


- Broadcast Nine, ¶ 3: The reported facts on the case of Jennifer Busby were obtained from the offense report, Duncan Aff. ¶ 78 & Ex. 49.

[3] The manager of the J.C. Penney's store in Waco is upset that some shoplifters, including one of his own employees, are not prosecuted. Seven months ago an eighteen-year-old employee was caught stealing several items from the store. The girl was arrested and signed a confession admitting the theft. No charges were ever filed by the DA's office. When store manager Bob Payne publicly complained about it, he was summoned to a meeting with Assistant DA Deanna Fitzgerald and Feazell's public relations director John Ben Sutter. Payne says the DA's office was upset with negative publicity and Ms. Fitzgerald pointedly told him that nothing derogatory should be said about the District Attorney's office. "Your case will not go to trial."

 = portion included in the offense report.

The portion of the paragraph that Busby "signed a confession admitting the theft" is a bit misleading. She gave a statement to J.C. Penney's assistant manager, Mr. Taverner, and he gave the statement to police.

The offense report does not indicate that Busby confessed to police. Further, that written statement is not part of the summary judgment evidence.

None of the remainder of paragraph 3 comes from the offense report or any other court records included in Summary Judgment Evidence.

WACO POLICE DEPT. OFFENSE REPORT		1. Name of Complainant (Last Name First) J. C. PENNYS DEPARTMENT STORE		Address 6001 W. Waco Drive		Res. Phone 776-1250		
		2. Place of Employment or School Same		Bus. Phone		Race Sex Age/DOB Height Weight Hair Eyes		
INDEX	Clerk		Sergeant		3. Offense or Incident THEFT 0/200 U/750			
	Reviewed By		Time/Date Reported 9:00 PM 12-8-84		Time/Date Occurred 8:00 - 9:00 PM 12-8-84		Location of Offense (Address) 6001 W. Waco Drive	
DESC. OFFENSE	5. Reporting Person's Name Hix, Detective Michael		Address 721 North 4th		Res. Phone 752-5555 (327)		Bus. Phone	
	6. Describe What Happened (MO, etc.) Below suspect was observed removing merchandise from shelf and placing it inside of gift wrapped boxes and wrapping the boxes up and leaving the store with the property.							
PROPERTY	7. Qty. Description (Size, Color, Model, Style, Material, Condition, Serial No.)						Value Stolen	Value Rev.
	1 Pair of Kaepa brand tennis shoes 1 Pony brand sweatsuit containing top & bottom 1 Main Event brand womens pink, white & blue sweatsuit 3 Track & Court brand mens shirts, black, blue, gray, \$9.99 each 4 City Streets brand extra large mens shirts, tan, green, blue, dk brown, \$15 each TOTAL VALUE STOLEN						\$41.99 31.00 49.99 29.97 60.00 \$212.95	\$41.99 31.00 49.99 29.97 60.00 \$212.95
VEHICLE	8. <input type="checkbox"/> Abandoned <input type="checkbox"/> Used in Offense <input type="checkbox"/> Parked at PD <input type="checkbox"/> Stolen <input type="checkbox"/> Stored <input type="checkbox"/> Vict's Veh <input type="checkbox"/> Towed <input type="checkbox"/> Canc							
	Lic. Yr-State-Number		V.I.N.		Year Make Model Name		Body Type Color(s)	
	Owner				Address		Identifying Marks-Condition-Missing Parts	
PERSONS	9. XXXXX <input type="checkbox"/> Want <input type="checkbox"/> Canc <input type="checkbox"/> Witr. <input type="checkbox"/> Susp. Wrrnt/Arr. No. BUSBY, JENNIFER LEE Name (Last, First, Middle) Address 511 S. Lumpkin, Mart, Texas							
	Race Sex Age/DOB		Height Weight Hair Eyes		Clothing-Distinctive Marks-Other			
	W F 18/11-21-66 5-9 128 bln hzl		Bond set \$1000 by Justice of the Peace John Cabaniss					
	10. <input type="checkbox"/> Arr. <input type="checkbox"/> Want <input type="checkbox"/> Canc <input type="checkbox"/> Witr. <input type="checkbox"/> Susp. Wrrnt/Arr. No. Name (Last, First, Middle) Address							
Race Sex Age/DOB		Height Weight Hair Eyes		Clothing-Distinctive Marks-Other				
11. <input type="checkbox"/> Arr. <input type="checkbox"/> Want <input type="checkbox"/> Canc <input type="checkbox"/> Witr. <input type="checkbox"/> Susp. Wrrnt/Arr. No. Name (Last, First, Middle) Address								
Race Sex Age/DOB		Height Weight Hair Eyes		Clothing-Distinctive Marks-Other				

Summary of Investigation, Officer's Opinion, Background to case, etc.

Approximately 8:00 PM, 12-8-84, I was working security for J. C. Pennys. I was in the security booth watching behind a two way mirror. The person I was watching was one of the employees later identified to be JENNIFER LEE BUSBY, W/F, 18yoa, DOB: 11-21-66. This particular female was working inside of gift wrap and had the responsibilities of taking customers packages and placing them inside of gift wrapped boxes and wrapping the boxes up for them.

Approximately 8:00 PM I observed her walking over to the rack containing the "Main Event" womens sweatsuits and pulling one off the rack. She carried this suit back to the counter and tore the price tag in to. I did not see her do this for any customer and I did not see her go to the counter where the cash register is located and ring this merchandise up. She then gift wrapped it in a box using red paper supplied by J. C. Pennys.

Reporting Officer HIX	No. 364	Assisting Officer(s)	Time/Date Dictated 12:53 AM 12-8-84	<input type="checkbox"/> Cl. by Arr. <input type="checkbox"/> Excep. Cl.
------------------------------	----------------	----------------------	--	--



Offense or Incident

4. Location

5.

6. Date Offense Reported

THEFT O/200 U/750

7. Victim or Complainant (Last Name First)

Address

J. C. PENNYS

8. Qty.	Description (Size, Color, Model, Style, Material, Condition, Serial No.)	Value Stolen	Value Rcv.

9. Arr. Want Canc

Name (Last, First Middle)

Address

Witn. Susp. Wrnt/Arr. No.

Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other

10. Arr. Want Canc

Name (Last, First, Middle)

Address

Witn. Susp. Wrnt/Arr. No.

Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other

11. Abandoned Used in Offense Parked at PD Year Make Model Name Body Type Color(s)

Stolen Stored Vict's Veh Towed Canc

Identifying Marks-Condition-Missing Parts

Lic. Yr-State-Number

V.I.N.

Owner

Address

Est. Value

Pg 2:

She then put the box into a gray J. C. Pennys shopping bag used for the customers. She put this on the floor next to her. A little while later I watched her walk over and get a sweat suit and a pair of Kaepa tennis shoes and three shirts from the rack. I immediately called JIM BARHAM who was one of the ass't managers and had him also watch her with me. We watched her take this merchandise and start to gift wrap it also. The merchandise she did not gift wrap was the gray Pony sweat suit and the pair of shoes. She just put those into a large bag that she got from one of the other girls at the checkout counter. I do not think that any of the other girls knew exactly what was transpiring. KELLY HENDERSON who is also another ass't manager came up at this time and I told her exactly what I had seen and she came up to the security booth and watched her also remove four mens shirts, brand City Street, extra large, one being tan, one green, one blue, one dark brown. She walked back to the counter and each time she cut the price tags off and placed them into a gift wrapped box. She then wrapped the box up with red paper and put a bow on it. She then took this package and placed it into the large sack. The property that was gift wrapped was the four City Street brand shirts, 3 Track & Court shirts, one Main Event womens sweat suit. The other two pieces of property being the shoes and the Pony sweat suit stayed in the sack and she did not gift wrap them. I noticed that it was getting close to 9:00 PM which is closing time and I watched a small boy walk to the counter and start talking to her. I figured this was her brother since he was much younger. I watched her take her keys out of her pocket and give them to the young boy. She pointed outside as to indicate possibly where her vehicle was. I then watched him get the keys from her and pick up the large sack containing all the property and start out the exit close to the camera department. I told KELLY that I would need to go out and stop him since I did not know who he was nor exactly where he was going. I figured this was her brother and he was going out to the car however I was not positive. I went outside and detained him and asked him who he was and where he was going. He stated that he was her step-brother and his name was JOHN SHIRLEY, W/M, age 14, DOB: 11-3-70, living on Ramada Street in Hewitt, 666-3874. He stated that he was living with his father which was not the father of Jennifer Busby. He stated that she told him to go take this property to the

12 <input type="checkbox"/> Unfounded <input type="checkbox"/> Suspended	13 Officer Making Report	Badge	Date	Time	Typed By
<input type="checkbox"/> Cl. by Arr. <input type="checkbox"/> Excep. Cl.	HIX	364	Reviewed By	Date	Clerk
			INDEX	Sergeant	

WACO POLICE DEPT

CONTINUATION/FOLLOW-UP REPORT

1. Time/Date Dictated
12-8-84

2. Case Number
84-12-47197

3. Offense or Incident THEFT 0/200 U/750
4. Location
5. Location
6. Date Offense Reported

7 Victim or Complainant (Last Name First) Address
J. C. PENNYS

PROPERTY	8. Qty. Description (Size, Color, Model, Style, Material, Condition, Serial No.)	Value Stolen	Value Rcv.

9. Arr. Want Canc Name (Last, First Middle) Address
 Witn. Susp. Wrnt/Arr. No.

Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other

10. Arr. Want Canc Name (Last, First, Middle) Address
 Witn. Susp. Wrnt/Arr. No.

Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other

11. Abandoned Used in Offense Parked at PD Year Make Model Name Body Type Color(s)
 Stolen Stored Vict's Veh Towed Canc

Lic. Yr-State-Number V.I.N. Identifying Marks-Condition-Missing Parts

Owner Address Est. Value

Pg 3:

pickup and that she would come out later. I escorted him back to the office with the property. At this time it was 10 minutes till 9:00 PM and I told JIM BARHAM to go ahead and call Jennifer back to the office. When she walked back I asked her did she have any receipts saying that she purchased this property. She stated no that she was going to do it later. I asked her where were all the sales receipts and she said that she put them in the trash. This is exactly what I had seen and went out and recovered all this property in the trash. She later signed a statement to MR. TAVERNER who is the main ass't manager of the store stating that she did not have enough money to pay for all this property and that is why she was taking it. I did not file theft charges on the brother since I felt the brother did not know exactly what was taking place. However I did file on her for theft and Officers L. Hoskins and Officer Jaquith was called to the scene. Three photographs were taken of the property and property disposition form was filled out and signed by MR. TAVERNER. The property was left at the store. Statement of witness forms were filled out and given to Officer Jaquith and Officer L. Hoskins.

JENNIFER BUSBY was then taken down and booked for Theft 0/200 U/750.

Later I received a phone call asking to go by Justice of the Peace John Cabaniss' house where a warrant was signed by him setting the bond at \$1000 so she could be transferred to the County Jail. On this date she has been transferred to the County Jail.

CLEARED BY ARREST

No. and Title of Person Being Reported

Date	Time	Typed By
12-9-84	2:08A	Paul

12. <input type="checkbox"/> Unfounded <input type="checkbox"/> Suspended <input type="checkbox"/> Cl. by Arr. <input type="checkbox"/> Excep. Cl.	13. Officer Making Report HIX	Badge 364	Reviewed By	Date	INDEX	Clerk	Sergeant
---	----------------------------------	--------------	-------------	------	-------	-------	----------

WACO POLICE DEPT

CONTINUATION/FOLLOW-UP REPORT

1. Time/Date Dictated 11:09 PM 12-8-84

2. Case Number 84-12-47197

3. Offense or Incident THEFT 0/200

4. Location 6001 W. Waco Drive

5. 330

6. Date Offense Reported 12-8-84

7. Victim or Complainant (Last Name First) J. C. PENNYS Address 6001 W. Waco

PROPERTY

8. Qty.	Description (Size, Color, Model, Style, Material, Condition, Serial No.)	Value Stolen	Value Rcv.

PERSONS

9. Arr. Want Canc Name (Last, First Middle) BUSBY, JENNIFER Address 511 South Lumpkin, Mart
 Witn. Susp. Wmnt/Arr. No. Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other
W F 18/11-21-66 5-9 128 b1n hz1

10. Arr. Want Canc Name (Last, First, Middle) Address
 Witn. Susp. Wmnt/Arr. No. Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other

VEHICLE

11. Abandoned Used in Offense Parked at PD Year Make Model Name Body Type Color(s)
 Stolen Stored Vict's Veh Towed Canc
Lic. Yr-State-Number V.I.N. Identifying Marks-Condition-Missing Parts
Owner Address Est. Value

I was dispatched to 6001 W. Waco, J. C. Pennys, to assist Detective Hix with a shoplifter. Detective Hix was working security at J. C. Pennys at the time.

When I arrived Detective Hix turned over the above JENNIFER BUSBY to me to transport to City Jail. He also turned over a statement of witness, Form 10's, picture and these were taken and placed at the Back Desk.

While I was there MS. BUSBY's step-brother JOHN SHIRLEY who lives somewhere on Ramada Street in Hewitt, phone #666-3874, was waiting on her to get off work so she could take him home. Outside of Pennys, MR. LOUIS CASTLOW, 301 Stevens, Mart, Texas, 876-3226, was outside waiting for MS. BUSBY to get off work. I turned JOHN SHIRLEY over to LOUIS CASTLOW who took JOHN to his residence on Ramada to meet his father.

MS. BUSBY along with her personal property was transported to the City Jail where she was booked in for Theft 0/200.

12 <input type="checkbox"/> Unfounded <input type="checkbox"/> Suspended <input type="checkbox"/> Cl. by Arr. <input type="checkbox"/> Excep. Cl.	13 Officer Making Report HOSKINS, L.	Badge 75	Date 12-9-84	Time 1:22A	Typed By Paul	INDEX	Clerk	Sergeant
--	---	-------------	-----------------	---------------	------------------	-------	-------	----------

WACO POLICE DEPT

CONTINUATION/FOLLOW-UP REPORT

1. Time/Date Dictated 4:20P 12-8-84

2. Case Number 84-12-47197

3. Offense or Incident

4. Location

5

6. Date Offense Reported

THEFT 0/200 U/750

6001 W. WACO DR.

12-8-84

7. Victim or Complainant (Last Name First)

Address

J. C. PENNY'S DEPT. STORE

6001 W. WACO DR.

PROPERTY

8 Qty. Description (Size, Color, Model, Style, Material, Condition, Serial No.)

Value Stolen

Value Rcv.

PERSONS

9 Arr. Want Canc

Name (Last, First Middle)

Address

Witn. Susp. Wrnt/Arr. No.

~~XXXX~~ 3182

BUSBY, JENNIFER LEE

511 S. LUMPKIN, MART, TX

Race Sex Age/DOB Height Weight Hair Eyes

Clothing-Distinctive Marks-Other

W F 18 11-21-66 509 128 BLN HZL

BOND SET \$1,000 BY J.P. JOHN CABANIS

10. Arr. Want Canc

Name (Last, First, Middle)

Address

Witn. Susp. Wrnt/Arr. No.

Race Sex Age/DOB Height Weight Hair Eyes

Clothing-Distinctive Marks-Other

VEHICLE

11 Abandoned Used in Offense Parked at PD Year Make Model Name Body Type Color(s)

Stolen Stored Vict's Veh Towed Canc

Lic. Yr-State-Number

V.I.N.

Identifying Marks-Condition-Missing Parts

Owner

Address

Est. Value

After taking this report, all of the necessary paper work was filled out and will be sent over to McLennan County D.A.'s office for prosecution. The person in charge at the time of the offense, was acting as the assistant manager of the store will be JIM BARHAM.

CASE CLEARED BY ARREST.

12 Unfounded Suspended Cl. by Arr. Excep. Cl.

13. Officer Making Report HIX

Badge 364

Date	Time	Typed By	
12-10-84	9:10P	sm	
Reviewed By	Date	INDEX	Clerk
			Sergeant

WACO POLICE DEPT		CONTINUATION/FOLLOW-UP REPORT		1. Time/Date Dictated 4:39 AM 12-9-84	2. Case Number 84-12-47197	
3. Offense or Incident THEFT 0/200 U/750		4. Location 6001 W. Waco Drive		5. 330	6. Date Offense Reported 12-8-84	
7. Victim or Complainant (Last Name First) J. C. PENNYS			Address 6001 W. Waco Drive			
PROPERTY	8. Qty. Description (Size, Color, Model, Style, Material, Condition, Serial No.)				Value Stolen	Value Rcv.
PERSONS	9. <input checked="" type="checkbox"/> Arr. <input type="checkbox"/> Want <input type="checkbox"/> Canc		Name (Last, First Middle)		Address	
	<input type="checkbox"/> Witn. <input type="checkbox"/> Susp. Wrnt/Arr. No.		BUSBY, JENNIFER LEE		511 South Lumpkin, Mart, Texas	
	Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other		W F 11-21-66 5-9 128 bIn hzl DL#08695068			
VEHICLE	10. <input type="checkbox"/> Arr. <input type="checkbox"/> Want <input type="checkbox"/> Canc		Name (Last, First, Middle)		Address	
	<input type="checkbox"/> Witn. <input type="checkbox"/> Susp. Wrnt/Arr. No.					
	Race Sex Age/DOB Height Weight Hair Eyes Clothing-Distinctive Marks-Other					
11. <input type="checkbox"/> Abandoned <input type="checkbox"/> Used in Offense <input type="checkbox"/> Parked at PD Year Make Model Name Body Type Color(s)						
<input type="checkbox"/> Stolen <input type="checkbox"/> Stored <input type="checkbox"/> Vict's Veh <input type="checkbox"/> Towed <input type="checkbox"/> Canc						
Lic. Yr-State-Number		V.I.N.		Identifying Marks-Condition-Missing Parts		
Owner		Address			Est. Value	

Received a call to pick up JENNIFER BUSBY from the City Jail and transport her and her property along with the warrant. This was done at approximately 12:45 AM, 12-9-84. The warrant was signed by Judge Cabaniss. Bond was set at \$1000. This was transported over to the County Jail and she was left with Deputy Reat.

12. <input type="checkbox"/> Unfounded <input type="checkbox"/> Suspended		13. Officer Making Report		Badge	Date	Time	Typed By
<input type="checkbox"/> Cl. by Arr. <input type="checkbox"/> Excep. Cl.		HOSKINS, L.		75	12-9-84	5:32A	Paul
				Reviewed By	Date	INDEX	Clerk Sergeant

STATEMENT OF WITNESS

84-12-47197

J.C. PENNY'S
NAME OF BUSINESS

Michael Hix
NAME OF WITNESS

6001 WEST WACO DRIVE
ADDRESS OF BUSINESS

721 N 4th
HOME ADDRESS OF WITNESS

776-1250
BUSINESS TELEPHONE NUMBER

752-5555
HOME TELEPHONE NUMBER OF WITNESS

I, the undersigned witness, was present at the above named business on the 8th day of December, 1984, as Security Officer. At approximately 8:00 o'clock P.m. on such date I observed the following described individual commit the following described acts:

Name JENNIFER Busby Age ¹¹⁻²¹⁻⁶⁶ 18 Sex F Race or color W
Height 5'9 Weight 128 Color eyes Hazel Color hair BLONDE
Clothing white pants / Aqua top ^{home ADDRESS} Special features 511 S Lumpkin Mart

This individual came to my attention while working security inside the store I observed the above subject removing items from the shelves and taking them to the gift wrap area. She cut the price tags off and placed items into individual boxes; wrapped in gift paper, and put into large sack. Later, before closing at 9:00 pm, she gave sack and car keys to younger

This individual was apprehended or detained in the following manner: step-brother who took items (inside sack) outside the store. I went outside and stopped youth and had him return to store. Recovered merchandise and arrested suspect.

The following items were recovered:

ITEM	VALUE	RECOVERED FROM
<u>LISTED ON REVERSE SIDE</u>		<u>SACK from step-brother who took merchandise OUTSIDE.</u>

The name and address of other witnesses to these acts are:

The above statement is true and correct. I will assist in the prosecution of any charges filed against the above described individual.

Signed on December 8, 1984
Michael C Hix #364
SIGNATURE OF WITNESS

Signature witnessed by:
[Signature] 103

721 N. 4th WACO
ADDRESS

NAME
ADDRESS

- (1) BLACK "Track / COURT" shirt (long sleeve) \$9.99
 - (2) BLUE "Track / COURT" shirt (") \$9.99
 - (3) Grey "Track / COURT" shirt (") \$9.99
 - (4) pair of "Kaepa" Tennis shoes \$41.99
 - (5) "Pony" sweat suit (Top \$16⁰⁰) (Bottoms \$15⁰⁰)
 - (6) "Main Event" women's sweat suit \$49.99
pink / white / blue
 - (7) City Streets (XL) mens TAN shirt \$15⁰⁰
 - " " " Green " \$15⁰⁰
 - " " " Blue " \$15⁰⁰
 - " " " DR BRN " \$15⁰⁰
-
- TOTAL \$212.95

Step Brother
 John Shirley
 Age 14
 DOB 11-3-70
 ON Ramada ST, Hewitt
 666-3874

Witness: Jim Barham
 4520 Lake Shore #3
 772-3739

Witness Kelly Henderson