

SHOP- LIFTING

Corporate Copaganda

**A Report by Maurice BP-Weeks
& Brendan McQuade**

Distributed by Interrupting Criminalization

On April 27th, 2023, a 24-year-old Black trans man was executed by an armed security guard at a Walgreens store in San Francisco.¹



JUSTICE for BANKO BROWN

Banko Brown was described as a “smart and funny young man who, though shy, made friends easily.” Like many other trans people, Banko faced lack of housing and denial of basic needs and support. In spite of these challenges, he was still known to his community as resilient and tenacious. The Walgreens security guard who executed Banko as he was leaving the store claims that he stole \$14 worth of groceries.² In the weeks leading up to the killing, Banko had told comrades he was tired - of sleeping on trains, of running up against barrier after barrier to accessing housing and safe space. His heinous killing highlights many interlocking issues implicated in struggles for trans liberation: homelessness, criminalization, economic inequality and structural exclusion, and the acute precarity of life.

Unfortunately, Banko’s experience of criminalization instead of care is one that is common across the country. Corporations take aggressive action against people accused of shoplifting by arresting, prosecuting, imprisoning them - and, in cases like this one, killing them.

THE RISE OF PRIVATE SECURITY

From 2021 to 2022, retailers substantially increased the presence of armed guards in stores.³ Companies like Allied Universal and United Security Incorporated are seeing record demand for guards to stand at doors and patrol the aisles carrying pistols, tasers, pepper spray, bodycams, bulletproof vests and even handcuffs. With all of this equipment, some security guards are nearly indistinguishable from regular police officers. These guards are just the latest layer in a massive police and intelligence system run by corporate retailers. Every major corporation has a “loss prevention” or “asset protection” department to monitor theft in stores, gather information about “suspects,” and develop arrestable, prosecutable cases to hand over to public police and district attorneys. In the last decade, regional groups of retailers have created “Organized Retail Crime Associations,” private intelligence sharing groups that develop information about wanted and suspected shoplifters.⁴



The informal economy is not separate from the capitalist economy, it is its shadow.



You are much more likely to see armed guards and surveillance in Black neighborhoods or stores frequented by Black patrons. These are the “problem stores” in “high risk” communities that occupy the attention of “loss prevention” investigators. Manufactured panic around potential and actual theft leads stores to lock up condoms, baby formula, deodorant and other essential items. And just like their public counterparts, private security officers rely on racialized criminalizing narratives and faulty AI to decide who to pursue. Finally, just like their public counterparts, the private police security guard industry has been buoyed by stoking public fear and anti-Black racism, creating crises that lead to a more criminalized Black population and more profit for corporate clients.



Perhaps you've seen the scary, sensationalist shoplifting stories? Examples abound.⁵ They tell a dramatic story. Thieves smash and grab at luxury stores or clear the shelves at pharmacies or supermarkets. Then, they resell the goods on secondary markets. Sometimes, they sell the pilfered goods on Amazon and other online marketplaces. Other times, they hawk their haul to the local corner store, pawnshop, second hand dealer, or even a "fence," someone who buys and resells stolen merchandise. Or, they use stolen merchandise to manufacture meth or other controlled substances. Corporate retailers insist this is a major problem, claiming it is "organized retail theft," not mere shoplifting. The 2022 Retail Security Survey conducted by the National Retail Federation and Loss Prevention Research Council finds that external theft - shoplifting and organized retail crime - are responsible for the largest portion of "inventory shrink," some \$35 billion of stolen goods.⁶

This narrative of surging shoplifting, however, is manufactured.

Decades of research into shoplifting suggest that data around organized retail theft is questionable. Shoplifting is a remarkably common crime and large-scale organized theft is the exception to the rule. One in ten people admit regular shoplifting.⁷ Shoplifting is an opportunistic act committed by people of all backgrounds, what some criminologists call "an occasional crime of the moral majority." The major studies of shoplifting find that the most common profile of a shoplifter is a solitary amateur, usually a young man or teenage boy. Just 10% of shoplifters are professional "boosters" who steal commercially, and less than 7% percent of cases involved groups of three or more.

THE POLITICS OF CRIME DATA

Official crime data shows that shoplifting has declined in recent years.⁸ Much of the statistical basis of claims of a shoplifting surge comes from dishonest manipulation: comparing the year-to-year increase between 2020, when reported instances of shoplifting plummeted due to COVID lockdowns and 2021, when stores reopened and rates rebounded to 2019-levels. Official figures on shoplifting are flawed, however. Shoplifting is privately enforced - as a result, businesses do not report the majority of incidents to police and do not share the data with the public.

Much of the present discussion of surging shoplifting amounts to “they-said-they-said.” For example, during the 2022 special election to recall Chesa Boudin, San Francisco’s former district attorney, shoplifting became one of the brightest flash points. Corporate retailers redefined shoplifting - including people taking diapers and baby formula in the midst of a nationwide shortage and economic crisis - as a surge of “organized retail crime” so vast and overwhelming that it was causing store closures. Much of this discussion centered on claims from Walgreens that the \$97 billion dollar corporation closed 17 San Francisco locations since 2016 and five in October 2022, ostensibly due to rampant shoplifting. Media outlets accepted this statement as fact. Other reporting, however, shows that the closures were part of a coherent strategy to adjust first to increased competition from online retailers and, later, to staffing shortages associated with the COVID-19 pandemic. In 2019, Walgreens announced it planned to close 200 stores in the United States as part of a “transformational cost management program.” In January 2022, a company spokesman cited staffing shortages caused by the Omicron variant of COVID-19 as a reason for further closures. At the start of 2023, Walgreens finance chief acknowledged that “Maybe we cried too much” about shoplifting on an earnings call where the company reported that their rate of “shrink” - combined losses from theft, fraud, damages, mis-scanned items, and other errors - fell from 3.5% of total sales to

2.5% of total sales.⁹ Corporate retailers' claims about a wave of "organized retail crime," then, are also mixed up in public relations and lobbying strategy to deflect attention from unpopular business decisions like downsizing, and lobbying for increased penalties for shoplifting.



Some corporations have been known to benefit from criminalizing shoplifters. In 2017 Walmart and partner corporation Corrective Education Company were chided by a California judge for essentially committing extortion. Walmart would detain shoplifters in their store and hand them over to CEC. CEC would then force the shoplifters to pay a fee to complete their diversion class, or be turned over to the police and charged with an offense. Walmart claimed a public relations benefit as well as a reduction in their "security" costs as they were able to offload onto CEC. CEC directly profited from vulnerable people trying to stay out of jail.¹⁰

Some corporations have been known to benefit from criminalizing shoplifters.

While the politics of crime data¹¹ obscure the full picture, it is clear that corporate retailers are not good faith actors in the debate. Consider, for example, how the industry talks about "inventory shrinkage" (loss). The majority of messaging from the industry points to external theft (shoplifting) as the greatest source of shrinkage. In reality, this is simply a clever messaging tool. The leading industry group, The National Retail Federation, separates several internal loss categories like process/control failures, employee theft and things like "unknown loss" or "other sources." When you combine these categories, 63% of shrinkage is the result of internal issues while a mere 37% is external. Meanwhile, categories of theft after hours, shoplifting, and organized retail theft are all lumped together, making even the 37% figure unreliable.

What remains unclear, however, is how much organized retail theft actually occurs? The main source of data on organized theft comes from the retail industry itself: an annual survey of corporate retailers conducted by the National Retail Federation and the Loss Prevention Research Council. These annual surveys, however, have serious methodological problems. They survey a small sample of retailers (only 63 in 2022) and they do not define “organized retail crime.” In other words, these studies are not only self-reporting from corporate retail; they are self-definitions from corporate retail - much like overall “crime” rates are self-reports from law enforcement, which are also often self-serving. They do not provide insight into the variation of organized retail theft. How much of it is two unhoused youth or moms taking what they need to feed and clothe themselves or their kids? How much of it is three people stealing from local stores and reselling on Amazon? How much is organized networks running large scale theft and reselling operations? The answers to these questions are unclear.

From an abolitionist perspective, however, this exact breakdown of shoplifting and organized retail theft is beside the point. There is no question that organized systematic theft exists and features different drivers and dynamics than simple shoplifting of the type that was the alleged basis for Banko’s execution. There are also credible reasons to believe it has become more prevalent. The rise of e-commerce makes reselling stolen goods much easier. In fact, U.S. Congress recently passed the INFORM Act to increase reporting requirements on third party sellers on e-commerce platforms and respond to Amazon’s emergence as, what has been called, “the biggest unregulated pawn shop in the country.”¹² Yet regardless of the form it takes, retail theft must be placed in a larger context.



THE INFORMAL ECONOMY

What we are dealing with here – whether it is Banko Brown, a small local team of shoplifters, or a syndicate operating at scale – is criminalized behavior that is a product of the market economy. The informal economy is not separate from the capitalist economy, it is its shadow. Breaking the law is often rational economic behavior. In this way, we should understand organized retail theft in the same way that we understand the sale of criminalized drugs. This is not liberation or even resistance. It is a criminalized sector of capital that is often more exploitative to working people because it is criminalized and enforcement tracks structural relations of power. White suburban teenagers who shoplift as a rite of passage - or as a lifetime habit like white collar thieves - rarely face the severe consequences meted out to Black women, trans and gender non-conforming people. In fact, shoplifting is consistently among the top five arrest charges for women.¹³ And, as a criminalized economy, it is regulated only by social networks and interpersonal violence, creating conditions of greater violence for people living at the intersections of multiple structures and relations of power. Indeed, there are examples of organized retail crime networks exploiting unhoused opioid users, youth of color, and undocumented and coerced people as disposable front line workers: the boosters that steal goods, and product cleaners that scrub them of their labels and security tags.

The informal economy is not separate from the capitalist economy, it is its shadow.

The status quo response to this problem is criminalization. In both U.S. Congress and state legislatures, lawmakers are debating and passing a series of laws to lower felony thresholds for theft, increase the surveillance of e-commerce, and create special penalties for organized retail crime. At least 34 states have special organized retail crime laws, with many others and enhancements to existing laws currently under consideration.¹⁴ While the actual content of these bills vary, there is a basic pattern that is evidenced in the model organized retail crime bill of American Legislative Exchange Council (ALEC), an organization known for pushing duplicate bills in front of numerous state legislatures on behalf of its corporate funders. Under ALEC's model bill, an individual who, in coordination with at least one other person - two Black trans youth in a store, a Black parent who goes in to take diapers while the other waits outside in the car - steals at least \$1,000 worth of goods over a six month period (180 days) or is involved in the sale of these stolen goods can be found guilty of organized retail theft.

In practice, these bills simply allow prosecutors to more aggressively prosecute shoplifting and use their discretion in a predictably biased manner. Indeed, a peer reviewed study, published in 2019 in the *Journal of Empirical Legal Studies*, found that Texas's new retail theft statute resulted in discriminatory pattern of arrests. The study examines the arrest records for 97,740 people who could have been charged with either property theft or organized retail theft and finds that Black people were twice as likely as white people to be charged with the more serious offense, while Hispanic people were 20% more likely than whites to be charged with the more serious offense.¹⁵



This recent finding about new organized retail crime laws tracks well with what has already been established by decades of research on shoplifting. While a young man is the most common profile of a shoplifter, research in multiple fields documents sexist and racist biases in the enforcement of shoplifting laws. Similarly, multiple studies document patterns of “shopping while Black,” where store security and law enforcement are likely to monitor and approach people of color while shopping. In this regard, the abolitionist answer to the problem of theft is much like the abolitionist answer to the problem of drug trafficking: a paradigm shift. To the drug trade, we say de-criminalize, and provide spaces for safe use and free voluntary community-based substance use treatment for those who seek it. With respect to theft, we say decommodify survival and the self.



ENDING MARKET DEPENDENCE

What does this mean? First, it means ending market dependence. Right now, survival is a commodity, not a right. The vast majority of people in the United States have no independent access to the means of subsistence. Instead, we are dependent on the market: we must sell our labor for wages and buy the basic necessities of life in commodified pieces. Food and clothing are commodities sold not to meet need but to make profits. Housing is not a right. We have to pay rent or mortgage. Healthcare is not a right. We have to pay for insurance or get it through work. The list goes on.

Ending market dependence means the transformation of basic goods and services into rights. This is the social democratic common sense: universal public goods. We know what some of this looks like because it exists in some parts of the world: universal health care, social housing, free education, including college. It means funding the commons. We also know the next steps to deepen this social democratic common sense. For decades, various social movements in different corners of the world have been advocating for a universal job guarantee or basic income, for example.

Ending market dependence means the transformation of basic goods and services into rights.

Decommodification also means something greater than free access to basic needs. It means a new relation to nature and ourselves. Decommodifying life means ending the production of goods for profit and planning production to meet human needs, which, importantly, includes the need for a healthy and stable environment. Decommodification means smashing the fetish of commodity: destroying brands and the belief that we can realize ourselves through consumption of products. Decommodification means seeing the real relations between people and rejecting the ways the market separates us. We all know, for example, that the clothes we wear or the electronics we use are produced in appalling conditions of exploitation. Decommodifying life means decommodifying labor. It means treating working people – regardless of their social location – as humans deserving dignified treatment, not equally exploitable units of labor.

Decommodification means freeing human sociability from the prison of the cash nexus and providing new ground for it to bloom. It means transforming our policed world of private spaces into a commons. What would our cities and communities, lives, and relationships look like if the right to exist and be in public wasn't predicated on spending money? This is a radical shift towards the politics of collective care theorized and practiced under a Black Feminist politic. How can we ensure that we all, individually and collectively, have what we need? When we see a need in our community, how do we collectively take responsibility to attend to it? No one is safe, comfortable or secure unless we all are.



In the meantime, ending the power of corporations to criminalize is essential. Banko Brown's killing demands a clear call to end corporations' ability to unilaterally act as judge, jury and executioner in the name of "loss prevention." Instead, corporations should be forced to contribute the profits of stolen wages to the common good to meet the needs created by the very system that makes these corporations profitable. They must also be prohibited from profiting from private "diversion" programs that enable them to capitalize on criminalization. In addition to diaper, clothing, and food drives, mutual aid efforts, and programs aimed at meeting the basic needs shoplifting is a symptom of, we need to recognize and act on the reality that "organized retail theft" is a product of structural exclusion from formal, non-criminalized economies.

Banko Brown's killing demands a clear call to end corporations' ability to unilaterally act as judge, jury and executioner in the name of "loss prevention."

Rather than respond with criminalization which creates even greater barriers to sustainable participation in non-criminalized economies, we need to create accessible pathways to sustainable futures. And we should all step in to defend every person's (especially Black women, trans, and gender non-conforming people's) right to survive, thrive, and participate in society. It doesn't matter what Banko Brown was taking, because we must imagine – and fight for – a world where we all have what we need.

ENDNOTES

- 1 Ring, "Black Trans Man Banko Brown Killed by Security Guard in San Francisco."
- 2 <https://www.latimes.com/people/christian-martinez>, "Banko Brown's Family Files Suit against Walgreens and the Security Guard Who Shot Him."
- 3 Debter, "Retailers Are Adding More Security Guards To Stores – And A Lot Of Them Are Carrying Guns."
- 4 Brittain, "Organized Retail Crime Associations."
- 5 Michael Corkery and Sapna Maheshwari, "Thefts, Always an Issue for Retailers Become More Brazen," The New York Times, December 3, 2021, <https://www.nytimes.com/2021/12/03/business/retailers-robberies-theft.html>; ;Michael Corkery, "Amid Attacks and Thefts, Some Retail Workers Want to Fight Back," The New York Times, June 28, 2022; Parija Kavilanz, "Shoplifting is surging across America with dangerous and costly consequences," CNN Business, January 7, 2022; Avery Hartmans, "Target Said it's lost \$400 million this year due to 'inventory shrink'—and organized retail crime is mostly to blame." Business Insider, November 18, 2022, <https://www.businessinsider.com/target-losing-millions-to-organized-retail-theft-2022-11>.
- 6 National Retail Federation, "National Retail Security Survey 2022."
- 7 "Facts About Shoplifting - HG.Org."
- 8 The FBI's National Incident-Based Reporting System, compiled from over 18,000 police agencies, shows that there were 548,491 instances of shoplifting reported to police 2021 a 50 percent decrease from 1,091,174 incidents reported to police in 2016. See: <https://crime-data-explorer.app.cloud.gov/pages/home>
- 9 Nathaniel Meyersohn, "'Maybe we cried too much' over shoplifting, Walgreens executive says." CNN Business, January 7, 2023, <https://www.cnn.com/2023/01/06/business/walgreens-shoplifting-retail/index.html>.
- 10 Press, "'Restorative Justice' for Shoplifting?"
- 11 Interrupting Criminalization, "Cops Don't Stop Violence."
- 12 the counterfeit report, "Amazon Is the Largest Unregulated Pawnshop on the Planet, Selling an Estimated \$104 Million in Stolen Goods - Santa Monica Observer."
- 13 "What Is Driving Criminalization of Women & LGBTQ People?"
- 14 Bell, "Organized Retail Crime (ORC)."
- 15 Michael Braun, Jeremy Rosenthal, and Kyle Therrian (2018). "Police Discretion and Racial Disparity in Organized Retail Theft Arrests: Evidence from Texas." Journal of Empirical Legal Studies.



|| © INTERRUPTING
CRIMINALIZATION