Sacramento County District Attorney's Office
THIEN HO
District Attorney

## Local Evaluation Plan

### Organized Retail Theft Vertical Prosecution

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**Funding Source:** Board of State and Community Corrections (BSCC)

**Project Background**

The Sacramento County District Attorney's Office applied for this grant for the purpose of creating an organized retail theft (ORT) unit that would consist of a full-time vertical prosecutor and criminal investigator. Their primary functions would include investigating and prosecuting ORT. In addition to investigating and prosecuting these cases, the unit would work collaboratively with local law enforcement agencies and retailers within the community to address and combat the rise of ORT.

According to the National Retail Federation, Sacramento County has held a spot in the "Top Ten" metropolitan areas most affected by ORT over the last four years. Sacramento was listed as the 7th most highly affected area for ORT in the nation in 2022. The California Highway Patrol (CHP) did respond to this growing issue and set up regional Organized Retail Crime Task Forces (ORCTF), one of which covers the Sacramento region. An ORT collaborative meeting is held monthly with local agencies and retailers; these meetings serve as an information sharing opportunity and network building platform to address ORT concerns within the Sacramento region. These meetings cover a wide variety of topics such as: locating unknown and known suspects, common schemes and trends, advancements in technology pertaining to combating retail theft and merchandise recovery, as well as uncovering fencing operations.

In the past, ORT cases were generally prosecuted as misdemeanors, where lower-level offenders were recruited to carry out these organized thefts, but often were caught with less than $950 worth of merchandise and ineligible for felony charges. Further, the upper-level offenders who coordinated these attacks and

recruited these lower-level offenders avoided detection and were able to continue with their organized operations and use new recruits. The punishments for these organized attacks were not significant enough to deter the behavior and the individuals with the greatest actual responsibility for the retail theft activity were not addressed. Since the addition of Penal Code section 490.4, targeting ORT, Sacramento County prosecuted a total of six (6) cases charging this statute in 2021, twenty (20) in 2022 and seventy-nine (79) in 2023. It is our expectation that with a unit focused solely on investigating and prosecuting organized retail theft, we will see a significant increase in these numbers. The general felony teams within our office handle a wide variety of felony charges and their attention cannot be solely focused on retail crime; however, with a full-time ORT vertical prosecutor, there will be one person dedicated to handling the filing of the cases all the way through the sentencing of these ORT offenders.

There have been filing guidelines established for the ORT unit within our office. The unit will focus on felony offenses where the financial loss is greater than $950 and there is evidence that a perpetrator either worked in concert with one or more individuals, where the purpose of the theft was to sell, return, or exchange the stolen merchandise for profit. The unit is targeting those offenders who are acting as an agent on behalf of another person or organization. The unit is also targeting the offenders who are orchestrating these organized attacks: individuals who recruit, coordinate, supervise, direct, manage or finance another person to commit retail theft. We are targeting repeat offenders, regardless of age or gender, who are causing significant loss to small and large retail organizations. The target area includes all retailers within Sacramento County who are affected by these crimes.

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The Sacramento County District Attorney's Office holds itself to the highest level of integrity, justice, and fairness. Our office files cases in which the elements of the crime are supported by the evidence. We do not and will not consider race, ethnicity, or national origin as a factor when we file a criminal complaint. Furthermore, our office will implement "race-blind" charging practices starting January 1, 2025, pursuant to California Assembly Bill 2778.

## Goals and Objectives

The ORT unit was created with three (3) main goals in mind: (1) to create a regional task force to combat organized retail theft specifically for the Sacramento area; (2) to identify and prosecute the higher-level offenders most responsible for coordinating the increase in organized retail theft activity; and (3) to impose proportional sanctions or punishments appropriate to the level of culpability or involvement of the offenders. The ORT unit was created with three (3) main goals in mind and several objectives for each goal:

**Goal:** (1) to create a regional task force to combat ORT specifically for the Sacramento area

**Objectives:** (1) build functional, working relationship between our office, law enforcement agencies and retailers, (2) strategize to combat ORT, (3) identify and apprehend upper-level offenders driving the majority of the ORT activity, (4) streamline communication between the District Attorney's Office, retailers and law enforcement, and (5) utilize the resources within the task force to build prosecutable cases.

**Goal:** (2) to identify and prosecute the higher-level offenders most responsible for coordinating the increase in ORT activity

**Objectives:** (1) track lower-level offenders to the larger scale fencing operations, (2) develop an implement a tracking system to more effectively identify and target the most habitual offenders and (3) work with the task force to tweak the prosecution model so that we can prosecute upper-level offenders.

**Goal:** (3) to impose proportional sanctions or punishments appropriate to the level of culpability or involvement of the offenders.

**Objectives:** (1) evaluate offenders individually and put emphasis on their role within an operation, (2) utilize diversion and rehabilitative programming when appropriate, and (3) reduce recidivism amongst the ORT defendants.

While the unit will grow and evolve over time, these goals and objectives will remain at the core of the project.

The intention behind creating a regional task force to combat ORT for the Sacramento area was to build functional, working relationships between our office, law enforcement agencies and retailers. We partnered with CHP, which already had an existing organized retail crime task force (ORCTF) that we could expand on. One of the main objectives for this goal was to have a collaborative group where we could strategize with individuals who have a shared interest in combating ORT. An additional objective for creating a task force was to identify and apprehend upper-level offenders who are spearheading the majority of the ORT activity. ORCTF hosts monthly meetings where we meet with members of the task force and act out these objectives in a meaningful way. The attendees often include retailers, investigators

from retail stores, criminal investigators from DA offices, law enforcement agencies, and vertical ORT prosecutors from neighboring counties. Working within a task force allows us the ability to streamline communications between our office, retailers, and law enforcement agencies. It makes for better communication and saves everyone time and effort when collaborating on issues. Using the resources within the task force will strengthen our abilities to build strong prosecutable ORT cases.

Our first goal assists us to accomplish our second goal: identifying and prosecuting the higher-level offenders most responsible for coordinating the increase in ORT activity. Our main objectives for this goal are to develop and implement a tracking system to identify and target the most habitual offenders more effectively and track lower-level offenders to large scale fencing operations. To do this, we want to work within the task force to redefine the prosecution model so we can prosecute the upper-level offenders. Having a specialized unit for ORT and working within the task force allows us to investigate the lower-level offenders by generating search warrants into their social media and electronic devices to locate evidence of a fencing operation or locate identifying information for the individual(s) orchestrating the organized retail theft operation. We can then prosecute the lower level offenders or attempt to work with them to gain insightful information into a larger scale operation.

The intention of this unit is to make a distinction between petty theft/grand theft and organized retail theft. The intention is to highlight the upper-level offenders, so they understand there are consequences to their actions. This is what drives our third goal: to impose proportional sanctions or punishments appropriate to the level of culpability or involvement of the offenders. To do this, we will evaluate offenders individually and put emphasis on their role within an operation and utilize diversion

and rehabilitative programming when appropriate. The main objective is to reduce recidivism amongst ORT defendants. We will look at each offender's criminal history, their role within the ORT operation, and their level of accountability. When extending offers for resolution, we often ask the following questions: are there mitigating factors, what is this person doing within the community, does this person have steady employment, is this person in school, would this person be willing to take a theft awareness course, etc. There are other avenues to explore outside of incarceration if it is appropriate for the individual offender. For higher level offenders, who have a history of theft conduct or a history of serious and violent conduct, we also evaluate their role within the ORT operation and address them appropriately. Probation, mandatory supervision, county jail prison, and state prison are all possible sentences available for persons engaged in organized retail theft; their criminal history or accompanying crimes will determine whether they are eligible for county jail or state prison.

## Process Evaluation Method and Design

The ORT unit is housed within the Sacramento County District Attorney's Special Investigations Unit. Data collection to track the performance measures within the ORT unit will be collected by the vertical prosecution team and the Special Investigations Unit legal secretary. The legal secretary will maintain a case management log and coordinate with the vertical prosecutor to ensure the data within the log is up to date and accurate. The case management log will include all cases filed within the unit, number of defendants involved in ORT cases filed, record of ORT convictions on cases filed, the sentence for each Defendant, and the amount of monetary loss accumulated in each case filed. The vertical prosecutor has working relationships with ORT vertical prosecutors in neighboring counties, and the goal is to work together to resolve shared defendants when appropriate. In the event a Sacramento County incident is resolved in another county, the vertical prosecutor will keep track of those numbers to include them in our quarterly reporting.

Our office also utilizes "Power BI" which is a data visualization and reporting platform. This system operates as a data collection software service and facilitates the collection of coherent metrics we are then able to report. Power BI will be used to assist us in tracking the total number of theft-related property crimes that were charged that did not use vertical prosecution, the number of ORT cases filed that used vertical prosecution, and the number of ORT cases that were referred to our office for any given reporting period. The vertical prosecutor will keep track of cases where a defendant was referred to a diversion program and whether they were granted or denied diversion. In cases where diversion is granted, our collaborative court team keeps track of all defendants where diversion is successfully completed.

Measuring and analyzing the quantitative data will take place quarterly and be submitted in the Organized Retail Theft Quarterly Progress Report ("QPR"). At the close of the grant period, the vertical prosecution team will work collectively to evaluate the data collected and compare it to the years prior to the grant period to evaluate the success of the program.

Measuring and analyzing the qualitative data will take place monthly as we will need to actively observe what is happening within the county regarding ORT trends; what is happening within the ORT caseload, do we need to take on more or less to accomplish our goals; and what is happening within the courthouse, how are defendants responding to this focused approach, how are judges responding to the offers being made in these cases, and whether these cases are resolving. We will need to be proactive and observant in order to make necessary adjustments as we grow the unit. It will be important for the vertical prosecution team to have regular check-ins to evaluate whether we are meeting our goals and evaluate what is working and what needs to be reevaluated.

The success of the ORT unit can be measured by whether our goals are meeting their objectives in a meaningful way. Working within the regional task force will be one of the more effective ways to measure and analyze qualitative data. We can look at the number of partner agencies we see joining the task force, the number of meetings held and the quality of actions these meetings generate. We can also look at the extent of the outreach to local businesses and see how the public is responding to a more focused approach being taken on these types of cases. As a result of building partnerships with various retailers, we can communicate with them periodically to see if they have noticed any correlation between the implementation

of an ORT unit and the reduction of theft to their business. The quality of what we are building can be seen as we progress the unit; feedback from law enforcement and retailers will be important for us to document.

Documenting day-to-day activities within the project is the responsibility of the vertical prosecutor and the criminal investigator. Monthly functional time sheets are utilized to document respective duties and time being spent on the grant and in what way. The Administrative Services Officer will keep track of all functional time sheets that pertain to the ORT unit.

The overall decision-making process for the project is a collaborative approach between the vertical prosecution team, however, the vertical prosecutor handles the day-to-day decision making for the unit. The vertical prosecutor makes the filing decisions on the cases that will come to the unit; she reviews all files that appear to have an ORT component and will filter them to the appropriate unit if they do not meet the filing guidelines of the ORT unit. The vertical prosecutor will consult with the criminal investigator on cases that need to be more thoroughly investigated before moving forward within the unit. The unit chief and unit supervisor oversee the vertical prosecutor and provide insightful input when discussing forward progress of the project.

## Process Evaluation Matrix

| Input/Resource/Activity/Output | Data Element(s) | Data Source(s) | Frequency of Data Collection |
|---|---|---|---|
| Track ORT cases coming into the unit | # of ORT cases filed | ORT Case Management Log | Each time a case is filed by ORT vertical prosecutor |
| Increase in higher level offenders being prosecuted under PC 490.4 | # of ORT conviction / Severity of sentence | Case Management System | Monthly |
| Utilization of Diversion Programs | # of individuals diverted / alternatives provided to incarceration | Case Management System / ORT Case Management Log | Each time an individual is provided an alternative to incarceration it will be documented / number of individuals will be recorded monthly |
| Measure and analyze quantitative data | # of ORT cases filed, # of ORT prosecution, # of ORT defendants, severity of sentences | Case management system | Quarterly |
| Streamline communication between DA offices, law enforcement, and retailers | # of dockets per individual, # of case referrals | Case management system | Annually |
| Full time staff assigned to ORT unit over the course of the grant | # of staff assigned to the ORT unit | Employment records | Annually |

## Outcome Evaluation Method and Design

The research design we are utilizing is a mixed method of quantitative, qualitative and descriptive data to measure the success of the ORT unit during the grant period. We can see over the last three (3) years within the office, when there was no ORT unit, there was a smaller number of convictions for PC 490.4. During the grant period, we will utilize a vertical prosecution method to prosecute organized retail theft cases and use our mixed method design to track trends and progress during this time. With the use of Power BI, we will see the number of cases filed pertaining to PC 490.4, the number of convictions for PC 490.4 and how these numbers under the new method compare to the numbers prior to the implementation of the ORT unit. We will also use this technology to generate metrics for each reporting period and track how many ORT cases are being referred to our office and compare that to how many we are prosecuting under the ORT code section.

The implementation of an ORT unit with an assigned vertical prosecutor and criminal investigator will provide a clear and focused approach to ORT. With the goals and objectives we have outlined, we will use the data we collect in a coherent and logical way. The data collected will tell us whether the methods we are using are an effective approach to achieving our goals and highlight what areas need improvement. There are a series of evaluation questions we can ask to determine if desired outcomes have occurred:

- Has a regional task force to combat organized retail theft in the Sacramento area been created?
- How many partner agencies have joined the task force?
- Are we engaged in meaningful communication with task force members?

- What is the number of meetings being held to address ORT issues?

- What type of actions are being taken after attending ORT meetings?

- Which law enforcement agencies have we built relationships with?

- Which retailers have we built relationships with?

- What approach has been taken to identify and/or apprehend upper-level offenders?

- In what ways are we strategizing to combat organized retail theft?

- How have we streamlined communication between the DA's Office, retailers, and law enforcement?

- What benefits have we seen from streamlined communication amongst task force members?

- What resources have been used within the task force to build prosecutable cases?

- Has there been a plan created to identify and prosecute the higher-level offenders most responsible for coordinating the increase in ORT activity? If yes, what is that plan? If no, what are the challenges in creating this plan?

- Do we have a method to track larger scale fencing operations?

- Has the prosecution model been modified to prosecute upper-level offenders more effectively?

- What methods are being used to identify and prosecute higher-level offenders?

- Are we utilizing diversion/rehabilitative programs when appropriate?

- Have we imposed proportional punishments appropriate to the level of culpability?

- How do we measure a proportional punishment?
- What methods are we using to evaluate offenders individually?
- Have we seen a reduction in recidivism?

Having a set of questions that directly align with our goals and objectives will be useful in tracking the success of our project. These types of questions provide a framework for us as we continue to build our unit. While there may be a variety of criteria we are looking at to determine the success of our program, the outputs that result from an activity will be the best indicator of success. We will need to be proactive in monitoring what works for the program and what does not work for the program. We are building a collaborative environment, therefore, feedback from retailers, law enforcement and other task force members regarding various activities will assist us in determining success. We are also utilizing data collection to track our efforts; it will be imperative for us to compare our metrics for each quarter as we progress. Seeing an increase or decrease in desired areas will be beneficial in determining the success of the project. For example, seeing an increase in the number of convictions for PC 490.4 will be an indicator that the vertical prosecution method is successful; seeing a decrease in the amount of ORT cases being referred to our office will be an indicator that our focused, collaborative approach is having a larger effect on the community. Data will be collected monthly and quarterly; we will use the Power BI software to calculate and analyze our quantitative data. This will help us see what areas we have improved in, whether there has been a decrease in defendants entering the unit as we progress, whether there has been an increase in upper-level offenders being prosecuted, whether we are receiving less cases involving ORT over a period of time as a result of our focused approached, and so on.

A direct result we expect to see, because of streamlining communication within our task force, is an increase in cross jurisdictional prosecution of shared ORT suspects. The vertical prosecutor will keep a log of all cases where a result is reached that incorporates conduct from another county, as well as cases from other counties that incorporate conduct from Sacramento County. This level of communication will assist in more efficient prosecution of ORT offenders, less congested court calendars and facilitate a collaborative approach to the modified prosecution method. An additional result we expect to see because of streamlined communication within the task force is joint investigative efforts between agencies that result in cases filed being more complete and inclusive of conduct from all jurisdictions. This will result in less cases needing to be consolidated after filing and speedier prosecution as the suspect(s) will not have to wait for the remainder of their charges to be filed when reports are obtained at a later point in time. This joint investigative effort will result in an increase in ORT convictions during the grant period.

We have data for the prosecution of organized retail theft cases from 2021 through 2023, including vertical prosecution and non-vertical prosecution data. Therefore, we have a pool of data we are able to look at and analyze when evaluating the success of our ORT unit. This information will be useful to determine whether the outcomes that result are due to the implementation of our vertical prosecution method in our ORT unit and not some unrelated factor. Our strategy will be to compare the analytics from January 2021 – October 2023 to October 2023 – December 31, 2026. During each period we will filter our system to include categories such as: number of convictions for PC 490.4, number of cases for PC 490.4 referred to the office, number of defendants who were charged with PC 490.4, severity of sentences for defendants

charged with PC 490.4 and the number of convictions for suspects prosecuted in the ORT unit. Analyzing the comparative data between these two distinct periods within our office will be beneficial when evaluating the outcomes of our project.

## Outcome Evaluation Matrix

| Outcome | Definition of Outcome | Data Source(s) | Frequency of Data Collection |
|---|---|---|---|
| **Increase in Convictions for PC 490.4** | Increase in the number of convictions for organized retail theft under California Penal Code Section 490.4 as opposed to general theft. | Power BI data, case outcome reports, conviction records. | Monthly/Quarterly |
| **Increase in ORT Cases Referred to the Office** | The number of ORT cases referred to the DA's office for prosecution when ORT elements are met. | Power BI data, case tracking log. | Monthly/Quarterly |
| **Vertical Prosecution Success** | The success rate of vertical prosecution in ORT cases compared to traditional methods. | Power BI data, case outcome comparison between vertical vs. non-vertical prosecution methods. | Quarterly/Annually |
| **Cross-Jurisdictional Prosecutions** | The number of cases that involve coordination and prosecution of suspects across different jurisdictions. | Case logs, cross-jurisdictional collaboration documentation, prosecution records. | Quarterly |
| **Joint Investigative Efforts Between Agencies** | The number of cases where joint investigative efforts between law enforcement agencies led to complete cases. | Investigative logs, case reports, task force collaboration notes. | Monthly/Quarterly |
| **Speedier Prosecution of ORT Cases** | Reduction in the time it takes to prosecute ORT cases due to better coordination and more complete investigations. | Case processing time reports, investigation timelines, year of filing vs. year of completed prosecution. | Quarterly/Annually |
| **Reduction in Recidivism** | The reduction in repeat offenses among individuals who have previously been prosecuted for ORT. | Recidivism data, case tracking, probation/parole reports. | Quarterly/Annually |

| | | | |
|---|---|---|---|
| **Utilization of Diversion/Rehabilitative Programs** | The use of diversion or rehabilitation programs when appropriate, rather than incarceration. | Case notes, offender evaluations, program enrollment logs. | Monthly/Quarterly |
| **Proportional Punishments Based on Culpability** | Ensuring that punishments reflect the severity of the crime and the defendant's level of involvement. | Sentencing records, case files, Power BI data. | Quarterly |
| **Streamlined Communication Between DA's Office, Retailers, and Law Enforcement** | A systematic method of communication that improves coordination across all parties involved in prosecuting ORT cases. | Email correspondence, meeting logs, task force collaboration reports. | Monthly/Quarterly |
| **Creation of ORT Task Force** | A task force formed to combat ORT in the Sacramento area. | Meeting notes, task force member participation records, internal communications. | Quarterly/Annually |
| **Number of Partner Agencies in the Task Force** | The total number of agencies (law enforcement, retailers, etc.) participating in the task force. | Task force participation records, meeting logs. | Quarterly/Annually |
| **Law Enforcement Agencies Built Relationships With** | Number of law enforcement agencies with which the ORT unit has formed partnerships. | Meeting minutes, partnership records, case collaboration logs. | Quarterly/Annually |
| **Retailers Built Relationships With** | Number of retailers that have engaged with the ORT unit. | Partnership records, meeting logs, retailer surveys. | Quarterly/Annually |
| **Strategy for Identifying/Apprehending Upper-Level Offenders** | The approach used to identify and apprehend individuals responsible for large-scale ORT operations. | Case files, task force strategy documents, criminal investigation logs. | Quarterly/Annual |

# Project Logic Model

Logic Model- Sacramento County District Attorney's Office Organized Retail Theft

## Inputs

- Project Director; Deputy District Attorney Adrianne McMillan
- Organized Retail Theft Criminal Investigator- Bryan Vevera
- Financial Officer- Yadira Sandoval
- Day-to-Day Fiscal Contact/ Administrative Services Officer Rachel Montesinos
- BSCC Grant Funding
- Power BI data collection software
- Diamond case management system
- Partnerships

## Activities

- Create/participate in a regional task force to combat organized retail theft
- Track low level offenders to larger scale fencing operations
- Identify and prosecute higher level and habitual offenders involved in organized retail theft
- Impose proportional sanctions/punishments to the level of culpability of offenders
- File cases that align with the goals and objectives of the grant
- Utilize vertical prosecution model for all cases filed within the ORT unit
- Collection of data for tracking of program success
- Track ORT cases coming into the unit and how they are resolved
- Utilize diversion programs when appropriate

## Output

- Increased participation by lower-level offenders to assist in the apprehension of upper-level offenders
- Streamlined communication between DA offices, law enforcement and retailers
- Increased efforts/resources to take down fencing operations
- Quantitative data that can measure progress
- Qualitative data that can measure progress

## Outcomes

- **Short Term**
- Increase in higher level offenders being prosecuted for PC 490.4(a)(4)
- Increase in cross jurisdictional prosecution of prolific theft offenders
- Increase in task force members

- **Long Term**
- Reduction in prosecution of lower-level offenders
- Decrease in fencing operations
- Strong network built to combat ORT

## Impact

- Reduction in retail theft in greater Sacramento region
- Greater communication between law enforcement and retailers
- Increase in prosecution of upper-level offenders who coordinate and recruit others to commit the largest volume of ORT offenses
- Reduction in recidivism amongst lower-level offenders