



Department of Justice

STATEMENT OF

**DAVID JOHNSON
SECTION CHIEF
CRIMINAL INVESTIGATIVE DIVISION
FEDERAL BUREAU OF INVESTIGATION**

BEFORE THE

**SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

ENTITLED

**“COMBATING ORGANIZED RETAIL CRIME: THE ROLE OF FEDERAL
LAW ENFORCEMENT”**

PRESENTED

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Good morning, Chairman Scott, Ranking Member Gohmert and Members of the Subcommittee. I appreciate the opportunity to testify before you today on the FBI's efforts to combat organized retail theft (ORT) in the United States. We prefer to use the term "organized retail theft" because the term "organized crime" has a specific meaning within the context of law enforcement. Therefore referring to the criminal activity as "organized retail crime" creates confusion.

ORT Threat

What is called Organized Retail Theft or ORT by Retail Loss Prevention Professionals, can generally be described as professional burglars, boosters, cons, thieves, fences and resellers conspiring to steal and sell retail merchandise obtained from retail establishments by theft or deception. 'Boosters' – the front line thieves who intend to resell stolen goods – generally coordinate with 'fences' who may sell the items outright at flea markets or convenience stores or online; or repackage them for sale to higher level fences. The problem is significant for its negative economic impact, the safety issues it brings to unsuspecting consumers, and its potential link to other criminal enterprises.

Each year, organized retail theft is responsible for significant economic losses to retailers, which are then passed along to the American consumer. While it is difficult to pinpoint the exact annual dollar loss caused by this crime problem, retailers estimate all crimes where they are victims results in billions of dollars in losses.

The tax revenue losses attributable to ORT also negatively impact states. In the face of the current economic downturn, the hundreds of millions of dollars in revenue losses to our states can be considered catastrophic.

This crime problem also has the potential to negatively impact consumer health and safety. Specifically, the unsuspecting consumer faces potential health and safety risks from legitimate products which may have been mishandled by the criminal enterprises who stole them for resale to consumers. In many cases, stolen infant formula, pharmaceuticals, and other consumables are not stored under proper conditions. When these items are reintroduced into the retail market, they may pose a significant health risk to the consumer. The potential threat is perhaps most evident in cases in which infant formula is stolen, repackaged and then resold to both knowing and unknowing wholesalers, who then sell the infant formula to government food programs and discount stores. In addition to these concerns, the potential for intentional product tampering prior to the reintroduction of the stolen merchandise into the retail market is significant.

Also of concern for the FBI, in particular, is the potential nexus between organized retail theft syndicates and other criminal enterprises. In 2006, for example, nine members of an alleged Michigan smuggling operation were arrested, accused of taking part in a global scheme involving bootlegged cigarettes, phony Viagra and counterfeit tax stamps, and sending a cut of their illicit profits to Hezbollah.

The FBI has also investigated criminal ties between members of the international street gang MS-13 and fencing rings suspected of trafficking in millions of dollars in stolen medicine and other retail goods.

Challenges

There are many challenges on the road to combating organized retail theft. Lack of available resources to state and local police departments, who have the primary responsibility for investigating most retail crimes, is a huge hurdle. Sharing information between public and private enterprise is another.

As with other forms of criminal enterprise, there is a loose hierarchy within organized retail theft groups. Specifically, these groups utilize low-level 'boosters' – those who actually steal the merchandise and higher level 'fencers,' who frequently coordinate booster thefts. Often, these boosters are illegal immigrants working off a debt or individuals suffering from some form of addiction. If these low-level boosters are removed from the criminal enterprise, others will simply step in to take their place.

These criminal groups are also particularly nimble – able to easily change their appearance, alter their method of operation, and particularly adept at circumventing security devices and procedures. Groups typically utilize methods ranging in sophistication from the development and use of counterfeit receipts and UPC codes to refund and check/credit card fraud to something as basic as the 'grab and run.' They frequently identify store locations with Global Positioning Systems (GPS), identify escape routes, use false identification, utilize rented or borrowed vehicles, and employ diversionary tactics in stores. They are known to travel from state to state or city to city following interstate corridors around large cities.

Further, the wide reach of the Internet and online auction sites has provided global market places for entrepreneurs and, not surprisingly, criminal enterprises.

Law Enforcement/Private Industry Response

Sophisticated ORT groups can best be dismantled through a coordinated and cooperative effort between law enforcement and the retail industry. In December 2003, the FBI established an ORT Initiative to identify and disrupt multi-jurisdictional ORT groups, using federal statutes such as Conspiracy, Interstate Transportation of Stolen Property, and Money Laundering. Increased information sharing and cooperation between law enforcement and the private sector will enable both to gain a better understanding of the full nature and extent of the threat ORT poses, as well as to identify the best methods for law enforcement and the retail industry to attack this crime problem.

Additionally, Congress passed legislation signed by the President in January 2006 that required the Attorney General and the FBI, in consultation with the retail community – specifically, the National Retail Federation (NRF) and the Retail Industry Leader’s Association (RILA) -- to build a system for information-sharing, to include intelligence as well as lessons learned and best practices regarding ORT. As you may already be aware, the result of that measure - the Law Enforcement Retail Partnership Network (LERPnet) - was subsequently launched in 2007.

The database, which is housed and run by the private sector, allows retail members to track and identify organized retail theft via a secure web portal. To date, nearly 100,000 retail locations are included in the data, which represents \$1.17 trillion in retail sales or nearly 25% of all retail sales in one year.

With a recently signed Memorandum of Understanding (MOU), law enforcement will also be able to access LERPnet via the FBI’s Law Enforcement Online to search reported incidents and track organized retail theft throughout the country. This partnership between law enforcement and private industry provides for greater efficiency in intelligence gathering and dissemination, enabling increased arrests, prosecutions, and recoveries of stolen merchandise.

Intelligence goes hand-in-hand with partnerships. One good piece of intelligence can be the breakthrough needed to make a vital connection or solve a case. By arming the retail industry with the infrastructure necessary to share such intelligence, it is our hope that they – along with their partners in law enforcement – are better able to thwart criminal efforts and reduce subsequent losses. Previously, individual retailers reported thefts to local law enforcement, but no uniform method of tracking these crimes across jurisdictions existed.

In addition to LERPnet and coordination with the retail industry, the FBI is identifying and targeting multi-jurisdictional ORT groups utilizing existing task force resources. Currently, there are seven FBI-led Major Theft Task Forces which are located in the Chicago, El Paso (2), Memphis, Miami (2) and New York Field Offices. Staffed by FBI Agents and other federal, state and local law enforcement officers, the task forces are responsible for conducting investigations in the major theft areas of ORT, cargo, vehicle, and jewelry theft crimes. Further, in cases where an organized retail theft enterprise can be tied to other criminal entities, additional FBI or law enforcement resources may be able to assist.

These task forces, which combine the resources of local, state and federal law enforcement, as well as retail loss prevention professionals, are applying investigative techniques and strategies which the FBI has successfully utilized to target traditional organized crime, including the development of a solid intelligence base and the use of undercover operations. Clearly, this approach increases the effectiveness and productivity of limited personnel and logistical resources, avoids the duplication of investigation resources, and expands the cooperation and communication among federal, state, and local law enforcement agencies as well as the retail industry.

Successes

The use of the task force approach to combating crime, coupled with successful partnerships within industry, is seen by the FBI as one of the most effective and efficient tools by which to identify, disrupt and dismantle any criminal enterprise. That strategy is working.

In February 2008, for example, seven individuals were indicted for participating in a scheme to shoplift merchandise and then sell it on the Internet auction site eBay. All seven defendants were charged with participating in a conspiracy to commit wire fraud and to engage in the interstate transportation of stolen property. That case was investigated by the FBI, Kansas City Police Department, and the Postal Inspection Service. It has since been prosecuted by the U.S. Attorney's Office, Western District of Missouri.

In May of that same year, 23 Organized Crime associates of the Gambino Crime Families – including a Gambino Crew Supervisor - were arrested based on a racketeering indictment charging them with operating an illegal enterprise involved in illegal gambling, extortion, fraud and labor racketeering. The fraud schemes pertained to eight or more associates involved in wire fraud because they created and used counterfeit UPC labels to obtain merchandise from numerous retail outlets. This six year investigation was conducted by the FBI as well as our partners at the U.S. Department of Labor, Office of Inspector General; the Internal Revenue Service; the New Jersey State Police; and, the Union County Prosecutors Office.

In August 2008, following months of investigation, the FBI and its law enforcement partners at the Internal Revenue Service, U.S. Immigration and Customs Enforcement, and the Broward County Sheriff's Department, participated in a raid of PharmaCare Health Services in Sunrise, Florida. The resulting indictments charged transportation of stolen goods, money laundering, conspiracy, and fraud. According to court documents, PharmaCare was actually a wholesaler that often purchased bulk quantities of mixed and damaged stolen products. Its employees were subsequently convicted of selling millions of dollars worth of over-the-counter medications, health and beauty aids that had been stolen from Walgreens, Target, CVS and Rite-Aid.

Chairman Scott, Ranking Member Gohmert and Members of the Subcommittee, I appreciate the opportunity to come before you today and share the work that the FBI is doing to address the problem posed by organized retail theft syndicates in this country. I am happy to answer any questions.