

**Testimony before the U.S. Senate Committee on the Judiciary
Subcommittee on Crime and Drugs**

Hearing on “Metal Theft: Public Hazard, Law Enforcement Challenge”

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Good afternoon Chairwoman Klobuchar, Ranking Member Hatch, and Members of the Subcommittee. My name is Aaron Kennard and I currently serve as the Executive Director of the National Sheriffs' Association and immediately prior to joining NSA, I served as the Sheriff of Salt Lake County, Utah for 16 years. Established in 1940, the National Sheriffs' Association's core membership consists of over 3,000 elected sheriffs nationwide who generally serve as the chief law enforcement of their respective counties.

I am pleased to have this opportunity to appear before you today to highlight the need for a federal legislation to combat metal theft, S. 418, the *Secondary Metal Theft Prevention Act of 2009*, and to provide recommendations to the Committee from a law enforcement perspective to further address this costly and hazardous crime.

Metal theft has become a serious public safety issue not just in Utah but across the country as thieves become more and more reckless in the materials they go after. This costly crime has plagued both urban and rural communities in recent years. Metal thieves compromise U.S. critical infrastructure by targeting electrical sub-stations, cellular towers, telephone land lines, railroads, water wells, construction sites, and vacant homes—all for quick cash.

Throughout the country, law enforcement officers have witnessed thefts in which culprits steal metal, everything from old grave markers to parts of air conditioning units or vehicles, to

resell as scrap. Furthermore, these crimes and criminals are oftentimes associated with other violent crimes, illicit activities and drug abuse.

When it comes to metal theft, officers have little to go on unless they catch a metal thief in the act, as property crimes are extremely difficult to solve due to lack of evidence and few leads. We strongly believe that the requirements of the *Secondary Metal Theft Prevention Act* would greatly enhance law enforcement's ability to investigate metal theft by creating a paper trail. And we know that in states that enacted their own metal theft laws similar to S. 418, these states have witnessed a notable decrease in metal theft.

The requirement of checks and record-keeping is a valuable tool for law enforcement in our investigations of metal theft as it helps close the loop-hole in enabling criminals to “take the money and run” without creating a paper trail, thereby making it extremely difficult for law enforcement to identify and apprehend those responsible for theft.

A simple thumb print on a check can help investigators crack a case identifying a suspect with a prior record. And the mere fact that these reporting requirements exist we believe would prove to be a valuable anti-metal theft tool.

The provisions in the bill would provide law enforcement with the necessary tools to investigate and prosecute metal theft. Under the *Secondary Metal Theft Prevention Act of 2009*, the secondary metal dealers would:

- be required to keep records of secondary metal purchases, including the name and address of the seller, the transaction date, the amount and description of the metal purchased, and the number from the seller’s driver’s license or other government-issued ID card;

- maintain these records for a minimum of two years and make them available to law enforcement agencies to assist them in tracking down and prosecuting metal thieves;
- perform transactions of more than \$75 by check instead of cash; and,
- not pay cash to the same seller within a 48-hour period to dissuade sellers from trying to circumvent the check payment requirement.

In addition to the requirements provided in S. 418, we would like to make additional recommendations for the Committee for its consideration that we believe would be of tremendous assistance for law enforcement in combating metal theft. These recommendations include the following:

- law enforcement officer would have the ability to routinely inspect all records related to metal sale transactions without a court order;
- require anyone convicted of metal theft to pay restitution for the materials stolen and for any collateral damage caused during the theft;
- metal dealers who break the law face suspension or revocation of their business license and increased fines and jail time;
- require metal dealers to obtain a thumbprint, photo or a video and/or a copy of a valid government issued ID of the seller; and,
- impose increased criminal penalty for metal theft relative to the amount of damage rather than amount stolen.

Some may contend that a federal law to address metal theft is unnecessary because of the drop in commodity prices. It's true that we have witnessed a decrease in metal thefts partly due to the lower value for metals. It is certainly not as lucrative as it was to bring a pickup load of highway guardrails, irrigation pipe, utility wire or cemetery urns to the scrap yard. New state

laws aimed at combating metal theft with requirements similar to the provisions in S. 418 have also played an integral role in decrease in metal theft.

However, with only some states with similar metal theft laws, sellers are opting for neighboring states so they can get paid immediately. Similarly, the thieves are going out of state too, which undermines the intent of the law in the states that have responded by enacting a strong state metal theft law. A federal law is needed to prevent criminals from stealing metal and transporting it for sale in nearby states. Moreover, scrap metal prices will climb again one day, and metal theft will rise with them unless Congress acts.

Thieves have caught on: There is metal everywhere and much of it is, understandably, unguarded. Aluminum guardrails. Brass fittings. Bronze plaques. Aluminum siding. Sprinkler fittings. Catalytic converters on church vans. Bronze urns. Storm drain grates. Street signs. Copper downspouts. The nozzles on fire trucks' hoses. They have all been reported stolen.

Copper cable thefts can cause electric and telephone service outages for entire neighborhoods, impacting hundreds or even thousands of homes. Power outages can knock out traffic signals, posing a serious traffic safety threat. And in the event of an emergency, affected telephone customers are not able to call 911 for assistance.

As you can imagine, stealing telephone and electric service cables presents an incredibly hazardous situation for residents and our communities. This issue goes beyond being just a simple property crime because of the impact it has on our neighborhoods, businesses and homeland security. Not only are these crimes destroying property and causing millions of dollars in damages, they are endangering lives.

Moreover, metal theft has become a serious crime that is often related to other crimes like illicit drug activity, especially methamphetamine abuse with addicts who are looking for fast

cash to maintain their drug addictions. When addicts stop using crystal meth, they are left with depression, fatigue and a craving so intense that they will take extreme measures—climbing utility poles carrying deadly amounts of live electricity—to get more. Thieves are risking their lives for metal. They pull down live copper power lines and remove grounding wires from electrical substations, rail lines and wind farms. They snatch wire and plumbing from new housing and business park construction sites, or sometimes from existing houses.

Of course, not all meth addicts are metal thieves and, likewise, not all metal thefts track back to meth addicts, but we believe that there is a distinct connection. Oftentimes, when sheriffs have seen copper thefts, we see meth problems. One goes with the other. The link between addicts and metal theft also explains the irrationality behind some of the riskiest metal thefts and their consequences. A thief interested in making money isn't likely to break into a substation, because the risk of death is so high for a reward of only a few hundred dollars' worth of copper. And yet, substations are getting broken into constantly, live wires are being cut, and utility poles being climbed.

In many states, recycling businesses that pay for scrap metal legally could only collect or are required to keep limited information from people bringing in the metal, making it harder for officers to track down those linked to possible thefts. However, it is important to note that many scrap metal businesses already follow the rules and cooperate with law enforcement, watching for unusual loads of metal brought in by customers.

We emphasize that these businesses serve a legitimate need in the marketplace, and we do not intend to suggest that all scrap metal businesses engage in fraudulent transactions. Yet, we have seen specific instances where absence of regulation created an atmosphere conducive to

facilitating such unlawful activity, which is extremely difficult for law enforcement to detect and control.

Accordingly, we believe that federal law will help get other states and companies that might not be where they need to be, keep better track of who brings in metal and what they are offering as scrap. We simply cannot continue to accept “business as usual” given the seriousness of metal theft and its impact on public safety. With cooperation and assistance from businesses, our citizens, and law enforcement we can be proactive in preventing a potential public safety disaster in our communities.

This legislation gives valuable tools to law enforcement to combat metal theft, a crime that is not only costly to the taxpayers but also seriously compromises public safety, homeland security and endangers people's lives. The *Secondary Metal Theft Prevention Act of 2009* is a necessary step forward in keeping our neighborhoods safe across the nation.