

## § 14.561

for their determination. If the Department of Justice or U.S. Attorney decides to initiate action, the Regional Counsel will cooperate as may be requested. The Regional Counsel will promptly bring to the attention of the General Counsel any case wherein he or she is of the opinion that criminal or civil action should be initiated notwithstanding a decision by the U.S. Attorney not to bring such action; any case where action has been inordinately delayed; and any case which would cause significant publicity or notoriety.

(Authority: 38 U.S.C. 501)

[50 FR 24767, June 13, 1985, as amended at 68 FR 17551, Apr. 10, 2003]

### § 14.561 Administrative action prior to submission.

Before a submission is made to the U.S. Attorney in cases involving personnel or claims, the General Counsel, if the file is in Central Office, or the Regional Counsel at the regional office, hospital or center, if the file is in the regional office or other field facility, will first ascertain that necessary administrative or adjudicatory (forfeiture (see Pub. L. 86-222; 73 Stat. 452), etc.), action has been taken; except that in urgent cases such as breaches of the peace, disorderly conduct, trespass, robbery, or where the evidence may be lost by delay, or prosecution barred by the statute of limitations, submission to the U.S. Attorney will be made immediately.

[42 FR 41413, Aug. 17, 1977]

### § 14.562 Collections or adjustments.

When it is determined that a submission is to be made to the U.S. Attorney, no demand for payment or adjustment will be made without the advice of the U.S. Attorney. However, if, before or after submission, the potential defendant or other person tenders payment of the liability to the United States, payment will be accepted if the U.S. Attorney has no objection. If the U.S. Attorney determines that prosecution is not indicated, or when prosecution has ended, the file will be returned to the appropriate office with a report as to the action taken.

[42 FR 41413, Aug. 17, 1977]

## 38 CFR Ch. I (7-1-04 Edition)

### FEDERAL TORT CLAIMS

#### § 14.600 Federal Tort Claims Act—general.

(a) *Federal Tort Claims Act—overview.* The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) *Applicable regulations.* The regulations issued by the Department of Justice at 28 CFR part 14 are applicable to claims asserted under the Federal Tort Claims Act, including such claims that are filed with VA. The regulations in §§ 14.600 through 14.605 of this part supplement the regulations at 28 CFR part 14.

(c) *Delegations of authority concerning claims.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority to consider, ascertain, adjust, determine, compromise, and settle claims asserted under the Federal Tort Claims Act (including the authority to execute an appropriate voucher and other necessary instruments in connection therewith) is delegated as follows:

(1) To the Under Secretary for Health, the Deputy Under Secretary for Health, Veterans Integrated Service Network (VISN) Directors, and VA Medical Facility Directors; with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

(3) To the Regional Counsels and Deputy Assistant General Counsel

## Department of Veterans Affairs

## § 14.601

(Professional Staff Group I) with respect to any claim; provided that:

(i) Any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I); and

(ii) Any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I) and with the prior written approval of the Attorney General or his or her designee.

(d) *Delegations of authority to reconsider final denial of a claim.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority under 28 CFR 14.9 to reconsider final denials of claims under the Federal Tort Claims Act is delegated as follows:

(1) To the Regional Counsel with jurisdiction over the geographic area where the occurrence complained of arose, with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

NOTE (1) TO PARAGRAPH (c)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (2) TO PARAGRAPH (c)(3)(i): For any award, compromise, or settlement under paragraph (c)(3)(i) of this section a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (3) TO PARAGRAPH (d)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for

the action taken shall be sent to the Department of Justice.

(Authority: 28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671-2680; 38 U.S.C. 512, 515; 28 CFR part 14, appendix to part 14)

[64 FR 47112, Aug. 30, 1999]

### § 14.601 Investigation and development.

(a) *Development of untoward incidents.*

(1) A report of any collision involving a Government-owned vehicle which results in property damage or personal injury or death will be made by the operator of the Government vehicle immediately following the accident, on SF 91, Operator's Report of Motor Vehicle Accident, and shall be submitted to the Director of the facility involved. A copy of said report, accompanied by an executed copy of VA Form 2162, Report of Accident, will be promptly submitted by the Director to the appropriate Regional Counsel, who will authorize such additional investigation as the circumstances of the case may warrant. Forms required by other agencies will continue to be used in addition to VA Form 2162.

(2)(i) Any incident resulting in damage to, or loss of, property, other than personal effects of a patient in a Department of Veterans Affairs facility, or in personal injury or death, due apparently or allegedly to the negligent or wrongful act or omission of an employee of the Department of Veterans Affairs acting within the scope of his or her office or employment, or damage to or loss of Government-owned property caused by other than a Department of Veterans Affairs employee acting within the scope of his or her office or employment, will be immediately reported. The Director of the facility where such occurrence took place will promptly transmit a copy of the report to the appropriate Regional Counsel who will authorize such additional investigation as the circumstances of the case may warrant.

(ii) Where the incident involves the loss of personal effects of a patient in a Department of Veterans Affairs facility, the Director will assist the patient in completing an SF 95, Claim for Damage, Injury, or Death, and will advise the patient that it will be forwarded