



Written Statement of the

**National Retail Federation**

Submitted to the

**U.S. House of Representatives Committee on Homeland Security  
Subcommittee on Counterterrorism, Law Enforcement, and Intelligence Subcommittee**

For its hearing

**From Festive Cheer to Retail Fear: Addressing Organized Retail Crime**

December 12, 2023

The National Retail Federation (NRF) respectfully submits this statement for the record for the December 12 hearing entitled “From Festive Cheer to Retail Fear: Addressing Organized Retail Crime.” Thank you, Chairman Pfluger and Ranking Member Magaziner, for holding this hearing to examine the issue of organized retail crime.

Organized retail crime (ORC) undermines the very fabric of American communities. Through NRF surveys, retailers have reported increases in incidents of organized retail crime and more concerning the level of violence tied to these crimes, starting before the pandemic and continuing through today. Preventing these crimes in order to protect the safety of our workers and our customers is retail’s number one priority. We urge Congress to prioritize legislation that will support and enhance the ongoing efforts of federal, state and local law enforcement to blunt the rise in organized retail crime. We applaud Representative Titus as an original sponsor and Ranking Member Magaziner for his support of the Combating Organized Retail Crime Act (H.R. 895).

NRF passionately advocates for the people, brands, policies and ideas that help retail succeed. From its headquarters in Washington, D.C., NRF empowers the industry that powers the economy. Retail is the nation’s largest private-sector employer, contributing \$3.9 trillion to annual GDP and supporting one in four U.S. jobs — 52 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

We routinely convene thousands of retail asset protection and loss prevention professionals through our Loss Prevention Council, ORC/Investigators’ Network and conferences. This summer, we hosted our annual [NRF PROTECT](#) conference in Texas, where ORC was a major topic of discussion for our retailers and law enforcement partners in attendance. We surveyed 232 retail asset protection professionals at the conference, and 90%

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indicated that ORC is more of a risk to retail businesses now than it was three years ago. In addition to guiding our data gathering and policy development, these retail professionals support one another by sharing best practices. They form Organized Retail Crime Associations that build alliances among state and local law enforcement and the private sector. Their experiences, feedback, surveys and data inform NRF's testimony here today.

Despite some recent press articles that look to downplay ORC or argue about data, it is abundantly clear from retailers' experience with ORC that the criminal activities we witness in stores across the nation and the incidents of violence tied to them are on the rise. We continue to believe that ORC is a "gateway crime" and investigations have shown the profits from these crimes are often linked to far more nefarious crimes. Profits derived from retail theft, cargo theft and sophisticated ecommerce fraud are far greater than reported. What we have come to understand about ORC is that theft in our stores is merely the tip of the iceberg. Unfortunately, many individuals in the community see incidents of theft and shoplifting as victimless petty crimes, and even some law enforcement and prosecutors dismiss these incidents as trivial. ORC is anything but a victimless crime, as we continue to see a rise in violence and lost sales tax revenue for the communities where these crimes occur. What many of us do not see lies further beneath the surface of highly publicized smash-and-grab incidents captured on national and local news.

## **Background and History of Organized Retail Crime**

There are a lot of questions about what exactly organized retail crime is. ORC is not the same as shoplifting or limited to the smash-and-grab activity prevalent today. The term was first identified by loss prevention professionals and law enforcement in the 1970s. It is more important to understand that retailers are not able to specifically identify a criminal activity as ORC at the time of an incident. Whether it is shoplifting, burglary, ecommerce fraud or something else, the retailer may be able to identify some elements of ORC at the time of the incident that will be further developed based upon an investigation.

NRF defines ORC as theft or fraud activities conducted with the intent to convert illegally obtained merchandise, cargo, cash or cash equivalents into personal financial gain. It also must involve theft or fraud of multiple quantities, conducted in concert by two or more people. ORC typically involves multiple occurrences and may occur across several stores and jurisdictions.

Organized retail crime frequently involves orchestrated efforts by criminal enterprises to steal merchandise from retailers on a large scale. These enterprises often employ sophisticated techniques, such as organized shoplifting, fraudulent returns, hijacking of cargo shipments, and the use of counterfeit or stolen credit cards. The stolen goods are then resold through various channels, including online marketplaces, ecommerce and other websites, peer-to-peer marketplaces, flea markets, pawn shops, back into the legitimate supply chain, and even at legitimate retail establishments.

Below are recent examples of organized retail criminal group activities that I have received from retail loss prevention leaders who are members of NRF's LP Council. Because

there are ongoing investigations into these groups, I cannot directly attribute these to specific companies and locations, but these examples are illustrative of the types of ORC activity that we are seeing today across the country.

- A group of Eastern European subjects have been seen across the U.S. boosting large quantities of merchandise, most often beauty products, using skirts specifically designed for theft. These “boosting skirts” have bags and pouches sewn into them to hold large quantities of merchandise. They have also been known to steal athletic merchandise and footwear. Over 170 locations have been impacted by a growing total of more than 168 incidents with losses reported above \$449,583 to date. Over 70 individuals have been tied to this activity and these groups, with several subjects traveling across state lines to commit their crimes.
- A known booster crew of multiple individuals has been under investigation in Utah since 2019. Through multiple surveillances, it was observed that this group was boosting 7 days a week with a minimum of approximately \$1,000 of merchandise stolen daily. Favoring handbags, the shoplifters would steal other goods from other retailers (11 different retailers).

Using GPS tracking devices sewn inside a handbag, law enforcement alongside retailers were able to follow stolen product to a fencing location. Further police investigation, including the use of a confidential informant, identified two fencing locations; both had structured CCTV systems and countersurveillance techniques to protect the fencing locations.

When warrants and searches of the fences commenced, law enforcement were able to arrest 7 individuals, close 2 fencing operations and identify 10 additional retail victims. Estimated impact involving 11 retailers was valued at approximately \$1.4M.

- For several years we have had a group that travels from the West Coast to the East Coast for a 6–8-week period, stealing ink cartridges up and down the I-95 corridor. Investigations determined that this group operates an online ink cartridge store. They fly to Boston every year, renting a vehicle for the purpose of committing these thefts. They travel up and down the East Coast, stopping at several retail stores daily. The stolen product is shipped back to California.

The group consisted of two females and one male, who have not yet been identified. Several individual complaints were filed across various jurisdictions, however with their movement state to state, coast to coast, it has been challenging to get state or federal prosecution or collaboration against the event. Approximate known loss via CCTV with 48 incidents was around \$80K. One individual was recorded re-entering Mexico at the border.

- A group of males travel between four states committing identity theft by opening credit card accounts. These suspects obtain green card information, create a false green card and then utilize the online approval process to open false credit cards. They then purchase merchandise with the newly issued credit card, purchasing predominately gold jewelry (65% of purchases). If confronted by associates, they may become violent.
- To date, our company has lost over \$280,000 involving 52 transactions. One suspect identified was previously convicted of committing similar credit fraud against another retailer. Law enforcement continues to investigate.

Shoplifting one or a few items for personal use — often a crime of opportunity — is very different from organized retail crime. But there is overlap. Retailers identify three different types of shoplifters: opportunistic, amateur and professional. Some individuals may steal to support themselves or family members. Other individuals who are addicted to drugs often steal merchandise to resell or trade in order to feed their habit. Consequently, these same individuals make appealing targets for ORC enterprises to recruit as boosters to support their criminal enterprises. While these social challenges deserve an empathetic solution, we firmly believe legislative policy can be tailored to focus on investigations and prosecutions of those leading and profiting from organized retail crime, while providing an effective deterrent to shoplifting.

When taken as a percentage of total retail sales in 2022, retail shrink accounted for \$112.1 billion in losses, up from \$93.9 billion in 2021, according to the [2023 National Retail Security Survey](#). Retailers reported that ORC remains a significant concern due to heightened levels of violence. More than two-thirds (67%) of respondents said they were seeing even more violence and aggression from ORC perpetrators compared with a year ago. As retail crime continues to evolve in scope and sophistication, so are retailers' prevention efforts. Retailers have increased budget, use of third-party security personnel, and use of technology and other threat prevention solutions, as well as increased employee workplace violence training.

Everyone sees the videos of brazen thefts at local stores and shopping centers, committed by several individuals working in concert. But a significant majority of losses from organized retail crime goes unnoticed by the public. For example, sophisticated criminals have developed techniques to switch UPC bar codes on merchandise, so they ring up differently at checkout, commonly called “ticket switching.” Criminals use stolen or cloned credit cards to obtain merchandise or produce fictitious receipts to return products back to retail stores for store credit, which may be given in the form of gift cards that can then be resold at a discount from the total value of the card (i.e., netting the criminal pure profit for what looks like a good deal to the unsuspecting consumer).

In many instances, organized retail crime groups target several retail stores in one day, moving from state to state, across jurisdictional lines, stealing and reselling merchandise. The groups will typically have a shopping list and understand the felony threshold levels in the jurisdictions where they are committing these crimes. These groups steal thousands of dollars' worth of merchandise in each instance with the intent to resell it for profit. These profits often finance other illicit activities, such as illegal drugs or weapons sales, or fund terrorist and human-

trafficking networks overseas<sup>1</sup>. The profits from reselling stolen merchandise can also be managed to launder and conceal financial gains from other illegal activities. Organized retail crime is a gateway to other nefarious criminal activities.

A smash-and-grab theft could just be an opportunistic event by a small group of people, or it could be part of a coordinated series of thefts. Only through observation and investigation can retailers and law enforcement confirm if a specific theft event is a component of organized retail crime activities. Without a doubt, organized criminal activity involving the frequent theft of retail goods has resulted in the formation of a market in our communities where individuals can unload and convert stolen merchandise into cash. Over more than a decade, many communities have failed to address what was long viewed as victimless, property crimes, which has now resulted in people feeling more comfortable — even entitled — to steal in order to meet their personal needs. Societal changes, from the pandemic (face coverings) to the way we shop (online, mobile ordering and delivery) to how we police communities, have created opportunities for enterprising criminals. Retailers are doing all they can to protect their associates, customers and assets. We need government at every level to take actions that curtail the ability and opportunity for these criminal organizations to profit from stolen merchandise, and to send the signal that this type of criminal activity will no longer be tolerated.

During an interview with ABC News, Raul Aguilar, deputy assistant director for Homeland Security Investigations, stated that organized retail crime “absolutely is a threat.” Mr. Aguilar also noted, “These criminal networks, they may be full-time drug traffickers, but they see an opportunity to work with a crew that’s already stealing. And because it’s hundreds of millions of dollars, [the money they make] can easily be diverted for other kinds of activities.”<sup>2</sup>

### **ORC is Not a Victimless Crime**

Retail theft is not a victimless crime. It impacts jobs, consumers and communities in several ways. Increased violence involving theft has caused injury to employees and consumers, the unfortunate death of some retail associates, and a fear of working or shopping in high-crime locations. This makes it difficult for retailers to retain or find labor to support consumers.

Each item stolen and resold represents lost sales tax revenue to support communities and states, where retailers generate the most tax revenue for local governments and the second-most for the state. Lost tax revenue impacts a community’s ability to fund services including law enforcement, health care, or parks and roads.

Retail is a very narrow net-profit-margin industry. Increased losses due to theft and additional expenditures to protect goods reduce a retailer’s ability to maintain a profitable business, as retailers DO NOT have insurance for retail theft. Even if such insurance existed, it would be unaffordable. The resulting actions may lead to increased prices, fewer jobs or opportunities to provide more pay and benefits, or a store closure. Closing stores impacts consumers who lose convenient access to goods and communities that lose income and property taxes.

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<sup>1</sup> <https://www.acams.org/en/media/document/29436>

<sup>2</sup> ABC News: <https://abcnews.go.com/US/top-dhs-official-warns-absolute-threat-public-safety/story?id=99742349>

As noted, retailers' foremost concern with ORC activity is the safety of retail workers and their customers. Individuals and groups committing these crimes have used threats and acts of violence, including the use of weapons like bear mace, to aid theft. Some have set fires in stores to create a distraction. Extremely concerning is the depressing fact that several retail workers have been killed during recent theft incidents — including trained security personnel as well as retail workers serving in customer-facing roles<sup>3</sup>. Just last week there was an incident in Philadelphia where a retail security guard was stabbed and killed while protecting the store and its employees.

As more acts of blatant and deadly thefts take place in stores, the consequences are apparent for retailers and consumers alike. Both store associates and customers are being harmed and threatened. Shoppers are now seeing everyday items like toothpaste and dish soap behind lock and key. Retailers know it is an inconvenience for customers. The anti-theft security measures can lead to lost sales from customers who must wait for an employee to unlock a cabinet so they can access a product. As the theft of merchandise continues, the cost of securing those items skyrockets. Retailers already operate on very slim margins and can only absorb so much cost to remain profitable. Retailers are boosting their budgets for loss prevention and technology, with more than half of retailers reporting they are increasing budgets toward personnel, technology solutions and equipment to combat ORC. With ORC incidents surging across the country, these additional security investments are passed along to consumers in the form of higher prices, fewer choices and less convenience.

Of great concern to consumers is that this type of criminal activity can put their health and safety at risk. For example, consumers are at risk when stolen consumable products, such as over-the-counter medications and infant formula, are put up for resale. Pilfered products may not be kept under ideal or required storage conditions, which threatens product integrity. And these organized criminal enterprises will re-package and re-label stolen products to falsely extend the product's expiration date or disguise the fact that the merchandise has been stolen. There have been numerous cases involving the theft of infant formula that was found not to have been properly stored.

Retailers generate millions of good-paying jobs that are the foundation for successful careers, but NRF members report that incidents of violence and intimidation that accompany shoplifting have increased to a point where retail workers are indicating unease with reporting for work. There are currently 543,000 job openings in retail and a clear shortage of workers<sup>4</sup>. Stores that experience frequent, visible ORC incidents, particularly those that involve threats or assault against retail workers, may experience reduced morale and higher staff turnover. Younger workers and their parents are citing the ORC they see on the news as a primary concern about the relative safety of jobs in retail stores or shopping centers. According to extensive polling conducted by Lotis Blue Consulting, retail associates' feeling that their health and safety are valued is a significant driver of decisions (#3 out of 30) to stay with their employer. All else being equal, employees were 67% more likely to stay with their employer if they felt their health

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<sup>3</sup> <http://d-ddaily.com/archivesdaily/2022-Q4-Fatalities-Report.htm>

<sup>4</sup> St. Louis Federal Reserve Bank: <https://fred.stlouisfed.org/series/JTS4400JOL>. Preliminary, seasonally adjusted data as of October 2023.

and safety were valued, which is an increase of 10% from 57% in 2022. The point is the dramatic increase in this figure coincides with the wave of crime in retail establishments.

Americans are increasingly concerned with the harm that organized retail crime is causing in their communities. In May 2023, NRF released the results of a survey<sup>5</sup> of over 5,000 U.S. consumers focused on the issue of retail crime. It found that 55% of consumers believe retail crimes such as shoplifting and looting of stores have increased in their community since the onset of the pandemic in 2020. The survey also found that 64% of consumers are concerned about gang-led shoplifting, and this increases to 75% among consumers who live in urban communities. Three-quarters (75%) have personally shopped in stores where products are kept in locked cabinets to prevent theft. Finally, more than half (51%) say that law enforcement and the courts are too lenient on those who steal from stores.

### **Quantifying the Impact of ORC**

Unfortunately, comprehensive crime data on ORC at the national level does not exist and many law enforcement agencies do not specifically track ORC as a separate category of crime. Statistics for certain crimes that overlap with ORC activity, such as shoplifting, larceny, theft, robbery and commercial burglary, have seen increases in major urban areas of the country. Congress should consider ways to require specificity and detail with respect to multiple categories of property crime, including the reporting of organized retail crime, as part of the Uniform Crime Reporting system.

For 30 years, NRF has surveyed retailers on loss prevention, organized retail crime, shoplifting and other security risks annually to publish its [National Retail Security Survey](#) (NRSS). This survey of retail loss prevention and security executives about risks, threats and vulnerability aims to serve as a benchmark for the retail industry and to inform the public about the impact of ORC on the industry. In April 2023, NRF released a new report, developed in partnership with the company K2 Integrity, entitled “[Organized Retail Crime: An Assessment of a Persistent and Growing Threat.](#)” The report provides a detailed assessment of U.S.-based ORC enterprises, their tactics and techniques for theft and resale together with linkages to other types of organized criminal activity.

The NRSS and K2 Integrity reports found that ORC groups rely on advance planning to ensure the success of their theft operations. This includes studying store layouts, camera locations and exit locations. It includes knowing the specific store policies for stopping or interfering with suspected thieves. Specifically, the K2 Integrity report discovered and identified:

- ORC groups largely target everyday consumer goods — which offer a favorable balance between ease of theft, monetary value and ease of resale — based on analysis of 116 ORC groups that found 81% of these groups exclusively stole general consumer goods.

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<sup>5</sup> National Retail Federation: <https://nrf.com/media-center/press-releases/exclusive-nrf-survey-shows-majority-consumers-believe-retail-crime-has>

- Analysis of 132 ORC groups that conducted booster operations between 2014 and 2022 found that 16% used at least one violent tactic — defined as smash-and-grab, use of firearms or other weapons, battery, flash mob tactics, or threats of violence against store employees or customers. Fifteen of the 21 violent ORC groups analyzed for the study began operations in 2021, which suggests the uptick in the use of violent tactics during theft operations is a recent development.
- ORC groups rely on advance planning to help ensure the success of booster operations. ORC groups that target physical stores build intimate knowledge of store layouts, and some ORC groups exploit the largely similar layouts of national chain stores to develop replicable booster operations across multiple store locations. In some cases, ORC groups plan operations that cover a large area and employ booster crews to travel long distances to conduct thefts. The median retail value of merchandise a booster steals prior to arrest is about \$5,000.
- The median ORC fencing operation handles about \$250,000 in stolen merchandise prior to disruption by law enforcement authorities. ORC fencing operations rely on online marketplaces as a resale channel. About 45% of ORC groups for which fencing information was available used online marketplaces for resale operations. The actual proportion is likely higher given that online ORC fencing operations are more difficult for authorities to detect compared with physical resale channels. ORC fences that conduct online resale operations appear to be shifting their activities away from third-party online sellers and toward peer-to-peer venues that rely on direct engagement among buyers and sellers to complete transactions.
- ORC groups will be likely to expand the scale of their operations in response to sustained inflation or an economic slowdown that causes an uptick in underemployment and unemployment. Increased economic hardship would present ORC groups with a larger pool of individuals potentially susceptible to recruitment for booster operations, thus providing ORC groups with the labor required to scale operations to serve potential growth.
- There are significant deficiencies in the availability of consistent and consolidated data regarding ORC. The fragmentary and disorganized state of data on ORC across national, state and local authorities, and the lack of standard centralized information on ORC from the retail industry, present difficulties to building a nuanced understanding of ORC's national and regional prevalence, and operational trends. Efforts to standardize and increase data collection on ORC would help build understanding of key information gaps about ORC that existing primary and secondary sources are unable to fill.

There is a basic pattern to how retail theft gangs are organized. First, there are “boosters” who are front-line thieves that steal directly from retail stores. They are often given a list of specific goods and quantities from a “crew boss” or “fence.” Crew bosses recruit and lead a group of boosters and communicate tactics and techniques to avoid loss prevention policies at retail stores. Fences are the intermediary that receives the stolen merchandise from the boosters



and crew bosses. They may own or operate a front company, a warehouse, an ecommerce website, or establish a presence in an online marketplace. Fences employ “cleaners,” who are responsible for cleaning the stolen products. This includes removing anti-theft technology, altering expiration dates or repackaging the merchandise so it looks new and not stolen.

In more complex organizations, there may be professional money launderers, as well as shell company operators who divert large quantities of stolen goods to wholesalers, liquidators, other legitimate retail businesses or pawn shops, or back into the retail supply chain. The operators who divert stolen goods may ship overseas to countries where American products are highly prized. Some of the most profitable organized retail crime groups that were stopped by law enforcement have shown ties to international criminal networks involved in identity theft, fraud, drug trafficking and human trafficking.<sup>6</sup>

The property crimes Americans witness on the nightly news, or in person, are a small portion of larger criminal enterprises with global impact. Tactics range from basic shoplifting of large quantities of goods, to brazen smash-and-grab events, to sophisticated schemes exploiting gaps in security, to “Mission Impossible”-style burglaries in the middle of the night<sup>7</sup>. The profits derived from ORC are supporting a multitude of criminal activities across state and international borders. The consequences of these crimes are leading to higher prices that consumers pay, along with store closures and loss of job opportunities. Worst of all, retail workers are sometimes being killed.

## **Policy Recommendations**

The National Retail Federation strongly supports and urges Congress to pass the [Combating Organized Retail Crime Act](#) (H.R. 895) and provide appropriate resources for implementation. This bipartisan legislation will create an interagency Organized Retail Crime Center located within Homeland Security Investigations (HSI) and include participation by other federal law enforcement agencies. The Center would align counter-ORC activities by developing national-level ORC intelligence, facilitating information sharing across federal, state, local and tribal agencies, and supporting multi-agency investigations. It will serve as a hub of expertise for training and technical assistance for state, local and tribal law enforcement agencies. The bill will also make changes to the U.S. criminal code to provide investigators and prosecutors increased enforcement tools to blunt organized retail crime activity. We believe that H.R. 895 appropriately places emphasis on these crimes and differentiates them from shoplifting for personal use, so that state and federal law enforcement can support investigations that bring organized criminal activities to prosecution. We also believe that the establishment of this new Center can be undertaken within the scope of existing appropriations for HSI and other participating agencies. We applaud the 90-plus House members who have co-sponsored this legislation.

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<sup>6</sup> [Homeland Security Investigations and Houston Police Department arrest three Houston-area residents, suspected ties to \\$65 million transnational organized retail crime.](#)

<sup>7</sup> Los Angeles Times: <https://www.latimes.com/local/lanow/la-me-best-buy-alleged-burglars-steal-apple-products-20190709-story.html>

Homeland Security Investigations has significant experience in assisting law enforcement in bringing cases against some of the biggest organized theft groups. They have developed Operation Boiling Point<sup>8</sup> to target domestic and transnational criminal groups profiting from ORC, cargo theft and similar crimes. This experience ensures HSI can lead the interagency taskforce established in H.R. 895 and bring to bear greater investigatory and intelligence-gathering assets of the federal government. State and local police departments throughout the U.S. are under-staffed and sometimes have trouble dedicating resources to thefts and burglaries tied to complicated organized theft gangs. Federal intelligence sharing and investigation support will make a tremendous difference on the frontlines of ORC.

NRF strongly supported the INFORM Consumers Act, which Congress passed in 2022 and took effect in July. This legislation addresses the frequent resale of stolen merchandise by third-party sellers utilizing online marketplaces. It requires online marketplaces to verify the identity of individuals that sell a higher volume of goods. It appropriately protects the privacy of legitimate small businesses seeking to build their enterprise. This critical new law will begin to curb the resale of stolen merchandise and we appreciate Congress addressing this critical issue. However, curbing the resale of stolen merchandise is just one aspect of organized retail crime, and more must be done to protect our people, stores and communities.

## **Conclusion**

Preventing organized retail crime and protecting their employees and customers will remain the top priority for all retailers nationwide. Expenditures against retail theft have factored into retail budgets throughout the enterprise including construction, store operations, merchandising, information technology, loss prevention, and staffing and training. This is an enormously important and expensive effort for the retail industry. The continuing growth of organized retail crime and the damage it causes to communities dictates that something needs to be done to control the theft and resale market for stolen goods.

If this criminal activity was solely a retail industry issue, retailers would have solved it by now. These crimes affect every single one of us. Passing H.R. 895 will further establish and memorialize the public-private partnerships necessary for information sharing among retailers, law enforcement and financial institutions at the national level. While retailers will continue to invest billions of dollars in protecting their people, customers and assets from organized retail crime, the problem cannot be solved by fighting these cases one-by-one at the local level. It is difficult for retail investigators and law enforcement to bring a case of ORC to a successful prosecution. Criminals understand this and are threatening our workers, exploiting our businesses and flouting our laws. Today in the U.S., organized retail crime pays, and it pays well. It is viewed as less dangerous for its perpetrators than more illicit crimes. We must change this equation and we ask Congress to support and pass H.R. 895, the Combating Organized Retail Crime Act, along with appropriate resources.

The National Retail Federation deeply appreciates the subcommittee for examining organized retail crime today. Thank you, members of the subcommittee, for your time today. We stand ready to work together to advance the Combating Organized Retail Crime Act, as well as

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<sup>8</sup> Department of Homeland Security, Operation Boiling Point: <https://www.ice.gov/features/op-boiling-point>

other legislative proposals that will support our communities in preventing ORC and ultimately protect our people and customers.



# U.S. Immigration and Customs Enforcement

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STATEMENT

OF

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

*“ORGANIZED RETAIL CRIME”*

BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON HOMELAND SECURITY  
SUBCOMMITTEE ON COUNTERTERRORISM, LAW ENFORCEMENT, AND  
INTELLIGENCE

December 12, 2023  
310 Cannon House Office Building  
2:00 PM

Chairman Pfluger, Ranking Member Magaziner, and distinguished members of the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence:

### **Introduction**

Thank you for the opportunity to appear before you today to discuss the efforts by Homeland Security Investigations (HSI) to combat Organized Retail Crime (ORC). My statement focuses on the crucial role HSI plays domestically and internationally in identifying, disrupting, and dismantling transnational criminal organizations (TCOs) that are involved with ORC and related crimes.

HSI is the principal component of the Department of Homeland Security (DHS) responsible for investigating transnational crime. In close collaboration with public and private sector partners in the United States and abroad, HSI special agents diligently work to identify and methodically build criminal cases against TCOs, terrorist networks, and their facilitators, as well as many other criminal elements that threaten the safety and security of our homeland. HSI works in conjunction with state and federal prosecutors to indict and arrest violators, execute criminal search warrants, seize currency and assets derived from criminal activity, and take other strategic actions designed to disrupt and dismantle criminal organizations operating throughout the world.

The HSI Financial Crimes Unit has led HSI's efforts to combat ORC and is focused on building partnerships with the retail industry and supporting HSI investigations to combat TCOs targeting retail businesses and laundering illicit profits. In 2022, HSI initiated Operation Boiling Point to underscore and address the severity of organized theft groups (OTG) involved in ORC, cargo theft, and other systematic thefts. When the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act or the INFORM Consumers Act came into effect on June 27, 2023, HSI transitioned to Operation Boiling Point 2.0, to better communicate and engage with the major e-commerce platforms, and it is designed to attack ORC from an anti-money laundering approach in partnership with the e-commerce platforms and the retail sector.

### **ORC Threats and Related Crimes**

In 2022, retail theft from both internal and external parties was responsible for approximately \$72 billion in losses according to the National Retail Federation's 2023 most recent Retail Security Survey. HSI is targeting OTG's who engage in three types of activities: ORC, cargo theft, and other related crimes. HSI defines these terms as:

- **ORC** refers to "the association of two or more persons engaged in illegally obtaining items of value from retail establishments, through theft and/or fraud, as part of a criminal enterprise."
- **Cargo theft** is the theft or fraudulent acquisition of goods that are part of an interstate or international shipment and can take place at any point along the supply chain.

- **Other OTG activity** pertains to the theft of valuable items outside the regular supply chain, such as catalytic converters.

OTGs engage in large-scale theft which relies on criminal networks of boosters who steal goods from retailers, cleaners who disguise the origins of the stolen merchandise, fencers who resell the products through brick-and-mortar fronts and e-commerce websites, and professional money launderers who funnel the illicit profits to the criminals orchestrating the schemes. In order to realize higher profits, many of the stolen items are shipped to foreign markets or sold via dark web or other gray market websites that have lower or no standards of retail product authenticity verification. Those illicit profits need to be laundered to be realized and used by TCOs. The laundering of these illicit proceeds involves the exploitation of the financial system, bulk cash smuggling, and trade-based money laundering schemes - a system now dominated by Chinese-based Money Laundering Organizations (CMLOs). The CMLOs that are laundering the proceeds from ORC are the same organizations that are laundering the illicit proceeds from the sale of narcotics, to include fentanyl by Mexican-based drug cartels.

### **HSI's Role in Combating Organized Retail Crime**

HSI conducts investigations targeting organized theft groups based on the interstate and international transportation of stolen goods and the corresponding movement of illicit proceeds from the sale of these stolen goods. While HSI's investigative portfolio is extensive and diverse, financial investigations are at the core of every investigative program area. TCOs, terrorist organizations, and the myriad of criminal networks have grown increasingly more sophisticated in their approach to concealing their criminal acts, while also morphing operations to the perceived anonymity of the Darknet. Traditional money laundering methods remain; yet, cryptocurrency can now be used with relative ease to facilitate any type of illicit activity. HSI's financial investigative authorities and unique capabilities specifically enable us to identify, dismantle, and disrupt the criminal enterprises that threaten our nation's economy and security. One of the most effective methods utilized to identify, dismantle, and disrupt organizations engaged in retail crime is to target the illicit movement of proceeds gained through their efforts. We also target transnational criminal gangs and other TCOs committing ORC and other crimes related to illicit trade, travel, and finance.

HSI is utilizing its National Lead Development Center (NLDC) to coordinate ORC investigations with HSI field offices; other federal partners to include the United States Secret Service, the United States Postal Service, as well as others; state and local law enforcement; private sector loss prevention/asset protection components; and insurers. In Fiscal Year 2023, the NLDC received 222 requests for investigation from state/local law enforcement and the private sector on thefts resulting in a combined \$51 million in ORC losses.

HSI's ORC investigations focus on the higher tiers of OTGs. These investigations target the often-violent individuals profiting from the thefts. HSI investigations have uncovered several TCOs involved in ORC. One such example is the South American Theft Groups (SATGs), which include organizations based in Colombia, Chile, and other countries. These groups recruit members and facilitate travel into the United States for individuals who then commit strategic

thefts of high-value electronic devices. Items are stolen, consolidated, shipped to another location in the United States, and ultimately illicitly exported to foreign countries. An additional example of OTGs are Romanian organized theft groups (ROTG) that recruit individuals from Eastern Europe to travel to the United States to commit various types of crimes, including retail theft and access device fraud. A recent HSI investigation in Missouri revealed an ROTG, comprised of previously deported individuals, that wired illicit proceeds to Romania and other international destinations.

As part of the DOJ's Organized Crime Drug Enforcement Task Forces (OCDETF) Program, the International Organized Crime, Intelligence and Operations Center (IOC-2) leverages its unique capabilities and resources from the Special Operations Unit and the OCDETF Fusion Center to provide comprehensive intelligence products, case support and deconfliction to HSI offices in support of OTG investigations. In Fiscal Year 2023, HSI and IOC-2 held a case coordination meeting between HSI field offices and local law enforcement to deconflict investigations and share typologies of SATGs operating in multiple jurisdictions across the United States.

HSI's National Targeting Center – Investigations (NTC-I) Unit was established in December 2013, in collaboration with U.S. Customs and Border Protection (CBP), to enhance our shared border security mission. HSI's collaborative presence at the National Targeting Center (NTC) supports the entire border security continuum, from CBP interdictions and HSI investigations, to the joint exploitation of intelligence. NTC-I facilitates the identification and disruption of SATGs.

In Fiscal Year 2023, HSI created a working group with U.S. Secret Service (USSS), U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations, U.S. Citizenship and Immigration Services, and CBP's NTC to prevent suspected SATG and ROTG members from entering the United States and to target those that had previously entered. In addition, HSI, USSS, and the NTC are targeting imported shipments of parts used to assemble "card skimmers," which are commonly used by ROTGs to commit access device fraud and steal millions of dollars from states' Supplemental Nutrition Assistance Programs.

The National Intellectual Property Rights Coordination Center (IPR Center) was created by HSI in 2010 and codified into law in the Trade Facilitation and Trade Enforcement Act of 2015. The IPR Center brings together a multitude of domestic and international partners, including the retail industry, in a task force setting at the forefront of the U.S. Government's response to combating global intellectual property theft and enforcing international trade laws. The IPR Center attacks vulnerabilities in the global supply chain to further secure the border, facilitate legitimate trade, and dismantle criminal organizations engaged in trade crimes. The IPR Center has over a decade of experience investigating how TCO's exploit online marketplaces to peddle counterfeit items and other illicit goods and served as a model for HSI's Operation Boiling Point.

### **HSI's Strategy to Combat ORC**

Through Operation Boiling Point 2.0, HSI is targeting OTGs utilizing theft, and in some cases fraud, as a means to profit from criminal activity.

HSI continues to establish, foster, and maintain public and private sector partnerships to combat OTGs. HSI recognizes the invaluable role of industry partnerships, to include retail, freight transportation, banking and other business sectors, which may be targeted by OTGs or utilized by OTGs to facilitate their criminal activities. HSI has also developed relationships with several regional Organized Retail Crime Associations throughout the United States. To highlight the importance of public and private sector partnerships, HSI collaborated with the Association of Certified Anti-Money Laundering Specialists to publish a [guide](#) for law enforcement investigators and anti-financial crime professionals to help combat ORC and OTGs.

Over the past two decades, HSI has established a strong record of working collaboratively with banks. For example, HSI's Operation Cornerstone is a comprehensive and proactive outreach initiative that ensures financial institutions are informed of the latest money laundering techniques.

In terms of e-commerce and online marketplaces, under Operation Boiling Point 2.0, HSI will adapt our Cornerstone outreach program to meet the needs of e-commerce and online marketplaces. This will include educating online marketplaces on the latest criminal trends and providing direct access to HSI investigative support and personnel when fraud is suspected. HSI anticipates some high-volume third-party sellers of stolen goods will gravitate toward new or existing marketplaces that do not comply with the recently passed INFORM Consumers Act. However, through the concerted efforts of law enforcement agencies within the United States and around the world, there are fewer and fewer dark corners of the internet where cyber criminals can operate when denied access to legitimate platforms.

HSI continues to obtain, develop, and provide intelligence and investigative leads to our HSI field offices and state and local law enforcement. Through our strategic partnerships, HSI receives and disseminates actionable leads to HSI criminal analysts and special agents across 253 domestic field offices and 86 international offices to identify criminal networks and develop investigations.

HSI continues to advance criminal investigations to disrupt and dismantle OTGs. HSI recognizes the importance of collaboration with federal, state, and local law enforcement and prosecutors, as well as regional task forces, to combat the ORC threat. OTGs operating domestically and abroad may commit retail theft, cargo theft, and related crimes across several jurisdictions, which requires investigators to share information and pool resources to effectively disrupt and dismantle criminal organizations impacting our communities. The HSI domestic footprint is supplemented by approximately 3,700 task force officers representing key strategic federal, state and local partners in the fight to combat TCOs.

As the final component of this initiative, HSI launched a robust public awareness campaign in coordination with our partners. Since its launch, HSI has participated in over 50 events and meetings discussing Operation Boiling Point 2.0 with over 4,000 attendees and stakeholders from 29 states.



## Investigative Results

In Fiscal Year 2023, HSI initiated 199 OTG cases, which represents an increase of over 107 percent from Fiscal Year 2022. As shown in the following table, seizures have increased over 227 percent, arrests have increased 159 percent, and indictments have increased 189 percent related to ORC investigations in Fiscal Year 2023, from Fiscal Year 2022 levels.

	FY 2021	FY 2022	FY 2023
Cases Initiated	59	96	199
Assets Seized	\$9,287,757	\$4,690,823	\$15,372,834
Criminal Arrests	61	149	386
Indictments	55	98	284

### *Operation King of the Mountain*

In August 2022, HSI Charlotte worked with CVS, Walgreens, Walmart, Publix, and Target retailers to identify an ORC ring operating in North Carolina. The retailers provided information about the means and methods of the ORC ring and requested HSI’s assistance to disrupt and dismantle the organization. HSI identified an individual receiving stolen property from “boosters” and two known warehouse style storage facilities storing the stolen merchandise that was later sold on eBay and Amazon.

HSI Charlotte executed four search warrants and have arrested four individuals including the main suspect. The operation resulted in the seizure of 28 firearms to include four AR-15 rifles, six suppressors, more than 20,000 rounds of assorted ammunition, and \$167,389.31 in stolen merchandise recovered.

### *Operation At the Card Wash*

In September of this year a multi-year investigation lead by HSI Los Angeles concluded after members of a TCO plead guilty to conspiracy to commit money laundering and other charges. The investigation identified a network of wholesale electronics distributors engaged in trade-based money laundering by sourcing merchandise derived from various fraud schemes and exploiting the use of gift cards to launder or mask criminally derived funds. As an example, a phone scam victim is coerced, under false pretenses, into purchasing and providing gift cards and access codes to scammers over the phone which are ultimately transmitted to straw-purchasers or “runners,” who utilize the cards for transactions to purchase high value consumer electronics or new gift cards at retail stores.

The investigation led to the federal indictment of four defendants related to a scheme to launder gift cards purchased by scam victims. The indictment alleged that the defendants obtained more than 5,000 gift cards from a group that called itself the “Magic Lamp,” and sold gift card information via an online messenger application. Through the purchases and other transactions at multiple retail stores, the defendants and their co-conspirators sought to conceal the fact that the

gift cards had been originally funded with fraudulent proceeds. Customs records indicated that between August 2019 and November 2020, a business operated by one defendant exported merchandise with a total declared value of over \$13 million, consisting of iPads, cell phones, AirPods, and Apple watches, to recipients in Hong Kong. In September, after a ten-day trial three defendants were found guilty of conspiracy to commit money laundering. A January 2024, sentencing hearing has been set at which time the defendants will face a statutory maximum sentence of 20 years in federal prison for each money laundering conspiracy count. The fourth defendant pled guilty and is currently serving a federal prison sentence. This case was prosecuted by the United States Attorney's Office for the Central District of California.

These investigations demonstrate the scope of OTG activities that victimize our communities and highlight the HSI strategic and vital role in investigating ORC, cargo theft, and related crimes to disrupt and dismantle OTGs. These cases also illustrate the importance of public and private partnerships, and law enforcement coordination across jurisdictions.

### **Conclusion**

The United States remains a desirable target for TCOs that seek to profit from systematic theft and fraud. Through its unique authorities, capabilities, and strategic partnerships, HSI seeks to disrupt and dismantle OTGs that exploit the United States economy and pose a public safety risk to our communities.

Thank you again for the opportunity to appear before you today and for your continued support of HSI and our enduring efforts to secure our borders and protect the American people from the criminal organizations targeting our homeland. I look forward to your questions.



**Jason D. Kane**

**Special Agent in Charge  
United States Secret Service**

**Prepared Testimony**

**Before the  
United States House of Representatives**

**Homeland Security Committee  
Subcommittee on Counterterrorism, Law Enforcement, and Intelligence**

**Regarding a Hearing on**

**Organized Retail Crime**

**December 12, 2023**

## **Introduction**

Chairman Pfluger, Ranking Member Magaziner, and distinguished members of this Subcommittee: Thank you for inviting me to testify before you on the current investigative capabilities of the U.S. Secret Service (Secret Service) and how they may be of help addressing the rising trend of organized retail crime (ORC).<sup>1</sup>

As one of the nation's original investigative agencies, charged with safeguarding the nation's financial and payment systems, the Secret Service has, since 1865, conducted criminal investigations to protect the American public, financial institutions, and critical infrastructure from criminal exploitation. As early as 1982, the Secretary of the Treasury directed the Secret Service to investigate crimes related to electronic funds transfers to keep pace with the growing role of computers in the U.S. financial system. Today, we have extensive authorities to safeguard financial payment systems from criminal exploitation, even as those illicit activities are increasingly transnational in nature and enabled by cyberspace and digital currencies.

I currently serve as the Special Agent in Charge of the Nashville Field Office with oversight of middle and eastern Tennessee. In my former role as a Deputy Assistant Director, I helped drive our investigative focus and priorities supporting our 161 field offices. I drafted policies for our offices to deploy, but now I implement those policies to deter, disrupt, and ultimately prosecute actors involved in transnational criminal organizations (TCOs).

In executing our law enforcement mission, the Secret Service closely partners with Federal, state, local, tribal, territorial, and international law enforcement agencies. We do this in part through our network of Cyber Fraud Task Forces (CFTFs)<sup>2</sup> which are strategically placed in major cities across the United States. In criminal investigations involving digital currency, we partner particularly closely with Homeland Security Investigations (HSI), the Financial Crimes Enforcement Network (FinCEN), the Federal Bureau of Investigations (FBI), the Department of Justice, and other Federal agencies with related responsibilities as well as state and local law enforcement partners.

The Secret Service's primary areas of focus with respect to combating organized retail crime are in training our state and local partners, providing shared resources in the form of technical tools, and utilizing our specialized abilities to track and seize illicit funds, often in the form of

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<sup>1</sup> ORC is the large-scale theft of retail merchandise with the intent to resell the items for financial gain. National Retail Federation, <https://nrf.com/advocacy/policy-issues/organized-retail-crime>.

<sup>2</sup> Section 105 of the USA PATRIOT Act of 2001 directed the Secret Service to establish a "a national network of electronic crimes task forces, ... for the purpose of preventing, detecting, and investigating various forms of electronic crimes, including potential terrorist attacks against critical infrastructure and financial payment systems." The first Secret Service Electronic Crimes Task Force (ECTF) was established in New York in 1995; today the Secret Service operates 42 domestic CFTFs, as part of an expanding international network that partners Federal, state, and local law enforcement with the private sector and academia to effectively investigate cybercrimes.

cryptocurrencies, which are used by TCOs to conceal and transfer their ill-gotten gains. The Secret Service has an exceptional record of success in disrupting TCOs, and we remain committed to keeping pace with both technology innovation and the evolving strategies and tactics of cyber criminals. My testimony today will explain our efforts, and the challenges we face, in addressing organized retail crime and related criminal activity.

### **Impact of National Computer Forensics Institute (NCFI)**

The Secret Service identified the availability of cyber-related training and equipment at the state, local, and tribal levels as an issue in the early 2000s. Established in 2008, through a partnership initiative between the Department of Homeland Security (DHS), the Secret Service, and the Alabama District Attorneys Association, the NCFI has trained more than 24,000 state, local, tribal, and territorial (SLTT) law enforcement, prosecutors, and judicial officials. Trainees hail from more than 4,700 agencies throughout all 50 states and five U.S. territories. Since 2017, the NCFI has issued more than \$122 million in computer equipment to SLTT digital forensics examiners. This equipment is sent back to SLTT departments and used to investigate a wide spectrum of crime, to include retail crime.

The impact of the NCFI's training mission on SLTT law enforcement partners is evident firsthand through the Forensic Partner Reporting program. Graduates of NCFI's forensic examiner courses utilize Secret Service-issued equipment to conduct examinations in a wide range of criminal investigations across the nation, and report back on their work. Reporting for Fiscal Year (FY) 2023 is at an all-time high, reflecting that SLTT partners conducted over 200,000 exams and analyzed more than 35 petabytes of data, which is the equivalent of 700 million four-drawer file cabinets full of data. More than half of all exams reported involved violent crime investigations, to include homicide, robbery, rape, and child exploitation.

Cases today revolve around the ability to prove guilt in a cyber environment. I would submit to you that 25 years ago cases regularly hinged on biological DNA evidence as the pillar of a prosecution. Today, cases also regularly rely on "computer DNA" or "digital dust" from computer forensics to show the pattern and intent of criminal actors and their networks. Without this type of evidence, many criminal actors may go free or receive limited sentences as the full degree of their culpability is not discovered. Last year, Congress renewed its commitment to the NCFI program by passing legislation that expanded this program and allowed for its continued operation through the end of FY 2028. This legislation has strengthened the capabilities of the Secret Service and our law enforcement partners to combat modern criminal activity, including organized retail crime.

### **Cyber Fraud Task Forces & Partnerships**

Our Cyber Fraud Task Forces are connected with U.S. Attorneys' Offices and other federal SLTT counterparts in every jurisdiction to ensure that our partners have the most relevant information on criminal trends and tactics used by organized criminal groups. Our well-established and trusted relationships with financial institutions, stemming from our origins in combatting the spread of counterfeit currency, affords us the agility to aid with cases involving organized retail crime. We are fully engaged with our partners, as partnership is essential to accomplishing our mission.

We work daily with partners in the financial sector, such as FinCEN and the National Cyber-Forensics Training Alliance (NCFTA), to identify trends throughout the country. We issue advisories to financial institutions as new information is developed, to include ways to prevent and mitigate fraudulent schemes. While the fight remains, a tangible example of our CFTF capabilities were shown during the COVID-19 pandemic, where we seized and returned over \$1.65 billion in fraudulently obtained Small Business Administration loans and unemployment insurance benefits and arrested more than 670 individuals.

Lastly, to ensure we are an effective partner to the private sector, we have placed renewed emphasis on public outreach. One item I have personally learned in my tenure with this agency is that our private sector partners are in this fight with us. We have increased our outreach initiatives in the form of podcasts, in-person briefings, and our first-ever citizens academy, which was hosted by our Dallas Field Office just a few months ago.<sup>3</sup> Addressing cyber enabled crime is a team sport, and we rely heavily on close collaboration with stakeholders, just as we do when we complete our protective mission.

## **Strategy**

The Office of Investigations Strategy, FY 2021-2027, identifies the following three objectives to safeguard U.S. financial systems:

1. Detect, investigate, and arrest those committing financial crimes.
2. Identify and seize assets to prevent illicit profit and recover victim financial losses.
3. Strengthen the ability of stakeholders to prevent financial crimes.

It is in the second category that I believe may be of particular interest to this committee. It is an area the Secret Service has and continues to devote extraordinary effort to staff, resource, and train our personnel to address. I am pleased to report this fight is one the Secret Service takes on daily, and we have numerous examples of how our strategies are working. Based on our efforts,

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<sup>3</sup> <https://www.secretservice.gov/newsroom/behind-the-shades/2023/08/secret-service-pilots-citizens-academy-dallas>.

we prevented over \$2.6 billion in fraud in FY 2022.<sup>4</sup> These losses are victim based and attributable to crimes such as Business Email Compromises (BECs), romance scams, and stolen personal information via Dark Web marketplaces.

Without effective law enforcement intervention, consumers will bear the brunt of higher cost for items based on the acts of criminal groups. These criminals are not only defrauding retailers but also impeding the availability of commerce as retailers are unable to fight the problem alone.

### **Investigative Efforts**

The immediate investigative focus of the Secret Service is to disrupt and deter criminal activity and to recover any funds stolen from Americans. Longer term, we work to ensure that those who have criminally exploited our businesses are arrested and successfully prosecuted. Cyber-enabled crimes are often transnational and multi-jurisdictional in nature, which is why Federal assistance is many times not only warranted, but it is essential.

While much of our casework does not directly involve retail theft, we support efforts to counter ORC through our investigations involving the illegal movement of money. Today, much of that money laundering is facilitated through digital assets. I think back to a case involving Liberty Reserve, which was designed to facilitate illegal transactions and launder the proceeds of various crimes.<sup>5</sup>

While we shut down Liberty Reserve in 2013, just last month, the Secret Service worked with a cryptocurrency company to freeze \$225 million worth of assets related to a transnational criminal scheme.<sup>6</sup> It is the intention of the Secret Service to seize the funds associated with illegal activity in this case and return as much as possible to victims. In FY 2022 and 2023, we returned over \$570 million to victims of crime. Our actions to address illicit financial activity will undoubtedly deal a financial blow to those engaged in ORC by limiting their ability to use the proceeds from selling stolen items.

### **Operation Urban Justice**

In late 2022, the Secret Service entered a prolific investigation involving the State of California and the theft of Electronic Benefit Transfer (EBT) benefits. The EBT program was being exploited by organized crime groups and the direct losses at the time of case inception was approximately \$90 million. This coordinated effort sought to target transnational organized

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<sup>4</sup> USSS Annual Report, FY22.

<sup>5</sup> Office of Public Affairs, “Liberty Reserve Founder Sentenced to 20 Years for Laundering Hundreds of Millions of Dollars” (U.S. Department of Justice 6 May 2026). Accessed 30 November 2023 at: <https://www.justice.gov/opa/pr/liberty-reserve-founder-sentenced-20-years-laundering-hundreds-millions-dollars>.

criminals who were skimming EBT cards from local retailers and using the stolen numbers to steal funds from the intended beneficiaries who rely upon these subsistence benefits. The operation itself combined the efforts of over 400 law enforcement personnel from USSS, HSI, DOJ, and our California State and local partners. The State was also losing around \$9 million a month as the criminal groups were exploiting the monthly benefits as they were loaded onto the true recipient's accounts.

Operation Urban Justice was conducted on March 1, 2023, and yielded 15 Federal arrests, over \$100K in cash seized, 40 encoded cards, and numerous cell phones used for the operation which we have now used to identify additional elements of the TCO. This effort required the use of artificial intelligence-based technologies and data analytics to wade through reams of financial and video data from months of exploitation by these TCOs. The Secret Service will continue to go after those who will use the Governmental programs designed for the intended beneficiaries who rely upon these subsistence benefits and hold them accountable. This is a tailored example of how we address TCOs daily.

## **Challenges**

While the Secret Service does not have a lead role in the effort to fight organized retail crime, this crime does have commonality with other contemporary crimes in the use of computers, transnational co-conspirators, and the illicit financial activity. These groups are commonly technically savvy and know how to move their funds outside of the purview of traditional money laundering pathways. This is no longer the days of Sammy "The Bull" Gravano laundering quarters through laundromats; this is moving millions of dollars' worth of assets transnationally and electronically within seconds.

One area where Congress could help is by amending 18 U.S.C. § 3056 to authorize the Secret Service to investigate those involved in criminal violations of 18 U.S.C. § 1960, and related illicit financial activity occurring in financial institutions which are regulated under the Bank Secrecy Act, but do not meet the definition of "federally insured financial institution" under Title 18 of the U.S. Code.<sup>7</sup> In May 2023, DHS sent the proposed amendment to 18 U.S.C. § 1960 to Congress for consideration. The Secret Service continues to engage members of both the House and Senate, to explain the purpose and nature of this legislation. In short, our financial systems, and our mission, has evolved since 1865, and our authorities must keep pace so we can effectively address new forms of illicit activity.

## **Conclusion**

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<sup>7</sup> Reference the definition of "financial institution" in 31 U.S.C. § 5312, compared to the definition in 18 U.S.C. § 20, and the phrase "federally insured financial institution" used in 18 U.S.C. § 3056(b)(3).



In conclusion, I am honored to represent the dedicated men and women of the Secret Service here today. They work tirelessly on behalf of the American people and continue to maintain our standing as one of the world's preeminent law enforcement organizations.

The Secret Service will continue to partner with HSI to hold criminals accountable and seize illicit gains to deter further criminal activities and compensate victims. At the same time, the Secret Service will continue to be on the leading edge of evolving threats targeting the financial infrastructure, a post we have held since 1865.

I truly appreciate the chance to represent the Secret Service and discuss some of the ways we can aid in the pursuit of cyber-enabled crime, including organized retail crime. The Secret Service appreciates your partnership and guidance, and I welcome any questions the committee may have.



Testimony of Summer Stephan  
District Attorney  
San Diego County, CA  
President-Elect, National District Attorneys Association

*From Festive Cheer to Retail Fear: Addressing Organized Retail Crime*

House Committee on Homeland Security Subcommit-  
tee on Counterterrorism, Law Enforcement, and Intelligence

Tuesday, December 12, 2023

Chairman Pfluger, Ranking Member Magaziner and Members of the Subcommittee. My name is Summer Stephan, and I am the elected District Attorney for San Diego County, CA, and the President-Elect of the National District Attorneys Association (NDAA).

I've devoted my entire professional life to protecting my community from crime and violence. And I'm here to give you a prosecutor's perspective on the vital role we play in addressing the serious challenge and destructive impact of retail theft and organized retail crime. Organized retail theft poses a significant threat to businesses, employees, consumers, communities, and the overall economic stability of our nation.

From my ground level view of looking in the eyes of employees in the retail industry, many are feeling unsafe and traumatized by these crimes. The impact is felt in both large retail and also small businesses. I view organized retail theft as an economic crime that threatens human beings and lives. This is why I'm honored to testify here today to bring you the voice of the victims. Retail theft and organized retail crime is not a victimless crime and I'm grateful for your deep investment and commitment as exemplified by this hearing.

### **Background**

Reports by industry associations show that billions of products have been stolen from U.S. retailers and that the losses continue to mount year after year. Another insidious impact of this crime is the report of jobs lost in the retail industry. From a prosecutor's perspective, also compelling are the reports of an increase in violence and aggression by the criminals committing these crimes.

### **Key Challenges**

I have made combating retail theft and organized retail crime a priority in my office. I wanted to send a clear message to businesses, their employees, customers, and our community that we will follow the rule of law and bring accountability and justice. I formed a specialized team of prosecutors and investigators to fight organized retail theft and work with businesses and law enforcement to build stronger cases.

We quickly identified **three key challenges**:

First is the evolution of more **sophisticated criminal networks**. Organized retail theft is no longer just the work of isolated petty criminals. Instead, it has evolved into highly sophisticated operations, often conducted by well-organized networks and coordinated across multiple locations making identification and prosecution much more challenging.

Second is an **inadequate legal framework**. Existing laws and penalties in many states are not sufficient to deter or appropriately punish criminals engaged in organized retail theft. Many states, including California, have passed laws that increased the dollar amount of theft to be charged with a felony to \$950 or \$1,000 and eliminated enhanced consequences for recidivist and habitual offenders. Law enforcement and retailers agree that the increase in retail theft-related incidents has been the direct result of changing laws to lighten penalties for shoplifting. The message that these deficient laws send is that this is the wild west with no rules or accountability.

The third key challenge is **coordination**. In the past, the lack of coordination and information-sharing among retailers, law enforcement agencies, and other stakeholders hindered the ability to combat organized retail theft effectively. A continued collaborative and multi-faceted approach is necessary to address this issue comprehensively.

Here are some examples from San Diego County on the scope and sophistication of the retail theft, helpful legal frameworks and enhanced coordination that we utilized to bring justice and accountability, which may offer a path forward for regions impacted across the U.S.

In a one-year period, my office filed criminal cases involving organized retail theft against 76 defendants resulting in prison or jail terms for the majority of the criminals who have been convicted.

In February of this year, two men were sentenced to 44 months in prison for a series of brazen, organized retail theft crimes where multiple Sunglass Hut store locations were targeted resulting in a reported loss of more than \$230,000. Hundreds of pairs of sunglasses were stolen from nine Sunglass Hut store locations, some of which were targeted more than once.

Another theft ring stole more than \$350,000 in Victoria's Secret merchandise over a seven-month period.

We successfully prosecuted another retail theft crew for 42 felony counts for breaking into ULTA Beauty, Nordstrom Rack, and other stores.

Those thieves caused over \$700,000 in loss to businesses.

This prosecution was made possible by a law passed in 2019 that allows aggregation on different theft dates and different stores but only as to organized retail theft which requires several elements to be met but doesn't apply to theft in general.

It's a tactic that's now being adopted across the nation.

Almost all states now have partnerships between law enforcement and retailers, indicating a nationwide response to this type of crime.

In fact, recently, **Chairman Pfluger's** home state of Texas joined the growing list of states that have created statewide task forces to investigate and prosecute suspects involved in organized retail crimes.

At least 34 states now have organized retail crime laws. It's important that these laws include increased penalties for those involved in these criminal activities and provisions that enable law enforcement to better investigate and prosecute offenders.

My office has met with retailers, business association representatives, retail industry employee representatives, law enforcement and others to discuss the scope of the problem in San Diego County. We communicated steps law enforcement is taking to stop and prosecute these types of crimes and discussed possible future prevention strategies.

Partnering with the U.S. Chamber of Commerce to educate their members on how to build better relationships with their law enforcement and prosecutors has been a positive solution.

We have partnered with the **California Highway Patrol's (CHP) Organized Retail Crime Task Force** and as a result, several successful prosecutions have occurred. This proved valuable because these organized syndicates operate across county lines. CHP investigators build big cases for us to prosecute by acting as liaison between retailers and my office. This effort is also supported by the Organized Retail Crime Alliance which includes retailers, law enforcement and prosecutors working together.

They gather reports and video evidence, conduct surveillance, execute search warrants, return stolen product to retailers, and write complete investigative reports with spreadsheets of thefts and loss amounts so we can prosecute defendants for as many thefts in one case as possible.

There are additional promising enhanced legal frameworks on the horizon.

Congress recently passed the INFORM Act, which requires online marketplaces, like Amazon and eBay, to collect, verify, and disclose certain information from high-volume sellers and provide consumers with means to report suspicious activity.

This is a step in the right direction to stop organized criminals from selling stolen goods on online marketplaces. It removes the anonymity of the seller and makes it easier for law enforcement to find these online sellers of stolen goods and prosecute them.

This law directly addresses the interstate aspects of organized retail theft— something I know this Committee is concerned about.

But it's key that there is funding for enforcement of the INFORM Act so the Federal Trade Commission (FTC), Attorney General, federal, and county prosecutors can identify online sellers of stolen goods and take action to hold them accountable.

Also, I appreciate Representatives Magaziner, Titus, D'Esposito, and Correa for the co-sponsorship of H.R. 895, the Combating Organized Retail Crime Act of 2023— which would expand federal enforcement of criminal offenses related to organized retail crime and establish an Organized Retail Crime Coordination Center within the Department of Homeland Security. We know that an investment in technology consistent with this proposed law can be a game changer.

Recently we used a similar model in San Diego to combat elder scams through an Elder Justice Task Force.

### **Policies and Partnerships to Change Behavior on a National level**

There is some positive news to share in our fight to combat retail theft and organized retail crime that stands out as a model for stronger collaboration.

In August 2022, the National District Attorneys Association (NDAA) and the Retail Industry Leaders Association (RILA) [announced the first-of-its-kind national partnership](#) to combat retail crime.

Earlier this Spring, the two organizations also [announced the launch of its Vibrant Communities Initiative](#), an innovative pilot project to address root drivers of habitual theft, violence and other unlawful activity. This initiative brings together prosecutors, retailers, law enforcement, social service organizations, policymakers, and the business community to increase information sharing, assist in the prosecution of habitual and violent offenders.

In September, NDAA and RILA convened a [National Store Walk Month](#) where prosecutors nationwide walked retail stores with management teams providing both parties with an exchange of insights and comprehensive understanding of challenges. Almost 100 walks occurred.

My specialized Organized Retail Crime team participated in store walks at Home Depot, Dick's Sporting Goods, Target, Walmart, Lowes and Ulta Beauty. That particular Ulta store in San Marcos, California, that I visited was one of 21 area Ulta stores that last year, fell victim to smash-and-grab crews. In just one month, the thieves stole \$127,000 of expensive perfumes from those stores. I also toured Sunny Perfumes; a small business that has also been targeted by retail thieves. The owner, Sunil, shared with me that he's spent thousands of dollars repairing smashed windows and adding metal shutters for security and has had to move his more expensive perfumes to the back while leaving cheaper perfumes more accessible.

We can't lay the blame at the feet of retailers on this issue, expecting them to lock up even more products away from customers and take a further business loss. Instead, collaborative approaches are leading us to a more comprehensive understanding of the challenges at hand and we're cultivating a united, efficient response to combat them.

### **Approaches to Accountability**

When it comes to prosecuting these cases, we simply need to restore the rule of law and have balanced accountability that fits the crime. Prosecutors should continue to pursue justice by assessing and differentiating a youthful offender that had a lapse of judgment as compared to what we see in organized retail theft or habitual theft, which involves premeditated criminal behavior and lawlessness.

### **Action Must be Taken**

In addition to common sense legislation; increased coordination and collaboration; and strategic, focused prosecutions, public awareness can be effective.

The federal government can consider launching a public awareness campaign to educate consumers about the consequences of purchasing stolen goods online or at swap meets, and the role they can play in reducing organized retail theft. A well-informed public can act as an additional deterrent to these criminal activities.

[NDAA and RILA recently launched a joint website](#) that is very successful in raising awareness by providing additional resources on focus areas and public policy, news, blogs, and events.

I appreciate the opportunity to speak to you about these important and complex issues. The office of the District Attorney of San Diego County and NDAA stand ready to assist as we look for ways to tackle organized retail crime and retail theft that threatens the vibrancy of our communities.



Testimony of Scott Glenn  
Vice President, Asset Protection  
The Home Depot

Before a U.S. House Committee on Homeland Security  
Subcommittee on Counterterrorism, Law Enforcement,  
and Intelligence hearing titled:

**From Festive Cheer to Retail Fear: Addressing Organized  
Retail Crime**

December 12, 2023



Chairman Pfluger, Ranking Member Magaziner, and Members of the Subcommittee, on behalf of The Home Depot and our 470,000 associates,

I thank you for the opportunity to speak to you today about organized retail crime, which I'll refer to as ORC, and its growing impact on the retail community.

My name is Scott Glenn, and I am the Vice President of Asset Protection for The Home Depot. We operate over 2,000 stores in the U.S. and my job is to ensure the protection and security of our associates, our customers, and our assets.

I'm here today to talk about why ORC is an increasing threat to customers and associates that walk into retail stores every day, and how we can work together to stop it.

A critical step that Congress can take to help us stop this brazen theft is to pass the Combatting Organized Retail Crime Act.

Many have asked if Retailers and the media are overhyping the problem.

The fact is that retailers were faced with many challenges over the past few years, but ORC is one that has clearly grown over time, and its impact has caused The Home Depot and many of my peers to take measures that we would not have considered years ago.

We've been locking up product, employing off-duty police officers and security guards, and putting police cars at the front of our stores along with many other tactics. Despite these efforts, the problem continues, and we have tragically even lost associates to these encounters.

So in short, the answer is no, retailers are not exaggerating the problem of theft. We know firsthand that the impact has grown significantly. And while at some level, theft is a cost of doing business, the recent rise in ORC and its consequences are what bring me here today.

We have seen an alarming rise in the frequency and aggressiveness of organized and professional criminal groups stealing from our stores.

There is a myth that these ORC rings happen only in big cities. Unfortunately, criminals and bad actors don't discriminate when it comes to targeting stores, and organized retail crime is happening everywhere – in urban and suburban areas and everywhere in between.

Generally, the intent of ORC actors is to resell and monetize the product as quickly as possible. Our law enforcement partners often find these crimes linked to other more sinister activities such as drug, gun and even human trafficking.

I want to be very clear that we are not talking about petty shoplifting – not theft for need but theft for greed. And in many cases, theft to fund ongoing criminal enterprises.

This is large scale, multi-jurisdictional activity that is carefully choreographed. Sophisticated criminal rings are recruiting individuals from vulnerable populations to steal.

They regularly sell the product through online third-party platforms quickly and anonymously. At The Home Depot, a significant number of all ORC cases involve an online marketplace.

As I stated, my top priority is customer and associate safety. Since 2020, we have seen a significant uptick in our store and asset protection associates coming into violent contact with criminal actors.

These individuals are becoming increasingly aggressive. They are dangerous and often care little about any consequence other than getting out of the store with as much product as possible. Our associates have been threatened with knives, guns, and other physical attacks.

We believe there are three primary reasons for this increase.

First, the availability of drugs, opioids and fentanyl specifically and increased availability has driven a need for easy and fast cash.

Many of those we call “boosters” in these operations are simply pawns for higher level fences and criminal organizations to commit their crimes.

Organized retail crime is often connected to other illicit activities. According to [Homeland Security Investigations](#), organized theft groups also engage in cybercrime, money laundering, drug trafficking, terrorism financing, weapons trafficking, and transnational organized crime.

Secondly, the rise of third-party marketplaces allows criminals to anonymously resell stolen or counterfeit goods. We see this happening even on reputable online platforms, which have made it easy to monetize goods and sell them at scale.

To fight this, The Home Depot strongly supported the INFORM Consumers Act, a bipartisan bill led by Representatives Schakowsky, Castor and Bilirakis that went into effect in June of this year.

The last contributor is an increasing lack of resources and support needed by local, state, and federal law enforcement to assist retailers, our associates, customers, and broader communities to disrupt criminal networks.

Many police departments across the country are perpetually and significantly understaffed and this results in less support for retailers and the broader community.

We see policies such as increased felony thresholds and lack of aggregation as creating an environment where little can be done by retailers alone to address the issue.

But let me talk about solutions.

The Home Depot is working hard to address all three underlying causes. First, we have grown our investigative team over 180% since 2016 and have increased our overall budgets by tens of millions of dollars.

In our stores, we are using technology and physical deterrents. These include everything from increased security personnel to secure lockup enclosures, to smart shopping carts, to machine learning and data analysis tools.

We've also launched a program called "Game Plan," where we invite local law enforcement and politicians to visit stores and see our technology and tactics in action, in order to educate and build relationships proactively.

To address online concerns, we have added resources and implemented tools to identify bad actors using the anonymity of online marketplaces.

While these marketplaces are a convenient outlet for the second-hand consumer market, legitimate resellers would not be selling branded, new-in-box products at prices better than national retailers.

The platforms simply need to do more in terms of accountability to mitigate illegitimate sales and outright fraud.

We work in close partnership with local, state, and federal law enforcement to build case files and help dismantle these networks through public-private coordination and task forces.

We have worked closely with more than a dozen state attorneys general who have established task forces over the past two years to better protect their communities and businesses.

Let me give you an example of this type of partnership. During a recent investigation in Little Rock, Arkansas, a booster, the individual who steals the product for a ringleader, admitted to stealing over \$1 million dollars of product from Home Depot and selling it on Facebook Marketplace.

He used this cash to buy and distribute large amounts of fentanyl. Our investigators worked with Homeland Security and the Little Rock Police Department, and our evidence was used to conduct controlled sales to the fence. The suspects were ultimately arrested and charged under a federal indictment.

A federal task force would allow us to expand upon the progress made at local and state levels, like this case in Arkansas, and give all of us a greatly needed nationwide partner.

The Home Depot supports the bipartisan Combatting Organized Retail Crime Act (S. 140/H.R. 895), introduced in the House by Representatives Buck, Titus, Joyce, and Lee, and in the Senate by Senators Cortez-Masto and Grassley.

I'm pleased to see that the House bill has over 90 bipartisan cosponsors. The bill would create the Organized Retail Crime

Coordination Center bringing together federal, state and local law enforcement and private sector experts to share information and collaborate on strategies to keep our stores safe and secure.

The bill would allow us to expand upon the progress made at the local and state levels and address cases that reach certain thresholds or cross state lines.

As a professional in the field of protecting customers and associates, I ask that all members of congress work together to ensure that the Combatting Organized Retail Crime Act urgently becomes the law of the land to help stop these senseless crimes in our communities.

Thank you for the opportunity to tell our story, and I look forward to answering your questions.



# Department of Justice

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**STATEMENT OF**

**JOSE A. PEREZ  
DEPUTY ASSISTANT DIRECTOR  
CRIMINAL INVESTIGATIVE DIVISION  
FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE**

**SUBCOMMITTEE ON COUNTERTERRORISM,  
LAW ENFORCEMENT AND INTELLIGENCE  
COMMITTEE ON HOMELAND SECURITY  
UNITED STATES HOUSE OF REPRESENTATIVES**

**AT A HEARING ENTITLED “FROM FESTIVE  
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**PRESENTED  
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Good morning, Chairman Pfluger and members of the subcommittee, and thank you for inviting me here to talk to you about Organized Retail Theft, and more specifically the FBI's Major Theft program.

My name is Jose Perez. I am a Deputy Assistant Director within the FBI Criminal Investigative Division, or CID. In my position I oversee various investigative programs for the FBI, including Violent Crime and Gangs, Crimes Against Children, and Transnational Organized Crime, or TOC, which I will focus on today as that includes our Major Theft Program.

The FBI has a long and rich history combating Organized Crime, and we continue to dedicate resources to combat Organized Crime by using an intelligence-driven approach to identify, disrupt, and dismantle the most egregious TOC actors. Criminal organizations are diverse in trade and employ myriad criminal activities ranging from trafficking narcotics, firearms, and/or persons to fraud and Major Theft. The FBI is aware of the continually evolving trend of Organized Retail Theft and we prioritize efforts to combat it by working with our law enforcement partners to identify these organizations, dismantle them using an enterprise theory of investigation, and employ sophisticated investigative techniques.

While retail theft consists mostly of state crimes, it can quickly evolve into activities used to proliferate transnational organized crime, when stolen goods are transported across state lines or even internationally, or when illicit proceeds from retail crime are used to fund other transnational criminal activity. To better support these investigations, the FBI partners with state, local, and federal partners around the country through various task force initiatives to combat both violent crime and organized crime. The FBI leads several Major Theft task forces around



the country that are dedicated towards defeating criminal organizations involved in interstate transportation of stolen goods.

One of the challenges with investigating Organized Retail Theft is that most of these crimes appear initially as state offenses, such as shoplifting, that are not ordinarily reported to the FBI and may not have clear connection to a transnational criminal organization. To address this challenge, the FBI continually partners with state and local law enforcement to share intelligence on crime trends and patterns and create better networks to identify the criminal actors.

Just this past April, FBI Boston's Organized Crime Task Force arrested seven members of an organized theft crew. Over 70 local police departments throughout New England contributed to this investigation. The members of the organized theft crew were arrested in connection with thefts across the region, including catalytic converters stolen from over 470 vehicles, cash from automatic teller machines, and merchandise from jewelry stores. This crew is allegedly responsible for an estimated \$2 million in losses from thefts across Massachusetts and New Hampshire from 2022 to 2023. The defendants were charged with conspiracy to transport stolen property in interstate commerce and interstate transportation of stolen property. To date, five members of the crew have plead guilty.

In addition to the Major Theft program, the FBI also dedicates efforts towards Retail Theft through its authority to investigate Hobbs Act violations. In those cases, the dollar amount is less important than the overall impact to the community, when theft is facilitated through violence. These crimes might have a lower financial loss associated with them, but a larger impact on communities and greater impact on interstate and foreign commerce.

Additionally, the FBI actively participates in outreach and partnerships with the retail industry and private sector partners. The FBI attends various conferences, such as the National Retail Federation (NRF) conference, and maintains private sector outreach efforts through the FBI's Office of Private Sector, Office of Partner Engagement, and throughout our 56 FBI Field Offices. These relationships and industry events are important to maintain active communication, information-sharing, and coordination between the FBI and retail partners.

While recent "smash-and-grab" type robberies have garnered much of the media attention, the FBI also focuses on investigating and disrupting the more complex theft schemes involving targeted retail theft of high-dollar items, such as sophisticated fraud schemes to steal commercial cargo loads. The FBI is working closely with the private sector to develop a Strategic Cargo Theft Initiative and address the growth in Cargo Theft and Supply Chain Theft. In March 2023, Cargonet (an industry association dedicated to the prevention and investigation of cargo theft) reported a 600% annual increase in strategic cargo theft. Strategic cargo theft involves the use of fraud and deceptive information to deceive shippers, brokers, and carriers to give loads to criminal actors instead of legitimate carriers and can involve both identity theft and cyber-enabled fraud such as Business Email Compromise.

Additionally, the FBI has an initiative targeting South American Theft Groups, which involves individuals from Chile and other South American countries exploiting tourist visas to travel in and out of the United States to facilitate theft and transport of stolen goods internationally. The FBI has shared substantial intelligence with law enforcement partners around the world, and this initiative continues to dedicate resources with various active investigations throughout the country.

Thank you for your support in this area and for your continued assistance in helping us combat this threat.

Thank you again for the opportunity to testify today, and I'm happy to answer any questions you may have on this topic.

**Testimony of Abby Jagoda, Vice President, Public Policy - ICSC**  
**Before the Subcommittee on Counterterrorism, Law Enforcement, and Intelligence**  
**Committee on Homeland Security**  
**United States House of Representatives**  
**Hearing on**  
**“From Festive Cheer to Retail Fear: Addressing Organized Retail Crime”**  
**December 12, 2023**

Chairman Pfluger, Ranking Member Magaziner, and distinguished Members of the Subcommittee, I am pleased to appear before you today with our partnering organizations and leaders to discuss the strategies of International Council of Shopping Centers, Inc. (ICSC) and its members in combatting organized retail crime, or ORC.

ICSC’s nearly 50,000 members in North America represent marketplace professionals, from retail center owner/developers to retailers to financiers and investors, the legal community, economic development officers and academics. ICSC promotes industry advancement and elevates the marketplaces and spaces where people shop, dine, work, play and gather as foundational and vital ingredients of communities and economies. 70% of shopping center tenants are small businesses.<sup>1</sup>

Today’s retail centers are no strangers to change. Many in this room likely remember with fondness their first job, their first date, or providing your wish list to the mall’s Santa Claus. Where once you might have found department stores and food court dining, you might now discover fitness centers, breweries, animal shelters, or pickleball courts. But despite the changes, traditional retailers remain the overwhelming majority of shopping center tenants.

Sadly, retail property owners are facing an unprecedented number of ORC incidents. ORC involves the illegal acquisition of retail merchandise in substantial quantities through both theft and fraud as part of an unlawful commercial enterprise. It is important to distinguish ORC from traditional shoplifting – or a single individual breaking the law. Traditional shoplifting is often done in response to food insecurity, substance abuse, or other mental health issues. It is largely spontaneous and self-serving. Though small-scale shoplifters should not avoid prosecution, ICSC recognizes that many of these individuals need to be treated separately from those who operate as part of a larger criminal enterprise focused on making a profit through the resale of stolen goods. ORC puts a more serious strain on business owners, particularly small businesses, in multiple ways, including customer and employee safety, reputation, and financial stability.

While high profile “smash-n-grab” robberies and nationwide cases involving major retailers garner the headlines this holiday season, the problem is pervasive, impacting retailers and centers large and small in all regions of the country. One major enclosed mall owner reports that retail crime theft incidents of over \$1000 have nearly doubled over the past eight years. Violent crime, including aggravated assault, battery, and armed robberies have nearly tripled at those retail centers. And this is just what property owners know: many retail employees have simply stopped reporting incidents to local authorities, including on-site security, because they fear retaliation from thieves and their handlers. This behavior contributes to lack of prosecutions of ORC cases, and leads to difficulties in allocating public and

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<sup>1</sup> ICSC data

private resources to combat ORC. This pattern of strained communication speaks to the necessity of formalized coordination among all stakeholders.

Thirteen states have passed legislation to create ORC task forces. We know state and local measures can be effective means of combatting ORC, but a comprehensive approach including federal law enforcement would be more effective.

Here are some pragmatic steps Congress and law enforcement can take to address ORC. First, building on the success of state and local ORC coordination centers, Congress can pass legislation to create a federal interagency ORC taskforce. There is broad bipartisan support for H.R. 895 the "Combating Organized Retail Crime Act of 2023" (CORCA). CORCA can make a meaningful impact on ORC by activating a federal coordination center, while also ensuring criminal penalties address the reality of how ORC enterprises operate. We thank Ranking Member Magaziner, and committee members Titus, D'Esposito and Correa for their cosponsorship of this important legislation.

Second, the federal appropriations process can also provide federal law enforcement agencies the resources and a mandate to investigate and prosecute ORC rings. Appropriators funded a similar and successful HSI initiative to combat IP theft with the creation of the National Intellectual Property Rights Coordination Center. We understand CORCA authors sought to replicate that success and use it as a model for the federal ORC Coordination Center.

Despite the rise in e-commerce in recent years, brick-and-mortar stores remain the main sales channel for most goods and services purchased in the United States.<sup>2</sup> However, the rise in ORC has contributed to the reasons why some retailers have chosen to close store locations. Store closures should not be taken lightly: they result in a significant loss of jobs, diminished state and local sales tax, loss of property tax collected, and food and prescription drug deserts. For instance, one grocery store typically creates \$2.4 million in annual state and local sales tax and has an average of 133 jobs; a general merchandise store yields approximately \$5.2 million and has an average of 188 jobs.<sup>1</sup> Store closures impact the entire ecosystem of a retail center and the community that it serves.

On behalf of ICSC I thank the Subcommittee and fellow witnesses for their interest and attention to this issue.

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<sup>2</sup> Placer.ai [https://www.placer.ai/library/uncovering-behaviors-and-characteristics-of-todays-consumer?form\\_type=Uncovering+Behaviors+and+Characteristics+of+Today%E2%80%99s+Consumer](https://www.placer.ai/library/uncovering-behaviors-and-characteristics-of-todays-consumer?form_type=Uncovering+Behaviors+and+Characteristics+of+Today%E2%80%99s+Consumer)

## **Examples of Successful ORC Task Force Activity**

**California:** Since the inception of California's ORC Task Force in 2019, there have been more than 1,850 investigations into retail crimes in California that have resulted in over 1,250 arrests as of August 2023.<sup>1</sup> Led by California Highway Patrol, the key to the ORCTF's success is the partnership with retailers, property owners, local law enforcement, and district attorneys, to effectively disrupt organized retail theft rings and prosecute organized retail crimes. In the first five weeks of the Los Angeles County Sheriff's Department's Organized Retail Theft Task Force, teams made 89 arrests and \$370,000 worth of stolen goods was recovered.

**Texas:** Comptroller Glen Hagar chairs an ORC Task Force consisting of a combination of representatives from retailers – Amazon, eBay, H-E-B, and several others – along with several law enforcement and state agencies.<sup>1</sup> The United to Safeguard America from Illegal Trade (USA-IT) organization says retail thefts in Texas totaled nearly \$4 billion last year and cost state and local governments more than \$343 million.

**New England:** The New England Organized Retail Crime Alliance (NEORCA) is a group of retailers who collaborate with law enforcement aimed at reducing property crimes, keeping shoppers safer and lessening their chances of becoming victims. An information sharing platform was established to allow NEORCA members to share information on ORC.<sup>1</sup>

**New York:** Last month, the chief of police in Syracuse said that the city has seen a 55% spike in shoplifting since 2021 – and that's a conservative estimate because it doesn't account for unreported incidents. The Retail Council of New York State says that store owners lost \$4.4 billion in 2022 from theft alone. <sup>1</sup> New York City reports about a 50% increase in retail theft complaints across the city since 2018.<sup>1</sup>

**Arizona:** In early October, Phoenix Police announced that from September 12 to 15, 248 warrants were cleared, 64 people were arrested and five guns were seized as part of a multi-agency investigation into organized retail crime.

**Washington:** In 2023, Washington State's Attorney General created a centralized Organized Retail Crime Unit to coordinate, investigate and prosecute multi-jurisdictional retail crime statewide. This centralized unit has been praised by retail workers union and the business community alike, and just last month announced the first criminal prosecution by the newly established Organized Retail Crime Unit.<sup>1</sup>

**Illinois:** Attorney General Kwame Raoul has distributed out almost \$5 million to nearly two dozen communities, including Oak Brook, Gurnee, Naperville and Orland Park. The Illinois Organized Retail Crime Task Force funded 25 police departments throughout the state. The task force pays for everything from overtime to license plate readers and surveillance systems that allow police to see what's happening before they even arrive.<sup>1</sup>

## **Examples of Investments by Property Owners in Securing Shoppers, Workers, and Products**

To thwart ORC operations, owners of retail centers have made substantial investments in advanced operational analytics, biometric data, license plate readers, heat maps, and other sophisticated technologies to help stem the tide of ORC without negatively impacting the customer experience. The reality is that some retailers have had to sacrifice the shopper experience by locking products behind Plexi-glass barriers. This technique, while ensuring product security, has had the effect of deterring customers from shopping in person.

Despite these investments, technology can only do so much because addressing the retail crime problem will require policy change. These investments are also conditioned on the effectiveness of prosecution.

The [Loss Prevention Research Council \(LPRC\)](#), based at the University of Florida, explains the below use of technology:

*“Advanced case management and investigations enable collaboration within and between organizations because loss prevention practitioners can enter suspect information into a common database which can then be reviewed by others within the organization, or at other partnering organizations. This allows them to build cases (i.e., link multiple incidents to the same case). This is desirable because large cases (in terms of dollar amount) are more attractive to prosecutors and therefore more likely to be prosecuted. These offenders are also the ones creating the greatest losses to retailers.*

*Other technologies include license plate readers that enable retailers to enroll license plates into a system and then receive alerts when a vehicle associated with retail crimes enters parking lots. The same is true of face matching systems. These systems are being narrowly used for forensic purposes – that is, when an individual is found to be committing retail crimes, they are enrolled in face matching software. Then a retrospective search is conducted using available footage (e.g., past 30 days of retained footage) – this enables them to identify and investigate the times the suspect(s) were in their stores. Furthermore, this technology enables real-time alerts if retailers choose to use this option – once a suspect is identified and enrolled, retailers can receive alerts when that individual enters a store. Retailers are being very cautious to limit these programs and only use them for crime prevention and investigations.*

*Another solution is RFID. RFID enables item-level serialization of merchandise and other assets. Retailers know what is sold at the POS – if they know what merchandise leaves the store, they can reconcile transactions with merchandise leaving the store and identify likely thefts. This is not possible with current EAS systems because they do not enable item-level serialization. RFID can enable retailers to identify what is leaving a store, how many items, and exactly when those items left the store. These systems can be integrated with CCTV systems to capture footage of likely suspects. One of the most time-consuming aspects of retail crime investigations is reviewing video, so this can drastically reduce the amount of time required to identify a suspect.*

*However, once the RFID tag has left the building, it is still able to transmit a signal if it is pinged with a reader. Therefore, retail investigators and law enforcement can enter suspected fencing locations with a handheld RFID reader in a backpack and pick up all of the RFID tags associated with theft incidents. In other words, solutions like this help to link stolen merchandise at fencing and processing sites with the store where the theft occurred. This would also be useful for identifying that merchandise that is acquired during a controlled buy was stolen; for example, retailers will purchase merchandise online in hopes of determining whether the seller is selling stolen merchandise – RFID would streamline this process. For more solutions that I believe are promising or that have evidence of effectiveness, see (<https://losspreventionmedia.com/technology-alone-will-not-solve-the-problem/>).*”

## Economic Impact of Store Closures

### ECONOMIC FALLOUT OF STORE CLOSINGS

When stores start closing due to rising ORC, the effects are loss of jobs, loss of state and local sales tax generated, loss of property tax collected and a blight on the community. One grocery store typically creates \$2.4 million in annual state and local sales tax and has an average of 133 jobs; a general merchandise store yields approximately \$5.2 million and has an average of 188 jobs, a single drugstore generates nearly \$1.2 million with an average of 27 jobs and a single apparel store, \$423,000 with an average of 32 jobs. If store closings start increasing, sales tax and job losses quickly multiply, and the problems escalate.

### ESTIMATED SALES TAX REVENUE GENERATED PER ESTABLISHMENT FROM COMBINED STATE AND AVERAGE LOCAL SALES TAX

	Combined State and Avg. Local Sales Tax Rate	General Merchandise	Food and Beverage (Grocery)	Apparel	Drug Stores
Average Sales Per Establishment		\$73,964,826	\$34,070,115	\$6,052,445	\$17,066,999
U.S. Total	7.0%	\$5,170,141	\$2,381,501	\$423,066	\$1,192,983
Alabama	9.3%	\$6,841,746	\$3,151,486	\$559,851	\$1,578,697
Alaska	1.8%	\$1,301,781	\$599,634	\$106,523	\$300,379
Arizona	8.4%	\$6,190,856	\$2,851,669	\$506,590	\$1,428,508
Arkansas	9.5%	\$6,997,073	\$3,223,033	\$572,561	\$1,614,538
California	8.8%	\$6,523,698	\$3,004,984	\$533,826	\$1,505,309
Colorado	7.8%	\$5,754,463	\$2,650,655	\$470,880	\$1,327,813
Connecticut	6.4%	\$4,696,766	\$2,163,452	\$384,330	\$1,083,754
Delaware	0.0%	\$0	\$0	\$0	\$0
District of Columbia	6.0%	\$4,437,890	\$2,044,207	\$363,147	\$1,024,020
Florida	7.0%	\$5,192,331	\$2,391,722	\$424,882	\$1,198,103
Georgia	7.4%	\$5,473,397	\$2,521,189	\$447,881	\$1,262,958
Hawaii	4.4%	\$3,284,038	\$1,512,713	\$268,729	\$757,775
Idaho	6.0%	\$4,452,683	\$2,051,021	\$364,357	\$1,027,433
Illinois	8.8%	\$6,523,698	\$3,004,984	\$533,826	\$1,505,309
Indiana	7.0%	\$5,177,538	\$2,384,908	\$423,671	\$1,194,690
Iowa	6.9%	\$5,133,159	\$2,364,466	\$420,040	\$1,184,450
Kansas	8.7%	\$6,405,354	\$2,950,472	\$524,142	\$1,478,002
Kentucky	6.0%	\$4,437,890	\$2,044,207	\$363,147	\$1,024,020

\*U.S. tax rate displayed is the median of 50 states + D.C.

\*Average local tax rate in Alaska is 1.76%, state sales tax rate is 0%.

Louisiana	9.6%	\$7,063,641	\$3,253,696	\$578,008	\$1,629,898
Maine	5.5%	\$4,068,065	\$1,873,856	\$332,884	\$938,685
Maryland	6.0%	\$4,437,890	\$2,044,207	\$363,147	\$1,024,020
Massachusetts	6.3%	\$4,622,802	\$2,129,382	\$378,278	\$1,066,687
Michigan	6.0%	\$4,437,890	\$2,044,207	\$363,147	\$1,024,020
Minnesota	7.5%	\$5,539,965	\$2,551,852	\$453,328	\$1,278,318
Mississippi	7.1%	\$5,229,313	\$2,408,757	\$427,908	\$1,206,637
Missouri	8.3%	\$6,161,270	\$2,838,041	\$504,169	\$1,421,681
Montana	0.0%	\$0	\$0	\$0	\$0
Nebraska	7.0%	\$5,140,555	\$2,367,873	\$420,645	\$1,186,156
Nevada	8.2%	\$6,087,305	\$2,803,970	\$498,116	\$1,404,614
New Hampshire	0.0%	\$0	\$0	\$0	\$0
New Jersey	6.6%	\$4,881,679	\$2,248,628	\$399,461	\$1,126,422
New Mexico	7.7%	\$5,710,085	\$2,630,213	\$467,249	\$1,317,572
New York	8.5%	\$6,301,803	\$2,902,774	\$515,668	\$1,454,108
North Carolina	7.0%	\$5,170,141	\$2,381,501	\$423,066	\$1,192,983
North Dakota	7.0%	\$5,155,348	\$2,374,687	\$421,855	\$1,189,570
Ohio	7.2%	\$5,355,053	\$2,466,676	\$438,197	\$1,235,651
Oklahoma	9.0%	\$6,642,041	\$3,059,496	\$543,510	\$1,532,616
Oregon	0.0%	\$0	\$0	\$0	\$0
Pennsylvania	6.3%	\$4,689,370	\$2,160,045	\$383,725	\$1,082,048
Rhode Island	7.0%	\$5,177,538	\$2,384,908	\$423,671	\$1,194,690
South Carolina	7.4%	\$5,495,587	\$2,531,410	\$449,697	\$1,268,078
South Dakota	6.4%	\$4,733,749	\$2,180,487	\$387,356	\$1,092,288
Tennessee	9.6%	\$7,063,641	\$3,253,696	\$578,008	\$1,629,898
Texas	8.2%	\$6,065,116	\$2,793,749	\$496,300	\$1,399,494
Utah	7.2%	\$5,318,071	\$2,449,641	\$435,171	\$1,227,117
Vermont	6.3%	\$4,659,784	\$2,146,417	\$381,304	\$1,075,221
Virginia	5.8%	\$4,252,977	\$1,959,032	\$348,016	\$981,352
Washington	8.9%	\$6,553,284	\$3,018,612	\$536,247	\$1,512,136
West Virginia	6.6%	\$4,844,696	\$2,231,593	\$396,435	\$1,117,888
Wisconsin	5.4%	\$4,016,290	\$1,850,007	\$328,648	\$926,738
Wyoming	5.4%	\$3,964,515	\$1,826,158	\$324,411	\$914,791

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<sup>i</sup> ICSC data