



How to Sue the United States Government: The Federal Tort Claims Act

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This handout explains how to bring legal action for financial compensation against the United States government under the Federal Tort Claims Act (“FTCA”). Filing a FTCA claim is a different process than an immigration case. If you win your FTCA case or settle your FTCA case, you will receive money from the government, not immigration status or any other benefit. This information does not replace the advice of an attorney. You should consult with an attorney about your particular circumstances.

What is the Federal Tort Claims Act (“FTCA”)?

If someone suffers injury to their body, mind, or property at the hands of a federal employee, that person has the right to file a claim against the government. The harm can come from United States employees of any agency, including U.S. Immigration and Customs Enforcement (“ICE”) and Border Patrol. Some examples of harm suffered are physical abuse during arrest or in detention, destruction of personal property during arrest like car damage, separation from your children, unlawful solitary confinement, and medical neglect in detention.

What is the process for suing the United States government under FTCA?

There is a two-step process for filing a claim against the government for compensation.

Step One: you must file a written claim with the agency that employs the federal agent who harmed you. To file a claim with a federal agency, you should use [Standard Form 95](#) (download at the link). The agency may ask you for evidence that the harm occurred or offer to pay you money to resolve the claim. The agency can also either send you a letter denying your claim or ignore you.

Step Two: if the agency denies your claim or ignores it for more than six months, you can file a lawsuit in federal court where you live or where the harm happened. The process can take months or years depending upon the facts of the case.

Is there a deadline to sue under FTCA?

You must complete **Step One** within two years of when the government employee harmed you.

Will it affect my immigration case to sue the US government under FTCA?

It is your right to file claims for compensation when federal agents harm you while they are on the job. Be careful that you do not say or write anything in your FTCA case that contradicts your immigration case. Consult with an attorney to see if suing under the FTCA is safe for your immigration case.

How much money can you receive if your FTCA claim is successful?

The amount of money depends upon many factors, such as how badly someone was hurt, if the person has a lawyer, and whether the claim is settled rather or decided by a judge. For example, in 2019, a mother and son received a \$125,000 settlement for abuse they suffered while crossing the border and at a detention center. To understand more about the amount of money you should demand and could possibly receive, you should speak with an attorney.