



Statement of the

National Retail Federation

Submitted to the

**U.S. House of Representatives Subcommittee on Crime and Federal Government
Surveillance, Committee on the Judiciary**

For its hearing on the

Rise in Organized Retail Crime and the Threat to Public Safety

June 13, 2023

The National Retail Federation (NRF) respectfully submits this statement for the record for the June 13, 2023 hearing entitled “The Rise in Organized Retail Crime and the Threat to Public Safety.” Thank you, Chairman Biggs and Ranking Member Jackson Lee, 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 violence, 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.

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 LP Council, ORC Investigators Networks and conferences. Last week, 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 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.

It is abundantly clear from retailers' experience with ORC that the criminal activities we witness in stores across the U.S. 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. What many of us do not see lies further beneath the surface of smash-and-grab incidents captured on national and local news.

Background and History of Organized Retail Crime

It is important to note that organized retail crime (ORC) is not the same as shoplifting. The term was first identified by loss prevention professionals and law enforcement in the 1970s. It is defined 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 by two or more people. ORC typically involves multiple occurrences and may occur across several stores and jurisdictions.

Shoplifting one or a few items – often a crime of opportunity – for personal use is very different from organized retail crime. But there is overlap. Some individuals may steal to support themselves or family members. Other individuals that 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.

External theft, which includes ORC, is a primary driver of retail shrink, which reached \$94.5 billion in 2021 – up from \$90.8 billion from 2020 – according to NRF's latest [National Retail Security Survey](#). The report found that retailers witnessed an average 26.5 % increase in ORC incidents over the previous year. Retailers also reported an increase in violence and aggression associated with incidents of ORC.

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.

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 each instance with the intent to resell it for profit. These profits often finance other illicit activities, such as illegal drugs, 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.

During a recent 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

Impact of ORC to the Community

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, to aid theft. Eighty percent of retailers noted an increase in violence and aggression by customers toward workers in 2021³. Extremely concerning is the depressing fact that several retail workers have been killed during recent theft incidents – including both trained security personnel as well as retail workers serving in customer-facing roles⁴.

As more acts of blatant and deadly thefts take place in stores, the consequences are apparent for both 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

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>

³ 2022 Retail Security Survey: <https://cdn.nrf.com/sites/default/files/2022-09/National%20Retail%20Security%20Survey%20Organized%20Retail%20Crime%202022.pdf>

⁴ <http://d-ddaily.com/archivesdaily/2022-Q4-Fatalities-Report.htm>

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 the product's 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 which 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 incidents of violence and intimidation that accompany shoplifting has increased to a point where retail workers are indicating unease with reporting for work. There are currently 942,000 job openings in retail and a clear shortage of workers⁵. 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.

Americans are increasingly concerned with the harm that organized retail crime is causing in their communities. NRF recently released the results of a May 2023 survey⁶ 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.

⁵ St. Louis Federal Reserve Bank: <https://fred.stlouisfed.org/series/JTS4400JOL>.

⁶ National Retail Federation: <https://nrf.com/media-center/press-releases/exclusive-nrf-survey-shows-majority-consumers-believe-retail-crime-has>

For thirty 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. Ninety-seven percent of retailers reported being targeted by ORC. 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.
- 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 frontline 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 e-commerce 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 that 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.⁷

The property crimes American's 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 night⁸. 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

⁷ [Homeland Security Investigations and Houston Police Department arrest three Houston-area residents, suspected ties to \\$65 million transnational organized retail crime.](#)

⁸ Los Angeles Times: <https://www.latimes.com/local/lanow/la-me-best-buy-alleged-burglars-steal-apple-products-20190709-story.html>

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 the committee to markup, and Congress to pass, H.R. 895, the Combating Organized Retail Crime Act. 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.

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 Point⁹ 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.

Members of the House Judiciary Committee have previously attempted to address ORC through bipartisan measures. In 2008, members of the committee proposed a definition for organized retail crime in the federal criminal code, addressing the resale of stolen merchandise in online marketplaces, and gift card fraud. In 2010, the committee considered, and the House passed, a bill that would have established an ORC theft investigation and prosecution unit at the Department of Justice and defined organized retail theft in federal statute.

NRF strongly supported the INFORM Consumers Act, which Congress passed in 2022 and will take effect at the end of this month. This legislation addresses the frequent resale of stolen merchandise by third-party sellers utilizing online marketplaces. It will require 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

⁹ Department of Homeland Security, Operation Boiling Point: <https://www.ice.gov/features/op-boiling-point>

communities. The retail community is grateful that Congress enacted the INFORM Consumers Act in 2022.

Organized retail crime will remain the top priority for all retailers nationwide. Expenditures against retail theft have factored into construction budgets, merchandising budgets, information technology, and staffing and training budgets. 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.

The National Retail Federation deeply appreciates the Subcommittee on Crime and Federal Government Surveillance 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 other legislative proposals that will support our communities in preventing ORC and ultimately protect our people and customers.