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THIS third volume of CDC M6AKL5J051 0P5A, *Paralegal Journeyman*, is exclusively about the Air Force claims program.

Unit 1 introduces you to the Air Force claims program by discussing directives, levels of authority, and some administrative aspects of claims. Unit 2 covers personnel and transportation claims under AFI 51–502, *Personnel and Carrier Recovery Claims*. Claims asserted in this unit are now adjudicated at the Air Force Claims Service Center. Unit 3 covers the government’s responsibility to investigate, adjudicate, and settle tort claims against the Air Force under the Military Claims Act and the Federal Tort Claims Act. In addition, this unit covers property damage tort claims asserted in favor of the United States. Unit 4 will introduce you to a myriad of claims, including Article 139, UCMJ claims; nonappropriated fund claims; use of government property claims; admiralty claims; Air National Guard claims; Civil Air Patrol claims; international agreement claims; Foreign Claims Act claims; real estate claims and medical malpractice claims. Finally, this unit will close with some final claims processing procedures.

A glossary is included for your use.

Code numbers on figures are for preparing agency identification only.

The use of a name of any specific manufacturer, commercial product, commodity, or service in this publication does not imply endorsement by the Air Force.

To get a response to your questions concerning subject matter in this course, or to point out technical errors in the text, unit review exercises, or course examination, e-mail Mr Gordon Morrison at afjags.registrar@us.af.mil. Be sure your request includes your name, address, and course/volume number and the course edit code.

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Unit 1. Air Force Claims Program

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YOUR PART IN THE AIR FORCE (AF) claims program is very important because what you do may have great impact on other military members as well as the general public. Most of the people you'll deal with, whether military or civilian, will be laboring under the hardship of having property damaged or destroyed, or of having sustained personal injuries as the result of an accident or incident. The actions you take will reflect greatly on the attitude the public has about the military. In the claims arena, every effort must be made to correct wrongdoing of AF members, employees, or agents. You must bear in mind that you represent the government's interest, but also serve the interest of the claimant. Put yourself in the claimant's shoes—what would you expect?

1-1. Air Force Claims Guidelines

The AF claims program is designed to aid military and civilian employees of the AF and private citizens. This section covers public laws, AF policies and publications, the claims organization, and administration.

401. Directives

To assist you in efficiently and accurately processing claims, you need to be very familiar with the various directives, instructions, and manuals that apply to the claims process.

Air Force claims policy

The policy underlying passage of the Military Personnel and Civilian Employees' Claims Act (MPCECA) is to pay meritorious claims fairly and promptly in order to maintain a claimant's morale and avoid financial hardship. Claimants who suffered loss or damage are entitled to helpful, friendly, and courteous service. The claims policies establish the following responsibilities and authorities:

- The Air Force Legal Operations Agency's (AFLOA) Claims and Tort Litigation Division (AFLOA/JACC) tracks compliance; provides guidance to all levels of the AF on administrative claims processing; maintains liaison with the Department of Justice (DOJ), the Department of Defense (DOD), and the other services on general claims matters; and settles, denies, or waives claims within its delegated settlement authority. It also designates and approves changes to claims jurisdictions in the continental United States (CONUS).
- The General Torts Branch of JACC provides specialized legal services supporting the investigation, settlement, and litigation of tort claims against the AF in aviation, medical, and other areas and provides legal advisors for ground and aircraft accident investigation boards.
- The Air Force Claims Service Center (AFCSC) provides Airmen with world-class claims services anywhere, anytime. It cuts the time required to pay claims from weeks to days. The AFCSC processes all aspects of the household goods (HHG), carrier recovery (CR) claims programs, and all other claims under the MPCECA. The AFCSC reports directly to the AFLOA/JACC division chief.
- The Medical Law Field Support Center (MLFSC) is staffed with subject matter experts who are skilled in issues such as the Health Insurance Portability and Accountability Act

(HIPAA), adverse privilege actions, informed consent, training affiliation agreements, and medical malpractice litigation. The MLFSC uses this expertise to provide “reach-back” medical law support and counsel directly to medical law consultants (MLC) in the field and the medical malpractice defense attorneys assigned to AFLOA/JACC’s Medical Law Branch. Lessons learned from litigation will quickly flow to the MLCs and enhance their counsel to military treatment facility (MTF) commanders and staffs.

- Major command (MAJCOM), field operating agency (FOA), and direct reporting unit (DRU) staff judge advocates (SJA) exercise functional staff supervision of the claim programs within their commands and ensure compliance with claim policies.
- Base SJAs process tort claims arising within their respective geographic claims jurisdiction; settle, deny, or waive claims within their delegated settlement authority; and report significant claims or potential claim incidents to higher headquarters (HQ).

Authority for the Air Force claims program

In the AF, a claim is a written and signed demand for or against the United States (US) or the AF for payment of a sum certain (specified amount of money) other than for obligations incurred in the regular procurement of services, supplies, equipment, and real estate.

One exception to this rule however, are claims under Article 139, Uniform Code of Military Justice (UCMJ). These claims give commanders the ability to direct collection and pay a claim for property that military personnel willfully damaged or wrongfully took, or if the claim results from riotous, violent, or disorderly conduct. An oral demand can be considered a claim under Article 139, UCMJ; however, before final action is taken, the claimant must present a claim for a sum certain in writing.

A written demand for a sum certain is a claim, regardless of the format; however, once the claim is presented, ask the claimant to present the claim on the appropriate forms or in the appropriate format.

Publications for the claims program

To do your job, you need to research AF publications. Here are a few of the publications where you’ll find the bulk of knowledge and authority you will need.

Air Force Instruction 51–306, Administrative Claims For and Against the Air Force

Air Force Instruction (AFI) 51–306 is your authority for investigating, processing, and settling tort claims against the AF. Here is where you will find guidance on the Federal Tort Claims Act, Military Claims Act, international agreement and foreign claims, nonappropriated funds, Air National Guard, Civil Air Patrol, admiralty, and other miscellaneous claims.

This instruction also provides guidance and procedures for investigating, asserting, and settling personnel claims, pro-government tort claims, hospital recovery claims, and for processing and settling claims under Article 139, UCMJ.

Air Force Instruction 51–307, Aerospace and Ground Accident Investigations

Your legal office may be requested to provide administrative and logistical support to an accident investigation board investigating an aircraft, missile, nuclear, or space accident. AFI 51-307 offers guidance on when and how to conduct an aerospace accident investigation, how to prepare and distribute accident reports, how to store and dispose of accident wreckage, related documents, and material. Keep in mind, accident investigation boards are separate and in addition to safety investigations conducted in accordance with AFI 91–204, *Safety Investigations and Reports*.

Like aerospace accidents, you may be asked to support investigation boards convened to investigate ground accidents. AFI 51-307 explains when and how to conduct a legal investigation of accidents occurring on land or a body of water that result in death, permanent disability, or significant property damage. In addition, it provides guidance for conducting required ground accident investigations.

Air Force Instruction 23-101, Air Force Materiel Management

You are not expected to become a supply expert, but you should be familiar with certain supply procedures, especially those covered by AFI 23-101, Chapter 8, *Logistics Programs and Systems*, pertains to the processing of claims for loss of uniforms and clothing items to include personnel clothing claims for uniform items, which are lost, stolen, or otherwise made unserviceable through no fault or negligence of the AF member.

It does not provide for the payment for government property such as parkas, helmets, and weapons. These types of losses are handled through reports of survey. It is important to note that certain clothing claims and reimbursement may be handled through the member's command channels.

Air Force Instruction 51-301, Civil Litigation

Your office is frequently called on for advice on whether to furnish medical, personnel, police records, claims files, or other documents to civilian authorities. Requests for these documents may come from the hospital, personnel office, or security forces squadron (SFS); however, your office determines if the records should be released. In AFI 51-301, you will find guidelines for AF personnel dealing with litigation, tax disputes, and legal or administrative proceedings. In addition, it also covers the procedures for allowing AF personnel to appear as witnesses in a civilian court.

The Reporter

This publication, produced by the Air Force Judge Advocate General's School (AFJAGS), contains decisions on both claims administration and claims law, which apply to the proper adjudication or processing of claims.

The Judge Advocate General Online News Service

The Judge Advocate General (TJAG) Online News Service (ONS) is a newsletter sent via e-mail that will contain a compilation of news items primarily from the Office of the Judge Advocate General (OTJAG)/AFLOA directorates and divisions, plus the AFJAGS, regarding developments in the law or policy, new opinions and research resources, course announcements, personnel happenings, etc. Claims guidance is provided in the weekly ONS.

Tort Law and Claims Action Officer Handbook

This publication is found on the TJAG's web site under FLITE Knowledge Management. The Action Officer Handbook contains all of the information necessary to adjudicate tort claims.

Claims Service Center Action Officer Handbook

The primary purpose of this handbook is to guide judge advocate general (JAG) Corps members in the field when working with the claims service center (CSC). The handbook is located on the TJAG's web site under Flite Knowledge Management/Civil Law/Claims.

402. Levels of authority and responsibility in the Air Force claims program

Depending on the amount and circumstances, claims are processed and finalized at different levels of authority within the AF. Many changes have come to the corps in recent years. Levels of authority, responsibility, and procedural updates have taken place to keep pace with those changes.

Claims organization

You are a member of one of the largest law firms in the world. It consists of military and civilian lawyers, civilian claims personnel, court reporters, and numerous other personnel. In a large organization, there must be supervisory levels of authority. The levels within the AF claims organization are:

The Judge Advocate General

TJAG of the United States Air Force (USAF), through JACC, establishes, supervises, and inspects all AF claims activities, trains claims officers and paralegals, settles certain claims, and monitors tort litigation for and against the US arising out of AF activities.

The Claims and Tort Litigation Division

The AFLOA/JACC supervises and inspects claims activities through staff assistance visits, special audits, and reviews of statistics from AF computerized claims databases; formulates and implements claims policies and guides subordinate legal offices with claims procedures. It also recommends settlement action on claims to TJAG, the secretary of the Air Force (SAF), and the DOJ; maintains a liaison with DOD, DOJ, other military services, and other government agencies; settles and asserts certain claims; prepares budget estimates for AF claims activities and manages the claims budget for payment, collection, allocations, and expenditure of AF claims funds for JACC. JACC manages records in accordance with AFI 33-322, *Records Management and Information Governance Program* and the records disposition schedule on all claims for which TJAG is responsible; conducts and supervises claims training activities; and manages the Armed Forces Claims Information Management System (AFCIMS) and the new web-based AFCIMS (WebAFCIMS).

Major command staff judge advocates

Whether or not they have claims settlement authority, SJAs at the MAJCOM level are responsible for the general supervision of claims activities within their commands. In addition, they may act as a foreign claims commission if assigned claims responsibility in foreign countries; reimburse, pay a pro rata share, object to claims in any amount under applicable status of forces agreements (SOFA), and advise JACC of actions by foreign countries affecting claims policies.

Numbered Air Force staff judge advocates

Numbered Air Force(s) (NAF) level SJAs of 3AF, 5AF, 9AF (for US Central Command (USCENTCOM)), Air Force Special Operations Command (AFSOC) (for US Special Operations Command (USSOCOM)), 12AF, and 18AF are responsible for investigating incidents with potential tort liability and denying or negotiating settlement of tort claims within their settlement authority, which occur in areas where they have geographic claims responsibility. In addition, they will notify JACC and AFLOA/JACE (environmental claims only) of serious incidents having potential tort liability or adverse publicity. Further, HQ US Air Forces in Europe (USAFE), HQ Pacific Air Forces (PACAF), and HQ US Air Forces Central Command (USAFCENT) designate claims jurisdictions for the bases within their areas of responsibility.

Both MAJCOM and NAF SJAs are responsible for conducting periodic claims audits and ensuring personnel enter data into the computerized claims database. They may support claims teams to respond to natural disasters or serious incidents with members assigned to the command.

Base staff judge advocates

These offices are responsible for the claims activity within their area of responsibility. They have the authority to settle certain claims in the amounts determined by the type of claim and as authorized by the SAF and/or TJAG. Base SJAs have the primary responsibility for ensuring investigations are conducted as required and claims forwarded for settlement are fully documented with appropriate recommendations. Their duties are further described in AFI 51-306.

Base claims structure

The base SJA has many duties to perform, including processing tort claims. You and an attorney may be appointed as a claims officer (attorney only), assistant claims officer, or claims examiner to help the base SJA process claims.

Claims officer

The claims officer works for the base SJA and must be appointed in writing by the SJA. Claims officers are commissioned officers designated as judge advocates (JA) of the AF or civilian attorneys employed by the Department of the Air Force (DAF). The claims officer, under the supervision of the SJA, commander, or other appointed authority, manages all claims activities that fall within the area of responsibility of the base SJA. This includes conducting or supervising each claims investigation and coordinating claims disaster response with the AFCSC as outlined in the *AFCSC Action Officer Handbook*.

Terms

When processing claims, there are common terms you need to become familiar with:

- Act of God—A violent act of nature such as lightning, flood, earthquake, tornado, or hurricane.
- Other authorized places:
 - * Any place on a military installation.
 - * Any office, building, recreation area, or real estate the AF or any other DOD elements use or control.
 - * Any other place the government authorizes or apparently authorizes for receiving or storing personal property (e.g., offices, warehouses, baggage holding areas, and hospitals).
- Personal property—Tangible property an individual owns, that is not real property, including but not limited to HHG, unaccompanied baggage, privately owned vehicles (POV), and mobile homes.
- Quarters:
 - * Government-owned or government-leased housing assigned or otherwise provided to the claimant.
 - * Privately owned mobile homes parked on base in spaces provided by the government.
 - * Temporary quarters anywhere, including hotels, motels, guest houses, dormitories, and billeting rooms the claimant occupies during temporary duty.
 - * Housing accommodations outside the US in authorized off-base quarters, as well as assigned quarters, including quarters in US territories and possessions. Quarters do not include housing occupied by local inhabitants.
 - * Garages, carports, driveways, and parking lots adjacent to assigned government quarters.
 - * Street parking at assigned government quarters; in the immediate vicinity of assigned government quarters; or reserved parking assigned to off-base housing accommodations overseas.
 - * The area immediately adjacent to assigned government quarters for items not commonly stored in living areas (e.g., boats, motorcycles, motor bikes, bicycles, lawn mowers, garden equipment, and outdoor furniture).

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

401. Directives

1. Define the term “claim” as used in the AF.

2. May claims be submitted orally? If so, by what authority?
3. What types of claims are processed according to AFI 23-101?

402. Levels of authority and responsibility in the Air Force claims program

1. What are the levels of claims settlement authority in the AF?
2. What office supervises and inspects claims activities through staff assistance visits?
3. Who must appoint claims officers and how?

1-2. Claims Administration

The administration of the AF claims program is an important duty. We must be familiar with administrative procedures to ensure the highest quality of efficiency and care when assisting AF members and their families through the claims process. As you might imagine, claims can arise from just about any situation to include: household goods moves, contractor work on base, theft, vandalism, natural disasters, and major accidents just to name a few. This section will focus on the area of natural disasters and major accidents and how you will help support the base in these emergency situations.

403. Emergency operations center

No matter what base you are assigned to, there is bound to be some form of natural disaster or major accident. As a paralegal assigned to the base legal office, you may be tasked to assist during these emergency situations and to support the emergency operations center (EOC). Let's start with a look at what a major accident and natural disaster are and then cover the EOC and your role within the EOC.

In accordance with AFI 10-2501, *Emergency Management Program*, a major accident is an accident of such a magnitude as to warrant response by the installation disaster response force (DRF). A major accident may involve one or more of the following:

- Hazardous substances such as radioactive materials, toxic industrial chemicals (TIC)/toxic industrial materials (TIM), or explosives.
- Class A mishaps in accordance with AFI 91-204.
- Extensive property damage.
- Grave risk of injury or death to personnel.
- Adverse public reaction.

Major accidents differ from the minor day-to-day emergencies and incidents that installation agencies typically handle.

A natural disaster (typhoon, tidal wave, hurricane, earthquake, etc.) is quite different from a major accident. Natural disasters can occur at any time. Some disasters such as hurricanes provide time to

prepare; others, such as earthquakes and tornadoes, strike with little warning. Claims arising from natural disasters will generally fall under the MPCECA. The local installation SJA will coordinate with the chief of AFCSC for assistance.

Emergency operations center function

At installation level, once a major accident or natural disaster occurs, the DRF is the structure for response. The DRF includes the installation control center (ICC)/crisis action team (CAT), command post, emergency communications center (ECC), EOC, incident commander, first responders, emergency responders, unit control centers (UCC), emergency support functions (ESF), and specialized teams. The EOC is the command and control support element that directs, monitors, and supports the installation's actions before, during, and after an incident. The EOC is activated and recalled as necessary by the installation commander. The EOC updates the ICC with ongoing incident status and seeks support through the ICC when on-scene requirements surpass the installation's inherent capability and the installation's cumulative capabilities acquired through mutual aid agreements (MAA). To break it down into more simple terms, according to the National Response Plan (NRP), the EOC is defined as "The physical location at which the coordination of information and resources to support attack response and incident management activities normally takes place..."

In addition to understanding the actual function of the EOC, you must be familiar with some of the key personnel you will be working with closely:

EOC director—The EOC director is the mission support group (MSG) commander (CC) or other senior representative designated by the installation commander. He or she provides oversight for the installation commander to support and control emergency response to incidents. The EOC director can simultaneously support multiple incident commanders, while providing senior level command and control for sustained response and recovery operations.

EOC manager—The EOC manager is the civil engineer readiness officer or superintendent, and performs functions such as identifying requirements for EOC assets; overseeing activation of the EOC; maintaining EOC activity logs and records; overseeing information flow and briefing schedules; and overseeing EOC deactivation. Additionally, the manager's job is to provide senior emergency management subject matter expertise to the director and ICC.

Incident commander—The incident commander (IC) is a trained and experienced responder who provides on-scene tactical control using subject matter experts (SME) and support from other functionals. Normally, ICs are SMEs from the fire, medical, or security forces (SF) response elements.

Your duties at the emergency operations center

Now that you know what the EOC does, you need to understand what you will be required to do if you are called upon to assist the EOC. Most often, when the legal office is called on to assist in the EOC, you will accompany a JA to the center. The paralegal/attorney team's role is to advise the IC and other key personnel on any legal matters that may arise. As part of the EOC team, you need to be prepared to think on your feet and be ready to address a myriad of issues. The legal issues you may face can be as diverse as each accident or incident. Below are a few examples:

- You may need to answer any questions from the logistics readiness squadron (LRS) regarding the legality of using government transportation for different emergency situations. While you will have a JA there to give the actual legal advice, you will be required to research governing directives for answers to questions.
- Should there be active duty deaths involved, you will need to get the process started for orders for a family support liaison as well as orders for a summary court officer. There may also be questions regarding the legality of having base facilities as mass casualty points, you will need to research to find answers for:

- * You may be required to answer questions from the SFS regarding their ability to ensure public safety and the security of the accident site. Again, you will have a JA there to give legal advice, but you need to be prepared to research answers to questions regarding governing directives and local policy.
- * Be prepared to answer questions regarding environmental impacts and recovery operations that will take place in the long term. Most of these policies are already in place, you will need to know what they are and where to find them.
- * Public affairs (PA) personnel will need to know what information they can and cannot release to the public, news agencies, family, and friends.

While this is not an all-inclusive list of everything you may be tasked to do in the EOC, you will receive extensive on-line training, as well as training from your office and base agencies regarding duties performed while at the EOC.

404. Conducting claims investigations

In addition to the duties within the EOC, you may be asked to respond to the actual scene of the accident/disaster to investigate and gather information pertaining to potential claims that may arise. Investigating accidents or incidents that might give rise to a claim is one of the paralegal's most important duties. You will be working under the direction of the claims officer, but this does not mean you'll be told each step to take during a claims investigation. This lesson will give you the information you need to conduct a thorough and accurate claims investigation. An investigation will develop and preserve facts essential to an attorney's application of the law in settling anti-government claims or in asserting pro-government claims.

Types of claims investigations

To properly investigate claims, certain methods and procedures are followed. Although you may not be involved in every type of investigation, knowing the general methods and procedures will help you assist the claims officer and JACC in completing all required actions. Because prompt and efficient claims response is a command responsibility, particularly in major disaster situations, you must be prepared to conduct investigations resulting from natural disasters or major accidents. The legal office should prepare a plan of action in anticipation of natural disasters or major incidents.

Emergency operations kit

Preparation by the legal office starts with assembling and maintaining an emergency operations kit, also referred to as a disaster response kit or claims kit. You must be prepared for any type of situation that may arise and be ready to respond at a moment's notice. At a minimum, the emergency operations kit should contain a laptop computer, portable printer, extra toner, a digital camera and/or video camera, office supplies, local maps, AFIs, forms, advance payment and settlement agreements, claimant sign-in log, and any other necessary materials. It should also include a list of materials or equipment that can be assembled quickly if the legal office needs to relocate to an emergency claims post or a field claims office. Items in your kit may vary depending upon where you are located. For example, if you are stationed in Alaska, you will need to make sure you have cold weather gear available to sustain the cold temperatures while outdoors. The *AFCSC Action Officer Handbook* offers helpful tips on preparing for disasters; however, you should contact the AFCSC to assist in building your disaster response kit. The emergency operations kit is invaluable for conducting your on-scene investigation.

Conducting an investigation

You have a responsibility before an accident or incident to set up liaison with the various base organizations that must support you during the investigation. The organizations you should contact include the multi-media, transportation, and specialized agencies such as civil engineers and the safety office. The following procedures will help you conduct a thorough investigation.

- Before you begin an investigation, review all available evidence and information obtained during any previous inquiry, notification, or investigation by military or civilian authorities (security and law enforcement, director of safety, boards of officers, local police, fire, or other agencies). These reports may contain nonrelevant evidence and findings, and recommendations based on hearsay, but they also may contain names of witnesses and other essential facts. This step is most important if you were not able to visit the scene of the incident or accident and must conduct the investigation after the fact.
- Review statements taken from all involved parties, witnesses, and investigating police officers. Observe, and if possible, interview the injured people to accurately appraise the extent of their injuries and arrange for their treatment at government facilities, if available.
- Make a careful examination of the accident/incident scene and of all property involved whether damaged or not.
- Preserve and present facts through photographs, models, maps, or diagrams.
- Research scientific publications and consult experts to understand how certain processes work that cause injury or damage.
- Collect, piece together, and reconcile the facts to arrive at the truth (the real facts) about how the accident or incident must have happened.
- Decide on the degree of fault of the government and the claimant on the basis of the facts and the law.
- Consult with doctors and others in an attempt to evaluate or estimate the damages suffered by the claimant and what sum the government should offer to settle the case or, if appropriate, for how much we should assert a claim. If it appears the claimant was also partly to blame for the injuries, consider this factor when deciding on a sum to offer the claimant.
- Determine to what extent subrogation or contribution may be obtained from others.

You should be notified promptly of each incident or accident that may result in a claim. You must reach the scene as quickly as practical. Experience shows the investigation is most effective and thorough when you are a member of the initial investigating party. Always keep in mind in the event of large disasters, you must contact the AFCSC through the proper channels. AFLOA/JACC has established claims disaster teams (CDT) to assist with large disasters.

On-scene information

It's important to make a careful examination of the accident/incident scene and note all damaged as well as undamaged property. In all cases, make on-scene notes and memos. A note pad is helpful in recording significant facts, overheard comments, impressions, and so forth. Never wait two or three days to write down your information. You may prefer not to make written notes in the presence of a particular witness in order to avoid scaring the witness into silence. In this case, write your notes immediately after you leave that person. The write-it-now rule applies to all sorts of information, such as distances, apparent prejudice, impression of witnesses' value to the case, physical impossibility of witnesses' statements being correct, and so forth. In addition, photographs, maps, diagrams, and sketches are important to reviewing authorities for a clear understanding of the accident or incident.

Photographs

Because photographs are so important, take them as soon as possible after the incident. If the evaluation depends on the condition of property at a later date, take additional photographs. Do not delay completion of the investigation solely to obtain additional photographs. When an official photographer is not available or the use of one is not practicable, you may take photographs with the camera in the emergency operations kit. The following table outlines some information required for photographs used in investigations.

What to Show in Photograph	Size and Type of Prints	What to Show on the Back of Each Print
<ul style="list-style-type: none"> Physical view of incident scene. Cause of damage, injury, or death. Extent of injury to persons. Extent of damage to property. 	<ul style="list-style-type: none"> For digital images, accomplish the following: <ul style="list-style-type: none"> Print two copies of image. Copy data to a CD. Record name/identifying information of photographer and computer operator. Record the program on the computer, which is interpreting the image. For each printed image, record on the image the date/time taken. Keep all data and one copy of the image with the disc in a safe, with chain of custody documentation. Use the second printed image for the claim file. Use color photographs for personal injuries, or when needed to distinguish property damage. 	<ul style="list-style-type: none"> The name, grade, and duty organization of photographer (if military), or permanent address (if civilian). DoDI number of photographer (if military or federal civilian employee). Date and time photograph was taken. Orientation of the photograph to place of incident.
NOTE: Do not mark the face of the print unless a negative or slide is in the claim file.		

Diagrams, maps, sketches, or plats

In many instances, diagrams, maps, sketches, or plats prepared by you or the claims officer are essential to a clear understanding of the cause of an incident and the extent of the damage. Such documents are valuable in incidents where the damage covers a wide area such as an aircraft crash site. When preparing these documents, give careful attention to identifying all significant objects, terrain features, and areas of damage. Also, use appropriate symbols to show distance, direction, and compass orientation. In sonic boom damage claims, the diagram of the structure should indicate the direction of flight if known, and show the location of items damaged cross-referenced to a repair estimate, if possible.

Estimates

Statements, bills, or estimates for repair work from disinterested firms or experts submitted by the claimant need not be certified. Business letterhead or other identification is adequate. If the claims officer believes charges or estimates are unreasonably high, he or she may require the claimant to furnish a second estimate from another source; however, if the government is not liable and the claim is not payable, do not require the claimant to get another estimate. If a claimant requests names of repairmen, give the claimant a list of at least three individuals or firms who have previously submitted reasonable estimates or repair bills. If you furnish these names, advise the claimant that the government does not guarantee or endorse the people or firms or the quality of their service.

Paid appraisals, surveys, and medical and dental reports

In some cases, an investigation may require an appraisal, survey, or medical and dental reports from private sources that are not obtainable without the payment of fees. Get such reports only when government personnel are either not reasonably available, are not fully qualified to supply them, or when for other reasons, the interests of the US will be best served if you get such reports.

Actions of investigator

When a claimant comes into the office to present a claim, whether it's for damaged HHG or destroyed farmland, that person will probably be upset. In many instances, this will be the claimant's first contact with a military organization, and their views of the military will be influenced by the way you treat them. Always try to treat claimants as individuals; put yourself in their place and see if you would appreciate being treated the way you are treating them. Keep claimants informed of the status of their claims and provide the assistance to them authorized by the claims regulation. You are prohibited from the following acts:

- Refusing to accept claims. Even if a claim is incomplete, accept the claim and forward it to the appropriate authority (personnel) or open in the torts module of Web AFCIMS. Let the claimant know if their information is incomplete and give them a list of needed information. Advise the claimant that if the information is not received within the stated reasonable time, the settlement authority will adjudicate, and settle the claim without the additional information.
- Representation of or aid to any claimant, or potential claimant, in a claim against the US. This prohibition does not include the assistance that claims officers and legal personnel provide to claimants as part of their official duties.
- Receiving any gift, financial reward, share, or interest from any claim.
- Give any opinion to the claimant about whether their claim will be approved, disapproved, or revealing to the claimant the recommendations made by settlement or claims authorities.

Do not feel that these restrictions keep you from helping claimants as an official part of your duties. On request, you may advise claimants on how to present a claim and help in preparing the claim and assembling the evidence to document it. Claimants may see or have returned to them any evidence they originally furnished, including documentary evidence submitted under AFI 51-306. Claimants are also entitled to information or evidence obtained during the course of a claims investigation except when barred by law or regulation.

Do not give claim files to claimants or their agents for review or reproduction. In addition, there are several documents within a claims file that may never be released outside of the US government. These documents include: legal memoranda containing opinions, conclusions, and recommendations; attorneys' and paralegals' written summaries of witness interviews; experts' written reports and evaluations without approval of JACC; medical quality assurance documents (10 United States Code (U.S.C.) §1102-Confidentiality of Medical Quality Assurance Records); and any other material acquired as part of the deliberative process, including legal research. DOD Manual (DODM) 5400.7_Air Force Manual (AFMAN) 33-302, *Freedom of Information Act Program*, governs the release of government records to the public. If a request for information from a claim file is received other than for information from a personnel or personnel transportation claim, immediately inform JACC.

Once you have completed the claim investigation and have gathered the necessary facts to determine the answers to the five Ws (who, what, when, where, and why), you're ready to help the claims officer prepare a report.

When preparing your report, always consult the AFCSC Inspection and Report Guide (located on FLITE Knowledge Management). Your report must include an overview, pictures of the damaged items, description of the loss/damaged items, your assessment of the items, and your recommendation for payment. Finally, you will include your name and the date of the report.

During the course of your investigation, the facts and evidence may cause you to determine a claim was filed fraudulently. If this is the case, provide reasoning in your recommendation for payment. You will want to discuss any potential fraudulent claims with your claims officer and SJA in order to determine if further action against a member is required.

Assistance from other agencies

There are times when you may need to seek assistance from outside agencies. If you're performing a claims investigation, then you may require assistance from SF or Air Force Office of Special Investigations (AFOSI). If the incident you are investigating occurred on base, the best agency to start with is a simple telephone call to SF Reports and Analysis; however, you should follow up with an email with your specific request. If the incident occurred off base, it may involve a formal request to the local police department. Your location will determine the procedure as; every police jurisdiction may have different methods. For each case, you should provide the minimum information: date and location of incident, name of individuals involved, your name and organization, and contact information.

405. Potential claims files

Potential claims files are used to preserve evidence such as itemized bills, receipts, photographs, statements, and any other types of documentation that will support anti- or pro-government, hospital recovery, or personnel transportation claims.

When to create a potential file

Claims are often filed months and even years after the triggering incidents; therefore, it is important to collect and preserve evidence as soon as it appears likely the AF may incur substantial liability or that a claim may be filed. Collected documents should be placed in a "potential claim file." By maintaining a close liaison with SF, PA, base exchange, commissary, base operations, aero club, and the base MTF (particularly the quality assurance [QA] office), it is possible to receive early notification after an incident occurs.

When multiple claims (five or more) arise out of a single accident/incident, a master file will be prepared. All claims resulting from the same incident may be processed with a cross-reference to the master claim file. Send the original claim to JACC, and keep a copy at the base legal office. Always coordinate with JACC for guidance on creating and maintaining potential claims files.

Required notifications

In the event of an accident or incident where the US may incur substantial liability under the Federal Tort Claims Act (FTCA), Military Claims Act (MCA), or other tort based statute, or you become aware of any incident in a medical treatment facility that may result in a medical malpractice claim, immediately contact JACC. Someone from the appropriate branch at the JACC will contact you to discuss conducting a preliminary investigation. A claims response to a major accident site is usually warranted to assess damage, offer claims information, and provide advance payments to victims if authorized. A proactive claims approach may be required to protect accident victims from unnecessary suffering and hardship, collect evidence, and ensure appropriate environmental restoration.

To ensure prompt investigation and settlement of claims arising out of serious or unusual incidents and accidents, the base SJA uses the JAG accident incident report to report the incident to the supervisory general courts-martial (GCM), MAJCOM, and JACC. The report should be made by the most expeditious means possible and followed by a written report within 24 hours.

At a minimum, report:

- Aviation accidents and other incidents involving potential tort liability to JACC.
- Severe weather disasters, floods, fires, and other incidents involving loss of or damage to personal property which require expert advice, assistance, or numerous emergency partial payments to JACC.
- Incidents and UCMJ, DOD, or other investigations of fraud, waste, or abuse in claims.
- Incidents with claims issues that may receive widespread media coverage.

- Base closures or other actions requiring claims jurisdiction transfers or jurisdiction arrangements different from the maps JACC has distributed to the field.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

403. Emergency operations center

1. According to AFI 10-2501, what is the definition of a major accident?
2. What is an emergency operations center (EOC)?
3. Who activates the EOC?
4. Who is the EOC director?
5. What is the attorney/paralegal team role when assigned to the EOC?
6. Why would PA personnel need your assistance in the EOC?

404. Conducting claims investigations

1. What should the legal office have prepared in anticipation of a natural disaster or major accident?
2. What agencies you should contact to be prepared for an accident or incident investigation.
3. What essential information should be annotated on the back of photographs taken by military personnel for an accident or incident investigation?
4. What types of investigations are diagrams, maps, sketches, or plats very important to?
5. If the claims officer thinks a repair estimate is unreasonable, what may the claims officer do?

6. What documents within a claims file may never be released outside of the US government?

405. Potential claims files

1. When do you create a potential claim file?
2. When is a master claim file prepared?
3. How does the base SJA report incidents to the supervisory GCM, MAJCOM, and JACC?

Answers to Self-Test Questions

401

1. A written and signed demand for or against the United States or the Air Force for payment of a sum certain other than for obligations incurred in the regular procurement of services, supplies, equipment, and real estate.
2. Yes; Article 139, UCMJ.
3. Claims for loss of uniforms and clothing items, to include personnel clothing claims for uniform items which are lost, stolen, or otherwise made unserviceable through no fault or negligence of the Air Force member.

402

1. TJAG; AFLOA/JACC; MAJCOM SJAs, NAF SJAs, and base SJAs.
2. The Claims and Tort Litigation Division (AFLOA/JACC).
3. The base SJA, in writing.

403

1. An accident of such a magnitude as to warrant response by the installation disaster response force (DRF).
2. The EOC is the command and control support elements that directs, monitors, and supports the installation's actions before, during, and after an incident.
3. The installation commander.
4. The mission support group commander or other senior representative designated by the installation CC.
5. To advise the incident commander and other key personnel on any legal matters that may arise.
6. They will need to know what information they can and cannot release to the public, news agencies, family, and friends.

404

1. Plan of action and an emergency operations kit.
2. Multi-media, transportation, and specialized agencies, such as civil engineers and the safety office.
3. Photographer's name, grade, and duty organization; DoDI number; date and time photograph was taken; orientation of the photograph to place of incident.
4. Incidents where the damage covers a wide area such as an aircraft crash site.
5. Require the claimant to furnish a second estimate from another source.

6. Legal memoranda containing opinions, conclusions, and recommendations; attorneys' and paralegals' written summaries of witness interviews; experts' written reports and evaluations without approval of JACC; medical quality assurance documents (10 U.S.C. 1102); and any other material acquired as part of the deliberative process, including legal research.

405

1. As soon as it appears likely the Air Force may incur substantial liability or that a claim may be filed.
2. When multiple claims (five or more) arise out of a single accident/incident.
3. By the most expeditious means and followed by a written report within 24 hours.

Student Notes

Unit 2. Incident to Service Claims

2-1. Processing Claims	2-1
406. Proper and payable claims	2-1
407. Settlement authority.....	2-5
408. Processing a personnel claim.....	2-6

THE INFORMATION PRESENTED IN THIS UNIT is based on AFI 51-306, and Title 31, U.S.C. § 3701, *Definitions and Application* and 3721, *Authority to Settle Claims*. AFI 51-306 provides guidance and procedures for adjudicating and settling claims of AF personnel for loss or damage to their property; investigating, asserting, and settling pro-government tort and hospital recovery claims; and for processing and settling claims under Article 139, of the UCMJ. This unit also describes how the AF can recover money for loss and damage to personal property caused by carriers, warehousemen, and contractors.

This section covers the procedures for processing MPCECA claims, also referred to as “Chapter 4 claims” or “personnel claims.” AFI 51-306, chapter 4 sets forth the rules for settling claims of active duty AF members and AF civilian employees for loss, damage, or destruction of personal property incident to their service. Claims processing includes determining if the person presenting the claim is a proper claimant, determining the appropriate jurisdiction and appropriate chapter/act the claim is required to be processed under, giving the claimant the proper forms and instructions, receipting for a claim, and processing claims to the proper settlement authorities.

2-1. Processing Claims

As you learned in unit 1, the AFCSC processes all claims that fall under personnel claims. You may be asking yourself, if I don’t have to process claims at my base legal office, then why do I need to know claims? Even though you may not personally process these types of claims, it is imperative you understand the claims process.

Claimants will still come into your office with questions concerning various types of claims and you are expected to provide them with the proper guidance and instruction concerning the claims process. In addition, you will assist the AFCSC with claims inspections and provide them with written inspection reports. The AFCSC needs your assistance to ensure the claimant is provided with the best possible service, and you are an important part of that process. To help aid you in this, the *AFCSC Action Officer Handbook* provides all the information you need to know about the claims process and the role you will play.

406. Proper and payable claims

Before we can properly adjudicate and settle a claim, we must determine if the claim is within our jurisdiction, if the member presenting the claim is a proper claimant, and whether or not the situation that gave rise to the claim is actually payable under the AFI. AFI 51-306 provides guidance in all of these areas. More specific guidance can be found on the Claims and Tort Litigation Division (JACC) web page in under FLITE Knowledge Management/Civil Law/Claims/Domestic Tort Claims.

Claims jurisdiction

Who has claims jurisdiction depends largely on the type of claim. The Air Force designates a geographic area of claims responsibility (claims jurisdiction) for each base SJA.

In CONUS, AFLOA/JACC designates and approves changes to claims jurisdictions on maps distributed to the field; when there is a question, they make the final decision on which claims jurisdiction encompasses a particular claim.

HQ USAFE/JA, HQ PACAF/JA, and HQ USAFCENT/JA designate claims jurisdictions for the bases within their areas of responsibility overseas. The DOD assigns areas of single service claims responsibility to each military department.

When determining the jurisdiction, you must use the zipcode of where the incident occurred and cross reference it with the Claims Jurisdiction Zip Code Table provided by JACC in under FLITE Knowledge Management/Civil Law/Claims/Domestic Tort Claims.

Determining the Appropriate Chapter/Act

After determining the jurisdiction, but before deciding if a member is a proper claimant, you must know what Federal Act the incident falls under. You will find these Acts listed in AFI 51-306. You will look at who or what caused the loss, damage, or destruction of property and if the actions of that entity caused harm to the claimant.

Proper claimants

Before paying a claim for loss, damage, or destruction of property, the person filing the claim must be considered a proper claimant. The following list identifies proper claimants under the Military Personnel and Civilian Employees' Claims Act:

- Active duty AF military personnel.
- Retired or separated AF military personnel who suffer loss or damage resulting from the last entitled storage or movement of their personal property.
- Air Force Reserve (AFR) and Air National Guard (ANG) personnel for an incident that occurred while they performed federally funded active duty, inactive duty for training, or full-time National Guard duty.
- ANG technicians under 32 U.S.C. 709.
- Civilian employees whom the AF pays from appropriated funds.
- Civilian employees whom the AF pays from nonappropriated funds (NAF). (Process these claims, but pay them from NAF).
- Civilian employees of the Defense Commissary Agency (DeCA) who work on an AF installation.
- DOD Dependent Schools (DODDS) teachers and administrative personnel employed at schools on or serviced by AF installations.
- Air Force Reserve Officer Training Corps (AFROTC) cadets while traveling at government expense or on active duty for summer training.
- United States Air Force Academy cadets.
- Any person who was in any of the above categories when the two-year period for filing a claim began.

The property owners mentioned above; their authorized agents, with a power of attorney (or in the case of a spouse, a letter of authorization specifically granting permission to file a claim); their legal representatives with a court order; or the survivor of the deceased proper claimant may file claims under AFI 51-306. In order to determine if one of the members listed above is a proper claimant, the individual will need to provide a copy of their orders showing their status. A copy of the orders will provide you with the dates and the authority needed.

Claims payable

The following paragraphs describe the various types of claims payable under AFI 51-306:

Transportation and storage losses

These are claims presented for personal property lost or damage during shipment and/or storage at government expense, whether the property was in the possession of the government, carrier, storage warehouse, or other government contractor. Claims for do-it-yourself (DITY) moves are only payable when loss or damage to property during the move results from events outside the claimant's control.

Travel

These claims are payable when an AF member is traveling during military duty or in compliance with travel orders. Damage to luggage or hand-carried property when the claimant is traveling in a public, private, or military vessel, vehicle, aircraft, or other means of transportation are payable under this rule.

Quarters and other authorized places

This area includes loss or damage from fire, flood, hurricane, or other unusual occurrence, or from theft or vandalism that occurs at quarters or other authorized places. A couple of examples of authorized places include government-owned or government-leased housing assigned or otherwise provided to the claimant and temporary quarters anywhere, including hotels, motels, guest houses, dormitories, and billeting rooms the claimant occupies during a temporary duty (TDY). There are numerous other areas considered quarters or authorized places; be sure to follow the instruction provided in AFI 51-306.

Extraordinary hazards

The Personnel Claims Act is not a substitute for insurance. For this reason, payment may be made for loss or damage at quarters and other authorized places only if caused by fire, flood, hurricane, or other unusual occurrence, or by theft or vandalism. This provides for protection from extraordinary hazards, violent acts of nature, and other events affecting the military installation that non-military members do not face to the same degree. In addition, payment may be provided for the intentional torts of theft and vandalism.

Theft

Theft covers payment for the intentional, wrongful taking of someone else's property, including theft of or from vehicles, which occur at quarters or other authorized places during official duty or TDY.

Robbery

This area covers payment for the theft from a person by force, threat of bodily harm, snatching, or pick pocketing if it occurs at quarters or other authorized places during official duty or TDY, and the claimant reports the robbery immediately, or as soon as practical, to police or command authorities.

Vandalism

These claims are payment for the intentional damage to property, including vehicles at quarters and other authorized places.

Privately owned vehicles

The term vehicle includes automobiles, motorcycles, mopeds, utility and camping trailers, trucks with mounted camper bodies, motor homes, boats and boat trailers, and aircraft. Payment may be made for loss or damage to vehicles when shipped to, from, or between overseas areas or other areas at government expense. In addition, payment may be made for loss or damage at quarters or other authorized places resulting from fire, flood, hurricane, other unusual occurrence, theft, or vandalism. Claimants may also receive payment if authorized by the government to use their POV during military duty; however, written orders must be provided to prove authorized use for government business.

Clothing and other items

Settlement authorities pay for loss of or damage to clothing and other items, which the government did not provide, worn on a military installation or during military duty if caused by fire, flood, hurricane, other unusual occurrence, theft, or vandalism. Other items may include hearing aids,

eyeglasses, and items the claimant was carrying. Enlisted military uniforms that are issue items are processed under a different provision and are not payable under this chapter.

Property held as evidence

If authorities must hold property belonging to the victim of a crime as evidence for an extended time and the temporary loss or damage of the property is a hardship on the victim, payment may be made for the loss or damage.

Enemy action, hostile acts, confiscation, evacuation, or public service

Chapter 4 covers specific acts listed in this section. One example includes payment may be made if the loss or damage results directly from acts of mob violence, terrorist attack, or other hostile acts directed against the US, military members, or employees.

Damage to mobile homes and contents during shipment

Mobile homes are moved under contract with a commercial carrier. Payment can be made for damages as a result of these moves. These claims are complicated, and extreme care must be taken when investigating them, including the inspection of the trailer. If possible, have a structural engineer accompany you on trailer inspections. These claims are paid if there is no evidence of structural or mechanical failure for which the manufacturer is responsible. Also, claims are paid for loss and damage to property the claimant shipped in a mobile home.

Claims not payable

The subsequent situations are considered not payable under chapter 4; however, do not refuse a claim for an item or situation listed in this section; take the claim in and forward it to the AFCSC for processing.

- Loss or damage not incident to the claimant's service.
- Loss or damage caused in whole or in part by negligence or wrongful act of the claimant or claimant's agent.
- Subrogees or assignees (a person to who some right or interest is transferred).
- Losses recovered or recoverable from an insurer, carrier, or other source.
- Intangible property including bank books, promissory notes, stock certificates, bonds, baggage checks, unusable airline tickets, and bills of lading and warehouse receipts.
- Damage to real property.
- Incidental expenses and consequential damages, to include costs of preparing a claim, financial loss or damage due to cancelled orders, loss of use, and inconvenience expenses.
- Government property.
- Enemy property or war trophies.
- Losses at off-base quarters within the US the government did not provide.
- Articles held for sale, resale, or used in a private business.
- Appraisal fees, unless the settlement authority requires one to adjudicate the claim.
- Items fraudulently claimed. When investigation shows the claimant has intentionally falsified the value, condition, extent of damage, or repair cost of an item, deny that item. The claim file must show clear intent to defraud. A mere mistake is not fraud.
- Property acquired, possessed, or transported in violation of laws, regulations, or directives, or used to violate the law.
- Certain vehicle damages, including hit-and-run and theft and vandalism claims where there is insufficient evidence to determine where the loss or damage occurred.

NOTE: The above listing is not all inclusive. Refer to applicable sections or paragraphs in AFI 51-306 and AFCSC for further information where necessary.

407. Settlement authority

Each chapter of AFI 51-306 has its own settlement rules and terms. This section explains who can settle chapter 4 claims and in what amounts. Additionally, it addresses emergency partial payments, and the importance of understanding the date of incident when determining the statute of limitations.

Maximum claim payable

In accordance with 31 U.S.C. 3721b, the maximum overseas payment settlement authorities can make under the Personnel Claims Act for loss or damage resulting from a single incident is \$40,000. Settlement authorities cannot waive this statutory limitation; however, an amendment to 31 U.S.C. 3721b (1) allows payment of more than \$40,000, but not to exceed \$100,000, if the claim arose from an emergency evacuation or from extraordinary circumstances. Each incident of loss or damage is considered as a separate claim. For example, claims involving shipment of unaccompanied baggage, HHG, POV, or other incidents of damage to personal property are processed separately.

Settlement authority

Personnel claims can be presented in any amount. All settlement authorities have been delegated authority to settle claims as outlined below.

Approves claims against the Air Force up to the following amounts:	TJAG ¹	DJAG, AFLOA/JAC, AFLOA/JACC ^{1,2,3}	AFLOA/JACE ^{1,4}	AF Component Command Staff Judge Advocates ⁵	Installation Staff Judge Advocates within the US and territories
Federal Tort Claims Act:	\$500,000	\$500,000	\$500,000	N/A	\$25,000 ⁶
Military Claims Act and National Guard Claims Act:	\$100,000	\$25,000	\$25,000	\$25,000	\$25,000 ⁵
Foreign Claims Act and Air Force Admiralty Claims Act:	\$100,000	\$100,000	\$100,000	\$50,000 ⁷	N/A
Military Personnel and Civilian Employee's Claims Act:	\$40,000 ⁸	\$40,000 ⁸	N/A	N/A	N/A
Use of Government Property Claims Act:	\$1,000	\$1,000	N/A	\$1,000	\$1,000
Advance payments:	\$100,000	\$25,000	\$25,000	\$25,000	N/A

NOTE:

- 1- May deny claims against the AF regardless of the amount claimed.
- 2- Includes Chief, Associate Chief, and the Tort Claims Branch Chiefs at AFLOA/JACC and AF/JAO.
- 3- AFLOA/JACC does not have settlement authority for environmental claims.
- 4- Has settlement authority only for environmental claims.
- 5- May deny claims up to the amount listed in this table and may pay claims filed in any amount when payment is equal to or less than the amount listed in this table. Additionally, is responsible for fulfilling US obligations concerning claims abroad subject to 10 USC §2734a for which the Air Force has settlement authority.
- 6- Does not have settlement authority for medical malpractice claims or for non-environmental tort claims which that allege personal injury, regardless of amount claimed.
- 7- Foreign Claims Act only.
- 8- May approve up to \$100,000 for claims arising from emergency evacuations or extraordinary circumstances.

Partial emergency payment

Upon the request of a claimant, emergency partial payments can be made in advance of a final settlement, but first, it must be determined that a hardship situation exists. The claimant must file a claim for at least the amount of the partial payment and must list enough lost or damaged items to support and justify the full partial payment. Claims personnel may suggest listing a few high-value items to cover the partial payment, rather than a lengthy list of small items. Then, the claimant may later amend their claim for the full extent of the loss or damage. If it is determined a hardship exists, and the claim is clearly payable in an amount equal to or exceeding the proposed emergency partial payment, the claimant must sign a settlement agreement before receipt of any cash payment. If circumstances warrant, more than one partial payment may be made to the claimant.

You must send the partial emergency payments to the AFCSC for payment. You must prepare the Standard Form (SF) 1034, Payment Voucher, (generated through WebAFCIMS), an Electronic Funds Transfer Form, have the claimant's DD Form 1842 and DD Form 1844, and the partial emergency payment questionnaire. These items will be scanned and emailed to the AFCSC. The JACC Knowledge Management web site has further details for processing.

Statute of limitations

Any claim against the AF under AFI 51-306, must be presented in writing within two years from the date of incident. This two-year period is called the statute of limitations. The date of the incident is normally the date the damage or loss occurred, or the date that a claimant discovered or reasonably should have discovered the loss or damage. As an example, the date of incident for damages resulting from shipment of HHG is the date the HHG were delivered to the destination address. In computing the statutory period, exclude the incident date and include the date the claim was filed. An exception is made to this rule if the last day falls on a non-workday (Saturday, Sunday, or legal holiday), then you may extend the two-year date to the next workday.

The two-year statute of limitations may be extended if the claimant shows good cause for delay in filing the claim and if the two-year period began within two years *before* the US entered a war or armed conflict or *during* a war or an armed conflict involving the US; however, if the claimant submits a claim past the two year statute of limitations and cannot show good cause for delay in filing of the claim, it can still be adjudicated and asserted against the carrier. The statute of limitations for the carrier is six years versus the two years for the military, and any monies recovered from the carrier may then be paid to the claimant.

408. Processing a personnel claim

The AFCSC processes, settles, and makes payment on all personnel and personal transportation claims filed by AF personnel in accordance with the MPCECA. The process for claimants to file their claims with the AFCSC can be accomplished online at <https://claims.jag.af.mil>. This website gives claimants the ability to file and upload all required claims documents to process their claims through the AFCSC. In addition, this page offers a link to their user's guide that provides all the background information a claimant will need to file his/her claim.

When claimants arrive at your office with questions on filing a claim, you need to be prepared to offer them the best assistance possible. It is imperative you become familiar with the AFCSC website, user's guide, and action officer handbook. Once you become aware of the purpose of the claim, you can provide the guidance necessary for the claimant to present a proper claim. The first step begins with an initial claimant interview.

Initial claimant interview

Generally, the first time you become aware of loss or damage to property is when a potential claimant comes to your office to find out what he or she needs to do to present a claim. At this point, you will need to gather enough information from the claimant to determine what type of claim it is and what claims act it falls under. For claims that fall under the scope of the AFCSC, you will continue your

interview by finding out what type of chapter 4 claim is being filed. For example, is this a claim related to the movement of HHG or perhaps some type of theft or vandalism? The *AFCSC Action Officer Handbook* provides a master checklist to assist you in determining what actions to take. In addition, the handbook outlines base installation responsibilities into six separate areas (seven for overseas locations) when assisting claimants with their claims. No matter what the situation, don't just tell the claimant the base legal office no longer handles these claims and simply offer them an AFCSC business card. You must be prepared to assist the claimant throughout the claims process; however, don't hesitate to contact the AFCSC for any guidance you may need. Let's take a look at your responsibilities in the claims process as outlined in the *AFCSC Action Officer Handbook*.

Notice of loss or damage

Even though the claimant has the ability to file his/her entire claim online, to include notice of loss or damage (Department of Defense [DD] Forms 1840, Joint Statement of Loss or Damage at Delivery/1840R, Notice of Loss or Damage, Forms 1850, DOD Notification of Loss or Damage at Delivery/1851, DOD Notification of Loss or Damage after Delivery or similar carrier generated forms), every now and again, some claimants will come into your office with a hard copy provided to them by the carrier. It is your responsibility to process and dispatch these forms to the carrier immediately upon receipt (claimant has to file it within the required time of 75 days from delivery).

When accepting an 1840/1840R, you must first determine if the claimant is turning in the form within 75-days from the date of delivery. Next, you will check for multiple shipments and ensure the lost/damaged items are annotated on the correct 1840/1840R. You will ensure all blocks are filled out correctly on both forms. Any lost or damaged items noticed at the time of delivery should be annotated on the 1840 side and any lost or damaged items found after the time of delivery are annotated on the 1840R side. After the last item is listed, the claimant will annotate "LAST ITEM". There must be the following statement listed after the "LAST ITEM" annotated on the form: "I ESTIMATE THE TOTAL VALUE OF MY LOSS AND OR DAMAGE TO BE \$xxxx.xxx". The member will sign and date the form. Finally, you will fill out the bottom portion of the form.

The carrier and claimant take "at delivery exceptions" at the destination on a Notice of Loss or Damage form. Exceptions are not taken on DD Form 619-1, Statement of Accessorial Services Performed (Storage-In-Transit Delivery and Reweigh), the government bill of lading (GBL), or the delivery inventory, as the carrier will not honor these exceptions. Both the carrier and the claimant have the responsibility to inspect the property. At delivery, both the carrier and claimant sign and date the notice of loss or damage form. *After* delivery, notice of loss or damage can be continued on the forms and mailed to the carrier or completed on-line through the Defense Personal Property System (DPS).

Ask the claimant if they have internet access and if they intend to file electronically. If they are filing electronically, give them a business card with the AFCSC website, physical address, and phone number. The member may set up an account on any government computer, then process the remainder of their claim from any personal computer. If they do not have access to a government computer, they can call the AFCSC to get a username/password (make sure the claimant appears able to use a computer before using this option. If the claimant is not able to use a computer or does not have access to a computer, give them a hard copy package to mail to the AFCSC). If they are filing via mail, give the claimant a hard copy of the claims package for each shipment. Mail the form to the carrier immediately. Don't forget to forward any carrier inspection documentation you receive for any claim to the AFCSC.

Scan/upload claimant documents

Another one of your responsibilities may be to provide assistance to claimants on how to scan and upload documents in support of their claim. The *AFCSC Action Officer Handbook* provides clear guidance on this process. After the claimant returns the required forms and substantiation, it is time for you to receipt for, investigate, and upload the claim to the AFCSC. Upon receiving a claim, check

to determine if all required forms have been presented, properly prepared, signed, and dated where necessary, and if they were filed within the statute of limitations.

The claimant is responsible for preparing and filling out all required forms and documents, to include the DD Form 1842, Claim for Loss of or Damage to Personal Property Incident to Service and DD Form 1844, List of Property and Claim Analysis Chart (Fig 2-01).

1. NAME OF CLAIMANT (Last, First, Middle Initial)				3. PICK-UP DATE (YYYYMMDD)		LIST OF PROPERTY AND CLAIMS ANALYSIS CHART (Items 14 through 31 to be filled out by Claims Office)									
2. CLAIMANT'S INSURANCE COMPANY (If applicable)				4. DELIVERY DATE (YYYYMMDD)		14. ORIGIN CONTRACTOR		17. 2ND CONTRACTOR		21. CLAIM NUMBER		22. NET WT/MAX CAR			
a. NAME				b. POLICY NO.											
5. LINE NO.	6. QTY	7. LOST OR DAMAGED ITEMS (Describe the item fully, including brand name, model and size. List the nature and extent of damage. If missing, state "MISSING.")	8. INV NO.	9. ORIGINAL COST	10. MM/YYYY PURCHASED	11. AMOUNT CLAIMED a. Repair Cost b. Replacement Cost	15. INVENTORY DATE (YYYYMMDD)	18. EXCEPTION SHEET DATE (YYYYMMDD)	23. GBL NUMBER	24. LOT NUMBER					
						16. EXCEPTIONS	19. INV NO.	20. EXCEPTIONS	25. AMOUNT ALLOWED	26. ADJUDICATOR'S REMARKS	27. ITEM WT	28. HOUSE LIABILITY	29. CARRIER LIABILITY		
12. REMARKS				13. TOTAL		\$			30. TOTAL AMOUNT ALLOWED	\$	0.00	31. THIRD PARTY LIABILITY	\$	\$	
						0.00						0.00	0.00		

DD FORM 1844, MAY 2000 PREVIOUS EDITION IS OBSOLETE. Reset Page of Pages Adobe Professional 7.0

Figure 2-1 DD Form 1844.

Because we commonly see mistakes or omissions on the DD Form 1844, the table below provides some items to check:

DD Form 1844	
The claimant completes the top portion of the form:	<ul style="list-style-type: none"> Name Date of pickup Date of delivery GBL number or lot number
Other items the claimant needs to complete include:	<ul style="list-style-type: none"> Line Number (beginning with number 1 and continuing in numerical sequence). Quantity (number of items included, e.g., four plates). Lost or damaged items (including brand name, trademark, model, year of manufacture, size, etc.). Show nature and extent of damage. If lost, indicate the item is missing. Inventory number (number found on the inventory). Original cost. (This price should be what the claimant actually paid for the item.)

DD Form 1844	
	<ul style="list-style-type: none"> • Month/year of purchase (month and year the claimant purchased the item). • Amount claimed, repair cost, or replacement cost. (The claimant should use one or the other, either replacement cost or cost of repairs.)
<p>NOTE: The remainder of the form is the claims analysis chart and is reserved for claims personnel use.</p>	

Inform the claimant of all the supporting documents necessary for the investigation and adjudication of the claim. The supporting documents may include, but are not limited to, the following items:

- Travel orders.
- Power of attorney, if an agent submits the claim.
- Shipping documents (GBL, freight bill).
- Origin pickup inventory.
- Destination inventory.
- DD Form 1299, Application for Shipment and/or Storage of Personal Property.
- DD Form 1797, Personal Property Counseling Checklist.
- Notice of loss or damage form (DD Form 1840/1840R; Form 1850/1851, or similar carrier generated form).
- Repair bills, estimates, replacement cost quotations, and other substantiation for sums claimed.
- Other evidence, including insurance information.

Once you have completed your initial review of all documents, mark or stamp the DD Form 1842 with the date, time received, identification of receiver, and office symbol. This is also known as “receipting for a claim.” If the forms were not properly filled out or there is lack of documentation to support the claim, do not refuse to accept a claim or return the forms. Instead, inform the claimant that processing may be delayed until the appropriate forms are prepared and presented with proper documentation. While you are assisting claimants with their claim, they may inquire about filing a claim for additional expenses incurred as a result of a delay in the delivery of property by the carrier. Inconvenience expenses are not payable under chapter 2, AFI 51-502; however, a member can present a claim against the carrier under the tender of service. The carrier is required to acknowledge and pay, decline, or make a settlement offer on this type of claim, as well as notify the traffic management office (TMO) on action taken. Since the TMO is responsible for helping members prepare inconvenience claims, refer members to the TMO.

Perform inspections

From time to time, a claims inspection will be required for HHG claims and other claims that fall under chapter 2. For HHG claims, the AFCSC will request an inspection from your office; however, when it comes to other types of claims, you must take the initiative to do an inspection and document the findings. For example, a flooded basement or tree blown onto a car at your base will need immediate inspection initiated by your office. We will focus our attention here on inspections for damages suffered during a HHG move.

Once you have received a request from the AFCSC for a claims inspection, be aware that you have seven calendar days to complete the inspection and send the inspection report to the AFCSC. AFLOA/CC has approved this goal, and the AFCSC will track these numbers and report them to TJAG for Article 6, UCMJ visit purposes. Prior to going to the claimant’s home to inspect damaged items, you will need to review all paperwork provided to you through the AFCSC or claimant. Although there may be only one or two items which need to be inspected (due to possible preexisting

damage (PED) or questions about the quality of an item) you should consider inspecting all damaged items since you are already at the claimant's home. Compare the following information prior to the inspection:

- The condition of the item on the pickup inventory.
- The exceptions noted on the Notice of Loss or Damage form (DD Forms 1840/1840R, Forms 1850/1851, or similar carrier generated forms).
- The estimate(s) of repair, if any.
- The written replacement costs, if any.
- The purchase receipts or paid bills, if any.

Review the inventory to determine if the carrier was over zealous in taking exceptions to the claimant's property. Specifically, did the carrier take excessive exceptions for each item of the same type? Did it appear the carrier could have used ditto marks straight down the inventory sheet as all of the exceptions to each item were exactly the same or very similar? Or, did the carrier simply change the order in which the exceptions were noted on each item on the inventory? If the carrier listed excessive PED, the inspection report should include a detailed statement with examples of the items where damages were noted on the inventory, but were not present during your inspection.

Conducting an inspection

Upon entering the claimant's home, make a note of the general condition of the furnishings. Review the permanent change of station (PCS) orders to determine if the claimant has any children, and if so, their ages. Are there any pets in the house, such as a dog or cat? These are all potential causes of PED. You should include on the inspection report any comments concerning any unusual conditions in the home which would be helpful in determining whether the damages were preexisting. Your impression of how the claimant maintains their household may be useful in the adjudication of a claim when PED may be an issue.

Describe the location of the damage as you are facing the item: a scratch on right side means on your right. Note that many carriers describe the location of the damage as you use the item. Consequently, you may see listed by the carrier as damage to the right arm of a chair or sofa as being to the right of the person sitting in it. On most other items, the carrier industry would describe the damage as if you are facing the item.

Wood furniture

The damage to wood items should be described in detail. Describe whether the scratch is across or travels in the same direction as the wood grain—deep scratches along the wood grain can be, in most cases, “touched up,” as opposed to refinishing. Is the dent, scratch, gouge, or chip so deep it goes past the wood stain and into the natural color of the wood itself? Is the damaged area rough when you rub your finger across it? Has the claimant polished or waxed the item since it was delivered? In many cases, if the damage is new, the chip, gouge, dent, or even scratch will be rough, and small pieces of wood may flake off on your finger. If the damaged area is rough or is so deep into the wood it goes past the wood stain, then in all probability the damage is new and not PED. Even if the area is not rough when you rub your finger across it, the damage may still be new if the claimant has polished or waxed the item since the move. If it has been a considerable amount of time from when the item was delivered to the time of your inspection, it may be hard to distinguish new damage from PED.

Upholstered furniture

The inspection report should reflect whether the damaged item is part of a matched set (e.g., sofa, recliner, overstuffed chair, ottoman, etc.). Describe the material in detail (e.g., leather, Naugahyde, cloth, plaid, striped, print, or solid). Your report should describe the style of furniture (e.g., Country, Early American, Danish, French Provincial, Modern, etc.). If it is a sofa or chair, indicate whether the arms of the item are completely upholstered, all wood or metal, or a combination of upholstery and

wood. If the damage is a tear or rip, describe the length of the tear or rip and where it is located on the item. Is the rip or tear located on the back or side of the item, which is against a wall? Is the foam or other stuffing around the rip or tear clean and white, or is it dirty and discolored? If the foam or other stuffing around the rip or tear is clean, then most likely this damage is new and not PED. If the tear is near a seam or a corner, does it appear the material can be stretched or rewoven instead of completely reupholstering the item?

China or flatware

If the claim is for broken or missing pieces of china, crystal, stemware or dishes, the first thing you do is check the rest of the set to confirm the claimant had six or eight place settings. Verify if the item is bone china or lead crystal and if it is from Japan, England, Germany, and so forth. Inspect flatware to determine if the missing or broken pieces were to six or eight place settings. Describe any special designs or emblems on the flatware. For broken or missing pots and pans, verify the remainder of the set is of the quality being claimed. This information will assist later in the adjudication of these items. Although the claimant may have bought the china, flatware, or pots and pans as a set, it may be possible to replace the individual pieces, which are broken or missing.

Preexisting damage

Preexisting damage is damage that was present prior to the claimant's move. Describe what damage is new and what damage is PED. If possible, give a percentage of new damage versus PED, such as: "75% of the damage to the table top was new while approximately 25% was PED, which was listed on the inventory." Match the PED to the estimate of repair and indicate if the new damage can be repaired without also correcting the PED.

Preparing an inspection report

When you are asked to conduct an inspection for the AFCSC, you will receive a sample inspection report along with the request. An inspection and report guide can also be found within the *AFCSC Action Officer Handbook*. Use this sample to document your inspection, and follow their instructions. Using the office camera is critical to establish the value of an item being claimed or for the extent of the damage alleged. The use of photographs will support the payment to the claimant and the collection of the carrier recovery claim. Photographs are of great value in solving any disputes with the carrier on new versus preexisting damage, or establishing the Air Force's position that the carrier may have listed excessive PED on the inventory. Any photographs taken should include, at a minimum, the type of item and the date the photograph was taken. Photographs are used by the AFCSC to properly adjudicate a claim and to go back against the carrier for damages. Digital photos and regular processed film photographs are acceptable. You may find the tips below helpful:

- Take an overall photograph of the item.
- Take a close up photograph of the specific damages listed on the Notice of Loss or Damage form (DD Forms 1840/1840R, DD Forms 1850/1851, or similar carrier generated forms).
- Place the inventory number and the name of the item on the photograph, and state exactly where the damage is located (i.e., bottom right-hand corner).
- When taking photos, include a written description for each photo taken to help the claims examiner identify the items.

When preparing the inspection report, you should be sensitive to the fact all comments in the inspection report may be releasable to both the claimant and the carrier.

Assistance from other agencies

Requesting assistance from other agencies for a claims inspection can be as easy as making a phone call or drafting a memo to formally request assistance. In most cases, acquiring assistance or reports from other agencies will be as simple as calling the carrier for a copy of their inspection report.

Perform vehicle inspections

Most often, the request for a vehicle inspection will come directly from the claimant rather than the AFCSC. When a claimant receives his/her vehicle at port and notices shipment related damage, their first stop is going to be their base legal office. You will be the first person to see the damage and must do a thorough inspection to assist the AFCSC in properly adjudicating the claim. The same will also hold true for vehicles damaged by other means, such as vandalism or weather related incidents. The information provided below is taken from the vehicle inspection and report guide found in the *AFCSC Action Officer Handbook*.

There are three main reasons for a vehicle inspection and each will require different supporting documents.

Vehicle shipments

The claimant will need to provide the base legal office with a copy of the vehicle inspection shipment form (VISF) or DD Form 788, Private Vehicle Shipping Document for Automobile.

A copy of these forms is required during your inspection in order to distinguish between damage noted on the form, which is considered PED, and the new damage the claimant is claiming. For all vehicle shipment inspections, a copy of the VISF or DD Form 788 must be attached to the final inspection.

Vandalism, hit and run, or damage caused by contractor or government personnel

For all vehicles damaged on base, the base legal office should ask the claimant if there is a report addressing the damage. The report could be produced by SF or Civil Engineering, depending upon how the vehicle was damaged. If the claimant has the report at the time of inspection, you can attach it to the completed inspection report and upload it to the AFCSC website. If the claimant does not have the report at the time of inspection, direct them to the AFCSC website, as this will require them to have it when they file their claim.

Weather related

These types of claims only require a general inspection.

Conducting a vehicle inspection

The AFCSC has provided inspection forms based on four types of vehicles: sedan, truck, van, and motorcycle. Choose the one that is closest to the type of vehicle you are inspecting. If the inspection report does not depict an area of the vehicle, such as on the trunk, the grill, or tailgate, draw a picture off to the side in the available space if damages in those areas need to be addressed.

Walk around the whole vehicle and give yourself an overview of the condition that the vehicle is in. When conducting an inspection with a copy of the VISF, identify the damage as noted on the VISF as PED. Write the overall condition of the vehicle as excellent, good, fair, or poor.

Look specifically at the damage the claimant has noted and claims as new damage. You need to make a determination if, in your opinion, the damage is new or PED. You can look for dirt in the damaged area or possibly rust. If the damage is new, it should be relatively clean and rust free. You can also compare it to the damage that was noted as PED. If it looks like it is in the same condition as the PED, it may not be new damage. Consider all options and make your best determination.

Take an overall photo of the vehicle. The best way is to stand a few feet away from the vehicle and take a photo of the front of the vehicle, at an angle catching one full side of it. When photographing damage, make sure the damage can be depicted in the photo. The number of photos is up to you, but the photos should give a clear picture of the damage and how you reached your determination.

Lastly, the inspection sheet needs to be completely filled out. Use the form provided by the AFCSC. Any additional notes can be added anywhere there is additional space. Notes should be detailed and include relative size/shape of dent(s) and length of scratches in the event they are not visible in the photos. If need be, a memo for record can be submitted.

Disaster preparedness

A base legal office must always be prepared for natural disasters and major accidents. This section was discussed in unit 1 of this volume. For further guidance and assistance you can review chapter 7 of the *AFCSC Action Officer Handbook*.

Local community outreach

Your base legal office should be performing outreach to the local community concerning the claims process, especially for full replacement value claims issues. Let the base know there is a smooth move briefing on the AFCSC website for AF members getting ready to PCS. Let your local TMO know about the smooth move briefing so they can inform members during their mandatory TMO outprocessing briefings. In addition, provide a newcomer's briefing for AF members PCSing to your base. Chapter 10 of the *AFCSC Action Officer Handbook* provides some great information on preventive law to provide members on your base to raise awareness of claims issues.

Translations and conversions

Overseas locations have an additional responsibility. For those claimants who require a replacement cost, estimate of repair, or appraisal, these will be provided to them through the local economy and will most likely be in a foreign language. Overseas bases have the responsibility of translating all documents into the English language and converting foreign currency costs into the US dollar.

Fraudulently claimed items

Unfortunately, there are times when we come across claimants who have not been honest and try to present a fraudulent claim. Because the AFCSC handles the claims, you will not need to worry about making a determination yourself on whether or not a claim is fraudulent; however, you must give the AFCSC any knowledge you may have based upon your investigation and interaction with the claimant. An item is considered to be fraudulent when the claimant intentionally and materially misrepresents ownership, possession, value, condition, extent of damage, repair cost, purchase date, or replacement of claimed items; the cause of the loss of or damage to property; and other material facts necessary for the informed adjudication of a claim. In the investigation of these claims, we must assume the claimant is being honest unless there is clear evidence to the contrary. Discrepancies will be presumed a mistake unless evidence proves otherwise.

A settlement authority may completely deny a claim that is substantially tainted by fraud. Although the phrase "substantially tainted by fraud" is not easy to define, some examples include: altered estimates that falsely represent a significant portion of the claim, numerous missing items the claimant never owned, intentional misrepresentation of the ages or conditions of numerous claimed items, or when enough examples of fraud to make it difficult, overly burdensome, or impossible for claims personnel to determine which items are legitimate. Settlement authorities do not deny a claim simply because fraud exists, but consider the type and extent of the fraud in relation to the entire claim.

When certain line items are found to be fraudulent or misrepresented, but the claim is not substantially tainted by fraud, deny the line items affected by the fraud or misrepresentation and pay for line items not tainted by fraud or misrepresentation, if well-supported.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

406. Proper and payable claims

1. Who designates claims jurisdictions for the bases within their areas of responsibility overseas?

2. Who may file a claim on the behalf of a proper claimant?

3. Under what conditions can payment be made for losses or damage occurred during a DITY move?
4. Since the Personnel Claims Act is not a substitute for insurance, what kind of loss or damage claims can payment be made for at quarters and other authorized places?
5. May an AF member receive payment for damage to their POV used during military duty? If so, what must they provide?
6. MSgt Andrew Mather submitted a claim for damage to his off-base residence caused by the carrier company while moving in his household goods. Is this claim payable? Why?

407. Settlement authority

1. What is the maximum amount payable per overseas claim (not involving evacuation or other extraordinary circumstances) under the Personnel Claims Act?
2. What is your first step in determining if an emergency partial payment can be made?
3. If circumstances warrant, may more than one emergency partial payment be made to a claimant?
4. Copies of what forms need to be sent to AFCSC for partial emergency payment for a claimant.
5. What is the statute of limitations for claims filed under AFI 51-306?
6. What is normally considered the date of incident for damage to personal property incident to shipment?

408. Processing a personnel claim

1. May the claimant take delivery exceptions at destination on a DD Form 619-1, Statement of Accessorial Services Performed (Storage-In-Transit Delivery and Reweigh)?

2. If the claimant does not have access to a government computer, how do they obtain a username/password to file their claim online?
3. Who is responsible for preparing and filling out all required claims forms and documents, to include the DD Form 1842 and DD Form 1844?
4. What information does the claimant need to annotate on the DD Form 1844?
5. List at least three documents the claimant may be required to provide as supporting documentation for their claim.
6. If a claimant does not complete the claims forms properly or fails to provide adequate supporting documents for the claim, what should you do?
7. What agency is responsible for helping members present inconvenience claims to the carrier?
8. Once you receive a request from the AFCSC to perform a claims inspection, how long do you have to complete the inspection and send the inspection report to the AFCSC?
9. What should you do if you believe the carrier took excessive exceptions for PED?
10. When inspecting damaged wood furniture, what do small pieces of wood flaking off on your finger indicate?
11. How can you tell if the damage is new in an upholstery rip?
12. When taking photographs for a claims inspection, what is the minimum information that should be included?
13. What form does the claimant need to provide the base legal office in order to distinguish between damage noted on the form, which is considered PED, and the new damage the claimant is claiming on his/her POV?

14. In the event dents and scratches are not clearly visible in the photo taken at a vehicle inspection, what should you note on the inspection sheet?
15. List at least three examples that may help settlement authorities determine if a claim is “substantially tainted by fraud.”

Answers to Self-Test Questions

406

1. HQ USAFE/JA, HQ PACAF/JA, and HQ CENTAF/JA.
2. Their authorized agents, with a power of attorney (or in the case of a spouse, a letter of authorization specifically granting permission to file a claim); their legal representatives with a court order; or the survivor of the deceased proper claimant.
3. When loss or damage to property during the move results from events outside the claimant’s control.
4. Loss or damaged caused by fire, flood, hurricane, or other unusual occurrence, or by theft or vandalism.
5. Yes. Written orders must be provided to prove authorized use for government business.
6. No. Loss of or damage to real property is not payable pursuant to AFI 51-306, chapter 4.

407

1. \$40,000.
2. Does a hardship situation exist.
3. Yes.
4. SF 1034, DD Form 1842, DD Form 1844, and the partial emergency payment questionnaire.
5. Two years from the date of incident.
6. The date the damage or loss occurred, or the date that a claimant discovered or reasonably should have discovered the loss or damage.

408

1. No.
2. Call the AFCSC to get a username/password.
3. The claimant is responsible for completing all claims forms.
4. Name, date of pickup, date of delivery, GBL number or lot number, line number, quantity, lost or damaged items, inventory number, original cost, month/year of purchase, Amount claimed, repair cost, or replacement cost.
5. Travel orders; power of attorney, if an agent submits the claim; shipping documents; origin pickup inventory; destination inventory; DD Form 1299; DD Form 1797; notice of loss or damage form, repair bills, other evidence, including insurance information.
6. Do not refuse to accept the claim or return the form. Inform the claimant that processing may be delayed until the appropriate forms are prepared and presented with proper documentation.
7. TMO.
8. Seven calendar days.
9. Include a detailed statement in the inspection report with examples of the items where damages were noted on the inventory, but were not present during your inspection.
10. The damage is new and not preexisting.
11. If the foam or stuffing around the rip or tear is clean.

12. The type of item and the date the photograph was taken.
13. VISF or DD Form 788.
14. Detailed notes to include relative size/shape of dents(s) and length of scratches.
15. Altered estimates that falsely represent a significant portion of the claim, numerous missing items the claimant never owned, intentional misrepresentation of the ages or conditions of numerous claimed items, or when enough examples of fraud to make it difficult, overly burdensome, or impossible for claims personnel to determine which items are legitimate.

Student Notes

Unit 3. Property Damage, Personal Injury, or Death Claims Against the United States

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A FI 51–306, *ADMINISTRATIVE CLAIMS FOR AND AGAINST THE AIR FORCE* GIVES GUIDANCE ON investigating, processing, and settling tort claims against the AF for property damage, personal injury, or death caused by AF military or civilian personnel acting in the scope of their employment or otherwise incident to AF noncombat activities.

3–1. The Federal Tort Claims Act

The FTCA differs in three major respects from the MCA:

- The claimant may file suit against the US after a claim has been finally denied.
- There are no provisions for noncombat activities claims.
- Settlement authorities may not make advance payments under the FTCA.

409. Federal Tort Claims Act provisions and responsibilities

The FTCA provides for the administrative settlement and payment of claims against the US, except those that arise in a foreign country, for damage to or loss of property, or for personal injury or death resulting from the negligent or wrongful act or omission of AF military or civilian personnel while acting within the scope of their employment. The FTCA commits the US to the same tort liability, with certain exceptions, as a *private person* under the law of the place where the negligent or wrongful act or omission occurred.

Proper and improper claimants

Claimants are not specifically defined in the FTCA; however, AFI 51–306 provides a broad definition for all tort claims. Anyone can file a claim unless restricted by other statutes or by court decisions. The following list identifies proper claimants:

- Owners of property for property damage.
- Injured persons for personal injury.
- Executors or administrators of estates or personal representatives of deceased personnel based on the applicable state wrongful death statute or foreign law or custom, or by any other person legally entitled to assert such a claim in accordance with applicable law.
- The subrogor (insured) and the subrogee (insurer), jointly or individually.
- Other persons authorized by law.

Payable claims

To be payable under the FTCA, a claim must be for property damage, personal injury, or death caused by the negligent or wrongful acts or omissions of its employees while acting within the scope of their office or employment, to the extent the US has waived sovereign immunity. Sovereign immunity means that a government (or sovereign) cannot be sued unless it consents to being sued.

The US has waived sovereign immunity through the various tort statutes, such as the FTCA covered here. The person who caused the damage, injury, or death must have been acting within the scope of employment, and the incident must have occurred under circumstances that would make the US liable to the claimant under local law. In addition, the claim must have been submitted in writing within three years from the date the cause of action accrued (usually the date the claimant suffered the loss).

In determining the basis and extent of liability, the law of the place where the act or omission occurred is applied to questions of contributory or comparative negligence and joint tortfeasor liability. Contributory negligence means a claimant can recover nothing if he or she is even one percent at fault in causing his or her damages. On the other hand, comparative negligence states a claimant may recover even if they are partially at fault, but their recovery is reduced by the proportional amount of their own fault. When there is a conflict between local law and an express provision of the FTCA, the act governs.

The term “employee” includes active duty and reserve military members, federal civil service employees (including NAF and Army and Air Force Exchange Service [AAFES] employees), and National Guard members in a federal status (Title 10, U.S.C. or Title 32, U.S.C. § 316, 502, 503, 504, or 505). It does not include employees of independent contractors, National Guard members in a state status, or Junior Reserve Officer Training Corps (JROTC) instructors.

Determining scope of employment

The employee must be acting within the scope of their employment in order for the US to be liable. Each state has developed laws to determine whether persons are acting within the scope of their employment such that their employers are liable for their actions. Although each state is different, the following items are considered in determining whether an employee was acting within the scope of their employment. The law of the place where the act or omission occurred is applied.

- The acts of employees must be authorized by their employer.
- Be within the time and scope of their employment parameters.
- Be in furtherance of some interest of their employer.

Tort claim documentation

For any document appearing to be a tort claim, annotate it with the date received, the initials of the person receiving it, and the office symbol where it was received. This annotation is to be done immediately upon receipt, and before making any determination whether the proposed claim meets the criteria for a valid claim.

After thorough review, if any claim is not valid, make a photocopy of all documentation submitted and place it in a potential claim file. Then, send a defective filing letter to the claimant explaining the reasons why their claim is not valid and return the claimant’s original submissions. Place a copy of the defective filing letter in the potential claim file. A claimant’s failure to provide evidence to prove their case during the administrative process does not mean they won’t have the opportunity to do so during litigation. You must continue to do a thorough investigation to support the proper adjudication of the claim.

Claims not payable

The FTCA’s limited waiver of sovereign immunity creates several exceptions that shield the US from liability. The following list outlines some of the more common claims that are an exception to the FTCA:

- Prejudgment interest and punitive damages are not payable (Title 28, U.S.C. § 2674, *Liability of United States*).
- Claims arising from the seizure and holding of property by a law enforcement officer (Title 28, U.S.C. § 2680, *Exceptions to the Federal Tort Claims Act*, (c)).

- Claims arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, libel, slander, misrepresentation, or interference with contract rights (Title 28, U.S.C. § 2680(h)) **NOTE:** Some of these exceptions do not apply when the actor is a law enforcement officer.
- Claims arising in a foreign country (Title 28, U.S.C. § 2680(k)).
- The Supreme Court ruling which excludes claims by military members for personal injury or property damage incurred during their military service (*Feres v. US*, 340 US 135 (1950)). This is commonly referred to as the Feres doctrine.
- Personal injury or death of a civilian employee of the US in the course of employment, where the claim is otherwise payable under statutes designed by law as an exclusive remedy, such as the Federal Employees' Compensation Act (Title 5, U.S.C. 8101, *Definitions*, et seq.).

Federal Employees' Compensation Act cases

Civilian government employees who are injured during their government employment are prohibited from being compensated under the FTCA. The exclusive remedy available to a civilian employee lies in the Federal Employees' Compensation Act (FECA), Title 5, U.S.C. chapter 81. You may be faced with the situation where such a person insists on filing a tort claim under AFI 51-306. If such a claimant persists in his or her attempt after being advised of the provisions of the FECA, the AF has no choice but to process the claim. Investigate the claim and include in the claim file the ruling of the Department of Labor on FECA benefits. All civilian government employees who inquire about filing a claim for personal injury should be referred to the civilian personnel office where FECA claim forms are available.

Statute of limitations

Under the FTCA, a claim must be presented in writing to the appropriate Federal agency within three years after it accrues. It is extremely important to immediately determine and transfer the claim to the correct agency to adjudicate the claim. The statute of limitations does not toll until the claimant "shall have first presented the claim to the appropriate federal agency" whose activities gave rise to the claim. Only a valid claim tolls the statute of limitations. Three requirements must be met in order for a claim to be considered valid.

- The claim must be submitted in writing either on a Standard Form (SF) 95, Claim for Damage, Injury or Death; letter; or other writing.
- Signed by the claimant or by a party authorized to act on their behalf (agent, attorney, executor, insurance company).
- The claimant must demand a sum certain (specific dollar amount).

Federal—not state—law governs the time of claim accrual. A claim accrues at the time the claimant discovers, or in the exercise of reasonable diligence, should have discovered, the existence of the act that resulted in the damage for which the claim is made. The "discovery rule" of the *US vs. William A. Kubrick* case, Supreme Court case number 78-1014 (a claim does not accrue until the plaintiff knows or reasonably should have known of both the injury and the cause) has been applied in instances where the cause of an injury is obscure or hidden.

A claimant may amend a claim any time prior to final action. Amendments must be in writing and signed by the claimant or an authorized agent.

Filing suit

The FTCA does not authorize payments as a matter of grace, but does allow a legal course of action. It permits filing suit against the US in federal district court, but only after an administrative claim has been filed and denied in writing. The agency has six months to investigate and adjudicate a properly filed administrative tort claim. After that, if the agency has not acted upon the claim within the six month window, the claimant may choose to file suit. If a denial letter is sent to the claimant, it must be

sent by registered or certified mail, return receipt requested. The letter must be mailed the same day as appears on the letter. A claimant's right to file suit ends six months after the date the letter of final denial was mailed.

When a claimant does bring suit after filing a claim with the federal government, the suit may not be for a larger amount than the claim unless the claimant presents proof of:

- Newly discovered evidence not reasonably available when the claim was filed.
- Intervening facts that relate to the amount of the claim.

For example, assume a claimant files an administrative claim in the amount of \$21,000. The AF has offered \$16,000 to settle the claim. If the claimant initiates a lawsuit in federal court after more than six months has passed since the claim was filed, he or she cannot sue for more than \$21,000 unless one of the two criteria above is proven.

Suits against persons

The Westfall Act (Title 28, U.S.C. § 2679) states that employees of the US may not be sued personally for their negligent acts or omissions that occur during the scope of their employment. In addition, it provides procedures where the DOJ may get the tort case against the employee dismissed and substitute legal proceedings against the US under the FTCA.

Attorney fees

A claimant has the option of hiring an attorney to handle their claim, but under the FTCA, the attorney fees will not exceed 20 percent of any administrative settlement amount. While the AF has no authority to fix the amount, violation could result in criminal prosecution of the attorney.

Processing periods

The need for a prompt investigation of a potential tort claim is essential to the investigative and settlement time standards provided by law. Many tort claimants do not present a claim until the two-year statute of limitations period has nearly expired. By that time, base personnel have frequently PCS'd, witnesses have moved, and physical surroundings have changed. These, and other circumstances, tend to hamper an investigation and settlement efforts; however, federal law requires the AF make final disposition of the claim within six months after it is filed. Send pending claims outside base settlement authority to the next higher settlement authority in claims channels no later than 120 days after receipt.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

409. Federal Tort Claims Act provisions and responsibilities

1. What does the Federal Tort Claims Act provide for?
2. What is the basic requirement for a claim to be payable under the Federal Tort Claims Act?
3. In determining liability, what is the controlling law for claims under the FTCA if local and federal laws conflict?

4. What items are considered in determining whether an employee was acting within the scope of their employment?
5. What is the statute of limitations for Federal Tort Claims Act claims?
6. When is a suit permitted under the Federal Tort Claims Act?
7. A claimant's attorney fees will not exceed what amount if the claim is settled administratively?

3-2. The Military Claims Act

The MCA is another area you will need to be familiar with in order to assist claimants who come to your office for guidance. It is extremely important to understand the differences between FTCA and MCA claims to ensure you process the claim under the proper claims act. We have already covered the FTCA, so let's take a look at the MCA and see what the differences are.

410. Military Claims Act provisions and responsibilities

The MCA is used when compensation is not available under other laws. Unlike the FTCA, the MCA is purely an "act of grace." In other words, the act allows only an administrative determination of claims and the claimant has no right to file suit if they disagree with the decision of the AF.

Provisions

The MCA is a mixture of two entirely different principles for US liability. The first is based on negligence or wrongful acts or omissions, similar to FTCA claims. The second is the noncombat activities provision that has no precise common law parallel. The MCA provides a claimant the means to seek compensation for property damage, personal injury, or death arising from the negligent or wrongful acts by members or employees of the armed forces acting within the scope of employment, and for losses sustained as a result of the noncombat activities of the military services. The MCA applies worldwide; however, those claims arising within the US only apply to noncombat activities and incident to service property damage claims of military members. The statute prohibits payment if the claim is payable under the FTCA or Foreign Claims Act (FCA).

The MCA does not define the term *noncombat activities*. The limits of the term are left up to the services to define. It does not mean every AF activity that does not involve combat is considered noncombat activity. In general, the events considered under the noncombat activities provision relate to actions essentially military in nature and have little parallel in ordinary civilian functions. Some examples of noncombat activities include:

- Maneuvers and special field exercises.
- Practice firing of heavy guns and missiles.
- Practice bombing.
- Operation of military spacecraft and aircraft.
- Use of military balloons.

- The movement of combat vehicles or other equipment designed for military use, such as tanks, amphibious vehicles, and other vehicles not primarily designed or used for civilian purposes.
- Explosive ordnance disposal (EOD) operations.

The noncombat activities provision is the only means by which the AF can settle many claims that arise from its activities. In missile and aircraft operations (including those causing sonic booms), a claimant would have difficulty establishing negligence of AF personnel. Under the noncombat activities provision of the MCA, the claimant does not have to prove the military or civilian personnel who caused the damage did so as a result of their negligence while acting within the scope of their employment. The claimant only has to show a causal connection between an authorized noncombat activity and the injury or damage.

Common examples of claims arising from noncombat activities are those caused by sonic booms or low overflights. Identifying the offending aircraft is critical to analyzing the claim; therefore, once a sonic boom or overflight claim is filed, process it immediately since aircraft flight records are relatively short-lived.

Contact the claimant and obtain sufficient information to verify the exact location of the incident (latitude and longitude), as well as any identifying characteristics of the aircraft and direction of flight known to the claimant. With this information, contact your squadron and wing flight schedulers, range schedulers, military training route (MTR) schedulers, base operations, air traffic control (ATC), and Federal Aviation Administration (FAA) military liaisons. They can assist in determining the nearest MTR or military operating area (MOA) to the claimant's property and whether any aircraft were flying in the MTR or MOA at the time and date alleged. After identifying the aircraft, interview the pilot to determine the exact time, location of flight (proximity to incident site), altitude, and speed. Provide this information to your base engineer so he or she can consider it in determining whether the aircraft in question could have caused the alleged damage.

Depending on the nature of the damage, you can request various experts to accompany you to visit the site. If structural damage is alleged, you'll want an engineer to visit the site and offer an opinion as to whether the damage was caused by the overflight/sonic boom. If injury to livestock is alleged, request a veterinarian to accompany you to the site (Army veterinarians normally provide assistance). A photographer can document the damages.

While visiting the site, you may wish to interview neighbors to substantiate the overflight/sonic boom. Other sources of substantiation include television and radio news, newspapers, police reports, and complaints received by AF PA.

Another example of a claim payable under the MCA is the allowance of military members to recover for property damage when caused by the wrongful acts or omissions of an AF employee within the scope of his or her employment. Because the *Feres doctrine* prohibits military members from recovering for damages incident to their service, this allowance under the MCA is meant to lessen the impact by permitting military members to recover in these instances.

A claim must be filed in writing to the appropriate federal agency within three years of accrual, unless the US is at war or in an armed conflict when the claim accrues, or the US enters a war or armed conflict after the claim accrues, and good cause is shown. If a war or armed conflict begins during the three year period of time, the claimant must present the claim no later than three years after the war or armed conflict ends. In addition, the claimant must show good cause why a claim was not filed within three years of accrual. Congress or the president establish the beginning and ending of an armed conflict.

Determination of liability or responsibility

Before covering liability, let's first determine proper and improper claimants under the MCA. Proper claimants are:

- Citizens and inhabitants of the US. A person who is an inhabitant of a foreign country, even if a citizen of the US, is not a proper claimant under the MCA.
- US military personnel and civilian employees. **Exception:** US military personnel and civilian employees may not be paid under the MCA for claims for personal injury or death incident to service.
- Foreign military personnel when the damage or injury occurs in the US. **Exception:** Foreign military personnel may not be paid under the MCA for claims for personal injury or death incident to service.
- States, state agencies, counties, municipalities, or their political subdivisions.
- Subrogees (insurers) of proper claimants to the extent they have paid the claim.

The following covers those who are considered improper claimants.

- Governments of foreign nations, their agencies, and political subdivisions.
- Agencies of nonappropriated fund instrumentality (NAFI) of the federal government.
- Inhabitants of foreign countries for damages or injuries incurred in a foreign country.

For tort claims arising from negligent or wrongful acts or omissions, settlement authorities apply the following rules when determining liability under the MCA. Federal case law interpreting the same exclusion under the FTCA is applied to MCA. Where state law differs with federal law, federal law governs.

When claims arise from incidents occurring in the US, its territories, or possessions, settlement authorities follow the law of the place where the negligent or wrongful act or omission occurred.

In claims arising in a foreign country, settlement authorities use the general principles of American tort law as made clear by case law and standard legal publications to evaluate the liability of the US. The following specific rules apply:

- Contributory or comparative negligence is interpreted and applied according to the place of the occurrence. In the unusual situation where foreign law governing contributory or comparative negligence doesn't exist, contributory negligence governs.
- Foreign rules and regulations governing the operation of motor vehicles (rules of the road) are applied to the extent those rules are not specifically superseded or have taken the place of US military traffic regulations.

Settlement authorities never apply the principle of absolute or strict liability. For tort claims arising from noncombat activities, the claimant does not need to show negligence or fault, but must establish causation and damages.

411. Federal Tort Claims Act and Military Claims Act claims procedures

In this lesson, we will cover general claims procedures as they apply to both FTCA and MCA claims. The Tort Claims Action Officer Handbook guides you through the process of handling tort claims at base level. The first area we will cover is settlement authority and its delegation. We will focus our attention here on the authority of installation-level SJAs.

Settlement authority

JACC has established a geographic division of claims jurisdiction for claims against the AF. A map and zip code listing are found on the JACC website. Settlement authority is limited to claims that arise within your installation's geographical area of responsibility. If the alleged tort occurred outside of your installation's area of responsibility, and is otherwise within the authority of another installation, forward the claim to the appropriate installation.

Settlement authority is the authority to bind the US in tort claim settlements for a specific dollar amount. It also includes the authority to deny tort claims when the amount claimed is within the

settlement authority's dollar amount. Settlement authority, as outlined in the Tort Claims Action Officer Handbook covers the areas of CONUS and PACAF legal offices.

CONUS legal offices: CONUS SJA have \$25,000 in tort claims settlement authority. They are responsible for investigating and adjudicating claims where the amount demanded is \$25,000 or less. If the amount of demand is more than \$25,000, immediately forward the claim to JACC after properly receiving for them and opening/transferring them in AFCIMS. It is important to note that CONUS SJAs do not have the authority to settle or deny claims of allegations of medical malpractice; claims alleging personal injury; allegations of legal malpractice; claims that occur in a navigable waterway; claims caused by the activities of the Civil Air Patrol (CAP); and claims filed by the wing commander, vice wing commander, JA staff or families of any of the proceeding regardless of the amount claimed. These exceptions must be forwarded immediately to JACC.

PACAF legal offices within the US: Base-level legal offices in Alaska, Hawaii, and Guam have \$25,000 settlement authority. These bases are responsible for investigating and adjudicating claims up to \$25,000, as well as for conducting a full investigation for tort claims regardless of the amount claimed. It is important to note; however, installations in Alaska and Hawaii do not investigate claims alleging medical malpractice. For claims beyond their settlement authority and those fully investigated, forward them to JACC immediately after properly receiving for them and opening/transferring them in AFCIMS. Just like CONUS bases, there are certain claims the settlement authority cannot settle or deny regardless of the amount claimed. These claims include allegations of medical malpractice; allegations of legal malpractice; claims that occur in a navigable waterway; claims caused by the activities of CAP; and claims filed by the wing commander, vice wing commander, JA staff or families of any of the proceeding.

NOTE: The only area that sets these exceptions apart from the CONUS bases is the ability to settle or deny claims alleging personal injury.

When you are determining amounts within your base-level settlement authority, a principal claim and any subrogation claims are treated as a single claim. For example, if the SJA's settlement authority is \$25,000 and you have a claim from an insurance company for \$23,000 and one from its insured member for \$4,000 for the same incident, the SJA does not have authority to settle either claim. SJAs may delegate their full settlement authority to a subordinate judge advocate or civilian attorney. Paralegals are not authorized to settle or deny tort claims. If a SJA chooses to delegate, it is typically accomplished in one of two ways. The SJA may sign a delegation authority letter or memorandum granting blanket authority to settle claims within the parameters set forth in the letter or the SJA may authorize settlement or denial of each individual case by signing an adjudication memo, concurring in the recommendation of the subordinate.

Although there are certainly other levels of settlement authority, to include levels as high as the SAF, we will not cover them. For further guidance, review the Tort Claims Action Officer Handbook and the applicable chapter under AFI 51-306.

Small claims procedures (\$25,000 and under)

In most cases, the base legal office will continue to handle property damage only tort claims for \$25,000 or less, which we will refer to as small claims. The following procedures apply when handling small claims:

- Open the claim in AFCIMS—leaving it at the base (don't transfer claim).
- Do not send the original claim to JACC.
- The base office will investigate, adjudicate, and settle or deny the claim. Use the DOJ approved settlement agreement format found on JACC's website.
- For small claims settled in which NAFI or AAFES employees were negligent, process as you would for other claims; however, there are three differences when handling these type claims. The first is, you must send a copy of the claim to the NAFI upon receipt so NAFI can set

aside funds for the potential claim. Second, use the settlement agreement format specifically tailored for NAFIs. Once the agreement is signed, forward the claims file to the NAFI responsible for the employee who caused the incident (either the Air Force Services Agency (AFSVA) or AAFES), for payment. The appropriate agency will then issue payment directly to the claimant. The addresses for both offices can be located in federal legal information through electronics (FLITE).

All other small claims:

- For all MCA/National Guard Claims Act (NGCA) small claims, regardless of the settlement amount (up to \$5,000), and FTCA small claims settled for \$2,500 or less, prepare the payment vouchers and forward to the AFCSC.
- For FTCA small claims settled for more than \$2,500 (up to \$5,000), prepare the payment vouchers and forward to the Judgment Fund, US Treasury.

The base legal office takes final action on all small claims unless they were forwarded to JACC at its request or the claim falls within one of the exceptions listed above. Also, JACC will serve as a relief for base legal offices that due to exigent circumstances, cannot handle all its small claims. In that event, the base legal office will contact JACC to discuss arrangements for transferring some of the small claims to them.

A legal memorandum is required before settling or denying a claim. The legal memorandum should state basic information about the claim, lay out the relevant facts, discuss the applicable law, and provide recommended disposition for the settlement authority's concurrence. For most claims within your settlement authority, you may use the summary adjudication memorandum (SAM) (fig. 3-1). Settlement offers or denial letters should not be issued until the settlement authority signs the SAM. A sample SAM can be found in the Tort Claims Action Officer Handbook. If the SAM does not allow enough space for adequate treatment of the facts or law, an attachment or continuation page may be used. Other formats may be used; however, you must include all of the information that would have appeared in the SAM. The memorandum becomes a permanent part of the claim file and is protected by the attorney work-product privilege.

Prepare your claims file in accordance with the tabbing system located in the Tort Claims Action Officer Handbook. Every file will have Tabs A, B, and C; however, sub-tabs are not mandatory, but may be useful in the organization of a large file or complex case. By separating information that is privileged (Tab A) from information that may be discoverable (Tab B) and from information provided by the claimant (Tab C) you can quickly and easily respond to discovery and FOIA requests.

Claimant's Name: Cowell, Simon		Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		SUMMARY ADJUDICATION MEMORANDUM	
Claim Number: McGuire 8-15	Amount Claimed: \$4,256.31	Claim Type: <input checked="" type="checkbox"/> FTCA <input type="checkbox"/> MCA <input type="checkbox"/> NGCA <input type="checkbox"/> Int'l <input type="checkbox"/> Other: _____			
Incident Date: 21 Nov 07	Incident Place: New York City, NY	Claimant's Attorney: <input checked="" type="checkbox"/> None		Date Filed: 21 Nov 07	
Synopsis of the Facts: Claimant's vehicle was struck from behind by AF employee, Mr. Randy Jackson, civilian employee of 66 CES. Jackson was driving GOV while in the scope of his employment, as documented in the SF91. Per telephone interview with him, Jackson stated he was talking to co-worker Paula Abdul when she told him she was contemplating quitting her job. This news distracted Mr. Jackson and he did not see Claimant stopped. Claimant not alleging personal injury, there were no other passengers in Claimant's car and no other vehicles damaged by the accident.				Opinion: <input checked="" type="checkbox"/> Air Force is liable <input type="checkbox"/> Air Force is not liable <input type="checkbox"/> Liability is in question <input type="checkbox"/> Liability is with a third party <input type="checkbox"/> Other:	
Personal Injury/Property Damage: 2 repair estimates provided. 1 for \$4256.31 and 1 for \$3894.78. Repair work to be done by estimates general area of damage done in the accident.					
<input type="checkbox"/> I recommend denial.		Bases: <input type="checkbox"/> Feres <input type="checkbox"/> FECA <input type="checkbox"/> Statute of Limitations <input type="checkbox"/> Independent Contractor <input type="checkbox"/> Damages not substantiated <input type="checkbox"/> Standard of Care met <input type="checkbox"/> Other			
<input checked="" type="checkbox"/> I recommend settlement.		Settlement Range: _____ to \$3,894.78 Initial offer: \$3,894.78		Adjudicated by: SSgt Carrie Underwood Signature: Date: 3 Feb 08	
<input checked="" type="checkbox"/> I concur. <input type="checkbox"/> I do not concur.		Approval authority: Capt Ryan Secrest		Signature: Date: 5 Feb 08	

Figure 3-1. Summary adjudication memorandum.

Settling claims at the base level

One of the first things you should do if the claim will be adjudicated by your base office is, send a receipt acknowledgement letter. The purpose of this letter is to notify the claimant of your contact information and the date the AF received the claim. In addition, it serves as an opportunity to request additional substantiation, if required.

If the settlement authority believes a settlement is appropriate, an offer is extended to the claimant. Include in the offer to the claimant:

- An explanation of how much is being offered and the legal and factual reasons why the full amount is not being offered, if applicable.
- The statute under which the claim was adjudicated.
- The claimant's agreement to accept the amount offered in full satisfaction of the claim (claimants may not appeal, amend, or supplement their claim once a settlement agreement has been executed).
- One copy of a settlement agreement (do not sign the settlement agreement before it is sent out). Template settlement agreements are found on the JACC website. Do not modify the terms of the settlement agreement.

All payments, regardless of the amount, must be accepted in full satisfaction. In line with this, no payment is made until a settlement agreement is obtained and signed. There are slightly different settlement agreements depending on the type of claim (MCA or FTCA) and the source of payment (NAFI vs. appropriated funds). It's not to be construed as an admission of liability on the part of, but as a release of the US, its agents, and employees from any liability. The base may conduct further settlement negotiations if the claimant rejects the offer; however, keep settlement correspondence distinct from denial letters. For example, if the claimant rejects an offer after having been given a specific date by which to accept it, send a separate denial letter. Do not send offer letters containing

self-executing denials at some time in the future, and do not put a contingent denial in the settlement offer (i.e., “If this offer is not acceptable, your claim is denied”).

Once a claim has been settled and forwarded for payment, inform the claimant by letter, and give them an estimated time for payment. For example, for Judgment Fund payments allow up to 30 days for payment, for payments via the AFCSC allow three weeks for payment, and for NAFI claims, allow four weeks for payment. These are simply guidelines and payment can be made much quicker or take longer depending on the circumstances.

Voucher preparation

All tort claims vouchers under the appropriate settlement amounts will be paid by the AFCSC. Base legal offices must submit an approved SF 1034, Public Voucher for Purchases and Services Other Than Personal, along with the settlement agreement to the voucher box at AFCSC. Do not send vouchers directly to Defense Finance and Accounting Service (DFAS) with the AFCSC’s fund cite on them.

When sending a voucher to the AFCSC for payment of any type of claim processed at the base office, scan and email the completed SF 1034 and settlement agreement to the AFCSC voucher box.

- Each SF 1034 and accompanying documents *must* be scanned into a .pdf file and be forwarded one claim per email. The subject line on the email will read exactly as follows: COUI: BASE NAME - CLAIM NUMBER. Please pay close attention to your subject line:
 - Example of a *correct* subject line: CUI: LANGLEY - 08-22.
 - Example of *incorrect* subject line: FW: LANGLEY, 08-22 (or anything else other than the correct example above).
- You need only send electronic funds transfer (EFT) information with your claim if the member does not have direct deposit.
- Vouchers should be emailed to the AFCSC as soon as possible (ASAP) after the claim is approved. Their goal is to pay the claimant as quickly as possible (within seven business days) and your office putting the vouchers into the system the day of or the day after approval contributes to that goal.
- Do not wait until the end of the week and send your vouchers all at once.
- Ensure you ask for a read receipt on your emails so you have a way to ensure the AFCSC received your claim. Additionally, ensure you have a process in place in your office to keep track of the claims being sent to them for payment. The AFCSC relies on the base offices to make sure the same claims aren’t being sent more than once for payment.
- Once received, the AFCSC will review the package for accuracy, and submit the claim to DFAS for payment.
- If sending vouchers for payment to be made to foreign nationals or companies, the voucher should show amount to be paid in the foreign currency. It should not be written in US dollars.
- When preparing the SF 1034, refer to the AFCSC Action Officer Handbook for detailed instructions. New procedures are in place for preparing the SF 1034 in AFCIMS, as well as manually. Follow their instructions implicitly to ensure your claimant is paid quickly.

Denying claims at the base level

Send a final denial letter to the claimant or authorized agent through the US Postal Service by certified or registered mail, return receipt requested. The letter must be mailed the same day as the date that appears on the letter. Include in the letter:

- The full title and legal citation of the statute under which the settlement authority considered the claim.
- The reasons for denial.

For FTCA claims, use the following language:

If [you/your client] is dissatisfied with this decision, [you/he/she/they] may file suit in an appropriate US District Court not later than six months after the date of mailing of this letter.

For MCA claims, use the following language:

This is the final denial of [your/your client's] claim under the [appropriate act, e.g. Military Claims Act, etc.]. However, if [you/your client] so desire[s], [you/he/she] may appeal this decision. No particular form is necessary, but the appeal should be in writing, describe the reasons for the appeal, provide any additional evidence to substantiate the claim, and arrive at this office within 60 days of the date of this letter.

Acting on appeals and requests for reconsideration

Claimants may request reconsideration (FTCA and other claims statutes) or appeal (MCA, NGCA, and claims by members for certain losses of household effects caused by hostile acts) of denials. Let's take a look at the FTCA first.

FTCA: DOJ regulations provide claimants the opportunity to request reconsideration of the denial of a claim under the FTCA.

- Those regulations are controlling. The request for reconsideration must be received by the AF not later than six months after the date of the mailing of the denial letter.
- It is AF policy not to mention reconsideration in the original denial letter.
- Upon receipt of a request for reconsideration under the FTCA, review the claim and any new evidence submitted to determine if an offer is appropriate. If so, make an offer, provided it is within the settlement authorities limits.
- If the offer is refused or the settlement authority recommends the reconsideration be rejected, forward it as soon as possible after receipt to JACC or JACE (for environmental tort claims) for final action. No settlement authority below JACC or JACE may deny reconsideration under the FTCA.
- A claimant is entitled to only one reconsideration of a claim.

A claimant has a statutory right to appeal the denial of claims under the MCA, NGCA, and claims by members for certain losses of household effects caused by hostile acts. A settlement authority receiving a timely appeal (if received within 60 days after the date of mailing of the final denial, unless the claimant provides good cause) will:

- Review the appeal.
- Reach a final settlement with the claimant or forward the file to JACC or JACE as applicable, with a recommendation for final action. No settlement authority below JACC or JACE may deny an appeal.
- A claimant is entitled to only one appeal of a claim.

Procedures for claims over \$25,000 and all personal injury claims

As soon as the claim is received, open the claim in AFCIMS and immediately transfer it to JACC. Before transferring any claim, prepare a potential claim file and provide the basic tabs (A, B, and C). Place all of the claimant's submissions under Tab C.

Mail the original claim, along with the contact information for the base's point of contact (POC) for the claim, to:

AFLOA/JACC
1500 West Perimeter Road, Suite 1700
Joint Base Andrews, MD 20762

Upon receipt of the claim, JACC will assign it to the appropriate attorney/paralegal for investigation and adjudication. The staff attorney/paralegal assigned the claim, will send a letter to claimant/claimant's attorney acknowledging receipt of the claim (and requesting needed documentation, if any), and contact the POC at the base office to discuss investigation requirements.

The POC's primary role will be to assist the JACC staff attorney/paralegal in investigating the claim. JACC will provide specific guidance and tips for conducting the investigation derived from the experience and expertise of its staff. The idea is to have a free flow of communication between JACC and the base POC throughout the investigation process, exchanging ideas and regularly updating each other on factual findings and other issues relating to the claim.

In many cases, the base POC should expect to take a more proactive role in the adjudication process; to include legal research, drafting memorandums, and even negotiating settlements. The extent of this enhanced involvement will depend on a number of factors, including the expertise and experience of the POC and others in the base office, the nature of the claim and its estimated settlement value, and the desirability of providing training opportunities for the POC. JACC will direct on a case-by-case basis that installation SJAs address automobile accident claims where the property damage exceeds \$5,000 (unless there are allegations of personal injury) and determine whether settlement is appropriate.

Creating and maintaining an investigative file

Keep a copy of the claim and supporting documents for the POC's investigation file, but promptly forward originals of all documents to JACC, which will maintain the official claim file. The POC's copies of claim documents should be destroyed once the claim has been resolved. Remember, the information claimants provide in support of their claims is subject to Privacy Act (PA) protection and, as such, is designated as being "Controlled Unclassified Information (CUI)." CUI was formally known as "For Official Use Only (FOUO)." CUI is covered under DODI 5200-48, *Controlled Unclassified Information (CUI)*. To comply with the requirements of DODM 5400.07-R, *DOD Freedom of Information Act (FOIA) Program*, which specifies documents containing CUI will be identified as such, mark claims investigation files with the following language:

Controlled Unclassified Information Contains Privacy Act Material

The investigative claim file consolidates the factual information relevant to the claim. The documents in the file support the statements of fact, legal analyses, opinions, and recommendations JACC personnel (and in some cases POCs) will include in their adjudication memorandums. Investigative files generally contain the following:

- A copy of the claim (SF 95 or other writing) and any supporting documents presented with it.
- Expert or consultant opinions (e.g., medical law consultant's report, civil engineer reports, accident reconstruction reports).
- Memoranda of witness interviews, together with witness locator information.
- Photographs.
- Technical information on devices and equipment.
- Instructions, regulations, directives, and standard operating procedures.
- Extracts from books or journals.
- Applicable state and local statutes and case law.
- Correspondence.
- Miscellaneous records (e.g., medical QA, including peer review statements and medical incident investigations; training; repair; maintenance; etc.).
- Medical records.

- Investigations by others (e.g., accident investigation reports, police records, reports of survey, commander directed investigations (CDI), accident investigation board (AIB) reports, etc.).
- Copies of relevant television, radio, newspaper, and similar media coverage.
- Applicable contractual provisions.

Not every investigative file will contain all the items on the list. JACC and the POC will collaborate on the most effective and efficient means of maintaining the file consistent with uniform filing procedures within the Tort Claims Action Officer Handbook and AFI 51-306. For small claims, investigative files do not require tabs if the information within the file is not large.

All tort claim files, including investigation files, are the property of the AF and are protected from disclosure under the attorney work-product privilege. Do not give claim files to claimants or their agents for review or reproduction. If you receive FOIA or PA requests for claims adjudicated by JACC, forward them to JACC's attention immediately. Process FOIA and PA requests for small claims adjudicated by the base office in accordance with DODM 5400.07_AFMAN 33-302 and AFI 33-332 respectively. Never release the following documents to anyone outside the US government:

- Legal memoranda containing opinions, conclusions, and recommendations.
- Attorneys' and paralegals' written summaries of witness interviews.
- Experts' written reports and evaluations (including engineering reports on sonic boom complaints), cannot be released without approval of JACC.
- Medical quality assurance documents. (Under Title 10, U.S.C. § 1102, such records are confidential and privileged, and may not be disclosed to any person or entity except under limited circumstances set out in the statute). In addition, these documents may not be released to US Attorneys or the DOJ without the express permission of JACC.
- Other material acquired as part of the deliberative process, including legal research.

Advance payments

A claims response to a major accident site is usually warranted to assess damage, offer claims information, and provide advance payments to victims, if authorized. A proactive claims approach may be required to protect accident victims from unnecessary suffering and hardship, collect evidence, and ensure appropriate environmental restoration.

The authority for making advance payments is Title 10, U.S.C. § 2736, commonly known as the Advance Payments Act. As implemented by AFIs, it permits advance payment of certain claims if *all* of the following are present:

- The claimant requests it.
- The claimant appears to have a valid MCA, FCA, or NGCA claim that will exceed the amount of the advance payment.

NOTE: settlement authorities may not make advance payment for FTCA claims.

- The circumstances demonstrate an immediate need for food, shelter, medical or burial expenses, or other necessities. A commercial enterprise may be entitled to an advance payment if needed to prevent severe financial loss or bankruptcy.
- The recipient signs an agreement indicating they will refund the money if no claim is filed within the statutory period for doing so, or will refund any portion of the advance payment that exceeds the final payment of a claim. There is a sample advance payment agreement provided with the Tort Claims Action Officer Handbook you may use as a guide.

A proper claimant or authorized agent may request an advance payment and every person suffering injury or property loss may submit a separate request for an advance payment. For example, where the AF destroys a house belonging to a family of four, each family member may submit a separate request and receive the maximum payment authorized. Claims personnel should ascertain the nature

of each potential claimant's needs. If the approved advance payment is less than the amount requested, or the request is denied, record this in the file.

Disbursements may be made to a claimant, a potential claimant, or that person's legal representative. Payments may also be made to a third party (e.g., a hospital) if the potential claimant so specifies. Payment may be made in cash, by check, or by direct deposit.

TJAG may make an advance payment of \$100,000 or less per claimant. The chief and branch chiefs of AFLOA/JACC; the chief, AFLOA/JACE (for environmental torts); and the SJAs of USAFE, PACAF, AFSOC (for USSOCOM), and 9AF (for USCENTCOM) may make an advance payment of \$25,000 or less. Each of the above may orally delegate their authority to make advance payments to base legal offices, provided they confirm the delegation in writing. CONUS SJAs do not have advance payment authority. If your base has a disaster and advance payment is anticipated, you must contact JACC to get advance payment authority delegated.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

410. Military Claims Act provisions and responsibilities

1. Under the MCA, what two principles govern US liability?
2. What types of claims may be presented and paid under the MCA?
3. List seven examples of noncombat activities.
4. What amount of negligence must be proven by a claimant for the AF to pay on a noncombat activity claim? Explain.
5. What is the statute of limitations for claims presented under the MCA?
6. In a foreign country, how is liability generally determined on an MCA claim?

411. Federal Tort Claims Act and Military Claims Act claims procedures

1. What agency establishes the geographic division of claims jurisdiction for claims against the AF?

2. For CONUS legal offices, what is the maximum settlement authority for base-level SJAs?
3. If your SJAs settlement authority is \$25,000, and you have a claim from an insurance company for \$23,000, and one from an insured member for \$4,000 for the same incident, does the SJA have authority to settle/deny the claims? Why?
4. Where do you send a payment voucher for an FTCA claim settled for \$3,000?
5. What information should a claim legal memorandum contain?
6. What is one of the first things you should do if a claim will be adjudicated by your base office?
7. When sending a voucher to the AFCSC for payment, what documents must be scanned and emailed to the AFCSC voucher box?
8. By what method is a final denial letter sent to the claimant or authorized agent?
9. When a claim has been denied, how many times may a claimant ask for reconsideration?
10. For claims over \$25,000 forwarded to JACC, what is the base POC for the claim's primary role?
11. What types of documents can never be released to anyone outside the US government?
12. What circumstances may warrant providing a claimant with an advance payment?
13. If the AF destroys a house belonging to a family of five, how many of those family members may request an advance payment?

3-3. Property Damage Tort Claims in Favor of the United States

The AF should take all steps necessary to see the government is reimbursed for its losses and expenses, just as if it were a private citizen. There are occasions when incidents or accidents arise that indicate other parties have damaged government property or have in some other way caused an expense to the US. In such cases, you must ensure efforts are made to recover what is due the US. You are a representative of the US. This unit provides information pertaining to claims under AFI 51-306, chapter 7, *Property Damage Tort Claims in Favor of the United States*. This chapter is one of the few under which the US may assert a claim in its favor. The statute of limitations, assertable and non-assertable claims, and general claims procedures are covered in this section.

412. Government claims

As a property owner, the AF is often a victim of a tort and has the right under the Federal Claims Collection Act, Title 31, U.S.C. § 3711 to recover from tortfeasors for loss or damage to government property. These next sections describe the principles and procedures by which the US asserts for damage to its property through someone's negligence or wrongful act. These claims are known as "government" claims or "G" claims. AF policy is to promptly discover all potential G-claims and fully investigate and vigorously pursue them.

Statute of limitations

As with anti-government claims, pro-government claims must be processed within the statute of limitations. Tort claims asserted by the government under AFI 51-306, chapter 7, must be filed within three years from the date the cause of action accrues. It accrues when a responsible US official knew or reasonably should have known the material facts that resulted in the claimed loss.

NOTE: Lawsuits based in contract, or upon some other theory or state law, may have a different statute of limitations period. The SJA ensures the correct governing statute is applied. Remember, even though you assert a claim against a debtor or the insurer, either immediately following the cause of action, or at any time within the three years following the cause of action, the statute of limitations will still run at the end of the three years. If collection action has not been completed within three years, the lawsuit must be filed in a federal district court prior to the three years passing. The mere assertion of a claim against the debtor or an insurer does not toll the statute of limitations.

Assertable claims

The following tort-type incidents may properly be asserted under AFI 51-306, chapter 7:

- If the claim is for damage to or loss of government property that resulted from negligence of the tortfeasor and is for \$100 or more. Claims for less than \$100 should be asserted if it appears that collection costs will be small. For example, if the only action required to collect a claim for \$35 is to write one or two letters, it should be asserted.
- If the claim is based on contract, and the AF contracting officer does not intend to assert a claim under the contract. Record the contracting officer's intention not to assert a claim in a memorandum for record (MFR) and maintain it in the claim file. If there is a difference of opinion between the base legal office and the contracting office as to whether the claim is assertable, or whether it should be pursued through procurement or claims channels, document the disagreement and send the claim to JACC.
- If the claim is for property damage arising from the same incident as a hospital recovery (HR) claim, the two claims are processed separately, but investigated together to the extent possible.
- If a tortfeasor or his or her insurer presents a claim against the government arising from the same incident. For example, a government vehicle and a POV collide off base and the AF, believing that the driver of the POV was at fault, files a claim, and that party, or his or her insurer, files a counterclaim. Process both claims together.

- If the claim is assertable as a counterclaim under an international agreement; process the claim under AFI 51-306, chapter 3, *Foreign Claims Act and International Agreement Claims Act*.
- If the claim is a product liability type claim; however, due to the unique nature of product liability issues and claims litigation, obtain JACC approval before asserting a claim under this theory of recovery.

Nonassertable claims

The following incidents should *not* be asserted under AFI 51-306, chapter 7:

- A claim for reimbursement against military or civilian employees for claims paid by the US due to that employee's negligence.
- Claims for loss or damage that a NAF employee causes to government property while on the job, or caused by a government employee with accountability for the property under the report of survey system.
- Claims for loss or damage to NAF property that is assertable under other parts of AFI 51-306.
- A claim for monies to be recovered from a foreign government or any of its political subdivisions. JACC may authorize exception to this rule.

Government claims procedures

Each supervisory claims authority must ensure that its personnel research and discover all potential claims applicable to AFI 51-306, chapter 2, *Handling Tort Claims Against the AF*. You can look for potential claims by reviewing the SF blotter and police reports. You may also learn of potential claims from squadron commanders, first sergeants, and base motor pool.

Preliminary investigations

Upon learning of a potential claim, a preliminary investigation should be conducted to assess the amount of damage. Obtain photographs of the damage, as well as complete and accurate repair or replacement estimates from government officials or a nongovernmental entity (e.g., off-base repair shop). If using an off-base repair shop, two separate repair estimates are recommended. In addition, find out who caused the damage. If the damage was caused by an AF member or civilian employee and a report of survey is mandatory, then a claim cannot be asserted. If a report of survey is not mandatory and the tortfeasor has insurance that may cover the loss, such as for a motor vehicle accident, you may choose to assert the claim against the insurance company in lieu of the report of survey against the member.

Once an affirmative claim has been confirmed, a complete and thorough investigation shall be conducted. Investigations should be timely, thorough, and properly documented.

- Thoroughly document the claim file and include, when applicable, witness statements, copies of other investigations, correspondence with the tortfeasor, insurance information, a report on the tortfeasor's financial status, and a summary of any applicable law.
- Include in the claim file evidence of loss or actual damage and costs of repair (including materials and overhead) or replacement. In addition, include consequential damages (loss of use, removal to storage, and storage costs, if any). Support the evidence with calculations of those damages.

Advise JACC by message of all incidents involving damage to or loss of government property that may result in liability of a third party in excess of \$10,000.

Asserting the claim

Send by certified mail, return receipt requested, a demand letter to assert a claim against another party. The letter is known as a "notice of claim" and the other party is known as a "tortfeasor." The

notice provides sufficient notification of the facts and circumstances surrounding the incident, including:

- A reference to the statutory right of the US under the Federal Claims Collection Act to collect for the loss or damage.
- A demand for payment for loss or damage to the property or restoration of that property.
- A description of the loss or damage.
- The date and place of the incident giving rise to the claim.
- The name, office address, and telephone number of the claims personnel to contact regarding the claim.

If no reply is received within 30 days, send a follow up demand letter. If the tortfeasor fails to respond to two demand letters, or claims personnel cannot obtain the full settlement for claims in the amount of \$1000 or more, the SJA shall forward the file to JACC with a memorandum detailing the facts, evidence, legal analysis, and recommendation of disposition.

Collection and compromise

In order to maximize collections for the US, settlement authorities may agree to compromise settlement. There are basically three ways to resolve a claim.

- Monetary offers: A full settlement should be accepted by your office; however, a compromise offer may be accepted if within the limitations of the settlement authority. Some reasons for accepting a lesser offer include: collection costs may not justify enforced collection procedures, difficulty in proving the full amount of the claim, or liability may be in question. **Do not** compromise a claim when fraud, misrepresentation, or violation of antitrust laws has occurred without consulting JACC first. The DOJ must compromise those claims. An installment payment plan is an acceptable method if it will be a financial burden to pay the full amount in a lump sum. For all installment payments, prepare a confession of judgment (promissory) note, which details the repayment schedule, and have the tortfeasor sign it.
- Repairs in kind: Because of the fiscal law restrictions on how many types of G-claim collections may be spent, repair-in-kind is often preferable. This method refers to the arrangement of a third party (e.g., auto repair shop, fence contractor etc.) to prepare a repair estimate and submit it directly to the tortfeasor, and you requesting settlement be made payable to the contractor.
- Terminations: A claim for \$25,000 or less may be terminated by the settlement authority when the government is unable to collect after exhausting collection methods, the tortfeasor is unable to be located, the claim is without legal merit or evidence does not substantiate the claim, or collection costs would exceed recovery. The settlement authority shall provide justification within the claim file to support the decision to terminate collection efforts.

Depositing funds

In general, funds collected should be deposited into the US Treasury Miscellaneous Receipts Account 57*3019 (Insert the last digit of the current fiscal year for the * unless it falls into one of the categories listed below):

- Collections for loss, damage, or destruction to real property is deposited into the appropriate account of the organization responsible for the repair, maintenance, or replacement of the real property.
- Collections for loss, damage, or destruction to AF family housing is deposited into the DOD Family Housing Management Account 57*7045 (Insert the last digit of the current fiscal year for the *).
- Collections for loss, damage, or destruction to property under control of an Air Force Industrial Fund (AFIF) are deposited into the appropriate industrial fund account.

- Collections for loss, damage, or destruction to property under control of a NAFI are deposited to the appropriate NAFI.

Litigation

If payment is not received within 18 months from the incident date, or if there is indication of fraud or misrepresentation by the tortfeasor, the SJA refers the file to the US Attorney or the DOJ; however, before referring a claim to the US Attorney or the DOJ, contact JACC to discuss the matter and obtain approval. If JACC concurs in referring the file for litigation; the SJAs forward the file with a legal memorandum outlining the facts of the case, relevant legal issues, copies of all necessary substantiation, and contact information for all relevant witnesses. After referring a claim to the US Attorney, the SJA will advise JACC if the US Attorney refuses to file suit or is unsuccessful in securing payment.

In addition, keep JACC informed when a G-claim goes into litigation (the litigation might have wide-ranging policy implications); send JACC a copy of the pleadings and a litigation report; notify JACC as significant litigation events occur; and when the litigation is complete, send a final report detailing the results.

Settlement authority

This section covers who can settle AFI 51-306, chapter 7, claims and in what amounts.

Basic settlement authority

The amount asserted against the debtor determines if a settlement authority can compromise a claim. For example, a base SJA can compromise any claim that has been asserted for \$25,000 or less. Once a claim is asserted for more than \$25,000, the base SJA cannot compromise the claim by accepting a lesser amount nor may the base SJA terminate the collection action; however, any settlement authority can collect any claim when the debtor offers full payment.

Settlement authority limits

If a claim exceeds the settlement authority of any level of command and cannot be collected in full, the SJA sends the file through claims channels to the next higher settlement authority recommending compromise, suit, or termination of collection action.

Legal memorandum

In accordance with AFI 51-306, a legal memorandum is prepared for all tort claims; however, a SAM is acceptable in most cases as previously discussed. If a legal memorandum is required under the circumstances, the memorandum should include:

- The claimant's name, claim number, amount of claim, the date and place where it was presented, and the amount and date of any amendments.
- The type of claim (FTCA, MCA, etc.).
- The date, time, and place of incident.
- The address of claimant and the claimant's attorney, if applicable.
- Facts of the incident.
- A brief of applicable local and/or state law.
- A liability and damage analysis and a recommendation as to the disposition of the claim.

Assemble claims file

AFI 51-306 also provides guidelines concerning the preparing, arranging, and assembling of tort claim files. Keep in mind, there may not be a requirement for all the tabs listed below and your claim file may differ on a case-by-case basis as information is provided and updated within the Tort Claims Action Officer Handbook. Assembling claims files in proper order serves two purposes. First, you can

use the arrangement to ensure you do not forget an important piece of information. Second, by having the information in a specific arrangement, subsequent research is easier to do.

The following table gives guidance on claims files arrangement for tort claims.

Tort Claims	
Tab	Document
A	Legal memorandum.
B	Claim (SF 95 or other notice of claim) and any supporting documents presented.
C	Expert or consultant opinions.
D	Witness locator information.
E	Memoranda of witness interviews.
F	Photographs.
G	Technical information on devices and equipment.
H	Instructions, regulations, directives, and standard operating procedures.
I	Extracts from books or journals.
J	Applicable state and local statutes and case law.
K	Correspondence with claimant or claimant's attorney (latest on top).
L	Miscellaneous correspondence (latest on top).
M	Miscellaneous records (base-level quality assurance, including peer review statements and medical incident investigations; training; repair; maintenance).
N	Medical records.
O	Investigations by others (accident, police, AFI 51-307, <i>Aerospace and Ground Accident Investigations</i> , accident reports, etc.). Do not include medical quality assurance documents.
P	Applicable contractual provisions.
NOTE: If you don't use a particular tab, place a sheet of paper behind it stating, "This tab not used." Whenever more than one item appears under tabs E, H, M, N, O, and P, provide a separate index listing of the documents under the tab, including the name, address, and telephone number of the custodian of the original of each document. Separately identify each item under a tab. (i.e., several witness interviews would be labeled as tab E1, E2, E3 etc.)	

Prepare file label

Labels for the claims file are fairly straightforward. Place a label showing the claimant's name and the claim number AFCIMS assigned to the claim on the top left of the folder, as you view the folder in a filing cabinet, or further guidance on preparing a claim file or labels, refer to applicable AFIs and JACC.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

412. Government claims

1. In the absence of actions being taken to toll the statute of limitations, how long does the government have to collect a claim under AFI 51-306?
2. What actions may be taken to toll the statute of limitations under AFI 51-306?
3. Under what conditions should claims for less than \$100 be asserted?

4. What action should be taken if a contracting officer refuses to assert a claim on the grounds that it is not a contract claim?
5. If damage was caused by an AF member or civilian employee and a report of survey is mandatory, can a claim still be asserted?
6. What agency should you advise of all incidents involving damage to or loss of government property that may result in liability of a third party in excess of \$10,000?
7. What does the notice of claim provide to the tortfeasor?
8. List the ways a claim can be resolved.
9. If payment is not received within 18 months from the incident date, or if there is indication of fraud or misrepresentation by the tortfeasor, what is the SJA's next step?
10. What is the basis for determining whether an amount is within the settlement authority of a particular SJA?

Answers to Self-Test Questions

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1. The administrative settlement and payment of claims against the United States, except those that arise in a foreign country, for damage to or loss of property, or for personal injury or death resulting from the negligent or wrongful act or omission of AF military or civilian personnel while acting within the scope of their employment.
2. To be payable under the FTCA, a claim must be for property damage, personal injury, or death caused by the negligent or wrongful acts or omissions of government employees while acting within the scope of their office or employment, to the extent the United States has waived sovereign immunity.
3. It is governed by federal law (the FTCA).
4. The acts of employees must be authorized by their employer, be within the time and scope of their employment parameters, and be in furtherance of some interest of their employer.

5. Three years after it accrues.
6. Only after an administrative claim has been denied or if the agency has not acted upon the claim within the six month window, the claimant may choose to file suit.
7. Attorney fees will not exceed 20 percent of any administrative settlement amount.

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1. The first is based on negligence or wrongful acts or omissions and the second is noncombat activities.
2. Property damage, personal injury, or death arising from the negligent or wrongful acts by members or employees of the armed forces acting within the scope of employment, and for losses sustained as a result of the noncombat activities of the military services.
3. (1) Maneuvers and special field exercises.
(2) Practice firing of heavy guns and missiles.
(3) Practice bombing.
(4) Operation of military spacecraft and aircraft.
(5) Use of military balloons.
(6) Movement of combat vehicles or other equipment designed for military use, such as tanks, amphibious vehicles, and other vehicles not primarily designed or used for civilian purposes.
(7) EOD operations.
4. None. The claimant only has to show a causal connection between an authorized noncombat activity and the injury or damage.
5. A claim must be filed in writing to the *appropriate* federal agency within three years of accrual, unless the United States is at war or in an armed conflict when the claim accrues, or the US enters a war or armed conflict after the claim accrues, and good cause is shown.
6. Settlement authorities use the general principle of American tort law as made clear by case law and standard legal publications to evaluate the liability of the US.

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1. JACC.
2. \$25,000.
3. No. A principal claim and any subrogation claims are treated as a single claim and both claims would exceed the SJAs settlement authority of \$25,000.
4. The Judgment Fund, US Treasury.
5. It should state the basic information about the claim, lay out the relevant facts, discuss the applicable law, and provide recommended disposition for the settlement authority's concurrence.
6. Send the claimant a receipt acknowledgement letter.
7. Completed SF 1034 and the settlement agreement.
8. Through the US Postal Service by certified or registered mail, return receipt requested.
9. Once.
10. To assist the JACC staff attorney/paralegal in investigating the claim.
11. Legal memoranda containing opinions, conclusions, and recommendations; Attorneys' and paralegals' written summaries of witness interviews; Experts' written reports and evaluations (including engineering reports on sonic boom complaints), without approval of JACC; Medical quality assurance documents. (Under 10 USC §1102, such records are confidential and privileged, and may not be disclosed to any person or entity except under limited circumstances set out in the statute). In addition, these documents may not be released to US Attorneys or the DOJ without the express permission of JACC; and other material acquired as part of the deliberative process, including legal research.
12. An immediate need for food, shelter, medical or burial expenses, or other necessities. A commercial enterprise may be entitled to an advance payment if needed to prevent severe financial loss or bankruptcy.
13. Five.

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1. Three years from the date the cause of action accrues.
2. Suit must be filed in a federal district court prior to the three years passing.
3. If it appears that collection costs will be small.
4. Record the contracting officer's intention not to assert a claim in a memorandum for record and maintain it in the claim file.
5. No. A report of survey would indicate liability.
6. JACC.
7. Sufficient notification of the facts and circumstances surrounding the incident.
8. Monetary offers, repairs-in-kind, and termination.
9. Refer the file to the US Attorney or the DOJ.
10. The amount asserted against the debtor.

Unit 4. Other Claims

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THUS FAR, WE HAVE COVERED THE primary claims processes in the AF claims program. This unit provides general information about the other types of claims discussed in AFI 51-306.

4-1. Article 139, Uniform Code of Military Justice, Claims

Article 139, UCMJ, is the only method for redress of willful damage or destruction to property or wrongful taking of property by members of the armed forces of the US. The recovery is taken from the service member's pay, not from government funds.

413. Claim description

Title 10, U.S.C. § 939, *Sale of Servicable Material*, as implemented by AFI 51-306, chapter 6, *Claims Under Article 139, Uniform Code of Military Justice (10 USC 939)*, provides provisions to appointing commanders for the collection and payment of a claim for property that AF military personnel willfully damage or wrongfully take, if the claim results from riotous, violent, or disorderly conduct. The facts and circumstances surrounding each case must be carefully considered. The people suffering the losses may be military, civilian, a businesses, charity (however owned or held), or state or local governments. If the property claimed was willfully damaged or wrongfully taken as a result of riotous, violent, or disorderly conduct, the complainant (claimant) may be reimbursed for the loss from the military pay of the members who caused the damage or loss.

The definition of “wrongful taking” is the unauthorized taking or withholding of property with the intent to deprive the owner or person in lawful possession, either temporarily or permanently. The definition of “willful damage” is damage or destruction that is caused intentionally, knowingly, and purposely, without justifiable excuse. Willful damage involves conduct that falls into the following two categories:

- Intentional acts without justification such as vandalism.
- Riotous, violent, or disorderly act, acts of depredation, or conduct showing a reckless and wanton disregard for the property rights of others. An example would be an Airman who fires a weapon randomly into the air causing a shopkeeper's window to break, or an Airman who “accidentally” knocks over a lamp during a drunken brawl. While the Airman may not have

intended to break the lamp, the involvement in a drunken brawl was intentional and constitutes conduct showing a reckless and wanton disregard for the property rights of others.

Claims payable

Claims payable under this chapter are limited to:

- Those for property willfully damaged or wrongfully taken by AF military personnel. This includes property damage caused by riotous, violent, or disorderly conduct.
- Claims payable under other claims' statutes/chapters may be paid under Article 139, UCMJ with authorization from JACC.
- Claims involving Air National Guard members only when they are performing duty under Title 10, U.S.C, *Armed Forces*.

Claims not payable

Claims not payable under chapter 6 are:

- Claims resulting from simple negligence.
- Claims for personal injury or death.
- Claims resulting from acts or omissions of military personnel while performing legally authorized duties.
- Claims of subrogees.
- Claims arising from private indebtedness.
- Claims for reimbursement for bad checks.

Limiting provisions

The claim must be submitted within 90 days of the date of the incident, unless the commander finds good cause has been shown for a delay. Payment for indirect, remote, or consequential damages is not authorized.

Procedure

Any person who believes personal property has been damaged or taken by a member of the US armed forces may complain to the military organization or unit of the alleged offending member(s) or to the commander of the nearest military installation if the organization of the offender is unknown. The claimant may complain orally or in writing; however, before appointing commanders make a settlement, the claimant or authorized agent must present a claim for a specific amount.

Action by commanding officer receiving complaint

If the offender is a member of the command at which the complaint is received, the following actions are taken:

- If the commanding officer receiving the complaint has the authority to convene a special court-martial (SPCM), the commanding officer appoints a board of officers (one to three commissioned officers) to investigate the complaint.
- If the commander receiving the complaint does not have SPCM authority, the commander sends the complaint and any documentary evidence relative to it to the next superior authority in the chain of command having SPCM authority, and that officer will take action as indicated above.

When an alleged offender is known and is not a member of the command receiving the complaint, the complaint is forwarded directly to the alleged offender's immediate commanding officer for action.

When the alleged offenders are members of different commands and different special court-martial convening authorities (SPCMCA), the complaint is sent to the commanding officer closest to the place of the incident.

Where an alleged offender is a member of another military service, the complaint is sent directly to the offender's unit commander with a copy to the servicing legal office.

Action by board of officers

The board of officers investigates the facts and circumstances surrounding the complaint. The board notifies the offender in writing of the pending complaint and advises the offender of the following rights:

- Article 31, UCMJ, rights; to include the right to counsel.
- To examine the evidence presented.
- To present evidence on their behalf.
- To receive in writing, the decision of the commanding officer.

The board also determines whether the claim falls under Article 139, UCMJ. If it does, the board identifies the offender(s) and determines liability and damages. If an offender voluntarily pays an amount in satisfactory and final settlement of the matter, further recovery is barred. If an offender makes a voluntary partial payment, the board deducts that amount when computing the assessment.

The board submits a report to the appointing commander through the SJA with the following findings and recommendations based on the evidence:

- The board may recommend assessing damages against the offender.
- The board may assess damages against individual members of the unit found by the board to have been present when the damage occurred, but where the offenders cannot be individually identified.
- The board may disapprove the claim.

Action where damages are assessed

When the board assesses damages and the offender is a member of the command, the SJA reviews the report for legal sufficiency and compliance with AFI 51-306. The SJA will determine if, by the preponderance of the evidence, the evidence supports the findings and if the board's recommendations are consistent with those findings. Upon completion of the review, the SJA will either return the report to the board for further investigation, if irregularities or discrepancies exist, or send the report to the appointing commander for final decision.

The appointing commander is responsible for the following:

- Determines if the claim falls under Article 139, UCMJ.
- Sets the amount to be assessed against each offender and ensure it does not exceed the amount the board recommends.
- Directs the accounting and finance officer to withhold the specified amount from the pay of each offender and to pay the claimant.
- Notifies the claimant and offender of the action taken.
- Keeps the original and one copy of the approved board report.

Decisions made by the appointing commander may not be appealed by the claimant or the offender.

If the offender is a member of a different service, the appointing commander sends the report directly to the commander of the member's unit of the service concerned.

Reconsideration rules

The rules govern reconsideration action taken by a commanding officer on members of their command are:

- The commanding officer who ordered the original assessment may reconsider and change the decision if the findings later prove to be wrong.
- A successor in command may change or cancel the assessment, but only on the basis of newly discovered evidence, fraud, or obvious error of law or fact.
- Both the commanding officer and successor in command may take the above actions even after the offender has been transferred.

Indebtedness determined under Article 139, UCMJ, may only be cancelled under the provisions set forth in AFI 51-306, chapter 6.

Article 139, UCMJ, claims are separate from other disciplinary actions authorities may take under any other article of the UCMJ.

An Article 139, UCMJ, claim is the only legal means by which an armed forces member can be forced to make administrative restitution for tangible property damage, loss, or destruction suffered by any person. Claims under the provisions of Article 139 may be rare, but you must know how to handle them. Remember that such claims are not payable for damages caused by a civilian nor are they payable when such claims result from acts of military members acting within the scope of their employment.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

413. Claim description

1. When is a military member required to reimburse a claimant under the provisions of AFI 51-306, chapter 6?
2. List four types of claims not payable under chapter 6.
3. What must happen if a commander receives a complaint, but does not have SPCM authority?
4. Who does the board of officers submit their report to for Article 139, UCMJ claims?
5. May decisions made by the appointing commander be appealed by either the claimant or the offender?
6. What is the only legal means by which a service member can be made to make administrative restitution for tangible property damage, loss, or destruction suffered by another person?

4-2. Nonappropriated Fund Claims

Nonappropriated funds are those monies generated by users and participants in NAFI and certain morale, welfare, and recreation (MWR) activities that are used to augment funds appropriated by Congress and improve the well-being of DOD personnel and their family members. NAFIs are federal government instrumentalities established to generate and administer these nonappropriated funds for programs and services for the morale and well-being of authorized personnel. Although NAF activities, such as the Base Exchange, will ultimately pay claims submitted and processed under these provisions, you and other claims personnel in your office will actually conduct the investigations, adjudicate, process, and settle these claims.

414. Nonappropriated fund claims procedures

AFI 51-306, chapter 2, *Handling Tort Claims Against the AF*, governs the administrative settlement and payment of claims against NAF activities that arise out of the operation of a NAFI caused by:

- Civilian employees paid by NAFI acting in the scope of their employment.
- Military personnel or appropriated fund civilian employees performing off-duty, part-time work, and receiving NAFI pay for their duties.
- Negligent conduct for which a NAF employee is responsible.

NAF activities are considered instrumentalities of the federal government. They are formally those activities operated for the morale, welfare, religious, educational, and recreational programs of personnel assigned, attached, or otherwise authorized by law to use such facilities. Some of them are:

- AAFES and its sub-facilities, but not its concessionaires.
- Officers', NCO, and Airmen's clubs.
- Golf facilities and swimming pools.

Not all programs on an AF installation that contribute to personnel morale, welfare, religious, educational, and recreational activities are NAF activities. The commissary is an appropriated fund activity, the Air Force Aid Society is a private corporation, and the American Red Cross is a corporation created by an act of Congress. Many private organizations, such as wives' clubs, are authorized to hold meetings on installations. These clubs and organizations are neither federal agencies nor NAF activities.

Processing

All tort and tort-type claims arising out of the operation of a NAF activity and presented by a third party are processed and settled by claims personnel in the manner authorized for similar claims against the US. For example, if an AAFES vehicle, while being driven on official AAFES duties by an AAFES civilian employee, strikes a POV being driven by a technical sergeant who is on duty, the claim is opened in WebAFCIMS as a NAF claim, but is processed as a claim filed under the MCA, AFI 51-306, chapter 2.

Accordingly, the same approval authority, appeal authority, statute of limitations, negligence, causation, proper claimants, and scope of employment that would apply to a claim under the MCA, apply to the NAF claim.

Take the above set of facts, but assume the AAFES vehicle strikes a car being driven by a civilian. In this incident, the claim is processed as an FTCA claim, AFI 51-306, chapter 2. It is important to understand the settlement of NAFI claims is accomplished in accordance with the applicable chapter (e.g., FTCA, MCA, pro-government etc.).

Although damages or injury are caused by the employees of a NAFI or by the condition of its property, the facts of each case determine what statute applies when processing the claim. Claims not payable with NAF funds are:

- Claims arising out of the operation of a NAFI activity caused by military personnel or appropriated fund civilian employees performing assigned AF duties, even though they benefit a NAFI activity.
- Claim of NAFI employees for personal injury or death arising out of the performance of their duties.
- Claims arising out of activities of AF volunteers.
- Claims against NAFI concessionaires or other contractors.
- Claims arising out of the activities of private organizations.
- Claims arising out of NAFI activities involving contract disputes, dishonored checks, debts to NAFIs, or third party workers' compensation claims.

Settlement and appeal authority

Settlement and appeal authority for NAF tort claims is the same as the authority for the particular chapter of AFI 51-306 under which the AF settles the claims alleging negligence by appropriated fund employees (e.g., FTCA, MCA), with these exceptions:

- TJAG may deny NAFI claims adjudicated under MCA, FCA, and Air Force Admiralty Claims Act (AFACA) in any amount and approve claims in any amount without referral to the SAF or Government Accountability Office (GAO).
- JACC and the chief, Environmental Law and Litigation Division (AFLOA/JACE) (for environmental torts) may:
 - * Deny NAFI claims in any amount.
 - * Approve NAFI claims filed in any amount when payment is for \$100,000 or less, without referral to the SAF or GAO, when settled under the MCA, FCA, or AFACA.
- The decision of the settlement authority is binding upon the NAFI.

Types of claims

Military personnel working part time for the NAF activity and paid by the NAF activity are covered by military benefits. Any injuries in the performance of such duties are incident to their military service, and therefore, the same rule would apply as to AFI 51-306, chapter 2, and their claims would not be payable; however, if a military member who is considered an employee of a NAF activity (i.e., working off duty, part time), commits a tortious act, the claim is processed as a tort-type claim and is payable.

Personnel claims of employees for loss of or damage to their personal property incident to their NAFI employment are processed and settled as authorized in AFI 51-306.

One of the more popular NAFI claims you may process is an errant (wandering from an intended course) golf ball striking an automobile. Settlement authorities decide each claim on a case-by-case basis. Liability for golf ball damage normally results from some hazardous condition that has gone uncorrected. Golf course and other NAFI employees have a responsibility to correct the known hazards. At the same time, if they take appropriate steps to correct the hazards and are prevented from doing so by the action, inaction, or decisions of appropriated fund personnel (military or civilian), then they cannot be faulted for failing to correct a hazard.

For example, if a NAFI golf course manager has knowledge of a dangerous condition requiring netting and fails to take action to get the netting, then any claim arising out of the failure is to be paid by the NAF activity. If the manager attempts to get the netting, but is not successful because a civil engineer, commander, or other appropriated fund official disapproves the project, then any such claim is to be paid with appropriated funds. Report to JACC and the Air Force Services Agency, Office of Legal Counsel (AFSVA/SVL) any instances where NAFI personnel attempted to remedy a hazard and were prevented from doing so by appropriated fund personnel.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

414. Nonappropriated fund claims procedures

1. Name at least three NAF activities that would have claims against them processed in accordance with AFI 51-306.
2. Name three activities that contribute to MWR, yet are not NAFIs.
3. List three types of claims not payable with nonappropriated funds.

4-3. Use of Government Property Claims Act

The use of government property claims statute is seldom used; however, the paralegal must be familiar with its provisions. Though this type of claim may be presented against the AF in any amount, it may only be approved and paid up to a maximum of \$1,000.

415. Use of Government Property Claims Act description

AFI 51-306, chapter 2, implements Title 10, U.S.C. § 2737, *Property Loss: Personal Injury or Death: Incident to Use of Property of the United States and Not Cognizable Under Other Law*, and governs settlement of claims against the US for property damage, personal injury, or death incident to the use of a government vehicle, or by the use of any other government property on a government installation, when the claim is not payable under any other statute. Claims under this section may be paid regardless of whether an AF member or employee was acting within the scope of their employment. A claim must be presented in writing to the appropriate federal agency within three years of accrual. A claim normally accrues at the time of injury when all essential facts are apparent.

The following is an example: A government vehicle drives over some gravel on a public road. Through no negligence of the AF, a stone hits the claimant's vehicle and cracks the windshield. Since the AF was not negligent, the claim cannot be paid under the Federal Tort Claims Act; however, the settlement authority may offer up to \$1,000 under the Use of Government Property Claims Act (UGPCA).

Claims payable

A claim is payable if all of the following are present:

- The claim is for property damage, personal injury, or death. Payment for personal injury or death claims is limited to costs of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid by the US.
- The damage, injury, or death was caused by a military member or civilian employee of the AF, whether acting within or outside the scope of employment.
- The damage, injury, or death was a result of the use of a government vehicle at any place or from the use of other government property on a government installation.
- The claim is not payable under any other provision of law except Article 139, UCMJ.

Claims not payable

A claim is *not* payable if it is:

- Payable under any other provisions of the law.
- Caused wholly or partly by a negligent or wrongful act of the claimant, the claimant's agent, or employee.
- A subrogated claim.
- Recoverable from other sources such as an insurance policy, or recovered from action under Article 139, UCMJ.
- For pain and suffering.

Settlement authority

The chief and branch chiefs, AFLOA/JACC; the SJAs of 3AF, 5AF, Air Force Special Operations Command (AFSOC) (for USSOCOM), and 9AF (for USCENTCOM); and the SJAs of each AF installation may:

- Deny claims in any amount.
- Pay claims filed in any amount, but with payment not to exceed \$1,000.

In contrast to claims payable under the Personnel Claims Act, MCA, FTCA, and other provisions, the amount claimed does not have a bearing on the denial of UGPCA at any settlement authority level. This means that any settlement authority at any level may deny any claim presented at the base level in any amount. For example, if a claimant submits a claim for \$4,000, it can be denied by the base SJA or any other settlement authority. Along the same lines, the amount claimed also does not have a bearing on what settlement authority level may pay the claim. For example, if a claim is submitted for \$3,000, the claim could be paid at any level; however, the maximum amount payable would be \$1,000 regardless of how much was claimed. Before any claim may be paid, a settlement agreement in full satisfaction of the claim is required.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

415. Use of Government Property Claims Act description

1. What is the statute of limitations for submitting a use of government property claim?
2. What claims are payable under chapter 2, AFI 51-306, *Tort Claims*?
3. Who may approve a UGPCA claim?
4. What is the maximum amount payable on a claim under the UGPCA?

4-4. All Other Claims

This section covers all other claims that were not previously covered individually. AFI 51-306, chapter 2, provides for the processing of claims that do not specifically have a claims statute or provisions under the claims instruction.

As previously covered in this course, claims personnel may not refuse to accept any claim regardless of the basis on which it is submitted; however, claims personnel may advise or direct claimants to the proper staff agency for resolution of claims matters not covered in AFI 51-306.

Claims personnel must accept, investigate, and when appropriate, refer any claims presented that are not assertable or payable under claims statutes.

416. Admiralty claims

The AFACA and Admiralty Extension Act (AEA), as implemented by AFI 51-306, chapter 2, provide for the settlement of admiralty and maritime claims in favor of or against the US.

General provisions

Admiralty claims involve property damage, personal injury, or death caused by a maritime tort by an agent or employee of the AF, or by a vessel or other property under AF jurisdiction or control. In addition, a claim may be paid for compensation for towage and salvage services, including contract salvage the claimant provides to disabled AF vessels or other property under AF jurisdiction or control. Admiralty claims will not be processed at base-level installations. Admiralty claims are forwarded to JACC (Aviation and Admiralty Law Branch) for processing. If a claim can be settled under another claims act, it must be settled under that particular statute and not the AFACA.

Claims not payable

The following outlines claims that are not payable under the AFACA or AEA:

- Claims resulting directly or indirectly from combat.
- Personal injury or death of US armed forces member incident to their service.
- Personal injury or death of federal civilian employees (including nonappropriated fund employees) incurred in the performance of their duties.
- Claims payable under the International Agreement Claims Act (IACA).

Statute of limitations

There are three different statutes of limitations covered in this area. Both admiralty claims against the US and in favor of the US are covered under the same area of AFI 51-306, chapter 2, and each type of claim has its own statute of limitations. The statute of limitations for admiralty claims in favor of the US is covered later in this section.

For claims against the US, a claimant must agree to accept a settlement, and the settlement must be approved for payment by the appropriate settlement authority within three years from the date the cause of action accrued. After this time period, there is no authority for administrative settlement of an admiralty claim. Upon receipt of an admiralty claim, or any other written expression of intent to hold the US liable in admiralty, advise the claimant or potential claimant about the statute of limitations.

Claims procedures

Investigate and process admiralty claims using the following procedures. Upon receipt of a claim, immediately notify JACC and provide:

- The names of vessels involved, and the names and addresses of the operators.
- A description of the incident and other property or vessel operations involved.
- A list of any damage, injury, or death.

Marine surveys

Immediate surveys of damage are essential in most admiralty cases in which the damage claimed is more than \$15,000 to eliminate later controversy over the property that was damaged. JACC will determine whether a commercial marine survey is needed and provide guidance. AF maritime operations are not extensive enough to require a full-time commercial marine surveyor; however, JACC can arrange with the Department of the Navy to use without reimbursement, the services of its contractor. Navy participation in AF survey matters is limited to arranging the attendance of a contract marine surveyor and confirming the arrangements with JACC.

The most readily available, qualified, military department employees conduct investigations of incidents involving damages in amounts less than \$15,000. If only government interests are involved, no survey or claims investigation is required.

Actions on Admiralty Claims	
Action by AFLOA/JACC	<ul style="list-style-type: none"> Notifies the Department of the Navy upon receiving notice of a potential admiralty claim requiring a commercial marine survey. Notifies the operator of the private vessel of the time and place of all surveys so the representatives of both the AF and the private operator can examine the damage and reach an agreement on its extent.
Action by the contracted marine surveyor	<ul style="list-style-type: none"> Surveys the extent of damage, recommends repairs, and estimates the cost. Checks the progress of the repairs to ensure only the damage resulting from the accident or incident is repaired. Sends a written survey report to the legal office investigating the claim and sends one copy to JACC.

Settlement authority

The settlement authorities for admiralty claims against and in favor of the US are listed below:

Settlement Authority	Authorized to:
SAF	<ul style="list-style-type: none"> Deny claims in any amount. Pay claims in any amount, not to exceed \$500,000. Certify to Congress the payment of any claim approved for more than \$500,000. Settle claims asserted for \$500,000 or less in favor of the US for damage to property under AF jurisdiction. Settle claims in any amount in favor of the US for salvage services the AF performs.
TJAG; Deputy, Judge Advocate General (DJAG); Director, AFLOA/JACC, and Chief, General Claims Division, JACC	<ul style="list-style-type: none"> Deny claims in any amount. Pay claims filed in any amount when payment is for \$100,000 or less. Settle claims asserted for \$100,000 or less in favor of the US Settle claims for \$10,000 or less in favor of the US for salvage services the AF performs.

Claims in favor of the United States

Admiralty claims in favor of the US are assertable when damage to property under AF jurisdiction is caused by a vessel or floating object, or of a kind that is within the admiralty jurisdiction of a federal court and compensation for towage or salvage services the AF performs. To meet the statute of

limitations requirement, the US must file a complaint within three years for tort actions and six years for contract actions. Claims in favor of the US are barred unless the complaint is filed within these time limits.

A settlement is final and conclusive when the US or claimant accepts payment. There is no right of appeal to higher authority for admiralty claims, although a denial authority can always reconsider his or her original decision.

417. Air National Guard claims

AFI 51-306, chapter 2 outlines how to settle claims against the US for noncombat activities of the ANG. The US is subject to liability for claims arising from the negligence (or noncombat activities) of ANG members acting within the scope of federal duties performed under Title 10 or Title 32 of the U.S.C.. Title 10 status is created by the issuance of federal active duty orders, while federal activities under Title 32 involve federally funded training. The US is not subject to liability for claims arising out of the activities of ANG members performing state duties (e.g., disaster response, riot control, or emergency situations).

The NGCA applies only to claims arising from noncombat activities of the ANG while in Title 32 status. It does not apply to claims based on fault or negligence or claims arising from noncombat activities while in Title 10 status; use the FTCA or the MCA, as applicable, to adjudicate those types of claims. The NGCA is similar to the MCA, except it has no provisions for fault-based claims. Like noncombat activity MCA claims, NGCA claims only require claimants to show noncombat activities caused the damages and the amount of those damages. Similarly, the NGCA limits administrative payment from AF funds to \$100,000. For claims approved for more than \$100,000, the excess is referred to the Treasury for payment. All NGCA claims arise in the US since the ANG does not conduct activities under Title 32 in foreign countries; therefore, although the NGCA does not provide a judicial remedy, an NGCA claimant may sue under the FTCA, but must show negligence as well as causation and damages.

Just as with the MCA, the NGCA bars claims for injury or death occurring incident to service.

Under Title 32, U.S.C. § 709, *Technicians: Employment, Use, Status*, ANG technicians are considered federal employees and any tort claims resulting from their activities are settled under the FTCA.

Settlement authority

Settlement authorities in ANG claims are listed below.

Settlement Authority	Authorized to:
SAF	<ul style="list-style-type: none"> • Deny claims in any amount. • Pay claims filed in any amount when payment is for \$100,000 or less. • Approve claims for payment exceeding \$100,000 by paying the first \$100,000 from AF funds and reporting the excess to the treasury for payment.
TJAG	<ul style="list-style-type: none"> • Deny claims in any amount. • Pay claims filed in any amount when payment is \$100,000 or less.
DJAG; director, AFLOA/JACC; and the chief, AFLOA/JACE (for environmental torts)	<ul style="list-style-type: none"> • Deny claims in any amount. • Pay claims filed in any amount when payment is for \$25,000 or less.

Proper and improper claimants are determined in accordance with the same guidelines as the MCA. To determine who would be a proper claimant under the NGCA, refer to the applicable paragraphs in AFI 51-306, chapter 2 and applicable title 10 statute.

Filing a claim

A claim is filed when a federal military agency receives from a claimant or duly authorized agent a properly completed SF 95 or other signed and written demand for money damages in a certain sum. Receipt of a claim by a federally recognized ANG unit constitutes receipt by the AF.

Investigations

AF legal offices investigate claims occurring within their assigned geographic area. When investigating ANG claims, obtain:

- The names and organizations of ANG members involved. The National Guard Bureau Judge Advocate (NGB/JA), or the state adjutant general can assist in identifying the ANG unit involved.
- Copies of orders, training schedules, or other documents showing the statutory status of the involved ANG members at the time of the incident.
- Scope of employment statements from the supervisors of the ANG members involved.

Amending a claim

A claimant may amend a claim at any time prior to final action. Amendments must be in writing and signed by the claimant or authorized agent.

Statute of limitations

A claim must be filed in writing within three years after it accrues. Federal, not state law, determines the time of accrual. A claim accrues when the claimant discovers, or reasonably should have discovered, the existence of the act that resulted in the claimed loss. In computing the statutory time period, exclude the day of the incident and include the day the claim was filed.

A claim filed after the statute has run will be considered if the US is at war or in an armed conflict when the claim accrues or if the US enters a war or armed conflict after the claim accrues and good cause is shown.

No claimant may file a claim more than three years after good cause ceases to exist or the war or armed conflict ends. Congress or the president establishes the beginning and end of war or armed conflict.

Procedures for the NGCA claims

Below is a claims procedures list for the NGCA regarding action on claims approved in whole or in part; action on denied claims; and action on appealed claims:

1. Action on claims approved in whole or in part:
 - a) Inform the claimant in writing of the amount approved.
 - b) Do not make payment unless it is accepted in full satisfaction. Prior to payment, have the claimant sign a settlement agreement, which accepts the offer and releases the US, its officers, agents, employees, the ANG, its members, and the respective state from further liability for the incident.
 - c) If the amount approved is not accepted, further negotiations may be conducted with the claimant; however, if the claimant fails to accept the government's offer, deny the claim.
2. Action on denied claims:
 - a) Advise the claimant in writing under what statute the claim was considered, why the claim was denied, and that:
 - i) It's a final denial.

- ii) The claimant has a right to appeal within a reasonable time.
 - iii) A reasonable time is generally considered to be 60 days following the denial.
 - iv) The claimant must send the appeal to the original settlement authority.
 - v) No form is prescribed, but the appeal should describe the reasons for the appeal and provide any additional evidence.
 - b) State that the claim has also been considered under the FTCA in those instances where suit might be filed under the FTCA, and give the formal notification that the claimant has six months after the date the letter was mailed to file suit in an appropriate US district court.
 - c) Send notice of denial by registered or certified mail, return receipt requested.
3. Action on appealed claims:
- a) When the original settlement authority denies the claim, send the file and a SAM or seven-point memorandum to JACC.
 - b) JACC may request further justification of the claim as well as an explanation from the settlement authority of its decision.
 - c) JACC notifies the claimant of its decision in writing, stating it is the final administrative action on the claim. Where suit might be filed under the FTCA, JACC states the claim has also been reconsidered under the FTCA, and the claimant has six months after the date the letter was mailed in which to file suit in an appropriate US district court.
 - d) JACC sends notice of its decision by registered or certified mail, return receipt requested.

Payments under the National Guard Claims Act

Claims approved for \$100,000 or less, per claimant, will be paid from AF claims monies. Claims exceeding \$100,000 will be paid by paying the first \$100,000, per claimant, with AF claims monies and sending the remainder to the Department of the Treasury for payment under Title 31, U.S.C. §1304, *Judgments, Awards, and Compromise Settlements*.

When an attorney represents a claimant, the voucher for payment designates both the claimant and the attorney as payees. The check is sent to the attorney whose address appears on the voucher.

418. Civil Air Patrol claims

CAP is a federally chartered, nonprofit civilian corporation, which has been designated as a voluntary civilian auxiliary of the AF. The CAP has three primary missions: 1) Aerospace education—which focuses its education on volunteer CAP members and the general public. Divided into two parts (internal and external), the aerospace education programs reach both senior and cadet CAP members and our nation's education system; 2) Cadet programs—a program that allows young people from the ages of 12–21 years of age progress through a 16-step program using aviation as its cornerstone; and 3) Emergency services—CAP members assist in many areas to include, search and rescue; disaster relief; humanitarian services; counterdrug, and AF support. The AF is authorized to provide personnel, logistics, and funding support to CAP to accomplish its corporate objectives and purposes.

By statute, the AF is authorized to use the services of CAP in fulfilling certain missions of the AF (designated as AF assigned missions). An AF assigned mission is any mission for which the AF is tasked by law or higher authority and which the AF assigns to the CAP to perform. Some of the missions may include, light transport, communications support, low-altitude route surveys, and orientation flights for AFROTC cadets. When the CAP and its members are performing AF assigned missions, they are deemed to be an instrumentality of the US for civil liability purposes.

Claims payable

AFI 51-306, chapter 2, explains how to process CAP claims arising out of the activities of CAP while performing AF assigned missions in support of the federal government. Claims for personal injury,

death, or property damage that arise from the negligent or wrongful acts or omissions of the CAP or its members are payable in accordance with the appropriate claims statute and AFI 51-306, chapter 2. When the CAP engages in activities other than AF assigned missions, it is acting as a private corporation, which is not payable.

Notice of claim

Upon receiving a claim arising out of any CAP activity, your SJA should contact HQ CAP-USAF/JA at Maxwell AFB, AL for a determination as to whether the activity in which the CAP member was engaged was an AF assigned mission. Request the following information:

- Names of CAP members involved in the incident.
- Any CAP-USAF or CAP investigative reports.
- AF mission order number or other mission identification, and the issuing authority.
- Copy of written mission authorization signed by competent authority.
- A description of the damage to real and personal property, personal injuries, or deaths.

Federal benefits

CAP senior members and CAP cadets over 18 years of age or their survivors are entitled to receive benefits under FECA for personal injury or death, and medical and burial expenses, when the injury or death arises incident to active service, or travel to or from active service involving an AF assigned mission. Such FECA claims are investigated and processed by the Department of Labor.

Proper claims

Proper claims include those in which the negligence of CAP members performing AF assigned missions causes personal injury, death, or property damage.

Improper claims

Improper claims include:

- Those arising out of CAP corporate activities.
- Claims of CAP members 18 years of age or older, whose personal injury or death is covered under FECA.
- Claims for use of privately owned property CAP or its members utilize on AF assigned missions.
- Claims for expenses CAP or its members incur while engaged in AF assigned missions.

Pro-government claims

Claims for damage to or loss of government property on loan to the CAP are processed under report of survey procedures;

419. International Agreement Claims Act

With US military in foreign countries and foreign personnel in the US, many instances arise when claims are presented under the provisions of a status of forces agreement (SOFA) or international agreement. The IACA covered in AFI 51-306, chapter 3, *Foreign Claims Act and International Agreement Claims Act*, explains how to handle these claims; however, claims personnel must be familiar with the provisions of the respective agreements prior to actually processing any documentation in regards to chapter 3 claims.

General discussion

International agreements provide an acceptable means of settling and adjudicating claims for property damage, personal injury, and death that arise when the armed forces of one country are located in the territory of another for the mutual defense of both. Title 10, U.S.C. § 2734a, *Property Loss; Personal Injury or Death; Incident to Noncombat Activities of Armed Forces in Foreign Countries*;

International Agreements, and 2734b, *Property Loss; Personal Injury or Death; Incident to Noncombat Activities of Armed Forces; Foreign Countries*, are the implementing acts for claims provisions in international agreements. AFI 51-306, chapter 3, governs AF actions in investigating, processing, and settling certain claims under international agreements. It also gives the AF foreign country claim reimbursements and payment authority under the agreed pro rata sharing arrangement.

Agreements

Ordinarily, a State Department representative, in coordination with DOD and military departments, negotiates all SOFAs and similar international agreements; however, when specifically authorized to do so by law, an executive order, or the provisions of an international agreement, a military commander may negotiate and execute an agreement with a foreign country. Commanders and JA must have specific approval from JACC before they legally obligate the US by local military-level agreements or arrangements that interpret or construe international agreements. This rule must be observed with particular care when the expenditure of appropriated funds is involved, as in settling and paying claims under the terms of an international agreement.

US military in foreign countries

Title 10, U.S.C. § 2734a applies to US forces in foreign countries when the US has a SOFA with a foreign government, and the SOFA explicitly provides for both governments to share the cost of any claim payout. Under the North Atlantic Treaty Organization (NATO) SOFA, the “receiving state” is the state receiving visiting forces and the “sending state” is the state sending forces. For NATO SOFA claims against the US arising in foreign countries, the US would be considered the sending state. These claims are adjudicated and paid by the host nation (receiving state), which sends the US a bill for its pro rata share of any claim payout.

Foreign personnel in the United States

Title 10, U.S.C. § 2734b applies to acts of foreign forces in the US when the foreign country has a SOFA with the US and the SOFA explicitly provides for both governments to share the cost of any claim payout. For NATO SOFA claims against foreign personnel in the US, the US is the receiving state. Claims are adjudicated and paid by the US as the host nation, which sends the responsible foreign country a bill for its pro rata share of any claim payout. The AF will investigate these claims to the extent they involve foreign military personnel or property on or from an AF installation, but only the Army is authorized under Department of Defense Instruction (DODI) 5515.08, *Assignment of Claims Responsibility* to pay or deny these claims. The Army has single service claims responsibility for all SOFA claims arising in the US.

When a claim arises out of AF activities in a friendly country not covered by such agreements and for which single-service claims responsibility is not assigned, claims personnel generally process claims by foreign inhabitants under the FCA.

Single-service claims responsibility

DOD Directive 5515.08 assigns single service claims responsibility under various applicable claims statutes for processing and settling claims against the US arising *in foreign countries*. Claims are settled in accordance with the regulations of the armed service which has single service claims responsibility.

The SJA responsible for claims in a geographical area where the AF has single-service claims responsibility coordinates with the receiving state’s office how claims will be investigated and processed, reviews receiving state bills to ensure all paid claims properly fall within the agreement and objects when claims do not. The SJA processes, under the FCA, tort claims arising from the conduct of US personnel while acting outside the scope of their official duties, and arranges for payment of the US pro rata share of claims. The SJA disseminates this information to all US armed forces in the country.

Investigations

Investigations are normally conducted by the service to which the foreign service member was attached. AF personnel investigate incidents arising within their geographic area of claims responsibility according to AFI 51-306, chapter 3. For example, if a NATO aircraft crashes in the US while engaging in joint training activities with the AF, the base with geographic claims responsibility will conduct the claims investigation. Generally, you'll gather any information about the foreign service member who is the alleged tortfeasor from the unit to which that individual is attached.

You may need to request permission from the foreign commander before you speak to the member or to any witnesses who are foreign service personnel or dependents.

Processing

If you are stationed in a foreign country and a claimant tries to present an international agreement claim to your office, direct the person to the appropriate receiving state. You should be informed of places where third parties can file such claims when you arrive in the country. If you actually receive a claim, send it to the US sending state office with responsibility for that country, which will then forward it to the appropriate receiving state.

For claims arising in the US, claimants may file tort claims arising from the acts or omissions of the military or civilian of another SOFA contracting party at any AF legal office. The installation with claims jurisdiction over the area where the incident arose will investigate the claim and prepare a claim file. The claim is then sent to JACC for review, and they will forward it to the US Army Claims Service for adjudication.

Excluded claims

Although not specifically mentioned in the NATO SOFA, the US excludes certain claims from payment because the implementing legislation for US cost sharing SOFAs, the International Agreement Claims Act, does not provide a means for payment. For example, claims caused by US enemy actions or actions of US forces in combat are excluded, as are torts committed by contractor personnel (unless the US is otherwise legally liable under receiving state law). Be proactive if you have foreign personnel stationed on your installation. Be sure the members or employees of the unit know about pertinent state laws, including any requirement for reporting vehicle accidents and furnishing proof of financial responsibility. Advise them that any incidents resulting in property damage or personal injury must be reported to the base legal office immediately, whether the incident arises within the scope of employment or not (the NATO SOFA has a provision that each country will consider paying non-scope claims).

420. Foreign Claims Act

The FCA, as outlined in AFI 51-306, chapter 3, is designed to promote and maintain friendly relations with foreign countries and their inhabitants by paying claims for death, personal injury, or property damage, caused by the negligent or wrongful acts of military members or civilian employees of the US armed forces, or arising out of noncombat activities of such forces. The incident forming the basis of the claim must arise in a foreign country and the claimant must be a foreign inhabitant. A claim under the act must be filed in writing (or orally if based on local custom) within three years after it accrues. It accrues after the claimant discovers or reasonably should have discovered the existence of the act that resulted in the loss or injury. War or armed conflict does not toll the statute of limitations. When computing the statutory period, you exclude the date of the incident and include the date the claim is filed.

Scope of employment

Settlement authorities may pay a claim even if an injury results from a criminal act clearly outside the scope of employment. Exception: Do not pay claims arising outside the scope of employment resulting from the acts of local hire civilian employees, whether those persons are indigenous or US

citizens; however, a claim arising from the operation of US armed forces vehicles or other equipment by local hire civilian employees are payable, provided the employer or owner of the vehicle or equipment would be liable under local law in the circumstances involved.

Settlement authority

Under the FCA, only Foreign Claims Commissions (FCC) or SAF may settle claims. In the AF, settlement authority for claims under the FCA is delegated from the SAF, through different levels, down to the SJA of an individual base. The SAF may deny or approve claims for any amount, but claims approved for more than \$100,000 are reported to the Department of the Treasury for payment.

Payments under the FCA are *ex gratia* (out of grace), and are within the discretion of the SAF or designee.

Foreign Claims Commission

The purpose of the commission is to promptly settle meritorious claims in foreign countries where US armed forces personnel are assigned. AFI 51-306, covers FCCs, as shown below.

Settlement Authorities	Authorized to:
TJAG, DJAG, and Director, AFLOA/JACC	<ul style="list-style-type: none"> Deny claims in any amount. Pay claims filed in any amount when payment is for \$100,000 or less.
Chief, AFLOA/JACC and Chief, Foreign Claim and General Torts Branch	<ul style="list-style-type: none"> Deny claims in any amount. Pay claims filed in any amount when payment is for \$50,000 or less.
SJAs of PACAF, USAFE, 9AF (for USCENTCOM), Air Force Space Command (AFSPC) (for Greenland and Canada), and Air Force Special Operations Command (AFSOC) (for the United States Special Operations Command (USSOCOM))	<ul style="list-style-type: none"> Deny claims for \$50,000 or less. Pay claims filed in any amount when payment is for \$50,000 or less.
SJAs of NAFs in PACAF and USAFE; the SJA of 12AF (for South America, Central America, and the Caribbean); and the SJAs of Lajes Field, Azores, Patrick AFB, FL	<ul style="list-style-type: none"> Deny claims of \$50,000 or less. Pay claims filed in any amount when payment is for \$25,000 or less.
SJAs of Air Force bases in PACAF, USAFE, and 9AF (for USCENTCOM)	<ul style="list-style-type: none"> Deny claims of \$25,000 or less. Pay claims filed in any amount when payment is for \$25,000 or less.
NOTE: Any settlement authority mentioned in the above table may appoint in writing one or more subordinate judge advocates or civilian attorneys as FCCs.	<ul style="list-style-type: none"> Deny claims of \$25,000 or less. Pay claims filed in any amount when payment is for \$25,000 or less.

Claims procedure

An FCC takes final action on all claims where the amount claimed or the settlement is within its delegated settlement authority. If the claim is outside a particular settlement authority, it is forwarded to the appropriate next higher authority. When the FCC takes final action on the claim, it notifies the claimant in writing and explains its decision.

The following outlines FCC responsibilities:

- Follows the law, customs, and standards of the country where an incident occurred. Several exceptions may apply; seek guidance from applicable instructions and JACC.

- Initiates or requests further investigation of any claim.
- Negotiates with the claimant for settlement of the claim within its settlement authority and expresses in its memorandum opinion, any award in the currency of the country where an incident occurred or where the claimant resides, noting the approximate US dollar equivalent and the rate of exchange.
- Explains in the memorandum opinion any differences between the amount allowed and the amount claimed, applicability of local law, including allowable elements of damages, and reasons for disapproval of a claim in whole or in part.
- Prepares the settlement agreement when it approves a claim. Any amount paid must be accepted by the claimant as full satisfaction of the claim. When resources permit, the FCC will have the letter of notification and settlement agreement translated into the language of the claimant.
- Claims are adjudicated, approved, and paid in the currency of the country where the incident occurred. An exception to this rule is if a claimant is a foreign inhabitant of another country, then payment may be made in the country of the claimant's residence or in some other currency in exceptional circumstances. Do not pay in a currency other than that of the country where the incident occurred without permission of JACC. In addition, do not approve claims in a foreign currency equivalent of the US dollar on the date of exchange without permission of JACC.

Actions taken by higher level FCCs or SAF are normally communicated to the claimant through the local FCC. In those instances where the claim was initially processed by an organization other than the FCC taking final action (e.g., a base legal office or a United States Embassy), the FCC forwards the letter through that organization.

When the SAF approves payment for over \$100,000, JACC prepares and transmits a settlement agreement to the claimant, through the FCC. JACC states in the letter transmitting the settlement agreement the AF will make a partial payment, which is the equivalent of \$100,000, and the remainder of the payment will follow.

After receiving a properly signed settlement agreement, JACC pays the claimant the equivalent of \$100,000 in the currency of the claimant's country and obtains payment of the remainder from the Judgment Fund. In order to obtain payment from the Judgment Fund, the FCC must return a copy of the paid voucher for the initial \$100,000 payment to JACC.

421. Medical malpractice claims

You may deal infrequently with medical malpractice claims; however, you should be familiar with the processing times and procedures for handling them.

Guidelines

AFI 51-306, chapter 1, pertains to the notification, reporting, investigating, and processing of medical malpractice claims against the AF. Together with AFI 44-119, *Medical Quality Operations*, and AFI 51-302, *Medical Law*, they outline the responsibilities of the claims officer and medical law consultant (MLC) in processing such claims. AFLOA/JACC investigates, adjudicates, and settles all medical malpractice claims arising within the US. At USAFE and at PACAF bases outside of the 50 states, base legal offices investigate medical malpractice claims and forward the claims files to the medical law branch for final action. The maximum amounts payable on these claims are the same as on other claims submitted under the appropriate chapter. All claims must be sent to JACC for final action after completion of their investigation; however, installation SJAs in USAFE and PACAF (those bases outside the 50 states) may be authorized by JACC to pay these claims within their settlement authority.

Medical law consultants

MLCs are part of the MLFSC within JACC, which was created in 2008 under an agreement between TJAG and the AF Surgeon General. MLCs are supervised and rated by the MLFSC chief. They are JAGs stationed at eight AF MTFs, in the office of the USAFE/SG, and in the medical education and training campus at Fort Sam Houston, Texas. They provide medical legal services to the MTF/CC and staffs of the facility to which they are assigned and to MTF/CCs within their regions either directly or through reach-back by base SJAs. Further background, organization, and substantive responsibilities of this program are outlined in AFI 51-302.

Processing

At bases within the 50 states, upon receipt of a properly filed medical malpractice claim, the base claims officer notifies JACC and emails a copy of the SF 95, and any supporting documentation submitted by the claimant (unless the amount of documentation is prohibitive). At bases in USAFE and in PACAF (excluding Hawaii or Alaska), the base legal office completes a factual investigation of the claim and thoroughly researches the applicable law. Base legal office personnel then prepare a seven-point memorandum and forward the file on a compact disc (CD) to JACC within 75 days of the filing of the claim to obtain a medical review of the case.

Many medical malpractice claims eventually result in litigation in the federal courts. A carefully prepared file and a professionally competent opinion often make the difference between a judgment for the US or for the plaintiff.

422. Real estate claims

You may not receive real estate claims often in your legal office or you may be at a location that processes them quite frequently. In either circumstance, you should be familiar with how to process real estate claims.

Guidelines

DOD civilians who have been authorized a transfer could be eligible to file a claim against the government for reimbursement of expenses incurred. Reimbursement is limited to a maximum of 10 percent on sale price and 5 percent on purchase price and is allowed when old and new permanent duty station (PDS) are in the US or a non-foreign OCONUS area. Expenses incurred incident to the following transactions reimbursable are:

- sale of a residence;
- settlement of an unexpired lease involving;
 - The residence, or
 - A lot on which a mobile home used as a residence was located at the old PDS; and/or
- purchase (including construction) of a residence at the new PDS, after the employee has signed the required service agreement, and met the requirements in accordance with (IAW) the Joint Travel Regulation (JTR) Procedures

Real estate claims are not submitted directly to the legal office, but instead will be brought to you from the civilian personnel section office for a legal review to be accomplished. Your first step in the legal review is to determine if the claim filed is an eligible claim. To determine this, you will need to verify the following:

- Is a PCS authorized/approved and are the old and new PDSs located in CONUS/non-foreign outside the continental United States (OCONUS) areas?
- Is the dwelling at the old PDS the employee's ACTUAL residence when informed that transfer to a new PDS was definite? (Use date orders issued and compare to title document, i.e. deed, to see how long person claiming selling costs owned property).

ACTUAL residence is the one from which the employee regularly commutes to and from work on a daily basis.

- Is the settlement for the sale, purchase, or lease termination transaction no later than one year from the employee's transfer effective date (or was an extension granted by the funding activity's commanding officer/designee)?
- Is the *Real Estate Expenses* box checked in block 16 on the employee's orders (DD Form 1614, Request/Authorization for DOD Civilian Permanent Duty or Temporary Change of Station (TCS) Travel)?
- Is the settlement date for the sale, purchase, or lease termination transaction **AFTER** the transfer to a new PDS definite? (Use date orders issued).

NOTE: There are exceptions for base closure announcements.

If you conclude the claim filed is an eligible claim, you then need to look at the expenses claimed. Expenses can be broken down into reimbursable and non-reimbursable expenses.

Any reimbursable expenses need to be incurred and paid by the claimant. If any expenses were shared between the buyer and seller, reimbursement is limited to the portion that the employee claiming reimbursement *actually* paid.

Reimbursable expenses

- **Broker's Fees or Real Estate Commission.** A broker's fee/real estate commission for services in selling the residence is reimbursable, but not in excess of rates generally charged for such services in the old PDS locality.
- **Other Advertising and Selling Expenses.** Costs of newspaper, bulletin board, multiple-listing services, or other advertising for residence sale at the old PDS are reimbursable if the employee has not paid for such services in the form of a broker's fee or real estate agent's commission. Customary costs of appraisal also are reimbursable.
- **Legal and Related Costs.** The following expenses may be reimbursable in a residence sale and purchase. These expenses are payable to the extent they do not exceed amounts customarily charged in the residence locality:
 - Searching title, preparing abstract and legal fees for a title opinion, or where customarily furnished by the seller, the cost of a title insurance policy;
 - Preparing conveyances, other instruments, and contracts;
 - Related notary fees and recording fees;
 - Making surveys, preparing drawings when required for legal financing purposes; and
 - Similar expenses.
- **Miscellaneous Expenses**
 - Federal Housing Administration (FHA) or Veterans Administration (VA) fee for a loan application.
 - Loan origination fees and similar charges such as loan assumption fees and loan transfer fees.
 - Cost of preparing credit reports.
 - Mortgage and transfer taxes.
 - State revenue stamps.

Other fees and charges similar in nature to those listed above, unless specifically prohibited in the JTR.

Non-reimbursable Items

Owner's title insurance policy, "record title" insurance policy, mortgage insurance or insurance against loss or damage of property, and optional insurance paid for by an employee in coordination with (ICW) the purchase of a residence for the employee's protection;

- Interest on loans, points, and mortgage discounts.
- Property taxes.
- Operating or maintenance costs.
- Expenses that result from residence construction; and VA funding fee.

Finalizing the claim

After the costs claimed have been determined to be reimbursable or not reimbursable, type up a legal review. You must include whether the claim was eligible or not, the reasons why the expenses may not be paid, and cite the JTR. Once the legal review has been accomplished, forward the entire real estate claims package, including the signed legal review, back to the civilian personnel section office. They will then notify the claimant of the amount to be reimbursed, if any, and payment processing if applicable.

423. Final claims processing procedures

Awards of \$2,500 or less are paid from AF claims funds using an SF 1034, Public Voucher for Purchases and Services Other than Personal. When a claimant is represented by an attorney, the voucher for payment designates both the claimant and the attorney as payees, using the attorney's address. The settlement agreement with the claimant and attorney must contain the social security Account Number (SSAN) of both the claimant and attorney, should have information concerning an EFT to the attorney, and the dollar amount of attorney's fees the attorney receives from the settlement.

For claims approved for payment in excess of \$2,500 (FTCA) and claims in excess of \$100,000 (MCA, NGCA, or FCA), the following documents are forwarded to the Department of the Treasury:

- Fiscal Service (FS) Form 194, Judgment Fund Transmittal.
- FS Form 196, Judgment Fund Award Data Sheet.
- FS Form 197, Judgement Fund Voucher for Payment. The voucher must contain the payee's taxpayer identification number (SSN for individuals). If an attorney represents the claimant, the voucher must contain the taxpayer identification numbers of both the claimant and the attorney. A fund cite is not provided.
- SFs 95 (or other written demand).
- Two signed originals of the settlement agreement. If an attorney represents the claimant, the settlement agreement must state that attorney's fees will not exceed 20 percent of the settlement amount per Title 28, U.S.C. § 2672, *Administrative Adjustment of Claims*, or 25 percent of the settlement amount per 28 U.S.C. 1346(b).
- A cover letter stating the officer signing the payment voucher has the requisite authority to act under the provisions of the FTCA.
- When appropriate, evidence of authority of any agent to act on the claimant's behalf (power of attorney, court order, etc.) is forwarded.
- Written approval of the US attorney general or designee when the payment exceeds \$300,000.

The Armed Forces Claims Information Management System

Although you will not learn how to use the Armed Forces Claims Information Management System (AFCIMS) within this career development course (CDC), you need to be familiar with what AFCIMS is and what it is used for; as you will use this system when adjudicating and transferring tort claims

within your office's settlement authority. The AFCIMS is your primary claims management tool. The many features of AFCIMS allows you to gather data and adjudicate claims in a timely manner.

The majority of bases have now moved to a web-based version of AFCIMS (WebAFCIMS), which functions much the same as the old AFCIMS. Regardless of what version your base office uses, you will need to be proficient at using the system in order to efficiently process and/or transfer tort claims.

Self-Test Questions

After you complete these questions, you may check your answers at the end of the unit.

416. Admiralty claims

1. What is the remedy for a claim under the AFACA that is filed past the statute of limitations?
2. Upon receipt of an admiralty claim, who should be notified?
3. What is the Navy's participation in an AF admiralty claims survey?
4. What is the maximum amount payable by the SAF on an admiralty claim without certification to Congress?
5. What is the maximum amount payable by TJAG on an admiralty claim?

417. Air National Guard claims

1. What is the maximum payable on an ANG claim without referral to the Treasury for payment?
2. How is the statutory time period for filing computed?
3. Before payment of an NGCA claim, what must the claimant do?
4. What action may be taken by a claimant who is dissatisfied with the denial of their claim under the NGCA?

418. Civil Air Patrol claims

1. When are the CAP and its members deemed to be an instrumentality of the US?
2. What CAP claims are payable under AFI 51-306, chapter 2?
3. How are claims for damage to or loss of government property on loan to CAP processed?

419. International Agreement Claims Act

1. Before commanders and JA legally obligate the US by local military agreements, what action must be taken?
2. Explain the terms “receiving state” and “sending state.”
3. What agency has single service claims responsibility for all SOFA claims arising in the US?
4. What should you do if stationed in a foreign country and you are approached by an individual who is an inhabitant of a foreign country who wants information about filing a claim?
5. If stationed in a foreign country, what should you do if you actually receipt for a claim in your office from a member who is an inhabitant of a foreign country?
6. What types of incidents are excluded from payment by the IACA?

420. Foreign Claims Act

1. What is the Foreign Claims Act designed to do?

2. When may a claim be filed orally under the Foreign Claims Act?
3. What is the purpose of the Foreign Claims Commission?
4. In what currency does the Foreign Claims Commission pay the claimant?
5. In order to obtain payment from the Judgment Fund, what action must the Foreign Claims Commission take?

421. Medical malpractice claims

1. What agency investigates, adjudicates, and settles all medical malpractice claims arising within the US?
2. What services do medical law consultants provide?
3. After an investigation of a medical malpractice claim is completed, who prepares the seven-point memorandum?

422. Real estate claims

1. What is the first step you must accomplish when a real estate claim is received by the legal office?
2. What are considered non-reimbursable real estate claim expenses?

423. Final claims processing procedures

1. When a claimant is represented by an attorney, what must be designated on the voucher for payment?

2. What forms are used to pay a Federal Tort Claims Act claim filed for \$26,000 and approved in full?

Answers to Self-Test Questions

413

1. For property that AF military personnel willfully damage or wrongfully take, if the claim results from riotous, violent, or disorderly conduct.
2. Any four of the following:
 - (1) Claims resulting from simple negligence.
 - (2) Claims for personal injury or death.
 - (3) Claims resulting from acts or omissions of military personnel while performing legally authorized duties.
 - (4) Claims of subrogees.
 - (5) Claims arising from private indebtedness.
 - (6) Claims for reimbursement for bad checks.
3. The commander sends the complaint and any documentary evidence relative to it to the next superior authority in the chain of command having SPCM authority.
4. To the appointing commander, through the SJA.
5. No.
6. An Article 139, UCMJ, claim.

414

1. AAFES and its sub-facilities, but not concessionaires; Officers', NCO, and Airmen's clubs; golf facilities and swimming pools.
2. Commissary, Air Force Aid Society, and the American Red Cross.
3. Claims arising out of the operation of a NAFI activity caused by military personnel or appropriated fund civilian employees performing assigned AF duties, even though they benefit a NAFI activity; claim of NAFI employees for personal injury or death arising out of the performance of their duties; claims arising out of activities of AF volunteers; claims that NAFI concessionaires or other contractors cause; claims arising out of the activities of private organizations; and claims arising out of NAFI activities involving contract disputes, dishonored checks, debts to NAFIs, or third party workers' compensation claims.

415

1. Three years from the date it accrues.
2. Claims payable under UGPCA are:
 - (1) The claim is for property damage, personal injury, or death. Payment for personal injury or death claims is limited to costs of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid by the US.
 - (2) The damage, injury, or death was caused by a military member or civilian employee of the AF, whether acting within or outside the scope of employment.
 - (3) The damage, injury, or death was a result of the use of a government vehicle at any place or from the use of other government property on a government installation.
 - (4) The claim is not payable under any other provision of law except Article 139, UCMJ.
3. The chief and branch chiefs, AFLOA/JACC; the SJAs of 3AF, 5AF, AFSOC (for USSOCOM), and 9AF (for USCENCOM); and the SJAs of each AF installation.
4. \$1,000.

416

1. There isn't any remedy. The claimant must settle with the AF within three years from the date the cause of action arises. After this time period, there is no authority for administrative settlement of an admiralty claim.
2. JACC.
3. It is limited to arranging the attendance of a contract marine surveyor and confirming the arrangements with JACC.
4. \$500,000.
5. \$100,000.

417

1. \$100,000.
2. Exclude the day of the incident and include the day the claim was filed.
3. Sign a settlement agreement.
4. The claimant can appeal within a reasonable time, normally within 60 days after denial.

418

1. When the CAP and its members are performing AF assigned missions, they are deemed to be an instrumentality of the US for civil liability purposes.
2. Claims for personal injury, death, or property damage that arise from the negligent or wrongful acts or omissions of the CAP or its members during activities related to AF assigned missions.
3. Under report of survey procedures.

419

1. They must have specific approval of JACC.
2. Under the NATO SOFA, the "receiving state" is the state receiving visiting forces and the "sending state" is the state sending forces.
3. The Army.
4. Direct the person to the appropriate receiving state.
5. Send it to the US sending state office with responsibility for that country, which will then forward it to the appropriate receiving state.
6. Claims caused by US enemy actions or actions of US forces in combat and torts committed by contractor personnel.

420

1. Promote and maintain friendly relations with foreign countries and their inhabitants by paying claims for death, personal injury, or property damage, caused by the negligent or wrongful acts of military members or civilian employees of the US armed forces, or arising out of noncombat activities of such forces.
2. If based on local custom.
3. Promptly settle meritorious claims in foreign countries where US armed forces personnel are assigned.
4. In the currency of the country where the incident occurred.
5. The FCC must return a copy of the paid voucher for the initial \$100,000 payment to JACC.

421

1. AFLOA/JACC.
2. Medical legal services to the MTF/CC and staffs of the facility to which they are assigned and to MTF/CCs within their regions either directly or through reach-back by base SJA.
3. Base legal office personnel.

422

1. Determine if the claim is eligible.

2. Owner's title insurance policy, interest on loans, points, and mortgages, property taxes, operation or maintenance cost, expenses that result from residence construction or VA funding fee.

423

1. The voucher for payment designates both the claimant and the attorney as payees, using the attorney's address.
2. FS Forms 195, 196, and 197a, and SF 95(if another written demand is not used in place of the SF 95).

Student Notes

Glossary

Terms

appeal—In regard to claims, this is a rebuttal submitted by a claimant to the approving or reviewing authority, setting forth the claimant's dissatisfaction with the settlement of a claim and the reasons why a larger settlement should be made. There is no appeal right for every type of claim.

appropriated funds—Money allotted by Congress for a specific purpose (e.g., your paycheck). Appropriated funds can only be spent for the purpose for which Congress allotted the funds.

borrowed property—Property borrowed from others (e.g., if one airman borrowed a suitcase from another to transport personal property while on TDY and the suitcase was damaged or lost en route, the borrower would be the proper claimant).

civilian component—Civilian personnel accompanying a force of a contracting party, employed by an armed service of that contracting party and not stateless persons, nationals of a State not party to the North Atlantic Treaty, or nationals of or ordinarily residents in the State in which the force is located (reference International Agreement Claims).

civilian personnel—Civilian employees of the Air Force (from appropriated funds); may include prisoners of war and interned enemy aliens engaged in labor for pay, volunteer workers, and others serving as employees of the Air Force without compensation.

claim—A written and signed demand (oral, in some instances) for or against the United States or the Air Force for a sum certain (specified amount of money).

claimant—An individual, partnership, association, corporation, country, state, territory, or other political subdivision, or the District of Columbia. The United States government or any of its agencies may be a claimant in tort, carrier recovery, and hospital recovery claims.

combat activities—Damages resulting from action by the enemy or by the US armed forces engaged in or in immediate preparation for impending armed conflict.

comparative negligence—Some states apply the rule of comparative negligence. This provides that when both parties are at fault, recovery is limited to that portion which was caused by the other party, and the claimant would not collect that portion of the damages that could be attributed to his or her own actions.

compromise—To agree to accept an amount less than the actual amount due the United States on a claim. Compromise of claims is only authorized under certain conditions.

contributory negligence—When the party presenting a claim contributed to the cause of the accident, even though both parties were at fault. In some states, the fact that the claimant was contributory negligent would bar recovery.

counterclaim—When a claim is presented against a party who has already presented a claim. An example would be when an insurance company presents a claim against the Air Force. After you investigate, it is determined that the insurance company is liable rather than the United States, so you would present a counterclaim against the insurance company.

debtor—An individual, partnership, association, corporation, or government body not an instrumentality of the United States, against whom the United States has a claim.

depreciation—A loss in value resulting from deterioration, usage, age, and so forth. As used in claims, it is applied to an item based on age or condition of the property. Depreciation is applied at a rate prescribed in the depreciation table.

ex gratia—Out of grace; as a matter of grace, favor, or indulgence; gratuitous. A term applied to anything accorded as a favor but not based upon any legal obligation. For example, the Military Claims Act and the Foreign Claims Act provide ex gratia remedies.

exception—A notation made by persons receiving custody of a shipment of household goods of the condition of the items at the time of receipt. These exceptions may be listed on DD Form 1840 at delivery or DD Form 1840R (reverse of 1840) after delivery.

force—In regard to international agreement claims, force is defined as the personnel of the land, sea, or air armed services of one contracting party, in the territory of another contracting party in the North Atlantic Treaty area, in connection with their official duties.

government bill of lading (GBL)—The written evidence of a contract for the movement and delivery of goods. Transportation officers issue it on behalf of the United States.

household goods (HHG)—Furniture and furnishings or equipment; clothing; baggage; personal effects; professional books, papers, and equipment; and other personal property associated with the home and person.

independent contractor—Generally, one who, in exercise of an independent employment, contracts to do a piece of work according to his own methods and is subject to his employer's control only as to end product or final result of his work.

injured party—In relation to hospital recovery claims, the person (or guardian, personal representative, estate, dependents, or survivors) who received medical care for injury suffered or disease contracted through a tortious act of a third party. In relation to other claims, it is the person whose injury gave rise to the claim.

inventory—A document used by commercial carriers to list items of household goods in cartons, barrels, or boxes, and listed as one item on the inventory.

joint liability—When two or more debtors are jointly liable and also individually liable.

litigation—A contest in a court of law for the purpose of enforcing a right.

measure of damages—The rule, or system of rules, governing the adjustment or apportionment of damages as a compensation for injuries in actions at law.

military personnel—Individual uniformed members of the US armed forces assigned to units performing active duty service.

nonappropriated fund instrumentalities (NAFI)—Activities that are not supported by appropriated funds (i.e., base exchanges, base exchange service stations, and officer, NCO, and airman clubs. Claims against nonappropriated fund activities will not be paid from appropriated funds but rather from the funds of those particular activities or their insurers.

noncombat activities—Authorized activities that are peculiarly military activities with little parallel to civilian pursuits. This would include flights by supersonic aircraft creating sonic booms.

nontemporary storage (NTS)—Long-term storage (normally in excess of 180 days) that the Air Force provides through the Basic Ordering Agreement or in government facilities at CONUS water ports.

proximate cause—The primary cause of the loss or damage, without which the damage would not have happened. Proximate cause is a term of legal art. If in doubt, consult an attorney.

real property—Land and whatever is or growing upon or affixed to land.

receiving state—In relation to international agreement claims, it is the state in which the foreign force is stationed—the host country. An example is Germany where American forces are stationed; Germany is the receiving state.

scope of employment—When Air Force military or civilian personnel act, when expressly or implied, directly or authorized by competent authority.

sending state—In relation to international agreement claims, the sending state is the contracting party or country to which the visiting force belongs. An example is again Germany, where American service members are stationed; the United States is the sending state.

settle—To consider, ascertain, adjust, determine, compromise, and dispose of a claim, by approval or disapproval, in whole or in part.

settlement agreement—An agreement or decision by the Air Force to accept or pay a specified amount of money to finally complete a claim or to reject or deny a claim to finally complete it.

sovereign immunity—An exemption that precludes bringing a suit against the sovereign government without the government's consent.

subrogation—Subrogation occurs when a claim has been paid by an insurer, the United States or other person, and the person that was paid agrees for the payer to file a claim against the legally liable person in order to recover the monies spent (i.e., subrogate against the carrier to recover the carrier's liability for damages to the military member's household goods).

statute of limitations—A law limiting the period of time within which legal action can be taken. In claims, this is the period of time within which an individual has to present a claim against the United States or the United States to present a claim against a debtor.

tender of service—A carrier's offer to do business with DOD, including the terms and conditions of the agreement. The Personal Property Traffic Management Regulation, found in DOD Regulation 4500.34-R, Appendix A, contains this agreement.

third party—An individual, partnership, association, corporation (including insurance carriers), or other entity that is indebted to the United States for medical care provided to an eligible beneficiary.

tort—Any private or civil wrong by act or omission for which a civil suit can be brought, but not including breach of contract.

tortfeasor—One who commits or is guilty of a tort.

Abbreviations and Acronyms

AAFES	Army and Air Force Exchange Service
AEA	Admiralty Extension Act
AF	Air Force
AFACA	Air Force Admiralty Claims Act
AFCIMS	Armed Forces Claims Information Management System
AFCSC	Air Force Claims Service Center
AFI	Air Force instruction
AFIF	Air Force Industrial Fund
AFJAGS	Air Force Judge Advocate General's School
AFLOA	Air Force Legal Operations Agency
AFLOA/JACC	Air Force Legal Operations Agency Claims and Tort Litigation Division
AFLOA/JACE	Air Force Legal Operations Agency Environmental Law and Litigation Division
AFMAN	Air Force manual
AFOSI	Air Force Office of Special Investigations
AFR	Air Force Reserve
AFROTC	Air Force Reserve Officer Training Corps
AFSOC	Air Force Special Operations Command
AFSPC	Air Force Space Command
AFSVA	Air Force Services Agency
AFSVA/SVL	Air Force Services Agency, Office of Legal Counsel
AIB	accident investigation board
ANG	Air National Guard
ASAP	as soon as possible
ATC	air traffic control
CAP	Civil Air Patrol
CAT	crisis action team
CC	commander
CD	compact disc
CDC	career development course
CDI	commander directed investigation
CONUS	continental United States
CR	carrier recovery
CSC	claims service center

CUI	controlled unclassified information
DAF	Department of the Air Force
DD Form	Department of Defense form
DeCA	Defense Commissary Agency
DFAS	Defense Finance and Accounting Service
DITY	do-it-yourself
DJAG	Deputy, Judge Advocate General
DOD	Department of Defense
DODDS	Department of Defense Dependent School
DODI	Department of Defense instruction
DOJ	Department of Justice
DPS	Defense Personal Property System
DRF	disaster response force
DRU	direct reporting unit
ECC	emergency communications center
EFT	electronic funds transfer
EOC	emergency operations center
EOD	explosive ordnance disposal
ESF	emergency support function
FAA	Federal Aviation Administration
FCA	Foreign Claims Act
FCC	Foreign Claims Commission
FECA	Federal Employees' Compensation Act
FHA	Federal Housing Administration
FLITE	federal legal information through electronics
FOA	field operating agency
FOIA	Freedom of Information Act
FS	Fiscal Service
FSC	field support center
FTCA	Federal Tort Claims Act
GAO	Government Accountability Office
GBL	government bill of lading
GCM	general court-martial
HHG	household goods
HIPAA	Health Insurance Portability and Accountability Act

HQ	headquarters
HR	hospital recovery
IACA	International Agreement Claims Act
IAW	in accordance with
IC	incident commander
ICC	installation control center
ICW	in coordination with
JA	judge advocate
JAG	judge advocate general
JROTC	Junior Reserve Officer Training Corp
JTR	Joint Travel Regulation
LRS	logistics readiness squadron
MAA	mutual aid agreement
MAJCOM	major command
MCA	Military Claims Act
MFR	memorandum for record
MLC	medical law consultant
MLFSC	Medical Law Field Support Center
MOA	military operating area
MPCECA	Military Personnel and Civilian Employees' Claims Act
MSG	mission support group
MTF	military treatment facility
MTR	military training route
MWR	morale, welfare, and recreation
NAF	Nonappropriated fund; numbered air force
NAFI	nonappropriated fund instrumentality
NATO	North Atlantic Treaty Organization
NCO	Noncommissioned officer
NGB/JA	National Guard Bureau Judge Advocate
NGCA	National Guard Claims Act
NRP	National Response Plan
OCONUS	outside the continental United States
ONS	Online News Service
OTJAG	Office of the Judge Advocate General
PA	Privacy Act; public affairs
PACAF	Pacific Air Forces

PCS	permanent change of station
PDS	permanent duty station
PED	preexisting damage
POC	point of contact
POV	privately owned vehicle
QA	quality assurance
SAM	summary adjudication memorandum
SAF	Secretary of the Air Force
SF	standard form, security forces
SFS	security forces squadron
SJA	staff judge advocate
SME	subject matter expert
SOFA	status of forces agreement
SPCM	special court-martial
SPCMCA	special court-martial convening authority
SSAN	Social Security Account Number
TCS	temporary change of station
TDY	temporary duty
TIC	toxic industrial chemicals
TIM	toxic industrial materials
TJAG	The Judge Advocate General
TMO	traffic management office
UCC	unit control center
UCMJ	Uniform Code of Military Justice
UGPCA	Use of Government Property Claims Act
US	United States
USAF	United States Air Force
USAFCENT	United States Air Force Central Command
USAFE	United States Air Forces in Europe
U.S.C.	United States Code
USCENTCOM	United States Central Command
USSOCOM	United States Special Operations Command
VA	Veteran Affairs
VISF	vehicle inspection shipment form
WebAFCIMS	Web Armed Forces Claims Information Management Systems

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