

PILFERAGE CONTROL WITHIN A RETAIL  
FOOD CHAIN SUPER MARKET

Thesis for the Degree of M. A.  
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Milton L. Berry  
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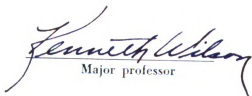
PILFERAGE CONTROL WITHIN A RETAIL  
FOOD CHAIN SUPERMARKET

presented by

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PILFERAGE CONTROL WITHIN A RETAIL  
FOOD CHAIN SUPER MARKET

By

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A THESIS

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# THESIS

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## CHAPTER I

### INTRODUCTION

#### Purpose

The purpose of this <sup>report</sup> ~~thesis~~, "Pilferage Control within a Retail Food Chain Super Market," is to discuss the <sup>nodes of operation and</sup> ~~factors~~ causing pilfering, <sup>the pilferer in obtaining merchandise from the food chain,</sup> ~~the legal responsibilities~~ of food merchants in the handling of <sup>that can be used</sup> pilferers, and to explore the methods and the approaches toward lessening this evil which harrases the super market field today.

It is hoped that this <sup>report</sup> ~~thesis~~ will provide a more complete understanding of the problem of pilfering, which in this study will be defined, described, and discussed in a manner which will convey to the reader an over-all view of the subject.

#### Definition of the Words "Pilfer," "Pilferer," and "Shoplifter"

According to the definition in Webster's Collegiate Dictionary, ~~fifth edition~~, the word "pilfer" means ~~to steal or plunder, or,~~ <sup>specifically</sup>, to practice petty theft. In the language of the food trade, a "pilferer" is synonymous with the word "shoplifter," which

means one who steals from a store goods exposed for sale. Consequently, throughout this paper the reader will find the words "pilferer" and "shoplifter" used interchangeably, since they have the same meaning.

### Why the Study was Made ?

Whenever the super market chains undertake the regulation of pilfering, the question of the extent to which control should be permitted inevitably arises. In the process of gathering the data for this study, the writer became aware of the sharp difference of opinion among super market executives about a firm approach to be used in combating pilfering. While all chains recognize the menace of pilfering, the methods used by the respective chains are varied, and there is little agreement as to the best and most effective method.

The differences of opinion range from a "What can I do?" attitude of one large southern chain to an excessive amount of vigilance practiced by a small eastern chain. The author will, therefore, take the opinions and practices used by many chains in curbing pilfering, eliminate what he thinks is unnecessary, and then propose a concrete method of dealing effectively with this situation.



With just a few percentage points separating high operating costs and mark-ups, it is essential that the chain executive look for ways of eliminating losses which formerly have been overlooked in his operation. One of the greatest sources of loss is through customer pilferage, a problem of long standing which now is receiving the much needed attention of food chain operators everywhere.

It is not too hard to realize that when a woman steals a 69¢ tube of tooth paste that it means the net profit on \$35.00 sales and that in many cases the market could have been opened an hour later that morning without losing much more.<sup>1</sup>

Because of continuing rises in prices, a troubled period in our history, the laxity of control of crime in many of our cities and towns, and the serious lack of qualified men for police protection, the subject of pilfering has become a major concern not only of grocery chains and department stores but of civic organizations and local government officials as well.

#### Limitations ~~of the Study~~

This study will be concerned with the subject of pilfering only in relationship to the customer. Because of various checks

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<sup>1</sup> Harold E. Nelson. "Pilferage versus Profits," manuscript of an article, p. 2.

and controls currently in use, losses of merchandise between the warehouse and the super market usually can be determined. Once the merchandise is on the shelves, however, the unknown factor in the form of the customer enters the scene. By means of careful screening processes, most food chains are reasonably sure of the honesty of their employees, but there is no known means of judging the honesty of their customers. Most shoplifters are customers, but most customers are not shoplifters. In this study, therefore, ~~in order to give the reader a more complete understanding of one of the more important and serious phases of pilfering, the central~~

theme has been narrowed <sup>down</sup> to a specific field. *include only the type of customer pilferage which is safeguarded*

#### Procedure Followed in Gathering Data ?

From the "1951" Directory of Grocery and Super Market Chains", the author selected a sample of <sup>75</sup> of the nation's largest food chains. To each of the chains in the sample was sent a letter requesting specific information about pilfering. Replies received from <sup>thirty-two</sup> ~~fifty~~ of the chains ranged from a "no-approach" attitude to a complete and highly efficient plan for controlling pilfering. A copy of the letter sent to each chain in the sample is included in Appendix A.

The same letter, with minor variations, was sent to twenty of the leading food publications requesting information about articles which might have been printed in past issues of their magazines. Eighteen replies were received. Many of these consisted of reprints of articles which had appeared earlier in publications dealing with the subject of pilferage control.

Since a major portion of this study is concerned with the legal responsibilities of food merchants in the handling of shoplifters, it was necessary to use the facilities of the law library of the Detroit Bar Association. The work in the law library consisted of delving into cases and in textbooks dealing with the legal aspects of the subject of pilfering. To be more specific, knowledge had to be gained about false imprisonment, lawsuits governing false imprisonment, and successful prosecutions of apprehended shoplifters.

Once the material had been gathered from the respondents and from the research in the law library, then came the task of analyzing, editing, and placing the proper emphasis on the important practices utilized by the major food chains in controlling pilfering within their store operations. Thus, what was in the beginning a mass of letters and notes gradually began to take shape and form.



## Chapter Organization

The chapters, in this thesis, have been arranged in the order that most logically conforms to the actual situation: theft, apprehension, prosecution, and prevention. The following is the order that has been chosen:

Chapter II - Methods of Shoplifting

Chapter III - Legal Aspects

Chapter IV - Proper Procedure

Chapter V - Methods of Combating Pilfering

Flow chart. — In order to determine what can be done to solve the pilferage problem in supermarkets, this report will discuss the modes of operation used by pilferers, proper procedures to follow in apprehending a shoplifter, and method of combating pilfering.



## CHAPTER II

### METHODS OF SHOPLIFTING

Today the problem of shoplifting is greater in self-service food chains than at any other time during the past twenty years. The introduction of self-service and its utilization to the fullest possible extent has given the shoplifter more and better opportunity to pilfer, since now most of the merchandise for sale is displayed openly, within the convenient reach of every customer. In the past the customer's contact with the goods selected in a grocery store came only when he made his purchase, for the counter acted as a barrier between the shopper and the merchandise desired. The actual handling of the goods by the customer was in most cases under the direct supervision of the grocer or one of his clerks. If, by any chance, there was need for the customer to have access to the merchandise prior to the actual sales transaction, the grocer, or one of his clerks whose task it was to serve the customer, was present. Now everyone has the right to purchase goods at his own leisure and not under the watchful eyes of the grocer, who before the advent of self-service actually guided the selections of the consumer.

Thus we see that while self-service operations have given to the customer many advantages, it has presented the merchant with many ensuing problems. One of the major problems facing the food chain industry is the curbing of losses resulting from pilfering which now has reached major proportions. This evil must be dealt with sensibly, wisely, and must be kept under control without jeopardizing sales and profits. In order to arrive at a sane and workable solution to the problem of shoplifting, one must first acquaint himself with ~~some of the mental factors causing an individual to steal, and~~ with the many modes of operation used by the pilferer in obtaining merchandise from the food chain. (To page 10)

1. The professional shoplifter. This type of shoplifter is not truly a psychiatric problem. For such individuals, shoplifting is a premeditated means of livelihood and must pay very well in order to insure enough proceeds to take care of all the "exigencies." The activities of the professional shoplifter are limited in the food chains, since the return for the amount of risk involved is very small. Only about one out of ten shoplifters arrested in food chains is a professional. He is ordinarily calm and composed and will try to bluff his way out of the situation if he is apprehended. He knows his legal rights and will insist upon getting them.

2. The amateur shoplifter. The only real difference between the amateur pilferer and his counterpart, the professional, is that the amateur does not use shoplifting as a premeditated means of livelihood. Many times the amateur is just as "smooth" and "slick" as the professional. Ordinarily the amateur will show either extreme nervousness or exaggerated nonchalance when under observation. Both the amateur and the professional shoplifter are usually considered normal mentally, and when apprehended are tried in the criminal court of the proper jurisdiction.

3. General delinquents. For this type of pilferer shoplifting is an overt manifestation of a delinquent personality, or a common incident of comprehensive delinquency.

4. The kleptomaniac or compulsive shoplifter. This type of individual is considered more or less a neurotic personality. Kleptomania is variously defined as an irresistible desire to steal, as the disease of stealing, as a morbid propensity to steal, whether consciously or unconsciously. It has been characterized as a species of insanity, or as a weakening of the will power to an extent that the afflicted one is powerless to control his impulse to steal,



without regard to whether such impulse is inspired by avarice, greed, or idle fancy.

5. The more or less normal personality. Here shoplifting occurs as an accident due to some overpowering emotional stress or strain.

6. Shoplifting caused by organic injury. Shoplifting which is the result of some organic brain disease or psychosis is of lesser significance today than it was formerly thought to be. Very few incidences of stealing appear to be the result of psychotic or demented personality.

The study of Arrief and Bowie<sup>1</sup> of 338 shoplifting cases referred to the Municipal Psychiatric Institute of Chicago, of which the authors were joint heads from 1941 to 1946, reveals that a considerable number of these cases involved persons of high intelligence who were of some social or political significance. The most telling fact brought out by the study is that, of all the cases of

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<sup>1</sup> Alex J. Arrief and Carol G. Bowie. "Some Psychiatric of Shoplifting," Journal of Clinical Psychopathology, Vol. 8, No. 3 (January, 1947), pp. 565-76.



shoplifting studied in the Municipal Psychiatric Institute of Chicago for the five-year period, 77 percent (265) were laboring under some mental, emotional, or physical disorder, or some combination of these. Characteristically, the goods pilfered were not only of little monetary value, but were frequently of no obvious use to the person.

Some of the reasons given for the low percentage of arrests of persons apprehended are, first, that the individuals were first offenders, and second, that food chains, department stores, and private detective agencies are somewhat wary of making arrests for shoplifting. According to the law in most states (explained more fully in Chapter III), the guilty person must actually leave the store with the unpaid-for goods before he may legally be declared a shoplifter. Suits for false arrests do not make for either the good will of the public or for the good name of the food chain. Furthermore, the first offense in most instances, even though incontestably bona fide, does not bring about an arrest. Offenders are usually taken to the manager, who by various techniques attempts to insure against any repetition taking place in the future. If the offender pays for the goods or shows evidence of good faith, the management of many food chains then allows the shoplifter to depart with little more than a benign "Go and sin no more." Since the proclivity to shoplifting

is not restricted to any particular social or cultural group, in the cases of those persons suffering with so-called kleptomania the individuals involved may be so prominent socially, financially, or politically that no arrest is ever made, in spite of the frequency of the offense. Therefore, an accurate picture of the ratio of arrested shoplifters to the general offense presents a difficult problem. The police records of most cities contain no separate listing of such arrests except on daily court sheets, so that shoplifting is, in the usual case, classified under "larceny."

As might be expected, there appears normally to be an emphatic impetus in shoplifting during periods of increased buying; i.e., in the spring before Easter, just before Thanksgiving, and during the Christmas shopping rush. Narrowing the interval to a week's time, one finds that there is an increase in the frequency of shoplifting on week ends over the first part of the week. During the closing hour rush, when the store manager and the clerks are getting ready to suspend operations for the day, the shoplifter is afforded an excellent opportunity to pilfer.

According to the records of Arrief and Bowie,<sup>2</sup> women are the major violators. The total group of 338 in their sample was

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<sup>2</sup> Ibid.



composed of 313 women and twenty-five men, with the largest representation from both sexes falling in the 17-25 age grouping. Next in frequency was the 35-50 (middle age) age grouping consisting entirely of women. In other words, the ages at which shoplifting would seem to be most prevalent are, first, those of late adolescence and very early maturity (17-25) when desires far outstrip buying power, when independence is expressed in any number of ways--frequently anti-social--and when one still is rather easily influenced by bad and undesirable examples; and second, at the onset and progression of the menopause (35-50), a period of increased tension for many women.

It should not be too surprising that, since more women shop than men--this is true even of window shopping--the opportunities and temptations for shoplifting are much greater for women. The fact that the majority of shoplifters are women lends some credence to the theory that the act of shoplifting may be interpreted as a not too aggressive rejection of social restrictions. Thus it is more likely to satisfy women than men, who usually make attempts at adjustment in more overt and aggressive ways.

The author feels that in order to curb pilfering properly one must know something of the background of apprehended shoplifters who have been referred to court psychiatrists for examination and

are, therefore, a matter of record. What sort of persons engage in stealing? Why do they steal? From whence do they come? In answering some of these questions, reference will be made again to the Arrieff and Bowie study,<sup>3</sup> and their findings will be presented in condensed form. It should be remembered that this study was based upon information gathered from selected shoplifters in one specific city--Chicago.

1. Between 25 and 35 percent of arrested shoplifters were referred for psychiatric examination by the criminal courts of Chicago. Arrested shoplifters represented only five percent of all apprehended shoplifters.

2. In times of stress there is an upsurge in shoplifting, while the ratio drops when conditions become somewhat stable.

3. Marital discord was not a contributing factor.

4. Low economic level was no major cause of pilfering.

5. Lack of intellect was not a provocative factor in shoplifting.

6. The incidence of shoplifting throughout the city bore no relationship to the high delinquency areas mapped out by the Chicago

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<sup>3</sup> Ibid.

Police Department. On the contrary, it was noted that shoplifters were distributed over the entire city area indiscriminately, with no particular emphasis in any area.

In order to acquaint the reader with some of the psychological reasons for pilfering, the author deems it wise to present in brief form selected case histories included in the Arrief and Bowie study:

1. Case I - Psychoneurotic with mental depression. The subject, a white housewife, age 51, had no record of previous arrests. She had been married for the first time at the age of 42. Her husband was of low intelligence and a very heavy drinker. Before her marriage she had been economically independent, but her marriage had placed her in a marginal economic status. She had been a nun for eight years earlier in her life. Her brother stated that she had been asked to leave the convent because of extreme and increasing nervousness. She was arrested for shoplifting. At the time of the examination she was markedly depressed, with some motor retardation, and she was recommended for psychiatric treatment.

2. Case II - Mental depression; suicidal trends. The subject, with above average intelligence, age 57, was sales manager of a

leading Chicago automobile agency. He had never previously been arrested, but he had been subject to recurrent episodes of mental depression, particularly since the recent death of his wife. He stated at the time of his apprehension that he felt "dopey." He had been taking codeine. He was arrested for attempting to steal a statue valued at twenty-four dollars from a department store. He stated when further questioned that he did not know why he tried to steal the statue since he had very little use for it. Private psychiatric care was recommended.

3. Case III - Acute impulsive incident. This eighteen year old male, single, with normal intelligence, was attending high school at the time he was arrested. Upon examination, it was discovered that no psychiatric factors contributed to the theft of a jacket in a department store. When asked why he took the jacket, he replied that he did not know what urged him to take it as he neither needed nor wanted it. He further stated that he stole because of an "innocent impulse" which compelled him to steal.

4. Case IV - "Get Even" motive. The subject, white female, housewife, age 35, was arrested for stealing two nightgowns. The husband explained the reason for this theft by saying that he was

~~stopped from being a godfather at a christening because the priest claimed that he and the patient were not married according to the church. Therefore, his wife was trying to get even with God.~~

5. Case V - Recurrent paranoid psychosis. The subject, white female, age 50, single, had not been gainfully employed for ten or twelve years prior to her arrest. Employment had not been necessary because of an independent income. She had a history of many arrests in several different states. Twice she had been committed to mental institutions. Upon examination, it was discovered that she was subject to delusions of grandeur, that she had a great deal of money, and that she had an extraordinary literary ability. She was committed to an institution for the third time.

In the five case histories cited, there seems to have been no need for the pilfered item per se. Rather the overt act of pilfering was a manifestation of a troubled background or of a distorted mind, and in most cases was entirely unrelated to economic factors. The stolen item may have stood for something from the background of the individual, or it may have been merely a symbol of defiance to society. Wisely, the court in each case referred the matter to a psychiatrist who went beyond the surface incident of pilferage.

## Modes of Operation

The great majority of the customers who come into a food chain are basically honest. There will always be those individuals who, when they think no one is watching, will take merchandise without paying for it. ~~In order to prevent such losses of merchandise, an employee must keep an alert eye on suspicious customers and learn to recognize the typical tricks of shoplifters. Amateur and professional shoplifters alike follow certain patterns and styles when pilfering food and sundry items from a food chain.~~

Some terms in use by professional shoplifters and law enforcement officers,<sup>4</sup> in referring to various phases of shoplifting, are of interest in an understanding of the problem. They include:

Bird Dog

Person who "cases" the store and reports his findings to the "operator" or "booster."

Booster or Heister

Shoplifter, thief, the person who engages in stealing.

Booster Pants

A type of pants with legs held tightly by heavy elastic to prevent goods placed therein from being detected. These are usually worn underneath the main outer garments by women.

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<sup>4</sup> The Kroger Company, "Store Manager's Manual," mimeographed, n. d.

<u>Heist</u>	The articles stolen, the "loot."
<u>Boosting or Heisting</u>	The act of stealing or shoplifting.
<u>Operator</u>	The person in a theft ring who does the actual stealing or puts on the "show" to conceal the actual theft by the "booster."
<u>Sleever</u>	The shoplifter who conceals merchandise by passing it up his sleeve for temporary concealment.

The author believes that some discussion of the many modes of ~~operation in use~~ by shoplifters is pertinent to a complete understanding ~~of the problem~~. In the pages to follow, the reader will become aware of the many ways of pilfering which are used successfully by shoplifters.

✓ 1. Purse operations. "The many uses to which a woman's purse may be put becomes quite amazing. Many female pilferers go so far as to carry special two-way purses. One section is for merchandise, and the other is the one from which money may readily be taken without disturbing the "merchandise section." In other types of shoplifting, purses have the lining cut away, thus giving more room for stolen items. The large bag lying open in the basket or being carried under the arm provides an excellent

receptacle for butter, lunch<sup>meats</sup>, salmon tins, small bottles of olives, packaged cheese, and self-service meats.

The shoplifter, with her purse lying open in the basket, will usually head first for the dairy department where she picks up a pound of butter or packaged cheese to be placed in the cart. She then will shop for corn flakes, toilet paper, or some other light-weight but bulky items. By sleight of hand, the smaller items of butter or cheese will have been placed in the purse at the bottom of the cart. Since she will have previously removed her coin purse from her handbag, there will be no necessity for opening it at the check out counter. Needless to say, no cheese or butter shows up *when the shoplifter checks out.*  
~~at the check out counter.~~ Taking into consideration the average size of a woman's purse, it is not difficult or unreasonable to visualize it containing from six to eight dollars worth of groceries. This assumption is based upon the actual experience <sup>done in this study,</sup> of taking a woman's purse into a super market and filling it to capacity.

✓ 2. Newspaper and magazine carriers. The newspaper carrier is usually a man who will enter a ~~food chain~~ super market just before closing time. He has a newspaper folded under his arm and is supposedly there for a quart of milk or a loaf of bread needed for



his supper at home. In the fold of the newspaper, this pilferer has placed a flat package of bacon or meat. This type of shoplifter works fast, for he wishes to convey the impression that his wife is waiting for him before she can serve supper. In this type of shoplifting, the pilferer will usually know beforehand what item is to be placed in the paper.

The placing of magazine racks in the super markets has given rise to shoplifters who will pick up a magazine of the size of Life or The Saturday Evening Post, in which a smaller magazine has been placed on the sly. By pretending to be glancing at the larger magazine in his hands while his groceries are being checked at the stand, he gets by undetected. He may even call the attention of the cashier to the fact that she has neglected to charge him for the magazine he is holding, <sup>conveying</sup> ~~giving~~ the general impression that he is ~~scrupulously~~ honest.

As with the newspaper, the magazine may also conceal flat packaged items without the possibility of detection being too great.

✓ 3. "Paper roll blues." A roll of hand towels is usually wrapped around a hollow cardboard cylinder. For the pilferer, this tube affords an excellent receptacle in which to place merchandise. Such items as small bottles of olives, quarter-pound sticks of butter

~~which have been removed from the carton~~, small tins of spices and peppers, or any of many other short, narrow items can be concealed easily in the hollow. One advantage the shoplifter has when placing items in the tube is that the end flaps covering the paper are strong enough to hold the merchandise without fear that the goods will fall out. If, by chance, the items placed in the hollow are not firmly packed, then a handkerchief or a piece of paper, properly stuffed, will give the thief a firm package that will not be detected by the cashier at the check out stand. The articles are placed in the tube in such a manner that the weight is balanced, rather than being top-heavy.

4. "Hat trick." Many times in a ~~food chain~~ super market, the man shopping with a hat in his hand may not be the gentleman people think. By carrying a hat in his hand, the pilferer can place small items into it without fear of the merchandise falling out and being detected. Thus, when a man is seen holding his hat while his groceries are <sup>being</sup> checked out by the cashier, he may be concealing merchandise rather than being polite to the check out girl.

The really successful thief has the interior of his hat redesigned so that it will hold the maximum amount of goods. The

redesigned hat will have the lining removed and will contain clips so that small items can be held in place.

5. Umbrellas. The umbrella to the shoplifter is not only a means of keeping off the rain, but is also useful as a means of carrying food items through the check out stand unnoticed. A loose umbrella is always excellent for concealing items, especially at the self-service dairy or meat counters. It is not a difficult feat to drop a package of meat into the folds of an umbrella and nonchalantly continue shopping.

6. The other shopping bag. The customer comes into the <sup>supermarket</sup> ~~store~~ with another shopping bag supposedly full of merchandise purchased at another store. The pattern followed is that of going through the motions of shopping by filling a basket with groceries. Items of value that can easily be pilfered are placed in the shopping bag. At the check out counter, the pilferer will pay for the visible goods, while the stolen goods remain hidden. If asked by the cashier to open the bag, the pilferer will willingly oblige, since if he is caught at this stage, he can claim that it is an inexcusable error. The shoplifter may even suggest that the cashier look into the shopping bag,

thereby impressing the cashier with the fact that the shoplifter is an honest person and that inspection is not necessary.

The double shopping bag is another method employed by many shoplifters. Between the layers can be placed flat packages that can easily escape discovery.

A sign that appears in almost all grocery <sup>store</sup> chains, in one form or another, states that the firm reserves the right to open all packages. Seldom, however, is the right invoked by the cashier who, either through neglect or carelessness, will not bother to check. A good thief must be an excellent judge of human nature. To illustrate this point, the author presents the following ~~imaginary~~ conversation between a shoplifter, carrying a bag of pilfered items and <sup>a</sup>the cashier, obeying the instructions of the management. <sup>heard while observing a shoplifter</sup> The conversation begins at the point where the shoplifter opens her bag for inspection: <sup>the shoplifter</sup>

Cashier: "I'm sorry, but I will have to inspect your shopping bag."

Shoplifter: (Holding the bag in such a manner that the cashier can view the top layer, starts taking out items for inspection) "This package contains a sweater for my son. Here in this bag is a box of candy." (The shoplifter is taking out each item slowly and deliberately. The tone of her voice indicates that she has been insulted.)

Cashier: (Begins to feel embarrassed) "That's enough. I have seen it all, and I am very sorry to have

caused you this inconvenience.'" (She does not realize that the remaining items were pilfered from the store.)

Shoplifter: "I do not blame you, dear, because you would lose your job if you were not so careful."

← Here we see how the shoplifter gained the confidence of the cashier by taking the offensive. In the example presented, the shoplifter was permitted to stop emptying her bag after the first two items.

✓7. "Switcheroo." A pilferer, while shopping in a self-service food store, obtains a bulky bag, containing, for example, apples that are weighed and sealed in the fruit department. He reopens this bag in order to conceal therein a pound of butter. The bag is then resealed with a portable staple gun which the shoplifter ~~has with him~~ carries on his person. He continues his shopping as if nothing has taken place. In order to escape detection, the shoplifter who works the "switcheroo" method must be fast and not too greedy. He must, in addition, know beforehand exactly what is to be placed in the bag.

8. "Two of a kind." In this method, the shoplifters work in pairs. One of them will push the basket, while the other individual meanders through the aisles. He returns to the basket from

time to time in order to place food items in it. When the second pilferer decides on an item to be stolen, he will take two of them, one of which he conceals on his person. The merchandise is hidden usually at the point when the second person is approaching the basket to place the visible items therein.

9. Switched carton trick. Another method of stealing by shoplifters in many ~~food chain~~ super markets is that of removing butter from its carton and placing it in a margarine carton from which the contents have been removed. The checker, of course, charges only the price of margarine, and the ~~food chain~~ <sup>store</sup> suffers a considerable loss. This method is now somewhat on the decline, for margarine manufacturers have recognized this menace and have redesigned their packages, making it impossible for a shoplifter to switch packages without marring the margarine carton.

10. ✓ The use of children. One of the most cruel forms of shoplifting is the employment of children to do the actual stealing. These children work either for a small remittance or are forced into pilfering by parents desirous of obtaining something for nothing at the expense of the children.

← If a child is apprehended, the shoplifter, usually a woman-- ~~who accompanies the child~~, will punish the child for his misdeed and apologize to the store manager. In reality, of course, the child had been instructed to steal.

A woman with an overdressed baby may hide all manner of expensive but small items in the folds of the baby's clothing. This type of shoplifter operates during the winter months.

A woman who goes shopping with two or three children, one of whom stays very close to her, may easily pass many small items to the child who, in turn, will conceal them in his clothing. Some children have been found with specially made pockets in their clothing for this purpose.

11. Cigarettes, the "pet" item of shoplifters. The five-pack cigarette packages are most convenient for the pilferer to conceal, for they can easily fit into any average size coat or purse. The individual, who goes to the cigarette stand as soon as he enters the store, will frequently not have them in his basket at the check out stand.

— Another often-practiced method of pilfering cigarettes is that ~~in which the customer asks for and receives an empty carton to~~

place in his basket. Several cartons of cigarettes may be concealed easily in the bottom of the carton by merely placing a second smaller empty carton upright or inverted over the cigarettes. As he continues his shopping, he places the merchandise he selects on top of the inner empty carton. When he goes through the check out stand, he replaces the merchandise on top of the concealed cigarettes after the checker has rung up the sales.

12. The case carrier. This type of pilferer must be "smooth" and have his wits about him at all times, for if he is questioned, he has no chance to make an explanation. He will walk into a ~~food chain~~ super market and pick up a full case of canned goods or whatever else of value is lying on the floor. Sometimes he will even boldly walk into the back supply room for a case of merchandise. He places the case on his shoulder and walks out, giving the general impression that he is on official business and has been ordered to do so by some department head or other person in authority. This operation is performed usually when the store manager is not near the check out stand, for, willingness to call on the manager, when all appears to be well, is not one of the stronger virtues of most cashiers.



13. The elderly senile type of shoplifter. This type of pilferer is one who wanders aimlessly about the store, seemingly lost, but all the while placing small food articles in his pockets. Store employees must exercise extreme caution with this type of individual. The usual procedure is to inform him amiably that he has placed this or that item in his pockets. This type of thief is generally told that, if he wishes to purchase the item he has, the employee will see to it that he is checked out, immediately, without the necessity of waiting in line. Always the employee receives a warm "thank you" and, in many cases, is greeted by a look of embarrassment on the part of the elderly shoplifter. He always appears to be astonished when he is arrested for shoplifting.

14. The friendly cashier. One frequent source of loss to the firm is through the employee who becomes quite familiar and friendly with many of his customers, and who, when the management is not completely aware of the situation, will charge under the regular price for merchandise. Sometimes he arranges to split the difference with the customer at a later time outside the premises of the super market. This is a very difficult situation to control, and the management must be on guard at all times.

15. The "dummy" arm. An individual, who appears to have an artificial arm and is wearing an overcoat, may bear watching. Some pilferers pretend to have an artificial arm in the sleeve of their overcoats. In fact, it may be a "dummy," the hand of which is encased in a glove. The "dummy" arm is rested on the surface of the counter or table where the coveted merchandise is displayed. One good arm is under the overcoat, and the other is in the sleeve of the coat in the normal fashion. The hidden arm, or rather the hidden hand, slides out under the coat and scoops up merchandise from the shelf or table. Specially designed and constructed pockets on the inside of the coat receive the pilfered goods.

16. The heavy overcoat. Cooler weather demands heavier clothing in the form of topcoats and overcoats. Hiding merchandise under a coat is not a difficult feat. ~~Again the coats may contain specially constructed compartments for the pilfered goods.~~ Some garments ~~even contain~~ *have been known to contain specially constructed compartments* trick pockets and inside hooks so that, when under careful observation, a customer may be seen to grow suddenly fat during the course of a shopping expedition. Women's skirts and dresses may be so rigged as to conceal a considerable amount of merchandise. It is difficult to believe--but nonetheless

true--that there are specialized tailors whose sole business it is to make clothing for shoplifters.

17. The carriage trade. Sometimes, women shoplifters make use of baby buggies when pilfering goods from a super market. The ~~Butler then using a basket in shopping, the carriage is used instead!~~ ~~seemingly kind, considerate mother who is afraid to leave her baby~~ ~~in the carriage, alone, outside the super market may, in reality, be a~~ ~~most clever shoplifter. The buggy, which is designed to carry a baby~~ ~~comfortably, may also carry undetected pilfered goods. Sometimes,~~ ~~shoplifters will use a baby carriage instead of a basket in shopping.~~ When the pilferer reaches the check out stand, not all merchandise which was selected, is placed on the counter. The basket or container on a buggy, which is designed to contain such items as bottles and diapers, may be used most effectively as a means of carrying concealed merchandise through the check out counter.

The Red Owl Stores, Incorporated, of Minneapolis, Minnesota, effectively summarized the danger signals, of which store managers should be aware in the apprehension of shoplifters: <sup>5</sup> ~~see following?~~

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<sup>5</sup> Red Owl Stores, Incorporated. "Store Meeting on Shoplifting," mimeographed, n. d., p. 2.

1. Be suspicious of shoppers who seem particularly interested in your whereabouts. If you see her eyes locating the various employees around the store, it's a danger signal. This same individual will generally avoid other customers.

2. Watch a customer who seems to be taking an unusually long time to choose an item from a display or a shelf where you know there are many small, pocket-sized items, such as olives, canned meats, etc.

3. Keep an eye on customers carrying other packages, shopping bags, an extra large purse, magazines, newspapers, or umbrellas, or wearing extremely bulky clothing such as big flowing coats. It's a simple matter to conceal small items in any one of these.

4. Watch customers who don't seem to complete their shopping in any department, but who keep going back. A meat department customer who goes back and gets individually wrapped packages at different times may intend to hide one or more. She may even get different people to wait on her.

5. Customers who loiter around "hidden spots" in the store--behind high shelving or displays or between lengths of gondolas--are often seeking concealment in order to hide some of the items they have picked up elsewhere.

6. Be alert to the customer who returns to the sales floor after checking out her order. It's a simple trick to add items to her previously packaged order before checking out a relatively inexpensive item.

Many shoplifters are good actors but poor thieves, and others are good thieves but poor actors. The good thief is the easiest with which to do business. Many shoplifters are sorry, at least that is what they say. They are not sorry they stole, they are sorry they were caught.

## CHAPTER III

### LEGAL ASPECTS

The mere fact that a shoplifter is seen pilfering in a food chain store does not mean, necessarily, that his apprehension and arrest can be accomplished without some fear of reprisal in the form of a costly lawsuit. The store employee must be extremely careful when apprehending a shoplifter. The manner in which a pilferer is stopped can sometimes be a factor in favor of the shoplifter who can claim that he was held against his will and that he is therefore entitled to damages for false arrest.

This chapter will be a simple discussion of a number of leading legal cases involving shoplifting, false imprisonment, what constitutes larceny, and a discussion of arrest for a misdemeanor and felony.

In the case of Collyer versus S. H. Kress Company (5 California Reports, 2d, 175), the plaintiff, Collyer, was pilfering certain articles from the open counters on which they were displayed and was seen putting them in his coat pocket. He was intercepted by the detective at the main exit of the store just as he was leaving

and was escorted back into the store to a room on the second floor, where the matter was investigated. It appears that the plaintiff was there accused of pilfering and that he denied the accusations, stating that he had paid for all the articles in his possession. After considerable difficulty, lasting for some twenty minutes, during which an attempt was made forcibly to search him, it was revealed that he had in his possession the articles he was accused of having stolen. He was then asked to sign a statement to the effect that he had taken the articles without paying for them. Still insisting that he had paid for the articles, he refused to sign the statement.

Meanwhile, the police had been summoned, and soon after their arrival, at the request of the store management, the police placed the plaintiff under arrest and took him into custody. The goods alleged to have been stolen were found unwrapped in Collyer's pocket, but he still insisted that he had purchased them.

At the trial, a jury acquitted him of petty theft. One reason for the acquittal was the fact that the accused was nearing 70 and had been a former police officer who happened to be apprehended on Christmas Eve for shoplifting. The accused then sued the company in an action for false imprisonment because of his detention for twenty minutes. Usually, any criminal proceeding against an accused

shoplifter who might be old, sick, poor, or handicapped has the sympathy of the lower court juries. The firm is pictured as rich and heartless, trying to get a conviction against a poor helpless individual who just took a loaf of bread for her poor fatherless children--in the case of a woman--without first paying for the item. Many food chains, with the cooperation of their local police departments, and with proper publicity having been given by the newspapers in the area, are able to prosecute now without fear of bad feeling. In many instances after a verdict is given in the lower court favoring the accused, the firm appeals to the higher court where the decision rendered will not be influenced by undue sympathy.

In the Collyer case a judgment for the plaintiff was reversed by the California Supreme Court, whose decision stated that the right to protect one's property from theft includes the right to detain a person for a reasonable time for the purpose of investigation, when there is reasonable belief that the person is stealing one's property. Detention on suspicion should be incidental to the right to protect property; otherwise, it would appear that a person would be liable for the charge of false imprisonment. Detention by force without justification is false imprisonment even though the period of detention is brief.

Many states allow a private person to make an arrest for a felony. The charge of petty theft warrants that a private person making an arrest must be certain that the person is committing a misdemeanor. Probable cause means that an employee must be reasonably sure that the shoplifter has the goods on his person. Probable cause is a defense where a defendant has reason to believe that the plaintiff is about to injure his person or property, even though such injury would constitute but a misdemeanor, provided, of course, that the detention was reasonable in length of time.

The right to detain is a question of law for the judge to decide, while the amount of compulsion and the length of detention becomes a question of fact for the jury. False imprisonment has been said to be the unlawful restraint by one person of the physical liberty of another. Here, the term "false" seems to be exactly synonymous with the term "unlawful." In false imprisonment, the essence of the tort (wrongdoing) consists in depriving the plaintiff of his liberty without lawful justification; and the good intention of the defendant does not excuse, nor does his evil intention create, the tort.

The use of force is not necessary to effect false imprisonment. Mere words are insufficient to constitute an imprisonment,



if the person to whom they are spoken is not deprived of freedom of action. Words spoken in a harsh or commanding manner are sufficient to constitute an imprisonment if they impose a restraint upon a person's liberty of action and movement. In numerous cases, a charge of larceny considered in connection with the circumstances surrounding such charge has been held to constitute such unlawful detention as would support an action for false imprisonment, but in other cases the circumstances have been insufficient to support such an action. Any person may make an arrest for a misdemeanor committed in his presence. The owner of property, such as a food chain corporation, may, for the purpose of protecting it, restrain for a reasonable time and for the purpose of investigation one whom he has reasonable and probable cause to believe has interfered with or stolen it.

In the case of Bettolo versus Safeway Stores, Incorporated (11 California Appellate Reports, 2d, 430), a customer entered a store operated by the corporation, gathered some groceries from the shelves, which he put in a carrying bag, and some candy which he placed in his overcoat pocket. He then went to the check out stand where he exhibited the groceries and paid for them. Two employees had seen him take the candy, and when one of the employees

learned that it had not been paid for, he followed Bettolo, the plaintiff, to the sidewalk and forced him to return to the store. There he was searched, but no candy was found. It was discovered later among some vegetables at the produce department's counter where Bettolo had stood just before leaving the store. Bettolo did not deny that he had taken the candy, nor that he had been warned to stay away from the store because he had been seen taking groceries on other occasions.

The court in its decision followed the pattern set in the Collyer case which was discussed in the previous paragraphs. It also stated that the undisputed evidence showed reasonable and probable cause for the detention. One of the employees had seen Bettolo pick up the candy and conceal it in his pocket. This was verified by another employee in the store. Bettolo had not denied this charge, and since he had been detained for less than fifteen minutes, this was shown not to have been an unreasonable time for the investigation.

Bettolo had been awarded fifteen hundred dollars in the lower court; upon appeal by the firm, this judgment was denied, since it had been granted purely on sympathy inspired by prejudice and

unsupported evidence of damage. The only thing to which he was entitled would be nominal damages.

In the case of Great Atlantic and Pacific Tea Company versus Smith (281 Kentucky Reports, 583) the court ruled in favor of the customer who was thought to be a shoplifter. An elderly widow, Mrs. Smith, then approximately 68 years of age, started out from her home with her neighbor on a shopping expedition. After first visiting several stores Mrs. Smith purchased a few articles. These she placed in her shopping bag. Next they went to a store operated by the Atlantic and Pacific Tea Company in the locality so that the widow could buy some candy which was being advertized at a special price. Upon entering the store the friend of Mrs. Smith waited at the door while Mrs. Smith, after inquiring where the candy sale was being conducted, went directly to the candy counter. There she purchased the desired candy and then paid the clerk who waited upon her. This clerk, it later developed, was the store manager, Mr. Vaughan, who, upon being paid for the candy, placed it in Mrs. Smith's shopping bag along with the other items she had purchased elsewhere. Mrs. Smith claimed in her testimony that she then, having bought the merchandise for which she had come to the store, went no farther

about the store, but at once started toward the entrance to rejoin her friend and leave.

Mrs. Smith stated that as she was leaving and passing through the narrow turnstile exit next to the checking counter, Mr. Vaughan, the manager of the store, who had left the candy counter, called to her in a loud, angry voice, "What have you there?" to which she immediately replied, "Nothing but what belongs to me." He stepped around the corner of the check out counter and took her by the wrist and her shopping bag and pulled her around. He then looked through her bag, and, finding nothing amiss, permitted her to depart from the store. She further testified that her neighbor was at the time standing near the door within easy hearing distance and clear view of what was said and done by Mr. Vaughan.

Mrs. Smith further contended that Mr. Vaughan, upon taking hold of her wrist and bag, stopped her without her consent, thus detaining her against her will. She also stated that after she was detained by his violently clutching her arm, her shopping bag was then searched. She then reported that she went immediately home to bed. She claimed that her nervous system was wrecked and that, since the incident, she had been unable to sleep at night. Her regular doctor testified that she suffered no physical injuries but

that she had suffered a nervous breakdown as a result of the humiliation and mortification of being wrongly accused.

The testimony of the appellant differed very materially from that of the appellee, Mrs. Smith. He stated that she did not leave after purchasing the candy but, instead, continued to look around. When asked by the clerk at the check out counter to show her bag, she refused. The manager, who was assisting the clerk at the check out counter, asked Mrs. Smith again to let him have her shopping bag. After her reply in an angry tone that she would not, he reached for her bag but, according to his testimony, did not touch her person.

This case happens to be one of the few major ones dealing specifically with the food chain market and the customer wrongfully accused of being a shoplifter. There follows a direct quotation from the opinion of the court, written by Judge Perry, pertaining to the limits to which a food chain may be forced to go in searching for goods:

Appellants (A & P and their employee, Mr. Vaughan, the manager) contend that by reason of their operating a self-service store, there is presented an entirely different situation from that presented in an ordinary store; that the customer, under such plan of operation, having free access to all the merchandise in the store, when not attended by an employee, is required and becomes obligated to take the merchandise he selects to the checking counter, where it is inspected, by a

clerk, its price computed, wrapped and paid for; that until this is done, the merchandise remains the property of the store and no sale of it has been made and that, until it is inspected and paid for, the owner of the property or the storekeeper has the right to use reasonable force to prevent his property from being carried away without payment for it.

It may be conceded that where a shopkeeper sees and knows that a customer is taking and wrongfully carrying away merchandise from his store, he has the right to accost the culprit and prevent the attempted "shoplifting" or larceny of his goods. However, though conceding such legal right of the storekeeper to guard and protect his property, the instant case presents a very different situation. Here the appellants contend that they have become vested with a new and special right to apprehend and detain a customer only suspected of "shoplifting" or of attempting to take away the store's goods without paying; therefore, by reason of a change in the manner of operating their business or by substituting self-service for clerk service. They insist that by reason of the character of their "business setup" they have made certain rules and regulations which are prominently displayed on signs about the store, and that some are effective to so change the long established legal rules, regulating and controlling the personal and correlative rights of merchant and customer, as to vest the merchant with the new right, created by his "business setup," to apprehend and detain a customer and inspect his parcels and packages upon the mere suspicion of his "shoplifting," based only upon his failure to heed or comply with some rule or regulation of the self-serving store requiring him to present for checking the merchandise he is carrying, regardless of whether it was elsewhere purchased or paid for when purchased.

We do not regard this contention as tenable or that the well-settled legal rules, serving to protect the individual against wrongful detention may be so breached as amended by privately made business rules, even though deemed appropriate and needful for the successful conduct of business.

Here the evidence shows that appellee, at the time she testifies she was taken hold of and wrongfully detained by the

defendant, Vaughan, against her will until he had made investigations of her shopping bag and satisfied himself that she was committing no illegal acts, was not attempting to take from the store any article of merchandise which did not belong to her or for which she had not paid, and she had the unqualified right to leave the premises without restraint. Further, Vaughan knew that he himself had just served her when she bought the candy and that she had paid him for it, and he did not claim that he saw her select or take any other article or merchandise, nor did he have any reasonable grounds for suspecting her of attempting to wrongfully carry away the store's property.

While not questioning appellant Vaughan's right to ask appellee, as she was passing out of the store, to allow him to inspect the contents of her shopping bag, in keeping with the appellant company's claimed uniform practice in such case, the jury did not believe under the evidence that he had approached or treated the appellee in the gentle and reasonable manner he testified characterized his conduct and behavior toward her upon this occasion. Even so, it would constitute no defense to plaintiff's action for false imprisonment that defendant Vaughan, when wrongfully detaining her, was (as store manager) acting under the rules and directions of his employer, nor can such fact serve to extend to the employee the right to violate the legal right of appellee, protecting her against wrongful imprisonment and detention by defendant.

Therefore, under the evidence such right having been violated, the defendants are to be charged with anticipating the natural consequences of their wrongful act, and same having been shown according to the evidence, to have resulted in appellee's mortification and resulting mental and nervous suffering, the evidence was properly submitted to the jury for their determination of the amount of the damage suffered as the result of her false arrest.

An unusual case concerning shoplifting was that of McDermott versus W. R. Grant Company (313 Massachusetts Reports, 736). The manager of the defendant's store in mistaken belief had a loiterer,

standing across the street from the store, arrested as a part of a gang of men who pilfered the store earlier that morning. The loiterer was found innocent and began suit for false imprisonment. The defendants claimed that they were not responsible, for the manager's action was outside the scope of his authority.

The company wondered if it was liable for the action of the manager who, in the pursuit of escaping shoplifters, caused an innocent bystander to be arrested. The court ruled that the manager of the store was acting within the scope of his employment in causing the arrest outside the store of one accused, by his own evidence, of being implicated in thefts from the store; that this was warranted because he had complete control of the store and was responsible "for seeing that no merchandise went out that was not purchased," for trying to recover such as he did, and for the apprehension outside the store of anyone whom he saw take merchandise out without paying for it.

The case cited above indicates that food chains are liable for the over-zealous acts of their employees who sometimes step out of bounds in obeying a company edict. It is of utmost importance that care and caution be used in determining the guilt of persons accused of shoplifting by employees.



The case of Crews-Beggs Dry Goods Company versus Bayle (97 Colorado Reports, 568) shows that the firm's employee is not justified in restraining a suspect, either by force or by fear. When such is the case, the employee is guilty of an unlawful act. Any person restrained under such circumstances can sue for damages as the result of being falsely imprisoned. Physical force is not necessary. The following testimony of the employee in question is illustrative of the act of putting a person in fear:

Question: You accused this woman on the steps of the first floor, when you stopped her, of taking these socks?

Answer: Yes, sir.

Question: You said you wanted to see the socks, didn't you?

Answer: Yes.

Question: Why did you say that?

Answer: Because I thought she had the socks.

. . . . .

Question: When you went up and stopped this woman on the stairs and said, "Let me see those socks," what did you intend to do?

Answer: Report her to the manager as a shoplifter.

Question: Report her to the manager for shoplifting and keep her there until Mr. Dare (the manager) came, is that correct?

Answer: Yes, sir.

. . . . .

Question: At any rate you stopped her on the stairs and asked for the socks?

Answer: I stopped her on the stairs.

The court ruled that the action of an employee of a mercantile establishment in restraining a customer and searching her person for goods which he thought she had taken surreptitiously was within the scope of his authority as an employee of the firm. In such circumstances the principal (firm) is liable for damages for false imprisonment.

This, then, is another case which illustrates the point of law that firms are liable for the actions of their employees. Employees of food chains should be thoroughly trained in the proper procedure to follow in apprehending a shoplifter. Mere suspicion is not enough to warrant stopping a suspected pilferer. The employee must be sure that the person he is about to stop for pilfering is actually the person guilty of the act.

It is always important for a food chain company to have a competent attorney prepare its cases for trial. Any problem arising from the apprehension of a shoplifter should be handled by an attorney.

The decision in the case of Little Stores versus Isenberg (26 Tennessee Appellate Reports, 358) was that a storekeeper has the right to make a reasonable investigation as to whether merchandise purchased at his store has been paid for, and to retain the purchaser for a reasonable time for such investigation. He is guilty, however, of false imprisonment in holding a purchaser after the store's cashier has stated that the merchandise has been paid for. If the employee is in doubt as to the guilt of a suspected shoplifter, the wise policy is, therefore, to avoid apprehending the suspect immediately. He should delay until such time as he is absolutely sure of the guilt of the suspected pilferer.

In a decision rendered against a food chain (Robertson versus Safeway Stores, Incorporated, 130 Nebraska Reports, 82), the manager unjustly accused a man and his son of taking a package of candy. He had forced them to leave their truck and return to the store where they were detained for about forty minutes. This was held to be false imprisonment. As the presiding judge stated, "False imprisonment is the unlawful restraint of a person without his consent." The awarding of three hundred dollars was held not to be excessive for damages resulting therefrom. Vastly more costly lawsuits than this one have resulted from similar situations.

The responsibility for an injury caused an innocent bystander by a fleeing shoplifter was decided in the case of Tippet versus F. W. Woolworth Company (3 Southern Reports, 2d, 461). A salesgirl employed in the defendant store saw a thief steal an article of merchandise from the counter. She screamed and then followed the thief as he fled through the crowded store. The thief, in his hurry to escape, knocked over the plaintiff who was standing near the exit. The plaintiff sued the defendant for damages caused by the negligence of the salesgirl whose scream set the thief in motion and was, therefore, the proximate cause of the accident and the injuries to the plaintiff.

Was the salesgirl's scream an act of negligence, thus making the store liable for injuries sustained by the plaintiff, or was she performing her duty as a trusted employee protecting the goods of her employer? The court's opinion stated that there is a wide difference between a human being fleeing to escape arrest for a crime, and the act of putting into motion some inanimate thing which causes damage to another before it is stopped. For example, if this salesgirl had started a heavy ball rolling toward the front of the store and it had struck the plaintiff, causing her physical injury, then there would be no doubt as to the liability of the defendant. The

defendant, however, can in no case be held liable when a thief, in an effort to escape arrest, flees and collides into someone who happens to be in the store. Had the salesgirl put the heavy ball into motion, she would have been guilty of negligence, but when she attempted to apprehend the thief merely by screaming, she was not negligent. She was performing her legal duty to her employer and to society. If she were required to remain quiet and make no effort to apprehend the thief for fear someone might be hurt and her employer mulcted in damages, then all pre-holiday seasons would be field days for shoplifters who could visit the crowded stores, fill their pockets at will, and leisurely depart. It is common knowledge that a shoplifter will flee, when detected in his crime, and, as in the case cited, successfully make his getaway. An outcry is not required to cause him to flee; the mere knowledge that he has been detected is sufficient.

If the salesgirl had remained quiet after she saw the thief take the article and had allowed him to make his way out of the store unmolested, she would have been derelict in her duty to her employer and to society. No doubt her screams gave knowledge to the thief that he had been detected, and her overt action had caused him to flee. She had no part, however, in the direction of the course

of his flight. He, and only he, was the one who controlled the course he would pursue. He could have gone out another exit, or he could have pushed the plaintiff aside or gone around him. It was the thief who controlled his own actions after he started his flight, and the damage was caused, not by the salesgirl, but by the thief in his utter disregard for the rights of others and of the law of the land. Therefore, the action of the salesgirl was proper and was in no way responsible for the injuries caused to the innocent bystander. Another similar case is that of Knight versus Powers Dry Goods Company (225 Minnesota Reports, 280).

In the case of People versus Quiel (68 California Appellate Reports, Second Series, 674), the court decided that mere movement of property with intent to steal is enough to support a charge of larceny. The fact that the shoplifter is frustrated in his attempt to carry stolen goods away, or that he may change his mind immediately after the theft, because the goods might not warrant the risk involved in retaining them, does not relieve him of the consequences of the theft. In cases of this sort, however, it is a better procedure for employees to be instructed to apprehend suspected pilferers outside the premises of the store. When a shoplifter is apprehended

outside the store with the merchandise on his person, then there can seldom be any question as to the motive.

The case of State versus Tremont (196 Minnesota Reports, 36) shows that the oral confession by a shoplifter to three store employees after merchandise has been found on her person, was sufficient evidence to warrant conviction of the crime of larceny against the accused. Police action should never be threatened, however, if the suspect will not sign an admission-of-guilt form stating how the guilty act was committed. Signed statements of theft are not necessary for prosecution if there are witnesses, but the psychological effect is lessened without the signature.

In the case of S. H. Kress versus Rust (132 Texas Supreme Court Reports, 89), the plaintiff, a woman, was accused, outside the store, of stealing some tatting. She was returned to the premises where, in one of the dressing rooms, she was completely disrobed in the process of searching. Nothing was found concealed on her person or in her clothing, but the manager called the police, who came and placed Mrs. Rust in custody. The store's attorney came to the police station in order to rectify the mistake made in wrongly accusing Mrs. Rust. Mrs. Rust then signed a release which exonerated the store. Later, however, Mrs. Rust claimed that she

had signed under duress, and that, therefore, the release was not valid.

It was held that she did not sign the release calmly and deliberately. It was shown that the remarks made of threat or imprisonment destroyed her free agency and overthrew her will. The court awarded fifteen hundred dollars actual damages and five hundred dollars exemplary damage. A corporation is liable in exemplary damages for the wrongful detention of a customer, when such detention or arrest is without cause. The manager of the store accepted and acted upon information furnished by employees of the company, even though he had no personal knowledge of his own concerning the transaction.

Employees of food chains should be instructed never to attempt a search of the suspect's person, even though the suspect gives his consent. The police should be called if the suspect refuses to surrender the stolen items in his possession.

In the case of State versus Priebe (221 Minnesota Reports, 318), a shoplifter was apprehended and then taken to the store's offices where she was searched. Stolen merchandise was found on her person; in the presence of three witnesses, she freely admitted the theft and then signed the following statement:



To Whom It May Concern: This is to certify that I, Myrtle Priebe, living at 1616 James North, City of Minneapolis, State of Minnesota, do freely confess, admit and declare that I did willfully and unlawfully take from the possession of the Donaldson Company at the store of said company at Minneapolis, Minnesota, the following personal property . . .

Then followed, on the reverse side of the statement, a list of every item, with the price included, which Miss Priebe admitted she had stolen. The court decided that both oral and written confessions are admissible in a court of law as evidence to support a conviction. The importance of obtaining a statement of guilt from a suspected shoplifter lessens the burden of proof required by the prosecution to prove that the defendant is guilty.

To steal is to commit larceny. Stealing, then, is a taking without right or leave with intent to keep wrongfully. The word "steal" has a uniform significance when used in connection with personal property, and in common, as well as in legal practice and parlance, it means the felonious taking and carrying away of the personal goods of another.

To constitute the crime of larceny there must be an unlawful taking, the removal from one place to another, and a felonious intent. If the one who intends to steal property abandons the enterprise or is forced to terminate it before having acquired dominion of the property, he is not guilty of the offense of larceny, although

he may be convicted of an attempt to commit it. The person accused must be connected with the taking or the setting in motion of the act of stealing in order to be guilty of the crime of larceny. It is not necessary that the taking be done secretly, for while secrecy is the usual evidence of felonious intent when one takes the goods of another, it is by no means the only evidence of such intent. This opinion is based upon a Texas decision (State versus Powell, 117 Texas Reports, 21), involving the loss of a wallet. It was picked up in the presence of the owner by the accused who kept it by threatening to kill. The Texas court ruled that the accused was guilty of the crime of larceny.

One must, however, connect the person with the unlawful taking. In addition the element of felonious intent must be present, except in those rare instances where a specific statute declares that the commission of certain specified acts will constitute larceny without respect to intent. Criminal design, however, must originate in the mind of the suspected person and not in the mind of the owner. An individual may not aid in robbing his own establishment in order to catch the guilty person. He may, however, lie in wait for the suspected person and "give him enough rope" to cause him to be trapped.

Under a State of Wyoming action, Lee Gardner versus the State of Wyoming (207 Wyoming Reports, 316), it was shown that one may not be convicted of larceny in a situation where the evidence fails to connect him with the taking. Mere suspicious actions, or probabilities, however strong, do not supply sufficient basis for conviction. Employees apprehending shoplifters in super markets must witness the suspected person actually taking the merchandise and concealing it on his person. A suspected person must never be stopped, in spite of his actions, however, if there remains any doubt as to his actually picking up the item with the intent to steal.

People of the State of Illinois versus Lardner (300 Illinois Reports, 264) was a case in which an individual took articles from a show case in a store and placed them in his pocket. In this instance, the individual clearly acted with intent to steal and was guilty of larceny. This would have been the case even if he had left his coat on an adjoining counter. He could not, however, have been convicted on the grounds of attempting to commit a crime. One cannot, therefore, be convicted of an attempt to commit a crime when the evidence shows that the commission of the crime has been consummated.

The essential element of larceny, then, is a felonious taking by which the owner is deprived of possession and the thief acquires possession for an appreciable period of time. Although it may be for only a moment, and any change of location whereby control of the articles is transferred from the owner to the thief, there is sufficient evidence of the taking away. On the other hand, the essential elements of attempt to commit larceny are the intent to commit a crime, the performance of some overt act toward its commission and a failure to consummate the crime. In this regard, the failure to accomplish or complete the crime is an essential element to the same degree as the intent or the overt act.

If one feloniously takes the goods of another from their accustomed place, although he is detected before they are actually carried away, the crime of larceny is said to have been completed. Therefore, in the instance of the shoplifter who runs, after taking goods from a show case and concealing them in his overcoat, leaving his overcoat on another show case, the crime of larceny has been committed, even though his possession was of a very short duration and the goods were not removed from the store. In like manner, if a thief, discovered in the very act of taking, immediately abandons or returns the stolen article, he too has committed larceny.

Taking goods and putting them into a place for convenient removal at a later time is considered the taking of property; and if one takes the goods of another from the place where they are concealed, even though he is detected before they are actually carried from the owner's premises, the crime is said to be complete, as in the case of the removal of an article from one place to another in the confines of the same building.

The above case presents the view that is being taken today by many states with regard to the point at which the crime of larceny begins. Here, the decision was that mere movement of an item, coupled with the intent to steal, is sufficient for a charge of larceny. It is, however, sometimes most difficult to prove such intent. If a shoplifter should conceal the merchandise on his person, so that there would be no doubt in the employee's mind as to the legal interpretation, then apprehension should follow.

In addition to the case discussed above, two others, noted below, are pertinent in support of the view that mere movement of an item, plus intent, is sufficient evidence of the taking away. In the case of *State versus Wilson* (1 New Jersey Law, 439), it was held that any change of location whereby complete control of the article is transferred from the true owner to the thief is sufficient

evidence of the taking away, which is the important factor in the crime of larceny. The case of Lundy versus State (60 Georgia Reports, 143) showed that the removal of goods from their accustomed place to another place in the same store was, in effect, carrying away and, therefore, constituted the crime of larceny.

The consideration of the legal aspects of pilfering, particularly as they relate to food chain super markets, has brought into sharp focus a number of legal cases, in various states, involving shoplifting, false imprisonment and the legal determination of what constitutes the act of larceny. In developing the legal aspects of this problem, it has been necessary to draw upon various decisions which defined such terms as larceny, and which specified the conditions which would determine whether or not a particular crime constituted a felony or a misdemeanor. In presenting the evidence, the author has condensed into common language--insofar as was practicable--the legal documents to which he referred.

## CHAPTER IV

### PROPER PROCEDURE

Many food chain operators do not realize the risk involved when one of their employees apprehends a shoplifter. Although there might not be any doubt as to the guilt of the pilferer, the manner in which he is apprehended might mean a costly lawsuit against the firm. Many times a thief may have a good understanding of the laws concerning petty larceny and arrest, so that one wrong move by a store employee might give him the opportunity to start a suit for false imprisonment or malicious prosecution. In some instances, an accused thief with an able lawyer can receive remuneration worth many more times the value of the items pilfered. This chapter will be a discussion of the care and caution to be used by the store detective or other employee, in apprehending a shoplifter.

Whenever a <sup>supermarket</sup> ~~food chain~~ company decides to prosecute a shoplifter, it must realize that, in the courts, the accused is assumed to be innocent until proved guilty. This is a fundamental tenet of the Constitution. The burden of proof, therefore, lies with the prosecution. Furthermore the courts, sometimes unintentionally, seem to

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favor the accused. The following example <sup>that the author can make in his study</sup> would seem to bear this <sup>point</sup> out. In a recent case against a shoplifter in <sup>at Milwaukee</sup> one of our major cities, the store detective and two witnesses were positive of the shoplifter's guilt, but were unable to identify, specifically, what item had been pilfered. <sup>Wisconsin</sup> The law states that in order for one to be guilty of the crime of larceny, <sup>the</sup> item stolen must be identified in such a manner that there can be no doubt as to exactly what it was. The item must be marked, identified, and kept as evidence to be used by the prosecution in securing a conviction against the accused shoplifter. Since the store detective and the witnesses were unable to agree as to what had been taken, the case against the shoplifter was dismissed. <sup>example</sup> This ~~case~~ demonstrates the fact that evidence should be of a more certain nature before any action can be taken against the pilferer.

[ In apprehending <sup>a</sup> the shoplifter, then, the ~~food~~ <sup>a</sup> chain employee must actually see the pilferer take the merchandise and conceal it. Mere suspicion is not enough. There can be no doubt in the employee's mind, since a wrongful accusation can lead to a very expensive lawsuit. If the employee has any doubts, he should notify the manager of the store and another employee to observe the person under suspicion. In case no action is warranted by the evidence of the manager and the employees, then a mental picture of the



person should be retained, so that if he returns, he can be kept under constant observation in order to determine properly his innocence or guilt.

The shoplifter should be watched, constantly, during the entire time he is in the store. He must be followed and never permitted out of clear sight at any time. The employee must be certain that the shoplifter has not left the merchandise in the store and that he has not paid for it.

In stopping ~~the~~ suspected shoplifter, ~~the~~ employee must be positive that merchandise has been taken. The shoplifter must have the merchandise on his person or under his control when stopped. Fortunately for one large ~~food chain company~~ <sup>supermarket</sup>, it was only the store manager who was embarrassed when he stopped a shoplifter he had seen take merchandise. The shoplifter, a few moments previous to this, had stepped into the lavatory where he disposed of the stolen goods. ] In many states, the law reads that a shoplifter must leave the store with the unpaid merchandise before he can be apprehended. Other states hold that the shoplifter can be stopped, without fear of costly lawsuits, as soon as he picks up the merchandise in a suspicious manner. In order to be sure of what procedure to follow, ~~each food chain should check the state laws on larceny~~ <sup>should be checked by each food store.</sup>

[It is a wise practice to apprehend the shoplifter outside the store, for then there can seldom be any doubt as to the motive in taking the merchandise without paying for it. When outside the store, the employee should say to the suspected shoplifter in a calm manner, "Pardon me, but I think there has been a mistake. Will you please re-enter the store to help us correct it?"

(There are some important "musts" which deserve attention in the apprehension of shoplifters:

1. Never, under any circumstances, accuse the person of stealing. There is always the chance that the employee may have made a mistake, therefore subjecting the suspected person to humiliation and embarrassment, which <sup>usually</sup> means ~~usually~~ that the individual can receive damages as a result of the mental suffering brought about by being wrongfully accused.

2. Never touch the person. The mere touching of the person casts a different light on the situation and makes the ~~food chain~~ firm liable for the actions of its employee.

3. Never use threats of any sort. A threat ~~or a directive~~ to halt in a manner which puts the suspected shoplifter in fear of harm can cost the firm huge sums of money in damage suits by the

suspected shoplifter, who can claim that his forward motion was stopped, thus furnishing sufficient evidence for a charge of false imprisonment.]

It is the purpose of <sup>a supermarket</sup> ~~the food chain~~ to prevent and control shoplifting. Therefore, by stopping the shoplifter, even if he does not wish to return to the store, one has made it perfectly plain to him that it is known that he has stolen merchandise. Sometimes, incidents of this nature are sufficient warning to the shoplifter that he has been recognized, and that it would be extremely unwise for him to return again for such purposes.) ~~If, however, the shoplifter is willing to return to the store, the employee should never hold his arm or touch him. As soon as the employee has re-entered the store with the shoplifter, another employee should accompany them to the (manager's office, or some other secluded place in the store where other customers will not overhear the proceedings. If the shoplifter is taken to a room, the door should never be closed, and there should never be anyone standing between the shoplifter and the door. He must at all times feel that he can leave the premises. Many times the suspected shoplifter will try to do so. There are individuals who will give the impression that they have been stealing so as to be apprehended. This type of person is hoping that an~~

employee will make a mistake. He would then start legal action for damages <sup>by being apprehended</sup> ~~for apprehending him~~ in an illegal manner.]

Many times, the shoplifter when apprehended will either start an emotional scene or frankly admit that he is guilty. If he should feign innocence and ignorance as to why he has been asked to return to the store, the employee who saw him take the merchandise from the shelf should say, "I saw you place a three-ounce package of Kraft's Philadelphia Cream Cheese in your purse. Did you pay for it before you left the store?" or some similar statement. He should never accuse the shoplifter directly, however.

When a shoplifter is asked to return to the store, the employee should <sup>never hold his arm or touch him. As soon as the employee has re-entered the premises, with the shoplifter should be summoned</sup> ~~summon~~ the manager, or <sup>the</sup> person in charge, <sup>to assume</sup> ~~to assume~~

control of the situation. If the shoplifter is a female, a woman employee of the store should be present. This is absolutely necessary in order to avoid the common countercharge by women that they have been personally mistreated. Extreme caution should be taken if the woman appears to be pregnant, for sudden shock can cause a miscarriage and could result in costly damages.

<sup>After the person in charge has been summoned, the shoplifter should then be taken to the p 63</sup>  
Under no circumstances should employees make any promises

or threaten the shoplifter in any manner in order to get an admission of guilt. Any confession not the free will of the individual will

not be valid in a court of law. The person in charge of the store should, however, make every attempt to get a voluntary statement from the shoplifter as to the facts in the case. Promises to keep the incident quiet or not to prosecute should never be made. In short, the policy of the firm should never be to promise anything or threaten anyone in order to get an admission of guilt.

The employees of the firm have no legal right to conduct a search of the person unless they have a warrant giving them this authority, or they have the written permission of the individual. This permission to search should never be requested. In most instances, the pilferer will voluntarily divulge how much stolen merchandise he has.

[It has been the practice of many <sup>supermarkets</sup> ~~food chains~~ to have the apprehended shoplifter make a signed statement in the presence of two witnesses, usually the store manager and the employee discovering the theft. The identity of the shoplifter should be known, but under no circumstances should the manager forcibly gain such knowledge by seizing the belongings of the accused. Identification can usually be made by courteously asking the pilferer ~~to examine~~ <sup>for</sup> his driver's license or social security card, or, if the person is a male, his draft registration card.]

The words "to steal" or "to pilfer" or other similar words that would tend to draw any conclusion should be avoided in the body of the written voluntary confession. The actual facts relating to what happened should be stated in a clear, concise manner in the shoplifter's own handwriting, if possible. Once in a while, the shoplifter's statement will require more than one page. If so, he should initial each page in addition to signing his name at the end of the statement. It is a wise practice to use only one side of the paper. If an error has been made in the statement, and it is necessary to make a correction, do not erase. The error should be crossed out, and the person, signing the statement, should place his initials near the error in order to indicate that the correction had been made at the time the statement was signed and had not been changed after he had left the store.

If the shoplifter should admit other thefts made from the store in the past, do not include these in the signed statement relating to the theft for which he was apprehended. The admission of past thefts should be set forth in a new statement, separate and in no way related to the first statement.

If the person giving the statement refuses to sign it, then make sure that he admits that the statement is true in the presence

of at least two other persons. When the signature is not given, the two witnesses should write on the statement that the accused person refused to sign it, but that he has read it (or has had it read to him if he cannot read) and that the information is true. This method will not be as good as a signed statement but will, nevertheless, constitute a statement against the interest of the shoplifter made by him in the presence of witnesses; it can then be used in court to refresh the recollection of the witness who took the statement.

All statements made by the shoplifter should be in the first person. One reason for this is that the admission has a personal touch and, therefore, is authentic. If statements were made in the third person, then the shoplifter might claim that he did not know what he was signing.

(*From P. 71*)  
 [Many food chain operators realize that, in order to have a successful conviction of a pilferer, the evidence must be preserved and presented to the court in a manner which will make it acceptable as evidence. When the evidence has been turned over to an employee, usually the manager, by the shoplifter, that evidence must be safeguarded. The evidence should be identified by the employee who saw the shoplifter take the merchandise, and by each employee who heard an admission that the merchandise had been taken. All

persons making identification should place their initials on the items in question so that positive identification will be made. Included with the initials should be a notation of the date and the location of the occurrence. ~~An acceptable practice is to scratch the desired information on the surface of the object, or the use of a simple "x" might suffice.~~

Once the articles have been identified, they should be held in safekeeping by the store manager until they are needed, if a trial is to follow. The law states that in order to admit articles as evidence in a trial for theft, it is necessary that some indication be made of every person who has come in contact with the stolen articles from the time of their recovery to the time they are introduced as evidence in the courtroom. Herein lies the importance of the store manager's keeping the evidence under his control at all times.

If criminal proceedings are instituted, it will be necessary for the store's employees to testify in court. It is well worth remembering that many good cases have been lost because of the appearance, attitude, or manner of the witnesses in a court of law. Therefore, it would be very wise for <sup>all food</sup> ~~food chain~~ firms to require ~~that~~ their store managers <sup>to</sup> be familiar with the fundamentals of



courtroom procedure. Each manager, in turn, should then be required to pass along such knowledge to all of his employees.]

The actions of an individual must be in keeping with the dignity and respect of the court. Any employee called upon to testify should be clean and neatly dressed. On the witness stand, he should speak clearly and loud enough to be heard by everyone in the courtroom. The intonation of the voice should suggest calmness and impartiality, and the replies to questions should always be in a courteous and dignified manner, for the employee is representing the firm.

A shoplifting case usually attracts a few reporters from the major newspapers of the city. They go there to see if a human interest story might be found in the situation--the poor, helpless shoplifter held at the mercy of the rich, powerful corporation which is willing and eager to send a man to prison for stealing, perhaps, a bar of soap. Most of the time, newspapers give an honest, factual report of the trial. Only when news items are lagging do some reporters resort to sensational reporting.

The employee should be aware of the fact that once he is on the stand he should not show anger, especially during the course of a cross-examination. Many attorneys find it advantageous to deliberately confuse the witness so that he will be led to say something

which he does not actually mean. This is particularly true when the attorney is faced with a case which he might lose. It is a good practice for the firm's attorney to brief the employees in regard to what they may expect on the witness stand. Understanding the exact meaning of a question before replying is of utmost importance. There is nothing wrong with a person's saying, "I do not understand the question."

Many lawyers use the double question to shatter the testimony of a witness. Such questions as the following represent this practice: "When you implied that you were going to call the police, did the accused admit that the items on his person were stolen from the store?" Here, while the actual fact may have been that the accused admitted stealing the merchandise, if the witness were to answer "Yes," the interpretation would be that threat had been used in order to get a signed statement. If the witness feels that it is impossible to answer a simple "yes" or "no" to a question, he would be perfectly in order to ask the judge to have the question rephrased in a manner that does not trap him into admitting things that are not related to the actual happening.

[The employee, who is to testify on the witness stand, should be instructed to think before answering even the simplest question,

although this may cause some delay in the proceedings. If the truth is told in an unbiased, thoughtful and unprejudiced manner, the witness has nothing to fear when called to the stand to testify.]

Top 67 It is a wise policy for a <sup>firm</sup> food chain to have printed forms to be used on the occasions when a statement from an apprehended shoplifter is desired. These forms should be simple and brief-- they should never attempt to be legal masterpieces. Figures 1, 1a, ~~X~~ 3, and 4 are <sup>three</sup> ~~four~~ acceptable types <sup>of</sup> ~~for~~ forms currently in use by leading food chains. To indicate which form, if any, is the best is not a decision to be made by the author. The <sup>supermarket</sup> ~~food chain's~~ attorney is qualified to select the form that best fits his client's operation.

All forms should include the following information: the name and address of the shoplifter (usually obtained from such identification cards as drivers' licenses); the date and the location of the shoplifting; the name and address of the firm; an itemized list of the items with their value; and the signature of the shoplifter. If the shoplifter is unable to read or write, then the statement should be read to him and his signature indicated by an "x". The witnesses of his mark, then, would need to sign the form.

ACKNOWLEDGEMENT

Date \_\_\_\_\_

This is to certify that I have today returned to <sup>Kohl's Food Stores</sup> ~~Penn Fruit Company~~ merchandise having the value of \$ \_\_\_\_\_ which I selected from stock but neglected to present to the cashier and for which I did not pay. This happened at \_\_\_\_\_.

I am signing this statement of my own free will without threats or promise or ill treatment by anyone.

WITNESSES:

\_\_\_\_\_  
Customer's Signature

\_\_\_\_\_  
Address

ITEMS INVOLVED

PRICE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Figure 1. Voluntary Confession Form, Penn Fruit Company, Philadelphia, Pennsylvania.

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DATE \_\_\_\_\_

HOUR \_\_\_\_\_

TIME ELAPSED \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

AGE \_\_\_\_\_

**DESCRIPTION:**

Approximate Height \_\_\_\_\_

Approximate Weight \_\_\_\_\_

Color of Hair \_\_\_\_\_

**Staff present at time customer was approached**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATEMENT MADE BY CUSTOMER**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXACTLY WHAT YOU SAID**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Store \_\_\_\_\_

Manager's Signature \_\_\_\_\_

A.S. - 14

Figure 1a. Voluntary Confession Form, verso of Figure 1.

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## SHOPLIFTING PREVENTION SERVICE

**COMMERCIAL SERVICE SYSTEMS, INC.**

### STATEMENT OF THEFT

DATE \_\_\_\_\_ 195\_\_\_\_\_

TIME \_\_\_\_\_ A.M. \_\_\_\_\_ P.M.

"I, the undersigned, do voluntarily admit and state that I have stolen items listed below from the premises of \_\_\_\_\_ located at \_\_\_\_\_ City of \_\_\_\_\_, State of California."

ITEM

**PRICE**

**TOTAL**

"I, the undersigned, in signing this Statement of Theft and surrendering the forementioned items, do so voluntarily and of my own free will and without force or threats or promises of immunity from criminal prosecution and with the understanding that I fully release the above-mentioned store or company and all its agencies and representatives individually and personally; and representatives of the Commercial Service Systems, Incorporated, individually and personally; and Commercial Service Systems, Incorporated or any one connected with this Shoplifting Prevention Service from all types of civil liability."

SIGNED \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

<b>WITNESS</b>	<b>ADDRESS</b>
----------------	----------------

<b>WITNESS</b>	<b>ADDRESS</b>
----------------	----------------

### SHOPLIFTER'S PERSONAL DESCRIPTION AND IDENTIFICATION

(To be completed in full by person apprehending)

NAME \_\_\_\_\_ RESIDENCE \_\_\_\_\_  
(PLEASE PRINT)

CITY OF \_\_\_\_\_ STATE \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_

OCCUPATION \_\_\_\_\_ EMPLOYED BY \_\_\_\_\_

SOCIAL SECURITY NO. \_\_\_\_\_ DRIVER'S LICENSE NO. \_\_\_\_\_ CAR LICENSE NO. \_\_\_\_\_

SEX	RACE	AGE	HEIGHT	WEIGHT	COMPLEXION
-----	------	-----	--------	--------	------------

GLASSES \_\_\_\_\_ HAIR (Color) \_\_\_\_\_ BUILD \_\_\_\_\_ EYES (Color) \_\_\_\_\_

**SCARS AND MARKS (Defects)** \_\_\_\_\_

**METHOD OF OPERATION**

STATEMENT MADE BY SUSPECT \_\_\_\_\_

Make this report in triplicate.  
Send original and duplicate to  
COMMERCIAL SERVICE SYSTEMS, INC.  
Suite 228, Cherokee Building  
6636 Hollywood Boulevard  
Hollywood 28, California  
Retain triplicate for your file.

**STORE** \_\_\_\_\_

BY \_\_\_\_\_

**Figure 2. Voluntary Confession Form, Commercial Service Systems, Inc.**

I Mrs. June Doe of New York, N.Y.  
 600 Main Street. (City or Town - State)

do of my own free will and accord, admit freely without threat or promise of any kind on the part of THE GRAND UNION COMPANY or any of its representatives, that I attempted to take merchandise without intention of paying for it at the branch store operated by THE GRAND UNION COMPANY

at 600 Lane Avenue, New York, N.Y.

and was found in the act of doing so by one of THE GRAND UNION COMPANY'S agents this 20th day of May 19 47

IN WITNESS WHEREOF, I hereto set my hand the day and date hereon mentioned.

Mrs. June Doe L.S.

WITNESSES:

P. Wilson - Mgr.

G. Larkin

\$ .67

1 lb. Butter

1/2 lb. Velveteen

1 Span

\$1.29

Figure 3. Voluntary Confession Form, The Grand Union Company, East Paterson, New Jersey.

Nº 504

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I, \_\_\_\_\_, residing at \_\_\_\_\_ and knowing that I need make no statement, do so of my own free will and not being under the influence of fear produced by any threats of anyone, and without any threat or promise of any kind, admit and declare that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I took from the possession of Stop & Shop, Inc., at the store of Stop & Shop, Inc. located at \_\_\_\_\_ in the State of \_\_\_\_\_ without making payment therefor and with the intent to take for my own use or disposition, certain articles of personal property of which Stop & Shop, Inc. is the owner, and said articles are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Said articles being valued at \_\_\_\_\_ dollars and \_\_\_\_\_ cents.

Dated in \_\_\_\_\_ in the State of \_\_\_\_\_  
(City or Town)

this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

WITNESS: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

WITNESS: \_\_\_\_\_ ADDRESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_



~~In the discussion of the proper procedures in apprehending and bringing to justice persons guilty of shoplifting, not only has reference been made to currently accepted methods of operation, but suggestions for other procedures have been made. Educational programs for all levels of personnel should be initiated, so that the interests of the company will at all times be foremost in the minds of the employees. Some knowledge of the legal applications should also be generally known. The problem will not be controlled without intensive programs of prevention.~~

## CHAPTER V

### METHODS OF COMBATING PILFERING

The rapid growth of the grocery store from the general store to the present-day super market has resulted in increased efficiencies, but at the same time has created a number of problems. The contributions of the super market to the food industry and to the public were determining factors in its rapid growth. One of the resulting problems has been an increase in shoplifting.

Not all food chains agree that the menace of shiplifting is great enough to warrant <sup>allocating an appreciable amt of</sup> ~~the amount of~~ time and thought ~~now being~~ devoted to the subject. Some even believe that shoplifting cannot be given too much blame for store inventory losses, because it is very difficult to pinpoint the actual causes of shortages.

Store losses due to theft, however, can be materially reduced if the proper preventive measures <sup>are taken</sup> are taken. Of course, there is no cure-all answer to this problem. A program based on the following suggestions will not eliminate thefts, but, is a comprehensive one in which all <sup>employees, beginning with the lowest level employee and</sup> ~~employees~~ are educated to make theft prevention a part of their daily routine. Management will be well repaid for the

time and encouragement given such a project. A pilferage control program that is based on the education of all store personnel can soon cut down markedly the losses due to theft. Thieves, both amateur and professional, soon learn that they cannot operate with ease in a food chain store where all employees are alert to the problem.

Trained, alert employees are safeguards against shoplifting. A certain portion of store meetings <sup>can</sup> should be devoted to pilferage control. The importance of curbing the losses arising from unawareness of the problem should be stressed in a manner that the employees will realize that these losses are actually cutting into their earning power. <sup>Employees should be constantly reminded of their responsibility for participation in the program</sup> Key employees should be taught the proper procedure and should learn the terminology useful in the apprehension of shoplifters <sup>which</sup> will reduce the possibilities of costly lawsuits. Store employers should understand the importance of seeking key personnel,

such as managers and assistant managers, who are trained in these proper procedures. <sup>They should be taught how to report a suspicious item and also how to proceed with the owner. They should also be taught how to proceed with the owner. They should also be taught how to proceed with the owner. They should also be taught how to proceed with the owner.</sup> Employees should be encouraged to suggest ideas regarding

the control of shoplifting. Each idea should be carefully checked <sup>and submitted</sup> ~~if used, proper rewards given~~. If necessary, advice should be sought from experts in the field of pilferage control. Sometimes talking to

the local police pilfering detail about proper methods to use in apprehending shoplifters can prove beneficial.

Prevention and control should make it difficult for the shoplifter to steal. <sup>From p 78</sup> Practices and methods now in use by many of the country's leading food chains will be discussed so that the reader may apply such information as he believes useful to lessen the evils of pilfering in <sup>the</sup> his stores. <sup>and</sup>

1. ~~The entire store should be under observation.~~ <sup>911</sup> The employees of a store should be made responsible for definite areas which they can observe while working. The employee, who glances at the shoppers as they pass the area in which he is working, will convey to them that this area is being observed. This should not be carried to the point <sup>that</sup> shoppers will be made to feel uncomfortable in the presence of an employee.

2. <sup>912</sup> Use of mirrors is an effective way in which a store's area can be observed. Transparent glass mirrors, wisely placed in doors and walls, can provide points from which employees may observe without being seen. <sup>P 81</sup> <sup>New 911</sup> Peepholes, if properly constructed, can be used just as effectively <sup>as mirrors</sup>. One southern food chain has in each of its stores a large picture of its president on the back wall. A

person standing on the ledge in the back room can look through the eyes of the president's picture and observe the whole store without fear of detection. (Mirrors, at a slight angle in a well-lighted store, enable employees to keep an eye on the activities of the shoppers in each aisle. These mirrors should cover large sections of the wall. They must not be objectionable to the consumer, however, but should be placed in such a fashion that the shoplifter will realize that the store is under observation and that the chances are slim that he can operate successfully in the store.)

3. Proper store layout is important in lessening losses from thefts.

- a. All aiseways should be open to view. Small valuable items, such as cigarettes, should be placed in a position that they can be under constant observation. A good location <sup>right to be adopted by many stores,</sup> is near the check out counter. Large, bulky, inexpensive items should be stocked in the spots which are difficult to observe.
- b. ~~Gondolas~~ <sup>keeps</sup> and displays should be below eye level. This discourages the shoplifter from hiding merchandise. All displays should be orderly, neat, and in even stacks. Huge, untidy piles of merchandise, ~~which invite shoplifting,~~ <sup>they give shoplifters</sup> should be avoided. A

display properly built, can be large, and yet not encourage pilferers to steal.

- c. It should be the practice of every ~~food chain~~ firm to see that its stores <sup>is</sup> are correctly lighted. The ~~stores~~ <sup>supermarket</sup> should be brilliantly illuminated so that there are no dark corners where observation of shoplifters would be difficult. Sometimes corners far away from the usual line of traffic do exist and cannot be avoided without expensive alterations. Merchandise, that is not easily pilfered, should be placed in the poorly lighted sections, but employees should still give careful attention to them. ~~The food-chain can consult a lighting engineer associated with a reputable electrical firm and have him test scientifically the lighting needs of the store.~~ Many times, the cost of installing new lighting fixtures is so slight, considering the losses involved from shoplifting, <sup>that it is profitable for a store to have its lighting needs</sup> ~~that each store in the chain can be profitably checked.~~ <sup>scientifically checked by a reputable electrical firm. One must</sup> remember that a properly lighted store illuminates not only the pilferer, but the merchandise on display as well.

- d. With the exception of the entrance, there should be only one possible means of exit, preferably through the manned check out counter. This often requires the erection of rails or the movement of equipment to shut off any other means of exit, in

order to prevent customers from slipping out during rush hours without passing the cashier. Empty check out booths can be shut off by means of a snap chain across the end nearest the sales area. A temporary but unsightly method is the filling of the unused checking aisle with two or three shopping carts. Quantities of stacked goods should not obstruct the cashier's view, and unnecessary cross aisles should be eliminated. These are fertile spots for pilfering or <sup>for</sup> passing items to confederates.

4. Stapling machines can be fastened to produce scales in such a manner that it will encourage the stapling of all ~~produce~~ bags by the clerk. This is extremely important as a great deal of pilfering is accomplished by putting articles in the middle of a bag of produce.

5. <sup>Some</sup> ~~Some food chain firms~~ <sup>stores</sup> hesitate to post warning signs in <sup>conspicuous places</sup> ~~their stores~~, feeling that they might offend customers. Generally, honest people do not take offense at such notices, and <sup>supermarkets</sup> ~~food chains~~ using such signs, report very substantial reductions in pilferage. Often a sign reading "We reserve the right to inspect your shopping bag," posted prominently, is helpful. <sup>71</sup> Sometimes, ~~food chains have found that~~ the installation of a parcel checking station is worthwhile. <sup>This</sup> ~~The latter~~ requires almost full-time personnel, plus space and

equipment, including both tags and shelves. However, a sign reading "Please leave all parcels at the check stand. Thank you," plainly establishes the right of checkers to inspect any packages which have been carried into the store.

On the following pages are types of signs used by food chains in California. Figure 5 is one used to inform customers that they must check their parcels before entering the sales area. Figure 6 shows types of signs that are placed throughout the store which state that the store is protected and serviced by a private detective agency.

6. Merchandise displayed outside the <sup>supermarket</sup> store should be attended by a store employee. In parking lot or sidewalk promotions, an inventory should be kept to enable the store manager to be certain that his promotion has not been detrimental to store profits. It is not difficult to keep inventory control of such promotions if a cash register is used.

7. The check out clerk should be <sup>trained</sup> ~~very careful~~ to watch for partially concealed items, such as small bottles inside a roll of hand towels, or butter in margarine cartons, or items which have been placed in produce bags and restapled. Checkers <sup>must be trained</sup> ~~need~~ also to notice if there is any merchandise which has not been placed on



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**COMMERCIAL SERVICE SYSTEMS, Inc.**

**SHOPLIFTING IS A CRIME**  
**Punishable by Law!**

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Figure 6. Notification that food chain is protected by private detective agency.

the counter. Such items as mops, brooms, or other types of merchandise may be lying on the bottom of the basket. The checker should ask if the merchandise is from <sup>the</sup> ~~this~~ store. The answer invariably will be, "Oh, yes, I forgot to put it on the counter."

14. *Turn to p 89*

8. (If meat purchases are paid for at the check out counter, it is necessary that multiple meat packages be marked. If the customer's meat purchase is in two packages, the meat <sup>clerk</sup> ~~man~~ should put the figure two in a circle under the price on each package; if three packages, the figure three, <sup>a</sup> ~~the~~ This eliminates the possibility of a customer pocketing <sup>a</sup> ~~the~~ high-priced package of meat and paying only for <sup>a</sup> ~~the~~ lower-priced items. The cashier must, of course, check the figures against the number of meat packages.)

(Many food chains have converted their meat counters into self-service operations where the customer is able to select the meat he wants. This means that the food chain should instruct each meat manager to have his self-service counters under frequent observation. The clerks should also keep the self-service cases under observation.)

12) *P 76*

9. Extreme <sup>caution</sup> ~~care~~ should be taken to insure that merchandise put away, to be called for later, is paid for before it is taken from the store. The number of packages, name of the customer, and

the counter. Such items as mops, brooms, or other types of merchandise may be lying on the bottom of the basket. The checker should ask if the merchandise is from <sup>his</sup> ~~this~~ store. The answer invariably will be, "Oh, yes, I forgot to put it on the counter."

14. *Turn tip 89.*

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( Many food chains have converted their meat counters into self-service operations where the customer is able to select the meat he wants. This means that the food chain should instruct each meat manager to have his self-service counters under frequent observation. The clerks should also keep the self-service cases under observation. )

12) *PTB*

9. Extreme <sup>caution</sup> ~~care~~ should be taken to insure that merchandise put away, to be called for later, is paid for before it is taken from the store. The number of packages, name of the customer, and

amount due should be clearly marked on all packages, and the manager or other designated employee should be informed of the details of the "lay-away" when the merchandise is set aside.

*The police department has proven to be a valuable aid in*  
 10. ~~In larger cities, it would be well for the store manager~~  
~~lessening pilferage in stores. It is advisable for a food operator to~~  
~~in each food chain to contact the district police station covering his~~  
~~ask for~~  
~~store location, or for food chains having stores in smaller communi-~~  
~~ties to have their managers contact local police, explaining the prob-~~  
~~lem and asking for their assistance, advice, and cooperation. In~~  
 many instances, it will be possible to obtain photographs, names, and  
 other data which will assist in identifying known shoplifters in the  
 community.

11. In controlling shoplifting, one of the important factors is for the manager to be on the sales floor as much as possible, especially during <sup>the</sup> rush hours. He should not take his lunch period at the same hour each day, if possible, but should change the schedule from time to time so that a shoplifter cannot know for sure when the manager will be away from the store.

*Go to* 12. In addition to the store personnel who have regular work stations, there are always those <sup>that are</sup> whose duties required <sup>to</sup> that they move about the store, <sup>performing</sup> stocking the shelves, cleaning and hauling to the shelves merchandise which is to be stacked, <sup>and</sup> Each of these employees

should be well trained to be on the alert. If two or more clerks are working in the same general area, they should not work as a group, but should place themselves so that their presence and constant glances over the area will make it more difficult for the pilferer to steal. All employees should use a common signal to notify the manager when they suspect or actually see a shoplifter. Regardless of the system used, the clerks should notify the manager immediately when someone is under suspicion.

13. During certain periods of the day, shoplifters can operate with greater ease. These times occur when employees are busy with special duties and leave some sections of the store unobserved. The greatest opportunity, however, occurs during the rush hours, especially at lunch periods and just before closing time in the evening. During such hours, clerks, department heads, and managers must be particularly alert.

~~The~~ 14. The cashier ~~or checker at the check-out counter~~ should always ask to inspect every shopping bag. In order not to antagonize customers, this inspection should be done in a very impersonal and routine way, using a uniform procedure. The request should be made before the cashier begins to record on the cash register. In a polite tone, she should ask, "May I see your shopping bag, please?"

No issue should be made if the customer refuses to comply, and under no circumstances, should the bag be taken away forcibly from the customer. A large sign, placed near the entrance, which states that all shopping bags will be inspected, should help materially in securing the customer's cooperation.

15. The back door of <sup>a super</sup>the market should be locked at all times, except when it is in use. Whenever anyone not employed by the firm has occasion to use the back door, he should be accompanied by an employee. No back-door sales should ever be made.

After work, all employees should leave by the main entrance rather than through the back entrances. Under no circumstances, should friends of employees be permitted to wait for them in the store after closing hours. This rule should apply to all levels of employees, from the manager <sup>down</sup> to the part-time <sup>help.</sup> employees. The individual, in charge of the store keys, should always keep them in his possession. It takes only a moment for someone to make a wax impression of a key.

16. All delivery men, whether bringing merchandise into the store or picking up waste materials to carry out, should be accompanied, at all times, by a store employee. No driver deliverer, whether or not employed by the firm, should be permitted to check

merchandise, <sup>1</sup> carry a basket in or out, ~~or serve as a piece counter,~~ unless he is accompanied by and is assisting a store employee.

17. An <sup>ample number</sup> ~~adequate supply~~ of baskarts should be provided in each store. If this is done, shoppers will be discouraged from carrying merchandise with them while shopping in a store.

18. Some food <sup>store</sup> ~~chains~~ employ private detective agencies ~~in the locality~~ to handle the pilferage control problem. Some of the advantages of this method are that the ideas used in preventing shoplifting have already been tried, and the agency becomes responsible for what follows after the arrest of a shoplifter. The cost incurred by utilizing the resources of a private detective agency, <sup>is</sup> ~~would be~~ much less than the losses which result from shoplifting.

During the nineteenth annual meeting of the National Association of Food Chains, October 29, 1952, at Miami Beach, Florida, one of the subjects under discussion was "Pilferage Control." Mr. Nathan W. Lurie, Secretary of the Wrigley Stores, Incorporated, of Detroit, Michigan, was one of the speakers on the subject. His

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<sup>1</sup> ~~A piece counter is one who counts merchandise as it is being carried into a store.~~

speech, quoted in part, explained the "Detroit Plan," a method proved successful in the stores of food chains in Detroit.

. . . An idea was hatched that the best way to cope with the situation<sup>2</sup> was with the combined strength and facilities of all the operators . . . It was simple enough for the operators to apprehend the thieves, but the combined efforts of a group would assure prosecution and publicity after they were caught.

The best agency to develop and put the plan into effect was the Food Industry Committee, which represents the major food retailing groups . . .

. . . the necessary contacts [were made] with the Detroit Police Department, the Wayne County Prosecutor's Office, and the presiding Judge of the Recorder's Court. These three agencies were well satisfied with the merits of the plan and agreed to lend their cooperation and assistance. The three local newspapers were then contacted and the editors agreed to give the story full coverage, even to assigning feature writers.

The Committee then prepared a letter of instructions which was sent to all participating companies . . . [This letter contained] the complete procedure, including instructions as to how managers and personnel were to watch for shoplifters; the procedure in catching them; arresting them and how to follow the matter up in court.

. . . Here's how the plan worked--Friday and Saturday, April 4th and 5th, were chosen for the concerted effort.

All major markets and their personnel were on the alert for shoplifters. To simplify the legal procedure only stores within the city limits of Detroit were involved. All personnel were briefed on the subject and imbued with the idea of "catch as

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<sup>2</sup> The situation referred to is that of shoplifting. Taken from a typewritten copy of Mr. Lurie's speech.



many shoplifters as possible." Only in a very few cases was anyone released once they were caught . . . The two day drive netted 58 shoplifters and resulted in 58 convictions . . . The drive was well covered by the newspapers . . . Much publicity space was devoted to the problem, together with many photographs and human interest stories . . . the Food Industry Committee met and it was generally agreed that the plan was sound . . . but we sincerely believe that the Detroit plan has pointed out a practical solution for a reduction of this menace to our operation.

Shoplifting cannot be reduced overnight, or in one single effort. It is a long-range program requiring many plans. It must be a continuous campaign, with the objectives of making the stores of the food chain known among pilferers as places where the risk is too great for the amount that can be stolen. *Use for copy*

In relation to the subject under discussion, circumstances not discussed here will undoubtedly arise in relation to the problem. It is felt, however, that the foregoing treatment of the general principles of conduct, policy, and the law may serve as a basic guide for food chains in the controlling of shoplifting and the protection of their rights without danger of lawsuits, unfavorable publicity and sales declines.

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## APPENDIX

## APPENDIX A

### Letter Requesting Information

Gentlemen:

I am engaged at the present time in writing a thesis on "Pilferage Control for the Super Market" at Michigan State College under the guidance of Dr. Kenneth Wilson. Since pilfering is an important problem confronting the chains, I have decided to write my paper on methods and approaches in lessening and eliminating pilferage.

Information and facts needed for this report must come from the chains themselves, because there is very little written on the subject at this time. I would, therefore, appreciate your providing me with any pamphlets or reports you may have on the topic of pilfering, procedures for store managers to follow, as well as any sample forms used in obtaining signed statements from those shoplifters who are apprehended.

If by chance you have no formal reports then a brief explanation of how you control pilfering in your chain would be gratefully accepted. I thank you for your consideration.

Very truly yours,

Milton L. Berry

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