



Senate Committee on Judiciary

Proponent Testimony on Senate Bill 84

Presented by William Wilk, Senior Director of Government Affairs

Monday, February 3, 2025

Madam Chair and members of the committee, my name is William Wilk, Senior Director of Government Affairs for the Kansas Chamber of Commerce. The Kansas Chamber represents small, medium, and large-sized businesses across the state advocating for policies to improve the economic climate in Kansas. The Kansas Chamber is also the state affiliate for the National Retail Federation and on behalf of the Kansas Retail Council, we appreciate the opportunity to submit proponent testimony on Senate Bill 84, which modifies the criminal use of a financial card statutes to include certain conduct involving gift cards.

Gift Cards have been the most requested holiday gift for seventeen years in a row now. Fraud and tampering with gift cards continue to grow nationwide and it comes in many forms. One common example is the method of card tampering. Fraudsters will change or steal the card number details then when the victim (the customer) goes to activate the card, putting money on it, the fraudster can see that and spend the money before the victim can.

Senate Bill 84 will increase the penalties for fraudulent conduct involving gift cards. Over the last year we have been hearing from our retail members about the nationwide issue of crimes and fraud around gift cards. This bill helps bring awareness to this issue along with providing actions of accountability for law enforcement against individuals who commit these crimes.

Attached with my testimony is a presentation on Gift Card Fraud that was provided to me by the Council of State Retail Associations. This presentation provides in depth information on the issue of Gift Card Fraud.

Thank you for the opportunity to testify today in support of Senate Bill 84, and I am happy to answer any questions you might have at the appropriate time.

CSRA Keynote

Organized Retail Crime & Gift Card Fraud

August 28, 2024

Welcome & Session Objectives

- Education on Gift Card Industry, Fraud & Card Tampering, and it's connection to greater Organized Retail Crime
- Update regarding current industry efforts and initiatives underway
- Overview of Project Red Hook and engagement with Federal Law Enforcement
- Where we need immediate support from legislators & the Retail Association
 - Protecting consumers, the industry, and our economy
- Go-forward strategy and call to action



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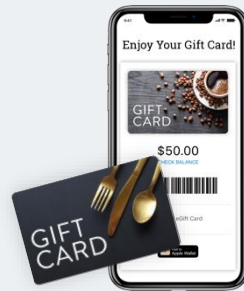


Shane Bennett

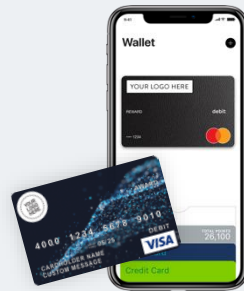
Principal – Theft, Fraud,
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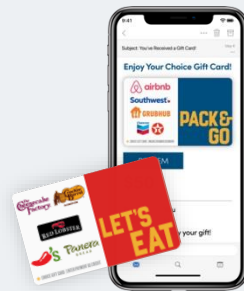
The gift card industry has grown and diversified over the last 20 years



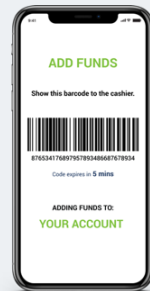
Closed Loop



Open Loop
(Single-use/Reloadable)



Multi-Brand



Cash Loading



Gifting



Self-Use



Disbursements



Employee Incentives



Customer Loyalty



Customer Appeasement



Rewards



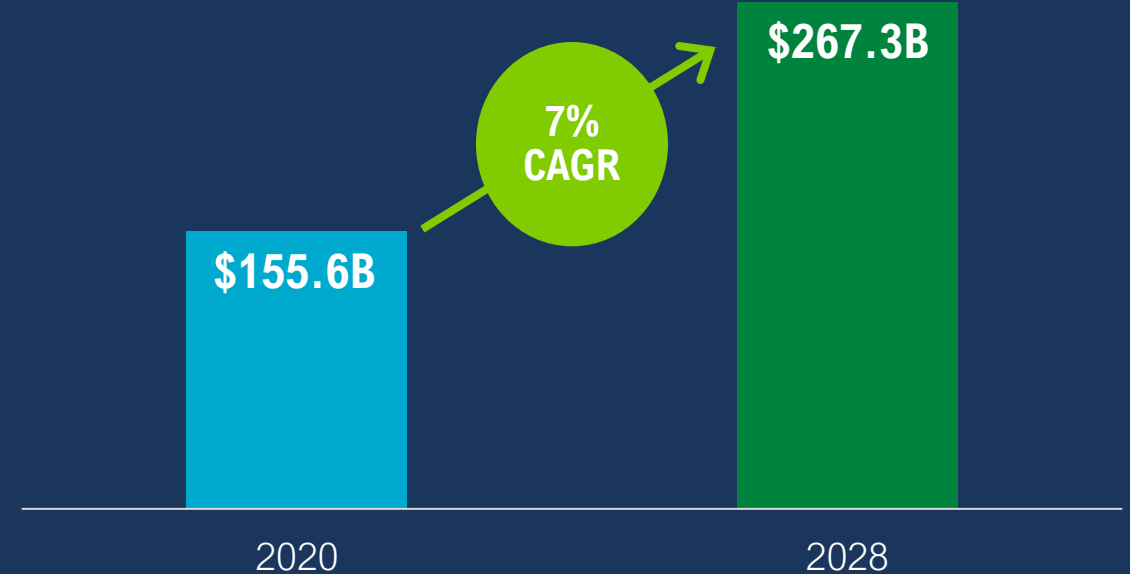
Behavioral Incentives

The U.S. gift card industry is projected to exceed \$265B by 2028 and is a critical component of our overall economy

Prepaid gift cards do more than just delight consumers and drive revenues, they support business growth for brands and retailers in unique and meaningful ways.

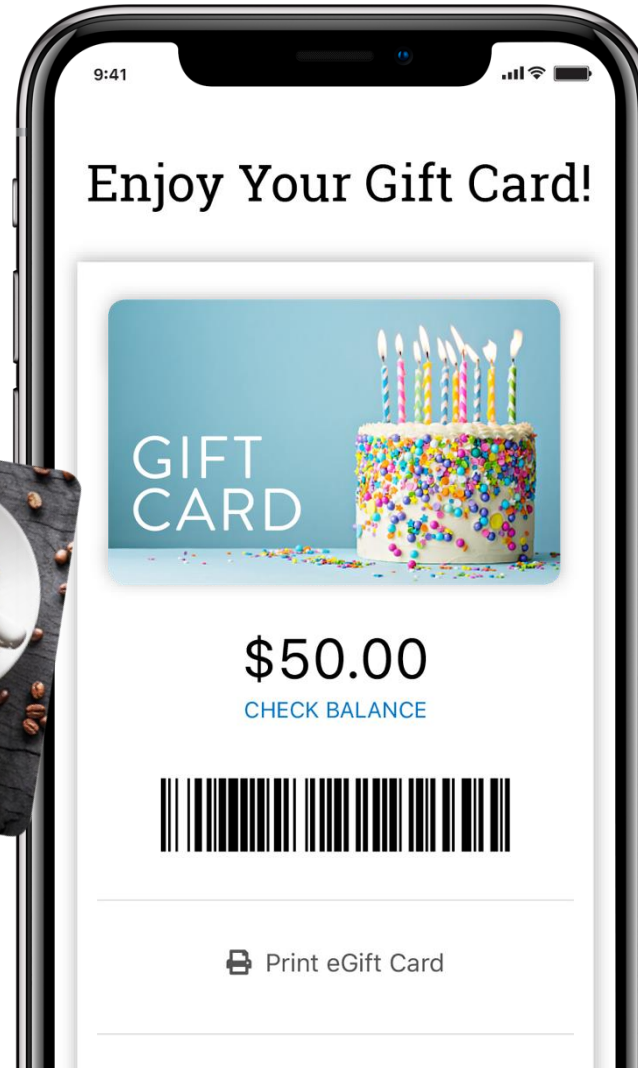
- ✓ **New Customer Acquisition**
- ✓ **Marketing Reach & Exponential Consumer Impressions**
- ✓ **Loyalty & Customer Retention**

U.S. Market for Gift Cards



Consumers really love gift cards

Gift cards have been the
**#1 most requested
holiday gift**
for 17 years in a row.¹



17
Years in
a Row

1. NRF Holiday 2023 By the Numbers, October 2023

Executive Overview

- **Fraud continues to be a significant area of focus** across the global payments industry.
- **The surge of cybercrime** that started during the pandemic has persisted and continues to evolve, spilling across channels and geographies
- A scheme we refer to as **Gift Card Tampering** has **emerged**, which is largely affecting North American markets, but expected to spread internationally
- Through **structured collaboration** across the industry and with Federal Law Enforcement, we have proven the connections between Gift Card Fraud, the broader ORC epidemic, and Transnational Organized Crime.

The good news is that we are doing something about it!



Gift Card fraud comes in many forms

Gift Card fraud schemes vary across channels, product form factors, and geographies

Fraudulent Tender

Bad actors use stolen tender to purchase OL and CL cards.

Application Fraud

Bad actors submit fraudulent applications to gain access to OL and CL cards.

Skimming

Bad actors use low grade technology skimmers to steal card details at the point of sale or at an ATM machine.

Victim Assisted Fraud

Bad actors use social engineering tactics coercing unsuspecting consumers to activate cards, this can include phone scams



Card Tampering

Fraudsters change or steal physical card details so when the victim activates the card, the fraudster spends the balance before the victim can. Barcode swapping and Data theft are two types of this attack.

Account Takeover

Bad actors use a variety of social engineering and technical tactics compromise account profiles and gain access to OL and CL cards.

Website Spoofing

Bad actors create spoofed websites and use Google ads to drive traffic to their sites to phish card details from unsuspecting cardholders.

Cyber & High Velocity Attacks

Bad actors use a variety of technical tactics to compromise OL and CL cards, often at the point of balance inquiry and redemption, using our balance inquiry platforms (sites + IVR) or a fraudulent merchant account.

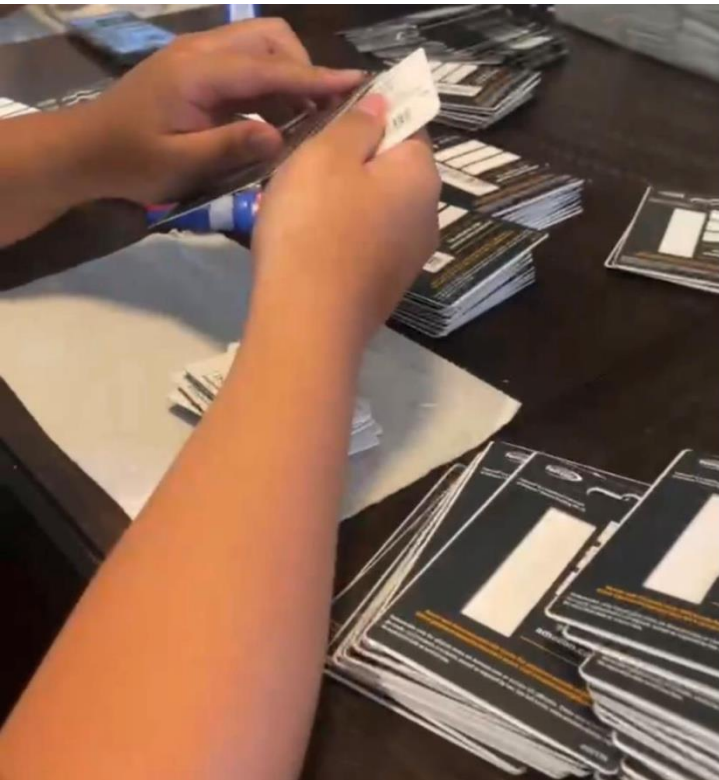
Gift Card Tampering



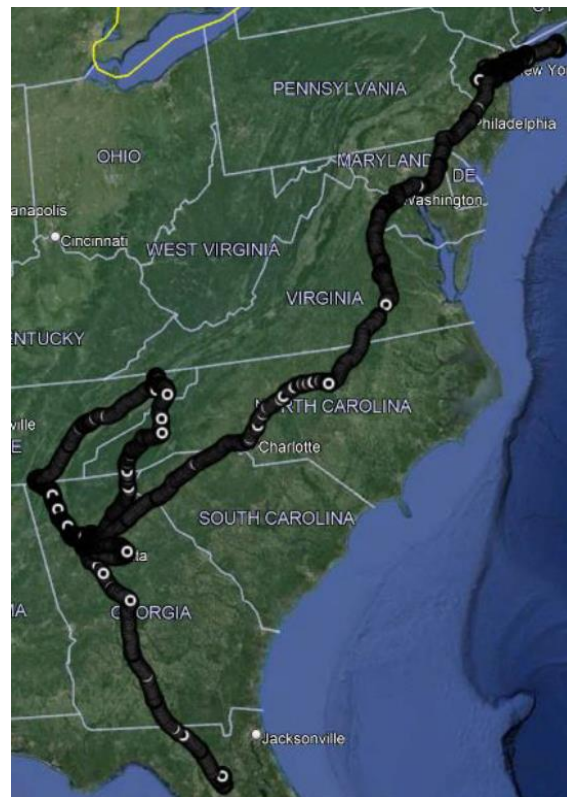
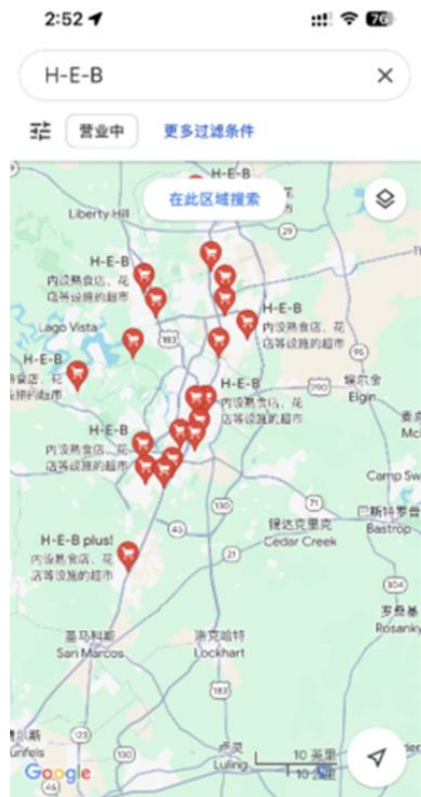
Step 1: Takers Steal Gift Cards



Step 2: Cards are centralized & “processed” by Tampering Experts



Step 3: Placers put cards back into stores



Step 4: Checkers determine when gift cards are activated



Bad actors place the tampered card in high traffic stores to increase the likelihood of activation within a short period of time.



Bad actors attempt to load a tampered card in a mobile wallet or merchant app to confirm activation.



Bad actors attempt to conduct a merchandise return on the merchant app or customer service to confirm activation.



Primary mechanism

Bad actors attempt to conduct a balance inquiry transaction via a merchants IVR, website or app to confirm activation and balance.



Bad actors engage customer team to inquire about card status, balance, transaction history.



Bad actors attempt to conduct a purchase transaction to confirm activation and balance at merchant app, website or physical store.



Step 5: Acquirers purchase high value goods with the gift cards

Fraudsters use gift cards to buy electronics, luxury goods, tools, etc.



Step 6: Senders ship the goods overseas

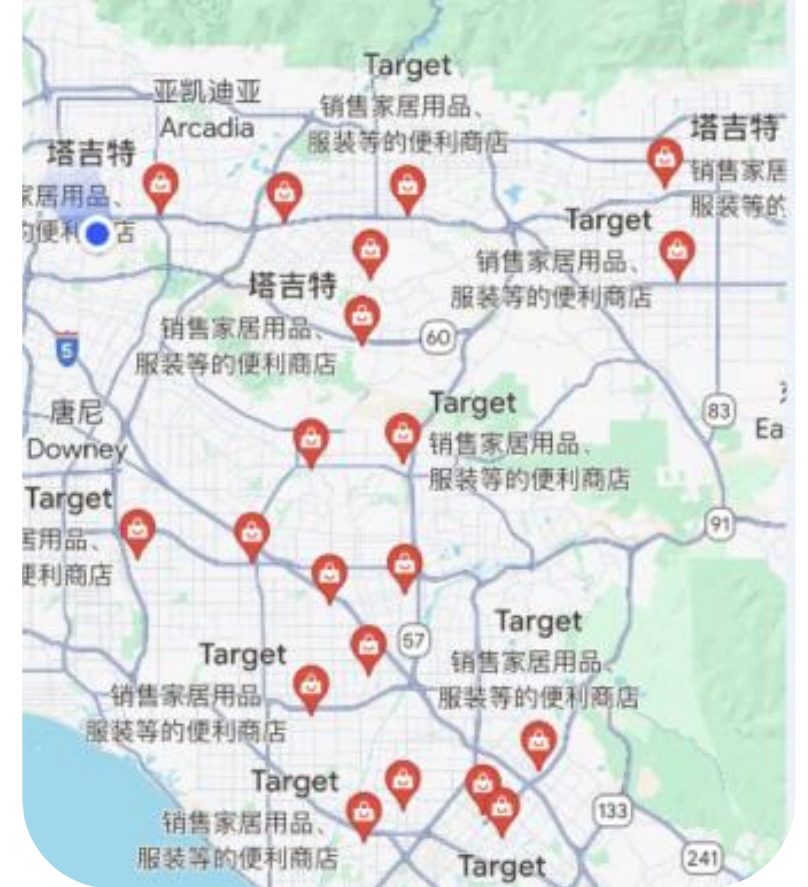
Products are shipped internationally where they are re-sold

(China, Russia, select countries in the Middle East)



Macro card tampering patterns

- The fraudsters are targeting brands that can be redeemed for high value products. These products are easily sold **overseas** or can be liquidated on **digital marketplaces**.
- **Large retailers with many stores are primary targets.** Card inventory sells more quickly and will have a balance sooner.
- We see a concentration of activity in specific states however cells impact geographies across the U.S. typically along the **major interstates**.
- Brands and retailers that are taking **preventative measures** are seeing reductions in tampering activity.
- The **fraudsters adapt quickly** and we need to stay ahead of them.



Initiatives Underway



The industry is layering solutions to support brands and partners in combating Card Tampering.

Three-Pronged Approach

Tamper Evident Packaging

Exclusive and proven packaging solutions, supported by ongoing R&D and innovation to stay ahead of the fraudsters.

Geolocation

Geolocation technology has the ability to evaluate the physical location associated with an activation request and decline authorization if deemed suspicious.

Back-end Transaction Controls

Implement effective transaction monitoring controls to stop card tampering behind the scenes.

Everyone is doing their part



Brands

- Deploy secure & tamper evident packaging
- Actively maintain transaction monitoring and deploy technology solutions to block fraudulent activity
- Refresh & maintain T&Cs in context of industry guidelines



Retailers

- In-store monitoring & LP framework
- Addressing in-store activities with local law enforcement
- In-store signage
- Training for store associates
- Participate in runbooks and reacting to alerts



Partners & Networks

- Commitment to ongoing packaging design R&D
- Investment in technology services, monitoring and alerting
- Collaboration on industry-wide solutions, communication and coordination

← Engagement with Federal & Local Law Enforcement →

← Engagement with Legislators and Regulators →

← Product Innovation →

Project Red Hook



Project Red Hook was launched by Homeland Security Investigations in January 2024:

- This nationwide initiative is aimed at disrupting the abuse of retail gift cards by organized crime groups out of the People's Republic of China.
- Based on centralized intelligence collected from across the industry, broad operations have been established that ultimately target the dismantling of the higher levels of the card tampering operations.
- Red Hook also encompasses extensive efforts to educate law enforcement entities across the US regarding gift card fraud and provides tools and centralized contacts for local and state level resources who encounter card tampering cases.
- The industry has broadly mobilized in support of Project Red Hook and operations are planned to continue into 2025 and potentially beyond

Project Red Hook: “Attack the Methodology”

PRH uses a **four-step approach** to identify and address gift card industry vulnerabilities exploited by organized crime in the PRC and leverages public-private intelligence exchange to inform enforcement efforts against the criminal networks involved.

Mitigation

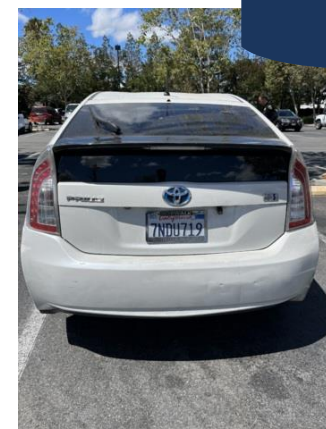
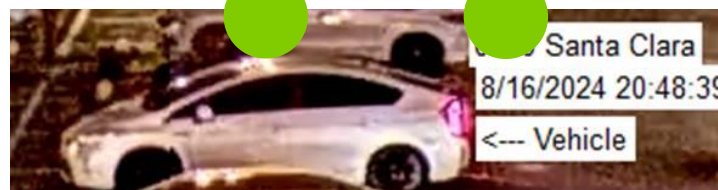
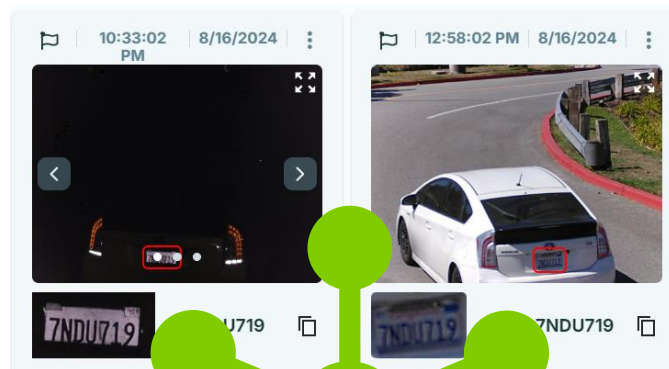
Education

Disruption

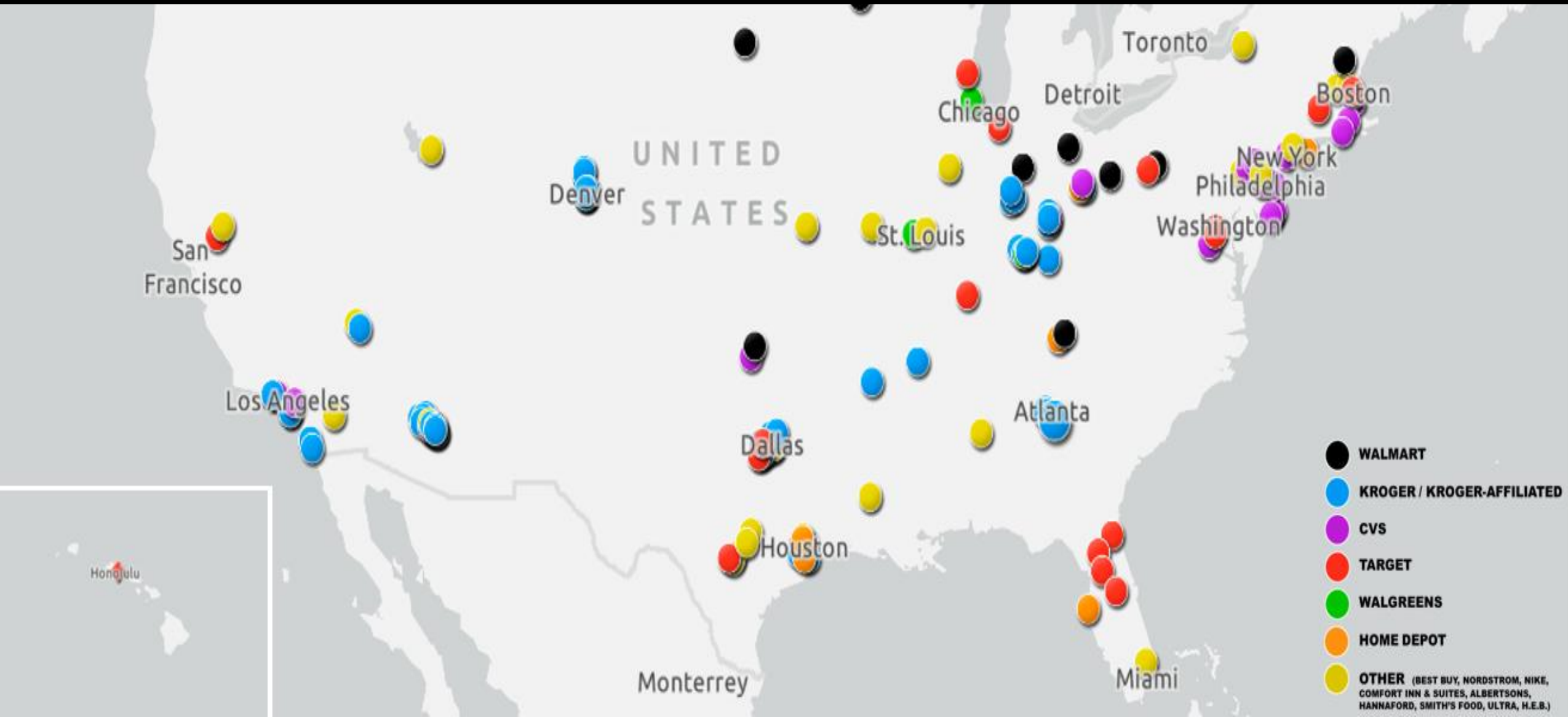
Dismantlement

[illegible]

Centralized intel and coordinated operations are the underpinnings of Red Hook



We have surpassed 150 arrests and continue to make progress



Building an unprecedented coalition & platform for collaboration

Bringing together the nations largest retailers, brands, & networks



- Monthly virtual and in-person meetings resulting in extraordinary level of engagement across all industry partners.
- Established a broader framework for data sharing, initially with a centralized HSI inbox but broadening to more macro data sharing & trends.
- Tactical intel sharing between retailers, brands, BHN to HSI for arrests, investigation & prosecution.
- Developing pre-activation transaction controls, recommended terms & conditions, signage.
- Presenting at various industry groups to increase awareness and focus
- Driving state level legislation to enable consistent prosecution of gift card fraud criminals
- Building digitized Law Enforcement Toolkits (HSI leading)

Forging a clear path to the prosecution of gift card fraud related crime

One of the challenges we are currently facing is a consistent and clear path to the prosecution of Gift Card Fraud criminals, largely due to two key factors:

- Local law enforcement needs to be further educated regarding Card Tampering and recognize its tie to broader Organized Retail Crime and national and/or international fraud rings.
- Because cards have no value throughout most of the “act of card tampering,” there has been a lack of clarity on what these criminals could and should be charged with when they are caught in the act.



The Plan

- Increase national awareness regarding card tampering and gift card fraud across all Law Enforcement agencies at the Federal, State, and Local levels.
- Leverage a set of U.S. statutes immediately applicable to card tampering and gift card fraud cases
- Suggestions for immediate updates to T&Cs on both gift card products and card holder sites (i.e. balance inquiry) that will support successful prosecution
- Engage and educate retailers regarding how to work with law enforcement to ensure arrests take place
- Collaborate with key stakeholders to draft and advocate for legislation that would enable prosecution at the state level.



Existing State Statutes that have been used

- **Ohio – Counterfeiting (2913.30)**

- "Access device" means any debit or credit card representing a monetary security or retail amount by any financial institution, including a bank, savings bank, savings and loan association, credit union, or business entity.
- Without authorization of the issuer, falsely make, forge, counterfeit, alter, or knowingly possess any access device.

- **Virginia**

- **Obtaining Money or Signature by False Pretense (18.2-178)**

- If any person obtain, by any false pretense or token, from any person, with intent to defraud, money, a gift certificate or other property that may be the subject of larceny, he shall be deemed guilty of larceny thereof;

- **Credit Card Theft (18.2-192)**

- He takes, obtains or withholds a credit card or credit card number from the person, possession, custody or control of another without the cardholder's consent or who, with knowledge that it has been so taken, obtained or withheld, receives the credit card or credit card number with intent to use it or sell it, or to transfer it to a person other than the issuer or the cardholder

- **North Carolina – Obtaining Property by False Pretenses (14-100)**

- If any person shall knowingly and designedly by means of any kind of false pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a future fulfillment or event, obtain or attempt to obtain from any person within this State any money, goods, property, services, chose in action, or other thing of value with intent to cheat or defraud any person of such money, goods, property, services, chose in action or other thing of value



Florida Case Example

Alachua County deputies arrest 2 people with 1,700 fraudulent gift cards



Initial Charges

- Organized Retail Fraud, Trafficking in Counterfeit Cards and 1,764 counts of Card Forgery
- Racketeering charges added two months later

Amended Charges (5 months later)

- 1st Degree Organized Fraud & 1st Degree Grand Theft

Charges Exchanged (10 months later)

- Grand Theft exchanged for Conspiracy to Commit Organized Fraud

"...because the face of the gift cards he used and possessed did not have the name of a person or organization to whom they were issued, as a matter of law, there was no "cardholder," meaning the gift cards were not "credit cards.""

- Casais v. State 2016 Appeal

Considerations

- If you recently enacted ORC or fraud related legislation within your state, are there opportunities to **enhance the language to cover Gift Card Fraud**?
- If you have plans to enact future ORC or fraud related legislation, please **consider including Gift Card Fraud in language** you are already working on.
- **ASK:**

Clearly define Gift Card Fraud as a criminal offense in state level legislation



Next steps

- We will distribute supporting materials to this audience.
- We are running an analysis to support individual states in proactively evaluating the statutes they have in place and where they may have gaps.
- We would like to work with the Council of State Retail Associations and will be reaching out in the coming months.



Thank you
Open Q&A

