OFFICE OF THE ADJUTANT GENERAL
OFFICE OF THE STAFF JUDGE ADVOCATE
California Army National Guard
9800 Goethe Road
Sacramento, California 95826-9101

Quick Legal Guide For Company Commanders

7th Edition
2004

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INTRODUCTION

This Legal Guide was prepared to assist you, as Company Commander, in dealing with some of the more common legal questions which may arise during your command.

Please note that the Report of Survey Regulation has been significantly changed and only parts of it are included herein. If you have an investigation or if you are being charged for a loss of property be sure to read the entire regulation. Also, remember the Office of the Staff Judge Advocate will assist you in preparation of your defense to this type of charge.

It is also important to note that as of the date this Guide is being prepared there are many changes in the area of non-judicial punishment (Article 15) authority in the area of full-timers and technicians. If you are involved in an Article 15 procedure, be sure to check the most recent developments.

Most importantly, remember that the Office of the Staff Judge Advocate is here to support you and your mission.

Any questions of comments regarding this Guide should be addressed to LTC Matthew L. Dana, Active Guard Reserve Staff Judge Advocate, California Army National Guard.

LEGAL ADVISOR
(DAIG)

Reports of Survey (AR 735-11). The DCSLOG of the Army has expressed concern over abuse of the report of survey system, and has requested the IG's review the system during inspections. The problem, as appraised by the DCSLOG, concerns company commanders who are being held pecuniary liable for property that was missing upon change of command inventory. AR 735-11 requires that negligence must be shown on the part of any service-member as appraised before they can be held liable for the loss or damage of government property. Further, that negligence must be the cause of the loss of damage. OTJAG has continually opined that unit commanders are not absolute insurers for all property within their commands and cannot be held liable unless their personal negligence contributed to or was the cause of the loss. Poor supply accountability management may be an appropriate topic for an efficiency report but, an absent of showing negligence that caused the loss, should not be the basis of pecuniary liability.

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CAAG-SJA 9 January 03

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Reports of Survey – Command Legal Errors

1. In accordance with AR 735-11, the Office of the Staff Judge Advocate reviews all Reports of Survey that result in a recommendation by the surveying officer for pecuniary liability. Most of these surveys reflect a conscientious and thorough effort on the part of the surveying officer. There are, however, several legal errors, which are found with some regularity. These errors are listed below to aid commanders and surveying officers in completing surveys in a "legally sufficient" manner. This letter should be retained for future reference.

a. Error: the surveying officer fails to specify in detail what exact conduct, action, words, or omissions were negligent – that is, a violation of the due care standard General conclusion such as, : the accounting procedures were faulty," will not suffice.

b. Error: the survey does not include exhibits in support of the surveying officer's findings. Interviews with witnesses and investigation by the surveying officer should be reduced to written form and attached as exhibits.

c. Error: The surveying officer assumes that the person responsible/accountable for property was negligent based on the bare fact that the property is now lost. Negligence cannot be assumed. It must be proven. Specific negligent conduct of omissions must be proven.

d. Error: The surveying officer fails to prove that the person's negligence was the proximate cause of the loss. It is not enough to prove that a person was negligent and that he (she) lost or damaged property. The two must be connected. Causation must be prove, For example, a person responsible for a supply room may be negligent in failing to follow reasonable accounting procedures and property may be lost from the supply room. It must be further proven, however, that the specific negligence shown was the reason (cause) for the loss.

CAAG-SJA
SUBJECT: Reports of Survey – Command Legal Errors

e. Error: The Report of Survey does not include proof of efforts to notify the subject of the proposed finding of pecuniary liability. These efforts, even though unsuccessful, must be made and proven.

f. Error: the report of Survey is not initiated or completed in a timely manner. AR 735-11 provides that ARNG Reports of Survey will be initiated within 45 days of discovery of loss or damage to government property and completed within 150 days. A violation of this provision will be a fatal defect, except in unusual circumstances.

2. Surveying officers should remember that JAGC officers are always available to provide legal assistance in conducting surveys. Don't hesitate to contact them. The point of contact at the Office of the Adjutant General, Office of the Staff Judge Advocate is the undersigned at DSN 466-3505 or CML (916) 854-3505.

FOR THE COMMANDER:

Matthew L. Dana
LTC, JA, CA ARNG
AGR Judge Advocate

DISTRIBUTION:
A

SEARCH AND SEIZURE

4-1. Introduction.

In many courts-martial, evidence will be introduced against a service member that was seized or taken from him or his possessions. Unless this evidence was taken from the service member in compliance with the special rules surrounding searches and seizure, it cannot be used against the soldiers.

Under the United States Constitution and military law every service member has the right to be free from unreasonable searches of their person and the belongings. It is important to remember that the Constitution does not guarantee a service member freedom from all searches. Only unreasonable searches are prohibited. In the Army, the concept of reasonableness is measured in broader standards. This is so, because of the military's increased need for discipline, readiness and the always present mission to protect this country.

4-2. Types of Searches.

There are basically three types of searches that you must know about. There are other kinds of searches which you will rarely need to know about unless you are in the military police or are assigned to special guard posts. We will not cover these types of searches. The three principal kinds of searches are:

a. Consent Search. A consent search is a search allowed by the soldier. There is nothing wrong with asking a service member to search their person or their belongings. A person does not need any special reason to conduct this type of search. However, there are some special rules which a person who wishes to use a consent search is wise to follow. An individual should first tell the person that he does not have to give his permission to you or to anyone else. Additionally it is wise to tell the person that he will not be searched unless such permission is given. You must be very careful not to use your rank, influence, threats, or coercion to get permission to search. Consent must be the product of an individual's free will.

Once a service member gives consent to you to search their person or belongings, the service member can take back this consent at any time. If a consent search is done properly, any illegal items taken from the soldier or from the soldier's belongings may be properly admitted in a court-martial.

b. Search incident to apprehension. A second important type of search is called a search incident to apprehension. There will be times when a law enforcement or other official will apprehend military individuals during the course of his duties. For example, suppose a soldier breaks the PX display case window and begins to remove a Sony video cassette recorder. It would be perfectly proper to give chase and apprehend this individual as he has committed a crime. The law enforcement official is authorized to

apprehend an individual under these circumstances. He is also authorized to conduct a search incident to apprehension at this time. There are certain rules that must be followed in this type of search. First, the search must be really incident to a valid apprehension. Second, only the person of the suspect and the immediate surrounding area may be searched. The search incident to apprehension has been permitted because it is recognized that many criminals will have guns, knives, or other weapons on or near them when they are caught. The search incident to apprehension is designed to protect the apprehending person. Generally, the immediate surrounding has been interpreted to mean the area from which the apprehended person may obtain a weapon or destroy evidence with a sudden movement. You may not check the entire room. You are perfectly correct in seizing any other items you came across during your search incident to apprehension. For example, suppose a military policeman pats down a thief to make sure he does not have any weapons to harm him with. He finds a large lump stuck in the thief's trouser pocket, shaped like a gun. When he reaches in to take the object, it actually turns out to be a white powder resembling heroin dust packed in aluminum foil. He is allowed to seize this packet along with the Sony video cassette recorder previously mentioned. The packet and the cassette recorder will be admissible against the thief in court.

c. Authorized searches. In the Army, commanders have the power to order or conduct searches of service members or areas under their command. Installation commanders have a similar power to order or conduct searches. The commanders may authorize searches by the use of a written document called an "authorization to search" or they may authorize a search verbally. Military judges and magistrates may also authorize searches.

In all cases where a search is authorized by a judge or by a commander, there must be a reasonable belief that the person, property, or evidence sought is located in the place or on the person to be searched. This is probable cause to search. Probable cause must be based on facts, not rumor or guess-work.

To demonstrate how the authorization process works, consider the following examples. Suppose you suspect PVT Jones of selling illegal drugs from his wall locker to other soldiers in your unit. However, you don't have any facts to support you conclusions. You tell your CO about your suspicions. He gives you the authorization to search Jones' wall locker. You find one kilogram of heroin in Jones' wall locker. As a result of this find, charges are referred to a general court-martial for possession of illegal search. Simply, you did not have a good reason to search his wall locker. You only suspected Jones of possessing heroin. The fact that you found the heroin there does not change this situation. You had no facts to support your conclusion that Jones had heroin. You lacked "probable cause."

However, suppose you were helping Jones repair the hinge on the side of his wall locker. When you and Jones were opening and closing the wall locker door to test it (with Jones full permission), you noticed a large plastic bag of a white powdery matter (which from past experience you believe to be heroin) sitting on the shelf in plain view to anyone who

stood in front of Jones' opened wall locker. You reported this fact to the CO, who then issued a search authorization to search Jones; locker for heroin. This search would probably result in the conviction of Jones for heroin possession.

You need not have to see illegal items yourself to get a valid authorization. For example, suppose PVT Smith, a good service member in your unit who you have known for one year and who has never lied to you about anything, tells you that Jones has a large plastic of white powdery material in his wall locker. In fact, PVT Smith said that he saw it there just two hours ago and that he saw Jones open up the bag and pour out some of the substance to another service member in an envelope. Smith heard Jones brag to the other person that this was the best heroin in the entire Army. You tell your CO about what PVT Smith told you. You also inform the CO about PVT Smith's believability. The CO authorizes the search. At the court-martial, Jones will probably be convicted because you and your CO had "probable cause" to believe that Jones had heroin in his wall locker.

The above discussion was not meant to make you an expert in the art of searches. There are other types of searches we have not covered because you will not run across them frequently. For example, there are certain rules that must be remembered when automobiles are searched. Areas open to everyone, such as an open field, have different rules that wall lockers when they are to be search.

4-3. Inspections and Inventories.

Army commanders have the right and the duty to periodically inspect members of the command and their belongings to make sure the individuals and the units are ready to perform their mission. Inspections may also be made to make sure that there are no items present in the unit which would be harmful to the missions. Items such as drugs, for example. When illegal items or evidence of a crime are found during a proper inspection, they may be seized and used as evidence against a service member in a court –martial.

Inspections are treated as a form of search because the commander is intruding into a service member's privacy. As a result there are certain rules which govern the commander's conduct of an inspection. For example, the commander's primary purpose for inspecting must be to maintain the fitness, military security, or good order and discipline of the unit. An inspection is not lawful if the commander's purpose is to obtain evidence of a crime to use against a specific person. In addition, inspections must be conducted in a reasonable manner. This means that a commander inspecting TA50 would not need to go through personal papers to determine the condition of the TA50. However, it may be reasonable to inspect a unit at 0200 hours if the time of the inspection is related to the unit's mission. A reasonable inspection usually means that all persons and areas being inspected are treated equally. Singling out a person for special inspection you suspect then the commander's primary purpose is not the readiness of the unit. Finally, it is permissible for a commander to use a marijuana detecting dog during an inspection for illegal drugs.

There are times when inventories of a service member's equipment are necessary. For example, PVT Jones has decided that the Army is not for her. She absent herself without authority and remains gone for thirty days. On the thirteenth day of her absence PVT Jones is declared a deserter under Army Regulations. The CO then asks you to inventory PVT Jones' gear so it can be boxed and sent to the deserter section for safekeeping. While you are inventorying the gear, you find stolen credit cards belonging to another sergeant of your unit who reported them gone last month. You also find your roommate's stereo and other items. All of the illegal items may be seized and introduced against PVT Jones in a court-martial if she returns to Army control. Evidence sent to the stockade also must have their equipment inventoried. Any illegal items seized during such an inventory would be admissible at a court-martial.

CHAPTER IV

NONJUDICIAL PUNISHMENT

11. Introduction. The California legislature has enacted a comprehensive statute on nonjudicial punishment that is the governing law until such time as the California National Guard is ordered into active federal service. The CMVC and the provisions of this manual will, therefore, be in effect during armory drills, annual training, and state active duty periods. UCMJ, Article 15, the comparable authority for nonjudicial punishment in the active Army, is not directly applicable to the California National Guard and should only be considered for background guidance. After completing the initial action (Chapter II) and considering possible administrative action (Chapter III), the commander will review the appropriate paragraphs of this Chapter. If it is decided to impose nonjudicial punishment, the procedural outline set out in paragraph 22 below will be followed precisely.

12. Authorities, Definitions and References. Nonjudicial punishment authority will be exercised in accordance with CMVC Section 450.1 and this manual. CMVC Section 450.1 grants to National Guard commanders the authority to impose nonjudicial punishment. The authority conferred is generally similar to a commanding officer's disciplinary power in the active Army under UCMJ Article 15. The term "disciplinary punishment", as used in CMVC Section 450.1 is meant to coincide in concept and purpose to the term "nonjudicial punishment" as used in Article 15, UCMJ. For reasons of uniformity, "nonjudicial punishment" will be the term used in this manual. CMVC Section 450.1 gives authority to commanding officers to administer nonjudicial punishment for the minor offenses of officers, warrant officers, and enlisted men in their commands without the punished individual suffering the sigma of a court-martial conviction. During annual training and state active duty, the commanding officer will possess authority nearly equivalent to that exercised by a court-martial. The power to confine, however, remains the distinguishing feature of the authority of a court-martial.

a. The term "commanding officer", as used in this manual, refers to a commissioned or warrant officer who by virtue of his rank and assignment exercised primary command authority over a military organization. Primary command authority does not include staff officers.

b. The term "commands", as used in this manual, includes companies and batteries, numbered units and detachments, battalions, brigades, service schools, area commands and, in general, any organization where the commander is the one looked to by a superior authority as the individual chiefly responsible for maintaining discipline in that organization. For example, an infantry company, whether or not separated or detached (see para 5b(3) MCM), is considered to be a "command" within the above definition. An infantry platoon, however, which is part of a company and is not separate or detached is not considered to be a "command".

13. Delegation. The authority given to commanding officers under Section 450.1 is unique attribute of command and, except as provided in this chapter or by special regulation, may not be delegated. The CG-SMP may delegate his power to the Assistant Adjutant General, the Deputy Adjutant General for the Army and the Deputy Adjutant General for Air. Any general officer in command may delegate his power to his principal assistant, such as a deputy or assistant commander. A brigade executive officer is not considered a principal assistant within the meaning of Section 450.1. Unless otherwise limited by the general officer or by regulation, the delegatee possesses the same power to punish as the officer making the delegation. Authority delegated may be exercised only when the officer to whom such authority has been delegated is: (a) when imposing punishment, senior in rank to the person being punished; and (b) when acting on a appeal or taking other action with respect to a punishment imposed under Section 450.1, senior in rank to both the person punished and the officer who imposed the punishment. A delegation of authority to impose nonjudicial punishment under Section 450.1 does not divest the officer making the delegation of the right to exercise his authority personally in any case in which he desires to act. He may act in place of the person to whom he has delegated his power where he deems it appropriate and he may suspend probationally any part or amount of an unexecuted punishment imposed by his delegate. In the case of a reduction in grade or fine, he may suspend the punishment whether or not it has been executed. In addition, he may at any time ameliorate the sentence by mitigating or remitting any part or amount of the executed sentence. However, the officer delegating his authority may not act on appeal from nonjudicial punishment which either he or his delegate has imposed.

14. Limitations on the Exercise of Nonjudicial Punishment. Any commanding officer who has the authority to impose punishment under Section 450.1, unless prohibited by other valid regulation, may limit or withhold the exercise of this authority by any of his subordinate commanders either in total or in part. For example, a superior commander may wish to reserve to himself alone, or to his delegate in the case of a general officer, the power to exercise nonjudicial punishment authority over certain categories of military personnel such as officers and specialists of designated grades. He may accomplish this by withholding the authority of his subordinate commanders to punish personnel in those specified categories or by limiting the form or severity of the punishment authority of a subordinate commander, he should do so by appropriate written regulation. Only an officer who is a superior within the military chain of command and who is looked to as the officer exercising direct command authority over the military organization may limit the nonjudicial punishment authority of commanders of that organization.

15. Purpose of Nonjudicial Punishment.

a. Appropriate Uses. Nonjudicial punishment as authorized by Section 450.1 is designed for dealing with most minor offenses and is considered to be primarily corrective in nature. Commanders are responsible for the maintenance of discipline and the fair and impartial administration of justice within their immediate commands. In a great majority of cases discipline can be maintained through effective leadership including, when required, the use of those administrative or nonpunitive measures which

commander is expected to use to further the efficiency of his command. Since discipline, to be most effective, should be administered at the level of command closest to the individual, nonjudicial punishment provides commanding officers with the necessary authority to act. Generally, nonjudicial punishment is appropriate when a minor offense has been committed and administrative measures are considered inappropriate. An act to be punishable under Section 450.1 must be an act or omission constituting an offense under the punitive articles of the UCMJ. If it is not such an offense, administrative measures may nevertheless be applied. Whether an offense may be considered "minor" will depend upon its nature, the time, place and circumstances of its commission. Nonjudicial punishment may be imposed in appropriate cases to:

(1) Correct, educate, and reform offenders who have shown they cannot benefit by less stringent measures;

(2) Preserve, in appropriate cases, an offender's record of service from unnecessary stigmatization; and

(3) Further military efficiency by disposing of minor infractions of good order and discipline at the level of command closest to the individual and in a manner requiring less time and personnel than a trial by court-martial.

In determining an appropriate punishment, commanders should consider the desirability of suspending all or a portion of the punishment selected. Suspension not only provides an incentive to improve the offender's future behavior but also affords the commander an excellent opportunity to evaluate the offender during the period of suspension. Suspension may be vacated in the offender's subsequent behavior or offenses justify such action.

b. Referral to Superior Commander. In a particular case where the immediate commander of the individual to be punished feels that his punishment power is insufficient under the circumstances, he should first consider referring the case to his next superior commander with a recommendation this commander impose nonjudicial punishment rather than referring the matter to trial by special court-martial. An example would be a case involving an enlisted man in the grade of E-5 or above where a company commander has no power to reduce. In most instances the superior commander's authority will be sufficient to deal with the offense. In transmitting a case for action by a superior commander, the referring commander should include a complete and fair summary of the facts of the case.

16. Nature of Punishment. Several forms of nonjudicial punishment are authorized by the CMVC. Generally, a commander in the California National Guard has punishment authority similar to that of a commanding officer in the active Army; the differences, however, that do exist are significant. CMVC 450.1 and this manual are the primary references for all National Guard commanders in regards to their authority and the limitations on that authority. The various forms of nonjudicial punishment are readily broken down into three primary categories: (a) Deprivation of Liberty; (b) Fines; and (c) Reduction in Grade. Also an admonition or reprimand may be given as punishment either alone or combined with the other forms of punishment.

a. Deprivation of Liberty. Deprivation of liberty is a broad category which includes the following three specific forms of punishment: (1) extra duties; (2) restriction; and (3) in the case of officers, arrest in quarters.

(1) Extra Duties. This punishment involves the performance of duties in addition to those normally assigned to the person undergoing the punishment. Extra duties may include fatigue duty or any other military duty but no extra duty may be imposed which:

(a) Would constitute cruel or unusual punishment or a punishment not sanctioned by the customs of the service;

(b) Is a duty normally intended as an honor (such as assignment to an honor guard);

(c) Is required to be performed in a ridiculous or unnecessary degrading manner (for example, an order to clean the barracks floor with a toothbrush);

(d) Is a punishment involving the use of the offender as a personal servant; or

(e) Imposes a period of duty in excess of four hours on duty days or eight hours nonduty days during AT or State Active Duty or more than two hours per drill day for two consecutive drill days during armory status.

An enlisted person serving in pay grade E-4 (Army), E-5 (Air), or above, may not be assigned extra duties as punishment under Section 450.1 which would demean his/her position as a noncommissioned officer or specialist. The performance of extra duties involving labor or duties not customarily performed by personnel in these grades is an example of extra duties of a demeaning nature. The supervision of details being accomplished after normal duty hours is not an extra duty which is considered demeaning.

(2) Restriction. Restriction means restrict or limit the activities of an individual for a certain time to a prescribed location, such as a company, battalion, or post area. This form of punishment is the least severe form of deprivation of liberty; it does not involve a physical restraint. Its severity depends upon both the duration and the geographic limits imposed. To insure that the punishment is being properly complied with, those undergoing restriction may be required to report to designated places at specified times. Although the restriction may include a suspension from regular duty (CMVC Section 450.1(b)) unless otherwise specified by the commanding officer imposing punishment, a person on restriction will be required to perform military duty.

(3) Arrest in Quarters. Commissioned and Warrant Officers. This form of nonjudicial punishment may only be imposed on commissioned and warrant officers. Only an officer exercising general court-martial jurisdiction or a general officer in command may impose this form of punishment. This punishment is enforced by a moral

obligation, not by physical means. Officers undergoing this punishment are required to remain within their quarters during the period of punishment unless the limits of arrest are modified by appropriate authority. The quarters of an officer may consist of his/her military residence, whether a tent or other quarters assigned to him, or a private residence occupied by him/her when he has not been furnished government quarters. An officer undergoing this punishment may be required to perform such duties as may be prescribed by regulation; these duties shall not involve, however, the bearing of arms or the exercise of command.

(4) Correctional Custody Prohibited. Pursuant to the authority granted by Section 450.1 of the CMVC, the imposition of correctional custody as punishment by any commanding officer is hereby prohibited. If the offense is serious enough for the imposition of correctional custody, then reference to trail by court-martial should be considered.

b. Fines. Although in the active Army both forfeiture of pay and detention of pay are recognized forms of nonjudicial punishment, only fines will be permitted in the California National Guard (subject to one exception discussed below).

(1) An individual who his fined can be required to pay the fine prior to receipt of his military pay. A forfeiture of pay in lieu of fine will only be permitted when the Guard is in State active service and then only in regard to pay derived from state funds.

(2) A detention of pay is not authorized at any time. The prohibition against forfeiture and detention of pay does not effect administrative payroll adjustments to reflect AWOL or unsatisfactory performance duty.

c. Reduction in Grade. Reduction in grade is one of the most severe forms of nonjudicial punishment because it affects the offender's military status, pay, and ability to be promoted. Accordingly, a commander authorized to reduce in grade should utilize this power with discretion. Generally, an officer can only reduce a man/woman from a grade that was within that commander's promotion authority in the fist instance. A company commander who can only promote in the grade of E-4 has no authority, therefore, to reduce individuals in the grade E-5 or above. The power to promote does not refer to the authority to promote the particular individual concerned but, rather, the general authority to promote to the grade held by the individual being punished.

17. Authorized Maximum Punishments. Unless the California National Guard has been federalized, the maximum punishments authorized will be governed by the provisions of the CMVC and this manual. The maximum authorized punishments that may be imposed in a particular case will be determined by the grade of the officer imposing the punishment, either field or company grade; the rank of the person upon whom the punishment is imposed; and whether the punishment is imposed in an armory drill status or in an active duty status.

a. Armory Drill Status. In addition to an admonition or reprimand that following are the maximum punishments that may be imposed upon the designated categories of military personnel by commanding officers.

(1) Upon Enlisted Personnel

(a) Imposition by Company Grade Officers.

1. Extra Duties: Not more than two hours per day for two consecutive drill days. The extra duty period shall not extend beyond 2400 hours on each day.

2. Fine: Not to exceed the amount of pay which an individual would receive for seven unit training assemblies. Fines will be stated in dollar amounts only (not in dollars and cents) and not in the number of days pay. Detention of pay is not authorized in any case and a forfeiture of pay will not be imposed except when the unit is in active state service and then only with respect to pay derived from state funds.

3. Reduction: To the next inferior pay grade in the case of enlisted personnel in the grade of E-4 or below. A company grade officer has no authority to reduce an enlisted member in the grade of E-5 or above.

(b) Imposition by Major or Above.

1. Extra Duties: Not more than two hours per day for two consecutive drill days. The extra duty period shall not extend beyond 2400 hours on each day.

2. Fine: Not to exceed the amount of pay which the punished individual would receive for fifteen unit training assemblies. Fines will be expressed in dollar amounts only (not in dollars and cents) and not in the number of days pay. The officer imposing the punishment will ascertain the maximum amount of the fine he/she can impose by referring to the current drill pay rate of the individual concerned. Detention of pay is not authorized in any case and a forfeiture of pay will not be imposed except when the Guard is in active state service and then only with respect to pay derived from state funds.

3. Reduction: To the lowest or any intermediate pay grade in the case of enlisted members in the grade of E-4 or below. Enlisted members in the grade of E-5 or above may be reduced not more than two pay grades.

(2) Upon Officers and Warrant Officers. Only general officers in command, that is, the CG-SMF or the commanding officer of a Division, Wing, or equivalent command may impose nonjudicial punishment upon an officer or warrant officer while in an armory status. Only the following punishments are authorized.

(a) Fine. The total amount not to exceed the amount of basic pay the officer or warrant officer would receive had he/she been present at all training assemblies of his unit in the quarterly pay period during which the fine is imposed.

(b) Admonition or Reprimand. The admonition or reprimand when imposed as nonjudicial punishment must be administered in writing.

b. Annual Training or State Active Duty Status. In addition to admonition or reprimand the following are the maximum punishments that may be imposed upon the designated categories of military personnel by commanding officers during annual training (AT) or state active duty.

(1) Upon Enlisted Personnel.

(a) Imposition by Company Grade Officer.

1. Extra Duties: Not more than 14 consecutive days and not to exceed in duration more than four hours on duty days or eight hours on nonduty days.

2. Restriction: To certain specified limits, with or without suspension from duty, for not more than 14 consecutive days.

3. Fine: Not more than seven days pay.

4. Reduction: To the next inferior pay grade in the case of enlisted personnel in the grade of E-4 or below. A company grade officer has no authority to reduce an enlisted member in the grade of E-5 or above.

(b) Imposition by Major or Above.

1. Extra Duties: Not more than 45 days. During annual training the extra duty period will not extend beyond the conclusion of AT; however, when the Guard is on extended state active duty it may be possible to impose extra duties or restriction for a period of up to 45 days.

2. Restriction: Within certain specified limits, with or without suspension from duty, for not more than 45 consecutive days.

3. Fine: Not more than ten days pay during AT period. Where the individual is in a status where he will receive one or more full months pay than a fine of not more than 15 days per pay month for two months may be imposed.

4. Reduction: To the lowest or any intermediate pay grade in the case of enlisted members in the grade E-4 or below. Enlisted members in the grade of E-5 or above may be reduced not more than two pay grades.

(2) Upon Officers and Warrant Officers.

(a) Any Commanding Officer. Restriction to certain specified limits, with or without suspension from duty, for not more than 15 consecutive days.

(b) CG-SMF or Commander of Division, Wing, and any General Officer in Command.

1. Arrest in Quarters: 30 consecutive day limit.

2. Fine: Not more than 15 days per pay month for two months.

3. Restriction: To certain specified limits, with or without suspension from duty, for not more than 30 consecutive days.

18. Combinations and Apportionment of Punishments. An admonition or reprimand may be imposed in lieu of or combined with any other approved nonjudicial punishment under CMVC Section 450.1. The punishment of reduction in grade, fine, or one of the forms of deprivation of liberty may all be combined with each other in the maximum amount imposable for each form of punishment. When more than one of the forms of deprivation of liberty are imposed, the following criteria must be followed.

a. Restriction and extra duty may be combined to run consecutively but not in the maximum amount imposable for each; there must be an apportionment so that the total duration of both does not exceed the maximum imposable for either of the punishments; and

b. Restriction and extra duty may be combined to run concurrently.

19. Right to Demand Trial. If nonjudicial punishment is not felt to be suitable, then a commander may refer the matter for trial by a one-officer special court-martial without first offering the accused the right to take nonjudicial punishment. If nonjudicial punishment is the chosen course of action, however, then it may not be imposed upon any Guard member if a special court-martial is demanded.

20. Effective Date of Imposition and Execution of Punishment. All punishments, if unsuspended, will take effect and will be executed on the date the commanding officer imposes the punishment unless otherwise prescribed by that officer or by a superior authority. The date of imposition, in the case of officers, is that entered in item number 4 of Cal. N.G. Form 2627; and, in the case of enlisted personnel, the date of imposition of punishment is that recorded in the Summarized Record of Proceedings (Cal. N.G. Form 2627-1). If a fine is successfully appealed, than the individual fined will be reimbursed. See paragraph 16b of this manual for procedures to be followed in the collection of fines.

21. Effect of Punishment on Promotion. An individual undergoing any nonjudicial punishment, whether suspended or not, should not be promoted during the period of punishment or suspension.

22. Procedure.

a. Choice of Forms.

(1) Cal. N.G. 2627 or 2627-1: These forms will be used for enlisted personnel regardless of the nature or severity of the punishment. The use of Cal. N.G. Form 52-1 for punishments imposed on enlisted men/women is hereby discontinued and language on that form to the contrary is to be disregarded.

(2) Cal. N.G. 2627: This form will be used when punishment is imposed on an officer or warrant officer.

(3) Cal. N.G. 2627-2: This form will be used to record appellate or other supplementary actions taken under CMVC Section 450.1.

(4) The above forms will be used by all Army and Air units of the National Guard.

b. Procedure for Enlisted Persons.

(1) First Meeting. Upon ascertaining that a member of the command has committed an offense punishable under CMVC 450.1, the commander will arrange for a meeting with the accused. The individual will then be informed of the following:

(a) A concise statement, either in writing or orally, of alleged UCMJ violations.

(b) The commander's intention to impose punishment pursuant to CMVC 450.1.

(c) A trial by court-martial may be demanded if nonjudicial punishment is not accepted.

(d) The maximum punishments that may be imposed if nonjudicial punishment is accepted. The intended punishment is not to be disclosed.

(e) The maximum punishments that may be imposed if a trial by court-martial is elected.

(f) That in either a court-martial or nonjudicial punishment proceedings, matters in defense, extenuation, and mitigation may be submitted. (Any written statements or other documentary evidence pertaining to the case shall be placed in the unit file.)

(g) That in the event a court-martial is desired an attorney will be made available to the accused unless outside counsel is retained.

(h) That the decision to accept nonjudicial punishment or demand a trail by court-martial shall be made within _____ hours. (The commander should determine a reasonable time depending on such factors as the gravity of the offense, the grade of the accused, and time involved in physically transmitting the communication. If the accused fails to meet the deadline, punishment may nevertheless be imposed. If the accused demands trial by court-martial, then the commander sill terminate the proceedings and take such action as seems appropriate.)

(i) That in the event nonjudicial punishment is elected, mattes in defense, extenuation, and mitigation must be submitted to the commander within 72 hours (or other reasonable time given the circumstances).

(2) Second Meeting. If the accused elects to accept nonjudicial punishment, the commanding officer will have the individual appear before him/her after having reviewed items submitted in defense, extenuation, and mitigation, and any other materials uncovered in the commander's own investigation of the matter. At this time, the commander will inform the accused as follows:

(a) Whether or not he/she is guilty of the offense charge and, if guilty, the exact punishment imposed.

(b) That an appeal may be taken to the next superior commander if the punishment is believed to be unfair or disproportionate to the offense.

(c) That the commanding officer concerned, or someone chosen by him, will assist the accused in preparing such an appeal, and

(d) To acknowledge receipt of the notification of punishment and to indicate his/her election regarding an appeal in the appropriate section of Cal. N.G. Form 2627.

c. Procedure for Officers and Warrant Officers. Except as described below the procedures for imposing nonjudicial punishment on officers or warrant officers are the same as for enlisted men/women.

(1) Only Cal. N.G. Form 2627 will be used.

(2) Unlike the procedure in regards to punishment imposed on enlisted men/women, all officers and warrant officers must first be informed of the commander's intention to impose nonjudicial punishment in writing by the use of Cal. N.G. Form 22-1.

(3) The accused will be given a reasonable time after service upon him of N.G. Form 2627 in which to demand trial by court-martial or to accept nonjudicial punishment and submit matters in extenuation, mitigation or defense.

d. Completion and Distribution of Forms.

(1) Completion. Completion of all of the appropriate sections of Cal. N.G. Forms 2627 and 2627-1 must be accomplished prior to their distribution. The commanding officer imposing the punishment has the responsibility for serving the forms on the punished individual and having him/her sign the forms in the proper places. Each form must indicate whether the individual intends, or does not intend, to appeal the punishment.

(2) Distribution.

(a) Copies. Forms 2627, 2627-1, and 2627-2 will be initially prepared in an original and four copies to be distributed at the appropriate time as follows:

1. Original to unit file.

2. Unit of assignment for file above individual's Field 201 File Divider.

3. To the Guardsman concerned for personal retention.

4. Division, Brigade, Wing, Group or RACC Headquarters, and

5. Office of the Commanding General, State Military Forces to be forwarded through the proper Division, Brigade, Wing, Group, or RACC headquarters.

(b) Timing. If the offender does not appeal, distribution of Cal. N.G. Form 2627 and 2627-1 will be made immediately upon receipt from the offender of the properly executed forms. If a fine is imposed the forms will no be distributed until receipt of the amount of the fine, at which time the check or money order will be forwarded with the copy for the Office of the Commanding General. In case of an appeal, no distribution will be made until the appeal has been acted upon and the offender acknowledges notification of this action by completing item number 10 of Form 2627. If, after distribution of the forms, the punishment is suspended, mitigated, remitted, or set aside, or a suspension is vacated, the appropriate section of item number 5 of Cal. N.G. Form 2627-2 will be completed distributed as provided by subparagraph (2) (a), above.

(3) Retention. The copies of Cal. N.G. Forms 2627, 2627-1, and 2627-2, which go to the offender's unit and his 201 file will become permanent records thereof.

(4) No Acknowledgement of Notification. In the case where acknowledgement of notification cannot be obtained either because the accused refuses to sign the acknowledgement or he/she cannot be located with reasonable diligence, the forms may be distributed if accompanied by a statement from the commanding officer setting forth the reasons why the acknowledgement could not be obtained.

23. Suspension, Mitigation, Remission, and Setting Aside.

a. Pursuant to CMVC Section 450.1, the officer who imposes the punishment or his successor in command may, at any time, remit or mitigate any part or amount of the unexecuted portion of the punishment imposed and may set aside in whole or in part the punishment whether executed or unexecuted, and restore all rights, privileges, and property affected. He/She may also mitigate a reduction in grade to a fine, regardless of whether the reduction has been executed. In addition, the commander may suspend probationally a reduction in grade or fine if the fine has not been collected. As to other punishments, he may at any time suspend probationally any part or amount of the punishment that has not been executed. Suspension of a punishment may not be for a period longer than six months from the date of the suspension, and the expiration of the current enlistment or term of service of the person involved automatically terminates the period of suspension.

b. A "successor in command" is the commanding officer who has succeeded to the command of the officer who imposed the punishment, or pursuant to whose delegated power the punishment was imposed, if the person punished is still of that command. If the person punished ceases to be of that command, the "successor in command" is that present commanding officer of the offender who can impose punishment of the kind involved in the case. When there has been a successor in command with respect to the person punished, only the successor in command, his delegate or an appropriate superior authority may take action with respect to suspension, mitigation, or setting aside.

c. Commanders are encouraged t consider the desirability of suspending all or a portion of the punishment imposed because it provides the offender an incentive to correct his behavior and affords the commander an excellent opportunity to evaluate the offender's future conduct.

24. Appeals. A person punished under the authority of Section 450.1 who considers his/her punishment unjust or disproportionate to the offense may, through the proper channels, appeal to the next superior authority. The appeal shall be promptly forwarded and decided, but the person may, in the meantime, be required to undergo the punishment adjudged unless it is of a nature that cannot be corrected without prejudice to the individual. For example, a reduction in grade can be administered during the appeal period. In the absence of unusual circumstances, an appeal made more than 15 days after the punishment was imposed may be considered as not having been made within a reasonable time. Authority "superior" to a particular commanding officer is the authority normally superior in the chain of command, or such other authority as may be designated as superior for the purposes of Section 450.1 by higher command. However, when the punishment has been imposed under a delegation of a commander's power to impose nonjudicial punishment, the appeal will not be directed tot that commander but to his superior.

a. Procedures.

(1) Appeals will be made in writing and should include the appellant's reasons for regarding the punishment as unjust or disproportionate. Space for stating these reasons is provided in item number 8 of Form 2627 and item number 5 of Form 2627-1. The Commander who imposed the punishment from which the appeal is taken shall have prepared in pertinent part Cal. N.G. Form 2627 or 2627-1.

(2) In acting upon an appeal, the superior authority may exercise the same powers with respect to the punishment imposed as maybe exercised under Section 450.1 (d) by the officer who imposed the punishment. Thus, under the conditions set forth in paragraph 23, he/she may suspend, remit, mitigate, or set aside in whole or part the punishment imposed. In fact, the superior authority may, pursuant to Section 450.1(e), exercise these powers even though an appeal has not been made. After having considered the appeal, the superior authority will transmit to the appellant, through channels, a written statement of his disposition of the case. Cal. N.G. Form 2627-2 (see Appendix 4), will be used to record all actions taken.

(3) Whenever a punished offender desires to appeal, the officer who imposed the punishment, or his successor in command, will make available to him any necessary assistance in preparing the appeal and will insure that the appeal is promptly forwarded to the appropriate superior authority.

(4) A failure to comply with any of the procedural provisions of this chapter will not invalidate a punishment imposed under Section 450.1 unless there is a clear and affirmative showing of injury to a substantial right of the person on whom the punishment was imposed, which right was neither expressly nor impliedly waived.

b. Role of the Judge Advocate. Before acting on an appeal from any punishment, except an admonition or reprimand, the officer who is to consider the appeal shall first refer the case to the appropriate judge advocate for review and advice. The judge advocate will consider the case and in writing advise the commander who is to act on the appeal. The judge advocate is not limited to any written matter comprising the record of proceedings and may make such inquiries as he determines to be desirable. He/She may also submit any additional advice he/she deems appropriate. This advice will include the written opinion of the judge advocate as to the appropriateness of the punishment as well as his/her findings as to whether the proceedings were in accordance with law and regulation.

Suggested Guide for Conduct of Nonjudicial Punishment Proceedings

B-1. General

This guide is designed to ensure that the proceedings comply with all legal requirements. It contemplates a three-step process conducted in the presence of the soldier, consisting of the following: (1) notification, (2) hearing (that may be omitted if the soldier admits guilt), and (3) imposition of punishment (if the findings result in determination of guilt). This guide may be tailored for formal and summarized nonjudicial punishment proceedings.

B-2. Notification

If the notification of punishment is to be accomplished by other than the imposing commander, the procedures under this provision should be appropriately modified (see note q(4) below).

a. Statements of CO.

(1) As your commander, I have disciplinary powers under Article 15 of the UCMJ. I have received a report that you violated the Uniform Code, and I am considering imposing nonjudicial punishment. This is not a formal trial like a court-martial. As a record of these proceedings I will use DA Form 2627 . I now hand you this form. Read items 1 and 2. Item 1 states the offense(s) you are reported to have committed and item 2 lists the rights you have in these proceedings. Under the provisions of Article 31 of the UCMJ, you are not required to make any statement or provide any information concerning the alleged offense(s). If you do, it may be used against you in these proceedings or in a trial by court-martial. You have the right to consult with a lawyer as stated in item 2.
Note. Wait for the soldier to read items 1 and 2 of DA Form 2627. Allow him or her to retain copy five of the form until the proceedings are finished and you have either imposed punishment or decided not to impose it.

(2) Do you understand item 1? Do you understand the offense(s) you are reported to have committed?

b. Response of soldier. Yes/No. If the soldier does not understand the offense(s), explain the offense(s) to him/her.

c. Statement of CO. Do you understand item 2? Do you have any questions about your rights in these proceedings?

d. Response of soldier. Yes/No. Note. If the soldier does not understand his or her rights, explain them in greater detail. If the member asks a question you cannot answer, recess the proceedings. You probably can find the answer in one of the following sources:

Article 15, UCMJ ; part V of the Manual for Courts-Martial (MCM); or contact your JA office.

e. Statement of CO. There are some decisions you have to make--

(1) You have to decide whether you want to demand trial by court-martial. If you demand a court-martial these proceedings will stop. I then will have to decide whether to initiate court-martial proceedings against you. If you were to be tried by court-martial for the offense(s) alleged against you, you could be tried by summary court-martial, special court-martial, or general court-martial. If you were to be tried by special or general court-martial you would be able to be represented by a military lawyer appointed at no expense to you or by a civilian lawyer of your choosing at no expense to the Government.

(2) If you do not demand trial by court-martial, you must then decide whether you want to present witnesses or submit other evidence in defense, extenuation, and/or mitigation. Your decision not to demand trial by court-martial will not be considered as an admission that you committed the offense(s); you can still submit evidence on your behalf.

(a) Evidence in defense is facts showing that you did not commit the offense(s) stated in item 1. Even if you cannot present any evidence in defense, you can still present evidence in extenuation or mitigation.

(b) Evidence in extenuation is circumstances surrounding the offense showing that the offense was not very serious.

(c) Evidence in mitigation is facts about you showing that you are a good soldier and that you deserve light punishment.

(3) You can make a statement and request to have a spokesperson appear with you and speak on your behalf. I will interview any available witnesses and consider any evidence you think I should examine.

(4) Finally, you must decide whether you wish to request that the proceedings be open to the public. Do you understand the decisions you have to make?

f. Response of soldier. Yes/No.

g. Statements of CO.

(1) If you do not demand trial by court-martial and after you have presented your evidence, I am convinced that you committed the offense, I could then punish you. The maximum punishment I could impose on you would be (punishment). (See table 3-1 for maximum punishments.)

(2) You should compare this punishment with the punishment you could receive in a court-martial. (If the soldier requests to be informed of the maximum court-martial

sentence you may state the following: The maximum sentence you could receive in a court-martial is (sentence) for the offense(s).)

Note. Part IV, MCM lists for each punitive Article the punishments a court-martial may impose for violations of the various Articles of the UCMJ. The CO--

(a) May inform the soldier that referring the charges to a summary or special court-martial would reduce the maximum sentence. For example, a summary court may not impose more than 1 month of confinement at hard labor. A special court may not impose more than 12 months of confinement.

(b) Should not inform the soldier of the particular punishment you may consider imposing until all evidence has been considered.

(3) As item 2 points out, you have a right to talk to an attorney before you make your decisions. A military lawyer whom you can talk to free of charge is located at (location). Would you like to talk to an attorney before you make your decisions?

h. Response of soldier. Yes/No. If the soldier desires to talk to an attorney, arrange for the soldier to consult an attorney. The soldier should be encouraged to consult the attorney promptly. Inform the soldier that consultation with an attorney may be by telephone. The soldier should be advised that he or she is to notify you if any difficulty is encountered in consulting an attorney.

i. Statements of CO.

(1) You now have 48 hours to think about what you should do in this case. You may advise me of your decision at any time within the 48-hour period. If you do not make a timely demand for trial or if you refuse to sign that part of DA Form 2627 indicating your decision on these matters, I can continue with these Article 15 proceedings even without your consent. You are dismissed.

Note. At this point, the proceedings should be recessed unless the soldier affirmatively indicates that he or she has made a decision and does not want additional time or to consult with an attorney. In the event the soldier does not make a decision within the specified time or refuses to complete or sign item 3 of DA Form 2627, see paragraph 3-18f. When you resume the proceedings, begin at item 3, DA Form 2627.

(2) Do you demand trial by court-martial?

j. Response of soldier. Yes/No. (If the answer is yes, continue with next statement.)

k. Statements of CO.

(1) Initial block a, sign and date item 3. Because you have demanded trial by court-martial, these proceedings will stop. I now must decide whether to initiate court-martial proceedings against you. I will notify you when I have reached a decision. You are dismissed. (If the answer is no, continue with next statement.)

(2) An open hearing means that the proceeding is open to the public. If the hearing is closed, only you, I, designated soldiers of the chain of command, available witnesses, and a spokesperson, if designated, will be present. Do you request an open hearing?

l. Response of soldier. Yes/No.

m. Statement of CO. Do you wish to be accompanied by a spokesperson?

n. Response of soldier. Yes/No.

o. Statement of CO. Initial block 3b(1) and (2) indicating your decision. Do you want to submit any evidence showing that you did not commit the offense(s), or explaining why you committed the offense(s), or any other information about yourself that you would like me to know? Do you wish to have any witnesses testify, including witnesses who would testify about your good past military record or character?

p. Response of soldier. Yes/No.

q. Statement of CO. Now initial block 3b(3) indicating your decision, and sign and date the form in the space provided under that item.
Note. The CO will--

(1) Wait until the soldier initials the blocks and signs and dates the form. If the answers to all the questions are no, you may proceed to impose punishment.

(2) If the answer regarding witnesses and evidence is yes and the soldier is prepared to present his or her evidence immediately, proceed as follows. Consider the evidence presented. If the evidence persuades you that you should not punish the soldier, terminate the proceedings, inform the soldier, and destroy all copies of DA Form. If you are convinced that the soldier committed the offense(s) beyond a reasonable doubt and deserves to be punished, proceed to impose punishment.

(3) If the soldier needs additional time to gather his or her evidence, give the soldier a reasonable period of time to gather the evidence. Tell the soldier when the proceedings will resume and recess the proceedings.

(4) If someone else conducted the notification proceedings, the imposing commander should conduct the remainder of the proceedings. When you resume the proceedings, consider the soldier's evidence. Ensure that the soldier has the opportunity he or she deserves to present any evidence. Ask the soldier, "Do you have any further evidence to present?"If the evidence persuades you that you should not punish the soldier, terminate the proceedings, inform the soldier of your decision, and destroy all copies of DA Form 2627 . If you are still convinced that the soldier committed the offense(s) and deserves to be punished, impose punishment.

B-3. Imposition of punishment

Statement of CO: I have considered all the evidence. I am convinced that you committed the offense(s). I impose the following punishments: (Announce Punishment.)
Note. After you have imposed punishment, complete items 4, 5, and 6 of DA Form 2627 and sign the blank below item 6.

B-4. Appellate advice

Note. The CO will hand the DA Form 2627 to the soldier.

a. Statement of CO. Read item 4, which lists the punishment I have just imposed on you. Now read item 6, which points out that you have a right to appeal this punishment to (title and organization of next superior authority). You can appeal if you believe that you should not have been punished at all, or that the punishment is too severe. Any appeal should be submitted within 5 calendar days. An appeal submitted after that time may be rejected. Even if you appeal, the punishment is effective today (unless the imposing commander sets another date). Once you submit your appeal, it must be acted upon by (title and organization of next superior) within 5 calendar days, excluding the day of submission. Otherwise, any punishment involving deprivation of liberty (correctional custody, restriction or extra duty), at your request, will be interrupted pending the decision on the appeal. Do you understand your right to appeal?

b. Response of soldier. Yes/No.

c. Statement of CO. Do you desire to appeal?

d. Response of soldier. Yes/No.
Note. If the answer is yes, go to note at e(2). If the answer is no, continue with next statement.

e. Statements of CO.

(1) If you do not want to appeal, initial block a in item 7 and sign the blank below item 7.
Note. Now give the soldier detailed orders as to how you want him or her to carry out the punishments.

(2) You are dismissed. If the answer is yes, continue with next statement.

(3) Do you want to submit any additional matters to be considered in an appeal?

f. Response of soldier. Yes/No. (If the answer is yes, go to note at g(1). If the answer is no, continue with next statement.)

g. Statements of CO.

(1) Initial block b in item 7 and sign the blank below item 7. I will notify you when I learn what action has been taken on your appeal. You are dismissed.
Note. If the answer is yes, continue with next statement.

(2) If you intend to appeal and do not have the additional matters with you, item 7 will not be completed until after you have obtained all the additional material you wish to have considered on appeal. When you have obtained this material, return with it by (specify a date 5 calendar days from the date punishment is imposed) and complete item 7, by initialing the box and signing the blank below. After you complete item 7, I will send the DA Form 2627 and the additional matters you submit to (title and organization of next superior authority). Remember that the punishment will not be delayed (unless the imposing commander sets another date). You are dismissed.

TABLE 4-1
NONJUDICIAL PUNISHMENT
ENLISTED PERSONNEL (SUMMARIZED PROCEEDINGS)
(CMVC SECTION 450.1(b)(2), AR 27-10, AFR 111-9)

ARMORY DRILL (Company or Field Grade)	ANNUAL TRAINING (Company or Field Grade)
1. _____	Restriction
2. Extra duties up to two hours for each of two consecutive drills	Extra duties of up to 4 hours per duty day and 8 hours for non-duty days for not more than 14 consecutive days
3. Oral reprimand or admonition	Oral reprimand or admonition

TABLE 4-2
NONJUDICIAL PUNISHMENT
ENLISTED PERSONNEL (FORMAL PROCEEDINGS)
(CMVC SECTION 450.1(b)(2))

ARMORY DRILL

COMPANY GRADE	FIELD GRADE
1. _____	_____
2. Fine of 7 days' (UTAs) pay	Fine of 15 days' (UTAs) pay per month for 2 months
3. Reduction of 1 pay grade	E-4 or below: Reduction to E-1; E-5 above: 1 pay grade
4. Extra duties up to 2 hours for each of 2 consecutive drills	Same
5. _____	_____
6. Verbal or written admonition/reprimand	Same

ANNUAL TRAINING

COMPANY GRADE	FIELD GRADE
1. Correctional custody for 7 consecutive days	Correctional custody for 30 consecutive days
2. Fine of 7 days' (UTAs) pay	Fine of 15 days' (UTAs) pay per month for 2 months
3. Reduction of one pay grade	E-4 or below: Reduction to E-1; E-5 or above: 1 pay grade
4. Extra duties of 4 hours per day and 8 hours for non-duty for 14 consecutive days	Extra duties of up to 4 hours per duty day and 8 hours for non-duty days for 14 consecutive days
5. Restriction 14 consecutive days	Restriction 14 consecutive days
6. Same	Same

NOTES:
1. Correctional custody does not include confinement, such as in a county jail.
2. Fines must state a dollar amount in even sums.
3. Forfeiture and detention of pay is not authorized.
4. Restrictions and extra duties may be combined to run concurrently, but their duration may not exceed the maximum duration that may be imposed for extra duty.

TABLE 4-3
NONJUDICIAL PUNISHMENT
OFFICERS
(CMVC SECTION 450.1(b)(1))

ARMORY DRILL

BY ANY COMMANDING OFFICER	GCM CONVENING AUTHORITY OR GENERAL OFFICER IN COMMAND
1. _____	Restriction for 30 consecutive days
2. _____	_____
3. _____	Fine of 15 days' (UTAs) pay per month for 2 months
4. Verbal or written admonition/reprimand	Same

ANNUAL TRAINING

BY ANY COMMANDING OFFICER	GCM CONVENING AUTHORITY OR GENERAL OFFICER IN COMMAND
1. Restriction for 30 consecutive days	Restriction for 60 consecutive days
2. _____	Arrest in quarters for 30 consecutive days
3. _____	Fine of 15 days' (UTAs) pay per month for 2 months
4. Same	Same

(7) The determination of the DASEB to transfer such records will not alone be a basis for review by a special selection board or its equivalent. The DCSPER, or the DCSPER's delegate, has the final authority in cases where circumstances exist that warrant referral to one of the above boards.

(8) The DASEB will consider subsequent requests only upon presentation of substantive evidence not previously considered.

c. Processing requests.

(1) Active Army personnel. Requests in military letter format should be prepared and sent directly to the President, DA Suitability Evaluation Board, ATTN: DAPE–MPC–E, 200 Stovall Street, Alexandria, VA 22332–2600.

(2) Reserve component (RC) personnel.

(a) Requests submitted by USAR officer and enlisted soldiers not on active duty are normally processed through the Commander, U.S. Army Reserve Personnel Command (ARPERCEN), ATTN: ARPC–ZJA, 1 Reserve Way, St. Louis, MO 63132–5200. The DASEB will then take action on the request.

(b) Requests submitted by ARNG officers and enlisted soldiers not on active duty will be processed through the proper State Adjutant General and the Chief, National Guard Bureau to the DCSPER (ATTN: DAPE–MPC–E) for proper action.

d. Amendment rights. These procedures do not limit or restrict the right of soldiers to request amendments of their records under the Privacy Act and AR 340–21. Neither do they limit or restrict the authority of the DASEB to act as an Access and Amendment Refusal Authority under AR 340–21.

e. Correction of military records. AR 15–185 contains policy and procedures for applying to the Army Board for Correction of Military Records (ABCMR) and for the correction of military records by the SA. Requests should be sent to the ABCMR to correct an error or remove an injustice only after other available means of administrative appeal have been exhausted. This includes requests under this paragraph. Absent compelling evidence to the contrary, a properly completed, facially valid DA Form 2627 will not be removed from a soldier's record by the ABCMR.

3–44. Use of records

a. Records of proceedings and supplementary action under Article 15 recorded on DA Forms 2627 and 2627–2, previously or hereafter administered, may be used as directed by competent authority. Allied documentation transmitted with the original or copies of DA Forms 2627 and 2627–2, where filed with any of these forms, will be considered to be maintained separately for the purpose of determining the admissibility of the original or copies of DA Forms 2627 or 2627–2 at courts-martial or administrative proceedings.

b. A record of nonjudicial punishment or a duplicate as defined in M.R.E. 1001(4), not otherwise inadmissible, may be admitted at courts-martial or administrative proceedings from any file in which it is properly maintained by regulation. A record of nonjudicial punishment, otherwise properly filed, will not be inadmissible merely because the wrong copy was maintained in a file.

Table 3–1
Maximum punishment

Punishment	Imposed by company grade officers	Imposed by field grade officers	Imposed by field grade and general officers	Imposed by general officers or GCMCAs
A. Maximum punishment for enlisted members				
Note. The maximum punishment imposable by any commander under summarized procedures will not exceed extra duty for 14 days, restriction for 14 days, oral reprimand, or any combination thereof.				
Admonition/Reprimand	Yes		Yes	
AND				
Extra Duties	14 days		45 days	
AND[1]				
Restriction	14 days		60 days	
or				
Correctional Custody[2] (E–1 through E–3)	7 days		30 days	
or				
Restricted Diet	3 days		4 days	
Confinement (E–1 through E–3 attached or embarked on vessel)				
AND				
Reduction (E–1 through E4)	One grade		One or more grades	
(E5 through E6)			One grade in peacetime[4]	
AND				
Forfeiture[3]	7 days pay		1/2 of 1 month pay for 2 months	

Table 3–1
Maximum punishment—Continued

Punishment	Imposed by company grade officers	Imposed by field grade officers	Imposed by field grade and general officers	Imposed by general officers or GCMCAs
B. Maximum punishment for commissioned and warrant officers				
Admonition/Reprimand[7]	Yes	Yes		Yes
AND				
Arrest in quarters	No	No		30 days
or				
Restriction	30 days	30 days		60 days
AND				
Forfeiture	No	No		1/2 of 1 month pay for 2 months
C. Computing monthly authorized forfeitures of pay under article 15, UCMJ				
1. Upon enlisted persons a. (Monthly Basic Pay [3, 5]) + (Hardship Duty Pay [3, 6]) divided by 2 = Maximum forfeiture per month if imposed by major or above. b. (Monthly Basic Pay [3, 5]) + (Hardship Duty Pay [3, 6]) × 7 divided by 30 = Maximum forfeiture per month if imposed by captain or below. 2. Upon commissioned and warrant officers when imposed by an officer with general court-martial jurisdiction or by a general officer in command. (Monthly Basic Pay [5]) + (Hardship Duty Pay [6]) divided by 2 = Maximum authorized forfeiture per month.				

Notes:

[1] Combinations of extra duties and restriction cannot exceed the maximum allowed for extra duty.

[2] Subject to limitations imposed by superior authority and presence of adequate facilities under AR 190–47. If punishment includes reduction to E–3 or below, reduction must be unsuspended.

[3] Amount of forfeiture is computed at the reduced grade, even if suspended, if reduction is part of the punishment imposed. For Reserve Component (RC) soldiers, use monthly basic pay for the grade and time in service of an Active Component (AC) soldier. (See para 21–9.)

[4] Only if imposed by a field grade commander of a unit authorized a commander in the grade of O–5 or higher. In the RC, reduction is only authorized from grade E–5. For RC soldiers of grade E–6 and higher, reduction is authorized only if the grade from which the soldier is reduced is within the promotion authority of the officer imposing the reduction.

[5] At the time punishment is imposed.

[6] If applicable.

[7] In the case of commissioned officers and warrant officers, admonitions and reprimands given as nonjudicial punishment must be administered in writing (para 5c(1), part V, MCM.

[8] Forfeitures imposed by a company grade commander may not be applied for more than 1 month against the pay of an Active Army soldier.

Table 3–2
Removal of records of nonjudicial punishment from military personnel files

Rule	If	On the basis	Then the record of nonjudicial punishment (DA Form 2627) file in		
			The performance portion of the OMPF	The restricted portion of the OMPF	Providing that
1	Commander who imposed the punishment, successor in command, or superior authority wholly sets aside the punishment	Evidence exists which demonstrates that the punishment resulted in a "clear injustice" (para 3–28)	Will be transferred to the restricted portion of the OMPF and the copy in the Unit Nonjudicial Punishment file removed	Will remain so filed	
2	Member in the grade of E5 or above applies to the DA Suitability Evaluation Board (DASEB) for transfer	The record of nonjudicial punishment has served its punishment has served its purpose and that removal is in the best interest of the Army	Will, on approval of the member's application, be transferred to the restricted portion of the OMPF and the copy in the Unit Nonjudicial Punishment file removed		
3	Member applies to Army Board for Correction of Military Records (ABCMR) for transfer of records of nonjudicial punishment from the performance portion of the OMPF	Evidence exists which demonstrates error or injustice to a degree justifying removal	Will, on approval of the member's application, be processed in accordance with the instructions of the ABCMR		If the member is in the grade of E–5 or above and applies for the reasons described in para 3–43*b*(1), the member has already applied to DASEB and the request was denied.

LETTER OF INSTRUCTION - PROSECUTING SUMMARY COURTS-MARTIAL

The purpose of this Letter of Instruction (LOI) is to establish guidelines for commanders in presenting AWOL cases for trial by Summary Courts-martial. Direct any questions or comments to this headquarters, Attn: CADH-SJA. For further assistance call the Office of the Staff Judge Advocate during regular duty hours at (310) 795-2426 and on drill weekends at (310) 795-2778/9.

To successfully prosecute AWOL charges to a Summary Court-martial, the commander must verify the following facts:

1. The soldier was actually absent without permission. This means that the soldier had not been excused by any person with apparent authority to do so (i.e., 1SG, Platoon leader, Section leader, etc.).
2. The soldier has no legal excuse for being absent (i.e., valid orders for some other duty, medical profile, sudden illness/injury, etc.) or had no reasonable belief that he was excused from attending (i.e., pending transfer to IRR/ING or other military unit or service, promised alternate AT, etc.).
3. The soldier had reasonable notice as to the drill schedule and/or dates of Annual Training or other duty.
4. The soldier's last known home address is accurate, or his general whereabouts are known (i.e., the soldier can be located or is likely to receive mail).

Prior to the date set for the Summary Court-martial, the unit commander (who represents the government at the hearing) should contact the Division SJA section to discuss the matter with a JAG Officer. The commander, or the person designated by the commander to represent the unit, must be prepared to prosecute the case and to respond to any anticipated evidence from the defense. Facts are presented through testimony and documents, and it is often necessary for several witnesses, including the commander, to be present to testify. The unit must present sufficient evidence to prove guilt beyond a reasonable doubt.

In support of its case, the unit should have the original (if reasonably available) and two (2) copies of the following documents ready to introduce as evidence at the hearing:

1. Unit Payroll Records (DA Form 1379) for the relevant time period(s)
2. Unit Yearly Training Schedule
3. Unit Orders for Annual Training
4. Any other applicable training orders
5. Unit Newsletter or any other bulletin designed to keep members informed of the unit's training schedule

Generally, key unit personnel (i.e., Commander, 1SG, Unit Clerk, etc.) should be present to testify in order to authenticate the above documents. Also, testimony may be necessary to show that the soldier was not excused from the training (IDT or AT) by any competent authority, that the soldier was in fact absent, that the unit training schedules were published or otherwise made reasonably available to all members (posted in prominent places at the unit armory, printed in newsletters or other such bulletins, announced at every formation, etc.), that reasonable efforts were made, if any, to arrange for alternate periods of AT, SUTA, etc., and that there was no reason known or expressed to the commander as to why the soldier could not be present.

It is the unit's responsibility to provide transportation for the soldier from the normal duty site to the location of the Summary Court-martial. Also, if the hearing is not being held during the unit's Annual Training or its regularly scheduled drill weekend, the soldier and any military witnesses should be put on written orders to attend. Ideally, all personnel involved in the hearing should be in some official duty status. Also, upon request of the soldier, the unit is responsible for arranging the attendance of any military witness, if reasonably available, and for providing copies of any documents which will or may be introduced as evidence.

LETTER OF INSTRUCTION - PROCESSING BENCH WARRANTS

The purpose of this Letter of Instruction (LOI) is to establish guidelines for commanders in processing signed bench warrants for soldiers being referred to summary courts-martial for being AWOL during AT. For further assistance contact the Office of the Staff Judge Advocate during regular duty hours at (310) 795-2426 and on drill weekends at (310) 795-2778/9.

Once a soldier is determined to be AWOL during AT, the unit must prepare and submit a charge sheet and bench warrant directly to the Division SJA. When all appropriate signatures are obtained, the original bench warrant and a copy of the charge sheet will be returned to the unit.

When the unit receives a signed bench warrant, the unit delivers the bench warrant directly to the sheriff or police department (at the discretion of the unit) in the county/city where the soldier resides. Under the terms of the bench warrant, the soldier may be released on bail (with the bail money to be forwarded to the SJA at OTAG, Sacramento, CA). The bench warrant also contains a contact number at the unit and at Division SJA.

When notified by the local law enforcement authorities or Division SJA that the soldier is in custody, the unit must recover the soldier from those authorities. The soldier <u>cannot</u> be detained by the unit after being recovered. Therefore, the unit should coordinate with Division SJA as to a date/time/place for convening of a summary court-martial and order the soldier to appear at the date/time/place specified for the hearing. The unit may inform the soldier that failure to report for the summary court-martial as ordered will result in the issuance of another bench warrant for the soldier's arrest.

If the soldier is not taken into custody pursuant to the bench warrant, but appears voluntarily at the summary court-martial as originally ordered, the unit must insure that the bench warrant is withdrawn by informing the law enforcement authority to which the warrant was delivered that the warrant is no longer needed and should be withdrawn. Whether the soldier is located or not, the bench warrant will expire six (6) months from date of issuance.

The California Military and Veterans Code (CMVC) provides that law enforcement authorities may not charge any fee for confining the soldier. See CMVC §464. However, by its express terms, the bench warrant authorizes the law enforcement authorities to photograph and fingerprint the soldier.

ADMINISTRATION ACTIONS

Actions	Authority
1. Admonishment or Reprimand	Para. 3-3b, AR 27-10
a. Verbal: on the Spot Correction	Para. 4-6b, AR 600-20
b. Written	Para. 3-4, AR 600-37
2. Extra Training	Para. 4-6, AR 600-20
3. Adverse Efficiency Report	AR 623-205
4. MOS Reclassification	Sec. III, Chap 5, NGR 600-200
5. Revocation of Security Clearance	AR 604-5
6. Transfer or Reassignment	Sec. VI, Chap 5, NGR 600-200
7. Pecuniary Liability	AR 735-5
8. Reduction in Grade	Para. 6-44, NGR 600-200
a. Misconduct/Conviction by Civilian Court	Para. 6-3, AR 600-200
b. Efficiency	Para. 6-4, AR 600-200
9. Bars to Reenlistment, Extension	Sec. IV, Chap 7, NGR 600-200
10. Transfer to Inactive NG for Unsatisfactory Performance	Para. 2-8P, NGR 614-1
11. Discharge	Active Duty AR 635-200 AR 135-178 Chap. 8, NGR 600-200
a. Unsatisfactory Performance	Chap. 13, Chap 6 AR 135-178
b. Misconduct	Chap. 7, AR 135-178
c. Alcohol/Drugs	Chap. 8, AR 135-178
d. Defective Enlistment	Chap. 9, AR 135-178
e. Homosexuality	Chap. 10, AR 135-178
f. For the Good of the Service	Chap. 10, AR 135-178

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RIGHTS WARNING PROCEDURE/WAIVER CERTIFICATE

For use of this form, see AR 190-30; the proponent agency is ODCSOPS

DATA REQUIRED BY THE PRIVACY ACT

AUTHORITY: Title 10, United States Code, Section 3012(g)
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your Social Security Number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your Social Security Number is voluntary.

1. LOCATION		2. DATE	3. TIME	4. FILE NO.
5. NAME *(Last, First, MI)*		8. ORGANIZATION OR ADDRESS		
6. SSN	7. GRADE/STATUS			

PART I - RIGHTS WAIVER/NON-WAIVER CERTIFICATE

Section A. Rights

The investigator whose name appears below told me that he/she is with the United States Army _____ and wanted to question me about the following offense(s) of which I am suspected/accused: _____

Before he/she asked me any questions about the offense(s), however, he/she made it clear to me that I have the following rights:

1. I do not have to answer any question or say anything.
2. Anything I say or do can be used as evidence against me in a criminal trial.
3. *(For personnel subject othe UCMJ* I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. This lawyer can be a civilian lawyer I arrange for at no expense to the Government or a military lawyer detailed for me at no expense to me, or both.

   - or -

   (For civilians not subject to the UCMJ) I have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with me during questioning. I understand that this lawyer can be one that I arrange for at my own expense, or if I cannot afford a lawyer and want one, a lawyer will be appointed for me before any questioning begins.
4. If I am now willing to discuss the offense(s) under investigation, with or without a lawyer present, I have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if I sign the waiver below.

5. COMMENTS *(Continue on reverse side)*

Section B. Waiver

I understand my rights as stated above. I am now willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer first and without having a lawyer present with me.

WITNESSES *(If available)*	3. SIGNATURE OF INTERVIEWEE
1a. NAME *(Type or Print)*	
b. ORGANIZATION OR ADDRESS AND PHONE	4. SIGNATURE OF INVESTIGATOR
2a. NAME *(Type or Print)*	5. TYPED NAME OF INVESTIGATOR
b. ORGANIZATION OR ADDRESS AND PHONE	6. ORGANIZATION OF INVESTIGATOR

Section C. Non-waiver

1. I do not want to give up my rights

☐ I want a lawyer ☐ I do not want to be questioned or say anything

2. SIGNATURE OF INTERVIEWEE

ATTACH THIS WAIVER CERTIFICATE TO ANY SWORN STATEMENT *(DA FORM 2823)* SUBSEQUENTLY EXECUTED BY THE SUSPECT/ACCUSED

PART II - RIGHTS WARNING PROCEDURE

THE WARNING

1. WARNING - Inform the suspect/accused of:
   a. Your official position.
   b. Nature of offense(s).
   c. The fact that he/she is a suspect/accused.
2. RIGHTS - Advise the suspect/accused of his/her rights as follows:
   "Before I ask you any questions, you must understand your rights."
   a. "You do not have to answer my questions or say anything."
   b. "Anything you say or do can be used as evidence against you in a criminal trial."
   c. (For personnel subject to the UCMJ) "You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be a civilian you arrange for at no expense to the Government or a military lawyer detailed for you at no expense to you, or both."

   - or -

   (For civilians not subject to the UCMJ) You have the right to talk privately to a lawyer before, during, and after questioning and to have a lawyer present with you during questioning. This lawyer can be one you arrange for at your own expense, or if you cannot afford a lawyer and want one, a lawyer will be appointed for you before any questioning begins."
   d. "If you are now willing to discuss the offense(s) under investigation, with or without a lawyer present, you have a right to stop answering questions at any time, or speak privately with a lawyer before answering further, even if you sign a waiver certificate."

Make certain the suspect/accused fully understands his/her rights.

THE WAIVER

"Do you understand your rights?"
(If the suspect/accused says "no," determine what is not understood, and if necessary repeat the appropriate rights advisement. If the suspect/accused says "yes," ask the following question.)

"Have you ever requested a lawyer after being read your rights?" (If the suspect/accused says "yes," find out when and where. If the request was recent *(i.e., fewer than 30 days ago)*, obtain legal advice whether to continue the interrogation. If the suspect/accused says "no," or if the prior request was not recent, ask him/her the following question.)

"Do you want a lawyer at this time?"
(If the suspect/accused says "yes," stop the questioning until he/she has a lawyer. If the suspect/accused says "no," ask him/her the following question.)

"At this time, are you willing to discuss the offense(s) under investigation and make a statement without talking to a lawyer and without having a lawyer present with you?" *(If the suspect/accused says "no," stop the interview and have him/her read and sign the non-waiver section of the waiver certificate on the other side of this form. If the suspect/accused says "yes," have him/her read and sign the waiver section of the waiver certificate on the other side of this form.)*

SPECIAL INSTRUCTIONS

WHEN SUSPECT/ACCUSED REFUSES TO SIGN WAIVER CERTIFICATE: If the suspect/accused orally waives his/her rights but refuses to sign the waiver certificate, you may proceed with the questioning. Make notations on the waiver certificate to the effect that he/she has stated that he/she understands his/her rights, does not want a lawyer, wants to discuss the offense(s) under investigation, and refuses to sign the waiver certificate.

IF WAIVER CERTIFICATE CANNOT BE COMPLETED IMMEDIATELY: In all cases the waiver certificate must be completed as soon as possible. Every effort should be made to complete the waiver certificate before any questioning begins. If the waiver certificate cannot be completed at once, as in the case of street interrogation, completion may be temporarily postponed. Notes should be kept on the circumstances.

PRIOR INCRIMINATING STATEMENTS:

1. If the supsect/accused has made spontaneous incriminating statements before being properly advised of his/her rights he/she should be told that such statements do not obligate him/her to answer further questions.
2. If the suspect/accused was questioned as such either without being advised of his/her rights or some question exists as to the propriety of the first statement, the accused must be so advised. The office of the serving Staff Judge Advocate should be contacted for assistance in drafting the proper rights advisal.

NOTE: If 1 or 2 applies, the fact that the suspect/accused was advised accordingly should be noted in the comment section on the waiver certificate and initialed by the suspect/accused.

WHEN SUSPECT/ACCUSED DISPLAYS INDECISION ON EXERCISING HIS OR HER RIGHTS DURING THE INTERROGATION PROCESS: If during the interrogation, the suspect displays indecision about requesting counsel (for example, "Maybe I should get a lawyer."), further questioning must cease immediately. At that point, you may question the suspect/accused only concerning whether he or she desires to waive counsel. The questioning may not be utilized to discourage a suspect/accused from exercising his/her rights. (For example, do not make such comments as "If you didn't do anything wrong, you shouldn't need an attorney.")

COMMENTS *(Continued)*

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SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

LOCATION	DATE	TIME	FILE NUMBER
LAST NAME, FIRST NAME, MIDDLE NAME	SOCIAL SECURITY NUMBER		GRADE/STATUS
ORGANIZATION OR ADDRESS			

I, _____, WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

EXHIBIT	INITIALS OF PERSON MAKING STATEMENT	PAGE 1 OF _____ PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF _____ TAKEN AT _____ DATED _____ CONTINUED." THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE _____ OF _____ PAGES." WHEN ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.

STATEMENT *(Continued)*

AFFIDAVIT

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 INITIALED 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.

_____
(Signature of Person Making Statement)

WITNESSES:

_____
_____
_____
ORGANIZATION OR ADDRESS

_____
_____
_____
ORGANIZATION OR ADDRESS

Subscribed and sworn to before me, a person authorized by law to administer oaths, this _____ day of _____, _____ at _____

_____
(Signature of Person Administering Oath)

_____
(Typed Name of Person Administering Oath)

_____
(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT	PAGE OF PAGES

27TH ADMINISTRATIVE LAW FOR MILITARY INSTALLATIONS COURSE

IMPROPER SUPERIOR-SUBORDINATE RELATIONSHIPS, FRATERNIZATION & SEXUAL HARASSMENT

CHAPTER 27

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MAJ David H. Robertson
March 2003

IMPROPER SUPERIOR-SUBORDINATE RELATIONSHIPS, FRATERNIZATION & SEXUAL HARASSMENT

Outline of Instruction

I. REFERENCES.

A. Army References.

1. Dep't of Army, Reg. 600-20, Personnel--General: Army Command Policy (13 May 2002)[hereinafter AR 600-20], implementing Message, 020804Z Mar 99, Headquarters, Dep't of Army, DAPE-HR-L, subject: Revised Policy on Relationships Between Soldiers of Different Ranks (2 Mar. 1999)[hereinafter DA Message].

2. Manual for Courts-Martial, United States (2000 ed.) [hereinafter MCM].

3. Former Dep't of Army, Pam. 600-35, Personnel--General: Relationships Between Soldiers of Different Rank (7 Dec 1993).

4. Dep't of Army, Pam. 600-35, Personnel--General: Relationships Between Soldiers of Different Rank (21 Feb 2001) (available from www.odcsper.army.mil).

B. Navy, Marine Corps, and Air Force References.

1. U.S. Navy Regulations, 1990, Article 1165 - Fraternization Prohibited (as amended 25 Jan 1993).

2. OPNAVINST 5370.2B, Navy Fraternization Policy (27 May 1999).

3. Marine Corps Manual 1100.4 (as amended by HQMC, ALMAR 185/96, 130800Z May 96, subject: Marine Corps Manual (MCM) Change 3).

4. Department of Air Force Instruction 36-2909, Personnel: Professional and Unprofessional Relationships (1 May 1999).

II. INTRODUCTION.

A. Three Separate Concepts.

1. Improper Superior – Subordinate Relationships.

2. Fraternization.

3. Sexual Harassment.

B. A Spectrum of Misconduct.

III. IMPROPER SUPERIOR - SUBORDINATE RELATIONSHIPS.

A. History:

1. Task Force found disparate treatment between Services.

2. New policy announced by Secretary Cohen on 29 Jul 98 (Appendix 1).

3. Not effective immediately; gave Services 30 days to provide draft new policies to DoD. Essence of guidance now included within AR 600-20, paras 4-14 through 4-16.

4. Does NOT cover all senior / subordinate relationships.

5. Directs Service Secretaries to prohibit by policy:

   a. Personal relationships, such as dating, sharing living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted regardless of their Service; and

   b. Personal relationships between recruiter and recruit, as well as between permanent party personnel and trainees.

B. **The Old Army Policy**. Previous AR 600-20 (30 Mar 88), para 4-14. Two Part Analysis:

1. Part One: "Army policy does not hold dating or most other relationships between soldiers [of different ranks] as improper, barring the adverse effects listed in AR 600-20." Old DA Pam 600-35, Para. 1-5(e). Therefore, Army policy did not prohibit dating (even between officers and enlisted soldiers), *per se*.

2. Part Two:

   a. "Relationships between soldiers of different rank that involve, or give the appearance of, partiality, preferential treatment, or the improper use of rank or position for personal gain, are prejudicial to good order, discipline, and high unit morale. It is Army policy that such relationships will be avoided." Old AR 600-20, paragraph 4-14.

   b. "Commanders and supervisors will counsel those involved or take other action, as appropriate, if relationships between soldiers of different rank --

      (1) Cause actual or perceived partiality or unfairness.

(2) Involve the improper use of rank or position for personal gain.

(3) Create an actual or clearly predictable adverse impact on discipline, authority or morale." Old AR 600-20, para 4-14a.

Key Note: Old AR 600-20 was not a punitive regulation. The revised paragraphs ARE PUNITIVE.

C. **The Current Army Policy**. Changes to AR 600-20, paras 4-14, 4-15 and 4-16.

1. Now a **THREE** Part Analysis:

a. Part 1: Is this a "strictly prohibited" category?

b. Part 2: If not, are there any adverse effects?

c. Part 3: If not "strictly prohibited" and there are no adverse effects, then the relationship is not prohibited.

2. (THIS IS PARA 4-14c.) Certain types of personal relationships between **officers and enlisted** personnel are prohibited. Prohibited relationships include:

a. Ongoing business relationships (including borrowing or lending money, commercial solicitations and any other on-going financial or business relationships), **except**:

(1) Landlord / tenant; and

(2) One time transactions (such as car or home sales).

(3) All ongoing business relationships existing on the effective date of this prohibition, that were otherwise in compliance with the former policy, will not be prohibited until 1 Mar 00 ("grace period").

(4) This prohibition does not apply to USAR / ARNG soldiers when the ongoing business relationship is due to the soldiers' civilian occupation or employment.

b. Personal relationships, such as dating, shared living accommodations (other than as directed by operational requirements), and intimate or sexual relationships.

(1) This prohibition does not affect marriages.

(2) Otherwise prohibited relationships (dating, shared living accommodations [other than directed by operational requirements] and intimate or sexual relationships), outside of marriage that predate the effective date of this policy until 1 Mar 2000.

(3) Relationships otherwise in compliance with this policy **will not** become prohibited under this policy solely because of the change in status of one party to the relationship (such as commissioning). While not expressed in the policy, this provision is NOT intended to allow continued officer / enlisted dating after the close of the grandfather period.

(4) RC/RC exclusion when the personal relationship is primarily due to civilian acquaintanceship, unless on AD or Full Time National Guard Duty (FTNGD) other than AT.

(5) AD/RC exclusion when the personal relationship is primarily due to civilian association, unless on AD or FTNGD other than AT.

c. Gambling. NO EXCEPTIONS.

d. This subparagraph is not intended to preclude normal team-building associations between soldiers, which occur in the context of activities such as community organizations, religious activities, family gatherings, unit social functions or athletic teams or events.

e. All soldiers bear responsibility for maintaining appropriate relationships between military members. The senior military member is usually in the best position to terminate or limit relationships that may be in violation of this paragraph, but all soldiers involved may be held accountable for relationships in violation of this paragraph.

3. Para 4-15: Other Prohibited Relationships Regardless of Rank.

a. Trainee / Soldier. Any relationship between IET trainees and permanent party soldiers (not defined) not required by the training mission will be prohibited. This prohibition would apply regardless of the unit of assignment of either the permanent party soldier or the trainee.

b. Recruit / Recruiter. Any relationship between a permanent party soldier assigned or attached to USAREC, and potential prospects, applicants, members of the Delayed Entry Program or members of the Delayed Training Program, not required by the recruiting mission, will be prohibited. The prohibition would apply regardless of the unit of assignment or attachment of the parties involved.

4. Para 4-14: Relationships between military members of different rank.

a. "Officer" includes commissioned and warrant officers.

b. Applies to relationships between soldiers, and between soldiers and members of other services.

c. Is gender-neutral.

d. (THIS IS PARA 4-14b.) The following relationships between servicemembers of **different ranks** are prohibited:

(1) Relationships that compromise or appear to compromise the integrity of supervisory authority or the chain of command;

(2) Relationships that cause actual or perceived partiality or unfairness;

(3) Relationships that involve or appear to involve the improper use or rank or position for personal gain;

(4) Relationships that are, or are perceived to be, exploitative or coercive in nature; and

(5) Relationships that cause an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

NOTE: Subparagraphs (1) and (4) are new additions to the three adverse effects looked for under the old policy's analysis.

5. Para 4-16: Paragraphs 4-14b. 4-14c and 4-15 are punitive. Violations could be punished as violations of Article 92, UCMJ.

D. **Commander's Analysis**: How does the commander determine what's improper?

1. JAs must cultivate the idea that commanders should consult with OSJA.

2. Use common sense. "The leader must be counted on to use good judgment, experience, and discretion. . . ."

3. Keep an open mind. Don't prejudge every male/female relationship. Relationships between males of different rank or between females of different rank can be as inappropriate as male/female relations. "[J]udge the results of the relationships and not the relationships themselves." DA Pam 600-35.

4. Additional scrutiny should be given to relationships involving (1) direct command/supervisory authority, or (2) power to influence personnel or disciplinary actions. "[A]uthority or influence . . . is central to any discussion of the propriety of a particular relationship." DA Pam 600-35. These relationships are most likely to generate adverse effects.

5. Be wary that **appearances of impropriety** can be as damaging to morale and discipline as actual wrongdoing.

E. Command Response.

1. The commander has a wide range of responses available to him and should use the one that will achieve a result that is "warranted, appropriate, and fair." Counseling the soldiers concerned is usually the most appropriate initial action, particularly when only the potential for an appearance of actual preference or partiality, or an appearance without

any adverse impact on morale, discipline or authority exists.

2. Adverse Administrative Actions: Order to terminate, relief, re-assign, bar to re-enlistment, reprimand, adverse OER/NCOER, administrative separation.

3. Criminal Sanctions: Fraternization, disobey lawful order, conduct unbecoming, adultery.

F. Commander's Role.

1. Commanders should seek to prevent inappropriate or unprofessional relationships through proper training and leadership by example. AR 600-20, para. 4-14(f).

2. Don't be gun-shy. Mentoring, coaching, and teaching of soldiers by their seniors should not be inhibited by gender prejudices. Old AR 600-20, para. 4-14 (e)(1).

3. Training. DA Pam 600-35.

IV. FRATERNIZATION AND RELATED OFFENSES.

A. General.

1. Fraternization is easier to describe than define.

2. There is no stereotypical case. Examples include sexual relations, drinking, and gambling buddies.

B. Fraternization. UCMJ art. 134.

1. The President has expressly forbidden officers from fraternizing on terms of military equality with enlisted personnel. MCM, pt. IV, ¶ 83b.

2. Elements: the accused

a. was a commissioned or warrant officer;

b. fraternized on terms of military equality with one or more certain enlisted member(s) in a certain manner;

c. knew the person(s) to be (an) enlisted member(s); and

d. such fraternization violated the custom of the accused's service that officers shall not fraternize with enlisted members on terms of military equality; and

e. under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

3. "Hard to define it, but I know it when I see it."

4. Article 134 has also been successfully used to prosecute instances of officer-officer fraternization, *United States v. Callaway*, 21 M.J. 770 (A.C.M.R. 1986), and even enlisted-enlisted relationships. *United States v. Clarke*, 25 M.J. 631 (A.C.M.R. 1987), *aff'd*, 27 M.J. 361 (C.M.A. 1989).

5. Maximum punishment: dismissal/dishonorable discharge, total forfeitures and two years confinement. MCM, pt. IV, ¶ 83e.

6. Custom.

a. The gist of this offense is a violation of the custom of the armed forces against fraternization; it does not prohibit all contact or association between officers and enlisted persons.

b. Customs vary from service to service, and may change over time.

c. Custom of the service must be proven through the testimony of a knowledgeable witness. *United States v. Wales*, 31 M.J. 301 (C.M.A. 1990).

7. Factors to Consider in Deciding How to Dispose of an Offense.

a. Nature of the military relationship;

b. Nature of the association;

c. Number of witnesses;

d. Likely effect on witnesses.

C. Failure to Obey Lawful General Order or Regulation. UCMJ art. 92.

1. Elements. MCM, pt. IV, ¶ 16b(1).

a. There was in effect a certain lawful general order or regulation;

b. the accused had a duty to obey it; and

c. the accused violated or failed to obey the order or regulation.

2. Maximum punishment: dismissal/dishonorable discharge, total forfeitures and two years confinement. MCM, pt. IV, ¶ 16e(1).

3. Applications.

a. Applicable to officers and enlisted.

b. Most effective when used to charge violations of local punitive general regulations (for example, regulations prohibiting improper relationships between trainees and drill sergeants).

4. **Remember:** AR 600-20 re: improper relationships is NOW a punitive regulation.

D. Conduct Unbecoming an Officer. UCMJ art. 133.

1. Elements.

a. Accused did or omitted to do certain acts; and

b. That, under the circumstances, the acts or omissions constituted conduct unbecoming an officer and gentleman.

2. Only commissioned officers and commissioned warrant officers may be charged under article 133. Maximum punishment: dismissal, total forfeitures and confinement for a period not in excess of that authorized for the most analogous offense for which punishment is prescribed in the Manual, e.g., two years for fraternization.

E. Sexual Harassment.

1. Charged under Article 93 as Cruelty and Maltreatment.

2. Other offenses may be possible given the facts and circumstances of the case such as extortion, bribery, adultery, indecent acts or assault, communicating a threat, conduct unbecoming, conduct prejudicial to good order/discipline.

V. SELECT CASE LAW.

A. *United States v. Sanchez*, 50 M.J. 506 (A.F.Ct.Crim.App. 1998). Accused cannot be convicted of both conduct unbecoming (Art. 133) and fraternization (Art. 134) when the misconduct alleged in the specifications is identical; fraternization gets dismissed. Those fraternization allegations not alleged in conduct unbecoming specifications remain. Court cites *United States v. Harwood*, 46 M.J. 26, 28 (1997) in support.

B. *United States v. Hawes,* 51 M.J. 258 (CAAF, 1999). CAAF affirmed Air Force Court's decision to set aside fraternization conviction and to reassess the appellant's sentence without ordering a rehearing. CAAF agreed that the fraternization offense was "relatively trivial" when compared to other misconduct.

C. *United States v. Mann,* 50 M.J. 689 (A.F.Ct.Crim.App. 1999). Sexual relationship is not a prerequisite for fraternization. Evidence was legally and factually sufficient to support conviction for fraternization. No interference with accused's access to witnesses where order prohibiting accused from contact with his fraternization partner did not prohibit accused's counsel from such contact. A.F. court finds no unlawful command influence or unlawfulness with the order.

D. *United States v. Rogers,* 54 M.J. 244 (CAAF 2000). Evidence legally sufficient to sustain Art. 133 conviction for the offense of conduct unbecoming an officer by engaging in an unprofessional relationship with a subordinate officer in appellant's chain of command. AF Court holds there is no need to prove breach of custom or violation of punitive regulation.

VI. CONCLUSION

VII. APPENDCIES

APPENDIX 1

THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1000

29 JUL 1998

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR OF ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Good Order and Discipline

Last July, I directed the Under Secretary of Defense for Personnel and Readiness to lead a Task Force of senior representatives from the Services, the Office of the Secretary of Defense, the Office of the Joint Chiefs of Staff and the DoD Inspector General to determine whether current policies and practices for maintaining good order and discipline in the all volunteer force are fair and effective. This Task Force obtained the views of field commanders, senior enlisted personnel, members of the reserve components, Service chaplains, the Chair of the Defense Advisory Committee on Women in the Services and other interested parties on the content, enforcement, general understanding and perception of our policies.

The information gathered by the Task Force indicated that breaches of good order and discipline in our Services are not widespread. The information further revealed, however, that the Services defined, regulated and responded to relationships between service members differently. Such differences in treatment are antithetical to good order and discipline, and are corrosive to morale, particularly so as we move towards an increasingly joint environment.

In order to support our national objectives, the military Services task organize, deploy and fight predominantly as a unified force. In today's military environment, we owe it to our forces to eliminate as many differences in disciplinary standards as possible and to adopt uniform,

clear and readily understandable policies.

Accordingly, the Service Secretaries will, by policy, prohibit personal relationships such as dating, sharing living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted regardless of their Service. This change will not affect existing marriages.

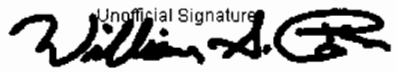
A more uniform policy is also needed in military recruiting and initial entry training environments. Interaction with recruiters and trainers offers the first examples of professional conduct expected of a military member and creates lasting impressions in new recruits. Similarly, military training and education are the means by which the values of military service are transferred. Because these relationships are so important, the Services shall prohibit personal relationships between recruiter and recruit, as well as between instructors and permanent party personnel with initial entry trainees.

In setting forth rules prohibiting unprofessional relationships, I want to make clear that professional interaction between officers and enlisted members is encouraged.

The best way to curtail inappropriate or unprofessional relationships is, of course, to prevent them through proper training and leadership by example. Should inappropriate relationships occur, commanders must carefully consider all facts and circumstances in reaching a disposition that is warranted, appropriate and fair. The failure to adhere to standards supportive of good order and discipline can often be satisfactorily addressed and corrected by appropriate administrative measures.

For any policy to be effective, it must be clear and understandable. I am directing each Service to prepare training materials explaining the Service's policies and regulations pertaining to good order and discipline, specifically addressing how the policies are applied and written in language that is understandable to all.

Each Service will provide me its draft implementing plans within 30 days and training materials within 60 days.



William S. Cohen

APPENDIX 2

Subject: R U 020804Z REVISED POLICY ON RELATIONSHIPS BETWEEN SOLDIERS OF
>
> RTTUZYUW RUEADWD3952 0612228-UUUU--RUERCOL.
> ZNR UUUUU ZYW ZOC ZEO T ALL US ARMY REPS ANS ACTIVITIES
> R 020804Z MAR 99
> FM DA WASHINGTON DC//DAPE-HR-L//
> TO ALARACT
> INFO RUEADWD/DA WASHINGTON DC//DAPE-HR-L//
> BT
> UNCLAS ALARACT 014/99
> SECTION 01 OF 02
> SUBJECT: REVISED POLICY ON RELATIONSHIPS BETWEEN SOLDIERS OF DIFFERENT RANKS
> 1. REFERENCE AR 600-20, PARAGRAPHS 4-14, 4-15, AND 4-16.
> 2. ARMY POLICY REGARDING RELATIONSHIPS BETWEEN SOLDIERS OF DIFFERENT RANKS HAS BEEN REVISED. THIS MESSAGE CONSTITUTES A PERMANENT CHANGE TO AR 600-20, TO TAKE EFFECT IMMEDIATELY. THIS TEXT WILL BE INCORPORATED INTO THE NEXT PRINTED REVISION OF THIS REGULATION.
> 3. AR 600-20, PARAGRAPH 4-14. RELATIONSHIPS BETWEEN MILITARY MEMBERS OF DIFFERENT RANK.
> A. THE TERM "OFFICER," AS USED IN THIS PARAGRAPH, INCLUDES BOTH COMMISSIONED AND WARRANT OFFICERS UNLESS OTHERWISE STATED. THE PROVISIONS OF THIS PARAGRAPH APPLY TO BOTH RELATIONSHIPS BETWEEN ARMY PERSONNEL AND BETWEEN ARMY PERSONNEL AND PERSONNEL OF OTHER MILITARY SERVICES. THIS POLICY IS EFFECTIVE IMMEDIATELY, EXCEPT WHERE NOTED

> PAGE 02 RUEADWD3952 UNCLAS
> BELOW, AND APPLIES TO DIFFERENT-GENDER RELATIONSHIPS AND SAME-GENDER RELATIONSHIPS.
> B. RELATIONSHIPS BETWEEN SOLDIERS OF DIFFERENT RANK ARE PROHIBITED IF THEY:
> (1) COMPROMISE, OR APPEAR TO COMPROMISE, THE
> INTEGRITY OF SUPERVISORY AUTHORITY OR THE CHAIN OF COMMAND.
> (2) CAUSE ACTUAL OR PERCEIVED PARTIALITY OR UNFAIRNESS.
> (3) INVOLVE, OR APPEAR TO INVOLVE, THE IMPROPER USE OF RANK OR POSITION FOR PERSONAL GAIN.
> (4) ARE, OR ARE PERCEIVED TO BE, EXPLOITATIVE OR COERCIVE IN NATURE.
> (5) CREATE AN ACTUAL OR CLEARLY PREDICTABLE ADVERSE IMPACT ON DISCIPLINE, AUTHORITY, MORALE, OR THE ABILITY OF THE COMMAND TO ACCOMPLISH ITS MISSION.
> C. CERTAIN TYPES OF PERSONAL RELATIONSHIPS BETWEEN OFFICERS AND ENLISTED PERSONNEL ARE PROHIBITED. PROHIBITED RELATIONSHIPS INCLUDE:
> (1) ON-GOING BUSINESS RELATIONSHIPS BETWEEN OFFICERS AND ENLISTED PERSONNEL. THIS PROHIBITION DOES NOT APPLY TO LANDLORD/TENANT RELATIONSHIPS OR TO ONE-TIME TRANSACTIONS SUCH AS THE

> PAGE 03 RUEADWD3952 UNCLAS
> SALE OF AN AUTOMOBILE OR HOUSE, BUT DOES APPLY TO BORROWING OR LENDING MONEY, COMMERCIAL SOLICITATION, AND ANY OTHER TYPE OF ON-GOING FINANCIAL OR BUSINESS RELATIONSHIP. BUSINESS RELATIONSHIPS WHICH EXIST AT THE TIME THIS POLICY BECOMES EFFECTIVE, AND THAT WERE
> AUTHORIZED UNDER PREVIOUSLY EXISTING RULES AND REGULATIONS, ARE EXEMPT UNTIL MARCH 1, 2000. IN THE CASE OF ARMY NATIONAL GUARD OR UNITED STATES ARMY RESERVE PERSONNEL, THIS PROHIBITION DOES NOT APPLY TO RELATIONSHIPS THAT EXIST DUE TO THEIR CIVILIAN OCCUPATION OR EMPLOYMENT.
> (2) DATING, SHARED LIVING ACCOMMODATIONS OTHER THAN THOSE DIRECTED BY OPERATIONAL REQUIREMENTS, AND INTIMATE OR SEXUAL RELATIONSHIPS BETWEEN OFFICERS AND ENLISTED PERSONNEL. THIS PROHIBITION DOES NOT APPLY TO:
> (A) MARRIAGES THAT PREDATE THE EFFECTIVE DATE OF THIS POLICY OR ARE ENTERED INTO PRIOR TO MARCH 1, 2000.
> (B) UNTIL MARCH 1, 2000, RELATIONSHIPS (DATING, SHARED
> LIVING ACCOMMODATIONS, AND INTIMATE OR SEXUAL RELATIONSHIPS) OUTSIDE
> OF MARRIAGE THAT PREDATE THE EFFECTIVE DATE OF THIS POLICY.
> (C) SITUATIONS IN WHICH A RELATIONSHIP WHICH COMPLIES WITH
> THIS POLICY WOULD MOVE INTO NON-COMPLIANCE DUE TO A CHANGE IN STATUS

> PAGE 04 RUEADWD3952 UNCLAS
> OF ONE OF THE MEMBERS (FOR INSTANCE, A CASE WHERE TWO ENLISTED MEMBERS ARE MARRIED AND ONE IS SUBSEQUENTLY COMMISSIONED OR SELECTED AS A WARRANT OFFICER).
> (D) PERSONAL RELATIONSHIPS OUTSIDE OF MARRIAGE BETWEEN MEMBERS OF THE NATIONAL GUARD OR ARMY RESERVE, WHEN THE RELATIONSHIP PRIMARILY EXISTS DUE TO CIVILIAN ACQUAINTANCESHIPS, UNLESS THE INDIVIDUALS ARE ON ACTIVE DUTY (OTHER THAN ANNUAL TRAINING) OR FULL-TIME NATIONAL GUARD DUTY (OTHER THAN ANNUAL TRAINING).
> (E) PERSONAL RELATIONSHIPS OUTSIDE OF MARRIAGE BETWEEN MEMBERS OF THE REGULAR ARMY AND MEMBERS OF THE NATIONAL GUARD OR ARMY RESERVE WHEN THE RELATIONSHIPS PRIMARILY EXISTS DUE TO CIVILIAN ASSOCIATION AND THE RESERVE COMPONENT MEMBER IS NOT ON ACTIVE DUTY (OTHER THAN ANNUAL TRAINING) OR FULL-TIME NATIONAL GUARD DUTY (OTHER THAN ANNUAL TRAINING).
> (F) SOLDIERS AND LEADERS SHARE RESPONSIBILITY,> HOWEVER, FOR ENSURING THAT THESE RELATIONSHIPS DO NOT INTERFERE WITH GOOD ORDER AND DISCIPLINE. COMMANDERS WILL ENSURE THAT PERSONAL RELATIONSHIPS WHICH EXIST BETWEEN SOLDIERS OF DIFFERENT RANKS EMANATING FROM THEIR CIVILIAN CAREERS WILL NOT INFLUENCE TRAINING,
> READINESS, OR PERSONNEL ACTIONS.
>

> PAGE 05 RUEADWD3952 UNCLAS
> (3) GAMBLING BETWEEN OFFICERS AND ENLISTED PERSONNEL.
> D. THESE PROHIBITIONS ARE NOT INTENDED TO PRECLUDE NORMAL TEAM BUILDING ASSOCIATIONS WHICH OCCUR IN THE CONTEXT OF ACTIVITIES SUCH AS COMMUNITY ORGANIZATIONS, RELIGIOUS ACTIVITIES, FAMILY GATHERINGS, UNIT-BASED SOCIAL FUNCTIONS, OR ATHLETIC TEAMS OR EVENTS.
> E. ALL MILITARY PERSONNEL SHARE THE RESPONSIBILITY FOR MAINTAINING PROFESSIONAL RELATIONSHIPS. HOWEVER, IN ANY RELATIONSHIP BETWEEN SOLDIERS OF DIFFERENT GRADE OR RANK THE SENIOR MEMBER IS GENERALLY IN THE BEST POSITION TO TERMINATE OR LIMIT THE EXTENT OF THE RELATIONSHIP. NEVERTHELESS, ALL MEMBERS MAY BE HELD ACCOUNTABLE
> FOR RELATIONSHIPS THAT VIOLATE THIS POLICY.
> F. COMMANDERS SHOULD SEEK TO PREVENT INAPPROPRIATE OR UNPROFESSIONAL RELATIONSHIPS THROUGH PROPER TRAINING AND LEADERSHIP BY EXAMPLE. SHOULD INAPPROPRIATE RELATIONSHIPS OCCUR, COMMANDERS HAVE AVAILABLE A WIDE RANGE OF RESPONSES. THESE RESPONSES MAY INCLUDE COUNSELING, REPRIMAND, ORDER TO CEASE, REASSIGNMENT, OR ADVERSE ACTION. POTENTIAL ADVERSE ACTION MAY INCLUDE OFFICIAL REPRIMAND, ADVERSE EVALUATION REPORT(S), NONJUDICIAL PUNISHMENT, SEPARATION, BAR TO REENLISTMENT, PROMOTION DENIAL, DEMOTION, AND
>

> PAGE 06 RUEADWD3952 UNCLAS
> COURTS MARTIAL. COMMANDERS MUST CAREFULLY CONSIDER ALL OF THE FACTS AND CIRCUMSTANCES IN REACHING A DISPOSITION THAT IS WARRANTED, APPROPRIATE, AND FAIR.
> 4-15. OTHER PROHIBITED RELATIONSHIPS
> A. TRAINEE AND SOLDIER RELATIONSHIPS. ANY RELATIONSHIP BETWEEN PERMANENT PARTY PERSONNEL AND IET TRAINEES NOT REQUIRED BY THE TRAINING MISSION IS PROHIBITED. THIS PROHIBITION APPLIES TO PERMANENT PARTY PERSONNEL WITHOUT REGARD TO THE INSTALLATION OF ASSIGNMENT OF THE PERMANENT PARTY MEMBER OR THE TRAINEE.
> B. RECRUITER AND RECRUIT RELATIONSHIPS. ANY RELATIONSHIP BETWEEN PERMANENT PARTY PERSONNEL ASSIGNED OR ATTACHED TO THE UNITED STATES ARMY RECRUITING COMMAND AND POTENTIAL PROSPECTS, APPLICANTS, MEMBERS OF THE DELAYED ENTRY PROGRAM (DEP), OR MEMBERS OF THE DELAYED TRAINING PROGRAM (DTP) NOT REQUIRED BY THE RECRUITING MISSION IS PROHIBITED. THIS PROHIBITION APPLIES TO UNITED STATES ARMY RECRUITING COMMAND PERSONNEL WITHOUT REGARD TO THE UNIT OF ASSIGNMENT OF THE PERMANENT PARTY MEMBER AND THE POTENTIAL PROSPECTS, APPLICANTS, DEP MEMBERS, OR DTP MEMBERS.
> 4-16. FRATERNIZATION. VIOLATIONS OF PARAGRAPH 4-14B, 4-14C, AND 4-15 MAY BE PUNISHED UNDER ARTICLE 92, UCMJ, AS A VIOLATION OF A LAWFUL GENERAL REGULATION.
> 4. DA PAM 600-35 IS BEING REVISED TO REFLECT THIS CHANGE.
> ADDITIONAL TRAINING MATERIALS PERTAINING TO THIS CHANGE WILL BE ISSUED SEPARATELY.
> 5. POC FOR THIS ACTION IS MAJOR LINDSEY ARNOLD, DAPE-HR-L, DSN 227-6864, COM (703)697-6864, E-MAIL ARNOLLE@HQDA.ARMY.MIL.
> BT

F. Adultery. UCMJ art. 134.

1. Elements.

a. The accused wrongfully had sexual intercourse with a certain person;

b. at the time of the intercourse, the accused or the other person was married to someone else; and

c. under the circumstances, the accused's conduct was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

2. Maximum punishment: dishonorable discharge, total forfeitures and one year confinement.

3. Applicable to officers and enlisted.

V. SEXUAL HARASSMENT.

A. DoD Policy.

Sexual harassment is strictly prohibited in the Armed Forces and civilian work force.

B. Definition. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when

1. submission to or rejection of such conduct is a term/condition of a person's job, pay, or career; or used as a basis for career or employment decisions affecting that person; [Quid pro quo]

or

2. such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment [Hostile environment].

C. Command and Supervisory Responsibility.

A supervisor or commander who "knew or should have known" of certain acts of sexual harassment by subordinates and who fails to take corrective action may be held responsible for the sexual harassment.

D. Examples:

1. Verbal: Unwanted sexual teasing, jokes with sexual overtones/innuendo, personal questions about sexuality, comments on appearance and fit of clothing other than performance counseling, pressure for dates or sexual favors, and/or starting or spreading rumors about a person's sexual habits.

2. Written: Unwanted suggestive notes or memos, pictures or sayings of a sexual nature in the workplace.

3. Physical or Nonverbal: Unwanted sexual looks, stares, gestures; unwanted deliberate touching, patting, leaning over, bumping against, cornering, pinching, caressing, and/or kissing.

4. Egregious behavior may be criminal.

E. Scope.

The prohibition against sexual harassment is not limited to the work site or to duty hours.

VI. CRIMINAL ASPECTS OF SEXUAL HARASSMENT.

A. Sexual Harassment by Superior Officer or NCO.

1. UCMJ art. 93 - Maltreatment of Subordinate.

a. Elements. MCM, pt. IV, ¶ 17.b.

(1) A certain person was subject to the orders of the accused; and

(2) the accused was cruel toward, or oppressed, or maltreated that person.

b. Maximum Punishment: Dismissal/dishonorable discharge, total forfeitures, confinement for one year.

c. Sexual harassment of a subordinate may constitute cruelty, oppression, or maltreatment. United States v. Rutko, 36 M.J. 798 (A.C.M.R. 1993); MCM, pt. IV, ¶ 17c(2);cf. United States v. Hanson, 30 M.J. 1198 (A.F.C.M.R. 1990), aff'd, 32 M.J. 309 (C.M.A.), cert. denied, 500 U.S. 933 (1991)(holding male officer's suggestive comments to male subordinates, even if done in jest, amounted to maltreatment).

2. UCMJ art. 133 - Conduct Unbecoming an Officer.

a. United States v. McCreight, 39 M.J. 530 (A.F.C.M.R. 1994)(no maltreatment in the absence of threat made in order to induce enlisted member to have intercourse), aff'd on other grounds, 43 M.J. 483 (1996).

b. United States v. Shober, 26 M.J. 501 (A.F.C.M.R. 1986) (sexually exploiting civilian waitress accused was charged with supervising was conduct unbecoming an officer and a gentleman).

c. United States v. Parini, 12 M.J. 679 (A.C.M.R. 1981) (colonel's attempts to extract sexual favors from subordinates in return for favorable treatment constituted conduct unbecoming).

3. UCMJ art. 134 - The General Article. United States v. Peszynski, 40 M.J. 874 (N.M.C.M.R. 1994)(alleging "sexual harassment," without more, may not state an offense under UCMJ art. 134).

B. Sexual Harassment of Superior by a Subordinate.

1. UCMJ art. 89 - Disrespect toward a Superior Commissioned Officer.

United States v. Dornick, 16 M.J. 642 (A.F.C.M.R. 1983) (accused convicted of disrespect toward LT by saying to her, "Hi sweetheart").

2. UCMJ art. 91 - Insubordinate Conduct Toward Warrant Officer, Noncommissioned Officer, or Petty Officer.

C. Other Potentially Related Offenses.

1. UCMJ art. 92 - Disobedience of Local Punitive Regulation.

2. UCMJ art. 92 - Dereliction of Duty.

A commander or supervisor may commit dereliction of duty if they fail to take any action following a report of sexual harassment. See AR 600-20, ¶ 6-4b (IO4, 17 Sept 1993). But cf. United States v. Wheatley, 28 C.M.R. 461 (A.B.R. 1959)(commander not guilty of maltreatment when "he ignores and fails to censor the horse-play and language of his enlisted subordinates whenever it exceeds the bounds of good taste.").

3. UCMJ art. 117 - Provoking Speeches or Gestures.

4. UCMJ art. 125 - Sodomy.

5. UCMJ art. 127 - Extortion.

United States v. Hicks, 24 M.J. 3 (C.M.A. 1987) (extracting sexual favors from civilian female in return for not reporting her boyfriend's violation of unit policy letter was extortion).

6. UCMJ art. 128 - Assault or Battery.

United States v. Bonano-Torres, 31 M.J. 175 (C.M.A. 1990) (touching victim's blouse in attempt to unbutton it qualified as a battery).

7. UCMJ art. 134 - Adultery.

United States v. Wales, 31 M.J. 301 (C.M.A. 1990) (sexual relationship between officer and enlisted subordinate).

8. UCMJ art. 134 - Bribery and Graft.

9. UCMJ art. 134 - Fraternization. See cases cited in the previous discussion and appendix of fraternization and related offenses.

10. UCMJ art. 134 - Indecent Assault.

United States v. Robinson, 37 M.J. 588 (A.F.C.M.R. 1993)(accused commits indecent assault upon subordinate by actively grinding his groin against victim's buttocks).

11. UCMJ art. 134 - Indecent Acts With Another.

United States v. Athey, 34 M.J. 44 (C.M.A. 1992) (officer convicted of engaging in indecent acts with female office employee).

12. UCMJ art. 134 - Indecent Language.

United States v. Hullett, 40 M.J. 189 (C.M.A. 1994)(setting aside conviction because language in question, an expression of desire for intercourse, neither violated standards of decency of military community nor was prejudicial to good order and discipline).

13. UCMJ art. 134 - Communication of a Threat.

VII. CONCLUSION.

APPENDIX

Case Law: Fraternization and Related Offenses

United States v. McCreight, 43 M.J. 483 (1996).

Officer unlawfully fraternized with enlisted subordinate by repeatedly drinking with subordinate under circumstances in which subordinate was "designated driver" and officer was "designated drunk," by allowing subordinate to sleep over in his off-base apartment on numerous occasions, and by sharing details of his sexual conquest of another subordinate's wife.

United States v. Bovett, 42 M.J. 150, cert. denied, 116 S. Ct. 308 (1995).

Specification alleging unprofessional close personal relationship, including sexual intercourse, with enlisted person not under accused's supervision was not void for vagueness where accused had received training that such contact violated service custom and had been counseled by superiors against fraternizing.

nited States v. Kroop, 38 M.J. 470 (C.M.A. 1993).

Allegations of "undue familiarity" and "excessive social contacts" with married female service members were insufficient to allege unbecoming conduct.

United States v. Parillo, 34 M.J. 112 (C.M.A. 1992).

Accused convicted of conduct unbecoming an officer for engaging in sexual relationships with enlisted airmen over whom she exercised supervision.

United States v. Kirk, 31 M.J. 84 (C.M.A. 1990).

Accused was "student" for purpose of regulation prohibiting any attempt to develop personal relationship with any faculty or staff member and, therefore, could be convicted of violating lawful general regulation for engaging in such conduct.

United States v. Appel, 31 M.J. 314 (C.M.A. 1990).

ernization conviction of Air Force major upheld; accused held hands, hugged, kissed, and shared hotel room with woman who was alleged and proven to be under major's supervision.

United States v. Guaglione, 27 M.J. 268 (C.M.A. 1988).

Fraternization conviction under Article 133, based upon officer's visit to brothel in Frankfurt with three enlisted soldiers, set aside. Accused entered out of curiosity, partook of no services, and was not platoon leader of the soldiers. The battery and battalion commanders, as well as a former first sergeant of the battery, testified that visit was poor judgment, but not "conduct unbecoming an officer." Court accepted premise that officer may be held to higher standard than enlisted or a civilian, but reversed because of insufficient notice to officer corps that such conduct was criminal, i.e., unbecoming conduct.

United States v. Tedder, 24 M.J. 176 (C.M.A. 1987).

Fraternization conviction upheld of Marine Corps Captain, unit legal officer (not a JAG), who socialized on first name basis and had sexual intercourse with enlisted woman who initially sulted with him about legal problem.

United States v. Adames, 21 M.J. 465 (C.M.A. 1986).

Fraternization conviction upheld of Army officer, who was XO of AIT training company, for attending off-post party with female trainees from his company where alcohol and sexual promiscuity were present.

United States v. Mayfield, 21 M.J. 418 (C.M.A. 1986).

Fraternization conviction upheld of Army officer who sought date from enlisted trainee on three occasions in violation of punitive policy issued by the CG, Fort Lee. Consent by the enlisted soldier is neither relevant nor an element of a fraternization charge.

United States v. Nunes, 39 M.J. 889 (A.F.C.M.R.), rev. denied, 41 M.J. 372 (1995).

"This case is a useful corrective to the common notion that fraternization perforce must include sexual hanky-panky. In fact, it is the illicit association between officers and enlisted sonnel on terms of equality, not any particular sexual relationship (or any such tionship at all) that is the gravamen of the offense."

nited States v. Cisler, 33 M.J. 503 (A.F.C.M.R. 1991).

ol convicted of conduct unbecoming an officer for dating an airman, not his wife, while arried; accused also convicted of disobeying the order of a LTG not to associate with the rman.

nited States v. Clarke, 25 M.J. 631 (A.C.M.R. 1987), aff'd, 27 M.J. 361 (C.M.A. 1989).

N]oncommissioned officers are on notice that fraternization with enlisted subordinates is an ffense punishable under the provisions of Article 134, UCMJ."

nited States v. Sartin, 24 M.J. 873 (A.C.M.R. 1987).

egulation proscribing fraternization between permanent party personnel and soldiers in aining status was not overbroad in extending definition of "training status" until departure om post on PCS.

Appendix I

Army Regulation 735-5
(Extract)

The Report of Survey System

Section I
General

13-1. Purpose of a report of survey

A report of survey documents the circumstances concerning the loss, damage, or destruction of Government property and serves as, or supports a voucher for adjusting the property from accountable records. It also documents a charge of financial liability assessed against an individual or entity, or provides for relief from financial liability.

13-2. Mandatory initiation of a report of survey

a. Initiate and process a report of survey to account for lost, damaged, or destroyed U.S. Government property when one or more of the situations listed below exist. Tables 12-1 and 12-2 display this data in chart form, segregated for damaged property and lost or destroyed property. Process the report of survey in accordance with the version of this regulation in effect at the time the loss, damage or destruction occurred. A report of survey will be processed when--

(1) Negligence or willful misconduct is suspected as the cause, and the individual does not admit liability and refuses to make voluntary reimbursement to the Government for the full value of the loss, less depreciation.

(2) The property loss, damage, or destruction involves a change of accountable officer's inventory and the outgoing accountable officer made no voluntary reimbursement for the full amount of the loss to the Government.

(3) The value of the admitted loss, damage, or destruction exceeds the individual's monthly basic pay.

(4) The value of the damages or shortages in occupied Government quarters (real property and furnishings combined) or Government furnishings in non-Government quarters exceeds the individual's monthly basic pay.

(5) The total handling loss of a specific bulk petroleum product exceeds the allowable loss for that product, and the dollar value of the total loss exceeds $500. See AR 710-2, paragraph 2-35 i.

(6) The Loss or destruction involves a sensitive item. Investigate sensitive items lost or destroyed per AR 15-6. However, do not use the AR 15-6 investigation as authority to adjust property records or to assess financial liability. Process a report of survey to accomplish either of these actions. When using an AR 15-6 investigation, do not request a separate investigation by a survey officer.

(7) The loss or destruction involves public funds or other negotiable instruments.

(8) Required by higher authority or other DA regulations.

(9) Directed by an inventory adjustment report (IAR) approving authority.

(10) The loss or damage involves a GSA vehicle, and the administrative actions under paragraph 12-1c above have not been taken.

(11) The loss resulted from a fire, theft or natural disaster.

b. Paragraph 13-24 discusses the relationship between an AR 15-6 investigation and a report of survey, and the processing procedures.

c. AR 190-11 , appendix E, contains mandatory requirements for initiating an AR 15-6 investigation.

d. Accounting for the loss or destruction of small arms ammunition.

(1) *Stock record level.* Do not use an AR 15-6 investigation or a report of survey for small arms ammunition unless the quantity lost or destroyed equals or exceeds those listed in AR 190-11, appendix E. If the quantity lost or destroyed does not warrant an AR 15-6 investigation, prepare the adjustment using inventory adjustment report procedures under the provisions of paragraph 14-29 .

(2) *Property book level.* When the loss or destruction involves small arms ammunition, process a report of survey to adjust the quantity on the property book record.

13-3. Related reports of survey

a. When property listed on more than one property account becomes lost, damaged, or destroyed in the same incident, initiate a separate report of survey for each property account affected. Cross reference the separate reports of survey to each other.

b. When the lost, damaged or destroyed property is on the property records of the same account, the same DODAAC, and the same document register, prepare only one report of survey.

13-4. Chain of command for processing reports of survey

Process reports of survey through the chain of command of the individual responsible for the property at the time of the incident if the individual is subject to this regulation. When formalized support agreements require processing through other than the above, follow the requirements in the support agreement.

13-5. Time constraints for processing reports of survey

Initiate and process reports of survey within a specific number of days, following the discovery of the loss, damage, or destruction of U.S. Government property, as prescribed in paragraph 13-7 below. When delayed beyond the below listed processing times, the person responsible for the delay will prepare a written statement explaining the reason for the delay and attach it to the report of survey as an exhibit. Total processing time equals the difference in days between the date of discovering the discrepancy and the date of report of survey approval. The time used to notify the individual of the survey officer's recommendation and the approving authority's decision to hold the respondent financially liable per paragraph 13-32 and 13-40 are not included. Subtract one date from the other, less the time used to notify the individual, to determine the total processing time.

a. Active Army. Under normal circumstances, do not exceed 75 calendar days total processing time. Figures 13-1 and 13-2 depict these time segments. Commanders may adjust the time segments shown in the figures downward at their discretion.

b. Army Reserve. Under normal circumstances, do not exceed 240 calendar days total processing time. Figures 13-1 and 13-2 depicts this time segment. Commanders may adjust the time segments shown in the figures downward at their discretion.

c. ARNG. Under normal circumstances, do not exceed 150 calendar days total processing time. Figure 13-1 and 13-2 depicts ARNG processing time segments. Commanders may adjust the time segments shown in figure 13-1 downward at their discretion.

13-6. Report of survey initiator

The initiator of a report of survey will normally be the hand receipt holder or the accountable officer. When the hand receipt holder or the accountable officer is not available, the person with the most knowledge of the incident will serve as the initiator.

13-7. Time constraints for initiation of reports of survey

Initiate reports of survey within the following time limits:

a. Active Army The Active Army will initiate and present reports of survey to the appointing authority or approving authority as appropriate not later than 15 calendar days after the date of discovering the discrepancy.

b. Army Reserve. The USAR will initiate and present reports of survey to the appointing authority or approving authority as appropriate not later than 75 calendar days after the date of discovering the discrepancy.

c. ARNG. The ARNG will initiate and present reports of survey to the appointing authority or approving authority as appropriate not later than 45 calendar days after the date of discovering the discrepancy.

13-8. Basic requirements for DA Form 4697

Prepare DA Form 4697 in original and as many copies as the local command prescribes. Prepare an additional copy when any of the individuals mentioned in block 11, DA Form 4697 are within 6 months of termination of their service or employment. This copy will be provided to the installation FAO.

13-9. Preparation requirements for DA Form 4697

a. Except as stated in b below, the initiator prepares block 1 and blocks 3 through 12 of DA Form 4697 per figure 13-3 .

(1) Unit price (block 9) will be the AMDF price in effect at the time of the loss. When no AMDF price is available, use the current market price of a similar item; otherwise, estimate the price and attach the basis for the estimate to the report of survey as an exhibit. Do not compute the depreciation at this time, the survey officer will compute it in accordance with paragraph 13-30c below.

(a) For subsistence sales accounts, obtain unit prices from the troop issue subsistence activity (TISA) or the commissary price list in effect at the time of the loss.

(b) Do not use reduced prices available to some members of private organizations.

(c) For leased property that is damaged, enter the word "LEASED"; it is not necessary to enter the unit price for damaged leased property.

(2) Total cost (block 10) equals the quantity, times the unit price. For damaged property, enter the estimated cost to repair the damaged property.

(3) Block 11 will contain a description of the events leading to the loss, damage, or destruction of Government property, with an explanation of how it happened. Show all persons directly concerned by name and grade. The description of the facts must be detailed enough to enable the appointing authority or the approving authority to make a determination of whether relief from, or assessment of financial liability should be sought without appointment of a survey officer, or that an investigation by a survey officer is required. The initiator of a report of survey must prepare a thorough survey document in recognition that an investigation by a survey officer represents a significant expenditure of time and effort. It may be necessary for the initiator to obtain statements from individuals who were witnesses or who have knowledge of the incident resulting in the loss. If so, the initiator will ensure the statements are--

(a) Prepared on DA Form 2823 (sworn statement) to record the statements. If the survey officer believes a person providing a statement should be informed of his or her rights under the Uniform Code of Military Justice (UCMJ) Article 31b prior to questioning, the survey officer should consult with the servicing office of the staff judge advocate for advise on how and when the advise will be rendered.

(b) Typed or printed legibly by the individual making the statement in black or blue ink. When DA Form 2823 is not available, plain bond paper or ruled paper with the word "CERTIFICATE"printed or typed across the top may be used in lieu of the DA Form 2823 to record the statement.

(c) Prepared in original and as many copies as prescribed by the local command. Attach the original statement/certificate to the original of the report of survey. Attach the copies to the copies of the report of survey.

(d) The person making the statement dates and signs the statement/certificate.

(e) Lettered alphabetically at the bottom of the statement/certificate, followed with the date, amount, and organization or account as shown on the face of the report of survey. Example: "Exhibit A, R/S, 18 January 1996, $375, Co Z, 906th Signal Battalion."Other exhibits such as an estimated cost of damage (ECOD), military police report, etc., will also be identified as exhibits as shown above.

(4) Except as authorized in paragraph 14-16 , the initiator will not erase or alter any part of blocks 6 through 11, DA Form 4697, or any exhibit. The person preparing a statement may make minor corrections providing he or she initials the change(s).

(5) Table 13-1 and figure 13-4 show sample continuation sheets for blocks 6 through 11.

(6) Have the person providing the statement in block 11 complete and sign block 12.

(7) Leave block 13 blank.

b. Initiating a report of survey resulting from an AR 15-6 investigation. When an AR 15-6 investigation establishes that there is lost, damaged, or destroyed Government property, initiate a report of survey. The initiator will do the following:

(1) Blocks 1 through 10. Prepare the report of survey in accordance with figure 13-5 .

(2) Block 11. Insert the words "See AR 15-6 Investigation". Identify the location of the AR 15-6 investigation if not attached as an exhibit due to security classification.

(3) Blocks 12 and 13. Leave blank.

13-10. Distribution

The initiator will forward reports of survey with exhibits, in original with copies (number as prescribed by the local command) to the accountable officer for assignment of a document/voucher number. (See paragraph 13-14 .)

13-11. Disposition of damaged property

The initiator of a report of survey will not dispose of, repair, or continue to use the damaged property until the survey officer (when appointed), appointing authority, or the approving authority, decide it is no longer needed for investigative purposes.

a. When damaged property is not needed for investigative purposes, return to service that property considered fit for service, or make repairable property available for repair.

b. Turn in unserviceable uneconomically repairable property to the supporting supply activity in accordance with AR 710-2, paragraph 2-13b .

c. Dispose of property damaged in shipment as provided in AR 55-38, and chapter 16 of this regulation.

d. For vehicular accidents resulting in minor damage to the exterior of the vehicle, the approving authority may allow the continued use or the repair of the vehicle when the following actions are accomplished.

(1) Damaged vehicle is photographed documenting the damage caused by the accident.

(2) Certification obtained from a qualified automotive technician that damage does not prevent the safe use of the vehicle, and that continued use will not make the damages worse.

(3) Both the photographs and the certification will be attached as exhibits to the report of survey when report of survey is initiated.

e. For vehicles leased from the General Services Administration (GSA) or rented from commercial activities that become involved in an accident, the following applies. The report of survey approving authority may authorize the use of photographs and written estimated costs to repair the damaged vehicles, in lieu of the survey officer providing a release statement for the repair or turn-in of the vehicles. Estimated costs must be prepared by a qualified technical inspector. When preparing the estimated cost of repair, the technical inspector must identify and document any damage to the vehicle (e.g., through photographs), to include damage that existed prior to the accident. When this process is completed, the appropriate motor pool official may release the vehicle for repair or turn-in. The individual initiating the report of survey will attach this documentation to the report of survey as an exhibit. The survey officer will rely on this documentation of damage in lieu of physically examining the damaged vehicle.

Section II
Accountable Officer

13-12. Accountable officer

a. The accountable officer is a person officially appointed on orders to maintain a formal set of accounting records of property or funds. This person may or may not have physical possession of the property or funds. The three types of accountable officers are--

(1) *Transportation officer.* The transportation officer is accountable for property entrusted to him or her for shipment.

(2) *Stock record officer.* The stock record officer is accountable for supplies being held for issue from time of receipt until issued, shipped, or dropped from accountability.

(3) *Property book officer.* The property book officer is accountable for property at the using unit level on receipt and until subsequently turned in, used (consumed) for authorized purposes, or dropped from accountability. (Hand receipt holders are not accountable officers.)

b. An accountable officer supervises the preparation, maintenance, and management of the document/voucher register, regardless of the physical location of the registers.

13-13. Time constraints for actions by the accountable officer

a. Active Army. The accountable officer will forward reports of survey to the appointing authority or the approving authority as appropriate within 15 calendar days following the date of the discovery of the loss per paragraph 13-7a . The accountable officer will explain any delay in writing and attach the explanation to the report of survey as an exhibit.

b. USAR. The accountable officer will forward reports of survey to the appointing authority or the approving authority as appropriate within 75 calendar days from the date of discovery of the loss, as shown in figures 13-1 and 13-2. The accountable officer will explain any delay in writing and attach the explanation to the report of survey as an exhibit.

c. ARNG. The accountable officer will forward reports of survey to the appointing authority or approving authority as appropriate within 45 calendar days from the date of discovery of the loss, as shown in figure 13-1 and figure 13-2 . The accountable officer will explain any delay in writing and attach the explanation to the report of survey as an exhibit.

13-14. Accountable officer's action on a report of survey

Complete blocks 14, 15, and 16 as shown in figure 13-3 , assigning a document or voucher number to any initiated report of survey when received from the initiator except--

a. For damaged property.

b. When the lost or destroyed property is on another accountable officer's records. The accountable officer will return the report of survey without action, and advise the initiator of who the correct accountable officer is, if known.

13-15. Distribution of reports of survey by the accountable officer immediately after the document number or voucher number is assigned--

a. The accountable officer retains one copy, and posts it to the appropriate accountable record(s). This copy will be filed with the supporting document files.

b. The accountable officer returns one copy to the initiator.

c. The accountable officer forwards the original and all remaining copies of the DA Form 4697, with all exhibits, to the appointing authority or approving authority as appropriate.

Section III
Approving Authority/Appointing Authority

13-16. Definition

The approving authority is defined as an Army officer, or DA civilian employee authorized to appoint a survey officer and to approve reports of survey "by authority of the Secretary of the Army". The minimum grades for approving authorities are shown in paragraphs a and b below. For reports of survey containing recommendations affecting general officers, the next general officer in the chain of command senior to the officer being recommended for assessment of, or relief from, financial liability becomes the approving authority. The appointing authority is an officer or civilian employee designated by the approving authority with responsibility for appointing report of survey investigating officers. The minimum grades of appointing authorities are shown in paragraphs c(1) through (3) below. The approving authority will normally be senior to the appointing authority.

a. Active Army and USAR. Army officers in command positions in the grade of lieutenant colonel or above, DA civilian employees in supervisory positions in the grade of GS-14 or above, chiefs of HQDA staff agencies, and MACOM commanders are report of survey approving authorities. Commanders in the grade of colonel or above, chiefs of HQDA staff agencies, and MACOM commanders may delegate approving authority to an Army officer in the grade of lieutenant colonel or above. If a command or agency is not headed by an Army officer in the grade of lieutenant colonel or above or a DA civilian employee in a supervisory position in the grade of GS-14 or above, the approval authority will be the first individual in the chain of supervision who so qualifies.

b. ARNG. Commanders in the grade of Colonel (Federally recognized) are authorized to be the approving authority for reports of survey arising within their command. Where there is possible state liability, the Director, Army National Guard (DARNG) or the

designated representative will act as both the appointing authority and the approving authority.

c. Withdrawal of approving authority (Active Army and USAR). Commanders, directors, chiefs of HQDA staff agencies, and MACOM commanders in the grade of colonel or above, or GS-15 or above, may retain report of survey approving authority at their level. Retention of approving authority will be documented using an informal memorandum, with copies provided to all affected subordinate commanders/supervisors. When the approving authority is retained at the Colonel or above level, or at the GS-15 or above level, the approving authority may designate individuals to act as appointing authorities using the same informal memorandum. Individuals designated must be--

(1) Lieutenant colonel or major filling a lieutenant colonel billet, or

(2) U.S. DoD civilian employee of equivalent grade of lieutenant colonel or above, i.e. GS-13 or above, or GS-12 filling a GS-13 position on the personnel authorization document.

(3) Within USAMC, a major serving as a commander of a depot activity not co-located with its next higher headquarters.

d. Delegation of approving authority.

(1) Active Army and USAR. General officers and colonels in command positions who do not have subordinate commanders, general officers and colonels who are chiefs of HQDA staff agencies, and MACOM commanders may delegate report of survey approving authority. Delegation must be in writing. Individuals delegated report of survey approving authority must be an Army officer in the grade of lieutenant colonel or above, or be a DA civilian employee in a supervisory position in the grade of GS-14 or above. In addition, they must be a member of the general's or the colonel's command or staff.

(2) USAR. Major U.S. Army Reserve Command (MUSARC) commanders may designate centralized approving authorities for reports of survey initiated by units reporting directly to the MUSARC. This applies to those units commanded by a major or below, and those commanded by a lieutenant colonel, when the MUSARC commander has withdrawn approval authority per paragraph c above. Such designee must be an Army officer in the grade of lieutenant colonel or above, and be senior to all commanders over whom he or she exercises approval authority. The MUSARC commander retains appeal authority.

(3) ARNG. The Adjutant General may delegate approval authority to lieutenant colonels occupying colonel command billets and awaiting federal recognition to colonel. General officers in command positions who do not have subordinate commanders, may delegate in writing approval authority to member(s) of their staff. Individual(s) delegated must be a federally recognized colonel or above. The Adjutant General may designate a

centralized approval authority for some or all commands in the State. Such designee must be senior to all of the commanders over who he or she exercises approval authority and such centralization will not preclude exercising appeal authority within the State. Such designation carries with it all of the responsibilities of an approval authority enumerated elsewhere in this regulation. These responsibilities may not be split or further delegated.

13-17. Conflict of interest

No person may act as an appointing authority or the approving authority who has had personal responsibility for the property listed on the report of survey at the time the property became lost, damaged or destroyed. In such cases, the next higher commander or DA civilian employee in the chain of command/supervision will act as the appointing authority or the approving authority as appropriate.

13-18. Processing steps for appointing authority/approving authority

Figure 13-19 depicts the report of survey processing steps from receipt by the approving authority to, assessment of financial liability, or relief from responsibility. Figure 13-20 depicts the report of survey processing steps from receipt by the appointing authority, to assessment of financial liability, or relief from responsibility.

13-19. Supervising the report of survey system

a. The approving authority will ensure the report of survey system works to promptly discover, report, and investigate the loss, damage, or destruction of Government property. The approving authority will ensure that--

(1) Responsible persons keep themselves informed as to whether any property for which they are responsible or accountable has been lost, damaged, or destroyed.

(2) Initiation, processing, and adjudication of report of survey investigations takes place within the time limits cited in figures 13-1 and 13-2.

(3) Survey officers are thoroughly briefed on how to conduct a report of survey investigation and are provided with a copy of DA Pam 735-5. They are also informed of any specific time restraints.

(4) Administrative action takes place to correct the causes of avoidable delays exceeding the processing time limits established by this regulation.

(5) Assignment of the survey number upon initial receipt of the report of survey from the accountable officer. The survey number is entered in block 2 of DA Form 4697 . The report of survey may be routed through the approval authority for assignment of the survey number prior to going to the accountable officer for a document/voucher number.

(6) The report of survey register and files are maintained according to AR 25-400-2 , and figure 13-10 of this regulation. Normally the report of survey register and the files of approved reports of survey are maintained at the headquarters of the approving authority. This includes the S4, G4, DOL, or other subordinate staff elements as designated by the approving authority. Exceptions to this policy are allowed when--

(a) The logistics staff offices are consolidated at a command level above the approving authority, e.g., battalion S4s consolidated at the brigade S4. Under this scenario the register and associated files may be maintained at the brigade S4.

(b) The report of survey register may be maintained at a centralized office on the installation, providing survey numbers are assigned to all reports of survey initiated for those organizations supported. When this option is used, the approving authority still has the responsibility for the appointment of the survey officer per paragraph 13-16 . Both the office maintaining the report of survey register and the approving authority's headquarters will maintain file copies of the approved reports of survey.

b. Commanders with subordinate report of survey approving authorities will initiate and conduct oversight management of the report of survey process at subordinate commands.

(1) A random sample of no less than 10 percent of the reports of survey approved by subordinate commands during the previous quarter will be reviewed quarterly.

(2) The review will be made to determine if the report of survey approving authorities are properly carrying out their responsibilities as approving authorities, i.e., are the decisions made--

(a) Supported by the evidence documented in the report of survey investigation?

(b) Fair and without bias or prejudice towards the respondent, when charges of financial liability were approved? Was the respondent's negligence and/or willful misconduct the proximate cause for the loss?

(c) In the best interest of the Army and the U.S. Government, when all persons were relieved of accountability and/or responsibility, and charges of financial liability were not made?

(d) Followed-up with corrective actions or directives as appropriate.

13-20. Initial review by the appointing authority or the approving authority

On receipt of DA Form 4697 from the accountable officer, the appointing authority when designated, or the approving authority will review the information in block 11, along with any exhibits provided by the initiator, and determine if--

a. A report of survey investigation is directed by higher authority, other DA regulations, or requested by an accountable supply distribution activity.

b. Sufficient information exists to provide a clear understanding of the circumstances surrounding the loss, damage, or destruction of Government property.

Section IV
Processing Reports of Survey by the Approving Authority Without Appointing a Survey Officer

13-21. Decision by the approving authority without further investigation

This action, a "short survey"provides the approving authority the option of shortening the report of survey process when the facts and circumstances permit. When an appointing authority has not been designated by the approving authority, leave blocks 17 through 20, blank.

a. Relief from responsibility. When the approving authority determines from the information contained in block 11, DA Form 4697, and attached exhibits, there is no evidence of negligence, he or she may provide relief from responsibility by--

(1) Placing an "X"in block 37c and inserting the following statement in block 37 to relieve all concerned of property accountability and responsibility: "I have reviewed the information contained in block 11. No further investigation is required. I do not suspect negligence, or willful misconduct. I relieve all concerned from financial liability for the property listed in blocks 6 through 8."

(2) Completing blocks 38 through 40b.

b. Assessment of financial liability. When the approving authority can establish from the information contained in block 11, DA Form 4697, and attached exhibits, that negligence or willful misconduct was the proximate cause of the loss, damage, or destruction, he or she may assess financial liability by--

(1) Preparing a memorandum to the respondent stating his or her intent to assess financial liability without further investigation. The memorandum will include the facts on which the proposed assessment of financial liability if based, computation of the actual loss, and the amount of financial liability to be assessed. The memorandum will include an explanation of the respondent's rights as described in paragraphs 13-32 and 13-33 . A complete copy of the report of survey with copies of all the exhibits will be attached to the memorandum as an enclosure.

(2) On receipt of a rebuttal statement, if one is received, the approving authority will consider the report of survey together with any new evidence provided, or allegations of error presented by the respondent. The approval authority will make appropriate

comments and attach the rebuttal statement and remarks to the report of survey as exhibits.

(3) On receipt and review of the rebuttal statement, or upon expiration of the time allowed the respondent to submit a rebuttal statement, the report of survey with all exhibits will be forwarded to the installation legal advisor for a legal opinion per paragraph 13-36 below.

(4) On receipt of the legal opinion, final approval to hold respondent financially liable is accomplished by completing blocks 37 through 40b, DA Form 4697, per paragraph 13-38g(4) below. Respondents must be notified of the approved charges of financial liability and be provided the opportunity to exercise their rights as listed in paragraph 13-40 .

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Section V
Processing Reports of Survey by Appointing Authority Without Appointing a Survey Officer

13-22. Recommendation by the appointing authority without further investigation

This action is also a "short survey". It provides the appointing authority, when designated, the option to shorten the report of survey process when the facts and circumstances permit.

a. Relief from responsibility. When the appointing authority determines from the information in block 11, DA Form 4697 , and attached exhibits, there is no evidence of negligence or willful misconduct, they may recommend relief from responsibility by--

(1) Checking item a in block 17 and completing blocks 18, 19, and 20.

(2) Complete block 27.

(3) Forward the DA Form 4697, with exhibits, to the approving authority.

b. Assessment of financial liability. When the appointing authority can establish from the information contained in block 11, DA Form 4697, and the attached exhibits, that negligence or willful misconduct was the proximate cause of the loss, damage, or destruction of Government property, the appointing authority must--

(1) Prepare a memorandum to the respondent stating his or her intent to recommend charges of financial liability without further investigation. The memorandum will include the facts on which the recommended charges of financial liability are based, computation

of the actual loss, and the amount of financial liability being recommended. The memorandum will include an explanation of the respondent's rights as described in paragraphs 13-32 and 13-33 . A complete copy of the report of survey, to include copies of all the exhibits, will be attached to the memorandum as an enclosure.

(2) On receipt of a rebuttal statement, if one is received, the appointing authority will consider the report of survey together with any new evidence provided, or allegations of error presented by the respondent. The appointing authority will make appropriate comments and attach the rebuttal statement and remarks to the report of survey as exhibits.

(3) On receipt and review of a rebuttal statement, or upon expiration of the time allowed the respondent to submit a rebuttal statement, the appointing authority will--

(a) Check item "a"of block 17, DA Form 4697. In the second and third sentences of item "a", line through the words "no"and "do not"respectively. Note the parenthetical instruction "(proceed to block 37)"does not apply.

(b) Complete blocks 18, 19, and 20.

(c) Leave blocks 21 through 25 blank.

(d) In block 26, enter a recommendation regarding the charge of financial liability, and the amount of financial liability being recommended. Enter a statement explaining the facts on which the appointing authority's recommendation is based. Enter the name, grade and SSN of those individual(s) being recommended for charges of financial liability. Include the amount of their monthly basic pay at the time of the loss.

(e) Complete blocks 27a, b, and c showing the amount of the loss, the recommended amount of financial liability, and the loss to the Government.

(f) Leave blocks 28, 29a and b, blank.

(g) Ensure blocks 30, 31, 32a, and 32b are completed by the respondent. In the statement in block 30, line through the words "of the surveying officer".

(h) Leave block 33 blank.

(i) In block 34 enter: See block 26 above for appointing authority's comments.

(j) Complete blocks 35, 36a and b.

(k) Forward the completed DA Form 4697, with all exhibits, to the approving authority for final action, per paragraph 13-38g .

13-22b.

Section VI
Appointment of a Survey Officer or AR 15-6 Investigating Officer

13-23. When the report of survey does not contain enough information to make a decision without further investigation

a. The appointing authority or the approving authority as appropriate may appoint a survey officer by completing blocks 21 through 25 (see figure 13-6). When an appointing authority has not been designated, and the approving authority appoints the survey officer, blocks 17 through 20 are left blank. The appointing authority/approving authority will present the report of survey with all exhibits to the survey officer.

b. The appointing authority or the approving authority may direct an investigation according to AR 15-6 by completing blocks 21 through 25, lining through the words "survey officer"and inserting "AR 15-6 investigating officer"(see figure 13-7). The appointing authority/approving authority will present the report of survey with all exhibits to the investigating officer.

13-24. Use of an AR 15-6 investigation

a. There are four situations warranting an investigation performed per AR 15-6 in lieu of an investigation conducted under this regulation. These situations occur when directed by--

(1) Other specific Army regulations.

(2) A commander.

(3) A report of survey approving authority per AR 15-6, paragraph 2-1a.

(4) A report of survey appointing authority per AR 15-6 , paragraph 2-1a.

b. When an AR 15-6 investigation is directed as a result of the loss, damage, or destruction of Government property, the DA Form 4697 will be prepared as follows:

(1) Blocks 1 through 16 are completed prior to the appointment of an AR 15-6 investigating officer. Follow the instructions in figure 13-5 .

(2) Blocks 17 through 20. If an appointing authority has been designated, the appointing authority will complete, otherwise leave blank.

(3) Blocks 21 through 25. The appointing authority or the approving authority as appropriate will appoint an AR 15-6 investigating officer following the instructions in figure 13-7 and AR 15-6, paragraph 2-1b.

c. On completion of the AR 15-6 investigation, do the following:

(1) Attach the AR 15-6 investigation to the report of survey as an exhibit. Do not use the AR 15-6 investigation as a supporting document/voucher to adjust balances on property records or as a document to assess financial liability. Use the report of survey for these purposes.

(2) In block 26, enter the words "see AR 15-6 investigation at exhibit (identify exhibit by an alpha character)". Mark classified or sensitive AR 15-6 investigation reports in block 26 showing their identification and location.

(3) Blocks 26 through 32b. The AR 15-6 investigating officer will complete all actions as required by AR 15-6. The appointing authority or the approving authority as appropriate will accomplish those actions normally required of a survey officer as prescribed in paragraphs 13-30 , 13-32 , and 13-33 , had one been appointed.

13-25. Survey Officer

An individual appointed to investigate the circumstances, and make findings and recommendations relating to the loss, damage, or destruction of Government property listed on a report of survey.

13-26. Survey officer qualifications

a. The survey officer must be an Army commissioned or warrant officer; an Army noncommissioned officer in the grade of sergeant first class (SFC) or above; civilian employee GS-7 or above, or a wage leader (WL) or wage supervisor (WS) employee. For report of survey investigations conducted in joint service activities, survey officers may be any DoD commissioned or warrant officer, or a noncommissioned officer in the pay grade of E7 or above assigned to the activity. Additionally, a foreign national employee, GS-7 equivalent or above, may be designated to act as survey officer on reports of survey originating within a civilian support center (CSC). Federal recognition of an ARNG member constitutes authority to be appointed as a survey officer.

b. Appoint only those individuals as survey officers who are senior to individual(s) subject to potential financial liability. Senior by time-in-grade is acceptable. If during the investigation the survey officer discovers that completion of the investigation will require him or her to examine the conduct or performance of duty of someone senior, or may result in a finding and recommendation adverse to a person senior to him or her, the survey officer will report that fact to the approving authority. The approving authority will review the findings, and either excuse the survey officer and designate another person senior to the individual concerned, or direct the investigation to continue if

military exigencies make the change impractical. When employing the military exigency option, the approving authority will document the military exigency as an exhibit to the report of survey.

c. No person may act as the survey officer who is personally responsible for, or is in any way directly interested in the property listed on the report of survey.

13-27. Time constraints for conducting the investigation by the survey officer

a. Unless the approving authority specifies a shorter time, a survey officer has up to 30 calendar days (USAR and ARNG 60 calendar days) from the date of receipt to complete the report of survey investigation. Appointment as a survey officer becomes that person's primary duty until the approving authority accepts the investigation as completed, or until otherwise relieved from that duty. Any delay must be explained in writing by the survey officer and attached to the report of survey as an exhibit.

b. In the event the survey officer is unable to complete the investigation and a new survey officer is necessary, appointment will be made using an informal memorandum. Enter the information shown on DA Form 4697, blocks 21 through 25, as show in figure 13-6 . Include an explanation stating why the original survey officer is unable to complete the report of survey investigation.

13-28. Survey officer's responsibilities

A survey officer's responsibility is to determine the cause and value of the loss, damage, or destruction of Government property listed on the report of survey, and to determine if assessment of financial liability is warranted. That determination must follow from the facts developed during a thorough and impartial investigation. However, before beginning the investigation the survey officer must have an understanding of the terms "responsibility, culpability, proximate cause, and loss;"each term impacts upon a determination of financial liability. Individuals may be held financially liable for the loss, damage, or destruction of Government property if they were negligent or have committed willful misconduct, and their negligence or willful misconduct is the proximate cause of that loss, damage, or destruction. The following terms are addressed in order to assist the survey officer in evaluating financial liability:

a. Responsibility.

(1) *General.* The type of responsibility a person has for property determines the obligations incurred by that individual for the property. Appendix presents specific issues the survey officer must consider before recommending financial liability.

(2) *Command responsibility.* The obligation of a commander to ensure all Government property within his or her command is properly used and cared for, and that proper custody and safekeeping of Government property are provided. Command responsibility

is inherent in command and cannot be delegated. It is evidenced by assignment to command at any level and includes--

(a) Ensuring the security of all property within the command, whether in use or in storage.

(b) Observing subordinates to ensure their activities contribute to the proper custody, care, use, and safekeeping of all property within the command.

(c) Enforcing all security, safety, and accounting requirements.

(d) Taking administrative or disciplinary action when necessary.

(3) *Supervisory responsibility.* The obligation of a supervisor to ensure all Government property issued to, or used by his or her subordinates, is properly used and cared for, and that proper custody and safekeeping of the property are provided. It is inherent in all supervisory positions and is not contingent upon signed receipts or responsibility statements. It arises because of assignment to a specific position and includes--

(a) Providing proper guidance and direction.

(b) Enforcing all security, safety, and accounting requirements.

(c) Maintaining a supervisory climate that will facilitate and ensure the proper care and use of Government property.

(4) *Direct responsibility.* The obligation of a person to ensure all Government property for which he or she has receipted is properly used and cared for, and that proper custody and safekeeping are provided. Direct responsibility results from assignment as an accountable officer, receipt of formal written delegation, or acceptance of the property on hand receipt from an accountable officer.

(5) *Custodial responsibility.* The obligation of an individual for property in storage awaiting issue of turn-in to exercise reasonable and prudent actions to properly care for, and ensure property custody and safekeeping of the property are provided. Custodial responsibility results from assignment as a supply sergeant, supply custodian, supply clerk, or warehouse person, and is rated by and answerable directly to the accountable officer or the individual having direct responsibility for the property. Responsibilities include--

(a) Ensuring the security of all property stored within the supply room and storage annexes belonging to the supply room or SSA is adequate.

(b) Observing subordinates to ensure their activities contribute to the proper custody, care and safekeeping of all property within the supply room and storage annexes belonging to the supply room or SSA.

(c) Enforcing all security, safety, and accounting requirements.

(d) When unable to enforce any of these, reporting the problem(s) to their immediate supervisor.

(6) *Personal responsibility.* The obligation of a person to exercise reasonable and prudent actions to properly use, care for, and safeguard all Government property in his or her physical possession. It applies to all Government property issued for, acquired for, or converted to a person's exclusive use, with or without receipt.

b. Culpability.

(1) Before a person can be held financially liable, the facts must show that he or she, through negligence or willful misconduct, violated a particular duty involving the care of the property.

(2) Simple negligence is the absence of due care, by an act or omission of a person which lacks that degree of care for the property that a reasonably prudent person would have taken under similar circumstances, to avoid the loss, damage, or destruction of Government property. (4) *Direct responsibility.* The obligation of a person to ensure all Government property for which he or she has receipted is properly used and cared for, and that proper custody and safekeeping are provided. Direct responsibility results from assignment as an accountable officer, receipt of formal written delegation, or acceptance of the property on hand receipt from an accountable officer.

(5) *Custodial responsibility.* The obligation of an individual for property in storage awaiting issue of turn-in to exercise reasonable and prudent actions to properly care for, and ensure property custody and safekeeping of the property are provided. Custodial responsibility results from assignment as a supply sergeant, supply custodian, supply clerk, or warehouse person, and is rated by and answerable directly to the accountable officer or the individual having direct responsibility for the property. Responsibilities include--

(a) Ensuring the security of all property stored within the supply room and storage annexes belonging to the supply room or SSA is adequate.

(b) Observing subordinates to ensure their activities contribute to the proper custody, care and safekeeping of all property within the supply room and storage annexes belonging to the supply room or SSA.

(c) Enforcing all security, safety, and accounting requirements.

(d) When unable to enforce any of these, reporting the problem(s) to their immediate supervisor.

(6) *Personal responsibility.* The obligation of a person to exercise reasonable and prudent actions to properly use, care for, and safeguard all Government property in his or her physical possession. It applies to all Government property issued for, acquired for, or converted to a person's exclusive use, with or without receipt.

b. Culpability.

(1) Before a person can be held financially liable, the facts must show that he or she, through negligence or willful misconduct, violated a particular duty involving the care of the property.

(2) Simple negligence is the absence of due care, by an act or omission of a person which lacks that degree of care for the property that a reasonably prudent person would have taken under similar circumstances, to avoid the loss, damage, or destruction of Government property.

(3) Gross negligence is an extreme departure from due care resulting from an act or omission of a person accountable or responsible for Government property which falls far short of that degree of care for the property that a reasonably prudent person would have taken under similar circumstances. It is accompanied by a reckless, deliberate, or wanton disregard for the foreseeable loss or damage to the property.

(4) Whether a person's acts or omissions constitute negligence depends on the circumstances of each case. Negligence under some circumstances may not reflect negligence under other circumstances. Therefore, fully consider the following factors, as a minimum, when determining the reasonableness of a person's conduct:

(a) The person's age, experience, physical condition, and special qualifications.

(b) The type of responsibility the person had toward the property.

(c) The type and nature of the property.

(d) The nature, complexity, level of danger, or urgency of the activity ongoing at the time of the loss, damage, or destruction of the property.

(e) The adequacy of supervisory measures or guidance for property control.

(f) The feasibility of maintaining close supervision over the property given the nature and complexity of the organization or activity supervised.

(g) The extent supervision could influence the situation considering pressing duties or lack of qualified assistants.

(5) Willful misconduct is any intentional wrongful or unlawful act or omission relating to Government property.

c. Proximate cause. Before holding a person financially liable for a loss to the Government, the facts must clearly show that the person's conduct was the "proximate"cause of the loss, damage, or destruction. That is, the person's acts or omissions were the cause that, in a natural and continuous sequence, unbroken by a new cause, produced the loss, damage, or destruction, and without which the loss, damage, or destruction would not have occurred.

d. Loss. Before holding a person financially liable, the facts must show that a loss to the Government occurred. "Loss"means loss of, damage to, or destruction of, property of the U.S. Government. Loss includes a loss from accountability. Property is considered lost when it cannot be found or accounted for by the last responsible person in the audit trail.

Section VII
Conducting a Report of Survey Investigation by the Survey Officer

13-29. Conducting the investigation

Investigative work is a critical phase of the report of survey system. A survey officer's task is to seek out all the facts that surround the loss, damage, or destruction of Government property. The following paragraphs will assist the survey officer in collecting data needed to develop findings:

a. A survey officer must stay free from bias or prejudice. An investigation should not be started with predetermined ideas as to what caused, or who is to blame for the loss, damage or destruction. A thorough investigation may establish no fault, or it may establish that financial liability should be recommended.

b. The survey officer must begin the investigation immediately upon notification of being appointed survey officer.

c. As first priority, physically examine any damaged property, and release it for repair or turn-in. If expert opinion will be of value in determining the cause of damage, or the cost of repair, ensure that technical inspectors examine the property and give statements regarding any damaged property. If the damaged property is the result of a vehicular accident involving a GSA vehicle or a rental vehicle rented from a commercial activity, and the proof of damages (e.g., photographs) and estimated cost of damages were documented according to paragraph 13-11e, it is not necessary for the survey officer to release the vehicle for repair or turn-in. However, the survey officer must rely on this documentation in lieu of physically examining the damaged vehicle.

d. Interview and obtain statements from all individuals whose useful testimony may assist in deciding the cause of, or responsibility for, the loss, damage, or destruction of the property listed on the report of survey. For losses or damages previously investigated by a board of officers, military police, or other authorized official, obtain a copy of the

report, or extracted information and attach it to the report of survey as an exhibit. When using classified or otherwise sensitive references, make a statement to that effect in block 26 along with the location and identification of the investigation report. Obtain other available exhibits such as hand receipts or estimated cost of damages (ECOD).

e. The statements and other evidence provided by persons who were responsible for the property listed on a report of survey may be self-serving. The survey officer must confirm, through the use of other independent statements and evidence gathered in the report of survey investigation, if available, as well as any other evidence of reliability that the survey officer considers relevant to indicate that such statements and evidence are factual.

f. The evidence provided by different persons may conflict. The survey officer must resolve conflicts and determine the true facts, as far as possible, by comparing the conflicting versions with other known facts, surrounding circumstances, and common sense.

g. Obtain and mark evidence as follows and attach to each copy of the report of survey:

(1) Prepare witness statements on DA Form 2823. When DA Form 2823 is not available, use plain bond or ruled paper, 8-1/2 by 11 inches, with the word "CERTIFICATE"typed or legibly printed across the top. Statements/certificates will be dated and signed by the individual giving the statement/certificate.

(2) Mark the bottom of each exhibit alphabetically, followed with the date, amount, and organization or account shown on the face of the report of survey. Example: Exhibit A, R/S, 20 January 1996, $375, Co Z, 906th Signal Battalion.

13-30. Survey Officer's Findings and Recommendations

a. A finding is a conclusion reached by the survey officer during his or her investigation of the facts and circumstances surrounding the loss, damage, or destruction. Findings are supported by evidence contained in either block 11, DA Form 4697 or in exhibit(s) attached to the report of survey. When writing findings, exclude personal speculation, suspicion, or opinion not supported by evidence. Findings are the conclusions which form the basis for making recommendations and must be factual. The survey officer must state the facts in his or her own words. Findings will be as complete as possible to enable the reviewers to ascertain relief from, or assessment of, financial liability.

(1) If the survey officer's findings rely on a self-serving statement in block 11, or in one of the exhibits, made by a person who was personally responsible for the property listed on a report of survey at the time of the loss, the survey officer's findings must explain how that person's statement is confirmed by other independently documented evidence, if available, or by any other evidence of reliability that the survey officer considers relevant.

(2) If the survey officer's findings rely on evidence which conflicts with other evidence, the survey officer must explain how the conflict was resolved.

b. After recording the findings, the survey officer must develop a logical recommendation(s) based on his or her findings as applied against the guidance contained in this regulation.

c. The survey officer will enter the following information in blocks 26 through 27c (see figure 13-6).

(1) The value of the lost or destroyed property listed on the report of survey before the loss or destruction occurred. If depreciation is allowed, compute the value of the property as shown in appendix B .

(2) For damaged property, use the actual (if available) or the estimated cost of repairs.

(3) The property value not recovered by the Government.

(4) The disposition, or recommended disposition, of damaged property classified as uneconomically repairable.

(5) For property other than Government quarters, and/or furnishings and equipment therein, the survey officer will state in his or her findings whether the liability resulted from simple negligence or willful misconduct. When the report of survey involves the loss, damage, or destruction to occupant's assigned Government quarters, and/or Government furnishings and equipment therein, the survey officer will determine whether the loss resulted from simple negligence, gross negligence or willful misconduct on the part of the occupant, or the occupant's dependents, quests or pets. When simple negligence is determined, the amount of financial liability will not exceed one month's basic pay or one twelfth of the annual salary for a DoD civilian employee. The occupant will be held financially liable for the full amount of the loss, damage or destruction when it is determined to be the result of--

(a) Gross negligence or willful misconduct of the occupant, or

(b) Gross negligence or intentional misconduct of his or her dependents, quests or pets, under circumstances where the occupant was on notice of the particular risk involved, and failed to exercise available opportunities for preventing or limiting the damage or loss. In the absence of evidence to the contrary, occupants will be presumed to be on notice of risks attending the activities of those whom the occupant invites upon the premises.

(6) Whether assessment of financial liability is appropriate. If financial liability is being recommended, the survey officer will enter--

(a) The name, grade, and social security number of the individual.

(b) When the loss, damage or destruction involves Government quarters, and/or furnishings and equipment therein, state whether the recommendations are based on a finding of simple negligence, gross negligence, or willful misconduct.

(c) The amount to be charged the individual. See paragraph 13-39 , for liability limits.

(d) The methodology used for computation of the charges against a single individual is shown at table 12-3 . When collective and individual liability are recommended, i.e., when 2 or more persons are involved, the charges are computed according to table 12-4.

(e) The amount of the individual's monthly base pay at the time of the loss.

(f) The date the individual is expected to terminate his or her service, or employment.

(7) Whether relief from financial liability is appropriate.

(8) Whether the report of survey lists property for which a claim may be processed under AR 27-20 .

d. The survey officer will complete blocks 28 and 29 of DA Form 4697. If financial liability is being recommended the survey officer will cause the individual recommended for financial liability to complete blocks 30 through 32b (see figure 13-6).

Section VIII
Survey Officer's Actions After Making a Recommendation

13-31. Financial liability not recommended

The survey officer forwards the original and the number of copies specified by the locale command to the appointing authority or the approving authority as appropriate for action. The survey officer retains 1 copy.

13-32. Financial liability recommended

a. The survey officer will give any individual, against whom he or she makes a recommendation to assess financial liability, a chance to examine the report of survey after the findings and recommendations have been recorded on the DA Form 4697, and the opportunity to make a rebuttal statement in his or her behalf (see paragraph 13-35). The survey officer will--

(1) Explain to the individual recommended for a charge of financial liability, the consequences of the recommendation, if approved.

(2) Explain to the individual the significance of any rebuttal statement submitted by him or her regarding the possible assessment of financial liability.

(3) Consider and attach as an exhibit to the report of survey any statement the individual desires to submit.

(4) For reports of survey involving loss, damage or destruction of Government quarters and/or Government furnishings and equipment therein, explain to the individual whether a finding of gross negligence was established and the consequence of a finding of gross negligence.

b. The survey officer will notify the individual by memorandum (example at figure 13-11) that he or she has the right--

(1) To inspect and copy Army records relating to the debt.

(2) To legal advice as authorized by AR 27-3 , paragraph 2-5 and 3-6g(4)(b). Legal advice is normally provided only to military and DoD civilian employees.

(3) To submit a statement and other evidence in rebuttal of the survey officer's recommendation.

c. The survey officer will ensure the respondent completes blocks 30 through 32b on DA Form 4697. A copy of the memorandum explaining the individual's rights will be attached to the report of survey as an exhibit. If more than one individual is recommended for assessment of financial liability, the survey officer will prepare continuation sheet(s) for blocks 30 through 32b as shown in figure 13-8 .

13-33. Submission of individual rebuttal statement

a. Rebuttal statement. Individuals have the right to submit a rebuttal statement, or other added evidence, and to have that statement or evidence considered and attached to the report of survey for consideration by higher authority. Individuals against whom a charge of financial liability is recommended may obtain legal advice from the servicing legal office, (Office of the Staff Judge Advocate, Post Judge Advocate, Command Counsel or Legal Counsel). Normally this free legal advice is only available to military personnel and DoD civilian employees per AR 27-3 , paragraphs 2-5 and 3-6g(4)(b).

b. Time constraints.

(1) An individual who receives a hand delivered report of survey packet has 7 calendar days from the date of receipt to reply with a rebuttal statement or other additional evidence. This time will not be included when computing the total processing time.

(2) Those individuals who are unavailable, but in the same country, have 15 calendar days from the date of mailing to submit a rebuttal. This time will not be included when computing the total processing time.

(3) Those individuals who are unavailable, and in a country different than the survey officer, have 30 calendar days from the date of mailing to submit a rebuttal. This time will not be included when computing the total processing time.

(4) Notification to unavailable individuals will be made by certified mail, return receipt requested. Copies of the notification memorandum will be attached to the report of survey as an exhibit together with the evidence of mailing and return receipt.

(5) When the survey officer receives a rebuttal statement within the allotted time, he or she will consider the report of survey together with any new evidence or allegations of error presented by the respondent, attach the rebuttal statement to the report of survey, make a recommendation, and forward the complete packet to the appointing authority or the approving authority as appropriate for action.

(6) When the survey officer does not receive a rebuttal statement within the allotted time, he or she will forward the report of survey investigation/recommendation to the appointing authority or the approving authority as appropriate.

(7) When the survey officer receives a rebuttal statement after the time allotted for rebuttal has expired, he or she will consider any new evidence presented by the respondent. If appropriate amend his or her recommendation and forward the amended recommendation through the same channels the report of survey was processed.

c. Distribution. The survey officer will forward the original and copies (number as specified by the local command) to the appointing authority or the approving authority as appropriate for action. The survey officer will retain one copy.

Section IX
Review of the Survey Officer's Findings and Recommendations by the Appointing Authority When an Appointing Authority Has Been Designated

13-34. Appointing authority's review of reports of survey

a. The appointing authority will personally review all reports of survey arising within his or her command or authority. The exception involves reports of survey listing property for which the appointing authority has either personal responsibility (see paragraph 13-17) or accountability. In this instance, the next higher commander will determine the appointing authority.

b. The appointing authority will make an administrative check to determine if all pertinent instructions have been followed. Figure 13-18 provides a checklist guide. The appointing authority may expand the checklist as required. The appointing authority will further check to ensure the survey--

(1) Resolves contradictory statements.

(2) Confirms or refutes self-serving statements.

(3) Reflects clearly stated findings from documented evidence.

(4) Presents sound and logical conclusions and recommendations based on the findings and the policy of this regulation.

(5) Reflects that individuals have received counseling, advisement of their rights, and an opportunity to rebut on their behalf.

(6) Reflects correct computation of financial charges.

(7) If late, contains attached statements of delay.

(8) Reflects initials on all changes and minor corrections which support authenticity and clear doubt.

(9) Reflects an unbiased investigation.

13-35. Appointing authority's decision

The appointing authority will review the action taken by the survey officer, make certain all requirements have been met, and make a decision as follows.

a. Return of survey to the survey officer for additional investigation. If further investigation is required and/or pertinent instructions have not been complied with, the appointing authority will return the survey to the survey officer as an enclosure to a memorandum specifying what additional data and/or corrections are required.

b. Concurs with the findings and recommendations. If the appointing authority concurs with the recommendations of the survey officer, he or she will process the DA Form 4697 as follows:

(1) Check "Concur"in Block 33.

(2) Complete block 35, 36a, and 36b.

(3) Forward the DA Form 4697 with all exhibits to the approving authority.

c. Nonconcurs with findings and recommendations. If the appointing authority nonconcurs with the recommendations of the survey officer, he or she will process the DA Form 4697 as follows:

(1) Check"Nonconcur"in block 33.

(2) Enter a statement in block 34 showing the rationale upon which his or her decision is based.

(3) If the survey officer does not recommend financial liability and the appointing authority recommends financial liability, the appointing authority will ensure the procedures outlined in paragraphs 13-32d and 13-33 are accomplished.

(4) Complete blocks 35, 36a, and 36b.

(5) Forward the DA Form 4697 to the approving authority.

Section X
Review by Approval Authority

13-36. Legal review of a report of survey

a. Upon receiving a report of survey on which the approving authority believes financial liability is appropriate, the approving authority will obtain a legal opinion as to its legal sufficiency prior to determining whether to assess financial liability.

b. A legal advisor will provide a written opinion as to the legal sufficiency of a report of survey. If, in the legal advisor's opinion, the report of survey is not legally sufficient, the opinion will state the reasons why and make appropriate recommendations. The opinion will be attached to the report of survey prior to the approving authority's review and decision. The approving authority should ensure corrective actions are taken before taking final action to assess financial liability.

c. A lawyer other than the one who advised the respondent in the preparation of the respondent's rebuttal statement must perform the legal review required by the approving authority.

d. Figures 13-1 and 13-2 show the time constraints for the legal review of reports of survey.

13-37. Approving authority's review of reports of survey

a. The approving authority will personally review all reports of survey arising within his or her command or authority. The exception involves reports of survey listing property for which the approving authority has either personal responsibility (see paragraph 13-17

) or accountability. In this instance, the next higher commander will act as the approving authority.

b. When the legal advisor returns the report of survey, the approving authority will make an administrative check to determine if all pertinent instructions have been followed. Figure 13-18 provides a checklist. The approving authority may expand the checklist as required. The approving authority will further check to ensure the survey--

(1) Resolves contradictory statements.

(2) Confirms or refutes self-serving statements.

(3) Reflects clearly stated findings from documented evidence.

(4) Presents sound and logical conclusions and recommendations based on the findings and the policy contained in this regulation.

(5) Reflects individuals received counseling, advisement of their rights, and an opportunity to rebut on their behalf.

(6) Reflects correct computation of financial charges.

(7) If late, contains attached statements of delay.

(8) Reflects initials on all changes and minor corrections which support authenticity and clear doubt.

(9) Reflects an unbiased investigation.

13-38. Approving authority action after review of report of survey

a. Figure 13-21 shows the report of survey processing steps from decision by the approving authority to receipt by the FAO/USPFO.

b. Figure 13-6 shows an example of a report of survey with blocks 37 through 40b completed.

c. When the approving authority determines the report of survey or AR 15-6 investigation is incomplete, or finds pertinent instructions have not been complied with, he or she will return the report of survey to the survey officer or AR 15-6 investigating officer for further investigation. If an appointing authority was designated, the approving authority will return the report of survey through the appointing authority. The approving authority will insert an "X"in block 37b, and specify the additional data required using a memorandum. The approving authority will then enter the date and his or her initials on line 37b.

d. A survey officer may be relieved by the approving authority and a new survey officer appointed when--

(1) The survey officer has failed to conduct the investigation in accordance with regulatory guidance contained in this regulation.

(2) The survey officer has been counseled by the approving authority concerning the inadequacy of the investigation.

e. A survey officer should not be relieved due to the approving authority having a preconceived belief that differs from the survey officer's findings and recommendations.

f. When the approving authority decides to relieve a survey officer, the approving authority will check block 37b, enter the date, and his or her initials. The approving authority will document the rationale for relieving the survey officer on a memorandum for record, and attach it to the report of survey as an exhibit. Appointment of a subsequent survey officer will be made using an informal memorandum containing the information shown on DA Form 4697, blocks 21 through 25, as shown in figure 13-6 . A copy of the memorandum appointing the new survey officer will be attached to the report of survey as an exhibit.

g. When the approving authority determines the report of survey investigation is complete, the approving authority will--

(1) Adopt the recommendations of the survey officer or AR 15-6 investigating officer, and approve them by checking block 37c, DA Form 4697, and completing blocks 38 through 40b, or;

(2) Make a decision contrary to the recommendations of the survey officer or AR 15-6 investigating officer, either to relieve all concerned from financial liability or to assess financial liability against a new individual. Enter the decision of the approval authority in block 37, DA Form 4697 to relieve all concerned from property responsibility and accountability, or to assess financial liability against one or more respondents. The approving authority will then complete blocks 38 through 40b.

(3) When the approving authority decides to relieve all concerned from financial liability he or she will enter an "X"in block 37c and make the following statement in block 37: "All concerned are relieved from financial liability for the loss, damage, or destruction of the property listed on this report of survey."The approving authority will then complete blocks 38 through 40b.

(4) Make an assessment of liability as follows:

(a) When the approving authority decides to approve liability against an individual, the approving authority will enter an "X"in block 37c and insert a statement in block 37 to assess financial liability against an individual. Use a statement similar to the following:

"To hold (insert name, grade, and SSN) financially liable in the amount of (enter amount). (Insert name and grade), monthly basic pay at the time of loss was (enter the amount)."If the approving authority determines that it appears appropriate to approve financial liability against an individual not previously recommended to be held financially liable, the approving authority will ensure that all actions required by paragraphs 13-32 and 13-33 are completed prior to approving financial liability. The approving authority will then complete blocks 37 through 40b, DA Form 4697. When approving financial liability against a new respondent, the approving authority will enter the reasons for approving financial liability in block 37, DA Form 4697.

(b) When the approving authority decides to approve collective and individual liability against two or more individuals, the following additional actions supplement (a) above: Since the data in blocks 30 through 32b allows only one individual to sign, it is necessary to prepare a continuation sheet (sample at figure 13-8). Further, prepare a continuation sheet for blocks 37, and 39 through 40b. In block 37 enter a statement similar to the statement described in (a) above for each individual being held financially liable.

h. When the approving authority decides to relieve all concerned persons from financial liability, the approving authority will retain the original of DA Form 4697 on file, and destroy the remaining copies. When the approving authority determines to assess financial liability, the approving authority will retain the original and one copy of the DA Form 4697 and provide the respondent with the remaining copy.

13-39. Liability limits

a. When negligence or willful misconduct are shown to be the proximate cause for a loss, the following individuals/entities should be assessed the full amount of the Government's loss, minus amounts charged to others.

(1) Accountable officers.

(2) States and Territories of the United States.

(3) Contractors and contractor employees, (See the FAR).

(4) Non-appropriated fund activities.

(5) Persons losing public funds (AR 37-103, chapter 4, section VIII).

(6) Soldiers losing personal arms or equipment.

(7) Persons who lose, damage or destroy Government quarters, and/or furnishings and equipment provided by the Government for use in quarters, through gross negligence or willful misconduct. If simple negligence is shown, paragraph b below applies.

(8) Individuals or entities not federally employed.

b. In all other cases, the amount equal to one month's basic pay at the time of the loss, or the actual amount of the loss to the Government, whichever is less, may be assessed. For ARNG and USAR personnel, 1 month's basic pay refers to the amount that would be received by the soldier if on active duty. For DoD civilian employees, financial liability for losses of Government property (including personal arms and equipment) is limited to 1/12 of their annual pay. When two or more reports of survey are processed that involve the same incident, financial liability is limited to 1 month's basic pay. (Compute the charge per table 12-3 .)

c. When two or more entities are held collectively and individually liable for a single loss, compute their individual financial charge per table 12-4.

d. When a soldier or DoD civilian employee is held collectively liable with an individual and/or entity identified in paragraph a(8) above, table 12-4 is not used to compute the amounts of financial liability. The total dollar amount of the loss is divided by the number of respondents. The amount derived from this equation is the maximum amount each respondent will be assessed. For soldiers and DoD civilian employees, the amount of financial liability assessed will be the amount derived from the above equation or 1 month's base pay, whichever is less.

Section XI
Notice to Respondents on Assessment of Financial Liability

13-40. Respondent's rights

a. Members of the U.S. Army, employees, and members of other services having a reciprocal agreement with the U.S. Army, may have approved charges of financial liability involuntarily withheld from their Federal pay. Withholdings will be by salary or administrative offset according to Section 5514, title 5 , United States Code (5 USC 5514) for civilian employees and Section 1007(e), title 37 , United States Code (37 USC 1007(e)) for military members. Before individuals are held financially liable, they must receive notice and the opportunity to exercise their rights, as listed below. Notification will be made by the approving authority using a memorandum (see sample at figure 13-12). The memorandum with a copy of the report of survey with all exhibits will be hand delivered to the person found financially liable. If the individual is not available locally, the memorandum will be forwarded by certified mail, return receipt requested. The memorandum will inform the individual that collection efforts will begin 30 calendar days (ARNG 60 calendar days) from the date delivered or mailed. If respondent exercises his or her rights described below in sub-paragraphs (3) or (4) , collection actions will be temporarily halted. The memorandum will provide a means for the respondent to acknowledge receipt. The memorandum will state what rights the respondent has and the time limits for exercising these rights. When a memorandum is returned indicating that the memorandum is not deliverable, the approving authority need not make further attempts to notify the individual of his or her rights. The time utilized in notifying

respondents of approved charges of financial liability, and of their rights is not counted towards the 75 days allowed for processing the report of survey. Individual rights are--

(1) To inspect and copy Army records relating to the debt.

(2) To obtain free legal advice from the servicing legal assistance office relating to the assessment of financial liability, as authorized by AR 27-3 , paragraphs 2-5 and 3-6g(4)(b). Normally this free legal advice is only available to military personnel and DoD civilian employees.

(3) To request reconsideration of the assessment of financial liability based on legal error. Requests for reconsideration denied by the approval authority will be forwarded to the appeal authority by the approval authority per paragraphs 13-42b and 13-48a .

(4) To request a hearing concerning the amount of the debt or the terms of any proposed repayment schedule (civilian employees only). A request for a hearing will not be submitted until a request for reconsideration concerning the existence of the debt has been acted on by the appeal authority. A request for a hearing conducted by the FAO/USPFO will be submitted to the servicing FAO/USPFO. A respondent who chooses to challenge the existence of the debt will do so by submitting a request for reconsideration to the approving authority.

(5) To request remission or cancellation of the indebtedness (enlisted personnel only) under the provisions of AR 600-4 , paragraphs 1-6 and 1-7.

(6) To request extension of the collection period.

(7) To submit an application to the Army Board for Correction of Military Records (ABCMR) under the provisions of AR 15-185 .

b. Submission of a request for reconsideration, a hearing, or remission or cancellation of indebtedness, stops all collection action, pending a decision on the request made by the appropriate official.

c. The time constraints shown in figures 13-22 and 13-23 apply for submission of requests for reconsideration and hearings. The time constraints in AR 600-4 apply to remission or cancellation of indebtedness. The time constraints in AR 15-185 apply to the correction of military records.

d. When time limits in c above expire without respondent action, the approving authority will forward the report of survey for collection under cover of a transmittal document requesting FAO/USPFO acknowledgment of receipt. The approving authority will make initial follow-up to the FAO/USPFO within 20 calendar days when the FAO/USPFO has not acknowledged receipt. Thereafter the approving authority will continue to follow-up every tenth day until the FAO/USPFO has acknowledged receipt of DA Form 4697.

e. The approving authority will attach a copy of the notification memorandum and FAO/USPFO receipt to the report of survey.

13-41. Respondent's actions

When an individual has been notified that financial liability has been approved, the individual should, with the advice of legal counsel, thoroughly review the report of survey packet provided, then decide whether or not to take one of the actions listed below.

a. Request reconsideration of the approving authority's decision. Submit requests for reconsideration by memorandum through his or her immediate commander to the approving authority. Submit requests for reconsideration only on the basis of legal error. Figure 13-13 shows a sample request for reconsideration.

(1) When the approving authority does not reverse original decision to approve financial liability, the request for reconsideration becomes an appeal which will be forwarded to the appeal authority.

(2) The request for reconsideration should set forth, in detail, any new evidence offered, and explain why financial liability is not appropriate.

(3) A request for reconsideration stops all collection action pending a decision by the approving authority and/or the appeal authority.

b. Submit a request for a hearing (civilian employees only). Request a hearing concerning the amount of the debt, or the terms of the proposed repayment schedule. Respondents choosing to submit a request for a hearing must first submit a request for reconsideration through the approving authority to the appeal authority. Requests for a hearing will be submitted by memorandum through the respondent's immediate commander to the servicing FAO or USPFO, where arrangements for a hearing will be made. Figure 13-14 shows a sample request for a hearing.

(1) The request for a hearing should set forth in detail any new evidence offered, and explain why the individual believes the amount of the debt is incorrect, and/or why the individual believes the proposed repayment schedule should be changed.

(2) A request for a hearing stops all collection action pending a decision of the individual conducting the hearing.

c. Request remission or cancellation of indebtedness under the provisions of AR 600-4 .

d. Request extension of the collection period. Figure 13-15 shows a sample request for extension.

e. Submit an application to the ABCMR under the provision of AR 15-185 .

f. A request for reconsideration, or hearing, will be processed only if received within the time prescribed by figures 13-22 and 13-23 unless the individual can show good cause for failing to take one of the above actions within the time prescribed.

13-42. Requests for reconsideration

The approving authority, upon receipt of a request for reconsideration, will review any new evidence offered, and make a decision to either reverse the previous decision to approve financial liability against the individual or recommend continuation of financial liability. A request for reconsideration will be reviewed only on the basis of legal error (i.e., the request must establish that the facts of the case do not support an assessment of financial liability).

a. Relief. When the approving authority determines from new evidence that the individual should be relieved from financial liability, the approving authority will--

(1) (See figure 13-16 for sample memorandum.) The memorandum will be delivered by hand, or certified mail, return receipt requested.

(2) Retain the new evidence with the report of survey and file.

b. Continuation of liability. When the approving authority determines that liability should be continued, the approving authority will--

(1) Prepare and sign a memorandum (see (a) through (c) below) to the appeal authority. The approving authority is not authorized to allow other persons to sign for him or her.

(a) The memorandum will give the basis for denying the requested relief.

(b) The memorandum will show the dollar amount of the charge.

(c) If estimated costs were initially used, the actual cost will be included in the memorandum, if available.

(2) Enclose the original report of survey and all exhibits to the memorandum. When the original of the report of survey is not available, the approving authority will include a statement in the memorandum explaining why the file is not available.

c. Notification to the individual. On receipt of a response from the appeal authority concerning the relief or continuation of financial liability, the approving authority will notify the individual by memorandum, either delivered by hand, or certified mail, return receipt requested. The approving authority will notify the individual that he or she has the right to request a hearing (civilian personnel only), remission or cancellation of indebtedness (enlisted personnel only), or extension of the collection period, as appropriate.

13-43. Requests for a hearing (civilian employees only)

Prior to requesting a hearing, the individual is required to submit a request for reconsideration to the approving authority. Upon receipt of a request for reconsideration the approving authority will follow the instructions in paragraph 13-42 . The approving authority will not arrange for, nor conduct a hearing. When a request for reconsideration is denied by the appeal authority, civilian employees may request a hearing through their servicing FAO or USPFO, as appropriate. The FAO or USPFO will forward the petition for the hearing to the Director, Defense Finance and Accounting Service--Indianapolis Center, ATTN: Department 80, Indianapolis, IN 46249-0001, per AR 37-1, paragraph 15-25.

13-44. Remission or cancellation of indebtedness (Enlisted personnel only)

When financial liability assessed through a report of survey causes financial hardship on an enlisted soldier, he or she may submit an application for remission or cancellation of the debt through their commander, per AR 600-4 , paragraph 2-1. A copy of the approved report of survey assessing financial liability will be submitted with the application.

13-45. Requests for extension of the collection period

Requests for extension of the collection period will be forwarded through the approving authority to the servicing FAO or USPFO for action. Civilian employees who have requested a hearing to challenge the proposed repayment schedule are not authorized to request an extension of the collection period. The approving authority will make a recommendation regarding extending the collection period using the following factors as the basis for the recommendation:

a. Monthly income.

b. Additional income or assets (including spouse's).

c. Expenses caused by living standards that are too high or by mishandling of personal funds are not a basis for a hardship determination.

13-46. Reopening, correcting, amending, or cancelling reports of survey

These are administrative procedures. They may be activated by either--

a. A decision at the approval authority level previously acting on the report of survey that such action is necessary.

b. At the direction of the appeal authority.

c. The report of survey approving authority will reopen a report of survey when either of the situations shown in a and b above occur and result from one of the following actions:

(1) An individual has requested reconsideration of the assessment of financial liability.

(2) A response to the survey officer's original notification from an individual recommended for financial liability is received after the approving authority has approved financial liability. The survey officer who receives that correspondence, will prepare a memorandum to the approving authority level that approved financial liability. Such a response, although received late, will not be considered a request for reconsideration.

(3) A memorandum from a subordinate headquarters that previously acted on a report of survey supporting reopening based on new evidence.

(4) Property is recovered.

(5) The approving authority becomes aware of an injustice against either the Government or the individual assessed financial liability.

13-47. Actions resulting from reopening a report of survey

a. Corrections on a report of survey. Corrections on a report of survey will not be made on the original of the report of survey except as specified in paragraph 13-9 . Should it become necessary to alter a report of survey in any other way, after receipt by the approving authority, an amendment will be prepared, citing the specific alterations, and attached to the report of survey as an exhibit.

b. Cancellation of a report of survey. An approved report of survey (one on which the approving authority has taken approval action) will not be cancelled. When property is found after a report of survey is approved, the approving authority will follow the procedures set forth in paragraph 14-16 .

c. Amending a report of survey. Based on new information received by the approving authority it may become necessary to amend one or more blocks of the report of survey, including the decision of the approving authority. Should it become necessary to alter a report of survey in any way, the approving authority will prepare an amendment, citing the specific alterations, and attach it to the report of survey as an exhibit.

d. Repayment of amounts previously collected. Property listed on a report of survey may be recovered after assessment of financial liability or the assessment may have been reversed by the approving or appeal authority. If so, an amendment will be prepared, citing the specific alterations, and attached to the report of survey as an exhibit. A copy of the amendment will be attached to a memorandum directing repayment of the value of the recovered property to the individual, as a "collection erroneously received."The memorandum will be forwarded to FAO or USPFO as appropriate.

Section XII
Appeal Authority's Review of Requests for Reconsideration

13-48. Information regarding requests for reconsideration

a. The term "request for reconsideration"refers to an application to the appeal authority challenging the decision of the approving authority in assessing financial liability. Requests for reconsideration will be submitted to the approving authority that acted on the report of survey. The approving authority will, after review and determination that liability should continue, forward requests for reconsideration to the next commander in the chain of command. This will be accomplished within 15 calendar days of receipt by the approving authority.

b. An individual may request reconsideration only one time. The decision of the appeal authority is final unless the individual chooses to make an application to the ABCMR under the provisions of AR 15-185 . An application to the ABCMR can be made only when an appeal authority has sustained the decision of the approving authority. These procedures do not apply to financial liability imposed for discrepancies incident to shipment or to procurement reported using TDR or ROD procedures. (See AR 55-38, AR 735-11-2 , and chapter 16 of this regulation.)

c. Unless good cause for a greater delay exists, individuals must file requests for reconsideration within the time limits set forth in figures 13-22 and 13-23 .

(1) Individuals will submit requests for extension of the time allotted for submission of requests for reconsideration in writing to the approving authority.

(2) The decision to grant an extension of the allotted submission time will be made by the approving authority based on the following reasons:

(a) Acts of war.

(b) Military operations other than war.

(c) Extended training maneuvers.

(d) Sickness.

(e) Unavoidable difficulty in obtaining supporting facts.

(f) Other similar difficulties.

13-49. Appeal authority

a. Definition. An Army officer designated to take final action on requests for reconsideration when the report of survey approving authority denies relief of financial responsibility to an individual, and to act on requests for remission or cancellation of indebtedness. Appeal authority ((1) through (4) below) action is by authority of the Secretary of the Army.

(1) Normally, the appeal authority will be the next higher commander in the chain of command above the approving authority.

(2) The persons listed below may delegate appeal authority, for reports of survey arising from organizations that fall under their command or supervision. Individuals designated must be in the grade of Colonel or above and be senior in time in grade to the approving authority. This provision does not apply to the ARNG. In the ARNG, the Adjutant General (AG) is the appeal authority for reports of survey. This authority may be delegated to the Deputy AG only. In cases of State liability the Chief, National Guard Bureau will act as appeal authority.

(a) Heads of HQDA staff agencies.

(b) MACOM and major subordinate command (MSC) commanders.

(c) Heads of unified commands.

(d) Corps, division and installation commanders.

(3) For reports of survey containing assessment of financial liability against a general officer, the appeal authority will be the next general officer or civilian senior to the approving authority in the chain of command.

(4) The appeal authority may not act as both the approving and appeal authority. Also, a person who had personal responsibility or accountability for the property listed on a report of survey will not act as an appeal authority. In such cases the next higher commander will be the appeal authority.

b. Appeal authority actions on a request for reconsideration.

(1) Prior to reviewing a request for reconsideration the appeal authority will forward the request to a legal advisor under the appeal authority's command. The lawyer performing the legal review required by the appeal authority must not have conducted the legal review for the approving authority or provided legal advice to the individual held financially liable. The appeal authority will require the legal advisor to review the approving authority's memorandum and all related documentation and give a written opinion as to its legal sufficiency. If, in the opinion of the legal advisor, the approving authority's action is legally insufficient, the legal advisor will state the reasons why and make appropriate recommendations. The opinion will be attached to the request for reconsideration before the appeal authority's review.

(2) Review requests for reconsideration only on the basis of legal error. That is, the request must establish that the facts of the case do not support an assessment of financial liability.

(3) Review requests for reconsideration to determine if the evidence, to include any new evidence offered by the individual in the request, provides grounds to relieve the individual from financial liability. After review, the appeal authority may--

(a) Direct the approving authority to reopen the report of survey and conduct further investigation to clarify matters specified by the appeal authority.

(b) Grant relief of financial liability in whole or in part based on the facts and evidence contained in the file. Direct the approving authority to reopen the report of survey, to reverse an assessment of financial liability, and to arrange for repayment of collections erroneously received.

(c) Deny relief of financial liability to the individual.

(4) After review and decision by the appeal authority, the report of survey with all exhibits will be returned to the approving authority for action under a formal memorandum (figure 13-17). Memorandum will state action taken, with instructions directing that the individual is to be informed of the action taken. If the appeal authority grants relief from financial liability, the memorandum will direct repayment of any monies erroneously collected. The appeal authority will retain a copy of the memorandum on which his or her decision is recorded. The appeal authority's actions will be accomplished within 45 calendar days of receipt of request for reconsideration.

(5) The appeal authority is allowed to reverse or reduce financial liability charges. The appeal authority is not allowed to assess financial liability against a new individual. If the appeal authority concludes from his or her review of the case that new financial liability may be appropriate, the appeal authority may direct the approving authority to reopen the case.

c. Appeal Authority's Review of Requests for Remission or Cancellation of Indebtedness. Authority to take final action on requests for remission or cancellation of indebtedness is restricted to the Commander, Total Army Personnel Command (PERSCOM). When the appeal authority receives such a request, a review will be made under the provisions of AR 600-4 . (See para 13-44 .)

Table 13-1. Sample continuation sheet (Blocks 6-10, DA Form 4697), Blocks 6-10 continued, Report of Survey Number [illegible]-96, 24 April 1996, $673.29, Co Z, 906th Signal Battalion

National Stock Number	Item Description	Qty	Unit Price	Total Cost
5110-00-186-7107	Chisel, cold, hand	1	$ 1.59	$ 1.59
5120-00-223-7396	Pliers, slip joint	1	$ 4.33	$ 4.33

5120-00-357-7175	Screwdriver set	2	$ 5.29	$10.58
			Subtotal	$16.50

Notes:

. If last page, would be grand total instead of subtotal.

REPORT OF SURVEY PROCESS
TIME SEGMENTS
WITHOUT APPOINTING AUTHORITY

STEP 1
REPORT OF SURVEY INITIATION PROCESS

STARTS WITH THE DISCOVERY OF THE LOSS
- PRELIMINARY SEARCH FOR THE MISSING ITEM(S)
- IDENTIFICATION OF THE MISSING, DAMAGED, OR DESTROYED ITEM(S) USING THE AMDF
- GATHER DATES AND CIRCUMSTANCES
- INITIATION OF THE REPORT OF SURVEY - DA FORM 4697
- COMPLETE THE NARRATIVE PORTION
- GET DOCUMENT/VOUCHER NUMBER ASSIGNED
- PROVIDE THE REPORT OF SURVEY TO THE APPROVING AUTHORITY

- END OF THE INITIATION PROCESS
  15 DAYS ACTIVE ARMY
  75 DAYS USAR
  45 DAYS ARNG

STEP 2
REPORT OF SURVEY INVESTIGATION AND RECOMMENDATION PROCESS

STARTS AFTER THE DOCUMENT/VOUCHER NUMBER IS ASSIGNED BY THE ACCOUNTABLE OFFICER AND THE REPORT OF SURVEY IS PROVIDED TO THE APPROVING AUTHORITY
- APPROVING AUTHORITY ASSIGNS SURVEY NUMBER
- APPOINTS SURVEY OFFICER IF APPROPRIATE
- REVIEW THE PROPERTY RECORDS
- TAKE STATEMENTS
- ASCERTAIN THE FACTS
- DETERMINE THE PROXIMATE CAUSE
- CALCULATE THE AMOUNT OF THE LOSS
- MAKE RECOMMENDATION
- IF FINANCIAL LIABILITY IS RECOMMENDED, NOTIFY THE INDIVIDUAL(S)
- CONSIDER RESPONDENT'S REBUTTAL STATEMENT
- PROVIDE TO THE APPROVING AUTHORITY

- END OF THE INVESTIGATION AND RECOMMENDATION PROCESS
  40 DAYS ACTIVE ARMY
  85 DAYS USAR
  75 DAYS ARNG

- ACCUMULATIVE DAYS
  55 DAYS ACTIVE ARMY
  160 DAYS USAR
  120 DAYS ARNG

Note: Time used to notify the respondent of the survey officer's recommendation to assess financial liability is not counted against the time constrains for step 2.

STEP 3
REPORT OF SURVEY ADJUDICATION PROCESS

STARTS UPON RECEIPT FROM THE INITIATOR OR THE SURVEY OFFICER AS APPROPRIATE
- REVIEW BY THE APPROVING AUTHORITY
- JAG REVIEW (WHEN ASSESSMENT OF FINANCIAL LIABILITY IS SOUGHT)
- DECISION BY THE APPROVING AUTHORITY

- END OF THE ADJUDICATION PROCESS
  20 DAYS ACTIVE ARMY
  80 DAYS USAR
  30 DAYS ARNG

- ACCUMULATIVE DAYS
  75 DAYS ACTIVE ARMY
  240 DAYS USAR
  150 DAYS ARNG

STEP 4
NOTIFY INDIVIDUAL BEING CHARGED

30 DAYS ACTIVE ARMY
30 DAYS USAR
60 DAYS ARNG

Note: Time used to notify the respondent of the approving authority's decision to assess financial liability is not counted against the time constrains in step 3.

STEP 5
PROVIDE TO FAO/USPFO FOR COLLECTION

1 DAY ACTIVE ARMY
1 DAY USAR
1 DAY ARNG

Figure 13-1. Report of survey processing time segments without Appointing Authority

REPORT OF SURVEY PROCESS
TIME SEGMENTS
WITH APPOINTING AUTHORITY

STEP 1
REPORT OF SURVEY INITIATION PROCESS

STARTS WITH THE DISCOVERY OF THE LOSS
- PRELIMINARY SEARCH FOR THE MISSING ITEM(S)
- IDENTIFICATION OF THE MISSING, DAMAGED, OR DESTROYED ITEM(S) USING THE AMDF
- GATHER DATES AND CIRCUMSTANCES
- INITIATION OF THE REPORT OF SURVEY - DA FORM 4697
- COMPLETE THE NARRATIVE PORTION
- GET DOCUMENT/VOUCHER NUMBER ASSIGNED
- PROVIDE THE REPORT OF SURVEY TO THE APPOINTING AUTHORITY

- END OF THE INITIATION PROCESS
  - 15 DAYS ACTIVE ARMY
  - 75 DAYS USAR
  - 45 DAYS ARNG

STEP 2
REPORT OF SURVEY INVESTIGATION AND RECOMMENDATION PROCESS

STARTS AFTER THE DOCUMENT/VOUCHER NUMBER IS ASSIGNED BY THE ACCOUNTABLE OFFICER AND THE REPORT OF SURVEY IS PROVIDED TO THE APPOINTING AUTHORITY.
- SURVEY OFFICER APPOINTED IF APPROPRIATE
- REVIEW THE PROPERTY RECORDS
- TAKE STATEMENTS
- ASCERTAIN THE FACTS
- DETERMINE THE PROXIMATE CAUSE
- CALCULATE THE AMOUNT OF THE LOSS
- MAKE RECOMMENDATION
- IF FINANCIAL LIABILITY IS RECOMMENDED, NOTIFY THE INDIVIDUAL(S)
- CONSIDER RESPONDENT'S REBUTTAL STATEMENT
- REVIEW BY THE APPOINTING AUTHORITY
- DECISION BY THE APPOINTING AUTHORITY
- PROVIDE TO THE APPROVING AUTHORITY

- END OF THE INVESTIGATION AND RECOMMENDATION PROCESS
  - 40 DAYS ACTIVE ARMY
  - 85 DAYS USAR
  - 75 DAYS ARNG

- ACCUMULATIVE DAYS
  - 55 DAYS ACTIVE ARMY
  - 160 DAYS USAR
  - 120 DAYS ARNG

Note: Time used to notify the respondent of the survey officer's recommendation to assess financial liability is not counted against the time constrains in step 2.

STEP 3
REPORT OF SURVEY ADJUDICATION PROCESS

STARTS ON RECEIPT OF THE REPORT OF SURVEY BY THE APPROVING AUTHORITY, FROM THE APPOINTING AUTHORITY
- SURVEY NUMBER ASSIGNED
- REVIEW BY THE APPROVING AUTHORITY
- JAG REVIEW (WHEN ASSESSMENT OF FINANCIAL LIABILITY IS SOUGHT)
- DECISION BY THE APPROVING AUTHORITY

- END OF THE ADJUDICATION PROCESS
  - 20 DAYS ACTIVE ARMY
  - 80 DAYS USAR
  - 30 DAYS ARNG

- ACCUMULATIVE DAYS
  - 75 DAYS ACTIVE ARMY
  - 240 DAYS USAR
  - 150 DAYS ARNG

STEP 4
NOTIFY INDIVIDUAL BEING CHARGED

30 DAYS ACTIVE ARMY
30 DAYS USAR
60 DAYS ARNG

Note: Time used to notify the respondent of the approving authority's decision to assess financial liability is not counted against the time constrains in step 3.

STEP 5
PROVIDE TO FAO/USPFO FOR COLLECTION

1 DAY ACTIVE ARMY
1 DAY USAR
1 DAY ARNG

Figure 13-2. Report of survey processing time segments with Appointing Authority

DEPARTMENT OF THE ARMY
REPORT OF SURVEY
For use of this form, see AR 735-11; the proponent agency is DCSLOG

1. DATE PREPARED: 24 Jan 96
2. SURVEY NUMBER: 4-96

3. TYPE OF PROPERTY: Organizational
4. ADDRESS OF ACCOUNTABLE OFFICER: UMMC, 7th Inf DIV, Ft Mile HI 12345, UCI W6GBAA

5. ORIGINATOR (Accountable officer, or primary hand receipt holder)
William P. Albright, CPT, Commanding, A Co, 1/34 Inf Bn, UIC W6GBA2

6. NATIONAL STOCK NUMBER	7. ITEM DESCRIPTION	8. QTY	9. UNIT PRICE	10. TOTAL COST
6650-00-530-0973 (B67081)	Binocular, M13A1, SN: 2467	1 ea	$228.00	$228.00
6645-00-066-4279 (Y34027)	Watch Wrist (RICC 2, No residue)	1 ea	49.90	49.90
6605-01-196-6971 (E63317)	Compass Magnetic	2 ea	30.29	60.58
			Grand Total	$338.48

11. DATE AND CIRCUMSTANCES

The above items in columns 6 through 8 were discovered missing during a change of command inventory between CPT James T. Armstrong, the incoming commander, and myself, CPT William P. Albright, the outgoing commander. A search has been made of the company area. The inventory was conducted on 9 through 17 January 1996. The last time I recall seeing the binoculars and wrist watch was during the 10 percent cyclic inventory in June 1995, exhibit A. The compasses were inventoried during the 10 percent cyclic inventory in August 95, exhibit B. The binoculars, watch and compasses are stored in a locked container in the supply room. The Supply Sergeant, SSG Chery Fudge has control of one key, and the other key is kept in the company key box under the control of the company first sergeant, 1SG Bruce D. Williams.

12. AFFIDAVIT
I do solemnly swear (or affirm) that (to the best of my knowledge and belief) the articles of public property shown above and/or on attached sheets were lost, destroyed, damaged, or worn out in the manner stated, while in the public service.

SIGNATURE AND DATE: William P. Albright
TYPED NAME, GRADE, AND SSN: William P. Albright, CPT, Inf, Commanding

13. Subscribed and sworn to (or affirmed) before me at this day of
NAME AND GRADE (type and sign)

14. DATE
15. NAME, GRADE, AND SIGNATURE OF ACCOUNTABLE OFFICER: Jack C. Dolley, MAJ, QM, DPBO
16. DOCUMENT NUMBER: WK4GVE 6025-004

17. APPOINTING AUTHORITY
I have received the evidence pertaining to the lost, damaged, or destroyed property, and have determined that the following action is required.
a. ☐ No further investigation is required. There is no positive evidence of negligence. I do not suspect willful misconduct or deliberate unauthorized use. I hereby forward this document to the approving authority for final action. (Proceed to block 37.)
b. ☒ The circumstances surrounding the lost, damaged or destruction warrants further investigation. (Proceed to block 21.)
c. ☐ Conduct an investigation according to AR 15-6. Attach this document, as an exhibit, to the investigation and forward it to the approving authority.

18. DATE: 30 Jan 96
19. TYPED NAME, GRADE, AND TITLE OF APPOINTING AUTHORITY: THOMAS D. SHAFFER, LTC, Commander, 1/34th Inf Bn
20. SIGNATURE: Thomas D. Shaffer

Figure 13-3a. Sample DA Form 4697, Department of the Army Report of Survey (Blocks 1-20)

(1) Date prepared. Enter the date the report of survey is prepared.

(2) Survey number. The approving authority will enter the survey number.

(3) Type of property. If the property is carried on a stock record account, enter "Stock Record Account." If the property is carried on the organizational clothing and equipment records, enter "Organizational." If the property is carried on the installation property book, enter "Installation." If the property is real property, enter "Real Property."

(4) Address of accountable officer. Enter the address of the accountable officer. Also enter the Unit Identification Code (UIC) for property book accounts and Department of Defense Activity Address Code (DODAAC) for stock record accounts. If the items listed on the report of survey are not recorded on a property book or stock record account, enter the address of the activity maintaining the expendable or durable document register.

(5) Originator (accountable officer or primary hand receipt holder). Enter the name, grade and organization of the person preparing the document. Include the UIC of the organization. Normally, this person will be the commander or the primary hand receipt holder. When it is impractical for these persons to prepare the report of survey, provisions will be made for another person to perform this duty for them. Line out the words "accountable officer" or "Primary hand receipt holder," as appropriate.

(6) National stock number. Enter the stock number and line item number. If the item is nonstandard, enter "nonstandard" or "NSI."

(7) Item description. Enter the correct description of the articles lost, damaged, or destroyed. If the articles are nonstandard, give a description accurate enough for identification. When the articles involved have been assigned serial numbers, include such numbers for more identification. Describe damaged major units as such and not as damaged component parts. If the space on the face of the form is insufficient, use blank paper, properly identified. Do not trim the basic form and use it as a continuation sheet. (See Table 13-1.) Also enter the reportable item control code (RICC) for RICC 2, A and Z items. When RICC 2, A or Z items are listed on the report of survey and are totally lost (no residue to turn-in), enter the words "No residue."

(8) Qty. Enter the number of units of the articles listed, together with the unit of issue, such as "1 ea," "2 pr," "2 dz," etc.

(9) Unit price. Enter the AMDF price in effect at the time of the loss. When the AMDF price is not available, use the current market price of a similar item; otherwise, estimate the unit price and attach the basis for estimate to the report of survey as an exhibit. Do not enter the repair cost in this column.

(10) Total cost. Enter the total cost of all units of each article listed that has been lost or destroyed. Total cost is computed by multiplying the unit price (column 9) of each item listed, by the quantity (column 8). For damaged property, enter the ECOD. After the last entry, draw a line and enter the sum of the entries in the column and enter "Grand Total" in the unit price column. If continuation sheets are used, show the "subtotal" on each sheet. Show the grand total on the last sheet. The grand total will be the total cost of all items listed on all sheets.

(11) Date and circumstances. Enter a concise and accurate statement of the facts in the case. Include the date and place of the loss or damage. Show all persons directly concerned by name and grade. Refer to exhibits by the capital letter designation assigned according to paragraph 13-9. Show exhibits initially attached; for example, "Exhibits A to D attached." If space on the form is insufficient, continuation sheets may be used. (See figure 13-4.) Do not trim the basic form for use as a continuation sheet.

(12) Affidavit. The person providing the statement in block 11 will sign in the block titled: "signature and date". Type the person's name, grade and title in block titled: "type name, grade, and SSN".

(13) Subscribed and sworn to (or affirmed). Leave blank.

(14) Date. Enter the date the signature is entered in block 15.

Figure 13-3b. Completion Instructions (by item or column) for DA Form 4697, Department of the Army Report of Survey (Blocks 1-20) - Continued

(15) Name, grade, and signature of accountable officer. Enter the name, grade and signature of the accountable officer, or the individual who maintains the expendable/durable document register.

(16) Document number. Enter the document number or voucher number (DODAAC, julian date and serial number).

Note: Blocks 17 through 20 are to be completed by the appointing authority. If an appointing authority has not been designated, leave blocks 17 through 20 blank.

(17) Appointing Authority. The Appointing Authority will check the proper block. (See paragraph 13-22.)

(18) Date. Enter the date the signature is entered in block 20.

(19) Typed Name, Grade, and Title of Appointing Authority. Enter the name, grade and title of the appointing authority.

(20) Signature. The Appointing Authority will sign.

Figure 13-3b. Completion Instructions (by item or column) for DA Form 4697, Department of the Army Report of Survey (Blocks 1-20)

Block 11 continued, Report of Survey number 12-96, 24 April 1996, $673.29, Co Z, 906th Signal Battalion.The tool kit was hand receipted to SPC Jack L. Hunt (exhibit C). SPC Hunt has in his possession copies of DA Form 3161 showing the items were turned in to the company supply room (Exhibit D). The supply sergeant, SSG Ralph F. Watson, has no record of these turn-ins, nor is there any record in the battalion property book office.

Figure 13-4. Sample continuation sheet (Block 11, DA Form 4697)

DEPARTMENT OF THE ARMY REPORT OF SURVEY For use of this form, see AR 735-11; the proponent agency is DCSLOG	1. DATE PREPARED 20 January 1996	2. SURVEY NUMBER 3-96

3. TYPE OF PROPERTY	4. ADDRESS OF ACCOUNTABLE OFFICER
Organizational	OMMC, 7th Inf Div, Ft Nile, HI 12345, UIC W6GBAA

5. ORIGINATOR (Accountable officer, or primary hand receipt holder)
George F. Knight, CPT, Commanding, C Co, 3/54th Inf Bn, UIC: WARBBQ

6. NATIONAL STOCK NUMBER	7. ITEM DESCRIPTION	8. QTY	9. UNIT PRICE	10. TOTAL COST
5855-00-760-3870 N15518	Night Vision Sight Tripod Mounted, AN/TVS-4A, SN: 12345 (RICC 2, no residue)	1 ea	$4,231.	$4,231.
		GRAND TOTAL		$4,231.

11. DATE AND CIRCUMSTANCES
See AR 15-6 Investigation, Exhibit (*Alpha character*), or the location of AR 15-6 investigation, if classified.

12. AFFIDAVIT	SIGNATURE AND DATE	13. Subscribed and sworn to (or affirmed) before me at this day of
I do so *solemnly swear (or affirm)* that *(to the best of my knowledge and belief)* the articles of public property shown above and/or on attached sheets were lost, destroyed, damaged, or worn out in the manner stated, while in the public service.	TYPED NAME, GRADE, AND SSN	NAME AND GRADE *(type and sign)*

14. DATE	15. NAME, GRADE, AND SIGNATURE OF ACCOUNTABLE OFFICER	16. DOCUMENT NUMBER

17. APPOINTING AUTHORITY

I have received the evidence pertaining to the lost, damaged, or destroyed property, and have determined that the following action is required.

a. ☐ No further investigation is required. There is no positive evidence of negligence. I do not suspect willful misconduct or deliberate unauthorized use. I hereby forward this document to the approving authority for final action. *(Proceed to block 27.)*

b. ☐ The circumstances surrounding the lost, damaged or destruction warrants further investigation. *(Proceed to block 27.)*

c. ☐ Conduct an investigation according to AR 15-6. Attach this document, as an exhibit, to the investigation and forward it to the approving authority.

18. DATE	19. TYPED NAME, GRADE, AND TITLE OF APPOINTING AUTHORITY	20. SIGNATURE

Figure 13-5a. Sample DA Form 4697 initiated as a result of an AR 15-6 investigation

(1) through (10). Same as Figure 13-3.

(11) Date and Circumstances. Enter "See AR 15-6 Investigation."

(12) and (13). Leave blank.

(14) through (16). Assign document/voucher number as required.

(17) through (26). Leave blank.

(27) through (32b). The approving authority will cause the senior AR 15-6 investigator to complete these blocks. If an Appointing Authority has been designated, the Appointing Authority will cause the senior AR 15-6 investigator to complete these blocks.

Note: Blocks 33 through 36b are to be completed by the Appointing Authority. If an Appointing Authority has not been designated, leave blocks 33 through 36b blank.

(33) through (36b). The Appointing Authority will complete these blocks per figure 13-6.

(37) through (40b). The approving authority will complete these blocks per figure 13-6.

Figure 13-5b. Completion Instructions (by item or column) for DA Form 4697 initiated as a result of an AR 15-6 investigation

21. APPOINTING AUTHORITY	22. STATION	23. DATE
1/34th Inf Bn, 7th Inf Div	Ft Mile, HI 12345	30 Jan 96

24. NAME, GRADE OF SURVEYING OFFICER
CPT Keith E. Evans

25. YOU ARE APPOINTED SURVEYING OFFICER BY ORDER OF: LTC Thomas D. Shaffer
(Typed name, grade of Appointing Authority)

26. FINDINGS AND RECOMMENDATION

I have examined all available evidence as shown in exhibits A to F and as indicated below have personally investigated the same and it is my belief that the article(s) listed hereon and/or attached to sheets, total cost $ 338.48 was lost as a result of negligence on the part of SSG Chery Fudge.

The missing items were lent to SFC Carl J. Brown, HSC, 3/45th Armor Bn by the unit supply sergeant, SSG Fudge, for use on a weekend camping trip with the Boy Scouts in October 1995. SSG Fudge permitted SFC Brown to take the items without first signing a hand receipt for the items borrowed. At the conclusion of the camping trip the items were never returned, exhibit C. SFC Brown retired from the Army on 30 November 1995. Attempts to ask SFC Brown of the whereabouts of these items were unsuccessful, exhibit D. SSG Fudge had custodial responsibility for the missing items per AR 735-5, paragraph 2-8d. This obligated SSG Fudge with ensuring these items were cared for, and that proper custody and safekeeping were provided. She was negligent in allowing these items to be taken from the supply room without a properly prepared hand receipt signed by SFC Brown. SSG Fudge's actions further violated AR 735-5, paragraphs 2-1e, and f which states Government property will not be loaned or used for private purposes. The amount of the loss was depreciated by 25 percent in accordance with AR 735-5, paragraph B-2b, exhibit F.

Recommendation: That SSG Fudge 000-00-0000, be held financially liable in the amount of $253.86, and all others be relieved of accountability and responsibility for the missing items. SSG Fudge's base pay is $1,890.

27. RECOMMEND PECUNIARY CHARGE	a. ACTUAL LOSS	b. AMOUNT CHARGED	c. LOSS TO GOVERNMENT
	$253.86	$253.86	$0

28. DATE	29a. TYPED NAME, GRADE OF SURVEYING OFFICER	b. SIGNATURE
19 Feb 96	Keith E. Evans, CPT	Keith E. Evans

30. I have examined the findings and recommendations of the Surveying Officer on this report of survey and the exhibits A to F and ☐ desire to make a statement which is attached hereto; ☐ do not desire to make a statement. I am aware of my right to legal advice in preparing the statement and, if a pecuniary charge is finally approved, to make appeal and (if an enlisted man) my right to request remission of indebtedness. I am/am not the accountable officer for the lost or damaged property. The property was/was not my personal arms or equipment.

31. DATE	32a. TYPED NAME, GRADE OF INDIVIDUAL BEING CHARGED	b. SIGNATURE
20 Feb 96	Chery Fudge, SSG	Chery Fudge, SSG

33. RECOMMENDATION BY THE APPOINTING AUTHORITY	34. COMMENTS
☐ CONCUR ☐ NONCONCUR	

35. DATE	36a. TYPED NAME, GRADE & TITLE OF APPOINTING AUTH	b. SIGNATURE

37. APPROVING AUTHORITY

a. ☐ REJECTED. Investigation is required. Appoint a survey officer. Date _____ Initials _____
b. ☐ REJECTED. Investigation incomplete. Additional information required. Date _____ Initials _____
c. ☒ APPROVED BY AUTHORITY OF THE SECRETARY OF THE ARMY.

To hold SSG Chery Fudge, 000-00-0000, financially liable in the amount of $253.86. Accountability has been discontinued and all other persons have been relieved of responsibility. SSG Fudge's basic pay at the time of the loss was $1,890.

38. PECUNIARY CHARGE

a. ACTUAL LOSS	b. AMOUNT CHARGED	c. LOSS TO GOVERNMENT
$253.86	$253.86	$0

39. DATE	40a. TYPED NAME, GRADE & TITLE OF APPROVING AUTH	b. SIGNATURE
23 Mar 96	Thomas D. Shaffer, LTC Commander, 1/34 Inf Bn	Thomas D. Shaffer

Figure 13-6a. Sample DA Form 4697, Department of the Army Report of Survey (Blocks 21-40)

(21) and (22) Appointing Authority and Station. Enter the organization and station of the individual who appoints the survey officer.

(23) Date. Enter the date the survey officer is appointed.

(24) Name, Grade of the surveying officer. Enter the name and grade of the individual appointed survey officer.

(25) You are Appointed Survey Officer by Order of. Enter the name and grade of the individual who appoints the survey officer.

(26) Findings and Recommendation. The survey officer's findings and recommendations are recorded here. When financial liability is recommended, persons recommended are identified by name, grade, and social security number. Show the amount of their monthly base pay at the time of the loss and the amount of financial liability being recommended. When space in block 26 is not sufficient, prepare a continuation sheet using plain bond paper.

(27a) Actual loss. Enter the actual cost of the loss. See appendix B for computing the amount of the loss.

(27b) Amount charged. Enter the amount of financial liability being recommended. If financial liability is not recommended, enter "none" or "0".

(27c) Loss to the Government. Enter the difference between actual loss and the amount of financial liability being recommended, i.e., 27a - 27b = 27c.

(28) Date. Enter the date the survey officer signs block 29b.

(29a and 29b) Typed name, grade of survey officer and signature. Enter the name and grade of the survey officer in block "a". The survey officer signs block "b".

(30 through 32b) Person(s) subject to financial charge will complete this section. If financial liability is not recommended, leave blank. If two or more persons are being recommended for charges, type or write the statement on plain bond paper as shown in figure 13-8, and have each person complete and sign the statement.

(31) Date. Enter the date the individual being recommended for charges of financial liability signs block 32b.

(32a and 32b) Type name, grade of person being charged and signature. Enter the name and grade of the person recommended for charges of financial liability. The person will sign in block 32b. If two or more persons are being charged, enter the words "See attached exhibits" in block 30. Have the persons sign their names below the statement extracted from block 30.

Note: Blocks 33 through 36 are to be completed by the Appointing Authority. If an Appointing Authority has not been designated, leave blocks 33 through 36 blank.

(33) Recommendation by the appointing authority. The appointing authority indicates his or her concurrence or nonconcurrence with the survey officer's findings and recommendations.

(34) Comments. Enter comments, if any, by the appointing authority, per paragraph 13-35.

(35) Date. Enter the date the appointing authority signs block 36b.

(36a) Typed name, grade and title of appointing authority. Type the appointing authority's name, grade and title.

(36b) Signature. The appointing authority signs.

(37) Approving authority. The approving authority will enter the date the report of survey was

Figure 13-6b1. Completion Instructions (by item or column) for DA Form 4697, Department of the Army report of survey (Blocks 21-40)-Continued

received by him or her for decision in the upper right hand corner of Block 37. The approving authority will check blocks "a", "b", and/or "c" as appropriate.

(37a) Rejected. When the appointing authority checks block 17a, indicating there is no negligence and no need for further investigation, the approving authority may reject the report by checking block 37a.

(37b) Rejected. Used by the approving authority to indicate the investigation is incomplete, and further investigation is required.

(37c) Approved by authority of the **Secretary of the Army.** The approving authority may approve the report of survey to relieve all concerned, or to assess financial liability. If financial liability is approved, enter the person's name, grade, social security number and monthly base pay at the time of the loss to the Government. The approving authority will state the disposition of the property, e.g., accountability and responsibility for the property is discontinued, or accountability is to continue. If two or more persons are being charged with financial liability, see the example of the continuation sheet for block 37 at figure 13-18.

(38a) Actual loss. Enter the actual cost of the loss. See block 27a. If not already computed, see appendix B for computing the amount of the loss.

(38b) Amount charged. Enter the amount of financial liability charged. If financial liability is not charged, enter "none" or "0".

(38c) Loss to the Government. Enter the difference between actual loss and the amount of financial liability charged, i.e., 38a - 38b = 38c.

(39) Date. Enter the date the approving authority signs block 40b.

(40a) Typed name, grade and title of approving authority. Type the name, grade and title of the approving authority.

(40b) Signature. The approving authority signs block 40b.

Figure 13-6b2. Completion Instructions (by item or column) for DA Form 4697, Department of the Army report of survey (Blocks 21-40)

21. APPOINTING AUTHORITY: 1/54th In Bn

22. STATION: Ft Mile, HI 12345

23. DATE: 23 Jan 96

24. NAME, GRADE OF SURVEYING OFFICER: MAJ Stanley R. Griffith

25. YOU ARE APPOINTED AR 15-6 Investigating OFFICER BY ORDER OF: LTC Robert K. Vaughn (Typed name, grade of Appointing Authority)

26. FINDINGS AND RECOMMENDATION

I have examined all available evidence as shown in exhibits _____ to _____ and as indicated below have personally investigated the same and it is my belief that the article(s) listed hereon and/or attached to sheets, total cost $_____

27. RECOMMEND PECUNIARY CHARGE	a. ACTUAL LOSS	b. AMOUNT CHARGED	c. LOSS TO GOVERNMENT

28. DATE	29a. TYPED NAME, GRADE OF SURVEYING OFFICER	b. SIGNATURE

30. I have examined the findings and recommendations of the Surveying Officer on this report of survey and the exhibits _____ to _____ and ☐ desire to make a statement which is attached hereto: ☐ do not desire to make a statement. I am aware of my right to legal advice in preparing the statement and, if a pecuniary charge is finally approved, to make appeal and *(If an enlisted man)* my right to request remission of indebtedness. I am/am not the accountable officer for the lost or damaged property. The property was/was not my personal arms or equipment.

31. DATE	32a. TYPED NAME, GRADE OF INDIVIDUAL BEING CHARGED	b. SIGNATURE

33. RECOMMENDATION BY THE APPOINTING AUTHORITY
☐ CONCUR
☐ NONCONCUR

34. COMMENTS

35. DATE	36a. TYPED NAME, GRADE & TITLE OF APPOINTING AUTH	b. SIGNATURE

37. APPROVING AUTHORITY

a. ☐ REJECTED. Investigation is required. Appoint a survey officer. Date _____ Initials _____
b. ☐ REJECTED. Investigation incomplete. Additional information required. Date _____ Initials _____
c. ☐ APPROVED BY AUTHORITY OF THE SECRETARY OF THE ARMY.

38. PECUNIARY CHARGE
a. ACTUAL LOSS
b. AMOUNT CHARGED
c. LOSS TO GOVERNMENT

39. DATE	40a. TYPED NAME, GRADE & TITLE OF APPROVING AUTH	b. SIGNATURE

Figure 13-7a. Sample of appointing an AR 15-6 investigating officer on DA Form 4697

(21) and (22) Appointing Authority and Station. Enter the organization and station of the individual who appoints the AR 15-6 investigating officer.

(23) Date. Enter the date the AR 15-6 investigating officer is appointed.

(24) Name, Grade of Surveying Officer. Enter the name and grade of the AR 15-6 investigating officer.

(25) You are Appointed Survey Officer by Order of. Enter the name and grade of the individual who appoints the AR 15-6 investigating officer. Line through the words "survey officer" and insert "AR 15-6 investigating officer."

Figure 13-7b. Completion Instructions (by item or column) for DA Form 4697, appointing an AR 15-6 investigating officer

Completion Instructions (by item or column), for continuation sheet, blocks 30-32, DA Form 4697Blocks 30-32b continued, Report of Survey, 20 Jan 91, $362. 15, Co Z, 906th Signal Battalion.

Block 30-32b continued, Report of Survey, 20 Jan 91, $362.15, Co Z, 906th Signal Battalion.

(Block 30) I have examined the findings and recommendations of the survey officer on this report of survey and the exhibits (alpha charter) to (alpha charter) and (do/do not) desire to make a statement which is attached hereto; I am aware of my right to legal advice in preparing the statement, if a financial charge is finally approved, to make an appeal, and (if enlisted) my right to request remission of indebtedness. I am/am not the accountable officer for the lost or damaged property. The property was/was not my personal arms or equipment.

(Block 31). Enter the date block 32b is signed by the respondent. (Block 32a). Enter the name and grade of the respondent.

(Block 32b). Is signed by the respondent.

Figure 13-8. Sample continuation sheet, blocks 30-32, DA Form 4697

Completion instructions (by item or column), for continuation sheet, blocks 37-40, DA Form 4697Blocks 37-40b continued, Report of Survey number 12-96, 24 April 1996, $673.29, Co Z, 906th Signal Battalion.

Block 37-40b continued Report of survey number 12-96, 24 April 1996, $673.29, Co Z, 906th Signal Battalion.

(Block 37.) Approved by Authority of the Secretary of the Army to hold SSG Johnnie S. Evans, 000-00-0000, collectively and individually financially liable in the amount of ($ amount). Accountability has been discontinued. SSG Evans's monthly basic pay at the time of the loss was ($ amount).

(Block 39). Enter the date the approving authority signs block 40b.

(Block 40a). Enter the name, grade, and title of the approving authority.

(Block 40b). Is signed by the approving authority.

Figure 13-9. Sample continuation sheet, blocks 37-40, DA Form 4697

REPORT OF SURVEY REGISTER For use of this form, see AR 135-11, the proponent agency is ODCSLOG	NAME OF ACTIVITY 1/34th Inf Bn	LOCATION Ft Mile, HI 12345	PAGE NO 1

SURVEY NUMBER	DOCUMENT NUMBER	ORIGINATOR (Accountable officer, for primary hand receipt holder)	DATE SURVEY PREPARED	DATE APPROVED	TOTAL PROCESSING TIME	PECUNIARY CHARGE[1]			Collection or Appeal Status
						ACTUAL LOSS	AMOUNT CHARGED	LOSS TO GOVERNMENT	
1-96	6004-0024	Michael D. Owen CPT	3 Jan 96	17 Mar 96	74 days	$289.23	0	$289.23	
2-96	6004-0003	Charles C. Patterson CW3	4 Jan 96	9 Mar 96	65 days	$1349.74	$919.10	$430.64	Submit to FAO 9 Apr 96 for collection
3-96	6017-0001	Robert J. Bates 1LT	12 Jan 96	4 Apr 96	83 days	$546.48	$546.48	0	Denied RPR, forwarded to Appeal Auth 7 May 96
4-96	6025-0046	William P. Albright CPT	24 Jan 96	23 Mar 96	59 days	$253.86	$253.86	0	Submit to FAO 23 Mar 96 for collection
5-96	6030-0007	Michael D. Owen CPT	30 Jan 96						Cancelled, property found 7 Feb 96

[1] Enter the amount in blocks 36a, b, c, DA Form 4697.

Figure 13-10a. Sample DA Form 1659, Report of Survey Register

1. The approving authority will number reports of survey serially. Start with number 1 at the beginning of each fiscal year.

a. Enter the number in column titled "survey number" on DA Form 1659 and in block number 2 of DA Form 4697. These numbers will be cited in all correspondence relative to the report of survey.

b. Maintain the DA Form 1659, Report of Survey Register, or its automated equivalent at the headquarters of the approving authority. Retain on file a copy of all reports of survey assigned a survey number by the approving authority.

c. File copies will be available at all times for use by auditors, inspectors general, and other administrative authorities.

d. Assign the survey number upon initial receipt of the report of survey by the approving authority.

2. The report of survey register may be expanded by using the blank columns on the reverse side of DA Form 1659. At the option of the approving authority, column headings may be entered to include additional information required. Some examples of the data that may be entered are--

a. First line item on the report of survey.

b. The unit or activity initiating the report of survey.

c. Unit's DODAAC or UIC.

d. Related reports of survey.

e. Name of the survey officer and date the survey officer was appointed.

f. Name of person held financially liable.

g. Date the request for reconsideration was submitted.

h. Date the request for reconsideration was forwarded to the appeal authority.

3. The following additional instructions apply to the ARNG--

a. The approving authority will record each report of survey when received from the initiator.

b. The approving authority may designate unique numbering systems to allow identification of surveys from different commands by their assigned numbers. (e.g. alphabetic prefixes to the sequential numbers. Thus C-1-90 is 100th Cav, M-1-90 is 200th Med, I-1-90 is 300th Inf, etc.)

c. The following data will be entered on the reverse side of the DA Form 1659.

(1) The date of discovery of the loss from block 11, DA Form 4697.

(2) Initiating time in days. This is the differences in days between the dates in blocks 11 and 14, DA Form 4697.

(3) Cost to replace. This is the sum of the AMDF prices or the repair estimates at the time of the loss from block 10, DA Form 4697.

(4) OCIE losses. This is the replacement costs taken from block 10, DA Form 4697, when OCIE is lost.

(5) AWOL surveys. This tracks whether a report of survey was the result of an individual going AWOL.

Figure 13-10b. Completion Instructions (by item or column), for DA Form 1659, Report of Survey Register

DEPARTMENT OF THE ARMY
ORGANIZATIONAL NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL (MARKS Number)

MEMORANDUM THRU (Respondent's commander or supervisor)

FOR (Respondent's name, grade and address)

SUBJECT: Financial Liability, Report of Survey (number), ($ amount)

1. You are hereby notified that you are being recommended for charges of financial liability to the United States Government, in the amount of ($ amount) for the loss of Government property investigated under subject report of survey (Encl).

2. Your attention is invited to AR 735-5, paragraph 13-32, which lists your rights relative to this matter as of this time. You have the right to:

a. Inspect and copy Army records relating to the debt.

b. Legal advice.

c. Submit a statement and other evidence to the approving authority in rebuttal of my recommendation.

3. Time constraints for submission of a rebuttal are contained in AR 735-5, paragraph 13-33b.

4. You are requested to complete blocks 30 through 32b of the enclosed DA Form 4697, and to sign the endorsement below. Request these be returned to me no later than (enter date the DA Form 4697 with blocks 30 through 32b completed, and the 1st endorsement signed by the respondent are to be returned using the guidance in AR 735-5, paragraph 13-33b). In the event I am not in receipt of these documents on (enter date), I will forward to the report of survey to the approving authority as is.

Encl

Survey Officer's
Signature's Block
and Signature

OFFICE SYMBOL (MARKS Number) 1st End (Date)

THROUGH (Respondent's commander/supervisor)

FOR (Survey Officer's name, grade and address)

I hereby acknowledge receipt of notice recommendation for financial liability contained in the basic correspondence. am aware of my rights as listed in the basic correspondence above. A copy of DA Form 4697 with blocks 30 - 32 completed is returned as requested.

Encl

Respondent's
Signature Block
and Signature

Figure 13-11. Sample investigating officer notification to the respondent when financial liability is being recommended

DEPARTMENT OF THE ARMY
ORGANIZATIONAL NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL(MARKS Number) (Date)

MEMORANDUM THRU (Respondent's commander or supervisor)

FOR (Respondent's name, grade and address)

SUBJECT: Financial Liability, Report of Survey Number (number), ($ amount)

1. You are hereby notified that financial liability has been assessed against you by the United States Government, in the amount of ($ amount) for the loss of Government property investigated under subject report of survey.

2. Your attention is invited to AR 735-5, paragraph 13-40, which lists your rights relative to this matter. You have the right to:

a. Inspect and copy Army records relating to this debt.

b. Obtain legal advice relating to the assessment of financial liability.

c. Request reconsideration of the assessment of financial liability. A request for reconsideration can be submitted only on the basis of legal error.

d. Request a hearing concerning the amount of the debt, or the terms of any proposed repayment schedule (applies to civilian employees only). A request for hearing will not be considered until a request for reconsideration concerning the existence of the debt has been adversely acted on by the appellate authority. A respondent who wishes to challenge the existence of the debt must do so by submitting a request for reconsideration to the approving authority.

e. Request remission or cancellation of the indebtedness under the provisions of AR 600-4 (applies to enlisted personnel only). A request for remission or cancellation of the indebtedness will not be considered until respondent has submitted a request for reconsideration and it has been denied by the approval authority and the appellate authority.

f. Request extension of the collection period.

g. Submit an application to the Army Board for Correction of Military Records under the provisions of AR 15-185. Submitting such an application is not proper until other avenues of redress have been exhausted.

h. Enter into a written agreement with FAO/USPFO to repay the debt by installment.

3. Submission of a request for reconsideration, a hearing, or remission or cancellation of indebtedness, stops all collection action, pending a decision on the request by the appropriate official. These rights are listed in the order in which they should be exercised.

a. You have thirty calendar days from the date of this memorandum to submit a request for reconsideration to: (insert organization title and address).

b. Should your request for reconsideration be denied, you (applies to civilian employees only) have an additional 30 calendar days from the date of the reconsideration denial to submit a request for hearing to: (insert the organization title and address of the servicing FAO).

Figure 13-12a. Sample approving authority notification to the respondent when financial liability has been assessed

OFFICE SYMBOL
SUBJECT: Financial Liability, Report of Survey Number (number), ($ amount)

c. You (applies to enlisted personnel only) have thirty calendar days from the date of the notification of adverse action resulting from a request for reconsideration to submit a request for remission or cancellation of the indebtedness to: (insert organization title and address).

d. When the rights in paragraph a through c above have been exercised and you have been notified you are still financially liable and must make reimbursement to the Government, you should immediately contact your servicing FAO/USPFO to determine how to avoid possible interest and/or penalty charges if payment is not immediately made.

e. Should all of these rights be denied, or you fail to exercise one of the rights within the appropriate time frame, your last avenue of redress is to make application to the Army Board for Correction of Military Records (ABCMR). Application to the ABCMR does not stop collection actions.

4. Should you have any questions concerning the above rights, you may contact my designated representative (insert name, grade, organization title and address) or the servicing Staff Judge Advocate office.

Encl
Subject report of survey

Approving Authority's
Signature Block
and Signature

OFFICE SYMBOL(MARKS Number) 1st End (Date)

THROUGH (Respondent's commander or supervisor)

FOR (Approving Authority's name, grade and address)

I hereby acknowledge receipt of notice of assessment of financial liability contained in the basic correspondence. I am aware of my rights as listed the in basic correspondence.

Respondent's
Signature Block
and Signature

Figure 13-12b. Sample approving authority notification to the respondent when financial liability has been assessed

DEPARTMENT OF THE ARMY
ORGANIZATIONAL NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL (MARKS Number) (Date)

MEMORANDUM THRU (Respondent's commander or supervisor)

FOR (Approving authority, title and address)

SUBJECT: Request for Reconsideration, Report of Survey Number (number), ($ amount)

I hereby request reconsideration of the assessment of financial liability against me for the loss of Government property investigated under subject report of survey.

(Note: When you request reconsideration of the assessment of financial liability, you must enclose the following with your request.)

1. A statement of the reason(s) why you believe the approving authority's assessment of financial liability is erroneous, including a complete description of the facts, evidence, and a summary of the testimony of any witnesses you believe support your position.

2. Copies of any pertinent records you wish to have considered if they differ from those records previously provided to you by the approving authority.

Respondent's
Signature Block
and Signature

Figure 13-13. Sample request for reconsideration

DEPARTMENT OF THE ARMY
ORGANIZATION NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL (MARKS Number) (Date)

MEMORANDUM THRU (Respondent's commander or supervisor)

FOR (Servicing FAO's or USPFO's title and address)

SUBJECT: Request for Hearing, Report of Survey Number (number), ($ amount)

I request a hearing for the following reason(s): (Enter one or more of the following reason(s) for requesting a hearing).

To contest the validity of the debt for salary offset purposes.

To contest the amount of the debt.

To contest the terms of the offset schedule proposed by the Creditor Component.

(Note: If you are requesting a hearing to contest the validity or the amount of the debt, 1 and/or 2 above, you must enclose the following with this request:)

a. A statement of the reason(s) why you believe the creditor's determination of the validity and/or the amount of the debt is erroneous. Include a complete description of the facts, evidence, and a summary of the testimony of any witnesses you believe support your position.

b. Copies of any pertinent records you wish to have considered at the hearing, if they differ from those records previously provided to you by the Creditor Component.

(Note: If you are requesting a hearing to contest the terms of the offset schedule proposed by the Creditor Component, (3) above, you must enclose the following with your request:)

a. Your proposed alternative offset schedule, i.e., how much you can repay each month.

b. An affidavit of financial status (obtained from the servicing FAO).

c. Copies of any records you wish to be considered at the hearing, if they differ from the records previously provided by the Creditor Component:

Encl(s)

Respondent's
Signature Block
and Signature

Figure 13-14. Sample request for a hearing by civilian employee

DEPARTMENT OF THE ARMY
ORGANIZATION NAME/TILE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL (MARKS Number) (Date)

MEMORANDUM THRU (Respondent's commander or supervisor)

(Approving Authority's title and address)

FOR (Servicing FAO's or USPFO's title and address)

SUBJECT: Request for Extension of the Collection Period, Report of Survey (number), ($ amount)

I hereby request an extension of the collection period to (number) months due to financial hardship.

(Note: When requesting extension of the collection period, you may be required to submit an affidavit of financial support to your servicing FAO or USPFO).

Respondent's
Signature Block
and Signature

Figure 13-15. Sample request for extension of the collection period

DEPARTMENT OF THE ARMY
ORGANIZATION NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL(MARKS Number) (Date)

MEMORANDUM THRU (Respondent's commander or supervisor)

FOR (Respondent's name, grade and address)

SUBJECT: Notice of Relief of Financial Liability, Report of Survey

You are hereby notified that you are relieved from responsibility for the loss, damage, or destruction of the Government property listed on Report of Survey (number).

Approving Authority's
Signature Block
and Signature
or
their designated
representative's

Figure 13-16. Sample approving authority notification of relief of financial liability

DEPARTMENT OF THE ARMY
ORGANIZATION NAME/TITLE
CITY, STATE, AND ZIP CODE

OFFICE SYMBOL (MARKS Number) (Date)

MEMORANDUM FOR (Approving Authority, title and address)

SUBJECT: Request for Reconsideration, Report of Survey Number (number), (amount)

1. Subject request for reconsideration of assessment of financial liability against (enter name and grade of respondent) has been reviewed and request for relief of financial liability is (denied) or (granted) by the appellate authority.

2. This decision is final and no further request for reconsideration is allowed.

3. You are directed to inform the respondent of this decision, and to take the following actions as appropriate:

(Note: If the request for reconsideration is denied by the appellate authority, advise the respondent of the following rights--

a. If respondent is a civilian employee, he or she has thirty days from the date of notification to submit a request for hearing.

b. If respondent is an enlisted soldier, he or she has the right to request remission or cancellation of indebtedness under the provisions of AR 600-4.

c. Respondent has the right to make application to the Army Board for Correction of Military Records, should all other avenues of redress fail.

(Note: If the request for reconsideration is granted by the appellate authority, the approving authority will advise the FAO/USPFO to refund any monies previously collected against this debt as a collection erroneously received.

Encl

Appellate Authority's
Signature Block
and Signature

Figure 13-17. Sample appeal authority notification of results of review of the report of survey

Review Process

Initiator

Block 1. Is the date entered (figure 13-3)?

Block 2. The survey number is entered by the approving authority. See paragraph 13-19a(5).

Block 3. Is the word "organizational", or "real property", or "stock record account", or "installation" entered (figure 13-3)?

Block 4. Has the address of the accountable officer and the UIC for property book accounts or the DODAAC for stock record accounts been entered. For expendable/durable property not carried on accountable records, has the address of the activity maintaining the expendable or durable document register been entered (figure 13-3)?

Block 5. Is the name, grade and designation of the accountable officer, commander, or primary hand receipt holder entered (figure 13-3)?

Block 6. Has the correct stock number and line item number (LIN), or nonstandard item (NSI) number for nonstandard items been entered (figure 13-3)?

Block 7. Have the correct nomenclature, RICC, "No residue" (if applicable), and serial number of serial numbered items been entered (figure 13-3)? If space is insufficient, is plain paper used as a continuation sheet (Table 13-1)?

Block 8. Have the correct quantity and unit of issue been entered (figure 13-3)?

Block 9. Is the correct unit price of the item, entered (figure 13-3)?

Block 10. Is the total cost computed correctly (column 8 multiplied by column 9)? For damaged property, is the estimated cost of damage entered (figure 13-3)?

Block 11. Is an accurate and concise statement of facts given, including the date and place of the incident causing the loss? Are all persons identified by name, grade and designation? Is a notation made in block 11 as to the exhibits attached (figure 13-3)? Is there a copy of each exhibit attached to each copy of the report of survey (Paragraph 13-9a(3)(c))? Are the exhibits properly identified (paragraph 13-29g(2))?

Block 12. Is this block completed according to figure 13-3?

Block 13. Leave blank.

Accountable Officer

Block 14. Has the accountable officer entered the date of his or her signature in block 15?

Block 15. When adjustment to an accountable record is required, has the accountable officer's name, grade and designation been entered (typed and signed) (figure 13-3)?

Block 16. When adjustment to an accountable record is required, has a document number or voucher number been assigned?

Appointing Authority. (Applies only if an Appointing Authority was designated)

Blocks 17-25. Has the report of survey and supporting evidence been reviewed to determine what action is required? (When it can be determined from the facts presented that a person should, or should not be held financially liable without an investigation, the appointing authority will check box 17a. If an investigation is required, the appointing authority will check box 17b or 17c). Are blocks 18

Figure 13-18. **Checklist for reports of survey**

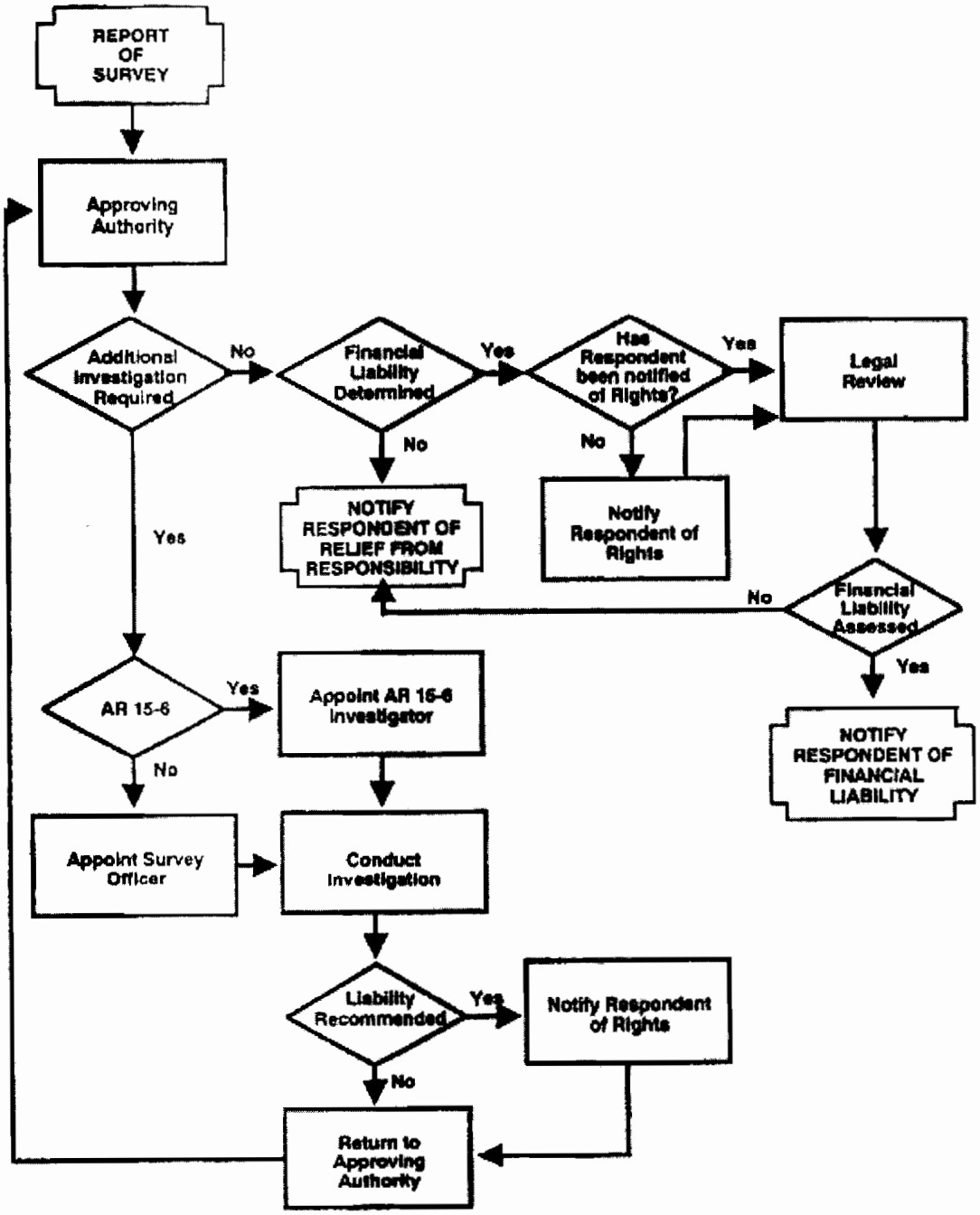

Figure 13-19. Report of Survey processing steps without an appointing authority

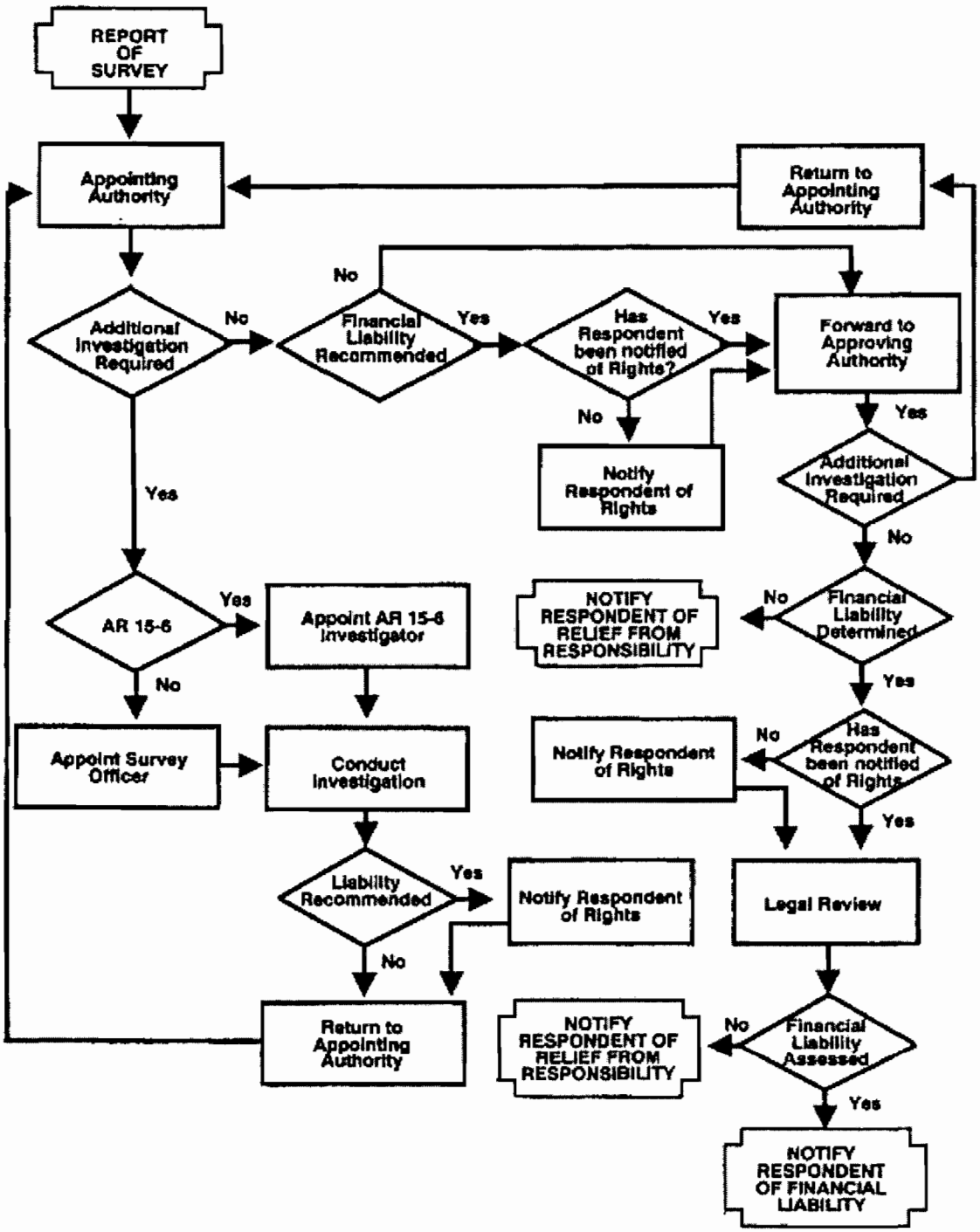

Figure 13-20. Report of Survey processing steps with an appointing authority

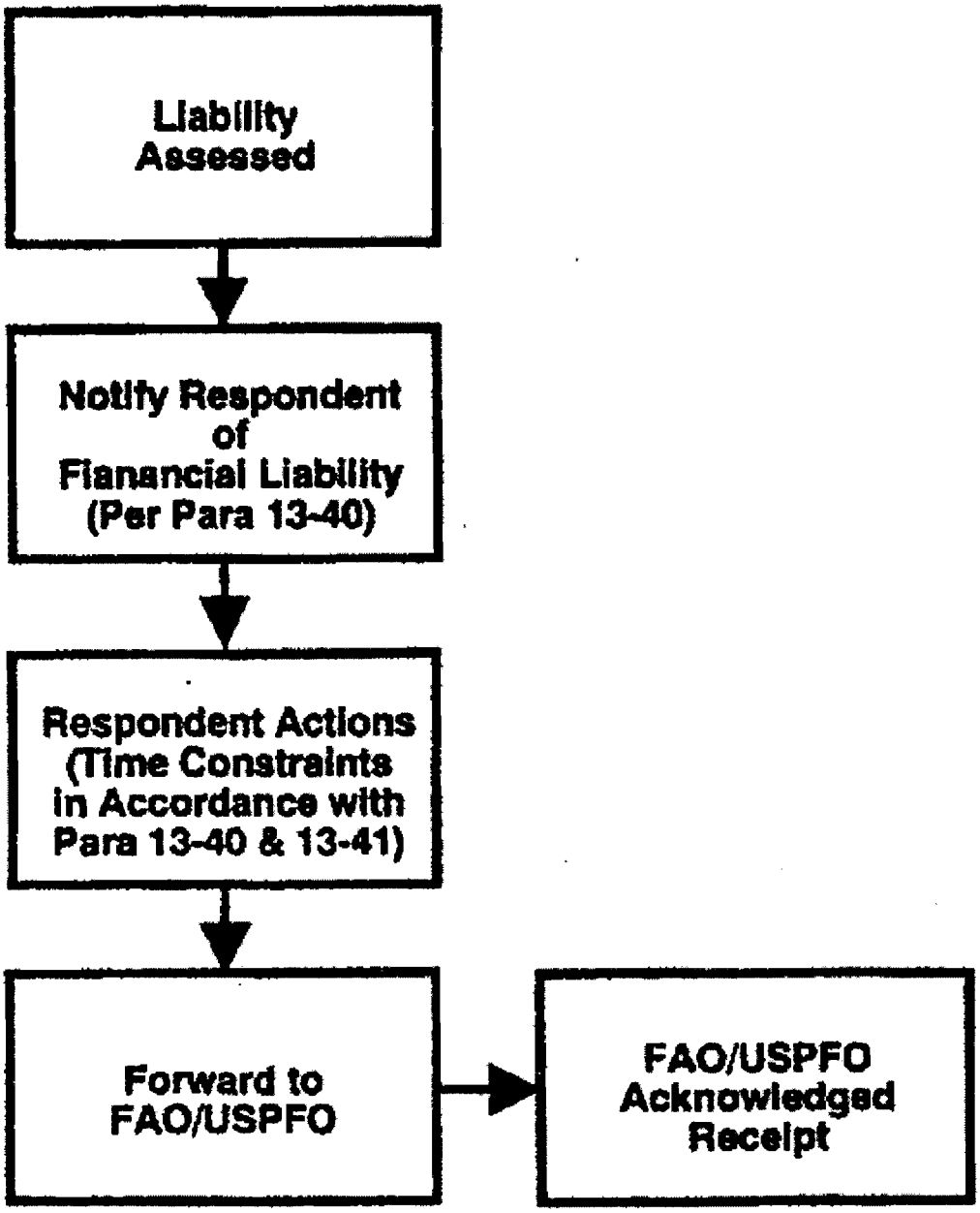

Figure 13-21. Report of Survey Processing steps from assessment of financial liability to receipt at FAO/USPFO

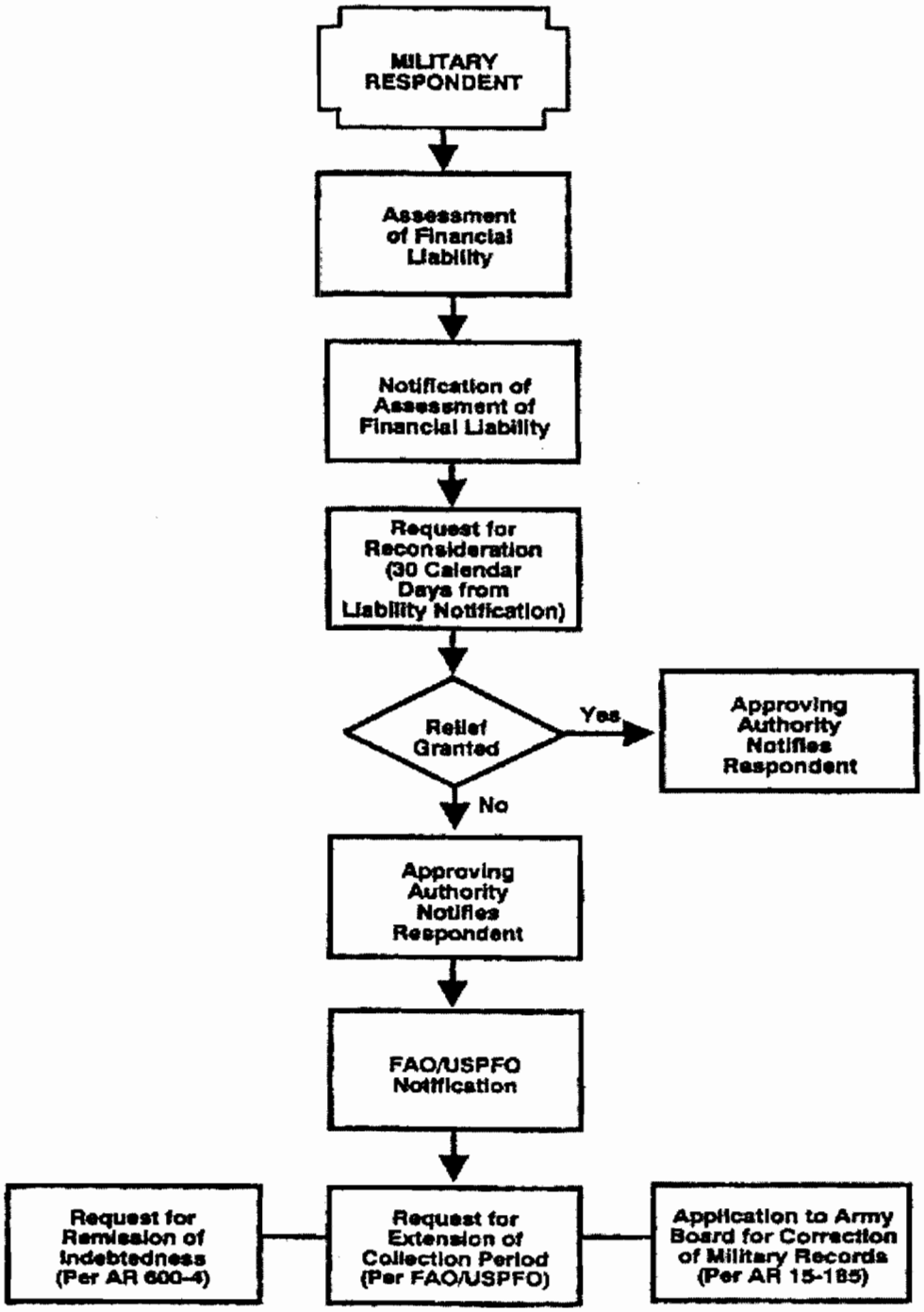

Figure 13-22. Time constraints for a military respondent

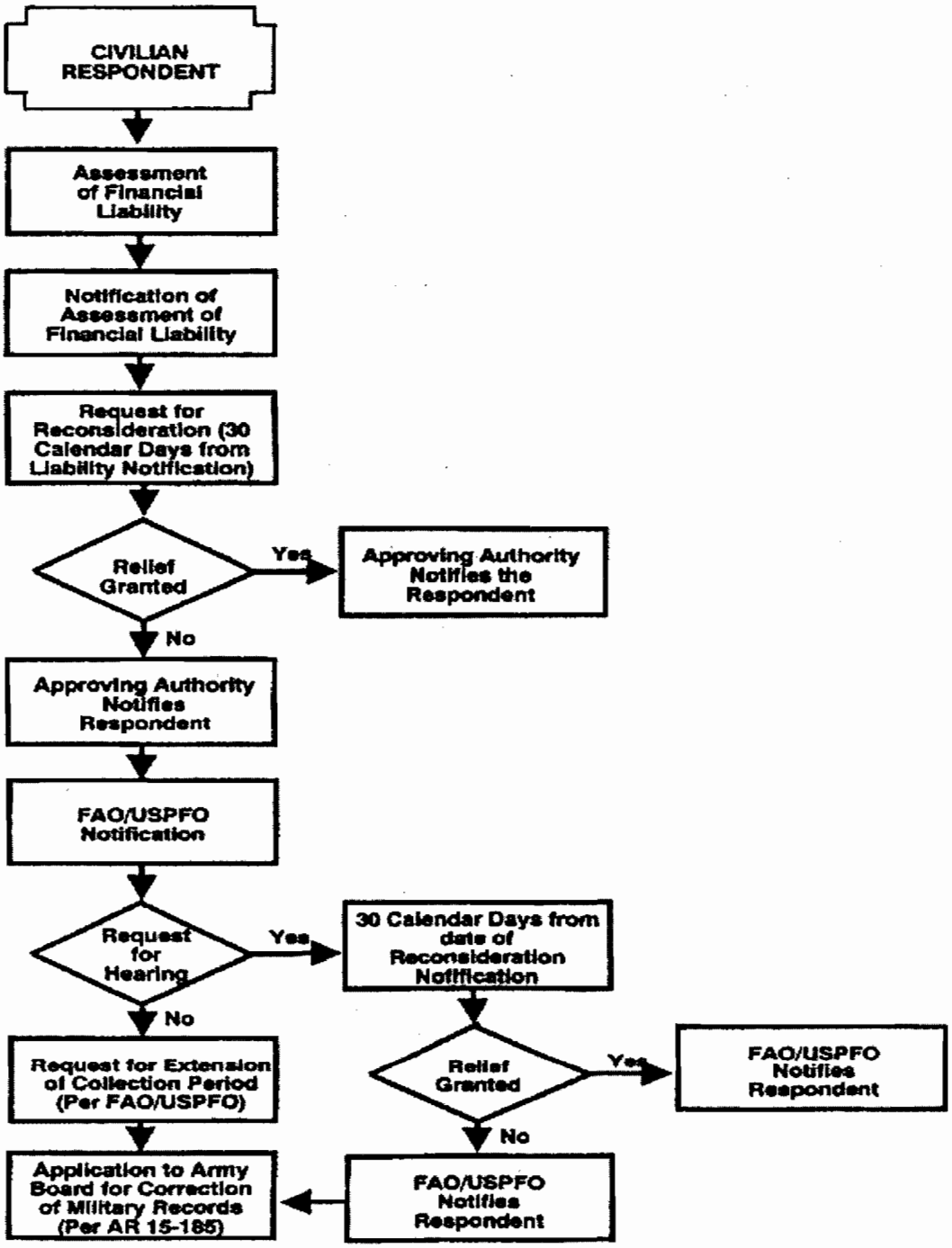

Figure 13-23. Time constraints for a civilian respondent

Chapter 14
Special Procedures

14-1. Reports of survey listing property carried on accountable records of an installation other than where located

This chapter provides procedures that must be followed to account for property under special circumstances.

a. When a report of survey is initiated for property located at a satellite installation or maintenance activity that is accounted for by a parent installation or maintenance customer, the initiator will forward the original and four copies of the report of survey to the approving authority at the satellite installation or maintenance activity. The initiator will retain copy five, and forward the sixth copy to the accountable officer as an advance information copy. Upon receipt of the sixth copy, the accountable officer will assign a document or voucher number, post the property records, and ensure the document or voucher number is provided to the initiator and approving authority.

b. Paragraph a above, also applies to the loss, damage or destruction of historical properties carried on the stock record account of the Center of Military History (CMH) and physically in the custody of a borrower not under the command jurisdiction of the CMH. The approving authority will provide completed copies of reports of survey on request.

c. When ARNG reports of survey list property located at a satellite installation and held on a property book or stock record account of a parent installation, the initiator will retain one copy and forward the original and five copies to the accountable officer of the parent unit. The accountable officer will assign a document or voucher number, post the property records, and forward the original and four copies of the report of survey to the approving authority.

14-2. Reports of survey pertaining to inactivated installations, activities, or organizations

Process reports of survey immediately upon the discovery of the loss, damage, or destruction of Government property. If possible, complete the report of survey investigations before the inactivation of the activity takes place. There are instances where reports of survey are necessary, but are not initiated or completed before the inactivation is completed. In these cases, the headquarters exercising command jurisdiction over the inactivated installation, activity, or organization will prepare and process the reports of survey.

14-3. Discrepancies involving persons carried on the rolls, but not present

a. Death, desertion or insanity requiring property settlement. When death, desertion or insanity requires a property settlement (other than personal clothing), prepare a report of survey for the missing or damaged property.

b. Assessment of financial liability. When an assessment of financial liability against a deceased military member or DoD civilian employee is appropriate, the approving authority will write or type the word "DECEASED" in block 37 of DA Form 4697. The approved report of survey will not be forwarded to the FAO, USPFO or PERSCOM, nor to the surviving relatives of the deceased. A copy of the approved report of survey assessing financial liability against a deceased individual will be forwarded under a transmittal memorandum to the installation claims office for adjudication under the provisions of AR 27-20 . When acknowledgment of receipt is not received by the approving authority within 20 calendar days, the approving authority will initiate a follow-up to the claims office. Follow-ups will continue to be sent every 10th day until receipt by the installation claims office is acknowledged.

c. Active Army. When financial liability is assessed against a military member or DoD civilian employee who is alive, but is no longer in the military service or employed by the Federal Government as a civilian employee, a copy of the report of survey, with all exhibits, will be forwarded, under a memorandum, to the servicing FAO or USPFO for inclusion in the respondent's permanent finance record. The memorandum will request the report of survey be forwarded to the respondent's unit or place of employment in case he or she should return to Government control.

d. USAR. When financial liability is assessed against a military member, a copy of the report of survey will be mailed to U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St Louis, MO 63132-5200 for inclusion in the respondent's permanent records.

e. Distribution. Place copies of completed DA Form 4697 in the member's permanent records.

f. Property authorized under CTA 50-900. Property authorized under CTA 50-900, tables 1, 2 and 3 will not be listed on reports of survey for active Army personnel (see DA Pamphlet 600-8). Reserve components will use DA Form 4697 to account for losses of property authorized under CTA 50-900. Tables 1, 2 and 3.

14-4. Accounting for lost, damaged or destroyed personal clothing and organizational clothing and individual equipment (OCIE)

a. The commanders of active Army, USAR and ARNG members, and ROTC cadets are responsible for initiating reports of survey when property issued from a Central Issue Facility (CIF) becomes lost, damaged, or destroyed, and none of the methods cited in chapter 12 can be used to obtain relief from responsibility. Additionally, the commanders of USAR and ARNG members, and ROTC cadets are responsible for initiating reports of

survey when property issued from a clothing initial issue point (CIIP) becomes lost, damaged, or destroyed.

b. The following applies to the loss of personal clothing and OCIE when a USAR member, ARNG member, or ROTC cadet stops participating in training sessions (unsatisfactory participant whose whereabouts is unknown), and has not returned his or her personal clothing and/or OCIE. Also applies to active duty personnel in an absent without leave (AWOL) status whose OCIE is not available for turn-in.

(1) Report of survey will be initiated. The initiator will complete blocks 1, and 3 through 12 of DA Form 4697. Block 13 will be left blank. The report of survey will be forwarded to the accountable officer for assignment of a document number. The accountable officer will assign a document number as shown in chapter 13, section II, and forward the report of survey to the approving authority.

(2) The approving authority will assign a report of survey number upon receipt of the report of survey. Blocks 17 through 36b will be left blank. The approving authority will check block 37c, and insert the following statement: "Member, or cadet (insert name, grade if applicable and SSN) is held financially liable for the amount indicated in block 38b." Complete blocks 38a through 40b.

(3) The approving authority will forward one copy of the completed report of survey to the servicing FAO or USPFO for collection. The report of survey will be forwarded under a transmittal memorandum requesting acknowledgment of receipt and verification that the report of survey was processed for collection.

(4) If the FAO or USPFO cannot make collections because no pay is due, the report of survey will be forwarded to the servicing claims office for collection. For USAR soldiers for whom no pay is due, the report of survey will be returned to the approving authority who will take the following actions:

(a) If the charge is $100 or less, a copy of the report of survey will be filed as an uncollectible debt in the report of survey files. A copy will be mailed to the U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St. Louis, MO 63132-5200 for inclusion in the respondent's permanent record.

(b) If the charge is more than $100, a copy of the report of survey will be forwarded to the Defense Finance and Accounting Service, Indianapolis Center, Department 80, Indianapolis, IN 46249-0001, for collection.

14-5. Government provided property

The officer or property administrator designated to maintain or supervise property records of DA property held by a contractor, will initiate reports of survey, as appropriate.

14-6. Leased property

An AR 15-6 investigation may be used instead of a report of survey investigation for losses of leased property when negligence or willful misconduct is suspected. However, when the investigation finds negligence or willful misconduct exists, the AR 15-6 investigation will be attached to a report of survey as discussed in paragraph 13-24 .

14-7. Marine casualties

Property carried on a property account listed in a Marine Casualty Investigating Officer's report as provided in AR 385-40 , chapter 7 does not require a survey officer to be appointed. However, the report of survey will include a copy of the Marine Casualty Investigating Officer's Report, or an extract of the report, as an exhibit. (Follow the procedures established for using an AR 15-6 investigation with a report of survey as shown in paragraph 13-24 .)

14-8. Unserviceable supplies in depot storage

Inspectors who find damaged or unserviceable supplies in a depot storage area will report the finding to the responsible officer. When negligence or willful misconduct is suspected, the responsible officer will initiate a report of survey.

14-9. ARNG loaned property

ARNG equipment that is lost, damaged, or destroyed while on loan to another state will be processed according to appendix .

14-10. Liability of nonappropriated fund activities

AR 215-1 , chapter 12 authorizes the loan of specified items of appropriated fund property to nonappropriated fund activities of the Army. In such cases the activity rather than the person who signs for the property assumes nonpersonal responsibility. The activity is not regarded as being an insurer of the property, but is financially liable for a loss under paragraph 13-39 . An action to hold a nonappropriated fund activity financially liable for the loss of appropriated fund property does not negate the right of the activity to hold, in turn, its officers or employees financially liable.

14-11. Property unlawfully detained by civilians

a. The installation, detachment, or other immediate commander will immediately recover Government property in the possession of any party or parties that is likely to be--

(1) Unlawfully removed from his or her jurisdiction.

(2) Concealed, or otherwise disposed of, before necessary proceedings can be held in the civil courts for its recovery.

b. Installation or other immediate commanders will seize Government property, as authorized by Federal or State laws, if such seizure can be achieved without committing a breach of the peace or a trespass on private premises. (In the National Guard, only the USPFO or a Federal National Guard Technician acting for the USPFO may take this action.)

(1) The person from whom property is seized will be presented a receipt or certificate showing such property as belonging to the U.S. Government.

(2) The officer seizing the property will hold the property as provided by applicable Federal and/or State law, subject to any legal proceedings.

c. Before authorizing a recovery or seizure of Government property, the commander should consult with the servicing Staff Judge Advocate office to determine the legality of such seizure per state law.

14-12. Accounting for Government quarters and furnishings

a. When Government quarters or the Government furnishings and equipment contained therein become lost, damaged or destroyed, the installation housing manager will initiate a report of survey. The report of survey will be processed through the chain of command of the individual who is signed for the quarters at the time of the incident per paragraph 13-4 . Military and civilian sponsors may be charged with financial liability when the loss, damage or destruction is the result of negligence or willful misconduct on the part of the sponsor, whether or not the sponsor has receipted for the quarters, furnishings or equipment. This also includes cases where the loss, damage, or destruction results from an act of a household member or guest, or a pet of either the household member or guest. However, it does not include losses resulting from fair wear and tear, or an act of God.

b. When liability against a sponsor cannot be shown, the financial liability can be assessed against the individual who actually caused the loss, damage, or destruction. In this instance, upon assessing financial liability, the report of survey will be forwarded to the servicing claims office for collection.

c. When a report of survey is initiated to account for the loss, damage, or destruction of Government quarters and/or the Government furnishings and equipment contained therein, a determination of gross negligence will result in the full amount of the loss to the Government being assessed against the sponsor.

14-13. Aircraft accidents

For property lost, damaged or destroyed in an aircraft accident, a copy of the collateral investigation (also known as a line-of-duty, AR 15-6 , or legal investigation) will be attached to the report of survey per paragraph 13-24 . Collateral investigations may be conducted at the discretion of the commander whose personnel, equipment, or operations were involved in the accident per AR 380-40, paragraph 1-8. Collateral investigations

will not be used as a property adjustment document or to assess financial liability. Process a report of survey to accomplish either of these actions.

14-14. Contracting officer actions on reports of survey

a. When losses of property on Army accountable records involve possible contractor liability under a service contract, the individual with direct responsibility will initiate and forward the report of survey to the approving authority. The approving authority will forward the report of survey to the contracting officer that is monitoring the service contract.

b. The contracting officer, assisted by the property administrator, will investigate the loss and make an independent finding as to the liability of the contractor involved in a report of survey. The contracting officer will make a determination as to the contractor's liability, and formally furnish a copy of his or her determination to the contractor. Should the contracting officer determine compensation is due to the U.S. Government, he or she will promptly issue a written request (demand) for payment to the contractor. The contracting officer will record the findings and state the adjustment on the report of survey. The decision of the contracting officer is final and conclusive unless the contractor makes an appeal under the disputes clause of the contract.

c. Contracting officers will forward their decisions on the report of survey to the approving authority. This processing of the report of survey is not to be considered under the time constraints in paragraph 13-5 of this regulation. However, there will be 30 day follow-ups by the approving authority until the completed report of survey is returned.

14-15. Approval authority for property issued to a unit during major training exercises

During training exercises, reports of survey will be initiated immediately upon the discovery of Government property being lost, damaged or destroyed. The survey officer must begin the investigation by examining the damaged property, and releasing it for turn-in, or repair and disposition back to the owning unit. Every effort will be made to complete the investigation while the facts are fresh, and responsible and knowledgeable persons are still present.

a. Regardless of who initiates the report of survey, it will be processed through the chain of command of the individual who had personal and/or direct responsibility for the property at the time of the incident.

b. The exception to a above, is when a support agreement allows a host installation or host MACOM to approve reports of survey through the property administrative channels.

14-16. Accounting for recovered property previously listed on a report of survey

Often property is found after a report of survey has been initiated to account for its loss. When this occurs, follow the procedures listed below:

a. When the property is recovered before a document or voucher number is assigned to the report of survey, the initiator will--

(1) If some, but not all the property is recovered, line through the recovered property identified in blocks 6 through 10, and initial the entries on all copies. Adjust the grand total under column 10, total cost.

(2) If all the property is recovered, destroy the document.

b. When property is recovered after a document or voucher number has been assigned to the report of survey, the initiator, the survey officer, or the approving authority, as appropriate, will direct the accountable officer in writing to reestablish accountability for the recovered property.

(1) In the active Army and USAR, the accountable officer will reverse the transaction using the same document or voucher number assigned to the report of survey.

(2) In the ARNG, the accountable officer will prepare a DA Form 3161, and annotate the form as found on installation. A new document or voucher number will be assigned and cross referenced to the report of survey. After posting the accountable records, copies of the DA Form 3161 will be distributed as follows:

(a) File the original in the accountable officer's document or voucher supporting file.

(b) Provide a copy to the USPFO to support adjustment to the Equipment Status Report (ESR).

(c) Attach one copy to the report of survey as an exhibit.

(3) The accountable officer will respond back by endorsement to the initiator, survey officer, or approving authority as appropriate when accountability has been reestablished. The accountable officers's response will be attached to the report of survey as an exhibit.

c. When property is recovered after a survey number has been assigned by the approving authority, the approving authority will forward a memorandum to the accountable officer instructing the accountable officer to reestablish accountability for the property recovered. The instructions in paragraph b above, will apply to the accountable officer when reestablishing accountability.

(1) When some items are recovered, but not all, a copy of the memorandum with accountable officer's endorsement will be attached to the report of survey as an exhibit, and the report of survey investigation will continue until report of survey is completed.

(2) When all property is recovered, the memorandum with accountable officer's endorsement will be attached to the report of survey as an exhibit, and the report of survey will be cancelled. Survey officer will be notified to discontinue the investigation and the original of report of survey will be marked "CANCELLED" and filed by the approving authority to support the cancellation.

d. When property is recovered after the approving authority has made a final decision on financial liability, the approving authority will reopen the report of survey.

(1) The approving authority will forward a memorandum to the accountable officer instructing the accountable officer to reestablish accountability for the recovered property. The instructions in paragraph b above will apply to the accountable officer when reestablishing accountability. The accountable officer's response will be attached to the report of survey as an exhibit.

(2) When an individual(s) has been assessed with financial liability for those items recovered, determine whether the individual was assessed the total amount of the loss or 1 month's base pay as prescribed in paragraph 13-39b . If the individual was assessed the total amount of the loss, the approving authority will forward a memorandum to the finance and accounting office requesting the respondent be refunded the amount collected for the recovered property. When the individual was assessed one month's base pay, refunds of the amount collected for recovered property will not be made unless the items recovered, reduce the total loss to less than one month's base pay. The amount refunded would be the difference between the amount collected and the amount of the adjusted loss (total loss, less the value of the recovered property.)

(3) In the event a unit or activity has been inactivated, the approval authority in the chain of command immediately above the inactivated unit or activity, and still active, will take the action specified in (2) above. The recovered property will be turned in as found on installation in accordance with AR 710-2, paragraph 2-13d(1)l .

14-17. Subsistence accounting variances

a. TISA.

(1) Adjust unidentifiable operational accounting variances in the TISA account (ration breakdown for ARNG) that do not exceed the authorized tolerances according to AR 30-18, paragraph 5-9 . The approving authority for DA Form 4170-R will approve the gain and loss variances.

(2) Prepare a report of survey according to chapter 13 when the unidentifiable accounting losses exceed the tolerance authorized by AR 30-18, paragraph 5-10 , or if the approving authority for DA Form 4170-R does not approve the gains or losses.

b. Overdrawn or underdrawn meal status, ARNG. Bring overdrawn or underdrawn meal status in excess of the authorized tolerance factors for annual training or inactive duty training into tolerance per AR 30-1, paragraph 8-4 .

14-18. Losses of cashmeal payment sheets, DD Form 1544 (Cash Meal Payment Book) and money collected as payment for meals in a dinning facility

Losses of cashmeal payment sheets and/or money collected as payment for meals in a dinning facility require an investigation under AR 15-6 per AR 30-1, paragraph 11-2 . A report of survey will be initiated to account for the lost form(s) and/or money, and to assess financial liability if negligence is found.

14-19. Destruction of contaminated clothing and equipment

a. Individual clothing. Replace contaminated individual clothing directed to be destroyed by medical authority using gratuitous issue procedures DA Form 3078, (Personal Clothing Request). (See AR 700-84, paragraph 5-4b , for detailed instructions.)

b. Organizational clothing. Contaminated organizational clothing and individual equipment destroyed by direction of medical authority, will be adjusted from property records. List this property on a memorandum, bearing a signed statement naming the medical officer who directed the destruction of the articles, and the signature of the unit commander. When received by the person maintaining the accountable record, a document number will be assigned to the memorandum, and memorandum posted as a loss to the accountable record(s).

14-20. Disassembled or cannibalized major items, kits, or assemblies

When a major item (except aircraft), kit, or assembly is disassembled or cannibalized according to instructions of the appropriate wholesale item manager, an adjustment to the stock record account is required. Adjustments are made using inventory adjustment report (IAR) procedures as prescribed in paragraph 14-28 , or turn-in documents as prescribed in AR 710-2 A report of survey is not normally required for this type of adjustment to the property record. However, report of survey procedures may be used to investigate the circumstances causing the property to be damaged.

14-21. Losses incident to taking part in joint exercises and operations

Property belonging to Army or ARNG units taking part in joint exercises or operations will not lose its Army or ARNG identity. It remains the property of the Army or ARNG unit or organization involved. Account for losses of, or damage to, such property according to this regulation.

14-22. Property determined to be unsafe for further use or storage because of age

Supplies such as drugs, biologicals, ammunition, chemicals, parachutes, or other supplies of a similar nature, determined to be unsafe or unsuitable for further use or storage beyond a specified date by the wholesale item manage, or The Surgeon General (TSG) will receive disposition instruction as follows:

a. On hand quantities of these items may be disposed of at any locality, as specified in instructions published in Army supply bulletins and other approved media.

b. List quantities for disposal on the proper turn-in forms according to AR 710-2 , or AR 40-61 for medical commodities. These forms may be used as vouchers to drop the property from the accountable records if the following data is furnished and confirmed by the accountable officer.

(1) A supply bulletin or other competent directive is cited authorizing the disposal of the supplies.

(2) Reference to records or data is cited by which--

(a) The supplies may be positively identified as pertaining to a designated lot.

(b) The supplies have been procured or issued before a date specified in the supply bulletin, or applicable regulations may not be available.

c. If such records or data are not available, a report of survey will be initiated.

14-23. Property ordered to be abandoned

In the course of combat, contingency operations, large-scale field maneuvers involving simulated combat conditions, military advisory activities, or to meet other military requirements, situations may develop requiring the abandonment of property.

a. When abandonment of property is necessary, written authorization to abandon the property will specify the circumstance leading to the abandonment decision. The authorization document may not be prepared until after abandonment has occurred. This will not matter providing the installation or division commander (State Adjutant General ARNG) approves the authorization document.

b. If the authorization document is not approved, a report of survey or AR 15-6 investigation will be initiated.

c. The approved authorization document will be used as the voucher to adjust the accountable records.

14-24. Losses in laundries

a. Military personal clothing. Replace military personal clothing that is lost or damaged while in the custody of a laundry and dry cleaning facility under the provisions of AR 210-130 , paragraph 2-14 and AR 700-84, paragraph 5-4c . The facility manager will attempt to repair or replace damaged or lost military personal clothing items from surplus stocks. Failing that, the facility manager will authorize a gratuitous replacement by preparing and approving DA Form 3078.

b. Non-military personal clothing and equipment. When this type of property cannot be satisfactorily replaced from surplus at the laundry and dry-cleaning facility, the facility manager will list the lost or damaged property on a memorandum. The facility manager will sign and give the completed memorandum to the complainant and direct him or her to the nearest claims office.

c. Organizational clothing and equipment. Account for organizational clothing and equipment lost or damaged while in the custody of a laundry and dry cleaning facility by repairing or replacing the property under the provisions of AR 210-130, paragraph 2-13b . When the facility manager cannot repair or replace the property from surplus stocks to the satisfaction of the customer, the facility manager will describe the items lost or damaged, and the extent of the damage, on a memorandum. The facility manager will sign and give the completed memorandum to the complainant. The commander of the complainant will initiate a report of survey to account for the lost or damaged property. When the loss occurs in a contractor operated facility, adhere to the provisions of paragraph 14-14 .

d. Articles and equipment not returned by contract laundries and dry cleaners. When ARNG clothing articles and other military equipment are not returned by contract laundries and dry cleaners, or are returned in a damaged condition, follow one of the procedures listed below:

(1) Obtain cash payment from the vendor for the monetary value (from the AMDF) of the lost or damaged property. The USPFO will provide assistance in the collection process.

(2) Process a DD Form 362 prescribed in chapter 12 . Attach a brief statement of circumstances in addition to the normal entries on the form. Substitute the name of the vendor for the individual's name.

14-25. Accounting for losses of durable hand tools at the using unit level for which negligence or willful misconduct is not suspected

a. MTOE organization. Using unit commanders are authorized to adjust losses of durable hand tools up to $100 per incident when the losses did not occur from negligence or misconduct.

(1) Prepare a memorandum in the following format:

(a) Subject block: Memorandum for Record; Adjustment Document.

(b) Prepare a narrative of the incident.

(c) List the items requiring adjustment by NSN, nomenclature, unit of issue, number of items to be adjusted, unit price, extended price, and total price.

(2) Immediately after the last item adjusted, enter the following statement over the signature of the commander: "I have reviewed the circumstances surrounding the loss of the above items and find no evidence of negligence or willful misconduct."

(3) Prepare the memorandum in original, plus one copy for each hand receipt involved. This memorandum requires no approval above the unit level. File the original in a consolidated file, in hand receipt holder sequence, for review by the report of survey approving authority per c below. Retain the file for 2 years. The duplicate copy(s) is filed in the appropriate hand receipt file to support the adjustment action. The duplicate copy should be destroyed upon receipt of the replacement for the lost hand tool.

b. TDA organization. In TDA organizations, individuals occupying positions equivalent to that of a unit commander in a MTOE environment are authorized to adjust losses of durable hand tools using the same provisions cited in a above. In TDA organizations, those individuals will normally occupy a directorate or division level TDA position. Use the major TDA paragraphs as a guide. Individuals not filling those major TDA positions do not have the authority to adjust losses of durable hand tools under the provisions of a above.

c. Review criteria. Memorandums used as adjustment documents for losses of durable hand tools, as prescribed in a and b above, will be summarized quarterly (adjustment documents will be attached to the summary) and forwarded to the report of survey approving authority for review. The attached adjustment documents will be returned to the unit commander following the review.

(1) The approving authority's review will validate the absence of abuse to this adjustment method.

(2) When abuse is suspected, the approving authority will cause an AR 15-6 investigation or a report of survey to be initiated. Any suspicion of abuse by the approving authority will result in the automatic suspension of this authorization until the unit commander is cleared of suspicion.

(3) The approving authority will annotate concurrence or nonconcurrence on the quarterly summary. A copy of the quarterly summary will be retained on file by the approving authority for 2 years.

14-26. Damaged property

Qualified technical inspectors, property classification officers, and other designated persons may classify property physically on hand as unserviceable. From it's general condition and appearance, the property may be classified as either unserviceable through fair wear and tear, or unserviceable through other than fair wear and tear. For the ARNG, a commissioned officer of the regular Army, or an Active Guard/Reserve (AGR) commissioned officer of the Army National Guard of the United States (ARNGUS) may make the final fair wear and tear determination on all unserviceable property prior to disposition, per Section 710(f), Title 32, United States Code (32 USC 710(f)). When property is determined to be unserviceable through other than fair wear and tear, the commander or TDA activity chief having responsibility for the property must investigate the circumstances. On completion of the commander's or the TDA activity chief's investigation, one of the following actions will be taken.

a. Damaged property (excluding OCIE).. If negligence or willful misconduct was not involved, a statement signed by the unit commander or the TDA activity chief will be attached to the maintenance request or the turn-in document stating the cause of the damage. The unit commander or the TDA activity chief will state "I have reviewed the circumstances surrounding the damage to the above item(s) and find no evidence of negligence or willful misconduct."

(1) The report of survey approving authority, or their designated representative, must review all damage statements unless approval authority is delegated to subordinate unit commanders and/or TDA activity chiefs per (2) below. When the report of survey approving authority, or his or her designated representative concurs with the damage statement, they will enter "CONCUR" on the statement, and date and sign their concurrence. Nonconcurrence will be shown by entering "NONCONCUR--INITIATE A REPORT OF SURVEY" on the statement, and date and sign their nonconcurrence.

(2) Division commanders, commanders of separate brigades, and post commanders with subordinate TDA units and/or activities assigned will establish a dollar threshold above which all damage statements must be approved by the report of survey approving authority. For damaged property costing less to repair than the dollar threshold established, the report of survey approving authority may delegate authority to subordinate unit commanders and/or TDA activity chiefs to approve damage statements.

(3) When authority to approve damage statements is delegated to subordinate unit commanders, and/or TDA activity chiefs, they will forward copies of the approved damage statements to the report of survey approving authority on a quarterly basis for review. The report of survey approving authority, or their designated representative per ((4) below), will use the review to determine whether subordinate commanders and/or TDA activity chiefs are abusing the authority delegated to them.

(4) The report of survey approving authority may designate a member of his or her staff in the grade of major or above, or a DA civilian employee in the position of division chief or above to review approved damage statements. This same individual may also be

designated to approve/disapproved damage statements when the cost to repair the damaged item exceeds the dollar threshold established per (2) above.

(5) Commanders above the report of survey approving authority level will initiate and conduct oversight management of damage statements initiated and approved by subordinate commanders and/or TDA activity chiefs. A random sample of no less than 10 percent of all damage statements approved by subordinate commanders and activity chiefs will be reviewed quarterly. The review will be made to determine if the report of survey approving authorities, and unit commanders and TDA activity chiefs delegated with approval authority of damage statements are properly carrying out their responsibilities as approving authorities, i.e., are the decisions to approve damage statements--

(a) Supported by the commander's or the TDA activity chief's preliminary investigation documented on the damage statement.

(b) In the best interest of the Army and U.S. Government.

b. Damaged class 9 components. When the owning unit commander suspects that damage to a class 9 component has been caused by gross negligence or willful misconduct, the component should be work ordered to the supporting maintenance activity for determination of the estimated cost of damages (ECOD). After completion of the ECOD, the component will be turned in, or work ordered for repair as quickly as possible, consistent with evidentiary requirements of chapter 13. When negligence or willful misconduct are not involved, paragraph a above applies.

c. Damaged OCIE. Unit commanders or their designated representative are authorized to approve damage statements for damaged OCIE when preliminary investigation by the unit commander or the soldier's chain of command (e.g., squad leader, platoon sergeant/leader, or first sergeant) reveals the damage occurred during a field training exercise and neither negligence nor willful misconduct was involved. The commander will state in a memorandum to the central issue facility (CIF), "I or a member of my command have reviewed the circumstances surrounding the damage to the below listed item(s), and find no evidence of negligence or willful misconduct." The damaged OCIE will be identified by nomenclature and quantity. The commander, or his or her designated representative will sign the statement. Each statement must have an original signature. Individuals for whom the unit commander has approved a damage statement for OCIE will take the statement and the damaged articles of OCIE to the servicing CIF or OCIE issue point within 30 calendar days of the commander's approval for exchange. If the commander believes negligence or misconduct were involved, a report of survey should be initiated.

d. When liability is admitted and the amount of the damage does not exceed the person's monthly basic pay, prepare a DD Form 362, per paragraph 12-2c .

e. When liability is admitted and the amount of damage exceeds the person's monthly basic pay, initiate a report of survey, paragraph 13-2a(3).

f. When negligence or willful misconduct is suspected, and liability is not admitted, initiate a report of survey per paragraph 13-2a(1).

g. Separate reports of survey will not be prepared for the same incident unless the damaged property is recorded on separate property accounts.

h. When a report of survey has been initiated on damaged property the initiator of the report survey will request the actual cost of repair from the maintenance support activity, and forward that data to the report of survey approving authority. When the estimated cost of damage (ECOD) (used to initiate a report of survey) is greater than the actual cost of damage (ACOD), the approving authority will amend the amount charged the respondent, and request FAO/USPFO to make repayment as appropriate.

i. When requested by the approval authority, the commander of the maintenance support activity will consolidate the cost data for each supported unit and forward the data to the approving authority.

j. When the report of survey is approved or when the property is released by the survey officer, attach a copy of the report of survey to the maintenance request. If the property is not economically repairable, attach a copy of the approved report of survey or the survey officer's release statement to the turn-in document. If there is a maintenance request showing the condition code, attach it to the turn-in document also. Damaged property for which negligence or willful misconduct is suspected will not be repaired or disposed of, or continued in use until the survey officer prepares a release statement per paragraph 13-29c.

14-27. Accounting for lost keys

a. When a person loses a key due to negligence or willful misconduct, he or she will be assessed financial liability for the lost key.

b. When the loss of a key through negligence or willful misconduct is the proximate cause of replacing a locking device or door by rendering the locking device or door unsuitable for its intended purpose, the respondent will be held financially liable for the replacement cost of the locking device and/or the door. Replacement cost includes both the cost of the parts and the cost of the labor to install.

14-28. Inventory discrepancies at a central issue facility (CIF)

a. Inventory discrepancies on organizational clothing and individual equipment (OCIE) in CIF property book balances discovered during a semiannual or cyclic inventory will be adjusted and reported using an inventory adjustment report (IAR) except when

negligence or willful misconduct is known or suspected; use one of the adjustment methods cited in paragraph 12-1c(1)(a) through (c) of this regulation

(1) Causative research will be conducted and documented on IARs for inventory discrepancies--

(a) Exceeding 1/2 of 1 percent of the combined total of the dollar value of issues and turn-ins (to and from supported personnel) of a single line since the last inventory.

(b) Exceeding $500 in extended line item value.

(2) IARs will be prepared and forwarded to the approving authority within 30 calendar days after completion of the inventory. The approving authority will take final action on the IAR within 5 working days of receipt, or will return the IAR to the PBO for addition research. When an IAR is returned for further research, 15 days will be allowed for the PBO to do further research. The approving authority may grant extensions of up to a total of 30 additional days. For those entries disapproved by the approving authority, report of survey action or AR 15-6 investigation will be initiated for the shortages, and the overages will be turned in to the supply support activity (SSA).

(3) As long as the total adjustments (both gains and losses) for all IARs do not exceed 2-1/2 percent of the dollar value of the stockage allowance during the fiscal year, the approval authority for individual IARs will be as follows:

(a) $2,500 or less. Approval authority is the commander who appointed the accountable officer. In a TDA environment, the commander may delegate approving authority to a division head within the Directorate of Logistics (DOL).

(b) Over $2,500, but less than $10,000. Approval authority is the commander who appointed the accountable officer if the appointing authority is in the grade of lieutenant colonel or above, or is assigned to a position authorized a lieutenant colonel or above. In a TDA environment, the commander may delegate approving authority to the DOL. Otherwise, the approving authority will be the first commander in the grade of lieutenant colonel or above in the appointing authority's chain of command. General officers may delegate, in writing, a lieutenant colonel or above to act as the approving authority.

(c) $10,000 and over. Approval authority is the commander who appointed the accountable officer if the appointing authority is in the grade of colonel or above, or is assigned to a position authorized a colonel or above. In a TDA environment, the commander may delegate approving authority to the DOL. Otherwise, the approving authority will be the first commander in the grade of colonel or above in the appointing authority's chain of command. General officers may delegate, in writing, a colonel to act as the approving authority.

(4) Once the total adjustments (both gains and losses) for the fiscal year exceed 2-1/2 percent of the total dollar value of the stockage allowance, the approval authority for all

subsequent IARs is the commander who appointed the accountable officer, if the appointing authority is in the grade of colonel or above. In a TDA environment, the commander may delegate approving authority to the DOL. Otherwise, the approving authority will be the first commander in the grade of colonel or above in the appointing authority's chain of command. General officers may delegate, in writing, a colonel to act as the approving authority.

(5) The dollar value of the stockage allowance will be as of the last day of the first month of the fiscal year. This stockage allowance value will be used for all IARs during the fiscal year.

(6) Administrative adjustment reports (AARs) will not be included in the totals used to determine the 2-1/2 percent cut-off. These include AARs for discrepancies in makes, models, and sizes.

(7) In the ARNG, the State AG is the approving authority for USPFO IARs. The State AG may delegate approval authority to a Federally recognized ARNG general officer.

b. MACOM commanders will initiate and conduct oversight management of the inventory adjustment report process within their commands.

(1) A random sample of no less than 25 percent of those inventory adjustments reports that show physical losses and/or gains of property processed and approved by subordinate commands will be reviewed quarterly.

(2) The review will be made to determine if the IAR approving authorities are properly carrying out their responsibilities as approving authority, i.e., are the decisions made--

(a) Supported by evidence documented in the causative research on IARs.

(b) Supported by adequate explanation when the quantity or dollar value adjusted is substantially high.

(c) In the best interest of the Army and the U.S. Government.

(d) Followed-up with corrective actions or directives as appropriate.

14-29. Inventory discrepancies at a stock record account (SRA)

a. All discrepancies in stock record balances found during an inventory will be adjusted and reported on an IAR with the following exceptions:

(1) When negligene or willful misconduct is known or suspected, one of the other adjustment methods cited in paragraph 12-1c should be used.

(2) For other than small arms ammunition, verified losses of controlled inventory items will be adjusted using a report of survey per paragraph 13-2a(6).

(3) Discrepancies between ammunition stock record balances and inventory counts that show substantial overages or shortages of ammunition and explosives will be reported under provisions of AR 190-11. Substantial overages or shortages are those meeting the AR 15-6 investigation requirements indicated by AR 190-11, appendix E.

(4) Discrepancies that have an extended line item value of $1,000 or less will not be reported for inventory adjustment with the following exceptions:

(a) Controlled inventory items.

(b) When negligence or willful misconduct is known or suspected.

(5) For IAR adjustments not acceptable to the approving authority, one of the other adjustment methods cited in paragraph 12-1c must be used.

b. All discrepancies (not covered above) in stock record balances found during an inventory will be adjusted and reported on an IAR. Manual and automated system procedures publications, provides IAR preparation instructions.

c. Causative research, which is part of the inventory process, will be conducted and documented on the IAR when discrepancies result in adjustments over $1,000 in extended line item value.

d. IARs will be prepared and forwarded to the approval authority within 30 calendar days after completion of the inventory. The approval authority will take final action on the IAR within five working days of receipt or will return the IAR to the SRO for additional research. When an IAR is returned for further research, 15 days will be allowed for the SRO to do further research. The approval authority may grant extensions of up to a total of 30 additional days.

e. The goal for inventory adjustments (both gains and losses) for all IARs is to keep total adjustments below 5 percent of the dollar value of the requisitioning objective (RO) during the fiscal year. The approval authority for IARs is the first commander in the grade of lieutenant colonel or a civilian director of logistics or director of public works equivalent unless approval authority is retained at higher level within the chain of command.

f. In the ARNG, the state AG is the approval authority for the USPFO IARs. The state AG may delegate approval authority to a federally recognized ARNG general officer.

g. The Army's performance objective and internal management control goal is to keep total inventory adjustments (both gains and losses) below 5 percent of the total annual

dollar value of the RO. The dollar value of the RO is computed annually during October using the October Army portion of FEDLOG.

h. Administrative IARs will not be included in the totals used to determine the 5 percent cutoff. Administrative IARs include--

(1) Assembly.

(2) Disassembly.

(3) Stock numbers or unit-of-issue changes.

(4) Transaction reversals.

(5) Condition code changes.

(6) Re-identification.

(7) Pseudoreceipts

i. A copy of the IAR or other adjustment documents on which reportable items are listed will be provided to the CBS-X central collection activity.

j. MACOM commanders will initiate and conduct oversight management of the inventory adjustment report process within their commands.

(1) A random sample of no less than 25 percent of those inventory adjustment reports that show physical losses or gains of property (other than administrative IARs in para 14-29h) processed and approved by subordinate commands will be reviewed quarterly.

(2) The quarterly review will be made to determine if the IAR approving authorities are properly carrying out their responsibilities as approving authority, that is, are the decisions made--

(a) Supported by evidence documented in the causative research on the IAR.

(b) Supported by adequate explanation when the quantity or dollar value adjusted is substantially high.

(c) In the best interest of the Army and the U.S. Government.

(d) Followed-up with corrective actions or directives as appropriate.

14-30. Vehicular accidents

a. Accidents involving civilian vehicles. Accidents often occur involving military and civilian employees of the Government, and civilians who are not employed by the Government. When Government property is damaged (other than a GSA vehicle), and negligence or willful misconduct by civilians who are not Government employees is suspected, but not admitted, or is admitted with a refusal to make restitution, a report of survey must be initiated. When assessment of financial liability is made against a civilian not employed by the Government, it is not necessary for the survey officer or the approving authority to notify the individual of recommended assessment of financial liability. The approval authority will forward a copy of the approved report of survey with all exhibits to the servicing claims office. The claims office will initiate action under AR 27-20 .

b. Accident involving General Services Administration (GSA) vehicles. Units and activities assigned GSA vehicles must comply with the policy contained in the Federal Property Management Regulation, sub-part 101-39.4 -- Accidents and Claims, when an assigned GSA vehicle is involved in an accident. When a GSA vehicle is involved in an accident, the GSA fleet management center that issued the vehicle will advise the unit or activity of its financial responsibility to GSA based on their review of the accident reports and other evidence they are in receipt of.

(1) Reports of survey or other administrative adjustments in accordance with paragraph 12-1c above, must be initiated when a GSA vehicle is involved in an accident, or has sustained damages through vandalism, theft, or parking lot damage.

(2) The approved report of survey should be forwarded to the installation claims office per AR 27-20, when--

(a) The report of survey investigation reveals the damage to the GSA vehicle was not the result of negligence or willful misconduct on the part of the driver of the GSA vehicle or the unit or activity assigned the GSA vehicle, but was the result of negligence on the part of other person(s), and

(b) The GSA fleet management center is charging the unit or activity for the damages, or

(c) The GSA vehicle is involved in an accident resulting in damage to the property of, or injury to, a third party.

c. Accidents involving Government owned and leased vehicles. Upon completion of a report of survey that finds a military member or Government employee, through simple negligence, caused an accident involving a Government owned or leased vehicle (see Joint Publication 1-02), the approving authority may waive financial liability for a member or employee. The waiver will be based on the approving authority's review of all the pertinent information concerning the accident. The approving authority may base the waiver entirely on a vehicle accident report by a Military Provost Marshal or a duly appointed civilian law official, if available. A report of survey based soley on a vehicle accident report will be annotated in block 11, DA Form 4697, (see exhibit A, vehicle

accident report), and state in block 37, "I have reviewed the information contained in the attached exhibits. No further investigation is necessary." Include the following additional information on the DA Form 4697 for all waivers.--

1. Place an "X"in block 37c.

2. Place the following statement in block 37, "I relieve all concerned form finanacial liability from the damage to the property listed in block 6."

3. Place an "0"in block 38b and the dollar value of the loss to the Government in block 38c.

14-31. Accounting for lost or destroyed public funds and other negotiable instruments

A person who receives or handles public funds or other negotiable instruments has personal responsibility for safeguarding of public funds or instruments while under his or her control. That person is financially liable for the full value of the loss to the Government caused by their negligence or willful misconduct. A report of survey will be processed to account for the loss.

14-32. Accounting for property at jointly operated military installations, military advisory groups, and similar facilities

This paragraph prescribes actions to be taken when Government property is lost, damaged, or destroyed at jointly operated military installations and activities. These installations and activities include those involving DLA, military assistance advisory groups (MAAGs), and like installations and activities.

a. Preparation of reports of survey. Responsibility at joint installations for preparation of reports of survey listing property in the custody of personnel follows:

(1) Accountable or responsible Army personnel will prepare reports of survey for Army property in custody of Army personnel or in the custody of other than Army personnel as prescribed in chapter 13.

(2) Accountable or responsible Army personnel will prepare Financial Liability Investigation of Property Loss, using DD Form 200, for losses of DLA property (including inventories stored at Army installations) in the custody of Army personnel according to the DoD Financial Management Regulation, volume 12, chapter 7. The DoD Financial Management Regulation is available on the Internet using www.dtic.mil/comptroller/fmr .

(3) Personnel of the issuing United States agency, department, or foreign government will prepare reports of survey or other administrative property accounting actions for all other

non-Army property in the custody of Army personnel according to the procedures of that agency or foreign government.

(4) When Army property is loaned to other DoD services, a loan agreement between the loaning and the borrowing activity will be established prior to the loan taking place in accordance with AR 700-131, paragraph 2-6 . The loan agreement will state the borrowing service's responsibility for the return of the borrowed item(s), and in the event of loss or damage, the borrowing service's responsibility for the payment of replacement or repair costs.

b. Designation of approval authority.

(1) Army property in the custody of Army personnel or other personnel.

(a) Approval authority will be as prescribed in chapter 13 .

(b) Special circumstances necessitate Army property being on hand and on property records at a MAAG for which Navy or Air Force is the administrative (executive) agency. When these circumstances occur, the Army overseas command in which the MAAG is located, will designate the approval authority to take action. Under existing statute, Section 4835, title 10, United States Code (10 USC 4835), the authority of the Secretary of the Army to make such designations is limited to designating only Army officers and DA civilian employees. See paragraph 13-16 .

(2) DLA property (including stored at Army installations) in custody of Army personnel.

(a) Submit Financial Liability Investigation of Property Losses covering losses of DLA property in the custody of Army personnel to the Army approval authority specified in chapter 13 . The Financial Liability Investigation of Property Losses is prepared on DD Form 200 using the instructions contained in the DoD Financial Management Regulation, volume 12, chapter 7. The DoD Financial Management Regulation Is available on the Internet using www.dtic.mil/comptroller/fmr .

(b) Forward the original and duplicate of the Financial Liability Investigation of Property Loss to the DLA reviewing authority specified in DLA instructions, after action by the approval authority.

(c) Return a duplicate of the Financial Liability Investigation of Property Loss with the confirmed action of the reviewing authority to the approval authority who took initial action on the Financial Liability Investigation of Property Loss.

(3) Navy and other U.S. Government agency and department property in custody of Army personnel. Accept as final recommendations for placing financial liability on Army personnel by Navy reports of survey or comparable documents of other U.S. Government agencies and departments--

(a) If approved by the official designated in regulations of the Agency concerned to confirm such approvals.

(b) Provided the recommendations are based on findings meeting the criteria stated in chapter 13 .

(4) Host foreign government property in custody of Army personnel. Property of a host foreign government may be lost, damaged, or destroyed while in the custody of Army personnel. The host foreign government may submit documents with a request for collection to the commander of the Army element of which the Army personnel are assigned. If so, the Army claims judge advocate will evaluate the request to determine the amount of financial liability to be assessed against the person concerned.

c. Collection of financial charges.

(1) Persons authorized to take final action on reports of survey or financial liability investigation for property losses involving financial liability will initiate and follow-up on the collection actions. The final action on such reports of survey and financial liability investigations for property losses establishes the indebtedness of persons by administrative procedure.

(a) The administrative decision on financial liability does not automatically establish the right to attach or stop the pay of the person concerned unless such right is specifically provided by law. Collection procedures will conform to these general principles and to the following specific requirements applying to the categories of property and personnel.

(b) At jointly operated installations, MAAGs and like facilities, a major part of the losses suffered results from situations in which statutory authority for stoppage of pay does not exist. Therefore, it is particularly important to exert every reasonable effort before resorting to involuntary collection methods.

(c) The extent of liability of the Army for non-Army property is discussed in d below.

(2) Collection of financial charges imposed on Army personnel by reports of survey covering Army property is prescribed in chapter 13 of this regulation. Civilian employees against whom the charges are imposed may be indigenous personnel in overseas commands. Agreements may exist with the foreign governments concerned. If so, overseas commanders will consider these agreements when collection action is required. The decision will be based on the advice of the claims attorney or the staff judge advocate.

(3) On approval of findings that a loss of Army property was due to fault or negligence of non-Army personnel and approval of a recommendation that the person be held financially liable, the Army installation claims judge advocate will request voluntary payment of the approved charge from the respondent. When voluntary payment is not made, the report of survey will be forwarded to the Accounting and Debt Management,

ATTN: DFAS-IN-Y, Indianapolis, IN 46249-5301, for collection by methods available to that headquarters.

(4) On receipt of a copy of a financial liability investigation for property losses authenticated to approve a finance charge from the DLA reviewing authority, the approval authority will refer the case to the Army installation claims judge advocate for collection action.

(5) When a commander of an Army activity receives a request for collection against Army personnel charged with loss, damage, or destruction of property of another U.S. Government department, agency, or foreign government, the commander will refer the case to the Army installation claims judge advocate.

d. Liability of the Army for non-Army property. The Army assumes some degree of responsibility in taking control over and entering in its records, as "Army property," property loaned by other agencies or departments of the U.S. Government or of host foreign governments. This is true unless a covering loan agreement or contract provides to the contrary. This responsibility may take the form of reimbursement to the lending agency, repair of damaged items at Army expense, or replacement in-kind of lost or irreparably damaged items.

e. Requesting reconsideration. Action "by Authority of the Secretary of the Army" to hold a respondent financially liable for the loss, damage, or destruction of property is subject to procedures for requesting reconsideration as set forth in paragraph 13-40 and 13-41 .

f. Report of survey reciprocal agreement between the Army and Air Force.

(1) In processing reports of survey, a situation occasionally develops where personnel of the Air Force are determined to be financially liable for the loss, damage, or destruction of Army property, and vice versa. The Army and Air Force have agreed that the action on, and the routing of the report of survey will be governed by the regulations of the property's owning service without regard to the service assignment (parent service) of the respondent.

(2) When a report of survey results in a finding that a member, whose parent service is other than the property's owning service, should be held financially liable for the loss, damage, or destruction of the property involved, forward the report of survey to the parent service's report of survey approval authority with jurisdiction to act on reports of survey concerning the member involved.

(a) The owning service's report of survey will contain all the evidence gathered as a result of the report of survey, the findings and recommendations of the survey officer, and the recommendations of the owning service's appropriate report of survey approving authority.

(b) The parent service approval authority will take action on the findings and recommendations according to the parent service's report of survey regulations. Collection action will be pursued under the parent service's regulation.

(c) The parent service approval authority will take action to notify the owning service approval authority of the action taken on a report of survey or to reconcile any differences in the anticipated action and recommendations of the owning service.

14-33. Accounting for nonexpendable property consumed in use

Nonexpendable property consumed in use may be posted as a loss on property book records using a memorandum for record, provided--

a. The memorandum states the circumstances under which the property was consumed in use, and the date of the occurrence.

b. The property is identified by stock number, nomenclature, and quantity. If the property is a serial numbered item, the serial number(s) is entered.

c. The memorandum for record is signed by the commander for whom the property book records are being maintained.

d. The memorandum for record is reviewed and approved by the report of survey approving authority within the chain of command of the property book officer appointing authority.

14-34. Accounting for losses during military operations other than war

The actions prescribed by this paragraph apply only to units and activities participating in military operations other than war at the direction of HQDA. When Government property is lost, or destroyed in military operations other than war, the commander of the operation will cause a DA Form 4697 to be initiated. If the loss involves damage to Government property, a damage statement prepared by the commander in accordance with paragraph 14-26 will be used when the preliminary investigation by the commander reveals no negligence or willful misconduct on the part of U.S. soldiers or DA civilian employees. If negligence or willful misconduct on the part a U.S. soldier(s) or DA civilian employee(s) is known or suspected, a DA Form 4697 will be prepared. When it is deemed necessary to abandoned Government property, the procedures in paragraph 14-23 will apply. When small quantities of small arms ammunition become lost or are expended, follow the procedures in sub-paragraph h, below.

a. The DA Form 4697 should be initiated as soon as possible, but no later than 5 days after the discovery of the loss. The individual having the most knowledge of the circumstances and facts concerning the loss should be the person tasked to prepare the statement for block 11, and to sign block 12. The DA Form 4697 should be prepared in 3

copies using the example in figure 14-1 as a guide. The date and circumstances must state--

(1) What happened.

(2) When it happened.

(3) Where it happened. Location must be specific, providing the country, state, city, and the street address, if available. If in a field environment, include the eight digit map grid coordinates of the area it occurred in.

(4) Identity of all persons involved by name, grade and organization, and a description of their involvement and actions.

b. Available documentation such as statements from persons involved, or witnessing the actions of others involved; accident reports; copies of hand receipts; orders; etc are attached to the DA Form 4697 as exhibits. See paragraph 13-9a(3)(e) for marking the exhibits.

c. The DA Form 4697 with exhibits attached is reviewed by the unit commander having command responsibility for the property lost, damaged or destroyed. The commander will conduct a preliminary investigation to determine if there was negligence or willful misconduct on the part of any U.S. soldier or DA civilian employee. Based on the commander's investigation, the commander will complete block 17 as follows:

(1) When the commander believes negligence or willful misconduct on the part of any U.S. soldier or DA civilian employee was not involved, the commander should check box "a".

(2) If the commander suspects negligence or willful misconduct on the part of a U.S. soldier(s) or DA civilian employee(s), the commander should check box "b". The commander's rationale for determining further investigation is warranted will be documented in writing and attached to the DA Form 4697 as an exhibit.

d. On completion of the commander's review and preliminary investigation the commander will date and sign the DA Form 4697 in blocks 18 and 20 respectively. The commander's name, grade, and unit/activity commanded will be entered in block 19. The commander should complete the preliminary investigation and other necessary actions within 15 days of receipt of the DA Form 4697. The commander will retain 1 copy of DA Form 4697 with 1 copy of each of the exhibits, and forward the original and 1 copy with all exhibits to the accountable officer.

e. The accountable officer will assign a document number or voucher number to all DA Forms 4697 initiated for lost, and destroyed Government property. If the loss involves damage to Government property, assignment of a document number or voucher number is not required. The accountable officer's name and grade is entered in block 15, and the

document or voucher number is entered in block 16. The accountable officer, or his or her designated representative, signs block 15. The accountable officer retains 1 copy of all DA Forms 4697, with exhibits, and posts the property records accordingly. The original DA Form 4697 with exhibits is forwarded to the report of survey approving authority in the initiating unit's chain of command at home station.

f. The report of survey approving authority will review the DA Forms 4697 initiated during military operations other than war and take appropriate action as follows--

(1) Where the commander has recommended further investigation, the report of survey approving authority will process the DA Form 4697 as a report of survey in accordance with chapter 13 , of this regulation.

(2) Where the commander has determined no further investigation was necessary, the DA Form 4697 will be reviewed by the report of survey approving authority to ensure the authority to approve these documents was not abused.

(a) When the report of survey approving authority's review reveals the commander abused, or may have abused his or her authority in approving the DA Form 4697, the approving authority will process the DA Form 4697 in accordance with chapter 13, of this regulation.

(b) Otherwise, copies will be retained on file in accordance with AR 25-400-2 .

g. When small quantities, not more than 30 rounds, of small arms ammunition becomes lost or are expended by a service member without authorization, the unit commander will cause a preliminary investigation to be conducted to determine the cause. The investigation should normally be conducted in the service member's chain of command. It can be hand written on plain or lined paper, If negligence or willful misconduct on the part of a service member is suspected or known, the commander should initiate appropriate adverse administrative or disciplinary action as described in paragraph 12-1a (2) . The commander will prepare a memorandum for record showing the type of ammunition, the lost number and the quantity of ammunition lost or expended. The commander will state what administrative or disciplinary action was taken, if any. The investigation will be attached to the memorandum for record, which will be used to post the property accounting records for small arms ammunition as a loss. Copies of the memorandum for record with the attached investigation will be provided to the report of survey approving authority for review. In the event the report of survey approving authority determines abuse on the part of a commander, the approving authority may take this authority away from the commander.

h. Commanders above the report of survey approving authority will initiate and conduct oversight management of these property adjustments as prescribed in paragraph 3-19b.

DEPARTMENT OF THE ARMY
REPORT OF SURVEY
For use of this form, see AR 735-11; the proponent agency is DCSLOG

1. DATE PREPARED: 5 Jan 95
2. SURVEY NUMBER: MOOTW

3. TYPE OF PROPERTY: Organizational
4. ADDRESS OF ACCOUNTABLE OFFICER: DMMC, 15th Inf Div, Ft Way Out, IL, UIC: WAYOUT
5. ORIGINATOR (Accountable officer, or primary hand receipt holder): Joseph P. Armstrong, SFC, 1st Plt, A co, 4/56 Inf Bn

6. NATIONAL STOCK NUMBER	7. ITEM DESCRIPTION	8. QTY	9. UNIT PRICE	10. TOTAL COST
V48510				
8340-00-782-3232	Tent, Frame TY w/walls			
Components lost				
8340-00-782-3425	Tent body	1 ea	$1,599.75	$1,599.75
8340-00-566-7398	Tent section end	2 ea	226.25	452.50
			GRAND TOTAL	$2,052.25

11. DATE AND CIRCUMSTANCES

While participating in Operation Uphold Democracy in Haiti, the destroyed tent was set up and used to house the 4/56th Infantry Battalion S2/3 operations. The tent was located in the outskirts of Port-au-Prince at map grid coordinates AA00000000. The tend was destroyed by fire on 3 January 1995. The fire resulted from hostilities by local nationals demonstrating and throwing lighted instruments into the encampment area, exhibit A and B. Attempts to stop the fire before the fire destroyed the tent were unsuccessful.
Exhibits A and B attached.

12. AFFIDAVIT
I do solemnly swear (or affirm) that (to the best of my knowledge and belief) the articles of public property shown above and/or on attached sheets were lost, destroyed, damaged, or worn out in the manner stated, while in the public service.

SIGNATURE AND DATE: [signature]
TYPED NAME, GRADE, AND SSN: PAUL M. GRIMES, SFC, Plt Sgt, 1st Plt

13. Subscribed and sworn to (or affirmed) before me at this day of
NAME AND GRADE (type and sign)

14. DATE: 7 January 1995
15. NAME, GRADE, AND SIGNATURE OF ACCOUNTABLE OFFICER: PATRICK D. BAUGHER, MAJ, DPBO
16. DOCUMENT NUMBER: WXYZZZ-5007-0023

17. APPOINTING AUTHORITY
I have received the evidence pertaining to the lost, damaged or destroyed property, and have determined that the following action is required.
a. X No further investigation is required. There is no positive evidence of negligence. I do not suspect willful misconduct or deliberate unauthorized use. I hereby forward this document to the approving authority for final action. (Proceed to block 37.)
b. ☐ The circumstances surrounding the lost, damaged or destruction warrants further investigation. (Proceed to block 20.)
c. ☐ Conduct an investigation according to AR 15-6. Attach this document, as an exhibit, to the investigation and forward it to the approving authority.

18. DATE: 11 January 1995
19. TYPED NAME, GRADE, AND TITLE OF APPOINTING AUTHORITY: JERRY L. HAMPTON, CPT, Inf, Commander B Co, 4/56th Inf Bn
20. SIGNATURE: Jerry L. Hampton

Figure 14-1a. Sample DA Form 4697, when used to account for lost, damaged or destroyed Government property during military operations other than war, (Blocks 1-20).

(1) Date prepared. Enter the date the DA Form 4697 is prepared.

(2) Survey number. Enter MOOTW.

(3) Type of property. If the property is carried on a stock record account, enter "Stock Record Account." If the property is carried on the organizational clothing and equipment records, enter "Organizational."

(4) Address of accountable officer. Enter the address of the accountable officer. Also enter the Unit Identification Code (UIC) for property book accounts and Department of Defense Activity Address Code (DODAAC) for stock record accounts. If the items listed on the DA Form 4697 are not recorded on a property book or stock record account, enter the address of the activity maintaining the expendable or durable document register.

(5) Originator (Accountable officer, or primary hand receipt holder). The commander will task the individual having the most knowledge of the circumstances and facts concerning the loss to prepare the statement for block 11, and to sign block 12. Enter the name, grade and organization of the person tasked by the commander to prepare the document. Include the UIC of the organization.

(6) National stock number. Enter the stock numbers and line item numbers of the articles lost, damaged, or destroyed. If an item is nonstandard, enter "nonstandard" or "NSI."

(7) Item description. Enter the correct description of the articles lost, damaged, or destroyed. If the articles are nonstandard, give a description accurate enough for their identification. When the articles involved have been assigned serial numbers, include such numbers for more identification. Describe damaged major units as such and not as damaged component parts. If the space on the face of the form is insufficient, use blank paper, properly identified. Do not trim the basic form and use it as a continuation sheet. (See table 13-1.) Also enter the reportable item control code (RICC) for RICC 2, A and Z items. When RICC 2, A or Z items are listed on the DA Form 4697 and are totally lost (no residue to turn-in), enter the words "No residue."

(8) Qty. Enter the number of units of the articles listed, together with the unit of issue, such as "1 ea," "2 pr," 2 dz," etc.

(9) Unit price. Enter the AMDF price in effect at the time of the loss. When the AMDF price is not available, use the current market price of a similar item; otherwise, estimate the unit price and attach the basis for estimate to the DA Form 4697 as an exhibit. Do not enter the repair cost in this column.

(10) Total cost. Enter the total cost of all units of each article listed that has been lost or destroyed. Total cost is computed by multiplying the unit price (column 9) of each item listed, by the quantity (column 8). For damaged property, enter the ECOD. After the last entry, draw a line and enter the sum of the entries in the column and enter " Grand Total" in the unit price column. If continuation sheets are used, show the " subtotal" on each sheet. Show the grand total on the last sheet. The grand total will be the total cost of all items listed on all sheets.

(11) Date and circumstances. The date and circumstances must state--

a. what happened.

b. When it happened.

c. Where it happened (location must be specific, providing the country, state, city, and the street address, if available. If in a field environment, include the eight digit map grid coordinates of the area it occurred in.

d. Identify all persons involved by name, grade, and organization and a description of their involvement and actions.

e. Refer to exhibits by the capital letter designation assigned according to paragraph 13-9. Show exhibits initially attached; for example, "Exhibits A to D attached."

f. If space on the form is insufficient, continuation sheets may be used. (See figure 13-4.) Do not trim the basic form for use as a continuation sheet.

Figure 14-1b. Completion Instructions (by item or column) for DA Form 4697, when used to account for lost, damaged or destroyed Government property during military operations other than war, (Block 1-20)

Chapter 15
Accounting for Losses of Wholesale Stock (AMC Installations Only)

15-1. General information

This chapter prescribes procedures for accounting for losses at accountable supply distribution activities (ASDAs) and depots. The procedures are used in processing the DA Form 444 and DA Form 4697 for inventory losses of wholesale stocks. Losses are those for which causative research has resulted in no conclusive findings. Adjustments not subject to ASDA causative research will be completed according to AR 725-50 . Address all questions concerning this chapter to Commander, USAMC, ATTN: AMCLG-SM, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001.

15-2. Policy

Except as indicated below, the following policy applies to ASDAs and to Industrial Operations Command plants, arsenals, supply depots, maintenance depots, and other storage activities (such as prepositioned afloat ships). The depot will prepare an IAR for all losses not resolved by causative research at the ASDA. Table 15-1 gives the criteria for causative research.

Table 15-1. Criteria for Causative Research

Adjustment	Causative Research Required
Of $5,000, or less.	No, unless required below.
Greater than $5,000, but less than or equal to $16,000, and a unit variance of 25 percent, or less.	Sample, see AR 740-26, appendix E .
Greater than $5,000, and a unit variance greater than 25 percent (losses only).	Yes.
Of items with a controlled inventory item code (CIIC) of other than U or J.	Yes.
Of $2,500 or less for items coded pilferable (i.e., a CIIC of I, J, M, N, P, V, W, X, Y, or Z).	Sample, see AR 740-26, appendix E.
Greater than $16,000.	Yes.
Where fraud, waste, or abuse is known or suspected. (A report of survey is mandatory).	Yes.
Results of an annual statistical sample physical inventory	Yes.

variance are greater than $100.

a. Exceptions to this criteria are--

(1) Losses of sensitive items that require an AR 15-6 investigation.

(a) For weapons and ammunition see AR 190-11 .

(b) For COMSEC materiel, see AR 380-40.

(2) Losses for which negligence or willful misconduct is known or suspected. A report of survey is required in these cases.

(3) Losses for which the accountable property officer (ACTPO) believes the IAR prepared by the depot does not adequately explain the loss. In these cases the ACTPO may require a report of survey instead of an IAR.

(a) IARs must be prepared by depots for all losses identified by error cause codes 8Y and 8Z, when causative research at the ASDAs result in no conclusive findings.

(b) When losses are equal to, or less than the dollar values specified in table 15-1 , the ACTPO may request an IAR from the depot as an exception, if enough justification exists. The ACTPO always has the option of requesting a report of survey if the IAR does not explain the loss adequately.

b. The ASDA will prepare an IAR for all other adjustments that--

(1) Do not require causative research.

(2) Result in a conclusive finding from causative research.

(3) Result in no conclusive finding from causative research, but are below the dollar value thresholds in table 15-1 .

c. The approving authority will appoint investigating officers for reports of survey. Within the AMC wholesale supply system the approving authority may require the respective depot commander to appoint a survey officer from depot personnel resources. The depot commander will leave blocks 17 through 20 blank. The depot commander may delegate administrative requirements; however, the depot commander must sign the proper blocks reserved for the appointing authority. The appointing authority actions in blocks 21 through 36b of DA Form 4697 will be taken at the depot.

d. The commander of the ASDA may designate the Director of Materiel Management, or equivalent as the report of survey approving authority, provided the individual filling the position is an Army officer in the grade of lieutenant colonel or above, or a DA civilian employee in a supervisory position, in the grade of GS-14 or above. If the Director of

Materiel Management does not meet the criteria discussed above, the first individual in the chain of command who qualifies will be the approving authority. The same individual in the Aviation and Troop Command will be the report of survey approving authority for losses of assets managed by the General Materiel Branch and the Clothing and Textile Branch.

e. A military officer in the grade of brigadier general or above at the ASDA will act as the appeal authority for reports of survey.

f. To ensure the proper working of the report of survey system, the depot commander will take action including, but not limited to the following:

(1) Appoint one of the persons cited in paragraph 13-26 as the survey officer.

(2) The ASDA and depot commanders will ensure complete and accurate entries in the following blocks of DA Form 4697:

(a) Block 11. (Date and Circumstances).

(b) Block 26. (Findings and Recommendation).

g. Depot commanders will assign a responsible officer for wholesale assets stored at their depot.

h. The Director or Deputy Director of Materiel Management at ASDAs will be designated as the IAR approving authority.

i. In all instances when the loss of COMSEC and/or CCI materiel is discovered, the reporting requirements in AR 380-40, DA Pamphlet 25-380-2 and TB 380-41 (as applicable) will not be subjected to delays pending the outcome of internal investigations or causative research as prescribed by this regulation. Such incident or insecurity reporting will be accomplished immediately upon discovery of the loss.

j. Accountability and the accountable property officer (ACTPO) for assets held at wholesale storage activities will reside at the storage activity; the former custodial record at the storage activity will be the accountable record. This accountable record will be maintained solely by the storage activity. Within AMC, the term "storage activity" refers to Industrial Operations Command (IOC) storage activities, both CONUS and OCONUS, to include both Government owned-Government operated and Government owned-contractor operated plants and arsenals. It also refers to prepositioned (PREPO) afloat ships, each of which is a separate storage activity, to the CECOM Communications Security Logistics Activity storage activity at Tobyhanna Army Depot, and to wholesale maintenance activities which are performing maintenance functions on ASDA-owned or customer-owned assets.

k. Defense Logistics Agency (DLA), other service, and Army storage activities will conduct causative research based on the criteria in table 15-1 and investigate all adjustments for which causative research results in no conclusive findings. DLA, other Service storage activities, and Army activities storing DLA stocks will use DD Form 200, Financial Liability Investigation of Property Loss, to document the results of the causative research and the financial liability investigation. The DLA and other Service storage activities will provide copies of completed DD Forms 200 to each of the ASDAs that were affected by the loss or gain. Preparation of DD Form 200 is explained in the DoD Financial Management Regulation, Volume 12, chapter 7. The DoD financial Management Regulation is available on the Internet under www.dtic.mil/comptroller/fmr .

l. Accountability and the ACTPO for wholesale assets not held at a wholesale storage activity will reside with the ASDA. Assets at a contractor for repair, assets on loan, and assets in transit between storage activities (other than on post) are examples of this category of assets. The asset record maintain by the ASDA will remain the accountable record for these assets. This accountable record will be maintained solely by the ASDA. For these assets, the ASDA will conduct causative research as outlined above using DA Form 444 and DA Form 4697. Each ASDA will complete and maintain an internal control checklist to document the steps taken during each causative research action. An example of this checklist is in AR 740-26 , appendix L.

15-3. Procedures

a. ASDAs.

(1) ASDAs will submit, in writing, within 5 working days after causative research is completed, requests for depots to initiate IARs, reports of survey, or AR 15-6 investigations. The ASDA will submit, with the request, an ASDA transaction history for 2 years along with an ASDA/depot transaction history reconciliation listing or a non-resolved discrepancy research list, whichever is applicable. The ACTPO will also include the following data with the request:

(a) National stock number (NSN).

(b) Description of NSN.

(c) Unit price.

(d) Total cost.

(e) Inventory category code.

(f) Controlled inventory item code.

(g) Condition code of loss quantity.

(h) Adjustment document number.

(i) Name and grade of the ACTPO.

(j) ASDA stock record account number.

(k) Loss quantity.

(l) Ownership code (ammunition only).

(2) ASDAs will request depots to reply within 90 days with either a DA Form 444 or a report of survey.

(3) ASDAs will evaluate depot requests for extensions received by telephone within 5 days of the suspense date and grant proper extensions.

(4) If a depot does not meet the suspense date, the ASDA will send a follow-up to the depot commander. Send a copy to the Industrial Operations Command (IOC) within 5 days after the suspense date.

(5) If the depot does not reply to the first follow-up, the ASDA will send a second follow-up 20 days after the first follow-up to IOC. Send copies to the depot commander and to the USAMC, ATTN: AMSDS-SM-SA for ammo, and Defense Logistics Agency, ATTN: DLA-OW for general supplies.

(6) A depot submits an IAR or report of survey to an ASDA. The original 90 days suspense period for that action ends on its submission of the IAR or report of survey to the ASDA. In all cases when other actions are requested by ASDAs, a new suspense period of 60 days for reports of survey and 30 days for IARs will apply; for example, when returning an IAR or report of survey to the submitter for more action.

(7) ASDAs will receive IARs in an original and 2 copies from depots and review them for completeness and accuracy. (See figure 15-1 .) An ASDA has 30 days to approve an IAR, or return it to the depot for more action. If the IAR is satisfactorily completed, the ACTPO will forward it through the Chief of Distribution and Transportation to the Director of Materiel Management for approval. Retain the original of the approved IAR in the approving authority file. Return two copies of the approved IAR to the ACTPO. Forward one copy to the depot. Place the other copy in the ASDA completed files. If the ASDA takes exception to any part of the IAR, return the IAR to the depot by cover memorandum for corrective action. Set a suspense of 30 days from the date of memorandum. If the IAR remains unacceptable after the second submission, the ASDA may request a report of survey.

(8) ASDAs will receive reports of survey from depots in an original and three copies. ASDAs review the reports of survey for completeness and accuracy. (See figure 15-2 .) An ASDA has 60 days to approve a report of survey or return it to the depot for more

action. If acceptable, forward the report of survey to the ASDA approving authority for approval. Retain the original of the approved report of survey in the approving authority file. Return three approved copies to the ACTPO. Forward two copies to the depots for their files. Place one copy in the ASDA's completed files. If exception is taken to any part of the report of survey, return it to the depot by cover memorandum for corrective action with a suspense date of 60 days from the date of the memorandum.

(9) When the IAR or report of survey indicates one of the following, the ASDA will inquire the accountable records to determine if the accountable records have been updated correctly.

(a) The loss quantity is accounted for. (Erroneous receipt is posted; receipt reversal was not posted at ASDA; erroneous denial materiel was shipped; the lost materiel was located in storage, etc.)

(b) The partial loss quantity has been recovered or accounted for that would reduce dollar value below mandatory requirement to initiate an IAR. When records are updated correctly, close case and file it in the completed file.

(10) When an IAR is prepared by a depot or when a report of survey results in no conclusive finding because of inadequate accountable records at the ASDA, the commander of the ASDA will certify this in writing. This certification may be delegated to the Director of Materiel Management. Records are considered inadequate when it can be shown during research that transactions for the item under investigation are missing or unreadable, thereby precluding a conclusive investigation. File the certification with the research investigation documents to which it applies, (i.e., IARs and report of survey).

(11) The ASDA approving authority will review all approved DD Forms 200 received from the DLA or other Service storage activity approving authority. The ASDA approving authority should ensure that the level and depth of the investigation were commensurate with the nature and size of the adjustment. If the ASDA approving authority, as owner of the materiel in question, does not agree with the level of investigation or draws a different conclusion, he or she will return the DD Form 200 to the storage activity with a memorandum outlining his or her concern(s). Further action should be handled on a case-by-case basis between the approving authorities. If the ASDA approving authority believes a reinvestigation is necessary, the storage activity approving authority may request that the ASDA pay for the reinvestigation. Patterns of seeming superficiality in a storage activity's investigation should be addressed through command channels.

(12) For assets held at DLA and other Service storage activities, the ASDA should monitor adjustment documents received from these activities to determine when the criteria outlined in table 15-1 are exceeded and causative research resulted in no conclusive findings. For these instances, a DD Form 200 should be forwarded to the ASDA within 45 days of posting of the adjustment. The ASDA should follow up with the storage activity on any DD Forms 200 not received.

b. Depots.

(1) The inventory activity will, upon receipt of a request for an IAR or report of survey, establish controls to assure the interim and final replies are forwarded to ASDAs by suspense dates. If the depot cannot meet the suspense date, the depot will request an extension by telephone from the ASDA, 5 days before the suspense date. (See a(2), (6), (7), and (8) above for suspense dates.)

(2) Forward the original and two copies of the IAR, or report of survey to the ASDA.

(3) To complete research relating to the IAR or report of survey, the depot will obtain transaction history to include all current and deleted locations; review the history to decide whether there are erroneous, duplicate, missing transactions, or depot local adjustments; and review relevant hard copy documents. This will be done as follows:

(a) Depot local adjustments (Z9L)--check inventory files to assure that the correct quantity and condition code were posted.

(b) Denials--check materiel release order history files to assure material was not shipped.

(c) Locations--check all current and deleted locations.

(d) Receipts--review hard-copy receipt documents for duplicates; quantity and condition code as posted are correct; and weight and cube agree with the weight and cube entries recorded in the depot master data record.

(e) Adjustments--review hard-copy and document control register on condition code reclassification (DACs) and reidentifications (D8J and D9J) to verify correct postings.

(f) Shipments--review materiel release order (MRO) history file to verify correct posting of MROs; for those items shipped on a Government bill of lading (GBL) or other traceable means, verify correctness of weight and cube for shipment; review the GBL to assure shipment of the materiel.

(g) Other owners--assets may be on record for other owners. If so, verify that these recorded assets are correct with no adjustments that would have a bearing on the loss.

(h) Outstanding RODs--review SFs 364 to decide whether an outstanding ROD has a bearing on the loss.

(i) Depot maintenance--check the depot maintenance activity to assure missing materiel is not located there, and any transaction to or from the maintenance activity is correctly reflected on the depot's transaction history.

(j) Disposal activity--check the disposal activity for missing materiel.

(4) An IAR prepared by a depot may result in no conclusive finding because of inadequate custodial records at the depot. If so, the commander of the depot or his or her deputy will certify this in writing. Records are considered inadequate when research shows that transactions for the item under investigation are missing or unreadable, thereby preventing a conclusive investigation. File the certification with the research or investigative documents to which it applies, (i.e., IARs or reports of survey).

(5) Investigation may recover missing materiel or may account for it. If so, make corrections to the depot custodial records as required. Forward a reply by 1st endorsement to the ASDA to include a copy of the depot transaction history showing the corrections have been made. Include an explanation for the discovery. This history will include recovery or accounting for partial quantities that would reduce the dollar value below the mandatory requirement for an IAR as stated in table 15-1 . In those cases where recovery or accounting for quantities (partial or total) reduce the dollar value below the mandatory requirements for an IAR, depot replies by 1st endorsement will constitute closing of the IAR unless otherwise notified by the ASDA. A partial quantity may be recovered or accounted for and may not reduce the dollar value below the mandatory requirement. If so, continue processing the IAR for the actual loss quantity.

(6) Investigation may fail to account for the loss. If so, take the following actions:

(a) Prepare an IAR, report of survey, or AR 15-6 investigation on request from the ASDA. If the ASDA requests an IAR, not knowing that negligence or willful misconduct is suspected, the depot commander will initiate a report of survey instead of an IAR.

(b) The depot commander will sign both IARs and reports of survey in the proper blocks before submission to ASDAs. Note that when blocks 33 through 36b are completed, the words "appointing authority" will be lined out and replaced with the words "depot commander".

(c) When initiating a report of survey, forward copy number five to the proper ASDA showing that a report of survey has been initiated. Forward the original and three copies of the report of survey to the depot commander for assigning a report of survey number from the survey register, and appointing a survey officer (when required by the approving authority).

(7) Appointed survey officers will conduct an investigation and document losses as stated in chapter 13 . They will compile the evidence that substantiates or refutes the statements in block 11 of DA Form 4697. Survey officers will record only facts about the loss. Statements attached as exhibits will be in the form of certificates for military and civilian personnel. The survey officer will--

(a) Obtain statements in the form of certificates or direct quotes of persons mentioned in block 11 of DA Form 4697, if not already attached as exhibits, and any other persons interviewed during the investigation.

(b) Review evidence presented to assure all transaction postings are correct. Transactions include receipts, issues, and adjustments.

(c) Confirm that receipt postings are correct as to quantity and condition code; weight and cube recorded on hard-copy receipt documents are equal to weight and cube recorded in the depot master data record.

(d) Assure that all shipment postings have been verified against the MRO history file; the bills of lading (BL) are verified to assure the correct quantity was shipped; and the weight and cube agree with the quantity shipped.

(e) Verify that NSNs with a CIIC of 0, 2, 3, and 8 were properly reported to security. (Those sensitive items that require an AR 15-6 investigation are exceptions.) When a weapon is lost, include the serial number in the report of survey or AR 15-6 investigation. Verify that a copy of the security investigation is attached to the report of survey as an exhibit.

(f) Investigate the receiving, storage, inventory, and shipping practices; obtain statements in the form of certificates or direct quotes that verify practices met regulatory requirements; cite the regulations. Include whether or not the security measures are, or were in effect to prevent theft. Note: When citing local regulations, attach applicable parts as exhibits.

(g) As applicable, check the maintenance, disposal, and quality assurance activities.

(h) Check other owner transactions, if any, to assure postings are correct, with no adjustments that would account for the loss.

(i) Decide whether or not the missing item has any commercial application.

(j) Decide whether or not a person is to be held financially liable.

(k) Determine who is responsible; normally this is the depot appointed responsible officer.

(l) From the above, decide whether negligence or willful misconduct is evident.

(m) State how the loss occurred. If this cannot be determined, state why.

(n) If the missing materiel is found or accounted for, discontinue the investigation. Report the findings through the depot commander to the inventory office. The inventory officer will have the depot custodial records corrected as required. The office will also advise the applicable ASDA of these findings. Include a copy of the depot transaction history showing that corrective action has been taken.

(o) Make a recommendation based on recorded facts stated in the findings. The recommendation will cover accountability, responsibility, and financial liability, as applicable. Do not recommend adjusting records as the records have already been adjusted.

(p) Obtain the signature of the depot commander. Forward the completed reports of survey to the applicable ASDA.

(8) Conduct AR 15-6 investigations on sensitive items according to AR 15-6 . (See AR 190-11 .) An AR 15-6 investigation may be used instead of a report of survey. In these cases the depot will complete DA Form 4697, enclose a copy of the AR 15-6 investigation to it, and submit it to the ACTPO at the applicable ASDA. The DA Form 4697 will be completed according to figure 15-2 except that--

(a) Blocks 11 and 26 should not include details on the circumstances and findings. Instead, include a statement in these blocks referring to the attached AR 15-6 investigation.

(b) If no one is recommended financially liable, include a statement in block 26. The statement will recommend that the accountable officer be relieved of accountability and not held financially liable.

(c) The name of the presiding member of the AR 15-6 board of investigation will be entered in block 24.

INVENTORY ADJUSTMENT REPORT (IAR)

FOR THE USE OF THIS FORM, SEE DA PAM 710-2-3. THE PROPONENT AGENCY IS THE OFFICE OF THE DEPUTY CHIEF OF STAFF FOR LOGISTICS.

SSA: Sierra Army Depot, Herlong, CA 96113-5230

MATCAT:

VOUCHER NUMBER: ODDAAC W311PPJ; DATE 6016; SERIAL 0012

TOTAL NUMBER OF ITEMS:

IAR REASON:

STATION: U.S. Army Missile command, Redstone Arsenal, AL 35809

COUNT CARD LOCATION:

ITEM	STOCK NUMBER	ITEM NOUN	COND	SEC	RICC	RECORDED BALANCE	QUANTITY INVENTORIED	POST GAIN	POST LOSS	UI	UNIT PRICE	EXTENDED PRICE GAIN	EXTENDED PRICE LOSS
1.	4935-00-001-0001	Amplifier	A	U					5	ea	$800.00		$4000.00

EXPLANATION OF LOSS/DESCRIPTION OF RESEARCH: The following research has been accomplished in an attempt to determine reasons for the above shortage reported on 16 January 1996 as a result of a physical inventory.

a. All transactions for all owners have been examined for the past 2 years.

b. A physical search of recorded locations, both active and inactive was made.

FINDINGS: There is a loss, as described above, which cannot be accounted for. There is no evidence of theft or negligence.

DEPOT AUTHENTICATION:

I have reviewed this voucher and recommend approval.

FRANK C. GARCIA
Colonel, QM
Depot Commander

ASDA AUTHENTICATION:

I have reviewed this voucher and approve all actions being taken.

RICHARD J. HALE
Deputy Director
Materiel Management Directorate

STOCK RECORD OFFICER

THESE ADJUSTMENTS WERE MADE FOR THE REASON SHOWN. IF THE REASON IS "INVENTORY" THEY HAVE BEEN MADE PENDING THE SSA COMMANDER'S APPROVAL

DATE: 7 Feb 96 SIGNATURE: JAMES V. BOOONE

SSA COMMANDER

I APPROVE THE ADJUSTMENT OF ALL ITEMS NOT CIRCLED. THE CIRCLED ITEMS WILL BE SUPPORTED BY ACTION UNDER (CIRCLE ONE) AR 15-6 AR 735-11

DATE: 9 Feb 96 SIGNATURE: FRANKLIN P. KINCADE

ASSET REPORT COPY SENT — DATE — INITIALS

IAR REVIEWED — DATE — INITIALS

GAIN — TOTAL DOLLARS — LOSS

GAIN — NET DOLLARS — LOSS

Figure 15-1a. Sample DA Form 444, IAR for AMC wholesale supply system

SSA. Enter name of depot preparing the IAR.

MATCAT. Leave blank.

Voucher number. Enter the ASDA document number as it appears on the ASDA memorandum requesting the IAR or as shown on Part III(4B) IAR.

Total number of items. Leave blank.

IAR reason. Leave blank.

Station. Enter ASDA where the accountable record is maintained.

Count card location. Optional for single manager for conventional ammunition to identify the owner of the lost materiel. Otherwise, leave blank.

Item. Leave blank.

Stock number. Self-explanatory.

Item noun. Self-explanatory.

Condition. Enter the condition code as stated in the ASDA memorandum requesting the IAR or as shown on Part III(4B) IAR.

SEC. Enter the controlled inventory item code (CIIC) as stated on the ASDA memorandum requesting the IAR or as shown on Part III(4B) IAR.

RICC. Leave blank.

Recorded balance. Leave blank.

Quantity inventoried. Leave blank.

Gain. Leave blank.

Loss. Enter the quantity as stated in ASDA memorandum requesting the IAR or as shown on Part III(4B) IAR.

UI. Enter unit of issue (UI).

Unit price. Enter the unit price as stated in ASDA memorandum requesting the IAR or as shown on Para III(4B) IAR.

Extended price-gain. Leave blank.

Extended price-loss. Enter the dollar value of loss.

Explanation of loss/description of research. Describe across the face of the IAR the research action taken by the depot to explain the loss. Attach copies of the depot transaction history and any other documents used to support the explanation of the loss. Statements such as "previous erroneous count," "previous offsetting adjustment," and the like, are not acceptable explanations unless fully supported by documentation. In such cases where previous offsetting adjustments and erroneous counts are cited, they must equal the quantitative loss under investigation. In all cases, research will cover all areas stated in paragraph 15-3b.

Findings. Enter across the face of the IAR conclusions made based on the research conducted. If reasons for the loss are not known or cannot be determined, it will be so stated.

Figure 15-1b1. Completion instructions (by item or column) for DA Form 444, IAR for AMC wholesale supply system Continued

Depot authentication. Above the Stock Record Officer block, type the statement recommending approval and the depot commander's or deputy commander's signature block as shown in figure 15-1. The depot commander or deputy will sign and date here before the IAR is forwarded to the accountable property officer.

Stock record officer. The ASDA ACTPO will sign and date this block when the IAR is received from the depot and accepted by the ACTPO.

SSA commander. The ASDA will strike out "SSA Commander" and enter "C, DISTRIBUTION AND TRANSPORTATION DIVISION." The division chief will sign and date this block.

ASDA authentication. The ASDA will type the statement of approval and the Director's/Deputy Director's, Materiel Management Directorate signature block as shown in figure 15-1. The Director/ Deputy Director will sign and date this block.

Asset report copy sent. Leave blank.

IAR reviewed. Leave blank.

Total dollars-gain. Leave blank.

Net dollars. Leave blank.

Figure 15-1b2. Completion instructions (by item or column) for DA Form 444, IAR for AMC wholesale supply system

DEPARTMENT OF THE ARMY
REPORT OF SURVEY
For use of this form, see AR 735-11; the proponent agency is DCSLOG

1. DATE PREPARED: 7 Feb 96
2. SURVEY NUMBER: 96-0016

3. TYPE OF PROPERTY: U.S. Army Mission Stock
4. ADDRESS OF ACCOUNTABLE OFFICER: U.S. Army AMCCOM Rock Island, IL 61299-6000

5. ORIGINATOR (Accountable officer, or [illegible]): Kerry D. Chun, GS-12, Accountable Property Office, USAMCCOM, Rock Island, IL

5. NATIONAL STOCK NUMBER	7. ITEM DESCRIPTION	8. QTY	9. UNIT PRICE	10. TOTAL COST
4933-01-244-9778	Logic Control Unit	1	$9,288.	$9,288.
			Grand Total	$9,288.

11. DATE AND CIRCUMSTANCES

Investigation reveals that on the 96023 day, 23 January 1996, a warehouse denial for 1 each logic control unit, and a computer generated denial for 1 each, caused by the warehouse denial being posted to the transaction history with DIC's of Z9 and Z9L. See the transaction history at exhibit A. These losses resulted in a report for investigation by the U.S. Army AMCCOM. Research of all the records pertinent to the depot stocks, in addition to the physical counts conducted in all active and deleted locations have been performed. One each of the logic control unit was found and shipped. See the report for investigation at exhibit B. A shortage of 1 each logic control unit can not be accounted for. Enclosed are copies of all the receipt documentation at exhibit C, and the shipping documentation at exhibit D, pertinent to the loss. The postings have been verified as correct. This included verifying the weight and cube, versus the quantity posted. Standard research procedures were utilized and there was no evidence of theft or negligence found.

Exhibits A though D are attached.

12. AFFIDAVIT

I do solemnly swear (or affirm) that (to the best of my knowledge and belief) the articles of public property shown above and/or on attached sheets were lost, destroyed, damaged, or worn out in the manner stated, while in the public service.

SIGNATURE AND DATE: Theresa A. Dally, 2-7-96
TYPED NAME, GRADE, AND SSN: Theresa A. Dally, GS-09

13. Subscribed and sworn to (or affirmed) before me at _____ this _____ day of _____
NAME AND GRADE (type and sign)

14. DATE

15. NAME, GRADE, AND SIGNATURE OF ACCOUNTABLE OFFICER: Brian J. Wilson, GS-13 Brian J. Wilson

16. DOCUMENT NUMBER: W32PCD 6040-0131

17. APPOINTING AUTHORITY

I have received the evidence pertaining to the lost, damaged or destroyed property, and have determined that the following action is required.

a. [X] No further investigation is required. There is no positive evidence of negligence. I do not suspect willful misconduct or deliberate unauthorized use. I hereby forward this document to the approving authority for final action. (Proceed to block 37.)

b. [ ] The circumstances surrounding the lost, damaged or destruction warrants further investigation. (Proceed to block 21.)

c. [ ] Conduct an investigation according to AR 15-6. Attach this document, as an exhibit, to the investigation and forward it to the approving authority.

18. DATE

19. TYPED NAME, GRADE, AND TITLE OF APPOINTING AUTHORITY: Thomas C. Davis, Col, QM, Commanding

20. SIGNATURE: Thomas C. Davis

Figure 15-2a. Sample of DA Form 4697, Department of the Army Report of Survey for AMC wholesale supply system loss

The depot will complete blocks unless otherwise indicated

Date prepared. Enter date prepared.

Survey number. Enter the survey number assigned by the depot commander.

Type of property. Enter Army mission stock.

Address of accountable officer. Enter the name and address of the major subordinate command (MSC) where accountable records are located.

Originator (accountable officer or primary hand receipt holder). Enter the name, grade and address of the accountable officer. Strike out "primary hand-receipt holder."

National stock number. Enter the national stock number from the request of the ASDA.

Item description. Enter the item description from request of the ASDA.

Quantity. Enter the quantity from the request of the ASDA.

Unit price. Enter the unit price from the request of the ASDA.

Total cost. Enter the total cost from request of the ASDA.

Date and circumstances. Enter a concise and accurate statement of the facts in the case. Include the date and how the loss was discovered, and the condition code(s) of the loss quantity. Obtain the name and grade of persons contacted. If statements are obtained, these will be in the form of certificates. (See Chapter 13 to prepare certificates.) Exhibits attached, to include certificates, will be referred to by capital letter designation per para 13-9.

Affidavit. The person providing the statement in block 11 will sign in the signature block. Type the person's name and grade in the block below the signature block. Modify the affidavit block as proper.

Subscribed and sworn to (or affirmed). Leave blank.

Date. Enter the date the accountable officer signs block 15. To be completed by the proper ASDA.

Name, grade or rank, and signature of accountable officer. Enter the name, grade and signature of the accountable officer. To be completed by the proper ASDA.

Document number. Enter the document number of potential loss adjustment. To be completed by the proper ASDA when the action of the depot commander is completed.

Appointing authority. The depot commander will check the proper block.

Date. Enter the date block 20 is signed by the depot commander.

Typed name, grade, and title of appointing authority. Enter the name, grade, and title of the depot commander.

Signature. The depot commander will sign.

Figure 15-2b. Completion instructions (by item or column) for DA Form 4697, Department of the Army Report of Survey for AMC wholesale supply system loss

21. APPOINTING AUTHORITY	22. STATION	23. DATE

24. NAME, GRADE OF SURVEYING OFFICER

25. YOU ARE APPOINTED SURVEYING OFFICER BY ORDER OF: _____
(Typed name, grade of Appointing Authority)

26. FINDINGS AND RECOMMENDATION

I have examined all available evidence as shown in exhibits _____ to _____ and as indicated below have personally investigated the same and it is my belief that the article(s) listed hereon and/or attached to sheets, total cost $_____

27. RECOMMEND PECUNIARY CHARGE	a. ACTUAL LOSS	b. AMOUNT CHARGED	c. LOSS TO GOVERNMENT
	$9,288.00	$0	$9,288.00

28. DATE	29a. TYPED NAME, GRADE OF SURVEYING OFFICER	b. SIGNATURE

30. I have examined the findings and recommendations of the Surveying Officer on the report of survey and the exhibits _____ to _____ and ☐ desire to make a statement which is attached hereto; ☐ do not desire to make a statement. I am aware of my right to legal advice in preparing the statement and, if a pecuniary charge is finally approved, to make appeal and (if an enlisted man) my right to request remission of indebtedness. I am/am not the accountable officer for the lost or damaged property. The property was/was not my personal arms or equipment.

31. DATE	32a. TYPED NAME, GRADE OF INDIVIDUAL BEING CHARGED	b. SIGNATURE

33. RECOMMENDATION BY THE APPOINTING AUTHORITY	34. COMMENTS
☐ CONCUR ☐ NONCONCUR	

35. DATE	36a. TYPED NAME, GRADE & TITLE OF APPOINTING AUTH	b. SIGNATURE

37. APPROVING AUTHORITY

a. ☐ REJECTED. Investigation is required. Appoint a survey officer. Date _____ Initials _____

b. ☐ REJECTED. Investigation incomplete. Additional information required. Date _____ Initials _____

c. ☒ APPROVED BY AUTHORITY OF THE SECRETARY OF THE ARMY.

To relieve the accountable officer of accountability and responsibility for the loss.

38. PECUNIARY CHARGE

a. ACTUAL LOSS	b. AMOUNT CHARGED	c. LOSS TO GOVERNMENT
$9,288.00	$0	$9,288.00

39. DATE	40a. TYPED NAME, GRADE & TITLE OF APPROVING AUTH	b. SIGNATURE
	Gregory C. Scott, GS-15 Director, Materiel Management	Gregory C. Scott

Figure 15-2c. Sample of DA Form 4697, Department of the Army Report of Survey for AMC wholesale supply system loss

(21) Appointing authority. Enter the name and grade of the depot commander.

(22) Station. Enter name of the depot. (Example: Texarkana, TX.)

(23) Date. Enter the date the survey officer is appointed. Note: If more than 60 days have past fr date in block 1, a statement explaining the reason of delay is required. The statement will be attact to the report of survey as an exhibit.

(24) Name, grade of surveying officer. Enter the name and grade of the survey officer. *Note:* Commissioned officers will be appointed when available.

(25) You are appointed surveying officer by order of. Enter name and grade of the depot co mander. The administrative portion may be delegated, but the commander must sign.

(26) Findings and recommendation. Enter findings and recommendations.

Note: The following is a sample only

I have examined all the available evidence as shown in exhibits A through H. As indicated below, I have personally investigated the evidence. I believe the articles listed on this report and attached sheets totaling $100,000 were not lost because of negligence on the part of the responsible officer (name). Investigation confirmed the loss did occur on (date) and was discovered during a physical inventory for condition code A.

Note: The following are samples of exhibit statements.

1. Exhibit A is the depot transaction history containing all issue, receipt, and adjustment transactions for the past 2 years. These transactions have been reviewed, and no errors were found. Related hard-copy documents that are available for receipts, exhibit B, adjustments, exhibit C, and issues, exhibit D, have been verified; postings are correct.

2. Exhibit A also contains all current and deleted locations. With the assistance of (name, grade and job title), these locations and surrounding locations were checked; there was no evidence that the missing item was found.

3. Exhibit E is a certificate of (name, grade and title). It confirms that procedures for the receipt of materiel, as prescribed in AMC-R 740-20 and AMC-R 740-21 are being followed.

4. Exhibit F is a certificate of (name, grade and title). It confirms that inventory adjustment procedures are in accordance with AMC-R 740-17.

5. Exhibit G is a certificate of (name, grade and title). It confirms that shipment procedures are accordance with AMC-R 740-22 and AMC-R 740-23.

6. Exhibit H is a copy of a security investigation conducted on 23 January 1996, attesting that theft is not evident and enough security measures are in effect to prevent theft. It has been determined the missing item has no commercial application. The depot maintenance, disposal, and quality assurance activities have been checked. The missing materiel is not located in any of these activities.

7. Based on the above findings and the attached exhibits, a loss of property in the amount ($ amount) for condition code A assets occurred as recorded on page 1 of exhibit A. The loss cannot be accounted for; theft or negligence was not proven.

8. How the loss occurred cannot be determined. RECOMMENDATION: ACTPO (name, grade, and title, from block 5) be relieved of accountability; responsible officer (name, grade and title) be relieved of responsibility; no one be held financially liable. (Note: If financial liability is recommended, enter the person's name, grade, social security number, and basic monthly pay at the time of the loss.)

Figure 15-2d1. Completion instructions by item or column for DA Form 4697, Department of the Army Report of Survey for AMC wholesale supply system loss Continued

(27a, b, and c) Recommended financial charge. (See chapter 13 and appendix B.)

(28) Date. Enter the date the survey officer signs block 29b.

(29a) Typed name, grade of surveying officer. Enter the name and grade of the surveying officer.

(29b) Signature. The survey officer signs here when the report of survey investigation is completed.

(30-32b) Completed only if financial liability is recommended. Is completed by the respondent.

(33) Recommendation by appointing authority. Enter action by the depot commander. Depot commander will complete item 33.

(34) Comments. The depot commander enters comments, if any.

(35) Date. Enter the date the depot commander signs block 36b.

(36a) Typed name, grade, and title of appointing authority. Enter the name, grade, and title of the depot commander.

(36b) Signature. Depot commander signs here.

(37-40b) For use by the ASDA's approving authority. (See figure 13-6.)

Figure 15-2d2. Completion instructions by item or column for DA Form 4697, Department of the Army Report of Survey for AMC wholesale supply system loss

SUMMARIZED RECORD OF PROCEEDINGS UNDER SECTION 450.1 CMVC

For use of this form, see CMCM; the proponent agency is The State SJA

See Notes on Reverse Before Completing Form

This form will be used only in cases involving enlisted personnel and then ONLY when no punishment OTHER THAN oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof has been imposed. 1/

NAME	GRADE	SSN	UNIT

1. On _____ the above service member was advised that I was considering imposition of nonjudicial punishment under the provisions of Section 450.1 CMVC, Summarized Proceedings, for the following misconduct: 2/

2. The member was advised that no statement was required, but that any statement made could be used against him or her in the proceeding or in a court-martial. The member was also informed of the right to demand trial by court-martial 3/, the right to present matters in defense, extenuation and/or mitigation, that any matters presented would be considered by me before deciding whether to impose punishment, the type or amount of punishment, if imposed, and that no punishment would be imposed unless I was convinced beyond a reasonable doubt that the service member committed the misconduct. The service member was afforded the opportunity to take 24 hours to make a decision regarding these rights. No demand for trial by court-martial was made. After considering all matters presented, the following punishment was imposed: 4/

3. The member was advised of the right to appeal to the_____within 5 calendar days, that an appeal made after that time could be rejected as untimely, and that the punishment was effective immediately unless otherwise stated above. The member

☐ Elected immediately not to appeal ☐ Requested time to decide whether to appeal and the decision is indicated in item 4, below. 5/ 6/

DATE	NAME, GRADE, AND ORGANIZATION OF IMPOSING COMMANDER	SIGNATURE

4. (Initial appropriate block, date, and sign)

a. ☐ I do not appeal b. ☐ I appeal and do not submit matters for consideration7/ c. ☐ I appeal and submit additional matters

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE

5. After consideration of all matters presented in appeal, the appeal is:

☐ Denied ☐ Granted as follows:8/

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

6. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

7. ALLIED DOCUMENTS AND/OR COMMENTS 9/ 10/ 11/

*This matter is a **STATE** Nonjudicial Punishment Proceeding.*

CAL NG FORM 2627-1 OCT 93 PRIOR EDITIONS ARE OBSOLETE

Figure 35-1

RECORD OF PROCEEDINGS UNDER SECTION 450.1 CMVC

For use of this form, see CMCM; the proponent agency is The State SJA

See Notes on Reverse Before Completing Form

NAME	GRADE	SSN	UNIT

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: 1/

2. You are required to make any statements, but if you do, they may be used against you in the proceeding or at a trial by court-martial. You have several rights under this individual punishment proceeding. First, I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. 2/ If you do not want me to dispose of this report of misconduct under Section 450.1 CMVC, you have the right to demand trial by court-martial instead. 3/ In deciding what you want to do you have the right to consult with legal counsel located at: _____ You now have 48 hours to decide what you want to do. 4/

DATE: TIME:	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

3. Having been afforded the opportunity to consult with counsel, my decisions are as follows: (Initial appropriate blocks, date, and sign)

a. ☐ I demand trial by court-martial.

b. ☐ I do not demand trial by court-martial and in the proceedings:

(1) I request the hearing be ☐ Open ☐ Closed (2) A person to speak in my behalf ☐ is ☐ is not requested.

(3) Matters in defense, mitigation, and/or extenuation ☐ Are not presented ☐ Will be presented in person ☐ Are attached.

DATE	NAME, GRADE OF SERVICE MEMBER	SIGNATURE

4. In a(n) ☐ Open ☐ Closed hearing 5/ all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: 5/ 6/

5. I direct the original CAL NG Form 2627 be filed in the ☐ permanent ☐ temporary portion of the MPRJ.

6. You are advised of your right to appeal to the _____ within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMANDER	SIGNATURE

7. (Initial appropriate block, date, and sign)

a. ☐ I do not appeal b. ☐ I appeal and do not submit additional matters 8/ 9/ c. ☐ I appeal and submit additional matters.

DATE	NAME, GRADE OF SERVICE MEMBER	SIGNATURE

8. I Have considered the appeal and it is my opinion that:

DATE	NAME, GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:

☐ Denied ☐ Granted as follows: 10/

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS 11/ 12/ 13/

*This matter is a **STATE** Nonjudicial Punishment Proceeding*

CAL NG FORM 2627 OCT 93 PRIOR EDITIONS ARE OBSOLETE.

Figure 35-2

RECORD OF PROCEEDINGS UNDER SECTION 450.1 CMVC

For use of this form, see CMCM; the proponent agency is The State SJA

See Notes on Reverse Before Completing Form

NAME	GRADE	SSN	UNIT
Christoffersen, Richard P.	SFC	999-99-9999	HHC 40th Inf Div (Mech), Los Alamitos, CA 90720-5002

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: 1/ **In that you, did, at Los Alamitos, CA, on or about 25 August 1999, behave with disrespect toward 2LT Steven T. Mayoral, your superior commissioned officer, then known by you to be your superior commissioned officer, by saying to him "Go take a hike L.T.", or words to that effect. This is in violation of Article 89, Uniform Code of Military Justice.**

OR

In that you, did, on or about 25 August 1999, without authority, absent yourself from your unit, to wit: HHC 40th Inf Div(M), located at Los Alamitos, CA and did remain so absent until 27 August 1999. This is in violation of Article 86, Uniform Code of Military Justice.

2. You are required to make any statements, but if you do, they may be used against you in the proceeding or at a trial by court-martial. You have several rights under this individual punishment proceeding. First, I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. 2/ If you do not want me to dispose of this report of misconduct under Section 450.1 CMVC, you have the right to demand trial by court-martial instead. 3/ In deciding what you want to do you have the right to consult with legal counsel located at:
Room 201, Building 54, Los Alamitos, CA You now have 48 hours to decide what you want to do. 4/

DATE:	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
TIME:	**Commander, Joe A., CPT, HHC 40th Inf Div(M)**	

3. Having been afforded the opportunity to consult with counsel, my decisions are as follows: (Initial appropriate blocks, date, and sign)

a. ☐ I demand trial by court-martial.

b. ☐ I do not demand trial by court-martial and in the proceedings:

(1) I request the hearing be ☐ Open ☐ Closed (2) A person to speak in my behalf ☐ is ☐ is not requested.

(3) Matters in defense, mitigation, and/or extenuation ☐ Are not presented ☐ Will be presented in person ☐ Are attached.

DATE	NAME, GRADE OF SERVICE MEMBER	SIGNATURE
	Christoffersen, Richard P., SFC	

4. In a(n) ☐ Open ☐ Closed hearing 5/ all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: 5/ 6/

5. I direct the original CAL NG Form 2627 be filed in the ☐ permanent ☐ temporary portion of the MPRJ.

6. You are advised of your right to appeal to the _____ within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMANDER	SIGNATURE
	Commander, Joe A., CPT, HHC 40th Inf Div(M)	

7. (Initial appropriate block, date, and sign)

a. ☐ I do not appeal b. ☐ I appeal and do not submit additional matters 8/ 9/ c. ☐ I appeal and submit additional matters.

DATE	NAME, GRADE OF SERVICE MEMBER	SIGNATURE
	Christoffersen, Richard P.,	

8. I Have considered the appeal and it is my opinion that:

DATE	NAME, GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:

☐ Denied ☐ Granted as follows: 10/

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS 11/ 12/ 13/ *This matter is a STATE Nonjudicial Punishment Proceeding*

CAL NG FORM 2627 OCT 93 PRIOR EDITIONS ARE OBSOLETE.

Figure 35-3

RECORD OF SUPPLEMENTARY ACTION UNDER SECTION 450.1 CMVC

For use of this form, see CMCM; the proponent agency is The State SJA

NAME AND GRADE	SSN	UNIT

TYPE OF SUPPLEMENTARY ACTION (OTHER THAN BY SUPERIOR AUTHORITY ACTING ON APPEAL) (Check appropriate box)

☐ SUSPENSION (Complete item 1 below) ☐ MITIGATION (Complete item 2 below) ☐ REMISSION (Complete item 3 below)

☐ SETTING ASIDE (Complete item 4 below) ☐ VACATION OF SUSPENSION (Complete item 5 below)

1. SUSPENSION

The punishment(s) of _____.

_____.

imposed on the above service member on _____ (is) (are) suspended and will automatically be remitted if not vacated
(date of punishment)

before _____.
(date)

2. MITIGATION

The punishment(s) of _____.

_____.

imposed on the above service member on _____ (is) (are) mitigated to _____.
(date of punishment)

_____.

3. REMMISION

The punishment(s) of _____.

_____.

imposed on the above service member on _____ (is) (are) remitted.
(date of punishment)

4. SETTING ASIDE

The punishment(s) of _____.

_____.

imposed on the above service member on _____ (is) (are) set aside on the basis that _____.

_____.

5. VACATION OF SUSPENSION

a. The suspension of the punishment of _____.

_____.

imposed on the above service member on _____ (is) hereby vacated. The unexecuted portion of the punishment will be duly executed.

b. Vacation is based on the following offense:

c. The member (was) given an opportunity to rebut (para 3.25, AR 27-10)

d. The member (was) presented at the vacation proceeding (para 3-25, AR 27-10)

ORIGINAL FORM 2627 (Check appropriate box)

Directed for Filling in the ☐ Permanent ☐ Temporary portion of the 201 file

AUTHENTICATION (Check the appropriate box)

☐ BY MY ORDER ☐ THE OFFICER WHO IMPOSED THE PUNISHMENT

☐ THE SUCCESSOR IN COMMAND TO THE IMPOSING COMMANDER ☐ AS SUPERIOR AUTHORTY

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

CAL NG FORM 2627-2 OCT 93

Figure 35-4

GENERAL COUNSELING FORM

For use of this form, see AR 635-200; the proponent agency is MILPERCEN

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, 10 USC 3012(G). PRINCIPAL PURPOSE: To record counseling data pertaining to service members.
ROUTINE USES: Prerequisite counseling under paragraphs 5-8, 5-13, chapters 11, 13 or section III, chapter 14, AR 635-200. May also be used to document failures of rehabilitation efforts in administrative discharge proceedings.
DISCLOSURE: Disclosure is voluntary, but failure to provide the information may result in recording of a negative counseling session indicative of the subordinate's lack of a desire to solve his or her problems.

PART I - BASIC DATA

1. NAME *(last, first, MI)*	2. SOCIAL SECURITY NO.	3. GRADE	4. SEX

5. UNIT	*FOR TRAINING UNITS ONLY*	
	6. WEEK OF TRAINING	7. TRAINING SCORES HIGH _____ MED _____ LOW_____

PART II - OBSERVATIONS

8. DATE AND CIRCUMSTANCES

9. DATE AND SUMMARY OF COUNSELING

DISPOSITION INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfers), separation at ETS, or upon retirement.

PART III - AUTHENTICATION	
10. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
11. I acknowledge having been counseled by the above individual and understand the reason for this counseling session. I concur/nonconcur that the information above accurately reflects this counseling session. I nonconcur for the following reasons:	
12. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
13. IF COUNSELED INDIVIDUAL REFUSES TO SIGN COUNSELING NOTES, COUNSELOR WILL INITIAL THIS BLOCK.	
PART IV - REHABILITATION	
14. REHABILITATION RESULTS/COMMENTS	
15. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
16. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE
PART V - UNIT COMMANDER INTERVIEW	
17. INTERVIEW RESULTS AND RECOMMENDATION	
18. NAME, GRADE, SIGNATURE OF UNIT COMMANDER	DATE

Unit Heading

SUBJECT: Order to Military Duty

TO:

1. The following named individual is ordered to perform military duty for the period and purpose indicated:

1. GRADE, NAME:		
2. STREET:	3. CITY:	4. STATE, ZIP:

2. Period and location of military duty:

1. FROM (Date and Time):	2. TO (Date and Time):
2. LOCATION:	

3. Type of military duty:

☐ Inactive Duty Training *See note below

☐ Annual Training (e.g. ,Summer Camp)

☐ Additional Duty Special Work (e.g., active service school)

☐ State Active Duty

☐ Other (Explain) _____

* Inactive Duty Training includes weekend drills, training performed on a weekday in lieu of a weekend, additional flying training periods, etc., for which paid military leave is not normally authorized.

4. The above-named California National Guard member hereby requests a leave of absence from his/her employment, pursuant to Title 38, United States Code, Section 2024 and California Military and Veterans Code, Section 395.

5. Notes to Employer:

a. Federal Law (Title 38, United States Code, Section 2024) provides that all employees (federal, state, local government or private) must be granted a leave of absence to perform the following National Guard duty: Inactive duty for training (drills), annual training (e.g., summer camp), additional duty special work (e.g., active service schools) and call-ups for federal active duty. The Guardsman must be permitted to return to his position with such seniority, status, rate of pay, and vacation as he would have had if he had not been ordered to National Guard duty.

b. In addition, California State law (Military and Veterans Code, Sections 394 and 395) provides similar employment rights to all Guardsmen for the performance of military duty including emergency state active duty. It is a misdemeanor to discharge, deny employment, discourage performance of duty, or otherwise discriminate against National Guard personnel because of their Guard duty or status.

c. California State law (Military and Veterans Code, Section 395.01) also provides that state, local and other public agency employees are entitled to receive up to 30 days paid military leave per fiscal year from their employer for active National Guard duty. Federal employees are entitled to 15 days of military leave with pay for such duty. Inactive duty (weekend drills), however does not entitle a Guardsman to paid military leave.

d. It is the Guard member's obligation to notify the employer in advance, if possible, of an order to perform military duty and to present a copy of his/her orders (e.g., this form) to the employer.

e. If you have any questions concerning employer obligations or rights you are encouraged to contact the undersigned or the Staff Judge Advocate, California National Guard, 9800 Goethe Road, Sacramento, CA 95827-3563.

_____ (UNIT TELEPHONE NUMBER)

_____ (COMMANDER)

UNIT LETTERHEAD

_____ (Office Symbol)

_____ (Date)

MEMORANDUM FOR

SUBJECT: Letter of Notification – Unexcused Absence

1. Attendance records of this unit show you were:

a. [ ] Absent from the scheduled unit training assembly (UTA) or multiple unit training assembly (MUTA) on _____.
(Period(s) and Date(s)

b. [ ] Charged with unexcused absence on _____ because of:
(Period(s) and Date(s))

(1) [ ] Improper military appearance: or

(2) [ ] Unsatisfactory performance of assigned duties.

2. Under the provisions of AR 135-91, you are required to attend all scheduled unit training assemblies and annual training periods. In addition, you are required to participate in a satisfactory manner with regard to proper military appearance and performance of assigned duties.

3. Unless absences indicated in paragraph 1 are excused, you will have accrued ___ unexcused absences within a one year period. The one year period begins on the date you incurred your first unexcused absence.

4. Absences from training assemblies may be excused only for reasons of sickness, injury, emergency or other circumstances beyond your control. If your absence was due to one of these reasons, you should furnish this unit an appropriate affidavit or certification by a doctor, medical officer, or other person(s) having specific knowledge of the emergency or circumstances, requesting that it be excused. Your absence cannot be excused unless your request and affidavit or certificate are received within 15 days of the date you receive this letter.

5. You will be notified in writing within 10 days after receipt of your request as to whether the absence has been excused.

6. If you have family responsibilities that are causing hardship or if your civilian job is of critical importance to the national or community health, safety or interest, you should contact me so that I can advise and assist you in the proper procedures to resolve these problems.

7. As you are aware, if you accumulate nine (9) unexcused absences within a one year period, you can be declared an unsatisfactory participant. If this action is taken, a board of officers may be convened to consider the circumstances and make appropriate recommendations. The board may recommend immediate discharge under other than honorable conditions or transfer to the Individual Ready Reserve (IRR)/Inactive National Guard (ING) for the balance of your statutory obligation at which time you will be discharged, normally under conditions other than honorable.

8. I want to emphasize that the stigma, handicap and consequences of receiving an other than honorable discharge can have a lasting adverse effect. You should give careful consideration to the consequences of accumulating additional unexcused absences for you are also subject to the military justice system; which means, that you can be tried by military court-martial.

_____
(Office Symbol)

SUBJECT: Letter of Notification – Unexcused Absence

9. In accordance with Chapter 11, NGR 600-200, you are being considered for reduction by reason of inefficiency (unauthorized absence from drill).

10. (Used for E5's and above only) This unit has received approval from the President of the reduction board and a board will be held on _____ at _____ hours at _____.

11. You have the right to present any matters you feel are pertinent in rebuttal.

a. If you are an E5 or above and a board date has been indicated in paragraph 10 above, you may present information at that time.

b. If you are an E4 or below, no board action is required; however, you may present rebuttal by contacting this office within 15 days of receipt of this letter, by phone, in person or mail. If no rebuttal is received within 15 days, publication of reduction orders will be requested.

12. Once orders have been published, a copy will be mailed to you. You may have the right to appeal under the provisions of Chapter 11, NGR 600-200.

13. I hope that as a result of this letter you will take immediate steps to improve your attendance.

14. The next scheduled assembly for this unit is _____ hours, on _____

**

DISTRIBUTION:
Original to SM
1 – SM's 201 File
1 – Suspense File

RECEIPT OF THE ORIGINAL HEREOF IS ACKNOWLEDGED:_____
(Signature of Addressee if possible)

NOTE:
** Commander Signature Block and Signature

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED *(Last, First, MI)*	2. SSN	3. GRADE OR RANK	4. PAY GRADE

5. UNIT OR ORGANIZATION	6. CURRENT SERVICE	
	a. INITIAL DATE	b. TERM

7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED	9. DATE(S) IMPOSED
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL		

II. CHARGES AND SPECIFICATIONS

10. CHARGE: VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION:

III. PREFERRAL

11a. NAME OF ACCUSER *(Last, First, MI)*	b. GRADE	c. ORGANIZATION OF ACCUSER

d. SIGNATURE OF ACCUSER	e. DATE

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 19 _____, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

_____
Typed Name of Officer

_____
Organization of Officer

_____
Grade

_____
Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be commissioned officer)

_____
Signature

12.

On _____, 19 _____, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me *(See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)*

_____ *Typed Name of Immediate Commander*

_____ *Organization of Immediate Commander*

_____ *Grade*

_____ *Signature*

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ 19 _____ at _____ *Designation of Command or*

_____ *Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)*

FOR THE [1] _____

_____ *Typed Name of Officer*

_____ *Official Capacity of Officer Signing*

_____ *Grade*

_____ *Signature*

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY	b. PLACE	c. DATE

Referred for trial to the _____ court-martial convened by _____

_____, _____ 19 _____, subject to the following instructions:[2] _____

_____ By _____ of _____ *Command or Order*

_____ *Typed Name of Officer*

_____ *Official Capacity of Officer Signing*

_____ *Grade*

*This matter is a **STATE** Court-Martial pursuant to the California Military and Veterans Code.*

_____ *Signature*

15.

On _____, 19 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

_____ *Typed Name of Trial Counsel*

_____ *Grade or Rank of Trial Counsel*

_____ *Signature*

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

"SAMPLE CHARGE SHEET"

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
LEAVE, Absent W.O.	999-99-9999	SPC	E4

5. UNIT OR ORGANIZATION	6. CURRENT SERVICE	
	a. INITIAL DATE	b. TERM
HHC, 1st BN, Underwater Mess Kit Repair, Lost Angelus, CA XXXXX-XXXX	22 Jun 95	6 Years

7. BASIC PAY PER INACTIVE DUTY TRAINING PERIOD	8. NATURE OF RESTRAINT OF ACCUSED	9. DATE(S) IMPOSED
$42.71	(leave blank)	(leave blank)

II. CHARGES AND SPECIFICATONS

10. Charge: Violation of UCMJ, Article 86

Specification: In that SPC Absent W.O. Leave, did, on or about 5 June 2000, without authority, during annual training, absent himself/herself from his/her unit, to wit: HHC, 1st BN, Underwater Mess Kit Repair, located at Lost Angelus, CA and remains so absent as of the date of these charges.

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
Commander, Isure M.	CPT	HHC 1st BN UMK Repair

d. SIGNATURE OF ACCUSER	e. DATE
	5 June 2000

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser This 5th day of June, 2000 and signed the foregoing charges and specifications under oath that he/she is a person subject to the California Military and Veterans Code and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best *of his/her knowledge and belief.*

ESSONE, IMA D.	HQ, 1st BN Underwater Mess Kit Repair
Typed Name of Officer	Organization of Officer
CPT	Adjutant
Grade	Official Capacity to Administer Oath
Signature	

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

12.
The sworn charges were received at ____ hours, _____ 19 99 ___ at Headquarters, 40th Infantry Division (Mech)
Designation of Command or Officer Exercising Summary Court-martial Jurisdiction

(See R.C.M. 403)

FOR THE [1] COMMANDER

LISA COSTANZA
Typed Name of Officer

Assistant Adjutant
Official Capacity of Officer Signing

MAJ
Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

13a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY: HQ, 40th Infantry Division (Mech)

b. PLACE: Los Alamitos, CA

c. DATE

Referred for trial to the Summary court-martial convened by Court-Martial Convening Order No. 1, HQ, 40th Inf Div (Mech), dated 28 July 19 99, subject to the following instructions: [2] Referral may be by any staff officer authorized by memorandum dtd 3 August 1999.

BY COMMAND of MAJOR GENERAL GRAVETT
Command or Order

ALEXANDER D. DEVORKIN
Typed Name of Officer

Deputy Staff Judge Advocate
Official Capacity of Officer Signing

LTC
Grade

Signature

FOOTNOTES
1. When an appropriate commanders signs personally, inapplicable words are stricken.
2. See R.C.M. 601(e) concerning instructions. If none, so state.

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
5. UNIT OR ORGANIZATION		6. CURRENT SERVICE a. INITIAL DATE	b. TERM
7. BASIC PAY PER INACTIVE DUTY TRAINING PERIOD $	8. NATURE OF RESTRAINT OF ACCUSED	9. DATE(S) IMPOSED	

II. CHARGES AND SPECIFICATONS

10. Charge: Violation of UCMJ, Article

Specification:

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
d. SIGNATURE OF ACCUSER		e. DATE

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser This _ day of _____, 1999, and signed the foregoing charges and specifications under oath that he/she is a person subject to the California Military and Veterans Code and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best *of his/her knowledge and belief.*

Typed Name of Officer	Organization of Officer
Grade	Official Capacity to Administer Oath
Signature	

CAL NG Form 458

Figure 64-3

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

12.
The sworn charges were received at _____ hours, _____ 2000 at Headquarters, 40th Infantry Division (Mech)
Designation of Command or Officer Exercising Summary Court-martial Jurisdiction

(See R.C.M. 403)

FOR THE [1] COMMANDER

LISA COSTANZA
Typed Name of Officer

Assistant Adjutant
Official Capacity of Officer Signing

MAJ
Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

13a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY: HQ, 40th Infantry Division (Mech)
b. PLACE: Los Alamitos, CA
c. DATE:

Referred for trial to the Summary court-martial convened by Court-Martial Convening Order No. 1, HQ, 40th Inf Div (Mech), dated 28 July 19 99, subject to the following instructions: [2] Referral may be by any staff officer authorized by memorandum dtd 30 July 1999.

BY COMMAND of MAJOR GENERAL GRAVETT
Command or Order

ALEXANDER D. DEVORKIN
Typed Name of Officer

Deputy Staff Judge Advocate
Official Capacity of Officer Signing

LTC
Grade

Signature

"SAMPLE"

FOOTNOTES
1. When an appropriate commanders signs personnaly, anapplicable words are striken.
2. See R.C.M. 601(e) concerning instructions. If none, so state.

STATE OF CALIFORNIA
ARMY NATIONAL GUARD
SUMMARY COURT MARTIAL

PEOPLE OF THE STATE OF CALIFORNIA
VS

NO. 99-S-

BENCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA
TO: ANY PEACE OFFICER OF THIS STATE (or specify title)

1. You are directed to arrest forthwith the accused individual named and described below pursuant to California Military and Veterans Code Sections 463, 464, and 465 (see reverse side of form), and to deliver him or her to the most appropriate detention facility within your jurisdiction for the purpose of answering the charges and specifications attached hereto.

2. The accused may be fingerprinted and photographed if required by your agency.

3. The accused may be released into the custody of the California National Guard or admitted to bail in the amount of $500, and told to report within 24 hours to his/her National Guard unit. (Other bail instructions):**Bail in the form of your agency's check, cashiers check or money order(no personal checks)made payable or endorsed to: State of California, OTAG, 9800 Goethe Rd, Sacramento, CA 95826-9101 ATTN: Staff Judge Advocate**

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4. As soon as the accused is in custody, you should notify his/her National Guard unit by calling the following person: _____ during Annual Training at _____ or during other
(Unit POC) (AT Phone #)
times at_____.
(Unit Phone #)

5. This warrant shall expire six months from date of issuance.

Name of Accused: Rank: Soc. Sec. #

Residence Address: Res. Tel. No.
City/State/ZIP:
Business Address: Bus. Tel. No.
Description: Sex - Hair - Eyes - Ht. – Wt. - Race -
Date of Birth:
Vehicle Data: Lic. # - Make - Model - Year - Color - DL #
Dated:

(Signature of Summary/Special Court Officer)
ALEXANDER D. DEVORKIN, LTC

(Typed name and rank)
HQ,40th Infantry Division(Mechanized), Los Alamitos, CA 90720-5002

(Military unit and location)

Serious Incident Report Summary Sheet
SDO 24 HR (916) 854-3440 DSN 466-3440 FAX (916) 854-3475

Incident Data

SIR No.	Incident:	Location:	Incident Date/Time: 00:00	Report Received Name/Date:

Individual(s) Involved

Name: ,	Grade:	SSN:	Unit:
Name: ,	Grade:	SSN:	Unit:
Name: ,	Grade:	SSN:	Unit:
Name: ,	Grade:	SSN:	Unit:

Military Aircraft/Vehicle Involved

Aircraft Tail/Vehicle Bumper Number:	Pilot/Driver:	Unit:
Aircraft Tail/Vehicle Bumper Number:	Pilot/Driver:	Unit:

Civilian Vehicle Involved

License Number:	Make:	Model:	Insurance Company	Policy Number
Drivers Name:		Drivers License Number:	Address:	Phone Number:

Agency Report

Agency Name:	Report Number:	Reporting Official:	Phone Number:

Incident Summary:

(Who, What, When, Where, How)

This form can be filled out by hand but must be legible. Complete the entire form. If a blank space does not apply to the incident, insert "N/A" in the blank. Ensure your chain of command receives a copy (as soon as possible). Reference AR 190-40 and the CAL supplement for instrutions and clarification. Questions can be addressed to the OTAG SDO at (916) 854 3440. Tax the completed for to (916) 854-3475. Break-ins and thefts will be further annotated on CAL FORM 190-40-1 and attached to this document. Terrorist activities ref: AR 525-13.

Reported By:

Name: ,	Rank::	Unit:	Telephone:

Serious Incident Report Summary Sheet
SDO 24 HR (916) 854-3440 DSN 466-3440 FAX (916) 854-3475