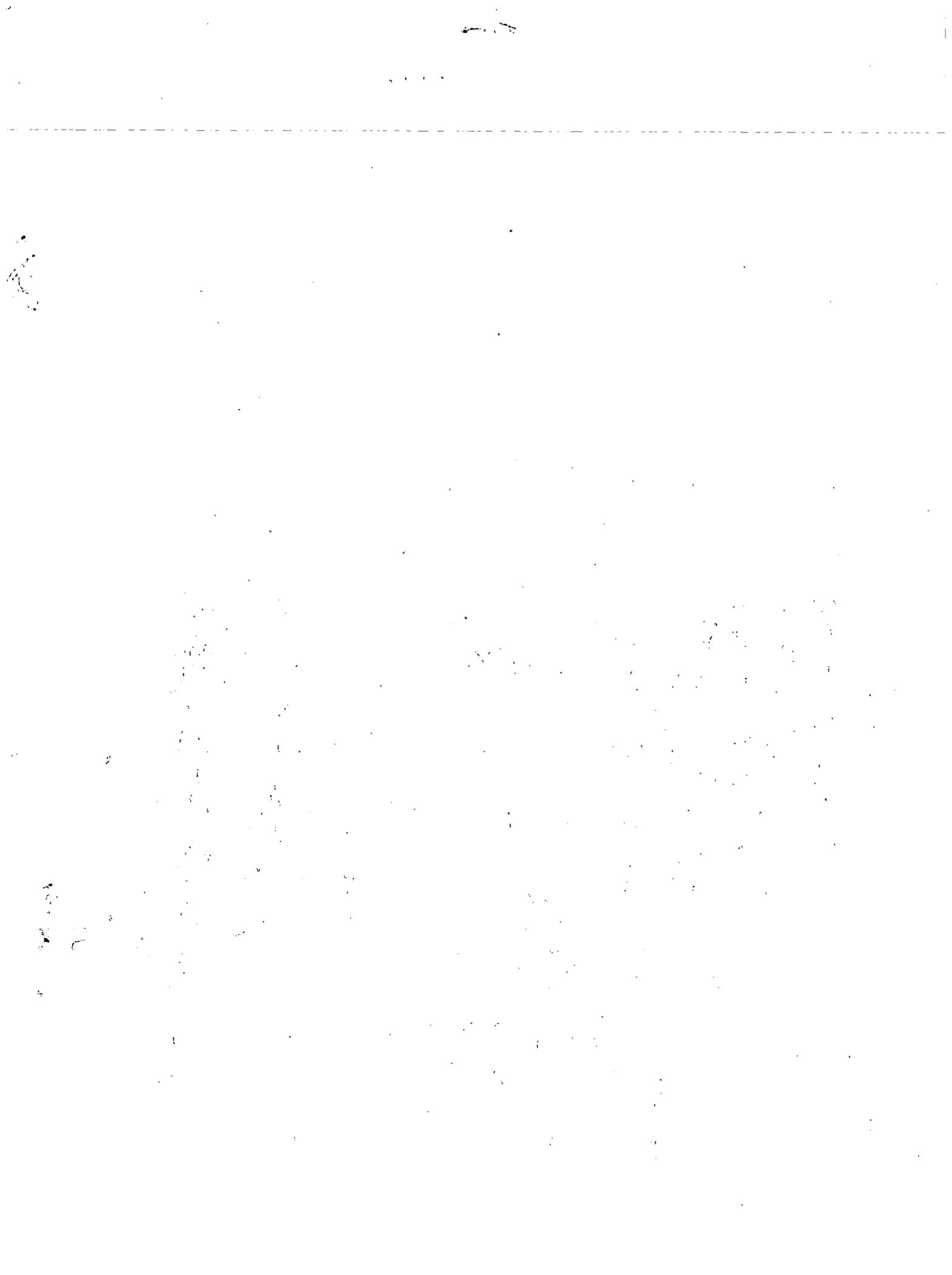

Organized Auto Theft

July 1979

The National Association of Attorneys General
Committee on the Office of Attorney General



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Jeffrey M. Trepel, COAG's Organized Crime Control Coordinator, had primary responsibility for the preparation of this report.

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ORGANIZED AUTO THEFT

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GLOSSARY

The following terms and abbreviations will be used frequently throughout this report, sometimes without further identification. The reader should be familiar with these terms.

ADRA - Automotive Dismantlers and Recyclers of America.

AAMVA - American Association of Motor Vehicle Administrators.

Chop-Shops - Operations in which cars, usually late-model, expensive vehicles, are stolen and disassembled and reduced to their parts which are then resold. Also known as cut-shops.

Con Vin - See VIN, below.

DOT - United States Department of Transportation.

DMV - Division of Motor Vehicles. DMV will be used generically here to refer to all state agencies dealing with vehicle registration, although they may have different names in different states.

MCO - Manufacturer's certificate of origin. A certificate issued by the manufacturer of a new motor vehicle for each vehicle in which it certifies that it has transferred the vehicle to another party, usually a dealer or distributor. The MCO is accepted as proof of ownership for titling and registration of new cars in most states. Also known as manufacturer's statement of origin (MSO).

NATB - National Automobile Theft Bureau. NATB is an insurance industry-financed organization which pursues numerous activities to combat auto theft, many of which are described in this report.

NHTSA - National Highway Traffic Safety Administration, a subdivision of DOT (see above), created by the National Highway Safety Act of 1966, which authorizes NHTSA to issue standards relating to highway safety.

National Workshop on Auto Theft Prevention - A workshop held in New York in October, 1978 in New York under the sponsorship of the New York State Senate Committee on Transportation. A compendium of the proceedings is available, made possible by an LEAA grant. Nearly 300 participants from 30 states and from business and industry were in attendance. A Liaison Committee has been created out of the workshop, the purpose of which is to establish task forces on a state or regional basis to combat auto theft.

Salvage certificate or title - A certificate of title for a salvage vehicle (see below) which an insurance company or owner receives from a state in return for surrendering the original title. A salvage vehicle, in some states, may be conveyed only with the salvage title, and, conversely, a salvage title can convey only a salvage vehicle. The purpose of the sal-

vage title is to combat the salvage switch (see below) by preventing the conveyance of a stolen car by using the title to a salvage car.

Salvage switch - In the salvage switch, a thief obtains a salvage vehicle and some type of legitimate documentation of the ownership of it. Then, the thief steals a car similar in year, make and model to the salvage vehicle and, using the salvage VIN plate, license plates (if any) and other identifiers, he gives it the identity of the salvage vehicle. The "revived" car may then be retitled or re-registered and sold to a third party.

Salvage vehicle - A vehicle usually acquired by an insurer when a total loss settlement occurs between an insurance company, usually when the vehicle is so extensively damaged that the cost of repairing it exceeds its fair market value.

UVC - Uniform Vehicle Code, promulgated by the National Committee on Uniform Traffic Laws and Ordinances. The Committee is made up of representatives from the federal government, states governments and legislatures, and numerous private interests ranging from the Auto Club of Southern California, for example, to the American Trucking Association. Most states utilize portions of but not all of the UVC.

VESC - Vehicle Equipment Safety Commission. An organization through which member states specify uniform performance requirements for vehicle equipment.

VIN - Vehicle identification number, consisting of a sequence of numerals and letters assigned to each vehicle by its manufacturer to give it a unique identity. The public vehicle identification number, or PVIN, is affixed to the vehicle in a readily visible position, usually the driver's side of the top of the dashboard. The "confidential," "secondary" or "secret" VIN is concealed on the vehicle by the manufacturer in a location known only to the manufacturer and law enforcement authorities. The combination of letters and numerals in the confidential VIN is usually the same as or a derivative of the public VIN.

1. THE SCOPE AND CHARACTER OF AUTO THEFT

Motor vehicle theft ("auto theft" and "car theft" will be used synonymously with "motor vehicle theft"; the latter is a more accurate phrase, as it includes truck, tractor and construction equipment theft) is one of the most widespread and costly of the property crimes. Thefts of motor vehicles and their contents and accessories accounted for nearly one half of all reported larcenies in 1977, and in that year the combined loss value for stolen vehicles, their contents and accessories exceeded \$2.3 billion, with the value of the vehicles themselves being about \$1.93 billion.¹ There were 968,400 motor vehicle thefts reported in 1977, 998,100 thefts of contents from motor vehicles, and 1,210,700 thefts of motor vehicle accessories. A car was stolen every 33 seconds, and one out of 143 registered cars was stolen in 1977.

TABLE 1: INDEX OF PROPERTY CRIME, UNITED STATES, 1960 - 1977

Year	Property Crime		Motor Vehicle Theft	
	Instances	Rate*	Instances	Rate*
1960	3,095,700	1,726.3	328,200	183.0
1961	3,198,600	1,747.9	336,000	183.6
1962	3,450,700	1,857.5	366,800	197.4
1963	3,792,500	2,012.1	408,300	216.6
1964	4,200,400	2,197.5	472,800	247.4
1965	4,352,000	2,248.8	496,900	256.8
1966	4,793,300	2,450.9	561,200	286.9
1967	5,403,500	2,736.5	659,800	334.1
1968	6,125,200	3,071.8	783,600	393.0
1969	6,749,000	3,351.3	878,500	436.2
1970	7,359,200	3,621.0	928,400	456.8
1971	7,771,700	3,768.8	948,200	459.8
1972	7,413,900	3,560.4	887,200	426.1
1973	7,842,200	3,737.0	928,800	442.6
1974	9,278,700	4,389.3	977,100	462.2
1975	10,230,300	4,800.2	1,000,500	469.4
1976	10,318,200	4,806.8	957,600	446.1
1977	9,926,300	4,588.4	968,400	447.6
Percent change 1960-1977	220.6%	165.8%	195.1%	144.6%

* rates based on 100,000 inhabitants

1. All statistical data in this chapter is from: United States Department of Justice, Criminal Division, Relevant National Statistical Data Relating to Auto Theft Problems as Extracted from the Uniform Crime Reports for 1960-1977 (January 1979).

Preliminary 1978 Uniform Crime Report statistics, released just prior to the time this publication went to press, indicate that the incidence of auto theft rose by 15 percent nationwide, and 24 percent in the South. An astonishing one out of every 44 registered motor vehicles was either stolen itself or had contents or accessories stolen in 1977. In 1977, the average value of a stolen motor vehicle was \$1,992, the average value of contents stolen from a motor vehicle was \$231, and the average value of accessories stolen from a motor vehicle was \$128.

The national theft rate for the motor vehicle itself has leveled off since 1970. (See Table 1.) The United States Department of Justice believes this is due, in large part, to the installation of improved ignition locking devices, which began with 1969 cars and was required as of January 1, 1970 by Standard 114 issued by the Department of Transportation (DOT) in accordance with the National Traffic and Motor Vehicle Safety Act of 1966.²

Although the crime of theft of the vehicle itself increased by only 1 percent from 1976 to 1977, as can be seen in Table 1, it was the only property crime index offense that increased during that year. In 1977, there were 450,000 fewer reports of theft of contents and accessories from motor vehicles than in 1976. The reasons for this decline are unknown. Over the period 1972-1977, however, thefts from motor vehicles and thefts of accessories increased far more than thefts of the vehicle itself. (See Table 2.)

TABLE 2: MOTOR VEHICLE AND RELATED THEFTS 1972-1977, % CHANGE OVER 1972

Category	73/72	74/72	75/72	76/72	77/72
Motor Vehicle Thefts	+ 5%	+ 10%	+ 13%	+ 8%	+ 9%
Thefts from Motor Vehicles	+ 4	+ 26	+ 50	+ 67	+ 31
Thefts of Motor Vehicle Accessories	- 5	+ 15	+ 54	+ 90	+ 65

There is substantial evidence that the nature of the car thief and of car theft is changing. While juveniles still account for a large portion of thefts, their participation has been declining. In 1967, juveniles (persons under 18) accounted for 61.9 percent of those arrested, while in 1977 they accounted for only 53.0 percent of those arrested. (See Table 3.) During the same 10-year period, while the total arrest rate was down 12.5 percent, the juvenile arrest rate was down 25.0 percent. (It should be noted, however, that the total arrest rate rose by 12.4 percent in 1977 over 1976.)

Solution rates for motor vehicle theft have also dropped substantially. In 1967, 24.3 percent of thefts resulted in an arrest, while in 1977 only 15.8 percent of thefts resulted in an arrest (up from 14.1 percent in 1976). The decline in the solution rate over the 11-year period is thus 35 percent. (See Table 4.)

2. 23 U.S.C. § 402.

TABLE 3: PERCENT OF THOSE ARRESTED FOR MOTOR VEHICLE THEFT WHO WERE JUVENILES (UNDER 18)

Year	Total arrest rate per 100,000	Juvenile arrest rate per 100,000	Percent of those arrested who were juveniles
1967	81.0	50.1	61.9%
1968	86.2	52.3	60.7
1969	87.4	50.7	58.0
1970	84.0	47.1	56.1
1971	84.2	44.6	53.0
1972	76.0	40.7	53.6
1973	76.4	43.1	56.4
1974	80.1	44.1	55.1
1975	67.1	36.6	54.6
1976	63.1	33.2	52.6
1977	70.9	37.6	53.0

TABLE 4: SOLUTION RATES FOR MOTOR VEHICLE THEFT

Year	Theft rate per 100,000	Total arrest rate per 100,000	Rate of arrests per theft (solution rate)
1967	334.1	81.0	24.3%
1968	393.0	86.2	21.9
1969	436.2	87.4	20.0
1970	456.8	84.0	18.4
1971	459.8	84.2	18.3
1972	426.1	76.0	17.8
1973	442.6	76.4	17.3
1974	462.2	80.1	17.3
1975	469.4	67.1	14.3
1976	446.1	63.1	14.1
1977	447.6	70.9	15.8

Another indication that professionals are stealing a higher proportion of cars is that in 1967 the average value of a recovered motor vehicle as a percentage of its value at the time of theft was 86 percent; by 1977 the percentage had dropped to 60 percent. (See Table 5.) Cars remain, however, the stolen item most likely to be recovered by law enforcement agencies by a wide margin.

Another possible indication of decreasing juvenile theft and increased organized or professional theft of motor vehicles is the trend in the theft rate for different types of vehicles. (See Table 6.) The proportion of stolen vehicles which were trucks and buses increased from 6.4 percent in 1974 to 9.4 percent in 1977, while the proportion which were cars decreased by 4 percent during the same period. Presumably, youngsters do not generally appropriate trucks or buses for "joyriding."

TABLE 5: AVERAGE VALUE OF VEHICLE THEFT RELATED OFFENSES AND VALUE OF RECOVERY, 1967-1977

Year	Average value of theft	Amount recovered as proportion of value of theft
1967	\$1,017	86%
1968	991	85
1969	992	80
1970	948	77
1971	933	74
1972	936	74
1973	1,095	72
1974	1,246	66
1975	1,457	62
1976	1,741	59
1977	1,992	50

TABLE 6: MOTOR VEHICLE THEFT 1974-1977, PERCENT OF TOTAL VEHICLES STOLEN BY TYPE

Year	Autos	Trucks and Buses	Other Vehicles*
1974	84.3%	6.4%	9.3%
1975	84.0	7.0	9.0
1976	83.1	7.9	9.0
1977	80.3	9.4	10.3

* "Other vehicles" consists mostly of motorcycles. For purposes of the Uniform Crime Reports the term "motor vehicle" does not include construction and farming equipment.

The U.S. Justice Department believes that these statistics are clear evidence that the involvement of juveniles and amateurs is declining. Reasons advanced for the decline include the decreasing proportion of juveniles in the American population, the greater accessibility of cars to youths because of the increase in the average number of cars per family, and the installation of ignition locks under Standard 114. The Standard's main purpose was to deter amateur thieves. Statistically it appears to have been successful, since the total theft rate has remained fairly constant since 1970 while the juvenile arrest rate has declined significantly.

The corollary to the decreasing rate of juvenile auto theft is an increasing rate of adult, professional and organized auto theft. The proportion of those arrested for auto theft who were adults rose from 38.1 percent in 1967 to 47 percent in 1977, an increase of 23.4 percent. The absolute rate of arrests of adults has dropped since 1967, but it has simply not dropped as sharply as the juvenile rate.

The Justice Department's view of the changing character of auto theft may be summarized this way:

Law enforcement officials are catching [fewer car thieves] even though they have instantaneous access through their computer system to all motor

vehicles which have been reported stolen. We believe this decline is evidence that today's car thief does not keep the stolen vehicle on the streets but alters its condition in some fashion, retitles it, or exports or transports the vehicle out of the country. We believe furthermore that the continual decline in the rate of the value of recovered stolen motor vehicles from 86 percent recovery in 1967 to 59 percent recovery in 1976 is clear evidence that professional thieves have increasingly entered the stolen motor vehicle area. While juveniles (i.e. under 18) still account for more than 50 percent of the arrests, the car thief -- according to available arrest statistics is growing older. He is concealing his activities and is being arrested less often. Instead of abandoning the stolen vehicle, he is retitling it, cutting it up for parts, exporting it, or transporting it into Mexico or Canada.³

A major assault on the citizen's ownership of his automobile has come from the so-called "chop-shop" or "cut-shop." In these operations, cars, usually late model, expensive cars, are stolen and driven to a predetermined site, then picked up and driven to a "cutting factory," where they are disassembled and reduced to parts which can be resold. The remaining parts are usually sold or given to a scrap processor, or sometimes abandoned. Law enforcement and insurance officials attribute the loss of many of the 40 percent of stolen vehicles which are never recovered to these operations.

The rapidly rising prices of new and used cars and parts and of repairing vehicles has created an expanded market for "hot" cars and parts, and some less than scrupulous repair shops find it highly profitable to rebuild a damaged car with stolen parts rather than with new or used legitimate parts. According to Automotive News, the average sticker price of a 1979 General Motors car is \$7,668, and the average 1979 Ford Motor Company car lists at \$7,368.⁴ It is generally agreed that the profits to car thieves from "chop-shop" activities far exceed the potential gain from the theft and resale of intact cars. The Alliance of American Insurers has determined that to rebuild a popular 1979 car such as a Chevrolet Impala from its component parts, purchased individually at normal labor rates, would cost over \$20,000. As the price of new cars rises, the price of parts also increases, usually at an even greater rate.

"Chop-shops" are closely related to the "salvage switch," described by the Chief of the San Antonio Police Department:

These were body shops who were doing legitimate vehicle repair, second-hand rebuilding, and what-have-you. Well, they found out that going to the salvage yard and buying late model wrecks that were in demand, and

3. Testimony of Stephen M. Weglian, Attorney, Criminal Division, U.S. Department of Justice, before the public hearing of the New York State Senate Committee on Transportation and Senate Consumer Protection Committee concerning auto thefts, 2 (January 24, 1978).

4. Automotive News, 1 (September 25, 1978).

trying to rebuild them was much too expensive. An easier way was to just rebuild the identifying system, the VINS. Consequently, the name of the game was to steal a car identical to the one that was listed as salvage, and then transfer the numbers and thus seemingly giving a guise of legitimacy to the stolen vehicle and, of course, moving it to the legitimate market.⁵

One outlet for the disposal of stolen vehicles and parts is the export market. This market for used cars and parts is strong in Mexico, South America and the Middle East. The New York State Committee on Transportation believes that a large, but undetermined, number of cars is being exported overseas from the Port of New York, especially through the Port Newark, New Jersey section.⁶ The trail of stolen vehicles to Mexico is very substantial. The National Automobile Theft Bureau states that stolen pickup trucks, truck/tractors, construction equipment and luxury cars are sold or bartered along the U.S.-Mexico border for not more than 10 percent of their U.S. value. Once they have been falsely documented in Mexico they can then be sold for twice their U.S. value. Sometimes stolen vehicles are exchanged for narcotics.⁷

Law enforcement and insurance industry sources agree that automobile insurance fraud is increasing, although it is difficult to estimate the number of vehicles reported stolen which actually represent insurance fraud. The New York City Police Department has estimated that up to 25 percent of the vehicles reported stolen there in recent years were actually disposed of by their owners to collect insurance.⁸ This form of fraud can take on several variations.

In 1977, 968,358 motor vehicles were stolen in the United States. Not unexpectedly, the most severe problems tend to be concentrated in the more populous, urbanized and affluent states in the country. In 1977, the latest year for which data is available, the "top ten" states - those in which more than 25,000 motor vehicles were stolen during the year - are shown in Table 7. To put this data in perspective, in California an average of 398 motor vehicles was stolen each day.

5. As quoted in New York State Senate Committee on Transportation, NATIONAL WORKSHOP ON AUTO THEFT PREVENTION: COMPENDIUM OF PROCEEDINGS, 23 (October 3-6, 1978).

6. New York State Senate Committee on Transportation, AUTO THEFTS: A LOW RISK HIGH PROFIT CRISIS IN NEW YORK STATE, 5 (January 16, 1978). [hereinafter cited as AUTO THEFTS IN NEW YORK STATE]

7. National Automobile Theft Bureau, 1977 ANNUAL REPORT, 17.

8. Supra note 6, at 6.

TABLE 7: STATES IN WHICH 25,000 OR MORE MOTOR VEHICLES WERE STOLEN, 1977

1977 Rank	State	1977 Thefts	Percent of National 1977 Total
1	California	145,270	15.0%
2	New York	133,669	13.8
3	Massachusetts	65,922	6.8
4	Illinois	59,446	6.1
5	Texas	51,018	5.3
6	Michigan	49,803	5.1
7	Ohio	42,851	4.4
8	Pennsylvania	39,264	4.1
9	New Jersey	37,489	3.9
10	Florida	29,698	3.1
Total		614,430	63.5

Expressed in terms of theft rates per population, the average theft rate for the entire country in 1977 was 447.6 thefts per 100,000 inhabitants. Thirteen of the states had theft rates above that average, as displayed in Table 8.

TABLE 8: STATES ABOVE 1977 NATIONAL AVERAGE, COMPARED TO 1976 POSITION**

	1977 Rank	1977 Rate*	1976 Rate*	1976 Rank	Percent Change
1.	Massachusetts	1,140.1	1,312.7	1	-13.1%
2.	Rhode Island	791.4	885.5	2	-11.6
3.	Alaska	753.3	805.8	3	- 6.5
4.	New York	745.8	738.2	4	+ 1.0
5.	California	663.2	664.3	5	+ 2.9
6.	Connecticut	593.2	561.8	7	+ 5.6
7.	Nevada	559.2	505.2	10	+10.7
8.	Michigan	545.5	613.1	6	-11.0
9.	Illinois	528.6	504.8	11	+ 4.7
10.	New Jersey	511.5	510.7	9	+ 0.8
11.	Hawaii	489.4	542.1	8	- 9.7
12.	Colorado	477.1	442.0	-	+ 7.9
13.	Delaware	467.0	484.4	12	- 3.6

* rates based on 100,000 inhabitants

** 1977 national average rate - 447.6

Although Massachusetts continues to be far away the leader in the theft rate (for reasons that are not entirely clear), it can be seen that there was a substantial decline of about 13 percent in that rate in 1977. There was also a 10 percent drop in the theft rate in Massachusetts in 1976, and it is thought that the formation of an anti-car theft committee and campaign there in 1976 may be partially responsible for this improvement. Such committees are discussed at page 48.

As can be seen in Table 9, less urbanized states showed the greatest increases in the auto theft rate in 1977, although their rates and numerical totals remained far below that of the larger states. States having lower theft rates should not necessarily be complacent, because they may be part of the problem as receiving states; that is, they may be ones to which stolen automobiles frequently migrate, because of lenient registration requirements.

TABLE 9: STATES IN 1977 WITH INCREASES OF 10% OR MORE

State	1977 Rate*	1976 Rate*	Percent Increase
1. Vermont	265.2	198.1	33.9%
2. Arkansas	183.4	151.4	21.1
3. West Virginia	163.3	135.9	20.2
4. Mississippi	144.4	122.2	18.2
5. Wyoming	282.0	242.1	16.5
6. New Hampshire	293.4	252.3	16.3
7. Maine	246.9	213.7	15.5
8. Texas	397.6	351.3	13.2
9. Louisiana	337.7	300.6	12.3
10. Nevada	559.2	505.2	10.7

* rates based on 100,000 inhabitants

TABLE 10: STATES IN 1977 WITH DECREASES OF 10% OR MORE

State	1977 Rate*	1976 Rate*	Percent Decrease
1. New Mexico	259.5	329.5	21.2%
2. Massachusetts	1,140.1	1,312.7	13.1
3. Rhode Island	791.4	885.5	11.6
4. Michigan	545.5	613.1	11.0

* rates based on 100,000 inhabitants

2. METHODS OF RETITLING STOLEN VEHICLES

Three explanations may be offered for the high rate of unrecovered stolen vehicles. First, that the cars have been "chopped" into salable components and that identifiable parts no longer exist. Second, that new identities have been created for cars, frequently by retitling. Third, that the cars have been exported and are no longer in the country.

All three of these explanations relate to the title/registration process. The VIN plates and identification papers (if they are obtained or forged by the thieves) of "chopped" cars or legitimately wrecked cars may be transferred to other stolen cars, those in the second group, to give them new identities. Exported cars may be covered by new identities in the same way or by altered or counterfeit documents. Officials concerned with the theft problem are generally of the opinion that the majority of unrecovered cars fall into the second group, that is, remaining in use and operating under a new identity with apparently legitimate title and registration documents.⁹

Organized and professional theft operations may acquire state-approved titles in two ways. Most commonly, it is thought, titles are issued to theft operations because there is neither inspection of the car for which the title is issued nor verification of the information offered as proof of ownership. In some states, titles may be obtained by mail, unsupported by official evidence of ownership. Secondly, criminals abuse the system through fraudulent use of official documents, either altered, forged or stolen.¹⁰

Salvage Switch

The salvage switch is the prevalent method of retitling stolen cars with an apparently legitimate identity, allowing them to be sold to an innocent buyer. The switch is conceptually simple, but can be very difficult to detect, primarily because of the lack of control of ownership documents. A total loss settlement occurs between an insurance company and an insured party when the insured's car is stolen and not recovered or is so extensively damaged that the estimated cost of repairs exceeds the fair

9. H. Becker and M. DiMiceli, Arthur Young and Company for U.S. Department of Transportation, National Highway Traffic Safety Administration, GUIDELINES MANUAL - VEHICLE THEFT, 1-3 (August 1977). [hereinafter cited as GUIDELINES MANUAL FOR THE ISSUANCE OF CERTIFICATES OF VEHICLE TITLE]

10. Information in this chapter derived primarily from GUIDELINES MANUAL FOR THE ISSUANCE OF CERTIFICATES OF VEHICLE TITLE; and National Committee on Uniform Traffic Laws and Ordinances, AGENDA FOR NATIONAL COMMITTEE MEETINGS (April 23, 1979).

market value of the car. In this latter situation, the insurer will usually transfer the title from the insured to a dismantler or other third party.

Depending on state law and the practices of individual insurance companies, the insurer may or may not notify the state division of motor vehicles (DMV) of the transaction and submit the executed ownership certificate. Some insurers provide the purchaser with a salvage bill of sale as evidence of ownership. Alternatively, the insured on occasion retains ownership of his damaged car, and again the DMV may or may not be notified of that resolution of the claim.

In the case of an unrecovered theft, the insurer generally receives title to the missing car, but procedures developed by DMVs to process total loss claims are designed to insure DMV notification of an extensively damaged vehicle and to impose certain safety requirements when and if the car is restored to operation. The specific steps involved in the processing of a total loss vehicle by the insurer and the DMV are summarized below.

When insurer obtains possession of damaged vehicle and title documents:

The insurer endorses the title documents and forwards them to the state DMV with notice of transfer of interest or ownership, as, for example through the insurer to a salvage purchaser. Upon the sale of the vehicle the insurer should issue a salvage bill of sale to the purchaser in lieu of other ownership documents. When the salvage vehicle is restored to operating condition and application for registration is made, the salvage bill of sale will be presented as sole evidence of ownership. The application will be processed in the usual manner for "revived salvage" vehicles, which, depending on the particular state, may or may not include processes designed to validate the identity of the vehicle offered for registration.

When the insured retains the damaged vehicle:

The insurance company will send to the DMV some notice that the settlement has occurred and that the salvage vehicle has been retained by the insured, and the insured retains possession of the damaged vehicle and the unaltered ownership documents. The subsequent restoration of the vehicle, transfer of ownership and reregistration of the vehicle are not usually considered by DMVs to be actions of special concern.

Total loss settlement for an unrecovered stolen vehicle:

Registration procedures usually require only that the transfer of ownership to the insurer be accompanied by a statement indicating the reason for the transfer. Then the recovered car (if it is ever recovered) becomes the property of the insurance company and is usually sold, depending on its condition, at auction or to a salvage dealer. In some states specific notice and registration procedures are required if a salvage dealer acquires a recovered car. Otherwise, the transfer of ownership following the total loss insurance settlement is generally handled as a "normal" transaction by DMVs.

The thief can take advantage of these situations by using the following techniques. First, the thief obtains the salvage vehicle and some type of legitimate documentation of ownership. Then, the thief steals a car similar in year, make and model to the salvage vehicle and, using the salvage VIN plate, license plates (if any) and other identifiers, gives the stolen car the identity of the salvage vehicle. The "revived" car may then be retitled or re-registered and sold to an unsuspecting third party.

Most auto theft rings will replace the "public VIN plate" - the one found on the top of the dashboard or on the front door pillar on the driver's side of the car - with a VIN plate taken from a salvage vehicle of the same year, make and model. Some more sophisticated groups may remove the other "secret" VINs on the stolen car and replace them with a restamped VIN from the salvage car or with another false VIN corresponding to that on a counterfeit title.

Altered or Stolen Vehicle Identification Numbers

These techniques use legitimate VINs to conceal the identity of stolen vehicles and obtain registration documents. The VIN plate is attached in a visible place on the car body; present NHTSA safety standards require the VIN plate to be placed within the passenger compartment and be visible through the windshield. On late model cars the VIN plate can usually be found on the left side of the top of the instrument panel.

VIN plates can be stolen from parked, stored or wrecked cars. Normally, the theft would not be discovered for a long while. The stolen plate can then be attached to a stolen car of a similar type to the one from which the plate was stolen. Alternatively, the "hot" VIN can be altered or replaced on the stolen car with similar numbers not likely to be listed as stolen. Methods used to alter the numbers include plastic tape, paint and prepared metal plates.

After a VIN plate is replaced or altered the car may be retitled and resold in another state, using fraudulent documents prepared for that purpose. The registration of the stolen vehicle is usually attempted in those states where vehicle titling procedures do not require physical inspection of ownership documents, the car or the VIN at the time of retitling. Often, these states also do not require that verified ownership documents be presented at the time of retitling, and there may be no specific review of out-of-state registrations or special examination for fraudulent documents.

Fraudulent Documents

Auto theft operations frequently require the use of counterfeit, altered or stolen documents, in addition to altered or stolen VIN plates, in order to retitle or register stolen vehicles. The supply of almost perfect forged documents is considered to be one of the major ways in which organized crime participates in auto theft. These documents include birth certificates, driver's licenses, car registrations, bills of sale, titles, "Mon-roney" stickers (window price stickers), VIN plates, and manufacturers' certificates of origin, and federal safety standard certification labels.

Commercial printers are able to produce high quality reproductions of most states' title documents. The use of these counterfeit titles is most prevalent in the case of interstate registration of a stolen vehicle. The possibility of detection is minimized because the DMV personnel in the registering state will be unfamiliar with the documents of the foreign state whose documents were counterfeited. Counterfeit documents are often used in the following transactions:

(1) To conceal the fact that a car has been stolen and "salvage-switched." If legitimate ownership documents for the salvage vehicle are not available to the criminals, counterfeit documents can be offered to obtain new ownership and registration documents and to support the sale of the car to an unsuspecting purchaser. Counterfeit documents may also be used to support the sale to an innocent buyer without concealing the identity of the car but by changing the identity of the seller. The counterfeit title would accurately describe the car but would bear a fictitious name for the seller's name.

(2) To record an apparent but fraudulent change of ownership in order to obtain a genuine title which may later be used to sell the car. This transaction usually occurs in a state other than the one appearing on the counterfeit title document.

Other documents, such as the bill of sale and the manufacturer's certificate of origin (MCO), may also be counterfeited and offered as evidence of ownership. This latter document would be produced as proof of ownership along with an application for an original title, particularly for allegedly "new" American cars and for imported cars.

Legitimate documents may be altered to correspond to the identifiers of the car for which titling or registration is sought. The document may be "washed" or "weathered" in order to minimize color contrasts, erasures or other evidence of alteration after selected letters or digits are retyped or otherwise modified. The most prevalent use of altered documents is believed to be during the sale of a stolen vehicle to an innocent buyer. The use of altered documents is also worthwhile to the thief when title documents are issued over-the-counter and without reference to a master title record, when multiple documents provide carbon copies of the title which are given to the car owner, when photocopied documents are employed and accepted as legitimate evidence of title and registration, or when safety characteristics such as special paper, inks or printing processes are not used in a state's title documents.

Legitimate ownership documents may also be stolen, and it is reported that the use of stolen documents has increased in recent years. Among the stolen documents most frequently encountered are current registrations and temporary operating permits stolen from automobile dealers. These documents may be altered or, if they are blank, may simply be completed to appear legitimate. Occasionally, blank title documents have been stolen from DMV offices, warehouses and printing facilities. In one state, a few years ago, 18,000 blank titles were stolen out of the trash, where they had been placed when the DMV acquired a new administrator. DMVs throughout the country had to be instructed to look for titles from that state coming through with the old administrator's name on them.

3. WEAKNESSES IN THE TITLING AND REGISTRATION PROCESS

Once the basic techniques of auto thieves are understood it is necessary to determine how they use, or misuse, state titling and registration laws to carry out these schemes. Each state has designed its own titling and registration process (a diversity which in of itself is an aid to auto thieves), and the different systems are vulnerable or weak in deterrent and detection at different points in the process. Thus, the following analysis is a generalized one, applicable to different states at different times, although appropriate examples will be provided.

Intake And Processing

DMVs receive and examine ownership documents when applications are made to title nonresident vehicles, retitle local vehicles or change ownership of vehicles. Usually, the applicant will submit current, existing title and registration documents, but if these documents are missing or non-existent he may submit other documents such as a bill of sale or manufacturer's certificate of origin. Any of these documents may be fraudulent, and the intake process may be vulnerable to accepting them under the circumstances described below.

Many states do not employ procedures to review and inspect documents for evidence of counterfeiting, forgery or alteration. Specifically, the intake process does not include inspection of the documents for any interruption or destruction of the integrity of their safety and security characteristics, nor a comparison with a sample valid document of the same type and state for evidence of fraud. This provides, in particular, an opportunity for the use of invalid foreign documents.

Frequently, DMV counter clerks and other personnel are not specifically trained to inspect for and recognize such evidence, although they become aware of the more obvious or inept indications of fraud with experience. In some states, such as North Carolina, DMV clerks receive some degree of training in examining documents, and they do compare out-of-state documents with legitimate samples, but, according to the North Carolina Division of Motor Vehicles, these efforts are not adequate to prevent all frauds and it would be helpful to employ professional document examiners.¹¹

Aggravating this situation with regard to foreign documents is the failure of many states to return or refer them back to the state of origin, altogether precluding the possibility that the issuing state will uncover the invalidity of the documents. (See Table 11.) Many times, titles are simply issued "over-the-counter" without reference to state or regional

11. Interview with Robert A. Pruett, Assistant Director, License and Theft Section, North Carolina Division of Motor Vehicles, Raleigh, North Carolina, February 24, 1979.

TABLE 11: STATE POLICIES FOR SURRENDERED TITLES¹²

The following DMVs return surrendered titles to issuing states:

Alabama	Michigan
Alaska	Minnesota
Arizona	Nevada
Arkansas	New Hampshire (reciprocal)
Colorado	New Jersey
Connecticut	New York (on request)
Florida	Oregon
Georgia	Rhode Island
Idaho	Tennessee
Indiana	Texas
Kansas	Vermont
Louisiana (in certain cases)	Washington
Maine	West Virginia
Massachusetts	Wisconsin

The following DMVs notify issuing states that titles have been surrendered:

California	Ohio
Delaware	Oklahoma
Iowa	Pennsylvania
Kentucky	South Carolina
Missouri (on request)	South Dakota
New Mexico	Utah
North Carolina (to begin returning in late 1979)	Wyoming

The following DMVs do not return or notify the issuing states of surrendered titles:

District of Columbia	Montana
Hawaii	Nebraska
Illinois	North Dakota
Maryland	Virginia
Mississippi	

12. POLK'S MOTOR VEHICLE REGISTRATION MANUAL, 4 (April 1979).

stolen vehicle files or the automated stolen vehicle files maintained by the National Crime Information Center (NCIC), the FBI's criminal justice information system, and the National Automobile Theft Bureau (NATB).¹³ No state requires that VIN numbers, even out-of-state ones, be checked with the NCIC, even though some states' own criminal justice information systems are interfaced with the FBI system. About two-thirds of the states maintain their own automated stolen vehicle files, in addition to the records which are kept by most major law enforcement agencies. Under present procedures, the volume of routine transfer and retitling transactions would prohibit such checking in all cases, but this type of inquiry is rare even for exceptional transactions, such as those involving high theft-hazard vehicles, restored salvage vehicles, and title transfers received from several specific states whose title processes are susceptible to misuse. These would be appropriate subjects for state and NCIC or NATB inquiry during processing.

Verification of Vehicle Identity

One of the most critical aspects of the title and registration process is verification of the identity of the car for which title/registration documents are sought, yet this is an area in which many states' procedures are particularly weak. A condition which significantly impairs the effectiveness of anti-theft efforts is the absence or inadequate use of procedures to physically inspect motor vehicles for which title is sought, with the goals of confirming the identity of the car as described in the proffered ownership records and detecting any alterations to the vehicle identifiers that might expose the car as a stolen one.

Even when cars are inspected the inspection procedure may be flawed in several basic respects. Failure to inspect and interpret the VIN provided in the proffered ownership documents, and to compare it with the VIN plate affixed to the car and the actual characteristics of the car (year, make, series line, body type, engine type, etc.) may render the vehicle inspection useless. Inconsistencies between the VIN on the documents, the VIN on the car and the characteristics of the car itself should not be accepted without, at a minimum, reference to other vehicle identifiers such as the confidential VIN or the physical characteristics of the car. Only four jurisdictions - Alabama, the District of Columbia, Rhode Island and Vermont - explicitly require the VIN plate to be compared to the one listed in the title application or any other document the DMV may require, usually for vehicles coming from out-of-state. Sources in at least one of these states indicate that in reality such a comparison is not always carried out. Several additional states require physical inspection of the VIN plate. About half of the states require physical inspection of the VIN

13. NATB operates the North American Theft Information System (NATIS), which provides much information on the ownership of 117 million cars to theft investigators. The sales and shipping records for most American cars since the 1960s, plus British Leyland and Porsche-Audi-Volkswagen products, and Honda and Harley-Davidson motorcycles, are stored in the computer, allowing investigators to establish a chain of ownership for a vehicle.

TABLE 12: STATE POLICIES FOR VIN PLATE INSPECTION¹⁴

The following states require inspection of the VIN plate in all cases:

Arkansas	Kansas
California (except for new cars sold by a California dealer authorized to sell that make)	Mississippi
Idaho	Missouri
Iowa	New Mexico
	Oregon

The following states require inspection of the VIN plate under special circumstances:

Alaska	Maine	Rhode Island
Arizona	Massachusetts	South Carolina
Colorado	Minnesota	Tennessee
Connecticut	Nevada	Texas
Delaware	New Hampshire	Utah
Florida	North Dakota	Washington
Hawaii	Ohio	Wisconsin
Indiana	Oklahoma	Wyoming
Kentucky	Pennsylvania	

"Special circumstances" usually means cars previously registered in another state, but ranges from cars not physically in the state (in which case the inspection must be carried out by authorized persons in the jurisdiction where the car is located) to "where deemed desirable," to only for antique and rebuilt cars.

The following states do not require inspection of the VIN plate upon registration:

Georgia	New York
Louisiana	North Carolina
Maryland	Puerto Rico (but inspected at time of importation)
Michigan	South Dakota
Montana	Virginia (requires owner certi- fication)
Nebraska	West Virginia
New Jersey (requires owner certification)	

14. POLK'S MOTOR VEHICLE REGISTRATION MANUAL, (April 1979).

plate only in special circumstances, most often for incoming cars previously registered in another state. (See Table 12.)

A cause of this problem is the absence of designated personnel who are specially trained to conduct vehicle identity inspections. The function is usually performed by regular DMV employees or local law enforcement officers who are unfamiliar with VIN derivation, VIN alteration methods vehicle identification techniques. Few states require or provide training in these areas. States may be interested in a training manual which NHTSA is currently preparing for the use of DMVs to train clerks and management officials.¹⁵

Salvage Vehicle and Document Process

Inadequate controls over salvage vehicles and their ownership documents aid professional theft rings in obtaining ownership documents and vehicle identifiers from salvage vehicles. Several deficiencies in the control of these vehicles and documents contribute to this problem.

In many cases, as mentioned earlier, original title documents from vehicles declared to be salvage as a result of a total loss insurance settlement are not returned to the local DMV by the insurance company or, in the case of foreign titles, to the state of issue by the local DMV or by the insurer. Many times, notification of the salvage nature of a vehicle is not even routinely provided to the local DMV. Insurers may, after acquiring title to a total loss salvage vehicle, pass the original title to a dismantler or other third party without properly endorsing the title or otherwise being identified as a party to changes in ownership.

In many states, original title documents for salvage vehicles are available without notation that the vehicle is indeed a salvage vehicle, and are, therefore, susceptible to misuse to conceal the identity of a stolen car. Some states have a section on their title form which is denoted as the "salvage section"; some print or stamp the word "salvage" in the vehicle information section; and some stamp "salvage" on the face of the title. These are easily overlooked, especially by buyers who are accustomed to the style of the title certificate of their home state.

Another document problem is that the certificates issued to rebuilt salvage vehicles do not indicate the previous physical condition of the vehicles. Also, valid identification and ownership of major component parts used in the restoration of the salvage vehicle need not be demonstrated.

Yet another problem is that many states do not accept other states' salvage title certificates as proof of ownership of the salvage title. Some jurisdictions have been correcting this: Virginia's new law covering the

15. Inquiries about this Manual may be directed to Mary Lou Farrell, Dunlap & Associates, One Parkland Drive, Darien, Connecticut 06820, (203) 655-3971.

disposition of salvage vehicles, passed in 1979, states that the Commissioner of the Division of Motor Vehicles "may accept certificates of title for salvage vehicles or other documents deemed appropriate by the Division issued by other jurisdictions indicating a vehicle has been declared salvage."¹⁶ VIN removal programs, if not operated properly, may eliminate the opportunity to inspect and identify salvage vehicles, and may also subject the removed VIN plates to loss or theft.

Lack of Document Uniformity

The various forms that each of the fifty states use for titles, registrations and other indicia of ownership vary widely from state to state in size, appearance, data content, and the presence or absence of certain document safety characteristics. The lack of uniformity in appearance and data format makes it difficult for DMV clerical personnel to determine the validity of foreign titles, since they cannot be intimately familiar with all of them. Often document samples are available to them as standards of comparison, but generally the clerk will conduct such a comparison only if he has a specific concern about a foreign document.

A few states, such as Illinois, check all titles for evidence of counterfeiting. Where such comparisons are routinely made, the lack of uniformity can be overwhelming. In Maryland, for example, it is required that all applications for titles and associated documents be reviewed by a title examiner. Each examiner uses for reference three looseleaf folders containing over 400 different documents from various jurisdictions. If more of these were uniform, counterfeit documents could be more readily and rapidly identified.

The data content and format used by each state in its title certificates varies greatly in the nature, amount, and quality of the information contained thereon. Again, this often bewildering variety hampers the review of documents for alteration or counterfeiting. Table 13 delineates what data is used by the various states on their title documents, as compiled by the American Association of Motor Vehicle Administrators (AAMVA).¹⁷

Document Security

In many instances, there are either nonexistent or inadequate procedures to protect original, blank ownership documents from theft, conversion or misuse. It is important to provide security for blank title and registration forms at the time of printing, during storage, and during use at satellite DMV offices. Control of individual original title documents can be accomplished through the assignment of unique identification numbers to each copy.

16. VA. CODE § 46.1-550.10 (1979).

17. American Association of Motor Vehicle Administrators, 1977.

4. IMPROVING THE TITLE/REGISTRATION PROCESS

This section will present several ideas for improving the title and registration process to minimize the weaknesses noted in the previous section. Included will be model legislation and examples of recent and proposed legislation from several states. These recommendations are drawn primarily from three sources: (1) the Guidelines Manual-Vehicle Theft Countermeasures in the Issuance of Vehicle Title (hereinafter referred to as the Guidelines Manual) prepared for NHTSA by Arthur Young and Company; (2) the recommendations of the Subcommittee on Registration to the National Committee on Uniform Traffic Laws and Ordinances (which meet in the Fall of 1979) (hereinafter referred to as the Uniform Laws Committee); and (3) the recommendations of the Federal Interagency Committee on Auto Theft Prevention (hereinafter referred to as the Federal Interagency Committee).

In November 1976, the National Highway Traffic Safety Administration (NHTSA) proposed Highway Safety Program Standard No. 19, termed "Motor Vehicle Titling and Theft,"¹⁸ specifying certain uniform procedures to be adopted by states for titling motor vehicles and for the disposition of titles after the vehicles are sold for salvage. The major elements of this proposal were that: (1) each vehicle have a certificate of title before being registered; (2) each owner of a salvage vehicle be required to submit a cancelled title to the state of origin, and the cancelled title or equivalent document be presented before a reconstructed vehicle could be titled or registered; and (3) no reconstructed vehicle could be permanently registered for highway use unless it had been inspected for safety and to determine that it is, in fact, the reconstructed salvage vehicle it purports to be. Thus, each car would have a birth-to-death titling procedure. Also, at any retitling where the old title was a foreign one, a check with NCIC would be required.

This proposal has not been implemented primarily because the National Highway Safety Act authorizes NHTSA to issue standards relating only to highway safety. Thus, NHTSA may issue standards requiring, for example, that new cars be equipped with steering-column locks, because those locks were designed to deter juvenile theft which has been demonstrated to lead to accidents. In the case of a standard designed solely to deter professional theft, safety is not a major consideration, and it is thought that Congress would have to amend the Act to authorize NHTSA to issue standards relating specifically to theft.

A proposed amendment to the Highway Safety Act of 1966¹⁹ would authorize NHTSA to issue national standards concerning titling, registra-

18. 41 Fed. Reg. 51,426 (1976) (was to be codified in 23 CFR § 1204).

19. 23 U.S.C. § 402.

tion and inspection of motor vehicles and the licensing of salvage operations. State governments have been of the opinion that states can promulgate these types of statutes and regulations independent of a federal requirement. In this context, the proposal may be taken as an advisory system from NHTSA (although NHTSA hopes to finalize it), and some of its provisions will be noted in later chapters of this report.

Physical Inspection of Vehicles

One of the requirements stated in NHTSA's proposal was that "no reconstructed vehicle may be permanently registered for highway use unless it has been inspected for safety ... and [inspected] by an inspector authorized by the State to determine that the vehicle is in fact the vehicle which had been sold for salvage...."²⁰ Theft experts are unanimous in advocating physical inspection of vehicles as one of the most important features of an effective anti-theft program, because physically verifying that the VIN appearing on a vehicle corresponds with the VIN shown on proffered title documents should deter counterfeiting or tampering with the documents and the VIN plates. As mentioned above, only a few states require the physical inspection of the VIN.

NHTSA proposed to the Registration Subcommittee of the National Committee on Uniform Traffic Laws and Ordinances that it recommend that the Uniform Vehicle Code (UVC) be amended to require inspection of the VIN for out-of-state vehicles. In November 1978, the Subcommittee recommended that this amendment be adopted by the full Committee, with the provision that the "inspector authorized by the state" may be either a DMV employee, law enforcement official, or an employee of a lending or financial institution.²¹

The Guidelines Manual recommends that five categories of motor vehicles be subject to physical inspection at the time of titling or registration for the purpose of identification and verification of the integrity of the VIN.²² The five categories are: (1) rebuilt or restored salvage vehicles; (2) specially constructed or homemade vehicles; (3) nonresident vehicles, coming from both out-of-state and foreign countries; (4) vehicles unregistered for more than 1 year prior to the current registration year; and (5) selected current or long-standing high theft hazard models as determined from analysis of theft records. The Guidelines Manual notes that the volume of vehicles in the third category - out-of-state vehicles - may exceed the resources of a state to inspect, particularly in states such as California where there are a large number of transient vehicles, and in that situation classes of vehicles within that category should be established

20. 41 Fed. Reg. 51,428 (1976) (was to be codified in 23 CFR § 1204).

21. National Committee on Uniform Traffic Laws and Ordinances, AGENDA FOR NATIONAL COMMITTEE MEETING, 252 (April 23, 1979).

22. GUIDELINES MANUAL FOR THE ISSUANCE OF CERTIFICATES OF VEHICLE TITLE, III-6.

for mandatory inspection. Typical subclasses might include high theft-hazard cars such as certain import and luxury models, (though these should be covered by the fifth category), or cars previously registered in certain high-risk states such as recent title-law states, major theft problem states, and adjoining states.

The Guidelines Manual recommends that inspections include, as a minimum, the following steps: (1) comparison of the VIN plate with the number recorded on the ownership records; (2) inspection of the VIN plate to detect possible alteration or other fraud; and (3) interpretation of the VIN recorded on the ownership documents to assure that it accurately describes the car in question. If necessary to resolve any discrepancy between the attached VIN and the ownership documents, a facility should be available to allow private inspection of other vehicle identifiers such as the confidential VIN.

The Guidelines Manual also recommends that personnel designated to perform such inspections should, at a minimum, receive specific training in and become proficient in, as a minimum, the following tasks: (1) vehicle identification - recognition of the physical characteristics of vehicle makes, models and model years; (2) interpretation of the vehicle description from the content of the VIN; (3) techniques for inspection of the VIN and other vehicle identifiers; and (4) knowledge of methods for alteration or replacement of the VIN.

Seizure of Vehicles and Parts

Closely related to the physical inspection of vehicles is the premise that a vehicle or part which has had its VIN removed or illegally altered should be subject to seizure and possible forfeiture. The Guidelines Manual asserts that when physical inspection determines that a VIN has been altered, defaced or destroyed and no acceptable replacement VIN has been assigned, the car in question should be seized pending further investigation into its true identity and ownership.²³ The Federal Interagency Committee on Auto Theft Prevention has recommended that the Uniform Vehicle Code be amended to permit law enforcement agencies to seize vehicles and retain them for such an investigation. The Committee is of the opinion that since the removal or falsification of a VIN is clear evidence of criminality, the police should have the right to seize a car or part to determine ownership, and should be permitted to retain the car or part pending the outcome of such an investigation.²⁴

23. Id. at III-9.

24. Federal Interagency Committee to Prevent Auto Theft, SUGGESTED CHANGES TO CHAPTERS ONE, THREE, FOUR, FIVE, AND THIRTEEN OF THE UNIFORM VEHICLE CODE, Sec. 4-112 (December, 1977). [hereinafter cited as SUGGESTED CHANGES TO THE UVC.]

Some states have related statutes which authorize a seizure and investigation; the example below is drawn from California:²⁵

MANUFACTURER'S SERIAL IDENTIFICATION NUMBERS

(a) No person shall knowingly buy, sell, offer for sale, receive, or have in his possession, any vehicle or component part thereof from which the manufacturer's serial or identification number has been removed, defaced, altered, or destroyed, unless such vehicle or component part has attached thereto an identification number assigned or approved by the department in lieu of the manufacturer's number.

(b) Whenever such vehicle or component part comes into the custody of a peace officer it shall be destroyed, sold, or otherwise disposed of under the conditions as provided in an order by the court having jurisdiction. Nothing in this section shall, however, preclude the return of such vehicle or parts to the lawful owner thereof following presentation of satisfactory evidence of ownership and assignment of an identification number by the department. This subdivision shall not apply with respect to such vehicle or component part used as evidence in any criminal action or proceeding.

(c) This section shall not apply to a scrap metal processor engaged primarily in the acquisition, processing and shipment of ferrous and non-ferrous scrap, and who receives dismantled vehicles from licensed dismantlers, or licensed junk collectors, or licensed junk dealers as scrap metal for the purpose of recycling the dismantled vehicles for their metallic content, the end product of which is the production of material for recycling and remelting purposes for steel mills, foundries, smelters, and refiners.

Idaho has a new statute which authorizes peace officers to seize any vehicle or parts which they have reason to believe are stolen, or whose numbers have been altered or obliterated.²⁶ Some DMV officials have expressed the opinion that a seizure law, while useful, is not essential because law enforcement officials can seize a car under normal stolen property statutes, if they know or have reason to believe a car is stolen.

Document Intake and Inspection

NHTSA, the Federal Interagency Committee, and the Uniform Laws Committee have all recommended new policies and procedures in the area of intake and examination of both foreign and local records, which is covered generally by § 3-105 of the UVC. These recommendations vary, but embody four basic policies: (a) title documents submitted to DMVs should be compared with a known standard; (b) they should be examined for

25. CAL. VEH. CODE § 10751.

26. IDAHO CODE § 49-592A (1978).

evidence of alteration, forgery or counterfeiting; (c) there should be confirmation of the existence of safety features in official documents; and (d) the VIN contained in the documents should be checked with state or regional stolen vehicle files and with NCIC. Some states follow practices comparable to these administratively.

The document to be processed should be compared with an accurate reproduction of a valid document, noting characteristics such as size, color, texture, layout and typeface. An examination for evidence of alteration should be able to disclose erasures, bleaching, artificial aging or weathering, retyping, or photocopying. Close inspection should also be able to confirm the presence of safety features incorporated into official documents such as watermarks, laminated stock, latent images and ultra-violet sensitive designs. This can be most easily accomplished if certificates of title are issued in a distinct and secure form. In June 1978, Illinois began issuing a new title printed on bank note paper with a border of intaglio steel printing, somewhat like a \$20 bill. Vital information on the title, such as the make, model, year, body style and VIN of the car, is covered by a film lamination applied at 450° F. An attempt to remove this film reportedly would destroy the information beneath it. Finally, there are latent images in the title which became apparent under certain lighting conditions. It is expected that as the new alter-proof title gradually replaces the old-style title in Illinois it will become more and more difficult to pass a fraudulent title to a used car purchaser.²⁷

According to the Federal Interagency Committee, the DMV should also, in the case of an out-of-state vehicle, transmit the VIN within 24 hours of its receipt to NCIC to determine if the vehicle has been stolen.²⁸ As noted above, the registration subcommittee has reservations about the capacity of DMVs to make these checks and of NCIC to absorb them.

Such procedures are especially important when a certificate of title is returned by another state for cancellation. The DMV of the original issuing jurisdiction (the one to which the title has been returned) should examine the title to determine if it is forged, altered or counterfeited, should check the VIN against state records, and should notify the submitting state of any irregularity.

The Guidelines Manual stresses that installation of technical equipment to inspect document safety characteristics may be necessary, and it is expected that federal grants may be available to pay for such equipment. The manual also emphasizes the importance of training DMV personnel to carry out these procedures. Personnel should receive training in recognition of title documents, techniques of alteration and counterfeiting and their detection, document safety characteristics, and use of special equipment, and actions to be taken on discovery of possible fraudulent documents. As an example, the Illinois Motor Vehicles Services Department

27. Speech by Alan J. Dixon, Secretary of State of Illinois to Canton, Illinois Rotary Club Luncheon, September 6, 1978.

28. SUGGESTED CHANGES TO THE UVC, supra note 24, at § 3-105.

has a Title Verification Section with five people assigned to examine applications for certificates of title to find evidence of alteration or counterfeiting on the titles given to the applicants by the last sellers of the vehicles. These five people check about 3.5 million titles per year. In 1977, this unit detected 152 altered and counterfeit titles. Although this represents a rate of .004 of one percent of the applications examined, this and other information led to the recovery of 391 vehicles in 1977 worth over \$2 million.²⁹

Confirmation of Valid Title

The Guidelines Manual recommends that DMVs take the procedures concerning physical inspection of vehicles and document intake, discussed at pages 21 and 23, one step further, and issue or transfer title to a car only after confirmation that the existing title and right to possession are valid and accurately represented in the application documents.

Specifically, the Manual recommends that, upon completion of the initial document intake and inspection process, a conditional ownership permit be issued pending confirmation of clear title. Sale or transfer of a car could only occur after confirmation of the title by the DMV. Transfers involving foreign titles, salvage vehicles, recovered vehicles and vehicles with questionable physical characteristics or title documents would require direct confirmation of prior title by, (a) comparison with source records, and (b) clearance against NCIC and/or state stolen vehicle listings.

In order to implement these measures effectively, it would be essential for state and local law enforcement agencies to report the theft of cars to the state DMV, and for the DMV to "flag" the title and registration records of cars reported as stolen. Since it is feasible, through computerization, for a state to tie in its criminal records with title and registration records, this practice would not necessarily require duplicate files. Then, when a transfer application for an apparently stolen vehicle is received, the DMV can check back with the reporting law enforcement agency to determine the status of the car.

Another method that could contribute to confirmation is use of the NCIC computer system. Many states maintain current license plate files with NCIC. When a car is reported stolen, or is taken off the road, the information is reported to NCIC and is available to other states. The Manual cautions that the amount of time used to conduct the confirmation should be adequate to assure that the reference files have been updated to the date of the applications.

Salvage Vehicle and Document Control

The dangers and techniques of replating - transferring a VIN plate from a salvage vehicle to a stolen vehicle - have already been described. Several proposals have been set forth to minimize replating and to protect

29. Speech by Alan J. Dixon, supra note 27.

the public in purchasing rebuilt vehicles. The proposals purport to establish requirements that will show proof of ownership, provide an "audit trail" for all salvage cars, and, of outstanding importance, remove the standard title document from circulation so that it cannot be used in fraudulent, illegal transactions. These proposals are contained in the Guidelines Manual, in the amendments to the Uniform Vehicle Code adopted by the Subcommittee on Registration of the National Committee on Uniform Traffic Laws and Ordinances and by the Federal Interagency Committee on Auto Theft Prevention, and in the Model Salvage Vehicle Procedure prepared by the Maryland Motor Vehicle Administration for the American Association of Motor Vehicle Administrators (AAMVA) in 1978. Although the following four steps are somewhat arbitrary, the proposals can be organized this way for clarity.

Step 1: Require the owner of a salvage vehicle to surrender its original title. The vehicle owner, or the insurance company if it becomes the owner of a salvage vehicle through a total loss insurance settlement, would be required to surrender the certificate of title originally issued for the vehicle to the DMV (of the state in which salvage occurs, according to the Guidelines Manual unspecified in the others). The Guidelines Manual and the Maryland Model Procedure specify that this be done within 10 days of settlement; the proposed amendments to UVC § 3-117 say only that the owner shall "immediately mail or deliver" the certificate to the DMV. Forty-five states already require owners to surrender the title to the DMV for cancellation, but only twenty-one states require insurance companies to surrender the title, or alternatively, require the purchaser to surrender the title when the insurer transfers a salvage vehicle to him. The proposed amendments to the UVC place the primary responsibility to surrender the title on the owner of record, rather than on both the owner and purchaser as presently stated in § 3-117. It is thought that this will more positively insure that the title is surrendered, because the surrender would be a prerequisite to transferring the vehicle, as described below in Step 2.

Michigan's new law, for instance, specifies that when an insurance company acquires ownership of a late-model vehicle (generally, one manufactured in the current year or the preceding 5 years) through the payment of damages due to an accident, it must surrender a properly assigned certificate of title to the Secretary of State and apply for a salvage certificate of title. It may not sell the vehicle without first receiving the salvage title, which must, in turn, be assigned to the buyer. Parallel procedures are specified in the statutes for dealers and individuals.³⁰

Step 2: The DMV issues a salvage title to the owner, which may be transferred to a purchaser. The owner can convey a salvage vehicle only by surrendering the title and obtaining in return a salvage title from the DMV, for a small fee, and then assigning the salvage title to the salvage purchaser. The Guidelines Manual recommends that the salvage

30. MICH. COMP. LAWS §§ 217c, 235, 237, 242 (1978).

title be valid for only one transfer of ownership, and that each successive transfer require surrender and reissue of the salvage title. It also urges that salvage titles be recognized and accepted by other states as valid proof of ownership in interstate transactions. Currently, about twenty-one states, after receiving the certificate of title, issue a salvage title certificate or a permit to dismantle.

Step 3: Notification to DMV of final disposition of the vehicle. The Guidelines Manual states that the purchaser of a salvage vehicle acquired for the purpose of dismantling and destruction should, within 10 days after acquisition of the car, surrender to the DMV the license plates for the vehicle, if they are available, and should notify DMV of the final status of the vehicle. The Maryland Model Procedure is somewhat more specific in stating that, if the salvage vehicle is sold to a scrap processor and is totally destroyed, the processor must immediately certify on the salvage certificate that the vehicle no longer exists and forward it to the DMV for deactivation. This type of notification is not specifically addressed by the UVC or the proposed amendments to it.

Step 4: Titling of reconstructed salvage vehicles. The three proposed systems are unanimous in recommending that information about reconstructed vehicles should be added to an application for certificate of title. Currently, under § 3-104 of the UVC, it is required that reconstructed salvage vehicles be registered, but there are no titling requirements. The procedure noted below should be a major hindrance to attempted switching of VIN plates.

The Maryland Model Procedure states that as a prerequisite to re-licensing of a rebuilt salvage vehicle for highway operation, it should be inspected by a police department or the DMV. The inspector should verify the VIN and certify that the vehicle meets applicable safety standards. Hawaii, Illinois, Indiana and Michigan now require such an inspection. Then, documentation of the inspection plus the salvage certificate should be sent to the DMV, which would issue a title document and note in its files that the vehicle is no longer salvage. Currently, only California, Illinois and Indiana require that the application be accompanied by the previously issued salvage certificate.

The application for title for a rebuilt salvage vehicle would also include, under proposed amendments to UVC § 3-104, a listing of other vehicles and their VINs from which any major parts or components, as specified by the state, were obtained. It is anticipated that DMVs would require identification of key components such as engines and transmissions which bear identification numbers and which are often the subjects of professional theft. Currently, only Illinois, Indiana and Iowa require this information. Illinois also permits its police officers to request proof of ownership of component parts. Michigan also requires proof of ownership of repair parts. The reissued certificate of title would have to clearly indicate that the vehicle has been reconstructed or specially constructed, a requirement not currently found in any state's laws. This would alert

eventual purchasers to the history of the car.³¹

One difficult problem is what to do with the public VIN plates on salvage vehicles. In the past it has been thought to be good practice to require that the VIN plate be removed from total loss vehicles and surrendered to the DMV, to remove it from circulation. VIN removal programs are discussed more thoroughly at page 40, but it is appropriate to note here that the trend of thought on this issue has changed in the past few years. It is now thought that VIN plate removal provides a cover for the thief, and that it is more effective to require that VIN plates stay in place, and to provide penalties for unauthorized removal, defacement or alteration of the VIN plate. The Maryland Model Procedure recommends that the public VIN plate remain affixed to any salvage vehicle, and that if for some reason it should become erased, lost or otherwise destroyed an assigned VIN should be issued by the DMV and affixed in or near the same location as the missing or obliterated VIN plate. No state currently requires the issuance of an assigned VIN.

The Subcommittee on Registration of the National Committee on Uniform Traffic Laws and Ordinances, while endorsing these proposals, has expressed concern about the ability of DMVs to handle the additional workload created by them. The title applications would have to contain new information that would also have to be transferred to computer tape or microfilm.

The Maryland proposal includes a model uniform salvage certificate. By adopting the size, text, data content, format and safety features of this certificate, reprinted below, uniformity could be achieved. The color and aesthetic features of the certificate could remain the choice of the state. Clarence Woody of the Maryland Motor Vehicle Administration reports that about half the states are committed to using this title format in the near future, when their present supply is exhausted or when necessary computer modifications are made.³² (Salvage certificate reprinted on page 30.)

The proposed changes to UVC § 3-104 read as follows:

(e) When the application [for title] refers to a vehicle which has been specially constructed or reconstructed:

-
31. The rebuilding industry opposes such a proposal. They reason that the potential buyers of such cars are people who could not afford to buy an unaltered car of the same model. The notification of rebuilt status would discourage dealers from handling such vehicles, and the potential buyers would be forced out of the market and into older used cars. This response appears to presume a lack of candor or understanding on the part of either the seller or the buyer of the rebuilt car.
 32. Speech by Clarence Woody, Commissioner's Staff, Maryland Motor Vehicle Administration to National Workshop on Auto Theft Prevention, New York, New York, October 4, 1978.

STATE
LOGO

NAME OF MOTOR VEHICLE DEPARTMENT
ADDRESS OF MOTOR VEHICLE DEPARTMENT



CONTROL NO.

VEHICLE IDENTIFICATION NO.			YEAR	MAKE	BODY STYLE	CLASS	ODOMETER	TITLE NO.
WEIGHT	AX-LES	FUEL	VAR	VARIABLE	VARIABLE	VARIABLE	VARIABLE	DATE ISSUED

NAME AND ADDRESS OF OWNER(S) OF SALVAGE VEHICLE

PRIOR TITLE ST.	TITLE NUMBER
--------------------	--------------

CONTROL NO.
100001
(This is not a title number)

SALVAGE CERTIFICATE FOR A VEHICLE

This is to certify that a certification of a total loss claim has been filed with the Motor Vehicle Department in the name of the insurer/insured shown hereon and constitutes evidence of ownership in lieu of the Certificate of Title surrendered to the Motor Vehicle Department upon issuance of this document.

The Department will not be responsible for false or fraudulent odometer statements made in the assignment of the Certificate of Title or for errors made in recording by the Department.

Motor Vehicle Department Head

This vehicle may not be titled and registered until it has been restored, inspected and certified below.

CERTIFICATION OF INSPECTION BY POLICE AGENCY

I, the undersigned authorized representative of the Police Agency named below, hereby state that I have inspected the vehicle described above and verified the vehicle identification number.

NAME OF POLICE AGENCY MAKING INSPECTION

SIGNATURE OF POLICE REPRESENTATIVE INSPECTION DATE

NAME OF
STATE

1. The application shall list the source and vehicle identification number of any other vehicles from which any of the parts or components specified by the department were obtained;
2. The department shall assign a vehicle identification number to the vehicle when necessary;
3. The certificate of title issued by the department for the vehicle shall clearly indicate that the vehicle has been specially constructed or reconstructed.

Verification of Foreign Title

A policy unanimously recommended by theft experts is that foreign title documents received from applicants during the title/registration process be returned to the issuing state after the completion of the internal review process. This policy would provide a double-check on the validity of a title because the issuing state can examine the returned title for evidence of fraud. This policy would be particularly helpful in the case of scrapped vehicles, for which many certificates of title are simply never surrendered. Organized theft rings may acquire these documents, increasing the opportunity for fraud. Thus, the proposed amendments to UVC § 3-117 provide for the return of surrendered title certificates only for scrapped vehicles.

The policy could be carried out in one of two ways. The title could be returned to the issuing state with a request for confirmation of its validity, or a system could be arranged in which the issuing state would report only exceptions such as titles which are invalid, suspicious or otherwise flawed. The state which received the old title would have to delay issuance of a new title pending foreign title confirmation or until an established waiting period has passed. That period would have to be long enough to permit receipt of the surrendered title by the state of origin and the return of information relevant to that title, if any, from the foreign jurisdiction.

A related proposal by the Subcommittee on Registration would amend UVC § 3-107, which specifies the contents of the certificate of title, to require a statement that only the DMV can cancel the title, which no jurisdiction presently requires. The inclusion of this statement puts the title holder on notice that only the issuing state can cancel the title. This has the subtle effect of laying the foundation for the commission of a federal crime. If, for example, the holder of a counterfeit title surrenders it in a state other than the issuing state, when it is returned to the issuing state for cancellation it will have been in interstate commerce and a federal crime will possibly have been committed. (See Chapter 10.)

5. REGULATION OF WRECKERS, DISMANTLERS AND SALVAGE YARDS

The automotive dismantling industry is engaged in the business of buying cars which are no longer suitable to be driven, usually wrecked or damaged cars which insurance companies have decided not to repair, dismantling them into component parts, then selling those parts for the repair of other cars. The cars are usually purchased on an individual bid or contract basis from insurance companies, who have taken ownership as part of a settlement with the owner. Dismantlers will sell almost any possible part, including engines, transmissions, rear axles, front and rear clip assemblies (fenders and trunk lid, hood and grille), doors, radios, seats and glass, among others.

There have been suspicions and indications that some members of the dismantling industry provide conduits for stolen parts and are both passively and actively engaged in the salvage switch process. Donald Rouse, of the Automotive Dismantlers and Recyclers of America (ADRA), told the National Workshop on Auto Theft Prevention:

It has been suggested by some people in the past, and it has been suggested here, that our industry is part of the auto theft problem, and that our members engage in the salvage racket (which is the practice of switching VIN plates and titles from salvage vehicles to stolen vehicles). It has been suggested that we are a channel of distribution for stolen auto parts, and I guess that we cannot deny those allegations. But, I would very much like to tell you that there are many auto dismantlers in our industry whose moral and ethical standards will not permit them to engage in such illicit practices. I wish it were possible to tell you that all members of our industry refuse to engage in some of these illicit practices that have been discussed but that is not possible. I cannot make that statement.³³

The Post-Salvage Process

In order to understand the opportunities for theft and fraud presented by the dismantling business as well as possible remedies, it is helpful to trace the path of a "totaled" car after the insurer takes ownership of it. The insurer will most likely send the wrecked car to a salvage pool where it is available for inspection by potential bidders. The salvage pool generally does not own the vehicle, but stores it in a secure area and advertises it for sale. Alternatively, cars may be purchased on a contract basis from the insurance company by a salvage buyer. In that case, the salvage pool is not part of the transaction.

33. Speech by Donald Rouse, Automotive Dismantlers and Recyclers of America (ADRA), to National Workshop on Auto Theft Prevention, New York, New York, October 4, 1978.

When the insurance company selects a successful bidder, it and the pool operator are notified and the car is released to the buyer. Often the insurance company will require payment when the car is picked up and will promptly give or send the title to the salvage buyer, but ADRA claims that frequently the insurance companies are so lax in their handling of the title that 6 to 12 months from the sale could pass before the buyer receives the title.

Typically, the vehicle will be dismantled for its prime parts and the hulk will be stored and eventually disposed of for scrap. The hulk may be delivered directly to a scrap processor for shredding or it may be sold to a third party who will crush it and then transport it to the scrap processor.

All in all, from the time the original owner yields possession, the car may at different points in time be in the custody of an insurance company, a salvage pool, a salvage buyer, a crushing operator, and, finally, a scrap processor. The number and complexity of these transactions present the following opportunities for fraudulent practices: (1) each party has the opportunity to acquire and dispose of vehicles and major component parts without accountability; (2) VIN plates, and, sometimes current license plates, are available without control; (3) there is a lack of security for vehicles awaiting transfer or disposition; and (4) vehicles of potential concern in investigations are dismantled or destroyed, eliminating the opportunity of inspection.

Regulation Recommendations

The Guidelines Manual recommends licensing of salvage operators, plus several regulatory policies for states to adopt to exercise greater control over the salvage business, including the following requirements:

- That records be maintained that are adequate to reveal the nature of the acquisition and disposition of each salvage vehicle and any major component parts;
- A holding period between the acquisition and disposition of vehicles sufficiently long to allow for the inspection of vehicles, if necessary to an investigation, to determine identity and ownership;
- A secure storage area for vehicles and component parts;
- The surrender of license plates acquired with vehicles, if any, to the DMV;
- Notification to the DMV of the acquisition, status, and disposition of each vehicle received.

The Subcommittee on Registration has specifically proposed adding one new code section to the UVC and amending another which would implement some of the policies just described with regard to the processing of salvage vehicles and recordkeeping. These sections are patterned after

recent Texas legislation.³⁴ An entirely new section in Chapter Five of the UVC describes the steps to be taken when a salvage vehicle is received by a licensed dealer. It is designed to ensure that neither the title nor VIN plate will survive the scrapped vehicle, but that an audit trail for tracing parts will survive. It would not be required that salvage operators systematically submit the information collected pursuant to the proposal, but only that they produce it on demand by the DMV. Among the requirements are:

- The licensee must immediately remove any unexpired license plate from the salvage vehicle and place it in a secure, locked place;
- If the VIN plate is not legible or is missing, a report of that must be furnished to the DMV;
- A record must be maintained for each vehicle received listing its VIN, make, model, and license plate number, if any;
- This record and the license plates must be surrendered to the DMV on demand;
- The licensee must also surrender any certificate of title not already surrendered and obtain a salvage title for any salvage vehicle.

Only a handful of states require some of these provisions of their licensees, although twenty states do require that a record of the description and VIN be kept for each vehicle.

The second Subcommittee proposal would expand UVC § 5-203 to require more detailed recordkeeping on major component parts, but it drops such requirements on more minor parts such as accessories, batteries, wheels and tires. Again, it is based on new Texas legislation.³⁵ In order to require scrap processors to comply with these recordkeeping requirements they would probably have to be licensed, but this determination would have to be made by each state under its own laws. The Subcommittee draft suggests that records for each vehicle be maintained for 3 years, but the time period would also be the choice of each state.

For every vehicle, major component part, engine or transmission acquired by the licensee, an accurate record must be kept of: (1) the date of acquisition; (2) name, age, address, sex and driver's license number of the seller; (3) the registration number of the vehicle used to deliver the salvage vehicle or part; (4) a complete description of the item purchased or received including its identifying number, if any; (5) the VIN of the vehicle from which the parts were removed. For every vehicle, major component part, engine or transmission sold or otherwise disposed of, an accurate record must be kept of: (1) the date of sale or disposition; (2) the name and address of the purchaser or receiver; (3) a complete de-

34. TEX. CIV. CODE ANN. tit. 116, §§ 6687-2, 6687-9 (Vernon) (1978).

35. Id.

scription of the item sold or disposed of including its identifying number, if any; and (4) the VIN of the vehicle from which the part was removed. Numerous, although far from all, states require licensees to keep records of some of this information.

In order to enforce the foregoing requirements, it is also recommended that states obtain legislative authority to periodically inspect licensed salvage businesses in order to monitor their business practices and inspect the vehicles and parts under their control. The Subcommittee on Registration has specifically proposed expanding UVC § 5-203(3) into a new § 5-204, giving authority to inspect inventory and premises as well as records. The section is also patterned after a recent Texas statute.³⁶ Inspections could occur at any reasonable time rather than only during business hours, as previously provided, and could be performed by a police officer or an inspector designated by the DMV. Thirty-one states currently require salvage records to be open to inspection, with three states permitting it only after the filing of a complaint.

The Illinois Experience

Depending, of course, on state law, it may be that such procedures can be implemented administratively without the need to pass new legislation. In Illinois, the Secretary of State issued an administrative rule requiring used parts dealers, scrap processors, parts recyclers and auto rebuilders to keep extensive records concerning the acquisition and disposition of autos and parts. Attorney General William J. Scott expected the proliferation of "chop-shops" in the Chicago area to be reduced by enforcement of the rule. The rule was challenged by the Northern Illinois Automobile Wreckers and Rebuilders Association and by a used parts company. The rule was declared unconstitutional in by a Cook County Circuit Court, but that order was reversed by the Illinois Supreme Court in Northern Illinois Automobile Wreckers and Rebuilders Association v. Dixon.³⁷

The issues in the case were, first, whether the rule was unconstitutionally vague under the due process clauses of the Illinois constitution and the Fifth and Fourteenth Amendments to the United States Constitution, and, second, whether the Secretary of State exceeded his statutory authority in promulgating it. Rule 5-401A states, in pertinent part:

Each person or firm licensed pursuant to Section 5-301 of the Illinois Vehicle Code is required to maintain for a period of three years subsequent to the acquisition, disposal, wrecking, rebuilding or scraping [sic] of vehicles or parts thereof, a uniform record of such transactions at his principal place of business.

36. Id.

37. _____ Ill. _____, 38 N.E.2d 320 (1979).

1. Upon the purchase, receipt or acquisition of vehicles, parts, bodies or engines, the following information must be recorded.
 - A. The name, address, and verification of same, of the person from whom acquired. Verification shall be by Driver's License, or if none, then State Identification Card, or if none, other reliable identification.
 - B. The date and type of acquisition (i.e. sale, exchange, etc.)
 - C. The purchase price and type of payment (check, cash, etc.)
 - D. A description of the vehicle or part, including:
 1. The year, make and model;
 2. Engine serial number if applicable;
 3. Vehicle serial number if applicable;
 4. The year, make, model and manufacturer's identification number of the vehicle from which the part was removed.
 - E. Any other identifying marks or numbers.
 - F. Documentary proof of ownership (e.g. title, notarized bill of sale, salvage certificate or junking title) and appropriate title number.
 - G. Whether any serial number or other identifying mark of the manufacturer or Secretary of State has been altered, defaced or removed.
2. It shall be the responsibility of every licensee hereunder to inspect every vehicle or part acquired. If there is any evidence that any serial number thereon has been removed, altered, defaced or destroyed, the licensee shall notify the Secretary of State.
3. Upon the sale, exchange or other disposition of vehicles, bodies, chassis, engines or parts, the following information must be recorded:
 - A. The name, and address of the person to whom sold or transferred;
 - B. The date and type of transfer; (i.e. sale, exchange, etc.)
 - C. The sale price and type of payment;
 - D. A description of the vehicle, body, chassis, engine or part including:
 1. The year, make and model;
 2. The engine serial number if applicable;
 3. The vehicle serial number if applicable;
 4. Any other identifying marks or numbers.
 - E. The title, salvage certificate, or junking title assigned, or other ownership document given.

4. "Parts" shall include vehicle hulks, vehicle frames, and all essential parts and component parts as defined in the Illinois Vehicle code, such as clips, doors, fenders, differentials, frames, transmissions, etc. "Parts" does not include carburetors, generators, radiators, steering wheels, etc.

The plaintiffs alleged the following words and phrases to be vague: "other reliable identification" contained in Section 1A; "from which the part was removed" in Section 1D; "any other identifying marks or numbers" in Sections 1E and 3D; "the licensee shall notify the Secretary of State" in Section 2; and "parts" in Section 4. The court applied the principles that an administrative rule, like a statute, enjoys a presumption of validity, and that the language of the rule must be sufficiently certain to apprise those to whom it is directed of the duty imposed, in order to comport with due process. The court thus concluded that the plaintiffs had not met their burden of establishing that the language was unconstitutionally vague.

The opinion does not discuss each phrase separately, with the exception of the word "parts" in Section 4. The court said that the statutory definitions of "essential parts" and "component parts" in the Illinois Vehicle Code, which are incorporated into Section 4 by the first sentence of that section, make it evident that the "parts" covered by the Rule are "those important to the identification of a particular vehicle, and not those which are merely incidental to its operability. Such parts presumably are within the special knowledge of those who, like plaintiffs, are in the automotive parts industry."

As to the second issue, whether the Secretary of State exceeded his statutory authority in promulgating the Rule, the plaintiffs argued that the defendant is restricted from imposing on them and other licensees record-keeping requirements for any items other than those specifically enumerated in Illinois Vehicle Code Section 5-401 (upon which Rule 5-401A is based). Thus, claimed the plaintiffs, because some of the items that Rule 5-401A requires licensees to keep records of are not included in Code Section 5-401, the defendant has exceeded his authority. For example, Section 1-C of the Rule requires licensees to record the purchase price and type of payment upon the acquisition of vehicles or parts, while Code Section 5-401, does not mention these items.

The court considered the purpose of the predecessor legislation to Code Section 5-401, the Uniform Vehicle Anti-Theft Act of 1955, which was to facilitate the discovery and prevention of auto thefts. Also considered by the court were: the strong public policy in favor of prevention of auto thefts; the strong public policy in favor of preventing auto thefts; and the fact that "nowhere in section 5-401 of the Code is there an indication that the items specifically listed were intended to be exclusive." Further, most of the information that Rule 5-401A requires licensees to record is specifically included in Code Section 5-401, and the remaining informational requirements are merely incidental to or are similar to the statutory requirements. Thus, the court concluded that the promulgation of Rule 5-401A was within the Secretary of State's delegated statutory authority.

Prohibitions Against VIN Alteration

Another way to deal with the salvage switch problem is to make it illegal to conceal the identity of a vehicle or part. A section of Michigan's new anti-auto theft law does this; specifically, it provides that a person who, without the intent to mislead another as to the identity of a vehicle, conceals or misrepresents the identity of the vehicle by removing or defacing the manufacturer's serial number or the engine or motor number, or by replacing a part of the vehicle bearing the serial, engine, or motor number, with a new part upon which the proper number has not been stamped, is guilty of a misdemeanor. A person who does the same with intent to mislead another as to the identity of the vehicle is guilty of a felony, and, most pertinent to the discussion here, if he is a licensed dealer his license shall be revoked.³⁸

In prosecutions under this Michigan statute, possession of the vehicle with the above-mentioned numbers removed, defaced, destroyed or altered or with a part bearing the numbers replaced by a part on which the proper number does not appear, is prima facie evidence of a violation of this statute. If the identification of a vehicle has been removed, defaced or altered and its real identity cannot be determined, it is subject to confiscation by the state and sale at public auction. If confiscated from a licensed vehicle dealer, the dealer's license shall be revoked.

At the beginning of this chapter, the comments of a representative of ADRA were noted. The full viewpoint of the automotive dismantling industry can be found in National Workshop on Auto Theft Prevention: Compendium of Proceedings, but another comment is appropriate here:

Our final recommendation is that there must be effective enforcement behind the laws and the regulations. If effective enforcement is not possible, then please let us not bother with writing the laws and regulations. They simply become mere harassment without enforcement. Business has had enough of that already. We do not need any more time consuming, ineffective regulations. We need some positive results.³⁹

38. MICH. COMP. LAWS § 750.415 (1978).

39. Speech by Donald Rouse, supra note 33.

6. USE OF THE VEHICLE IDENTIFICATION NUMBER

The vehicle identification number consists of the combination of numbers and letters assigned to each vehicle by the manufacturer to give it a unique identity. It is the key identifier of a vehicle used by DMVs, manufacturers, insurance companies, law enforcement agencies and NHTSA. It is also the foundation of the safety defect recall process.

VIN Structure

There is actually more than one VIN. There is the PVIN, or public vehicle identification number, which is affixed to the vehicle in a readily visible position, usually the driver's side of the top of the dashboard of the car, and less frequently on the front door pillar post (located between the front door and the windshield). The "confidential," "secondary" or "secret" VINs are concealed on the vehicle by the manufacturer in a location known only to the manufacturer and law enforcement authorities. The combination of letters and digits in the confidential VINs are usually the same as or a derivative of the public VIN.

Currently, there is little uniformity between manufacturers on VIN format and content. A random check of car models shows, for example, the following VIN formats:

1980 Chevrolet Citation	1X117AT153365
1979 Datsun 280ZX	HS130-128675
1979 Honda Civic	SBC-7007126
1979 Mercury Capri	9F14Y618556

This lack of uniformity impairs precise vehicle identification and increases the potential for error in the use of the VIN. Additionally, it impedes data entry and the utilization and interface of data systems to record stolen cars.

There have been longstanding efforts in the United States and other nations to standardize VIN format and content, notably by the Vehicle Equipment Safety Commission (VESC), in cooperation with the AAMVA, and the International Standards Organization (ISO). Recently, NHTSA issued a rule, to be effective with 1981 model cars, which will standardize VIN format and content.⁴⁰

The NHTSA VIN rule rejects both the ISO and VESC-AAMVA proposals. The ISO standard, of seventeen flexible characters, according to NHTSA, did not contain sufficient descriptive information to meet the needs of motor vehicle administrators, since it was intended only to identi-

40. 43 Fed. Reg. 36, 448 (1978).

fy the vehicle. The VESC-AAMVA proposal, with its rigidly defined characters, did not fully accommodate the needs of the manufacturers and NHTSA. NHTSA claims, in response to objections of segments of the government concerned with international trade harmonization, that its standard is compatible with the ISO standard which will probably be adopted by foreign manufacturers. NHTSA's first proposal met with numerous objections, and the current proposal is for a 17-character, fixed format with a check digit to verify the accuracy of the number. The importance of this rule to the states is that it is NHTSA's view that this standard "fully occupies the area of VIN format and content and preempts state and local requirements relating to the same matter."⁴¹

Maryland and VESC have filed suit in the Fourth Circuit U.S. Court of Appeals asking for a review of the NHTSA proposal.⁴² They raise several objections to the standard, including the argument that establishing the content and format of the VIN make it mandatory for states to purchase computers and other recordkeeping equipment, making them "quasi-departments and instrumentalities" of NHTSA. In support of this position, Maryland cites National League of Cities v. Usery.⁴³ NHTSA rejects these arguments, noting that in National League of Cities the imposition of federal minimum wage standards by Congress on the states cost the states millions of dollars and affected their ability to carry out some essential functions, whereas the implementation of Standard 115 "has no greater effect on the states than do any of the other Federal Safety Standards which prescribe minimum performance standards for and effect the cost of vehicles which the States purchase."⁴⁴ NHTSA also claims that there is no indication that the VIN format and content established by this notice, as compared with the VESC-AAMVA proposal, will have a substantial effect on the states. Currently, a stay on the NHTSA amendments is in effect pending hearings.

VIN Replacement and Removal

The standardization of VIN content and format will help states in processing title/registration applications and in tracking stolen vehicles, but the primary interest of states in the VIN is in what they do with it, specifically the controversial VIN plate removal and replacement programs. As mentioned earlier in the discussion of salvage vehicle and document control, VIN plate removal programs have, until recently, generally been thought to be helpful in combatting auto theft, because removal of the VIN plate from total loss vehicles and surrender of it to the DMV would remove it from circulation. Now, VIN plate removal programs have become controversial. Donald Rouse of the Automotive Dismantlers and Recyclers of America (ADRA) says:

41. Id.

42. VESC, and Maryland DOT and Motor Vehicles Administrator v. NHTSA, Civil Action No. Y-76-1566 (D. Md., filed 1976).

43. 426 U.S. 833, 96 S. Ct. 2465, 49 L. Ed. 2d 245 (1976).

44. 43 Fed. Reg. 36, 449 (1978).

Some administrators and legislators are under the impression it is good practice to remove the VIN plate from insurance company total loss vehicles and to require they be surrendered to the jurisdiction. I ask you, what is the first thing that the thief will do with the stolen vehicle? The answer is he removes the identification and replaces it with another one. He does not want to be caught with the stolen vehicle identification in his hands. He needs a cover. A law requiring the removal of VIN plates may help the thief.⁴⁵

There are also formidable logistical problems present in a VIN removal program. The experience of Maryland is illustrative:

A year before we passed our salvage law ... the General Assembly enacted a law making it mandatory that the VIN plate would be sent to the Motor Vehicle Administrator for each vehicle salvaged. Well, that was the last thing we wanted, thousands of VIN plates coming into our office. The police did not like it and no one else liked it. We prevailed upon the Governor to veto this piece of legislation because, first, you would have lost the complete identity of the vehicle when you removed the VIN plate. Second, we would have to issue another VIN plate if the vehicle was ever restored or rebuilt. Third, we would have had to have the confidential, secret, whatever you refer to it as, VIN number on the vehicle verified. Since only a select few people know the location of these VIN numbers, securing the services of a person like this would have been nearly an impossible job.⁴⁶

It has been suggested recently, also noted earlier, that an alternative to VIN plate removal is to make it unlawful to remove VIN plates, with penalties for unauthorized removal, alteration or defacement of the plates. Enforcement of this type of law would help to keep VIN plates out of circulation, and would have the side effect of allowing the identity of most vehicle hulks to be established quickly. The new Michigan law prohibits concealing or misrepresenting, with or without intent to mislead, the identity of a vehicle by removing or defacing the manufacturer's serial number or the engine or motor number, or by replacing a part bearing any of those numbers with one upon which the proper number has not been stamped.⁴⁷

The Maryland Model Procedure recommends that the public VIN plate remain affixed to any salvage vehicle. It also recommends that if the VIN plate should become erased, lost or otherwise destroyed, an assigned VIN should be issued by the DMV and affixed to the vehicle; in other words, a VIN replacement program should be conducted. VIN replacement is carried out in about fifteen states. Among the states that conduct VIN replacement programs, there is no uniformity as to type and sequence of the numbers and location of the plate. Other weaknesses in replacement pro-

45. Speech by Donald Rouse, supra note 33.

46. Speech by Clarence Woody, supra note 32.

47. MICH. COMP. LAWS § 750.415 (1978).

grams include allowing attachment of the state-assigned number provided to the owner without DMV control and the lack of effective inventory and assignment control procedures.

The Maryland Model Procedure attempts to promote uniformity by requiring that the new plate be affixed in or near the same location as the missing VIN plate, and by requiring that the replacement public VIN "reflect" the same number as the confidential VIN, if the confidential VIN can be ascertained. If it is impossible to determine the confidential VIN, an assigned number should be issued.

The Vehicle Equipment Safety Commission has proposed a "Replacement Vehicle Identification Numbering System," on which hearings were held in June, 1979.⁴⁸ The proposal purports to establish a national uniform replacement VIN standard. To summarize, the policy proposed by VESC is that each state DMV will provide for the inspection of rebuilt salvage and specially constructed vehicles, all vehicles and identifiable components with missing or altered identification numbers, and those vehicles where discrepancies are noted between the VIN recorded on ownership documents and the public VIN on the vehicle. The installation of a VESC replacement or assigned VIN plate on a vehicle by any state would have to be honored by other states, and no other state could remove or replace the plate in an interstate transfer or subsequent retitling of the vehicle.

The VESC system also proposes that, in instances where the original public VIN can be established, a replacement VIN shall repeat the original VIN. If, after every attempt, the public VIN cannot be determined, the secondary (confidential) VIN shall be searched for and examined in a private, secure location. The investigating official shall submit the secondary VIN to the appropriate agency which will prepare and send an inquiry to NATB for factory information. On receipt of the requested information, the official shall contact the applicant for completion of the identification procedure and VIN assignment. If the inspecting official has reason to believe that the original VIN has been intentionally removed or altered, or if the ownership documents are questionable, he shall refer the matter to the appropriate enforcement agency. A vehicle with valid ownership documents, but which has no restorable VIN, shall be provided an assigned VIN. However, components shall be provided an assigned number only when the manufacturer's number has been removed, altered or defaced, and the request results from a court directive, an enforcement document, or when the component has been impounded. Apparently, the motivation for this rule is to prevent the very people who steal or cut parts or persons associated with them from bringing in parts with missing numbers seeking renumbering, and also to prevent DMVs from being overburdened with requests.

48. VESC-19, "Replacement Vehicle Identification Numbering Systems." Copies of the proposals are available through VESC, 1030 15th St., N.W., Suite 908, Washington, D.C. 20005, (202) 833-1596. The hearings are being held under the authority of Article IV (d) and Article V of the Vehicle Equipment Safety Commission Compact, enacted under the authority of P.L. 85-684 (1958).

The VESC system further proposes that when a vehicle has been issued an assigned VIN plate and it is lost, a substitute plate bearing that number shall not be issued, but the application process for another new VIN must be repeated. Thus, there will not be two VIN plates with the same number circulating, and the original plate can be flagged and treated as an invalid one. Design, placement and security characteristics for VIN plates are provided for, and procedures for replacing and returning detached, damaged or mutilated VIN plates are specified. Special rules are outlined for trailers, motorcycles and specially-constructed vehicles.

One area of major controversy has been the placement, or lack thereof, of VIN numbers on a greater number of components by the manufacturers. This is covered in Chapter 11. As an alternative or a back-up, it has been suggested that dismantlers, used parts dealers and other members of the salvage industry be required to mark VIN numbers on certain parts, and the Subcommittee on Registration of the National Committee on Uniform Traffic Laws and Ordinances has recommended that a new section be added to Chapter 5 of the UVC. Under proposed § 5-205, whenever a licensed salvage operation receives a late model vehicle which will be dismantled in order to resell its parts the licensee shall identify, if the manufacturer has not already done so, any front-end assembly, tail section or door assembly which is to be resold. This would be accomplished by permanently affixing on the part the VIN of the car from which the part was removed, or some other number as permitted by regulations issued by the DMV.

The state of Washington employs a similar procedure, which requires dismantlers to identify certain major components by placing on the part either a VIN alternative or the dealer's inventory stock number, which is permitted to be assigned to a vehicle for identification purposes. The number is only required to be painted on the part, and is expected to last 1 to 2 years.⁴⁹

The Subcommittee on Registration expressed concern, certainly shared by the salvage industry, that this requirement would place a heavy burden on a small employer in the dismantling industry. ADRA says that although such a practice would provide some improvement in security, it would be very time-consuming and of limited effectiveness because dishonest dealers would find ways of circumventing the requirements.⁵⁰ A New York State Senator has expressed concern that if "one dismantler has the ability to mark, then another dismantler has the ability to change or remove that same mark."⁵¹

49. WASH. REV. CODE § 46.80.080 (1977).

50. Speech by Donald Rouse, supra note 33.

51. Speech by Joseph R. Pisani, State Senator of New York, to National Workshop on Auto Theft Prevention, New York, New York, October 4, 1978.

7. INSURANCE FRAUDS

A recent, burgeoning variation on auto theft is insurance fraud. The insurance industry estimates that 10 to 15 percent of all stolen car claims are fraudulent, with higher estimates of 25 and 30 percent reported by the New York City Police Department and the California Highway Patrol, respectively. The specific fraudulent activities are everchanging and creative, but, basically, they all involve reporting the theft of a car or accessories that, in fact, have not been stolen.

Often a car is "dumped" by its owner, by driving it into a body of water or simply abandoning it, particularly if it is in poor condition or already damaged and the insurance proceeds would exceed the actual resale value of the car. Investigators in 1977 found, teetering on the edge of a deep-water quarry in Florida, a Rolls Royce, minus its license plate and other identification. A garage receipt left in the car led the investigating team from three state and local agencies to the owner, who had filed a \$30,000 theft claim with his insurer, his second claim for a "stolen" Rolls Royce. Some owners have their cars "stolen" by chop-shop operators, who pick them up off the street, drive them to a cutting factory, and reduce them to parts. Or members of organized crime can be enlisted to pick up a car for resale or their own use.⁵²

Some owners temporarily hide their cars and claim they were stolen. Reportedly, a man in Boston dismantled his car, collected the insurance, and put the car back together again. Occasionally, owners will dispose of their cars in distant states and foreign countries. In addition, the title to a salvage vehicle can be used to obtain insurance on a purportedly undamaged vehicle. After the salvage vehicle is disposed of, the car is reported stolen by the insurance holder, and he receives payment for an undamaged vehicle. Meanwhile, the parts from the salvage car can still be used, and its VIN plate may possibly be removed and placed on a stolen car.

Another fraudulent practice is the use of a duplicate title. The owner of a car will report that the title has been lost or stolen, and will get a duplicate title issued for that car. Then he will sell the car using the original title. Finally, he will report the car as stolen and submit the duplicate as evidence of ownership.

Remedies to combat insurance fraud are not highly developed, but several government and private units are formulating defensive and offensive tools. The National Automobile Theft Bureau states that increased loss ratios for comprehensive insurance in recent years indicate that greater vigilance by insurers is required in order to detect such frauds. NATB has developed a profile where a combination of circumstances sug-

52. National Automotive Theft Bureau, 1977 ANNUAL REPORT, 15.

gests the necessity for a more detailed investigation prior to claim settlement:⁵³

- Involvement of late model, expensive vehicles.
- Date of coverage and date of claim are closely related.
- The insured volunteers to visit the claims office for payment.
- The insured furnishes address and phone number of a bar, hotel, or motel as a place to be contacted by the claims adjuster.
- The insured returns proof of loss or other written communication in person to avoid mailing in violation of mail fraud laws.
- Insurance agent has never seen the insured vehicle.
- The insurance premium was paid in cash.
- The insurance agent has no previous or other business in effect with the insured.
- Only comprehensive insurance coverage was purchased.
- The insured wants to retain title and salvage on a total loss vehicle where it appears financially infeasible to rebuild.
- Title or proof of ownership is a duplicate issue or from a distant state.
- The insured has just recently titled the vehicle in his name.
- The insured presents an assigned title, still in the name of the previous owner as his proof of ownership.
- The insured is unable to produce title or proof of ownership.
- The insured has failed to report the theft to the police.
- The vehicle has no lien noted and the owner does not appear to have the means to have made a cash purchase.
- The vehicle is reported to be expensively customized or a show model.
- The vehicle was rebuilt, a previously recovered theft, or the subject of a prior major collision claim.
- The vehicle was alleged to have been stolen prior to titling and registration.

53. Id. at 24.

- Expensive articles were reported to have been in the vehicle at the time of theft.
- The previous owner cannot be located or is unknown to the claimant.

The Subcommittee on Registration of the National Committee on Uniform Traffic Laws and Ordinances has suggested that UVC § 3-106 be amended to require retention of records of cancelled certificates of title. This would help to guard against "phantom" cars and similar frauds. Each state DMV would be required to maintain a record of all certificates of title cancelled by it, as well as those issued by it, under: (1) the distinctive title number assigned to the vehicle; (2) the VIN; and (3) the name of the owner, alphabetically. Currently, Iowa, New Jersey, North Dakota and Tennessee require that their DMVs maintain a record of cancelled certificates of title. Most states have statutes making it illegal to falsely report a theft.

There is some evidence that insurance companies have been reluctant to directly face the problem of insurance fraud in the area of auto theft. Some in the industry have admitted that insurers feel they have been successful if, as a result of an investigation, they can deny a stolen car claim, and they rarely will go one step further and report the attempted (or, in other cases, suspected) fraud to law enforcement authorities.⁵⁴ The insurers claim to be fearful that suits for malicious prosecution might be filed against them if they do report such suspicions and those suspicions cannot be proven. Insurance industry representatives have called upon states to pass laws requiring insurance companies to report any claims thought to be fraudulent, and granting them some type of immunity for doing so. Michigan has passed such a statute.⁵⁵ Also, New York is currently considering one which would also make it a felony to present a false motor vehicle theft insurance claim, or to make a false written statement alleging the theft of a motor vehicle, or to falsely report the theft of a motor vehicle to police. The New York Insurance Commissioner has taken a leadership role in this effort. A law was passed in 1978 in New York requiring insurers, when first insuring a car, to take and keep a photograph of the car, and to check and record its VIN number.⁵⁶

54. Speech by Charles W. Hannert, Vice-President, Motors Insurance Corporation, to National Workshop on Auto Theft Prevention, New York, New York, October 4, 1978.

55. 1978 Mich. Pub. Acts. 218, § 500.3201.

56. Interestingly, the statute also directs the police to notify NATB when a vehicle is recovered, so that NATB can then advise the appropriate insurance company. N.Y. INS. LAW, § 167(d) (1977). NATB's Eastern Division office in New York will remain open 7 days a week, 24 hours a day to meet this responsibility.

The New York State Senate Committee on Transportation, which sponsored the National Workshop on Auto Theft Prevention, is preparing a memorandum discussing the liability of insurers who cooperate with law enforcement officials in the detection of fraud. NATB has been working to educate insurance companies to improve their internal procedures in order to better detect insurance fraud.

8. ANTI-CAR THEFT COMMITTEES

States can participate as partners with the insurance industry and other auto-related businesses in anti-car theft (ACT) campaigns, representing primarily the public relations and public education side of anti-theft efforts. Attorneys General's offices have not been especially active in these campaigns thus far, but there is no reason why they should not be represented on the committees along with other state agencies, such as DMVs, insurance departments, and departments of public safety. Federal-state law enforcement committees could also make a valuable contribution to ACT campaigns.

ACT campaigns in Boston, the New York metropolitan area, Michigan and Texas have been initiated under NATB auspices with active participation by state and local law enforcement agencies and private interests. The major goal of these committees is to conduct an extensive, well-planned and continuing campaign to educate the public and keep them aware of the auto theft problem. Another purpose is to study and make recommendations for legislation to combat auto theft. This effort can provide a forum for law enforcement agencies, regulatory agencies, insurers and other interested parties to discuss the auto theft problem. More specifically, the activities of the ACT campaigns in four areas of the country are described below.⁵⁷

Boston - This city has by far the highest per capita incidence of auto theft, and the Boston ACT Committee initiated its work in late 1975. Within 6 months, Boston began to experience a decline in auto theft which has been uninterrupted ever since, and the 1978 auto theft rate in Boston is 30 percent less than 1975. It is impossible to attribute this decline to the ACT campaign exclusively, but they are coincident in time.

Texas - In early 1978, the Southwestern Division of NATB and state agencies, including the Governor's Criminal Justice Council and the Texas Crime Prevention Institute (TCPI), organized a statewide ACT campaign. The Criminal Justice Council agreed to provide state funding on the condition that NATB would work to secure at least matching funds from the insurance industry in Texas. By late 1978, \$20,000 was made available to TCPI by the state and \$21,000 was provided by the insurance industry. A brochure and two 30-second television spots were produced, with stations in the Dallas-Fort Worth, Austin, San Antonio and Houston markets using them. These TV announcements won awards at the New York Inter-

57. National Automobile Theft Bureau, 1977 ANNUAL REPORT, 9-11; 1978 ANNUAL REPORT, 10-11, 14-15; telephone interviews with Alan J. Herbert, Director of Public Relations, National Automobile Theft Bureau, Jericho, New York, and other NATB officials.

national Film and TV Festival. Radio spots, billboards, bumper stickers, newspaper ads and other public information efforts will also be conducted as part of the ACT campaign.

New York-New Jersey - In October 1978, the New York-New Jersey ACT campaign got underway publicly at Columbus Circle in Manhattan. An ACT Speakers Bureau was established, and a sound-slide presentation was produced. Also, articles on the auto theft problem have been printed in trade journals, and public service announcements have been prepared for different media. The legislative subcommittee of the New York-New Jersey ACT Committee has been particularly active in assisting in formulating and supporting anti-car theft legislation, particularly the six bills introduced in the New York State Senate this year. The Committee, with NATB, also successfully lobbied the New York City Council to pass legislation which gives the city the power to franchise towing companies and allows the police department to have spotted stolen vehicles towed away for safekeeping. This legislation was prompted by losses due to vandalism or stripping during the time between when a stolen car is spotted on the street and when it was picked up by the owner or insurance company. Next, the Committee plans to examine New Jersey's registration laws.

Michigan - An ACT Committee was begun in 1978, with the support of General Motors, Ford and Chrysler, as well as the Secretary of State's office, the Michigan State Police, local police departments and the Michigan Jaycees. The ACT Committee has subcommittees on legislation, finance, publicity and materials acquisition, and a speakers bureau. Again, a major thrust in Michigan has been in the area of legislation. The ACT Committee was among the groups seeking passage of the recent Michigan anti-theft legislation described throughout this report.

9. EXPORTED STOLEN VEHICLES

The exportation of stolen used vehicles through ports or simply by driving them to Canada or Mexico has been difficult to combat due to the absence of effective means of checking the identity of vehicles leaving the United States. To a great extent, this is a federal problem, but the cooperation of border states and states in which ports are located, as well as port authorities, is vital to effectuate policies designed to inhibit the illegal export trade.

Seaports

Both thieves and insurance policyholders who subsequently report cars as stolen (as discussed in Chapter 7) ship cars overseas, usually to the Middle East or Latin America. In order to control that activity, the U.S. Bureau of Census operated a 6-month trial program from November 30, 1978 through May 30, 1979, requiring that the VIN of a used motor vehicle designated for export be shown on the shippers' export declaration (SED), and that the SED be presented to officials of the U.S. Customs Service by the exporter at the point of export at least 48 hours prior to shipping.⁵⁸

Three things were done with the VIN and SED. First, Customs officers were able to check the VIN with NCIC. If a significant number of stolen vehicles was uncovered in this pilot project, operated under the authority of Foreign Trade Statistics Regulations, the Customs Service could permanently issue similar regulations under its authority under the contemplated Motor Vehicle Theft Prevention Act (See Chapter 10.) Second, Customs could compare the VINs on a sampling of SEDs with the VINs on the actual vehicles in order to determine if satisfactory levels of compliance were being achieved. Third and most importantly, the VINs of exported vehicles are being retained to help detect vehicles that are honestly or fraudulently reported stolen after shipment.

Preliminary statistics arising out of this experimental program indicate that about 34,000 cars were exported annually during the period of the project, and that the new procedures turned up forty-five stolen vehicles. Of these, four were discovered during the first week of the program, possibly indicating that the initiation of the project had a deterrent effect. All but four of the forty-five stolen cars were discovered in the New York-Newark port area.⁵⁹

58. United States Department of Justice, Criminal Division, MOTOR VEHICLE THEFT PREVENTION AND ENFORCEMENT PROGRAM (draft), 31 (September 1978).

59. *Id.* and telephone interview with Thomas Davis, United States Customs Service, Washington, D.C., July 3, 1979.

Mexico

The most acute auto theft-export problem occurs at the Mexican border. It is conservatively estimated that 5-10,000 American-owned motor vehicles, stolen in the United States, are taken into Mexico annually.⁶⁰ Some of these stolen cars are returned informally by Mexican authorities, often in negotiations with local or state agencies and/or NATB. For instance, in 1977 NATB personnel, primarily in its Pacific Coast and Southwestern divisions, were involved in the recovery of 267 vehicles without treaty assistance. This number rose to 333 in 1978. In 1978 NATB obtained a commitment from the office of the Attorney General of Mexico to provide the U.S. Embassy in Mexico City with identification of all vehicles being held by the Mexican Federal Attorney in connection with criminal matters such as drug smuggling cases, and the Mexican Federal Automobile Registration Department has indeed begun to furnish lists of such impounded vehicles.⁶¹

Of the four states sharing a border with Mexico, only California has been engaged in significant systematic efforts to detect and recover stolen vehicles from Mexico. Although California's border with Mexico is the shortest of the four, there are very busy border crossings at Tijuana and Mexicali. The California Attorney General's office and the Mexican Judicial Police have established a "hotline" which gives the Mexican authorities access, on a limited basis, to California's vehicle data resources. A phone line has been installed in Tijuana which allows the Judicial Police to phone the license plate number of a vehicle they feel may be stolen to the DMV stolen vehicle "command center" in Sacramento. If the computer then shows that the car is stolen the Mexican authorities can call the agency originating the theft report, e.g., the Los Angeles Police Department, and verify the status of the vehicle. The Attorney General's office follows up each case with its own audit. Under the "Baja system" of recovery, the American consulate in Tijuana notifies the owner that the Judicial Police have his car, and he can recover it from Mexico upon presentation of the proper documentation to the consulate. When the Tijuana police have custody of the vehicle the owner can recover the vehicle directly from them.

California officials have been pleased with the performance of the "hotline" to date. Out of about 2,500 inquiries made by Mexican authorities, an estimated 10 percent have turned out to have been stolen vehicles. About 90 percent of these have been returned or otherwise cleared; e.g., in the case of an old or dilapidated vehicle of insignificant value the owner will often decline to go to Mexico to recover it. Two drawbacks to the system have been that, first, cars are sometimes listed as being under observation by Mexican authorities and it is often difficult to determine exactly which authorities are doing the observing and where those cars are located, and, second, that the lag time between the recovery of a stolen car and the clearing of that car will sometimes cause the computer to

60. Supra note 58, at 31.

61. National Automobile Theft Bureau, 1978 ANNUAL REPORT, 8.

report falsely to Mexican police that the car is stolen.

Overall, it appears that the system has been advantageous in terms of recovery of stolen vehicles and international relationships, all important for reducing the transport of stolen vehicles to Mexico. It is also thought that the longstanding and close working relationship between the San Diego Police Department and Mexican law enforcement authorities has helped that Department to recover numerous stolen cars.⁶²

Rather less successful has been the recovery of stolen vehicles under the 1936 stolen property (vehicles, trailers, airplanes or parts thereof) convention between the United States and Mexico. In 1977 twenty-two vehicles were recovered under the treaty and in 1978 twenty-one vehicles were recovered.⁶³ An additional few vehicles were sold in Mexico for the benefit of American owners or insurers.

The U.S. Department of State reports that it has continued to try to increase Mexico's compliance with the 1936 treaty, but without success. The Attorney General of Mexico has been cooperative, but many stolen vehicles and airplanes are in the physical custody of other departments of the government of Mexico over which the Attorney General has little control.⁶⁴

While the primary thrust of the American effort is to increase compliance with the old treaty, a new treaty is in the draft stage, scheduled to be presented to the Mexican government on July 16, 1979. It is hoped that President Carter and President Portillo will be able to initial the treaty during the next presidential visit. Mexico has proposed a new treaty which diminishes its responsibilities, but the American draft, on the other hand, would increase those duties on both sides by institutionalizing the "Baja system" of recovery described above. The new American draft places an active responsibility on each party to notify the other when a vehicle has been seized by a federal, state or local agency of the first party without a prior inquiry from the country from which it has been stolen, as is provided in the 1936 treaty. A request must still be filed by a consular officer in order to secure the return of the vehicle.

The new draft also attempts to place controls on the use of vehicles or aircraft by the seizing party. The owner of a stolen vehicle must be given notification of the seizure and a reasonable amount of time, i.e. 60 days, to request the return of the vehicle, and it may not be used by the seizing party during that period. Further, each party is directed to permit the inspection of its vehicle storage areas located in "border areas" (in the United States, border areas are the states of Arizona, California,

62. Telephone interview with Assistant Attorney General Stephen Blankenship, Office of the Attorney General of California, Sacramento, California, July 3, 1979.

63. Supra note 61, at 1; and National Automobile Theft Bureau, 1977 ANNUAL REPORT, 17.

64. Supra note 58, at 32.

New Mexico and Texas) for the purpose of determining if any of the vehicles located therein are stolen or embezzled.

The treaty, in both its old and new forms, is directed at the recovery of stolen vehicles, not at the prevention or detection of theft as the California efforts are. However, there has also been discussion of setting up pilot projects at certain border crossings between Mexico and California, Arizona and Texas. These would consist of checkpoints for cars coming into Mexico at which Mexican customs officials would enter the license plate numbers of all vehicles with U.S. plates into on-line direct inquiry terminals to NCIC's vehicle and license plate files. If a vehicle is reported as stolen, Mexican customs officials would check the documentation of the driver and vehicle and interview the driver to determine his authority to drive the vehicle. If the documentation is not satisfactory, Mexican customs could impound the vehicle until a more thorough determination can be made by American law enforcement authorities. If the pilot projects had appeared to be worthwhile, they could have been expanded to cover all the Mexican interior checkpoints along the border. However, due to opposition to the projects and a lack of enthusiastic support outside the federal government, these projects are not now being actively considered.

The states, on the other hand, would like the U.S. Customs Service to set up "mirror image" checkpoints within the United States to check vehicles leaving the country. Objections to this proposal include an inability to have stolen vehicles reported to NCIC and other systems quickly enough to detect them while they are still in the country, the expense of adding customs officers, and the disruption and delay of traffic going into Mexico.

In 1977, border crime conferences were initiated, attended by state and federal personnel, including the Attorneys General or their representatives, from California, Arizona, New Mexico and Texas, as well as Mexican officials. These conferences have been held in San Diego, El Paso and Albuquerque, and one is to be held in Arizona in late 1979.

A possible major remedy to exportation of stolen vehicles is contained in the proposed Motor Vehicle Theft Prevention Act of 1979, Title IV of which deals with the importation and exportation of stolen vehicles, vessels, aircraft and parts. Its major thrust is to create new offenses for those who import or export stolen motor vehicles. The Act is covered in Chapter 10.

10. FEDERAL RESPONSES TO AUTO THEFT

The federal government is attempting to take two major steps to increase prosecutions for organized auto theft in both state and federal courts. The Justice Department has proposed revising Dyer Act prosecution guidelines so that fewer potential cases will slip into the abyss dividing the federal and state governments, and Congress is considering a national Motor Vehicle Theft Prevention Act.

Proposed Dyer Act Modifications

In 1970 the United States Department of Justice issued restrictive prosecutive guidelines for violations of the National Motor Vehicle Theft Act, the Dyer Act (18 U.S.C. §§ 2311-2313).⁶⁵ The thrust of the guidelines is that individual motor vehicle theft cases which do not involve exceptional circumstances should not be prosecuted in federal courts, and that state and local authorities should be asked to prosecute those cases where this policy prohibits federal prosecution.

In October, 1978 the Blackstone Institute released a study which revealed that there were some gaps in compliance with the guidelines.⁶⁶ The study concluded, among other things, that nearly half of all cases presented to United States Attorneys for Dyer Act violations are neither prosecuted federally nor referred to state or local authorities for prosecution, contravening the apparent intent of the guidelines. It also took note of the almost complete non-utilization of transportation services available to state and local authorities pursuant to 18 U.S.C. § 5001 (which provides for federal transportation to states of federal suspects under 21 years of age where the suspect may be charged with a state offense and the state is willing to assume jurisdiction over him) as further evidence of poor federal-state-local cooperation.

The Blackstone Institute study made several recommendations, including: (1) that U.S. Attorneys' offices be required to contact the appropriate state or local authorities when a suspect cannot be prosecuted federally because of the guidelines. The guidelines should be redrafted to make clear that U.S. Attorneys and the FBI have an affirmative duty to contact state and local authorities, and also assist in making suspects, witnesses and evidence available for state and local prosecution; (2) that substantially increased utilization of 18 U.S.C. § 5001 be encouraged by increased appropriations for the U.S. Marshal's Service, ongoing dissemin-

65. USAM §§ 9-61.00 *et seq.*

66. S. Graae, R. White, F. O'Leary, Blackstone Institute, SURVEYS OF DYER ACT REFERRALS: STATE AND LOCAL PROSECUTION OF INTERSTATE AUTO THEFT CASES, (August 1978).

ation of information about the statute to state and local prosecutors, and improved coordination between U.S. Attorneys, FBI field offices and the U.S. Marshal's Service in making services under the statute available; and (3) that consideration should be given to new legislation expanding the scope of 18 U.S.C. § 5001 to include persons over 21 years of age or to provide federal funds for existing nonfederal agencies engaged in interstate movement of prisoners. In October 1978, the National Workshop on Auto Theft Prevention encouraged the Department of Justice to improve the effectiveness of the guidelines.

The Justice Department is responding to these requests by considering modifications to clarify the goals and procedures of the guidelines. In January 1979, Assistant Attorney General Philip B. Heymann, Criminal Division, issued a memorandum outlining the proposed clarifications. They do not change the basic premise of the guidelines, that individual theft cases which do not involve exceptional circumstances should not be prosecuted in federal courts.⁶⁷ The proposed modifications may be summarized as follows:

(1) Organized Rings and Multi-Theft Operations - This section defines a "ring" as organized criminal activity involving two or more individuals who steal three or more motor vehicles and dispose of them in some fashion for their own economic profit. Interstate or foreign theft cases should be the subjects of joint federal-state-local investigations. Where state and local prosecution is not possible, vigorous federal prosecutions should be undertaken.

(2) Individual Thefts/Exceptional Circumstances - Local prosecution is preferable for even the more serious individual cases, but federal prosecution is permitted if local prosecution is not undertaken where "exceptional circumstances" are present. "Exceptional circumstances" include, illustratively: where the stolen vehicle is used in the commission of a separate felony for which punishment less than for the Dyer Act violation would be expected from local courts; where the stolen vehicle is demolished, sold, exported, heavily stripped or grossly misused; where an individual engages in a pattern of conduct of stealing vehicles; or where the stolen vehicle constitutes heavy commercial or farming equipment.

(3) Individual Thefts/Not Prosecuted Federally - Except where 18 U.S.C. § 5001 is to be utilized or where organized ring activity may be included, federal process should not be filed against an individual, regardless of local prosecutive decisions, in interstate stolen car cases where: (a) the theft was for the purpose of joyriding; (b) the suspect is a juvenile cases

67. State Attorneys General's offices have been invited by the Justice Department to comment on the proposed modifications. Written comments should be directed to: Philip B. Heymann, Assistant Attorney General, Criminal Division, United States Department of Justice, Washington, D.C. 20530.

(under 18); (c) the individual is between 18 and 21 and is not a recidivist, which is defined as a person who has been arrested at least twice before for auto theft and has been incarcerated for auto theft or other criminal offenses.

(4) Notification Requirements if Federal Prosecution Is Declined for an Individual Theft Matter - An Assistant U.S. Attorney who declines a Dyer Act prosecution must notify the investigative agency of his decision and the reasons therefor. He must also advise the investigative agency if "exceptional circumstances" are present, and remind it of the provisions of 18 U.S.C. § 5001, if applicable. This notification should be transmitted to the appropriate local authorities, along with a request that in cases involving exceptional circumstances the U.S. Attorney be notified as to what prosecutive action is being undertaken by the local authorities. Where local prosecution in these cases is not forthcoming, the U.S. Attorney should review the case in accordance with these guidelines, his office's caseload, the availability of witnesses and evidence, and the policies of the district federal-state law enforcement committee, to determine whether federal prosecution is warranted.

(5) Venue - Because the center of a ring is normally at the place of theft, prosecution of ring cases may be brought in either the jurisdiction in which the vehicle was stolen or where, as previously, the vehicle was last transported to. For recidivists, where federal prosecution is necessary, it should be instituted in the district of the theft.

(6) Use of 18 U.S.C. § 5001 to Surrender Motor Vehicle Theft Perpetrators Under 21 to State Authorities - The FBI should advise the U.S. Marshals Service of possible situations for the use of the statute so that proper arrangements can be made. The filing of a federal complaint in order to acquire jurisdiction under the statute is appropriate and necessary. After the suspect is removed to the requesting local jurisdiction any outstanding federal process should be dismissed.⁶⁸

These guidelines are still under consideration as of the publication date of this report.

68. The text of 18 U.S.C. § 5001 is as follows:

Surrender to State authorities; expenses

Whenever any person under twenty-one years of age has been arrested, charged with the commission of an offense punishable in any court of the United States or of the District of Columbia, and, after

The Proposed Motor Vehicle Theft Prevention Act

Congress is presently considering the Motor Vehicle Theft Prevention Act of 1979, the provisions of which are designed to improve the physical security features of cars and their component parts, increase the criminal penalties for persons who traffic in stolen cars and parts, and curtail the exportation of stolen vehicles. The House bill has been introduced by Representative S. William Green, (R.-N.Y.)⁶⁹ and the Senate bill is sponsored by Senators Biden (D.-Del.) and Percy (R.-Ill.).⁷⁰ Hearings on the Senate bill before Senator Percy's Permanent Subcommittee on Investigations are scheduled for September 10, 1979. It is the opinion of the U.S. Justice Department that it is important that the states actively support the Act, especially since the outcome is in doubt.

investigation by the Department of Justice, it appears that such person has committed an offense or is a delinquent under the laws of any State or of the District of Columbia which can and will assume jurisdiction over such juvenile and will take him into custody and deal with him according to the laws of such State or of the District of Columbia, and that it will be to the best interest of the United States and of the juvenile offender, the United States attorney of the district in which such person has been arrested may forego his prosecution and surrender him as herein provided.

The United States marshal of such district upon written order of the United States attorney shall convey such person to such State or the District of Columbia, or, if already therein, to any other part thereof and deliver him into the custody of the proper authority thereof.

Before any person is conveyed from one State to another or from or to the District of Columbia under this section, he shall signify his willingness to be so returned, or there shall be presented to the United States attorney a demand from the executive authority of such State or the District of Columbia, to which the prisoner is to be returned, supported by indictment or affidavit as prescribed by section 3182 of this title.

The expense incident to the transportation of any such person, as herein authorized, shall be paid from the appropriation "Salaries, Fees, and Expenses, United States Marshals.

69. H.R. 4178, 96th Cong., 1st Sess.; 125 CONG. REC. H520 (1979). Copies are available from the House Documents Room, United States House of Representatives, Washington, D.C. 20515, or a limited number of copies are available from COAG.

70. S. 1214, 96th Cong., 1st Sess., 125 CONG. REC. S6424 (1979).

Among the findings of Congress stated in the Act are that a "cooperative partnership between the various States and the Federal Government is required to devise appropriate interrelated systems in the area of motor vehicle titling and registration in order to help curb motor vehicle theft,"⁷¹ and that "an increased prosecutive emphasis must be given by Federal, State, and local prosecutors to motor vehicle theft violations with particular emphasis being given to professional theft rings and 'chop shops.'"⁷²

The Act would amend the National Traffic and Motor Vehicle Safety Act of 1966⁷³ to give the Department of Transportation the authority to issue theft-related standards for automobiles, in addition to the safety-related standards to which it is limited now. These standards could include improved locking devices as well as requiring placement of the VIN on certain components of cars. Under Section 103(d) of the National Traffic and Motor Vehicle Safety Act, any federal standard issued in regard to security would preempt similar state legislation.⁷⁴ The authority for DOT to issue standards relating to states' titling and registration procedures is being sought under a separate proposal. (See discussion at page 21.)

Title III of the proposed Act deals with anti-fencing measures and creates a new federal offense of altering or removing VINs required by DOT. It also allows forfeiture of any vehicle or part which has had its VIN altered, removed, obliterated or tampered with.⁷⁵ For parts, this would become effective only after a regulation requiring an identification number on certain parts becomes effective. States would still be free to pass criminal laws relating to the removal or alteration of VIN numbers. Title III would also specifically include motor vehicle titles as securities until they are cancelled by the state.⁷⁶ An executed motor vehicle title already qualifies as a security under 18 U.S.C. § 2311,⁷⁷ but blank certificates, like blank checks, do not.

Trafficking in motor vehicles or their parts which have had their identification numbers, as required by the Department of Transportation, removed, obliterated, altered or tampered with is also prohibited under

71. Id., at § 101(e), and supra note 9, at § 101(e).

72. Supra note 9, at § 101 (k); supra note 70, at § 101 (k).

73. 15 U.S.C. § 1392.

74. 15 U.S.C. § 1392(d).

75. Supra note 69, at § 301; supra note 70, at § 301.

76. Id., at § 303; § 303.

77. See United States v. Dickson, 462 F.2d 184 (1972), and United States v. Canton, 470 F.2d 861 (1972).

Title III.⁷⁸ It is noteworthy that this section does not reach the actions of an individual who possesses such a vehicle or part for his own use, even where he has knowledge of a modification to the VIN. The authors of the bill are of the opinion that offenses of the latter type should be prosecuted locally rather than in federal courts, where prosecutions of organized activity should be of highest priority.

Title III of the Act also would amend the federal RICO Act⁷⁹ to include as a "pattern of racketeering activity" trafficking in stolen motor vehicles and their parts, specifically by incorporating sections of the Dyer Act⁸⁰ into the definition of racketeering activity.⁸¹ Finally, Title III would amend the Master Key Act⁸² to prohibit the mailing, or advertising by mail, of any manipulative device which is designed to operate, circumvent, remove, or render inoperable any of the locks on two or more motor vehicles. Violations of this section would fall within the jurisdiction of the United States Postal Service.⁸³

Title IV of the proposed Act concerns measures to reduce the importation and exportation of stolen vehicles, vessels, aircraft and parts. It creates a new offense under 18 U.S.C. § 552 of importing or exporting or attempting to import or export any motor vehicle, vessels, aircraft or part thereof with the knowledge that it is stolen or, in the case of motor vehicles and parts, that the VIN has been removed, obliterated, altered or tampered with.⁸⁴ A similar offense is created under the Tariff Act of 1930,⁸⁵ and a new section of that Act makes any such stolen vehicles, vessels, aircraft or parts thereof subject to seizure and forfeiture if they are imported or exported. Another amendment to the Tariff Act would authorize the Secretary of the Treasury to issue regulations concerning the exportation of used vehicles.⁸⁶ Title IV also modifies the Tariff Act by giving United States Customs Service officers the same powers of arrest as presently possessed by other federal law enforcement officials.⁸⁷

78. Supra note 69, at § 304; supra note 70, at § 304.

79. 18 U.S.C. § 1961 et seq.

80. 39 U.S.C. § 3002.

81. Supra note 69, at § 307; supra note 70, at § 306.

82. 39 U.S.C. § 3002.

83. Supra note 50, at § 307; supra note 70, at § 307.

84. Id., at § 401; § 401.

85. 19 U.S.C. § 1624.

86. Supra note 69, at § 403; supra note 70, at § 403.

87. Id., at §§ 404-405; §§ 404-405.

Title V of the Act would require the United States Attorney General to prepare a report on the organized theft of off-road motor vehicles (construction and farm equipment),⁸⁸ and also provides for him to advise Congress annually as to the effectiveness of the Act.⁸⁹

87. Id., at §§ 404-405; §§ 404-405.

88. Id., at § 501; § 501.

89. Id., at § 502; § 502.

11. MANUFACTURERS' RESPONSES TO AUTO THEFT

The most desirable way to reduce auto theft is to discourage or prevent it before it happens, so it is logical to make the car itself more theft resistant. This is a responsibility to be borne by the manufacturers and by NHTSA.

Component Identification

Virtually every participant in the effort to combat auto theft - law enforcement agencies to insurers to salvage operators, with one major exception, the automobile manufacturers - advocates placing identification numbers on the major components of cars which are attractive to thieves and chop-shop operators. Their position is that thieves will be less able to dispose of entire cars because of the additional numbers which would have to be altered to change the identity of the stolen car. Also, the operations of chop-shops would be hindered because it would be necessary to have the numbers on various components be uniform. A New York State Senator who introduced a bill requiring manufacturers of cars sold in New York to place VINs on component parts said:

... the manufacturers are now putting two numbers on the car in secret places which are totally useless, and all I want is another four numbers. I want visible numbers. I want numbers that I can see-that a cop can see, that a potential buyer of a car can also see.⁹⁰

Illinois, Michigan, and Ohio, in addition to New York, are considering legislation which would require component identification. Under the legislation presently before Congress, component identification could be required only if the Secretary of Transportation determines that it is cost beneficial. Such a requirement apparently would preempt any state legislation which was not identical to it.

In May, 1979 the Department of Justice issued "Talking Paper II - Component Identification Revisited," a discussion of various factors to be considered in requiring identification numbers on major components. The nature and character of the component identification number presents some of the most difficult questions. Of how many digits and letters should the number consist? What methods should be used to affix it to the parts?

The paper acknowledges that the ideal configuration of the component identification number - for accuracy and ease of identification - would be simply to use the VIN. The VIN will most likely become the seventeen character number proposed under Federal Motor Vehicle Safety Standard No. 115, and the report acknowledges that stamping or laser-marking

90. Speech by Joseph R. Pisani, supra note 51.

seventeen characters on several parts could be unnecessarily and prohibitively expensive. It may be more cost effective to use some derivative of the VIN, such as the first and third sections of the VIN. This would reduce the length of the number to eleven characters yet still retain absolute uniqueness for each vehicle.

Alternatively, the third section alone of the VIN could be used. It consists of eight characters representing the model year, assembly plant, and a six character sequential. The method of affixation could influence the length of the number: for instance, if the manufacturer uses a self-destructing sticker to affix the component identification number, a longer number could be used. If a sticker is used, it could be one that carries additional information such as the manufacturer's certification label (on the driver's door) or the engine tune-up specifications label (often found on the radiator core support).

One important requirement is that the number should be attached to the part so that it remains with the part until the part is entirely destroyed. The number, of course, should not be affixed to replacement components. The number, the paper asserts, should be permanently affixed by riveting, welding, impressing, stamping, burning or some other permanent manner such as the use of an adhesive which will self-destruct if an attempt is made to remove it. Laser-marking and stamping are probably less susceptible to being overcome by the professional thief than welding, riveting or adhesive attachment, but the latter are more economical and, together with the passage and enforcement of state and federal prohibiting the removal or tampering with identification numbers, should significantly deter intentional removal of the number.

The locations of component identification number should be selected with the thought in mind that it should deter thieves who resell stolen cars and thieves who cut them up for parts. Thus, the components to which the number is attached should be ones that are standard to the particular model of car, and not parts that would normally wear out and require replacement during the life expectancy of the vehicle. If a component is a "crash part" then it should be one which normally would not be rebuilt but would be replaced (e.g., a door or fender). The Justice Department presently feels that the following components should be identified: engine; transmission; each door; hood; radiator core support of the front end assembly; each front fender; deck lid, tailgate or hatch; trunk floor pan; frame or, in the case of unitized body construction, the supporting structure which serves as the frame; and one confidential location selected each model year by the manufacturer of which law enforcement authorities should be made aware. Altogether, this would require seven additional numbers (nine in the case of a four-door car) than are presently used.

The manufacturer should be allowed some flexibility as to where and how to affix the number to the components that been selected, but care should be taken so that the number will not be subject to destruction during the normal operation of the vehicle, and also so that it can be easily inspected (it does not need to be visible when the car's doors, hood and trunk are closed, since the public VIN is observable through the windshield).

The automobile manufacturers, not surprisingly, object to the requirements for additional numbering of components on the grounds of cost - that it would be prohibitively expensive or that the cost cannot be justified by the expected level of benefits. Government sources have repeatedly complained that they are unable to obtain cost information from the manufacturers,⁹¹ while the manufacturers, in return, have challenged those advocating component identification to show that real consumer benefits can be expected from it.⁹²

Rather than attempting to evaluate the positions in this controversy, it is more heartening to report that a breakthrough in this impasse may be occurring. On May 23, 1979 Ford Motor Company informed the Departments of Justice and Transportation that Ford would begin a pilot program to identify selected vehicle component reports.⁹³ Ford will identify six additional components - each front fender, the right front door, the hood, the deck lid, and the rear body structure - in each 1980 Lincoln Continental and Continental Mark VI, which are to be totally redesigned models. All of these cars will be assembled in one factory. The complete eleven-character VIN currently in use by Ford will be used to number these parts, and it will be typed on a special label designed to self-destruct if attempts are made to remove it. Additionally, the safety compliance certification label, containing the VIN, will be located on the left front door. It has also been reported that General Motors has contracted to purchase a laser-marking device.⁹⁴

Despite this encouraging news, the auto makers apparently do not believe such identification is, by itself, the answer to the problem. The Ford letter states:

Without a threat of punitive action, "chop shop" operators will continue business as usual. The Department of Justice and the Department of Transportation should take the lead in demonstrating to the "chop shop" operators that they cannot operate with impunity. Perhaps the leadership could be provided by assisting local law enforcement officials in states

91. See, for example, United States Department of Justice, Talking Paper II - Component Identification Revisited (May 1979), and speech by Joseph R. Pisani, supra note 51.

92. Speech by Jerry Williams, Vehicle Regulations Manager, Ford Motor Company and Chairman, Vehicle Security Committee, Motor Vehicle Manufacturers Association, to National Workshop on Auto Theft Prevention, New York, New York, October 4, 1978.

93. Letter from Herbert L. Misch, Vice President, Environmental and Safety Engineering Staff, Ford Motor Company, to Benjamin R. Civiletti, Deputy United States Attorney General, and Dr. John J. Fearnside, Assistant Secretary for Policy and International Affairs, Department of Transportation, May 23, 1979.

94. Speech by Joseph R. Pisani, supra note 51.

where existing legislation makes it illegal to remove or deface vehicle identification numbers affixed by the vehicle manufacturer.⁹⁵

The Justice Department does not disagree with this position. Ford officials are to meet in July 1979 with representatives of Justice, the International Association of Chiefs of Police (IACP), International Association of Auto Theft Investigators (IAATI), NATB and the FBI to discuss the ramifications of this project.

Security Systems

The other area of activity in which engineering can help to reduce theft is in security systems, primarily locking devices. It has been demonstrated that steering column locks, which became required by law during the 1969 model year, have helped to reduce amateur theft, as is reflected in theft rate statistics by year and make.

TABLE 14: THEFT RATES BY MANUFACTURER AND MODEL YEAR^{96*}

Manufacturer	1968 and before	1969-71	1971-75
AMC	7	5	5
Chrysler	7	5	4
Ford	7	8	12**
General Motors	13	5	6
Others	14	7	6

* Number of annual thefts per 1000 registrations

TABLE 15: MASSACHUSETTS THEFT RATE - JANUARY 1974^{97*}

Manufacturer	Average for Vehicles Equipped with Steering Column Locks***	Average for Vehicles without Steering Column Locks***
AMC	4	5
Chrysler	12	22
Ford	46**	11
General Motors	11	17
Total	21	16

* Number of thefts per 1000 registrations

** It is believed that Ford steering column locks from the early 1970's were improperly designed and actually may have contributed to the high theft rate for these models.

*** Averages shown are averages of rate by model year for each category.

95. Letter from Herbert L. Misch, supra note 93.

96. John S. Howland, Arthur D. Little, Inc. for U.S. Department of Transportation, National Highway Traffic Safety Administration, VEHICLE ANTI-THEFT SECURITY SYSTEM DESIGN, (Volume 1 - Summary Report), 3 (December 1978).

97. Id.

Steering column locks, then, have undoubtedly reduced some forms of theft, but as a consultant's report to NHTSA states, "\$10,000 automobiles are still equipped with anti-theft devices that can be defeated in 2 minutes or less by an amateur auto thief with little experience or skill."⁹⁸

The report states that prevalent current methods of defeating locking systems include use of the "slim-jim" attack on the door lock mechanism through the window slot, a wire inserted through the door frame or window gasket to release the door lock button, or the use of a slide-hammer to remove the lock cylinder from the steering column lock. With the use of these techniques the most difficult locking systems can be defeated within 2 minutes. (The report uses time-to-defeat as the primary criterion for locking system attack resistance.) The NHTSA consultant proposed and then built and tested a system that, it is claimed, would require more than 10 minutes to defeat. A remote steering lock with keyboard code insertion was designed for a Dodge Colt. Additionally, interior baffles were added to the doorlock system to deter the use of a "slim-jim", the interior lock releases were modified, and a hood lock was installed. The NHTSA consultant estimated that this system, if produced in high volumes and factory-installed, would cost between \$17 and \$36.⁹⁹

Such devices remain in the formulative stage, but NHTSA has recently proposed amending Federal Motor Vehicle Standard No. 114, which specifies certain theft protection standards.¹⁰⁰ The amended standards would extend the requirements for locking systems to trucks, vans and multipurpose vehicles with a gross vehicle weight rating of under 10,000 pounds. The new standard would not require more intricate or stronger ignition locks, but would require that ignition system wires be shielded so that they could not be directly contacted through the passenger compartment to be "hot-wired." An interior hood release (already supplied on most cars) would also be required to delay "hot wiring" from the engine compartment. A system using a separate key to operate the ignition lock, as is presently used by General Motors, would also be required. Also, minor modifications to the alarm used to prevent leaving the key in the ignition are proposed.

98. Id. at 1.

99. Id. at 9-12. The report further states that an "independent expert test subject," Rufus H. "Tinker" Whittier, was retained to test the security system on the Colt. The door and hoodlocks were defeated in under 3 minutes, but the remote steering lock could not be defeated within 16 minutes, 40 seconds, when the tester gave up. His opinion was that the car could never be stolen on the street without a tow truck.

100. 43 Fed. Reg. 18, 577 (1978).

Manufacturers oppose many of these proposals on cost effectiveness grounds, and, as mentioned earlier, challenge NHTSA's legal authority to deal with professional theft. It remains to be seen whether NHTSA actually will promulgate the amendments to Standard No. 114. Meanwhile, the manufacturers have been making some improvements of their own. Ford reshaped and relocated door lock buttons in its 1979 models, and improved the lock mechanism itself to deter the use of a "slim-jim." Also Ford improved the retention systems of ignition locks to make them less susceptible to slam hammers. General Motors has introduced tamper-resistant door locks on its 1978 intermediate models and 1979 Olds Toronado, Buick Riviera and Cadillac Eldorado. Several 1979 and 1980 GM models have counterfeit-proof VIN plates on the instrument panel with multiple impressions of the initials "GM" in the metal. Also, the door lock cylinders are mounted in a small depression making it more difficult to grip them with tools. Finally, Chrysler reports success in reducing theft of its Omni/Horizon since a new steering lock retention mechanism was designed.

12. SUMMARY - RECOMMENDED STATE RESPONSES

Although the auto theft rate has remained static during the 1970's, it appears that organized or professional theft of motor vehicles, as opposed to juvenile or amateur theft, has been increasing. Some states are experiencing particular problems with export theft, the "salvage switch," insurance fraud and other forms of motor vehicle theft. While some aspects of the auto theft problem can be combatted most efficiently by federal action, or by the efforts of individual auto owners, automobile manufacturers and the insurance industry, the states must bear a large part of the responsibility for reducing auto theft, particularly in the areas of titling and registration, regulation of wreckers, dismantlers and salvage yards, and prosecutions.

This report has discussed laws, practices and procedures, which various groups have recommended as approaches to these problems. These suggestions are summarized below. It should be noted that NAAG has not taken any action on this subject and has not endorsed any specific recommendations.

(1) Actual physical inspection of motor vehicles should be performed at the time of titling, both for safety and verification of vehicle identity. It should be determined that the VIN plate on the vehicle corresponds with the VIN shown on the documents offered as evidence of ownership. It is especially important that such inspections occur at titling for out-of-state and reconstructed vehicles.

It has also been recommended that vehicles unregistered for more than 1 year prior to the current registration year, and high theft hazard models as determined from analysis of theft records, be inspected physically. Personnel designated to perform these inspections should receive training in and become proficient at the recognition of the physical characteristics of vehicle makes, models and years, interpretation of the vehicle description contained in the VIN, techniques for inspection of the VIN and other vehicle identifiers, and knowledge of methods for alteration or replacement of the VIN. Finally, when physical inspection determines that a VIN has been altered, defaced or destroyed and no replacement VIN has been assigned, the car in question should be seized pending an investigation into its true identity and ownership.

(2) Document intake and inspection procedures should be modified, if necessary, to include: comparison of title documents submitted to DMVs with a known standard; examination for evidence of alteration, forgery or counterfeiting; confirmation of the existence of internal security features on the certificate of title (e.g., watermarks, latent images, ultraviolet sensitive designs); transmission of the VIN to NCIC and/or NATB computers to determine if the vehicle has been reported as stolen; and return of surrendered titles to the state of original issuance.

(3) Each state's salvage vehicle titling procedure should require: that the owner of a salvage motor vehicle surrender its original title,

following which the DMV should issue a uniform salvage title to the owner; that the purchaser of a salvage vehicle acquired for the purpose of dismantling and destruction notify the DMV of the final disposition of the vehicle or, alternatively, certify on the salvage certificate that the vehicle no longer exists, forwarding the certificate to the DMV for deactivation; and that reissued certificates of title for reconstructed salvage vehicles clearly indicate the history of the vehicle.

(4) States should establish regulatory policies to exercise closer supervision over the salvage business, and salvage operators should be licensed. There should be recordkeeping requirements designed to reveal the nature of the acquisition and disposition of salvage vehicles and major component parts.

(5) Criminal laws should be enacted, enforced and prosecuted which prohibit the removal, alteration or falsification of the VIN on vehicles and their parts. At the same time, VIN replacement programs should be maintained so that if a VIN should become erased, lost or otherwise destroyed, an assigned VIN would be issued by the DMV and affixed to the vehicle.

(6) Insurance industry representatives have called for laws requiring insurance companies to report any claims suspected of being fraudulent, and granting same type of immunity for so doing, in order to help combat insurance fraud. Complementary statutes could include making the filing of a false motor vehicle theft insurance claim a felony, along with falsely alleging the theft of a motor vehicle and falsely reporting the theft of a motor vehicle to police.

(7) In each state there should be one lead agency appointed to coordinate auto theft investigations and prosecutions. This could be the highway patrol, state police, DMV or Attorney General's office, etc. Investigators need to be backed up by more and more meaningful prosecutions of professional auto thieves.¹⁰¹

(8) State regulatory and law enforcement agencies, including the DMV, the Attorney General's office, the insurance department, and the highway patrol should work with NATB and other segments of the insurance and automobile industries to conduct anti-car theft (ACT) campaigns. The purpose of ACT campaigns is to educate the public about and keep them aware of the auto theft problem; and to study and make recommendations for legislation to combat auto theft.

(9) Border state authorities could consider setting up "hotlines" with the Mexican authorities, similar to that operated by the California Attorney General's office. This would allow the Mexican Judicial Police to report the license plate numbers of cars they suspect to be stolen to the DMV of the bordering state for verification clearance.

101. This is true on the federal level as well. Title III of the proposed Motor Vehicle Theft Prevention Act includes trafficking of stolen motor vehicles and their parts as RICO offenses, which should facilitate federal prosecutions of "ring" cases.

(10) In lieu of the automobile manufacturers expanding component identification, states could consider legislation requiring component identification. However, preemptive federal statutes or regulations in this area may be forthcoming, which would obviate the need for state action.

There is always a need for increased cooperation among law enforcement agencies. In the field of auto theft there seems to have been a particular absence of coordinated effort among almost all concerned parties: federal, state and local law enforcement officials in different jurisdictions; insurers and DMVs; American authorities and Mexican authorities; automobile manufacturers and Congress; salvage operators and state authorities; and among the DMVs of different states. There are signs, such as the increasing number of states that are returning surrendered titles to the issuing jurisdiction, the formation of anti-car theft committees, the initiation of component numbering programs by the auto industry, and the proposed revision of Dyer Act guidelines, that the various parties are beginning to cooperate. It is essential, as part of this cooperation, that all states bring their titling and registration procedures, salvage industry regulations, and prosecutorial efforts up to a similar high level of potency and immunity from attack, so that the auto theft problem does not simply migrate from jurisdiction to jurisdiction.

APPENDIX

RESOURCE PERSONS AND ORGANIZATIONS

American Association of Motor Vehicle Administrators (AAMVA)
1201 Connecticut Avenue, N.W. Suite 910
Washington, D.C. 20036
Jack Leverenz, Director-Vehicle Services (202)296-1955

Automotive Dismantlers & Recyclers of America (ADRA)
1000 Vermont Avenue, N.W.
Washington, D.C. 20005
Donald J. Rouse, Director of Field Services
Box 236, Jenison, Michigan 48428 (616)457-3820

Senator Joe Biden (sponsor of Motor Vehicle Theft Prevention Act)
347 Russell Senate Office Building
Washington, D.C. 20510 (202)224-5042

Dunlap & Associates (consultants for preparation of NHTSA training manual
for DMV employees)
One Parkland Drive
Darien, Connecticut 06820 (203)655-3971
Mary Lou Farrell

Representative S. William Green (sponsor of Motor Vehicle Theft Prevention
Act)
118 Longworth House Office Building
Washington, D.C. 20510 (202)225-2436

International Association of Auto Theft Investigators
1246 Feldon Street,
Wheaton, Maryland 20906
Tom Horrigan (301)946-2442

National Automobile Theft Bureau
390 North Broadway
Jericho, New York 11753
Paul W. Gilliland, President (516)935-7272

DIVISIONS

National Systems Division
David A. Frisco, Manager
9730 South Western Avenue
Chicago, Illinois 60642
Tel: (312) 425-4944

Southwestern Division
C.C. Benson, Manager
1341 W. Mockingbird Lane
Suite 1006E
Dallas, Texas 75247
Tel: (214) 630-1666

Eastern Division
Joseph F. McDonald, Manager
17 John Street
New York, N.Y. 10038
Tel: (212) 233-1400

Western Division
Richard Wedekind, Assistant Manager
9830 South Western Avenue
Chicago, Illinois 60642
Tel: (312) 499-2620

Pacific Coast Division
H.T. DeArmond, Manager
333 Serramonte Plaza
Daly City, California 94015
Tel: (415) 756-1576

Southern Division
Royce L. Calvert, Manager
P.O. Box 95008
Atlanta, Georgia 30347
Tel: (404) 325-3993

Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA)
320 New Center Building
Detroit, Michigan 48202
Thomas J. Carr, Senior Staff Engineer, Vehicle Safety Engineering
and Standards Department (313) 872-4311

National Committee on Uniform Traffic Laws and Ordinances
1776 Massachusetts Avenue, N.W.
Washington, D.C. 20036
John English, Ed Kearney (202) 785-4006

New York State Senate Committee on Transportation
(Sponsor of National Workshop on Auto Theft Prevention)

Senator John D. Caemmerer, Chairman
Peter Derrick, Program Coordinator
Room 811, Legislative Office Building
Albany, New York 12247 (518) 455-3341

MacNeil Mitchell, Project Director
Linda Conrad, Program Coordinator
36 West 44th Street
New York, New York 10036 (212) 997-0975

R.L. Polk & Co. (publishers of Polk's Motor Vehicle Registration Manual,
listing state's registration and titling laws)
Department 5
431 Howard St.
Detroit, Michigan 48231

Senator Charles H. Percy (sponsor of Motor Vehicle Theft Prevention Act)
4321 Dirksen Senate Office Building
Washington, D.C. 20510 (202) 224-2152

United States Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20
Thomas Davis (202) 566-8164

United States Department of Justice
General Litigation and Legal Advice Section - Criminal Division
Room 516 FTRI
Washington, D.C.
Ralph Culver, Stephen M. Weglian (202)724-6961

United States Department of State (Mexican Treaty Negotiations)

Office of the Legal Advisor
Room 5527A, New State Department Building
Washington, D.C. 20520
Fay Armstrong (202)632-2160

Office of Special Consular Services
Room 4811, Main Street Department Building
Washington, D.C. 20520
Teresa Hobgood (202)632-3444

United States Department of Transportation (DOT)/National Highway
Traffic Safety Administration (NHTSA)
Office of the Secretary
Washington, D.C. 20590
Charles W. McGuire, Deputy Director,
Safety Program Coordination (202)426-4468

Vehicle Equipment Safety Commission (VESC)
Suite 908 - 1030 15th St., N.W.
Washington, D.C. 20005
Dairl Bragg, Executive Director (202)833-1596

