

# + Identifying Possible Federal Tort Claims Act (FTCA) Claims

April 2026

This resource is intended to help **community-based organizations** identify possible Federal Tort Claims Act (FTCA) claims in the immigration enforcement context. It is for **high-level screening** only. To learn more about the FTCA, see ***Holding the Federal Government Accountable under the Federal Tort Claims Act (FTCA): A Resource for Community-Based Organizations.***

## Key Screening Questions

### 1. Was a federal officer or agency involved? Which one?

Ask who caused the harm and what agency they worked for, such as ICE, CBP, DHS, FBI, U.S. Marshals, Bureau of Prisons, or TSA.

The FTCA generally applies only when harm was caused by **federal employees acting within the scope of their employment**. If the incident involved only state or local officers, the FTCA usually does not apply.

### 2. What happened, and what harm resulted?

Ask the person to describe what happened and what injuries or losses they experienced.

Listen for:

- Physical injury, death, or serious illness
- Denial or delay of medical care
- Dangerous detention conditions
- Use of excessive force
- Wrongful arrest or wrongful detention
- Property loss or damage
- Severe or lasting emotional distress

The key question is whether **federal misconduct or negligence may have caused concrete harm**.

### 3. When did it happen?

Ask for the date of the incident, or the best estimate possible.

FTCA claims generally must be **presented to the relevant federal agency within two years** of the incident, so timing is critical.

#### 4. Where did it happen?

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Ask for the city, state, and facility or location, if known (for example, a border crossing, airport, detention center, county jail holding ICE detainees, federal building, hospital, or during transport). Location can help identify the responsible agency and applicable legal framework.

#### 5. Is there any documentation or witnesses?

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Ask whether the person has medical records, photos or video, incident reports or grievances, officer names or badge numbers, detention records, property records or receipts, or witness names and contact information. Documentation is not required for referral, but it can help attorneys quickly evaluate and develop the claim.

#### 6. How has this affected the person since it happened?

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Ask whether the incident has affected the person's sleep, work, relationships, daily functioning, and whether the person has sought medical care, counseling, or other support as a result. Lasting harm is important to identify. Emotional or psychological harm that is persistent, disabling, treatment-related, or accompanied by fear, hypervigilance, or inability to function is more likely to support a claim than short-lived distress.

### After screening, refer for legal review if there is:

- Clear **federal officer involvement**
- Concrete harm**, such as injury, death, medical neglect, property damage, or severe lasting emotional distress
- The incident occurred **within the last two years**
- A plausible account suggesting **negligence or misconduct**
- Enough information to **identify the responsible agency and location**

#### Important Reminder

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The goal is to **identify possible FTCA claims and refer promptly for legal review**. Staff should not attempt to identify the correct legal claim, resolve legal exceptions or defenses, or wait for complete documentation before making a referral.