



Holding the Federal Government Accountable under the Federal Tort Claims Act (FTCA): A Resource for Community-Based Organizations

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Understanding the Federal Tort Claims Act (FTCA) in the Immigration Context

As immigration enforcement increases nationwide, community members may experience physical injury, medical neglect, wrongful detention, property damage, or severe emotional distress during encounters with federal officers.

While deportation defense and bond advocacy are often the immediate focus, **civil accountability may also be available**. The **Federal Tort Claims Act (FTCA)** is one legal mechanism that allows individuals to seek financial compensation for harm caused by federal employees acting within the scope of their employment.

This resource is a **basic screening and referral tool** for community-based organizations

For additional screening guidance, see ***Identifying Possible Federal Tort Claims Act (FTCA) Claims***.

The FTCA:

- Does not provide immigration status and is separate from immigration proceedings
- Does not stop detention or removal
- May provide financial compensation for qualifying harm
- Serves as a mechanism to hold the federal government accountable for unlawful actions

Who can bring a claim

Any person harmed by federal employees may bring an FTCA claim, regardless of immigration status. There is no citizenship or lawful status requirement to file.

Who may be liable

The FTCA applies to harm caused by **federal employees acting within the scope of their employment**, including officers and agents from agencies such as:

- U.S. Immigration and Customs Enforcement (ICE)
- U.S. Customs and Border Protection (CBP)
- Other federal agencies whose employees might engage in immigration enforcement, such as U.S. Marshals and National Guard

Under the FTCA, the **United States government** is the defendant - not the individual officer.

Common scenarios

The following examples may warrant referral to an attorney for FTCA screening:

Type of Harm	Example
Excessive force during enforcement actions	<ul style="list-style-type: none">• Physical injury during an arrest, including at home, in the workplace, and in public• Use of force that appears unnecessary or disproportionate, such as tear gassing and assaults during peaceful protest
Medical neglect in custody	<ul style="list-style-type: none">• Failure to provide prescribed medication• Ignored medical emergencies• Delayed access to outside care, resulting in harm
Wrongful detention or harmful detention conditions	<ul style="list-style-type: none">• Continued custody despite documented eligibility for release• Punitive or prolonged solitary confinement• Conditions resulting in physical or psychological injury
Property damage	<ul style="list-style-type: none">• Broken doors, destroyed electronics/phones, vehicle damage during enforcement
Family separation-related harm	<ul style="list-style-type: none">• Federal actions that unlawfully result in separation from minor children

This is not an exhaustive list of qualifying harms, and not every harmful experience qualifies under the FTCA, but these are common red flags that merit legal review.

Process for filing a claim

1. A written administrative claim must be filed with the relevant federal agency within **two years** of the incident. An administrative claim is filed on Form SF-95.
2. There is no filing fee.
3. If the agency denies the claim or does not respond within six months, a lawsuit may be filed in federal court.

Key practical realities:

- Compensation is not guaranteed.
- The process can take several months or years.
- The FTCA provides **money damages only**.

The role of community-based organizations

Community-based organizations should **not** provide legal advice on FTCA claims, unless provided by a licensed attorney with relevant expertise. However, organizations can play a critical role in:

Screening

Be alert to narratives involving injury, medical neglect, or property damage tied to federal officers and document details about what happened.

Documentation

Help community members to gather and document:

- Dates, times, and locations of incidents
- Officer names, badge numbers, and agency identification
- Photos or videos of injuries or damage
- Medical records and/or hospital discharge paperwork
- Witness contact information
- Any paperwork issued by officers

Early documentation significantly strengthens potential claims.

Referral

Refer potential cases to a qualified attorney for assessment

- UnidosUS can help individuals get connected to legal help. Affiliates can reach out to:
 - **Anita Gupta**, Senior Advisor for Immigration Programs, at agupta@unidosus.org
 - **Laura Vazquez**, Director of Immigrant Integration, at lvazquez@unidosus.org.
- Other community-based organizations who aren't UnidosUS Affiliates can reach out to your **local ACLU Affiliate** or civil rights organization.

For non-citizens, FTCA claims may intersect with immigration case strategy, so coordination with a licensed immigration attorney is important.

Framing accountability in community work

While FTCA cases do not stop deportation or directly change enforcement practices, they can:

- Provide compensation for medical bills and property loss
- Create formal records of misconduct
- Contribute to broader patterns of documented harm
- Reinforce that federal officers are not above the law

For communities experiencing heightened enforcement, accountability mechanisms matter alongside defense strategies.