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Implementing an Organized Retail Crime Unit

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ABSTRACT

Theft offenses are one of the largest categories driving crime statistics in many jurisdictions. Organized retail crime (ORC) is playing an increasing role in theft offenses. This paper discusses a course of action that local agencies can take to address the problem of ORC as part of crime reduction strategies. Specifically, cities or other law enforcement jurisdiction with large retailers or large retail areas should institute an organized retail crime unit as a crime enforcement/reduction effort. Research for this paper was limited to articles, internet sites, and reports by government entities and retail associations. There is currently very little, if any, academic research on the topic. The research does indicate that theft offenses categorized as organized retail crime have enormous impact on businesses and communities. The impacts of these offenses are felt in crime statistics, tax revenue, and the viability of retail businesses.

There are a number of possible counter positions to the idea of forming ORC units in agencies with large concentrations of retail businesses. Only three are discussed in this paper. The first is the concept that retail crime is the responsibility of the retail businesses rather than law enforcement. The second is that retail crime does not hurt ordinary citizens. And finally, the last is the consideration that the economic downturn across the nation causes budget constraints that preclude the formation of new units or hiring officers for new positions.

Evidence refuting each counter position discussed is presented in the paper. Some of the evidence used to refute the counter positions includes the trends in crime statistics, economic losses to retailers, and negative impacts on government tax

revenues. The evidence points in the direction that local agencies need to take. Cities with large retailers or retail areas should institute an organized crime unit. This type of unit is an important tool in combating the increasing trends in retail crimes and, specifically, the dramatic increase in organized retail crime.

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INTRODUCTION

Law enforcement agencies across the United States are consistently developing crime reduction efforts. Property crimes are often the statistical drivers of crime numbers. One of the property crime offenses that have a significant impact on these numbers is thefts, which include shoplifting offenses. Organized retail crime (ORC) has been identified as a growing threat to businesses and by extension, the efforts of law enforcement to reduce crime. This paper discusses a course of action local agencies can take to address the problem of ORC as part of crime reduction strategies. There is almost no retailer in the world that has not been a victim of theft offenses or that continues to be a victim of these crimes at some level. While the number of theft offenses is a concern, the number of these offenses relating to ORC is increasing at an alarming rate. According to the National Retail Federation (NRF), organized retail crime has never been as evident in the organization's eight year history as it has been in 2011. Nine of 10 retailers in this year's survey said they have been victims of ORC in the past 12 months, and more retailers this year agree that activity has increased overall (National Retail Federation, 2012).

Organized retail crime has an enormous impact on crime statistics and tax revenue; it reduces the viability or success of retail businesses; and it is often used to fund other criminal enterprises. The NRF defined ORC as "the theft/fraudulent activity conducted with the intent to convert illegally obtained merchandise, cargo, cash, or cash equivalent into financial gain, typically through their online or offline sales" (National Retail Federation, 2012, p. 6). ORC usually entails a group of people that organizes large scale thefts from a number of retail stores and then resells the stolen items. ORC

is a separate category from the thefts and shoplifting by single individuals or small groups stealing small numbers of products for personal use (National Retail Federation, 2012).

Theft crimes, including shoplifting, contribute significantly to crime trends. These contributions include crime statistics at the local, national, and international levels. Organized groups commit a large portion of these crimes ("Bill," 2008). The economic loss in tax revenue due to these crimes is substantial and can be devastating to local economies and government agencies. It is because of these key issues relating to retail crimes that cities with large retailers or retail areas should institute an organized crime unit. All of these points will be discussed in more detail below.

POSITION

The first issue is the cost of these types of offenses to retailers and their substantial impact on overall crime rates for jurisdictions. Property crimes make up a large portion of the overall crime statistics internationally, within the United States (US), and at the local level. Retail crimes play a large role in these statistics, specifically in economies that are product based rather than agriculturally based. The statistics can be evaluated either by the percentages of criminal offenses or by the actual financial or monetary loss incurred by the offenses. According to the third edition of the Global Theft Barometer, retail theft increased from \$104 in 2010 to an estimated \$115 billion worldwide in 2011 ("Retail theft," 2012). In 2007, Canadian retail theft losses per day due to consumer theft were an estimated \$4.4 million per day ("Stealing stats," 2007). According to Graham (2007), Canadian retail businesses can become financially unsustainable when theft losses reach between 0.5% and 6%.

Two separate studies in 2006 reported increasing retail loss (Nilsson, 2007; “Security survey,” 2007) with one of the surveys even detailing that retailers lost more than 37.4 billion to theft (“Security survey,” 2007). The increasing trend for theft did not stop in 2006, though. Research continued in the area of theft. What research found is that not only is retail theft having a huge impact on retailers but that retail crimes are actually increasing, particularly during the recession (“Do recessions,” 2009). The study “found that retail crimes had risen during the economic downturn with about 92% of retailers surveyed saying they were targeted in 2009, up 8% from 2008” (“Do recessions,” 2009, p. A18). Even the statistics compiled at the national level highlighted the increase in these types of crimes. The Federal Bureau of Investigation’s (FBI) Uniform Crime Reports for the first half of 2008 “show that larceny, theft and burglary are the only crimes on the rise in metropolitan areas” (Harper, 2009, p. A01).

The national crime statistics for retail crimes are mirrored by local statistics. Like many law enforcement agencies across the nation, the Arlington Texas Police Department uses a statistical analysis method similar to COMPSTAT to track crime and identify trends. In comparing the statistics from the first five months of 2011 to the same period in 2012, the overall number of offenses has decreased 18%, from 8,003 to 6,559 (Arlington Police Department Crime Analysis Unit, 2012). The categories for thefts and shoplifting offenses also showed a decrease during the time period, but the reductions were not as good. The numbers for thefts and shoplifting offenses does not look as good. These two categories still had a 5% reduction, 3,273 crimes down to 3,084 crimes, but the reduction was smaller than the reduction in overall crime (Arlington Police Department Crime Analysis Unit, 2012). This means that, as a percentage, of

the city's total criminal offenses, thefts, and shoplifting offenses, they actually increased from 3,273 of 8,003 offenses (40%) to 3,084 of 6,559 offenses (47%), using the same time period. The significance of the statistical analysis is that it highlighted the large percentage of the total crimes that are caused by theft and shoplifting. The analysis showed the impact these two categories have on the overall crime reduction strategies for law enforcement agencies.

To show the significance of the impact of the types of crimes conducted under organized retail crime, it is important to look at the sectors and beats within a city. The south police district of Arlington has the largest number of retail businesses of the four police districts. Beat 540 of the South District encompasses the area of the Parks of Arlington shopping mall and the Highlands of Arlington retail area. Beat 540 drives the crime statistics in Sector Y, which drives the South District numbers, which drive the city's numbers. In comparing the statistics from the first five and a half months of 2011 to the same period in 2012, the overall number of offenses has decreased (9%) from 2,141 to 1,940 (Carlisle, 2012). Similarly, to the city-wide statistics, the numbers for thefts and shoplifting offenses do not look as good for the south district. The numbers actually increased 1%, in 2011 to 2012, going from 1,060 offenses to 1,075 offenses (Carlisle, 2012). Unlike for the city-wide statistics, the south district numbers did show a reduction in the percentage of theft and shoplifting offenses in comparison to the percentage of the district's total criminal offenses. The percentage of theft and shoplifting offenses actually decreased from 1,060 of 2,141 offenses (50%) to 1,075 of 1,940 offenses (44%) using the same time period (Carlisle, 2012). However, the fact

that these two crime categories still account for 44% of all crime in the south district indicates the level of importance these crimes are to crime reduction efforts.

To break the numbers down even further, it is important to look at Sector Y of the south district. In Sector Y, which has a dedicated retail district unit but not one designed to combat ORC specifically, overall crime dropped 6%, from 1,049 offenses to 980. The number of theft and shoplifting offenses dropped from 680 offenses to 620, or less than 1% (Carlisle, 2012). This means the actual percentage of theft and shoplifting offenses actually increased in the first part of 2012 in comparison to total crime. The increase was only 1%, from 680 of 1049 offenses (35%) to 620 of 980 offenses (36%), but the numbers show the significance of these two crime categories to a law enforcement agency's crime reduction efforts.

Now that the impact of retail crime on crime statistics has been quantified, it is important to look at the significance of organized retail crime on the numbers. Many reports by retail organizations and government entities indicate that organized groups are becoming a larger part of retail crimes. NRF vice president for loss prevention Joseph LaRocca stated, "Organized retail crime is a large and growing national issue with dollar losses bigger than robbery, larceny, burglary and auto theft combined..." ("Bill," 2008, p. 10). When looking at how fast ORC related offenses are increasing, it is important to look at some comparisons between 2003 and 2005. According to Richard Hollinger, Ph.D., of National Retail Security Survey, the loss per shoplifting incident related to organized retail theft increased from \$265 in 2003 to \$864 in 2005 for a 320% increase ("Security survey," 2007, p. 12). Hollinger also said, "the average loss per

ORT [*organized retail theft = organized retail crime*] incident is now more than \$46,000” (“Security survey,” 2007, p. 12).

Data provided by national retail groups provide statistical data from a number of years indicating the increasing impact of ORC on retailers across the country. The data provides the evidence in three key quantifiable areas. The first is in the area of overall losses retailers suffer from ORC. The NRF states that for 2009 “retailers lose between \$15 and \$30 billion to ORC each year” (“Retail may,” 2010, p. 25). The impact of ORC is spread across all aspects of retail businesses including grocery stores. According to the Food Marketing Institute (FMI), “organized retail crime involving professional theft rings accounts for losses that run as high as \$15 billion annually in the supermarket industry” (“To catch,” 2011, p. 2).

The second area is in the increasing number of retailers reporting being victimized by ORC crimes. In the 2006 “81% of retailers said they had been a victim of organized retail crime” (Zalud, 2007, p. 12). The NRF states that for 2009 89% of retailers reported being victimized by organized retail crime (“Retail may,” 2010). Another report “found that 73% reported organized retail crime increased 11% from 2008” (“Do recessions,” 2009, p. A18). This trend continued with the 2012 NRF Organized Retail Crime Survey providing statistical proof of the continued growth of the problem of organized retail crime. The study states, “The number of retailers reporting being victims of ORC increased from 94.1% to 96% in 2012.

The third key statistic is in the perception among retailers that the incidents involving ORC groups are on the increase. In the 2006 48% of retailers indicated they had observed an increase of ORC incidents in their businesses (Zalud, 2007). The

report also indicated the trend continues to increase with the number of companies reporting an increase in ORC also increased from 64.1% to 66.1% from 2011 to 2012” (National Retail Federation, 2012, p. 7). The increase in ORC related offenses being reported by retailers is significant to the overall increasing impact of these groups in crime statistics. The NRF’s 2012 report also states that “87.7% of companies believe ORC activity in the United States has grown over the past three years” (National Retail Federation, 2012, p. 7).

Organized retail crime can be significant for localities with either large retailers, like Wal-Mart and Lowes, or with concentrated retail areas, like shopping malls and shopping centers. According to the NRF’s 2012 Organized Retail Crime Survey, six of the top ten metropolitan areas with organized retail crime problems have been on the top ten lists for three consecutive years. These six are: Chicago, Dallas, Houston, Los Angeles, Miami, and New York. The report indicated that a major contributing factor to the high activity levels in these areas is the that fact that as a multistate enterprise, organized retail crime groups typically rely on large, national roadways to target retailers in various states and to transport their stolen goods (National Retail Federation, 2012). An important take-away from this report is for the smaller agencies within the identified metropolitan areas that have large retailers or retail areas. The groups are active in the entire areas, even if local agencies are not aware of it.

A case in point is for the Arlington Texas Police Department (APD). Arlington, Texas falls within the Dallas/Fort Worth (DFW) metropolitan area and has both large retailers and a concentrated shopping venue in the south police district. Recently, the agency has been involved in the investigation of an organized retail crime group

operating out of Dallas and hitting local Pet Smart stores. APD has also recently arrested members of an ORC group that was based in Amarillo, TX but actively committing offenses in the DFW area. Similar issues are occurring at the local level in other areas in the US and in Canada. One example is the arrest of five people by a Canadian task force (TF) of the Toronto, Peel, and Durham police. The TF charged five criminals with a combined 68 offenses and for stealing as much as \$50,000 worth of merchandise a day. Another example from north of the border is from the Winnipeg Police Service. They arrested four people involved in ORC and stealing \$85,000 (Graham, 2007). Law enforcement in central Florida recently shut down an elaborate retail theft ring responsible for shoplifting thousands of cans of powdered baby formula. Twenty-one suspects were arrested for stealing from six different counties and transporting the stolen products out of state ("Foiling," 2010).

Another reason for cities with large retailers or retail areas is that the economic loss in tax revenue due to these crimes is substantial. In today's economic climate, every level of government is struggling with reduced revenue streams caused by less sales tax and smaller property tax revenues. One of the impacts of organized retail crime that has been identified is the loss of billions of dollars in tax revenue ("Foiling," 2010). One article estimated that ORC groups cost businesses as much as \$30 million annually, which resulted in states losing out on about \$1 billion in lost sales tax revenue ("More," 2007). In today's economic climate, local and state governments are scrambling for all the tax revenue they can get. Cities with large retailers or large retail areas can be significantly impacted by ORC in the area of tax revenue.

COUNTER POSITION

Three counter positions to the concept of standing up ORC units within cities with large retailers or retail centers are presented in the following paragraphs. These are not the only potential or possible counter positions relevant to this topic. However, these three counter positions provide valid consideration against the formation of the specialized ORC units within law enforcement agencies. Each counterpoint will be discussed in detail.

Retail crime being the responsibility of retail businesses, not law enforcement, is a common thought for both street officers and police administrations. However, the overall impact of these crimes indicates otherwise. The most obvious indication is that retailers and loss prevention personnel are not capable of fixing the problem without help. The economic downturn has had a suppressing effect on loss prevention budgets, while at the same time causing an increase in offenses, as discussed previously. A number of retail security surveys indicated that there also are plans already underway to reduce spending on security officers (Zalud, 2008). This reduction in spending is not an indication that retailers will not be putting any money into reducing or preventing crimes. It only means the economic situation is causing the amount of money available for their efforts to be smaller. Evidence of the efforts by retailers towards crime prevention and reduction efforts is a report by the Retail Industry Leaders Association (RILA) stated “stores collectively spend \$12 billion a year on loss-prevention efforts” (Harper, 2009, p. A01).

The increase in partnerships at multiple levels to address the increasing issue of ORC also shows the issue is important to more than just retailers. The partnerships

include retailers, retail organizations, regional groups and associations, and law enforcement at all levels (Grannis, 2012). These partnerships share intelligence, trend data, and communicate general and specific theft reduction strategies. A great example of teamwork between governmental and nongovernmental organizations in combating organized retail crime came together in April 2007. Two national retail organizations, the NRF and RILA worked together “to produce the Law Enforcement Retail Partnership Network (LERPnet), which is a secure national database that allows retailers to more easily share retail crime information with each other and with law enforcement” (Zalud, 2007, p. 12). The program is designed to help “retailers track and report crimes and also will enable law enforcement agencies to gain central, immediate access to retail crimes ranging from counterfeiting and organized retail crime to armed robberies and smash-and-grab burglary incidents” (“Police,” 2010, para. 2). Partnerships like this, from the local level to the national level, have been occurring for many years and indicate the issue is not just a retailer or business problem.

The recognized need for legislation at the state and national levels to help combat ORC is also an indication of the span of this issue. The recognized need also provides evidence that a concerted effort between retailers and governments are necessary to combat these crimes (Grannis, 2012). According to the NRF’s 2012 Organized Retail Crime Survey, “over 20 states have passed and/or enhanced ORC or ORC-related legislation” (National Retail Federation, 2012, p. 15). States with organized retail crime laws already in place or ORC-related legislation include: Alabama, Arizona, Colorado, Delaware, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, New Hampshire, Nevada, New Jersey, North Carolina, Ohio, Oregon,

Pennsylvania, Texas, Utah, Virginia, and Washington (National Retail Federation, 2012, p. 15). Many of the laws in these states were passed to better classify the types of retail theft and provide for more aggressive prosecution of violators ("More," 2007).

There have also been a number of attempts at legislation at the federal level to help fight organized retail crime. One attempt was to establish a new unit at the Department of Justice focused on investigating and prosecuting organized retail crime. The unit would be staffed with prosecutors, investigators, and other personnel as necessary. The mission of the unit would be to investigate and prosecute instances of ORC over which the Department of Justice has jurisdiction, assisting state and local law enforcement agencies on ORC, and advising victims of ORC ("Retail may," 2010). Several pieces of federal legislation were also introduced to the U.S. Senate and House of Representatives relating to organized retail crime in 2008 and 2009. The three attempts for new laws relating to ORC were: The Combating Organized Retail Crime Act of 2009 (S.470), the Organized Retail Crime Act of 2009 (H.R.1173), and the E-Fencing Enforcement Act of 2009 (H.R.1166) (Blades, 2009).

The next counterpoint area against establishing an ORC unit is that retail crime does not hurt ordinary citizens and, therefore, should not be a priority crime reduction effort. The evidence of the negative impact of these crimes disproves this belief. There are three primary ways to disprove this idea. The ways are the impacts in costs to consumers, inventory availability, and public health. All three will be discussed to establish how retail crimes do, in fact, hurt ordinary citizens. To start with, it is important to talk about the area with the most obvious impact and that is how the costs of the crime are passed on to shoppers. Rex Gillette, vice president of retail national accounts

for ADT Security said, “Retail theft really impacts everyone with the consumer ultimately hurt in the form of higher prices” (“Security survey,” 2007, p. 14). Companies are forced to raise the prices of their products to cover losses due to theft in order to remain profitable. While most shoppers may understand or accept this, they may not realize how much the theft offenses actually cost them. Joseph LaRocca, vice president of loss prevention at the NRF said the “average household pays \$352 a year to cover the costs of these types of crimes” (Cox, 2011, p. 1). These costs do not include the costs passed along by businesses for hiring off-duty police for security. The amount also does not include the costs to tax payers of paying the salaries of the law enforcement agents involved in investigating these offenses. The annual costs for retail businesses and taxpayers are estimated to be more than \$10 billion (Cox, 2011, p. 1).

Additional areas where retail thefts directly affect the average citizen are by effecting the amount of inventory available (National Retail Federation, 2012) and by forcing retailers to develop more restrictive return policies (McKenna, 2007). ORC groups often steal large quantities of specific items like baby formula, medicines, beauty aids, and healthcare products. Often the thefts in such large quantities leave no products for paying customers. Retailers also may modify their return policies for the types of products often targeted by ORC groups to reduce the likelihood of stolen items being returned for cash, in-store credit, or traded within the store for like items. The modified return policies may have a negative effect on legitimate customers.

The third way to prove that retail thefts do affect the average citizen is in the area of public health. This one is not as intuitive or obvious as the previous two arguments. The effect on the public health of ordinary citizens is perhaps the scariest way ordinary

citizens are injured by retail crimes. According to Tim Hammonds, president and chief executive officer of FMI, organized crime suspects “endanger public health by adulterating products such as infant formula and cold medicines and selling them to unsuspecting consumers often through illegitimate retail outlets” (Haberkom, 2007, p. C16). ORC groups tamper with items by extending expiration dates or repackaging and relabeling the items (“Retail may,” 2010). Consumers put themselves and their families at risk when they receive or purchase stolen items like infant formula, pain relievers, meat, and other perishable items (National Retail Federation, 2012). These items might be spoiled, expired, or ruined, and could cause illness or death.

The final counterpoint is that the effects of the economic downturn across the nation is causing budget constraints that preclude the formation of new units or hiring officers for new positions. Budget shortfalls and budget cuts are now a fact of life for law enforcement agencies across the nation. Public safety used to be considered an occupation safe from the budgetary axe, but those days are in the past. Some examples of lost positions include: Flint Police Department, Michigan; Snohomish County Sherriff’s Office, Washington (Moore, 2008); The Oakland Police Department, California (Parks, 2010); and the Harris County Constables, Texas (Morris, 2011). Other agencies across the nation have been forced to reallocate staffing from specialized units back to patrol operations and often have had to mandate furlough days for officers to balance their budgets.

However, an in-depth look at the impact of ORC by conducting a cost benefit analysis may show it is more cost effective to form an ORC unit than to assign a few extra officers to patrol. The reason becomes clearer when looking at this particular

issue and observing the statistically high amount of crime that ORC makes up when looking at the overall numbers. The other part to that same issue is the increasing link of ORC groups to “gateway crimes.” These gateway crimes include gang activity, drug crimes, and weapons offenses. There have been instances where ORC groups are also found to be involved in crimes involving “illegal immigration, money laundering, and terrorist financing activities” (National Retail Federation, 2012, p. 10). Retailers, loss prevention personnel, and police have observed the increasing dangers associated with ORC. The study indicated that “retailers are reporting that on average more than one in 10 organized crime apprehensions (15%), lead to some level of violence, such as physical assault and/or battery, impacting the safety of customers and employees” (National Retail Federation, 2012, p. 13).

The seriousness and significance of these criminal endeavors cannot be overstated. One study warned that “assassination attempts on federal prosecutors and police in Texas that were completely funded by more than \$1 million in gang-related baby formula thefts from retailers” (Harper, 2009, p. A01). The financial impact of ORC groups to fund other criminal enterprises is not limited to the local level. There is an international impact also. According to CIS Robert W. Nolen, many criminals “from terrorist countries specialize in the re-sale of stolen consumer goods and the profits are used to fund terrorist activities” (Martinez, 2005, p. 58). It is possible that local criminals hired or recruited into ORC groups may not realize who actually is profiting from the offenses. Many suspects involved in ORC may knowingly or unwittingly be “recruited by and work for established Middle Eastern fences who funnel the ill-gotten profits into terrorist organizations” (Martinez, 2005, p. 58). The serious nature of the crimes being

committed by ORC groups, combined with the increasing number of ORC offenses and the economic losses incurred by businesses and tax entities highlight how important forming in ORC unit can be for communities.

There are counter positions to a law enforcement agency organizing or implementing a special unit designed to fight the problem of the increases in organized retail crime. However the evidence shows that ORC is too large and too costly to businesses, taxpayers, and citizens to be left solely in the hands of retailers. ORC affects everyone, whether the issues are crime reduction, public health, reducing loss of tax revenue, keeping a business financially viable, or increasing legislation.

RECOMMENDATION

It is impractical for law enforcement agencies to make an impact on reducing crime locally, nationally, or internationally without addressing theft offenses. This is due to the large percentage of theft offenses included in the crime statistics at all of these levels ("Retail theft," 2012; Graham, 2007; Arlington Police Department Crime Analysis Unit, 2012). Organized retail crime is increasing in relation to the incidents of retail theft and has been identified as a growing threat to businesses and by extension, the efforts of law enforcement to reduce crime (National Retail Federation, 2012). Retail theft and the increase in ORC have a negative effect on the sales tax revenue for jurisdictions with large retailers or retail areas.

Cities with large retailers or retail areas should institute an organized crime unit. This type of unit is an important tool in combating the increasing trends in retail crimes and specifically the dramatic increase in organized retail crime. Forming a law enforcement unit or task force is a valid and beneficial action law enforcement agencies

can take to address the problem of ORC crime as part of crime reduction strategies. Combating ORC must be conducted due to its impact on crime statistics, tax revenue, public health, the financial viability of retail businesses, and the impact on other criminal enterprises.

Several counter positions to the forming of specialized ORC units for law enforcement agencies have been identified and discussed in this paper. These are: retail crime is the responsibility of the retail businesses, not law enforcement; retail crime does not hurt ordinary citizens and therefore should not be a priority crime reduction effort; and, the economic downturn across the nation causes budget constraints that preclude the formation of new units or hiring officers for new positions. Retail businesses are doing their part to combat ORC but cannot do it alone. The economic downturn has reduced the funding they have available for loss prevention. The formation of partnerships of retailers, retail groups, and law enforcement agencies at all levels highlights the team effort needed to combat ORC crimes. Retail crime impacts ordinary citizens in the areas of passed-on costs to consumers, availability of products, and public health. The use of ORC related profits to fund terrorist organizations or other criminal enterprises show some of the benefits of focusing on these types of crimes.

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