

NEXT STEPS FOR COMBATTING ORGANIZED RETAIL CRIME

by *Juliana Panetta*, General Counsel, Mall of America AND *Justin Kay*, Partner, Faegre Drinker



A [recent report from Forbes](#) lists Minnesota as number seven in the list of states most impacted by retail theft: Minnesota “accounts for 10% more retail crime than expected based on its share of the population.” A year ago, Minnesota took an important step in addressing this problem—passage of the [Organized Retail Theft Act](#). But Minnesota likely will need to take additional steps before the state sees significant changes.

The Organized Retail Theft Act defines “organized retail theft” as (i) employment by or association with a group (but not necessarily the same group) of two or more individuals with a shared goal involving the unauthorized removal of retail merchandise from a retailer; and (ii) at least twice in the preceding six months, the person has engaged in all three of three specific types of “theft” of retail merchandise (theft by taking, theft by fraud, and theft by swindle), was in possession of a device designed to assist in shoplifting, received stolen retail merchandise, burglarized a retailer, or was in possession of burglary tools; and the person or another member of the group sells, intends to sell, or advertises the stolen merchandise or returns the stolen merchandise in exchange for anything of value. Notably, [an amendment](#) was recently introduced clarifying that a person needs to have committed only one of the three specific types of theft referenced above, rather than all three.

The penalties for the new crime of “organized retail theft” are more significant than those for traditional theft. Two examples are below:

	“THEFT”	“ORGANIZED RETAIL THEFT”
Property Value > \$5,000	10 years, \$20,000	15 years, \$35,000
Property Value < \$500	90 days, \$1,000	1 year, \$3,000

The new penalties also account for recidivists and frequent but small value thefts. For example, if the value of the stolen merchandise is below \$500 **and** the person commits the offense within ten years of a previous conviction for or plea to a theft-like offense, the maximum penalty is increased to two years in prison or a fine of \$5,000 (or both). In addition, the value of the merchandise at issue may be determined by looking at a six-month period rather than any single instance.

The new law also attempts to punish more harshly anyone involved in violent incidents: a crime accompanied by “a reasonably foreseeable risk of bodily harm” is punishable by a minimum of three years in prison and a payment of \$5,000 (or both) and a maximum of a 50% increase in the sentence for the underlying crime.

But the passage of a new law with stiffer maximum penalties will not alone stop organized retail theft. California, which ranks only slightly better than Minnesota at number ten on the *Forbes* list, has had an organized retail theft-specific statute since 2018.

For these maximum penalties to matter, the criminals first must be identified, investigated, apprehended, charged, and then convicted. But retailers not only lack the powers of the state and sometimes lack the incentives to report the crimes, but also often lack the incentives to commit the time and resources to assist the authorities in taking a case through trial. And law enforcement departments and agencies acting alone lack the necessary information, jurisdictional reach, and/or resources. Together, however, retailers and law enforcement can address this problem. Recent events in and around Los Angeles provide a possible template.

NEXT STEPS FOR COMBATTING ORGANIZED RETAIL CRIME CONTINUED...

On August 17, 2023, the Mayor of Los Angeles, the Los Angeles Police Department and regional law enforcement (including the Los Angeles County Sheriff and the Glendale Police Department) [together announced](#) a regional retail organized crime task force. That announcement followed a well-publicized [flash mob attack](#) several days earlier in which approximately \$300,000 of merchandise was stolen from retailers at the Westfield Topanga Shopping Center in Canoga Park. The task force is charged with aggressively investigating, charging, and prosecuting retail theft—particularly organized retail theft. The task force draws on resources from numerous local, state, and federal law enforcement agencies and prosecutors: the Los Angeles Police Department, the Los Angeles Sheriff's Department, the California Highway Patrol, the Glendale Police Department, the Burbank Police Department, the Beverly Hills Police Department, the Santa Monica Police Department, the U.S. Marshals Apprehension Task Force, and the Federal Bureau of Investigation Apprehension Task Force; and prosecutors from the Los Angeles County District Attorney's Office, the Los Angeles City Attorney's Office and the California Attorney General's Office.

The task force has released periodic (roughly twice monthly) reports on its activities. Those reports highlight successes, and those successes appear to be the product of cooperation. For example, reports from [November 28, December 8](#), and [December 13, 2023](#), highlight the work of detectives and officers from six different police departments and different teams (the LAPD Transit Services and LAPD air assets) leveraging communication by and between patrons, retail loss prevention officers, plainclothes officers, and uniform officers. A report from [January 10](#) highlights a raid on a business believed to be selling stolen goods. And reports from [February 9](#) and [March 4, 2024](#), highlight “blitz” operations “to strategically saturate the problem areas with personnel and resources.”

Most recently, the Los Angeles District Attorney [announced](#) that the Los Angeles task force was responsible for 438 arrests and 309 filed cases.

In addition, the office of Governor Gavin Newsom recently [released](#) a statement attributing 900 recent arrests to the 2023 distribution of \$267 million to combat organized retail crime. That statement references the [findings of a survey](#) of all recipients of the Organized Retail Theft Prevention Grant and the Organized Retail Theft Vertical Prosecution Grant Program. One of the four key takeaways of that survey is that grantees are entering into agreements to formalize cooperation with retailers and other partner organizations.

Thus, if California's experience is representative, Minnesota's government, law enforcement, and retailers will need to continue and expand their cooperation to combat organized retail crime. ■

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2024 State of Retail – Retail Tournament of Champions

NOVEMBER 6, 2024

3:00pm Registration; 3:30 – 5:00pm Program;

5:30pm Social Hour/Networking

