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Law

SHOPLIFTING

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction describes the principles and procedures by which McGuire Air Force Base asserts and collects claims for damage to the Army and Air Force Exchange Service (AAFES) and Commissary (DECA) resulting from the wrongful act of shoplifting. It provides guidance for the collection of claims resulting from shoplifting incidents under authority of AFJI 34-211, *Army and Air Force Exchange Service General Policies* and the Federal Claims Collection Act. It applies to individuals apprehended for shoplifting at AAFES facilities and the Commissary at McGuire AFB, NJ. AAFES, DECA, Security Forces, and Judge Advocate base-level organizations at McGuire AFB are responsible for executing this program.

SUMMARY OF REVISIONS

Changes have been made to bring this instruction into compliance with new policies, procedures and updates office symbols in accordance with (IAW) the wing redesignation. Updates were made to paragraph **1.1**. (removes New Jersey Permanent Statutes authority and updated dollar amounts); paragraph **2.2.1**. (updated dollar amounts and procedures) and paragraph **2.2.3**. Minor changes were made to **Attachment 2** and **Attachment 3**. A bar (|) indicates a change since the last edition.

1. Program Authority.

1.1. Individuals committing the offense of shoplifting may be held liable to AAFES for (1) the value of the merchandise as damages, if the merchandise cannot be restored to the AAFES in its original condition; (2) additional damages, if any, arising from the incident, not to include any loss of time or wages incurred by the merchant in connection with the apprehension of the defendant; and (3) an administrative charge payable to AAFES in the amount of \$200.00. A parent, guardian or other person having legal custody of a minor who commits the offense of shoplifting shall be liable to AAFES/DECA for the damages specified above.

2. AAFES/DECA Responsibilities.

2.1. Upon detention of an individual suspected of shoplifting (hereinafter referred to as “subject”), determine the amount of actual damages sustained by the shoplifting incident. The “actual damages sustained” means the retail price of the item the subject stole or attempted to steal *if the item is unfit or unavailable for sale subsequent to the theft*. If the item is recovered and available for resale, there are no actual damages.

2.2. When a shoplifting occurs, complete and hand deliver or mail via certified mail to the subject or sponsor:

2.2.1. A first payment demand letter (**Attachment 2**), which clearly states the claimed amount. If merchandise is recovered and is available for sale, the amount claimed will be: the difference between the full retail value and the reduced sale value, plus an administrative charge of \$200.00. If the merchandise is lost or otherwise cannot be sold, the amount claimed will be the full retail value of the merchandise, plus an administrative charge of \$200.00. This demand letter must also include a statement that if the debt is not paid in full by a date certain (determined to be 30 days after the date the first demand letter was hand delivered or sent via certified mail), the AAFES store manager will be required to notify the unit commander of the debt. In addition, the demand letter must state that the military sponsor’s check cashing and any Military Star card privileges will be suspended until the debt is either paid or waived.

2.2.2. A second demand letter will be sent if the first demand letter does not result in full payment of the debt within 14 days after the first demand letter was sent by hand delivery or via certified mail. The second demand letter must contain the same information provided in paragraph 2.2. above.

2.2.3. A completed payment receipt (**Attachment 3**) demanding payment for the damages within 20 days, must accompany each demand letter.

2.2.4. The acknowledgment of receipt of apprehension letter (**Attachment 4**).

2.3. Inform Security Forces of any known aggravating circumstances and the subject’s history of prior shoplifting detentions at the Base Exchange/Commissary if known.

2.4. Inform 305 AMW/JA whether subject has or has not made payment in satisfaction of the demand letter.

3. Security Forces Responsibilities.

3.1. The responding law enforcement officer shall take the following actions:

3.1.1. Respond to AAFES/DECA shoplifting complaints when requested. AAFES/DECA security personnel will accomplish AF Form 1168, **Statement of Suspect/Witness/Complaint**, for the responding Security Forces.

3.1.2. If the subject is a minor, attempt to locate sponsor or guardian in the store area. If attempts fail, contact the sponsor’s residence and request he/she respond to the incident location. Juvenile names will not be transmitted over the radio.

3.1.3. Review the closed circuit television videotapes, if any, to ensure the subject detained is the same individual observed on the tapes. Seize videotape via AF Form 52, **Evidence Tag**. Ensure the tab is removed from video to prevent erasure. If an AAFES/DECA employee directly observed

the shoplifting, ask the employee to identify the subject and describe the events leading to the detention.

3.1.4. If there is a reasonable basis for believing the subject stole AAFES/DECA property: For active duty military - apprehend and transport the subject to the law enforcement desk and notify subject's first sergeant or unit commander; for civilians – process paperwork and give citation on scene, and then release the individual.

3.1.5. Inform the subject of his or her rights under Article 31 of the Uniform Code of Military Justice (active duty military) or under the Fifth Amendment of the U.S. Constitution (all others) using AF Form 1168. If the subject is a minor, advisement of rights should take place in the presence of the sponsor, parents, or a witness prior to asking any questions.

3.1.6. Describe evidence fully on AF Form 52 and AF Form 3545, **Incident Report**. Security Forces will retain stolen article(s).

3.1.7. Request all witnesses to the incident complete an AF Form 1168.

3.1.8. Security Forces Reports and Analysis Section will coordinate with 305 MSG/CD on all AAFES/Commissary privilege suspensions.

3.1.9. Hand adult subjects written notice of preliminary suspension of AAFES/Commissary privileges, if approved by the 305 MSG/CD. If the subject is a minor, deliver the written notice to the minor's sponsor or parent.

3.1.10. Security Forces will seize subject's DD Form 1173, **Uniformed Services Identification and Privilege Card**, (for all dependents) via AF Form 52, "No AAFES/DECA Privileges" will be typed/stamped on the AF Form 52 so the individual(s) can't use the AF Form 52 to enter other AAFES facilities. Ensure the subject receives a copy of the AF Form 52 since it will serve as a temporary ID card until a new card is issued at Military Personnel Flight. ID cards of active duty, reservists, and retired personnel will not be seized.

3.1.11. Complete an AF Form 3545 for every case.

3.1.12. Release the subject upon completion of processing. Active duty military personnel should be released to their first sergeants or commanders. All others, with the exception of minors, will be released on their own recognizance. Minors should be released to a custodial parent or guardian, if one can be found.

3.2. Within seven days of the incident, deliver to 305 AMW/JA a copy of any description of aggravating circumstances, any criminal record, the incident report, and the preliminary suspension letter.

3.3. Within seven days of the incident send the adult subject or sponsor of a minor subject, a copy of the incident report.

4. 305 MSG/CD Responsibilities.

4.1. If a hearing pursuant to AFJI 34-211 is requested:

4.1.1. Review the evidence and determine if the preponderance of the evidence supports the suspension of AAFES/DECA privileges. If suspension is not justified, withdraw the preliminary suspension.

4.1.2. In all other cases, keep the suspension of AAFES/DECA privileges in place.

4.1.3. If the subject has committed another shoplifting offense within the past 5 years, permanently revoke privileges with reinstatement possible after 24 months, provided the subject fully pays the restitution.

5. 305 AMW/JA Responsibilities.

5.1. Act in accordance with the United States Attorney's Office and 305 AMW/JA guidelines in prosecuting shoplifting cases for those individuals 18 or over.

5.2. If subject is convicted, inform the Court whether subject has or has not paid the Civil Recovery damages.

JIMMIE C. JACKSON, JR., Col, USAF
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Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

AFJI 34-211, *Army and Air Force Exchange Service General Policies*

Abbreviations and Acronyms

AAFES—Army and Air Force Exchange Service

DECA—Defense Commissary Agency

IAW—In Accordance With

Attachment 2

DEMAND FOR PAYMENT OF DAMAGES LETTER

(Date)

MEMORANDUM FOR _____

FROM: STORE MANAGER
MCGUIRE AFB EXCHANGE OFFICE/COMMISSARY
MCGUIRE AFB, NJ 08641

SUBJECT: Demand for Payment of Damages Subsequent to Apprehension for Shoplifting

1. You have /Your dependent (...name...) has been apprehended for shoplifting at the McGuire Exchange and I have made an administrative determination that civil restitution is appropriate in your case. A copy of the incident report evidencing your civil liability will follow this letter.

2. In accordance with federal law and regulation, AAFES/DECA hereby demands that you pay damages in the amount of \$_____.

For shoplifting and retail thefts, federal law and regulation provide:

A person who commits the offense of shoplifting or a person who commits the offense of theft by stealing food or drink from an eating establishment, shall be liable for any criminal penalties imposed by law and shall be liable to the merchant in an amount equal to the following:

- (1) The value of the merchandise as damages, not to exceed \$500.00, if the merchandise cannot be restored to the merchant in its original condition;
- (2) Additional damages, if any, arising from the incident, not to include any loss of time or wages incurred by the merchant in connection with the apprehension of the defendant; and
- (3) An administrative charge payable to the merchant in an amount of \$200.

3. You must return the attached payment receipt with your check or money order to the address listed on the payment receipt within twenty (20) calendar days from the date of this letter, at which time AAFES/DECA will provide you with a release from further civil liability.

4. If the entire debt remains unpaid for 30 days after the date the demand letter was hand delivered or sent via certified mail, the AAFES store manager will be required to notify the unit commander of the debt. Your military sponsor's check cashing and any Military Star card privileges will be suspended until the debt is either paid or waived.

5. You may ask the AAFES store manager to review this debt by writing to the store manager at the address shown above, within 30 days from the date of this letter.

Store Manager, McGuire AFB Exchange/Commissary

Attachment:

Payment Receipt

Attachment 3

PAYMENT RECEIPT

(Enclose this with your payment and mail or deliver to the address below)

TO: STORE MANAGER
MCGUIRE AFB EXCHANGE OFFICE/COMMISSARY
MCGUIRE AFB, NJ 08641

SUBJECT: Demand for Payment Subsequent to Apprehension

Attached is my payment of _____ as damages from the shoplifting incident, which occurred at McGuire AFB Exchange/Commissary on _____.

Name of person making payment: _____

Address: _____

City, State, Zip: _____

Phone: _____

Received payment on _____ by _____
(Date) (Sign and print name)

To be completed by store manager only when full payment has been received.

You are hereby released from further civil liability for the shoplifting incident, which occurred at McGuire AFB on _____. This is not a release for potential criminal liability.
(Date of incident)

(Sign and print name)
AAFES STORE MANAGER

(Date)

Attachment 4

ACKNOWLEDGEMENT OF RECEIPT

MEMORANDUM FOR STORE MANAGER
MCGUIRE AFB EXCHANGE OFFICE/COMMISSARY
MCGUIRE AFB, NJ 08641

FROM: _____
(Suspected Shoplifter)

SUBJECT: Acknowledgment of Receipt

I hereby acknowledge receipt and understanding of demand for payment of damages letter on

(Signature)