

Recyclable Metal Theft Task Force Report

October 24, 2016



About the information in this report

The contents of this report are based upon the Recyclable Metal Theft Task Force, created by Public Act 99-0052.

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1. Task Force Membership

Name	Appointed By	Position
Representative Jay Hoffman 113 th District	Speaker of the House	Co-Chairperson
Representative Michael Unes 91 st District	House Minority Leader	Co-Chairperson
Sydney Roberts, Director Secretary of State Police	Secretary of State	Member
Lieutenant Troy Phillips Illinois State Police, Zone 4	Illinois State Police	Member
Master Sergeant Scott Whitecotton Illinois State Police Academy	Illinois State Police	Member
Michael Mervis, Director Mervis Industries	Co-Chairpersons	Member
Brad Serlin, President United Scrap Metal, Inc.	Co-Chairpersons	Member
Chief Valdimir Talley Maywood Police Department	Co-Chairpersons	Member
Chief Brian Fengel Bartonville Police Department	Co-Chairpersons	Member
Chief Lindell Barton Alton & Southern Railway Company	Co-Chairpersons	Member
Chief Deputy Sheriff Jeff Connor Madison County Sheriff's Office	Co-Chairpersons	Member
Kevin Martin, Executive Director Illinois Insurance Association	Co-Chairpersons	Member
Ed VanHoose, Executive Vice President Clay Electric Cooperatives, Inc.	Co-Chairpersons	Member
Greg Fernandez, Corporate Security Ameren	Co-Chairpersons	Member
Scott Whitener, Asset Protection AT&T	Co-Chairpersons	Member

2. Purpose and Enacting Legislation

The Recyclable Metal Theft Task Force, created by House Bill 330 (Rep. Jay Hoffman/Sen. William Haine), was tasked with establishing a collaborative effort to combat recyclable metal theft throughout the State of Illinois, assisting in developing regional task forces to combat recyclable metal theft and to consider and develop long-term solutions for the rising problem of recyclable metal thefts in Illinois. A report with these findings is to be submitted to the General Assembly and Governor by October 31, 2016.

3. Overview of Meetings

As of the date of this report, the Task Force met eight times in 2016: On January 13, February 16, March 21, April 26, May 23, July 28, September 12, and October 24. A brief summary of each meeting will follow:

- **January 13, 2016**

The appointed members of the Task Force convened with the objective of electing a Chairperson. In the spirit of bipartisanship, the members voted to elect both Representative Hoffman and Representative Unes as Co-Chairpersons of the body. The members discussed the scope of their work and Co-Chairperson Unes discussed House Bill 5521, which was intended to compliment a comprehensive metal theft prevention package, later passed into law as Public Act 97-0923. He asked members to consider supporting this bill, which would allow a judge to prosecute a person based upon the amount of metal stolen along with the surrounding damage to property. The members also heard testimony from Secretary of State Police, regarding their role in auditing recyclers via the Special Audit Team. They discussed how funding for this team was swept in 2015, which came from grants distributed by the Motor Vehicle Theft Prevention Council.

- February 16, 2016

Public members were appointed to the Task Force and they openly discussed regional efforts that have been made to help combat recyclable metal theft. This included a Metro East Task Force, which coordinated law enforcement officials for the purpose of conducting audits of scrap yards. Scrap processors also shared business practices that have served to deter theft. Co-Chairperson Unes discussed his current legislative efforts and asked members for assistance in passing House Bill 5521. The Secretary of State's Office talked further about the lost funding for its Special Audit Team, which conducted audits of automobile recyclers and also included certain scrap metal related functions. Members discussed an electronic registry of business transactions, similar to what pawn brokers use in Illinois, and considered the benefit of a database for scrap processors that law enforcement could access.

- March 21, 2016

Members concluded discussion of House Bill 5521, which was sponsored by Co-Chairperson Unes and co-sponsored by Co-Chairperson Hoffman, and voted unanimously to endorse the legislation. The members then heard testimony from interested parties. Scott Adams, President and CEO of Adam's Development Company, expressed to the members his frustrations with numerous thefts of Heating, Ventilation, and Air Conditioning (HVAC) units from his properties. He explained that these thefts have cost him approximately \$18,000 in expenses through the past several years along with increases in his insurance deductibles from \$1,000 per claim to \$5,000 per claim. Testimony was also provided by Scott Whitener, with AT&T Asset Protection, with regard to the thefts they have experienced in the communications industry. He reported that AT&T spends between \$250,000 and \$500,000 annually in Illinois to repair cut and stolen cable. He also shared some measures AT&T has instituted including Global Positioning System (GPS) tracking, auto-dialer alarms and security cameras.

Members also talked about the Precious Metals Task Force findings and continued discussion about the benefits of an electronic database, where daily transactions could be uploaded by scrap processors and could be searchable by law enforcement. They discussed the use of a third

party vendor such as Leads Online, which currently contracts with other states for scrap metal enforcement. Law enforcement liked the ability to review transactions from a computer, as opposed to physically visiting each facility. Scrap processors noted that photographs of the items may not be particularly helpful in identifying scrap metal and also noted their concerns with handing over bulk business transactions to a third party vendor.

- April 26, 2016

Mr. Mervis offered to host the April meeting at Mervis Industries, Decatur, Illinois facility. This fact-finding mission gave everyone the opportunity to see the day-to-day operations of a large-scale scrap processor. Members engaged in an hour-long tour of the entire process including the customer station, cutting/sheering of material, and baling to specification for the receiving facility. The members then discussed local metal theft issues with officers from the Decatur Police Department and also further discussed options for an electronic database. The members decided it would be useful for the Secretary of State's Office to publish a Request For Information (RFI) for vendors who offer online database services and to have a discussion with their representatives at a future meeting about how a system could be implemented for Illinois.

- May 21, 2016

The Secretary of State's Office received responses to the RFI from two vendors, Leads Online and Business Watch International (BWI). A representative from BWI was in attendance and offered a brief presentation on its system. Members reviewed information from both vendors and engaged in a lengthy discussion. Representatives of the Institute of Scrap Recycling Industries, Inc. (ISRI) were also on hand to share their concerns. ISRI representatives noted that 15 states had some form of electronic database that were implemented either by a third party vendor, direct reporting to law enforcement, state operated database, or were left to the local government to decide how it will be implemented. They issued a position paper on electronic reporting (Appendix A) and made special note that they opposed a third party vendor who would force unnecessary legal requirements with regard to vendor liability for any breach of information.

- July 28, 2016

Members discussed recommendations for the report due to the General Assembly. With consideration given to the different ways that scrap metal theft is prosecuted, members agreed that State's Attorneys could benefit from an awareness campaign, which outlines different methods of prosecution. Law enforcement offered to draft a position piece in support of an electronic reporting requirement (Appendix B). Members also talked about a state operated electronic database in Ohio that could possibly be licensed in the future. There was a consensus that there should be a licensing requirement for scrap processors at the state level, with consideration given to the model that Cook County currently uses. Members discussed the lost funding for the Motor Vehicle Theft Prevention Council and considered ways to advocate for restored funding with other insurance related uses in mind. The members also discussed the value in increased training for officers via the Illinois Training and Standards Board.

- September 12, 2016

The Task Force talked at length about developments in Ohio with regard to a state operated database that requires scrap processors to register and be licensed for a fee. This database also requires daily transactions to be uploaded electronically and it serves as a portal for law enforcement to register and be able to electronically search transactions. Additionally, Ohio's database includes a "do not buy list" of individuals who have been convicted of scrap metal related crimes. Scrap processors are required to check customer names against the "do not buy list" before conducting business transactions with them. Mr. Mervis indicated that Indiana was trying to license this system from Ohio and it could be a consideration for Illinois. Members also discussed Cook County's licensing requirement for scrap processors and indicated that the fees were reasonable and Mr. Serlin testified that the audit functions, which accompany registration in Cook County, are very helpful in weeding out bad operators and helping to make the good operators even better.

Members also agreed that the Motor Vehicle Theft Prevention Council should have its funding restored and should be able to consider other insurance related uses for grant distributions. The Task Force also agreed upon a need for increased awareness to State's Attorneys on existing ways to prosecute metal theft in addition to extra training opportunities for law enforcement for investigating metal theft crimes.

4. Task Force Recommendations

The work of the Task Force over the past year indicates the importance of deterring and investigating recyclable metal theft and assisting in the prosecution of persons engaged in recyclable metal theft.

In order to effectively achieve tangible solutions to this problem, which affects nearly every community in Illinois, the Task Force finds that the following would need to be achieved:

- A. Establish the offense of "recyclable metal theft," as set forth in HB 5521 or through similar provisions, allowing a state's attorney to prosecute the crime of recyclable metal theft on the basis of the amount of damage caused to surrounding property, and any business interruption costs, in the course of a theft.
- B. Electronic reporting requirement for scrap processors. This would be an electronic database of daily transactions that scrap processors would be required to populate. It must be searchable by law enforcement to assist officers in efficiently investigating thefts. It must also observe the privacy concerns of scrap processors to prevent sensitive customer information from being compromised.
- C. Secure funding for the development, maintenance and/or annual fees for an electronic database.
- D. Require scrap processors conducting business in Illinois to be licensed annually by the State of Illinois and as a condition of the license be required to observe all state laws. A reasonable fee should be charged to help offset associated costs, which could include

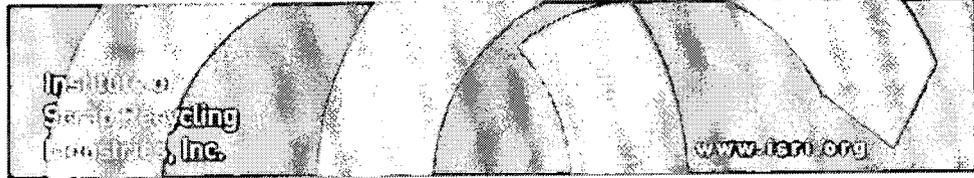
extra staff and resources for education, audits and/or ongoing maintenance. In addition, a new scrap processor must be licensed before beginning business.

- E. Restore funding for the Motor Vehicle Theft Prevention Council and enact enabling legislation that would ensure the fund continues to be used for motor vehicle theft prevention, while allowing the Council to use funds for other insurance related measures including deterrence of recyclable metal thefts. Also include representatives of a rural electric cooperative and a scrap metal dealer in Illinois as members of the Council and allow state and local law enforcement to apply for grants for these purposes.
- F. Restore funding for the Secretary of State's Special Audit Team and provide for the Special Audit Team to resume its previous function of auditing of scrap metal processors.
- G. Outreach and training programs to State's Attorneys with information on existing ways to prosecute metal theft related crimes.
- H. Submit a metal theft related curriculum, with consideration given to the Illinois Law Enforcement Training and Standards Board, for proposal to be added to in service law enforcement officials or basic training courses for recruits in the Academy. Work with the Illinois Law Enforcement Training and Standards Board to offer continued classes through a Mobile Training Unit for law enforcement officials who are more focused on investigations.

The members of the Task Force remain committed to establishing real-world solutions that combat this problem without burdening honorable scrap processors and without hampering resources for law enforcement. The members also remain committed to providing specific recommendations to implement the aforementioned findings. In that regard, the Task Force will continue to meet in the future and will continue to monitor national developments. However, realizing that scrap metal theft is an issue that is proportional to the market value of metal, the Task Force also recommends they stand adjourned subject to the call of the Chair.

Respectfully Submitted,

Recyclable Metal Theft Task Force, October 24, 2016



ISRI Policy on Electronic Reporting

As adopted by the ISRI Board of Directors on April 4, 2016

The Institute of Scrap Recycling Industries (ISRI) recognizes that metals theft is a large problem and works diligently to combat it with a variety of efforts. Reporting of scrap metal sales transactions has been considered by some jurisdictions as a useful means to help law enforcement track metal thieves and combat metal theft. However, ISRI and its members are concerned about universal reporting of scrap metal transactions because reporting can be intrusive and subjects the confidential business and personal information of recyclers and their customers to the risk of misuse through a data breach, transfer, sale, or disclosure of the data.

In the event that a state or local government or other official governing body is contemplating electronic reporting of scrap metal transactions, ISRI believes that adequate protection can only be provided if the law or ordinance adopting the reporting requirements specifically states that -

- Strict confidentiality will be maintained with regard to any data submitted to the data reporting system.
- The recycler cannot be compelled to waive any legal rights or proprietary interests in and to the data as a condition of access to and use of the designated reporting system.
- The data should not be subject to disclosure under applicable state public disclosure laws.
- Any user agreement imposed by the reporting system operator shall:
 - Have strict security, confidentiality and liability provisions for the protection of data providers and their customers that are equal to or greater than those the data contractor agrees to provide in its contract with the government,
 - Indemnify data providers in the case of a data breach, backed by appropriate data protection insurance provided by the data contractor,
 - Ensure that the data provider retains ownership of its data, so that the data contractor may not take ownership of or require data providers to grant the data contractor a license of any kind (except to provide such data to law enforcement or other authorized parties prescribed in the law), and
 - Require that the data contractor give data providers notice if there is a breach or if a subpoena has been issued for the data given by a specific data provider.



Lindell R. Barton
Chief of Police
Director of Security & Risk

August 09, 2016

Esteemed members of the Recyclable Metal Theft Task Force,

This letter is in response to the correspondence received from Danielle Waterfield as the representative of the Institute of Scrap Recycling Industries (ISRI). Waterfield penned a lengthy and detailed statement on the ISRI opinion concerning the electronic database reporting of retail sales and purchases of recyclable metals to aid law enforcement investigations of metal theft.

The first paragraph of her letter reflected that “no legitimate scrap dealer” would intentionally purchase stolen material. This statement may be factual but it fails to address two issues; the unintentional purchase of stolen materials and those scrap dealers who ISRI would find illegitimate.

ISRI members on the taskforce have repeatedly stated that scrap metal is very difficult to identify as most do not have identifying markings, makes or models. They state this as a reason it would be inefficient to upload sales records for investigation purposes as the description of the material is very general, such as “#1 Copper” or “aluminum”. That same reasoning shows that if the material is difficult to identify, then it is just as difficult to discern if the material is stolen. Therefore, “legitimate scrap dealers” are likely purchasing stolen material.

Throughout the letter there are references to the ISRI online reporting system **ScrapTheftAlert.com**. This system allows law enforcement agencies to make reports of stolen metals, including photos. These reports are reviewable by anyone who chooses to subscribe to the program. Prior to our July 28, 2016 meeting I reviewed the **ScrapTheftAlert.com** site and found in Illinois there were 24 active alerts and 18 active users on the system. There were a total of 160 registered users in Illinois which includes scrap dealers, law enforcement, utility companies and anyone else registered. There are approximately 560 companies with scales registered to weigh scrap materials in the state of Illinois. Taking these numbers, only 28.5% of potential scrap buyers belong to ISRI and only 11.25% of those were online at that point in time. This equates to 3.2% of scrap buyers in Illinois being online and available to receive an alert.

Appendix B



Lindell R. Barton
Chief of Police
Director of Security & Risk

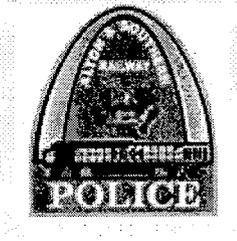
Although the **ScrapTheftAlert.com** system has value and potential, there are many shortcomings of the system including the following:

- Only a fraction of potential scrap buyers are registered
- Only a tiny fraction of those are active in the system
- Even those that are active, there is no way to audit their review of alerts or determine if the information from the alerts makes it to the scale workers who would need to know about the stolen material
- Even if every potential scrap buyer were mandated to register, it would be extremely difficult to audit compliance of the use and dissemination of the information throughout their company. In all likelihood, in the current status of the system the information is being reviewed by office personnel, if at all.
- Only a law enforcement agency can make a report and only the agency that takes a police report may make an entry. This is both time consuming and inefficient. If the system is accessible by anyone, then anyone should be allowed to make an entry. This would make information much more timely, accurate and enlist the efforts of all victims of metal theft.

The online reporting system that law enforcement is requesting would require all licensed scrap buyers to upload their retail purchase/sales transactions, including photographs of the material as presented on the scale, on a daily basis. This would allow ONLY law enforcement to review records for suspect names, commodity patterns or specific commodities in specific quantities. This would prevent the need for repeated visits and phone calls to the scrap facilities which is so incredibly cumbersome that it is not feasible in most investigations. The photographs, which are another point of contention with the ISRI members, would greatly enhance an investigating officer's ability to identify the stolen material or eliminate a potential suspect. This can be done from the investigator's desk without wasting time visiting the scrap facility or having the facility research and provide the photos. If the investigator finds reason to visit a facility from the data, the need to visit every facility has been eliminated.

Auditing the use of an online reporting system would be fairly simple. Officers could either set up a sale or monitor a sale and follow up with a request to see the information as uploaded after the required deadline has passed. Random audits of various facilities would serve as a deterrent for those facilities that may want to curtail the laws.

Appendix B



Lindell R. Barton
Chief of Police
Director of Security & Risk

We, as law enforcement, are not in any way attempting to limit or restrict the scrap metal recycling industry. We understand and appreciate the purpose and value of the industry to our economy and communities. Likewise we are not attempting to single out any sector of the industry, whether it is a start-up, small business or a multi-location corporation. We simply do not have the manpower or resources to adequately investigate metal thefts without having direct access to the electronic records of each scrap buyer in our area. We do not endorse or have any preference for any specific reporting system. If a private third party system requires scrap dealers to relinquish rights to information, this is an issue that could be addressed in the legislation. We have only one goal; to gain access to timely, accurate and useful information in order to thoroughly investigate metal theft as efficiently and effectively as possible.

The scrap industry should note that many police agencies may not have any officers assigned as full time investigators. Even those that do have full time investigators, these investigators are tasked with all types of investigations, metal theft being on the list. It would be virtually impossible for an officer to call each scrap dealer in the area to share information about a theft, let alone physically visit each facility each time there is a theft. ISRI has stated there are "illegitimate" scrap dealers. These dealers may give false information to an investigating officer over the phone which would make the effort of calling to ask about the purchase of stolen material even less valuable.

We have no doubt that the majority of scrap dealers who are members of ISRI, are doing their absolute best to curtail metal theft and assist law enforcement with investigations. However, the current efforts on all fronts are failing to address the problem. If ISRI is opposed to using a third party company and the state is not able to develop a stand alone program for electronic record reporting, maybe ISRI could further develop **ScrapTheftAlert.com** to become the clearinghouse for this data. This would remove the privacy concerns from the equation and provide a "one stop shop" for reporting of thefts and law enforcement investigations.

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Appendix B