
Co-Chairs

Jodi H. Linker
Federal Public Defender
Northern District of California

Patricia L. Richman
Assistant Federal Public Defender
District of Maryland

May 11, 2026

Mike Johnson, Speaker
U.S. House of Representatives
Washington, DC 20515

Hakeem Jeffries, Minority Leader
U.S. House of Representatives
Washington, DC 20515

Re: H.R. 2853, The Combating Organized Retail Crime Act (“CORCA”)

Dear Speaker Johnson and Minority Leader Jeffries:

On behalf of the Federal Public and Community Defenders, we write to express our opposition to H.R. 2853, the Combatting Organized Retail Crime Act. At any given time, Federal Public and Community Defenders and other counsel appointed under the Criminal Justice Act represent about 90 percent of all individuals in the federal criminal system because they cannot afford counsel. We are uniquely situated to assess the potential impact of this legislation on the criminal legal system, as well as on our clients, their families, and their communities. Unfortunately, this bill would likely have dramatic, unwarranted, and unintended consequences for our clients—even if they had no connection to organized retail crime.

H.R. 2853 would amend several criminal statutes in Title 18 in an attempt to combat “organized retail crime”—defined by the National Retail Federation as the systematic, large-scale theft of retail goods from manufacturers, distributors, and other supply chain components, and the subsequent resale of those stolen goods for financial gain.¹ According to the National Retail Federation, organized retail crime

¹ See *National Retail Federation & K2 Integrity, Organized Retail Crime: An Assessment of a Persistent and Growing Threat* at 1 (April 2023) (“NRF Report”).

(“ORC”) is characterized by centralized coordination of operations and a division of labor and specialization among perpetrators to handle the various steps of the theft and resale cycle.² This is what distinguishes organized retail crime from ordinary shoplifting,³ which hopefully we can all agree is a state and local issue that should not be prosecuted in federal court.

To address ORC, the bill would lower the threshold value of the stolen goods that qualify for prosecution under 18 U.S.C. § 2314 (interstate transportation of stolen goods) and § 2315 (sale/receipt of stolen goods). The bill also would add § 2314, § 2315, and § 649 (theft from interstate or foreign carrier shipments) as predicate offenses for money laundering under 18 U.S.C. § 1956, and for criminal forfeiture under 18 U.S.C. § 982.

The fundamental problem with these proposed amendments is that they require no connection whatsoever to organized retail crime. The bill’s lower monetary thresholds apply to anyone who transports stolen property across state lines, even if they are acting alone, and even if they do not intend to resell the stolen property. The same is true for the proposed new predicate offenses for money laundering and criminal forfeiture—they become predicates even if the underlying offense was committed by one person, or two persons acting together in a way that would not meet any reasonable definition of “organized crime.” While the goal of the bill might be to target people (known as “boosters”) who steal goods while working for or on behalf of a larger, coordinated organization, the bill’s text has no such requirement. This fatal flaw virtually ensures that the bill will pave the way for federal prosecution of shoplifting and other garden-variety theft, which of course will subject the most poor and vulnerable people to severe federal sentences, without the possibility of parole.

As a result, this bill is likely to have a racially disparate impact. Texas provides a cautionary tale. Texas is one of 30 states to pass an organized retail crime law, most of which fail to distinguish shoplifting from organized retail crime.⁴ After Texas amended its ORC statute to allow “petty shoplifters with no ORC connection” to be charged with organized retail crime, law enforcement data revealed that Black and Hispanic arrestees—particularly Black women—were charged more often for the

² *Id.* at 3. Although this definition is “widely accepted,” the National Retail Federation—an organization that has lobbied in support of H.R. 2853—has acknowledged that “there is a lack of consensus among retailers, law enforcement officials, and researchers on various aspects of crimes that constitute ORC.” *Id.* at 1.

³ *Id.* at 3.

⁴ Daphne Howard, [What is ‘organized retail crime,’ exactly?](#), Retail Drive (Apr. 3, 2024).

more serious ORC offense, while white arrestees were charged with ordinary property theft.⁵ Without requiring a connection between the charged individual and an organization or network engaged in organized retail crime, this bill's impact will similarly fall most heavily on people of color who are stealing to support themselves and their families.

This is particularly problematic because federal prosecutors are already well equipped to prosecute ORC. Each statute addressed in the bill, and plenty of others, allow the Department of Justice to prosecute criminal networks that engage in large-scale interstate theft schemes. And because there is no uniform definition of "organized retail crime," it is impossible to determine the extent of the problem and how federal legislation should address it—if at all. The National Retail Federation—an organization that has lobbied in support of H.R. 2853—has acknowledged that "there is an inconsistent understanding of the distinction between ORC and ordinary retail theft," and the conflation of these two distinct crimes presents a challenge to the collection of reliable data about ORC.⁶ In fact, when 116 loss prevention professionals were asked to provide a definition of ORC, they provided 116 different definitions.⁷ Without a common definition, it is impossible to assess the extent of ORC, whether it is actually increasing, and whether it requires federal intervention beyond the prosecutorial tools that already exist in the U.S. Code.

Another problem with H.R. 2853 is that it would create an ORC Coordination Center to study the scope and nature of ORC and collect ORC data—a step that should occur *before* enacting changes to Title 18—that would be housed within the Department of Homeland Security, with no safeguards on the data-sharing system the bill would create. As a coalition of criminal justice organizations (including the Federal Public and Community Defenders) have explained in a separate letter, expanding DHS's surveillance and other law enforcement authority into the area of retail theft, along with a boundless data-sharing component, is a recipe for disaster, given that agency's history of obtaining sensitive personal data of millions of private citizens (including protesters and legal observers), and its other abuses of power.

⁵ Michael Braun, et. al., [*Police Discretion and Racial Disparity in Organized Retail Theft Arrests: Evidence from Texas*](#), J. of Empirical Legal Studies 15(4) (Dec. 2018).

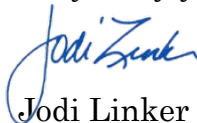
⁶ NRF Report at 27.

⁷ See Dr. Cory Lowe, [*What the Research Says About the State of Organized Retail Crime*](#), Loss Prevention Magazine (May 31, 2022).

Housing the Coordination Center within DHS is also completely unwarranted, as retail crime is far outside DHS's scope. Although there are scattered instances of ORC activities with an international component, the National Retail Federation has concluded that "publicly available information regarding the involvement of traditional transnational organized crime groups (e.g. those involved in drug trafficking, weapons smuggling, trafficking in persons, cybercrime or corruption networks) or transnational terrorist organizations in ORC is speculative and lacks specificity."⁸ Organized retail crime simply is not a national security issue.

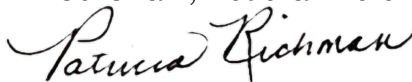
For all these reasons, we urge Congress to exercise restraint and decline to pass H.R. 2853. This bill will not address the harms it seeks to target, and it will instead federalize ordinary shoplifting, resulting in the incarceration of a disparate number of poor and desperate people from marginalized communities, with no ties to organized crime networks. We encourage Congress to consider more tailored solutions, after research and data show that such solutions are necessary and will be effective.

Very truly yours,



Jodi Linker

Federal Public Defender for the
Northern District of California
Co-Chair, Federal Defender Legislative Committee



Patricia L. Richman
Assistant Federal Public Defender
District of Maryland
Co-Chair, Federal Defender Legislative Committee



Stephen C. Newman
Federal Public Defender for the
Northern District of Ohio
Co-Chair, Defender Services Advisory Group

⁸ NRF Report at 4.