

State of Kansas, Military Division
The Adjutant General's Department
Topeka, Kansas, 10 May 1990

CLAIMS ARISING FROM ACTIVITIES OF KANSAS ARMY NATIONAL
GUARD PERSONNEL WHILE ENGAGED IN DUTY OR TRAINING

THIS SOP ESTABLISHES POLICIES OF THE ADJUTANT GENERAL OF KANSAS
FOR THE KANSAS ARMY NATIONAL GUARD PERTAINING TO UNIFORM
INCIDENT NOTIFICATION PROCEDURES.

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1. References.

- a. KNGR 385-10
- b. NGR 27-20
- c. AR 27-20

2. Policy. All incidents involving Kansas Army National Guard personnel, equipment or facilities, will be promptly reported in accordance with the procedures outlined in this regulation.

3. Purpose. The purpose of this SOP is to provide a uniform and thorough procedure for reporting incidents involving Kansas Army National Guard personnel, equipment or facilities and processing claims arising from such activities.

This SOP SUPERSEDES KNGR 27-20, DATED 7 SEP 87, It is intended
to direct actions required by AR and NGR 27-20 and
KNGR 385-10 regulations.

4. Responsibilities.

a. Unit/Detachment/Activity Commanders. Responsibility for reporting of incidents to TAG Kansas, as outlined in this regulation, rests with the Unit, Detachment or Activity Commander concerned.

b. TAG Kansas. TAG Kansas is responsible to investigate incidents involving Kansas Army National Guard personnel, equipment or facilities which could create potential claims for or against the U.S. Government or State of Kansas. (See NGR 27-20.) TAG Kansas will notify appropriate claims office through the designated State Claims Officer (JAG).

c. Area Claims Office. When necessary, the Area Claims Office (Fort Riley, Fort Leavenworth or State of Kansas) will process claims within their area of responsibility. Claims processing authorities will attempt to settle all claims within their monetary jurisdiction and forward all other claims after appropriate processing directly to the Chief, U.S. Army Claims Service.

5. Definitions.

a. Incident. A sudden or extraordinary event occasioned by activities involving Kansas Army National Guard personnel (this includes Kansas ARNG Technicians and personnel on Active Guard Reserve (AGR), in normal duty or job status, and ARNG personnel in any training or duty status), equipment and facilities. It may result in military and/or civilian property damage, personnel injuries and/or death. It may or may not create potential claims. It may occur on federal or state duty and individuals may or may not be in a pay status.

b. Claimant. An individual, partnership, association, corporation, country, territory or a political subdivision presenting a claim. The term does not include the U.S. Government or any of its agencies or instrumentalities, except as prescribed by statute, and does not include a state.

c. Claims Assistance. Unit/Detachment administrators should inform any claimant that it is their (the claimant) responsibility to communicate/correspond with the appropriate claims office. The Kansas Army National Guard has no further jurisdiction after a complete incident report is submitted. Persons wanting claims office information should call the JAG office, 785/274-1024.

6. Notification of Incident. When an incident occurs which might result in a claim against or in favor of the U.S. Government or the State of Kansas even when such claim may be in question, the unit/detachment/activity commander concerned shall be required to take two distinct actions.

a. Immediately after such incident the unit/detachment/activity commander or his designee shall telephonically report to The Adjutant General of Kansas, ATTN: AGKS-SSM, at 913/266-1053 or 1024. This verbal notice shall provide:

(1) Time and date of incident.

(2) Place of Incident. Include street or highway, city, county and state.

(3) Nature of Incident. (e.g., PFC Jones was driving a 2 1/2 T truck, #4A67598, north on Highway 24, 3 miles north of St Marys, Kansas, when a 1982 Buick, tag number SNH 848, driven by Sam Herring of 813 Center Street, Marysville, Kansas 66900, failed to stop at the intersection of Highway 24 and Marshall County Highway 119 and struck the left rear fender of the 2 1/2 T truck.)

(4) Name(s), to include rank and SSN, organization of Kansas Army National Guard personnel involved.

(5) Name(s), home address and phone number of potential claimant(s) and any and all witnesses.

(6) A brief description of any damage, loss, or destruction of private property, any injuries or death of potential claimant(s) and estimated dollar value of damage, if available.

b. Written Incident Report. The unit/detachment/activity commander shall be responsible for a written incident report to be forwarded to AGKS-JAG, with an information copy to AGKS-SSM. This incident report should follow the same format as the verbal report, with additional details that may be found in the commander's investigation of the incident. The following items will be attached to the incident report:

(1) One (1) copy of the investigation with exhibits where applicable.

(2) One (1) copy of State, City or Military Police report (i.e., motor vehicle accident report).

(3) Original copy of SF 91, properly and completely prepared by or for the operator.

(4) Two (2) copies of Scope of Employment Statement (both signed in ink). (See Enclosure 1 to this regulation.)

(5) One (1) copy of orders.

(6) One (1) copy of a detailed statement of each witness.

(7) One (1) copy of a detailed statement of facts by the operator.

(8) One (1) copy of a detailed statement of passengers, where applicable.

(9) Pertinent photographs, when possible.

(10) One (1) copy of estimate of repair, if available.

c. Notification of Incident Report by commander shall be forwarded within 12 working days after the incident to TAG Kansas, ATTN: AGKS-JAG, PO Box C-300, Topeka, KS, 66601-0300. If difficulties arise or an extension is required to meet this suspense date, contact AGKS-JAG at 785/274-1024 for assistance.

7. Investigation of Incidents (Accidents).

a. Under KNGR 385-10. Investigation of Incidents (Accidents) involving Kansas ARNG will be accomplished in accordance with the provisions of KNGR 385-10.

(1) KSARNG personnel on federal or state duty.

(2) KSARNG personnel on technician duty.

(3) Military or State equipment.

(4) State or Federal facilities.

b. At the request of a unit/detachment/activity commander, or when requested by the Active Duty Area Claims Office, TAG Kansas will provide personnel to conduct or assist in conducting

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investigation of incidents involving potential claims for or against the U.S. Government.

c. All personnel of the Kansas Army National Guard are to be informed they WILL NOT ADMIT TO FAULT as a result of any incident. Active Component Claims personnel and the JAG will adjudicate the claim and determine liability.

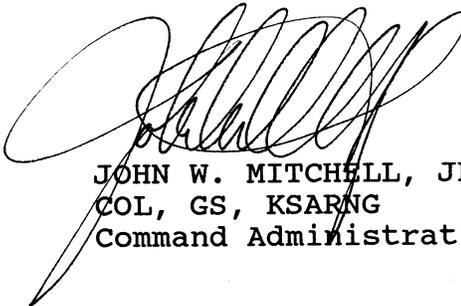
8. Claims for Damage.

a. Any unit/detachment/activity which receives a claim for damages as a result of an incident (accident) will promptly forward same through command channels to TAG Kansas, ATTN: AGKS-JAG.

b. Claims in favor of the Government are processed by the Active Duty Claims Office with coordination and support of the State Claims Officer.

9. Proponent. Users are invited to send comments and suggested improvements to The Adjutant General of Kansas, ATTN: AGKS-JAG, PO BOX C-300, TOPEKA, KANSAS, 66601-0300.

FOR THE ADJUTANT GENERAL:



JOHN W. MITCHELL, JR
COL, GS, KSARNG
Command Administrative Officer

Enclosure 1: Scope of Employment Statement
Enclosure 2: Explanation of Training Codes

SCOPE OF EMPLOYMENT STATEMENT

I, the undersigned, on _____ authorized _____
(date) (name, rank)

(SSN, Unit, Unit's address, residence address)

to operate Government vehicle number _____ on _____
(date)

with the specific mission of (Explain in detail) _____

The starting point was _____
and the time of departure was at _____ hours on _____ 1990.
The normal time required for the trip is _____ hours and the
actual route of travel was from _____
(Give itinerary)

In my opinion, the route taken was the most direct and
practicable under the circumstances.

The National Guard personnel were engaged at the time of the
incident in duty or training and are entitled to pay under
(Check applicable box):

- _____ Title 10, United States Code, Section 672 (d)
- _____ Title 32, United States Code, Section 316
- _____ Title 32, United States Code, Section 502
- _____ Title 32, United States Code, Section 502(f)
- _____ Title 32, United States Code, Section 503
- _____ Title 32, United States Code, Section 504
- _____ Title 32, United States Code, Section 505
- _____ Title 37, United States Code, Section 206 or for which
he has waived that pay
- _____ Title 32, United States Code, Section 709

A copy of the orders authorizing such duty is attached.

(name) (grade)

(position)

(organization) (address)

The sections of Title 10 and Title 32, United States Code, listed on form at Enclosure 1, this SOP, are explained as follows:

- a. Section 672(d), Title 10, U.S.C. - Refers to NG personnel serving on active duty in support of regular Army missions.
- b. Section 316, Title 32, U.S.C. - Refers to members of ARNG for rifle instruction of civilians.
- c. Section 502, Title 32, U.S.C. - Refers to 48 required training assemblies each year.
- d. Section 502(f), Title 32, U.S.C. - Refers to members of KSARNG on active duty in the AGR program in one of the following programs: Full Time Manning (FTM), Readiness Support (RS), Recruiting, SIDPERS, DAS 3.
- e. Section 503, Title 32, U.S.C. - Refers to participation of ARNG personnel in encampments, maneuvers or outdoor target practice.
- f. Section 504, Title 32, U.S.C. - Refers to ARNG personnel attending schools conducted by commissioned RA Officers and participation in small arms competition.
- g. Section 505, Title 32, U.S.C. - Refers to ARNG personnel attending any service school except the U.S. Military Academy.
- h. Section 206, Title 37, U.S.C. - Refers to entitlement to pay for Inactive Duty Training.
- i. Section 709, Title 32, U.S.C. - Refers to ARNG personnel permanent duty or full time technicians.