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# Juvenile Shoplifting Delinquency

Findings from an Austrian study



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Shoplifting is defined as “the theft of goods by customers from retail premises during opening hours” (Wittenberg 2009, 110) and, as such, should be clearly differentiated from theft committed by staff members, fraud committed by suppliers, and burglary occurring outside of opening hours. Despite the high frequency of shoplifting, currently available research on the topic is of relatively modest proportions (Bamfield 2012), with a limited number of targeted scientific studies. However, these studies have unequivocally demonstrated that shoplifting is a typical example of juvenile delinquency. The onset, peak, and decline of shoplifting occur at a younger age than with other offenses (Klemke 1992; Wittenberg 2009). Several research projects have indicated that the age group of 14 to 16 years is characterized by the highest prevalence (Farrington 1999; Klemke 1992; Tarling 1993; Wittenberg 2009). The high prevalence levels at a very young age suggest that criminological research on shoplifting should primarily focus on children and adolescents. The above-mentioned research deficit is especially evident in Austria, where no data are available on the frequency of self-reported shoplifting beyond the present contribution to the Second International Self-Report Delinquency Study (Stummvoll et al. 2010) and a self-report study carried out using a student sample in Upper Austria (Hirtenlehner 2011). Based on a representative study of 7<sup>th</sup> and 8<sup>th</sup> grade students from Upper Austria and Lower Austria, the present paper addresses the prevalence and background of shoplifting among adolescents. The discussion of our empirical results is preceded by a brief review of existing criminological research on shoplifting in general. We conclude with some considerations on the prevention of shoplifting. With reference to the work of Ostendorf (Ostendorf 1995), we propose a restitution model involving mandatory dismissal of criminal proceedings provided that juvenile offenders agree to participate in a diversion program and to make good the damage caused by providing compensation equivalent to twice the value of the goods stolen.

## 1. A BRIEF OVERVIEW OF THE CRIMINOLOGY OF SHOPLIFTING

### 1.1. Prevalence of and damage caused by shoplifting

Shoplifting is a criminal offense with a unique set of characteristics. Although the value of the goods stolen in any single in-

stance of shoplifting tends to be relatively small, the extremely high prevalence of shoplifting nevertheless causes enormous damage to national economies. According to the estimate of the German Police Crime Statistics, the amount of damage arising from a single instance of reported shoplifting averaged 73 euros in 2003. More

than half (56 percent) of the instances of shoplifting recorded by the police caused less than 15 euros in damage (Bundeskriminalamt 2004). Considering that the probability of reporting a detected case of shoplifting increases with the value of the items whose theft has been attempted (Farrington 1999; Klemke 1992; Wittenberg 2009), crime statistics are likely to overestimate the actual amount of damage. Analyses of theft statistics compiled by retailers in the UK also indicate that most shoplifting involves goods of limited value (Bamfield 2012), with the damage remaining below £ 25 in 40 percent of the cases. Moreover, the value of the goods stolen varies as a function of offender age, with children and adolescents usually stealing cheaper items than adults.

However, high levels of incidence result in considerable damage to national economies. The Global Retail Theft Barometer (CRR 2011) estimates the value of retail shrinkage suffered by the Austrian retail sector in 2010 at 445 million euros, corresponding to 0.97 percent of total sales. Taking into account the share of theft by customers (56.8 percent), the overall losses attributable to shoplifting amounted to 235 million euros. Given that the Austrian retail sector operates with an average profit margin of 3 percent (Bamfield 2012), Austrian retailers lose about one sixth of their profits due to customer theft.

Shoplifting is among the most highly prevalent criminal offenses. Based on a series of surveys on self-reported juvenile shoplifting, Wittenberg (Wittenberg 2009) has concluded that annual prevalence rates (i.e., the proportion of participants that have committed shoplifting in at least one instance over the year under consideration) are between 13 and 50 percent. In a review of British research on shoplifting, Farrington (Farrington 1999) estimates annual prevalence rates among male adolescents to be between 5 and 54 percent.

In his review of relevant British and American scholarship, Klemke (Klemke 1992) has reported similarly high prevalence rates. The sometimes relatively high share of respondents who report having committed shoplifting at least once over the preceding year clearly suggests that shoplifting is a not atypical, if not common, occurrence in the lives of adolescents. However, shoplifting is by no means indicative of personality disorders or social dislocations (Wittenberg 2009); rather, it illustrates the ubiquitous nature of juvenile delinquency.

Nevertheless, this does not absolve researchers from the responsibility to give critical scrutiny to the extremely wide range of prevalence rates reported in the literature. One may assume that methodological differences between various studies might be responsible for these divergent results. Inquiries into self-reported shoplifting differ considerably from each other in terms of the definition and selection of target populations, the wording of questionnaire items, and the modalities of implementation.

Source: CRR 2011



Figure 1: Retail shrinkage in Austria

For Austria, data on self-reported shoplifting are available from two sources. The first such source is the Austrian portion of the Second International Self-Report Delinquency Study (Stummvoll et al. 2010). This study estimates the share of students from the 7<sup>th</sup> to the 9<sup>th</sup> grade (i.e., in the age group of 12 to 15 years) that have committed at least one instance of shoplifting in the course of their lives at 18 percent and in the course of the past twelve months at 6 percent. However, this study was limited to urban populations and did not address the prevalence of juvenile shoplifting in the rural areas of Austria. The second source of data on the prevalence of shoplifting is a student survey carried out in the Upper Austria region, which, unfortunately, is not fully representative (Hirtenlehner 2011). In this survey, conducted in a sample of students from the 7<sup>th</sup> to 9<sup>th</sup> grade, 12 percent of male participants and 9 percent of female participants reported having stolen something from a shop over the past year. Urban schools were, however, overrepresented in the sample.

In general, shoplifting is characterized by high dark figures, since a large number of cases remain undetected and, even if detected, not all cases are reported to the authorities. Accordingly, the share of detected cases is estimated to be below 10 percent of the total (Farrington 1999; Harnischmacher 2000a; id. 2000b; Krasnovsky/Lane 1998), corresponding to a non-detection rate of above 90 percent. Data on the rates of reporting shoplifters caught in the act to the authorities are widely divergent, with estimates ranging from 20 to 60 percent (Farrington 1999; Harnischmacher 2000c). The relevant studies have identified a range of factors that have a significant impact on the risk of being reported. Retailers are more likely to press charges if the item stolen is valuable, if the offender caught shoplifting demonstrates refractory

behavior, and if the offender has already been caught in the act in the same store. On the other hand, retailers are relatively reluctant to report very young and very old offenders to the police (Farrington 1999; Klemke 1992; Ocqueteau/Pottier 1995; Wittenberg 2009).

### 1.2. Social distribution of shoplifting

Shoplifting is differentially distributed across population segments, with different social groups characterized by different prevalence rates (Farrington 1999; Klemke 1992; Krasnovsky/Lane 1998). The following discussion devotes special attention to the social variables age, gender, socioeconomic status, and degree of urbanization.

The prevalence of shoplifting is unequal across age groups, with its onset, peak, and decline/termination occurring at a younger age than with other offenses (Kivivuori 1998; Klemke 1992; Wittenberg 2009). Children and adolescents are overrepresented among shoplifters. According to the Austrian Police Crime Statistics, 17 percent of individuals suspected of shoplifting are juveniles, while children account for 7 percent of shoplifters, compared to a share of 12 percent for juvenile suspects and 3 percent of child suspects in overall criminal activity (BMI 2011). Several studies suggest that the age group of 14 to 16 years is characterized by the highest prevalence rates (Farrington 1999; Klemke 1992; Tarling 1993; Wittenberg 2009). Wittenberg and colleagues (Wittenberg et al. 2009, 118) have found that prevalence peaks in the 8<sup>th</sup> grade. This makes shoplifting a typical juvenile offense, the prevalence of which gradually decreases with age. Some authors report that prevalence takes somewhat longer to subside with women than with men (Klemke 1992).

The stereotype according to which shoplifting is a predominantly female offense

is empirically untenable (Krasnovsky/Lane 1998). Although the gender gap is less pronounced than with other offenses, the majority of shoplifters are still male (Farrington 1999; Klemke 1992; Krasnovsky/Lane 1998; Wittenberg 2009). According to the Austrian Police Crime Statistics of 2010, women account for 41 percent of the individuals suspected of shoplifting, compared to a share of 21 percent in all criminal activities (BMI 2011). This suggests that shoplifting is characterized by a higher share of female offenders than most other criminal offenses<sup>1</sup>.

The distribution of shoplifting by socioeconomic status is a matter of controversy. Some authors have concluded that members of all socioeconomic groups are equally likely to commit trivial offenses, particularly when it comes to juveniles, whereas others have argued that the prevalence of shoplifting is higher among socioeconomically disadvantaged segments of the population (Klemke 1992; Krasnovsky/Lane 1998; Mehlkop/Becker 2004).

Studies on juvenile shoplifting from German-speaking countries have often used the type of school attended as a proxy for socioeconomic status. A preponderance of data by school type demonstrates that students attending general secondary schools or special needs schools are more likely to commit shoplifting than students attending grammar schools (Wilmers et al. 2002; Wittenberg 2009; Wittenberg et al. 2009).

As with other offences, prevalence rates of shoplifting are different in urban and rural areas, with lower prevalence levels observed in the latter (Kivivuori 1998; Klemke 1992; Wittenberg/Reinecke 2003). However, a distinction should be made between offenders' places of residence and places of offense. The higher incidence of shoplifting in urban areas is partly due to the role of such areas as regional centers.

Many individuals charged with shoplifting committed in urban areas have their places of residence outside the cities and towns in which they commit the offense. Oberwittler and Köllisch (Oberwittler/Köllisch 2003) have referred to this phenomenon as "urban import quotas", fed primarily by adolescents from the hinterland of urban areas. According to calculations reported by Oberwittler and Köllisch, the urban areas of the German state of Baden-Württemberg have shoplifting "import quotas"<sup>2</sup> of 38 percent in the age group of 8 to 15 years and 56 percent in the age group of 16 to 20 years. These figures show that adolescents from rural areas commit a significant portion of shoplifting offenses in urban centers located in their vicinity, particularly in the cities and towns where they attend school and spend their free time.

### 1.3. Motivations for shoplifting

Most self-report studies inquiring into the motivations behind shoplifting have found three main motivational factors. (It should be noted, however, that the validity of such studies strongly depends on the quality of self-reported data.) These motivational factors include financial and economic reasons ("I was unwilling or unable to pay"), fun and excitement ("boredom, thrill, or buzz") and social motives driven by group dynamics. The latter manifest themselves in solidarity emerging from jointly performed actions and personal status gains within the peer group rather than openly exercised peer pressure, initiation rituals, or tests of courage. Sometimes the failure to pay is associated with an attempt to avoid feelings of shame that arise from purchasing goods perceived as indecent (e.g., pornographic material or contraceptives) or to come into the possession of age-restricted items (e.g., alcohol or cigarettes in the case of children). In terms of frequency, financial and economic motives<sup>3</sup> seem to

dominate over fun and excitement, whereas social drivers and avoidance of embarrassment are of secondary importance. The usual motivational hierarchies can sometimes turn upside down when it comes to child and adolescent offenders (Cox et al. 1990; Farrington 1999; Kivivuori 1998; Klemke 1982; id. 1992; Wittenberg 2007).

Within this context, it seems important to us to dispel a popular misconception. In fact, shoplifting is only seldom an expression of kleptomania. Kleptomania is defined as a pathological urge to steal items that are not desired for financial gain.

Although DSM-IV, i.e., the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association, classifies kleptomania as an autonomous impulse control disorder, it is disputed whether kleptomania is a distinct condition at all (Wittenberg 2009). With less than 5 percent of shoplifters caught suffering from symptoms indicative of kleptomania (Krasnovsky/Lane 1998; Wittenberg 2009), kleptomania is considered to be of little importance as an explanation for shoplifting in the relevant social science and criminology literature<sup>4</sup>.

Despite the fact that its high prevalence makes shoplifting one of the most common criminal offenses, public opinion by no means condones shoplifting. If anything, several studies (Hüpping 2005; Tyler 2006; Wikström et al. 2012; Wittenberg 2009) suggest that the principle of lawfulness prevails, with the majority of citizens expressing very negative attitudes towards shoplifting and normative disapproval of shoplifting enjoying broad support in the population.

## 2. RECENT FINDINGS FROM AUSTRIA

The following section presents findings from a recent self-report survey on juvenile shoplifting carried out in two states of Austria.

The sample included students from the 7<sup>th</sup> and 8<sup>th</sup> grade (i.e., 3<sup>rd</sup> and 4<sup>th</sup> grade of the first stage of secondary education) attending school in Upper Austria or Lower Austria.

### 2.1. Data source

Data for the study were collected in a computer-assisted survey of 2,911 students attending the 7<sup>th</sup> or 8<sup>th</sup> grade at schools in Upper Austria or Lower Austria. In accordance with the school grades included, both of which fall into the scope of compulsory education, most participants were 13 or 14 years old. Specifically, 21 percent of respondents were 12 years old, 43 percent were 13 years old, 30 percent were 14 years old, and 6 percent were 15 years old.

A three-stage sampling procedure was used to select participants, with schools representing stage 1, classrooms representing stage 2, and students representing stage 3. On stage 1 (i.e., the level of the schools) random sampling of 50 schools in Upper Austria and 42 schools in Lower Austria was conducted, with disproportionate stratification by school type.<sup>5</sup> In stage 2, two classrooms were randomly selected in each school, one classroom in the 7<sup>th</sup> grade and another classroom in the 8<sup>th</sup> grade. We attempted to survey all students from the classrooms sampled. Although individual students were free to decline to participate, 86 percent of the students from the selected classrooms completed the questionnaire.

The self-report survey was conducted online in the spring (Upper Austria) and fall (Lower Austria) of 2011. Respondents were asked to complete the survey simultaneously with their classmates in the computer rooms of their respective schools during the school day. Instructions were provided by trained interviewers. Teaching staff were present during com-

pletion of the surveys in order to maintain appropriate discipline. At the same time, the interviewers had the responsibility to make sure that staff did not have access to the responses entered into online questionnaires and that respondent anonymity would remain intact. Because the data presented below had been obtained using a complex sampling design, complex sample design adjustments were made before data analysis (Lee/Forthofer 2006). In order to obtain correct standard errors and significance levels, inferential statistics were calculated using Taylor linearization.

All analyses were conducted with a weighted dataset, with the necessary design weighting complemented by an adjustment weighting technique in order to restore representativeness. Post-stratification was performed in a combined manner, using state, school grade, and respondent gender as stratification variables. As such, the respondents represent an unbiased sample of the underlying population in terms of these characteristics.<sup>6</sup>

## 2.2. Prevalence and incidence of shoplifting

Twelve percent of respondents in Upper Austria and 11 percent of respondents in Lower Austria reported to have committed shoplifting at least once over the course of their young lives. In Upper Austria, 5.8 percent and in Lower Austria, 4.4 percent reported having stolen something from a shop “in the past year” (i.e., during the twelve-month period preceding the survey). This substantively small and statistically non-significant difference between both states is mainly due to the fact that the Upper Austrian sample was surveyed in the spring, whereas the Lower Austrian sample was surveyed in the fall. This implies that Upper Austrian students were about six months older at the time of the study than Lower Austrian students. They

were thus closer in age to the expected peak in the prevalence of shoplifting and had had some more time than their Lower Austrian peers to commit a relevant offense.

Our results suggest that the one-year prevalence of shoplifting among 7<sup>th</sup> grade and 8<sup>th</sup> grade students is about 5 percent.

This prevalence level is almost perfectly identical to the one obtained by the International Self-Report Delinquency Study,

Source: Hirtenlehner/Leitgöb/Birklbauer

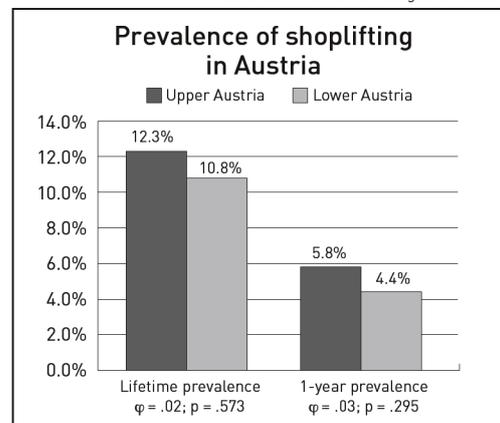


Figure 2: Prevalence of shoplifting among 7<sup>th</sup> and 8<sup>th</sup> grade students

which has reported a one-year prevalence of 6 percent using a study population with a similar age distribution (but relying exclusively on students living in urban areas). The homogeneity of the prevalence rates observed across both studies suggests that we have managed to find a reliable estimate of the prevalence of shoplifting among students in the 7<sup>th</sup> and 8<sup>th</sup> grade.

When children and juveniles become shoplifters, most of them do not commit more than a few (one or two) such offenses annually. Only 1 percent of all respondents qualify as “multiple offenders”, having committed shoplifting five or more times over the past year.

In terms of the social distribution of shoplifting, the most significant differences emerge by gender and school type. The finding that 8<sup>th</sup> grade students exhibit

Source: Hirtenlehner/Leitgöb/Birklbauer

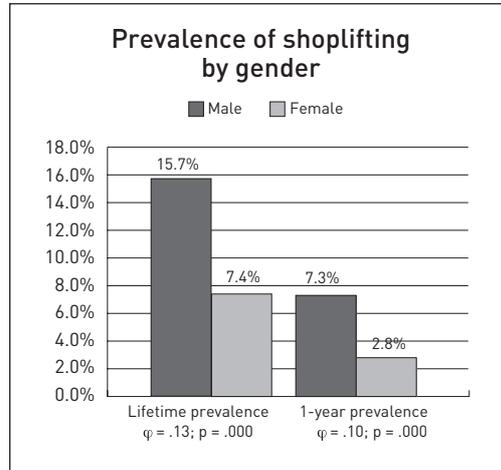


Figure 3: Prevalence of shoplifting by gender

somewhat higher prevalence rates (6.5 percent) for the year preceding the study than 7<sup>th</sup> grade students (3.7 percent) merely reflects the fact that the former are closer to the peak age of shoplifting than the latter.<sup>7</sup>

Our observations run counter to the widespread stereotype of shoplifting as a primarily “female offense”. Male participants in the survey are characterized by higher lifetime prevalence levels and higher one-year prevalence levels than female participants. Seven percent of male respondents, but only 3 percent of female respondents reported having taken something from a shop without paying for it over the past year.

Taking into account the effect of school type leads to the unequivocal conclusion that special needs schools exhibit the highest levels of prevalence. At 15 percent, the one-year prevalence of shoplifting is three times higher in special needs schools than in grammar and general secondary schools (5 percent). Reasons for this may include the performance-based selection system used in Austrian education. Since students coming from difficult circumstances and displaying poor academic performance and behavioral disorders are overrepresented in special needs schools,

it is barely surprising that special needs schools are characterized by a higher incidence of problem behaviors, including juvenile delinquency (Bergmüller/Wiesner 2012). This situation is further exacerbated by the fact that the concentration of problem students in specific schools might trigger self-reinforcing escalation processes, with further increases in delinquency as a potential consequence.

Source: Hirtenlehner/Leitgöb/Birklbauer

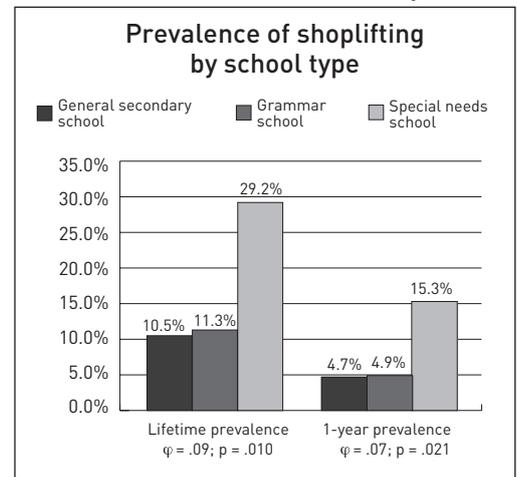


Figure 4: Prevalence of shoplifting by school type

### 2.3. Phenomenology of shoplifting

Compared to adult shoplifters, juveniles tend to steal rather low-priced items (Bamfield 2012). Accordingly, two thirds (68 percent) of shoplifters included in our sample reported having stolen items with an overall value of less than 10 euros when they last committed shoplifting. Only one seventh (14 percent) reported having stolen items with an overall value of 25 euros or more.

Social influences can have a particularly strong impact on shoplifting behavior. The relevant literature indicates that adolescents often commit shoplifting in groups (Farrington 1999; Klemke 1992; Wittenberg 2009). Our results support this previous finding, with close to three quarters (72 percent) of respondents with a history of shoplifting reporting that they were with

friends when they last committed such an offense.

#### 2.4. Motivations for shoplifting

When it comes to shoplifting, several different types of motives seem to be of practically equal importance. The relevant literature usually mentions three categories of motivation, including (1) financial and economic factors, (2) need for adventure and excitement and (3) group dynamics among friends and peers (Klemke 1982; id. 1992; Wittenberg 2009). Our results suggest that adolescent shoplifters attach almost equal importance to these three categories of motivation. About a third of participants with a history of shoplifting reported that financial reasons contributed to their committing such an offense the last time; the need for euphoria and thrill and the wish to impress friends were mentioned as important sources of motivation with about the same frequency.

The conclusion that different motivational factors are equally important is consistent with other findings from our study. The average value of the items stolen calls into the question the dominance of financial and economic motivational factors. As demonstrated above, most students with a history of shoplifting tend to steal items of extremely limited value. With two thirds of the offenders included in our study reporting having stolen items with a value of 10 euros or less, it is barely conceivable that financial need is the sole important motivation for shoplifting. Moreover, considering the fact that children and adolescents mostly commit shoplifting in groups, it is hardly surprising that personal status gains within the peer group are a common driver of shoplifting behavior. The social nature of shoplifting also expresses itself in a desire for shared experiences of adventure.

#### 2.5. Attitudes towards shoplifting

In the following section, we discuss results regarding students' attitudes towards and beliefs about shoplifting, with special regard to participants' awareness of relevant legal provisions, internalization of the prohibitive norm, and assessments of the risk of being caught. The overwhelming majority (91 percent) of students from both Upper Austria and Lower Austria knew that shoplifting is prohibited by law, with only 9 percent expressing doubts regarding the existence of a relevant legal standard.

The degree of endorsement of and commitment to the relevant norms were measured in two ways, first by asking participants to provide moral evaluations of certain behaviors and second, by instructing them to report expected feelings of guilt and shame in the event of norm infringement (Wikström et al. 2012). Most respondents expressed moral disapproval of shoplifting, with 94 percent holding the opinion that it is a "bad thing". Accordingly, almost all students surveyed would have a bad conscience after stealing something from a shop and feel ashamed if their parents were to find out about their behavior. Uniform expressions of a sense of wrongdoing across all items suggest that almost all students have internalized the societal norm against shoplifting in the course of their socialization.

Source: Hirtenlehner/Leitgöb/Birklbauer

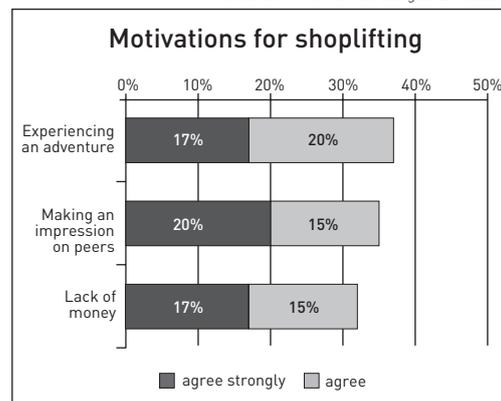


Figure 5: Motivations for shoplifting

Source: Hirtenlehner/Leitgöb/Birklbauer



**Figure 6: Feelings of guilt and shame with regard to committing shoplifting**

A further factor that merits consideration beyond moral attitudes is children's and adolescents' perceptions of control. In this context, a distinction should be made between the perceived risk of being caught and expected sanctions. Our survey measured the perceived risk of being caught using the item "How difficult is it for young people of your age to remove something from a shop without being caught?" with higher levels of perceived difficulty indicating higher levels of subjective risk of detection. Responses to the relevant item were highly varied, with 48 percent of participants reporting high levels of subjective risk and the remaining 52 percent assessing the likelihood of being caught as relatively limited. Considering that only 12 percent of shoplifters included in our survey have ever been caught, the risk assessment of the second group seems to be more realistic.

A further issue to be considered is the expected consequences if caught in the act. Nearly all students surveyed believe that their parents and the police would be notified (both by 95 percent) if their behavior was detected. In line with the actual probabilities, respondents assessed the likelihood of further criminal proceedings as relatively low, with only one quarter (24 percent) of participants expecting court hearings and 10 percent envisaging detention if convicted.

### 3. QUO VADIS?

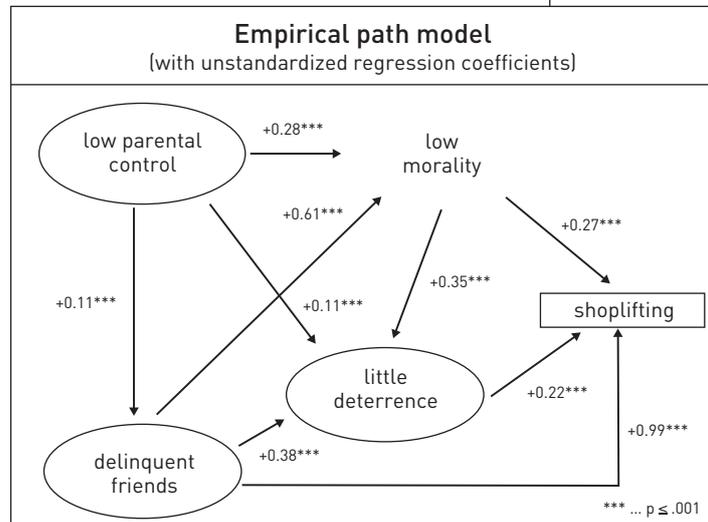
Rather than recapitulating the most important findings from our study, we conclude our analysis by addressing some of the implications of our results for the prevention of shoplifting. We discuss those educational and policy measures that seem to have the greatest potential for reducing the prevalence of shoplifting among children and adolescents. Figure 7 (see page 23) shows a graphical representation of an empirical path model of the determinants of the frequency of shoplifting among adolescents. The degree of parental control, friends with a tendency to shoplift, personal endorsement of relevant social norms and perceived deterrence were identified as possible predictors<sup>8</sup> (Cox et al. 1993; Hagan 1989; Warr 2002; Wikström/Butterworth 2006). The dependent variable was the number of times a respondent was engaging in shoplifting behavior in the year preceding the survey. Since incidence of shoplifting behavior is a count variable with a negative binomial distribution, we report only unstandardized path coefficients.<sup>9</sup>

The results of the path analysis indicate that all four independent variables under consideration have an impact on the incidence of shoplifting. Exposure to delinquent peers, weak moral attitudes and low levels of perceived deterrence contribute directly to an increased frequency of shoplifting. The more shoplifting-affine friends a participant has, the less moral norms prohibiting shoplifting are internalized by the respondent, and the lower his or her deterrence perceptions are, the higher the number of reported cases of shoplifting behavior is. Parental control exerts its effect on shoplifting indirectly, through the other determinants of theft from stores. Parental supervision and close bonds to parents protect adolescents from establishing relationships with delinquent peers. More-

over, parental control contributes to the formation of law-abiding moral beliefs and has an upwards effect on perceived deterrence. These three mediating variables are also internally connected to each other; embeddedness in a peer group with a tendency to shoplift is associated with low levels of personal norm acceptance and reduced sanctioning expectations. The finding that persons who lack moral inhibitions assess the risk of being caught and sanctioned as smaller is consistent with the theory of positive general prevention.

The determinants of adolescent shoplifting delinquency discussed above represent important starting points for prevention efforts. Successful shoplifting prevention needs to be based on enhancing families' capacities for socializing children (Reiss 1951). Any resources provided to parents in their childcare and childrearing responsibilities are likely to have a positive effect on children's resilience to shoplifting behavior by indirectly facilitating the internalization of pro-social moral beliefs and preventing entries into delinquent peer groups. As strongholds of elementary moral education, families are the fundamental site of learning social norms and values (Schwind 2011)<sup>10</sup>, thereby instilling a set of moral attitudes, including the reprehensible nature of shoplifting, in children. Moreover, the family in which a child is brought up has a decisive influence on the development of basic personality traits and, concomitantly, the ability to resist peer pressure and exercise self-control (Gottfredson/Hirschi 1990). The social nature of shoplifting, evident both from the frequency with which it is committed in groups and the importance of social motives as a driving factor, indicates that education fostering autonomous agency and the ability to emancipate oneself from peer group dynamics might be an appropriate tool of crime prevention.

Source: Hirtenlehner/Leitgöb/Birkbauer



**Figure 7: Determinants of juvenile shoplifting**

Retailers themselves have the responsibility to take action in order to increase the risk of detection. Several studies confirm that an elevated perceived risk of apprehension goes together with a reduced tendency to commit shoplifting (e.g., Beck/Ajzen 1991; Cole 1989; Kraut 1976; Lüdemann 1998, 2002; Wittenberg 2009). Our data provide additional evidence for a connection between deterrence perceptions and shoplifting frequency. Once again, differentiated analyses reveal that the deterrent effect is attributable primarily to the perceived risk of detection (partial  $r = -.14$ ;  $p = .000$ ) and not to the expected severity of sanctions (partial  $r = -.04$ ;  $p = .124$ ).

We are well aware of the dilemma facing retailers, since “attractive opportunities for shoplifters are [...] not any different from favorable opportunities for customers” (Wittenberg 2009, 131). In addition to being expensive, several theft prevention technologies have a negative effect on sales figures. For some retailers, extensive security interventions might even be associated with a negative cost-benefit ratio (Klemke 1992). However, this does not make it any more legitimate or efficient to shift this structural problem to the criminal justice system in the sense of demanding

harsh penalties for those few shoplifters that are caught in order to deter potential offenders.

Considering well-known doubts as to the effectiveness of harsh punishment in preventing crime (Dölling et al. 2009; Paternoster 2010; Pratt et al. 2006) and the insight, already discussed above, that adolescent shoplifters do not represent a particularly vulnerable group in terms of social background or susceptibility to personality disorders (Wittenberg 2009), discussions in jurisprudence and criminology have followed a completely different path. Several authors have suggested removing shoplifting from the scope of criminal law altogether and redefining it as an administrative offense or a matter of claiming damages by way of civil law (Birklbauer 2004; Burgstaller 1981; Csaszar 2004; Ostendorf 1995; id. 1999).

If retailers falling prey to shoplifting had the option to initiate civil action in order to claim flat-rate damages, shoplifting could be eliminated as a criminal offense and retailers would be entitled to claim processing fees, the amount of which would in most cases be disproportionately high as compared to the value of the attempted theft. The processing fee to be paid by offenders would constitute something like a contractual penalty directly benefiting retailers. Arguments in favor of this restitution model include that it would enable companies to claim direct compensation for their expenses related to combating shoplifting. Moreover, it would relieve the criminal justice system of some of its current responsibilities and eliminate the stigmatizing and dissocializing effects of criminal prosecution. However, there are also a number of counterarguments against this restitution model. First, if an offender refused to pay a processing fee (i.e., flat-rate damages) on the spot the company having fallen victim to the theft would be

forced to initiate civil action and incur all the associated risks. Moreover, by failing to exercise its “punitive monopoly”, the state would forgo any expected norm-reinforcing effects of a relevant prohibition under criminal law. The question of whether the removal of shoplifting from the scope of criminal prosecution and its codification in civil law would, in fact, undermine customers’ respect for the property of others cannot be conclusively answered here. Empirical tests of the theory of positive general prevention have been too rudimentary to warrant any definite conclusions (Kunz 2008, 254 et seqq.; Meier 2003, 260 et seqq.).

An alternative reform proposal would relegate punishment of shoplifting by the state to the field of administrative criminal law, which would entail reclassification of shoplifting as an administrative offense (such as exceeding the speed limit). Concomitantly, the relevant sanctioning power would be turned over to the police. This arrangement would, without a doubt, have its benefits. If the police were authorized to impose on-site administrative penalties, either in the form of a penalty ticket or as a result of an administrative penalty procedure, this would enable the state to react to cases of shoplifting in a quick and recognizable manner. This way, the impression of any kind of societal approval of such acts could be avoided. To the contrary, the imposition of an administrative penalty would, in many instances, have more tangible and prompt ramifications than the current practice of dealing with petty offenses committed by juveniles, i.e., completely forgoing prosecution (Section 6 of the Austrian Juvenile Courts Act) or diversion from prosecution (Section 7 *ibid.*).

Diversion without intervention, i.e., termination of prosecution after the Public Prosecutor’s Office has reprimanded the offender, carries a particular risk of not

being understood as a proper response to juvenile delinquency. Accordingly, the “relegation” (Ostendorf 1995; id. 1999) of shoplifting to the status of an administrative offense would, in many cases, entail a clear increase of sanction intensity as compared to current prosecution practices. This increase of sanction intensity, along with the already mentioned lack of empirical support, can be raised as counterarguments against the objection that relegating the prohibition of shoplifting to the scope of administrative criminal law would compromise public awareness of rights and obligations. The fact that road traffic provisions are widely known and respected by the overwhelming majority of road users militates against the assumption that public perceptions of wrongdoing and lawfulness would suffer a blow if shoplifting were to be reclassified as an administrative offense. Beyond the objections derived from criticism against the theory of positive general prevention, more substantive legal concerns could also be raised about relegating shoplifting to the realm of administrative criminal law. First, such a measure would run counter to the principle of separating the judiciary from the executive branch of government (separation of power in accordance with Article 94 of the Austrian Federal Constitutional Law). Second, it would undermine the institution of citizen’s arrest (Section 80 para. 2 of the Austrian Code of Criminal Procedure), enabling civilians to detain persons suspected of punishable activities until the arrival of the police. This right is widely used by security and sales personnel as a legal basis for temporarily holding shoplifters caught in *flagrante delicto* in custody.

A middle course that would enable the state to capitalize on the benefits of police penalty tickets (i.e., a prompt, non-bureaucratic, and manifest response) while respecting the separation of powers and

maintaining the institution of citizen’s arrest, would involve mandatory dismissal of criminal proceedings by way of judicial diversion provided that the offender agrees to make good the damage caused by providing compensation equivalent to twice the value of the goods stolen but at least 100 euros. Ostendorf (Ostendorf 1995; id. 1999) proposed the implementation of a similar instrument in Germany. However, whereas Ostendorf argues against the mandatory nature of judicial diversion and for the use of judicial diversion as an optional instrument, we believe that the dismissal of criminal proceedings should be mandated by law if the offender voluntarily agrees to provide compensation under the conditions described above (i.e., in an amount equivalent to twice the value of the goods stolen). The mandatory nature of this legal instrument would allow for a prompt and procedurally efficient response while at the same time avoiding the negative consequences of criminalization and providing the most comprehensive relief possible to the criminal justice system. This alternative response model, involving voluntary compensation, would offer a number of benefits. It would remain possible to enforce relevant legal norms by threat of criminal punishment, since the punishability of shoplifting would remain in place as a basic principle of criminal law. Therefore, the measure is unlikely to result in an erosion of public awareness of the criminal nature of shoplifting. Moreover, the measure would not constitute a violation of the separation of powers, and would leave the institution of citizen’s arrest and the possibility to impose criminal sanctions upon repeat offenders intact.

Since claims for the increased amount of compensation directly benefiting injured retailers could only be enforced in criminal proceedings, retailers might become more motivated to invest in measures facilitating

the detection of shoplifting and to report cases of shoplifting of which they become aware to the competent authorities. Moreover, the easily remembered formula of “double compensation” might be more efficient in deterring potential shoplifters than the prospect of uncertain and indeterminate criminal sanctions at some time in the medium to long term. It should also be noted that by mandatorily notifying legal guardians of the dismissal of criminal proceedings by way of diversion, parents could be involved in finding a solution to the problem of shoplifting.

We are well aware that parents, rather than the offenders themselves, would pay the double compensation in many cases. At the same time, we presume that most parents would be unhappy to make

such payments and, therefore, hope that this legal response would trigger further steps within the family that would have a mitigating effect on the incidence of child and juvenile shoplifting. Some of the legal aspects of the proposed instrument that would merit further discussion include whether it should be limited to juvenile offenders and/or first and second offenders.<sup>11</sup>

However, considerations relating to the effective handling of already committed acts of shoplifting within the legal system should be secondary to preventive measures based on the role played by families in educating children to become law-abiding and responsible citizens as well as on steps taken by retailers to reduce the number of opportunities for shoplifting.

<sup>1</sup> However, female shoplifters tend to steal somewhat more expensive items than their male counterparts. This gap already manifests itself in adolescence (Bamfield 2012).

<sup>2</sup> The “import quota” is defined as the share of those suspects whose place of residence differs from the place of committing the offense among all suspects registered at a given place of offense.

<sup>3</sup> As might be expected based on the fact that shoplifters primarily target low-priced items, financial motivations mostly arise from unwillingness, rather than inability, to pay. If the price of an item is perceived as unfairly high, this presents an increased incentive to steal it (Bamfield 2012).

<sup>4</sup> Diagnoses of kleptomania are more frequent among female shoplifters than among their male

counterparts (Bamfield 2012; Wittenberg 2009). However, it remains controversial whether this gap is due to gender differences in terms of the incidence of kleptomania or due to the fact that criminal behavior is more likely to be attributed to psychological disorders among women than among men.

<sup>5</sup> In order to obtain a final sample size of 92 schools, a total of 115 schools had been contacted, corresponding to a participation rate of 80 percent.

<sup>6</sup> The ratio of the number of students from Upper Austria to the number of students from Lower Austria in the sample analyzed was exactly equal to the ratio of the underlying population sizes according to the Austrian School Statistics.

<sup>7</sup>  $p \leq .01$ .

<sup>8</sup> Parental control was operationalized as the control exerted by the mother. The parental control variable is a combined measure of instrumental control (i.e., supervision) and relational control (i.e., emotional attachment and closeness). The delinquent friends variable was measured on the basis of the number of friends engaging in shoplifting as well as on the moral attitudes towards shoplifting within the respondent's circle of friends. Personal moral attitudes towards shoplifting were measured using items asking participants to provide assessments of shoplifting (as more or less reprehensible) and to indicate the levels of guilt and shame that they would feel if they committed shoplifting themselves. Perceived deterrence was operationalized as the product of subjective risk of detection and the severity of expected formal and informal sanctions.

<sup>9</sup> All effects on the final dependent variable (i.e., incidence of shoplifting) were estimated using a negative binomial regression. Since the model contains both linear components (with delinquent friends, morality, and perceived deterrence as explained variables) and non-linear components, it was not possible to calculate standardized regression coefficients for the full model.

<sup>10</sup> When discussing the role of the family Schwind (Schwind 2011, 200 et seq.) uses the expression "norm transfer function".

<sup>11</sup> We are well aware that the proposed response model would, in many cases, result in an increase of sanction intensity as compared to the present handling of shoplifting offenses. Moreover, the proposed model entails the risk of shoplifters becoming targets of more heavily interventionist settlement policies than, for example, juvenile violent offenders who would remain entitled to diversion without intervention under Section 6 of the Austrian Juvenile Courts Act. The legal and political implications of the alternative response model discussed here, involving voluntary compensation, would, without a doubt, require further review.

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