

STATEMENT OF
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BEFORE THE

COMMITTEE ON HEALTH, EDUCATION,
LABOR AND PENSIONS

UNITED STATES SENATE

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Chairman Kennedy, Ranking Member Enzi, and distinguished members of the Committee:

Thank you for the opportunity to testify on what returning Iraq and Afghanistan veterans face when they come home and return to their civilian employment. Since the onset of military operations in Afghanistan and Iraq, over 1 million members of the active duty military have served in these two theaters. In addition, many of the nation's National Guard units and Reservists have also been called to active duty in support of the Global War on Terror and have served in these theaters or elsewhere.

In fact, the Department of Defense (DoD) reports that over 600,000 National Guard and Reserve mobilizations have occurred since September 11, 2001. This represents the largest deployment of the National Guard in the past half century.

What Returning Veterans Face When They Come Home

These situations present some complex issues because the deployments create challenges for service members and their families. For the National Guard and Reserve in particular, many of their members are married and employed. Long tours of duty overseas interrupt their normal roles as workers, parents and members of the community. Lengthy tours of duty also challenge employers as they deal with these absences and with the reintegration of service members back into the workforce.

In addition, some National Guard and Reserve members report themselves as self-employed or own a small business. Extended deployments may mean they face special problems, including economic losses or other adverse effects.

Many service members are returning severely wounded and injured. Their recoveries are often long and difficult, and this may have a lasting impact on both them and their families. They need and deserve special assistance.

To put this into perspective, each year, nearly **320,000** military members return to civilian status – either through retirement, voluntary separation from active duty, demobilization or discharge from the National Guard or Reserve, or as a result of a discharge due to disability.

Service Members Need Good Information and Assistance When They Return to their Civilian Lives and Jobs

To help service members' transition to civilian life from active duty, they must not only have good information, but also the tools and skills to make their transition back to civilian life as smooth as possible. This information and assistance comes from many sources.

DoD and each of the military services strive to assist service members as they separate from active duty or demobilize and return to their civilian life and jobs.

Active duty members participate in formal separation counseling and transition assistance programs when they are preparing for discharge. National Guard and Reserve commanders provide information and assistance to their members when they demobilize, so their members know how and where they can receive help if they need it.

States also assist. Most states have created programs to increase public support and awareness of returning service members. Services include outreach and family support activities, financial assistance such as emergency funds, educational assistance, mental health and other comprehensive services and assistance to augment the services provided by the federal government.

Department of Labor (DOL) Employment Services for Returning Service Members and Veterans

DOL provides a variety of employment assistance programs for returning service members and veterans, including National Guard members and Reservists. It is the job of DOL to help these men and women transition into the civilian sector through job counseling, referral and placement services.

Transition Assistance

First, through DoD's *Transition Assistance Program (TAP)*, DOL helps returning veterans learn how to market their unique skills and experience to potential employers. DOL provides the TAP employment workshop that helps with writing resumes, preparing for interviews, and learning about the job market.

Most of these employment workshops are facilitated by DOL-funded veterans employment representatives who are also located throughout the nation at the many Career One Stop Centers in the public workforce system.

We also have made the TAP employment workshop, or a modified TAP employment workshop, available to returning National Guard and Reservists on a demand basis. We are supporting TurboTAP, a DoD initiative to provide a wide array of transition assistance information on-line.

We have made the TAP workshop more relevant and, with the help of DoD, we are working hard to increase TAP participation in all the services. The Administration's goal is for 85% of active duty transitioning servicemembers to participate in TAP employment workshops.

Job Counseling and Placement Assistance

Secondly, *America's publicly funded workforce system provides priority services to help veterans find good jobs and careers* at over 3,200 full service and affiliate One Stop Career Centers. The specialized services of the Local Veterans Employment Representative (LVER) and the Disabled Veteran Outreach Program (DVOP) specialist are also available to both transitioning service members and veterans.

For returning National Guard and Reservists in particular, the services of these veteran employment representatives are important from two points of view. First, the DVOP or LVER can link service members to assistance if they are having problems returning to their employers. Secondly, if the returning National Guard member or Reservist desires to seek another job instead of returning to the pre-service employer, they can receive a full range of workforce and employment services on a priority basis from One-Stop Career Center staff.

Employment Assistance for Veterans Who Need Help the Most

Four years ago, recognizing the special employment challenges that certain returning Iraq/ Afghanistan veterans face in the workplace, the Department initiated the Recovery Employment Assistance Lifelines, or *REALifelines program*. This

program provides one-on-one job training, counseling, and re-employment services to seriously wounded and injured service members who cannot return to active duty.

REALifelines staff, both federal and state, are forward-positioned at seven major military medical facilities, at the Department of Defense Military Severely Injured Center, with the U.S. Marine Corps and with the U.S. Army at several installations. Through REALifelines, we help wounded or injured veterans and their spouses or caregivers build new and rewarding careers in the private sector.

DOL has also focused on assisting any veterans who may find themselves homeless or facing other barriers to employment. We do this through the Homeless Veterans Reintegration Program (HVRP) and the Veterans Workforce Investment Program (VWIP). While we are not seeing a large number of returning Iraq/ Afghanistan veterans in these special programs, we do see some and we conduct special outreach to these veterans.

Protecting Service Members' Employment

One of our Department's top priorities is protecting our military members' jobs when they're called up to serve. We work hand in hand with the Departments of Defense, Justice and Office of Special Counsel (OSC) to enforce USERRA, which was signed into law in 1994. The goal of this law is to protect the employment and reemployment rights of veterans returning to civilian employment after active-duty service.

The Uniformed Services Employment and Reemployment Rights Act

USERRA protects the public and private sector civilian job rights and benefits of veterans and members of the armed forces, including National Guard and Reserve members. The law prohibits employer discrimination due to military obligations and provides reemployment rights to returning service members. DOL's Veterans' Employment and Training Service (VETS) not only investigates complaints by service members and veterans, it also administers a comprehensive outreach, education, and technical assistance program here in the United States and around the world.

VETS works closely with DoD's Office of the Assistant Secretary for Reserve Affairs' Employer Support of the Guard and Reserve (ESGR) to ensure that service members are briefed on their USERRA rights before and after they are mobilized. We conduct continuous USERRA outreach and education to inform service members and employers on their rights and responsibilities under the law. Since most complaints result from a misunderstanding of the USERRA

obligations and rights, we took an important step in 2005 to make it easier to understand the law by promulgating clear, easy-to-understand regulations in question and answer format. Since 9/11, VETS has provided USERRA assistance to over 490,000 service members, employers and others.

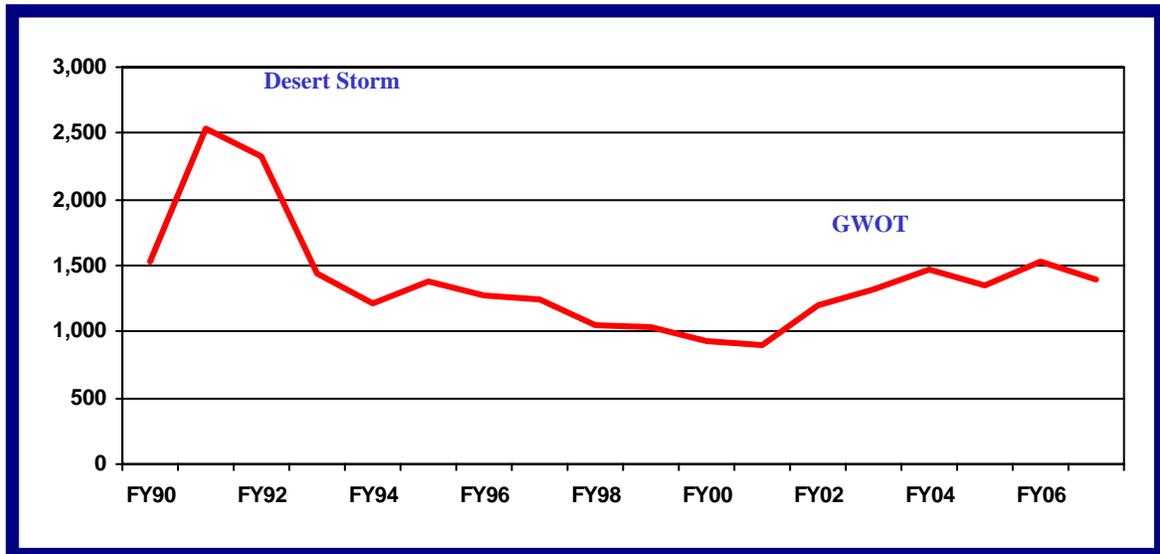
VETS has also made it easier for a service member to determine if he or she has a valid complaint and if so, to file a USERRA complaint online through our interactive USERRA elaws Advisor. The Advisor provides the user with information on eligibility and rights and responsibilities under the law and is available 24 hours a day, seven days a week, at www.dol.gov/elaws/userra.htm.

We vigorously investigate complaints, and when employers do not comply with the law we make every effort to bring them into compliance. VETS does this through a nation-wide network of over 100 highly-skilled federal employees who are employment specialists. Almost all are veterans themselves. They are trained to meet the many workplace employment needs of today's service members. VETS' federal employment specialists are located where veterans need them most – in all 50 states, the District of Columbia, and Puerto Rico. These specialists conduct outreach and provide technical assistance to employers, service members, veterans, and veterans' organizations on employment and reemployment issues at the national, state and local levels, including at locations where service members are demobilized.

VETS coordinates with ESGR, the OSC, and the Department of Justice (DOJ) to ensure the employment rights and benefits for returning service members are protected. ESGR engages in a number of efforts to ensure employer support for the Guard and Reserve is sustained. ESGR also reinforces the relationship between employers and employees through informal USERRA mediation. DOJ and the OSC help enforce USERRA by representing USERRA complainants when DOL is unable to resolve the complaint and/or when the service member or veteran requests their case be referred.

VETS has a decades-long history of protecting the rights and interests of American service men and women employed in both the public and private sectors by investigating complaints under USERRA and its predecessor laws. Complaints under USERRA peaked in 1991 following mobilizations for Operation Desert Storm, when claims topped 2,500. After 9/11, USERRA complaints rose again, from approximately 900 per year to approximately 1,500 in FY 2004 and FY 2006. Complaints in FY 2007 decreased to 1,400. As the chart below shows, complaints during the Global War on Terror have never approached their Desert Storm high. We attribute much of this result to VETS' comprehensive outreach to service members and employers and to the agency's user-friendly 2005 regulations.

USERRA CASES OPENED

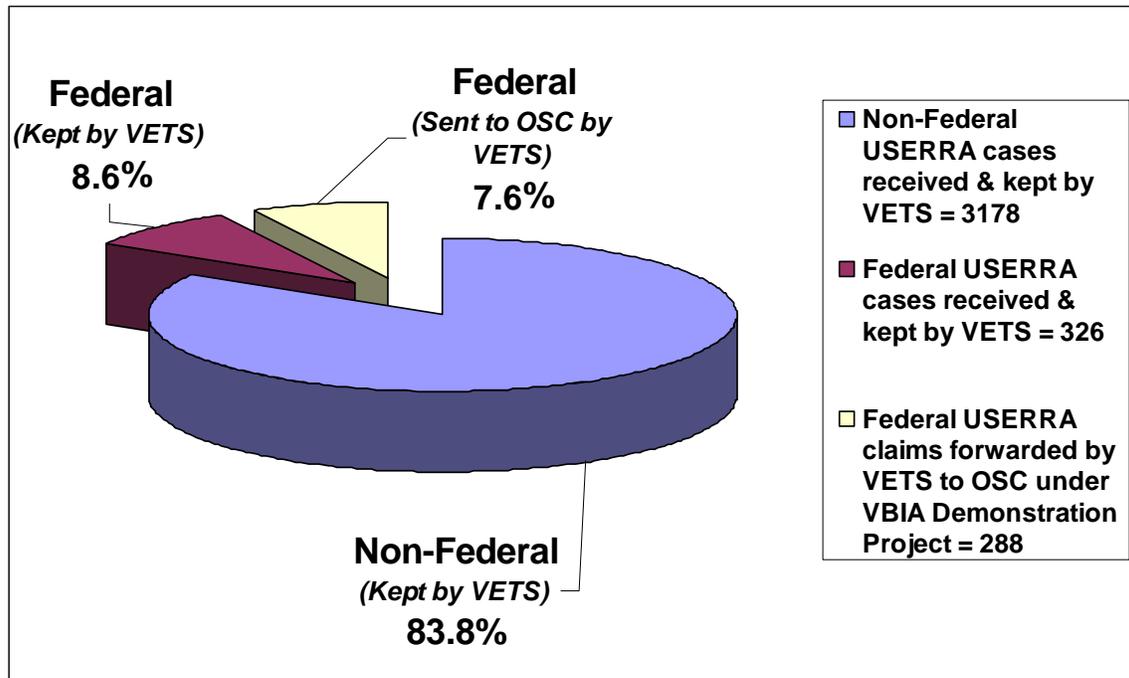


Demonstration Project with the Office of Special Counsel (OSC)

In 2004, Congress passed the Veterans Benefits Improvement Act (VBIA). Section 214 of that Act required the Secretary of Labor and the OSC to carry out a multi-year demonstration project under which USERRA claims made by federal government employees whose social security number ends in an odd-numbered digit are referred to OSC for investigation, resolution and enforcement. The demonstration project was to conclude at the end of September 2007, but the current Continuing Resolution extended the demonstration project through November 16, 2007.

Since inception of the pilot on February 8, 2005 through the end of fiscal year 2007, VETS received 3,792 USERRA complaints. Of those, 614 (16.2%) were federal cases that were subject to the demonstration. VETS transferred 288 of those federal cases to OSC under the demonstration, of which 13 were transferred because VETS concluded that they might include prohibited personnel practices.

All USERRA Claims Received by VETS 2/8/05 - 9/30/07



GAO's Report (GAO-07-907, July 2007) evaluating the demonstration project recommended that VETS institute improved procedures to ensure claimants are notified of their right to have their case referred to OSC, if a federal case, or to DOJ, if a nonfederal case, and that our investigators undergo mandatory training on those procedures. The report also recommended that VETS develop and implement an internal review mechanism for all unresolved claims before claimants are notified of determinations and cases are closed, to help ensure adherence to procedures and standards. Finally, GAO recommended that VETS implement internal controls to ensure that our investigations database accurately reflects the number of unique claims, the dates that these claims were closed and the outcomes of the claims.

VETS is actively addressing the issues raised in GAO's Report. VETS has taken positive steps to address each of these recommendations. For example:

- VETS investigative staff received new instructions on notifying claimants of their right to referral and on recording the appropriate closure date for a claim.
- These instructions have been incorporated into the revised USERRA Operations Manual, which will be field-tested this month and fully implemented in January 2008. The new manual will also clarify

- procedures for documenting case outcomes and recording them correctly in the VETS investigative data base.
- VETS investigators have all participated in mandatory conference calls reinforcing procedures for notifying claimants of their right to referral. In addition, regional investigator training is being conducted in each of the VETS regions and this training will also focus on these notification procedures.
 - VETS is developing an on-line distance learning module for investigators that will include this instruction.
 - VETS has already identified ways to correct previous reporting practices that resulted in duplicate cases being reported. We are working with GAO to ensure that issues identified by GAO surrounding duplicate cases are addressed.

VETS is proud of its record in enforcing USERRA since its enactment. For example, over the past 10 ½ years, 91 percent of federal USERRA cases were resolved by VETS to the satisfaction of both parties, without need for referral to the OSC. Furthermore, 83 percent of “meritorious” federal USERRA cases resolved by VETS (claims granted or settled) reached resolution within 90 days.

VETS remains committed to continuous improvement of our USERRA investigative processes and our reporting to Congress on investigations. As a result of that commitment, we have made a number of investments to our USERRA program, and more are planned. An investment in VETS’ USERRA program is an investment in protecting the employment rights of all service members and veterans covered under USERRA, regardless of whether their employer is the federal government, a state or local government, or a private entity.

Conclusion

The United States has the best, most capable, most technologically advanced military in the world. The dedication to service and the willingness of our military to sacrifice in order to support our national security is extremely important. Our service members are the guarantors of our freedom and preserve our way of life. Our country is a better and safer place because of them.

Our men and women in uniform are known for their intelligence, strong work ethic, loyalty, discipline, and leadership abilities. They have the highly marketable professional qualities that employers are looking for.

Mr. Chairman, DOL takes seriously its responsibilities for assisting our veterans, especially those returning from Iraq/ Afghanistan, in finding good jobs and careers

and in protecting their job rights. These brave men and women are protecting our national security and we must do everything we can to help protect their economic and job security.

Thank you for allowing me to testify before this Committee today. I am prepared to respond to your questions.