example, DOD Employer Support customer service personnel and ombudsmen do not specifically inquire if cases are related to a disability. If the complainant indicates that the case involves a disability, DOD's Employer Support will classify it accordingly. Otherwise, the case may be categorized within other DOD Employer Support classifications as determined by the case worker taking the complaint.

In addition, a single USERRA complaint may involve a number of different issues or violations that complicates case classification and categorization

by the agencies. As a result, disability-related complaints may not be distinguishable from any other types of complaints for tracking and reporting purposes. During fiscal year 2003 through fiscal year 2005, for example, the Office of Special Counsel filed three discrimination cases and one reemployment rights case with the Merit System Protection Board. One of the cases, initially classified as a discrimination case, was based on a USERRA disability-related violation that involved a U.S. Postal Service employee who had been called to active military service. As a Postal Service employee, this person's job entailed the lifting of heavy packages. While on active duty, he suffered a shoulder injury that prevented him from doing his job when he returned to his civilian employer. According to the complaint, the Postal Service terminated the reservist without making any effort to find him a suitable alternative position. The Office of Special Counsel later alleged violations of both the antidiscrimination provisions and reemployment rights provisions of USERRA when a suit was filed. Additionally, the Department of Justice routinely classifies USERRA complaints involving multiple violations within all applicable categories. No distinction is made concerning the relevance of one violation compared to another within the various categories. The Department of Labor officials also indicated that to ensure that all disability-related cases were properly categorized, virtually all case notes and case files would have to be reviewed.

DOD Does Not Have Complete Visibility over Disability-Related Employment Complaints

Our analysis of DOD's Employer Support and the Department of Labor's Veterans' Employment and Training Service disability-related complaint categories indicated that about 200 disability-related USERRA claims were filed with them from fiscal year 2004 through fiscal year 2006. We believe, however, this number may be understated because DOD Employer Support may have classified undisclosed disability-related complaints in other categories and the Department of Labor's Veterans' Employment and Training Service may have classified disability-related employment complaints that included other USERRA violations in categories other than the specific categories we reviewed and analyzed. Consequently, DOD may not be fully aware of the actual number of disability-related complaints filed by its reservists or the specific employment issues being experienced by reservists seeking reemployment. Without such information, DOD may find it difficult to assess the needs of its disabled reservists experiencing reemployment issues and provide whatever additional assistance may be needed to help transition this population back into the workforce.

From fiscal years 2003 to 2006, DOD identified nearly 12,000 reservists as disabled. These disabilities include physical impairments as well mental distress received while on active duty. GAO has previously reported on the risk of servicemembers returning from combat developing post-traumatic stress disorder.⁴³ Mental Health experts estimate that the intensity of warfare in Iraq and Afghanistan could cause more than 15 percent of servicemembers returning from these conflicts to develop post-traumatic stress disorder. As long as current operations continue, servicemember will place themselves at risk for becoming injured or potentially being mentally traumatized, which could require DOD to make a greater investment in offering assistance to these individuals.

Conclusions

Without better employer information, DOD cannot manage activities such as conducting outreach to help employers understand their USERRA responsibilities or know if its decisions are adversely affecting communities by activating a large number of its first responders or healthcare professionals, or disproportionately impacting small business employers.

Currently, the Department of Labor's annual report to Congress includes information about only formal USERRA complaints, which accounted for about 20 percent of all reservist complaints filed in fiscal year 2005. With the Department of Labor reporting only reservists' formal USERRA complaint data, Congress may not have enough information for its continued oversight of reserve employment matters, and to help determine whether any revisions to USERRA are warranted based on the nature of both formal and informal complaints. Currently, DOD lacks complete information on all informal and formal USERRA complaints filed by its reserve members. Thus, DOD may be unable to determine the full extent of USERRA issues that its reservists are facing. Lastly, as long as the agencies responsible for addressing complaints continue to classify USERRA complaints differently in their databases, consolidation of this information to identify complete trends may prove to be difficult, limiting DOD's knowledge of the nature of reservists' USERRA issues and the

⁴³GAO, *Post-Traumatic Stress Disorder: DOD Needs to Identify the Factors Its Providers Use to Make Mental Health Evaluation Referrals for Servicemembers*, [GAO-06-397](#) (Washington, D.C.: May 11, 2006); and GAO, *VA Health Care: VA Should Expedite the Implementation of Recommendations Needed to Improve Post-Traumatic Stress Disorder Services*, [GAO-05-287](#) (Washington, D.C.: Feb. 14, 2005).

ability to take action on the most common complaints to better assist reservists upon their return from deployment.

Without systematic tracking of disabled reservists' reemployment complaints, Congress and DOD may lack information about the actual number of disability-related reemployment complaints filed by this group of reservists after their demobilization and recovery. Further, without visibility over disability-related complaints, DOD may find it difficult to assess the reemployment challenges that its disabled reservists experience upon their return to civilian employment and whether additional assistance may be needed to help transition this population back into the workforce. Having the ability to identify disability-related reemployment complaints will become more crucial in the future as reservists continue to face combat and expose themselves to serious injury in operations in Iraq and Afghanistan.

Matter for Congressional Consideration

To gain a full perspective of the number and nature of USERRA complaints filed by reservists in gaining reemployment upon returning from active duty, Congress should consider amending 38 U.S.C. §4332 to require the Department of Labor to include data from DOD's Employer Support of the Guard and Reserve in its annual report to Congress.

Recommendations for Executive Action

To improve the reporting of reserve employment information and to enable the components to meet the reporting compliance rate of 95 percent for the Selected Reserve and 75 percent for the Individual Ready Reserve and Inactive National Guard, we recommend that the Secretary of Defense direct the Office of the Assistant Secretary of Defense for Reserve Affairs to establish specific time frames for reservists to report their employment data, set specific time frames for reserve components to achieve the established compliance reporting goals, and direct the service components to take action to assure reporting compliance.

To encourage reservists to provide DOD with current employer data, we recommend that the Secretary of Defense direct the Office of Assistant Secretary for Reserve Affairs to update DODI 7730.54, Enclosure 10 on civilian employment-related information reporting to instruct all military departments to establish a formal review mechanism that would require all reservists to review and update at least annually their reported employment-related information.

To provide DOD with increased visibility over reserve USERRA complaints, we recommend that the Secretary of Labor provide aggregate USERRA complaint data to DOD's Employer Support for the Guard and Reserve.

To allow for complete analysis of trends in reporting reservist USERRA complaints, we recommend that the Secretary of Defense and Secretary of Labor adopt uniform complaint categories in the future that will allow aggregate trend analysis to be performed across the databases.

To provide the agencies responsible for addressing USERRA complaints with better information about disability-related employment complaints, we recommend that the Secretary of Labor direct the Veterans' Employment and Training Service to develop a system for recording and tracking disability-related USERRA complaints reported by reservists, such as establishing consistent and compatible complaint categories and distinguishing disability-related complaints from other types of complaints. The Veterans' Employment and Training Service should then share this system with the other agencies responsible for addressing USERRA complaints.

Agencies' Comments and Our Evaluation

In written comments on a draft of this report, the Department of Defense (DOD) and the Department of Labor generally concurred with our findings and recommendations that were directly applicable to their respective agencies. The Office of Special Counsel also provided written comments indicating that it concurred with our recommendations and found the report to be comprehensive and accurate as it related to the responsibilities of the Office of Special Counsel. Also, the Department of Labor and the Office of Special Counsel concurred with our matter for congressional consideration that Congress should consider amending 38 U.S.C. §4332 to require the Department of Labor to include complaint data from DOD's Employer Support of the Guard and Reserve in its annual report to Congress. The Department of Justice reviewed a draft of this report and had no comments. Each agency's comments are printed in its entirety in appendices IV through VI. The agencies also provided technical comments, which we incorporated as appropriate.

In DOD's written comments, the department partially concurred with our recommendation that the Secretary of Defense direct the Office of the Assistant Secretary of Defense for Reserve Affairs to establish specific time frames for reservists to report their employment data and direct the service components to take action to assure compliance. DOD cited

Instruction 7730.54 issued on August 6, 2004, which directed the services to obtain a 95 percent compliance rate for Civilian Employment Information for the Selected Reserve and to obtain a 75 percent compliance rate for the Individual Ready Reserve and Inactive National Guard with good addresses, effective the date of the issuance of the Instruction (August 6, 2004). DOD also noted that the Under Secretary of Defense for Personnel and Readiness issued a memorandum to the Service Secretaries on November 19, 2004, requesting their assistance in collecting reservists' employment information by February 1, 2005. Based on the instruction and the Under Secretary's memorandum, DOD commented that specific time frames are in place for the compliance reporting of civilian employment information. We disagree. As our report points out, in August 2005—6 months after the February 2005 reporting time frame—not all reservists had complied with the reporting requirement. In August 2005, the overall number of Ready Reservists reporting employer information to DOD was about 60 percent. This number improved to about 77 percent overall in August 2006, but still short of DOD's goals. We continue to believe that DOD needs to establish a new deadline by which reservists must report their employer information to DOD. In addition to establishing new reporting requirements for individual reservists, we noted throughout our draft report that DOD has not set specific time frames for reserve components to achieve the established compliance reporting goals. We believe it is essential that DOD establish such time frames. In its written comments, DOD agreed to issue a memorandum directing the reserve components to meet the full compliance reporting for members of the Selected Reserve. However, DOD did not state that the memorandum would include a specific deadline by which reserve components would have to achieve full compliance reporting. Also, DOD stated that the memorandum would address only the goals for the Selected Reserve. We also believe this memorandum should direct the reserve components to meet full compliance reporting for the Individual Ready Reserve and Inactive National Guard members, as well. We have modified our recommendation to state that the Assistant Secretary of Defense for Reserve Affairs should set specific time frames for reserve components to achieve the established compliance reporting goals.

DOD concurred with our recommendation that the Secretary of Defense direct the Office of the Assistant Secretary for Reserve Affairs to update DOD instruction 7730.54 Enclosure 10 on civilian employment-related information reporting to instruct all military departments to establish a formal review mechanism that would require all reservists to review and update their reported employment-related information at least annually. DOD stated that it has drafted a revision to DOD instruction 7730.54 that

requires an annual review of civilian employment information. According to DOD, while this revision is being processed for reissuance, the Army National Guard has recommended consideration of adding a pop-up screen to its existing Web site to prompt service members to validate employment data and capture the validation date. Navy Operational Support Centers will also ensure an annual verification of employment data and record changes in this information when notified.

DOD also concurred with our recommendation that the Secretary of Defense and the Secretary of Labor adopt uniform complaint categories in the future that will allow aggregate trend analysis to be performed across the databases. DOD noted that National Committee for Employer Support of the Guard and Reserve staff members are working with Department of Labor staff to facilitate uniformity of complaint categories which will allow for like data points in each department's database.

In the Department of Labor's written comments, the department concurred with our recommendation that the Secretary of Labor make aggregate USERRA complaint data available to the DOD's Employer Support for the Guard and Reserve. It noted that it has provided such information to Reserve Affairs, the National Guard Bureau, and the Defense Manpower Data Center. The Department of Labor has agreed to start providing aggregate information to DOD's Employer Support of the Guard and Reserve on a quarterly basis.

The Department of Labor also concurred with our recommendation that the Secretary of Defense and the Secretary of Labor adopt uniform complaint categories in the future that will allow aggregate trend analysis to be performed across the databases. It noted that it is working with DOD's Employer Support of the Guard and Reserve to determine the appropriate means to achieve that goal. The Department of Labor is enhancing its USERRA information management system in cooperation with DOD's Employer Support, the Department of Justice, and the Office of Special Counsel to effect our recommendation. The Department of Labor stated that these changes will improve case handling and aid in compiling accurate and meaningful case data, including pertinent data involving USERRA disability cases from DOD's Employer Support and the Department of Labor's Veterans' Employment and Training Service.

The Department of Labor also concurred with our recommendation that the Secretary of Labor direct the Veterans' Employment and Training Service to develop a system for recording and tracking disability-related complaints reported by reservists, such as establishing consistent and

compatible complaint categories and distinguishing disability-related complaints from other types of complaints. The Veterans' Employment and Training Service should then share this system with the other agencies responsible for addressing USERRA complaints. It noted that its statutory authority to collect such disability-related data is limited to USERRA complaints. It also noted that to avoid ambiguity with its recommendation, GAO may want to clarify that the recommendation covers only the identification of USERRA complaints where the servicemember's disability is a factor in the case rather than a requirement to capture all disability complaints that reservists might raise. In response to the Department of Labor's comments, we revised this recommendation to make clear that we are not asking the Department of Labor to collect information that extends beyond its USERRA statutory authority.

Finally, the Department of Labor's comments state that our report does not adequately differentiate between "informal inquiries" and "formal complaints," and that we categorize all inquiries as complaints, regardless of content. The Department of Labor further states that our report's lack of differentiation unnecessarily inflates the total number of USERRA complaints by 9,975. We disagree for the following reasons. First, we do not use the term "informal inquiries" anywhere in our report. We use the terms "informal complaints" and "formal complaints." Second, we took great care throughout the report to differentiate our use of the terms "informal" and "formal" complaints. For example, our report's introduction section very carefully stipulates that reservists have both "informal" and "formal" options to report their USERRA complaints. We note that DOD's Employer Support program and the military chain of command are "informal" sources available to reservists, and clearly stipulate, both in narrative and in a footnote, that complaints filed with DOD's Employer Support are "informal complaints," while complaints filed with the Departments of Labor and Justice, and the Office of Special Counsel are "formal" complaints. Regarding Labor's assertion that our report categorizes all inquiries as complaints, we disagree. We were meticulous in our requests for complaint data and very thorough in our analyses of these data to ensure that inquiries for information and/or requests for technical assistance were excluded from our complaint totals. Moreover, Labor is incorrect in its assertion that the 9,975 informal complaints filed by reservists with DOD's Employer Support represent "inquiries" and serve to unnecessarily inflate the total number of USERRA complaints. We were very careful to request from DOD's Employer Support only bona fide USERRA complaints, and not inquiries for information. Upon receipt of the data, we again confirmed with DOD that the data represented only valid USERRA complaints. Our draft report,

both in the narrative and a footnote, clearly stipulated that the 9,975 complaints pertained only to complaints related to USERRA violations, and not inquiries.

We are sending copies of this report to the Secretary of Defense; the Secretary of Labor; the Attorney General; the Special Counsel; the Secretaries of the Army, the Navy, and the Air Force; the Commandant of the Marine Corps; the Chairman of the Joint Chiefs of staff; the Director, Homeland Security; the Director, Office of Management and Budget; and other interested congressional committees. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-5559 or stewartd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in black ink that reads "Derek B. Stewart". The signature is written in a cursive, flowing style.

Derek B. Stewart
Director, Defense Capabilities and Management

Appendix I: Scope and Methodology

To assess the status of the Department of Defense's (DOD) efforts to capture data on employers of reservists, we gathered and analyzed data provided by the Office of the Assistant Secretary of Defense for Reserve Affairs from DOD's civilian employer information database as of August 2006. Specifically, we obtained employment-related data from the civilian employment information file for about 758,000 selected reservists, including categories such as those who were employed full or part time, a student, a civilian volunteer, or not currently employed. The approximately 70,000 reservists who were listed as Active Guard and Reserve members were not included in the analysis. For reservists who reported full- or part-time employment, we obtained and analyzed information to identify reservists employed in private, public, or education sector jobs. For private sector employment we obtained and analyzed information on the type and size of business by number of employees. We also obtained and analyzed data on the number of reservists who reported self-employment and the business occupations involved. We analyzed similar information to identify profiles of the employers of reservists. To identify progress DOD had made in capturing employer information, we reviewed agency policies, procedures, and processes for reserve employment reporting, and obtained and analyzed data on the percent of reporting compliance DOD and its reserve components had achieved toward the established goals of 95 percent employer reporting for members of the Selected Reserve and 75 percent employer reporting for members of the Individual Ready Reserve and Inactive National Guard. We also interviewed officials from the Office of the Assistant Secretary of Defense for Reserve Affairs and Reserve Components about employer reporting, data verification, and ongoing initiatives. In addition, we interviewed members of reserve units about their employer reporting during site visits.

To assess agencies' tracking and addressing of USERRA complaints, including those related to disabilities incurred while on active duty, we obtained information on all of the more than 16,000 total USERRA complaints filed as informal complaints with DOD's Employer Support of the Guard and Reserve and as formal complaints with the Department of Labor's Veterans' Employment and Training Service, and the Office of Special Counsel.¹

¹As previously noted, the Department of Justice is not authorized to receive USERRA complaints directly from servicemembers. It represents individuals involving private sector or state or local government complaints that it receives from the Department of Labor.

We obtained and reviewed the results of the Department of Labor's Assistant Secretary for Veterans' Employment and Training Service USERRA Annual Report to Congress for fiscal years 2004 and 2005. Our testing indicated that the data used to produce the report would be sufficiently reliable for our purposes. In addition, we also obtained data on the number of informal complaints reported to DOD's Employer Support between fiscal years 2004 and 2006 to determine the number and types of complaints that were being filed by reservists. We also analyzed data from the Department of Justice and the Office of Special Counsel to determine the number and type of USERRA referrals that were being handled by the agency. In addition, we reviewed data from the Office of Special Counsel on the number and type of cases handled under the demonstration project. We also followed up on our 2005 report to determine whether the Secretary of Defense, the Secretary of Labor, the Attorney General, and the Special Counsel developed procedures or systems to allow the electronic transfer of information between offices. In addition, to assess how efficiently and effectively DOD's Employer Support, Department of Labor, Department of Justice, and Office of Special Counsel addressed servicemember complaints, we obtained and analyzed information about complaint-processing practices, including applicable law, guidance, and operations manuals. We also obtained and reviewed the memorandums of understanding between the Department of Labor and DOD's Employer Support, the Department of Justice, the Office of Special Counsel, and the Department of Veterans Affairs. We discussed the agency data related to USERRA complaints and methods used to collect these data with responsible agency officials from the following offices:

- Department of Defense, Employer Support of the Guard and Reserve, Arlington, Va.;
- Department of Defense, Office of the Assistant Secretary of Defense for Reserve Affairs, Arlington, Va.;
- Defense Manpower Data Center, Arlington, Va. and Seaside, Calif.;
- Department of Labor, Washington, D.C.;
- Department of Labor, Veterans Employment and Training Service, Regional Office in Atlanta, Ga.;
- Department of Labor, Office of the Solicitor, Washington, D.C.;
- Regional Office in Atlanta, Ga.;

- Department of Justice, Washington, D.C.;
- Office of Special Counsel, Washington, D.C.;
- U.S. Coast Guard Headquarters, Washington, D.C.; and
- Department of Veterans Affairs, Washington, D.C.

In addition, we also contacted the following commands to obtain information on component-specific USERRA and disability-related surveys and initiatives: U.S. Army Reserve Command, Fort McPherson, Ga.; and National Guard Bureau, Arlington, Va.

We obtained and analyzed similar information from these agencies for the disability-related claims. Specifically, we imported data from the Veterans' Employment and Training Service USERRA Information Management System into an Access database and queried the data to look at the number of formal disability-related complaints handled by the Department of Labor between fiscal years 2004 and 2006. We also obtained data on the number of informal disability-related complaints reported to DOD's Employer Support between fiscal years 2004 and 2006. In addition, we reviewed data on reservists wounded in action in Iraq and Afghanistan from October 7, 2001, through October 14, 2006, and the number of reservists classified as disabled by DOD between fiscal years 2003 and 2006. We also obtained information about the Army Wounded Warrior Program.

We also discussed reserve employment issues with 8 of DOD's Employer Support Ombudsmen from around the country. The 8 ombudsmen were selected from a larger sample of 30 Ombudsmen drawn by DOD's Employer Support based on our criteria, which included the Ombudsmen who had (1) handled the most cases and/or (2) been ombudsman the longest, and (3) are geographically dispersed. In addition, we held a total of 17 group discussions with over 100 reservists, which were stratified to include senior officers, junior officers, and senior enlisted and junior enlisted members from units that were previously activated to discuss their knowledge of USERRA and the rights it provides them, reporting of employment information, and any USERRA issues they may have experienced as a result of their activation. These discussions included members from an Army National Guard unit, the 276th Engineering Battalion, at A.P. Hill, Va.; an Army Reserve unit, the 328th Combat Support Hospital, at Ft. Douglas, Utah; an Air Force Reserve unit, the

446th Airlift Wing, at McChord AFB, Wash.; and a Marine Corps Reserve unit, Headquarters Battery, 5th Battalion, 14th Regiment 4th Marine Division at Seal Beach, Calif.

Also, we interviewed officials from the Army Emergency Relief organization and the Air Force Aid Society on the type of assistance provided to reservists awaiting resolution of a USERRA complaint. We also contacted representatives from the following organizations to obtain information on potential USERRA studies, and their views on reserve USERRA issues, including those related to disabilities incurred while on active duty:

- Veterans of Foreign Wars of the United States, Washington, D.C.;
- Paralyzed Veterans of America, Washington, D.C.;
- The American Legion, Washington, D.C.;
- Vietnam Veterans of America, Silver Spring, Md.;
- Reserve Officers Association, Washington, D.C.; and
- Military Officers Association of America, Alexandria, Va.

We assessed the reliability of reported reservist employer data from DOD's civilian employment information database, and reserve USERRA complaint data from DOD's Employer Support, Department of Labor's Veterans' Employment and Training Service, Department of Justice, and the Office of Special Counsel. We used a variety of methods to accomplish this assessment including electronic testing of the Department of Labor's USERRA data and interviewing officials regarding their data quality protocols. As a result of this, we determined that data from the Department of Justice and the Office of Special Counsel were sufficiently reliable for our purposes. In addition, our limited testing of the Department of Labor's data also showed that the data were sufficiently reliable for purposes of this report. However, an ongoing review within our agency continues to assess the Department of Labor's USERRA data.

DOD's civilian employment information and DOD's Employer Support databases were found to be of undeterminable reliability. The validity of the employer data depends, on (1) the accuracy of the reservists' entries and (2) the verification algorithm used by the private company that DOD has an arrangement with for providing business-related details. Some data

entry checks occur at the Reserve unit level and at the Defense Manpower Data Center. The private company's business name-matching algorithm is multistep and was not subject to our evaluation. Data that are matched are assigned a confidence code of 1 to 10 with 7-10 considered as high confidence of the match, 5-6 considered as medium, and 4 considered as low and suggesting the likelihood of inaccurate automated matching. Somewhat more than 9 percent of the matches fall into the last category, and almost 20 percent of the entries in the recently reported set of reservists found no matches at all. In addition, small businesses in general such as doctors, lawyers, accountants, and carpenters are far less likely to be captured in the matching process. As such, we report the numbers from the employer database for suggestive purposes, but they should not be regarded as definitive.

For DOD's Employer Support data, we did not directly test the complaint data, but the Oracle integrity constraints serve some data reliability purposes. However, after data are entered there are no agency spot checks, systematic reviews, or exception reports. As such, the reliability of these data is undetermined and we use these data to simply characterize the complaints and to suggest the ratios among those complaints.

We conducted our work from April 2006 through December 2006 in accordance with generally accepted government auditing standards.

Appendix II: Profiles on Reservists’ Civilian Employment

Tables 6 through 10 provide civilian employment details for approximately 758,000 Selected Reservists, excluding the Active Guard and Reserve. The data represent information reported by reservists from the Department of Defense’s (DOD) civilian employment database as of August 2006. According to a DOD official, all employer information has not been fully verified by DOD, however the data are the best information available on reservists’ civilian employment. Appendix III provides information on the employers of reservists. Table 6 shows the reservists’ civilian employment status by full-time, part-time, civilian volunteer, student, not employed, and unknown categories by DOD total and by each reserve component.

Table 6: Reported Civilian Employment Status of Selected Reservists by DOD and its Reserve Components								
Employment status	DOD total	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
Full-time	418,917	150,928	104,864	3,392	59,721	47,298	12,586	40,128
Part-time	34,679	15,226	6,241	238	5,236	2,973	2,739	2,026
Civilian volunteer	988	334	287	10	148	148	26	35
Student	61,798	33,717	16,134	347	5,775	2,944	1,343	1,538
Not employed	129,720	75,218	34,020	1,913	3,440	4,535	6,777	3,817
Unknown ^a	112,080	40,655	13,355	2,052	17,986	14,253	13,804	9,975
Total	758,182	316,078	174,901	7,952	92,306	72,151	37,275	57,519

Source: DOD’s Civilian Employment Information Database.

^aUnknown includes cases where reservists have not filled out the civilian employment information profile.

Table 7 shows the breakout for the 453,596 reservists reporting full-time or part-time civilian employment by the sector they are employed including private sector, state and local government, education, and federal government for DOD and its reserve components. It also includes information as unknown for those cases where a reservist has reported employment information but either the information did not match with verification checks or a standard industrial classification code was missing.

Appendix II: Profiles on Reservists' Civilian Employment

Table 7: Selected Reservists Reporting Full-Time or Part-Time Civilian Employment by Employment Sector for DOD and Its Reserve Components

Employment sector	DOD total	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
Private sector	181,438	63,866	51,612	1,120	18,339	18,226	4,724	23,551
State and local government	48,794	21,446	11,229	659	6,323	4,228	797	4,112
Education	13,374	4,169	4,523	123	1,494	1,285	216	1,564
Unknown ^a	108,125	44,621	26,192	920	11,511	8,760	8,770	7,351
Federal government	101,865	32,052	17,549	808	27,290	17,772	818	5,576
Total	453,596	166,154	111,105	3,630	64,957	50,271	15,325	42,154

Source: DOD's Civilian Employment Information Database.

^aUnknown includes cases where a match was not found, or the employer match was found and the standard industrial classification code was missing to identify the employment sector.

Table 8 shows the number of selected reservists who have reported full-time or part-time civilian employment in the private sector by employer size defined by its number of employees for DOD and each reserve component. These data also include an unknown category where employer information was partially verified but incomplete information was available to determine company size.

Table 8: Number of Selected Reservists Reporting Full-Time or Part-Time Private Civilian Employment by Employer Size for DOD and Its Reserve Components

Private employer size	DOD total	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
1-4	29,071	10,316	9,301	207	2,480	2,273	809	3,685
5-9	10,407	3,845	3,123	75	1,021	774	307	1,262
10-19	10,347	4,144	2,840	71	948	831	287	1,226
20-49	13,809	5,393	3,908	91	1,320	1090	381	1,626
50-99	9,141	3,559	2,528	44	840	792	253	1,125
100-249	10,189	3,863	2,805	64	988	889	271	1,309
250-499	6,710	2,558	1,858	40	601	629	147	877
500-1,000	6,474	2,323	1,881	29	663	650	144	784
1000-9999	26,087	8,487	7,582	158	2,755	2,982	514	3,609
10,000-99,999	33,764	10,558	9,004	197	3,916	4,483	836	4,770
100,000+	19,917	6,665	5,275	108	2,284	2,336	630	2,619
Unknown ^a	5,522	2,155	1,507	36	523	497	145	659
Total	181,438	63,866	51,612	1,120	18,339	18,226	4,724	23,551

Source: DOD's Civilian Employment Information Database.

^aUnknown includes cases where there was incomplete information on the company size.

Table 9 shows the 23,871 DOD reservists reporting self-employment by the occupation groups in which they work. There are also some unknown amounts in this chart for where incomplete information was available on the business to determine the occupation of the self-employed reservist.

Table 9: Number of Selected Reservists in DOD Reporting Self-Employment by Occupation Code and Description

Self-employed occupation code	Occupation group description	DOD total
11	Management	3,635
13	Business and financial operations	1,474
15	Computer and mathematical	649
17	Architecture and engineering	617
19	Life, physical, and social science	207
21	Community and social services	564
23	Legal	1,205
25	Education, training, and library	450
27	Arts, design, entertainment, sports, and media	794
29	Healthcare practitioners and technical	2,261
31	Healthcare support	232
33	Protective service	1,169
35	Food preparation and serving related	269
37	Building and grounds cleaning and maintenance	466
39	Personal care and service	454
41	Sales and related	2,046
43	Office and administrative support	463
45	Farming, fishing, and forestry	446
47	Construction and extraction	3,082
49	Installation, maintenance, and repair	1,762
51	Production	578
53	Transportation and material moving	967
Unknown ^a		81
Total		23,871

Source: DOD's Civilian Employment Information Database.

^aUnknown includes cases where there was incomplete information on these businesses.

Table 10 provides details on the number of selected reservists in each reserve component reporting self-employment by occupation code.

**Appendix II: Profiles on Reservists' Civilian
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Table 10: Number of Selected Reservists in each Reserve Component Reporting Self-Employment by Standard Occupation Code and Description

Standard occupation code	Occupation group description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
11	Management	700	1,312	55	314	362	65	827
13	Business and financial operations	261	699	16	126	145	64	163
15	Computer and mathematical	130	270	1	78	70	28	72
17	Architecture and engineering	97	258	7	54	65	17	119
19	Life, physical, and social science	20	131	0	16	14	7	19
21	Community and social services	87	283	5	61	91	4	33
23	Legal	192	736	4	63	80	39	91
25	Education, training, and library	97	220	1	56	47	9	20
27	Arts, design, entertainment, sports, and media	106	488	5	71	54	26	44
29	Healthcare practitioners and technical	245	1,244	2	262	322	4	182
31	Healthcare support	66	83	1	30	41	5	6
33	Protective service	470	312	7	169	139	45	27
35	Food preparation and serving related	95	80	2	41	30	18	3
37	Building and grounds cleaning and maintenance	165	196	4	44	25	22	10
39	Personal care and service	79	265	1	39	53	7	10
41	Sales and related	442	946	6	233	243	109	67
43	Office and administrative support	114	209	2	55	55	16	12
45	Farming, fishing, and forestry	169	155	1	45	37	27	12
47	Construction and extraction	923	1,505	18	224	184	155	73

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Standard occupation code	Occupation group description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
49	Installation, maintenance, and repair	582	482	8	383	217	61	29
51	Production	162	251	7	71	58	16	13
53	Transportation and material moving	335	243	6	161	163	31	28
Unknown ^a		4	12	1	4	0	44	16
Total		5,541	10,380	160	2,600	2,495	819	1,876

Source: DOD's Civilian Employment Information Database.

^aUnknown includes cases where there was incomplete information on these businesses.

Appendix III: Profiles on Employers of Reservists

Tables 11 through 16 provide details on the employers of reservists in the Selected Reserve from Department of Defense’s (DOD) civilian employment information program. All employer data are as of August 2006. Although all employer information has not been fully verified by DOD, it considers the data to be the best information available on employers of reservists. The data represent unique employers of reservists; thus a company that employs more than one reservist is counted only once. Table 11 shows a breakout of the 113,478 civilian employers of reservists employed full-time or part-time by federal and nonfederal sectors for DOD and its reserve components. Information on reservists’ civilian employment is contained in appendix II.

Table 11: Reported Employers of Reservists by Employment Sector, for DOD and Its Reserve Components

All employers	DOD	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
Private sector	88,452	36,912	30,346	983	10,631	10,040	3,543	14,540
State & local government	9,801	4,597	3,802	385	1,616	1,413	506	1,776
Education	5,796	2,516	2,526	116	1,036	860	189	1,110
Unknown ^a	9,356	7,695	156	7	2,190	1,289	3	65
Federal agencies	73	47	62	25	38	48	30	52
Total	113,478	51,767	36,892	1,516	15,511	13,650	4,271	17,543

Source: DOD’s Civilian Employment Information Database.

^aUnknown means that the reported employer information matched, but no valid standard industrial classification code was available to identify employment sector.

Table 12 shows the details for the 88,452 reported employers of reservists in the private sector by employer size defined by number of employees by DOD and each reserve component.

Table 12: Reported Private Employers of Reservists by Number of Employees by DOD and Its Reserve Components

Employer size by number of employees	DOD	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
1-4	24,958	9,166	8,146	203	2,205	2,107	791	3,446
5-9	9,283	3,554	2,826	73	898	728	303	1,210
10-19	9,055	3,628	2,564	68	881	785	283	1,194
20-49	11,933	4,891	3,440	91	1,224	1,015	373	1,530
50-99	7,590	3,120	2,262	42	798	723	243	1,042
100-249	7,715	3,241	2,426	63	872	824	268	1,195
250-499	4,233	1,932	1,506	39	505	538	140	741
500-1,000	3,107	1,463	1,344	30	512	509	133	656
1000-9999	5,130	3,118	3,400	144	1,482	1,572	421	2,043
10,000-99,999	876	733	870	148	626	643	358	754
100,000+	67	62	74	40	61	67	68	76
Unknown ^a	4,505	2,004	1,488	42	567	529	162	653
Total	88,452	36,912	30,346	983	10,631	10,040	3,543	14,540

Source: DOD's Civilian Employment Information Database.

^aUnknown means those cases where there was incomplete information on the company size.

Table 13 shows the 88,452 private employers reported by DOD's reservists by two-digit standard industrial classification code. In this depiction, the most employers of reservists are in health services, business services, and special trade contractor areas.

Table 13: Reported Number of Private Employers of DOD's Reservists by Two-Digit Standard Industrial Classification Code

SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
01	Agricultural production- crops	441
02	Agricultural production- livestock	243
07	Agricultural services	1,084
08	Forestry	67
09	Fishing, hunting, and trapping	15
10	Metal mining	18
12	Coal mining	38
13	Oil and gas extraction	240
14	Nonmetallic minerals, except fuels	92

Appendix III: Profiles on Employers of Reservists

SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
15	General building contractors	2,671
16	Heavy construction contractors	887
17	Special trade contractors	5,795
20	Food and kindred products	609
21	Tobacco manufactures	6
22	Textile mill products	148
23	Apparel and other textile products	152
24	Lumber and wood products	623
25	Furniture and fixtures	252
26	Paper and allied products	259
27	Printing and publishing	755
28	Chemicals and allied products	491
29	Petroleum and coal products	84
30	Rubber and miscellaneous plastics products	538
31	Leather and leather products	19
32	Stone, clay, glass, and concrete products	429
33	Primary metal industries	366
34	Fabricated metal products	1,069
35	Industrial machinery and equipment	1,422
36	Electrical and electronic equipment	690
37	Transportation equipment	626
38	Instruments and related products	472
39	Miscellaneous manufacturing industries	370
40	Railroad transportation	86
41	Local and interurban passenger transit	775
42	Motor freight transportation and warehousing	1,767
43	U.S. Postal Service	1
44	Water transportation	165
45	Transportation by air	503
46	Pipelines, except natural gas	8
47	Transportation services	610
48	Communications	952
49	Electric, gas, and sanitary services	790
50	Wholesale trade—durable goods	3,713
51	Wholesale trade—nondurable goods	1,675
52	Building materials, hardware, garden supply, & mobile home	872

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SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
53	General merchandise stores	252
54	Food stores	1,303
55	Automotive dealers and gasoline service stations	2,783
56	Apparel and accessory stores	476
57	Furniture, home furnishings and equipment stores	1,157
58	Eating and drinking places	5,273
59	Miscellaneous retail	2,701
60	Depository institutions	1,052
61	Nondepository credit institutions	643
62	Security, commodity brokers, and services	323
63	Insurance carriers	361
64	Insurance agents, brokers, and service	1,036
65	Real estate	2,287
67	Holding and other investment offices	363
70	Hotels, rooming houses, camps, and other lodging places	979
72	Personal services	1,189
73	Business services	7,456
75	Automotive repair, services, and parking	1,773
76	Miscellaneous repair services	839
78	Motion pictures	251
79	Amusement and recreational services	1,532
80	Health services	8,569
81	Legal services	1,736
82	Educational services	0
83	Social services	2,548
84	Museums, art galleries, botanical & zoological gardens	122
86	Membership organizations	2,941
87	Engineering and management services	5,134
88	Private households	0
89	Miscellaneous services	485
Total		88,452

Source: DOD's Civilian Employment Information Database.

Table 14 shows the number of private employers reported by reservists by two-digit standard industrial classification code by reserve component.

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Reservists**

Table 14: Reported Number of Private Employers of Reservists by Two-Digit Standard Industrial Classification Code by Reserve Component

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
01	Agricultural production-crops	237	117	5	38	18	7	32
02	Agricultural production-livestock	148	58	0	11	16	5	20
07	Agricultural services	465	343	11	95	73	40	103
08	Forestry	32	16	3	8	5	1	8
09	Fishing, hunting, and trapping	9	2	0	1	0	1	2
10	Metal mining	14	4	0	5	1	1	4
12	Coal mining	23	15	0	7	3	1	1
13	Oil and gas extraction	145	72	2	24	18	21	28
14	Nonmetallic minerals, except fuels	52	29	0	9	11	1	9
15	General building contractors	1,174	801	24	248	153	116	340
16	Heavy construction contractors	480	221	6	81	88	31	114
17	Special trade contractors	2,617	1588	54	556	375	228	756
20	Food and kindred products	322	241	3	98	70	38	117
21	Tobacco manufactures	3	5	0	0	2	0	1
22	Textile mill products	91	52	1	17	10	5	23
23	Apparel and other textile products	63	54	0	13	17	6	25
24	Lumber and wood products	383	179	5	46	44	14	71
25	Furniture and fixtures	137	83	3	33	27	10	37
26	Paper and allied products	140	109	4	37	38	14	51
27	Printing and publishing	321	271	9	78	86	27	149
28	Chemicals and allied products	246	204	14	96	93	29	138
29	Petroleum and coal products	29	33	0	17	16	3	21

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Reservists**

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
30	Rubber and miscellaneous plastics products	304	208	3	68	58	18	75
31	Leather and leather products	9	7	0	2	1	2	5
32	Stone, clay, glass, and concrete products	232	154	6	47	33	15	64
33	Primary metal industries	212	151	3	43	47	17	83
34	Fabricated metal products	566	355	5	131	90	49	171
35	Industrial machinery and equipment	670	441	19	206	177	64	285
36	Electrical and electronic equipment	271	259	11	133	127	41	213
37	Transportation equipment	360	227	18	109	112	34	135
38	Instruments and related products	168	161	9	85	110	33	141
39	Miscellaneous manufacturing industries	157	118	2	37	40	15	58
40	Railroad transportation	46	31	2	20	11	6	15
41	Local and interurban passenger transit	347	258	21	105	119	21	160
42	Motor freight transportation and warehousing	921	622	11	172	168	68	255
43	U.S. Postal Service	1	1	2	1	1	1	1
44	Water transportation	67	46	28	17	13	7	45
45	Transportation by air	180	121	12	176	167	40	150
46	Pipelines, except natural gas	6	4	1	3	2	1	2
47	Transportation services	232	227	4	86	73	16	97
48	Communications	320	326	16	214	133	67	215
49	Electric, gas, and sanitary services	399	293	21	165	128	33	220
50	Wholesale trade—durable goods	1,534	1123	32	504	397	190	641
51	Wholesale trade—nondurable goods	777	569	17	172	151	80	279

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Reservists**

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
52	Building materials, hardware, garden supply, & mobile home	473	216	10	78	53	41	87
53	General merchandise stores	128	91	7	48	40	23	44
54	Food stores	726	436	8	119	107	65	127
55	Automotive dealers and gasoline service stations	1,372	827	38	270	201	130	297
56	Apparel and accessory stores	203	207	5	57	71	40	72
57	Furniture, home furnishings and equipment stores	501	391	11	119	92	61	150
58	Eating and drinking places	2,901	1,723	28	429	294	223	366
59	Miscellaneous retail	1113	919	21	305	296	134	395
60	Depository institutions	414	398	22	185	155	46	213
61	Nondepository credit institutions	216	229	12	84	69	37	122
62	Security, commodity brokers, and services	107	122	7	49	51	20	88
63	Insurance carriers	149	174	13	82	86	16	107
64	Insurance agents, brokers, and service	326	393	6	121	118	38	170
65	Real estate	780	759	29	232	214	73	390
67	Holding and other investment offices	118	109	4	51	47	16	68
70	Hotels, rooming houses, camps, and other lodging places	468	323	11	112	106	49	127
72	Personal services	466	418	7	113	97	34	148
73	Business services	2,758	2,642	87	879	963	340	1,399
75	Automotive repair, services, and parking	854	513	18	142	113	87	198
76	Miscellaneous repair services	339	240	7	103	75	34	140
78	Motion pictures	108	83	8	35	24	20	35
79	Amusement and recreational services	701	499	19	149	145	86	183
80	Health services	2,538	3,773	57	1,210	1,597	92	1,830

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Reservists**

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
81	Legal services	409	752	22	141	161	60	338
82	Educational services	0	0	0	0	0	0	0
83	Social services	990	947	27	276	294	46	349
84	Museums, art galleries, botanical & zoological gardens	43	45	4	11	14	2	15
86	Membership organizations	999	939	35	407	399	57	473
87	Engineering and management services	1,625	1821	69	756	799	236	1,170
88	Private households	0	0	0	0	0	0	0
89	Miscellaneous services	177	158	4	54	37	20	79
Total		36,912	30,346	983	10,631	10,040	3,543	14,540

Source: DOD's Civilian Employment Information Database.

Table 15 shows the number of small private employers (with less than 50 employees) reported by DOD's reservists by two-digit standard industrial classification code.

Table 15: Industries of Reported Small (Less than 50 Employees) Private Employers of DOD's Reservists, by Two-Digit Standard Industrial Classification Code

SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
01	Agricultural production- crops	389
02	Agricultural production- livestock	205
07	Agricultural services	983
08	Forestry	48
09	Fishing, hunting, and trapping	13
10	Metal mining	7
12	Coal mining	8
13	Oil and gas extraction	122
14	Nonmetallic minerals, except fuels	34
15	General building contractors	2,134
16	Heavy construction contractors	457
17	Special trade contractors	4,396
20	Food and kindred products	136

Appendix III: Profiles on Employers of Reservists

SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
21	Tobacco manufactures	0
22	Textile mill products	33
23	Apparel and other textile products	70
24	Lumber and wood products	276
25	Furniture and fixtures	90
26	Paper and allied products	51
27	Printing and publishing	347
28	Chemicals and allied products	100
29	Petroleum and coal products	23
30	Rubber and miscellaneous plastics products	115
31	Leather and leather products	7
32	Stone, clay, glass, and concrete products	130
33	Primary metal industries	76
34	Fabricated metal products	334
35	Industrial machinery and equipment	565
36	Electrical and electronic equipment	197
37	Transportation equipment	145
38	Instruments and related products	155
39	Miscellaneous manufacturing industries	231
40	Railroad transportation	29
41	Local and interurban passenger transit	295
42	Motor freight transportation and warehousing	882
43	U.S. Postal Service	0
44	Water transportation	65
45	Transportation by air	235
46	Pipelines, except natural gas	3
47	Transportation services	407
48	Communications	435
49	Electric, gas, and sanitary services	286
50	Wholesale trade—durable goods	1,961
51	Wholesale trade—nondurable goods	743
52	Building materials, hardware, garden supply, & mobile home	571
53	General merchandise stores	130
54	Food stores	770
55	Automotive dealers and gasoline service stations	1,413
56	Apparel and accessory stores	286

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SIC	1987 U.S. Standard industrial classification (SIC) code description	Number of employers
57	Furniture, home furnishings and equipment stores	803
58	Eating and drinking places	2,572
59	Miscellaneous retail	1,972
60	Depository institutions	320
61	Nondepository credit institutions	383
62	Security, commodity brokers, and services	195
63	Insurance carriers	78
64	Insurance agents, brokers, and service	805
65	Real estate	1,590
67	Holding and other investment offices	257
70	Hotels, rooming houses, camps, and other lodging places	346
72	Personal services	973
73	Business services	4,833
75	Automotive repair, services, and parking	1,474
76	Miscellaneous repair services	654
78	Motion pictures	163
79	Amusement and recreational services	973
80	Health services	4,282
81	Legal services	1,236
82	Educational services	0
83	Social services	1,300
84	Museums, art galleries, botanical & zoological gardens	71
86	Membership organizations	2,291
87	Engineering and management services	2,963
88	Private households	0
89	Miscellaneous services	454
Total		51,376

Source: DOD's Civilian Employment Information Database.

Table 16 shows the number of reported small private employers (with less than 50 employees) of reservists by two-digit standard industrial classification code by reserve component.

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Table 16: Reported Number of Private Employers of Reservists by Two-Digit Standard Industrial Classification Code and Reserve Component

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
01	Agricultural production-crops	204	102	2	33	16	5	30
02	Agricultural production-livestock	121	45	0	9	14	4	13
07	Agricultural services	416	300	9	82	66	33	85
08	Forestry	24	10	1	6	2	1	5
09	Fishing, hunting, and trapping	8	2	0	1	0	0	2
10	Metal mining	4	1	0	1	0	0	1
12	Coal mining	5	3	0	1	0	0	0
13	Oil and gas extraction	67	27	0	11	7	5	8
14	Nonmetallic minerals, except fuels	18	8	0	1	2	1	4
15	General building contractors	942	606	17	176	111	81	231
16	Heavy construction contractors	248	106	4	33	41	12	37
17	Special trade contractors	1,988	1,158	45	380	254	168	490
20	Food and kindred products	60	47	0	9	7	4	14
21	Tobacco manufactures	0	0	0	0	0	0	0
22	Textile mill products	12	10	0	5	1	2	3
23	Apparel and other textile products	24	26	0	7	3	4	9
24	Lumber and wood products	162	62	2	14	12	6	22
25	Furniture and fixtures	43	19	1	8	8	4	9
26	Paper and allied products	23	12	0	2	6	3	6
27	Printing and publishing	132	106	6	27	27	11	50
28	Chemicals and allied products	42	23	0	6	9	2	22
29	Petroleum and coal products	8	9	0	1	5	0	3

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SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
30	Rubber and miscellaneous plastics products	47	41	0	8	6	4	13
31	Leather and leather products	2	2	0	0	0	2	2
32	Stone, clay, glass, and concrete products	60	39	2	10	6	6	12
33	Primary metal industries	26	29	0	6	5	1	11
34	Fabricated metal products	159	81	1	26	13	20	46
35	Industrial machinery and equipment	236	149	1	52	41	25	81
36	Electrical and electronic equipment	64	49	1	24	25	6	40
37	Transportation equipment	74	29	3	16	18	5	16
38	Instruments and related products	43	36	1	17	28	7	36
39	Miscellaneous manufacturing industries	97	69	1	23	15	7	29
40	Railroad transportation	14	8	0	4	5	0	5
41	Local and interurban passenger transit	124	76	6	32	26	8	40
42	Motor freight transportation and warehousing	426	246	4	60	50	25	108
43	U.S. Postal Service	0	0	0	0	0	0	0
44	Water transportation	22	15	11	5	4	1	9
45	Transportation by air	70	42	4	57	55	10	44
46	Pipelines, except natural gas	2	1	0	0	0	0	0
47	Transportation services	147	139	2	54	39	11	50
48	Communications	133	119	2	80	42	17	73
49	Electric, gas, and sanitary services	130	73	1	38	20	4	38
50	Wholesale trade— durable goods	768	531	13	209	151	74	279
51	Wholesale trade— nondurable goods	319	217	4	54	59	21	96

**Appendix III: Profiles on Employers of
Reservists**

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
52	Building materials, hardware, garden supply, & mobile home	297	133	4	49	31	23	43
53	General merchandise stores	60	32	1	20	13	4	13
54	Food stores	388	229	0	55	46	24	61
55	Automotive dealers and gasoline service stations	671	371	15	120	97	52	123
56	Apparel and accessory stores	103	109	1	22	27	9	24
57	Furniture, home furnishings and equipment stores	334	250	4	73	49	32	82
58	Eating and drinking places	1,394	741	11	153	109	101	150
59	Miscellaneous retail	766	622	10	178	171	77	250
60	Depository institutions	127	93	6	52	26	11	46
61	Nondepository credit institutions	118	125	5	39	31	16	63
62	Security, commodity brokers, and services	52	60	2	23	24	6	40
63	Insurance carriers	30	24	3	8	10	0	12
64	Insurance agents, brokers, and service	242	295	5	83	71	28	112
65	Real estate	506	537	20	153	121	41	251
67	Holding and other investment offices	88	67	3	33	31	12	37
70	Hotels, rooming houses, camps, and other lodging places	152	104	0	28	22	8	42
72	Personal services	358	340	5	84	71	28	110
73	Business services	1,663	1600	42	459	468	172	769
75	Automotive repair, services, and parking	706	413	11	100	75	59	143
76	Miscellaneous repair services	265	176	6	69	45	23	92
78	Motion pictures	67	46	4	16	11	10	23
79	Amusement and recreational services	403	313	5	72	79	47	99
80	Health services	994	1618	19	500	598	36	775

**Appendix III: Profiles on Employers of
Reservists**

SIC	1987 U.S. Standard industrial classification code (SIC) description	Army National Guard	Army Reserve	Coast Guard Reserve	Air National Guard	Air Force Reserve	Marine Corps Reserve	Navy Reserve
81	Legal services	301	526	18	90	93	34	210
82	Educational services	0	0	0	0	0	0	0
83	Social services	439	492	16	131	123	19	161
84	Museums, art galleries, botanical & zoological gardens	26	23	2	7	6	2	10
86	Membership organizations	760	704	23	301	286	35	353
87	Engineering and management services	891	925	23	326	330	101	553
88	Private households	0	0	0	0	0	0	0
89	Miscellaneous services	167	147	3	48	32	16	70
Total		19,882	15,788	411	4,880	4,295	1,626	6,789

Source: DOD's Civilian Employment Information Database.

Appendix IV: Comments from the Department of Defense



RESERVE AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, DC 20301-1500

JAN 22 2007

Mr. Derek Stewart
Director, Defense Capabilities and Management
US Government Accountability Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Stewart:

This is the Department of Defense (DoD) response to the GAO draft report, GAO-07-259, 'MILITARY PERSONNEL: Additional Actions Needed to Improve Oversight of Reserve Employment Issues' dated December 22, 2006 (GAO Code 350858). I appreciate the opportunity to review and comment on the draft GAO report.

The Department partially concurs with one recommendation and concurs with two recommendations in the draft report that are directly applicable to DoD and is taking action to comply with and complete action on the recommendations. Our comments on the three recommendations are enclosed; our technical corrections to the report were provided separately to the GAO staff.

I am pleased that the recommendations in the report are highly supportive of our continuous refinement of data points surrounding the resolution of reservist/employer issues, especially those related to matters related to the Uniformed Services Employment and Reemployment Rights Act (USERRA). The Department is committed to working closely with the Department of Labor to identify and install like categories of data that facilitate uniform reporting and analysis of information collected separately by the respective departments.

The Department appreciates the opportunity to comment on the subject report. My staff point of contact on this matter is Mr. Michael E. Naylon. He may be contacted by e-mail at michael.naylon@osd.mil or by telephone @ (703) 696-1386.

Sincerely,

T. F. Hall

Enclosure:
As stated



**“MILITARY PERSONNEL: Additional Actions Needed to
Improve Oversight of Reserve Employment Issues”**

**DEPARTMENT OF DEFENSE COMMENTS
TO THE RECOMMENDATIONS**

RECOMMENDATION 1: The GAO recommended that the Secretary of Defense direct the Office of the Assistant Secretary of Defense Reserve Affairs to establish specific timeframes for reservists to report their employment data, and direct the Service components to take action to assure compliance.

DOD RESPONSE: Partially concur. DoD Instruction 7730.54, “Reserve Components Common Personnel Data System.” Enclosure 10, directs the Services to obtain a 95% compliance rate for Civilian Employment Information (CEI) reporting for the Selected Reserve and to obtain a 75% compliance rate for Civilian Employment Information for the Individual Ready Reserve/Inactive National Guard with good address indicators effective the date of the issuance (August 6, 2004) of the Instruction.

On Nov. 19, 2004 the Undersecretary of Defense for Personnel and Readiness issued a memorandum to the Service Secretaries outlining the critical need for the data collection and requesting their assistance in collecting the information by Feb 1, 2005.

Specific timeframes are in place for the compliance reporting of Civilian Employment Information.

Office of the Secretary of Defense (Reserve Affairs) (OSD RA) will direct the Reserve components via memorandum to meet the full compliance reporting for members of the Selected Reserve. Currently 91% of the Selected Reserve is in compliance with the reporting requirement for Civilian Employment Information. The target rate is 95% for the Selected Reserve.

The Army National Guard (ARNG) has actively pursued and assisted states to achieve compliance by conducting weekly conference calls to all levels of leadership. Additionally, DMDC is provided ARNG data weekly to show percent of compliance and providing individual soldier in non-compliance status data. Recent efforts to assist states include capturing employment data, point of accession, pushing weekly non-compliant data to G1's and posting non-compliant data to the ARNG Directors Strength Reporting Objectives website.

All Navy Operational Support Centers (NOSC) will ensure annual verification of employment data on Drilling Reservists assigned to their respective NOSC, to include Selected Reservists and Voluntary Training Unit (VTU) personnel in the Individual Ready Reserve (IRR). Verification should occur during the annual “page-2” verification and will be completed by the end of FY07. 95% of Selected Reserve will remain the goal.

RECOMMENDATION 2: The GAO recommended that the Secretary of Defense direct the Office of the Assistant Secretary of Defense Reserve Affairs to update DoD Instruction 7730.54 Enclosure 10 on civilian employment-related information reporting to instruct all military departments to establish a formal review mechanism that would require all reservists to review and update at least annually their reported employment-related information.

DOD RESPONSE: Concur. A revision to DoD Instruction 7730.54 has been drafted with the requirement for annual review of civilian employment information. The revised instruction is in the process of internal DoD staffing prior to re-issuance.

The Army National Guard has recommended consideration of adding a pop-up screen to the existing "MYPAY" website. This could prompt a Soldier to validate Civilian Employment Information (CEI) data and capture the last date validated. The second function could permit soldiers to update their CEI information and be linked to the Defense Manpower Data Center (DMDC) Guard-Reserve Employer website before obtaining MYPAY information. This effort would require support from OSD and the Defense Finance and Accounting Service. Additionally, an effort should be made to add a CEI message to appear in the remarks section of all leave and earnings statements (LES). All Navy Operational Support Centers (NOSC) will ensure annual verification of employment data on drilling reservists assigned to their respective NOSC, to include selected reservists and Voluntary Training Unit (VTU) personnel in the Individual Ready Reserve (IRR). Verification should occur during the annual "page-2" verification. Should a reservist change employment prior to the annual validation, updated information should be inputted by the NOSC upon receipt. 95% verification of selected reservist employment remains the goal.

RECOMMENDATION 3: The GAO recommended that the Secretary of Defense and the Secretary of Labor adopt uniform complaint categories in the future that will allow aggregate trend analysis to be performed across the databases.

DOD RESPONSE: Concur. Staff members of the National Committee for Employer Support of the Guard and Reserve (ESGR) are working closely with staff of the Department of Labor to facilitate uniformity of complaint categories which will allow for like data points in each Department's data base(s).

Appendix V: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Veterans' Employment and Training
Washington, D.C. 20210



JAN 26 2007

Mr. Derek Stewart
Director, Defense Capabilities and Management
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Stewart:

Thank you for allowing the Department of Labor (DOL) the opportunity to review and offer comments to the GAO's draft report entitled MILITARY PERSONNEL: Additional Actions Needed to Improve Oversight of Reserve Employment Issues (GAO-07-259). The draft report recommends, among other things, that DOL's Veterans' Employment and Training Service (VETS) share its aggregate USERRA complaint data with a Department of Defense (DOD) agency, the Employer Support of the Guard and Reserve (ESGR); that DOL incorporate ESGR's USERRA complaint data into DOL's annual report to Congress; and that Federal agencies with USERRA responsibilities adopt uniform data elements to facilitate tracking of disability-related and other USERRA complaints. As a general matter, the Department of Labor concurs with these recommendations.

DOL, however, objects to the terminology used by GAO to describe the inquiry, complaint, investigation, and resolution process. Specifically, GAO does not adequately differentiate between informal inquiries and formal complaints. The lack of differentiation unnecessarily inflates the total number of complaints by 9,975.

GAO's categorization of all inquiries as "complaints," regardless of content, is further confused by the inadequate use of the terms, "formal" and "informal" to differentiate actions taken by the different agencies. VETS not only investigates formal complaints from veterans regarding their employment or reemployment rights, but responds to many questions and requests that are not specific allegations of USERRA violations. Such inquiries are not categorized as "complaints," but are counted among the more than 400,000 individuals receiving technical assistance since September 11, 2001. The term, "complaint," is specifically reserved by VETS for those circumstances where 1) issues raised suggest that there are issues of law involved and potential violations of the Act; 2) issues raised during initial inquiry are not otherwise mediated through informal processes set in place by VETS or ESGR; or 3) the complainant files documentation to open an official investigation by VETS.

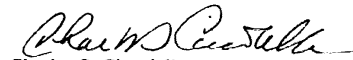
With respect to the recommendation that VETS share its aggregate USERRA investigation data with ESGR, VETS has provided such information to several DOD agencies, including Reserve Affairs, the National Guard Bureau, and the Defense Manpower Data Center. VETS has also agreed to provide aggregate information to ESGR on a quarterly basis.

VETS agrees with GAO's recommendation that uniform issue codes be adopted by all parties as a means of improving collaboration. VETS is working with ESGR to determine appropriate means to achieve that goal. To effect that recommendation, VETS is enhancing its USERRA information management system (UIMS) in cooperation with ESGR, the Department of Justice, and the Office of Special Counsel. These changes will improve case handling and aid in compiling accurate and meaningful case data, including pertinent data involving USERRA disability issues, from both ESGR and DOL/VETS. DOL agrees that such data could be included in the agency's annual report to Congress.

With respect to GAO's recommendation that DOL develop a system for recording and tracking the complaints of veterans alleging violations of employment or reemployment rights based on a disability, we would note that DOL's statutory authority to collect disability-related data is limited to USERRA complaints. Authority to track and report information on non-USERRA disability related complaints would fall under other statutes. To avoid ambiguity with its recommendation, GAO may want to clarify that the recommendation covers only the identification of USERRA complaints where the service member's disability is a factor in the case rather than a requirement to capture all disability complaints that Reservists might raise.

I hope the comments above are helpful to GAO. If we can answer any additional questions you may have, please do not hesitate to contact us.

Sincerely,



Charles S. Ciccolella

Appendix VI: Comments from the Office of Special Counsel



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505
www.osc.gov

The Special Counsel

January 22, 2007

The Honorable David M. Walker
Comptroller General of the United States
General Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Re: Response to GAO Draft Report #GAO-07-259

Dear Mr. Walker:

Thank you for the opportunity to respond in writing to the Government Accountability Office draft report, *MILITARY PERSONNEL: Additional Actions Needed to Improve Oversight of Reserve Employment Issues*, GAO-07-259. I have reviewed the report and find it to be comprehensive and accurate in regards to the responsibilities of the U.S. Office of Special Counsel. Furthermore, I concur with GAO's "Matters for Congressional consideration and its Recommendations for Executive Action" (set forth on pages 35-36).

As you are aware, my office enforces the rights of federal employees and applicants for federal employment under the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. It is a responsibility we take very seriously. Having eleven (11) current veterans, reservists, and guardsmen employed at OSC and being the father of a Marine who served 3 tours in Iraq, I know first-hand the challenges facing servicemembers as they transition back to their civilian workforce after completing military service. Based on our conversations, I know that your own son was a Marine, and therefore, you understand the importance of this oversight responsibility.

I applaud your efforts to thoroughly investigate and report on these matters and to make recommendations to help servicemembers seamlessly reenter the workforce. The return of servicemembers to civilian employment and the difficulties they can face in dealing with reemployment matters are of deep concern to me, as I hope they are to every citizen.

Again, thank you for the opportunity to respond to this draft report and for your efforts to bring awareness to these important issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott J. Bloch".

Scott J. Bloch

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Derek B. Stewart (202) 512-5559

Acknowledgments

James Bancroft, Sean Bell, Tracy Burney, Susan Ditto, Laura Durland, K. Nicole Harms, Kenya Jones, Jeanett Reid, Gina Ruidera, Joseph Rutecki, Jerry Sandau, Jay Smale Jr., Norris Smith, and Vasiliki Theodoropoulos also made significant contributions to the report.

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