



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%

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 overseas¹. 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.”²

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.

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

² 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 roles³. 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 workers⁴. 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

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

⁴ 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 survey⁵ 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.

⁵ 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.⁶

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 night⁷. 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.

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

⁷ 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 Point⁸ 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

⁸ 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.