

Claims Report
U.S Army Claims Service

Wounded Soldier Property

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Since Fiscal Year 2003, the Army has paid over \$3.5M in claims to wounded, ill, or injured Soldiers who have been medically evacuated from Iraq and Afghanistan, for personal property left in theater that was not returned to them by their units.¹ This note explains the process which units in theater should follow with regards to the personal property of medically evacuated Soldiers from the time of injury until the property is returned to the Soldier. It explains how to minimize the loss of property carried by Soldiers en route to medical treatment, as well as how field claims offices should process wounded Soldier claims.

The program to return personal property to a medically evacuated Soldier is administered through the Joint Personal Effects Depot (JPED) at Aberdeen Proving Grounds.² As advisors to commanders, Judge Advocates are uniquely situated to apprise the chain of command about this program and explain its value as a morale multiplier.³ This note will provide a brief outline of the JPED Program. Judge Advocates must involve themselves early in the process to ensure commands are promptly securing, inventorying, and shipping property to the Soldier via JPED. Being proactive will, in many cases, obviate the need to process claims for lost property and, more importantly, improve morale.

Personal Property

In the military medical community, personal property is commonly referred to as personal effects (PE) and includes all privately-owned, moveable personal property.⁴ This includes items that are normally found on a person such as watches, rings, jewelry, money, wallets, as well as other possessions, such as personal clothing, personally-owned military clothing, televisions, and DVD players.

Medically evacuated Soldiers' property must be treated with care and attention to detail.⁵ The standard is 100% accountability for all personal property from the unit in theater, through Mortuary Affairs Collection Points (MACP), to the JPED, which is usually the final station before PE are returned to the Soldier. Every PE item is important, and everyone in the chain of custody must ensure this mission is executed to standard.⁶

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¹ Data provided by Recovery Branch, U.S. Army Claims Service, July 2009

² JPED is a contingency activity established to process the return of personal effects of deployed servicemembers of all branches of the Armed Forces. U.S. Army Human Resources Ctr., Army Casualty and Mortuary Affairs Contact Information, <https://www.hrc.army.mil/site/Active/TAGD/CMAOC/CMAOCPages/CMAOCContactUs.htm#jped> (last visited July 16, 2009).

³ All claims attorneys are encouraged to review policy guidance and All Army Activities (ALARACT) messages on this subject. Personnel Policy Guidance for Contingency Operations in Support of GWOT, Mortuary Affairs (Personal Effects), Headquarters, U.S. Dep't of Army G-1, DAPE-MPZ-MM, para. 9–5e (13 Feb. 2008) [hereafter Personnel Policy Guidance] (“When a Soldier or DA civilian dies, is medically evacuated from theater, or becomes missing in the area of operations, the personal property in theater and at the rear detachment must be handled in accordance with ALARACT Messages 139/2006, 161/2007, 224/2007, 235/2007, AR 638-2, Chapters 17-22 and DA Pam 638-2 Chapters 11-16.”). Claims attorneys should also register for and check the ALARACT website periodically for updates. U.S. Army, Army ALARACT Knowledge Center, <https://www.us.army.mil/suite/page/550282> (last visited July 3, 2009).

⁴ See Message, 210236z Jul 06, Headquarters, Dep't of Army, DAMO-AOC, subject: Policies and Procedures for the Handling Of Personal Effects (PE) and Government Property (ALARACT 139/2006), para. 2.b [hereinafter ALARACT 139/2006].

⁵ Message, 112300z Oct 07, Headquarters, Dep't of Army, TAG, subject: Revised Policies for Certifying and Reporting Theater Summary Court Martial Officers (SCMO) in the CENTCOM AOR (ALARACT 224/2007), para. 5.b [hereinafter ALARACT 224/2007].

⁶ The MACP is responsible for property of evacuated Soldiers as well as remains. *Id.* para. 7.

Personal Property on the Soldier at the Time of Injury

All items found on or near the medically evacuated Soldier will accompany the individual to the local medical treatment facility (MTF). The only items that will be separated are weapons, radios, munitions, classified documents, and hazardous materials.⁷

At the MTF, hospital personnel will inventory any property, protective gear, and organizational clothing and individual equipment (OCIE) that it retains, using Department of the Army (DA) Form 4160.⁸ A copy of this form will be provided to the Soldier's unit.⁹ The PE of an evacuated Soldier will be secured by the MTF. These items will be transferred out of theater with the injured Soldier by the MTF and will accompany the Soldier to his final destination.

Appointment of a SCMO

Commanders are required to appoint a commissioned officer, warrant officer, or non-commissioned officer in the grade of E-6 or above as the Summary Court-Martial Officer (SCMO) upon notice that a Soldier has been hospitalized.¹⁰ The SCMO is responsible for collecting and safeguarding any medically evacuated Soldier's property found in places under Army jurisdiction or control.¹¹ The SCMO will immediately contact the Soldier's chain of command, roommate, friends and acquaintances, and those at the Soldier's work site, to identify and safeguard all PE and equipment, and conduct an inventory within twelve hours of the appointment.¹²

The SCMO also will segregate mission-essential government items such as weapons, ammunition, government satellite cell phones, arms room keys, and night vision devices, along with other mission-critical or hazardous items.¹³ Throughout this process, the SCMO will adhere to a standardized checklist provided at ALARACT message 235/2007, to facilitate the return of the PE to the Soldier and ensure that the shipment meets customs pre-clearance requirements.¹⁴

The SCMO will note the item number, manufacturer, brand name, serial number, and model number, as well as the condition of the property, such as "damaged," "dented," "scratched," or "not operational".¹⁵ The SCMO is expected to make use of receipts to identify property purchased at the post exchange, such as MP3 players, CDs, DVDs and game cartridges, and ensure the condition of these items is noted before packing.¹⁶ The SCMO will carefully describe items likely to have intrinsic or sentimental value. Descriptions of jewelry will specify the color of the metal (rather than speculate as to its metallic content), presence and color of stones, if any, as well as any inscriptions (for example: "Ring, gold in color, with a blue stone, inscribed JHS").¹⁷

⁷ Personnel Policy Guidance, *supra* note 3, para. 9-5b(3).

⁸ See U.S. DEP'T OF ARMY PAM. 638-2, CARE AND DISPOSITION OF REMAINS AND DISPOSITION OF PERSONAL EFFECTS para. 12-11b (Forms used to inventory PE) (22 Dec. 2000).

⁹ ALARACT 139/2006, *supra* note 4, para. 3.b.

¹⁰ Message, 090012Z Jan 09, Headquarters, Dep't of Army, HRC, subject: Policies and Procedures for the Handling of Personal Effects for Medically Evacuated Soldiers from a Combatant Theater [hereinafter ALARACT 006/2009] (no longer limiting the appointment of SCMOs to warrant and commissioned officers). SCMOs are also appointed upon notification of a Soldier's death or status as missing-in-action. *Id.*

¹¹ *Id.* para. 3e; see U.S. DEP'T OF ARMY, REG. 638-2, CARE AND DISPOSITION OF REMAINS AND DISPOSITION OF PERSONAL EFFECTS (22 Dec. 2000) (providing further information about the SCMO's duties).

¹² ALARACT 139/2006, *supra* note 4, para. 3.e.2 ("The SCMO will perform an inventory within 12 hours using Two-person control of all safeguarded equipment.").

¹³ Message, 191734z Oct 07, Headquarters, Dep't of Army, HRC-HQDA, TAG, subject: Summary Court Martial Officer (SCMO) Checklist for Current CENTCOM Theater Use Only (ALARACT 235/2007), para. 7 [hereinafter ALCARACT 235/2007].

¹⁴ *Id.* para. 1 ("ALARACT 153/2006 091926z Aug 2006, SCMO checklist, is rescinded."); see also *id.* para. 2 ("All previous editions of that checklist are obsolete.").

¹⁵ *Id.* SCMO Checklist.

¹⁶ *Id.*

¹⁷ *Id.*

Once the inventory is complete, the SCMO will safeguard the property until it is transferred with receipt to the closest MACP in Iraq or Afghanistan, most of which are operated at logistics bases.¹⁸

This process is not optional. Alternative methods, such as the mailing of PE out of theater or keeping it in a large shipping container (such as a CONEX or MILVAN) until the unit's redeployment, are prohibited.¹⁹

From SCMO to the MACP/TPED/JPED

While earlier guidance indicated that the SCMO must "ensure that the secured PE and OCIE is . . . sent to the nearest mortuary affairs collection point (MACP),"²⁰ the SCMO is now required to "hand deliver" personal property to the MACP²¹ within seventy-two hours of the incident²² unless operational or safety concerns preclude meeting that standard.²³ The MACP processes the personal property and OCIE of all deceased, missing in action, and medically evacuated Soldiers²⁴ and electronically reports its property shipments to armypeops@conus.army.mil.²⁵ This report is the first official notice that a Soldier's property is en route to the JPED, and may be of value to claims personnel attempting to track the whereabouts of property believed to have been entered into the JPED system.

The MACPs in Iraq forward the PE to the Theater Personal Effects Depot (TPED) at Kuwait City International Airport by the most expeditious means possible.²⁶ The TPED processes and ships the personal property to the JPED.²⁷ In Afghanistan, MACPs bypass the TPED and forward property directly to the JPED via premier air freight service.²⁸ Once received, the JPED determines which OCIE will be treated as PE and which will be processed as government-owned OCIE to be cleared from the individual's OCIE hand receipt.²⁹

The dedicated Soldiers, Sailors, Marines, and Airmen who manage the JPED tend to the property in their temporary custody with great care. Personal effects and personally-owned OCIE are cleaned and sorted; on-station SCMOs inventory all arriving shipments. At the end of the process, PE are usually mailed via FedEx to the Soldier's home of record, to a person eligible to receive the effects, or to the individual's home station.³⁰ Soldiers still recuperating in a hospital may request that the JPED ship specific comfort items directly to the MTF, bearing in mind the limited space available in such facilities for securely storing high-value or sentimental items.

Actions on Receipt of a Claim

Soldiers may file a claim for lost PE. While most medically evacuated Soldiers wait until they return to their home station to file for most of their missing PE, many file a claim at the MTF for missing personal "comfort items," such as laptops,

¹⁸ *Id.*

¹⁹ Message, 182006z Jul 07, Headquarters, Dep't of Army, TAG, subject: ALARACT 161/2007, para. 6 [hereinafter ALARACT 161/2007].

²⁰ ALARACT 139/2006, *supra* note 4, para. 3.f.1.

²¹ ALARACT 161/2007, *supra* note 19, para. 6.

²² ALARACT 235/2007, *supra* note 13, SCMO Checklist ("Personally escort the PE to the MACP within 72 hours from the date of the incident. . . . Remain with the PE until the footlockers have been signed for by the MACP. Get a receipt memorandum from the MACP. . . .").

²³ ALARACT 139/2006, *supra* note 4, para. 3.f.4.

²⁴ *Id.* para. 2.

²⁵ ALARACT 224/2007, *supra* note 5, para. 9(4).

²⁶ ALARACT 139/2006, *supra* note 4, para. 4.

²⁷ *Id.* para. 4a.

²⁸ *Id.* para. 4b.

²⁹ *Id.* para. 2c.

³⁰ *Id.* para. 4c.

cameras, CDs, DVDs, iPods, MP3 players, portable DVD players.³¹ There are three recommended actions that a local claims office should consider with respect to an evacuated Soldier's PE.

1. The JPED Database

When accepting a claim from a Soldier who has been evacuated from theater, first check the JPED database. The PE may not be lost and may be en route from the theater of operations to the TPED or JPED. Personnel of the U.S. Army Claims Service have access to the JPED database and can help locate PE for a Soldier. Checking the database should be the first step taken by the local claims office whenever a medically evacuated Soldier wishes to file a claim. Claims offices without access to the JPED database may call the U.S. Army Claims Service directly and speak to the Recovery Branch Chief.

2. Mortuary Affairs Office, Human Resources Command

Another means to locate property is through the Mortuary Affairs Office, Human Resources Command (HRC), which can submit an inquiry to its Theater Mortuary Officer and unit property officers to determine whether they received a specific Soldier's PE. If the JPED database does not contain a record of the claimant's PE, contact the U.S. Army Claims Service Recovery Branch. They can liaison with HRC to make this inquiry on behalf of your claims office.

3. Contact the Unit

When a Soldier's name does not appear in the JPED database, you must identify the unit the Soldier was assigned to at the time of injury and the names of the members of his chain of command up to company/detachment level. Contact the Soldier's chain of command and ask if the unit did anything with the Soldier's PE. If they still have it and the unit is still deployed, explain the MACP/JPED process to them and advise the unit commander to inventory and transport the property to the nearest MACP immediately. If the unit has returned to its home base and they still have the Soldier's PE, the installation Transportation Office (TO) can assist in shipping the PE directly to the Soldier. If, after delivery, you determine that some of the Soldier's PE was lost or destroyed, you should pay the Soldier for those items.

When efforts to locate a Soldier's PE through JPED and other channels have failed, you should promptly process the claim. The normal rules apply to such claims, although you should consider the circumstances of the Soldier's departure from theater when deciding what substantiation is required.

Soldiers also may submit claims for PE that were on their person at the time of injury. This property was never inventoried by the SCMO because it traveled with the Soldier to the MTF. Some items may have been destroyed in the event that caused the injury. Items that are with the Soldier on arrival at the MTF are inventoried and secured by the MTF, but items that are contaminated by bodily fluids may be destroyed as medical waste. Claims offices should check with the Patients' Trust Fund, Patient Administration Division at the last MTF where the Soldier was an inpatient to see if the MTF has any record of the disposition of the property that was evacuated with the Soldier.

Claims submitted by wounded Soldiers for items carried on the uniform during medical evacuation continue to be among the most difficult to substantiate. Process these claims much like any theft or loss claim with due recognition of the special circumstances in which property is lost. Over the course of the war, units in theater have relaxed their standards with respect to the kinds of property Soldiers may place on their uniform or weapon. For example, Soldiers have submitted claims for specialty sights, ammo clips, blast proof sunglasses, canteens, and rucksacks. While payment for this property may be approved, claims offices should seek verification from the unit whenever a claim has been submitted for an unreasonable quantity of such items.

³¹ While no one disputes the recuperative and morale-building value of comfort items, this note does not endorse the practice on the part of commands of allowing wounded Soldiers to carry expensive items either on their person or in accompanying baggage while they are being evacuated to medical treatment facilities out of theater.

Guidance and Lessons Learned

The JPED system is efficient and expedient. However, commands in combat zones have dozens of critical issues to consider daily and attention to the JPED process may be overlooked. The Claims community can help by ensuring that the JPED process is covered during pre-deployment briefings to commanders and senior non-commissioned officers. Judge Advocates can also spread the word to commanders and sergeants major in theater.

Commanders should be advised to restrict carry-on baggage and personal comfort items accompanying medically evacuated Soldiers. When a Soldier is not immediately evacuated from the MTF, volunteers in the command usually pack some of the Soldier's PE such as laptops, DVD players, I-Pods or MP3 players in a rucksack or duffel bag, fully expecting that the property will accompany the Soldier to the final treatment and rehabilitation MTF. Similarly, the Soldier may express a desire to carry along an IPOD, camera, watch, etc., believing it safer and more practical to place these items in pockets, around the neck, or on a wrist than leave them behind with the unit.

Unfortunately, experience has shown that PE accompanying the Soldier during medical evacuation often do not make their way safely back with the individual. Many medically evacuated Soldiers are immobilized on gurneys during their journey to the MTF and they may lose sight of accompanying baggage. Items on the Soldier's uniform may be cast off in the course of treatment or discarded because they have been soiled. Many Soldiers are evacuated from theater to an intermediate MTF, often the Army Medical Center at Landstuhl, Federal Republic of Germany. Sometimes Soldiers are then evacuated from that facility to a final MTF in CONUS and notice is not given to the property accountability section that has control of the Soldier's PE. The patient and property get separated and the Soldier may not have his PE on arrival back at the final CONUS MTF. Judge Advocates are urged to counsel their Soldiers and commanders to use the JPED system to the maximum degree possible, even when doing so would deprive the evacuated Soldier of these items during the journey to the treatment facility. The PE of evacuated Soldiers are safer in the hands of the SCMO and others who are dedicated to ensuring their return to the Soldier. Moreover, a commander may not authorize a wounded Soldier to carry PE to an MTF unless the commander has good reason to believe the PE will be secured while in transit.³²

Judge Advocates should also advise commanders that they may not always receive notice about a medically evacuated Soldier's status through medical or personnel channels. If the commander reasonably believes the injuries are of such severity that the Soldier will not return to the unit, the commander should immediately place the PE into the JPED system by appointing and a SCMO. The faster the property is placed into the JPED system, the faster it will be returned to the Soldier.

Conclusion

We owe our medically evacuated Soldiers our best effort to safeguard their property and ensure it is promptly returned. The Judge Advocate community should do all that it can to educate the entire chain of command of the requirements for the proper handling of the PE of medically evacuated Soldiers. The goal is to ensure proper accountability at all stages of the process in order to ensure that evacuated Soldiers and their PE are re-united. By working toward this goal, we also can avoid the need to process claims for missing property and the costs of paying those claims.

³² ALARACT 139/2006, *supra* note 4, para. 2.a.

The decision to ship PE and OCIE with medically evacuated individuals, instead of through the MACP, must be made prudently considering the individual's state of mind, the limit on allowable Baggage that can be carried on military airlift, *and ability to control the items in their possession throughout the evacuation Process.*

Id. (emphasis added).