



FINANCIAL LIABILITY OFFICER GUIDE

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FINANCIAL LIABILITY OFFICER GUIDE

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A GUIDE FOR THE FINANCIAL LIABILITY OFFICER

1. **Purpose.** This Guide is intended to assist you in conducting a timely, thorough, and legally sufficient investigation of property loss. It is based on the 28 February 2005 edition of Army Regulation (AR) 735-5, Property Accountability: Policies and Procedures for Property Accountability (AR 735-5). Use AR 735-5 as your principal reference. When using this guide, check for any changes to the regulation. The Administrative Law Division, Office of the Staff Judge Advocate, is available to brief you prior to and during your investigation. We encourage you to seek legal advice at all stages of your investigation.
2. **What is your mission?** You investigate the loss, damage, or destruction (LDD) of government property. Your objective is both to determine the cause of the loss, damage, or destruction and assess responsibility. Once you collect the facts, you draw conclusions which are known as findings. Based upon these findings, you make recommendations. Your chain of command will act on your recommendations.

3. How do you start your investigation?

a. You usually will be appointed by the Appointing Authority and you will be provided a copy of DD Form 200, "Financial Liability Investigation of Property Loss." The front half of the form will already be completed. This form will have the basic information on what property was lost, damaged or destroyed. Read the form and any attached exhibits, and promptly start your investigation. In conducting the investigation, strive to answer four basic questions:

- (1) WHAT was lost, damaged, or destroyed?
- (2) WHEN and WHERE was it lost, damaged, or destroyed?
- (3) WHY was it lost, damaged, or destroyed?
- (4) WHO was responsible for the loss, damage, or destruction?

b. In attempting to answer these questions, you must collect evidence. Begin by interviewing those individuals who logically are connected to the lost, damaged or destroyed property. These may be the individuals who are identified in Block 9, DD Form 200. If the circumstances surrounding the loss, damage, or destruction are vague, begin your investigation with the property's hand receipt holder. It may be necessary to interview subhand receipt holders and other individuals who used the property. These interviews often will reveal additional individuals who must be interviewed to answer the "WHAT," "WHEN," "WHERE," "WHY," and "WHO," of the loss, damage or destruction.

- c. Record the substance of these interviews on DA Form 2823, "Sworn Statement." As survey officer, you are authorized to administer oaths. When DA Form 2823 is not available, use plain bond or ruled paper. Type or legibly print the word "CERTIFICATE" across the top of the plain bond or ruled paper. Be sure to include the following language at the end of the statement:

"I, _____, have read or have had read to me this statement which begins on page 1 and ends on page _____. I fully understand the contents of the entire statement made by me. The statement is true. I have initiated all corrections and have initialed the bottom of each page containing the statement. I have made this statement freely without hope of benefit or reward, without threat of punishment, and without coercion, unlawful influence, or unlawful inducement."

Either form of statement must be dated and signed by the individual making the statement. Finally, the statement should be lettered alphabetically as an exhibit, followed by the date; the amount; and organization... all as is listed on the face of the financial liability investigation of property loss. Example:

Exhibit A, IOPL 05-96, 23 August 2005, \$375.00, Co. J, 203rd FSB

For further guidance on preparing either DA Form 2823 or a "Certificate," see AR 735-5, paragraph 13-31g.

4. Determining "WHAT" was lost, damaged, or destroyed.

a. Your first mission is to determine **WHAT** was lost, damaged, or destroyed. This usually will be straightforward. Examine the front side of DD Form 200; the affected property will be listed in blocks 4 through 7, as well as on the continuation sheet, if any. The specific LDD characterization will be marked in the appropriate box in block 9. **You must prove loss;** one way to prove loss is by obtaining a copy of the hand receipt showing the property now unaccounted for was issued. To prove property damage or destruction, examine the property; obtain police reports, and obtain estimated or actual costs for the damage or destruction. Using this method, you answer the "what" question and are able to support your answer with exhibits.

b. If the investigation involves damaged property, examine the property immediately. You then must release the property for repair or turn-in. If an expert opinion would be helpful in determining the cause of the damage, ensure that technical inspectors examine the property and give an opinion on the probable cause of the damage.

c. You must always attempt to locate lost property. The nature of the search will depend on the type of property lost and the "why" and "where" of its loss. For example, if night vision goggles were lost on a field training exercise (FTX), check with other units that were on the FTX and see if they have them. If property such as desks were lost, you may be required to conduct a thorough inventory of desks in the unit. On the other hand, if you are certain that the desks fell off the back of a truck at the National Training Center (NTC), you can do little to locate the property. (However, you must determine whether a search was conducted at the NTC).

5. What to do if property is recovered during the investigation.

During the course of the investigation, you may locate the property that had been reported missing. AR 735-5, paragraph 14-14, provides detailed guidance on the steps you must follow to re-establish accountability. These steps are summarized as follows:

- a. If property is recovered prior to a document or voucher number being assigned and all property listed on the report is recovered, the initiator will destroy the document.
- b. If some—but not all—of the property is recovered prior to the document or voucher number being assigned, you still must conduct an investigation with respect to the remaining property. The initiator will line through the recovered property identified in blocks 4 through 8, and initial entries on all copies. The initiator will adjust the grand total in block 8, total cost.
- c. When property is recovered after a document or voucher number has been assigned to the investigation, the initiator, the financial liability officer, appointing authority, or the approving authority, as appropriate, will direct the accountable officer in writing to re-establish accountability for the recovered property.

6. Determining “WHEN” and “WHERE” the property was lost, damaged, or destroyed.

a. When and where the loss occurred is often clear. You need only confirm the accuracy of the information in Block 9 of DD Form 200. In other cases—such as when an inventory determined property to be missing—determining “when” and “where” the loss occurred may be difficult, or even impossible. In such cases, you only may be able to determine “why” the loss occurred and “who” was responsible. For example, you may conclude that because the property was left unsecured, it was lost through theft at an indeterminate time or that it was issued at an indeterminate time without a hand receipt, and that this caused a loss of accountability.

b. If you cannot determine accurately “when” and “where” the loss occurred, attempt to determine when the property was accounted for last. Resolving when the property was last accounted for will assist you in determining the “who” and “why” questions of the loss. If you are unable to pinpoint “when” and “where” the loss occurred, you still may be able to make a legally sufficient recommendation for financial liability. You need only conclude that the property was lost because of negligence (WHY) on the part of a specific individual (WHO).

c. If you cannot determine to whom the property was issued, the individual who last was responsible for it may be liable. The basis for a recommendation of liability would be a negligent loss of accountability. For example, A issued the property to an unknown individual, and the property is now missing. A is liable if he or she negligently failed to maintain accountability for the property. On the other hand, if the investigation clearly reveals A issued the missing property to B, then A should not be held liable, even though a subhand receipt was not obtained, because accountability for the property was not lost when it was issued to B. The property clearly was issued to B, so A’s negligence in issuing the property without a hand receipt did not cause the loss. (See the discussion below on proximate cause.) Therefore, your investigation should focus on B’s conduct.

7. Determining “WHY” the loss or damage occurred.

- a. Determining the reason for the loss is the critical purpose of a financial liability investigation of property loss. In some cases, the determination may be straightforward. For example, block 9, DD Form 200 may indicate, “I, CPT Smith, make the following statement: My vehicle was damaged when PVT Jones intentionally struck it with a hammer.” To answer the “why” question, all you need to do is verify these facts; support them with exhibits, and discuss the loss or damage in the narrative portion of the investigation of property loss.
- b. In other cases, explaining the “why” of the loss or damage may be more difficult. For example, block 9, DD Form 200, may indicate, “I, CPT Smith, make the following statement: The incoming commander and I conducted a thorough search of the area and the above listed shortages could not be located.” How do you attempt to answer the “why” question in a case like this? The following guidance will assist you in answering this question:

(1) ***Start with what you know.*** Property described in blocks 4 through 7, DD Form 200, is currently considered missing. Although the “what” question has been answered partially, you still must verify that the property really is missing.

(2) ***Determine who was responsible for the property.*** This involves learning to whom the property was issued. To answer this, you must obtain a copy of the basic hand receipt. The copy should be preserved as an exhibit.

(3) ***Determine what happened to the property.*** For example, examine the following:

(a) Where was it stored?

If it was not secured properly, the “WHY” of the loss may have been theft.

(b) Was it issued without a hand receipt?

If so, the “WHY” of the loss may have been loss of accountability.

(4) If it was subhand receipted or given to an identified individual, you must attempt to resolve the questions discussed directly above in b(3)(a) and b(3)(b) as they pertain to that individual. Your goal is to determine who was the last person identified as responsible for the property, and then determine “why” the property is missing.

8. Determining “WHO” was responsible for the loss, damage or destruction (LDD).

Identifying the individuals who were responsible for the property is the first step to establishing financial responsibility. AR 735-5, para. 13-29a lists the five types of responsibility. If you are able to determine all the other four “W” questions about the circumstances of the loss or damage, you usually will be able to answer the “who” question. Answering the “who” question is a conclusion based upon your investigation and assessment of the collected evidence of the circumstances leading to the loss, damage, or destruction. If you are unable to pinpoint the circumstances which lead to loss, damage or destruction, you may not be able to resolve who should be held financially liable for the loss, damage or destruction.

9. Legal Standards. You may hold an individual financially liable for lost, damaged or destroyed Government property only if:

- i. He or she was “negligent” or committed “willful” misconduct;” and
- ii. This negligence or willful misconduct was the “proximate cause” of the loss or damage.

The terms “negligence,” “willful misconduct” and “proximate cause” have fairly complex legal meanings, but can be summarized as follows:

a. **Willful Misconduct.** Willful misconduct involves an intentional act specifically aimed at damaging or losing the property. This term means that an individual intended to or purposely damaged or lost the property. For example, if Mr. Smith became angry and took a baseball bat to the office copier, he would have committed an act of willful misconduct. He intended to destroy the copier.

b. **Negligence.** Two types of negligence—“simple” or “gross”—may lead to the imposition of financial liability for lost, damaged or destroyed (LLD) Government property:

(1) **Simple Negligence.** AR 735-5 defines simple negligence as the absence of due care—by an act or omission of a person—lacking the degree of care for the property a *reasonably prudent person* would have taken under similar circumstances, to avoid loss, damage, or destruction to the property.

In other words, simple negligence is an unreasonable act—or an unreasonable failure to act—resulting in LDD. To be unreasonable, the evidence must show a typical person of similar experience and relationship to the property would have acted differently as a matter of common sense. AR 735-5, *para. 13-29b(4)*, cites the factors to consider in assessing the reasonableness of a person’s conduct.

(2) **Gross Negligence.** While negligence essentially is failing to use common sense, gross negligence is failing to use any sense at all. If Corporal Franklin, for instance, started boiling grease to make french fries, forgot about it, and the kitchen caught on fire, he would have committed an act of simple negligence. Someone else making french fries, using common sense, would have known not to leave the grease unattended. On the other hand, if Corporal Franklin dug a barbecue pit in his living room, filled it with charcoal, doused it with five gallons of gasoline and lit it thereby vaporizing his living room, he would have committed an act of gross negligence. Any adult, using any degree of sense at all, would have known better.

When government quarters have been damaged, you must determine whether gross negligence was involved because the limits on liability are different. *See* the discussion of limits on liability, below. Also, regarding family housing and other government quarters, AR 735-5, paragraph 13-32c(4), provides that, under certain circumstances, occupants are responsible for the gross negligence or willful misconduct of members of their household, guests, and pets therein.

c. **Proximate Cause.** If you can show that another individual of similar experience and relationship to the property would have acted differently as a matter of common sense, then you have established negligence. To hold someone liable, however, you also must establish that the person’s acts or omissions in a natural and continuous sequence, unbroken by a new cause,

produced the loss, damage or destruction. This causation is referred to as “proximate cause” in AR 735-5, and may best be explained by the following examples.

Example 1 Mr. Smith leaves his laptop computer unattended in plain view in his vehicle in downtown Oakland. The laptop is stolen. Mr. Smith's negligence caused the loss. By placing the laptop in a location where theft could reasonably be anticipated, he created the conditions that allowed the loss by theft to occur. In other words, Mr. Smith's negligence “proximately caused” the resulting loss.

Example 2 Mr. Jones is driving a government vehicle at seventy miles per hour in an area marked thirty miles per hour. He fails to negotiate a sharp turn at the bottom of the road and crashes into an embankment destroying the vehicle. If the investigation officer concludes that Mr. Jones was negligent by driving too fast for the conditions, Mr. Jones' negligence caused the accident. By driving too fast, Mr. Jones' negligence “proximately caused” the loss.

Example 3 Corporal Crash is driving while intoxicated. A limb on an old pine tree hanging over the road breaks, falls, and shatters his windshield while he is driving. Here, even though Corporal Crash was negligent by driving while intoxicated, his negligence was not the “proximate cause” of the accident. The damage caused by the falling tree limb was independent of his level of intoxication. In other words, the damage would have occurred even if Corporal Crash had been sober.

Example 4 Mr. Brown negligently issued property without obtaining hand receipts. The property cannot be located, nor can you determine to whom the property was issued. The property cannot be located because no accountability documents exist indicating to whom the property was issued. By failing to properly obtain hand receipts for the now missing property, and because you cannot determine to whom he issued the property, Mr. Brown's negligence “proximately caused” the loss.

d. **Presumed Negligence.** In some cases, you may not be able to determine the actual cause of the loss. Nonetheless, you may still be able to conclude that a certain individual is responsible when you find that an individual had **exclusive access and control** over property and you can rule out all other causes for the loss or damage. This can best be illustrated by these examples.

Example 1 Supply Sergeant Green has exclusive control over the supply room and the property inside; he has the only key. All linen was accounted for when he signed for the supply room. Three months later, an inventory determines that thirty percent of the linen is missing. No signs of theft can be found. Because Sergeant Green had **exclusive control** of the supply room and other causes of loss have been ruled out, Sergeant Green may be presumed to have caused the loss.

Example 2 Private Johnson goes absent without leave. His locker is immediately secured and its contents are inventoried. Most of its contents, including his field equipment, are missing. Because Private Johnson had **exclusive control** over his locker, and it was immediately secured and inventoried, he may be presumed to have been the cause of its loss. If the locker was neither secured nor its contents inventoried for some time after Private Johnson went AWOL then the presumption may not apply. You must be able to rule out theft.

10. Findings and Recommendations. Common military practice condones substituting text in block 15a with a continuation sheet or an informal memorandum. Drafting your findings and recommendations in this format makes saving and amending your findings and recommendations easier, without altering the DD Form 200 itself. As a practical matter, either write “Please refer to the continuation sheet for the findings narrative.” or “See attached memorandum for the findings narrative.” (or similar wording to that effect), in block 15a and place all continuation sheets and memoranda behind the last page of the DD Form 200, in numerical order.

a. **Findings.** Once you have completed the investigation and believe you are prepared to answer the WHO, WHAT, WHEN, WHERE, and WHY questions, begin to draft your findings. AR 735-5, para. 13-32a, requires you to state the facts—as supported by the evidence obtained through the investigation—in your own words. Your findings must be as complete as possible so any reviewer can easily see the basis for assessment or relief from liability without returning the IOPL for more information.

(1) When writing your findings for block 15a, start with a conclusion. Draw your conclusions from the evidence, not unsupported speculations or suspicions. Verify or disprove any statements made in block 9 and any other statements in the investigation. While you must avoid using stereotyped phrases such as “loss or damaged in manner stated,” the following language presents a framework within which to start drafting your findings:

I have examined all the available evidence shown in block 9, and exhibits “A” thru “ ” as indicated below. I have personally investigated the same and it is in my belief that the articles listed hereon and on any continuation sheets, total cost \$, was/were...

—select one of the three sentence options below—

- (a) **(lost, damaged, or destroyed) through the simple/gross negligence of _____; or**
- (b) **(lost, damaged, or destroyed) by the willful misconduct of _____; or**
- (c) **(lost, damaged, or destroyed) as the result of an (unavoidable accident, an unpreventable theft, undeterminable circumstances, etc.).**

For further guidance on preparing your written findings, *see* AR 735-5, Figure 13-8. If you still have questions once you have completed a draft of your written findings, contact your supporting administrative law attorney for assistance.

(2) By stating a conclusion, you have answered the WHAT question; you have told the reviewer that the property listed in block 5 was lost, damaged, or destroyed. The next step is for you to “state in your own words, how the loss, damage, or destruction occurred.” To this end, explain the WHEN, WHERE, WHY, and WHO of the loss by writing:

- (a) WHEN and WHERE it was lost, damaged, or destroyed;
- (b) WHY it was lost, damaged, or destroyed, and
- (c) WHO was responsible for the loss, damage, or destruction.

(3) When drafting your findings, support all asserted facts by citing specific exhibits. The exhibits contain all the evidence you collected during the course of the investigation of property loss. This evidence is the only legitimate basis for your findings. In writing findings, your goal is to explain, in narrative format, the cause of loss, damage or destruction. The evidence must support findings, and findings must support the conclusion, as illustrated below:



If you relied on ***self-serving*** statements from the individual who was responsible for the property, you must explain what other evidence confirms the self-serving statement. If the investigation contains ***contradictory*** evidence you must explain how you resolved the contradiction. For further guidance, *see AR 735-5, paragraphs 13-32a(1) and a(2)*.

(4) A reviewer, upon reading the findings, should clearly understand certain property was lost, damaged, or destroyed in a certain way, and at a certain place and time. If you cannot answer any of the WHAT, WHEN, WHY, and WHO, questions, explain that in your findings. The following example addresses the loss of a night vision sight mounted tripod:

SSG Pendergast, the unit supply sergeant, permitted SFC Ansley to take the item for use on a weekend camping trip with the Boy Scouts in September 200X [Exhibit B]. The troop leader corroborates this fact [Exhibit C]. At the conclusion of the camping trip, the items were never returned [Exhibit B]. SFC Ansley retired from the Army on 30 November 200X [Exhibit D]. Attempts to contact SFC Ansley regarding this item have proven unsuccessful [Exhibit E].

SSG Pendergast had custodial responsibility for the missing item per AR 735-5, paragraph 2-8a(4). This obligated SSG Pendergast with ensuring these items were cared for, and that proper custody and safekeeping were provided. SSG Pendergast was negligent in allowing this item to be taken from the supply room without a properly prepared hand receipt signed by SFC Ansley. SSG Pendergast's actions further violated AR 735-5, paragraphs 2-1e and f, which state Government property will not be loaned or used for private purposes. The amount of the loss was depreciated by 5 percent for each year of service (15 percent) IAW AR 735-5, paragraph B-2b [Exhibit F].

Recommendation: That SSG Pendergast, 000-00-0000 and SFC (Retired) Ansley, 000-00-0000, be held financially liable in the amounts of \$2,000.00 and \$1,596.35, respectively [Exhibit F].

(5) You must set out in blocks 15b and 15d the value as derived from the current Army Master Data File (AMDF) contained on FED LOG, or other alternative equivalent value of the property and its value after deduction of any allowable depreciation. *See section 11.d, below.* If uneconomically repairable property is involved, state the property's final disposition, or your recommended disposition in your findings in accordance with AR 735-5, paragraph 13-32c(3).

b. **Recommendations.** As set out in the example above, immediately after making findings, recommend whether assessment of financial liability is appropriate. Start this section with the word "recommendations." Indicate whether the investigation lists property for which a claim may be processed under AR 27-20. For further guidance, *see AR 735-5, paragraph 13-32c.*

(1) **Relief from responsibility and accountability.** If you are unable to determine the cause of, or responsibility for, the loss, damage, or destruction, recommend all parties be relieved

of accountability and responsibility. Make a similar recommendation if you determine that neither negligence nor willful misconduct was involved.

(2) **Financial Liability.** If you conclude that an individual's negligence or willful misconduct caused the loss, damage or destruction, you must make an assessment of financial liability. Start a recommendation for financial liability by giving the individual's full name, social security number, monthly base pay (for DOD civilians, 1/12 of annual pay) at the time of the loss, and the date that the individual is expected to terminate service or employment. You must clearly state the amount of liability. (See discussion below on amount of liability.)

11. **How much liability?**

a. **General Rule.** An individual's liability usually will be limited to the lesser of: (1) one month's base pay for Soldiers (or 1/12 of annual pay for civilians) at the time of the loss or (2) the actual loss to the government. When two or more investigations have been initiated for the same incident, AR 735-5, paragraph 13-41b(3), specifies that liability is still limited to one month's base pay. When two or more investigations arise out of the same incident, the investigations must be cross-referenced to each other, pursuant to AR 735-5, paragraph 13-4a.

b. **Exceptions.** AR 735-5, paragraph 13-41a recognizes that in certain circumstances it is appropriate to assess the full amount of loss to the Government without reference to monthly pay. Soldiers who lose personal arms or equipment are liable for the full amount of the loss, damage or destruction. Persons who lose, damage or destroy government quarters or their contents through *gross negligence* or *willful misconduct* are liable for the full amount of the loss, damage or destruction. At times an individual owes a higher fiduciary duty, as with accountable officers and persons losing public funds. At times an investigation may form the basis for an affirmative claim against a third-party tortfeasor. Other circumstances involve larger entities able to absorb the full amount of any loss to the Government, such as states, contractors and NAFIs.

c. **Actual Loss to the Government—Repairable Property.** The value of repairable property loss is the repair cost required to return the damaged property to the condition it was in at the time of the damage, or the value of the item at the time of the damage, whichever is less. AR 735-5, Appendix B, paragraph B-1. With respect to repair costs:

(1) The cost of repair consists of the sum of the costs of material, labor, overhead, and transportation, minus any salvage or scrap value of replaced component parts.

(2) If repair makes the item more valuable than it was before the damage, reduce the amount of the repairs by the amount of the increase in value.

(3) When the actual cost of damage cannot be obtained in a reasonable period of time, an estimated cost of damage (ECOD) may be used. You must state the reasons for using an ECOD and the basis on which the estimate was made. Further, ***the damaged property must go through the repair process to determine the actual cost of repairs.*** When the actual cost of damage is less than the estimate, the investigation must be reopened through use of an adjustment document, and the respondent must be reimbursed. AR 735-5, Appendix B, paragraph B-1b.

d. **Actual Loss to the Government—Lost, Destroyed or Irreparably Damaged Property.** For lost, destroyed or irreparably damaged property, you must determine the actual value of the

property at the time of its loss or destruction. The loss to the Government is this actual value, minus any salvage or scrap value.

(1) **Fair Market Value.** The preferred method of fixing the value of property at the time of loss or damage is by a qualified technician's appraisal in accordance with AR 735-5, Appendix B, paragraph B-2a.

(2) **Depreciation Method.** When an appraisal is not feasible and the property is in less than new condition, the you must compute the depreciated value, by subtracting depreciation from the standard price of a new item. **Depreciation is not deducted on loss or irreparable damage to new property.** If the property is new, use the price of a new item, as computed in blocks 7 and/or 8, and go to the discussion in section 11.e., below.

AR 735-5, Appendix B, paragraph B-2b lists standard depreciations for several different types of property:

- (a) Organizational Clothing and Individual Equipment(OCIE) and nonpower handtools: ten percent (10%) for each such item;
- (b) Non-OCIE items made of relatively perishable material (leather, canvas, plastic or rubber): twenty-five percent (25%) for each such item;
- (c) Electronic equipment and office furniture: five percent (5%) per year of service, up to a maximum of fifty percent (50%);
- (d) Tactical and general purpose vehicles: five percent (5%) per year of service, not to exceed ninety percent (90%) total depreciation;
- (e) Family quarters and furnishings: see AR 210-50, paragraph 9-12k(1);
- (f) Small arms are not depreciated;
- (g) Items not specifically listed, use five percent per year of service, up to a maximum of seventy five percent.
- (h) If the time in service cannot be determined, depreciate a standard twenty-five percent (25%).

The rates of depreciation above are based on normal use. If the investigation shows more or less than average use, you are authorized to increase or decrease the rate of depreciation pursuant to AR 735-5, Appendix B, para. B-2b(6). AR 27-20 may be used as a guide to determine a fair rate of depreciation.

(3) **Standard Rebuild Cost.** If using an appraisal or the depreciation method is either not possible or not equitable, use the standard rebuild cost to determine loss to the government. Use this method only if the property has been used long enough to warrant overhaul—but has not recently been overhauled—and a standard rebuild cost has been published. When using this method, subtract the standard rebuild cost *plus* salvage value, from the current Army Master Data File price. The property **must have** a salvageable residue. AR 735-5, Appendix B, para. B-2c.

(4) **Computing Salvage Value.** When property has been damaged irreparably, a technician will compute salvage credit by adding the value of the scrap recovered, plus the depreciated value of serviceable repair parts or other end items. *See AR 735-5, paragraph B-3.*

e. **Joint Liability.** When you conclude more than one individual is responsible for loss, damage or destruction, make a recommendation for joint liability in accordance with AR 735-5, paragraph 13-31c(5)(d), which refers to table 12-4. Compute charges in the following manner:

(1) When the actual loss *exceeds* the combined monthly basic pay for all individuals combined, charge the full amount of the monthly basic pay of each soldier, or the full amount of 1/12 of the annual pay of each civilian employee.

(2) When the actual loss is *less than* the combined monthly basic pay of all individuals, compute the charges in proportion to the Soldiers' basic pay, or in proportion to 1/12 of the civilians' annual pay. The method of computing collective and individual financial liability when more than one person is charged is best expressed by the following equation:

$$\left(\frac{\text{Person's monthly basic pay}}{\text{Combined monthly pay of all persons held liable}} \right) \times \frac{\text{Actual loss to the Government}}{=} \text{Person's Financial Charge}$$

- Example** Two Soldiers are held jointly liable for an actual loss of \$1000. The basic pay of Soldier A is \$500 and the basic pay of Soldier B is \$1000. Each Soldier will pay a proportional share. First, combine the Soldier's basic pay (\$500 plus \$1000). The combined basic pay figure is \$1500. Then, divide each Soldier's basic pay by the combined basic pay figure and multiply this percentage by the actual loss amount to arrive at each soldier's financial charge. Soldier A would owe \$333.33 (\$500 divided by \$1500, multiplied by \$1000). Soldier B would owe \$666.67 (\$1000 divided by \$1500, multiplied by \$1000).

12. **Completing Blocks 15b through 15k.** Record the amount of actual loss which takes into account depreciation in block 15b. Do not use the values from blocks 7 and/or 8 unless the item was new, or small arms. Enter the respondent's monthly basic pay in block 15c. Record the total amount of recommended financial liability in block 15d, after taking into consideration any applicable liability limits, discussed above. *See AR 735-5, figure 13-8.*

When more than one individual is being recommended for charges of financial liability, use a continuation sheet that contains the elements of information that are unique to each individual, for each individual being recommended for charges of financial liability. Whenever a continuation sheet is used, enter "*see continuation sheet*" in blocks 15c and 15d. Complete blocks 15e through 15k pursuant to the instructions at AR 735-5, figure 13-8.

13. **Notifying the Respondent(s).** Once you make an assessment of financial liability against an individual, you must give the individual a chance to examine the investigation of property loss after the findings and recommendations have been recorded on the DD Form 200, and the opportunity to

make a rebuttal statement. As a financial liability officer, you must notify all respondents by memorandum; a sample memorandum can be found in AR 735-5, Figure 13-14. The notification memorandum as sent to the respondent(s) must be included as an exhibit to the investigation.

When assessing financial liability against one person, the respondent should check an option in block 16a, and sign block 16g. Completing these blocks is not an admission of liability. If the respondent refuses to complete these blocks, enter the statement “Respondent refused to sign” in block 16g, and place the date refusal was made in block 16h. *See AR 735-5, paragraph 13-23b(3)(e).* When more than one individual is being recommended for charges of financial liability, however, have each respondent sign a continuation sheet as shown in AR 735-5, figure 13-15. *For further guidance, see AR 735-5, paragraphs 13-34a & b, and paragraphs 13-35a, b & c.*

- a. **If the individual still is stationed locally**, direct the respondent to complete blocks 16a through 16h of DD Form 200. If the individual desires to submit matters in rebuttal, allow that person the opportunity to seek legal assistance. You may speed the process by making the legal assistance appointment for the Soldier. If the individual fails to submit a statement within the allotted seven-days, explain the omission when redrafting your findings and then forward the investigation. *Rebuttals received after the allotted time are not barred from consideration.*
- b. **If the individual no longer is stationed locally**, send the person a copy of the investigation and notification memorandum by certified mail, return receipt requested. Include the following as exhibits to the investigation: a copy of the memorandum; a properly postmarked certified mail receipt, and the green return card. AR 735-5, para. 13-35b(4).

Individuals located in CONUS will be given 15 days from the date of mailing to respond. Individuals located OCONUS will be given 30 days to respond. *Rebuttals received after the allotted time are not barred from consideration.* You must consider the rebuttal and any new evidence or allegations of error presented by specifically addressing any outstanding issues in your written findings and incorporating the new information into your recommendation. If the individual does not respond, explain the omission when redrafting your findings and then forward the investigation.

- c. **When a soldier is absent without leave (AWOL)**. When active duty personnel are in an AWOL status whose organizational and individual equipment (OCIE) is not available for turn-in follow the procedures in AR 735-5, paragraph 14-27b.

14. **Completing the Investigation.** After accomplishing the above, ensure the investigation is administratively complete. To ensure completeness, go over the investigation using the instructions in AR 735-5, Figure 13-4 and Figure 13-8, and DA Form 7531 (the IOPL checklist and tracking document specific to each investigation). If you have any further questions, contact the Administrative Law Division at 526-0055.