

ICSC Statement for the Record

House Small Business Committee Hearing

“Crime on the Rise: How Lawlessness is Impacting Main Street America”

January 11, 2024

ICSC thanks the House Small Business Committee for its interest in the impact of rising crime on America’s small businesses. ICSC’s nearly 50,000 North American members represent marketplace professionals, including owner/developers of retail centers, as well as retail tenants, investors, economic development and legal professionals. ICSC promotes industry advancement for the spaces where people shop, dine, work, play and gather as foundational and vital ingredients of communities and economies. About 70% of shopping center tenants are small businesses.

Sadly, retail property owners are facing an unprecedented number of Organized Retail Crime (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 largely spontaneous and self-serving, and typically executed by individuals who need merchandise for personal use they simply cannot afford. 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 shopper and employee safety, reputational risk, and financial stability. ORC syndicates focus on the theft and resale of high value branded items that are in demand from shoppers from designer handbags to name-brand laundry detergent. When these goods are resold using an online marketplace or other means of sale, most consumers are unaware that they are purchasing stolen goods. While high profile “smash-n-grab” robberies and nationwide cases involving major retailers garnered the headlines this holiday season, the problem is pervasive, impacting shopping 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 question whether police

response will be timely or effective, or because they fear retaliation from thieves and their handlers. This pattern contributes to lack of prosecutions of ORC cases and leads to difficulties in allocating public and private resources to combat ORC.

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. We know there is broad bipartisan support for H.R. 895/S. 140 the Combating Organized 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.

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. The Coordination Center is a natural next step to build on the effectiveness of HSI's Operation Boiling Point and the accomplishments of state and local ORC task forces.

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. However, the rise in ORC has contributed to the reasons why some small businesses 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.

ORC is leading to more brazen and violent attacks in retail stores throughout the country. The time is now for Congress to provide prosecutors and investigators with the resources they need to better combat Organized Retail Crime.