

MILAB Claims: Abduction, Detention, and Experimentation by Government or Contractor Personnel

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Premise. “MILAB” (military abduction) accounts come from people who report an NHI abduction and also report being taken, held, drugged, questioned, or examined by humans: people in uniform or civilian clothes, sometimes in what appear to be government or contractor facilities. Assume such an account is true. Which criminal, civil, and administrative law applies to the human actors and their agencies, and how do secrecy, *Feres*, and the limits on suits against federal officers play out?

Key points

- The documented programs are the guide: MKULTRA, the Edgewood Arsenal tests, the human radiation experiments, and CIA rendition. The law that grew from them governs a MILAB claim, and a MILAB analysis should rest on them.
- Nonconsensual human experimentation by DoD or an intelligence agency violates specific statutes and orders: 50 U.S.C. §1520a, 10 U.S.C. §980, Executive Order 12333 §2.10, and the Common Rule.
- The strongest remedy found is an order for notice and medical care: an Army regulation obliges the Army to tell former test subjects of new health information and to provide care for injuries from the experiments, and the Ninth Circuit enforced both duties under the APA (*Vietnam Veterans of America v. CIA*, 2016).
- Damages are hard to get. The FTCA excludes battery and false imprisonment by federal employees who are not law enforcement officers, and courts have held that CIA personnel and soldiers acting as soldiers are not. *Bivens* is effectively closed (*Egbert*). Service members face *Feres* and *Stanley*.
- Contractors are the most reachable defendants. Contract psychologists for the CIA interrogation program were sued, survived dismissal and summary judgment, and settled (*Salim v. Mitchell*). State tort claims against contractors are open where the government did not require the conduct (*Hencely*, [Issue A1](#) §8).
- Proof decides these cases. In *Ritchie v. United States* (N.D. Cal. 2005), the government admitted that CIA operatives were secretly dosing people with LSD in San Francisco in

December 1957, and the plaintiff still lost because he could not prove that he was dosed, or by whom.

1. Summary

Defendant	Claim	Main obstacle	Note
United States (civilian plaintiff)	FTCA negligence, negligent supervision, failure to warn	Discretionary function; §2680(h) for intentional torts; state secrets	<i>Orlikow; Ritchie; Kronisch</i>
United States (service member)	FTCA	<i>Feres</i>	VA benefits and APA claims remain
Army or DoD	APA §706(1) to compel notice and medical care	Must find a specific mandatory rule	<i>Vietnam Veterans of America v. CIA</i>
Individual federal officers	<i>Bivens</i>	<i>Egbert; Stanley</i> for service members; qualified immunity	Effectively closed for new contexts
Individual federal officers	State torts	Westfall Act substitution of the United States	Constitutional claims are excepted from substitution
Contractors and their employees	State torts; ATS (closed for new claims)	<i>Boyle, Yearsley</i> , preemption; state secrets	<i>Salim; Hencely</i>
State or local police who took part	42 U.S.C. §1983	Qualified immunity; limitations	
Any federal actor	Criminal referral: 18 U.S.C. §§241, 242, 1201	Prosecutorial discretion; limitations	

2. The documented precedents

MKULTRA. From the early 1950s into the 1960s the CIA funded behavioral research, including the administration of LSD to people who did not know they were being dosed. Most program records were destroyed in 1973. The program is described in the Church Committee's Final Report (1976)

and in the Senate hearing *Project MKULTRA, the CIA's Program of Research in Behavioral Modification* (1977).

- *Orlikow v. United States*, 682 F. Supp. 77 (D.D.C. 1988): FTCA claims by Canadian patients treated in CIA-funded experiments by Dr. Ewen Cameron, alleging negligent supervision and reckless funding of hazardous experiments; the case settled.
- *Kronisch v. United States*, 150 F.3d 112, 126-28 (2d Cir. 1998): the CIA had a duty to preserve MKULTRA records once litigation was foreseeable, and their destruction can support an adverse inference that, together with other evidence, may let a claim survive summary judgment.
- *Ritchie v. United States*, 210 F. Supp. 2d 1120 (N.D. Cal. 2002): an FTCA claim by a former deputy U.S. marshal was timely, because it accrued when he learned of MKULTRA in the late 1990s. At trial the government admitted that CIA operatives in San Francisco were dosing people with LSD without consent in December 1957. The court still entered judgment for the government: the plaintiff did not prove that he ingested LSD at a federal Christmas party, that a federal agent dosed him, or that LSD caused his conduct, and the destruction of the files did not replace that proof at trial. *Ritchie v. United States*, 2005 WL 8166165, at *5-10 (N.D. Cal. July 5, 2005), *aff'd*, 451 F.3d 1019 (9th Cir. 2006).
- *CIA v. Sims*, 471 U.S. 159 (1985): the names of MKULTRA researchers and institutions were protected from FOIA disclosure as intelligence sources.

Military test subjects.

- *United States v. Stanley*, 483 U.S. 669 (1987): a soldier secretly given LSD in an Army program had no *Bivens* claim, because the injury arose incident to service. Justice O'Connor would have allowed the claim for conduct so far beyond human decency that no military purpose could excuse it.
- *Vietnam Veterans of America v. CIA*, 811 F.3d 1068 (9th Cir. 2016): veterans exposed to chemical and biological agents at Edgewood Arsenal and in earlier programs sued the Army, DoD, and CIA. Army Regulation 70-25 requires commanders to give research volunteers “any newly acquired information that may affect their well-being,” and the 1990 revision applies expressly to deliberate exposure to chemical and biological agents. That duty runs to former subjects and is enforceable under APA §706(1). *Id.* at 1075-77, 1082-83. The regulation’s provision that volunteers “are authorized all necessary medical care” imposes a duty to provide care for injuries proximately caused by the experiments, and the Army is not excused because the VA provides some care. *Id.* at 1080-83.
- *Taylor v. McDonough*, 71 F.4th 909 (Fed. Cir. 2023) (en banc): an Edgewood volunteer had been sworn to secrecy under threat of prosecution and so did not claim VA benefits for decades. The court held that the oath and the threat denied him access to the VA claims process in violation of due process, that the statutory effective-date limits were unconstitutional as applied to him, and that he was entitled to the effective date he would have had without that denial. A MILAB claimant who was told by officials to keep silent can use the same reasoning against time limits.

- Human radiation experiments: the Advisory Committee on Human Radiation Experiments, *Final Report* (1995); *In re Cincinnati Radiation Litigation*, 874 F. Supp. 796 (S.D. Ohio 1995) (claims against officials for whole-body radiation of patients without informed consent survived dismissal).

Rendition and interrogation.

- *El-Masri v. United States*, 479 F.3d 296 (4th Cir. 2007), and *Mohamed v. Jeppesen Dataplan, Inc.*, 614 F.3d 1070 (9th Cir. 2010) (en banc): claims arising from CIA rendition dismissed under the state secrets privilege.
 - *Arar v. Ashcroft*, 585 F.3d 559 (2d Cir. 2009) (en banc): no *Bivens* remedy for extraordinary rendition.
 - *Salim v. Mitchell*, 183 F. Supp. 3d 1121 (E.D. Wash. 2016) (motion to dismiss denied), and 268 F. Supp. 3d 1132 (E.D. Wash. 2017) (summary judgment denied): former detainees sued the two psychologists who designed and helped run the CIA's interrogation program under contract; the case settled in August 2017.
 - *United States v. Zubaydah*, 595 U.S. 195 (2022): the state secrets privilege barred discovery that would confirm the location of a CIA detention site, even though the location had been widely reported.
 - *Husayn v. Mitchell*, 142 F.4th 667 (9th Cir. 2025): the same psychologists were the CIA's agents under ordinary agency principles, because the CIA authorized their work, could control it, and ratified it; a statute barring suits by designated enemy combatants against the United States "or its agents" therefore applied. The jurisdictional bar is limited to enemy combatants, but the agency holding will be cited by both sides in any contractor case.
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3. Statutes and rules on human subjects

- **50 U.S.C. §1520a** limits DoD testing of chemical or biological agents on human subjects and requires informed consent from each subject for the permitted tests.
- **10 U.S.C. §980** bars the use of DoD funds for research on a human being as an experimental subject unless the subject's informed consent is obtained in advance, subject to narrow exceptions.
- **Executive Order 12333 §2.10** forbids intelligence community elements to sponsor, contract for, or conduct research on human subjects except under HHS guidelines, with documented informed consent.
- **The Common Rule**, 45 C.F.R. part 46, and DoD's version, 32 C.F.R. part 219, require review board approval and informed consent.
- **Army Regulation 70-25** (*Vietnam Veterans of America*, above) and successor DoD instructions on the protection of human subjects. Counsel should identify the regulation in force when the client's events occurred, because the APA remedy depends on finding a specific mandatory command.

- **International standards:** the Nuremberg Code; ICCPR art. 7 (“no one shall be subjected without his free consent to medical or scientific experimentation”).
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4. Criminal law

A federal officer who kidnaps, detains, or injures a person without lawful authority can be prosecuted like anyone else. Relevant statutes are 18 U.S.C. §1201 (kidnapping), §241 (conspiracy against rights), §242 (deprivation of rights under color of law), and state law. Section 242 provides enhanced penalties where the violation includes kidnapping. The general federal limitations period is five years, 18 U.S.C. §3282. Referrals go to the FBI, the agency’s inspector general, and the Civil Rights Division ([Issue D3](#)). In practice a referral will not be pursued without evidence identifying the people and the facility.

5. Civil remedies

5.1 FTCA

- **Intentional torts.** The FTCA does not waive immunity for assault, battery, or false imprisonment, except when committed by “investigative or law enforcement officers.” 28 U.S.C. §2680(h). The proviso covers such officers whenever they act within the scope of their employment. *Millbrook v. United States*, 569 U.S. 50 (2013). Courts have held that CIA personnel are not investigative or law enforcement officers for this purpose, *Holmes v. CIA*, 758 F. Supp. 3d 153 (W.D.N.Y. 2024). Under *Millbrook* the officer’s status controls, so a claim against military police, AFOSI, NCIS, or Army CID agents who are empowered by law to search, seize evidence, or arrest can fit the proviso whenever the agent acted within the scope of employment, even if the agent was not then making a search or arrest. *Dickson v. United States*, 11 F.4th 308, 314 (5th Cir. 2021) (*Millbrook* rejected the status-versus-activities distinction that *Cross v. United States*, 159 F. App’x 572 (5th Cir. 2005), had applied to military police). Do not rely on *Cross* or similar pre-2013 activity-based decisions.
- **Negligence theories.** Negligent supervision, negligent funding of hazardous research (*Orlikow*), and failure to warn after the fact avoid §2680(h) but face the discretionary-function exception, §2680(a). A mandatory regulation such as AR 70-25 or §1520a defeats that exception for the conduct it prescribes.
- **Accrual.** An FTCA claim accrues when the plaintiff knows of the injury and its cause. *United States v. Kubrick*, 444 U.S. 111 (1979). Learning years later of a concealed program can start the period (*Ritchie*, 210 F. Supp. 2d 1120). The administrative claim must be filed within two years of accrual ([Form D5-1](#)).
- **Service members.** *Feres v. United States*, 340 U.S. 135 (1950), bars FTCA claims for injuries incident to service. A MILAB account involving an active-duty member usually falls within it. A dependent or civilian family member does not.

5.2 Claims against individual officers

Bivens claims in new contexts are effectively unavailable. *Ziglar v. Abbasi*, 582 U.S. 120 (2017); *Egbert v. Boule*, 596 U.S. 482 (2022). National security is a recognized reason to decline a new remedy, and *Stanley* forecloses claims by service members. State tort claims against a federal employee acting within the scope of employment are converted into FTCA claims against the United States under the Westfall Act, 28 U.S.C. §2679(b)(1), which excepts claims for constitutional violations, §2679(b)(2)(A). Conduct that was outside the scope of employment, such as a private venture by officers, is not substituted.

5.3 Contractors

Contractor personnel who carry out abductions or experiments are subject to state tort law: battery, false imprisonment, intentional infliction of emotional distress, and medical battery. Defenses are the government contractor defense, *Boyle v. United Technologies Corp.*, 487 U.S. 500 (1988); derivative immunity for work the government authorized and directed, *Yearsley v. W.A. Ross Construction Co.*, 309 U.S. 18 (1940), and *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153 (2016); and preemption, narrowed by *Hencely v. Fluor Corp.*, 608 U.S. 31 (2026), where the government did not require or authorize the conduct. Nonconsensual experimentation on civilians inside the United States was never lawfully authorized (§3 above), which weakens each defense. The Alien Tort Statute route used in *Salim* is closed for new claims against domestic contractors ([Issue F2 §5](#); [Issue A1 §8](#)).

5.4 State secrets

Expect the government to assert the privilege, or *Totten*, as soon as a complaint names a program. Plead facts from official acknowledgments and from the plaintiff's own knowledge, and frame claims that can be proved with nonprivileged evidence ([Issue A1](#)). Public reporting does not by itself strip a fact of protection: the Ninth Circuit allowed discovery from the CIA's contract psychologists about a detention site already described in the public record, *Husayn v. Mitchell*, 938 F.3d 1123 (9th Cir. 2019), and the Supreme Court reversed, holding that the government may decline to confirm or deny such facts, *United States v. Zubaydah*, 595 U.S. 195 (2022).

6. Records and investigation

- Privacy Act requests to each agency for the person's own records, 5 U.S.C. §552a(d), with FOIA requests in the alternative ([Form B1-1](#)). The CIA exempts its operational files under §552a(j)(1); expect *Glomar* responses ([Issue A1](#)).
 - Requests for medical, research-subject, and volunteer registry records. The Army created registries of research volunteers in 1981 and 1986 to support notice to former subjects (*Vietnam Veterans of America*, 811 F.3d at 1073-74).
 - Inspector general complaints and congressional referrals ([Issue D1](#)). Insiders with knowledge can use the whistleblower channels in [Issue C1](#).
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7. Proof

Ritchie shows what a MILAB plaintiff needs: evidence placing an identified agency, facility, or person at the specific event, and medical evidence connecting the event to the injury. Useful evidence includes contemporaneous medical records, travel and location records, witnesses who saw the person taken or returned, physical findings, and any government document naming the person. Memories recovered under hypnosis face the evidentiary rules in [Issue H1](#) §5. The stigma attached to abduction accounts is addressed in [Issue H4](#); courts have screened out pro se complaints of MKULTRA injury as frivolous even though the program is admitted (*Mander v. CIA*, 2024 WL 2114301 (E.D. Pa. May 10, 2024)), so a complaint should be drafted with the care of any other government-misconduct case and should lead with documented facts.

8. Practice points

1. Separate the human-actor allegations from the NHI allegations; plead and prove the human conduct on its own.
 2. Identify every agency, facility, and contractor the client can name, and the dates.
 3. Request the client's records under the Privacy Act and FOIA before filing ([Form H2-1](#)), and send preservation demands.
 4. For former research subjects of DoD, consider an APA claim for notice and medical care under the regulation in force (*Vietnam Veterans of America*).
 5. For civilians, file an FTCA administrative claim within two years of learning of the government's role; frame negligence and failure-to-warn theories alongside intentional-tort theories against law enforcement personnel.
 6. Consider state tort claims against contractors, in state court where possible.
 7. Plan for a state secrets assertion from the start.
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