

§ 2000aa-6. Civil actions by aggrieved persons**(a) Right of action**

A person aggrieved by a search for or seizure of materials in violation of this chapter shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this chapter, or against any other governmental unit, all of which shall be liable for violations of this chapter by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this chapter while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) Good faith defense

It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct.

(c) Official immunity

The United States, a State, or any other governmental unit liable for violations of this chapter under subsection (a)(1), may not assert as a defense to a claim arising under this chapter the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) Exclusive nature of remedy

The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this chapter, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Admissibility of evidence

Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this chapter.

(f) Damages; costs and attorneys' fees

A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of \$1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment.

(g) Attorney General; claims settlement; regulations

The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regula-

tions to provide for the commencement of an administrative inquiry following a determination of a violation of this chapter by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted.

(h) Jurisdiction

The district courts shall have original jurisdiction of all civil actions arising under this section.

(Pub. L. 96-440, title I, §106, Oct. 13, 1980, 94 Stat. 1880.)

EFFECTIVE DATE

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96-440, set out as a note under section 2000aa of this title.

§ 2000aa-7. Definitions

(a) "Documentary materials", as used in this chapter, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magnetically¹ or electronically recorded cards, tapes, or discs, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense.

(b) "Work product materials", as used in this chapter, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by any other person;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any local government, unit of local government, or any unit of State government.

(Pub. L. 96-440, title I, §107, Oct. 13, 1980, 94 Stat. 1881.)

EFFECTIVE DATE

Section effective Jan. 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the section is effective one year from Oct. 13, 1980, see section 108 of Pub. L. 96-440, set out as a note under section 2000aa of this title.

¹ So in original. Probably should be "magnetically".