



ICSC+LAW SYMPOSIUM OH/KY/IN/MI/PA
Hilton Columbus/Polaris, Columbus, OH
February 29 - March 1, 2024

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Hilton Columbus/Polaris

Columbus, OH

Friday, March 1, 2024

9:50 - 10:50 am

Session 1B: Combating Retail Crime in 2024

Panelists

David DeVillers

Partner

Barnes & Thornburg

Columbus, OH

Roy Harness, CPP

Senior Director of Security

wpg

Columbus, OH



OUTLINE

Combating Retail Crime in 2024

Retailers have always been vulnerable to shoplifting. But the emergence of coordinated and organized robberies at shopping centers and high-value stand-alone stores, even during shopping hours, has the shopping center industry on edge. This session will focus on the role that landlords and the Organized Retail Crime Task Force in Ohio are playing in combating retail crime in many retail environments.

I. Organized Retail Crime Task Force in Ohio

A. The Problem

1. Retail Crime Highlights.
 - a. Stores lost \$112.1 billion to retail theft in 2022
 - b. Shoplifting losses grew 19.4% year-over-year
 - c. Cargo theft
 - d. Stores catch shoplifters roughly 2.0% of the time
 - e. Retailers lost \$84.9 billion in fraudulent sales returns in 2022
 - f. The average shoplifting incident cost retailers \$461.86 in 2020.
2. Ohio Retail Theft Statistics
 - a. Retailers in Ohio lost \$2.527 billion in revenue to theft in 2022
 - b. Ohio retailers lost \$274.88 in sales per capita in 2022
 - c. Retail theft per capita in Ohio
 - d. Theft of \$1,000 or more is a felony in Ohio
 - e. Return fraud
 - f. The State of Ohio lost retail sales tax dollars due to theft
 - g. Ohio sales tax dollars lost to return fraud

B. Ohio Chamber of Commerce Task Force

1. This task force was formed on the heels of an October 2022 study commissioned by the Ohio Chamber.
2. The task force is being led by former U.S. Attorney David DeVillers of Barnes & Thornburg LLC and retired Judge Scott VanDerKarr and the committee is made up of members from the Ohio Attorney General's office, representatives from corporations, and prosecutors.



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3. The goal of the committee is to effect new legislation to discuss criminal justice reforms, prosecutorial authority, streamline information sharing and add new or enhanced penalties to produce recommendations for the Ohio General Assembly.

C. House Bill 366 (<https://www.legislature.ohio.gov/legislation/135/hb366>):

1. Creates new section R.C. 2913.08 (Organized Retail Theft). Penalties range from an F3 if the value is less than \$750,000 to an F1 if the value is \$1.5 million or more. The statute provides that the value of property stolen within any 12-month period by the same person or person shall be aggregated if the value exceeds \$1000. The statute prohibits the following:
 - a. Knowingly committing theft of retail property with a retail value of \$1000 or more for the purpose of selling, delivering, or transferring the property to a fence or selling, delivering, transferring, exchanging, or returning the property for value.
 - b. Receiving, purchasing, or possessing retail property with a retail value of \$1000 or more if the person knows, believes, or has reasonable cause to believe that the property has been obtained by theft.
 - c. Knowingly acting as an agent of an enterprise to steal retail property with a retail value of \$1000 or more from a retail establishment as part of an organized plan to commit theft.
 - d. Knowingly recruiting, coordinating, organizing, supervising, directing, managing, or financing an enterprise to undertake any of the above.

II. Landlord Approach to Retail Crime in Shopping Centers

A. Retail Crime Statistics

1. Current state of Retail Crime in Shopping Centers
2. Increase in retail crime in Shopping Centers causes and effects
3. New efforts and initiatives in combating retail crime by Landlords

B. Landlord and Tenant Responsibilities

1. Tenant areas of responsibility
2. Landlord areas of responsibility
3. Shared responsibilities on retail property
4. Post crime/theft responsibilities and preventions



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C. New and future efforts to combat retail crime and theft

1. New surveillance technology and tracking software
2. Increased training and preventative measures
3. Creation of new regulations, laws and increased enforcement of existing laws



SESSION MATERIALS

I. Organized Retail Crime Task Force in Ohio

The Problem

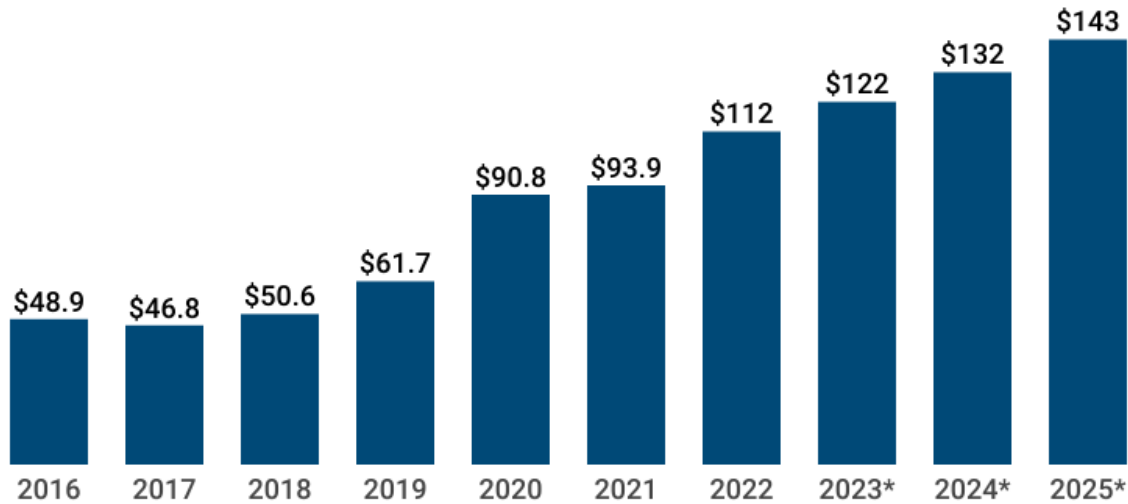
Highlights. Stores lost **\$112.1 billion** to retail theft in 2022; projections indicate shoplifting could cost retailers *over \$140 billion* in 2025.

- Shoplifting losses grew **19.4%** year-over-year; as a share of retail sales dollars, losses to theft increased *10.5%*.
- **58%** of organized retail crime is cargo theft.
- Stores catch shoplifters roughly **2.0%** of the time; the average shoplifter is arrested *once out of every 100* incidents.
- Retailers lost **\$84.9 billion** in fraudulent sales returns in 2022.
- The average shoplifting incident cost retailers **\$461.86** in 2020.



Retail Sales Revenue Lost to Theft

(in billions)



Source: National Retail Federation

*Projections based on source data

Ohio Retail Theft Statistics

Retailers in Ohio lost \$2.527 billion in revenue to theft in 2022.

- Ohio retailers lost \$274.88 in sales per capita in 2022.
- Retail theft per capita in Ohio is 20.1% lower than the average among states.
- Theft of \$1,000 or more is a felony in Ohio.
- Return fraud cost Ohio retailers an estimated \$2.745 billion in sales revenue, bringing total retail sales losses up to \$5.272 billion.



- The State of Ohio lost out on \$145 million in retail sales tax dollars due to theft.
- Ohio sales tax dollars lost to return fraud totaled \$158 million, bringing the lost sales tax to \$303 million.

Ohio Chamber of Commerce Task Force

This task force was formed on the heels of an October 2022 study commissioned by the Ohio Chamber, where 62% of businesses surveyed responded that rising crime is keeping businesses from expanding.

The task force is being led by former U.S. Attorney David DeVillers of Barnes & Thornburg LLC and retired Judge Scott VanDerKarr and the committee is made up of members from the Ohio Attorney General's office, representatives from corporations, and prosecutors.

The goal of the committee is to affect new legislation to discuss criminal justice reforms, prosecutorial authority, streamline information sharing and new or enhanced penalties to produce recommendations for the Ohio General Assembly.

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- Knowing recruiting, coordinating, organizing, supervising, directing, managing, or financing an enterprise to undertake any of the above.

II. Landlord Approach to Retail Crime in Shopping Centers

A. Retail Crime Statistics

- Current state of Retail Crime in Shopping Centers
 - Moving target for landlords to track
 - Reliance on retailers to report
- Increase in retail crime in Shopping Centers causes and effects
 - Corporate policies prohibiting action and often even reporting
 - Lack of consequences
 - Ease of access to high value items
- New efforts and initiatives in combating retail crime by Landlords
 - Retail crime partnerships with law enforcement (mall cop programs)
 - Local coordination between landlord, retailer LP and law enforcement
 - Enhanced CCTV with Security Operations Center and Fusus



B. Landlord and Tenant Responsibilities

- Tenant areas of responsibility
 - Tenant space from ease line to service corridor
 - All Loss Prevention activities
 - Reporting and tracking of ROC
- Landlord areas of responsibility
 - Common space safety and security (observing and reporting)
 - All hazards awareness and mitigation
 - Coordination with law enforcement and tenants
- Shared responsibilities on retail property
 - Intelligence sharing and awareness
 - Landlord Ban/Trespass when reported
- Post crime/theft responsibilities and preventions
 - Tenant loss prevention guidelines determine response and additional measures
 - Landlord works closely with law enforcement to provide what we can

C. New and future efforts to combat retail crime and theft

- New surveillance technology and tracking software
 - Facial recognition
 - License plate readers
 - New trend from some retailers: Lot Cop systems
- Increased training and preventative measures
 - Coordinated with landlord security to understand roles and abilities
- Creation of new regulations, laws and increased enforcement of existing laws
 - Definitely not a high priority with most law enforcement agencies
 - Lack of enforcement seems to create apathy with retailers