



FORT SILL CLAIMS OFFICE

4700 Mow-Way Road, Suite 400 (4th Floor), Fort Sill, OK 73503
(580) 442-2317 (or 5058)
<http://sill-www.army.mil/usag/jag>



CLAIMS FOR PROPERTY HELD AS EVIDENCE

WHAT HAPPENS WHEN YOUR PROPERTY IS HELD AS EVIDENCE

Surrender/Seizure: Law Enforcement Officers (such as Army CID) may take and store your personal property as evidence of the crimes committed. Examples of property that CID may hold include stolen goods, property that contains physical evidence, such as finger prints or DNA samples, and property that contains other forms of evidence, such as a cell phone with stored pictures or text messages.

Safeguard & Return: Any property held as evidence will be safeguarded in the evidence storage facility and returned to the rightful owner as soon as possible. The prompt return of your property is preferable to CID and the Claims Office. However, if you need your property returned before the criminal investigation and prosecution are complete, you should first contact the investigating officer in charge of the case. If the investigating officer cannot return your property based on the ongoing needs of the investigation or prosecution, the officer will explain the reasons for retaining your property and provide an estimate of when the property can be returned to you. The trial counsel, judge advocate responsible for prosecution of a case, has authority to release evidence, but will usually choose to keep relevant evidence through prosecution.

COMPENSATION FOR VICTIMS

Loss/Damage: If property belonging to a victim of a crime (or other innocent party such as a witness) is destroyed or damaged as a result of its use as evidence in a criminal proceeding, the loss is compensable. The compensable amount is determined after the Claims Office considers the original cost, the replacement cost, the cost to repair, and normal depreciation of the item.

Deprivation: If the property belonging to the victim of a crime must be held as evidence for an extended period of time and the temporary loss of use of the property will cause a grave hardship on the victim, this loss is also compensable. In determining if a grave hardship will result from retention of the claimant's property, the Claims Office will consider the nature of the item and the length of time it is expected to be retained. As a general rule, payment for nonessential items will not be allowed, unless they will be held for more than 60 days. Claims for some items, such as a child's car seat or cell phone, might be compensable even if the item will only be held for a week. This provision will not be used unless every effort has been made to determine whether secondary evidence, such as photographs, may be substituted for the actual item.

FILING CLAIMS:

Evidence claims are typically processed under the authority of the Personnel Claims Act (PCA). PCA claims require "proper claimants" (e.g. Soldier or DA/DOD Civilian Employee) and that there is evidence supporting an "incident to service" basis for the claim. (See: AR 27-20 & DA PAM 27-162, Paras. 11-5k.) You can file a claim by completing the following documentation at the Fort Sill Claims Office.

DOCUMENTATION FOR CLAIM UNDER PCA

1. DD Form 1842—Claim Form with Statement
 2. DD Form 1844—Claim Analysis Chart
 3. Electronic Funds Transfer (EFT) Form
 4. CID Case Number and/or Report
 5. DA 4137 from CID (or other itemized list of property held as evidence)
 6. Documentation of Value (Receipts/Pictures/Etc.)
- *Note: All claimed property must be substantiated.

(Continued on next page)

CLAIMS FOR PROPERTY HELD AS EVIDENCE

COMPENSATION FOR VICTIMS (Continued)

Victim Cell Phone Claims: If a victim's cell phone is seized as evidence, this will usually be considered a "grave hardship" (due to the nature of the item and typical length of loss). Generally, IAW the FY12 NDAA, digital evidence will be kept for at least 5 years. This exceeds the life of most cell phones and would cause permanent damage to the battery. Meanwhile, hardship is exacerbated as most victim's phones are:

1. Their primary means to stay connected with their support network,
2. The expected means for their command to contact them,
3. Under contract for purchase, and
4. Storage for most of what a typical home office/computer once held.

COMPENSATION FOR ACCUSED

No compensation will be paid for property seized from the person suspected of an offense unless all of the evidence, including any evidence excluded at trial, clearly exonerates the suspect of all crimes. In all other cases, where items seized from a suspect are lost or damaged, the claim can only be considered as a tort claim.

OTHER SITUATIONS

Family Members as Claimants: Claims by military dependents should be brought on their behalf by their military sponsor as under familial dominion and control. (See: AR 27-20, Para. 11-13.) This will not be possible in cases where the accused is the sponsor. If this is the case, they may only bring a claim as a Non-Military Claimant.

Non-Military Claimants: Those not otherwise affiliated with the military (or dependents not able to make a claim through their military sponsor) may wish to make a claim for property held as evidence may not be paid under the same legal authority. They will need to file an Standard Form (SF) 95 with supporting documentation with the Torts Claims Examiner at the Military Claims Office (MCO) responsible for the area. These claims will be considered under the Military Claims Act (MCA), which requires a different kind of investigation and standards of consideration.

If you have questions concerning the information in this fact sheet, please call the Fort Sill Area Claims Office at (580) 442-2317 or 442-5058. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Claims Office is co-located with the Legal Assistance Office on the 4th floor of Building 4700, Hartell Hall on Mow-Way Road. Further information is available at the Office of the Staff Judge Advocate website, "Claims Office" tab, at <http://sill-www.army.mil/usag/>.