

ROA Law Review¹ 24032

1.4—USERRA Enforcement

June 2024

By First Lieutenant Allison R. Sturgeon, USMCR²

OSC's New Special Counsel

The Civil Service Reform Act of 1978 (CSRA), split the former Civil Service Commission (CSC) into three separate entities and thus creating the Office of Special Counsel (OSC). OSC is an independent federal investigative and prosecutorial agency whose Agency Executive is known as “Special Counsel.” The OSC's primary mission is the safeguarding of the merit system in federal employment by protecting employees and applicants from prohibited personnel practices (PPPs). The OSC's statutory authority comes from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment and Reemployment Rights Act (USERRA).³

In October 2023, President Biden nominated the Honorable Mr. Hampton Dellinger to be the next Special Counsel of the U.S. Office of Special Counsel. He was then confirmed by the Senate in February 2024, and officially sworn in as Special Counsel on March 6, 2024.

Continuing to Make USERRA a Priority

On May 22, 2024, the Honorable Mr. Dellinger held a veteran's outreach meeting with many different veteran's groups, including ROA, and I attended. In this meeting, the different groups were given the opportunity to share their missions, priorities, and goals with Special Counsel Dellinger. In turn, Special Counsel Dellinger also shared his priorities for the OSC,

¹ I invite the reader's attention to www.roat.org/lawcenter. You will find approximately 2,200-plus “Law Review” articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other laws that are especially pertinent to those who serve our country, along with a detailed Subject Index, to facilitate finding articles about very specific topics. The Reserve Officers Association (ROA) initiated this column in 1997. In our “state laws” section, we have an article for each state about the state laws that grant paid military leave and other benefits, over and above USERRA, to employees of the state and (often) to employees of the state's political subdivisions.

² Allison, a life member of ROA, is a First Lieutenant in the Marine Corps and a current understudy to Captain Samuel F. Wright, JAGC, USN (Ret.) of ROA. Allison holds a B.S. in Criminal Justice with a minor in Military Naval Science from Norwich University in Northfield, Vermont. She graduated summa cum laude from Norwich University in April 2022 and is currently a third year student at Marquette University Law School in Milwaukee, Wisconsin. Upon graduation from law school, she will go on active duty in the Marine Corps. Military title is used for identification only. The views expressed in this article are the views of the author, and not necessarily the views of the Marine Corps, the Department of the Navy, the Department of Defense, or of the U.S. Government.

³ See, Law Review 1163 for more information on OSC and USERRA – <https://cdn.ymaws.com/www.roat.org/resource/resmgr/LawReviews/2011/11063-LR.pdf>

including his commitment to do everything possible to support and assist those who serve the country in uniform. This meeting was a valuable opportunity for OSC to receive feedback from various veteran's groups and discuss shared interests and goals with the new Special Counsel. Special Counsel Dellinger assured that enforcement of USERRA in the federal sector, as well as the protection of whistleblowers within the Department of Veterans Affairs remains at the forefront of the OSC's mission and focus. I personally am looking forward to his leadership as Special Counsel and believe that the OSC is in good hands under his command.

Please join or support ROA

This article is one of 2,000-plus "Law Review" articles available at www.roa.org/lawcenter. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA) initiated this column in 1997, and we add new articles each month. ROA is more than a century old—it was established on 10/1/1922 by a group of veterans of "The Great War," as World War I was then known. One of those veterans was Captain Harry S. Truman. As President, in 1950, he signed our congressional charter. Under that charter, our mission is to advocate for the implementation of policies that provide for adequate national security. For more than a century, we have argued that the Reserve Components, including the National Guard, are a cost-effective way to meet our nation's national defense needs. Through these articles, and by other means, including amicus curiae ("friend of the court") briefs that we file in the Supreme Court and other courts, we educate service members, military spouses, attorneys, judges, employers, ESGR volunteers, DOL investigators, congressional and state legislative staffers, and others about the legal rights of service members and about how to exercise and enforce those rights. We provide information to service members, without regard to their membership status, or lack thereof, in our organization, but please understand that ROA members, through their dues and contributions, pay the cost of providing this service and all the other great services that ROA provides. If you are now serving or have ever served in any of our country's eight uniformed services,⁴ you are eligible for membership in ROA, and a one-year membership only costs \$20 or \$450 for a life membership.⁵ Enlisted personnel as well as officers are eligible for full membership, and eligibility applies to persons who are serving or have served in the Active Component of the armed forces, as well as the National Guard and Reserve.

⁴ Congress recently created the United States Space Force as the 8th uniformed service.

⁵ If you are under the age of 35, you can become an associate member for free for five years or when you turn 35, whichever comes first.