

Shoplifting, Criminal Justice and Community Restorative Approaches

In my experience, as a police officer for nearly 25 years, I have known shoplifting as a particularly perplexing issue. Nobody in the system likes to deal with it and nobody seems to have a good feeling for how best to intervene when this crime occurs. Stores either decline to prosecute (or actively pursue any solution) or they want *everything* prosecuted in the name of prevention. The latter assumes the very act of prosecution will create so much apprehension in a shoplifter that they will determine never to do it again and tell everyone they come in contact with to never shoplift because the experience is so horrible. Police view these cases as a waste of time or a nuisance at best. They do not believe arresting shoplifters does any good and see it as a burden to write all those reports for no good reason. The result is officers seek the maximum penalty for everyone they must be involved with as a way of satisfying their need for revenge against those who create such nuisances. It rarely has anything to do with what is best in any individual case or what will impact the crime as a whole. Prosecutors and judges don't feel much differently and tend to believe if stores did their job this crime would not occur, therefore sympathy or even empathy for the victim is non-existent or replaced with a "healthy" dose of cynicism. This often results in cases getting dismissed or at least diminished in significance. The defense bar happily agrees with this because shoplifting is not a major crime and those who commit it are not "really" criminals.

All this results in a profusion of confusion where nobody gets what they want and inconsistency abounds. More often than not the message shoplifters come away with is exactly the wrong message, either suggesting this crime is so trivial society condones it or getting angry at being abused by the same system that let a murderer go free last week due to a technical breach of some obscure procedural rule. Either way, the shoplifter may well feel justified in continuing to shoplift and nothing changes. There may be a better way to approach these cases, using the principles of community restorative justice.

Before discussing how community restorative justice might work with shoplifters, let us look at what goals we share in trying to appropriately impact shoplifting. First, everyone wants to stop shoplifting from happening. In the interest of community concord we want every person to become a valued member of the community contributing positively to the collective well being. We hope stores will price merchandise at a level where most people can afford most things. We want our shopping experiences to be open, and pleasant, free of obstacles and difficulties.

Shoplifting raises prices, which creates hardships for some encouraging more shoplifting. Through restorative approaches we seek to repair harm, thus covering the costs of shoplifting by having the shoplifter pay those costs directly. This helps keep costs down as stores no longer need to cover losses by passing costs on in price hikes to all customers. By reducing the level of shoplifting stores remain better able to offer the atmosphere and freedom shoppers enjoy. They don't have to lock up all the merchandise to keep it safe. Restorative practices explore the real impacts of shoplifting. Getting the shoplifter to understand how he impacts store employees, the customers and the community by directly confronting these issues helps build understanding and empathy in the offender. It is not Target Corp. they hurt, it is the store clerk trying to live on low wages, the grandmother who has to pay more than she can afford to cover the cost of the theft, the parent who now is too ashamed to go back to that store. Once the cost of crime

is personalized it is much less likely that individual will return to commit a similar act, especially when the shoplifter is directly involved in finding the solution to the problem. Restorative practices allow offenders a chance at redemption, through direct accountability. It produces higher expectations for the future. The system tends to seek restitution, punish the offender and label him as a shoplifter. This creates an expectation that the offender will shoplift since that is what he does. There is little or no empathy established and the shoplifter now fulfills his place in society by shoplifting, thus meeting his now defined expectation. The system also does not address why this happened, it simply defines shoplifting as wrong and the shoplifter as bad. Restorative processes seek to determine why this is happening so those issues can be addressed removing the shoplifter's "need" to engage in this behavior creating a greater likelihood he will stop offending.

When we respond to shoplifting as a minor nuisance we encourage the behavior. If we overreact and treat each case as a major crime, especially if we are very "black and white" in punishing it, we create an atmosphere where the actor begins to define himself as a shoplifter and responds accordingly. Community restorative approaches treat each case as a distinct entity. Every case is important in the context of individual and community harm. The behavior is never condoned and individual accountability is stressed but the shoplifter is allowed to repair damages, deal with his issues supported by a caring community and return to that community as a valued member, not shut out and labeled as a bad person. The shoplifter hears the affects of his behavior and gets to tell his story also. The community helps restore the victim and reintegrate the offender. Several recent studies show this approach reduces repeat offending considerably and appears to be more effective than the traditional system in stopping this behavior.

The agency I work for, Woodbury Public Safety, has a community restorative justice program through which we use community conferencing to handle shoplifting cases. This program is the primary resource for disposing of juvenile matters in Woodbury with over 50% of all juvenile cases referred to it rather than the traditional court process. Today we take all types of cases including felonies, except serious felony assaults, homicides and criminal sexual conduct cases as diversion cases. Our department has indeed adopted a philosophy of restorative problem solving that now permeates our daily business. As a result we approach the shoplifting problem from a somewhat unique perspective.

Most misdemeanor level shoplifting cases are handled through our "street diversion program". The responding officer, asking the basic questions of the offender a conference would, conducts a formal "mini-conference". Who was affected? How? What can you do to repair harm and prevent this behavior in the future? These questions explore the situation more in depth than a mere verbal warning and quick referral. Parents and victim are there and participate. This creates a more formal, in-depth and quick disposition of the incident. Officers can do needed referrals on the spot and sign a contract with the offender. Everyone is more satisfied and knows immediately what the outcome is while the offender is held directly accountable and understands the incident is not a trivial matter, as it has an affect on *real* people. This process takes only an extra 20 minutes or so on the original call and saves hours down the road. The most significant impact is with offenders and victims. Offenders repeat far less often after experiencing

this process as compared to those who go through the traditional system. Victims are far more satisfied with the outcomes and appreciate being directly involved.

More serious cases or those involving multiple repeat offending patterns are handled with a formal conferencing process. This allows victim (or victim representatives), offenders and families, other support people and community members to explore incidents and their affects more deeply. The formal process allows people to explore contributing issues more thoroughly and include solutions involving those issues in conference agreements. This may include drug rehab, family counseling, educational assistance, job assistance and cognitive restructuring classes, among many other options. This process allows the group to find a solution of repairing harm and preventing future behavior that is more individually appropriate and thus much more likely to succeed. In fact, our experience shows a reduction in repeat offending of 50% for those going through this process as compared to those going to court. Both victims and offenders report satisfaction rates in the high 80 to low 90 percent range. Restitution is paid at a rate exceeding 98%. While not every case is suitable or would benefit from this process, where it is applicable the benefits far exceed any costs associated with the program.

Woodbury has established a philosophy of policing by problem solving. Restorative processes have proven to be an ultimate problem solving tool for us in which we can enlist the affected community as direct partners in reaching a mutually agreed upon solution. This partnership has produced a broad community trust in our ability to impact local problems thereby creating a very positive image of this department and a willingness of the community to work with us in policing the city. In incidents of shoplifting these processes have allowed us to streamline our approach to the problem, speed up our response and gear that response in a way that best impacts each situation and allows us to actually, positively, impact shoplifting in our city.

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7/11/2001