



Program Statement

OPI: OGC
NUMBER: 1120.19
DATE: 8/1/2003
SUBJECT: Personal Property
Claims, Staff

1. **PURPOSE AND SCOPE.** To instruct staff on:

a. filing administrative claims under the Bureau of Prisons Claims Act (BOPCA), 31 U.S.C. § 3722, for loss or damage to personal property resulting from events unique to service at a Bureau penal or correctional institution; and

b. on filing administrative claims under the Military and Civilian Employees Claims Act (CECA), 31 U.S.C. § 3721, for loss or damage to personal property resulting from government service.

2. **PROGRAM OBJECTIVES.** The expected result of this program is:

Appropriate payments should be made to employees under either BOPCA or CECA for loss or damage to personal property.

3. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 1120.16 Personal Property Claims, Staff (1/30/95)

b. **Directives Referenced**

PS 1320.03 Claims under the Federal Tort Claims Act
(6/28/00)

31 U.S.C. § 3722 Bureau of Prisons Claims Act (BOPCA)

31 U.S.C. § 3721 Military and Civilian Employees Claims
Act (CECA)

DOJ Order 2110.23C Filing and Settlement of Claims of
Civilian Personnel for Damages to or
Loss of Personal Property Incident to
Service

c. **Rules Referenced**

28 CFR 0.96 Delegation of Authority
28 CFR 0.97 Redelelegation of Authority

4. **STANDARDS REFERENCED.** None

5. **DELEGATION OF AUTHORITY.** The Regional Counsels and the Associate General Counsel of Legal Training and Review are delegated authority to consider, adjust, determine, compromise, settle, and pay all administrative claims filed under BOPCA.

The Regional Counsels and the Associate General Counsel of Legal Training and Review are delegated similar authority regarding administrative claims filed under CECA when the amount to be disbursed does not exceed \$5,000.

If the settlement recommendation for a claim filed under CECA exceeds \$5,000, the claim must be referred to the General Counsel for final action.

6. **DEFINITION.** The term "**employee**" is defined in accordance with 5 U.S.C. § 2015, as noted in DOJ Order 2110.23C.

7. **FILING A BOPCA CLAIM**

a. **Who may file a BOPCA claim?** Under BOPCA, a person employed by the Bureau at a correctional or penal institution may file an administrative claim for loss or damage to personal property.

b. **Is there a form I use to file a BOPCA claim?** No. However, you must provide the Bureau with some **written notification** to initiate a BOPCA claim. This notification must provide sufficient information so that the claim can be investigated and must establish each element set forth in subsection (e) below.

It is recommended that staff complete an Employee Claim for Loss or Damage to Personal Property form (SF DOJ-110) to initiate a BOPCA claim. You may also need a Schedule of Property form (SF DOJ-110A) and the instructions for completing a SF DOJ-110.

c. **What evidence must I provide to support my claim?**
If your claim involves the repair of a motor vehicle or other personal property, you must submit two written estimates. For

claims that involve personal property you should provide a receipt, if possible, or another means of establishing the property's current value.

Additionally, the Safety Manager at the nearest institution should conduct an investigation and take photographs in sufficient quantity and detail to provide the reviewing office with a clear idea of the type and extent of damage, especially in the case of motor vehicle damage.

d. **Is there a limit on the amount I can receive?** Yes. Recovery under BOPCA is limited to \$1,000.

e. **What are the elements of a BOPCA claim?** Your claim must meet **all** the following criteria to be considered for payment:

- You must be employed at or on temporary duty at a correctional or penal institution at the time of the loss;
- Neither you, your agent, nor your employee caused any part of the loss through a negligent or wrongful act;
- Possession of the lost or damaged property was reasonable or useful for the performance of assigned duties;
- The loss was incident to your service with the Bureau; and
- You must present the claim in writing within one year of the incident giving rise to the loss.

Government negligence is not necessary to recover under BOPCA.

8. **FILING A CECA CLAIM**

a. **Who may file a CECA claim?** Under CECA, an employee may file a claim for damage to or loss of personal property incident to their service with the Bureau.

b. **Is there a form I use for filing a CECA claim?** Yes. You must use an Employee Claim for Loss or Damage to Personal Property form (SF DOJ-110). You will need a Schedule of Property form (SF DOJ-110A) and the instructions for completing a SF DOJ-110.

c. **What evidence must I provide to support my claim?** If your claim involves the repair of a motor vehicle or other personal property, you must submit two written estimates. For claims that involve personal property you should provide a receipt, if possible, or another means of establishing the property's current value.

Additionally, the Safety Manager at the nearest institution should conduct an investigation and take photographs in sufficient quantity and detail to provide the reviewing office with a clear idea of the type and extent of damage, especially in the case of motor vehicle damage.

d. **Is there a limit on the amount I can receive?** Yes. Recovery under CECA is limited to \$40,000. However, if your claim arose from an emergency evacuation or an extraordinary circumstance, you may recover up to \$100,000.

e. **What are the elements of a CECA claim?** Your claim must meet all the following criteria and must also comply with the requirements set forth in DOJ Order 2110.23C (available on BOPDOCS):

- You must substantiate the damage or loss (for example, if the loss occurred at work, you must make a timely report to your supervisor or if the loss occurred to your property off-site, i.e., during reservation housing or travel, you should submit photographs);
- The damage or loss must have been incident to your service with the Bureau;
- Possession of the lost or damaged property was reasonable or useful for the performance of assigned duties;
- Neither you, your agent, nor your employee caused any part of the loss through a negligent or wrongful act; and
- You must present the claim in writing within two years of the incident giving rise to the loss.

Government negligence is not necessary to recover under CECA.

f. **Can I be reimbursed for loss or damage to my personal automobile?**

- If the loss or damage occurred during the normal course of traveling to or from your duty station or while parked on institution grounds, you are not entitled to reimbursement for loss under CECA.
- If the loss or damage occurred due to government negligence, you may file a claim pursuant to the Federal Tort Claims Act. **See** the Program Statement on Claims under the Federal Tort Claims Act.
- If the loss or damage occurred to your personal vehicle while you were on official travel status and authorized to use your vehicle, you will generally be limited to recover only amounts not paid by insurance, such as a deductible. **See** DOJ Order 2110.23C, Para. 9(b)(7).
- If you are filing a claim for your deductible, you must provide a copy of your insurance policy showing the amount of the deductible.

g. **Can I be reimbursed for loss or damage to my personal clothing?** Yes. If the claim involves loss or damage to personal property or clothing while on duty, you must show that the loss or damage to the clothing resulted from exposure to extraordinary risk or hazardous circumstances in the performance of your duty. **See** DOJ Order 2110.23C, Para. 8(d)(3).

Damage to clothing resulting from snags on furniture or equipment while on duty can be claimed only if the furniture or equipment was in disrepair or defective at the time of the incident. Damage to personal property or clothing will only be reimbursed if the property or clothing was reasonable and useful to perform your official duties.

h. **Can I be reimbursed for loss or damage to my Bureau uniform?** Yes. Generally, you may file a CECA claim even if you have not exhausted your yearly uniform clothing allowance. However, you must establish a claim as cited above in Section 8.g.

i. **Can I be reimbursed for loss or damage to my personal property due to relocation?** Yes. You may claim amounts that are not reimbursed by either the carrier or moving insurance. You must provide proof that you have exhausted all other available remedies before seeking reimbursement through CECA.

9. PROCESSING A BOPCA OR CECA CLAIM

a. Where do I file a claim?

- If the loss that is the basis for your claim occurred in a specific Regional Office or elsewhere within the geographical boundaries of the region, you must file the claim with that Regional Office.
- If the loss that is the basis for your claim occurred in the Central Office, you must file the claim with the Office of General Counsel (OGC) at the Central Office.
- If the loss that is the basis for your claim occurred at the Staff Training Academy (STA) in Glynco, Georgia or the Management and Specialty Training Center (MSTC) in Aurora, Colorado, you must file the claim with the Associate General Counsel of Legal Training and Review.

b. **Will I receive an acknowledgment letter?** Yes. If you provide all necessary information to process your claim, you will receive an acknowledgment letter indicating the filing date and a claim number. If you fail to provide all necessary information, your claim may be rejected and returned to you requesting supplemental information.

Regional Counsel's staff, Associate General Counsel of Legal Training and Review's staff, and the OGC's staff are to date stamp all claims on the date they are received, even when the claims have not been received in the proper office or have not been completed properly.

Your claim will be considered "**accepted**" by the agency when all necessary information is provided.

If the claim is accepted for processing and is subsequently transferred, the first date stamped on the claim should be used as the "**date received**" by the Bureau.

c. **Will I be notified if my claim is transferred?** Yes. If the claim is submitted to the wrong office, you will be notified by the office responsible for the claim that your claim was transferred.

d. **Will an investigation be conducted?** Yes. Ordinarily, the receiving office will refer the claim to the appropriate institution or division for investigation. You may also be required to provide additional information during the

investigation stage. Your failure to respond within a reasonable time may result in the denial of your claim.

A report, with the Chief Executive Officer's (CEO) recommendation(s), is then forwarded to the appropriate legal office for review and evaluation.

The Regional Counsel's Office will track all outstanding BOPCA or CECA claims filed in their region until a claim is settled or denied. The Associate General Counsel of Legal Training and Review will track all BOPCA or CECA claims involving the STC and the MSTC. The OGC will track BOPCA or CECA claims filed in the Central Office until a claim is settled or denied.

Investigating staff's written report will include:

- The SF DOJ-110 for CECA claims or other appropriate written form of notification for BOPCA claims;
- Background materials (statements of witnesses, photographs, medical reports), as necessary; and
- The investigating staff's and/or CEO's conclusions and recommendations.

e. Will appreciation or depreciation be considered?

Appreciation or depreciation of lost or damaged property will be considered for CECA claims only. Depreciation guidelines and Table of Rates of Depreciation are provided in DOJ Order 2110.23C (available on BOPDOCS).

f. How long will it take to get a response? Once your claim is accepted, generally, you will receive a decision regarding your claim within six months.

g. Who will decide my administrative claim? The Regional Counsel reviews the investigation and the supporting evidence and renders a decision on all claims properly filed in the Regional Office. After considering the merits of the claim, the Regional Counsel may deny the claim or propose a payment of the claim up to the delegated authority.

The Associate General Counsel of Legal Training and Review will decide all claims involving the STC or the MSTC up to the delegated authority.

Finally, the General Counsel will decide all claims properly filed in the Central Office and referred to the Central Office over the delegated authority of the Regional Counsels or Associate General Counsel of Legal Training and Review.

h. May I appeal the decision if I disagree with the amount offered as settlement? If your claim is settled under CECA, you have a right to request reconsideration or review by the Director. Your request must be received in the Central Office within 15 days of the final decision by the Regional Counsel, Associate General Counsel of Legal Training and Review, or General Counsel. **See** DOJ Order 2110.23C, Para. 20(b), Finality of Settlement. You do not have a right of appeal after the Director has made a decision. **See** 31 U.S.C. § 3721(k); DOJ Order 2110.23C, Para. 22, Finality of Settlement.

If your claim is settled under BOPCA, you do not have a right of appeal. **See** 31 U.S.C. § 3722(d).

i. How will my claim be paid? Regardless of the region that is investigating or deciding the claim, CECA and BOPCA claims are paid out of appropriated funds from the cost center of the responsible section.

/s/
Harley G. Lappin
Director