4 August 2014

INFORMATION PAPER

SUBJECT: Federal Tort Claims Act & Military Claims Act

1. **Purpose.** To inform commanders and heads of Army and DoD organizations or activities of the coverage and limitations of the Federal Tort Claims Act (FTCA) and Military Claims Act (MCA) and the need to timely identify incidents resulting in death, personal injury, and property damage resulting from activities of the DoD.

2. **Facts.**

a. **The FTCA allows insurers to recover from the United States for amounts paid to their policyholders when a loss is caused by the negligence of service members or employees of the United States in the scope of their military duties or civilian employment.** Insurance companies routinely submit such claims to military claims offices and are reimbursed under the FTCA.

b. **Service members who sustain losses due to negligence of United States employees acting in the scope of their employment are treated differently under the FTCA from the rest of the U.S. population.** Service members may not recover under the FTCA when their loss is incident to their service but may be eligible for reimbursement under the MCA for property damage and loss sustained incident to their military service.

c. **Insurers are barred from recovery under the FTCA and the MCA for reimbursement of losses sustained by service members incident to their service.** Many insurance adjusters are unaware of this fact and may pay a service member's claim before it is determined that the claim of the insurer will not be reimbursed. Consequently, a service member's claim against the insurer may adversely affect his or her policy rates. Service members who experience property damage or loss resulting from a DoD activity should seek advice from a military claims office before they settle with their insurer.

d. **Early identification of incidents involving losses sustained by service members is essential to ensure that they can receive timely and proper advice.** Early investigation of all claims incidents is also critical to evaluate the proper liability of the Army and to avoid unnecessary litigation.

e. **The Fort Belvoir Claims Office is the processing claims office for FTCA and MCA claims generated by Army activities and DoD activities on Fort Belvoir.** Claims personnel are prepared to provide procedural advice to claimants and investigating officers for incidents resulting in potential claims against the Army.

3. **Conclusion.** Unit commanders and heads of Army and DOD organizations should notify Mr. Gregory V. Hand, Chief, Claims, at (703) 805-4377 or gregory.v.hand.civ@mail.mil if they become aware of an incident resulting in a potential claim.

Mr. Gregory V. Hand/805-4377
Approved by LTC LeMay, SJA