

# ANALYSIS OF THE PRIVATE HANDLING OF A CLASS OF CASES : SHOPLIFTING IN SUPERMARKETS

For nearly a decade now, the Ministry of Justice, in collaboration with the representatives of large-scale retailers, has attempted to deal with the rampant problem of shoplifting in supermarkets by partially handing over the management of cases to these private concerns, monitored by the public prosecutor's offices, using a simplified complaint-filing procedure (the SCF)<sup>1</sup>. A survey of self-protection in French hypermarkets<sup>2</sup> provided an opportunity to evaluate the implementation of this arrangement, through the quantitative assessment of the proportionate use of and the reasons behind these practices, involving the reporting of caught shoplifters to the law-enforcement agencies.

We first discuss the figures given by supermarkets pertaining to the extent of their victimization as caused by shoplifting by their customers (I). Secondly, what arguments are given to justify reporting or not reporting the people caught to the law-enforcement agencies (II). Last, on the basis of indicators measuring the degree to which stores cooperate with the police department and the public prosecutor's office as well as their opinions about the efficiency of these agencies, we gain some insight into the nature of the stakes involved in the *de facto* handing over of this huge caseload to the private sector (III).

## I. How is shoplifting handled ?

### A quantitative analysis

The data furnished by the hypermarkets<sup>3</sup> covered the last five utilisable years. They show annual figures for the number of catches by the store's watchguards, cases in which police or *gendarmérie* were alerted, and cases in which a SCF procedure was sent to the public prosecutor's office. For each establishment, the rate of police or *gendarmérie* calls and the rate of SCF use was calculated in proportion to the number of catches. It should be clear that the two procedures are independent of each other.

*Internal handling of shoplifting in hypermarkets, according to their size\**

<sup>1</sup> Circular known as the *Cotte circular*, dated July 10, 1985, *Crim*, 85-12-E, creating an optional procedure, the *simplified complaint filing* (SCF) for shoplifting; it leaves it up to public prosecutors to define the amount of damage below which a shoplifter caught in the act by the store's surveillance system may avoid judicial prosecution provided he or she meets certain criteria : accepts to state his/her name and address, admits to guilt and acknowledges the value of the stolen goods, returns or pays for the stolen objects, signs a form which is dispatched to the Public Prosecutor's office. The latter determines whether the offender has repeatedly committed similar acts, and may then decide to dismiss the case, while warning the offender of the risks run (prosecution and punishment) in case of backsliding.

<sup>2</sup> Ocquet (F.), Pottier (M.-L.), *La vigilance dans les grandes surfaces, une enquête nationale*, Paris, L'Harmattan, 1995.

<sup>3</sup> Data collection covered the period from January to April 1994, during which the 956 hypermarkets solicited returned 411 questionnaires. For methodological remarks on representativity, the reader is referred to the introductory chapter of the book.

Average annual number of catches				
	small	medium	large	total
1989	302	536	827	565
1990	310	547	844	574
1991	276	517	912	560
1992	301	528	972	581
1993	284	518	1091	597
Average annual rate (%) of calls for police or gendarmerie				
	small	medium	large	total
1989	20,1	20,8	23,0	21,1
1990	21,8	21,2	25,6	22,4
1991	25,7	20,3	22,8	21,9
1992	28,0	23,7	23,2	24,5
1993	25,4	23,3	24,3	23,9
Average annual rate (%) of SCF use				
	small	medium	large	total
1989	14,1	31,4	38,0	30,9
1990	22,3	32,4	40,0	33,1
1991	27,0	33,3	37,9	33,4
1992	30,3	34,6	33,6	33,7
1993	25,5	34,7	33,7	32,7

\* Small : under 50,000 sq.ft. ; medium : between 50,000 and 100,000 sq.ft. ; large : 100,000 sq.ft. or over.

For each of the variables used, the mean value was calculated as well, separately for small, medium and large-sized establishments, so as to highlight the trend in figures for catches as well as in subsequent decision-making.

There has been an increment in the number of catches of shoplifters in the largest hypermarkets over the last five years, whereas the figures have levelled off or even declined slightly for small and medium-sized stores.

At this point, the rise seen in the large establishments cannot be interpreted as reflecting a change in the number of thefts actually committed, but more probably indicates more effective policing by their surveillance system.

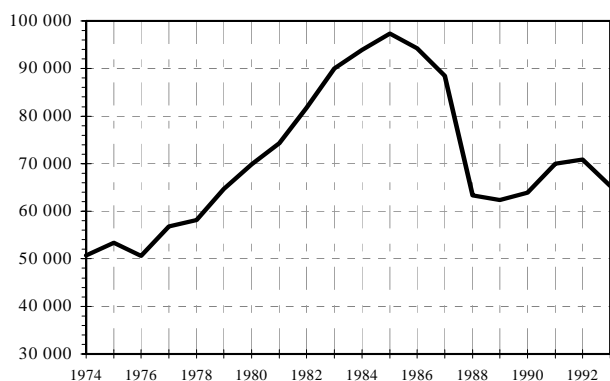
Small and medium-sized establishments are more prone to alert the law-enforcement agencies now than in earlier times, with rates presently coming close to those of the large stores (one out of four catches). The latter, in turn, are much more stable in their practices. These large establishments, which applied the SCF procedure much more rapidly and massively than the others when it was first instituted (in 1989, there was still a flagrant difference between large and small stores) now tend to disregard it. Similarly, use of this procedure by smaller establishments is seen to rise until 1992, but it may be that they are aligning themselves with the large stores, if the downward trend observed in 1993 is any indication. Be this as it may, the constant - although slight - rise in use of the SCF procedure by medium-sized stores shows that it is still in vogue there.

It is interesting to situate this series of findings in the overall context of crime statistics<sup>4</sup> for the last two decades. Police

<sup>4</sup> Robert (Ph.), Aubusson de Cavarlay (B.), Pottier (M.-L.), Tournier (P.), *Les comptes du crime, les délinquances en France et leurs mesures*, Paris, L'Harmattan, 1994.

and *gendarmerie* recordings of shoplifting dropped spectacularly when the SCF procedure was implemented, in mid- 1985, and reached their lowest point in 1989. The upward trend in recordings since 1990-91 was intriguing.

#### Shoplifting recordings by police and gendarmerie



Source : taken from Les comptes du crime, 1994 (appendix A2g)

Inasmuch as the downward curve was imputed to the effects of use of the new procedure between 1986 and 1989, we will temporarily impute the increased number of recorded cases to rejection of this procedure by the supermarkets. If this is corroborated, what is the reason behind this loss of trust in the public prosecutor's offices ?

## II - What does the store's security department do with the shoplifter ?

The figure shown below contains the available information on how security departments operate when they catch a shoplifter in the act. Do they "report" it or not : that is, to what extent is the information sent on to the police or the public prosecutor, and for what purpose ?

## Attitudes toward the police :

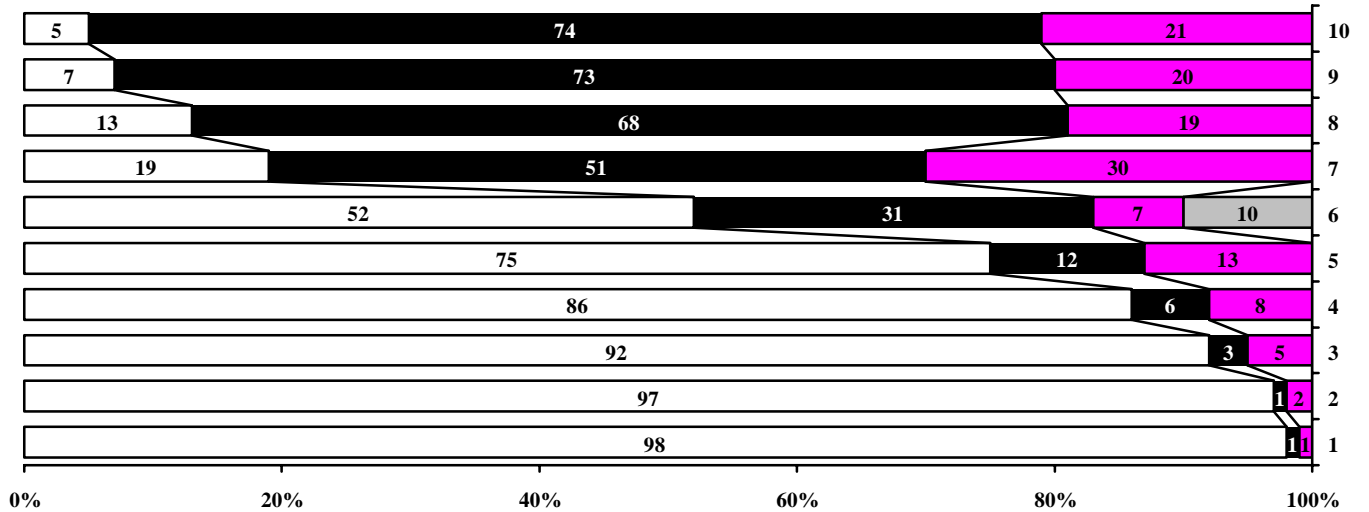
Four circumstances lead to high rates of a response which may be viewed as evasive (*no specific policy*). When *the offender is not known to the security department* (30%) : when he or she *admits to the theft, accepts to return or reimburse the stolen goods*, or when *the stolen goods are indispensable articles* (20%). The other reasons alleged for this response are mostly motivated by indulgence, the intention being to avoid stigmatizing the offenders by publicizing their acts (*relatively few requests for intervention*).

Three circumstances lead a huge proportion of the stores surveyed to *rather systematically request the intervention of the police or gendarmerie* : their shared feature is recalcitrant behavior by the offender, an individual who is looking for trouble (*who is rebellious and threatens the guards ; refuses to state his or her name and address ; denies having committed shoplifting*). In each of these cases, an official request is made for assistance from the police or *gendarmerie*, especially if there is a latent possibility of conflict, potentially ending in violence with which the store does not take the risk of dealing on its own. At the very least, there is the intention of not seeming lenient on those occasions.

Two other circumstances (*the offender is a recidivist ; the offender clearly had accomplices*) generate similar practices. While appeals to the police are quite frequent in the former case, there is, notably, a rather high proportion of evasive responses (*no specific policy*) in the latter instance. This may be accounted for by the fact that the accomplices often deserve more blame or punishment than the offenders themselves, who are "victims" of the former (in the case of juveniles, for instance<sup>5</sup>).

<sup>5</sup> Managers of supermarkets emphasize the fact that many young thieves are also the victims of pressure exerted by their parents or other intimates, not to mention racketeers.

*Frequency of reports to the police or gendarmerie, for shoplifters caught in the act, depending on the circumstances*



□ intervention tends to be systematic ■ intervention relatively exceptional ■ no specific policy □ calls the parents, school or the police

Legende :

- |   |   |
|---|---|
| 1 : The offender is unruly and threatens the guards       | 6 : The offender is too young                       |
| 2 : The offender refuses to give his/her name and address | 7 : The person is not known to the security service |
| 3 : The offender is a recidivist                          | 8 : The offender acknowledges the theft             |
| 4 : The offender denies the facts                         | 9 : The offender restitutes or reimburses           |
| 5 : The offender has accomplices                          | 10 : The offender has stolen indispensable articles |

A single circumstance (*the offender is too young*) tends to result in calls to the police, but also to the school or parents (a type of recourse that is added in 10% of cases), rather than in non-stigmatizing leniency. It would seem that supermarkets are eager to offer an image of themselves as shouldering responsibility in seeking out alternative solutions for the prevention of juvenile crime.

**Attitudes toward the Public Prosecutor's office**

Responses have been classed in five categories on the basis of the data collected on use of the SCF form :

Two of these responses are closely subjected to the managerial rationale of these large retailers :

- 22% are ritualistic or conformist justifications (for instance : *because we have orders from our main office*).
- 22% refer to financial considerations (ex. : *it is a simple, time-saving procedure*). The SCF procedure also seems to be a way of saving face when an informal settlement with the shoplifter has failed. Another argument is more surprising : it sometimes makes it possible to transform the theft into a purchase.

The other three series of justifications are not so much tied to business reasons as to arguments advanced by the public prosecutor of the district in which the hypermarket is located :

- 21% rest on the efficiency of the measure (ex. : *it is an effective way of combating recidivism ; it dissuades other shoplifters*).
- 18% cite the figure set by the public prosecutor for the size of the loss, below which they refrain from taking any measure (the figures mentioned range from 150, 250, 500 to 1,000 F, which proves that the reasons behind the public prosecutor-controlled procedure are not always properly understood).

• 18% are eager to prove their willingness to cooperate with the judicial authorities (ex. : *transparency of the procedure ; defence of the public image of the corporation*). Irrespective of any belief or feigned belief in the efficiency of the procedure, the cooperation of supermarkets with the law-enforcement and judicial authorities is a more fundamental, more political stake, by any standards, the substance of which requires close attention since the terms in which retailers view it are by no means identical.

**III - Trust or distrust ?**

Factor analysis sums up and structures two types of information : first, the information pertaining to opinions on the efficiency of the police and the judiciary in dealing with the crimes with which hypermarkets are assailed, and secondly, to their practices with respect to cooperation with the law-enforcement authorities. Practices and opinions shed light on each other. Indeed, they uncover a variety of feelings, governed by attitudes of relative trust or distrust.

At the relatively distrustful end of the spectrum, two sub-groups are seen. The first is composed of businesspeople who ritualistically criticise the action of the police, and tend not to cooperate too often with it. This is partially explained by the fact that they are not faced with too many security problems and only practice broad surveillance. The distinctive feature of the second group is its relative confidence in the dissuasive action of the police, to which it resorts frequently, along with its disappointment with - if not to say its distrust of - judges. The latter are accused of lacking interest in security problems. These businesspeople, who are obliged to invest in surveillance, resort to subcontractors, who they never really find satisfactory.

At the relatively trustful end of the spectrum, there are two other categories of businesspeople. The first are anticonformists whose distinguishing feature is their tremendous confidence in the work of the public prosecutor's office, of which they have a very positive opinion and to

which they actually resort frequently, through use of the SCF procedure. Similarly, they disagree with the popular opinion that the police is inefficient, a position which corresponds to their tendency to have an in-house surveillance department, and their correlative need for this cooperation. The second group is composed of people who also have confidence in the justice system and believe in the virtues of police reprimands. They differ by their greater faith in alternative solutions for managing crime. They leave their surveillance system to subcontractors, which they view as efficient, and have little need for help from the official law-enforcement services.

### **In conclusion**

Since use of the SCF procedure is now warning, be it for good or bad reasons, the question of the need for a rehauling may arise soon. If this does occur, it will be important to take into consideration the different viewpoints observed among businesspeople, as well as the differences in the way they organize their own protection. One timely question, with respect to surveillance agents, both in-house or contractors, may be the possibility of their being sworn in (as "pre-theft agents", for instance). This would have the enormous advantage of avoiding the potential excesses of those private justice systems that are set up here and there by some supermarkets. However, it also precludes any indifference of police officers and judges in the face of this massive delinquency, representing a type of incivility which exacerbates the prevailing feelings of insecurity.

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