



FACING RETAIL CRIME

AN ACTION PLAN
FOR CHANGE

TAKING RETAIL
FURTHER //

Retail

NZ

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Facing retail crime

Preventing and managing retail crime is a significant issue for retailers and their employees. This paper examines retail crime in New Zealand and sets out an action plan for the future, in an effort to address the issue.

While shop theft is not new, the frequency of incidents and the brazen nature of the theft is increasing. Retail crime affects all New Zealanders, but especially those who work in retail. Retail crime has a significant economic impact on New Zealand, and it takes a real toll on those who face it. With people from amateur opportunists through to organised gangs stealing to order, crime is rife throughout the industry.

The issue of retail crime is not going away; it is an issue which must be taken seriously in order to properly address it. Successfully managing retail crime requires:

- retailers to continue deterrence measures;
- clear reporting of crime incidents, by both retailers and the Police for greater visibility to track the full extent of retail crime;
- greater resourcing by the Police; and
- new legal sanctions against those who engage in retail crime, to ensure that there are real consequences for even small-scale offending.

This paper proposes an action plan for the New Zealand Government to adopt.

What is retail crime?

Retail crime includes petty theft, organised large-scale theft, assault, property damages, e-crime and credit card fraud. It is rife throughout the country, and undertaken by a range of people from amateur opportunists to gangs stealing to order. Some retail crime is committed by people working in the sector, but it appears to be rife throughout the community. Online fraud is growing in significance, as the Internet becomes more ingrained in our daily lives.

Retail crime is becoming more serious, with more threats and more violence than in the past. This makes it an even more significant issue for our society, as the lives and well-being of employees and customers are increasingly being put at risk. Data suggests that retail crime is increasing year on year. However, retail crime is frequently not reported to Police. This is because retailers often feel that there is no point because retail crime is not treated as an urgent priority.



What is the cost of retail crime?

The total social and economic cost of retail crime is difficult to quantify, as the total must take into account not only the value of physical losses, but also the trauma associated with violence against retail employees; the stress associated with managing the impacts of criminal activity; and the administrative costs of doing so. We have not completed a full assessment of these broader social and economic impacts, but the best available estimate of shrinkage each year is up to \$1.2 billion.¹ Of this, around \$1 billion can be directly attributed to crime.

The cost of Police time is also significant. When Police do attend retail crimes, officers spend between 3 – 5 hours per incident, taking witness statements, filling out reports and gathering and processing evidence to deliver for enforcement.²

Annually, retailers spend more money on alarm systems and surveillance than they do on staff training.³ This is a huge opportunity cost to the New Zealand economy.

The cost of retail crime is similar in economic value to the cost of road deaths and drug-related harm.

The cost of retail crime is enormous

To give the \$1.2 billion cost of shrinkage some context, it is similar in economic value to:

- the cost of all road deaths in 2015 (valued at \$1.4 by the Ministry of Transport's Value of Statistical Life (VOSL) equation)⁴;
- the estimated total social cost of drug-related harms and intervention costs in 2014/15 (\$1.8 billion) as published in The New Zealand Drug Harm Index 2016.⁵

The human toll?

The impact of retail crime is about more than just the dollars though. The lives of everyday New Zealanders are being impacted through the stress and trauma of experiencing crime. The impact of crime is felt not only by the owner of a retail business, but also by the staff and customers. Nobody wants to work in an environment where criminal activity is rampant and growing, and it can seriously impact the lives of ordinary hard working New Zealanders.

As retail crime becomes more serious in nature, its impacts are becoming more significant. Staff and customers are increasingly at risk from intimidation and violence. 10 per cent of retail crimes include an assault, aggressive behaviour or disorderly conduct. Retailers report that it is increasingly difficult to manage actions against thieves, because of the risk of escalation.

¹ Extrapolated from New Zealand Survey of Retail Theft and Security, University of Otago

² Statistics from Auror crime reporting platform, www.auror.co

³ New Zealand Survey of Retail Theft and Security, University of Otago

⁴ <http://www.transport.govt.nz/research/roadcrashstatistics/thesocialcostofroadcrashesandinjuries/report-overview/>

⁵ <https://www.health.govt.nz/publication/research-report-new-zealand-drug-harm-index-2016>

CASE STUDY 1: Personal experience with retail crime

A large supermarket

Since the day Steve opened the doors to his large supermarket, he has employed a security guard. A guard has worked the store from 7am to 10pm, seven days a week, for the past five years since opening. He also has CCTV cameras operating, and employs a security company to review at least 20 to 30 hours of the footage every week. Steve says that these measures are necessary to try to deter retail crime occurring at this store.

Steve, who has previously owned smaller scale grocery stores, said he had been punched twice in altercations at his smaller stores in years gone by. Thankfully, this has not occurred at his current supermarket business. Steve thinks that he actually suffers a lower rate of crime and most others, and believes that now having a security presence, along with the large size of his store, are the main reasons he has not experienced particularly damaging crime. "I simply wouldn't operate the store without having the guards, nowadays. This is now a business cost that we just have to factor in."

This 'business cost' is well in excess \$100,000 each year – money which could be put back into the store, and back into the pockets on customers. "It's a substantial amount of money that we find is necessary to pay for the safety of our business, but it's a cost that should not have to be paid in the first place. This kind of money could otherwise potentially go towards lowering prices and supporting the local community" says Steve.

**Name changed to protect identity*



What are retailers doing to address retail crime?

Retailers are already using a variety of means to address retail crime, using combinations of staff training, CCTV surveillance cameras, automatic number plate recognition systems, mirrors, and employing additional security personnel. Retailers are also laying their stores out to maximise visibility and minimise opportunity for thieves. In some cases (for example, at night), some retailers such as petrol stations require pre-payment and provide service only through secure windows. Some retailers are sometimes requiring additional identification from customers if goods have been paid for with credit cards.

Retailers are increasingly sharing information about crime through initiatives such as Wellington's Eyes On programme, the Auror platform and mobile apps. Sharing information is critical to helping manage and deter crime.

Trespass notices: Are a way for retailers to remove offenders from their premises⁶ (so long as they act within the Human Rights Act 1993). Issuance of a trespass notice effectively bans a person from entering onto the private property that the store is on.⁷

This method of action relies on the retailer being able to identify the person they wish to serve the trespass notice on. This is a major limitation to most retailers, who suffer retail crime at the hands of unknown persons. Further, using a trespass notice does not adequately address the issue of retail crime conducted by any other criminal other than a shoplifter (such as persons engaging in e-crime and fraud).

Civil recovery notices: Some retailers use these notices, to recover the cost of goods stolen and/or the administrative costs. These stores send out a notice, stating that the total shown must be paid by a certain time. This fee is generally higher than the value of the goods stolen, to take into account the administrative time spent on the recovery task.

This method for action has seen some success as a method of civil recovery, however, an offender may refuse to pay the notice. The notice will only then become enforceable if the retailers makes a claim in the Disputes tribunal or District Court.⁸

Where theft is undertaken by employees, retailers have a range of other tools at their disposal. In addition to seeking recovery of costs and reporting employees to the Police, retailers can use employment law to dismiss their employees.

In all cases, all crime should be reported to the Police.

⁶ <http://www.police.govt.nz/advice/personal-community/trespass-notices>

⁷ <http://communitylaw.org.nz/community-law-manual/chapter-35-common-crimes/shoplifting-chapter-35/>

⁸ <http://www.cab.org.nz/vat/gl/le/Pages/Shoplifting.aspx>



What is the Police doing to address retail crime?

Retailers have a real concern about Police responsiveness to retail crime issues. There is a widespread view that (outside incidences of violence) Police responses to retail crime can be extremely limited, even if offenders have been clearly identified. Some retailers do not even bother reporting incidents to the Police anymore. The time and administrative effort it takes to report crime is often seen as not worth it, due to lack of Police action.

The Police is doing its best within the resources it has to work constructively with the sector, particularly major retailers; however, resourcing constraints mean that the Police prioritises its response - focusing on threats to life and limb, family violence, and road policing. If there is no immediate threat to people, then the Police is often simply unable to respond to retail crime, which is rated as less of a priority than burglary. Retailers support proposals to increase Police resources - but this needs to be focused at least in part on retail crime preventing, protecting and deterring.

The use of security guards is, in effect, a form of private policing. This has become a reality in New Zealand over many decades given constraints on Police resourcing. However, the effectiveness of such private policing is limited because private security guards do not have the power to arrest and detain those suspected of committing an offence. Given this, extra focus by the Police is essential.

Prosecutions under the Crimes Act are cumbersome

Part of the issue underpinning the Police response is that taking a prosecution for theft is administratively cumbersome. It requires prosecution through the Courts, and the only penalty set out in the Crimes Act is a term of imprisonment (between three months and seven years, depending on the value of the goods), although in some cases community work may be imposed as an alternative. The reality is that even if the Police were to prosecute criminals for retail theft, this would simply result in increasing the number of people subject to prison terms, clogging up the prison system.

5 myths about retail crime

MYTH	FACT
Retail crime is not a big issue, because people do not usually get hurt.	Retail crime costs New Zealand around \$1 billion a year - and 10 per cent of thefts include an assault, aggressive behaviour toward staff, or disorderly conduct. Staff are at real risk of personal injury from these events. ⁹
It is okay to steal stuff from shops because they are big companies and they can afford it.	The average retailer employs fewer than six staff, and most operate on low single-digit margins.
I can get away with stealing stuff.	Retailers have increasingly good security systems and there is increasing communication between shopkeepers, other stores and the Police.
Retailers are insured, so crime does not matter much.	Increased crime means higher insurance premiums - and these costs are passed on to consumers. Ultimately, everyone pays more, while criminals get a free ride.
There is no harm in buying stolen goods off social media and auction sites.	Buying stolen goods perpetuates the cycle of crime, and puts you at risk - both of a conviction for receiving stolen goods, but also of illness if stolen food has not been stored properly.

⁹ Statistics from Auror crime reporting platform, www.auror.co

A gateway crime – an opportunity to break the crime cycle

Petty retail crime is often a gateway to more serious crime, both within the retail sector and elsewhere in the community. A lack of Police resourcing means that there is often a lack of consequences for petty crime, and anecdotal reports suggest this is linked to the increase in brazen criminality among the perpetrators. This drives repeat offending. Overall, more than 15 per cent of retail criminals are repeat offenders.¹⁰ Effective action the first time that someone commits a crime could act as a significant deterrent.

There are grounds to believe that many of New Zealand's criminals begin with petty retail crime. There is a perception that retail crime is relatively 'easy' to get away with. The natural conclusion is that for many criminals, the potential risk does not outweigh the potential reward, and the crime cycle is escalated as thieves become progressively emboldened. Change is needed so that New Zealanders understand that crime is unacceptable, and that there are real consequences for breaking the law.

Beyond the gateway, criminal gangs are at work

As noted, retail crime is increasingly aggravated and organised in nature. A significant number of all retail thefts are linked to organised crime. Less than one per cent of all criminal offenders are estimated to be responsible for 21 per cent of all thefts by value.¹¹ Social media makes crimes easier. Thefts can be tailored, with gangs stealing to order, taking high value items that are easily on-sold, often via social media and auction sites.

Retailers are also reporting a rapid escalation in online fraud, often facilitated by organised crime. The Internet has made it easier for criminals to commit fraud, and harder to undertake investigations and enforcement. While cardholders are protected from fraud, the retailer (not the bank) bears the full cost of fraudulent activity. Stiff penalties already apply to those participating in an organised criminal group, including up to ten years in prison. Organised retail crime syndicates need to be prosecuted under this section and stronger penalties for organised theft are also required.

CASE STUDY 2: Personal experience with retail crime

**Mark Carter - Owner/
operator Anderson &
Hill Sportspower**



In under two minutes, criminals had ram raided Mark Carter's Christchurch store and taken thousands of dollars' worth of goods. Driving a car through the front doors of Mr Carter's shop at 3am one morning, the criminals then reversed another car through the shattered facade and stole over \$70,000 worth of sporting goods.

"Staff stress levels were high," said Mr Carter. "The places looked much like it did after the earthquakes a few years ago. Because of this, our staff were pretty good at trying to go on with business as usual, working around the mess – but everyone was pretty stressed. We had to wait for the Police crime team to finish their inspection before we could get into the store. Despite the chaos, we just had to trade – it was going to be a busy day for us."

Mr Carter estimates that paying for the damage to the building plus the value of the stolen goods, adds up to around \$100,000. He has nine operational CCTV cameras and an alarm system in the shop, which is an additional cost to keep running. A neighbouring store experienced almost exactly the same ram raid theft a week later.

The community rallied around the Anderson & Hill Sportspower store, and thankfully, the Police were able to catch the culprits. "There is no point moping, we just have to get on with it," said Mr Carter, "but having your store broken into and damaged, and having your goods taken... it's really not a pleasant experience as a store owner."



¹⁰ Statistics from Auror crime reporting platform, www.auror.co

¹¹ Statistics from Auror crime reporting platform, www.auror.co



The way forward - our action plan for change

1. **The Government should fund a Retail Crime Taskforce and set targets for retail crime reduction**

Retailers would like to see a heightened focus by the Police on retail crime. However, understanding that there is real resourcing constraint concern, we propose that the Government provide new funding for a Retail Crime Taskforce within the Police, and sets targets for a reduction in retail crime. Funding could be provided for a four year period, and the work of the task force reviewed after that time. A particular focus for the Taskforce should be tackling organised retail crime and cyber crime which are of increasing concern, as well as taking steps to break the crime cycle by dealing with petty offenders.

The purpose of an infringement scheme is to achieve compliance with the law; hold people accountable for their actions; and educate people about unacceptable conduct and its inherent social harm.¹² Such a notice is administratively efficient in encouraging compliance with the law; it has a lower cost associated with it due to the avoidance of the court system, and is less time intensive for both the defendant and the prosecuting organisations.

We propose an amendment to sections 223 and 410 of the *Crimes Act 1961* to effect the legality of an infringement notice. However, where an offender receives more than two infringement notices, or where the theft is committed as part of an organised criminal gang, it is appropriate for stronger penalties to apply, including imprisonment. The draft text of our proposed amendments are set out in Appendix I, and these changes, along with the establishment of a Retail Crime Taskforce, will give Police effective tools to deter and prosecute retail crime.

We recommend that the Government include funding in the 2017 Budget for such initiatives, to take effect from July 2017. These proposed initiatives would be a solid step in the right direction towards the social change that is needed to thoroughly address the issue of retail crime in New Zealand.

2. **A programme to change social attitudes is needed**

Retailers recognise that social change would be the most effective form of preventing retail crime from occurring. We propose that the Government fund a social investment programme to encourage New Zealanders to respect the law, understand the impacts of crime, and the importance of personal property rights. This could include a programme delivered through schools, social agencies as well as an above the line marketing campaign. This would have positive effects in the community outside the retail sector.

3. **The Government should introduce an infringement notice for low-value offending**

The introduction of an infringement notice offence for people engaging in retail crime would be a step towards addressing the issue of retail crime, and putting the building blocks in place to stop the chain of crime before it escalates. This is a way of deterring retail crime, and the unacceptable social harm which is caused by it.

¹² <http://www.justice.govt.nz/assets/Documents/Publications/infringement-governance-guidelines.pdf>

Appendix I.

Proposed amendments to the Crimes Act

Legislative change is required to introduce an infringement offence. Our suggested amendments to the *Crimes Act 1961* are set out below.

The Government would then also need to pass regulations to set out the detail of how an infringement notice regime would work.

A consequential amendment to section 2 of the *Summary Proceedings Act 1975* will be required to include infringement notices issued under the *Crimes Act* within the scope of that Act.

223 Punishment of theft

1. Every person who commits theft is liable as follows:

- (a) in the case of any offence where:
 - (i) the value of the property stolen exceeds \$1,000; or
 - (ii) the person committing the offence has previously received two or more infringement notices for theft under Section 223(1)(b) of this Act; or
 - (iii) the theft was committed as part of an organised criminal gang; or

to a term of imprisonment exceeding 7 years
- (b) if the value of the property stolen is less than \$1,000, to pay a fine specified by an infringement notice set out in regulations made pursuant to this Act.

410 Regulations

1. The Governor-General may from time to time, by Order in Council, make all such regulations as may in his or her opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.
2. Without limiting the general power to make regulations conferred by this section, regulations may be made under this section—
 - (a) prescribing forms to be used in respect of any proceedings to which this Act applies:
 - (b) prescribing fees to be paid in respect of any proceedings to which this Act applies:
 - (c) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies:
 - (d) prescribing the costs and charges payable by parties in proceedings to which this Act applies:
 - (e) providing for any other matters in respect of which regulations are contemplated under this Act:
 - (f) specifying infringement offences for the purposes of s. 223 of this Act:
 - (g) setting out the maximum penalty for each offence prescribed under paragraph [(f)], which:
 - (i) if the value of the stolen property is less than \$250, shall be no more than \$500, subject to movements in the Consumer Price Index;
 - (ii) if the value of the stolen property is between \$250 and \$500, shall be no more than \$750, subject to movements in the Consumer Price Index;
 - (iii) if the value of the stolen property is between \$500 and \$1000 shall be no more than \$1,250, subject to movements in the Consumer Price Index;
 - (iv) setting out penalties for failing to pay any infringement notice.



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