

**A Staking a Claim:
A Guide for Establishing a Government Property Affirmative Claims Program**

*Major Mary N. Milne**

Introduction

As a new judge advocate (JA) in the claims division, you are eager to learn your job and make a significant contribution to the organization. The civilians working in the office have been in their positions for a very long time and are experienced, knowledgeable, dedicated, and hardworking. They need little supervision and you are not sure how you will be able to positively affect this operation.¹ Determined to find a niche, you stumble upon a type of claim that no one appears to be pursuing actively—Government property affirmative claims.² Finally, an opportunity exists to stake your claim,³ establish a new program, and make a lasting contribution.

Government property affirmative claims (property claims)⁴ are claims asserted on behalf of the Government against tortfeasors for damage to Government property.⁵ As a custodian of Government property, the U.S. Army has not only a statutory right, but also a duty to recover for damage to Government property.⁶ In fiscal year 2011, U.S. Army claims offices asserted 715 property claims totaling almost \$1.9 million. Although this figure gives the impression that the Army has an active property claims program, a further breakdown of asserted property claims reveals that most of the claims came from just a few offices. Only four claims offices asserted more than ten property claims; many asserted none.⁷ Did offices that asserted few or no property

claims not assert claims because there simply were few incidents of damage to Government property on their installations? Or, was it because property claims are too difficult to assert and presumably not worth the time and effort? The likely problem is that claims personnel are unaccustomed to asserting this type of claim and therefore rarely do.

Skim your installation's daily military police report (blotter) on any given day and you likely will find an incident involving damage to Government property. You might read about a contractor who lost control of his vehicle and brought down a chain-link fence, a Soldier who damaged protected wetlands while joyriding in a training area, a rowdy civilian who broke a window at the post club, or some minors who vandalized a building. All of these incidents involve a potential property claim.

With just a minimal investment of time and effort—and a dose of enthusiasm—you can assert a claim against these individuals for damaging Government property. As a claims JA, it is your responsibility to hold tortfeasors accountable for their acts while at the same time putting money back into the government's coffers.⁸ Developing an active property claims program will fortify your relationships around the installation and enhance the image of your office and that of your Office of the Staff Judge Advocate (OSJA).⁹ Once a framework is established, you can expand your program into a conspicuous recovery operation and make a lasting contribution to your office and the installation.

This article provides a claims JA with a simple guide for establishing a property claims program. It begins by laying out the statutory authority for property claims programs and then discusses the current state of programs in U.S. Army claims offices while suggesting why most claims offices do not have an established program. This article then guides the claims JA through the planning and implementing of a property claims program by concentrating on a type of claim

* Judge Advocate, U.S. Army. Presently assigned as Officer in Charge, U.S. Forces-Afghanistan Det. Reach Back, Al Udeid Air Force Base, Qatar.

¹ Colonel R. Peter Masterton, *Claims Report, U.S. Army Claims Serv.: Claims Office Mgmt.*, ARMY LAW., Sept. 2011, at 48.

² Affirmative Claims Management Program, JAGCNET, <https://www.jagcnet2.army.mil/8525768E0070D086/MainPageDefault?OpenForm> [hereinafter ACMP] (last visited Jan. 9, 2013).

³ The idiom to “stake a claim” comes “from the idea of marking land that is not owned by someone with stakes . . . to show it is yours.” *Stake a Claim Definition*, THEFREEDICTIONARY, <http://idioms.thefreedictionary.com/stake+a+claim> (last visited Feb. 15, 2012).

⁴ Government property affirmative claims are sometimes referred to as property damage recovery claims, damage recoveries, or affirmative property claims. This article refers to them as property claims.

⁵ Property claims also include claims for loss to or destruction of Government property. U.S. DEP'T OF ARMY, PAM. 27-162, CLAIMS PROCEDURES para. 14-3 (21 Mar. 2008) [hereinafter DA PAM. 27-162].

⁶ *Id.*

⁷ U.S. Army Claims Service-Europe asserted 337 claims, Joint Base Lewis-McChord (JBLM) asserted 233 claims, U.S. Armed Forces Claims Services (USARCS) Korea asserted 38 claims, and Fort Drum asserted 11 claims.

Twenty-seven offices asserted fewer than 10 claims and twenty-three asserted none. ACMP, *supra* note 2.

⁸ Bases for Compromise, 31 C.F.R. § 902.2 (2006).

⁹ Major Brown, *A System for Processing Motor Vehicle Claims*, ARMY LAW., Oct. 1989, at 41, 42. An excellent way to showcase your program is by completing a submission for TJAG's Excellence in Claims Award. The application is posted on JAGCNet and is due to USARCS by the end of January. Memorandum from U.S. Army Claims Serv., to Staff Judge Advocates and Heads of Area Claims Offices, subject: The Judge Advocate General's Excellence in Claims Award for FY 2012 (15 Nov. 2012), available at <https://www.jagcnet2.army.mil/USARCS> [hereinafter Claims Award Memo].

that is simple to assert and likely to generate a successful recovery—a small claim involving an insured motorist. Once JAs are comfortable with asserting small, simple claims, they can then expand their program by either addressing the backlog of potential claims; by uncovering other sources of potential claims; or by exploiting different methods of collection.

The Current State of Affirmative Claims

Before beginning a property claims program in your office, it is important to understand the statutory authority for asserting affirmative claims. By looking at the development of the medical affirmative claims (MAC) program, you can gain an understanding of the likely reasons why there is not already an established property claims program in your office and the foreseeable future rewards of establishing a program.

Rights, Duties, and Responsibilities

The American public entrusts the U.S. Army with protecting and guarding U.S. Government property in its custody. As a property owner, the U.S. Army often finds itself a victim of property damage and incurs costs associated with repair or replacement of such property.¹⁰ Under these circumstances, the Army has not only a statutory right, but also a duty to pursue recovery for the costs associated with the damage to Government property.¹¹ United States Army claims offices are responsible for identifying and pursuing potential recovery incidents, also called affirmative claims.¹² An affirmative claim is a demand for payment under tort liability from an individual (or the insurer) asserted on behalf of the Government.¹³ There are two types of affirmative claims: medical affirmative claims (MAC) and property claims.¹⁴ This article

¹⁰ See DA PAM. 27-162, *supra* note 5, para. 14-1(2)(a) (citing Cotton v. United States, 52 U.S. (11 How.) 229 (1850)) (discussing the United States' right to assert a claim as a property owner).

¹¹ Collection and Compromise, 31 U.S.C. § 3711 (2006).

¹² 32 C.F.R. § 537.6 (2006). The U.S. Army Claims Service, Tort Claims Division, Affirmative Claims Branch provides oversight, guidance, and training to U.S. Army claims offices. U.S. Army Claims Serv., *Affirmative Claims General Information*, JAGCNET, <https://www.jagcnet.army.mil/8525752700444FBA/0/D11127BDAE6F4FE58525782C00461B19?opendocument> (last visited Mar. 9, 2012).

¹³ U.S. DEP'T OF ARMY, REG. 27-20, CLAIMS glossary, at 106 (8 Feb. 2008) [hereinafter AR 27-20].

¹⁴ Medical affirmative claims (MAC) include military treatment facility claims, TRICARE claims, and lost wages claims. Thomas Kennedy, Chief, Affirmative Claims, U.S. Army Claims Serv., Presentation at the U.S. Army Claims Serv. Affirmative Claims Conference: Affirmative Claims 101 (Sept. 19, 2011), available at <https://www.jagcnet.army.mil/852>

touches briefly on MACs, but focuses primarily on property claims.

Congress requires federal agencies to recover money for loss, damage, or destruction of Government property through the Federal Claims Collection Act (FCCA) of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996.¹⁵ The implementing regulation is Army Regulation (AR) 27-20, *Claims*, supplemented by Department of the Army Pamphlet (DA Pam) 27-162, *Claims Procedures*.¹⁶ These references provide the authority and guidance for pursuing and processing property claims. In 1989, The Judge Advocate General (TJAG) of the Army, Major General Hugh Overholt, highlighted the importance of the Army Affirmative Claims Program by issuing a policy memorandum requiring staff judge advocate (SJA) offices to “fully accomplish the affirmative claims mission.”¹⁷ The area of affirmative claims had risen to the attention of the highest levels of leadership in the Judge Advocate General's Corps.

Medical Affirmative Claims—A Success Story

Despite congressional mandate, implementing regulations, and emphasis by TJAG, it would take further legislation by Congress to jump-start affirmative claims programs in the Army. Beginning in 1994, Congress passed a series of laws which allowed claims offices to deposit medical recoveries into the accounts of medical treatment facilities and TRICARE,¹⁸ and related lost wages recoveries to be deposited into the accounts of local commands.¹⁹ This had a profound and immediate impact on the MAC program.²⁰ Prior to this legislation, claims offices deposited medical recoveries and lost wages recoveries into the miscellaneous receipts fund of the General Treasury—which made the funds unavailable to the organizations that had

5752700444FBA/0/E1B5C2FCC636D3658525790B0050C342?opendocument&noly=1 [hereinafter Affirmative Claims 101 Presentation].

¹⁵ See The Federal Claims Collection Act (FCCA) of 1966, The Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996 (codified as 31 U.S.C. §§ 3711–3720 (2006)).

¹⁶ AR 27-20, *supra* note 13, ch. 14; DA PAM. 27-162, *supra* note 5, ch. 14.

¹⁷ Memorandum from The Judge Advocate General, U.S. Army, to Staff and Command Judge Advocates, subject: Army Affirmative Claims Program – Policy Memorandum 89-1 (12 Jan. 1989), in ARMY LAW., Mar. 1989, at 3 [hereinafter Affirmative Claims Policy Memo].

¹⁸ Health Care Services Incurred on Behalf of Covered Beneficiaries: Collection from Third-Party Payers, 10 U.S.C. § 1095(b) (2006).

¹⁹ Depositing of Collections, 32 C.F.R. § 537.14 (2006).

²⁰ Thomas Kennedy, 2009 Agreement with TRICARE, ARMY LAW., Sept. 2011, at 40.

incurred the costs. With the new legislation, these organizations had a tangible reason for pursuing medical claims. Nonetheless, with a seemingly insurmountable backlog of claims and a constant loss of institutional knowledge, MAC programs struggled to keep up with new and existing claims.²¹

In the late nineties, the U.S. Army Claims Service (USARCS) identified and addressed the continuing problems hindering claims offices.²² Through training and assistance to field offices,²³ the USARCS grew the MAC program from total recoveries of \$1.5 million in fiscal year (FY) 1999 to total recoveries of \$26 million in FY 2011.²⁴ The MAC program is now well-established and projected to grow in the coming years.²⁵

Property Claims—Overshadowed and Misunderstood

Due in part to the focus and resulting success in MAC, claims offices generally have overlooked the requirement to pursue property claims. As was previously the case with medical recoveries, most property recoveries are not available to the organizations responsible for repairing or replacing the damaged property; thus, installations have little interest in pursuing these claims.²⁶ That may soon change, however, with proposed legislation expected to pass in the next couple of years.²⁷ Once enacted, the amendment would “allow funds collected for damage to all Government property, controlled by the Department of Defense (DoD), to

²¹ Claims judge advocates (JAs) “gain competency and familiarity with MAC only to be mobilized, PCS’d, or reassigned to other duties,” and seasoned claims paralegals often “retire without passing institutional knowledge to junior claims employees.” Thomas J. Kennedy, *Backlogs & Tiger Teams*, Affirmative Claims Discussion Board, JAGCNET (Dec. 3, 2010, 3:57 PM), https://www.jagcnet2.army.mil/Archive/Discussion/claims_db.nsf/topicThread.xsp?documentId=D714A0B277B162FE852577EE00732792&action=openDocument.

²² *Id.* The USARCS provides offices with an unmanageable MAC backlog with assistance visits by “tiger teams.” These teams are comprised of “seasoned examiners . . . who will review files, mail assertion letters to all parties, obtain medical records and billings, communicate with attorneys, etc. Along the way, local claims personnel will work side-by-side and gain valuable hands-on experience.” *Id.*

²³ The USARCS dedicates one day of its annual torts conference to affirmative claims. The USARCS also holds quarterly affirmative claims video-teleconferences. Masterton, *supra* note 1, at 50.

²⁴ Kennedy, *supra* note 20, tbl.1, at 45.

²⁵ Affirmative Claims 101 Presentation, *supra* note 14. The USARCS is now turning its attention to labor cost recoveries which have been declining consistently despite the success of medical recoveries. *Id.*

²⁶ Damage to Real Property: Disposition of Amounts Recovered, 10 U.S.C. § 2782 (2006).

²⁷ E-mail from Thomas J. Kennedy, Chief, Affirmative Claims, U.S. Army Claims Serv., to author (8 Nov. 2011, 10:48 EST) (on file with author).

be deposited into and obligated from the account responsible for the repair or replacement of the damaged Government property.”²⁸ Currently, recoveries for damage to real property can be deposited into an installations operations and maintenance (O&M) account, but cannot be spent. After six years, the installation is required to return this money to the General Treasury. Assuming the proposed legislation passes, any recoveries deposited into the installations O&M account in the preceding six years immediately would become available to the installation.²⁹

Even with this added future incentive, most claims offices are not in a position to begin a property claims program. They lack the institutional knowledge and are further impeded by minimal and unclear guidance provided in the statutes and implementing regulations. For the most part, the available guidance pays only cursory attention to property claims and presumes that the process prescribed for pursuing medical claims can be applied easily to property claims. The guidance does not address the potential for a straightforward process for pursuing small property claims.³⁰ This guide provides the claims JA with a simple approach to start a property claims program and pursue these claims.

Starting a Government Property Affirmative Claims Program

Starting a property claims program requires minimal time and effort. Initially, you should take some time to get yourself organized and form a plan before orienting yourself to available resources. Once you are familiar with property claims and have sketched out a plan, discuss your plan with your supervisor and your SJA for buy-in.

Formulate a Plan

Establishing a property claims program begins with formulating a plan. Set daily, weekly, and monthly goals.³¹ This is a good way to keep you on track. Take about a week to familiarize yourself with the program. Then, plan on

²⁸ *Authority for Use of Amounts Recovered for Damage to Government Property: Hearing on S. 981 Before the Comm. on Armed Serv.*, 112th Cong. (2011) [hereinafter *Proposed Legislation*].

²⁹ *Id.*

³⁰ Medical claims usually involve higher dollar amounts, lengthy investigation of the facts and research of the law, extensive data collection, and frequent communications and negotiations with personal injury lawyers and insurance companies. See generally 31 U.S.C. §§ 3711–3720 (2006); AR 27-20, *supra* note 13, ch. 14; DA PAM. 27-162, *supra* note 5, ch. 14.

³¹ Mary Manderscheid, Office of the Staff Judge Advocate, Fort Leavenworth, Presentation at the U.S. Army Claims Serv. Tort Claims Conference: Affirmative Claims: MAC Office Mgmt. (Oct. 2009) [hereinafter *MAC Office Mgmt. Presentation*].

dedicating an average of one hour a day reviewing the blotter and gradually working through a claim and establishing your procedures as you work on that claim. After a couple of months, you likely will have received and deposited your first claim. Take another month to run multiple claims through the process and fine-tune your procedures. Once you are comfortable with asserting a basic claim and have a solid system in place, aim to expand your program.³²

Become Familiar with Available Resources

Set aside a couple of days to familiarize yourself with property claims. Visit the USARCS website, peruse the available resources, and familiarize yourself with the affirmative claims discussion board.³³ You may even want to post a message introducing yourself to the rest of the affirmative claims community. Additionally, contact the USARCS Affirmative Claims Branch directly and let them know that you are planning to establish a property claims program in your office. The Affirmative Claims Branch provides guidance and oversight on property claims and is ready to support your efforts. Although they do not actually “work” claims the way field offices do, the Affirmative Claims Branch at USARCS can get you in contact with experienced people in the field who will share their practical knowledge with you.³⁴

Next, print out the jurisdictional chart and sample forms and letters available on the website.³⁵ Make sure also to have a hard copy and electronic copy of AR 27-20, *Claims*, and DA Pam 27-162, *Claims Procedures*. Request a user account for the Affirmative Claims Management Program (ACMP), the web-based database that you will use to track your affirmative claims. Once you gain access to ACMP, print the user manual under the help tab and familiarize yourself with the database.³⁶

Lastly, begin drafting a standard operating procedure (SOP) for your office. Appendix A may serve as a basic outline for your SOP, or contact USARCS for a sample SOP upon which you can then build.³⁷ Assemble your draft SOP,

references, sample forms, sample letters, and this article in a binder. As you work through the process and develop your program, continuously update your SOP, adding contact and other key information to the folder. Strive to create a product that is not only useful to you, but detailed enough to allow someone with no experience pursuing property claims to pick up your SOP and process a simple property claim.

Promote Your Plan

Now that you have a solid plan and a basic framework for establishing a property claims program, discuss your plan with your supervisor and secure his support. Tell him how much time you will be investing to get the program started and that, once established, you can expand the program to where it may require a significantly larger time commitment. Once you obtain your supervisor’s buy-in, you will need to sell your idea to the boss—most likely the SJA or the Deputy SJA. Consider your audience and find out what their priorities are. There are numerous reasons why starting an affirmative property claims program is a good idea. Determine which reasons will best influence your bosses and be prepared to persuade them accordingly.³⁸

The most obvious reason to set up an affirmative property claims program is to recover money for the repair or replacement of damaged Government property.³⁹ Total recoveries last fiscal year for property claims were \$585,000—negligible in the grand scheme.⁴⁰ However, if one considers that most claims offices asserted no property claims at all and one further presumes that Government property is in fact being damaged daily, one can imagine that the potential Army-wide recovery for property damage is massive.⁴¹ As the national debt continues to grow, any money recovered for property damage contributes to the financial security of the Government.⁴² Continuing to overlook the Army’s responsibility to pursue this potential source of income is fiscally irresponsible.

³² See Appendix A (Quick Reference Guide for Establishing a Government Property Affirmative Claims Program) (providing suggested timeline).

³³ U.S. Army Claims Serv., JAGCNET, <https://www.jagenet.army.mil/8525752700444FBA> (last visited Mar. 9, 2012) [hereinafter USARCS Website].

³⁴ Fran Hawkins, U.S. Army Claims Serv., Presentation at the U.S. Army Claims Serv. Affirmative Claims Conference: USARCS File In-take (Oct. 2009) (on file with author).

³⁵ USARCS Website, *supra* note 33.

³⁶ ACMP, *supra* note 2.

³⁷ As of this writing, the USARCS had only two standard operating procedures (SOPs) with any mention of property claims. E-mail from George R. Westerbeke, Affirmative Claims Paralegal, U.S. Army Claims Serv., to author (31 Jan. 2012, 17:05 EST) (on file with author).

³⁸ MAC Office Mgmt. Presentation, *supra* note 31.

³⁹ Money recovered and deposited into the miscellaneous receipts account is not available to the installation but instead goes back to the U.S. Treasury. AR 27-20, *supra* note 13, para. 14-14.

⁴⁰ ACMP, *supra* note 2.

⁴¹ Of the Army offices that did assert property claims last fiscal year, most appear to assert property claims only for higher value incidents. Few offices appear to be asserting claims valued less than \$1000. *Id.*

⁴² Affirmative Claims Policy Memo, *supra* note 17.

Although most recovered funds are not available to the installation for repairing or replacing damaged property, the Army is responsible for safeguarding that property and pursuing recoveries for damage to Government property. Further, in all likelihood, legislation soon will pass to allow installations to spend recovered funds. Pursuing property claims now will put the installation in a better position for when those funds do become available.

Another significant benefit of establishing a property claims program is that it can serve to justify creating, upgrading, or even retaining a position. Property claims generate excellent quantitative data (metrics) which plainly show the value of a position. With the current budget crisis, SJA offices can use this data to justify a claims job.

Fiscal responsibility aside, for the more justice-oriented practitioners, holding individuals financially accountable for their tortuous acts helps maintain good order and discipline and can serve as a powerful deterrent. Tortfeasors would be, rightfully, paying for the damage they caused to Government property. The ability to assert a claim would also give commanders one more option for disposing of Soldier misconduct where other forms of punishment may not be appropriate. Especially where the crime is victimless—merely against the Government—payment on an affirmative claim may be a better option than a prosecution or other form of punishment.

Asserting a Government Property Affirmative Claim

Now that you have a plan in place and the go-ahead from your supervisors, you can begin to work your first claim. Most property claims are considered “small claims” under \$5000.⁴³ Small claims are investigated and processed in a simplified manner.⁴⁴ The procedures for processing a small claim, as discussed below, may not work for claims over \$5,000 and you should research those procedures separately.⁴⁵

Further, although claims officers in overseas locations will find this guide useful, they should research procedures in their specific locations. Overseas claims are governed not only by Army regulations, but also by local laws and agreements with the host nation.⁴⁶ Additionally, the DoD has

⁴³ In fiscal year 2010, 90% of property claims (517 of 572) were under \$5,000. ACMP, *supra* note 2.

⁴⁴ AR 27-20, *supra* note 13, paras. 2-14, 14-8; DA PAM. 27-162, *supra* note 5, paras. 2-14, 2-26.

⁴⁵ Larger claims are infrequent. When you do get a larger claim, reach out to USARCS and the claims community for assistance. See generally USARCS Website, *supra* note 33.

⁴⁶ A JA supporting a unit located overseas or a unit that deploys to an overseas location must conduct an extensive search to determine what, if

designated single-service jurisdiction for certain countries; so, in certain locations, a claim of one service may be the sole responsibility of a sister service.⁴⁷

Pursue Simple Claims First

To begin, decide which claims you will pursue. Which claims you choose to pursue may be specific and unique to your area of responsibility. Initially, you should pursue those claims that will be easiest to process and recover. Do not worry about the dollar value at this point. The initial goal is to get the program started and become familiar with the systems and processes.⁴⁸

A good starting point to get your program off the ground is to focus on damage to Government property caused by insured motorists. An example of this would be a motorist who loses control of his vehicle and runs through a chain link fence. Where the motorist is insured, asserting a claim against the insurance company is simple and will yield good results. The remainder of this section will focus on pursuing an insured motorist claim. The basic process for asserting a claim against an insured motorist involves gathering documents including the military police (MP) report and the fence repair estimate, mailing a demand for payment to the motorist and the insurance company, and depositing the payment with the accounting and finance office.

any, international agreements are in place and apply to affirmative claims. These agreements are often “obscure, poorly publicized, and occasionally classified.” INT’L & OPERATIONAL LAW DEP’T, THE JUDGE ADVOCATE GEN.’S LEGAL CTR. & SCH., U.S. ARMY, JA 113-114, OPERATIONAL LAW HANDBOOK para. II.A, at 113(2011). The Department of Justice publishes a list of unclassified treaties in force at <http://www.state.gov/s/l/treaty/tif/index.htm>. To obtain the full text of agreements, a JA can search several websites including the Center for Law and Military Operations at <http://www.jagcnet.army.mil>, the United Nations at <http://www.un.org>, and the North Atlantic Treaty Organization at <http://www.nato.int>. A JA can also work through his chain of command up to the combatant command’s legal staff who are responsible for maintaining a list of all agreements for countries within their area of responsibility or can contact the Department of the Army International and Operational Law Division at (571) 256-2910, DSN 225, the Country Desk at the Department of State, see <http://www.state.gov/documents/organization/115480.pdf>, or the Military Group within the country, see <http://www.usembassy.gov>.

⁴⁷ U.S. DEP’T OF DEF., DIR. 5515.8, SINGLE-SERV. ASSIGNMENT OF RESPONSIBILITY FOR PROCESSING OF CLAIMS (9 June 1990). For maritime claims of Army property within the admiralty jurisdiction of a U.S. district court, see Admiralty Claims by United States, 10 U.S.C. § 4803 (2006) and AR 27-20, *supra* note 13, ch. 8.

⁴⁸ Affirmative Claims 101 Presentation, *supra* note 14. Once your program is well-established, adjust your priorities by pursuing claims that are high-dollar-value and show the most promise of recovery. *Id.*

Identify a Potential Claim

To identify a potential claim, first establish a contact at the provost marshal's office (PMO) to receive the daily MP report, also known as the blotter.⁴⁹ Scan the blotter daily and identify any incidents of damage to Government property involving a privately owned vehicle (POV). Some common examples include damage to a fence, guard rail, light post, traffic sign, or structure, such as a bus stop.⁵⁰ Make it a daily priority to scan the blotter. Investing a mere fifteen minutes a day scanning the blotter over a cup of coffee may be all you need to keep your program running. If you are not finding enough potential claims on the current blotter reports, you may want to go back to old blotters and search those for potential claims.⁵¹ If you come across other types of potential claims, set those aside for now.⁵² Once you are familiar with processing simple claims against insured motorists, you can address other types of potential property claims.

Start a File

Once you identify a potential recovery incident, begin a file on the Affirmative Claims Management Program (ACMP) located on the USARCS website. The ACMP is a data management program provided by USARCS. It is available to all Army claims offices and is divided by jurisdictional responsibilities.⁵³ The database provides USARCS with visibility of large claims, and creates an invaluable historical document if a claim goes to litigation.⁵⁴ The ACMP is also an effective tool for measuring the growth of affirmative claims by providing numerical data on asserted and recovered claims.⁵⁵

⁴⁹ There are many ways to get the blotter. Some units will modify the report to fit their needs. So, it is best to get the official and complete report from the Provost Marshall's office. Many of your fellow JAs in other sections of the staff judge advocate office receive the blotter report and can help you get on the email distribution list.

⁵⁰ ACMP, *supra* note 2.

⁵¹ The statute of limitations on asserting a property claim is three years. Time for Commencing Actions Brought by the United States, 28 U.S.C. § 2415 (2006).

⁵² See Appendix A (providing examples of other types of property claims).

⁵³ Affirmative Claims Policy Memo, *supra* note 17. See also DA PAM. 27-162, *supra* note 5, para. 14-3.

⁵⁴ Preservation of Evidence, 31 C.F.R. § 904.3 (2006).

⁵⁵ Angela Hunter-Coppedge, Office of the Staff Judge Advocate, Fort Meade, Presentation at the U.S. Army Claims Serv. Tort Claims Conference: Affirmative Claims: The Value-Added of the ACMP (Oct. 2009) [hereinafter ACMP Presentation].

Open a new file for your potential claim even though you have not established liability or feasibility of recovery.⁵⁶ Using the database from the initial identification of a potential claim is a simple way to track your claim, record key contact information, and create a chronology of your investigative efforts and enforcement actions.⁵⁷ The ACMP is meant to be the one and only database for filing your affirmative claims information and streamlining your operation. Do not create other databases or spreadsheets and duplicate your efforts. If it is not meeting your needs, recommend changes to USARCS.⁵⁸

Aside from ACMP, you should maintain a physical drop file for each claim you are working. You will be required to have hard copies of documents when you assert your claim, so you will need somewhere to put these. You also should maintain a drop file for any incidents that you recognize might be a potential claim, but that you are not yet ready to examine.

Gather Evidence

Small claims involving insured motorists require minimal investigative efforts.⁵⁹ Once you have identified a potential claim involving a POV, you will need to request an incident report from the PMO. This may require physically going to the PMO initially, but should evolve into getting this report via email upon request.⁶⁰ Flip through the report until you find the section for insurance information. (If there is no insurance information, then add this potential claim to a drop file of claims to address at a later time.) Also, scan the report for details of the property damage.⁶¹

⁵⁶ The database is intuitive and user-friendly. Nonetheless, you should refer to the user manual available on the database until you are well versed in what to do. ACMP, *supra* note 2.

⁵⁷ The claims regulation suggests using a modified version of DA Form 1668, Small Claims Certificate. AR 27-20, *supra* note 13, para. 14-8. This form is mainly used to memorialize your investigation and action. U.S. Dep't of Army, DA Form 1668, Small Claims Certificate (June 1971). However, there is no requirement to submit this form to another office and the author of this article feels that this form is of limited utility especially since ACMP, when used as intended, adequately memorializes all investigation efforts and actions. ACMP, *supra* note 2.

⁵⁸ MAC Office Mgmt. Presentation, *supra* note 31.

⁵⁹ AR 27-20, *supra* note 13, paras. 2-14, 14-8; DA PAM. 27-162, *supra* note 5, paras. 2-14, 2-26.

⁶⁰ Thomas Kennedy, Chief, Affirmative Claims, U.S. Army Claims Serv., Presentation at the U.S. Army Claims Serv. Affirmative Claims Conference: Best Practices as Derived from Excellence in Claims Award and Blue Chip Application (Sept. 19, 2011), available at <https://www.jagcnet.army.mil/8525752700444FBA/0/E1B5C2FCC636D3658525790B0050C342?opendocument> [hereinafter Best Practices Presentation].

⁶¹ U.S. Dep't of Army, DA Form 3946, Military Police Traffic Accident Report (Dec. 1998).

Next you will need to attain estimates of repair for the damaged property. Establish a contact within the Directorate of Public Works (DPW). A good division to start with is the work order section.⁶² Take the MP report along (in case they are not aware of the damage) and request a copy of the work order or similar document. The document they provide must include a description of the damaged property, the location of the damaged property, and an estimate (or actual) cost of repair.⁶³ Again, this may require physically going to DPW initially, but should evolve into getting the documents via email once you establish a working relationship.

Assert a Claim

Having gathered all necessary documents, you can now assert a claim.⁶⁴ Draft your demand letters for the tortfeasor (motorist) and the insurer (motorist's insurance company).⁶⁵ If there is more than one tortfeasor or more than one insurer, draft demand letters for all of them. To the maximum extent possible, use e-mail or fax to send letters to the recipients. Send e-mails with a read receipt and print confirmation sheets for faxes.⁶⁶ If you must use mail, send the demand letters certified mail—return receipt requested. Ensure you receive a read receipt for e-mails and a return receipt for letters. Update the ACMP database to reflect that you asserted the claim.

If the amount you are claiming is nominal and the letter and documentation is clear, insurance companies usually will pay it outright without further investigation. If you do not receive some sort of reply within a few weeks, call the insurance company to ensure they received the initial demand letter and have the information they need to pay the claim.

Allow thirty days for a response and then send a final notice to the motorist.⁶⁷ Also, if the motorist is a Soldier, call the commander. If you still are unable to secure payment from the motorist or the insurance company, set this claim aside until you are ready to expand your program.

⁶² Best Practices Presentation, *supra* note 60.

⁶³ DA PAM. 27-162, *supra* note 5, para. 14-9.

⁶⁴ As soon as you determine that the Government has a valid claim, send the demand letters. A sum certain is not necessary to assert a demand. The demand letter can state that an amount will be furnished later. *Id.*

⁶⁵ See Appendices B (Sample Demand Letter to Insured Motorist) and C (Sample Demand Letter to Motorist's Insurance Company) (providing sample letters).

⁶⁶ AR 27-20, *supra* note 13, paras. 2-14, 14-8.

⁶⁷ See Appendix D (Sample Final Notice to Insured Motorists).

Deposit Recoveries and Close the File

Once you receive payment, usually by means of a check from the insurance company, you should deposit the check immediately. If you cannot deposit the check on the same day you receive it, place the check in the office safe.⁶⁸ Fill out a DD Form 1131, Cash Collection Voucher⁶⁹ and have the check endorsed on behalf of the United States by someone with claims settlement authority (this may be you, your supervisor, or the SJA). Take the voucher and the check to the accounting and finance office for deposit.⁷⁰ Deposit the check to the designated account for recoveries of damage to real property.⁷¹ Update the ACMP database to reflect that you received and deposited payment, and then close the file.

Test Your Procedures

Now that you have established the process for asserting insured motorist claims, find more of the same type of claim in old blotters and feed those potential claims through your process. The statute of limitations on a tort claim is three years—which means you have three years worth of reports from which to draw potential claims.⁷² Addressing these old claims will yield significant returns with little effort.

If you are fortunate enough to recruit temporary help in your office (a summer intern, a funded legal education program (FLEP) officer, or a reservist on two-week annual training) this is a perfect project to keep them meaningfully engaged. Have your recruit scan the blotter daily and research old blotters. Using your draft SOP, have your recruit walk a potential claim through the process to test your procedures and fine-tune your SOP. Your SOP should evolve into a product that is not only useful to you, but detailed enough to allow someone with no experience in pursuing property claims to pick up your SOP and process a simple property claim.

⁶⁸ AR 27-20, *supra* note 13, para. 11-24.

⁶⁹ U.S. Dep't of Defense, DD Form 1131, Cash Collection Voucher (Dec. 2003). See Appendix E (Sample Cash Collection Voucher (DD Form 1131)).

⁷⁰ Thomas J. Jackson, *RE: Deposit of Tricare Recovery Checks*, Affirmative Claims Discussion Board, JAGCNET (Mar. 5, 2008, 16:59), <https://www.jagcnet2.army.mil/Archive/Forums/fac.nsf/b76c69a8a3b2d0fe85256a1900521a69/177d537ac6b6d388852574030078c655?OpenDocument>.

⁷¹ See Thomas J. Jackson, *RE: Real Property Damage Claims - Deposits*, Affirmative Claims Discussion Board, JAGCNET (Feb. 12, 2008, 08:38), <https://www.jagcnet2.army.mil/Archive/Forums/fac.nsf/b76c69a8a3b2d0fe85256a1900521a69/177d537ac6b6d388852574030078c665?OpenDocument>.

⁷² 28 U.S.C. § 2415 (2006). Work through these reports backward (from most recent to oldest). You are less likely to collect on older claims.

Expanding Your Program

After several months of asserting property claims involving insured motorists, your program should be well-emplaced. It is now time to consider expanding your operations. There are several ways to do this: you can address the backlog of claims not yet asserted, you can look into networking with organizations to uncover other sources of potential claims, or you can look into alternate ways of collecting on affirmative claims.

Address the Backlog

Recall all of those potential claims that you have been setting aside to address another day? Now is the time to address those claims. Through your experience with insured motorist claims, you have learned what is required to process an affirmative claim and you also have an idea of what a simple claim looks like. Take the file of claims you have been setting aside and prioritize them; separate the claims based on how difficult they will be to investigate and on how likely they are to result in a successful recovery.⁷³ You may want to separate them based on the type of damage, the type of incident, or the type of tortfeasor. Be aware that certain types of damage are not collectable under affirmative claims and there are numerous other agencies that conduct recovery for damage to Government property.⁷⁴

Uncover Other Sources of Potential Claims

The best way to expand your program is to network with other offices and agencies that have information relating to potential claims.⁷⁵ Identify contacts in each activity and unit in your area of responsibility to establish close working relationships with them. Show them how to identify potential affirmative property claims in their line of work and then screen their reports periodically to make sure they are not missing potential claims.⁷⁶ In time, these contacts will come to you with timely information on potential claims instead of you having to seek them out.⁷⁷

Start networking in your immediate area first. Information on potential property claims may be entering the

⁷³ Affirmative Claims 101 Presentation, *supra* note 14.

⁷⁴ See Appendix A (providing examples of different types of potential property claims).

⁷⁵ ACMP Presentation, *supra* note 55.

⁷⁶ 32 C.F.R. § 537.6 (2006).

⁷⁷ Best Practices Presentation, *supra* note 60. See Appendix A (providing other organizations that may have information on potential property damage claims).

claims office as part of other types of claims. For example, a Soldier seeks advice from the claims office for filing a claim against a carrier for loss of household goods. The loss includes army-issued gear (TA-50) which the Soldier cannot claim because he does not own it. His unit will conduct a financial liability investigation of property loss (FLIPL) and determine that he is not liable for the loss and will write off the property from their books without taking any further action to recover. To recover the cost of the loss, the Affirmative Claims Branch can assert a claim against the carrier on behalf of the Government for the loss of the property.⁷⁸

Also in your immediate area are the administrative law division, the military justice division, and the federal litigation division of the OSJA. The administrative law division reviews numerous investigations and reports that may have potential claims including FLIPLs,⁷⁹ AR 15-6 investigations, and summary courts-martial proceedings. The military justice division has greater visibility of misconduct than appears on blotter reports. And lastly, the Special Assistant United States Attorneys (SAUSAs) working in the federal litigation division deal with cases involving property damage. Ask your fellow JAs in each of these divisions to contact you whenever they identify an incident involving damage to Government property.

Outside of the OSJA, two agencies critical to your operation that are accustomed to working closely with JAs are the MP and the Criminal Investigation Division (CID).⁸⁰ Establish relationships with these two offices and stress the importance of complete information on their reports. Information such as insurance, which may be lacking in a single vehicle accident, or details about property damage, which may seem unimportant in a fatal shooting incident, are essential for your program. Enlist these offices to help in creating more detailed reports that will lead to more successful recoveries.⁸¹

Another organization key to a robust property claims program is the DPW, which is the organization that repairs

⁷⁸ Telephone Interview with Donovan Shields, Claims Paralegal, Affirmative Claims Div., JBLM (Feb. 27, 2012).

⁷⁹ When unit property is lost or damaged, units initiate a financial liability investigation of property loss (FLIPL). If the investigation finds that a Soldier was not responsible for the loss or damage, the investigation is closed with no further collection action. U.S. DEP'T OF ARMY, REG. 735-5, POLICIES AND PROCEDURES FOR PROPERTY ACCOUNTABILITY para. 13-32 (28 Feb. 2005). Where an individual, not a Soldier, was responsible for the loss or damage, a potential affirmative claim exists. For example, if an embittered spouse destroys a Soldier's TA-50, a FLIPL likely would find the Soldier not liable; however, you may be able to assert a claim against the spouse.

⁸⁰ 32 C.F.R. § 537.6.

⁸¹ Michael Romano, *Claims Note: Affirmative Claims/Note*, ARMY LAW., May 1989, at 59, 60.

any damage to real property on the installation. The DPW work order section manages requests for repairs and can tell you what has been broken and how much it will cost to repair it. Requesting a copy of their work order spreadsheet will identify potential claims that are not on the blotter.⁸²

Maximize Alternate Methods of Enforcement

Another way to expand your property claims program is to maximize alternate methods of enforcement. These include repayment in kind (RiK), restitution, and administrative offset. These are discussed below.

Repayment in kind involves having the tortfeasor repair or replace the damaged property in lieu of paying the General Treasury for the damage.⁸³ An example of a RiK arrangement is where a tortfeasor who has caused damage to a government vehicle pays the local garage directly for repairs to the vehicle instead of writing a check to the General Treasury. As a result, the activity that suffered the damage does not incur the cost of repairing the vehicle.⁸⁴ Another example of RiK is where a tortfeasor who has been caught dumping garbage illegally cleans up the dump site instead of paying the cost of clean-up in the form of a check to the General Treasury.⁸⁵ Repayment in kind is the preferred method of recovery and “should be used whenever possible” since it saves an organization the cost of repairing or replacing the damaged property.⁸⁶ Activities that are aware of RiK are more likely to refer potential claims to your office in order to spare their budgets.⁸⁷

Administrative offset, also referred to as an involuntary collection, is a powerful method of enforcing collections. Under the Debt Collection Act of 1982, the Army can withhold money payable by the United States to an individual to satisfy a debt owed by that individual.⁸⁸ An administrative offset can be applied against a Soldier’s

pay,⁸⁹ a Department of the Army civilian’s pay,⁹⁰ or even a retired civil service employee’s retirement pay.⁹¹ For individuals who do not fall into the aforementioned categories, it may still be possible to collect on a debt owed to the Government through the Treasury Offset Program. Contact USARCS for guidance on executing administrative offsets.⁹²

If a tortfeasor is also charged with a crime, talk to the prosecutor in the case about the property claim. Although the prosecutor may be unwilling to add a charge of destruction to Government property to the charge sheet,⁹³ they can nonetheless request a fine at trial or add restitution to a pretrial agreement. Further, defense counsel is likely to encourage a client to pay restitution even before the trial in the hopes of greater leniency on an adjudged sentence.⁹⁴

Recent proposed revisions to the claims regulation encourage claims attorneys in busy jurisdictions to obtain an appointment as a SAUSA.⁹⁵ This facilitates securing a federal judgment against a tortfeasor who refuses to pay.⁹⁶ Absent appointment as a SAUSA, you should work with your fellow JAs at the federal litigation division of the office to make sure they are requesting fines in cases they are prosecuting and to see if they would be willing to take your property claim cases to court.⁹⁷

⁸² 32 C.F.R. § 537.6.

⁸³ DA PAM. 27-162, *supra* note 5, para. 14-9a(5).

⁸⁴ Captain Travis Sommers, *Repayment in Kind*, Affirmative Claims Discussion Board, JAGCNET (Apr. 29, 2008, 21:40), <https://www.jagcnet2.army.mil/Archive/Forums/fac.nsf/b76c69a8a3b2d0fe85256a1900521a69/1903dfd432180c658525743b00092909?OpenDocument>

⁸⁵ Best Practices Presentation, *supra* note 60.

⁸⁶ Thomas J. Jackson, *RE: Repayment in Kind*, Affirmative Claims Discussion Board, JAGCNET (May 13, 2008, 16:10) <https://www.jagcnet2.army.mil/Archive/Forums/fac.nsf/b76c69a8a3b2d0fe85256a1900521a69/cbf9e7a92f11b96c85257448006ed9a6?OpenDocument>. Even a partial repayment in kind is permissible. *Id.*

⁸⁷ Best Practices Presentation, *supra* note 60.

⁸⁸ Administrative Offset, 31 U.S.C. § 3716 (2006).

⁸⁹ Deductions from Pay, 37 U.S.C. § 1007 (2006).

⁹⁰ Installment Deduction for Indebtedness to the United States, 5 U.S.C. § 5514 (2006).

⁹¹ 31 U.S.C. § 3716.

⁹² DA PAM. 27-162, *supra* note 5, para. 11-37.

⁹³ MANUAL FOR COURTS-MARTIAL, UNITED STATES pt. IV, ¶ 32 (2008).

⁹⁴ *See generally* Lieutenant Colonel David M. Jones, *Making the Accused Pay for His Crime: A Proposal to Add Restitution as an Authorized Punishment Under Rule for Courts-Martial 1003(b)*, 52 NAVAL L. REV. 1 (2005).

⁹⁵ U.S. DEP’T OF ARMY, REG. 27-20, CLAIMS para. 14-11 (forthcoming 2012) (Draft). There are currently no claims attorneys assigned as Special Assistant United States Attorneys (SAUSAs). Telephone Interview with Lieutenant Colonel Russell Jackson, Chief of Torts Litigation, Office of the Staff Judge Advocate (Feb. 28, 2012).

⁹⁶ Minimum Amount of Referrals to the Department of Justice, 31 C.F.R. § 904.4 (2006).

⁹⁷ U.S. DEP’T OF ARMY, REG. 27-40, LITIGATION para. 5-2 (19 Sept. 1994). The JBLM federal litigation division plans to take its first of several referred property claim cases to court in the near future. Telephone Interview with Major Jonathan Persons, Chief of Federal Litigation, JBLM (Feb. 9, 2012) and Telephone Interview with Donovan Shields, Claims Paralegal, Affirmative Claims Div., JBLM (Feb. 27, 2012).

Publicize Your Program

There are numerous ways you can publicize your program to ensure organizations around the installation are aware of the program and will refer any potential claims to your office. For starters, write an information paper about property claims.⁹⁸ Post the information paper on the SJA office or installation website and disseminate it through command channels to all offices that may have potential property claims. Create a short PowerPoint presentation and ask to brief at training meetings in the SJA office and other organizations around the installation. Distribute your information paper as a handout at these training sessions so that your audience will have a reference sheet they can take with them.⁹⁹ There are many ways to publicize your program, but the main focus is to get the word out that a property claims program exists.

Conclusion

Government property affirmative claims long have been neglected and largely misunderstood. Until now, installation leadership has shown little interest in pursuing property claims since most recoveries are unavailable to the installation.¹⁰⁰ However, similar to a surge in medical

recoveries upon availability of recovered monies,¹⁰¹ property recoveries should see a significant surge as proposed legislation eventually will allow installations access to money recovered from property claims to fund their operations.¹⁰²

Although claims offices are required to aggressively pursue affirmative claims,¹⁰³ most offices feel they lack the resources and institutional knowledge to institute a program to address property claims. However, this article shows how a claims JA requires only a minimal amount of time and effort to establish property claims program. Initially focusing on smaller, easier claims, a claims JA can establish a program within a matter of months by investing a little time each day. Once a framework is well-established, a claims JA can then address the backlog of property claims or branch out into other sources of potential property claims and fulfill their affirmative claims mission—to aggressively pursue potential claims.

⁹⁸ For examples, see Information Paper, Office of the Staff Judge Advocate, Fort Belvoir, subject: Affirmative Claims (30 Nov. 2009), available at <http://www.belvoir.army.mil/sja/newsite/claimsCommandersInformationPapers.asp> (last visited Feb. 26, 2012). See also Information Paper, Office of the Staff Judge Advocate, Fort Jackson, subject: Affirmative Claims (n.d.), available at <http://www.jackson.army.mil/SJA/Claims.htm> (last visited Feb. 26, 2012).

⁹⁹ Claims Award Memo, *supra* note 9. You also may want to consider writing an article for the post paper or using other media outlets—such as radio, television, e-mail, and social websites—to get publicity for your program. *Id.*

¹⁰⁰ Masterton, *supra* note 1, at 55.

¹⁰¹ Kennedy, *supra* note 20, at 40.

¹⁰² *Proposed Legislation*, *supra* note 28.

¹⁰³ Aggressive Agency Collection Activity, 31 C.F.R. § 901.1 (2006).

Appendix A

Quick Reference Guide for Establishing a Government Property Affirmative Claims Program

Week 1: Familiarize Yourself with Property Claims

Visit USARCS website at <https://www.jagcnet.army.mil/8525752700444FBA>
Contact USARCS Affirmative Claims Division
Request an ACMP account
Introduce yourself on the affirmative claims discussion board
Print out sample forms, letters, jurisdictional charts, etc.
Get a copy of AR 27-20, Claims and DA Pam 27-162, Claims Procedures
Draft an SOP and update it regularly

Week 2: Identify a Potential Claim

Get on the blotter distribution list
Review the blotter for incidents involving government property damage
Focus on incidents involving motorists and damage to real property
Put other incidents aside for now (see chart below for examples)
Update the SOP

Week 3: Start a File

Start a file on the ACMP as soon as you identify a potential claim
Print out the ACMP user manual and use it to navigate the database
Continuously update the database when you take any action on the claim
Create a drop file for any documents you collect
Update the SOP

Week 4: Gather Investigative Reports

Go to the PMO and pick up the MP report
Check for description of property and damage
Check for insurance information
Determine if claim is collectible

Claims Against Different Tortfeasors

<u>Tortfeasor</u>	<u>Process</u>	<u>Authority</u>
Uniformed Member or DoD Employee within scope of employment not within scope of employment	fwd to unit for FLIPL collectible	AR 735-5 DA Pam 27-162, para. 11-37c
Contractor within scope of employment not within scope of employment	fwd to contracting officer collectible	DoD Reg. 7000.14-R, vol. 10, ch. 18 DA Pam 27-162, para. 11-37d
Minor Dependent Civilian	collectible against member collectible	state tort law DA Pam 27-162, para. 11-37d

Update the file status on the ACMP
Update the SOP

Week 5: Collect Cost Estimates

Go to DPW work order section
Take MP report with you

Request a copy of the repair estimate or invoice
Update the file status on the ACMP
Update the SOP

Week 6: Draft and Send Demand Letters

Draft demand letter for motorist and insurance company
Send letters by e-mail or fax, if possible
If sending by mail, send by certified mail, return-receipt requested
Update the file status on the ACMP
Update the SOP

Week 7: Deposit a Claim

Go to the finance and accounting office and determine their procedures for deposits
Once you receive payment
Secure it in the office safe until you are ready to deposit it
Endorse the check by someone with claims settlement authority
Fill out a Cash Collection Voucher, DD Form 1131
Take the endorsed check and DD Form 1131 to the finance office for deposit
Close the file on the ACMP
Update the SOP

Week 8: Follow-Up

Follow up on a demand if you have not heard back from motorist or insurance company
Call insurance company
Call Commander
Prepare a final notice to the motorist (send after 30 days of initial demand letter)
Update the file status on the ACMP

Week 9 - Week 12: Revise the SOP

Continue to assert claims involving insured motorists and damage to real property
Enter all actions on the ACMP
Revise processes and procedures and update the SOP

Expand the Program

Address the backlog (statute of limitations is three years)
Explore alternate methods of enforcement
Repair in kind
Restitution
Administrative offset

Publicize the program

Create an information paper
 Post the paper on the SJA or installation website
 Hand the paper out to organizations in your jurisdiction
Create a PowerPoint Presentation
 Brief at training meetings around the installation

Network with organizations in your jurisdiction

Organizations with Potential Claims Information

<u>Organization</u>	<u>Examples of Potential Claims</u>
Military Police	traffic accidents, vandalism, trespass, off-roading in protected areas
Criminal Investigation Division	theft, assault, disorderly conduct
Directorate of Public Works	repair to real property, clean-up of garbage or fuel leaks, waste removal
OSJA	
Claims	loss of TA-50 by carrier
Military Justice	damage to unit property
Administrative Law	FLIPLs finding member not liable
Federal Litigation	theft, traffic accident
Contracting	damage caused by construction contractor
Housing	damage to housing and furnishings
Army and Air Force Exchange Svcs	theft, vandalism
Defense Commissary Agency	theft, vandalism
Non-Appropriated Funds	damage to club furnishings, damage to gaming machines
G4/S4/Logistics Officer	FLIPLs finding member not liable
Range Control	damage to protected areas, abandoned vehicles, illegal dumping
Transportation Management Office	damage to government vehicles
Safety Office	serious incidents
Emergency Services	response services, accident clean-up
Recruiting, USAR, and ARNG units	damage to rental vehicles, damage to military vehicles
Medical Treatment Facility	theft of medical supplies or equipment

Appendix B

Sample Demand Letter to Insured Motorist



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
[ORGANIZATIONAL NAME/TITLE]
OFFICE OF THE STAFF JUDGE ADVOCATE
[STANDARDIZED STREET ADDRESS]
[CITY, STATE, AND ZIP + 4 CODE]

[Month DD, YYYY]

Affirmative Claims Division

[Title/Rank and Name of Motorist]
[Street Address]
[City, State, and Zip + 4 Code]

Dear [Title/Rank and Name of Motorist]:

The United States hereby gives notice of its claim against you from an incident on [Month DD, YYYY] wherein [brief description of incident and government property damaged]. The Army Claims Identification Number for this incident is: [number automatically generated by ACMP]. Our investigation determined that you are liable for the damage to Government property in the amount of \$XXX.XX. The investigative report and the invoice showing the repair cost are enclosed. A copy of this letter and its enclosures has also been provided to your insurance company, [motorist's insurance company].

Pursuant to the Federal Claims Collection Act, 31 U.S.C. § 3711, this letter constitutes a demand for payment. Please make payment in the form of a cashier's check or money order payable to "The United States Treasury" and refer to the above claim number. Forwarded the payment to:

Department of the Army
[Organizational Name/Title]
Office of the Staff Judge Advocate
Attn: Affirmative Claims Division
[Standardized Street Address]
[City, State, and Zip + 4 Code]

Failure to respond to this letter within 30 days will be taken as a negative response. After 30 days, you will begin to incur interest fees and penalty charges. Your file will then be forwarded to the appropriate agency with a recommendation to pursue final financial/judicial action and you may incur additional processing fees.

The point of contact for this action is [Title/Rank and Name of Claims Officer] at (XXX) XXX-XXXX or by email at [official email address].

Sincerely,

[Name of Claims Officer]
[Rank], US Army
Claims Judge Advocate

Enclosures

Appendix C

Sample Demand Letter to Motorist's Insurance Company



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
[ORGANIZATIONAL NAME/TITLE]
OFFICE OF THE STAFF JUDGE ADVOCATE
[STANDARDIZED STREET ADDRESS]
[CITY, STATE, AND ZIP + 4 CODE]

[Month DD, YYYY]

Affirmative Claims Division

[Name of Motorist's Insurance Company]
[Street Address]
[City, State, and Zip + 4 Code]

Dear Sir or Ma'am:

The United States hereby gives notice of its claim against your insured:

[Name of Motorist]
Policy Number: [policy number from police report]

Refer to the enclosed letter sent to your insured for details of the incident. Please make payment to "The United States Treasury" and forwarded it to:

Department of the Army
[Organizational Name/Title]
Office of the Staff Judge Advocate
Attn: Affirmative Claims Division
[Standardized Street Address]
[City, State, and Zip + 4 Code]

The point of contact for this action is [Title/Rank and Name of Claims Officer] at (XXX) XXX-XXXX or by email at [official email address].

Sincerely,

[Name of Claims Officer]
[Rank], U.S. Army
Claims Judge Advocate

Enclosure
BS

Appendix D

Sample Final Notice to Insured Motorist



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
[ORGANIZATIONAL NAME/TITLE]
OFFICE OF THE STAFF JUDGE ADVOCATE
[STANDARDIZED STREET ADDRESS]
[CITY, STATE, AND ZIP + 4 CODE]

[Month DD, YYYY]

Affirmative Claims Division

FINAL NOTICE

[Title/Rank and Name of Motorist]
[Street Address]
[City, State, and Zip + 4 Code]

Dear [Title/Rank and Name of Motorist]:

In a letter dated [Month DD, YYYY of demand letter], you were notified of the United States' claim against you for damage to Government property in the amount of \$XXX.XX. As of the date of this letter, you have failed to respond.

You are hereby notified of the United States' intention to turn this matter over to the appropriate agency with a recommendation to pursue final financial/judicial action. You will begin to incur interest fees and penalty charges and may incur additional processing fees.

To avoid action being taken against you, *immediately* pay the above amount. Make payment in the form of a cashier's check or money order payable to "The United States Treasury" and refer to the above claim number. Forwarded the payment to:

Department of the Army
[Organizational Name/Title]
Office of the Staff Judge Advocate
Attn: Affirmative Claims Division
[Standardized Street Address]
[City, State, and Zip + 4 Code]

The point of contact for this action is [Title/Rank and Name of Claims Officer] at (XXX) XXX-XXXX or by email at [official email address].

Sincerely,

[Name of Claims Officer]
[Rank], US Army
Claims Judge Advocate

Appendix E

Sample Cash Collection Voucher (DD Form 1131)

CASH COLLECTION VOUCHER		1. DISBURSING OFFICE COLLECTION VOUCHER NUMBER		
		2. RECEIVING OFFICE COLLECTION VOUCHER NUMBER		
3. RECEIVING OFFICE				
a. ACTIVITY (Name and Location) (Include ZIP Code) [Organizational Name/Title] Office of the Staff Judge Advocate - Affirmative Claims Division [Standardized Street Address], [City, State, and Zip - 4 Code]				
b. RECEIVED AND FORWARDED BY (Printed Name, Title and Signature) [Rank and Name of Claims Officer] Claims Judge Advocate			d. DATE (YYYYMMDD)	
c. TELEPHONE NUMBER (Include Area Code): COMMERCIAL: _____ DSN: _____				
4. DISBURSING OFFICE				
a. ACTIVITY (Name and Location) (Include ZIP Code)				
b. DISBURSING OFFICER (Printed Name, Title and Signature)			d. DISBURSING STATION SYMBOL NUMBER	
c. TELEPHONE NUMBER (Include Area Code): COMMERCIAL: _____ DSN: _____			e. DATE (YYYYMMDD)	
5. PERIOD: a. FROM: _____ b. TO: _____				
6. DATE RECEIVED	7. NAME OF REMITTER DESCRIPTION OF REMITTANCE	8. DETAILED DESCRIPTION OF PURPOSE FOR WHICH COLLECTIONS WERE RECEIVED	9. AMOUNT	10. ACCOUNTING CLASSIFICATION
	[Rank/Title and Name of Tortfeasor] [SSN if known] [Check/Money Order ###]	Claim Number: (ACMP generated #) Damage to Government Property - [description of property]		[Account Number (contact the Affirmative Claims Branch for proper account number)]
11. TOTAL			0.00	