



Association of Business Crime Partnerships

Making Arrests

A Good Practice Guide
for Retailers

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The advice contained in this booklet is an outline of the law on theft and a guide to good practice for those dealing with shop theft.

Further advice may be obtained from your local police, legal adviser or trade association.

Introduction

This booklet provides information about crimes committed against retailers and offers advice on how to arrest customers who steal from your shop. The advice should be used as a good practice guide which will help to ensure you carry out an arrest safely and legally. It is likely that you will be presented with a dishonest customer at some time and you will feel that the person has to be arrested. So since this is about a legal process, let's start with some definitions and rules.

What is Theft?

The Theft Act says that any person who dishonestly appropriates property belonging to another, with the intention of permanently depriving them of it, is guilty of theft. This means that a person who takes goods from your shop without paying for them, and with the intention of keeping them, is stealing.

- You will need to prove that:
- The goods existed and were taken by the thief;
- Payment was avoided;
- The intention was to keep the goods for their own use.

What is an Arrest?

An arrest is taking away a person's liberty – preventing them from leaving your store because of theft. You do not have to touch them, but they must be told they have been arrested and the reason why. If they resist you may use force, but only such force as is reasonable in all circumstances in effecting or assisting in the lawful arrest of an offender, or in defending yourself.

What Are Your Powers of Arrest?

A person other than a constable may arrest without a warrant:

- Anyone who is in the act of committing an indictable offence;
- Anyone whom he has reasonable grounds for suspecting to be committing an indictable offence.

When Can You Make an Arrest for Theft?

When you know a theft is happening or when you have reasonable grounds to suspect that a theft is happening.

Who Can Make an Arrest?

Where an indictable offence has been committed, a person other than a constable may arrest without a warrant:

- Anyone who is guilty of the offence;
- Anyone whom he has reasonable grounds for suspecting to be guilty of it.

What are Reasonable Grounds?

Reasonable grounds are more than just suspicion. This maybe staff seeing someone removing an item from the store and alerting you, or where a customer has deliberately hidden something in a bag or in their clothing. Do not rely on allegations by staff or other customers – use your own judgement.

What are the Limits to the Power of Arrest?

The power of summary arrest is exercisable only if:

- The person making the arrest has reasonable grounds for believing that for any of the reasons mentioned below it is necessary to arrest the person in question; and
- It appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

The Reasons are to Prevent the Person in Question:

- Causing physical injury to himself or any other person.
- Suffering physical injury.
- Causing loss of or damage to property; or
- Making off before a constable can assume responsibility for him.

What Points Should You be Certain of?

- That you have evidence or reasonable suspicion that goods have been stolen.
- That you have kept the suspect under continuous observation or you are sure that the goods have not been dumped. If not, do not intervene – it is better to let the person go and take a note for next time than risk an allegation of wrongful arrest.
- That you have seen the suspect pass through the check-out without paying or attempting to pay.

How Should You Make an Arrest?

- Never attempt to make an arrest if it is unsafe to do so. Your welfare is more important than property. Let the suspect go and call the police. Follow safely if you can, but do not put yourself at risk.
- Whenever possible have someone to witness the arrest and be on hand to help you.
- Stop the customer beyond the area set aside for payment – while this will in many cases mean outside the store, if you feel it is unsafe, they may be stopped within the shop just before they leave.
- Ensure you keep the suspect in sight for continuity of evidence and to prevent dumping of goods and accusations of wrongful arrest.
- Introduce yourself and explain that you believe they are in possession of goods that may not have been paid for.
- Ask them to return voluntarily with you to the shop so the matter can be sorted out. Do not try to deal with it on the street. You may be in danger from the suspect, accomplices or members of the public.
- Note any replies or explanation made. Remember, at this stage you are still enquiring and not accusing.
- If the person declines you will have to decide if you are now going to formally arrest the suspect, using only that force required to make the arrest.
- Once in the shop go somewhere private and ask the suspect to empty their purchases out. You are not permitted to search a person as it may amount to an assault. If you feel they are still hiding goods – in coats or pockets – point and ask them to turn out the pocket. If they refuse, inform them you will have to call the police. Make sure they do not ditch the goods – for example, during visits to the toilet or other diversions.
- Remember, there is no way of physically restraining a suspect or preventing them leaving your premises short of making a formal arrest. So be certain this is the course of action you want to take.

- Once the goods are emptied out, ask to see the customer receipt and check them off against it. If there are no discrepancies and there is no other evidence of theft, apologise, offer regrets for the inconvenience and an explanation for your actions.
- If there is still a discrepancy between the purchases and the customer receipt, use the till roll to cross check.
- Note any replies or other relevant conversation.
- Once you have decided that there is evidence of theft, decide whether it is appropriate to formally arrest the person and call the police, or whether you wish to deal with it by way of a store caution or store banning. Always obtain details of the suspect and record full details of the event in your store incident book.



What Should You Ask the Police to Deal With?

If you are going to call the police, then it should be because you expect them to take some form of action. You may feel the offence is serious and the person needs to be charged. There may be other reasons for calling the police. For example, shop theft is one of the major ways that young people enter a criminal career – the police should generally deal with juvenile offenders so that their parents and other agencies can be aware of their behaviour and take steps to prevent re-offending. Or you may feel it is appropriate for a caution, in store or at the police station, to be given by the police.

1. You have all the evidence to hand – the stolen goods, customer receipt, till roll, witnesses' details, and a good account of what happened.
2. You know why you have called the police and are able to explain this to the officer.
3. You can express a view of what you feel should happen to the suspect and why.

There may be local guidelines on the sort of cases you should call police to.

There may also be local variations or special circumstances where you feel other cases should be included – such as where there are serious problems with schoolchildren, vagrants and drunks, problem families or gangs of youths. Discuss these issues with your local police and try to get together with other traders to present a fuller picture of your difficulties.

What Evidence Should You Give to the Police?

We have discussed briefly (What points should you be certain of?) the evidence you should be in possession of before you call the police. We now want to detail other evidence which should be available to support your case and ensure that the police officer is able to make a better decision on how to deal with it.

Be able to identify and describe:

- The suspect.
- When you first saw the suspect (and any accomplices) in your store and why you became suspicious about their behaviour before the theft.
- Details of the theft and goods stolen.
- How the suspect left the store – how they failed to pay for the goods.
- How you approached the suspect and what you did.
- Details of conversations with the suspect.
- How you made the arrest – including the time and place of the arrest.
- What happened after this and where.
- A list of ‘exhibits’ – including details of the stolen goods, the till roll and customer receipt, details of witnesses who may help you, details of any bags, clothing or other items in which the stolen goods were hidden. Video evidence is important so make sure you have clear recordings and offer them to the police.

Cases Which Should Normally be Referred to the Police

- Where there is evidence that the theft was planned.
- The theft involved property of significant value to your business.
- The suspect is known to have a previous caution or conviction for theft.
- The victim of the offence is vulnerable, was put in fear, suffered personal attack, damage or disturbance.
- A weapon was used or violence was threatened or used.
- The offence was carried out by a group.
- Where the issue of a fixed penalty notice is an appropriate way to deal with an offence of theft.
- The suspect was the ringleader or an organiser of the theft.



There may be cases where you are unsure of the right way to deal with a suspect.

Call the police to help you in these cases. The police will decide whether to take a person into custody and to remove them to the police station for further action. If the police officer decides to deal with the suspect by either cautioning them or taking no action at the time, you should ask for the reasons – there may well be a good reason relating to the evidence or the circumstances of the suspect, but you are entitled to know why.

If you follow this guidance you will provide the police with a better case upon which to make a decision. The

majority of shop thieves do not go to court, but are dealt with either in store or by alternative means even when the police are called. Part of your job is to be professional about how you deal with shop thieves and why you call the police. It will help if you develop a store policy as to what cases you are going to deal with and why, and what cases you will call to the police to and why.

Apart from those cases shown in the section 'CASES WHICH SHOULD NORMALLY BE REFERRED TO THE POLICE', there will be others which are deserving of their attention. Think through those cases which are a particular problem for you or other retailers and where you think there will be benefits from a local policy for calling the police.

Cases Which Should not Normally be Referred to the Police

There are circumstances where police will not normally arrest an offender, but you may still need to call them to deal with the person – by taking them to hospital, a place of safety or home to parents. You should have a policy for cases such as these.

- Where the offender appears mentally ill or disturbed in their behaviour.
- Where the offender is old and appears confused.
- Where the offender is very young.
- Where there would be no benefit by proceeding to court.
- Where the value of goods stolen is very small.
- Where the offender readily admits the theft and you do not think it will recur.





Remember

- Arrest should be a last resort.
- It will take a lot of your time.
- It carries risk and can leave the retailer feeling dissatisfied with the process and the outcome.
- Prevention is more cost-effective, so spare some time and thought on developing retail crime prevention for your business.