

Information Paper

SUBJECT: Financial Liability Investigations of Property Loss – Common Errors

1. PURPOSE. To inform commanders of common errors in Financial Liability Investigations of Property Loss.

2. FACTS. Financial Liability Investigations of Property Loss (FLIPL) legal reviews frequently identify errors in the following areas:

a. The financial liability officer must be senior to all subjects of the investigation. AR 735-5, para 13-27b.

b. To be held financially liable, the person must have negligently or willfully violated a particular duty involving the care of property. AR 735-5, para 13-29b. The FLIPL must state the degree of negligence (simple or gross) or that the act or omission was willful. This finding must be based on the facts.

c. The conduct must be the "proximate" cause of the loss. Proximate cause means "the person's acts or omissions were the cause that, in a natural and continuous sequence, unbroken by a new cause, produced the LDD [loss, damage, or destruction], and without which the LDD would not have occurred." AR 735-5, para 13-29c.

d. If financial liability is recommended, the investigation must contain the individual's ETS date and monthly pay at the time of the loss. AR 735-5, para 13-32e and f.

e. The amount of financial liability should be determined IAW AR 735-5, para 13-41 (liability limits) and Appendix B. The method used to compute the charges (i.e., actual cost, repaired cost) and depreciation must be shown. AR 735-5, Table 12-3. If liability is assessed against more than one individual, charges must be computed as shown in AR 735-5, Table 12-4.

f. The FLIPL should contain proof that the respondent was given notice of the report and an opportunity to submit a rebuttal. AR 735-5, para 13 34a. If the person held liable is not available locally, notification must be made by certified mail, return receipt requested. AR 735-5, para 13-34b(4).

g. If the person found liable submits a rebuttal statement, the financial liability officer must consider that rebuttal. AR 735-5, para 13-35b(5)-(7).

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3. POC is the Military Law & Ethics Division, 4-7414/4668.

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