26-001 - Organized Retail Theft Crimes

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

ORGANIZED RETAIL THEFT CRIMES

PURPOSE

The purpose of this directive is to provide procedures for patrol personnel when handling organized retail theft crimes. The directive will provide guidance to patrol personnel on how to properly recognize and document retail theft incidents. This will ensure accurate tracking of retail theft crimes.

BACKGROUND

Incidents of organized retail crimes, which include flocking and smash-and-grabs, have risen at an exponential rate. In response, Major Crimes Bureau (MCB) formed the Organized Retail Crimes Task Force (ORCTF), comprised of personnel dedicated to suppressing, investigating, and educating the community regarding retail theft crimes.

These crimes may include, but are not limited to, numerous participants acting in concert, also known as flash mobs, as they enter a retail location to steal merchandise. Retail and security personnel are often overwhelmed by the large number of individuals committing these thefts.

In 2021, California Penal Code (PC) section 490.4(a) was enacted to address organized retail theft.

A person is guilty of "organized retail theft" if they do any of the following:

(1) Acts in concert with one or more persons to steal merchandise from one or more merchant's premises or online marketplace with the intent to sell, exchange, or return the merchandise for value.

(2) Acts in concert with two or more persons to receive, purchase, or possess merchandise described in paragraph (1), knowing or believing it to have been stolen.

(3) Acts as an agent of another individual or group of individuals to steal merchandise from one or more merchant's premises or online marketplaces as part of an organized plan to commit theft.

(4) Recruits, coordinates, organizes, supervises, directs, manages, or finances another to undertake any of the acts described in paragraph (1) or (2) or any other statute defining theft of merchandise.

Under certain circumstances, violations of (1), (2), or (3) can be charged as a felony or a misdemeanor, also known as a "wobbler." If violations are committed on two or more separate occasions within a 12-month period, and if the aggregated value of the merchandise stolen, received, purchased, or possessed within that 12-month period exceeds $950, the offense may be charged as a felony. If not, the offense is a misdemeanor. A violation of (4) is a misdemeanor.

Proposition 36's Impact on Theft and Shoplifting Crimes

In 2024, **Proposition 36** (Homelessness, Drug Addiction & Theft Reduction Act) was enacted and updated laws to combat retail theft including the following (Refer to FOSS Bulletin 25-01 - PROPOSITION 36). While Proposition 36 provisions do not explicitly apply to 490.4(a) P.C. organized retail theft crimes, it is important to note that they may co-exist with organized retail theft crimes and/or repeated offenses may aggregate to satisfy the elements of one of the definitions of organized retail theft crimes.

490.3 P.C. (Definition only, not a chargeable offense) - In cases with one or more acts of theft or shoplifting, the value of property stolen in multiple thefts can be added together (aggregated) into a single count. If the total exceeds $950, a felony theft would be charged, instead of multiple misdemeanor theft charges.

NOTE: 490.3 P.C. applies to shoplifting and the following sections: 459.5 P.C., 484 P.C., 488 P.C., and 490.2 P.C.

666.1 (a)(1) P.C. (Theft with two related priors) - Permits a felony to be charged when an individual commits a misdemeanor petty theft or shoplifting; and has two or more prior misdemeanor or felony theft convictions for any of the below crimes.

- Penal Code 211 (Robbery)
- Penal Code 215 (Carjacking)
- Penal Code 368 (Theft from an elder or dependent adult)
- Penal Code 459 (Burglary)
- Penal Code 459.5 (Shoplifting)
- Penal Code 487 (Grand Theft)
- Penal Code 487h (Grand theft cargo)
- Penal Code 488 or 492 (Petty theft)
- Penal Code 496 (Receiving Stolen Property)
- Penal Code 530.5 (Identity Theft)
- Penal Code 484-502.9 (Any grand theft described in these sections)

- Vehicle Code 10851 (theft or unauthorized use of vehicle)

POLICY AND PROCEDURES

It is vital for patrol personnel to determine the total amount of loss resulting from an organized retail theft, as "smash and grab" incidents often exceed $950. A loss amount greater than $950 must be determined in order to support a felony charge if violations of 490.4(a)(1)-(3) P.C. are committed on two or more separate occasions within a 12-month period. To determine the loss amount, speak to a store employee who has personal knowledge of exactly what was taken and ask the witness how they determined the loss. If possible, the employee should not rely on what another person told them.

Because a felony charge is also based on violations of 490.4(a)(1)-(3) P.C. being committed on two or more separate occasions, it is also important for patrol personnel to document the correct Penal Code section on the classification line of the corresponding Incident Report (SH-R-49), for accurate statistical tracking purposes. Proper tracking of organized retail crime incidents is essential for successful investigations and prosecutions. Although there is not a specific stat code for organized retail crime incidents, the below examples give the appropriate penal codes and stat codes that should be used together to ensure proper tracking of organized retail crime incidents.

For total amount loss exceeding $950, use the following penal code and stat code:

- Org Ret Theft W/Intent to Sell/Return etc., 490.4(a)(1) P.C. / F / 083
- Org Ret Theft Rec/Purch/Poss Knowing Stolen, 490.4(a)(2) P.C. / F / 083
- Org Ret Theft Act as Agent For, 490.4(a)(3) P.C. / F / 083
- Org Ret Theft Organizes Others to Undertake, 490.4(a)(4) P.C. / F / 083

For total amount loss under $950, use the following penal code and stat code:

- Org Ret Theft W/Intent to Sell/Return/etc., 490.4(a)(1) P.C. / M / 383
- Org Ret Theft Rec/Purch/Poss Knowing Stolen, 490.4(a)(2) P.C. / M / 383
- Org Ret Theft Act as Agent For, 490.4(a)(3) P.C. / M / 383
- Org Ret Theft Organizes Others to Undertake, 490.4(a)(4) P.C. / M / 383

Patrol Deputy Responsibilities

If the elements of one or more of the definitions of 490.4(a) P.C (Organized Retail Theft) are met at the time of arrest, the applicable 490.4(a) P.C. violation shall also be added to the list of charges, in addition to any other related charges (e.g. robbery, burglary, grand theft, petty theft, etc.).

If 490.4(a) P.C. is listed on the classification lines on an Incident Report (SH-R-49) face-page, a copy of the approved report shall be sent to the "ORCTF" e-mail group in Outlook(ORCTF@lasd.org).

If the documented organized retail theft crime meets *any* of the following criteria, an immediate notification to the appropriate Sergeant (e.g. Watch Sergeant, Field Sergeant, Team Sergeant, etc.), or other sworn supervisor shall be made:

- Significant and involving **multiple** suspects (e.g. armed robbery of retail location, acting in surprising mob fashion in a public place with a large loss to a victim business, suspected serial or "repeat offender," etc.);
- Noteworthy/garnering media attention;
- Involving extreme act(s) of violence;
- Determined to be part of a series or patterned in nature;
- Involving **multiple** suspects where any or all suspects are currently in custody;
- A substantial amount of what reasonably appears to be stolen retail merchandise, regardless of situation or location, is located and can be recovered by Deputy personnel in the field (e.g. via search warrant, probation, parole compliance search operation, traffic stop, call for service, etc.);
- An arrestee or another person volunteers or provides **significant** information related to the types of cases the ORCTF would investigate; or
- Any sworn LASD personnel believe it necessary to report information or intelligence related to organized retail thefts.

Sergeant / Supervisor Responsibilities

Once notified of an organized retail theft crime meeting any of the above listed criteria, the Sergeant or supervisor shall make a notification to the ORCTF by sending an e-mail to ORCTF@lasd.org with a short synopsis.

For noteworthy incidents or unusual incidents that generate media attention, Sheriff's Information Bureau (SIB) shall also be notified as soon as possible.

Upon receipt of the Incident Report (SH-R-49), the approving Sergeant will ensure a Special Request Distribution (SRD) to the "MCB ORCTF" has been denoted on the face-page of the report.

The Sergeant or supervisor will additionally ensure a copy of the Incident Report (SH-R-49) be sent to ORCTF.

Station Detective Responsibilities

MCB ORCTF may handle any cases involving serial and pattern organized retail crimes.

For cases involving identified petty theft and shoplifting suspects, the handling Detective should verify if the suspect has prior convictions to meet the necessary elements of 666.1(a)(1) P.C.

Additionally, Station Detectives should review any additional open petty theft and shoplifting cases involving the identified suspect(s) to aggregate the total loss amount, and charge the suspect with a felony, if the total loss is $950 or more.

Station Detective Bureaus will typically handle single or one-off incidents of organized retail crime and are encouraged to inquire with the ORCTF about whether the suspects are part of a larger organization or “crew” and/or whether there has been more than one offense committed within a 12-month period and the total loss is $950 or more.

REFERENCES

California Penal Code 490.4

California Penal Code 661.1

FOSS Bulletin 25-01 (Proposition 36)

Questions regarding this directive should be directed to the Major Crimes Bureau Organized Retail Crimes Task Force at (562) 946-7270 or email ORCTF@lasd.org.