DEPARTMENT OF THE NAVY
NAVAL AMPHIBIOUS BASE LITTLE CREEK
2600 TARAWA COURT SUITE 100
NORFOLK, VIRGINIA 23521-3297

IN REPLY REFER TO:

NAVPHIBASELCREEKINST 5510.18H
00L
26 MAR 2003

NAVPHIBASELCREEK INSTRUCTION 5510.18H

Subj: BANNING OF INDIVIDUALS FROM THE NAVAL AMPHIBIOUS BASE LITTLE CREEK NAVY EXCHANGE

Ref: (a) 50 U.S.C §797 (Internal Security Act)
(b) DoD Directive 5200.8
(c) Article 0826, U.S. Navy Regulations, 1990
(d) Uniform Code of Military Justice, Article 121
(e) Code of Virginia title 18.2, Section 103
(f) 18 U.S.C. §661
(g) 18 U.S.C. §641

1. Purpose. To promulgate policies and procedures regarding the banning of individuals from facilities operated by the Naval Amphibious Base Little Creek (NAVPHIBASE LCREEK) Navy Exchange.

2. Cancellation. NAVPHIBASELCREEKINST 5510.18G is hereby cancelled. Changes to this instruction constitute a major revision; therefore, additions, deletions, or changes are not individually marked.

3. Background. Pursuant to references (a) through (c), Commanding Officer, NAVPHIBASE LCREEK has the authority to take all necessary and reasonable actions for the safety of personnel and assets aboard the installation. That authority specifically includes the banning of individuals from all or part of the installation. When individuals shoplift or commit other misconduct at the Navy Exchange, it adversely impacts the ability of others to enjoy the privileges which has been extended to eligible patrons. Accordingly, the ability of such offenders to patronize the Navy Exchange should be curtailed by denying them physical access to it. This adverse administrative action is in addition to any judicial action taken in response to criminal misconduct.

4. Definition of larceny. The definition of larceny will depend on the forum in which the alleged offense is adjudicated. For offenses prosecuted through the Uniform Code of Military Justice, the definition found in reference (d) applies. For offenses prosecuted through the courts of the Commonwealth of Virginia, the definition found in reference (e) applies. For offenses prosecuted through the U.S. District Court, the definitions found in references (f) and (g) apply.

5. Policy. Authorized patrons who are apprehended for larceny at the NAVPHIBASE LCREEK Navy Exchange will be notified by letter

they are administratively barred from the NAVPHIBASE LCREEK Navy Exchange, and from all other Navy Exchange facilities at an installation under the cognizance of Commander, Navy Region, Mid-Atlantic (COMNAVREG MIDLANT). The period of suspension will be for one year, beginning from the date of the offense. Unauthorized patrons will also be issued a temporary ban letter, which shall also generally include a ban of the entire installation. These actions may be in addition to other administrative or judicial action.

6. Procedures

a. When an individual is apprehended for larceny at the NAVPHIBASE LCREEK Navy Exchange, a temporary ban letter shall be issued to the accused which bans the accused from entering Navy Exchange facilities aboard NAVPHIBASE LCREEK. The Navy Exchange shall be primarily responsible for issuing such letters, but, if unable to do so, the Security Officer shall ensure issuance of such a letter. The ban shall extend to other Navy Exchange facilities aboard other COMNAVREG MIDLANT installations.

b. The NAVPHIBASE LCREEK Navy Exchange Loss Prevention Manager or, if unable to do so (e.g., larceny occurs late at night), the NAVPHIBASE LCREEK Security Officer, shall forward to the NAVPHIBASE LCREEK Staff Judge Advocate the preliminary ban letter along with the evidence indicating the accused committed the offense of larceny from the Navy Exchange. The NAVPHIBASE LCREEK Staff Judge Advocate shall then make recommendations to the NAVPHIBASE LCREEK Commanding Officer regarding endorsement of the initial temporary ban letter. The Commanding Officer or designee shall then make a decision on whether to make the temporary ban permanent, or revoke it.

c. If the accused is subsequently acquitted for any reason, the Staff Judge Advocate shall review the case for a recommendation on whether to maintain the ban on the accused. The recommendation shall then be forwarded to the Commanding Officer for decision.

d. Should the Commanding Officer decide to ban the accused from the NAVPHIBASE LCREEK Navy Exchange for any period of time (up to one year), the Staff Judge Advocate shall make notifications to the following persons:

(1) Accused. The accused shall be notified in the following manner:

(a) If an active duty service member, the accused will be notified via the member's Commanding Officer.

(b) If a retired service member (or dependent of a

retired service member), the accused will be notified directly.

(c) If a military dependent, the accused and the sponsor will be notified. If the sponsor is active duty, the notification to the sponsor will be made via the sponsor's chain of command.

(2) Each Navy Exchange aboard a COMNAVREG MIDLANT installation.

(3) Each Security Officer working under the Program Manager, Regional Public Safety.

(4) If the accused lives in government housing, the Housing Office at the installation where the accused resides.

7. Appeals. Persons who have been banned from Navy Exchange facilities aboard NAVPHIBASE LCREEK whose case is not to be heard at federal or state court will be advised in the letter of suspension or revocation that they may, within 15 calendar days, appeal in writing to the Commanding Officer. The ban remains in effect unless a reply is received from the Commanding Officer rescinding it. Persons who have been banned from Navy Exchange facilities aboard NAVPHIBASE LCREEK whose case is to heard at federal or state court will be advised in the letter of suspension or revocation that the suspension or revocation will be automatically reviewed upon completion of the court proceeding. Upon completion of the court proceeding, if the Commanding Officer decides to continue to ban the accused from Navy Exchange facilities, the accused may, within 15 calendar days, appeal in writing to the Commanding Officer. The ban remains in effect until a reply is received from the Commanding Officer rescinding it. Juveniles shall, through their sponsor, be afforded the same right to appeal outlined above.

8. Responsibilities

a. Navy Exchange Manager. Issue temporary ban letters to individuals whom there is evidence to believe they have committed the offense of larceny from the Navy Exchange. The letter, along with the evidence, shall be forwarded to the NAVPHIBASE LCREEK Staff Judge Advocate for review of the case and possible issuance of a permanent ban letter.

b. Security Officer. Where the Navy Exchange is unable to issue a ban letter to individuals whom there is evidence to believe have committed the offense of larceny from the Navy Exchange, issue a temporary ban letter. The letter, along with the evidence, shall be forwarded to the NAVPHIBASE LCREEK Staff Judge Advocate for review of the case and possible issuance of a

permanent ban letter. For those who are not authorized access to the Navy Exchange, a temporary ban will be issued which covers the entire installation.

c. Staff Judge Advocate. Process and review all evidence indicating an individual has shoplifted from the NAVPHIBASE LCREEK Navy Exchange, and make a recommendation on whether the Commanding Officer should permanently ban the alleged offender from the Navy Exchange (or, if an unauthorized patron, the entire installation).

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