

FEDERAL TORT CLAIMS ACT (FTCA)

PURPOSE: The Federal Tort Claims Act (FTCA) is a limited waiver of the United States sovereign immunity that allows third parties to sue the United States government for money for injury or damages that occur due to the actions of its employees while acting within the scope of their employment. FTCA protection extends to Civil Air Patrol (CAP) volunteers when they are acting as an instrumentality of the United States.

Excluding certain very special cases, FTCA protects CAP volunteers from being sued by an injured third party when performing Air Force Assigned Missions (AFAM). This generally means that, except in very special cases, the United States government, not the CAP volunteer will be responsible for paying any monetary judgment awarded to the injured third party. This quick reference sheet is a general overview of the FTCA protection available to CAP volunteers.

- FTCA coverage protects CAP volunteers only while they are performing AFAM.
- The federal government may be held liable for the negligent or wrongful acts or omissions of CAP volunteers performing AFAM causing personal injury, death, or property damage.
- The injured third party must first submit an administrative FTCA claim to the United States Air Force for personal injury or property damage. If the claim is denied, then the injured third party has the option of suing the government in Federal Court. Normally, injured third parties cannot sue individual CAP volunteers, unless the allegations of the lawsuit fall within certain very special cases.
- CAP and its volunteers are an instrumentality of the United States only when performing an AFAM. When CAP engages in activities other than AFAM, it is acting as a private corporation, thus FTCA protection is not available.
- To recover under FTCA, the injured third party must show that their damage resulted from the negligent or wrongful acts of CAP volunteers acting within the scope of an AFAM.
- An injured third party is anyone suffering property damage, personal injury, or death arising from an AFAM performed by CAP.
- CAP volunteers, 18 years of age or older, whose personal injury or death claim is covered by FECA cannot make FTCA claims. FECA is their exclusive remedy.
- A FTCA claim may be payable if all of the following are present:
 - It is for property damage, personal injury or death; and
 - It is proximately caused by a CAP volunteer; and
- It arises from an AFAM performed by CAP. A FTCA claim is not payable if it:
 - Is for use or depreciation of privately owned property, operated by CAP or its members on an AFAM; or
 - Is for personal services or expenses incurred by CAP or its members while engaged in an AFAM; or
 - Arises out of a CAP incident based solely on government ownership of property on loan to CAP; or
 - Arises from a CAP activity not performed as an AFAM (These claims are sent to HQ CAP-USAF/JA or HQ CAP/GC); or
 - Claims for use of privately owned property that the CAP or its members utilize on AFAMs; or
 - Claims for expenses that the CAP or its members incur while engaged in AFAMs.

Do not rely on these materials for legal advice. This document is for general guidance on matters of interest only. This document does not, in any way, establish an attorney client relationship between you and the United States Air Force. This document is not offered nor should it be construed as legal advice.