Training Key® #657

Organized Retail Crime

Though long recognized as a problem by the retail industry, organized retail crime (ORC) is a relatively new crime phenomenon in law enforcement. Few law enforcement agencies are aware of this trend in retail theft and even fewer are familiar with the investigative strategies necessary to effectively address the burgeoning issue.

Organized retail crime (ORC) affects most segments of the retail industry, to include department, drug, home improvement, grocery, and apparel stores. The proliferation of ORC can be attributed to several factors, among them the emergence of Internet auction and resale websites, a weak economy, and the ability to introduce stolen merchandise back in to the marketplace with ease.

ORC Defined

The National Retail Federation defines ORC as "groups, gangs, and sometimes individuals who are engaged in illegally obtaining [substantial quantities of] retail merchandise through theft and fraud as part of a criminal enterprise."[1] ORC includes the following elements:

- Theft/fraud of multiple items
- Theft/fraud that is conducted
  - over multiple occurrences, and/or
  - in multiple stores, and/or
  - in multiple jurisdictions, and
  - by two or more persons, or an individual acting in dual roles.[2]

The American Society for Industrial Security defines ORC as situations where criminals steal large quantities of merchandise to resell in the marketplace. ORC is distinguished from ordinary retail theft in that it normally involves some type of organization, whereas traditional retail theft, like ordinary shoplifting, is generally committed for personal gain. Those involved in ORC are not limited by jurisdictional boundaries, creating additional obstacles for law enforcement.

The concept of ORC is a simple one. A shoplifter, or group of shoplifters, referred to as boosters, steals retail merchandise. The booster then sells or delivers the merchandise to a fence, the focal point in ORC investigations. The fence either reintroduces the stolen retail merchandise into the marketplace or another point in what may be a complex distribution ring. The challenge for law enforcement is to determine the scope and breadth of the organization and to develop an effective strategy to expose and eliminate it through arrest and prosecution.

ORC is attractive to the criminal element because of the risk-to-reward ratio. When compared to traditional crimes such as burglary, robbery, and narcotics, the risk of apprehension and stringent punishment for retail theft crime are negligible, and the financial windfall is significant. While it is difficult to attribute a specific loss amount to ORC, various retail experts estimate the losses to be between $15 billion and $40 billion annually.[3]

ORC includes both societal and economic issues. It results in lost merchandise for retailers, lost tax revenue for state and local governments and increased prices for consumers. As evidenced through recent investigations, ORC also fuels the illegal drug trade. ORC groups frequently employ drug addicts as boosters. They are a cheap source of independent labor for the fences and they serve, to some degree, to insulate the fences from investigation and prosecution. For drug addicts, shoplifting is a relatively easy, low-risk method to obtain money to support their addictions. Regardless of whether groups of boosters are well organized and working directly for the fence or drug addicts trying to support their addictions, they should be considered and treated as an integral part of the overall organization.

To highlight the impact of ORC, there have been several recent, high-profile cases. In 2007, the Polk County, Florida, Sheriff's Office conducted an ORC investigation that resulted in the arrest of 18 suspects who were accountable for retail thefts valued between $60 million and $100 million. In 2010

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the Baltimore County, Maryland, Police Department, in conjunction with the Baltimore City Police Department, the United States Postal Inspection Service, and retailers including Target and Safeway, conducted an ORC investigation that resulted in the arrest of 15 suspects who were responsible for retail losses valued at $20 million. To show the depth of ORC cases and the complexities that may be encountered, the latter case involved the use of a federal, court-authorized wiretap.

Depending on the type of merchandise targeted for theft, ORC can put the health and safety of the consumer at risk. Products designed for human consumption that are stolen in quantity, such as over-the-counter-medicine and infant formula have expiration dates and must be stored under certain conditions. When stolen by organized groups these items may have the expiration dates altered to increase their resale value and are not normally stored according to manufacturer recommendations. These factors can compromise the integrity of the product, creating potential public health hazards.

There has been anecdotal evidence linking ORC to terrorism funding and criminal gangs, highlighted by the need to launder the illicit proceeds. These links increase the potential for violence and create corresponding officer safety issues. Officers should be aware of this potential link when conducting ORC investigations and contact the appropriate federal law enforcement authority if such a link is established. Police department gang units, as well as Regional Information Sharing Systems (RISS) can be valuable resources when linking ORC to criminal gangs. RISS is a national program consisting of regionally oriented services designed to assist local, state and federal law enforcement agencies in identifying and targeting criminal conspiracies that span multiple jurisdictions.[4]

ORC is usually charged under a state's theft statutes, though as this crime has become prevalent, some states have enacted ORC specific laws. As with any crime, the local prosecutor's office should be consulted as to the appropriate statutes and the elements of proof necessary to secure a conviction.

Types of ORC

To identify and effectively investigate ORC it is important to understand the various ways in which it occurs. The many forms of ORC include shoplifting, double shopping, UPC switching, gift card fraud, cargo theft, and large-scale identity theft. The most likely forms to be seen at the local level include the following.

Shoplifting. Shoplifting is the most prominent method by which ORC occurs. In these instances thieves enter retail stores and steal large quantities of merchandise. Often times the boosters are supplied with lists of desired items from the outlet, or fence. They can operate alone or as part of a team. In the instances of team boosters, someone will divert the attention of store or loss prevention personnel, another will be responsible for stealing the merchandise, and a third individual will be waiting in a getaway vehicle. As the initial investigating officer, it is necessary to proceed with both caution and focus, as the presence of additional unknown suspects creates officer safety issues.

Boosters will often target certain retailers for specific items. They are keenly aware of security procedures, to include the presence of loss prevention personnel and the individual store's policy as it pertains to the apprehension of shoplifters. For instance, some retailers' policies do not allow loss prevention personnel to approach boosters beyond the exit doors of the store, while others require constant visual surveillance of the boosters after concealment of the merchandise. The boosters use this information to their advantage and target stores that present the best opportunity to complete the crime without detection and apprehension.

As part of their modus operandi, boosters frequently conduct surveillance at a particular store before committing the actual theft. For this reason, it is important to thoroughly investigate and document instances of suspicious activity at retail establishments. While the boosters may be immediately deterred by the initial police presence, they are not likely to abandon their pursuits and will simply find a similar store in another locale. It is, therefore, important to identify suspicious persons and question them about their activities. As with any investigative procedure, this should be done within the confines of local and state law and in accordance with individual department policy.

Video surveillance technology has advanced greatly from the initial systems employed by the retail sector. The improved camera technology has resulted in higher resolution pictures. Additionally, major retailers now deploy exterior cameras designed to cover the parking lots, entrances, and exits. While this has been a boon for law enforcement, boosters have adjusted accordingly, often using disguises to thwart these systems. Video evidence may prove valuable when establishing probable cause for future searches. Officers should be mindful that retail stores do not routinely keep video surveillance for an indefinite period of time. It is important to obtain a copy of the desired video surveillance as soon as possible and preserve it as evidence.

Retailers routinely use electronic theft deterrent systems in their stores. Commonly known as electronic article surveillance (EAS) systems, they are devices placed on or within merchandise. They come in several different forms such as magnetic, radio frequency, and microwave. They are the large plastic devices attached to clothing items that are removed at checkout, the magnetic strips affixed to electronic goods that are deactivated at checkout, and paper-thin electronic devices placed between the pages of new books. These devices are most effective against the casual, or personal, shoplifter who is either not aware of the existence of EAS, or not familiar with the methods used to defeat these devices. Professional boosters are familiar with the methods used to defeat EAS and will often have in their possession items used to accomplish this task. The most common item used is some type of device that includes aluminum-type foil. Whenever boosters are apprehended, officers should be mindful of the presence of such items and seize them in the course of any lawful search. Possession by the booster of a large quantity of aluminum foil, or bags lined with aluminum foil should be seized as evidence. Additionally, boosters should be thoroughly questioned as to the type of device found and their intent for its use. Seizure of the device and a subsequent admission by the booster is indicative of a scheme and very powerful evidence in any future court proceeding.

Double Shopping. Another means by which ORC is committed is through double shopping. In these instances, the booster will enter a retail outlet and buy items of considerable value such as power tools, vacuums, and so forth. They will

take the items to a waiting vehicle and immediately return to the store. The booster will then steal like items and leave the store. If they are approached by store personnel, or the attached EAS alarms are activated the booster simply produces the receipt from the previous legitimate sale and exits the store.

Double shopping is difficult to prove and requires diligence on the part of the investigating officer. The suspect will normally exit the store from a location entirely different from the one used at the initial purchase. This is done to limit the possibility of being identified by the clerk that conducted the initial sale. For this reason store video surveillance, if available, should be thoroughly reviewed. Additionally, when circumstances permit, and within the confines of local and state law and individual department policy, a search of any related vehicles for the like items should be considered.

UPC Switching. This method involves the changing of universal product codes (UPC), or barcodes. While technology has advanced beyond UPC, it is a generic term that still retains its originally intended meaning. Commonly referred to as ticket switching, this method simply involves changing UPC codes from a less expensive item to one of greater value. When the item is scanned at the register the lower price is recorded. UPC stickers can also be produced on home computers. A particular scam involves the production of mass quantities of UPC stickers. A team of boosters will target several similar stores within a particular geographic region, place the fictitious stickers over the legitimate ones and proceed to the checkout, purchasing the item at a significantly reduced price. An alert store clerk will normally notice the discrepancy in price, but with the emergence of self-checkouts this form of ORC has flourished.

Gift Card Fraud. Gift card fraud and credit card fraud are other common means by which boosters steal items in large quantities from retail outlets. Stolen or compromised credit cards are frequently used by criminals to purchase retail gift cards in large quantities, particularly those issued by major credit card companies such as Visa and American Express. The gift cards are then sold at a significant discount to the unassuming consumer, usually through an electronic platform such as eBay or Craigslist.

There are additional methods by which gift cards are used in ORC. It is important to understand how gift cards are made available for sale and how transactions are processed in order to understand why they are a preferred platform for ORC. Visa and American Express gift cards, for example, are available for purchase in several venues, including retail outlets, banks, and through mail order. Visa does not directly issue gift cards that bear its name, rather, it contracts with third-party vendors that make, sell, and process the gift cards. This is important to note because VISA does not process transactions associated with their gift cards, so any type of legal process (court order, subpoena, etc.) to VISA to obtain transactional information on their gift cards is futile. VISA merely provides the information for the third-party vendor that issued the gift card. This, however, does not hold true with American Express gift cards, as American Express is the sole issuer of its branded gift cards. It is important to inquire with the various gift card issuers to determine their methods and procedures.

There are additional factors that make gift cards an attractive target. Gift cards, especially from the major companies like VISA and American Express, process the same way as a credit card; the numbers on the gift cards use the identical format. Because of this the magnetic strip on the back of gift cards can be re-encoded with fraudulent or stolen credit card information even though it is a gift card. This is important because gift cards, unlike credit cards, do not generally require identification or a signature at the point of purchase. Gift cards can be repeatedly re-encoded with fraudulent credit card information with the presenter not having to be concerned with identification. Gift cards are also preferred because unlike credit cards they are not traceable to specific, named cardholders who can report their cards stolen or their accounts compromised.

Another form of gift card fraud employed by boosters is to record the gift card number from the face of cards that are placed on display for purchase in grocery stores and other similar retail outlets. The boosters will record the numbers from multiple cards on display and wait a period of time for someone to purchase the card and activate it. This type of scam only works with cards that can be used in "card not present" situations. Using the gift card in this manner allows the booster to use the cards to make purchases over the Internet and drain their value before the intended recipient can use them.

Cargo Theft. The Federal Bureau of Investigation (FBI) defines cargo as "any commercial shipment moving via trucks, planes, rail cars, ships, etc., from point of origin to final destination."[5] When this merchandise is stolen at any point in the chain it becomes cargo theft. While retailers lose thousands of dollars in retail merchandise each day at the store level, cargo theft can net millions of dollars of stolen inventory in one incident.

A U.S.-based cargo security firm identified $425 million in reported stolen cargo in 2010, though industry estimates are much higher. The FBI is the primary federal law enforcement agency that investigates cargo theft, though United States Immigration and Custom Enforcement (ICE) has taken a more prominent role. It should be noted, however, that federal jurisdiction is not initiated unless there is either an interstate or international component. Most cargo theft, therefore, is initially investigated at the local law enforcement level.

There are several points at which cargo destined for the retail marketplace can be stolen. It can occur at the port of entry or at weigh stations such as rail yards, airports, and commercial truck yards. It can occur at truck stops, at retail distribution centers, and from the loading docks of the individual stores. Officers should make every effort to determine if any of these types of facilities are located within their jurisdiction.

Though cargo theft it is not as prevalent as other forms of ORC, it results in more loss per incident and, unless someone is caught in the act of committing such a crime, it is difficult for law enforcement to determine the breadth of the involved organization. There are both public and private sector resources available to assist officers in the investigation of cargo theft related to ORC. There are regional combined local, state, and federal task forces that maintain a great deal of intelligence information related to cargo theft. Additionally, retailers, transportation companies, and industry trade groups, such as the National Retail Federation, the Retail Industry Leaders Association, and FreightWatch International, offer education,

intelligence, and logistical resources for the investigation of cargo theft.

One final note regarding cargo theft, officers should be aware that during traffic or investigative stops of commercial cargo vehicles the driver should be able to produce a bill of lading or manifest indicating the items being transported. The lack of such documentation should raise officer awareness and may warrant additional investigation; officer safety should be paramount in these situations.

Distribution/Fences

The outlet for stolen retail merchandise comes in several forms. Pawn shops, secondhand stores, mom-and-pop stores, bodegas, and flea markets are the most common outlets and are referred to as fences. These outlets create the demand for the items and, as previously mentioned, will provide boosters with a verbal or written list of desired items. Any ORC investigation in which a search is warranted should include identification and seizure of such lists, as they are very powerful evidence indicating the presence of an organized scheme.

Whenever a booster is apprehended, a thorough interview should be conducted that elicits information concerning a supply list. The recitation by the suspect should be thoroughly documented, to include the type of item, its size, the quantity desired, and the amount for which the fence is willing to pay. This information is vital in both identifying the fence and developing probable cause for subsequent search and seizure warrants and arrests.

Electronic platforms such as eBay, Amazon, and Craigslist are prevalent means of distributing stolen merchandise. Commonly referred to as eFencing, it is a popular method for the distribution of stolen retail merchandise by the fences and those who operate in the dual role of booster and fence. The sheer volume of items for sale on these platforms and the perceived sense of anonymity create an environment conducive to the distribution of stolen retail merchandise. The perceived sense of anonymity is just that, perceived. There is an abundance of information available to law enforcement from these sites, to include user identification, credit and payment information, and sales history. The aforementioned electronic outlets work cooperatively with law enforcement. All of the available information is easily obtained with a subpoena or court order.

Identification of Trends

The investigation of ORC begins with its prompt identification. Before implementing a strategy it is important to determine the scope and breadth of the problem. Generally, the first indication of ORC activity is usually seen at the patrol level. For instance, a patrol officer responding to a shoplifting call in which the suspect has been apprehended for stealing a large quantity of one particular item has likely identified the presence of ORC activity. The booster should be thoroughly interviewed for details that might provide additional intelligence regarding the organization and its operation. This is especially important for smaller police agencies that lack a dedicated analytical function. The initial alert will require the officer or investigator to conduct a search of recent theft reports to determine if ORC activity is present and to what degree.

Retail loss prevention personnel can be a vital source of intelligence information in these instances. They can provide the investigating officer with information regarding trends involving certain items and across several stores within a region. Most large retailers have staff dedicated to the investigation and prevention of ORC. In most instances they are more informed as to the nuances of ORC than law enforcement and are eager to share that information. They can also provide assistance in the form of analysis, undercover resources such as products for undercover sales and logistical assistance at the conclusion of the investigation.

It is important to note that boosters will target multiple stores across multiple jurisdictions in multiple states. Surrounding jurisdictions should be contacted to determine if similar incidents have occurred.

Police departments that have a dedicated analytical function would be a logical starting point for any officer or investigator in determining both the presence and extent of ORC; a sudden increase in the rate of shoplifting calls for service is one indicator. Further investigation must be conducted into this increase to determine commonality and the prevalence for certain merchandise being stolen, as well as suspect indicators.

Investigative Strategies

The most important consideration at this point is to conduct thorough interviews of boosters. Intelligence is the most effective way to identify the ORC network. Boosters can provide vital information on how the organization is structured, the type of merchandise targeted, and how it is redistributed. It is important to understand that the boosters are generally the lowest level of the organization and their information should be thoroughly collaborated before taking any enforcement action.

Only after every attempt has been made to identify the organization should investigative strategies be developed and employed. Acting prematurely will alert the organization to the presence of law enforcement and result in the organization curtailing its activities or changing its modus operandi to counter law enforcement operations.

When developing investigative strategies, it is important to understand that ORC frequently crosses jurisdictional boundaries. For instance, retail stores in one jurisdiction may be targeted for the theft, but the fencing will occur in a neighboring jurisdiction or in another state altogether. While task forces are not imperative to the successful investigation of ORC, lasting, positive working relationships are. These relationships should include surrounding law enforcement agencies, federal agencies, and retail loss prevention personnel.

Similar strategies employed in most major case investigations can be employed in ORC investigations and include the use of the following:

- Registered informants for intelligence and undercover operations
- Undercover officers
- Physical surveillance
- Electronic surveillance including GPS and pole cameras
- Pen registers/dial number recorders for telephone call analysis
- Court authorized wiretaps

This list is not all-inclusive, nor is it indicative of every investigative technique that could be employed in ORC cases.

Each case should be evaluated on its merits and the appropriate strategies employed.

Lastly, the primary concern in a multi-jurisdictional approach to an investigation is the venue for prosecution. This should be determined before the investigation is implemented.

Conclusion

ORC does not solely affect the retail industry. In jurisdictions where ORC is present there is not only a health and safety concern, but also a corresponding effect on the services provided by law enforcement. When ORC is rampant, law enforcement must spend an inordinate amount of time and precious resources responding to shoplifting and other related calls for service, diverting those resources from important crime reduction activities. It is also important to note that not all cases of ORC involve multi-jurisdictional networks. Local cases, however, left to operate unfettered, create larger issues for law enforcement. It is in these instances that patrol officers and investigators can have the greatest impact. Knowledge of ORC and its impact on society is an important first step in preventing it from flourishing.

Acknowledgment

This *Training Key*® was prepared by Sergeant Gerald D'Angelo of the Financial Crimes Team, Baltimore County (MD) Police Department.

Endnotes

[1] National Retail Federation, "Organized Retail Crime," http://www.nrf.com/modules.php?name=Dashboard&id=64 (accessed August 24, 2011).

[2] National Retail Federation, "Organized Retail Crime Background," http://www.nrf.com/modules.php?name=Pages&sp_id=1464

[3] Richard C. Hollinger and Amanda Adams, *2006 National Retail Security Survey* (Gainesville, Fla.: University of Florida, 2007).

[4] Further information on RISS can be obtained at http://www.riss.net.

[5] Federal Bureau of Investigation, "Inside Cargo Theft – A Growing, Multi-Billion-Dollar Problem," news story, November 12, 2010, www.fbi.gov/news/stories/2010/november/cargo_111210/cargo_111210 (accessed August 24, 2011).

questions

The following questions are based on material in this *Training Key®*. Select the one best answer for each question.

1. Which of the following is a concern surrounding organized retail crime?

(a) Risk to the health and safety of consumers, especially when products that have expiration dates or storage requirements are involved.
(b) Increased prices for consumers.
(c) Loss of tax revenue.
(d) All of the above.

2. Double shopping refers to switching universal product codes (UPC) from a less expensive to a more expensive item prior to purchasing.

(a) True.
(b) False.

3. Which of the following are recommended when investigating organized retail crime?

(a) Conduct thorough interviews of boosters.
(b) Focus efforts on one jurisdiction only.
(c) Develop working relationships with retail loss prevention personnel.
(d) Both a and c.

answers

1. (d) All of the above.
2. (b) False. This method is referred to as UPC or ticket switching. Double shopping occurs when an item of considerable value is legitimately purchased and removed from the store, followed by the booster stealing the same item from the store soon thereafter. When stopped by store personnel, the booster then shows the receipt from the original sale.
3. (d) Both a and c. ORC investigations often involve various offenses occurring in multiple jurisdictions. The development of task forces covering various jurisdictions, both local and federal, are often useful

have you read.....?

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Surveillance operations are essential for certain criminal investigations and for the collection of information required to develop intelligence. However, officers should be aware of the appropriate use of and the legal limitations on certain forms of surveillance.