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**Law**

**SHOPLIFTING**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction implements AFI 51-905, *Use of Magistrate Judges for Trial of Misdemeanors Committed by Civilians*, and AFD 51-9, *Civil Law for Individuals*. It provides guidance for the handling of shoplifting incidents pursuant to Title 18, United States Code (U.S.C.), Section 641, *Public Money, Property or Records*, and for civil forfeitures pursuant to Florida State Statute Section 772.11, *Civil Remedy for Theft or Exploitation*, as assimilated by 18 U.S.C., Section 13, *Laws of States Adopted for Areas Within Federal Jurisdiction*, as well as suspension and revocation of exchange privileges in accordance with Army and Air Force Exchange Service (AAFES) and Defense Commissary Agency (DeCA) operating policies. It applies to individuals detained for shoplifting at AAFES and DeCA facilities at MacDill Air Force Base (AFB). **Failure to comply with the prohibitions and mandatory provisions of paragraph 2.2. by military personnel is a violation of Article 92, Uniform Code of Military Justice (UCMJ), Failure to Obey Order or Regulation.** Violations by civilian employees may result in administrative disciplinary action without regard to otherwise applicable criminal or civil sanctions for violations of related laws. It is implemented by AAFES, DeCA, the 6th Mission Support Group (6 MSG), 6th Air Mobility Wing, Office of the Judge Advocate (6 AMW/JA), and the 6th Security Forces Squadron (6 SFS) at MacDill AFB. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with AFMAN 37-123 (will convert to AFMAN 33-363), *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://afirms.amc.af.mil/>. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate functional's chain of command.

This instruction requires the collection and maintenance of information protected by the Privacy Act of 1974. The authority to collect and maintain the records prescribed in this instruction is found in 10 U.S.C. 8013 and 10 U.S.C. Chapter 55, *Privacy Act Statements*, and AFI 33-332, *Privacy Act Program*.

## ***SUMMARY OF CHANGES***

This document has been substantially revised and must be completely reviewed. Major changes include: Addition of penalty provision in implementation paragraph. Complete rewrite of AAFES and DeCA Responsibilities and Authorities (para 1.1.4.). Complete rewrite of 6 SFS Responsibilities and Authorities (para 2.4.). Complete rewrite of 6 AMW/JA Responsibilities and Authorities to include inclusion of the Pretrial Diversion Program and prosecution determinations. Notable change is the return of AAFES and DeCA privileges upon successful completion of the Pretrial Diversion Program (para 3.5.1.). Complete rewrite of 6 MSG Responsibilities and Authorities. Notable change is the inclusion that request for administrative hearing is not a personal appearance by the alleged offender, that request must be received within 10 calendar days of incident, and that a determination that an administrative hearing does not stop criminal prosecution (para 4.3.). Complete rewrite of Sample Payment Demand Memorandum to include notice that payment of demand memorandum does not stop criminal prosecution (**Attachment 2**). Complete rewrite of Payment Receipt to include deletion of Florida Statute paragraph (**Attachment 3**). Addition of **Attachment 4**, Sample Notice of Revocation of Exchange (AAFES)/Commissary (DeCA) Privileges and Lawful Order Not to Use Any AAFES or DeCA Facilities (Military Members). Addition of **Attachment 5**, Sample Notice of Revocation of Exchange (AAFES)/Commissary (DeCA) Privileges and Lawful Order Not to Enter/Use Any AAFES or DeCA Facilities (Civilians).

**1. Responsibilities and Authorities.** This instruction establishes the following responsibilities and authorities:

1.1. AAFES/DeCA Responsibilities:

1.1.1. AAFES/DeCA is responsible for loss prevention at their respective facilities. When AAFES/DeCA detains a subject they suspect of shoplifting, they will immediately contact the 6 SFS Law Enforcement Desk to request assistance. The AAFES/DeCA employee responsible for the detention will maintain control of the subject and any evidence gathered as a result of the theft until 6 SFS responds.

1.1.2. The AAFES/DeCA employee will complete an AF Form 1168, *Statement of Suspect/Witness/Complainant*, and will provide:

1.1.2.1. A detailed account of the alleged theft;

1.1.2.2. A thorough description of the item(s) taken, the value of the item(s), and the loss to AAFES/DeCA as a result of the theft;

1.1.2.3. Any aggravating circumstances associated with the theft;

1.1.2.4. Any statements made by subject;

1.1.2.5. Any acts undertaken by the subject to conceal the theft;

1.1.2.6. Any sales receipts;

1.1.2.7. Any known history of prior detentions of the subject; and,

1.1.2.8. Any attempts by the subject to resist detention.

1.1.3. The AAFES/DeCA employee must ensure video tapes of the incident and photographs of any evidence seized in connection with the theft are provided to 6 SFS. The photographs should include a full view of the stolen item(s) including photographs of specific brand identification that affects the value of the item, and photographs of the packaging for stolen item(s) showing the cost of the item(s).

1.1.4. In all cases where AAFES seeks civil forfeitures, the AAFES employee will complete and serve on all shoplifting subjects the Demand for Payment of Damages Subsequent to Apprehension for Shoplifting Memorandum at [Attachment 2](#). When a subject pays the civil forfeitures at the time of the detainment, the AAFES employee will complete the release portion of the payment receipt [Attachment 3](#), and provide a copy of the receipt to the subject. A copy of the demand for payment and payment receipt will be provided to 6 AMW/JA for every subject who pays the civil forfeiture.

## 2. 6th Security Forces Squadron (6 SFS) Responsibilities.

2.1. 6 SFS will respond when AAFES/DeCA requests assistance with a subject detained on suspicion of shoplifting. The responding law enforcement officer shall:

2.1.1. Follow established 6 SFS procedures for investigation of criminal misconduct. If the responding officer determines probable cause exists to support a charge of Theft of Government Property, 6 SFS will process the suspect. Upon completion of the investigation, 6 SFS will prepare a written report in accordance with established 6 SFS procedures. If the initial investigation determines there is insufficient probable cause to support the charge of Theft of Government Property, 6 SFS will release the suspect and follow 6 SFS guidelines to close the investigation.

2.1.2. 6 SFS procedures will provide, at a minimum, that Security Forces will:

2.1.2.1. Ensure all military and civilian subjects are given written notice of Revocation of Exchange (AAFES)/Commissary (DeCA) Privileges and Lawful Order Not to Use Any AAFES or DeCA facilities using the forms at [Attachment 4](#) for military subjects and [Attachment 5](#) for civilian subjects.

2.1.2.2. Seize the subject's DD Form 1173, *Uniformed Services Identification and Privilege Card*, for all dependants, non-activated reservists, and retired personnel, and advise the member of the need to obtain a new identification (ID) card and/or to use the revocation letter for medical care or base access until a new ID card is obtained. ID cards of active duty military personnel and reservists on orders will not be seized.

2.1.2.3. Gather all available evidence including but not limited to video tapes, photographs of evidence, and photocopies of driver's licenses and military ID cards. Ensure evidence is maintained in accordance with established 6 SFS guidelines.

2.1.2.4. Release the subject upon completion of processing. Active duty military personnel and reservists on orders should be released to their first sergeant or commander. All others, with the exception of juveniles, will be released on their own recognizance upon completion of the appropriate forms. In most instances, juveniles should be released to a custodial parent or guardian.

2.1.2.5. When a reservist is suspected of shoplifting, 6 SFS will report the alleged theft to the reservist's commander within seven days of the incident. The reporting requirement must be

met for reservists regardless of whether they are on orders at the time of the incident. Such notification will be annotated on the incident report and will be kept on file for the period of time required by 6 SFS local file plan.

2.1.2.6. Within seven days of the incident, 6 SFS will deliver a completed report of investigation to 6 AMW/JA. The report of investigation should include, at a minimum:

2.1.2.6.1. An AF Form 3545, *Report of Incident*;

2.1.2.6.2. Notarized Affidavit of Probable Cause;

2.1.2.6.3. An AF Form 1168, from the AAFES/DeCA representative reporting the alleged theft; the subject detained for shoplifting; and any other available witnesses;

2.1.2.6.4. Photocopies of the subject's ID card and driver's license;

2.1.2.6.5. Photographs of the items the subject shoplifted;

2.1.2.6.6. Any evidence of the subject's prior criminal history;

2.1.2.6.7. Any video recording/surveillance tape recording made contemporaneous to the shoplifting incident by AAFES/DeCA;

2.1.2.6.8. When the demand memorandum is completed contemporaneous to the detention, a copy of the demand memorandum signed by the subject acknowledging his/her responsibility to pay civil forfeitures; and

2.1.2.6.9. Any other evidence gathered during the investigative process.

2.2. Active duty personnel who enter AAFES or DeCA facilities in violation of Revocation of Exchange (AAFES)/Commissary (DeCA) Privileges and Lawful Order Not to Use Any AAFES or DeCA Facilities has been issued (other than the exceptions listed in the order) may be charged with failure to obey a lawful order in violation of Article 92, UCMJ. Civilians will be handled administratively, i.e., possible barment from MacDill AFB.

2.3. Subjects who receive a Notice of Revocation of AAFES/DeCA Privileges may request administrative review of the revocation by following the procedures outlined in the Notice of Revocation at [Attachment 4](#) for military members and [Attachment 5](#) for civilians. To be considered for an administrative review, requests supporting statements and documentation must be received within 10 calendar days of the date of incident. Late requests will not be considered.

2.4. In cases where the subject requests an administrative review, 6 SFS will prepare a package that includes the incident report and supporting documentation outlined in [2.1.2.6.](#) above and any additional evidence submitted by the subject requesting the administrative review. The 6 SFS will staff the administrative review request through 6 AMW/JA to 6 MSG/CC for a final determination.

### 3. 6 AMW/JA Responsibilities.

3.1. Review incident reports provided by 6 SFS and make a case disposition determination. Disposition options for civilian subjects include:

3.1.1. Refer the case to the United States Attorney for the Middle District of Florida (U.S. Attorney) with a recommendation for criminal prosecution;

- 3.1.2. Refer the case to the U.S. Attorney with a recommendation that the subject be offered the opportunity to participate in the U.S. Attorney Pretrial Diversion (PTD) Program;
  - 3.1.3. Prosecute the case as a misdemeanor theft in Federal Magistrate Court;
  - 3.1.4. Offer the subject the opportunity to participate in the MacDill PTD Program. (*Note:* This program was established in 2000 with the concurrence of the U.S. Attorney and Installation Commander at MacDill); or,
  - 3.1.5. Determine the facts and circumstances do not support the charged offense.
- 3.2. When 6 AMW/JA receives an incident report for a military subject, 6 AMW/JA will review the facts and circumstances of the case and provide advice on disposition to the military member's commander.
  - 3.3. In cases where 6 AMW/JA pursues prosecution, a judge advocate designated by the U.S. Attorney to act as a Special Assistant United States Attorney (SAUSA) will prosecute misdemeanor thefts committed by civilian subjects in Federal Magistrate Court.
  - 3.4. If it is determined that it is in the best interest of the government and judicial process, 6 AMW/JA will refer appropriate suspects for entry into PTD programs as follows:
    - 3.4.1. For high dollar theft or employee theft, the subject may be referred to the U.S. Attorney's office for placement into a PTD program. 6 AMW/JA will ensure appropriate documentation is provided for program placement and will monitor the case until successful completion of the diversionary period.
    - 3.4.2. The MacDill Pretrial Diversion (PTD) program was established to provide an alternative to prosecution. Civilian subjects who are offered and voluntarily agree to participate in the program agree to pay AAFES the civil forfeiture and must complete a specified number of community service hours. Civilian subjects who are authorized AAFES/DeCA patrons and who successfully complete the program will be authorized immediate reinstatement of their AAFES/DeCA privileges. 6 AMW/JA will provide a memorandum to those who successfully complete the program authorizing reinstatement of AAFES/DeCA privileges. Civilian subjects **MUST** present the memorandum to Pass and ID to obtain an Armed Forces Identification Card that allows access to AAFES/DeCA before entering any AAFES/DeCA facility.
    - 3.4.3. Civilian subjects who decline the opportunity to participate in a PTD program or who fail to complete any pretrial program are subject to prosecution on the underlying misconduct or other administrative actions.
  - 3.5. Requests for Administrative Review to Reinstate AAFES/DeCA Privileges:
    - 3.5.1. When 6 SFS/SFAR forwards a request for administrative review, 6 AMW/JA will review the investigation and any additional information submitted by the subject requesting the review. 6 AMW/JA will make a disposition recommendation to 6 MSG/CC as to whether the revocation should be upheld or whether privileges should be reinstated.

#### **4. 6 MSG/CC Responsibilities.**

- 4.1. Provide signed copies of the Notice of Revocation of Exchange (AAFES)/Commissary (DeCA) Privileges and Lawful Order Not to Use Any AAFES or DeCA Facilities letters to 6 SFS for use in appropriate situations.

4.2. Upon notification by 6 SFS or 6 AMW/JA that a subject has committed two or more shoplifting offenses in a five year period, issue a permanent revocation of privileges. In an unusual case, the subject's privileges may be reinstated after 24 months, provided the claim for damages is fully paid to AAFES, the case is not pending on a Federal Magistrate Court docket, the offender has completed any diversion action, and the offender makes a request for reinstatement in writing with justification for the reinstatement within 10 days of completion of any program or criminal proceeding. Requests must be coordinated with 6 AMW/JA for a disposition recommendation and with 6 MSG/CC as the final approving authority.

4.3. Review requests submitted within ten 10 calendar days of incident for administrative review of requests to reinstate AAFES/DeCA privileges and make a determination as to whether privileges should be reinstated or whether the revocation should be upheld. Provide 6 AMW/JA and subject notice of the final decision. An administrative review is not a personal appearance; it is a review of the information submitted by the alleged offender to determine whether their AAFES/DeCA privileges should be reinstated or the duration of the revocation should be modified. In either event, it does not stop criminal prosecution.

4.4. Adopted Forms/IMTs: AF Form 847, *Recommendation for Change of Publication*; AF Form 1168, *Statement of Suspect/Witness/Complainant*; AF Form 3545, *Report of Incident*; DD Form 1173, *Uniformed Services Identification and Privilege Card*

ROBERT D. THOMAS, Colonel, USAF  
Commander

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-9, *Civil Law for Individuals*

AFI 33-332, *Privacy Act Program*

AFI 51-905, *Use of Magistrate Judges for Trial of Misdemeanors Committed by Civilians*

AFMAN 37-123 (will convert to AFMAN 33-363), *Management of Records*

Title 10, U.S.C., Section 8013, *Secretary of the Air Force*

Title 18, U.S.C., Section 13, *Laws of States Adopted for Areas Within Federal Jurisdiction*

Title 18, U.S.C., Section 641, *Public Money, Property or Records*

Florida State Statute Section 772.11, *Civil Remedy for Theft or Exploitation*

Article 92, UCMJ, *Failure to Obey Order or Regulation*

***Abbreviations and Acronyms***

**6 AMW/JA**—6th Air Mobility Wing, Office of the Judge Advocate

**6 MSG**—6th Mission Support Group

**6 MSG/CC**—6th Mission Support Group Commander

**6 SFS**—6th Security Forces Squadron

**AFB**—Air Force Base

**AAFES**—Army and Air Force Exchange Service

**DeCA**—Defense Commissary Agency

**ID**—Identification

**IMT**—Information Management Tool

**MAFB**—MacDill Air Force Base

**OPR**—Office of Primary Responsibility

**PTD**—Pretrial Diversion

**RDS**—Records Disposition Schedule

**SAUSA**—Special Assistant United States Attorney

**TO**—Technical Order

**UCMJ**—Uniform Code of Military Justice

**U.S.C.**—United States Code

Attachment 2

SAMPLE PAYMENT DEMAND MEMORANDUM

\_\_\_\_\_  
(Date)

MEMORANDUM FOR \_\_\_\_\_  
(Name of suspected shoplifter)

FROM: General Manager  
MacDill Exchange Office  
Bldg. 18, P.O. Box 6842  
MacDill AFB, FL 33608-6842

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

1. You were detained for shoplifting at the MacDill Air Force Base Army and Air Force Exchange Service (AAFES). Florida State Statute Section 772.11, *Civil Remedy for Theft or Exploitation*, authorizes a merchant to demand a civil remedy in the amount of \$200.00 when there is clear and convincing evidence that the merchant has been injured as a result of a retail theft.

2. AAFES hereby demands that you pay damages in the amount of two hundred dollars (\$200.00).

3. If you return the attached payment receipt with your check or money order to the address listed on the payment receipt within 30 days, AAFES will provide you with a release from further civil liability. If payment is not received within 30 days, AAFES may pursue action in civil court to recover the damages and is entitled to recover attorney's fees and court costs in the trial and appellate courts. **Payment of the Demand for Payment does not release you from criminal prosecution or administrative action.**

PATRICIA AUSTIN, General Manager  
MacDill Army and Air Force Exchange

1st Ind to  
General Manager, MacDill Exchange Office, \_\_\_\_\_, Demand for Payment of  
Damages Subsequent to Apprehension for Shoplifting. (date)

\_\_\_\_\_  
Suspected Shoplifter

MEMORANDUM FOR General Manager  
MacDill Exchange Office



Bldg. 18, P.O. 6842

MacDill AFB, FL 33608-6842

I hereby acknowledge receipt of this memorandum on \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**Attachment 3**

**SAMPLE PAYMENT RECEIPT**

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

TO: General Manager

MacDill Exchange Office

Bldg. 18, P.O. Box 6842

MacDill AFB, FL 33608-6842

Attached is my check or money order in the amount of \$200.00 to satisfy the demand for civil damages I received after being detained for shoplifting at the MacDill AAFES on

\_\_\_\_\_  
Name of person making payment: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Received payment on \_\_\_\_\_ by \_\_\_\_\_  
(Date) (Sign and print name)

You are hereby released from further civil liability for the shoplifting incident that occurred at the MacDill AAFES on \_\_\_\_\_  
(Date of incident)

\_\_\_\_\_  
(Sign and print name)

\_\_\_\_\_  
(Date)

**Personal information contained on this form (document) is to be protected by the Privacy Act of 1974 and AFI 33-332.**

## Attachment 4

**SAMPLE NOTICE OF REVOCATION OF EXCHANGE (AAFES)/COMMISSARY (DECA)  
PRIVILEGES AND LAWFUL ORDER NOT TO USE ANY AAFES OR DECA FACILITIES  
(MILITARY MEMBERS)**

MEMORANDUM FOR \_\_\_\_\_  
(Name and Unit)

THRU \_\_\_\_\_  
(Member's Commander)

FROM: 6 MSG/CC  
2909 Nighthawk Pl  
MacDill AFB FL 33621-5315

SUBJECT: Notice of Revocation of AAFES/ DeCA Privileges and Lawful Order Not to Enter or Use any AAFES or DeCA Facility (Military Members)

1. On \_\_\_\_\_, you were detained for shoplifting at the Army and Air Force Exchange Service (AAFES) or Defense Commissary Agency (DeCA) on MacDill Air Force Base, Florida.
2. Effective immediately, you are ordered not to enter or use any facility operated by AAFES or DeCA, including but not limited to the main exchange, commissary, shoppette, Class Six store, or the AAFES Service Station, for *one calendar year* from the date of this Notice of Revocation. **Failure to comply with the prohibitions and mandatory provisions of paragraph 2.2. of MACDILLAFBI 51-501, Shoplifting, is a violation of Article 92, Uniform Code of Military Justice (UCMJ), Failure to Obey Order or Regulation.** You may enter the Military Clothing Sales store to purchase military clothing and accessories required to meet your military service obligations.
3. If you believe you have information which may justify a reconsideration of this Notification of Revocation of your AAFES and DeCA privileges, or reconsideration of the duration of the revocation, you may submit a statement for an administrative review. Any information you would like considered must be submitted within 10 calendar days of the date of this notification. Late requests will not be considered. An administrative review is not a personal appearance and does not stop criminal prosecution. It is a review of the information you submit to determine whether your AAFES/DeCA privileges should be reinstated or the duration of the revocation should be modified. Shoplifting is a crime punishable under Article 121 of the UCMJ. Any information you submit for administrative review may be used to determine whether criminal prosecution should be pursued and in any subsequent criminal prosecution or administrative determination. Submit any information you would like considered to 6 SFS/SFAR, 7235 Bayshore Blvd, MacDill AFB FL 33621.
4. Your AAFES/DeCA privileges will be reinstated at the conclusion of the revocation period.
5. Acknowledge receipt and understanding of this Notice and Order by signing and dating the acknowledgment below.

WILLIAM W. FRANCIS, II, Colonel, USAF  
Commander, 6th Mission Support Group

MEMORANDUM FOR 6 SFS/SFAR

Receipt and understanding acknowledged on \_\_\_\_\_

\_\_\_\_\_

(Signature)

## Attachment 5

**SAMPLE NOTICE OF REVOCATION OF EXCHANGE (AAFES)/COMMISSARY (DECA)  
PRIVILEGES AND LAWFUL ORDER NOT TO ENTER/USE ANY AAFES OR DECA  
FACILITIES (CIVILIANS)**

MEMORANDUM FOR \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name and Address)

FROM: 6 MSG/CC

2909 Nighthawk Pl

MacDill AFB FL 33621-5315

SUBJECT: Notice of Revocation of AAFES/DeCA Privileges and Order Not to Enter/Use any AAFES or DeCA Facilities (Civilians)

1. On \_\_\_\_\_, you were detained for shoplifting at the Army and Air Force Exchange Service (AAFES) or Defense Commissary Agency (DeCA) on MacDill Air Force Base, Florida. Base policy dictates individuals involved in shoplifting incidents will have their identification card confiscated.
2. Effective immediately, you are prohibited from entering or using any facility operated by AAFES or DeCA, including but not limited to the main exchange, commissary, shoppette, Class Six store, military clothing sales, or the AAFES Service Station, for **one calendar year** from the date of this Notice of Revocation. As soon as possible, you should report to Pass and Identification, Building 373, for issuance of a new identification card. You may use this letter to obtain access to the base in order to obtain a new identification card. In the meantime, should you require medical attention, you may receive care at a government facility by using this letter.
3. If you believe you have information that may justify a reconsideration of this Notification of Revocation of your AAFES and DeCA privileges, or reconsideration of the duration of the revocation, you may submit a statement for an *administrative* review. Any information you would like considered must be submitted within 10 calendar days of the date of this notification. An administrative review is not a personal appearance and it does not stop criminal prosecution. It is a review of the information you submit to determine whether your AAFES/DeCA privileges should be reinstated or the duration of the revocation should be modified. Shoplifting is a crime punishable under Title 18, Section 641, of the United States Code. Any information you submit for administrative review may be used for criminal prosecution. Submit any information you would like considered to 6 SFS/SFAR, 7235 Bayshore Blvd, MacDill AFB FL 33621.
4. Your AAFES/DeCA privileges will automatically be reinstated at the conclusion of the revocation period. At the conclusion of the revocation period, you must obtain a new Armed Forces Identification Card before you will be allowed to enter or use an AAFES or DeCA facility. You may obtain a new identification card by taking a copy of this letter to any military Pass and Identification Section after the revocation period has expired.

5. Acknowledge receipt and understanding of this Notice and Order by signing and dating the acknowledgment below.

WILLIAM W. FRANCIS, II, Colonel, USAF  
Commander, 6th Mission Support Group

MEMORANDUM FOR 6 SFS/SFAR

Receipt and understanding acknowledged on \_\_\_\_\_

\_\_\_\_\_  
(Signature)

**Personal information contained on this form (document) is to be protected by the Privacy Act of 1974 and AFI 33-332.**