



ASYLUM SEEKER ADVOCACY PROJECT

How to Sue the United States Government: The Federal Tort Claims Act

This handout explains the possibility of suing the United States government under the Federal Tort Claims Act (“FTCA”) for the abuses and mistreatment that you or your family suffered when you arrived in the United States. Filing a lawsuit under the FTCA is a different process than your immigration case and is completely voluntary. If you win your case under the FTCA, you will receive money from the US government. This information does not replace the advice of an attorney. You should consult with an attorney about your particular circumstances.

What is the Federal Tort Claims Act (“FTCA”)?

If someone is the victim of abuse or mistreatment at the hands of an agent of the United States government, that person has the right to sue the government based on the FTCA. If you were to file a lawsuit, you would be asking the government to compensate you for the damage you suffered because of the federal government of the United States. That is called compensation for damages. The federal government includes the ICE agency, border patrol and other U.S. government officials. Some examples of damages suffered are mistreatment in CBP detention, in ICE detention centers, or the separation from your children by the government.

What is the process for suing the United States government under FTCA?

The claims under FTCA proceed in two steps. First, an administrative complaint is filed with the relevant federal agencies. Then, the federal agency may choose to resolve the claim (that is, offer money) or not resolve it (that is, deny the claim or not act for more than six months). If the agency does not resolve the claim, a lawsuit can be filed with the federal court.

Is there a deadline to sue under FTCA?

To preserve your right to sue the government for the damage you suffered, you have to submit the administrative complaint prior to **two years** from when the damage occurred.

Would it affect my immigration case to sue the US government under FTCA?

The government should not retaliate against you, but there is no guarantee that an FTCA case would not impact your immigration case. The possibilities depend a lot on your particular circumstances. You should consult with an attorney to see if suing under the FTCA is a good option in your case.

What are the possible benefits of suing under FTCA?

One can receive money as part of a lawsuit under the FTCA and hold the United States government responsible for their actions. In 2019, a mother and son earned \$ 125,000 as part of a settlement of a lawsuit under the FTCA for the abuse they suffered while crossing the border and at the family detention center in Dilley, Texas. But there have not been many cases under the FTCA law in the context of asylum seekers and each case is different. The possibility of receiving money will depend on the particular facts of your case. That is why it is very important to speak with a trusted attorney before starting an FTCA case.

What should I do if I am interested in filing a lawsuit against the United States government under FTCA?

First, think about your emotional capacity to initiate another legal procedure apart from your immigration case. As you can imagine, the lawsuits under the FTCA can last many months. If you want to proceed with a lawsuit, you should talk to an attorney first about your particular case.