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**TESTIMONY OF
ROBERT A. WASPE, ESQ.
VICE PRESIDENT AND COUNSEL
THRIFT DRUG COMPANY**

**BEFORE THE
COMMITTEE ON JUDICIARY,
PENNSYLVANIA HOUSE
OF REPRESENTATIVES**

HOUSE BILL NO. 1882

APRIL 19, 1990

Representatives, Ladies and Gentlemen. My name is Robert Waspe. I am Vice President and Counsel for Thrift Drug Company, a Division of J.C. Penney Company, Inc. I also serve as President of the Pennsylvania Association of Chain Drug Stores, a trade association representing 11 of the largest drug store chains in the Commonwealth. With me today is Mr. James Smith, Vice President of Loss Prevention for Thrift. It is a pleasure and an honor for us to testify before this Committee on H.B. 1882, a bill which we believe is urgently needed in this Commonwealth.

Shoplifting is a serious problem in this country. It is estimated that shoplifting costs retailers roughly five percent of their sales. This amounts to over sixteen billion dollars each year. Efforts to stop retail theft have included the use of security personnel, observation by store associates, closed circuit television cameras and electronic tags. While security measures are often effective, they are very expensive. The cost of loss prevention is inevitably passed on to consumers, currently over \$200 a year for every household.

We believe that H.B. 1882 represents a significant step forward in the effort to eliminate retail theft. Similar bills have already been passed in 27 other states and six states are currently considering civil restitution.

As you are aware, this bill allows the victimized party (typically retailers) to seek a monetary award for damages from shoplifters without resorting to the criminal court system. Specifically, it authorizes the court to award: restoration of the stolen merchandise or its value, actual damages arising from the theft incident incurred by the retailer in the

apprehension and prosecution of its' case, attorneys fees and court costs and a civil penalty of three times the value of the merchandise or \$100, whichever is higher.

The amount of the recovery is limited to \$500 more than the value of the stolen merchandise and may only be awarded if the retailer first made a written demand for payment not less than thirty days before commencing the action which was not satisfactorily responded to by the defendant.

Persons who comply with the civil demand letter must be released by the retailer from any further civil liability for the specific act of retail theft.

An additional important component of the bill is that it applies parental responsibility to the retail theft actions of their minor children.

Why is this bill necessary? An examination of the current remedies available to the retailer clearly demonstrate its need. Under current law, an individual apprehended for shoplifting is liable for criminal prosecution and civil action. Let's hypothetically assume an individual is apprehended by store personnel stealing a \$25 dollar bottle of perfume. Under current law, the store manager will hold the individual until a policeman arrives, which can be a lengthy period of time. Once a report is filed, the manager, if he did not recover the bottle of perfume, must decide whether to press criminal charges and/or a civil suit to recover his damages. Should he pursue the civil suit, he will spend more money to file the suit than he can recover in damages. Not to mention the time and costs of an attorney. This serves as a very real and practical deterrent to pursuing a civil remedy.

On the other hand, he or she may bring criminal charges. I am sure it will come as no surprise to the members of this Committee that district attorneys and the courts do not like to see their already overburdened load further bogged down with what they consider to be "minor" cases. Mr. Smith will testify as to actual experiences we have encountered in pursuing apprehension and criminal prosecution.

The net effect of the current system is that the victims of retail theft are without a practical remedy for their injury. We believe that passage of H.B. 1882 will give victims an effective means to redress their injuries and deter theft without impinging upon the rights of defendants. I will be happy to answer any questions you may have after Mr. Smith testifies.

PACDS

PENNSYLVANIA ASSOCIATION OF CHAIN DRUG STORES, INC.

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3 pages

MAY 6

May 3, 1990

TO: Members of the House Judiciary Committee
FROM: Robert A. Waspe, Esq.
RE: SHOPLIFTER "PROFILE"

Attached, please find a report in response to those committee members who asked us to provide a profile of the typical shoplifter at the recent public hearing on H.1882 (Civil restitution for retail theft).

The report tends to confirm our general contention that shoplifters are reflective of the communities in which they live.

The report also highlights the staggering dimensions of the problem suggesting that for the 2 million shoplifters that are apprehended annually, there may be 70 million "getting away with it."

RAW/gh

Attachment

Shoplifter Apprehensions

(Continued from Page 1)

In other respects, the new CSS report confirms the trends of the past

- 3-6 PM is the time when most shoplifters are caught.
- 18-29 is the age group most often apprehended.
- Apprehended shoplifters are tending to get older: 51% being under the age of 30 in 1987 compared to 64% under 30 only 5 years ago in 1982.
- Apprehended male shoplifters continue to outnumber females 55% to 45% respectively.
- Apprehended adult male shoplifters predominantly choose their pockets for concealment - 44.6%, or under their clothing - 37.9%. Adult female shoplifters apprehended overwhelmingly used their purse to hide items - 68.8%.
- The average number of articles recovered remained about the same at 3.2, and the dollar value of merchandise recovered averaged \$11.19.

In closing the report, Griffin points out that all the data is based upon actual apprehensions and in no way can be used to determine the amount of shoplifting or the rate of increase or decrease that in fact goes on. The number of apprehensions is only a reflection of the effectiveness of the effort being made to apprehend.

Griffin will only say that he feels that shoplifters are out there everywhere - and in significant numbers - and that a huge percentage of their activity is going undetected. Based upon his experience, he estimates that, on average, there are 9 shoplifting incidents per store per day. If the average theft of \$11.19 holds up across all these estimated incidents, then the total loss to supermarkets, convenience stores and all other grocery stores in the U.S. will exceed 2 billion dollars a year. Shoplifting is very big business.

In a related article on shoplifting which recently appeared in an issue of LIFE magazine, they estimated that for every shoplifter caught in the U.S., 35 go undetected. Using this statistic and their estimate that almost 2 million shoplifters will be apprehended this year, some 70 million shoplifters will be out there getting away with it. Providing yet another perspective on the problem, the November/December issue of The Peter Berlin Report cited the FBI findings that shoplifting was the fastest growing crime in their entire larceny category.

The CSS 25th Annual Report includes a work sheet and formula to help individual retailers estimate their shoplifting losses. To receive a complimentary copy of the CSS report, our readers are invited to send a request in writing on company letterhead or accompanied by a business card to Roger Griffin, Vice President, Commercial Service Systems, Inc., Box 3307, Van Nuys, CA 91407. ■

Highlights of CSS Shoplifting Report — 1986 vs 1987

	Supermarkets — 1986 — — 1987 —		Supermarkets — 1986 — — 1987 —		
Total Apprehensions by Participating Stores:	13,940	9,832	Time of Apprehension:		
Average Value of Merchandise Recovered Per Apprehension:	\$11.60	\$11.19	Before Noon	10.3%	11.3%
From Adults	\$12.95	\$11.97	Noon - 3:00	27.6	30.1
From Juveniles	\$ 7.62	\$ 8.62	3:00 - 6:00	34.8	34.5
Average Number of Items Recovered Per Apprehension:	3.2	3.2	6:00 - 9:00	22.2	19.9
From Adults	3.4	3.3	9:00 - Midnight	4.3	3.3
From Juveniles	2.7	2.9	Sex of Shoplifters:		
Percent of Cases Where Merchandise Value Was:			Adult — Male	58.3%	55. %
\$25 or Less	89.3%	90.5%	Female	41.6%	44.9
\$10 or Less	69.8	70.1	Juvenile — Male	60.0	58.2
\$5 or Less	47.6	47.8	Female	40.0	41.7
Percent of Cases With:			Age of Shoplifters:		
3 or Fewer Items Stolen	72.2%	71.7%	Under 18	17.5%	16.1%
1 Item Stolen	38.4	39.1	18 - 29	36.2	34.5
Percent of Shoplifters Prosecuted:			30 - Over	46.0	49.1
Total Adults	36.8%	25.5%	Primary Method of Concealment:		
of Juveniles	26.5	20.0	Purse	28.8%	29.3%
			Pocket	25.6	28.3
			Under Clothing	30.0	25.1
			Shopping Bag	1.6	1.7
			Other Bag	3.2	3.2
			Accomplice	3.4	3.1
			Label Switch5	.5
			All Other	6.3	7.9

Source: 25th Annual Report on Shoplifting, Roger Griffin, Commercial Service Systems, Inc., Van Nuys, Calif., 1988

SHRINKAGE CONTROL

SERVING THE RETAIL INDUSTRY

EXECUTIVE EDITION

April, 1988

25th Annual CSS Report:

Shoplifter Apprehensions Rise 21% — Highest Increase In Recent Years —

In what may be a reversal of the trend seen in recent years, the new 25th Annual Report on Shoplifting in Supermarkets shows a 21% increase in the average number of shoplifter apprehensions in participating stores in 1987. Prepared by Roger Griffin, CPP, Vice President of Commercial Service Systems, Inc. of Van Nuys, CA, the report details the results of apprehending 9,832 shoplifters in 391 supermarkets located in Southern California.

In 1986, the number of shoplifter apprehensions in Supermarkets average 20.7 compared to 25.1 in 1987. In the previous years of declining apprehensions, there was speculation that perhaps stores were cutting back on security measures and, according to Griffin, "this is true." However, how then does one explain the increase in 1987? Are fewer security agents working harder and smarter? Are the companies using them more efficiently? Have training and skills improved, or are the results simply a reflection of this year's sample group? As Griffin points out, "one year does not make a trend...we will have to wait and see."

Within the categories of merchandise recovered, the percentage of cases with one or more items within the indicated categories did show some changes:

Category of Recovered Merchandise	Percentage of Cases	
	1986	1987
Health & beauty aids	10.4	17.8
Cigarettes	20.6	17.0
Fresh meat	10.3	12.6
Deli	7.6	9.8
Liquor	7.9	7.8
Clothing	1.6	1.6
Vitamins	.7	.7
Other food	19.3	21.1
Other Non-food	40.0	37.6

Two other statistics in this 25th annual CSS report are something of a surprise: the percent of adult shoplifters prosecuted is down from 36.8% in 1986 to 25.5% in 1987, and the percent of juveniles turned over to police is down from 26.5% in 1986 to 20.0% in 1987. Here again, these are the largest changes, up or down, seen in twelve years (with one exception: in 1980, juveniles to police increased 7.4% over the previous year).

(Continued on Page 7)

Berlin Acquires Shoplifters Anonymous- Continues Research and Rehabilitation Programs

BULLETIN

Glen Mills, PA - Lawrence A. Conner, Jr., the son of the late founder of Shoplifters Anonymous, a firm specializing in research and rehabilitation of apprehended shoplifters, has announced that Shoplifters Anonymous has been acquired by Peter D. Berlin, an internationally known retail shrinkage consultant and founder and publisher of "The Peter Berlin Report On Shrinkage Control" newsletter. The change is effective immediately.

At the same time, it was announced that Berlin had re-established Shoplifters Anonymous as a New York corporation under the leadership of himself and James Cleary, Jr., prominent retail attorney, author, consultant and former prosecutor in Kansas City, MO.

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THE PETER BERLIN
TAIL CONSULTING GROUP, INC.

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