**HURST STORES**

**DETENTION OF A SHOPLIFTER**

**(FOR MANAGERS ON DUTY and/or DESIGNATED LOSS PREVENTION SPECIALISTS)**

It is important to understand that management and loss prevention specialists involved in the surveillance and detention process of a shoplifter should be prepared to answer the following questions in a court of law. If any of the following six questions cannot be answered “yes” with confidence, consideration should be given to allowing the suspected shoplifter to leave and to be on watch for that person the next time he or she enters the store.

1. Initial Observation: Was the shoplifter seen entering the store and/or the department without the merchandise for which he/she will be accused of shoplifting?

2. Selection: Can you identify both the product and the location from which the product was taken?

3. Concealment: Can you state how the shoplifter concealed and/or removed the product from the store?

4. Maintained Observation: Was constant surveillance of the shoplifter maintained from the time he/she was observed concealing the product until he/she exited the store?\*

5. Failure to Pay: Did the shoplifter pass all points of payment without making payment for the product?

6. Exit: Did the shoplifter exit the store without making payment for the product?

*\* It will be a rare case in which a shoplifter is kept in sight for the entire length of time. However, if you see the suspect conceal the item and there is reasonable surveillance (you may lose sight of the suspect as he/she goes from aisle to aisle, but you check the end caps and/or fixtures that the suspect passed while out of sight and don’t find the item; or you observe the suspect carrying the item when he/she goes momentarily out of sight and the item is not in his/her hand when he/ she comes back into sight, but you see a bulge in the suspect’s clothing or there is other physical evidence that supports a premise that the item has been concealed), it should be reasonable (under state law) to conclude that the item of merchandise is on the suspect’s person or inside something being carried by the suspect.*

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

1. To confirm that the unpaid merchandise is in the possession of the shoplifter.

2. To positively identify the shoplifter.

3. To recover the stolen product.

4. To notify the supporting law enforcement agency so that an arrest can be made and prosecution pursued.

**PROCEDURE FOR DETENTION OF A SHOPLIFTER**

1. The Manager on Duty and/or a designated loss prevention specialist should **ALWAYS** lead and supervise the detention. **Associates/cashiers are NOT to attempt to detain suspected shoplifters.**

2. Always allow the suspect to completely exit the store.

3. Alert a cashier on the way out to call the police.

4. There should always be two people involved in a detention, one of whom should be a manager. If the suspect is female, one of the detainers should be female.

5. **Never touch or accuse the suspect of theft or use words like “steal” or “theft” during the detention process** — simply identify yourself as a store employee and ask the suspect to come back into the store to “resolve a discrepancy.” If the suspect balks or makes excuses why he/she cannot return to the store, advise him/her that if he/she does not return to the store, the police will have to be called (do not advise the suspect that the police have already been called).

6. If the suspect outright refuses to accompany you back into the store or threatens any type of physical violence, **DO NOT attempt to physically detain him/her. DO NOT chase the suspect.** Allow him/her to proceed to their vehicle; then obtain a vehicle description, license number and direction of travel, and immediately call 911 and relay that information to law enforcement.

7. Keep the hands of the suspect in sight at all times during the detention process and after reentering the store.

8. If the suspect is female and you could not have a female be involved in the actual detention, have a female standing by inside the store to accompany you to the interview room.

9. When escorting the suspect back into the store, one detainer should walk beside the suspect and the other detainer walk behind the suspect. If the suspect discards the stolen item while walking back into the store, the detainer behind the suspect simply picks it up and retains it for law enforcement.

10. There must be a designated room within the store to which suspected shoplifters are taken.

11. Seat the suspect in a location in which his/her entire body (particularly his/her hands) are always visible. DO NOT LOCK THE DOOR. (NOTE: If the suspect, at any time, states that he/she is not guilty of anything and begins to move towards the door to leave, **DO NOT use physical force** to attempt to stop the suspect. Simply advise them that there is eyewitness and CCTV coverage of the incident, the police have already been notified. and that it would be in their best interests to wait for them. If they leave the store, make note of the vehicle description, license number and direction of travel, and call 911 immediately.)

12. Ask the suspect for his/her driver’s license. If he/she claims not to have a driver’s license, ask for any other form of identification that has a picture on it. If the suspect claims to not have any form of identification, one of the detainers should leave the room (leave the door open) and call the police dispatcher, refer to the earlier call for assistance, and advise the dispatcher that the suspect claims to not have any identification (this is typically an indication that the shoplifter is a professional or someone who has been in trouble with the police before). That information may cause the dispatcher to increase the priority of the call.

13. Recount with the suspect the observations of the detainer(s) who observed the shoplifting.

14. Do not search the suspect, but ask him/her to place the shoplifted item(s) on the desk or table.

15. If the suspect states that he/she does not have the item(s), advise him/her that it is store policy to notify the police in all cases of shoplifting, and that the police are on their way to the store and will undoubtedly search them. Otherwise, you do not have to advise the shoplifter that the police have already been called; however, if the suspect asks if the police have been called, simply state that it is store policy to notify the police in all cases of shoplifting.

16. Begin completion of an Ace Hardware Incident Report to document the observations of the associate(s) who witnessed the shoplifting, the detention process, and all statements and actions of the shoplifter during the detention process. Be prepared to take written statements from the associates involved, as well as photos, if deemed appropriate. Identify the shoplifted item(s) by SKU and description.

17. If a fair amount of time has passed since the police were called (e.g., 30 minutes) and they have yet to arrive, one detainer should leave the room (leave the door open) and call the police, advising the dispatcher that it has been over 30 minutes and that an officer has yet to arrive; and ask for an estimate of time when the officer will arrive. If the dispatcher advises that it could still be some time before an officer arrives, ask for advice as to how much longer the suspect should be detained (remember the reasonable period of time caveat in most state statutes) and comply with the advice given by the dispatcher. Also ask the dispatcher for his/ her name, and make note of it in the report.

18. If, before the police arrive, the shoplifter states he/she must use the restroom, do not refuse, but advise that one of you (of the same sex) will accompany him/her - and if there is a stall door in the restroom, it may not be closed. **Ask the suspect NOT to flush**. The accompanying detainer should be alert to attempts by the suspect to remove evidence and leave it behind in the restroom.

19. Once the police arrive, one of the detainers should leave the room (leave the door open) and brief the officer on the incident. The police officer will take over at that point.

20. Be sure and get the responding officer’s name, along with the case number assigned to the incident (typically, the police officer will provide his/her business card with his name and the case number).

21. Follow the instructions of the officer regarding disposition of the evidence. If the officer elects to leave the evidence with you, it should be secured in a manner that guarantees its protection and availability at a future date. (NOTE: Normally, the officer will take the evidence and it will be secured at the police station/sheriff’s office. In those cases, it is important to maintain contact with the law enforcement agency and request release of the product when the case is concluded.)