



PCE

# Combating Organized Retail Theft: Prosecutorial Strategies and Collaborative Solutions

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# Combating Organized Retail Theft: Prosecutorial Strategies and Collaborative Solutions

## Overview

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The Federal Bureau of Investigations defines Organized Retail Theft as “the large scale theft of retail merchandise with the intent to resell the stolen items for financial gain.”<sup>1</sup> The National Retail Foundation, in their 2023 Retail Security Survey, reported that 70 percent of responding businesses reported an increase in theft from repeat offenders.<sup>2</sup> Partially as a result of the increase in Organized Retail Theft, the rate of loss across retail stores, commonly called “shrinkage”, increased 1.6 percent in 2022, up to \$112.1 billion in losses from \$93.9 billion in 2021.<sup>3</sup> While there have been conflicting reports that retail establishments have exaggerated reports of losses<sup>4</sup>, there is no doubt that Organized Retail Theft is a significant problem across the country.

Newspaper articles abound about the scourge of Organized Retail Theft, its impact on communities, and what is being done in response to it. In December 2024, California Highway Patrol announced that they had arrested 117 suspects during a crackdown on retail theft.<sup>5</sup> Those arrests came less than six months after California Governor Gavin Newsom signed ten new bills into law to combat retail crime.<sup>6</sup> In a November 2024 article co-written by the King County Prosecuting Attorney Leesa Manion, the Seattle Times reported that Organized Retail Theft costs Washington State residents millions of dollars a year.<sup>7</sup> As a result, Washington legislators are considering bills to lengthen prison sentences for Organized Retail Theft crimes.<sup>8</sup> In New York City an “unlock the toothpaste”

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<sup>1</sup> *Organized Retail Theft*, FEDERAL BUREAU OF INVESTIGATION, <https://www.fbi.gov/investigate/transnational-organized-crime/organized-retail-theft> (last visited April 16, 2025).

<sup>2</sup> NATIONAL RETAIL FOUNDATION, 2023 RETAIL SECURITY SURVEY (2023), <https://nrf.com/research/national-retail-security-survey-2023>

<sup>3</sup> *Id.*

<sup>4</sup> Thea Sebastian and Hannah Love, *Retail theft in US cities: Separating fact from fiction*, BROOKINGS, (March 6, 2024), <https://www.brookings.edu/articles/retail-theft-in-us-cities-separating-fact-from-fiction/>

<sup>5</sup> Vivian Chow, *117 arrested in retail theft crackdown across California*, KTLA (Dec. 24, 2024), <https://ktla.com/news/local-news/117-arrested-retail-theft-crackdown-across-california/>

<sup>6</sup> Exe Yildirim, *California cracks down on organized retail crime with new package of laws*, CNBC (Aug. 19, 2024), <https://www.cnbc.com/2024/08/19/california-retail-crime-laws-crack-down-on-organized-rings.html>

<sup>7</sup> Jesse Anderson, Leesa Manion, and Erik Nordstrom, *Organized retail theft is costing WA millions per year*, THE SEATTLE TIMES (Nov. 29, 2024), <https://www.seattletimes.com/opinion/organized-retail-theft-is-costing-wa-millions-per-year/>

<sup>8</sup> Albert James, *WA legislators hear bill to lengthen sentences for organized retail theft*, Fox 13 (Feb. 10, 2025), <https://www.fox13seattle.com/news/wa-legislators-bill-organized-retail-theft>

initiative is being proposed by the New York City Comptroller in response to everyday items being secured by lock and key to prevent shoplifting.<sup>9</sup>

Prosecutors' Center for Excellence convened prosecutors and industry experts to discuss how they are addressing Organized Retail Theft.<sup>10</sup> This paper is a summary of that discussion.

## New York County District Attorney's Office (Manhattan), New York

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Manhattan has a population of about 1.6 million people living densely on an island with an area of only 22.8 square miles. During the day Manhattan's population increases to 4 million people with the addition of those who are working in or visiting the city. The New York County District Attorney's Office (NYCDAO), which has jurisdiction over Manhattan, reported that the volume of retail theft in Manhattan is so pressing that the prosecutors have partnered with the New York City Police Department (NYPD) to make combating retail theft an office priority. Within a 15-month period, for example, about 5,600 people were arrested for retail theft in Manhattan, having committed about 11,600 combined offenses. Law enforcement has determined that about 5 percent of those offenders were responsible for almost one third of all the retail theft offenses.

The NYCDAO's Crime Strategy Unit<sup>11</sup> serves as a liaison between prosecutors, detectives with NYPD, and the loss prevention officers in the retail stores. These relationships have enabled the Crime Strategy Unit to quickly determine whether the offender is a retail recidivist so the office can allocate its resources more effectively by prosecuting those offenders who are causing the most loss.

The collaboration and information sharing between prosecutors, police and loss prevention officers enables law enforcement to respond more efficiently to the problem of Organized Retail Theft. Prosecutors have improved access to information and evidence and thus can make more appropriate charging decisions. Owners and employees of victimized stores better understand the process, are more responsive to subpoenas, and will be cooperative with the prosecution. Just as importantly, the collaboration makes the various

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<sup>9</sup> Zhané Caldwell, NYC Comptroller's 'Unlock the Toothpaste' initiative aims to curb retail theft, YAHOO! NEWS (Feb. 14 2025), <https://www.yahoo.com/news/nyc-comptroller-unlock-toothpaste-initiative-040423953.html>

<sup>10</sup> To view this discussion in full, see: *PCE POP-UP – ORGANIZED RETAIL THEFT: CHALLENGES AND SOLUTIONS*, Prosecutor Center for Excellence, <https://pceinc.org/pce-pop-up-organized-retail-theft-challenges-and-solutions/> (last viewed April 16, 2025).

<sup>11</sup> See, PROSECUTORS CENTER FOR EXCELLENCE AND AEQUITAS, *THE PROBLEM-SOLVING PROSECUTOR: MODERN VARIATIONS ON THE CRIME STRATEGIES UNIT*, (2021), <https://pceinc.org/wp-content/uploads/2021/01/20210110-The-Problem-Solving-Prosecutor-Modern-Variations-on-teh.-Crime-Strategies-Unit-PCE-DANY-Bronx-DA-Aequitas-.pdf>

stakeholders and community partners become part of the solution to the problem, rather than helpless bystanders.

At the same time, the NYCDAO embraces a holistic approach with offenders. Rather than insist on a lengthy jail sentence in every case, prosecutors try to determine why a particular offender is committing these crimes, and what the most appropriate sanction should be. The NYCDAO has a Pathways to Public Safety Division, which has an alternative to incarceration component. Organized Retail Theft defendants who qualify for an intensive mandate can avoid incarceration if they avoid rearrest and failed drug tests, and if they successfully complete treatment for 18 – 24 months. The office has found that they have been able to reduce the recidivism rate for individuals who have completed the program.

## Platte County Prosecuting Attorney's Office, Missouri

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The Platte County Prosecutor's Office (PCPO) works with the Retail Industry Leaders Association (RILA) and National District Attorneys Association (NDAA) to combat Organized Retail Theft in Missouri. Obviously, Platte County differs geographically than New York City. By itself Platte County has about 112,000 residents, just seven percent of Manhattan's population, but like New York, Platte County found that 20 percent of retail theft offenders accounted for about 70 percent of the retail theft in the area. As part of the larger Kansas City metropolitan area, Platte County is one of six counties in two states. As crime does not respect jurisdictional boundaries, law enforcement and other stakeholders in those six counties decided that they need to communicate and work together.

The goal of the Platte County effort is to target high impact offenders. PCPO has partnered with RILA as part of RILA's Vibrant Communities Initiative<sup>12</sup> to address retailers' concerns about the lack of law enforcement's response to retail theft crimes, and to address complaints from law enforcement that the retailers were not cooperating with enforcement efforts. The PCPO and RILA quickly realized that the lack of communication between prosecutors, police, and retailers was driving these concerns. To solve this problem, the new partnership sponsors bi-monthly webinars and conducts bi-monthly meetings to share intelligence. Every week there are subcommittee calls to share information and identify the high impact offenders. Since those offenders may be moving across jurisdictional boundaries, this also provides an opportunity to have a discussion about which venue is most appropriate for prosecution, ensuring that different prosecutorial agencies are not duplicating their work.

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<sup>12</sup> *Combatting Retail Crime for Safer Communities*, RETAIL INDUSTRY LEADERS ASSOCIATION, <https://www.rila.org/rila-ndaa-vibrant-communities-initiative> (last visited April 16, 2025).



The enhanced communication and partnerships have resulted in innovative solutions. Resources are provided for retailers to teach loss prevention officers what prosecutors need to prosecute cases, how to write reports, and how to use evidence checklists. Another initiative is the trespass program where loss prevention officers issue trespass notices to certain offenders, allowing for more serious charges to be brought against offenders who continue to victimize the same retail establishments despite being given the notice. By working closely with one another, the members of the group can also more easily react to new criminal trends. For example, retailers noticed that groups of offenders were stealing gift cards from the stores, tampering with the cards, and then returning them to the store shelves. The offenders would then electronically steal the money that the unknowing customers loaded onto the cards. RILA was able to work with the Department of Homeland Security in Project Red Hook to prosecute several large groups committing this crime.

## Yolo County District Attorney's Office, California

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California has been hit heavily by Organized Retail Theft, and until recently, had comparatively lax laws to combat it. The Yolo County District Attorney's Office (YCDAO), situated between San Francisco and Sacramento, has developed an innovative way to deal with this crime. As in many jurisdictions, law enforcement agencies in Yolo County are understaffed and overworked and do not have the resources to respond quickly to calls of retail theft. This led retailers to stop reporting crime, or to call police only when a certain threshold of loss was met. Even when crime was reported, it often took months for overworked detectives to submit cases to the prosecuting attorney.

The Yolo County District Attorney created a "FastPass to Prosecution"<sup>13</sup> program to help solve these problems. Now, retailers can submit reports directly to the District Attorney's Office. To enable this program, the elected District Attorney first met with law enforcement leaders to ensure that they would not have objections to the program. He also worked to ensure that the process did not create any additional work for retailers. Like the NYCDAO and the PCPO, the YCDAO targets high propensity offenders and therefore limits the use of the FastPass Program to cases involving such offenders. Most theft cases still come into the YCDAO through traditional means.

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<sup>13</sup> *Yolo DA Announces the Launch of "FastPass to Prosecution" Combatting Retail Theft through Retailer-Initiated Reporting and Rapid Prosecution*, YOLO COUNTY DISTRICT ATTY'S OFFICE, <https://yoloda.org/yolo-da-announces-the-launch-of-fastpass-to-prosecution-combatting-retail-theft-through-retailer-initiated-reporting-and-rapid-prosecution/> (last visited April 16, 2025).

The FastPass to Prosecution program allows a loss prevention officer to submit internal store reports and evidence, including surveillance videos directly to the YCDAO through an online portal. The information is reviewed immediately by a team of investigators and prosecutors and often a charging decision can be made the same day. If not, the YCDAO investigators can do additional investigative work, or can reach out to the police agency to follow up. As soon as the case is charged, the YCDAO secures an arrest warrant for the offender or offenders involved.

The FastPass to Prosecution program has resulted in a faster response to serious theft cases while reducing the workload for local law enforcement, and has increased collaboration between prosecutors, police, and retailers. The retailers can see that their cooperation and participation have an immediate impact in the community and that the prosecutors care about their cases. At the same time, communication between police and prosecutors has improved because prosecuting attorneys have created an innovative program for serious retail theft cases, which enhances cases and frees up time for police officers to work on other cases.

## Conclusion

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Organized Retail Theft remains a significant challenge across the United States, impacting businesses, law enforcement, and communities. Prosecutors and law enforcement agencies have recognized the need for innovative, collaborative approaches to effectively address this growing issue. From Manhattan's strategic partnerships with the NYPD to Platte County's multi-jurisdictional cooperation and Yolo County's FastPass to Prosecution program, these initiatives highlight the importance of information-sharing, targeted enforcement, and alternative pathways to rehabilitation. By fostering stronger relationships between retailers, prosecutors, and law enforcement, these efforts not only improve case outcomes but also contribute to the broader goal of reducing offender recidivism and enhancing public safety. Continued adaptation and cooperation will be key in the ongoing fight against Organized Retail Theft.