



## Arizona State Senate

*Capitol Complex  
1700 West Washington  
Phoenix, AZ 85007*

December 17, 2008

The Honorable Janet Napolitano  
Governor of Arizona  
1700 West Washington  
Phoenix, AZ 85007

The Honorable Timothy S. Bee  
President of the Senate  
1700 West Washington  
Phoenix, AZ 85007

The Honorable James P. Weiers  
Speaker of the House of Representatives  
1700 West Washington  
Phoenix, AZ 85007

Dear Governor Napolitano, President Bee and Speaker Weiers:

Laws 2007, Chapter 233, established the Organized Retail Theft Task Force, which is required to report its findings and recommendations to the Legislature on or before December 1, 2008. The attached final report details the actions of the Task Force.

Sincerely,

A handwritten signature in cursive script that reads "Amber O'Dell".

Amber O'Dell  
Legislative Research Analyst  
Senate Public Safety & Human Services Committee

AO/ac

Cc: Committee Members  
Javan Mesnard, Senate Policy Advisor  
Barbara Guenther, Counsel to Senate Democrats  
Helena Whitney, House Democratic Staff  
Diana O'Dell, House Research Staff

# ***ORGANIZED RETAIL THEFT TASK FORCE FINAL REPORT***

## ***Background***

The Organized Retail Theft Task Force (Task Force), enacted by Laws 2007, Chapter 233, consists of 11 members, including police chiefs, sheriffs, county attorneys, persons actively engaged in retail business and the Director of the Department of Public Safety. The legislation defines “organized retail theft” as: the stealing, embezzlement or obtaining by fraud, false pretenses or other illegal means, of retail merchandise for the purpose of reselling the items or for reentering the items into commerce; or the coordination, organization, facilitation or recruitment of persons to undertake such stealing, embezzlement or obtaining. The Task Force is required to do the following: 1) determine the scope of the problem of organized retail theft, including particular areas of the state where the problem is greatest; 2) analyze the various methods of combating the problem of organized retail theft; 3) determine recommendations for statutory changes regarding organized retail theft; 4) facilitate the state's communication with the Federal Organized Retail Theft Task Force created within the Federal Bureau of Investigation; and 5) identify the appropriate law enforcement agencies of the state to receive funding, if made available by the federal government for the purpose of fighting organized retail theft. The Task Force must report its findings and recommendations to the Legislature on or before December 1, 2008.

## ***Task Force Meetings***

The Task Force held public meetings on October 23, 2007, January 8, 2008, December 2, 2008 (no quorum – did not meet) and December 16, 2008 to hear presentations, receive public testimony and make recommendations regarding organized retail theft.

## ***Task Force Recommendations***

The Task Force recommends that the Legislature do the following: 1) change Arizona law to make organized retail theft a separate offense; 2) require the Arizona Peace Officer Standards and Training Board (AzPOST) to train all law enforcement officers regarding organized retail theft; and 3) form an organized retail theft proactive law enforcement task force to combat organized retail theft on a full-time basis.

## ***Attachments***

1. Task Force Enabling Legislation.
2. Meeting Notices.
3. Minutes of Task Force meetings.

***ATTACHMENT 1***

House Engrossed Senate Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

CHAPTER 233

**SENATE BILL 1547**

AN ACT

ESTABLISHING THE ORGANIZED RETAIL THEFT TASK FORCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1           1. The stealing, embezzlement or obtaining by fraud, false pretenses  
2 or other illegal means, of retail merchandise for the purpose of reselling  
3 the items or for reentering the items into commerce.

4           2. The coordination, organization, facilitation or recruitment of  
5 persons to undertake such stealing, embezzlement or obtaining.

6           Sec. 2. Delayed repeal

7           This act is repealed from and after September 30, 2009.

APPROVED BY THE GOVERNOR MAY 24, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 24, 2007.

***ATTACHMENT 2***

## ARIZONA STATE SENATE

### INTERIM MEETING NOTICE OPEN TO THE PUBLIC

#### ORGANIZED RETAIL THEFT TASK FORCE

**Date:** Tuesday, October 23, 2007

**Time:** 10:00 A.M.

**Place:** HHR3

#### AGENDA

1. Call to Order
2. Introductions and Opening Remarks
3. Vote on Chairman
4. Charge of the Task Force
5. Law enforcement perspectives regarding organized retail theft
  - Detective David Lake, Organized Property Crimes Bureau-South, Phoenix Police Department
6. Retail perspectives regarding organized retail theft
  - Bob Folks, Director of Loss Prevention, Safeway
7. Adjourn

#### Members:

Sheriff Joseph M. Arpaio  
Brenda Harris  
John Meza  
Michael Mirand  
Steve Schieman  
Jon Smith

Andrew Thomas  
Edward Torpoco  
Roger Vanderpool  
Richard Vidaurri  
Steve Waugh

10/22/07  
br

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

## ARIZONA STATE LEGISLATURE

### INTERIM MEETING NOTICE OPEN TO THE PUBLIC

#### ORGANIZED RETAIL THEFT TASK FORCE

**Date:** Tuesday, January 8, 2008

**Time:** 10:00 A.M.

**Place:** HHR 4

#### AGENDA

1. Defining the Organized Retail Theft Task Force relating to future legislative consideration
  - Current National Retail Federation definition - Michael Mirand
2. Challenges facing law enforcement and retail professionals in combating organized retail theft in Arizona:
  - Law enforcement professionals - Detective Michael Carlow, Peoria Police Department
  - Retail professional - Michael Slupinski, Safeway, Organized Retail Crime Investigator
3. Creation of an Organized Retail Theft Task Force
  - Presentation and discussion of interaction and investigative methodologies between the Organized Retail Theft Task Force, retailers and law enforcement agencies:
  - Deputy Chief, Bill Knight, Criminal Investigations Bureau
4. Utilizing Arizona Peace Officer Standards and Training Board for law enforcement training opportunities relating to organized retail theft - Lyle Mann, Deputy Director and Training Manager, Peace Officer Standards and Training Board

#### Members:

Sheriff Joseph M. Arpaio  
Brenda Harris  
John Meza  
Michael Mirand  
Steve Schieman  
Jon Smith

Andrew Thomas  
Edward Torpoco  
Roger Vanderpool  
Richard Vidaurri  
Steve Waugh

1/3/08  
jmb

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

## ARIZONA STATE SENATE

### INTERIM MEETING NOTICE OPEN TO THE PUBLIC

#### ORGANIZED RETAIL THEFT TASK FORCE

**Date:** Tuesday, December 2, 2008

**Time:** 10:00 A.M.

**Place:** SHR 1

#### AGENDA

1. Call to Order
2. Introductions and Opening Remarks
3. Public testimony
4. Discussion
5. Recommendations
  - Changes to current theft/shoplifting laws
  - Organized retail theft training through the Arizona Peace Officers Standard and Training Board
  - Statewide organized retail theft task force
6. Adjourn

#### **Members:**

Michael Mirand, Chair  
Sheriff Joseph M. Arpaio  
Brenda Harris  
John Meza  
Steve Schieman  
Jon Smith

Andrew Thomas  
Edward Torpoco  
Roger Vanderpool  
Richard Vidaurri  
Steve Waugh

12/1/08  
br

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602)926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

## ARIZONA HOUSE OF REPRESENTATIVES

### INTERIM MEETING NOTICE OPEN TO THE PUBLIC

#### ORGANIZED RETAIL THEFT TASK FORCE

**Date:** Tuesday, December 16, 2008

**Time:** 10:00 A.M.

**Place:** HHR 4

#### AGENDA

1. Call to Order
2. Introductions and Opening Remarks
3. Public Testimony
4. Discussion
5. Recommendations
  - Changes to current theft/shoplifting laws
  - Organized retail theft training through the Arizona Peace Officers Standard and Training Board
  - Statewide organized retail theft task force
6. Adjourn

#### Members:

Michael Mirand, Chair  
Sheriff Joseph M. Arpaio  
Brenda Harris  
John Meza  
Steve Schieman  
Jon Smith

Andrew Thomas  
Edward Torpoco  
Roger Vanderpool  
Richard Vidaurri  
Steve Waugh

12/10/08  
dlh

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

***ATTACHMENT 3***

# ARIZONA STATE LEGISLATURE

## Organized Retail Theft Task Force

**Minutes of the Meeting**  
**Tuesday, October 23, 2007**  
**10:00 a.m., House Hearing Room 3**

### **Members Present:**

Bill Knight representing Sheriff Joseph M. Arpaio	Steve Schieman
Brenda Harris	Jon Smith
John Meza	David Felix representing Roger Vanderpool
Michael Mirand	Dan Bourland representing Richard Vidaurri
	Scott Mascher representing Steve Waugh

### **Members Absent:**

Andrew Thomas  
Edward Torpoco

### **Staff:**

Amber O'Dell, Senate Research Analyst  
Diana O'Dell, House Research Analyst

Michael Mirand called the meeting to order at 10:15 a.m. and the attendance was noted.

### **Introduction and Opening Remarks**

Each member of the committee introduced themselves and gave a brief description of their backgrounds.

### **Vote on Chairman**

**Mr. Mirand moved that without objection Michael Mirand be nominated Chairman of the Organized Retail Theft Task Force. There being no objections, the motion CARRIED by voice vote.**

### **Charge of the Task Force**

Amber O'Dell, Senate Research Analyst, explained the charge of the Task Force (Attachment A).

### **Law Enforcement Perspectives Regarding Organized Retail Theft**

Detective David Lake, Organized Property Crimes Bureau-South, Phoenix Police Department, presented a PowerPoint presentation regarding organized retail theft and the steps law enforcement is taking to deal with this

1-16-08

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-eighth Legislature – First Regular Session

**ORGANIZED RETAIL THEFT TASK FORCE**

Minutes of Meeting  
Tuesday, January 8, 2008  
House Hearing Room 4 -- 10:00 a.m.

Chairman Mirand called the meeting to order at 10:03 a.m. and attendance was noted by the secretary.

**Members Present**

Brenda Harris	John Meza
Bill Knight (for Sheriff Joseph M. Arpaio)	Roger Nelson (for Jon Smith)
Philip J. MacDonnell (for Andrew Thomas)	Steve Schieman
Scott Mascher (for Steve Waugh)	Michael Mirand, Chairman

**Members Absent**

Edward Torpoco	Richard Vidaurri
Roger Vanderpool	

**Defining the Organized Retail Theft Task Force Relating to Future Legislative Consideration: Current National Retail Federation Definition**

Chairman Michael Mirand, Walgreen Loss Prevention, explained the general goal of the meeting was to provide a definition of organized retail theft (ORT), how it affects Arizona, and to define possible methods and/or legislation to combat organized retail crime (Attachment 1).

**Challenges Facing Law Enforcement and Retail Professionals in Combating Organized Retail Theft in Arizona**

**Law Enforcement Professionals:**

Detective Michael Carlow, Peoria Police Department, explained the case of a chronic shoplifter who has been arrested more than 25 times for shoplifting in Arizona. Detective Carlow responded to questions posed by Task Force members as follows:

- Harsher convictions may be more effective than lowering the dollar amount of theft required for a felony conviction.
- The creation of a proactive law enforcement task force, which could work closely with a designated unit of the County Attorney's Office, would result in higher conviction rates for organized retail theft.

**Retail Professionals:**

Michael Slupinski, Organized Retail Crime Investigator, Safeway, suggested ORT should be separated from shoplift statutes, and that ORT should be considered theft, not shoplifting. He said the definition of ORT should not be limited to two or more persons, but should also include a person working alone. Mr. Slupinski responded to questions posed by Task Force members as follows:

- The definition of "intent to resell" should be clarified by the County Attorney.
- Stricter laws would help law enforcement to get information from "boosters" and to locate the "fences." (See Attachment 2 for Organized Retail Theft "Booster" and "Fencing" Operations: Defined).

**Creation of an Organized Retail Theft Task Force (ORTTF)**

Bill Knight, Deputy Criminal Investigations Bureau, explained funds would be required to create an ORTTF, and he suggested several resources. Once funds become available, it is necessary to have a "host" agency, i.e., the Maricopa County Sheriff's Office. There must be a clearly defined problem, a clearly defined mission, and projected expenses. He said a six member investigative group would cost approximately \$450,000 to \$550,000, which would include salaries and employee related costs. In addition, one prosecutor dedicated solely to ORTTF would cost approximately \$70,000 to \$90,000 per year. Other costs would be overtime, travel, training, supplies, office space, and vehicles. Grant funding for the ORTTF would ensure that a host agency would be compensated for loss of resources. Deputy Knight explained intelligence gathering support services for the ORTTF would require coordination among agencies.

Mr. Meza said he believes the ORTTF should also focus on the single organized person who is stealing many items.

Chairman Mirand explained that retail crime investigators provide a great deal of intelligence and information to law enforcement personnel. He said the goal of the ORTTF would be to combat high level fencing operations.

**Utilizing Arizona Peace Officer Standards and Training Board for Law Enforcement Training Opportunities Relating to Organized Retail Theft**

Lyle Mann, Deputy Director and Training Manager, Peace Officer Standards Training Board, explained that retail theft investigators are aware of the identity of most large "boosters," but are unable to coordinate that information with other agencies. In addition, penalties for shoplifters

and boosters have been so “watered down” that the bad guys really do not care if they are arrested.

Mr. Mann explained the Training Board sets the hiring standards and basic training standards for peace officers. Training for the ORTFF would be an advanced course and that course could be created at the request of the Committee. Mr. Mann responded to questions posed by Committee members as follows:

- Training videos would be the preferred tool to educate peace officers as to the differences between shoplifters, boosters and fencing operations.

Mr. MacDonnell questioned whether there would be a way, under statute, to define a booster, and to create a felony offense for that definition.

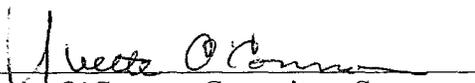
Mr. Schieman explained it would be difficult for a peace officer to clearly differentiate between a booster and a shoplifter.

Committee members discussed possible ways to amend Arizona law to achieve the purpose of the ORTFF.

Chairman Mirand stated the meeting had been constructive from the standpoint of sharing information on how to make effective changes to ORT. The date of the next meeting will be determined by Legislative Staff.

Michelle Ahlmer, Executive Director, Arizona Retailers Association (ARA), said each state has different laws that address ORT. The ARA is currently working on legislation to provide a definition for ORT.

Without objection, the meeting adjourned at 11:28 a.m.

  
Yvette O'Connor, Committee Secretary  
January 8, 2008

(Original minutes, attachments and audio on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov/>)

# ARIZONA STATE LEGISLATURE

## ORGANIZED RETAIL THEFT TASK FORCE

**Date:** Tuesday, January 8, 2008

**Time:** 10:00 A.M.

**Place:** HHR 4

### "Proposed Definitions of Organized Retail Theft (ORT) for Arizona State Legislature"

#### Brief Overview:

Organized retail theft (ORT) refers to an offense wherein individuals who are associated with a professional crime ring steal large quantities of merchandise and then sell it back into the marketplace. ORC is a growing problem throughout the United States and affects a wide range of retail establishments including supermarkets, chain drug stores, independent pharmacies, mass merchandisers and convenience stores, among others. It has become the most pressing security problem confronting retailers and suppliers and accounts for as much as \$40 billion in losses at store level, according to the Federal Bureau of Investigation's (FBI) interstate theft task force (Source; Coalition Against ORC).

NOTE: ORT is separate and distinct from petty shoplifting in that it involves professional theft rings that move quickly from community to community and across state lines to pilfer large amounts of merchandise that is fenced and sold back into the marketplace. Petty shoplifting, as defined, is limited to items stolen for personal use or consumption.

#### Definition One:

Organized Retail Theft act is committed when *"two or more persons working in conjunction with each other who steal property from retail stores with the intent to resell or trade that property for money or for other values, or those who knowingly buy stolen retail property."*

#### Definition Two:

Organized Retail Theft act is committed when *"a person working alone or in conjunction with other persons who steal property from retail stores with the intent to resell or trade that property for money or for other values, or those who knowingly buy stolen retail property."*

#### Definition Three (as defined in United States Congress; S. 1553 (108th): ORT Act of 2003):

Organized Retail Theft act is committed when *"whoever in any material way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by taking possession of, carrying away, or transferring or causing to be carried away, with intent to steal, any goods offered for retail sale."*

The information provided above is for the purpose stimulating discussion among the ORT Task Force committee members, state legislators, prosecutors, law enforcement and retail professionals, and the general public on what definition of ORT would best fit the needs of the state in combating ORT. By no means are the three listed definitions a complete representation of possible definitions.

Michael Mirand  
Chairman, Arizona State Legislature Organized Retail Theft Task Force

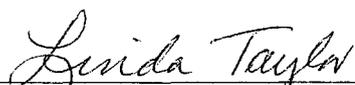
ATTACHMENT 1

ARIZONA STATE LEGISLATURE  
Forty-eighth Legislature – Second Regular Session

**ORGANIZED RETAIL THEFT TASK FORCE**

Minutes of Meeting  
Tuesday, December 2, 2008  
Senate Hearing Room 1 -- 10:00 a.m.

No meeting was held due to lack of a quorum.

  
\_\_\_\_\_  
Linda Taylor, Committee Secretary  
December 2, 2008

12

ARIZONA STATE LEGISLATURE  
Forty-eighth Legislature – Second Regular Session  
**ORGANIZED RETAIL THEFT TASK FORCE**

Minutes of Meeting  
Tuesday, December 16, 2008  
HHR 4 -- 10:00 a.m.

Chairman Mirand called the meeting to order at 10:00 a.m. and attendance was noted by the secretary.

**Members Present**

John Meza  
Steve Schieman  
Jon Smith (Roger Nelson, designee) Andrew Thomas (Philip MacDonnell, designee)  
Roger Vanderpool (Bruce Campbell, designee)  
Steve Waugh (Scott Mascher, designee)  
Michael Mirand, Chair

**PRESENTATION:**

**Public Testimony:**

John Thomas, representing Mesa Marketplace and Goodyear Marketplace, explained that the difference between swap meets and flea markets is geographical; swap meet is a term used west of the Mississippi, while flea markets are east of the Mississippi. He related that the Mesa swap meet and the Goodyear swap meet have over 80,000 people attending in the winter. In all, they pay over \$5 million in State and city taxes. The National Flea Market Association represents \$1.5 billion in tax revenue across the country and flea markets represent the third largest retailer in the country. He said the Association is aware of organized retail theft problems that occur at all swap meets.

Chairman Mirand asked whether there is a formal process to notify law enforcement if the seller is engaging in questionable sales practices. Mr. Thomas replied that security is generally made up of off-duty officers who notify law enforcement.

Chairman Mirand queried whether all swap meets have representation. Mr. Thomas answered that there is no state association. Some of the smaller swap meets have no representation.

Michelle Ahlmer, Executive Director, Arizona Retailers Association, reviewed the recommendations to the proposed legislation made at previous meetings on organized retail theft (Attachment 1):

- Page 2, line 11, insert “AND INCLUDES A RETAIL ESTABLISHMENT”  
This applies to the burglary statute. It was previously in statute and then removed. This puts the language back into statute.
- Page 3, lines 31-32, strike “with the intent to resell the merchandise”  
This is eliminated in that section because it is included in the new section that defines organized retail theft.
- Page 3, lines 33-35, insert “WHO IN THE COURSE OF SHOPLIFTING USES AN ARTIFICE, INSTRUMENT, CONTAINER, DEVICE OR OTHER ARTICLE WITH THE INTENT TO FACILITATE SHOPLIFTING OR”
- Clearly defines artifice as a Class 4 felony and refers to culpable mind. There is concern that someone might commit a minor act of shoplifting and be charged under this statute if a pen is in the shoplifter’s pocket. The intent is to capture theft committed with a “culpable mind” if using an artifice.
- Page 3, lines 41-45 and Page 4, lines 1-9, insert new section 13-1819. Organized retail theft; classification  
The new section creates organized retail theft with the intent to resell. It specifies that the crime is the intent to resell; not just the crime of shoplifting.

Chairman Mirand reminded members that this is a work in progress and has to go through the legislative process. Support for these recommendations means that members support the efforts of the task force and they identify organized retail theft as a problem within the State.

**Recommendations:**

**Mr. MacDonnell moved that the Organized Retail Theft Task Force recommend to the Legislature to adopt the plan to change Arizona Law to make organized retail theft a separate offense. The motion carried by voice vote.**

**Mr. Schieman moved that the Organized Retail Theft Task Force recommend to the Legislature to require AzPOST to train all law enforcement officers regarding retail theft. The motion carried by voice vote.**

**Mr. MacDonnell moved that the Organized Retail Theft Task Force recommend to the Legislature that a statewide organized retail theft proactive law enforcement task force be formed to combat organized retail theft on a full-time basis.**

In response to Mr. Nelson’s concern about bundling the recommendations, Chairman Mirand noted that each recommendation is separate, and these are recommendations the Committee will make to the Legislature.

Mr. Campbell asked whether this is another unfunded proposal. He stated that the Department of Public Safety will have trouble with them if they are not funded.

Chairman Mirand reiterated that these are three separate recommendations. He said it would be helpful if there is a task force but that proposal may not be accepted in these economic times since this will be unfunded.

Mr. Meza spoke of the need to bring law enforcement together when it comes to organized theft. He feels there is a real need to coordinate efforts throughout the Valley.

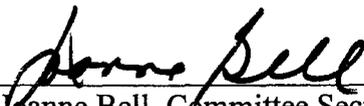
Mr. Campbell pointed out that organized retail theft is perpetrated by organized crime, including gangs. He said he does not want to put something forward that is so narrowly focused that it will not be worked on if it falls outside of certain areas. He expressed reservations that it would be something that would just be focused narrowly on, when in reality the scope is much wider.

Mr. Schieman commented that everything is looked at globally. It is a way for people to communicate and work together on one focus but is not limited to one thing.

**Question was called on Mr. Schieman's motion. The motion carried by voice vote.**

Chairman Mirand advised that Senator Linda Gray is the sponsor for these legislative changes. He thanked her for her efforts and thanked members of the task force for their work on this issue.

Without objection, the meeting adjourned at 10:30 a.m.

  
\_\_\_\_\_  
Joanne Bell, Committee Secretary  
December 19, 2008

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)