When Shoplifting Prevention Escalates
to a Shoplifter Detention

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You’ve done your best to display merchandise in a way that maximizes associate sight lines of theft-prone product; you’ve used ties, lockable display cases, product display alarms and other display security devices to reduce losses of theft-prone product; you’ve held associate training sessions in which you’ve stressed the need for superb customer service (the single most effective deterrent to shoplifting), particularly when a customer shows characteristics that he or she may be in your store to steal and not to purchase; you’ve implemented a plan in which associates alert management and other team members when they observe a particularly suspicious looking person, so that a measure of extra customer service can be applied; and you have a CCTV system that covers the entrance and those aisles where theft-prone product is displayed and where evidence of shoplifting is found. You’ve done all of those things to prevent shoplifting; but an associate has just witnessed a shoplifting (or thinks they have).

SO NOW WHAT DO YOU DO?

shop·lift – to willfully take possession of or conceal un-purchased goods that are offered for sale, with the intention of converting the merchandise to the taker’s personal use without paying the purchase price.

First – before outlining the steps to take in the detention of a shoplifter, it is important to understand that management and associates involved in the surveillance and detention process should be prepared to answer the following questions in a court of law. If any of the following six questions cannot be answered “yes” with confidence, consideration should be given to allowing the suspect to leave and being on watch for that person the next time he or she enters the store.

1. Was the suspect seen entering the store and/or the department without the merchandise for which he/she will be accused of shoplifting?
2. Can you identify both the product and the location from which the product was taken?
3. Can you state how the suspect concealed and/or removed the product from the store?
4. Was constant surveillance of the suspect maintained from the time he/she was observed concealing the product until he/she exited the store?
5. Did the suspect pass all points of payment without making payment for the product?
6. Did the suspect exit the store without making payment for the product?

If all of the above six questions can be answered in the affirmative, you have what a court of law would consider reasonable belief that the suspect is attempting to steal the product; and therefore, under state statute, you have a defensible right to detain that suspect for a reasonable period of time for shoplifting. The general purposes associated with this right are:

1. To confirm that the unpaid merchandise is in the possession of the suspect.
2. To identify the suspect.
3. To recover the stolen product.
4. To notify the supporting law enforcement agency so that an arrest can be made and prosecution pursued.

(Note: Merchants – to include their authorized associates – are empowered by virtually all state statutes to detain shoplifting suspects when there is a reasonable belief that the person has removed merchandise from the store without payment; and to detain the shoplifting suspect for a reasonable period of time awaiting the arrival of a police officer. It is strongly recommended that you obtain a copy of your state’s statute regarding the crime of shoplifting and the merchant’s rights under that law.)
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Second – it is imperative that you have a Shoplifting Prevention, Detection and Detention Plan that all team members are aware of, have been trained in, and are onboard with; and that each team member knows his/her authority and role in that plan. A worst case scenario (one you want to avoid) is to have an aggressive associate who is bound and determined to protect your store from shoplifters, to the point of independently pursuing someone they think shoplifted, but has neither the authority nor the training on how to make a proper, management approved detention. That person can get hurt physically during the detention process and/or your store can get hurt financially in a subsequent civil suit because of improper actions taken or inappropriate words spoken during the detention process.

Conduct training of all associates that includes, at a minimum, the following salient points:

• Your policy regarding dealing with suspected shoplifters. That is, if an associate observes a customer concealing an item of merchandise on their person or in a hand-carried item, should the associate approach the customer and inquire, “May I assist you with that (name the item that was concealed)?” – in which case the customer will know that he/she was observed concealing the product and will probably take action at that time to remove it from their clothing or hand-carried item – or should the associate continue to conduct surveillance of the customer, alerting management when possible and subsequently detaining that customer as a suspected shoplifter?

NOTE: Please understand that a certain amount of discretion will have to be exercised by the associate, based on store policy, and a decision made as to which action to pursue. If in doubt, the associate should quickly contact a manager for guidance.

• An alert code word or code phrase to be used by associates when they observe a customer acting suspiciously or who has been observed concealing an item in their clothing or a hand carried item. For example, if someone enters the store and is immediately deemed suspicious, a cashier could announce over the PA system or store radio net an alert such as, “Mr. Black to the office” (“Mr. Black” being the code word alert that there is something the associate has seen or suspects, and that a manager needs to contact that associate immediately for more information.) Likewise, if a suspicious person is observed in Aisle no. 8, for example, an announcement such as, “Mr. Black, you have a call on line 8” (“line 8” meaning that associates not otherwise engaged should go to aisle 8). If a suspect is in that aisle and one or more associates approach and provide super customer service, odds are that person will either immediately remove any item that was concealed, attempt to get out of sight and remove it, or leave the store, knowing that your shoplifting prevention program is a good one and move on to more fertile grounds and not return to your store. If the suspect has indeed been observed concealing an item and does not remove it, he/she should be kept under constant surveillance until exiting the store and then a proper detention made.

• A determination who in the store, by name or position, may authorize the detention of a customer suspected of shoplifting. This should be made known to all associates.

• The conditions and/or a suspect’s actions that constitute probable cause to detain a suspected shoplifter.

• A strict requirement that there shall be two store personnel (in all cases) involved in the detention of suspected shoplifters.

• A policy that clearly outlines that any associate who follows a suspected shoplifter outside must give a pre-arranged signal to the nearest cashier as they pass to call the police and report that a shoplifter is being detained and to please send a unit as soon as possible.

• A policy that specifies how detentions are made, to include the approach, the words spoken by the associates, and the actions taken based on the response of the suspect.

• The manner by which suspected shoplifters will be escorted back into the store to the designated room for interview and holding for police.

• The specific room to which suspected shoplifters will be escorted.

• The seating arrangement of suspected shoplifters and involved associates in the interview room.

• The interview of the suspected shoplifter – who will conduct it; what to say and not to say.

• The required written and photographic documentation.

• What to do if the suspected shoplifter asks to use the restroom.

• What to do if law enforcement does not arrive in a reasonable period of time.

• What to do when law enforcement does arrive.
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IF A CUSTOMER IS OBSERVED CONCEALING MERCHANDISE, HAS BEEN KEPT UNDER SURVEILLANCE, AND EXITS THE STORE, THE FOLLOWING RECOMMENDED BEST PRACTICES APPLY.

- Two associates (one of whom should be a member of management, if possible) follow the suspect outside the store and, as they pass the nearest cashier, alert him/her to call the police and report that a shoplifter is being detained and to please dispatch a patrol unit to the store as soon as possible.

- Approach the suspect and, without touching the person, advise the suspect of your identities and ask that he/she accompany you back into the store. Example: “Excuse me sir, my name is John Smith; I’m a supervisor here at Main Street Ace Hardware, and I’d like for you to please accompany us back into the store to discuss an important matter.”

- Rest assured, the suspect will know why they are being detained and will react in one of the following ways:
  a. ACCEPT THE FACT – the suspect knows they’ve been caught and will willingly accompany you back into the store.
  b. FEIGN IGNORANCE – the suspect will “play dumb” and ask why they are being detained. Example: “What’s going on? Why should I come back into the store with you? What are you talking about?” In which case, you reply, “Sir, it involves something that is best discussed in private, instead of out here in the parking lot. We would greatly appreciate it if you would come back into the store with us.”

  NOTE: Do not use the word “steal” or “thief” or any other word that would be inappropriate (and could be heard by nearby customers) should it later be determined that the person doesn't have the item. If the suspect still hesitates, you should tell him/her that if they do not accompany you back into the store that you will have no recourse but to call the police (they do not know, of course, that the police have already been called). Normally that will provide the incentive for them to accompany you back into the store.

  c. FLEE – this is the act of a guilty person who does not want to face the consequences. If the suspect runs, do not attempt to physically detain him/her. If the suspect gets into a car, get the vehicle’s license plate number, make, model and color. Call 911 from your cell phone, or store phone, and advise the 911 operator of the situation, to include the physical description of the suspect, the vehicle information, the item(s) of merchandise that was stolen, and the direction of travel of the individual/vehicle. Return to the store and complete an Incident Report.

  d. BECOME COMBATIVE – if the suspect makes any move, takes any action, or says anything that could be interpreted as a threat to your physical well-being, back off – do not take any action or say anything that could be interpreted as accepting the challenge. Allow the suspect to proceed and immediately call 911 from your cell phone or store phone. Advise the 911 operator of the situation, to include the physical description of the suspect, any vehicle information, the item(s) of merchandise that was stolen, the direction of travel of the individual/vehicle and the actions of the suspect, to include any verbal threat made and/or any weapon that was brandished, revealed or threatened. As soon as you return to the store, complete an Incident Report, to include making record of the exact words spoken by the suspect, any threatening move, gesture or other action taken by the suspect and any weapon brandished or observed.

  NOTE: Keep in mind that it is rare that a shoplifter becomes combative when detained. It normally occurs only when the suspect is on drugs, is in possession of drug paraphernalia or other contraband that he/she does not want to be found, is a member of an organized retail theft gang, or is already wanted by law enforcement on other charges.

- Escort the suspect back into the store, with one associate walking beside the suspect and the other associate walking behind the suspect. It is not uncommon for a suspect to attempt to “dump” the stolen item(s) or contraband (drugs or drug paraphernalia) on the way, if an opportunity presents itself. If that happens, simply pick up the item(s) dropped by the suspect and advise him/her and the other associate that the item(s) was dropped and retrieved. (Be sure and make note of this in the Incident Report.)
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• Invite the suspect to take a seat in the room designated for shoplifting detentions. It is best that the suspect’s chair be against a wall. At least one associate should sit down or assume a position in which the suspect’s entire body (particularly their hands) can be constantly observed. Again, if given the opportunity, a shoplifting suspect will attempt to dispose of incriminating evidence prior to arrival of police.

• Close, but do not lock, the office door.

• Advise the suspect that the reason he/she was asked to return to the store is that he/she was observed concealing merchandise, and that while it may have been inadvertent, it is something that the store takes seriously and must be resolved.

• Identify the item(s) and ask the suspect to please remove the item from where it was concealed and hand it to you. Ask the suspect if they possess any other item of store property which has not been paid for and, if so, to also give it to you. DO NOT threaten to or attempt to search the suspect – that is a job for law enforcement only. Place the item(s) on a desk or table out of the suspect’s reach.

• Ask the suspect for his/her driver’s license or any other form of government ID and advise him/her that it is necessary for you to make a report of the incident.

  NOTE: If the suspect claims not to have any identification, this is a red flag that he/she may be wanted or a professional shoplifter. One of the associates in the room should excuse him/herself and go to a phone outside the office and call the police, making reference to the original call for service and advise the dispatcher that the suspect claims not to have any identification. This will normally increase the priority of the call for service.

• Begin completion of the Incident Report. If there are identification data elements in the header of the report that cannot be completed with the identification document provided by the suspect, ask the suspect for that information – to include confirmation that the address on the identification document is still correct. Write a narrative of the incident, including the names of all associates involved, what was seen, the detention process, and any incriminating comments by the suspect.

• Determine if there is CCTV video of the shoplifting or any related activity, to include the suspect’s entrance into the store, exit from the store (by both the suspect and following associates), parking lot video of the suspect, the detention process, etc. Archive all related video onto a DVD or other media storage and file it with the Incident Report and other incident related data/items.

• Take a picture of the suspect and the item(s) shoplifted. After the police have removed the suspect, print the pictures and file with the Incident Report.

  NOTE: If the suspect denies shoplifting and indicates he/she has no merchandise, postpone this step until after the police officer arrives and searches the suspect. If the search confirms the shoplifting, take the pictures. If no merchandise is found on the suspect, do not take the suspect’s picture.

• If the suspect offers to pay for the item(s), advise that it is neither necessary nor appropriate.

• If, at any time during the detention, the suspect asks to use the restroom, advise the suspect that he/she may do so, but only with an associate (of the same sex) in attendance. DO NOT allow the suspect to enter the restroom or a stall within the restroom in private (the stall door must remain open and the suspect kept under constant surveillance).

• If the suspect asks if the police will be (or have been) called, advise that the police have, in fact, been called, as it is a strict store policy to notify the police in all cases involving shoplifting.

  NOTE: You need not voluntarily inform the suspect that the police have been called.

• If, at any time, the suspect says he/she is leaving, do not attempt to forcibly restrain the suspect; however, you should advise the suspect that the police have been called and that it would be in his/her best interest to remain until the officer arrives.
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• If an officer does not arrive in a reasonable period of time (normally within 15 minutes after entering the office), one of the associates in the room should excuse him/herself and go to a phone outside the office and call the police, advising that a call was made approximately 20 minutes ago; that the shoplifter is being detained; and inquire as to approximately how much longer it will be before an officer arrives. If the police dispatcher is unsure, ask for guidance on how long the shoplifter should be continued to be detained (and make note of the dispatcher’s response in the Incident Report).

  NOTE: Keep in mind that most state statutes entitle merchants to detain shoplifters for a reasonable period of time. Since “reasonable” is a subjective term, it is appropriate that the store keep in touch with the police dispatcher and receive guidance on how long the suspect should continue to be detained.

• When the police officer arrives, one associate should leave the room and provide the officer with the details of the detention. Keep in mind that the suspect should remain under constant supervision/surveillance by the other associate throughout this process.

• Typically, police do not take the shoplifted item(s) as evidence. It is, therefore, necessary that a location be available for secure storage of the item(s) until the case is disposed of in court.

• Advise the police officer that in addition to the arrest, the store desires that the suspect be issued a CRIMINAL NO TRESPASS ORDER.

• Request that the shoplifter be escorted out of the store through the front door.

Please contact Retail Loss Prevention at 630-972-2670 or email info@acelossprevention.com for guidance on matters not addressed in this document. The “Incident Report” and “Missing Merchandise Report” forms are available for download on the Retail Loss Prevention website (http://www.acelossprevention.com).