BY ORDER OF THE
SECRETARY OF THE AIR FORCE

AIR FORCE POLICY DIRECTIVE 51-5

27 SEPTEMBER 1993

Law

MILITARY LEGAL AFFAIRS

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Pages: 11
Distribution: F

Section A—Administrative Claims for or Against the Air Force

1. Public law serves as the foundation for Air Force operations, and forms the framework within which it fulfills its obligations to the public and its people. This directive establishes policies for resolving claims for and against the Air Force, for investigating and preserving evidence from aircraft, missile, nuclear, and space accidents, and for providing legal assistance to Air Force personnel.

2. The Air Force will establish and administer a vigorous Air Force Claims Program to expeditiously investigate and process all administrative claims for or against the Air Force.

3. Meritorious claims will be promptly paid in the amount necessary to restore the claimant, as nearly as possible, to his or her position before the incident on which the claim is based, within the guidelines of law and Air Force instructions.

3.1. When military members and civilian employees suffer personal property loss, damage, or destruction incident to service, the Air Force will compensate them for the fair market value of the loss, within the limits of paragraph 1.3.

4. The claims policies of this directive establishes the following responsibilities and authorities:

4.1. The General Claims Division (AFLSA/JACC) will track compliance; provide guidance to all levels of the Air Force on administrative claims processing; maintain liaison with Department of Defense (DoD), Department of Justice (DoJ), and the other services on general claims matters; and settle, deny, or waive claims within its delegated settlement authority. See attachment 1 for measures used to comply with this policy.

4.2. The Tort Claims and Litigation Division (AFLSA/JACT) will provide guidance concerning tort claims to all levels of the Air Force; maintain liaison with DoD, DoJ, and other services on tort claim matters; and settle, or deny, claims within its delegated settlement authority.

4.3. Major command (MAJCOM), field operating agency (FOA), and direct reporting unit (DRU) staff judge advocates (SJA) will exercise functional staff supervision of the Claims Program within their command and will ensure compliance with claims policies.

4.4. Base SJAs will process all 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 (RCS: HAF-JAC[AR] 8302, *JAG Accident or Incident Report*).

4.5. See attachment 2 for national and DoD claims policies and DoD directives implemented in this section.

4.6. This section interfaces with various policies related to litigation of claims for and against the Air Force: Related policies are included in AFPD 51-3, *Civil Litigation*. Related instructions are in AFI 51-301, *Civil Litigation* (formerly AFRs 110-5, 110-10, 110-24); AFI 51-302, *Medical Law Program*(formerly AFR 110-30); AFI 51-501, *Tort Claims* (formerly AFR 112-1); and AFI 51-502, *Personnel Claims*(formerly AFR 112-1).

Section B—Accident Investigations of Aircraft, Missile, Nuclear, and Space Accidents

5. Accident investigations of aircraft, missile, nuclear, and space accidents will be conducted to obtain and preserve all available evidence for use in litigation, claims, disciplinary or adverse administrative actions, and for all other purposes. A thorough accident investigation report ensures that the Air Force is able to successfully assert a claim of privilege over portions of the limited-use safety mishap report, as described in AFPD 91-2, *Safety Programs*.

6. An accident investigation is required when there is an authorized safety mishap investigation, and it is reasonably clear one of the conditions established in AFI 51-503, *Aircraft, Missile, Nuclear, and Space Accident Investigations* (formerly AFR 110-14) applies.

6.1. An accident investigation of other mishaps may be conducted at the discretion of the convening authority.

7. The accident investigation policies of this directive establishes the following responsibilities and authorities:

7.1. The MAJCOM commander or designee who convened or would have convened the antecedent safety mishap investigation will convene the accident investigation, unless the MAJCOM commander has designated a numbered Air Force (NAF) commander with the responsibility and authority for convening accident investigations, or an investigation is conducted under paragraph 1.7.2. MAJCOM commanders will ensure compliance with accident investigation policy.

7.2. The Chief, National Guard Bureau, or designee convenes the accident investigation when the mishap involves Air National Guard aircraft, except when aircraft from another Air Force component are also involved.

8. Accident investigation policy implements DoD Instruction 6055.7, *Mishap Investigation, Reporting, and Recordkeeping*, April 10, 1989.

9. Accident investigation policy interfaces with AFPD 91-2. Related instructions are in AFI 51-503.

Section C—The Legal Assistance and Preventive Law Program

10. The primary legal assistance priority is to support the Air Force mission. The Legal Assistance Program will provide notary and legal services to individual clients on personal, civil legal matters and will ensure that their legal difficulties do not impede the efficiency and effectiveness of command. Legal assistance will be provided as resources permit to beneficiaries authorized by Title 10, United States Code, Section 1044, and DoD civilian employees stationed in a foreign area and their dependents.

11. An active preventive law program of publicity, education and training helps the Air Force community avoid legal problems. Every base will have a preventive law program.

12. The following responsibilities are derived from the Legal Assistance Program policy:

12.1. The Legal Assistance Division, Air Force Legal Services Agency (AFLSA/JACA) carries out overall administration of the Legal Assistance Program. The Chief of AFLSA/JACA is responsible for the overall operation of the Preventive Law Program and provides general guidance in its implementation.

12.2. MAJCOM, FOA, and DRU SJAs will exercise functional staff supervision over the Legal Assistance Program within their command and ensure compliance with this policy. They ensure requirements for mission-related legal assistance are met and may limit legal assistance services under 10 U.S.C. 1044.

12.3. NAF SJAs will focus on legal needs arising from operational readiness and oversee and direct legal assistance services consistent with mission-related needs.

12.4. A faculty member of the Air Force Judge Advocate General School, CPD/JA, Maxwell AFB, Alabama, serves as the Director of the Preventive Law Program. The Director's responsibilities are to compile and distribute preventive law information to legal offices throughout the Air Force.

12.5. Installation SJAs are responsible for implementing the Legal Assistance Programs at their installation and are responsible for the Preventive Law Program at their installation. The SJA, in conjunction with commanders and other staff agencies, identifies areas of legal concern and design and implements measures to meet those needs.

13. This section implements 10 U.S.C. 1044 and interfaces with related instructions in AFI 51-504, *Legal Assistance, Notary, and Preventive Law Programs* (formerly AFRs 110-6, 110-22, and 110-27).

14. The Judge Advocate General, through the Director of Civil Law and Litigation, Air Force Legal Services Agency, is responsible for interpreting and ensuring compliance with this directive.

15. See attachment 3 for terms used in this policy.

NOLAN SKLUTE, Maj General, USAF
Judge Advocate General

Attachment 1

MEASURING AND DISPLAYING COMPLIANCE WITH POLICY

A1.1. Compliance with claims policy will be measured in two areas: Time to adjudicate claims and amount paid versus amount claimed.

A1.1.1. Time To Adjudicate Claims. The policies to expeditiously investigate and process claims, to promptly pay claims, and to timely assert claims will be measured by determining the percentage of personnel claims processed within 10 days, with an Air Force goal of 80 percent. The Claims Administrative Management Program (CAMP) will produce a percentage figure for personnel claims processed within 10 days by base, NAF, MAJCOM, and Air Force-wide. Figures will be charted annually for the preceding 2 fiscal years and quarterly for the present fiscal year (figure A1.1).

A1.1.2. Amount Paid Versus Amount Claimed. The policy that personnel will be compensated for the fair market value of their property (lost, stolen, or destroyed) incident to service will be measured by the calculation by CAMP of the percentage of the dollar amount of personnel transportation claims paid during the fiscal year divided by the dollar amount of personnel transportation claims claimed during the fiscal year. Figures will be charted annually for the preceding 2 fiscal years and quarterly for the present fiscal year. These figures will be compared against the Air Force 15-year mean for this percentage with variation limits defined as one standard deviation above and below that mean (figure A1.2).

A1.1.3. **Legal Assistance and Preventive Law.** The percentage of personnel tasked for deployment who are briefed on their personal legal needs and receive mission-related legal assistance will be assessed on an annual basis (figure A1.3).

Figure A1.1. Sample Metric of Personnel Claims Processed Within 10 Days.

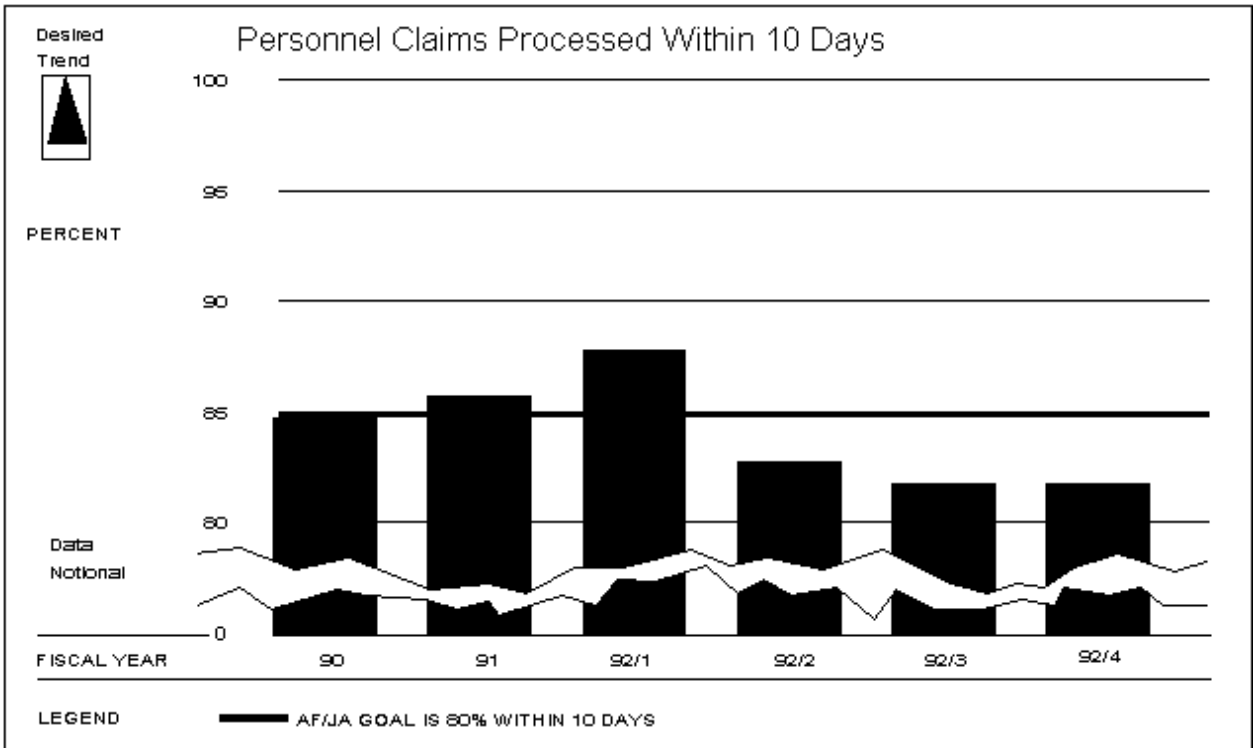


Figure A1.2. Sample Metric of Personnel Transportation Claims.

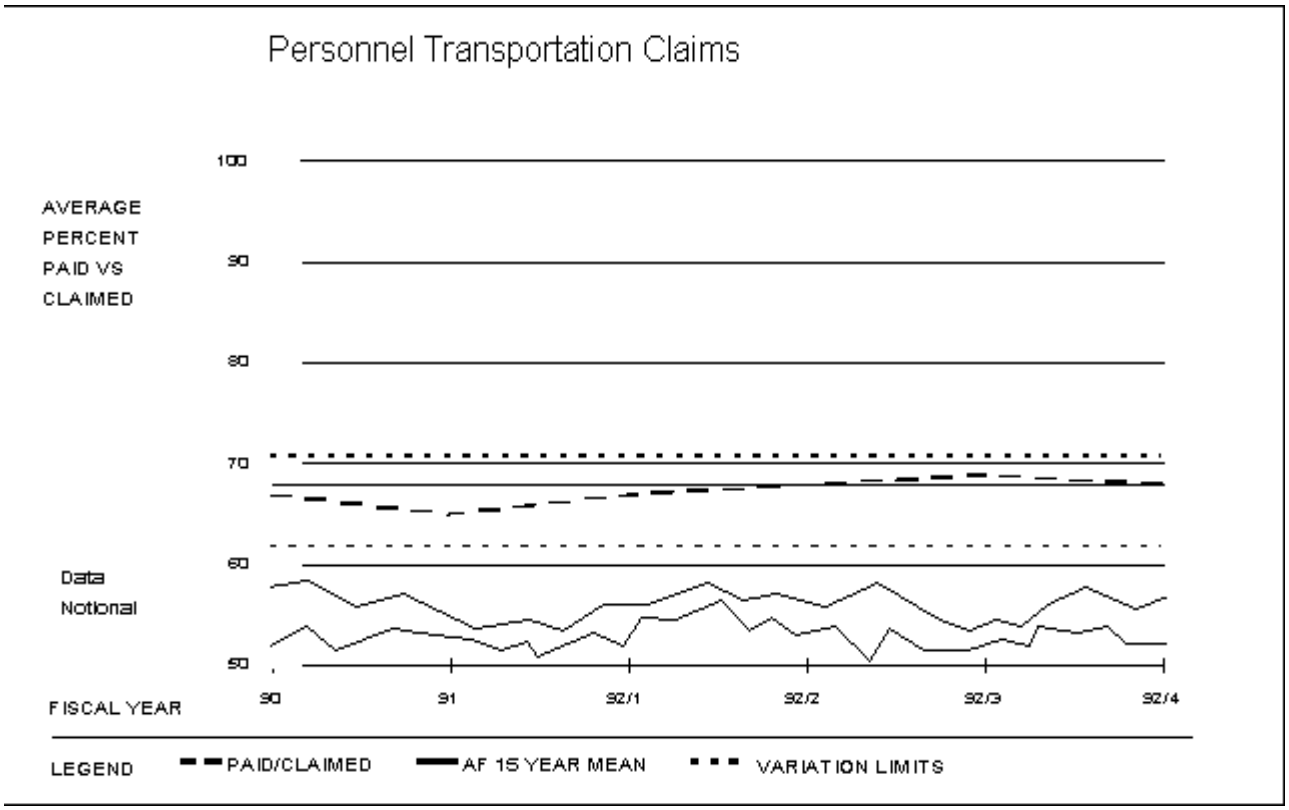
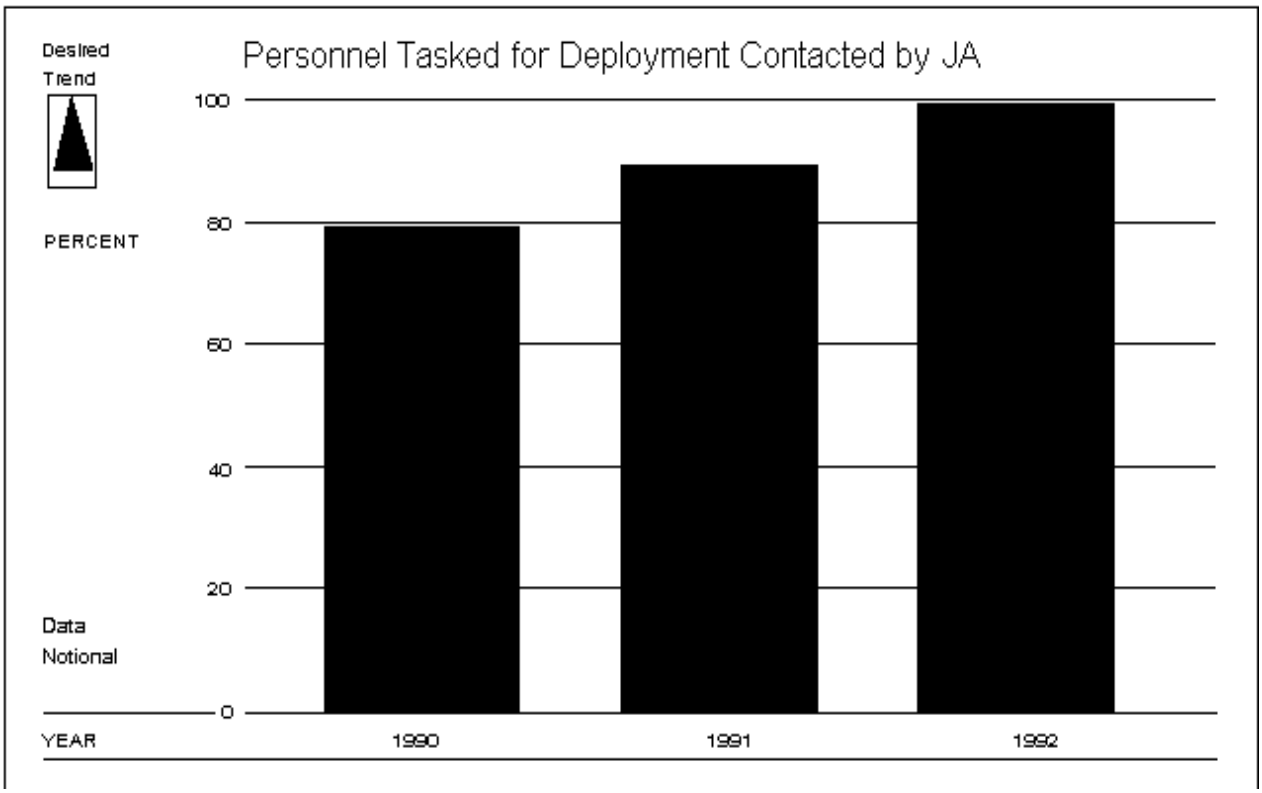


Figure A1.3. Sample Metric of Personnel Tasked for Deployment Contacted by JA.



Attachment 2

IMPLEMENTED CLAIM POLICIES AND DOD DIRECTIVES

National and DoD claims policies implemented by Section A.

Uniform Code of Military Justice: Title 10, United States Code, Section 939

The Military Personnel and Civilian Employee Claims Act: Title 31, United States Code, Sections 3701 and 3721

The Military Claims Act: Tittle 10, United States Code, Sections 2731, 2733, and 2735

The Foreign Claims Act: Title 10, United States Code, Section 2734

*The International Agreement Claims Act:*Title 10, United States Code, Sections 2734 a and b

Use of Government Property Claims: Title 10, United States Code, Section 2737

Admiralty Claims: Title 10, United States Code, Sections 9801 through 9804 and 9806; Title 46, United States Code, Section 740 (Appendix)

The Federal Tort Claims Act: Title 28, United States Code, Sections 1346(b), 2402, 2671, 2672, and 2674 through 2680; Title 5, United States Code, Sections 8116 and 8173; Title 10, United States Code, Sections 1054 and 1089; Title 28, Code of Federal Regulations, Part 14.1 through 14.11

Government Property Claim: Title 31, United States Code, Sections 3701 and 3711 through 3719

National Guard Claims Act: Title 32, United States Code, Section 715.

The Federal Medical Care Recovery Act: Title 42, United States Code, Sections 2651 through 2653

Civil Air Patrol Claims: Title 5, United States Code, Sections 8101(10(B), 8102(A), 8116(C), and 8141; Title 10, United States Code, Sections 9441 and 9442; Title 36, United States Code, Sections 201 through 208

Advanced Payments: Title 10, United States Code, Section 2736

DOD Directives Implemented by Section A.

DoD Directive 5100.3 with Change 1, *Support of the Headquarters of Unified, Specified, and Subordinate Joint Commands*, November 1, 1988

DoD Directive 5513.3, *Settlement of Claims under 10 U.S.C. 2733 and 2734, as Admended*, August 18, 1965

DoD Directive 5515.6, *Processing Tort, Contract and Compensation Claims Arising out of Operations in Nonappropriated Fund Activities*, November 3, 1956

DoD Directive 5515.8, *Single-Service Assignment of Responsibility for Processing of Claims*, June 9, 1990

DoD Directive 51559 with Change 1, *Settlement of Tort Claims*, September 12, 1990

DoD Directive 5515.10, *Settlement and Payment of Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964*, June 17, 1965

DoD Directive 7045.13, DoD Credit Management and Debt Collection Program

Attachment 3

TERMS EXPLAINED

A3.1.

Administrative Claim Terms:

Claim.—Any signed written demand made on or by the Air Force for payment of a sum certain or an oral demand for a sum certain under Article 139, Uniform Code of Military Justice. It does not include any obligations.

Claims Settlement Authority.—The power, and the limitations of such power, of an individual or foreign claims commission, authorized to settle, deny or waive a claim upon its initial presentation or upon its reconsideration.

Geographic Claims Jurisdiction.—A Staff Judge Advocate's area of responsibility and jurisdiction for claims. Geographic claims jurisdictions in the United States are designated by AFLSA/JACC on maps and in text distributed to the field. HQ USAFE, HQ PACAF, HQ CENTAF SJAs designate thegeographic claims jurisdictions within their areas of responsibility. The Department of Defense assigns countries of single service claims responsibility to each military department.

Accident Investigation Terms:

Accidents. —Unplanned, unsought, noncombat events resulting in injury, death, or property damage. It is synonymous with mishap as defined in DoD Instruction 6055.7.

Accident Investigation.—Investigation of an aircraft, missile, nuclear or space accident conducted under this policy directive.

Accident Report.—A record containing documentary data and evidence gathered by an accident investigation conducted under this policy directive. The formal title is Aircraft (or Missile, Nuclear or Space) Accident Investigation Report. An accident report is not privileged and is fully releasable to the public.

Privileged Information.—Information that is exempt by law from disclosure outside the Air Force safety community and includes findings, conclusions, causes, recommendations, and the deliberative process of the safety investigation board. This category of information also includes witness statements, contractor's reports, and recorded intracockpit communications given to the safety investigation board pursuant to a promise of confidentiality.

Safety Mishap Investigation. —Investigation of a mishap for the sole purpose of mishap prevention.

Safety Mishap Investigation Report.— A record containing findings, conclusions,and evidence gathered by a safety mishap investigation. The formal title is *Limited-Use Safety Mishap Investigation Report*. Limited-use safety mishap investigation reports are close hold, internal communications of the Air Force with the sole purpose of mishap prevention.

Legal Assistance and Preventive Law Program Terms:

Eligible Beneficiaries.—All active duty members of the Armed Forces and their dependents, retired military personnel and their dependents, and civilian employees of the United States Armed Forces at

isolated installations or installations in foreign countries and their dependents who reside with them.

Mission-Related Legal Assistance— Those legal areas which may adversely impact the effectiveness of command or impair the efficiency of readiness and deployment. The following areas of the law will ordinarily be considered mission-related:

- Deployment and mobility readiness issues, including wills, living wills, powers of attorney, and notaries.
- Dependent care responsibilities.
- Soldiers' and Sailors' Civil Relief Act.
- Veterans' Reemployment Rights.
- Taxation.
- Casualty affairs issues caused by hostile action.
- Landlod-tenant issues.
- Issues referred by a member's commander.
- Any other issue determined by The Judge Advocate General, the MAJCOM SJA, the NAF SJA, or the installation SJA to be mission-related. This authority contemplates unique situations, such as oversea or operational needs, where there are no reasonable alternatives to legal assistance provided by the Air Force.

Non-Mission Related Legal Assistance.—ny other legal assistance rendered to eligible beneficiaries according to this policy directive that does not directly impact the Air Force mission or deployment readiness.