

CRIMINAL JUSTICE RESEARCH

THE ILLEGAL DISTRIBUTION OF STOLEN
MERCHANDISE WITHIN THE STATE OF ARIZONA

by

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FOREWORD

In the past, law enforcement agencies and the public in seeking solutions to the high incidence of burglaries have tended to overlook or consider as unreliable a potentially valuable and correct source of information: the burglar. In order to investigate this thesis, the Center of Criminal Justice at Arizona State University approved an L.E.A.A. Graduate Research Fellowship for studying The Illegal Distribution of Stolen Merchandise Within the State of Arizona.

The Researchers developed a questionnaire which explored the relationship between the burglars and their fences and they interviewed the burglars in the offices of various law enforcement agencies. The burglars were assured of anonymity and were not prodded for the actual names of fences or pressed for information in areas when the researcher sensed the subjects were becoming uncomfortable with the line of questioning. In most of the interviews, the burglars did not object to relating tales of their burglary episodes. It may be that they felt comfortable with the fact that the research was directed at the fences and not at them. Perhaps they were less suspicious in talking to the interviewers because one interviewer was a woman and neither was connected in any way with police work. The interviewers emphasized that they were doing special research. Some burglars even

went so far as to offer help when they were released from jail.

Several interesting trends became apparent during the course of the interviews: most of the burglars were very resentful toward the police; and the burglars enjoyed talking about their burglary experiences, even to the point of becoming boastful. Special care was taken at all times to encourage the subjects to feel comfortable and talk openly while relating their experiences.

The researchers tried to select the valid information from those portions of the discussions unrelated to fencing activities or information not substantiated by other interviews.

This study is offered as a viable tool to aid law enforcement by providing a broadening of knowledge concerning illegal distribution of stolen merchandise.

ACKNOWLEDGMENTS

Research in the criminal field is not possible without the cooperation and assistance of law enforcement agencies. The Maricopa County Adult Probation Office contributed heavily to the success of this study. We owe many thanks to The Honorable Charles Roush, Judge, Maricopa County Superior Court and Mr. H. C. Duffie, Chief of the Adult Probation Office for their support and assistance. Particular thanks are due Deputy Adult Probation Officers, Richard Baillargeon and John Black for their time and interest in arranging interviews. The guidance and help from Arizona State University sponsor, John A. LaSota, Jr., Assistant Dean, College of Law also made this study much more meaningful. The expertise of Erica Sorenson in editing is also greatly appreciated.

THE ILLEGAL DISTRIBUTION OF STOLEN
MERCHANDISE WITHIN THE STATE OF ARIZONA

Introduction

"They only asked me what I did with the stuff and I said I sold it. They didn't ask me anything about who I sold it to." This is a convicted burglar's reply to the question, "When arrested, were you questioned specifically about a fence?" "Police are more interested in 'clearing paper' than anything else," continued the burglar. These sample answers are indicative of the trend of answers by most of the burglars interviewed over the past six months while researching "The Illegal Distribution of Stolen Merchandise in the State of Arizona."

This is not an attempt to downgrade the police, nor an attempt to say that more detailed questioning of the burglar will eventually lead to fencing arrests. It does point up an area that could require additional emphasis. With the soaring rate of burglaries, some measure to control or reduce this crime is important.

Most legislative efforts have been geared toward combatting the crime of theft itself, but very little is being done to

stop the equally important aspect of the illegal distribution of illegal goods.¹

The purpose of this paper is to review and point out the present procedures used by law enforcement agencies to reduce burglaries through the apprehension of fences; to analyze the burglar-fence relationship in an attempt to find out more about the elusive channels of distribution in the fencing system; and more specifically to learn "Who is the fence?"

The following synopsis illustrates the burglar-fence relationship: The burglar knows what procedure he will use for finding the right house; he knows how he is going to get in, he knows exactly what he is looking for once inside, he knows how he is going to move it off the property, and he knows who is going to fence it. This last step in the procedure could be the key to the reduction of burglaries.

The Fence as an Underrated Criminal

The "fence" is a mysterious middleman who gives the burglar cash, drugs or other goods in exchange for the stolen items. The fence then sells the stolen goods to another fence or to the ultimate consumer at considerable profit.

¹Hearings before the Senate Judiciary Subcommittee on Criminal Laws and Procedure, 1972.

Perhaps the most underrated criminal in the underworld is the receiver of stolen property, the burglar's fence. Few citizens actually understand just how essential the fence is to the burglar. When you think about where your stolen property has gone, don't think about the burglar. He usually doesn't have it, and probably would have trouble getting rid of it alone.

The fences are the key, not only to the burglar but also to the shoplifter, the petty thief, the automobile-parts thief, mail parcel-post thieves, shipping-dock thieves, hijackers, and narcotics addicts--all dealers in merchandise which can be resold in a legitimate market. In connection with all of these criminal acts, the fence indeed plays as major a part as the persons actually doing the stealing. In some cases he may be more important. Without the receiver of stolen property, none of the burglars could survive.²

One burglar said, "You knock out me, you knock out one burglar, you knock out a fence and you knock out maybe twenty burglaries."³

Normally, police arrests of fences are almost nil. Convictions are even more rare.⁴ Why is it that so many authorities feel that the best way to combat burglaries is to eliminate fences, yet fences are largely ignored by the public and the police?

²Robert Earl Barnes, Are You Safe from Burglars?, 1971, p. 142.

³"Fence Called Key to Burglary Method," Arizona Republic, April 8, 1972.

⁴Hearings before the Select Committee on Small Business on Criminal Redistribution, 1973.

The Questionnaire

General Format

A two-part questionnaire for suspected and convicted burglars was developed for this research in an attempt to verify or reject certain theories that will be discussed later. The first part of the questionnaire documents personal data and criminal record information. This information was taken from the law enforcement agencies' files rather than by questioning the subjects. This was done on the theory that their feelings of anonymity might make them more free with their answers to part two, the vital portion of the questionnaire.

The final format of the questionnaire, shown in Exhibit 4, is the result of several revisions both during and after the course of interviewing some thirty burglars or receivers of stolen property. The questionnaire was developed to try to get answers to:

1. How many fences are there in the State of Arizona?
2. Do the fences operate on a large scale or small scale?
3. What kinds of outlets do the fences use to dispose of the stolen merchandise?
4. What kinds of merchandise are fenced?
5. Is there specialization among fences?
6. Do fences put in orders with burglars?
7. Is Operation Identification an effective tool for deterring fencing activities?

The Selection of Participants

The researchers soon found that the project did not lend itself well to random sampling in the selection of interviewees. Though a random selection of burglars would yield the best empirical data, it became evident that the sampling would have to be taken from a less than perfect population because of the administrative rules in the operation of penal institutions, the refusal of some inmates to cooperate, and the fact that all inmates would not have the information we were looking for.

The universe selected for the sampling was Arizona. The problems in Arizona may not be applicable to all states since Arizona is bounded by a foreign country, Mexico, but the "big-city" problems in the Phoenix area appear to be the same as in other large urban areas. We adopted some techniques to compensate for the less-than-perfect sample and universe. The sample was limited to persons convicted or charged with crimes relevant to the information we were seeking. The sample was selected by at least five different persons, each person selecting two or three subjects. This method of selection is more random than if one person selected all the subjects. The interview was not limited to specific questions; the subjects were allowed to stray from the questions or to "take off" on the questions. In most instances the result was that we received many of the answers

we wanted before the question was asked. This method helped to eliminate bias attached to questions that might be considered leading. The principle of "reinforcing statements of another subject," is the principal method used to judge the answers' reliability. We considered that the subjects had answered honestly when more than 90 percent of them gave identical answers to the same question, without any knowledge of the other persons interviewed, and without any knowledge of other answers.

Interviews arranged by the Maricopa County Adult Probation Office were the most successful for gathering information. When a probation officer arranged an interview, he would first talk privately with the subject to explain the project, and that the subject did not have to talk to the researcher, and that if the subject did agree to talk, he did not have to answer questions or give any information unless he wanted to. Subjects were also told that the information would only be used statistically, and that no answers would be attributed to them personally. The probation officer explained that the information would be confidential and that it would not be discussed with the probation officer or anyone else except the project faculty sponsor. The researchers repeated these guidelines to those subjects who agreed to be interviewed.

There was a marked difference in the cooperation of the men at the state prison during the interviews. With a few exceptions, they were quite sullen and reluctant to be interviewed. If they did consent to the interview, it was rather obvious by their answers that they were not being very open or completely honest. This may be attributed to several things; among them that the subjects were older and the informal inmate rules of conduct seemed to be deeply ingrained. The mere fact that these men were at the state prison instead of the county jail indicates a more anti-social attitude in as much as the crimes committed were of a more serious nature and the likelihood of rehabilitation not imminent. Another consideration is that the men at the state prison may rely and socialize more with their fellow inmates and form a more tightly knit group because they are removed from their home area, and visits from family and friends are normally less frequent than visits to the men incarcerated in the county jail. Men at the state prison are serving much longer terms, so their whole thinking is geared to a "different drummer." In contrast, a different, helpful attitude showed up in the county jail inmates; they were more receptive, frank, friendly, and open.

The differences in the subjects' behaviors might also be attributed to the method of selection. It should be re-emphasized that the men at the county jail were hand picked

by deputy probation officers who were very knowledgeable about the subjects. Subjects at the prison were chosen from a computer printout of men serving time for burglary or receiving stolen property. No one with individual knowledge of the prison subjects screened the list to weed out those who would not have the information we needed, or who would not supply the information because of hostility. An example of simply not having the information was a 77 year old man interviewed at the state prison. He only knew one fence and that was back in 1927, and the fence was long since dead. This man only wanted to talk about his arthritis and his being released to a "million dollar" old folks' home. Others at the state prison preferred not to answer any questions after the research study was explained to them, and some even chose to remain standing while the study was explained.

Subjects in the 20-30 year age bracket were much easier to interview; they volunteered more information, and they seemed more relaxed and more receptive. Even at the state prison, men in their early twenties were the easiest to interview, the most cooperative, and the most at ease in the interviewing environment. The majority of the subjects (19 out of 30) were in their early twenties and many (15 out of 30) had drug problems.

Interviews With Burglars and Receivers

Interviews took approximately sixty to ninety minutes. All but one of the interviews were conducted in private with only the subject in attendance. One subject had his wife with him and said it was all right for her to remain in the room during the interview. The interviews were conducted in the Maricopa County Jail, at the Maricopa County Probation Office, and at the Arizona State Prison. We attempted, unsuccessfully, to set up interviews with persons under the drug rehabilitation program, The Arizona Family.

The Questions and Answers Discussed

The first questions immediately zero in on the fence. One reason for this is to dispel any doubts in the subject's mind that we may be using a devious method to get information about him. After sixteen questions dealing with the operation of the fence, the questions tend to relate more to the subject's method of operation. The last ten questions relate to the subject's opinions on the overall area of fencing, as well as his evaluation of law enforcement techniques.

Question No. 1

"How many fences do you know?" is significant because if a burglar knows more than one fence, the arrest of one of his fences would not necessarily deter his burglaries, since he has other fences he can contact. In addition,

this question relates directly to whether arrests of fences immediately decrease burglaries by closing down some channels of distribution. It may also slow down fencing activity, because other fences may become reluctant to handle stolen goods if they feel that "the heat is on" and their chances of getting caught have increased. Out of the questionnaires analyzed, burglars showed that they know from two to 30 fences. About half of the subjects knew more than seven. The mode was four. The number of fences known seemed to have a direct relationship to the extent of a subject's illegal activities. Very active burglars, i.e., those confessing to more than 50 burglaries within a few months, typically knew 15 or more fences.

Question No. 2

During the interviewing we soon learned that some fences pay for stolen merchandise with drugs rather than cash, so the question, "Does the fence deal for cash or drugs?" was added. Some subjects preferred to do business with both types of fences. Narcotics addicts were more interested in fences that paid in drugs. These subjects said that many times they would be in a hurry for a "fix", and did not want to spend the extra time in two transactions (a sale of stolen items for cash and a cash purchase of drugs) rather than one. However, the general feeling of the subjects, including the more sophisticated addicts, was that

they would rather deal with cash fences because they could get more value for their merchandise.

Question No. 3

"Is it difficult to find a fence?" The answers were unanimously in the negative. When asked, "how you would locate a fence and how do you get to know them?" the answers in most instances were that you would go to a part of town where you could find addicts. The addict would send you to the drug dealer who in turn either would trade for drugs or would put you in touch with someone that would trade for cash. One subject made the comment that you were expected to buy your drugs from the person who put you in contact with your fence. Another subject made the comment that there was a 50-50 chance that the drug seller would be a fence. All of the subjects did feel that it was easy to find a fence. First you locate an addict, or the district where "long hairs" hang out, and that in turn leads you to a fence.

Questions No. 4, 5, 6, 7, 8, 9

Although these questions were not used during the course of the interviews, they have been added to the questionnaire. They were developed after it was determined that further exploration was needed in this area. Should further study along these lines be implemented, it is hoped these questions could be used in continuation of this study or by other investigators in the course of their studies.

Question No. 10

"Do you decide ahead of a theft how you will dispose of the merchandise?" Again, this is another category in which the answers from the subjects were the same. With one exception, all subjects said they knew how they were going to dispose of the merchandise before the burglary. The subject who did not decide ahead of time said it depended on what contraband he got. On further questioning, it appeared that he meant his fences specialized in different items, and that the nature of the stolen item determined where he disposed of it. He didn't know ahead of the burglary just what fence he would be using, because he didn't know what he would obtain in the crime.

Question No. 11

It was interesting that when asked question 11, "Does your fence sometimes put in an order with you for what he wants?" every subject answered "yes". All the subjects went on to say that the usual order placed by the fence was for color televisions or guns. Fences were not particular about the make or the size of the television--only that it be a color set.

Question No. 12

"Do you specialize or prefer certain types of goods?" This is another category in which the answers from the

various subjects were very nearly identical. Most all of them said they did prefer certain types of goods, and those most mentioned were color televisions, guns, stereos, diamonds, and Indian jewelry. This list corresponds closely to the orders placed by fences, in that the goods most frequently ordered were color televisions and guns. One subject said that he did not prefer certain types of goods, and when asked if his fence put in orders, said, "yes, TV's and guns."

Question No. 13

The question "How many fences have you used in the six months prior to your arrest?" seemed redundant in that it was answered the same as question 1, "How many fences do you know?" If a subject had said that he knew four fences in question 1, he replied to question 13 that he had used four fences; if he had said that he knew six fences in question 1, he replied to question 13 that he had used six fences. What the question provided, quite accidentally, was a check on the respondent's veracity.

Question No. 14

"Does your fence sell directly to the public?" The subjects did not respond readily to this question, and it became evident that the methods and means the fences used to dispose of stolen property were not generally known to the interviewees.

As a result of additional questioning, many of the subjects replied that they sold to a fence who in turn sold not to the ultimate consumer, but to another fence. When the subjects indicated that most of the stolen property was disposed of through intermediate fences, the researchers became aware of a pattern or network of distribution. One burglar said that he had to wait for his money until the out-of-state fence arrived, "picked up the stuff" and paid the local fence. Another subject stated that he knew two fences who took guns to Mexico. He also was aware that one of his fences traveled to Bisbee, Douglas and Globe to take part in auctions. Another subject said that stolen office machines went to Canada and Chicago. Another subject said his fence took televisions to Los Angeles, and two other fences he used took guns to Mexico. Another subject, very active in burglaries, said that he knew two fences who sold out-of-state-- one in California and one in Nevada--and that stolen jewelry and coins went by car to these states. Question 16 verified this information to a certain extent by showing that although most fences had legitimate businesses, they were not such that the stolen merchandise could be sold through the normal operations of those businesses.

Question No. 15

"Do you know where he sells?" Question 14 was a direct lead into this question. Since the subjects had difficulty

answering question 14, it is logical that they would not have information for question 15. Most of the subjects did say that some of their fences did sell out-of-state, and that usually they knew of at least two fences selling out-of-state. The most frequently mentioned place was Mexico.

Question No. 16

"Does the fence have an established legitimate business?" If he does, what business?" The answers showed a variety of businesses. Almost all said yes, listing motel, furniture store, liquor store, new and used car lots (stolen merchandise was given to buyers of cars as a bonus for buying a car), a secondhand furniture dealer, bars, auto junk yards, gas stations, barbershop, pawnshops, mattress factory, bakery, lamp store, diesel shop, construction company, television repair and sales, super market. Some fences mentioned did not have their own businesses. They were a mechanic, truck and taxi-cab driver, and a Justice of the Peace. It is interesting to note that the cab driver fence provided information to the burglar about people he transported to the airport. He chatted with his passenger to get information about how long the fare would be gone, how many family members might still be home, and then would pass this information (along with the address from which he transported the passenger) on to the burglar. Car lots, filling stations and bars were most frequently mentioned

"fronts" for fencing activities. One subject said an attorney and a physician were involved in fencing activities. Upon further questioning the subject indicated that these receivers were more interested in the excitement and thrill of receiving stolen property than from the profits to be made.

Question No. 17

"What percent of the value do you get for the merchandise?" The range of figures given by the subjects was from ten to 50 percent. Most of the burglars felt that the fence gave them about one-fourth to one-third of the value. The more sophisticated burglars also dealt as intermediate fences and felt that they got better prices, i.e., usually at least one-third of the value. The mode was 33 percent and the mean was 26.5 percent.

Question No. 18

"Do you think you get paid as much as you should, considering that you are doing all the work and taking most of the risk?" This question was not in the original questionnaire but was added after a few interviews because of its potential in drawing out the burglar by suggesting to him that he may have been victimized by the fence. Answers from subjects ranged the full gamut from those who felt they were taken advantage of by the fence and that they should get

more money for the merchandise to the subjects who felt that the fence was also taking a risk, was not paying too little, and deserved to make a profit. Eighty percent of the subjects said the fences did not pay enough for what they got but selling to them was the easiest way, if not the only way, to get rid of the goods. One subject expressed the situation by saying he did not get enough, but he couldn't argue because there was "no other place to go."

Question No. 19

"What type of merchandise was easiest to get and to dispose of?" This question corresponded very closely to question 11 and 12, "Does your fence put in an order?" and "Do you specialize in certain types of goods?" The typical burglar, perhaps through necessity, specialized in either what he felt was easiest to dispose of or what the fence ordered. Question 19 was followed by a list. See Exhibit 4. Almost everything on this list was mentioned at least once by one of the interviewees; he indicated he had stolen each specified type of merchandise at some time or other. For some items like hubcaps and bicycles, the individual would say he had only stolen them "when he was a kid."

Question No. 20

"Have you ever attempted to sell to a businessman without knowing he was a fence?" The answers here did not support the answers to question 21. The subjects split

about 50-50 on question 20. Four out of nine answered no. The other five answered yes, and went on to explain the situation. It could be theorized that ordinary hesitancy about meeting strangers was lessened when the stranger happened to be a businessman. One subject stated he approached someone in the roofing business who "ran me off and then called me back, he had to check me out before he would buy." Another subject said that although he did sell to one "stranger" in the furniture business, most businessmen "have their own people that bring stuff and they don't like newcomers."

Question No. 21

"Have you ever tried to sell stolen merchandise to other than a fence?" Most all the burglars said that they did not sell at Park and Swap, contrary to much recent newspaper publicity. One subject said he tried selling there once and got caught. Another subject said he tried it once, but he thought there was just "too much heat out there [at Park and Swap]."

None of the subjects had ever attempted to sell at an auction, However, some knew that their fences either used or conducted auctions. Most said they had tried to sell goods at taverns. None had used the door-to-door method; it was felt to be just too risky. The subjects would sell stolen goods to friends or acquaintances, but not door-to

door to strangers.

Question No. 22

"How do you decide the value of merchandise?" None of the subjects really knew how he decided the value, and the interviewers were left with the feeling that pricing merchandise was something the burglars had learned from experience. They knew the prices on the things that they handled most often, e.g., color television sets. It was common knowledge that no matter what size or make, a color television would bring \$100. Those burglars who were also addicts would take as little as \$50 if they were desperate for drugs.

Question No. 23

"What is the usual length of time between the theft and sale?" The subjects' answers were so similar as to be almost identical. The time frame was surprisingly short between theft and sale, with the answers ranging from fifteen minutes to three hours. Most of the burglars said they never had the merchandise longer than one or two hours. Some would go on to say, "Well, sometimes I have kept it overnight if there are problems in making contact with a fence." All subjects indicated they wanted to get rid of this merchandise as fast as they could--normally within the hour, or at most two hours. The implication was that they knew exactly where

and how to fence stolen items and exactly what hours they could take them to their fences. One subject said he could take the goods to any of his fences within fifteen minutes from the time he stole it. "Just get on the freeway and I'd be there," he said. One subject said if he hadn't gotten rid of the stolen merchandise within two hours he would throw it in the canal or stash it in the desert. The general indication was that most burglars felt that they had about two hours before the theft would be reported to the police. Every minute after the two hour time frame multiplied the risk of being stopped with stolen goods in their possession.

Question No. 24

"How do you select a building, house or car?" The answers were as diverse as the people interviewed. Two answers were very general: "by layout" and "go to the better part of town like Paradise Valley and then look for an end apartment or house on a corner." Other answers were more specific: "I select a house by the absence of people, poor visibility into the house, no car in the driveway, paper on the door;" "Go to the house and knock;" "Check out angles to see from, look for easy place to park, look for houses without double locks;" "Drive around the neighborhood and look for a light on in the daytime, newspapers, no cars, high fence around the back yard so the neighbors can't see. Knock first and then go in the back way;" "No lights, no

cars in the drive, no activity around the house. Many times my fence heard about the house or knew the people;" "The house to be burglarized was prearranged, I knew no one was at home;" "It's so easy, get an address from a parked car where a person works, goes to church, or shops. Go to the address and knock to make sure no one else is home."

The one common theme is that the burglar looks for evidence that no one is home and then usually knocks to double check. More than one subject said it was important to present a good appearance (i.e., short hair, nicely dressed, carry a clip board) so suspicion would not be aroused by their being in the neighborhood or knocking on doors.

Question No. 25

"How far in advance do you select the building, house or car?" The answers to this question varied from "on the spur of the moment" to "watch it for a week." One subject stated that either he enters a house within minutes after selecting it, or that someone else has singled out the house and in turn notifies him that the occupants are out of town. One subject said from ten minutes to two days, depending on his mood. Another said within thirty to sixty minutes and added that he walked ten miles a day casing houses. Five out of seven selected a house within a period of time shorter than thirty minutes. The mode was "within a few minutes."

Question No. 26

"What is your main source of merchandise?" Ninety percent of the subjects replied that houses and apartments were their main sources of merchandise. A few subjects discussed other sources, but from their discussions it seemed they were reminiscing about certain profitable jobs firmly entrenched in their memories. Only one subject responded that automobiles were a source of merchandise, adding that the only time he would break into an automobile was if he saw something inside that he wanted.

The answers may indicate that the subjects do not consider burglary as a permanent means of livelihood, since they are not willing to take the time necessary to learn techniques that would enable them to perform one large profitable job over many small burglaries.

Question No. 27

"Do you prefer any certain time of day?" This question was designed to see if the time of the break-in was in any way connected to the burglar-fence relationship. Two of the subjects preferred nighttime, one stating that he preferred night break-ins because he felt there were fewer people around and he couldn't be seen to be identified. Seven of the persons interviewed preferred mornings or afternoons when most people were at work or school. These subjects avoided the noon lunch period (11:00 a.m. to 1:00 p.m.) and

quit for the day at about 3:00 p.m. It did not appear that problems of getting the merchandise into the hands of a fence were of enough consequence to dictate the house of break-ins. Normal working hours, combined with school hours, appear to be the most significant influence on the time of day chosen by burglars.

Question No. 28

"Are any of the following deterrents to you: Dogs, alarms, Operation Identification, television cameras, or circular mirrors?" The answers showed that most subjects were not easily deterred. When asked about dogs, the standard reply was that it depended on how big or mean the dog was. One subject said, "If there is a barking dog, I'll leave that house alone." Another replied, "All you have to do is to open the door and the dog will run out of the house." He indicated that most dogs were more anxious to get out themselves than to keep the burglar out. Once the dog was out, the burglar could go about his job without any further danger from that source. Another subject, however, said he knew of cases where burglars would steal the dog, particularly if it were a valuable breed.

When asked about alarms, some subjects said that once inside they would take everything they could before leaving the premises, even though they had set off the alarm. Two subjects said they could disconnect the alarm system very

easily, as all alarms work off house electrical power. Fifty percent of the subjects said alarm systems would not deter them.

Contrary to public belief and police statistics, Operation Identification stickers on windows or doors are not acting as deterrents to the burglars interviewed. Three subjects were so amused by the question that they laughed. One said, "the sticker is only to spook you, and it is usually put on after the house has been burglarized." The subjects further said identification marks on personal property would not stop them, because the marks could be scraped off. Another said he was only worried about serial numbers on cars and that serial numbers on goods did not make any difference to him. A third said he would scrape off the marks before he took the merchandise to his fence, and that he preferred to scrape the marks off before he left the house so the goods could not be easily identified as stolen if he were stopped by the police. Another subject said his fence would take marked merchandise.

In response to questions about hidden television cameras, the subjects said they had not come in contact with this particular form of security device and therefore were not too concerned about it. When questioned about circular mirrors, the subjects either said they did not shoplift

that the circular mirrors were in plain view so they could easily get out of range.

Question No. 29

"Of all the methods of obtaining merchandise or money illegally, which would you prefer: shoplifting, burglary or armed robbery?" This proved to be a difficult question because most subjects did not want the researcher to think that they would go back to committing any of these crimes. Because of this difficulty, in addition to the fact that the question seemed to put the subjects on the defensive, it was decided that this question should be eliminated from the questionnaire.

All but one of those subjects who were asked preferred to stay with burglary. The reason given for this preference was that "if you were convicted of the crime of armed robbery, you could get too much time." The subject who answered that he would prefer armed robbery in the future said it was easier and the chances of getting caught were much less. He explained that all you had to do was to follow a person from a store to his car, point a gun and ask him for his money and then make a fast getaway. Interestingly, this subject's records showed he had recently been involved in a purse snatching.

Question No. 30

"When arrested, were you questioned specifically about a fence?" attempted to determine if there were any advantages to be gained in law enforcement by questioning the burglar about his fence immediately after his arrest. This question points up an area in which law enforcement agencies might get additional information to aid them, not only in apprehending fences, but also in recovering stolen merchandise. The results of this question indicated that in most cases the burglar is getting only superficial questioning by the police concerning where and how he disposes of the stolen property. More than sixty percent of the burglars arrested were not questioned at all about a fence.

The subjects who were questioned extensively about the disposing of stolen goods were frequently those well known to the police as being very active in fencing and burglary activities. One of these subjects said his fence was the person who puts up his bond. The subjects questioned in detail about whom they sold to said that if the police asked for names, they either gave no information or gave bogus names.

Question No. 31

"Did the police ask what happened to the merchandise and whether you could get it back?" This continues the line of questioning begun with the previous question. Normally,

the subjects volunteered this information when asked question 30; however, if the information was not volunteered, the interviewer felt it to be important enough to solicit. After giving a negative answer to question 30, the subject usually would go on to say he was only asked if he still had the stolen goods. After answering "no", he would then be asked if he could get the stolen goods back. Of all the subjects interviewed, all but one answered a mere "no" to this line of questioning. One subject said he told the police exactly where they could recover a painting and that the police never did anything with the information, because upon release he discovered that the painting was still where he told them it could be located.

In summary, the police did ask the questions "Do you have the stolen goods?" and "Can you get it back?" The exception was the policeman who interrogated one subject with "Do you want to say anything?"

Question No. 32

"Do you feel that fencing in the valley consists of a lot of small operators or a few large ones?" All of the subjects thought fencing in the valley consisted of many small operators; however, several subjects added that there were several large fencing operations.

Some comments were, "There is one large one for about every twenty small ones," "There must be a few big ones at the top to be able to get rid of everything," "There have to be a few large ones to explain what happens to a room full of televisions I saw late one night when delivering a color television set to my fence. The next morning when I went back for my money, the room was empty," "In order to move such a large amount of merchandise, there must be a few big fencing operations." The comment of one subject showed that he had been unsuccessful in locating a fence who operated on a large scale, saying, "I've always looked for a fence that would take everything I have to sell and give me more than the small operator who can only afford to pay me one dollar for every twenty dollars worth of goods.

Question 32 reinforces the theory that there are networks of fences between burglars and the ultimate purchasers of stolen goods.

Question No. 33

"Do you feel that fencing in the valley is a part of organized crime?" This question is closely related to the previous question in that if the subject thought fencing consisted of a lot of small operators, they would not be inclined to relate this activity to organized crime. If, however, they felt there were a few large fences, they might suspect that organized crime was involved, on the theory that organized crime is a well run business and would only

be involved in activities of a significant size.

All the subjects had the opinion that fencing in the valley was not a part of organized crime. They qualified those opinions by stating that stolen merchandise going into Mexico, particularly firearms, was probably a part of an organized crime group, referred to several times as the Mexican Mafia. Antiques was another type of goods mentioned as being involved in organized crime. One subject said that "antiques going to Tucson are involved in organized crime," another said that he knew an antique dealer in a coastal city who was "into organized crime." Nearly forty percent of the subjects thought fencing of guns was a part of organized crime. It was common knowledge that a stolen car going into Mexico was worth one ounce of high quality heroin; and one subject said he could get two ounces if the vehicle had four wheel drive. The drug involvement led the subjects to believe that the smuggling of cars across the border was controlled by organized crime.

Question No. 34

"Do you know any women who are fences?" Almost every subject said he knew of women fences, although he may not have dealt with one. Comments were, "I know two, one that deals for jewelry, and another that would handle anything for a commission." "The one I knew don't do it anymore . . .

she has two sons in Fort Grant." One subject knew a woman fence who owned a bar. Another knew two or three women who had been fences at one time or another, but said the ones he knew preferred "to trick" because they were afraid of "doing time" if caught with stolen goods. Three subjects knew of female fences who dealt in clothing, while another knew a woman who handled Indian jewelry, antiques and office machines. Interestingly, this subject was from the same east valley area as a fence who had admitted previously to the interviewers that she specialized in antiques and business machines. This disclosure gave additional credence to the information elicited from the subjects.

Question No. 35

"If you were offered a deal by the police in exchange for information, would you accept?" With one exception, every subject answered "no." One subject had second thoughts and changed his "no" to "maybe," saying that it depended on the deal. Three subjects answering "no" expressed a fear for their lives if they gave the police this kind of information. One subject said he valued his life too much; another said, "you could get killed;" and a third said that he would get killed in jail.

Subjects answering "no" expressed one common feeling: the police could not be trusted, or "they never do what they

say they will." Due to this feeling, these subjects saw no benefit accruing to them that would encourage them to cooperate with the police.

Question No. 36

"What if the same deal were offered by the prosecutor?" was asked subjects who had said they did not have enough trust in the policeman's word to be able to bargain with him. Over eighty percent of the subjects answering "no" to question 35 said they might consider an offer that was made to them by the prosecutor or judge. One subject added that he would want the agreement in writing. Another said that the deal would have to be "pretty good." The question showed a significant trend; that the subject's cooperation depended primarily on (1) what benefits he received, and (2) whether the person offering the benefits could be trusted.

Question No. 37

"Is there a lot of activity in fencing in Guadalupe?" was added after the first few subjects interviewed named Guadalupe as a place where many fences pay for stolen goods with drugs rather than cash. Guadalupe was also mentioned numerous times as the place of departure for goods going into Mexico. The answers showed that subjects living near Guadalupe (i.e., Tempe, South Phoenix) were aware of a lot of fencing activity being transacted in Guadalupe. Subjects

from areas farther away, such as Glendale, were not aware of the trafficking of stolen goods in Guadalupe.

One conclusion that could be drawn from these answers is that the fences used are in close proximity to their burglar sources.

Question No. 38

"What do you think happens to bicycles stolen in the valley?" was asked to see if the distribution channels of a specific type of goods could be discovered. Inquiring about bicycles, in order to establish a channel of distribution, turned out to be a poor choice. The question did not yield any uniform answers, so no pattern could be established. A few subjects said they would take bicycles to a friend and not to a fence. Several others said bicycles go to Tucson, Yuma, or the other side of the valley from where they were stolen. Most subjects did not steal bicycles and as a result they did not know a fence who handled them.

Questions No. 39 and 40

These questions were asked to evaluate the effectiveness of Phoenix Ordinance No. G-914 in preventing or controlling the flow of stolen goods. See Exhibit 6. Section 1 (a) (8) and (9) of the ordinance provide for penalties that include a \$300 fine, six months imprisonment, and the license of the business being suspended. Two-thirds of the subjects

indicated that the ordinance did not prevent them from selling to pawn shops. Their comments, as quoted here, lead to a conclusion that pawnshops encouraged the subjects to trade with them by not asking for identification: "Ninety percent of pawn shops will buy stolen goods. I have sold all types of goods to every pawn shop in Phoenix. Identification is not asked for, so I can give them a phony name. The pawn shops will change the serial numbers on guns and then get papers made for them." "I only sold to one pawn shop and I knew the owner there." "Yes, I have sold to pawn shops. You tell them what you have is hot and then they don't fill out a policy report." If these comments can be believed, it would show there is a tacit understanding that the majority of pawn shops will act as a fence for stolen goods.

The subjects who did not sell to pawn shops gave their reasons as follows: "I tried selling to a pawn shop once, but they asked for I.D." "I don't sell to pawn shops because you have to sign your name." Both sets of answers indicate that if the ordinance is followed by the pawn shop operators, it would act as a deterrent to the distribution of stolen goods. The ordinance does prevent some movement of stolen goods through pawn shops, particularly when the pawn shop operator and the burglar are strangers and neither party knows if the other can be trusted.

Question No. 41, 42

Both of these questions required the subject to furnish names. These questions were deliberately placed at the end of the interview, so that if after being asked, the subject became suspicious or resentful, thereby breaking down the communication channels, the effect on the study would be nil. In most interviews these questions were unasked because the interviewers wanted to maintain a good relationship with the subjects since there was a possibility of re-interviewing the same subject at a later time. The questions could put an immediate strain on a good relationship that had been established between the subject and interviewer. It was obvious during the interview that if the subject wished to give out names, he had many opportunities to do so. Any names that were mentioned to the interviewers were given during the course of the interview and were not given as a result of these questions. One could immediately sense a very uncomfortable feeling, amounting to almost a complete withdrawal of the subject. This perception, whether real or imagined, prevented one interviewer from being able to ask these questions except in a very few instances.

Fences are Ignored for Many Reasons

There is a wide range of reasons for fences being ignored by law enforcement agencies: problems with identification of fences and stolen goods; problems in obtaining convictions; budget and manpower problems; the ambivalent attitude of the public toward buying stolen goods; the fence in many cases is a "law abiding" citizen running a business such as a car lot, tavern, service station, restaurant, antique shop or second-hand store. The problems stated above may explain some of the existing deficiencies noticed in law enforcement agencies for obtaining information from burglars.

MAG Study Overlooks the Fence

The Maricopa Association of Governments (MAG) has recently drafted the MAG "Summary of the Burglary Reduction Study." It states that, "It is significant that public interest in burglary reduction has increased recently, and that suggestions for burglary reduction are being discussed in the press. Based on national averages, if you were the victim of a burglary it could cost you \$312. In the last five years, throughout the nation there has been a 108 percent increase in the number of daytime burglaries. As indicated by national averages and the reports by law enforcement officials in Maricopa County, the probability that you will be a victim of a burglary has dramatically increased,

and, unless some action is taken by the citizens and law enforcement agencies, there will be even greater loss of citizens' property because of burglaries." The MAG study goes on to say that, "a reduction of burglaries is contingent upon the degree to which the general public becomes aware of precautions to take to reduce the likelihood of becoming a victim. The ultimate success or failure of crime prevention is based upon the elimination of conditions that foster crime." MAG lists eight recommendations to reduce burglaries. They range from better street lighting to revising local building codes so that future construction makes breaking and entering more difficult. Fences are completely ignored in the recommendations. One area of the study acknowledges the existence of fences under the heading of "Detection of Stolen Property." It says, "A 'fence' is a person who disposes of stolen property and makes it possible for the burglar to exchange stolen property for cash or narcotics. The detection of property that is stolen and those who deal in stolen property is extremely difficult because property without serial numbers is virtually impossible to identify and items with serial numbers have very seldom been recorded by those burglarized.

"The largest percent of fencing activities of stolen property is conducted in geographical areas other than where the burglary occurred. The lack of information about the

type of property taken, the description of the property and when the property was taken in a burglary contributes to the difficulties of property detection. The property taken in Scottsdale may be sold in a 'swap meet' in Yuma. The burglars realize that there is less chance of being caught if they leave a certain law enforcement jurisdiction because most likely the police in a different area knows nothing about burglaries committed in other areas.

"Apprehending the 'fence' is extremely difficult because buying or possessing stolen property is a difficult criminal charge to substantiate. A fence will not usually buy items easy to identify. He only buys property that can be disposed of very quickly and has a high demand both as new property and used property; e.g., television sets, radios, stereos, and tape recorders."

The MAG study's comment about burglars leaving the jurisdiction to sell stolen goods was not borne out by the burglars interviewed in the instant study. The subjects stressed that they get rid of the proceeds immediately after the crime. The one exception to the immediate disposition phenomenon involves stolen cars and trucks. The normal procedure for cars and trucks is to drive them either to the Mexican border or across it. The exception to this exception is one burglar who specialized in stealing Volkswagens, sold

them immediately to his fence, a man who converted the cars to sandbuggies in his valley shop. As a rule, the elapsed time between the theft and sale is so short (fifteen minutes to two hours, as discussed in question 23), the logical conclusion to be drawn is that it is the fences, not the burglars, who transport goods outside the jurisdiction.

The MAG study has directed its focus away from the fence and to the victim, demonstrating how the fence can be ignored. Their recommendations to prevent "easy" fencing were as follows: (1) Encourage merchants to keep records of both purchasers and serial numbers of items commonly stolen and easily fenced; (2) Put greater emphasis on Operation Identification and similar methods of marking personal property as a means of identifying property if it was stolen; (3) Expand Operation Identification to include a regional number system in order to detect the part of the region and state from which the property was stolen so that other police departments can participate in the apprehension of burglars and fences operating in their jurisdictions.

Policy is Restricted by the Budget

The responsibility of determining where and how to use available funds starts at the level of the Police Department. The Chief of Police normally proposes his department's budget based on the previous year's expenditures, plus an increase to meet rising costs and increased growth. This

budget is reviewed by the City Manager and other administrative personnel, and finally approved by the City Council. In most cases, the city fathers are more interested in balancing income with outflow and in keeping taxes low than in providing the police with everything they request to combat crime.

Since the Chief of Police is invariably forced to operate his department on a smaller budget than he would like, he must set priorities on where the money is to be used. The attitude of the public comes into play at this stage; the crimes with a high profile vie for the funds and ultimately the manpower. The receiver of stolen goods is engaged in a low profile crime, one step removed from the crime of burglary, so there is little incentive to direct time, manpower and money into this area unless strong public and city administration pressures are applied to this specific area.

The City of Tempe's budget figures are used as an example to show what is presented to the City Council. The 1973-74 Annual Budget is a booklet 8½ x 11 inches in size by one inch thick, containing over 100 pages printed on both sides. Exhibit 1 is a page from the budget showing 14.9% of the resources are allocated to the police. Exhibit 2 shows the allocated amount of \$1,873,680 broken out into seven

categories. Exhibit 3, the Department Summary, shows a finer breakdown of the costs but does not attempt to show allocations by type of crime. Exhibit 4 shows the increases for the last several years in police employees, major crimes and traffic accidents.

Identification of Fences is Difficult

The next problem facing the police is the allocation of manpower to identify fences. Police are as reluctant to discuss the names of fences as are burglars. It is not clear whether they are informed in this area and merely afraid of liability by mentioning names, or if they have no knowledge of who the fences are. Law enforcement officials for the City of Phoenix indicated that they did not know of any current fencing activities. However, a different story was given to Jack Swanson of the Arizona Republic. "Phoenix police don't like to talk about why more fences aren't arrested. Part of the reason may be because the department is so wrapped up in catching burglars and taking burglary reports it doesn't have time or manpower to pursue fences . . . Lt. Don Peterson, in charge of the Phoenix Police burglary detail, moved his chair back and pulled out a 10-page list containing 103 names from his drawer. He said 'These are people we know to have bought stolen property.'"⁵

⁵"Fence Called Key to Burglary Method, "Arizona Republic, April 8, 1972.

The primary ways to identify fences are (1) police gathering of the information through undercover agents, or (2) getting the information from the burglars. Interestingly, while a few burglars indicated they would be in fear of their lives if they revealed the names of fences, most of the burglars interviewed felt no loyalty toward their fences and would reveal their names if the price were right. Burglars indicated they would not give the information to the police unless they were assured of some personal benefit. Most did not trust a policeman's word but would trust a proposition made to them by the prosecutor or the judge.

Conviction is More Difficult

The police soon find out that even if they catch a fence in possession of stolen goods, it is quite unlikely that the arrest will result in a conviction. The major difficulty in getting such convictions is that the Arizona statute on receiving stolen property requires proof that the accused knew or should have known that the property was stolen, and such knowledge must have existed at the time the property was received.⁶ Exhibit 5 is a copy of the Arizona statute. Guilty knowledge is an element of the offense which must be alleged and proven.⁷ Mere possession of stolen goods

⁶State v. Butler, 9 Ariz. App. 162, 450 P.2d 128 (1969).

⁷State v. Tellez, 6 Ariz. App. 251, 431 P.2d 691 (1967).

does not in and of itself establish guilty knowledge on the part of the possessor.⁸ However, mere possession along with something more can be enough to prove the defendant "had reason to believe" (also called constructive knowledge) the property was stolen. Arizona court decisions also hold "Knowledge . . . that property was stolen may be established by circumstantial evidence."⁹ An Arizona appellate court in State v. Butler¹⁰ has interpreted constructive knowledge to be other evidence in addition to (1) possession and (2) sale at disproportionately low price.

Even though Arizona law permits a conviction to be based on constructive knowledge rather than actual knowledge and circumstantial evidence rather than direct evidence, a very small percentage of fences ever face conviction. It seems obvious that Arizona needs a more stringent law to overcome the present difficulties in obtaining convictions.

Possible Solutions

Legislation as a Solution

Stronger laws can come about only by legislative action. Legislators need to be aware that the operation of the fence has a great impact on the number of burglaries.

⁸State v. Grijava, 8 Ariz. App. 205, 445 P.2d 88 (1968).

⁹Id. at 7.

¹⁰Id. at 6.

A.R.S. §13-621 prohibits the sale of stolen property and provides the penalties for this offense. At the 1974 session of the Arizona Legislature, Representative D. Lee Jones proposed adding an additional paragraph to this statute to provide for treble civil damages for victims, as follows: "Any person who has been injured by a violation of this section may bring an action for three times the amount of the actual damages, if any, sustained by the plaintiff costs and reasonable attorney's fees." See Exhibit 7. A modification of the proposed house bill was passed as Senate Bill 1004, and became effective August 1974. Representative Jones hopes this addition will act as a deterrent to fences. The amendment allows the lawful owner to collect an amount equal to twice the market value of the property and legal fees from any person who buys, sells, possesses, conceals or receives personal property which he knows or has reasonable cause to believe is stolen. See Exhibit 5. The amendment also eliminated the presumption previously allowed in paragraph B. The changed law is not clear on whether the victim is entitled to recover his property as well as twice the market value of the property.

The Arizona Legislature has not accepted the doctrine of "recent unexplained possession"; however, other states have long recognized the doctrine that guilty knowledge may

be inferred from the unexplained possession of recently stolen property.¹¹ Due process requires that the State establish the guilt of the accused beyond a reasonable doubt; the presumption that unexplained possession of recently stolen goods is sufficient evidence of guilt of receiving stolen goods has not met this test in some states. These states have held the presumption to be unconstitutional.¹²

Another proposal that could have been a great deterrent to fencing was proposed to the Arizona State Legislature's Criminal Code Commission. They recently considered and rejected a proposal that a presumption of guilty knowledge could be found whenever a person was charged for the third time with sale or possession of stolen goods. This proposal, if effected, would probably be held to contravene the 5th and 14th Amendments to the United States Constitution, because court decisions have held criminal statutory presumptions must be regarded as "irrational" or "arbitrary" and hence, unconstitutional unless it can be said with substantial assurance that a presumed fact is more likely than not to flow from a proved fact on which it is made to depend.¹³

A law to deter fencing activities could require that all buyers of used property must use the same due care that

¹¹U.S. v. Redd, 438 F.2d 335 (9th Cir. 1971).

¹²See cases collected at 75 Dickinson L. Rev. 544 (1971).

¹³Leary v. U.S., 395 U.S. 6 (1969); Tot v. U.S., 319 U.S. 463 (1943); U.S. v. Gainey, 380 U.S. 63 (1965).

would be used in cashing a check. Normally this involves two identification documents--one being a driver's license--plus a verifiable address and phone number. This information would be kept on file in the same manner as other invoices kept by a merchant and should be available to a police audit, else a presumption of guilty knowledge would be attributed to the buyer.

While legislation is not the complete answer, changes in the law to make conviction of fences easier may give the police added incentive to find and convict these lawbreakers.

Arrest as a Solution

Would arrests for fencing actually decrease burglaries? A recent study by the L.E.A.A. Field Site Representative of the Miami Police Department advanced the hypothesis that the arrest of fences appears to be a more effective means of decreasing the incidence of burglary than the arrest of burglars. One conclusion in this study was:

Although it is recognized that the quantity of data is limited and that other interpretations are possible, it would appear that the incidence of burglary in the City of Miami is decreased by fencing arrests. It seems that whenever the police pressure on fencing stops for 30 days, burglaries rise and that the incidence of burglaries decreases (in a much quicker time) in response to arrests for fencing.

The explanation for the above would appear to be that the word of a fencing arrest is very quickly propagated throughout the business community. A "legitimate" businessman who has never been arrested before probably begins to exercise caution in purchasing stolen goods for fear of arrest.¹⁴

As previously discussed, the answers to question 1 showed that all of the burglars interviewed used more than one fence. In most cases the minimum number of fences used by a burglar was four. One of the most apparent reasons for the use of more than one fence was that many fences specialize; some will only trade for guns, others want jewelry, and still others only want color television sets. According to the burglars interviewed, burglars sometimes shop among the fences they know to see where they will get the best price. Some fences do not have the cash to handle a large volume of goods and will send the thief to another fence who is accustomed to dealing with large amounts of goods. As discussed in questions 14 and 32, there seems to be a hierarchy among fences. Several burglars expressed the feeling that there was another level of fencing above the ones they dealt with.

Since most burglars know more than one fence, if one of a typical burglar's fences were arrested and convicted, the

¹⁴Petersen and Keenan, On Fencing, 1973, p. 61.

stolen goods normally going to that fence could be diverted into the hands of one of the remaining fences.

Another hypothesis to consider is that if burglaries are deterred through fencing arrests, a major problem still exists: the drug addicted burglar who needs to sustain his habit. If an addict cannot convert stolen goods into drugs, he may be forced to locate cash which does not need to be converted. He may then turn to other forms of crime, such as armed robbery. It may be that we should turn our attention to the addict and control him. It may be that fencing serves a societal function of preventing more serious crimes against the person. To sustain this hypothesis, one needs to assume that many burglars are addicts. Of the burglars interviewed, about fifty percent claimed to be heroin addicts. The question then becomes: would they burglarize if they were not addicts?

Operation Identification as a Solution

Administrative procedures such as Operation Identification may help a victim recover his goods if the burglar or fence happens to get caught, but it doesn't help ferret out the fence. If the goods were seized by police from the possession of the fence, easy identification of the goods as stolen merchandise would help in the prosecution of the fence. However, the burglars interviewed laughed when asked if an

Operation Identification sticker on a home would deter them. Operation Identification does not prevent the burglary or prevent the fencing activities. Operation Identification is not a method for reducing fencing activities; its main purpose is to be able to identify the goods as stolen so it can be used as evidence and to identify the victim so that he can recover the goods. An example illustrating this need to identify personal property was related by a burglar who confessed to over 1,200 burglaries. He said that at the time of one arrest he had five stolen unmarked television sets in his pickup. They were confiscated by the police and months later, while he was incarcerated, the television sets were returned to his wife. Even though the police probably felt sure the sets were stolen, there was no way to establish that it was stolen property or to whom it belonged, so the police had no recourse but to return the sets to the burglar's wife.

A Case Study

An actual case is used to illustrate a typical administrative disposal of a burglary-fence case. Using bolt cutters, three young men broke into rented storage lockers in November, 1973. In a short time they had \$12,000 worth of stolen goods loaded into a truck. They left the scene and stopped at Fence No. 1's house to discuss the sale.

Fence No. 1 called Fence No. 2. The fences arranged to meet at the house shared by the burglars.

Fence No. 2 showed up with a neighbor, Fence No. 3. The burglars accepted an offer of \$600 for the \$12,000 worth of goods. While they were unloading the stolen goods, the police arrived and all six were arrested. The burglars were charged with two counts of first degree burglary and two counts of grand theft. The fences were charged with receiving stolen property. Burglar No. 1 was interviewed. He discussed Fence No. 2 as being one of the four fences with whom he dealt.

Fence No. 1 was the only one of the six defendants with a previous adult criminal record. His record showed three prior convictions, two for burglary and one for possession of dangerous drugs for which he was on probation at the time of arrest. A close scrutiny of the following chart showing disposition of the cases reveals that Fence No. 1 served no time, while the three burglars all spent time in jail under varying sentences.

The following shows the disposition of the cases:

	<u>Justice Court</u>	<u>Superior Court</u>
Burglar No. 1	waived preliminary hearing 11-16	On January 4, '74 convicted of first degree burglary. Sentenced to 3 mos. jail, 3 yrs. probation.
Burglar No. 2	waived preliminary hearing 11-28	On March 11, 1974 convicted of 2nd degree burglary. Sentenced to 10 weekends in jail, 3 yrs. probation.
Burglar No. 3	bound over to Superior Court. Testified for the State 11-16	On January 3, '74 convicted of 2nd degree burglary. Sentenced to 10 weekends in jail, 2 yrs. probation.
Fence No. 1	bound over to Superior Court 11-16	On Jan. 14, 1974 convicted of illegal possession of dangerous drugs, a felony. Sentenced to 5 yrs. probation. Receiving charges dismissed.
Fence No. 2	waived preliminary hearing. Pleaded guilty to Receiving, a misdemeanor. Sentenced to 6 mos. probation 11-21	
Fence No. 3	Charges dismissed. Insufficient evidence. Testified for state. 11-21	

This case is an illustration of the discussion in an earlier section which concluded that fences are ignored for various reasons, one being that conviction is more difficult. It further illustrates how rapidly stolen property changes hands from the burglar to the fence, as discussed in question 23.

Little Effort is Made for Fence Information

The information obtained from the answers to questions 30 and 31 showed that police make little effort to get fencing information. They appear to be far more interested in showing a reasonable percentage of "cleared" burglaries by pressuring the accused burglar into admitting other burglaries. The pressure applied by police to accomplish this task is to give burglars amnesty for any additional burglaries they will admit. The burglars are told they will be prosecuted for all unmentioned burglaries that police might later connect them to and that they can escape prosecution by admitting to them now. This procedure "clears paper" on a lot of burglaries but does little in the way of locating stolen merchandise or locating and prosecuting the receiver of such merchandise. Since the police are well aware of the great difficulty in pushing the investigation to catch and convict the fence, they tend to settle for the next best thing, clearing as many reported burglaries as they can.

Even though the police may appear to be at fault by not pressing for names of fences, answers to question 35 reveal that burglars would not divulge the information even if offered special consideration. Distrust of the police and fear for their own personal safety were cited as reasons. The case study substantiates this view. Burglar No. 1, who was interviewed, said that the police made an offer to lower the charge to petty theft for information to make a drug arrest. He supplied the information and said the police did not live up to their end of the bargain.

Both the police and the public are apparently ignoring the fence to a great extent. Obviously, police departments are anxious to clear their backlog of unsolved burglaries and thus spend little time attempting to apprehend fences or even to use the apprehended burglar as a source of fencing information.

Perhaps this apparent lack of interest by police and public is due to the nature of the crime. The transaction between the burglar and the fence is a concealed crime with both parties benefiting financially from the transaction. As such, it must be separated from the crime of burglary since the method of control is so different. Like prostitution, drug offenses, and other crimes of this type, the method of control must be through the use of informers, undercover operations, and surveillance. Undercover agents

working in the drug area should be able to come up with information on fencing activities. The "drug scene" plays such a large role in burglaries and the subsequent sale or trade to a fence that undercover agents must be aware of where some of the fencing action is. Once the police have names, either through informers or undercover activities, they could begin surveillance until they catch the fence in the act of buying stolen goods.

One well publicized police department that is concentrating money and manpower to get fencing arrests is operating in Indianapolis under an L.E.A.A. grant. Winston Churchill, former chief of the Indianapolis Police Department, established an unusual nine-man Crime Action Team, the "CAT Squad," just to run those time-consuming investigations. The CAT Squad assists other special detective units at times, but its principal task is to crack down on fences.

August Gribben described Indianapolis's CAT Squad in a recent article in The National Observer.

In most police departments "burglary and pawn" squads investigate fencing or cases of "possession" or "receiving" as police call them. Almost everywhere detectives give burglary and burglars most of the attention, although district attorneys, police executives, thieves, and fences themselves attest that the best way to stop thievery is to eliminate fences . . . Detectives know from

experience, however, that they can arrest and help convict burglars more easily than fences, and that normally the more arrests with subsequent conviction they log, the better their promotion chances become.

Lt. Larry Turner, a 32-year old former paratrooper who is studying for his master's degree, runs Indianapolis' CAT Squad. He directs a sharp crew, mostly college graduates with demonstrated ability to stick patiently and doggedly on long, involved cases.

The team has the time and equipment that textbooks say all detectives need but that most lack. Squad members drive a variety of leased, unmarked cars and trucks, which they periodically replace. Some vehicles are new, some old. Some are battered. Some bear out-of-state tags.

The Squad has money for paying informants; video-tape cameras, which each man knows how to use; walkie-talkies; still cameras; the capability of initiating wire taps; and freedom from unnecessary red tape. The Squad has recovered thousands of dollars in stolen property, and Chief Churchill said, "It has sent to jail fences and others who normally would never have been caught."¹⁵

Summary

A major key to the number of burglaries currently being committed is the fencing activity. The fence is a criminal but he is an underrated, almost invisible criminal. This is an important concept, because as long as he is allowed to live in a shadow world, he is likely to be ignored for a number of reasons.

¹⁵August Gribben, The National Observer, "Crime's Middlemen," Nov. 17, 1973.

One major factor contributing to the fence's being ignored is that most cities lack budget monies to ferret him out. Because he is an unseen figure dealing secretly with willing participants, his identification is more difficult than a more visible criminal, the burglar, who is more likely to be seen committing the crime by the victim, the victim's neighbors, or the police and who leaves the victim clamoring for justice. A second obstacle, proving guilty knowledge, must be overcome before a fence can be convicted. The case study presented shows that even when a fence is caught "red-handed," it is difficult to get a heavy punitive sentence or even a conviction which could act as a deterrent for both this fence and for other fences. Thus, society is faced with a two-fold problem: the identification and conviction of the fence.

Some possible solutions to the double problem may be found by changing laws, enforcement techniques, administrative practices, and especially by changing the public's apathy toward this criminal. Even though the Arizona statute on receiving stolen property was recently changed in an attempt to take the profit out of the crime, more legislation is needed to make it impossible for fences to hide behind the veil of guilty knowledge. If burglaries are getting out of control, and the fence is a major key to control, it may be that we need a law that does not depend on whether the person

buying stolen property has "clean hands."

Changes in administrative practices offer another possibility. Police procedures in arrest and apprehension of burglars can be changed by de-emphasizing cleaning up whatever "paper work" they can on unsolved burglaries, and by putting more emphasis on getting information that will lead to the arrest and conviction of the fence. In addition, a policy of no plea bargains when an accused is charged with receiving, or no probation after a conviction for receiving, would make the crime of receiving carry more personal risk. If the above were adopted, "legitimate" businessmen might consider the increased risk before becoming involved in this profitable crime. Ferreting out fencing activities by undercover methods would be an additional cost to a city, but if this results in a significant reduction in the number of burglaries, the overall cost to society should be substantially reduced. Before a serious concentrated effort to identify and convict fences is begun, the effect that this enforcement may have on increasing crimes in other areas (discussed under the heading, "Arrests as a Solution") should be considered.

In an effort to make the fence more identifiable and more convictable, and to ensure that the fence cannot continue his profitable criminal pursuits, this study points

to the following recommendations:

1. Police should be instructed to ask all persons arrested for burglary and drug offenses whether they know of any fencing operations.

2. Information about fencing activities should be required before a plea bargain is granted to a burglar.

3. A special unit, on a city or state-wide basis, should be established to follow up leads on fencing activities obtained by the police.

4. Operation Identification should be continued as a tool for recovering property and for use in prosecuting burglars and fences.

5. Additional research should be made in the area of the "legitimate" businessman and his involvement in fencing operations.

These proposed recommendations and resulting solutions cannot become a reality until a concerned public--willing to insist that governmental agencies provide the additional funds and stringent laws needed to convict receivers of stolen property--makes its voice heard.

ADDENDA

ANNUAL BUDGET

viii

Resource Allocation Trend Analysis
By Function

	1971-72 Actual		1972-73 Estimate		1973-74 Proposed	
	Amount	% of Total	Amount	% of Total	Amount	% of Total
GENERAL GOVERNMENT						
Mayor and Council	\$ 40,002	.6%	\$ 45,577	.5%	\$ 45,641	.4%
Elections	10,160	.2			18,000	.1
City Clerk	29,698	.5	29,697	.4	36,871	.3
City Courts	62,372	1.0	71,141	.8	75,648	.6
City Attorney	82,336	1.3	90,644	1.1	102,600	.8
City Manager	94,224	1.4	88,216	1.0	112,668	.9
Management Services	259,353	4.0	286,688	3.3	372,435	2.9
Planning	99,924	1.5	142,915	1.7	172,522	1.4
Personnel	32,948	.5	36,531	.4	40,086	.3
Building & Grounds	146,576	2.2	180,932	2.1	250,784	2.0
Non-Departmental	217,617	3.3	138,198	1.6	147,786	1.2
Total	<u>1,075,210</u>	<u>16.5</u>	<u>1,110,539</u>	<u>12.9</u>	<u>1,375,041</u>	<u>10.9</u>
PUBLIC SAFETY						
Police	1,252,520	19.2	1,585,510	18.4	1,873,680	14.9
Fire	661,447	10.2	810,075	9.4	1,026,364	8.2
Building Inspection	170,976	2.6	219,647	2.5	246,688	2.0
Traffic Engineering	268,922	4.1	333,835	3.9	407,923	3.2
Civil Defense	4,822	.1	5,036	.1	5,500	
Total	<u>2,358,687</u>	<u>36.2</u>	<u>2,954,103</u>	<u>34.3</u>	<u>3,560,155</u>	<u>28.3</u>
PUBLIC WORKS						
Admin. & Engineering	252,628	3.9	293,012	3.4	384,664	3.1
Streets Maintenance	235,288	3.6	307,441	3.6	511,278	4.0
Total	<u>487,916</u>	<u>7.5</u>	<u>600,453</u>	<u>7.0</u>	<u>895,942</u>	<u>7.1</u>
CULTURE-RECREATION						
Parks	335,922	5.2	322,699	3.8	487,122	3.9
Recreation	247,147	3.8	355,824	4.1	528,143	4.2
Library	183,896	2.8	239,743	2.8	239,996	1.9
Total	<u>766,965</u>	<u>11.8</u>	<u>918,266</u>	<u>10.7</u>	<u>1,255,261</u>	<u>10.0</u>
CAPITAL IMPROVEMENTS(1)						
Streets Construction	337,514	5.2	717,483	8.3	1,004,000	8.0
Fire Protection	52,933	.8	105,000	1.2	4,000	
Police Protection	16,176	.3	50,000	.6		
Storm Drains			50,000	.6	1,405,820	11.2
Library Bookstock	50,010	.8	70,000	.8		
Parks	393,803	6.0	743,000	8.6	1,338,300	10.6
Bikeways					80,000	.6
Traffic Signals	41,389	.6	144,000	1.7	76,000	.6
Total	<u>891,825</u>	<u>13.7</u>	<u>1,879,483</u>	<u>21.8</u>	<u>3,908,120</u>	<u>31.0</u>
LONG-TERM DEBT SERVICE						
	656,446	10.1	915,758	10.7	1,204,578	9.6
UTILITY SUBSIDIES(2)						
Refuse	237,756	3.7	179,236	2.1	331,357	2.7
Irrigation	27,625	.4	34,057	.4	37,813	.3
Cemetery	9,218	.1	12,984	.1	16,556	.1
Total	<u>274,599</u>	<u>4.2</u>	<u>226,277</u>	<u>2.6</u>	<u>385,726</u>	<u>3.1</u>
TOTAL GOVERNMENTAL ALLOCATIONS(3)						
	<u>\$6,511,648</u>	<u>100.0%</u>	<u>\$8,604,879</u>	<u>100.0%</u>	<u>\$12,584,823</u>	<u>100.0%</u>

(1) Reflects only allocations from current revenues; for total 1973-74 Capital Improvements Program, see page 168.

(2) These costs are net of user charge collections; see page xv for revenue detail.

(3) Does not include self-supporting activities of Water and Sewer and Urban Redevelopment.

Table 5
 Summary of Requirements
 by Department and Activity
 Fiscal Years 1971-72 thru 1973-74

	1971-72	1972-73		1973-74 Budget Estimates				
	Actual Expenditures	Original Budget	Revised Estimates	Personal Services	Supplies	Other Charges	Capital Outlay	Total
Building Inspection:								
Admin. & New Construction	146,401	198,358	196,656	208,352	4,361	13,739	5,605	232,057
Environmental Conservation	24,575	23,345	22,991	13,026	125	1,480		14,631
Total Bldg. Inspection	<u>170,976</u>	<u>221,703</u>	<u>219,647</u>	<u>221,378</u>	<u>4,486</u>	<u>15,219</u>	<u>5,605</u>	<u>246,688</u>
Police:								
Administration	73,024	104,443	99,773	93,202	1,500	6,880	9,601	111,183
Field Operations								
Administration	33,710	49,706	43,856	21,125	175	25		21,325
Patrol	641,937	823,439	778,521	839,378	28,173	36,266	24,856	928,673
Traffic Bureau	134,439	162,804	171,005	205,397	3,250	11,500	24,310	244,457
Criminal Investigation	127,331	201,504	195,994	228,670	7,469	9,366	17,260	262,765
Reserve	1,519	1,300	2,507	720	900			1,620
Total Field Operations	<u>938,936</u>	<u>1,238,753</u>	<u>1,191,883</u>	<u>1,295,290</u>	<u>39,967</u>	<u>57,157</u>	<u>66,426</u>	<u>1,458,840</u>
Staff Services								
Administration	21,785	22,279	21,088	21,228	175	50		21,453
Technical Services	234,952	257,456	272,766	230,919	12,700	34,200	4,385	282,204
Total Staff Services	<u>256,737</u>	<u>279,735</u>	<u>293,854</u>	<u>252,147</u>	<u>12,875</u>	<u>34,250</u>	<u>4,385</u>	<u>303,657</u>
Total Police	<u>1,268,697</u>	<u>1,622,931</u>	<u>1,585,510</u>	<u>1,640,639</u>	<u>54,342</u>	<u>98,287</u>	<u>80,412</u>	<u>1,873,680</u>
Library:								
Administration	43,119	46,515	42,215	46,177	625	2,660	350	49,812
Main Library	31,289	35,194	29,376				1,080	1,080
Technical Services	26,265	40,985	40,005	60,404	1,600	275	145	62,424
Circulation	23,430	44,942	39,182	7,953	4,500	22,475		34,928
Public Services	40,736	58,169	60,788	71,841	325	1,100	300	73,566
Acquisitions	58,344	20,947	17,651	5,771	150	125		6,046
Bookmobile	10,724	11,746	10,526	10,055	95	1,990		12,140
Total Library	<u>233,907</u>	<u>258,498</u>	<u>239,743</u>	<u>202,201</u>	<u>7,295</u>	<u>28,625</u>	<u>1,875</u>	<u>239,996</u>

DEPARTMENT SUMMARY

Department	Function				Account
Police	Public Safety				33000
Object Classification	1972-73		1973-74 Allowance		
	Adopted Budget	Estimated Actual	Base Budget	Program Improvements	Total
PERSONAL SERVICES	1,326,156	1,313,889	1,436,933	203,706	1,640,639
SUPPLIES	48,140	46,383	54,342		54,342
OTHER SERVICES & CHARGES	146,228	122,529	90,622	7,665	98,287
CAPITAL OUTLAY	102,407	102,709	34,191	46,221	80,412
TOTAL	1,622,931	1,585,510	1,616,088	257,592	1,873,680
INTERPROGRAM CREDITS					
NET AMOUNT	1,622,931	1,585,510	1,616,088	257,592	1,873,680
Number of Positions	101	101	101	18	119
EXPENDITURES BY DIVISION					
Administration	104,443	99,773	94,190	16,993	111,183
Field Operations	1,238,753	1,191,883	1,235,444	223,396	1,458,840
Staff Services	279,735	293,854	286,454	17,203	303,657
Total	1,622,931	1,585,510	1,616,088	257,592	1,873,680
PERSONNEL BY DIVISION					
Administration	6	6	5	1	6
Field Operations	73	73	73	15	88
Staff Services	22	22	23	2	25
Total	101	101	101	18	119

PROGRAM INFORMATION

Department	Function	Account
Police	Public Safety	33000

The Police Department is responsible for the preservation of law and order, the enforcement of State and City laws, the protection of life and property, the prevention and investigation of crimes and the custody of prisoners.

33100 - Administration

The Police Chief is responsible for the overall administration of the Police Department. All departmental activities are coordinated through this section.

33200 - Field Operations

The Division of Field Operations is responsible for all criminal police patrol and preliminary criminal investigation and reporting. The division also enforces traffic laws and is responsible for accident investigation and records, parking and intersection control, and service of misdemeanor warrants. The Criminal Investigations Bureau within this division investigates crimes, prepares criminal cases for prosecution, serves felony warrants and cooperates with other law enforcement agencies in apprehending fugitives.

33300 - Staff Services

This division controls crime records and reports, individual files and fingerprinting activities. Also responsible for dispatching police units to scenes of crime, the custody and care of prisoners, research, planning, training and the community relations program.

Selected Work Program Statistics

	Estimated 1972-73	Estimated 1973-74
Reports processed	12,200	13,420
Radio transmissions	423,448	465,792
Prisoners booked	3,297	3,626
Moving vehicle citations	17,826	19,608
Parking citations	25,877	28,464
Mobile calls answered	33,000	36,300
Accidents investigated	2,629	2,891
Criminal cases	6,017	6,618

9. How far geographically is your fence away from you?
10. Do you decide ahead of a theft how you will dispose of merchandise?
11. Does your fence sometimes put in an order with you for what he wants?
What percent of the time?
For what items?
12. Do you specialize or prefer certain types of goods? What types?
13. How many fences have you used in the six months prior to your arrest?
14. Do you know if the fence sells direct to the public?
15. Do you know where he sells? Valley_____. State_____. Out of State_____.
16. Does the fence have an established legitimate business? If yes,
what business?

17. What percent of value do you get for the merchandise?

From fence _____.

From other than fence _____.

18. Do you think you get paid as much as you should considering
a) you are doing all the work and b) you are taking most of the risk?

19. Type of merchandise easiest to get (steal)? To dispose of (sell)?
Mark "G" for get, "D" for dispose

Jewelery
Indian Jewelery
appliances
 small
 large
tools
 hand tools
 power tools
lawn mower
clothing
stereo systems
tape deck and tapes
radios
hub caps
silver
copper
antiques
guns
livestock
liquor & cigarettes

Televisions: B & W Portable _____
 Console _____
 Color Portable _____
 Console _____
office machinery equipment
construction equipment
bicycles
paintings - oil
 other artwork
automobiles
motorcycles & motorscooters
ham radio
dishes
collections
 coin
 stamp
 other
credit cards, money orders, checks
cameras

20. Have you ever attempted to sell to a businessman without knowing he
was a fence? _____. What kind of business was he in?

21. Have you ever tried to sell stolen merchandise to other than a fence?
If so, where:

Park and Swap_____.	Second hand dealer_____.
Auction_____.	Pawn shops_____.
Tavern_____.	Other_____.
Door-to-door_____.	

22. How do you decide the value of merchandise?

23. What is the usual length of time between the theft and sale?

24. How do you select a building, house, or car?

25. How far in advance do you select the building, house or car?

26. What is your main source of merchandise?

trucks	offices
houses	stores - discount
cars	department
storage lockers	drug
warehouses	other

27. Do you prefer any certain time of day? Yes_____. No_____.

What time_____.

28. Are any of the following deterrents to you?

hidden TV cameras	locked cars
circular mirrors	alarm systems
operation identification stickers	dogs
other protection stickers	

29. Of all the methods of obtaining merchandise or money illegally which would you prefer: shoplifting, burglary, or armed robbery?

30. When arrested, were you questioned specifically about a fence?

31. Did the police ask what happened to the merchandise and whether you could get it back?

32. Do you feel that fencing in the Valley consists of a lot of small operators or a few large ones?

33. Do you feel fencing in the Valley is a part of organized crime?

34. Do you know of any women who are fences? burglars?

35. If you were offered a deal by the police in exchange for information would you accept? If not, why not?

36. What if the same deal were offered by the prosecutor?

37. Is there a lot of activity in fencing in Guadalupe?

38. What do you think happens to bicycles stolen in the Valley?

39. Does the Phoenix restrictive pawn shop ordinance prevent you from selling merchandise to pawn shops? If answered no, why not?

40. Are you required to show I.D. when selling to a pawn shop?
What kind? Soc. sec. # _____, Drivers license _____, other _____.

41. Do you know anyone who might be willing to give me any additional information for my study?

42. Would you be willing to give the names of any fences?

QUESTIONNAIRE FOR SUSPECTED AND CONVICTED BURGLARS

RELATIONSHIP TO A RECEIVER OF STOLEN GOODS:

1. How many fences do you know? Personally_____. By word of mouth_____.
2. Does the fence deal for cash_____, drugs_____, cash or drugs_____.
3. Is it difficult to find a fence?
4. How did you locate your fence in the valley?
5. If you went to another city, how would you locate a fence?
6. Have you ever had a fence in another city? What city?
7. Is your fence an addict or a pusher?
8. How many persons does your largest fence buy from?

State of Arizona
Senate
Thirty-first Legislature
Second Regular Session

CHAPTER 49

SENATE BILL 1004

AN ACT

RELATING TO CRIMES; PROHIBITING THE SALE OF STOLEN PROPERTY, AND AMENDING SECTION 13-621, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-621, Arizona Revised Statutes, is amended
3 to read:

4 13-621. Stolen property; violation; penalties

5 A. A person who, for his own gain, or to prevent the owner from
6 again possessing the property, buys, SELLS, POSSESSES, conceals or receives
7 personal property, knowing or having reason to believe that the property is
8 stolen, is guilty of a misdemeanor, if the value of the property bought,
9 concealed-or-received is less than one hundred dollars, and is guilty of
10 a felony if the value of the property bought, concealed-or-received is one
11 hundred dollars or more.

12 ~~B.--If-the-property-consists-of-jewelry, silver-or-plated-ware, or~~
13 ~~articles-of-personal-ornament, it-is-presumptive-evidence-that-such-property~~
14 ~~was-stolen-and-that-the-person-buying-or-receiving-the-property-had-knowledge~~
15 ~~thereof, if-such-property-was-purchased-or-received-from-a-person-under-the~~
16 ~~age-of-eighteen-years, unless-the-property-is-sold-by-the-minor-at-a-fixed~~
17 ~~place-of-business-carried-on-by-the-minor-or-his-employer.~~

18 B. NOTWITHSTANDING ANY OTHER PENALTIES PROVIDED, THE OWNER OR PERSON
19 WHO HAS THE RIGHT TO POSSESSION OF THE PROPERTY IS ENTITLED TO COLLECT TWO
20 TIMES THE MARKET VALUE OF THE PROPERTY AS DETERMINED AT THE TIME OF ITS
21 ORIGINAL PURCHASE, AND COSTS OF SUIT AND REASONABLE ATTORNEY'S FEES, FROM
22 ANY PERSON WHO KNOWINGLY BUYS, SELLS, POSSESSES, CONCEALS OR RECEIVES
23 PERSONAL PROPERTY WHICH HE KNOWS OR HAS REASONABLE CAUSE TO BELIEVE IS STOLEN.

Approved by the Governor - May 1, 1974

Filed in the Office of the Secretary of State - May 1, 1974

ORDINANCE NO. G- 914

AN ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF THE CITY OF PHOENIX, 1969, BY AMENDING SUBSECTION (a) OF SECTION 19-11 PERTAINING TO AUCTION HOUSES, JUNK DEALERS, PAWNBROKERS, SCRAP DEALERS AND SECONDHAND DEALERS; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX
as follows:

SECTION 1. That subsection (a) of Section 19-11, Chapter 19, of the Code of the City of Phoenix, 1969, be, and the same is hereby, amended to read as follows:

"(a) Auction houses, junk dealers, pawnbrokers, scrap dealers or secondhand dealers.

(1) Every person engaged in the business of auction house, junk dealer, pawnbroker, scrap dealer, or secondhand dealer shall make out and deliver to the Chief of Police a true, complete, and legible report of all goods and articles received on deposit or consignment, in pawn, pledge, trade or exchange, or by purchase. The report shall be made upon forms furnished by the Police Department, and shall be delivered within twenty-four hours after receipt of the property concerned. Each sheet shall contain for each item received:

(A) A description of the property--including brand name and serial number, if any.

(B) The amount loaned or paid for the property, or amount allowed in trade.

(C) The number of the pawn ticket, if any is given.

(D) The date and time when the property was received.

(E) The signature of the person from whom the property was received.

(F) The name (printed), address and age of such person. The reporting party shall require each person to show proof of his name by exhibiting State or Federal identification, unless such person is known

to the reporting party; provided, however, that such proof of identification shall not be required when every reasonable effort has been made to ascertain the identification of the individual.

(G) A description of such person, consisting of height, weight, race, complexion and hair color.

(2) No article shall be sold or exchanged by any auction house, junk dealer, pawnbroker, scrap dealer, or secondhand dealer until it shall have been in the custody thereof for ten calendar days after making out and delivering to the Chief of Police the report required under subsection (1) above. Provided that in the case of an article consigned to an auction house, such article shall not be sold or exchanged until it shall have been in the custody thereof for three days after delivering to the Chief of Police the report required under subsection (1) above. This subsection shall not apply to redemption of pawned or pledged articles.

(3) Every person engaged in the business of junk dealer, or secondhand dealer, shall record the description of every article sold for an amount of One Hundred Dollars (\$100) or more. He shall also record the name and address of the purchaser of such articles. This record shall be held by the junk dealer or secondhand dealer for at least thirty days after the sale.

(4) Upon notification by representatives of the Police Department that goods and articles received on deposit or consignment, in pawn, pledge, trade or exchange, or by purchase are the fruits of a crime, no auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer shall dispose of such property. Interest upon such goods and articles pawned or pledged shall cease to accrue on the date of such notification.

(5) Every person engaged in the business of auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer shall prominently display a copy of this ordinance in a conspicuous place on the premises of the business.

(6) Every person engaged in the business of auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer who, in the conduct of his business, comes into possession of abandoned property, shall turn over such property to the Police Department. If ownership of such property is not established within 90 days after delivery to the Police Department, the property shall be returned to the person from whom the Police Department obtained possession. This subsection shall not apply to unredeemed pawned or pledged articles.

(7) The business premises of any auction house, junk dealer, pawnbroker, scrap dealer, or

secondhand dealer, along with their transaction records and stock of goods and articles, shall be open at reasonable hours to reasonable inspection by representatives of the Police Department, General Investigations Bureau.

(8) Any person wilfully violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars (\$300) or imprisonment for a term not exceeding six months, or both such fine and imprisonment.

(9) Notwithstanding any other provisions of this section, the license of any auction house, junk dealer, pawn broker, scrap dealer or secondhand dealer shall be suspended for one year upon a showing that the operator of such establishment has been convicted of violating any of the provisions of Chapter 19 of the Phoenix City Code, 1969, or Section 13-621, Arizona Revised Statutes (1956, as amended) in the conduct of business of such establishment. The license of any auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer may be suspended for a period not to exceed one year upon a showing that an employee of such establishment has been convicted of violating any of the provisions of Chapter 19 of the Phoenix City Code, 1969, or Section 13-621, Arizona Revised Statutes (1956, as amended) in the conduct of business of such establishment.

(10) No person engaged in the business of auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer shall knowingly permit a person whose license is under suspension under subsection (9) above to be employed in any capacity of such establishment.

(11) Every person whose license to do business as an auction house, junk dealer, pawnbroker, scrap dealer or secondhand dealer has been suspended or refused renewal may be disqualified from obtaining or retaining a privilege tax license for a period of up to one year from the date of such suspension or refusal."

SECTION 2. WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an EMERGENCY is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council, approval by the Mayor, and publication and posting as required by law and is hereby exempted from the referendum clause of the City Charter.

PASSED by the Council of the City of Phoenix this
6th day of May, 1969.

APPROVED by the Mayor this 6th day of May, 1969.

/s/ MILTON H. GRAHAM
M A Y O R

ATTEST:

/s/ STANTON S. von GRABILL City Clerk

APPROVED AS TO FORM:

/s/ ROBERT J. BACKSTEIN City Attorney

REVIEWED BY:

/s/ ROBERT COOP City Manager

REFERENCE TITLE: Receiving Stolen Property -
Civil Redress

State of Arizona
House of Representatives
Thirty-first Legislature
Second Regular Session

H. B. ----

Introduced by -----

AN ACT

RELATING TO CRIMES: ESTABLISHING A RIGHT OF ACTION FOR RECOVERY OF
DAMAGES AGAINST PERSONS IN RECEIPT OF STOLEN PROPERTY, AND AMENDING
SECTION 13-621, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Section 13-621, Arizona Revised Statutes, is amended to read:
- 3 13-621. Definition; punishment; presumption as to certain property; right to civil action
- 4 A. A person who, for his own gain, or to prevent the owner from again possessing the
- 5 property, buys, conceals or receives personal property, knowing or having reason to believe
- 6 that the property is stolen, is guilty of a misdemeanor, if the value of the property bought,
- 7 concealed or received is less than one hundred dollars, and is guilty of a felony if the value of
- 8 the property bought, concealed or received is one hundred dollars or more.
- 9 B. If the property consists of jewelry, silver or plated ware, or articles of personal
- 10 ornament, it is presumptive evidence that such property was stolen and that the person buying
- 11 or receiving the property had knowledge thereof, if such property was purchased or received
- 12 from a person under the age of eighteen years, unless the property is sold by the minor at a
- 13 fixed place of business carried on by the minor or his employer.
- 14 C. ANY PERSON WHO HAS BEEN INJURED BY A VIOLATION OF THIS SECTION
- 15 MAY BRING AN ACTION FOR THREE TIMES THE AMOUNT OF ACTUAL DAMAGES,
- 16 IF ANY, SUSTAINED BY THE PLAINTIFF, COSTS OF SUIT AND REASONABLE
- 17 ATTORNEY'S FEES.

CALIFORNIA PENAL CODE 496

§ 496. Receiving stolen property

1. Receiving; knowledge; concealment; punishment

1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison for not more than 10 years, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed two hundred dollars (\$200), specify in the accusatory pleading that the offense shall be a misdemeanor punishable only by imprisonment in the county jail not exceeding one year.

2. Secondhand dealers; inquiry; presumption

2. Every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. Secondhand dealers; inquiry; burden of proof

3. When in a prosecution under this section it shall appear from the evidence that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such property, he made such reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to so sell or deliver it.

4. Damages and costs

4. Any person who has been injured by a violation of paragraph 1 of this section may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

(Amended by Stats.1972, c. 963, p. 1739, § 1.)

1972 Amendment. Made this section applicable to any person who sells or aids in selling stolen property in subd. 1 and added subd. 4.

END

7 11/25/1950