

SHOPLIFTING POLICY - Procedures and guidelines for use in shoplifting or suspected shoplifting situations. [TEMPLATE - items in blue should not be included in final policy]

This template is intended to provide management with information on developing a written shoplifting policy. This information should not be construed as legal advice or legal opinion on specific facts. This is not intended as definitive statement on the subject but a tool, providing practical information for the reader. The ideas put forth are designed to comply with Federal and state regulations concerning shoplifting situations. Because state vary, users should consult with their own local counsel before implementing any of the suggested policies and procedures contained in this document.

FACT: Shoplifting is estimated to cost every retail establishment between .7 and 2.2% of receipts, with the average estimated to be 1.7%

FACT: It DOES happen at this store.

FACT: This company takes a "hard-line" position against shoplifting.

FACT: In order to do that, we must be careful, even-handed, and persistent.

FACT: Shoplifting is a crime of opportunity and shoplifters will almost always move to an easier target if one is available.

MAKING THE STORE A LESS ATTRACTIVE TARGET

- Place more expensive merchandise under lock and key, or behind counters, or preferably both.
- Install a surveillance system and an alarm system. Make the cameras or camera housings and the various sensors obvious. Even "dummy" cameras can be effective deterrents. Hide and make secure the recording devices.
- Train the sales floor staff to be observant and to offer assistance to customers regularly and often.
- Post signs saying that shoplifters will be prosecuted.
- If you have a paging system, periodically make a generic page along these lines; "Security, report to department 9." Be sure to vary the department number or name.
- Store management should train one or two "shoplifting experts or specialists" on each shift. These persons will be trained more thoroughly in decision making, detention procedures, processing and documentation.
- Prosecute shoplifters! Word will get around!

WHAT SHOULD ALL EMPLOYEES DO [at all times while working on the sales floor]

- Watch for suspicious behavior(s) from customers.
 1. Is (are) the customer(s) wearing heavy bulky clothing even though the weather is good?
 2. Is the customer constantly looking behind, left or right, or above as if to see if anyone, or anything, is watching?
 3. Is a group of customers acting in a boisterous manner as if to call attention to themselves?
 4. Is a customer spending an inordinate amount of time looking at the same relatively high priced merchandise?
 5. Is a customer seemingly resentful or uneasy when a sales associate asks if they can assist?
- Make mental and/or written notes, including descriptions, of any of the conditions noted above.
- Report any of the above conditions to store management or the shift shoplifting "expert."

- MANAGERS or shift shoplifting “expert” – keep a file of these reports for future reference
- MANAGERS or shift shoplifting “expert” – be supportive and appreciative of these reports. **DO NOT** disregard them.

WHAT TO DO IF YOU SUSPECT SHOPLIFTING IS TAKING PLACE. *This is the area where state laws vary the most. Be sure to check with local counsel before implementing any policies and procedures in this area.*

To prevent false arrest claims and establish probable cause for detaining a suspected shoplifter, there are **six universally accepted steps** a manager or employee should follow:

1. You must see the shoplifter approach your merchandise or enter your store without any merchandise in their hand(s). This prevents the scenario of falsely detaining a customer who carried an item to be returned or exchanged into your store.
2. You must see the customer select your merchandise. If you can say without doubt that you saw the customer pick up your merchandise before putting it into a pocket or otherwise concealing it, you again protect yourself from that false arrest claim as in #1.
3. You must see the shoplifter conceal, carry away or convert the merchandise in question. Concealment can be in pockets, in shopping bags, in a child’s stroller. It can even be accomplished in full view as in when tags are removed from articles of clothing. A good example of conversion is a shoplifter eating food before paying for it. *In some, BUT NOT ALL, states, this step is enough to constitute shoplifting.*
4. *In most states, at this point,* you must maintain continuous surveillance of the suspect. You must comply with this step in the strictest sense.
5. You must see the shoplifter fail to pay for the stolen merchandise. Sometimes the thief will walk directly out of the store, but sometimes they will pay for some items but not the concealed one. It is important to see that the concealed item is not retrieved and paid for. There are all sorts of pitfalls for the merchant in this step. Examples – the person concealing or converting a candy bar pays for it along with other items at checkout, the person pays for cigarettes or a newspaper at the cashier and then picks up the item between the cashier stand and the door on his/her way out. As a double check, ask the cashier if the specific item(s) has/have been paid for.
6. You must see the shoplifter leave the store. Your approach to the thief should be outside the store. This eliminates all arguments that the shoplifter intended to pay for the item(s).

So, you think you are witnessing a shoplifting incident in progress. What to do now?

- Alert the shoplifting “expert” designated for your shift at any time in the 6-step process noted above. The sooner in the process the “expert” gets involved, the better!
- If possible, call law enforcement once you have observed all 6 steps. Get them on the way ASAP. This lessens the time store personnel must control the situation and a possibly unruly or violent detainee.
- After a brief review of the information at hand, the “expert” will make an informed decision as to whether or not to attempt to detain the suspected shoplifter.
- If the decision is to detain, the “expert” AND AT LEAST ONE OTHER employee should perform the detention outside the store. *(check your state law, it may not be necessary to wait until getting outside)*
- The approach conversation should be firm, to the point, and polite. It’s possible that there has been a mistake and/or a misunderstanding that can be explained. If the approach situation has been polite, and a sincere apology is given, most often a “non-productive” stop can, and will, be forgotten.

1. Suggested script guideline – “Sir/Ma’am – I am with ABC Pharmacy and I’ve been observing you. Perhaps I’m mistaken, but do you have something in your purse/wallet/coat that you haven’t paid for? Would you please accompany me back into the store so we can clear this matter up?”
2. Alternative script – “Hello, I’m with ABC Pharmacy, could I speak to you about the merchandise in your coat/purse/bag? Would you please accompany me back into the store?”
3. Make the approach from the front.
4. **DO NOT** use force. **DO NOT** lay hands on the person at this point. (avoiding a battery charge)
5. **DO NOT** speak a loud enough voice that it would bring attention from others.(avoiding a slander charge)

95 times out of 100, the person will respond to your request to go back into the store. In those few instances, they do not, the “expert” must make an informed judgment as to whether or not to try to physically detain the person. IN MOST CASES, the potential for serious injury to store personnel would outweigh the benefits. In other words, let the person go if they put up a fight.

- Escort the suspect back into the store to the _____ room. [This room should be off the sales floor and offer sound and vision privacy].
 1. Usually, minimal or no force is necessary to guide the person back inside. The two store employees should walk closely to the suspect and use only the lightest pressure to guide the suspect to the desired location. On the slight chance that the suspect makes a run for it, many times grabbing loose clothing or a belt loop will restrain the person. If the person runs, and they make it into the clear, resist the temptation to chase him/her through the store, or outside, and certainly not in a car.
 2. **AVOID** – the use of excessive force. **NO** choking, punching, kicking, tying up, profanities, ethnic slurs or verbal threats of physical harm or jail time, etc.
 3. At least two store employees should be present in the room at all times until law enforcement officials arrive. One must be the same sex as the suspect.
 4. Make a brief, discrete “pat down” search of the individual to ensure the safety of the detention room. This search **MUST BE** by a person of the same sex as the suspect. Avoid searching pockets and handbags. (Unless your local legal counsel informs that those procedures are legal in your state).
 5. Separate handbags, purses, packages, etc. from the suspect.
- **ASK FOR A RETURN OF THE MERCHANDISE IN QUESTION!**
- Ask for identification (legal in most states).
- After determining there are no extenuating circumstances that would keep us from prosecuting [examples – age of suspect, no merchandise found, mental capacity of suspect], **CONFIRM THAT LOCAL LAW ENFORCEMENT HAS BEEN CALLED.**
- While waiting for the police, begin creating a written record of pertinent facts, observations, and verbal exchanges or statements. [See Appendix A]
- While waiting for the police, requests for water, requests to take prescription medications, or requests to use the restrooms, should be honored. And, of course, any emergency situations should be handled by calling “9-1-1.”
- Requests you can and should decline include smoking, calling attorney, calling parents, “getting some fresh air.”
- Once law enforcement arrives, turn over the reins to them. Cooperate fully, but at this point, it’s their show.
- If an arrest is warranted, a picture should be taken of the shoplifter for the internal report.
- All physical evidence should be photographed and either turned over to the police, or segregated and kept in a secure location for future civil or criminal proceedings.

Use the Golden Rule as a guiding principle when dealing with a suspected shoplifting incident. “Do unto others as you would have them do unto you.” Treating the suspect or detainee in a polite, discrete, yet firm and professional manner will help us avoid civil liability for slander, libel, false arrest, use of excessive force, or discrimination.

