

Fall 1962

## Successful Court Treatment of Shoplifters

John A. Ordway

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>



Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

John A. Ordway, Successful Court Treatment of Shoplifters, 53 J. Crim. L. Criminology & Police Sci. 344 (1962)

This Comment is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

## "SUCCESSFUL" COURT TREATMENT OF SHOPLIFTERS†

JOHN A. ORDWAY, M.D.\*

Between 1957 and 1960 the Cincinnati Municipal Court Psychiatric Clinic noted among shoplifters (1) an apparently low rate of recidivism, (2) a high incidence of pre-crime depression, and (3) a frequency of recent personal losses. This paper will present findings and hypotheses that have evolved from an investigation of these impressions. The investigation utilizing the patients' charts has been carried out in the Clinic itself; the Chi Square Analyses, by Dr. Richard E. Edgar, of the Research Department of the Community Health and Welfare Council of Cincinnati.

The Court Clinic is administered by the Presiding Judge of the Municipal Court and serves as a diagnostic and referring facility for adult patients who have been convicted but not yet sentenced. The staff, closely affiliated with the Department of Psychiatry, College of Medicine, University of Cincinnati, is composed of a psychiatrist, a psychologist, and a psychiatric social worker. Additionally, resident psychiatrists from the College of Medicine spend three-month rotations on the staff as part of their training program. A typical patient workup consists of a psychiatric examination, neurological examination, psychological testing, and casework interviews with the patient and/or spouse.

For the purpose of this paper and in keeping with the Cincinnati City Ordinance, "shoplifting" is defined as stealing, taking, or unlawfully carrying away anything of value of less than \$60 from a merchandising establishment. In other words, the shoplifter is the person who goes into a store and steals goods of relatively low value but is not an automobile stripper, purse snatcher, honor bag dipper, or hubcap lifter.

† This paper was read at the 117th Annual Meeting of the American Psychiatric Association, in Chicago, Illinois, May, 1961.

\* Dr. Ordway is Director of the Cincinnati Municipal Court Psychiatric Clinic. He is also Director of the Alcoholism Clinic in Cincinnati, Attending Psychiatrist at the Cincinnati General Hospital, and Consultant to the Neuropsychiatric Service of the Veterans Administration Hospital in Cincinnati. Dr. Ordway is a Fellow of the American Psychiatric Association and serves on the Committee on Psychiatry and the Law of that Association. He is also Past President of the Tri-State Group Psychotherapy Society.

### INVESTIGATION, FINDINGS, AND TENTATIVE CONCLUSIONS

First, the apparently low rate of recidivism was investigated. A review of the charts turned up a total of 85 shoplifters. This "Clinic" group was then compared with a control group of "non-clinic" shoplifters convicted in 1956, the year before the clinic opened. In comparison a 16.5 month follow-up period was used. Over this period the non-clinic group had had a 38% rate of recidivism, the Clinic group 1%. (Table I) Chi Square analysis confirmed the statistical significance<sup>1</sup> of these differing rates. Chi Square analysis further confirmed the similarity<sup>2</sup> of the two groups in *previous* recidivism. It was tentatively concluded that the referral of a shoplifter to the Court Clinic was associated with a lower rate of recidivism among shoplifters. When the recidivism rate of the control group was compared with the recidivism rate of 66% estimated by Edgar<sup>3</sup> for all *other* types of misdemeanants, it was further tentatively concluded that shoplifters as a group, whether referred to the Clinic or not, tended to repeat less frequently than other misdemeanants.

The impression of the Clinic staff that a large number of the shoplifters were depressed at and just before the time of the crime was then investigated through a review of the 85 "Clinic" shoplifters' charts. The clinical diagnoses were tabulated and the discussions of the cases studied. For the diagnosis of "depression" the staff referred to the diagnostic entities in the American Psychiatric Association's Diagnostic and Statistical Manual for Mental Disorders: Depressive Reaction, Psychotic Depressive Reaction, Depression (as a supplementary term), etc. Diagnoses were based on the criteria set out in the manual. Forty-three per cent of the "Clinic" shoplifters carried a diagnosis of depression. In 33% more of the cases the diagnosis of depression was seriously considered

<sup>1</sup>  $\chi^2 = 8.870$ ,  $p < .01 > .001$ , and therefore *reject* null hypothesis of no significant difference.

<sup>2</sup>  $\chi^2 = 1.068$ ,  $p < .50 > .30$ , and therefore *accept* null hypothesis of no difference between groups.

<sup>3</sup> EDGAR, TENTATIVE APPRAISAL OF THE CINCINNATI MUNICIPAL COURT PSYCHIATRIC CLINIC (Mental Health Council and Research Department of the Community Health and Welfare Council, Cincinnati 1959).

TABLE I

	Number	Rate of Recidivism
Shoplifters referred to Court Clinic (1958-1960)	85	1% (16.5 months)
Shoplifters not referred to Clinic (1956)	148	38% (16.5 months)
All types of misdemeanants	22,000 (Approx.)	66% (estimated for 12 months)

because of equivocal or inferred signs and symptoms of depression, but because of inconclusive evidence a diagnosis of depression was discarded. Since these findings of themselves did not necessarily indicate that this group was more depressed than the run of the Clinic's patients, a control group of 85 patients seen in the Clinic was selected randomly from "non-shoplifters." It contained no significant differences in age, sex, or race. Comparison between this control group of Clinic non-shoplifters with the Clinic shoplifters was then made. Only 10% of this non-shoplifter group carried a diagnosis of depression. A review of the charts showed that the diagnosis of depression had been considered as a possibility in only 6% more. (Table II) Chi Square analysis revealed this difference between control and "Clinic" groups to be of high significance<sup>4</sup> and confirmed the Clinic staff's impression that the shoplifter group included a significantly greater number of depressed patients than the over-all Clinic patient group.

The shoplifters appeared also to have suffered an unusually large number of recent or at least psychodynamically still operative personal losses. Patients reported recent divorces, broken romances, separations from parental homes, deaths of wives, husbands, etc. It was difficult to assess the number of patients in whom significant loss preceded the shoplifting, but on the basis of discussions in the charts, it appeared that 61% of the "Clinic" group suffered a loss or a *separation* that was *felt* as a loss. It seemed possible that another 23% may have reacted to an event or series of events as if a personal loss had occurred. For example, several resentful, glum, obese women had been placed by their internists on reducing regimens consisting of reducing tablets and diet.

<sup>4</sup> $\chi^2 = 23.66$  p. > .001 Null hypothesis of no difference between the two groups rejected.

After a period of weight loss they stole reducing tablets from their neighborhood drug stores. These women may have viewed their dietary restrictions as if they had lost their loving doctors (or doctors' love) and reacted angrily with or without depression by caricaturing their doctors' demands and "unloving" attitudes by stealing and being caught with the symbols of "unlove." In a control group of 85 non-shoplifters only 15% had suffered significant personal loss and 15% possibly significant loss. (Table III)

The two following cases illustrate several types of losses that have been regarded as significant in leading to shoplifting.

(1) A 21 year-old woman from a well-to-do family was arrested and convicted of stealing sweaters, a girdle, and makeup from a department store. She had no explanation or understanding of the theft. She carried money sufficient to pay for the articles. She remembered only that she had felt "real empty, lonely and blue" on the day of the theft. For five days before the theft she had additionally suffered from insomnia and anorexia. On the weekend preceding her misdemeanor her fiancé had broken the engagement, her brother had told her to "get out and stay out," and her mother had returned from the hospital "a stranger with a changed personality" after electroconvulsive therapy. On direct examination she was described as "tearful, mildly depressed." The diagnosis was Depressive Reaction, Acute, Mild. The patient was referred for psychotherapy and was discharged asymptomatic two months later—*after* her fiancé returned.

TABLE II

	Diagnosis of Depression	Diagnosis of Depression Considered
Shoplifters referred to Clinic....	43%	33%
Non-Shoplifters referred to Clinic.....	10%	6%

TABLE III

	Significant "Personal Loss"	Possibly Significant "Personal Loss"
Shoplifters referred to Clinic....	61%	23%
Non-Shoplifters referred to Clinic.....	15%	15%

(2) A prosperous 49 year-old bachelor machine shop foreman stole seven dollars' worth of vitamin pills from a drug store. The patient was tearful, looked depressed, showed a general psychomotor retardation and obvious signs of weight loss. He talked about life not being worth living, about shooting himself some day. History obtained with difficulty revealed a six months' depression starting soon after the death of his father, with whom he had lived all of his life. Diagnosis: Depressive Reaction, Chronic, and Moderate to Severe. The patient was hospitalized for two months of successful inpatient therapy and was discharged to live in a men's club with outpatient psychotherapy and drug therapy continuing.

These two cases, of course, illustrate both the depression and the personal losses sustained by the shoplifters. But it is well to emphasize that patients who have sustained *losses* similar to those above may show *no* signs of depression. They shoplift in similar circumstances and perhaps replace their losses by stealing but without clinically recognizable depression.

In the realm of psychosomatics, the staff's impression that the shoplifter group contains an unusually large number of obese patients was not investigated.

#### DISCUSSION

Although the "clinic" and "non-Clinic" groups have been controlled as to age, sex, marital status, and recidivism, they have not been controlled for degree of subjective discomfort at the time of appearance before the judge, nor for the judge's interest in referring those misdemeanants who display in court emotions that would automatically evoke judicial interest: penitence, guilt, remorse, etc. The judges may, therefore, be (1) selecting shoplifters who by reason of their discomfort before and after the act are the least likely to return to court anyway, and (2) be increasing the discomfort present already by referral to the Clinic and its brief but intensive investigation, where the crime is in a sense re-enacted and the reasons for the misdemeanor carefully but insistently researched. So, from the point of view of "deterrent action," the judge may be imposing a more severe "penalty" than if the patient were to be jailed and/or fined.

Of course, in addition to the punitive aspects of the judge's referrals to the Clinic, there is for many defendants a "giving" in the judge's added "special" attention in court: a quiet conference

with the Clinic caseworker, a perhaps special tone of voice and attitude, and then oral directions to meet the Clinic caseworker for a further conference.

There is further question about the atmosphere of the whole courtroom. The 30 to 40 policemen serving as witnesses sit together en masse. Several hundred spectators grouped together, "lawyers' row," and the defendants seated together make up other groups of variables, the influences of which are difficult to assess. These groups may be important in that they seem to have different attitudes toward defendants with different *charges*. For example, toward defendants brought in for "playing the game" (taking part in dice games in forbidden locations) the amused attitude of the non-judicial participants in the courtroom scene is obvious. On the other hand, courtroom anger toward a defendant who has made a sexual approach to a child is also clear. But attitudes towards shoplifters are not as easily discerned, though they may well exercise a not yet understood deterrent or other effect.

But in addition to considerations of the "deterrent effect" of punishment and public pillory, several other hypotheses may be advanced to explain the low rate of recidivism among shoplifters (whether seen by a clinic or not). It is the main hypothesis of this paper that they seem *as a group* to have gone through personal losses sufficiently jarring to arouse a need to make up the loss by fair means or foul. When foul means are chosen, the act is contemplated with guilt and depression previous to the theft. When the theft replacing the loss occurs, it carries a heavy hostile component and therefore arouses more guilt. The punishing activities of the store detective, police, lockup, prosecutor, judge, and exposure to public gaze may in themselves be enough to alleviate the guilt and obviate the need to seek further punishment. But additionally the Clinic in its role of a firm but kind, attentive helper may temporarily and partially reverse the personal loss. This reversal may then be completed by referral for further help and the subsequent establishment of an ongoing relationship with an agency worker or physician. In this way the patient proceeds through crime, punishment, and finally a sort of restoration to the pre-loss situation; and the previous psychic equilibrium is re-established.

Other hypotheses about the psychological mean-