

Retail Theft

From Deterrence to Apprehension

Information and best practices for retail stores



City of Madison Police Department

"Effective prevention often depends on well-rounded strategies encompassing good retailing practices, appropriate staffing, carefully articulated shoplifting policies, and selective technology use."

-R. Hayes

*1993 Retail Security and Loss Prevention
Boston; Butterworth-Heinemann.*

Introduction

The goal of the Madison Police Department is to form an on-going partnership with retail establishments within the City of Madison. This booklet is just one part of this program.

Inside you will find information on how to best protect your assets and merchandise, best practices for establishing good shoplifting apprehension programs, how to use civil liability to recover lost revenue and also how you can best facilitate police response to shoplifters.

The Madison Police Department hopes that through information sharing and partnership you will see a decrease in inventory loss. This will also allow both businesses and the police department to maintain an effective and efficient balance of time and resources.

Best Business Practices for Retail Theft Apprehension¹

To establish a solid base for probable cause, and prevent false arrest claims, there are six universally accepted steps that a merchant should follow before detaining someone suspected of shoplifting:

1. You must see the shoplifter approach your merchandise
2. You must see the shoplifter select your merchandise
3. You must see the shoplifter conceal, carry away or convert your merchandise
4. You must maintain continuous observation of the shoplifter
5. You must see the shoplifter fail to pay for the merchandise
6. You must approach the shoplifter outside of the store

Best Business Practices are just that, best practices not law! Wisconsin State Statutes regarding retail theft² and apprehension³ in conjunction with your store policy govern criminal law and civil liability. Loss prevention officers and managers need to know, understand and appropriately apply statutes to determine how Best Business Practices and store policy should be incorporated into their loss prevention program.

¹ From Shoplifting, Probable Cause by Chris E McGoey, CPP, CSP, CAM
<http://www.expertlaw.com/library/security/shoplifting.html>

² §943.50 retail theft

³ §939.49 defense of property and protection against retail theft

After A Retail Theft Has Occurred

If the suspect has NOT been detained, file a self-report if:

- loss is less than \$2500.00
- no evidence to collect
- not multiple offenses/stores involved
- no suspect information

A physical description alone does not qualify as suspect information. Suspect information should include a full name, license plate, and/or specific identifying information that would readily lead police to the suspect.

Citizen Self-Report System

Self-reports are official police reports. They may be filed in one of three ways: paper, phone or on-line.

Paper— forms are available at any district police station

Phone— 608-245-3662

On-Line— www.cityofmadison.com/police/sru/

Video evidence cannot be submitted via the self reporting process. If still photos can be printed, this could be beneficial to include with the self report. Retailers should consider maintaining all video evidence on the case.

If the suspect has been detained call 911

Self reporting is an important tool to assist the police in identifying low level repeat offenders and trends.

While You Are Waiting for the Police

- Begin working on the store report.
- Do not tell the suspect that he/she will be getting a ticket or will be arrested because there are numerous possible outcomes to every investigation.

Do not tell the suspect that he/she will be getting a ticket or will be arrested

Let the officer conduct the investigation. Refrain from making any statements while the officer is conducting the questioning.

• If the suspect is cooperative we may not be able to respond immediately based on call volume. We will respond as soon as we are available.

• If the person becomes uncooperative (becomes extremely verbally abusive, starts a physical confrontation, attempts to flee) call 911 and we will respond on a priority basis.

What to Expect When Police Arrive

- Let the officer conduct the investigation. The officer may immediately start questioning the suspect without getting any information from you first. Refrain from making any statements while the officer is conducting the questioning.
- Remember that police determine whether a subject will be charged with municipal or state charges.
- We cannot automatically search someone's person or property. If you believe they still have property let the officer know what is unaccounted for and where you believe it is being concealed.

Store Reports

Stores are required to provide police with a copy of their store report.

- If the suspect is taken to jail the report will be needed within the hour.
- If the suspect is cited and released, the report should be available by the next day, unless otherwise agreed upon with the officer.
- The report must include a non-consent statement and that you are willing to pursue a complaint.
- Unless your store has the ability to email reports directly to the officer, sign the store report and write your date of birth under your signature.
- Call non-emergency dispatch and tell them the store has a report ready for pick up and the arresting officer.

You must provide police with a copy of your store report

Juveniles under the age of 12 cannot be issued retail theft citations

Additional Notes

- Juveniles under the age of 12 cannot be issued retail theft citations; under extreme circumstances state charges can be referred to the District Attorney for review.
- Complete ban and/or civil liability paperwork for your store.

Specific Responses to Reduce Shoplifting ⁴

Banning/Trespassing Known Shoplifters

A related but more controversial practice entails banning offenders from, and posting their pictures in, stores. Little is known about the effectiveness of this practice, but if it publicizes shoplifters' identity, it might have some limited value. Where courts have not convicted those identified, both the merchants and the police engaged in the practice are vulnerable to criticism and legal challenge.

When a business opts to ban an offender as a result of their actions or behaviors, the offender should be served with a ban letter. The offender should sign the ban letter and a copy of that letter should be provided to the offender. The original letter should be maintained on file within the retail store.

Regardless of whether police are called to the incident, the letter should be completed if the retailer does not want the offender back on the property. Include a copy of the letter with any self report or store report submitted to the police.

If the offender returns and the terms of the ban letter are still in place, call police. On a priority basis police will be dispatched to address the unlawful trespass⁵ of the offender.

⁴ <http://www.popcenter.org/problems/pdfs/Shoplifting.pdf> pages 20-30

⁵ Madison General Ordinance 23.07(2) unlawful trespass after notification

Using Civil Recovery

In nearly every state, retailers can use civil law to collect restitution from shoplifters, and many retailers take advantage of this. Civil recovery is designed to operate quickly, with little recourse to the courts. The typical sums sought are \$250 for adult shoplifters and \$120 for juveniles, and in nearly half the cases, these sums are paid. Civil recovery is not meant to be a substitute for criminal proceedings. Rather, it is meant to provide an additional shoplifting deterrent (though of unknown effectiveness). Civil recovery also allows retailers to defray some of the costs of loss prevention.

Retail Theft-Civil Liability⁶

A business owner or adult representative may bring a civil action against a retail theft suspect for the following:

- the retail value of the merchandise unless it is returned undamaged and unused and any actual damages (i.e. employee salary for time spent processing)
- exemplary damages of not more than 3 times the amount and reasonable attorney fees, not to exceed \$500.00 for each violation if the suspect is an adult
- exemplary damages* of not more than two times the amount and reasonable attorney fees, not to exceed \$300.00 for each violation if the suspect is a minor

*Exemplary damages are punitive damages.

Prior to filing a civil action, retailers may write a “Demand Letter” to the suspect demanding compensation for the selling price of the item(s) – unless the item(s) were returned undamaged and unused – as well as actual damages of up to 3 times the total of the actual damages not to exceed \$500.00 for an adult and up to 2 times the total of the actual damages, not to exceed \$300.00 for a juvenile.

⁶ §943.51 Retail Theft; civil liability

Improving Store Layout and Displays

Store layout and displays must make it easier for staff to exercise effective surveillance. This includes:

1. reducing the number of exits, blind corners and recesses;
2. carefully placing mirrors;
3. providing good, even lighting;
4. eliminating clutter and obstructions;
5. placing goods away from entrances and exits;
6. creating clear sight lines in aisles and reducing the height of displays;
7. reducing crowding near displays of high-risk items;
8. moving hot products into higher-security zones with more staff surveillance;
9. speeding up checkout to reduce congestion and waiting, which provide the opportunity for concealment.

Eliminate clutter and obstructions

Move hot products into higher-security zones with more staff surveillance

Upgrading Retail Security

Standard security must make shoplifting more difficult.

This may include:

1. restricting the number of unaccompanied children allowed in small neighborhood stores;
2. establishing clear rules for use of changing rooms in clothing stores;
3. displaying only the cassette, CD and video cases in music and video stores (and only one shoe per pair in shoe shops);
4. keeping high-value items in locked displays, or securing them through cable locks and security hangers;
5. encouraging shoppers to use supermarket-type baskets for purchases (which removes the excuse for putting things in their own bags or pockets);
6. sealing bags of legitimate purchases to reduce impulse stealing;
7. giving receipts and, where there is a high risk of shoplifting, checking them against goods on exit; and
8. requiring proof of purchase for refunds.

Establish clear rules for use of changing rooms

Require proof of purchase for refunds

Secure high-value items

Hiring More and Better-Trained Sales Staff

Stores should hire sufficient numbers of staff to properly oversee goods and customers, especially at high-risk periods for shoplifting. Stores must train staff to be attentive to customers and alert for thieves. They also need to train staff in procedures for dealing with shoplifting incidents.

It is important that stores develop clear shoplifting policies, and that staff understand those policies. Most stores routinely refer apprehended shoplifters to the police. For persistent and blatant

Develop clear shoplifting policies, and insure that staff understand these policies

Train staff to be attentive to customers and alert for thieves

offenders, this is clearly necessary. In the case of more opportunistic shoplifters, many of whom show shock at getting caught, it is doubtful that police arrest has any additional deterrent value. It is also possible that an inflexible policy of referring shoplifters to the police could result in reduced staff enthusiasm for apprehending them. Stores are probably best served by a flexible shoplifting policy that includes formal and informal avenues and, perhaps, civil recovery.

Accessing Specific State Statutes

Direct your internet browser to:

<http://www.legis.state.wi.us/rsb/stats.html>

Enter the state statute number you wish to review in the search box in the left sidebar. Then click the search button.

Accessing Specific Madison General Ordinances

Direct your internet browser to:

<http://www.cityofmadison.com/ordinances>

Click on Madison Code of Ordinances

From the listing in the left sidebar, click on the appropriate chapter number for the ordinance you wish to review (ie, for 23.07 (2) you would click on Chapter 23)

Then scroll to the appropriate subsection of the chapter until you reach the specific ordinance you are looking for.

Additional Resources

<http://www.wisconsinproducers.com>

<http://shopliftingprevention.org>

<http://www.popcenter.org/tools/cpted/>

<http://crimeprevention.rutgers.edu/crime/shoplifting/tactics.html>

<http://www.losspreventionmagazine.com>

<http://www.asisonline.org>

<http://www.acfe.com>

<http://www.fmi.org>

<http://www.iapci.org>

<http://www.icsc.org>

<http://www.jewelerssecurity.org>

<http://www.merchantriskcouncil.org>

<http://www.nfssconline.org>

<http://www.nrf.com>

<http://www.retail-leaders.org>



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