

## *Claims for Vandalism*

Occasional vandalism of Americans' property is an incidental annoyance to those stationed overseas. The Army claims regulation provides limited authority to compensate soldiers for vandalism losses. Understanding the rules can prevent frustration and discontentment with the claims process.

To be compensable, vandalism losses must be incident to service and must have been intentionally inflicted. Damage caused by children at play, gravel thrown up by vehicles, falling branches, or hit-and-run collisions is not considered to arise from vandalism.

### **Claims For Damaged Vehicles**

Vehicles bearing American license plates—cars, trucks, motorcycles, and mopeds—are inviting targets for vandals. Vandalism to vehicles may be compensable when a claimant can show by clear and convincing evidence either that the vandalism occurred on-post or at certain off-post locations (usually authorized quarters), or that the damage was directly related to official duties.

A vehicle must have been properly located on the installation for a vandalism claim to be payable. A vehicle left in a remote area of the installation for an undue length of time is not presumed to be on the installation incident to service. Likewise, a vehicle driven by a civilian employee after duty hours because the employee is a retired soldier entitled to use the commissary is not presumed to be incident to service, nor is a vehicle driven by an adult child or a visiting relative. Vehicles not properly registered or insured in accordance with local regulation or local law are not properly on the installation.

Even if vandalism does not occur on a military installation, the claims office may be authorized to pay compensation when the claimant can establish that the property was singled out for attack because of government service. For example, if a soldier's US-plated car is spray-painted at an off-post location with the words "Yankee Go Home" or "NATO Are Murderers," there is a direct connection between the claimant's service and the damage, and a claim for such damage may be payable. On the other hand, damage caused by random acts of off-post vandalism is not compensable.

Using a vehicle off the military installation for commuting to or from work does not make the use incident to service. If someone maliciously throws a brick from an off-post overpass and breaks a claimant's car windshield while he is driving to work, the damage would

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not be considered incident to service and would not be compensable.

### **Standard Of Proof For Vandalism Claims**

Under the claims regulation, the Army must presume that damage caused by vandals did not occur on a military installation and is therefore not compensable. The claimant can rebut this regulatory presumption only by providing "clear and convincing extrinsic evidence" that the damage did take place on post.

A police report indicating that broken glass from a claimant's vehicle was found on the parking lot outside his place of duty might be sufficient to rebut this presumption. A statement by a disinterested third party that the claimant's vehicle and a number of other vehicles parked outside the post exchange, or some other location, were all vandalized in a similar manner would also be sufficient to rebut this presumption. The claimant's uncorroborated statement that a vehicle was vandalized on the military installation or at quarters is generally not sufficient to overcome this presumption. The issue is not one of impugning a claimant's credibility, but rather one of satisfying the stringent terms of the claims regulation.

### **Report Vandalism To Military Police And To The Claims Office**

If your vehicle is vandalized, contact the military police immediately. Identify any evidence at the scene (e.g., broken glass on pavement, fresh scrapings of paint), and point it out to the military police when they arrive. If military police are unable to come to the scene, take photographs or video recordings of the scene and of the evidence.

Contact your local claims office as soon as you have reported the incident to military police. Be aware that claims offices are not bound by a police report stating that particular damage resulted from vandalism. Instead, the claims examiner must make an independent determination based on all the evidence uncovered in his investigation.

Whenever possible, you should not repair the damage before the claims examiner inspects your vehicle. The claims examiner's inspection is essential to evaluate the full measure of damages for which you may be awarded compensation, even if your vehicle will be repaired at the direction of your insurer. Remember that you must file a claim with your insurance carrier before the Army can consider your claim.

The Army claims program is no substitute for maintaining adequate private insurance. Since many kinds of damage caused by vandals are not compensable by the claims office, all servicemembers should review their insurance policies and purchase additional coverage as needed for protection against this and other risks.

**For additional information**, call the Claims Office at Northern Law Center, DSN 423-4061/civilian (32) 65 44 40 61.