THE GREAT DECEPTION:

WHY FELONY THRESHOLDS SHOULD NOT BE OUR PRIMARY FOCUS

THE FELONY THRESHOLD CONCERN

To prevent prison overcrowding, felony thresholds have been rising over the last few years. This means that for shoplifters to be charged with a felony rather than a misdemeanor, a shoplifter must steal much more merchandise. For example, the State of California replaced their old petty crime law (PC 666) with what is called Prop 47. One of the many things Prop 47 did that concerns California retailers was that it raised the felony threshold to $950. This means that any shoplifter caught stealing less than $950 can only be charged with a misdemeanor. To put this into perspective, under the old version of PC 666, if a shoplifter had three or more prior convictions for certain theft crimes, then he or she could have potentially received a felony sentence of 16 months to 3 years in prison. However, Prop 47 stipulates that shoplifters can only be charged with misdemeanors regardless of how many prior theft convictions they have. (The only exception to this is if a suspect has a prior conviction of theft or embezzlement from an elderly person or dependent adult.)

To Loss prevention and Asset Protection (LP/AP) professionals, this essentially means shoplifters have a license to steal from California retailers with virtually no behavior-rectifying punishment. By charging the same shoplifters with a misdemeanor each time they are apprehended with no regard to criminal history there is nothing in place to inspire a chronic shoplifter to change their behavior. In the past, a shoplifter knew that after being convicted of petty theft a few times, they'd be facing a lengthy prison term if caught again. The absence of that stipulation, according to most California LP/AP professionals, has opened the flood gates of shoplifting, and they are feeling the pain.

But is California's new felony threshold of $950 really that bad? Consider South Carolina, for instance. South Carolina already had a felony threshold of $1000 before raising it to $2000 in 2010. The question of, "Why did South Carolina increase the felony limit?" begs to be asked and answered.

It was important to raise the felony threshold in South Carolina because in 2009, they learned their prison population was projected to increase by 3000 inmates within 5 years. This influx of new prisoners was going to increase operational costs by $141 million, plus an additional $317 million for constructing new prisons. That is a $458 million hit for taxpayers. Since nearly 45% of 2009's South Carolina prisoners were for low-level offenders, most of whom were serving sentences of less than eighteen months on average, the decision was a financial no-brainer.

As a result, the bill successfully reduced prison over-crowding by reserving prison space for violent and high-risk offenders.

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THE REAL PROBLEM

The fact is, felony thresholds need to be increased to some degree due to inflation. For example, Virginia has the same $200 felony threshold they did back in 1980. A major concern for prison reform advocates is that in 1980, $200 had the purchasing power of approximately $600 in today's marketplace. Even with this in mind, any effort to make changes to the laws have been met with challenges.

An endless number of examples and case studies could be stated regarding all the bad things that happen to retailers when felony thresholds are increased. Does the increase in felony thresholds inspire an increase in the number of shoplifting incidents? Most likely. Are retailers losing more money from shoplifting today than in prior years due to felony threshold increases? Quite possibly.

But the truth is, felony thresholds are not the problem. They are merely a symptom of the problem.

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HITTING THE BULLSEYE OF THE WRONG TARGET

Sometimes retail challenges come along that are difficult to fully comprehend. Organized Retail Crime (ORC) is one of them. For decades, LP/AP executives have strived to cure this retail plague and although some sporadic strides have been made, the problem persists. This is because most LP/AP executives' primary focus is to implement strategies that identify, detain, prosecute and dismantle ORC rings rather than making product diversion their primary focus.

To illustrate this, one must first understand the economic principle of Supply and Demand. For any enterprise to exist, including an illegal enterprise such as an ORC ring, both sides of the Supply and Demand economic principle must be fulfilled. By thinking about ORC in economic terms, one can quickly ascertain that professional shoplifters, or "boosters," fall into the category of Supply. They are Supplying the products to satisfy the Demand. It is this Supply side of the equation that gets the most attention from AP/LP executives. Why is this a flawed approach? Because as long as the Demand part of the equation is left untouched, the Supply side will never be stopped. This is the reason a new ORC ring pops up immediately after one is dismantled.

So, who is driving the Demand behind ORC? Retailers. Because retailers purchase legitimate diverted products from legitimate brokers, it has created an opportunity for illegitimate brokers to insert illegitimate (stolen) products into the system. Until LP/AP executives put programs in place to ensure their respective organizations do not purchase stolen products, they will never solve the ORC crisis affecting the retail industry.

The ORC dilemma is being shared as an example of what happens when retail executives hit the bullseye of the wrong target. In this case, retailers hit a bullseye every time they dismantle an ORC ring. However, the correct target – the one with the greatest potential to eliminate ORC for good – has been virtually untouched.

Perhaps the same thing is beginning to happen with the Felony Threshold issue.

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OUR OLD (LOSS PREVENTION TECHNOLOGY) WORLD

Today's marketplace is much different than in year's past. Not too long ago, an LP/AP associate would have to crawl into an obscure catwalk in the stockroom to observe potential shoplifters through two-way mirrors. Today, they can observe them remotely from the comfort of their office or security control room. There are dozens of technological solutions that have infiltrated the retail marketplace that have provided tremendous returns in the way of lowering inventory shrink and other types of loss. But are retailers using all the right solutions? Just because a particular technology or group of technology solutions provide a good ROI, it doesn't necessarily mean they were the best solutions to implement.

Could other technology solutions have been implemented that would have provided a better ROI by sending shoplifters up the road despite increased felony thresholds?

OUR NEW (LOSS PREVENTION TECHNOLOGY) WORLD

All an LP/AP executive has to do is walk the floor of an industry conference expo hall to quickly realize there are literally hundreds of technology solutions to help reduce retail losses. There are so many, in fact, that many LP/AP executives don't have the time to be introduced to every new solution, much less learn about each one. This overwhelming feeling has caused quite a dilemma. This challenge is one of the main reasons LP/AP executives might decide to simply stick with what they know. They may decide to simply invest their budgeted capital in updated CCTV technology, smarter alarm systems, or more robust card access systems. Although this may provide a positive ROI, none of these investments put a single dent in any shoplifting increase that might be caused by increased felony thresholds.

To better understand whether or not there are solutions that will prevent boosters from targeting their respective retail organizations, LP/AP professionals must understand that boosters are actually making an investment when they decide which stores to victimize – and like everyone else, boosters do make investment decisions based upon the type of return they will yield. For example, if every time a booster enters the same store only to find they no longer carry the highly desired Tide Pods, the booster will stop victimizing that store. He or she will simply invest in victimizing a retail competitor who always has a plentiful display of this high-theft product.

Similarly, if a retailer implements a technology solution that severely hinders the amount of merchandise the booster can steal, then the booster will come to the realization that receiving a smaller return for the same investment (risk of getting caught) simply isn't worth their time. Specifically, the booster will quickly realize that for the same risk of getting caught, it is more worthwhile to stop shoplifting from the store that yields the least amount of stolen merchandise and start shoplifting from someone else. Felony thresholds have nothing to do with this decision.

This philosophy is at the center of any exceptional Loss Prevention program. LP/AP executives should not be focused on products, specialized staff and strategies designed to catch shoplifters and dismantle ORC rings. That's not what their respective companies pay them for. At their core, they are being paid to keep shoplifters from victimizing them and only them – not other retailers.

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LOOKING FOR LOVE

Out of the hundreds of technology solutions available for retailers to choose, there are only a small number that actually give boosters pause about returning to a particular store. However, these are the solutions LP/AP executives need to be laser-focused on adding to their toolbox. Finding solutions that LP/AP executives love, and boosters hate, is the secret to permanently sending the thieves down the road.

Consider Gatekeeper Systems' Purchek™ solution as an example. This system is designed to reduce pushout thefts, an industry term used to describe shoplifters who load shopping carts with high-theft items and simply push the cart out the door. This solution has been so successful, it has been referred to by many as the "Gateless Gate," or the "Virtual Gate." This solution uses technology, not physical gates, to stop shopping carts from rolling out the door if the merchandise inside them hasn't passed through an active checkout. With this solution, honest customers don't even know the system is in place, and therefore, still get a welcoming feeling when entering the stores. But from a booster's standpoint, the presence of a solution that limits the quantity of merchandise (the return) they can get from the risk of detection (the investment) inspires them to shoplift from some other retailer

Another example of a new technology solution offered by Product Protection Solutions (PPS) is the Sennco Smart Shelf powered by Tally®. This solution reduces shrink while simultaneously increasing sales. It achieves this by providing a shelf pad to be placed on the shelf before stocking high-theft product. Not only does this solution provide data on product movement that is beneficial to the operations and merchandising executives, but it also emits instant alerts when a booster attempts to sweep the shelf. This type of system certainly prevents boosters from returning because the alerts bring attention to their sinister activity, and attention is the best way to keep criminals out of the stores. .

PPS is also an extremely innovative company, which differentiates them from other providers of EAS systems, tags, and other product protection tools. At the request of an LP/AP customer, they developed an app for their LP/AP field team to use for ordering LP/AP-related devices, such as EAS tags and other benefit-denial items for their stores. This not only saves time for field personnel, but the app also provides the LP/AP executive with early alert reporting on the back end so he or she can spot increasing shrink in particular stores far before an actual inventory takes place. In addition, PPS also developed a security lid for energy drinks at the request of a customer. This reduced shrink in the energy drink category by 84%. The overall total store shrink in each location that implemented these security lids also declined because the regular boosters simply stop coming to these stores.

Again, their shrink reduction had nothing to do with felony threshold increases.

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TAKING CHARGE

LP/AP executives understand how to overcome their greatest challenges. Where many fall short, however, is identifying the true source of a problem. It is easy to understand why several industry leaders have spent time testifying on Capitol Hill regarding federal ORC laws, as well as why many are fighting felony threshold increases at the local level. These are good fights and should continue. However, if LP/AP executives rely on the prospect of changing laws to combat an increase in shrink, they will be sorely disappointed. The idea that many challenges can be solved by simultaneously attacking them from both ends is one that the most successful LP/AP executives understand. They demonstrate this by only researching and implementing solutions that create an environment in which shoplifters would rather steal anywhere but in their stores, regardless of the felony thresholds.

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ABOUT CALIBRATION

Calibration Group, LLC is a full-service marketing, communications, and consulting firm specializing in providing relevant, educational content for the loss prevention, asset protection, and safety professions. We are also the leading provider of Loss Prevention Awareness campaigns that successfully modify employee behavior. Calibration has mastered the ability to move beyond simple awareness and communication. **We create. We deliver. We inspire.**

For more information about Calibration Group, visit **www.calibrationgroup.com.**

Amber Bradley, founder of Calibration Group, LLC, is a brand-positioning expert with extensive experience across multiple business disciplines, including marketing and public relations. Amber's proven success in creating multi-tiered, strategic marketing and communication campaigns continues to yield unmatched results for solutions providers, as well as retail loss prevention and operations professionals.

Amber also serves as Executive Director for the Restaurant Loss Prevention and Security Association (RLPSA), and is a contributing editor for the D&D Daily, a daily e-news outlet specializing in providing the most relevant news for retail loss prevention, safety, and security professionals.

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Prior to Dollar General, David held the vice president of Asset Protection position with Harris Teeter Supermarkets, Inc., a regional chain based out of Matthews, NC. He served Harris Teeter for more than 14 years, and has had previous loss prevention leadership roles with Kmart Supercenters.

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