

**Recyclable Metal Theft Task Force
Thursday, July 28, 2016
10:00 a.m. – 12:00 p.m.**

**Illinois State Library, Room 403/404
300 South Second Street
Springfield, IL 62701**

Meeting Minutes

1. Welcome and Introductions

Co-Chair Hoffman called the meeting to order at 10:15 a.m. and informed the members that minutes for the meeting would be electronically recorded. A roll call was conducted and the following members were present:

Representative Mike Unes, 91st District
Representative Jay Hoffman, 113th District
Michael Mervis, Director Mervis Industries
Brad Serlin, President of United Scrap Metal, Inc.
Master Sergeant Scott Whitecotton, Illinois State Police
Lieutenant Troy Phillips, Illinois State Police
Director Sydney Roberts, Director of Secretary of State Police
Chief Deputy Sheriff Jeff Connor, Madison County Sheriff's Office
Chief Lindell Barton, Alton & Southern Railway Company
Kevin Martin, Executive Director, Illinois Insurance Association

The following members had scheduling conflicts and were unable to attend:

Chief Brian Fengel, Bartonville Police Department
Chief Valdimir Talley, Maywood Police Department
Ed VanHoose, Executive VP, Clay Electric Cooperatives.
Greg Fernandez, Ameren

Co-Chair Hoffman also recognized the following individuals who were in attendance:

Amy Williams, Assistant Legal Advisor, Illinois Secretary of State's Office
Captain Will Dimitroff, Madison County Sheriff's Office
Bob Partridge, Purchasing Officer, Illinois Secretary of State's Office

2. Approval of minutes

Having recognized that a quorum was present, Co-Chair Hoffman thanked everyone for attending, asked members to review the minutes from May and asked if there were any comments. Hearing none, Co-Chair Hoffman called a voice vote for the approval of the minutes and hearing no objections the minutes from May 23, 2016 were approved.

3. Review of draft outline report to General Assembly

Legislation:

Co-Chair Hoffman asked the members to reference the draft outline document that was provided to them and reminded everyone that a report would be due on October 31, 2016 to the General Assembly. He introduced Ms. Williams, Assistant Legal Advisor with the Illinois Secretary of State's Office to discuss how metal theft could be charged by State's Attorneys.

Ms. Williams referenced HB5521, which was recent legislation by Representative Unes that the members of the Task Force voted to support. She explained that the bill may have been seen as an increase in penalties, whereas it is probably more accurately described as a better definition of the damage caused by metal theft. However, when referencing the statutes in the Criminal Code, it would appear that States Attorneys can charge metal theft as criminal damage to property and enforce it on the basis of the cost of damage to the property, rather than the cost of the material stolen. She also pointed to case law where metal theft had been prosecuted this way in the past, in which case the sentencing increases based upon the amount of damage to property.

Ms. Williams continued that "burglary" and "theft" bring more penalties than the cost of the stolen metal itself, which could be other viable charges. She noted that charging metal theft as a felony, rather than a misdemeanor, may get peoples' attention and do more to keep repeat offenders off the streets. She concluded that making States Attorneys more aware of the different ways to prosecute this crime, via an awareness campaign, could be an effective alternative.

Mr. Martin asked for clarification on the penalties that were in the bill. Co-Chair Unes replied that there were no increases in penalties, rather the language was drafted from current law. He continued that if someone did \$100,000 worth of damage for \$100 worth of copper, his bill simply gave the court the authority to assess the fines based upon the total amount of damage done. Mr. Martin said that he was aware of other legislation regarding a towing issue where penalties increased from a Misdemeanor to a Class 4 Felony and there seemed to be little pushback – therefore, could that be a consideration for metal theft.

Ms. Williams said that she thought the intent of the bill was to define metal theft as criminal damage to property, and if that was the intent, simply making States Attorneys aware could be beneficial. Co-Chair Unes said that the language in his bill is already current law in other states and is producing results, therefore he would rather see it move through the General Assembly.

Ms. Williams concurred and said the awareness to States Attorneys could compliment the legislative efforts as well.

Co-Chair Hoffman said that Representative Sims, who is Chairperson of the House Judiciary Criminal Committee, had an issue that some of his members were reluctant to increase any penalties under the criminal code. He continued that if HB5521 created a new offense, could they place this new offense under the “criminal damage to property” section. Chief Connor said that usually when copper is taken from a building, it is a burglary, which is a Class 2 Felony and more serious than criminal damage and you could assess restitution. He continued that it is problematic if you find a truckload of copper and you cannot prove the person in possession was the one who stole it, then you cannot charge with burglary, but rather theft.

Co-Chair Hoffman restated the language of the bill where theft of recyclable metal is defined as a person who “knowingly obtains or exerts control over the property, or aids and assists in obtaining or exerting control...,” therefore a person would not have to actually commit the act unlike with criminal damage or burglary where you have to commit the act. He continued that this bill appeared to create a new offense, but maybe they should make reference to criminal damage of property, that way they are not enhancing penalties, but making reference to the already existing criminal damage to property penalties.

Co-Chair Hoffman continued that by virtue of creating a new offense, they would be creating new penalties, but it wouldn’t be an enhancement of penalties because they already exist. Ms. Williams concurred that the penalties under HB5521 increase in a similar manner to those under criminal damage to property, but they are different. Co-Chair Hoffman asked if Ms. Williams could come up with some language that would work with recyclable metal theft to reference criminal damage to property and she agreed.

The members discussed whether the perceived enhancements are due to the creation of the new offense, the penalty structure, the fact that a person in possession can be just as guilty, or if these are additional crimes that people could be put in prison for. After considerable discussion, the members asked if Representative Sims could be extended an offer to participate with the group in an effort to better convey the concerns of the committee.

Co-Chair Hoffman said that a key to the legislation is that “value” is redefined. Mr. Mervis asked if “exerting control over material” could be extended to an operator who knowingly purchases stolen material. Ms. Williams said that the States Attorneys could better answer that question. Chief Barton also said that “knowingly” is the most difficult part to prove in a case.

Electronic Reporting:

Co-Chair Hoffman asked the members to offer any comments and suggestions with regard to the electronic reporting requirements, at which point Chief Barton asked if he could offer a written statement from law enforcement speaking to their position. The members agreed that this would be helpful since the Institute of Scrap Recycling Industries submitted a position statement on electronic reporting.

Mr. Mervis mentioned some efforts in Ohio, which include a state run, “black listing” database for people who have been convicted of scrap theft. In this case, when a person brings recycled metal to an operator, their identification is scanned and if they appear on this database, the operator cannot conduct a transaction with them. Co-Chair Hoffman said that it would be nice if they could use existing resources to combat metal theft. Mr. Mervis said that he thought Ohio would be willing to license their system. Mr. Miller said he would obtain more information on this database to share with the members.

Mr. Mervis continued that with regard to electronic reporting, he wondered who would be expected to report. Chief Barton said that you could probably go by those who have a scale license and according to his research there are 560 issued scale licenses in the State of Illinois, which are run through the Illinois Department of Agriculture. Co-Chair Hoffman asked if the members should recommend a recycler’s license. Mr. Miller offered that the Secretary of State’s Office issues a license for automotive parts recyclers, repairers and rebuilders, but was not sure if scrap processors were included. Chief Barton said that they are included and added that an automobile recycler can also buy retail scrap. He also said that recently he audited 7 random scrap yards in Madison County/St. Clair area and only 1 was doing everything correctly. Mr. Serlin said that in Cook County they have a license and they are subject to quarterly inspections.

Co-Chair Hoffman suggested that we look at the Cook County ordinance to see what they have in place (fees included) and consider it for a statewide law. Mr. Miller said that he would obtain more information for the members. Co-Chair Unes expressed concern that fees collected for a potential license may not offset the cost of audits that would need to be conducted, especially if the funds are swept.

Motor Vehicle Theft Prevention Council:

Co-Chair Hoffman asked Mr. Martin to speak to the status of the Motor Vehicle Theft Prevention Council. He mentioned that it was created from a \$1.00 surcharge on auto insurance policies and generated between 6 to 8 million dollars per year. The funds were turned over to the Council, which helped to establish about 9-12 regional task forces who used the money to combat auto thefts. He added that over the past several years this fund has been swept, which killed off several of the task forces, but recently they have been pursuing legislative efforts to reestablish it.

Mr. Martin continued that the insurance industry is considering a broader approach to how the money is spent to consider other “related” uses that would benefit the insurance industry – recycled metal theft being one of them. He noted that mandatory insurance verification is an initiative they are currently talking about using the money for and he anticipates legislation to restructure the fund as early as fall veto session.

Co-Chair Unes asked if they knew how much money was currently in the fund and Mr. Martin said he was not sure and he also was not aware if it was part of the dedicated funds that were

recently swept for the stop-gap legislation. Chief Connor said that he was a board member of the Metro East Auto Theft Task Force, which was very successful, but once the funding was swept they were unable to continue. He also said that the departments were left with a lot of unpaid bills once the funding was swept. He expressed concern with reinstating these funds if they would not be consistently available and also if the money is going to be spread out for too many other efforts that don't deal with auto thefts.

Director Roberts indicated that the money is still being collected from insurance premiums and is capped at a distribution of approximately 6.1 million dollars, however the fund gathers over 7 million dollars annually. She continued that SOS Police saw a great value from the task forces and that they continue to see very large auto theft rings. Co-Chair Hoffman asked if they were able to reinstate these task forces, would it be possible to expand their role into something related to metal theft. Director Roberts said the SOS Police would be supportive of a more expansive role, however the task forces themselves would still be vital to the mission. Co-Chair Hoffman asked if anyone knew how the funds were spent in past years. Director Roberts said that SOS Police received approximately 1.2 million for their Special Audit Team, Illinois State Police received money for training and most of it went to the task forces. Co-Chair Hoffman asked if we could find out how it was spent and Mr. Miller said he would find the information.

Co-Chair Unes asked for clarification if the member were talking about the distribution amount of 6.1 million dollars or the portion of funds above that level. The members clarified that they were talking about efforts in addition to auto theft prevention. Director Roberts suggested some task forces could be consolidated, or centralized and dispatched to areas in need, in an effort to free up some of the money. She continued that SOS received a large portion of these funds to pay for a Special Audit Team, who could have an expanded role if they were able obtain funds once again.

Lieutenant Phillips asked if the Criminal Justice Information Authority has the authority to decide how funds are spent. Director Roberts said that the statute dictates how the funds can be spent. She continued that in recent history, the Council met and reviewed their funding strategy and priorities and discussed whether they could be more effective in other avenues. She said that a new strategy was never defined, mostly due to the realization that their funding would be ending. Co-Chair Hoffman said that they are currently exploring legislative efforts to restructure the way these funds are dispersed, which could also include other roles related to insurance such as recycled metal theft, and that this could be a recommendation from the members.

Awareness and Training:

MSG Whitecotton said that they had a motor vehicle theft coordinator who put on classes at the Academy, in Chicago and the Metro East area to offer education and awareness on motor vehicle thefts, however, once the funding was pulled, the trainer could no longer continue. Co-Chair Hoffman asked if they were able to restore funding, could training be expanded to include information on recyclable metal theft. Master Sergeant Whitecotton said that he thought it

would be much easier to expand training for a coordinator who travels the state than to ask for agencies to commit personnel to task forces.

MSG Whitecotton continued that Illinois Law Enforcement Training and Standards Board is going to increase their curriculum from 480 hours to 560 hours and if we have information on recycled metal theft that we would like to incorporate into the training, it may be worth contacting them. Chief Barton concurred and said that he has personally seen cases where law enforcement were not aware of their authority to audit scrap yards. Co-Chair Hoffman asked if we could check to see if the Training and Standards Board already has basic information with regard to metal theft that is included in their training. Mr. Miller said he would check and report back to the members.

Recap:

Co-Chair Hoffman went through the draft outline once again for clarity. He made note of the following:

- The members will continue to support Rep. Unes' legislation, while considering other options, and would welcome participation from Representative Sims at future meetings.
- The members will consider efforts to license scrap recyclers in Cook County, along with the associated fees.
- The members will consider information about the Ohio "black listing" database for individuals who have been caught with stolen material.
- The members will consider other enforcement efforts related to recycled metal theft that could be funded by the \$1.00 surcharge to Illinois insurance policies.
- The members will consider training efforts through the Training and Standards Board and awareness efforts to the States Attorneys Association, regarding metal theft.

4. Public Comment Period

Co-Chair Hoffman asked if there were any public comments to be made. Hearing none, he thanked everyone for their efforts in reviewing the report outline draft.

5. Recommendations for Discussion at Next Meeting

Co-Chair Hoffman asked for all the members to consider any other information they would like to see included in the report and to send the information to Mr. Miller.

6. Next Meeting Date

Mr. Miller said that he would be in contact with the members to find a date that worked with everyone's schedules.

7. Adjournment

The meeting adjourned at 11:36 a.m.