



Management Instruction '90

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| Title Accident Investigation Tort Claim Activities |
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I. Purpose and Scope

A. Purpose

This Management Instruction provides guidelines governing accident investigations and tort claim activities.

B. Scope

1. Investigations. Accident investigations are necessary to protect the Postal Service against tort claims. Immediate and complete on-the-scene investigations are required for all accidents involving the public on postal facilities (owned or leased), and when damage or injury is caused by postal employees acting within the scope of employment.

2. Tort Claims. Tort claim losses can be significantly reduced by thorough accident investigation. Properly documented tort claims keep these losses to a minimum.

II. Policy

The policy of the Postal Service is to promptly, willingly, and accurately discharge its legal responsibilities to those persons who claim damages pursuant to the Federal Tort Claims Act.

III. Responsibilities

A. Headquarters

The Operations Systems and Performance Department is responsible for establishing policies and procedures for investigating accidents that may result in tort claims. The Office of Fleet Management has been assigned responsibility for this function.

B. Divisions

The field division general manager/postmaster or designee is responsible for accident investigation and tort claim processing in the division. This responsibility involves:

1. Administering the accident investigation program for the division.
2. Ensuring that quality accident investigations are performed and that tort claims are efficiently processed.
3. Ensuring that claims are adjudicated, settlements negotiated, and payments certified within the division's tort authority.

IV. Sources of Tort Claims

Tort claims may arise from any Postal Service activity; however, the most common sources of tort claims are:

- a. Motor vehicle accidents involving government-owned or privately-owned or leased vehicles operated by postal employees in the scope of their employment.
- b. Falls in and around buildings owned, leased, or otherwise occupied by the Postal Service.
- c. Accidents resulting from tripping over an exposed USPS collection box anchor or USPS neighborhood delivery and collection box unit (NDCBU) anchor bolts.
- d. Accidents resulting in injuries caused by unanchored or incorrectly anchored collection boxes and NDCBUs.
- e. Damage to customer's property during the delivery operation.

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V. Claims Excluded Under the Federal Tort Claims Act

Certain claims are specifically excluded from consideration under the Federal Tort Claims Act. These include:

a. Claims arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

b. Claims arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

c. Claims for personal injury incurred by postal employees or other government employees, including military personnel, which occur while they are acting in the scope of their employment. These claims are governed exclusively by the Federal Employees' Compensation Act.

d. Claims by another government agency against the Postal Service for property damage caused by postal employees acting in the scope of their employment.

e. Claims for damage to contract or leased vehicles when driven by postal employees. Consider these claims in accordance with the terms of the vehicle lease, not as tort claims.

f. Claims for damage caused in an accident where the vehicle involved is owned by an independent contractor, such as a highway contract route carrier.

VI. Determining Settlement Locally

Those individuals with the responsibility for accident investigation and tort claim processing activities are reminded that they must determine whether the Postal Service should pay a claim, either in whole or in part, or totally deny the claim. The investigator's duties are to gather and document all pertinent facts using Form 1700, *Accident Investigation Worksheet*. Accident investigators must pay claims within authorized limits and make recommendations for settlement of all other claims. In determining whether a settlement is appropriate, consider the following:

a. A valid claim has been presented within two years of the date of the alleged accident. A properly completed SF Form 95, *Claim for Damage, Injury or Death*, is preferred, although a claim containing the following required elements may be accepted:

1. The claim is in writing.

2. The claim identifies a specific accident or incident.

3. The claim is for sum certain, i.e., a definite amount is claimed.

4. The claim is signed by the claimant or the claimant's authorized attorney or agent.

b. The property damaged is that of a private person. Do not pay claims made by other Federal agencies. Do not pay claims for damage to a personal vehicle being driven by a postal employee in the course of postal work unless the damage was caused by the negligence of another postal employee acting within the scope of employment.

c. The claimant is the "real party in interest." This is normally either the owner of the vehicle (regardless of who was driving the vehicle) or an insurance company which insured against the loss and has paid for the damage.

d. The claimant is willing to settle for \$1,000 or less.

e. Evidence is contained in the file to document the damages upon which settlement is based.

f. The settlement is reasonable, taking into account the Postal Service's potential legal exposure. If the claimant's negligence alone caused the accident, do not pay the claim in any amount. If both the claimant and postal employee appear to have been equally negligent, a settlement for half of the claimant's damages must also take into account the damages to the postal vehicle. If applicable state law limits the recovery, reduce the settlement accordingly.

g. If a claim cannot be settled for \$1,000 or less on the basis stated above, do not deny the claim. Forward the claim to a higher adjudicatory authority. (See *Administrative Support Manual*, Section 254.3.)

VII. Additional Documentation

A. Administrative Support Manual

For more information regarding tort claim processing, see *Administrative Support Manual*, Section 250.

B. Handbook M-19

Use Handbook M-19, *Accident Investigations -- Tort Claims*, for detailed instructions and procedures for investigating accidents and processing tort claims. This handbook is presently being revised and will be identified as Handbook PO-702, *Accident Investigations and Tort Claims*.