

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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HELD AT: 250 Broadway - Committee Rm,
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Chairperson

COUNCIL MEMBERS: G. Oliver Koppell
Karen Koslowitz
Michael C. Nelson

A P P E A R A N C E S (CONTINUED)

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CHAIRPERSON GARODNICK: [gavel] Good afternoon and welcome to the Consumer Affairs Committee of the New York City Council. Today is Monday, October 18th. My name is Dan Garodnick and I have the privilege of chairing this committee. I am joined today by Committee Member and Council Member Oliver Koppell from the Bronx.

The topic of today's hearing is how we can better prevent thefts of electronic devices and aid law enforcement in tracking stolen items. The growing prevalence of smartphones has helped make our lives easier in countless ways, but they are also juicy targets for thieves. They are both valuable and portable, and often their owners can be distracted on the street by the very contents that they contain. Apple devices such as iPhones and iPads are particularly popular targets, partly because of their ubiquity and partly because they retain value well. It is relatively simple for thieves to wipe a stolen device of its previous user's data and then resell it. A used iPhone 5 can sell for between \$250 and \$400, not bad for a piece of metal that weighs less than four ounces. In 2012, the NYPD reported 16,000 thefts of Apple

1 devices, accounting for 14 percent of all crimes
2 committed in the city. In fact, the city's overall
3 crime rate would have declined in 2012 if not for
4 the spike in thefts of Apple products. This
5 growing epidemic has been dubbed "Apple picking" by
6 some particularly witty people. Attorney General
7 Schneiderman has even tackled the issue, albeit
8 from a different angle. The Attorney General has
9 called for smartphone manufacturers to explore
10 technological methods to deter theft, including a
11 kill switch that could allow a user to make a
12 stolen phone truly unusable and thus, useless for
13 thieves. Since the ultimate goal of many thieves
14 is to convert their stolen merchandise into cash,
15 it makes sense that they may seek out dealers in
16 second-hand goods, scrap processors or collateral
17 loan brokers, also known as pawnbrokers. That is
18 not to say that any of these businesses make a
19 habit of trafficking in stolen goods; far from it.
20 They are, for the most part, cooperative partners
21 with the NYPD and an important part of the process
22 for stopping theft. Nevertheless, the NYPD has
23 suggested that some increased recordkeeping and
24 transparency could help in achieving these law
25

1 enforcement aims. Second-hand goods dealers, scrap
2 processors and collateral loan brokers are all
3 licensed by the city's Department of Consumer
4 Affairs. City and state regulations already
5 mandate that these businesses maintain records
6 containing certain details about the items that
7 they buy and sell.

9 The bill that we are hearing today,
10 Intro 1177, which I have sponsored and introduced,
11 requires that these businesses record certain
12 transaction information in an electronic format.
13 The format of electronic records would be specified
14 by the NYPD and could include the capacity for real
15 time information sharing. These records would be
16 available to valid law enforcement entities
17 including the NYPD and the State Attorney General.
18 For second-hand dealers, records of the covered
19 transactions would need to be retained for at least
20 six years and could include one or more photographs
21 of the item in question. Collateral loan brokers
22 would be subject to similar requirements. The
23 electronic records required of scrap processors
24 would need to include the information already
25 required by the New York State General Business Law

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2 and would need to be retained for at least three
3 years. The goal of this bill is to help the police
4 in tracking down stolen goods. With the growing
5 rise of smartphone theft, good recordkeeping by
6 second-hand dealers, collateral loan brokers and
7 scrap processors can be invaluable for law
8 enforcement.

9 I'd like to note that we also have been
10 joined by Council Member Karen Koslowitz from
11 Queens, and we are now going to get right into it
12 and start with the testimony. We are going to
13 welcome the NYPD, which I know has a formal
14 testimony and also the DCA is present for the
15 purpose of questions, but we'll turn it right over
16 to you.

17 DEPUTY COMMISSONER BILICH: Good
18 afternoon, Chairman Garodnick and members of the
19 council. I am John Bilich, the Deputy Commissioner
20 of Operations for the New York City Police
21 Department. I am joined by Ricky Wong, Assistant
22 Commissioner for Community and Government Relations
23 of the New York City Department of Consumer
24 Affairs. On behalf of Police Commissioner Raymond
25 W. Kelly, I am pleased to be here today to discuss

1
2 how pawnbrokers, scrap processors and other dealers
3 in second-hand goods are able to assist in curbing
4 property theft, as well as to seek your support for
5 the bill before you, Intro 1177, which is intended
6 to make that assistance easier and more productive.

7 New York City is confronting a
8 continuing increase in the theft of electronic
9 devices fueled by the constant development and
10 introduction of new products, which are highly
11 attractive to criminals. They are valuable,
12 portable and unfortunately, much too easy to
13 resell. For the last six years, the theft of
14 electronic products has accounted for over 40
15 percent of robberies, burglaries and grand
16 larcenies in the city. Driven by the theft of
17 portable electronic devices and particularly Apple
18 products, property crime has greatly increased in
19 New York City. In 2012, there were approximately
20 16,000 thefts of Apple devices alone, which
21 exceeded the increase for overall crime in New York
22 City. In the absence of the increase in Apple
23 thefts, the city would have experienced a decline
24 in 2012. In 2013, as of November 10th, cell phones
25 were involved in nearly 45 percent of robberies and

1 over half of the devices were iPhones. The New
2 York City Police Department has been in the
3 forefront of combating this phenomenon. On a
4 national level, Commissioner Kelly worked with
5 Senator Chuck Schumer and the Federal
6 Communications Commission to obtain an industry-
7 wide commitment to develop a shared centralized
8 database that would prevent stolen smartphones from
9 being able to be reused based on a unique
10 identifier, the International Mobile Equipment
11 Identity number or IMEI. At the local level, the
12 Police Department has employed a variety of
13 targeted crime prevention efforts including
14 comprehensive public education, a few examples of
15 which are attached to my statement and available on
16 our website. See also our June 2013 weekly crime
17 prevention tips on outsmarting phone thieves along
18 with informational videos posted on the internet.
19 The links are listed in our statement.

21 We have also focused on the commission
22 of these crimes with extensive analysis, pattern
23 identification, officer training, dedicated
24 staffing and specialized information gathering and
25 investigative techniques. However, a large part of

1 the way to drive this particular kind of crime down
2 is to create a disincentive for the theft, since
3 the harder it is to fence the item, the less likely
4 it is to be stolen in the first place. To that
5 end, pawnbrokers and second-hand dealers play a
6 crucial role in the effort to prevent theft, not
7 only of electronics, but also other valuable
8 commodities, particularly jewelry and scrap metal.
9 We have therefore explored what we can do together
10 with these responsible businesses to dry up the
11 market for stolen goods. Pawnbrokers and second-
12 hand dealers in New York City are licensed by the
13 Department of Consumer Affairs and their
14 recordkeeping practices are monitored by DCA and
15 the NYPD. There are currently 464 pawnbrokers, 78
16 metal processors, 763 used car dealers, 5,029
17 general second-hand dealers licensed in New York
18 City. It is vitally important to ensure that
19 accurate and complete records are maintained by
20 these businesses, which may unwittingly be used as
21 the repository of stolen property. DCA inspectors
22 and NYPD officers must routinely visit these
23 locations currently numbering over 6,000 to inspect
24 what is informally called the police book; that is
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1 the log book containing a record of each
2 transaction on tear-off sheets to ensure that they
3 are completed accurately and that they correctly
4 reflect the property located in the store. But in
5 an age of omnipresent computers and diminished
6 government resources, it is necessary to update the
7 manner in which records are created and maintained
8 and the way in which these routine inspections are
9 conducted.
10

11 In an effort to address the cumbersome
12 and inefficient nature of the current recordkeeping
13 system, the city introduced a comprehensive program
14 aimed at encouraging electronic recordkeeping in
15 this area. The NYPD has engaged a web-based
16 electronic data transfer service called Leads
17 Online to serve as the repository of transaction
18 records for pawnbrokers and second-hand dealers.
19 The businesses have registered with Leads Online on
20 a voluntary basis and they have simply uploaded
21 information into Leads Online reporting system
22 instead of maintaining hard copy records. At
23 present, there are over 700 pawnbrokers and second-
24 hand dealers voluntarily utilizing the system,
25 saving time and ensuring that their entries will be

1 complete and legible. Leads Online provides a
2 user-friendly electronic form to be completed for
3 the transaction, thereby eliminating the common
4 problems associated with handwritten paper records
5 such as illegible or unintentional gaps in
6 information that could result in summonses for
7 failure to comply. Instead of physically visiting
8 the businesses to review and collect transaction
9 records, enforcement personnel are able to conduct
10 a virtual inspection by accessing Leads Online and
11 examining the entries. Enforcement personnel
12 continue to make physical inspections, but the need
13 to do so is less frequent and is facilitated by the
14 information that the inspector or police officer
15 has already reviewed. Based on four years
16 experience with the voluntary program of electronic
17 recordkeeping utilizing Leads Online, we believe it
18 is time to update the law to require electronic
19 recordkeeping for pawnbrokers and for certain
20 categories of second-hand dealers; those dealing in
21 jewelry, electronics, excluding kitchen appliances,
22 pawn tickets and scrap metal. These categories of
23 business have been selected because they are more
24 likely to be victimized by criminals seeking to
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1 fence stolen property than for example, a used
2 clothing store, and the maintenance of complete
3 records of their transactions assume much greater
4 importance. We also note that the growth in the
5 number of pawnbroker and second-hand businesses in
6 New York City from approximately 4,000 three years
7 ago to over 6,000 today, is another factor to be
8 considered when devoting limited police and DCA
9 resources to an expanded universe for inspection.
10 It is critically important that the city do all it
11 can to implement creative and efficient strategies
12 to ensure accurate recordkeeping made possible by
13 evolving technology while saving enforcement time.

14 Intro 1177 would not change the type of
15 records that the Administrative Code and the
16 General Business Law already require to be kept
17 with one crucial exception. It would authorize the
18 Police Commissioner to require the business to
19 provide a digital photo of the article along with
20 the other required information. This requirement
21 is especially important when attempting to locate
22 stolen jewelry and would not be unduly burdensome
23 given the ready availability of inexpensive digital
24 cameras or other electronic devices with the
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1 capacity to take photos. For both second-hand
2 dealers and pawnbrokers the bill would require the
3 businesses to acquire and maintain the necessary
4 electronic equipment including a computer with
5 internet connection, a digital camera and for scrap
6 processors an electronic signature pad. While not
7 including electronic recordkeeping for used car
8 dealers, we note that Intro 1177 would expand the
9 requirements for those selling used motor vehicles
10 to include in their records the vehicle
11 identification number and additional identifying
12 information regarding the purchaser and destination
13 of the property. We believe that this represents a
14 reasonable and modest expansion of the
15 recordkeeping required in connection with the sale
16 of used cars to create a more complete record of
17 the transaction and to help locate stolen property.

18
19 An important benefit to the use of
20 electronic recordkeeping is the ability to promptly
21 solve property crimes that would otherwise not be
22 solved, enabling law enforcement to reunite owners
23 with their stolen property and bring the
24 perpetrators to justice. Transaction information
25 uploaded into Leads Online includes serial number,

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2 IMEI number, photos and other information
3 conclusively identifying the property, which is
4 capable of being cross-referenced against
5 complaints of stolen property as soon as the
6 transaction is uploaded. The ability of the system
7 to conduct searches for stolen property items and
8 to identify the purported owner offering the
9 property for sale or pawn has already resulted in
10 hundreds of investigative leads that have led to
11 the recovery of property and arrest of the thieves.
12 The following examples illustrate the type of
13 successful uses of this system. An Apple iPad and
14 iPhone 5 were removed from a gym locker at a local
15 community college. Two days later, a transaction
16 into Leads Online matched the serial number of one
17 of the items, the perpetrator was located, admitted
18 to taking the property and was arrested. Unknown
19 individuals entered a residence and removed several
20 valuables including televisions, a Microsoft Xbox
21 and Nintendo Wii. The serial number of the Xbox
22 was recorded and an alarm transmitted. 23 days
23 later, the Xbox was sold at a pawn shop by an
24 identified individual and the serial number matched
25 the stolen item. Detectives visited the pawn shop,

1 validated the information and the item became
2 evidence. The individual was interviewed and
3 arrested two months after the theft for criminal
4 possession of stolen property and provided
5 investigators with information identifying the
6 burglar, who was subsequently arrested as well. A
7 victim was grabbed from behind and robbed of his
8 iPod Touch and jewelry by two perpetrators. Seven
9 minutes later, the iPod Touch was pawned nearby.
10 Leads Online provided the match and one of the
11 thieves was identified and arrested.

12
13 The mandatory use of electronic
14 recordkeeping for pawn brokers and second-hand
15 dealers is growing, especially among municipalities
16 when resources are stretched to the limit. Cities
17 including Chicago, Philadelphia and in New York
18 state Syracuse and Rochester have all enacted local
19 laws requiring electronic recordkeeping. In our
20 case, the electronic data service is provided at no
21 cost to the business, with most businesses already
22 possessing the required equipment. The service
23 offers strong tech support and is compatible with
24 over 150 software programs already used by
25 pawnbrokers and second-hand dealers. Once the

1 business is enrolled, the reporting process is
2 seamless and uploads are performed in most cases
3 nightly after close of business. The city's
4 experience to date has been very positive and the
5 types of businesses, which are voluntarily
6 registered with Leads Online, already fall into the
7 categories of businesses covered by the bill,
8 primarily dealing in jewelry and electronics.

10 Intro 1177 would greatly facilitate
11 both administrative efficiency and crime reduction
12 by providing a simple way to keep accurate
13 transaction records. The ultimate result would be
14 an enormous relief to those whose stolen property
15 is recovered, as well as a strong deterrent effect
16 for those whose avenues of disposing of stolen
17 property are systematically closed to them.
18 Accordingly, we thank you for the opportunity to
19 discuss the ways in which pawnbrokers, second-hand
20 dealers and scrap processors may participate in
21 driving down property crime in New York City, and
22 we hope that you will approve Intro 1177 as a vital
23 part of that effort. We will be pleased to answer
24 any questions you may have.

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CHAIRPERSON GARODNICK: Great. Thank you very much and I want to note that we've been joined by Council Member Mike Nelson from Brooklyn, and let me just do a few basic questions here. First is, when NYPD started noticing an increase in smartphone thefts, was there a moment in time where you just really saw the spike and when was that?

DEPUTY COMMISSIONER BILICH: Well, if we look back as far as 2006, we had 5.4 percent of our proceeds of robberies, burglaries and grand larcenies were Apple products and we progressed. In 2007, it became 5.4; 2008, 7.9; 2009, 10.3; 2010, 12.6; 2011, 15.7 and last year 19.5. We have progressively been going up at greater than a two percent rate year in and year out and that continues into 2013 as well.

CHAIRPERSON GARODNICK: Great. Would you be willing to share that information with us in...

DEPUTY COMMISSIONER BILICH:
[interposing] Certainly.

CHAIRPERSON GARODNICK: Some sort of a formal way because we've got it, but that will also be as well. When we say theft of Apple products, I

1 just want to make sure that we are not being
2 colloquial when we say that. We're not talking
3 about smartphones generically, right? We are
4 actually talking about Apple products specifically?

5 DEPUTY COMMISSIONER BILICH: Yes,
6 that's correct. We're talking about phones, we're
7 talking about iPads, we're talking about iPods and
8 we're talking about laptops as well.

9 CHAIRPERSON GARODNICK: When thieves
10 are going after these, are they doing that
11 specifically to find those products over other
12 electronic products that have a similar sort of
13 user experience or is it just that there are so
14 many of these out there that is what they generally
15 end up with?

16 DEPUTY COMMISSIONER BILICH: Well, when
17 we look at robberies and grand larcenies, our
18 experience has been that they're the item of
19 choice. The number of Apple products that are
20 stolen; iPhones that are stolen are at a higher
21 rate than what their market share is. When it
22 comes to burglaries, quite frankly, a burglar takes
23 what's available in the location, so that's
24 something that we sort of set apart, but our
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experience has been is that they're stolen at a higher rate than what their market share is.

CHAIRPERSON GARODNICK: That's for robberies you said, not...

[crosstalk]

DEPUTY COMMISSIONER BILICH: Robberies...

[crosstalk]

CHAIRPERSON GARODNICK: For burglaries.

[crosstalk]

DEPUTY COMMISSIONER BILICH: And grand larcenies.

CHAIRPERSON GARODNICK: Okay, so what's the reason for that? What is the appeal for an Apple product relative to say, any other product for a thief to want to target that in a disproportionately high way relative to their existence out there in the population?

DEPUTY COMMISSIONER BILICH: Well, we believe it's that it represents a significant amount of money on the secondary market, so the trade-in; the moving it and selling it, it brings a higher price.

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CHAIRPERSON GARODNICK: Yeah, but there are other... I mean there are other products out there is just really what I'm getting at and if you all don't know the answer, I totally understand, but it seems that maybe there's about the Apple product. I mean I don't know if it retains its value better on the secondary market; I don't know if it has higher demand. I don't know what the...

DEPUTY COMMISSIONER BILICH:

[interposing] Well, that... I mean that's our belief, exactly that.

CHAIRPERSON GARODNICK: It's those two.

DEPUTY COMMISSIONER BILICH: Right.

CHAIRPERSON GARODNICK: Okay, the best tool that you have today for recovering these products. You noted Leads Online as something which is a...

[crosstalk]

DEPUTY COMMISSIONER BILICH: Mm-hm.

CHAIRPERSON GARODNICK: Voluntary mechanism, but what is the best tool that has been most effective for you all in recovering stolen iPhones and iPads and things?

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2 DEPUTY COMMISSIONER BILICH: Well, I
3 just want to take one step back. When it comes to
4 our dealing with this problem, there's no single
5 thing that works, so as far as a strategy, we need
6 many different tactics. So, one of our most basic
7 strategies was crime prevention. It's sort of a
8 public awareness of how valuable they are; how
9 they're taken; how they're often snatched from a
10 person's person while they're engrossed in looking
11 at it, whether on a train or walking the street;
12 that they're taken as unattended property
13 oftentimes in bars and restaurants; that they are
14 taken as what we've been seeing recently as
15 proceeds of a slider, a slider being somebody
16 that's pumping gas and while the person's pumping
17 gas, a pocketbook or a phone is left in the console
18 and the person goes through the passenger's side or
19 the other side and takes it. So crime prevention
20 is certainly key for us. In addition to that, we
21 also wanted to heighten the public's awareness in
22 terms of once something is taken how can we best
23 retrieve it? We have alerted the public about
24 enabling their locate services on their phone for
25 the Find My iPhone application. In addition, we

1
2 have given a significant amount of training to our
3 patrol officers on how to utilize that tool. We
4 provided them, our patrol officers, with
5 smartphones so that they could track devices
6 immediately after the locate services have been
7 enables, so that's... we have ramped up our pattern
8 and our trend identification to identify both teams
9 of individuals that go out and steal these
10 products, which we see quite often. We have also,
11 working with the public, proactively gone out and
12 set up an operation ID where people could bring the
13 products that they want registered with us in case
14 it's stolen that we would have identifiers to do
15 that. We have dedicated personnel to the
16 investigation of it and we've also worked closely
17 with Apple about different ways that post-theft we
18 can best investigate the recovery of it through a
19 subpoena process, but as you know, that's a timely
20 venture, so the best course of action is certainly
21 prevention for us. So there's a number of things,
22 but one of them also includes the inspection of
23 pawn shops and second-hand dealers to match up to
24 really do what we already do in paper form to do it
25 electronically. You know, the thing that's been

1
2 most surprising to me is seeing this explosion of
3 50 percent in a three-year period of pawn shops and
4 second-hand dealers to 4,000 to 6,000. We are a
5 department now that's about 6,000 police officers
6 lower than our full strength numbers were several
7 years ago in addition to the added responsibility
8 of counterterrorism, so covering that ground as far
9 as an inspection perspective is something that's
10 challenging for us. So I hope in some way that
11 answers your question.

12 CHAIRPERSON GARODNICK: I think it does
13 actually, but I do want to understand a little bit
14 more about the retrieval of the stolen products
15 because it sounds like you know, once you've gotten
16 to that point, these things tend to move probably
17 rather quickly...

18 [crosstalk]

19 DEPUTY COMMISSIONER BILICH: Mm-hm.

20 CHAIRPERSON GARODNICK: Out there in
21 the market and from your testimony it sounded like
22 there's a rather... absent Leads Online, there's a
23 rather clunky or cumbersome way to go through the
24 written records of a pawnbroker...

25 [crosstalk]

1
2 DEPUTY COMMISSIONER BILICH: That's
3 right.

4 [crosstalk]

5 CHAIRPERSON GARODNICK: Or a scrap
6 processor or whoever. Is that right?

7 DEPUTY COMMISSIONER BILICH: That's
8 correct. That's right.

9 CHAIRPERSON GARODNICK: In fact, you
10 even noted looking at tear-off sheets.

11 DEPUTY COMMISSIONER BILICH: That's
12 right.

13 CHAIRPERSON GARODNICK: What is a tear-
14 off sheet?

15 DEPUTY COMMISSIONER BILICH: Well, it's
16 a threefold sheet, of which is in the police book,
17 of which the stuff is handwritten on. Sometimes we
18 have a challenge in interpretation of exactly what
19 is written down both description-wise and number-
20 wise, so it's akin to something that... you know,
21 this law was drafted in 1937, so certainly way
22 before computers and digital cameras that are so
23 commonplace now. It would afford us the ability to
24 do much of the inspections from our desk.

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CHAIRPERSON GARODNICK: Got it. So just paint this picture for us for a second and I think maybe Miss Petito's got something for us, but this is... the tear-off sheet comes from the log book that is kept at one of these dealers. Is that right?

DEPUTY COMMISSIONER BILICH: That's right.

CHAIRPERSON GARODNICK: And you said it's a threefold document, all handwritten. What's the purpose of threefold?

[crosstalk]

DEPUTY COMMISSIONER BILICH: Well, what...

[crosstalk]

CHAIRPERSON GARODNICK: What's it supposed to be doing?

DEPUTY COMMISSIONER BILICH: Yeah, one copy...

[crosstalk]

CHAIRPERSON GARODNICK: Or what was it supposed to be doing in 1938 or whenever it was?

[crosstalk]

1
2 DEPUTY COMMISSONER BILICH: Well, you
3 know one copy is for the person that pawns or
4 sells, the other copy is for the store and the
5 third copy is for the police, so that's the...

6 CHAIRPERSON GARODNICK: It's just like
7 a carbon copy?

8 DEPUTY COMMISSIONER BILICH: Yeah and I
9 can certainly share this with you. I guess it's
10 desensitized paper that sort of writes over it.
11 It's not you know, carbon but it's...

12 CHAIRPERSON GARODNICK: Okay, I got it.

13 [crosstalk]

14 DEPUTY COMMISSONER BILICH: You got to
15 press hard enough and you got to... there are
16 some...

17 [crosstalk]

18 CHAIRPERSON GARODNICK: Okay so...

19 [crosstalk]

20 DEPUTY COMMISSONER BILICH:
21 Challenges...

22 [crosstalk]

23 CHAIRPERSON GARODNICK: By the time you
24 get to your second or third page it must be very
25 difficult to read.

[crosstalk]

DEPUTY COMMISSIONER BILICH: And we have examples you know, of some of the challenges we have even interpreting what's been written.

CHAIRPERSON GARODNICK: Okay, tell us about the scrap processors in this context. I think you know, a lot of us can have a very simple visual of somebody bringing a phone somewhere, selling it and having it be gone, but tell us about scrap processors and how they fit into the larger picture for you all about tracking these items down and what exactly the scrap processors are ordinarily doing in this context that would make them appealing for somebody to bring a phone over to them.

DEPUTY COMMISSIONER BILICH: Sure, sure and at this time, I'm going to turn it over to Captain Vanchieri from the Auto Crime Division.

CAPTAIN VANCHIERI: Good afternoon. I'm Captain Michael Vanchieri, assigned to NYPD Auto Crime Division. Basically with the scrap processors we're looking at the vehicles that are being taken into the scrap yards and basically they're crushing them and scrapping them. What's

1
2 happened in the past, vehicles are being stolen off
3 the streets, older vehicles, usually vehicles that
4 don't have fire and theft on it from... older type
5 vehicles; 1990. They have to be eight years old or
6 older or less than \$1,250 supposedly, and what
7 happens is we have people stealing them and
8 bringing them to scrap yards and they're getting
9 anywhere from \$350 to \$500 and they're being
10 crushed and shredded and whatnot. By putting them
11 into Leads Online, we could easily identify them
12 based on a VIN number that they're supposed to be
13 doing now. They keep police books also and they're
14 supposed to log every vehicle in and when the
15 vehicle moves out; whether it's crushed or shredded
16 or moved, it's logged in the police book out also.
17 So this would enable us to locate these vehicles
18 easier. We've actually recently had one gentleman
19 that was arrested. He was sentenced last week to
20 seven years. He stole 26 cars within I believe it
21 was a 10-day period and brought them to the junk
22 yard, and if we're able to locate these cars
23 quicker, we're able to get them back to their
24 rightful owners before they're crushed.

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2 CHAIRPERSON GARODNICK: And how often
3 are scrap processing facility records inspected by
4 the NYPD today?

5 CAPTAIN VANCHIERI: By just my unit
6 alone from Auto Crime Division, we've done 700
7 visits and inspections in 2013, and it is a time
8 consuming process. It's numerous officers and a
9 supervisor that go to the location and we
10 physically have to inspect the books. We look at
11 all the VIN numbers of the vehicles that are taken
12 and then bring them back to our office and then we
13 have to run them, all those numbers in our own
14 computers also.

15 CHAIRPERSON GARODNICK: And if
16 everything were on Leads Online, do those systems
17 simply talk to each other where you have a VIN
18 number in your system and they have a VIN number in
19 their system and if it matches up, then the NYPD is
20 somehow alerted; okay well, we now know exactly
21 where this vehicle's just turned up?

22 CAPTAIN VANCHIERI: Right.

23 CHAIRPERSON GARODNICK: Okay, is there
24 anything more that the scrap processors would be
25 required to record under 1177 that they're not

1
2 currently required to record under state or local
3 law?

4 CAPTAIN VANCHIERI: Right now, whatever
5 they're recording now they'd be recording the same
6 exact information in Leads Online. The only other
7 thing is they're required to have a signature and
8 to keep that signature they'd need an electronic
9 signature pad since the paper would be going away.

10 CHAIRPERSON GARODNICK: Whose signature
11 is that? I'm sorry.

12 CAPTAIN VANCHIERI: The person turning
13 the vehicle in.

14 CHAIRPERSON GARODNICK: And the
15 photograph is not...

16 [crosstalk]

17 CAPTAIN VANCHIERI: Would be of the car
18 and actually the photograph of the car also so.

19 CHAIRPERSON GARODNICK: Okay, so that's
20 a new requirement...

21 [crosstalk]

22 CAPTAIN VANCHIERI: Yes.

23 CHAIRPERSON GARODNICK: For them. Okay
24 and so everything else is the same plus signature
25 plus photograph.

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CAPTAIN VANCHIERI: The signature was required in the past; it was just on paper but...

[crosstalk]

CHAIRPERSON GARODNICK: I see.

[crosstalk]

CAPTAIN VANCHIERI: Since we are eliminating the paper it'll be on...

[crosstalk]

CHAIRPERSON GARODNICK: Got it.

[crosstalk]

CAPTAIN VANCHIERI: Electronic.

CHAIRPERSON GARODNICK: Okay, so then we'll call that the same; it's just now a different method.

CAPTAIN VANCHIERI: Right and we do it and the photograph.

[crosstalk]

CHAIRPERSON GARODNICK: And then the photograph. For a... I guess I have really no sense as to how easy it is to upload a photograph or a signature onto Leads Online because obviously you're asking lots of businesses to... beyond voluntarily; actually we're requiring them under this law to do something that they otherwise were

1
2 not doing. How cumbersome a process is it using
3 that system for them to upload a photograph, upload
4 electronic signatures et cetera?

5 DEPUTY COMMISSIONER BILICH: The
6 requirement and what it takes to do as far as a
7 photo is the same as uploading a photo of your
8 family into your family computer from your phone,
9 so it's something that I think in today's day and
10 age is commonplace and doesn't take a great deal of
11 time. If it's alright, I'd like to just back up
12 one second for some clarity. But we did an
13 analysis in terms of "time to crime, time to pawn,"
14 and things that we've identified in pawnshops. We
15 found that the overwhelming majority of our items,
16 better than 50 percent, were pawned within a day of
17 the crime happening and then in addition to that,
18 about 30 percent of them were in the same precinct,
19 but the other 70 percent sort of fell outside the
20 precinct, so it could be adjoining precinct. Our
21 universe is very big. We're doing local
22 inspections of a single precinct. So 72 percent of
23 our items that we know of on the iPhone side remain
24 in the city, but it's just a question of the
25 ability to cover the ground, the necessary ground

1
2 in a very short period of time makes this tool a
3 significantly strong one.

4 CHAIRPERSON GARODNICK: Got it. I have
5 some more questions, but I want to go to my
6 colleague, Mike Nelson and Council Member, the
7 floor is yours.

8 COUNCIL MEMBER NELSON: Thank you, Mr.
9 Chair. I do believe that 1177 will be a useful
10 tool, albeit the fact that we have pared down the
11 Police Department terribly over the last six years
12 approximately. Funny, I was in Miami and my
13 daughter had a distinctly identifiable piece of
14 jewelry that disappeared and I went to the Miami PD
15 and I reported it and I asked the police to go to
16 pawn shops; this is part of my point. But I never
17 heard a thing, but again, it was more than a couple
18 of days later and that's the problem and you don't
19 have really the man or woman power to go too
20 quickly in most cases I would guess. Would there
21 be the possibility of a little switching around
22 after 1177, or even before, to try to hit in that
23 particular precinct the pawn shops sooner than
24 perhaps they had been hit in prior years?

1
2 DEPUTY COMMISSIONER BILICH: Currently,
3 our standing order is to inspect each of these
4 businesses every 10 days. I will tell you that
5 that is almost impossible for us. We make a very,
6 very good strong effort in doing it and as you
7 know, when an item is sold to a pawn shop or a
8 second-hand dealer, the retention is only 15 days.
9 I think that that really brings out the whole point
10 of a photo, is that oftentimes we'll get a piece of
11 jewelry with numismatic value. It might say "from
12 mom" or have a name on it. If you have the photo
13 at time of report; we often ask the victim of the
14 crime, "Do you have a photo of the property that
15 you lost?" The ability to do it from your desk and
16 do the comparison and if we had to track down every
17 piece of jewelry that said, "Love, Mom," that'd be
18 a tremendous amount of locations we'd have to go
19 through. So there are, I think, some common sense
20 things in there that really improve our efficiency
21 in terms of covering ground.

22 COUNCIL MEMBER NELSON: Sure. We
23 brought a picture in also, by the way, down there.
24 Understandably, it's not exactly the number one
25 important job, if you will, when there are people

1
2 getting hurt in the streets and you've got to
3 respond to that, of course. I mean I would be
4 offended if you said, "No, we had to go a pawn
5 shop. We couldn't get to, you know, a victim's
6 family," so that's very understandable. I guess I
7 just want to be on record also to just compliment
8 the New York City Police Department for the
9 outstanding work they've been doing over the last
10 many years with one of the greatest Police
11 Commissioners we've ever had, and all the men and
12 women. There's always bad apples, and I wish I
13 could get my hands on them myself and pound them
14 to... well, because they make it bad for all of us
15 in this city, but take my compliments with that.
16 Thank you very much.

17 DEPUTY COMMISSIONER BILICH: Thank you.

18 CHAIRPERSON GARODNICK: Just a couple
19 of final questions about Leads Online and the way
20 it works. I think from what you said before that
21 the requirements of this bill would allow for
22 that... all of the information we discussed to go
23 into Leads Online as a mandatory action as opposed
24 to a voluntary, correct?

25

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2 DEPUTY COMMISSIONER BILICH: That's
3 correct.

4 CHAIRPERSON GARODNICK: There's no new
5 system that anybody is contemplating using here
6 electronically that is separate and apart from
7 Leads Online to accomplish this, right?

8 DEPUTY COMMISSIONER BILICH: No, no,
9 well, you know, we do have a contract that goes
10 through the normal procurement process and so
11 whatever the binding rules are related to that, is
12 sort of what we're faced with, so that's what we
13 have to...

14 CHAIRPERSON GARODNICK: So NYPD has a
15 contract with Leads Online is what you're saying
16 today?

17 DEPUTY COMMISSIONER BILICH: Today,
18 that's correct.

19 CHAIRPERSON GARODNICK: And so for as
20 long as the contract exists, you'll be using Leads
21 Online, but there is no... is that right?

22 DEPUTY COMMISSIONER BILICH: That's
23 correct.

24 CHAIRPERSON GARODNICK: Okay, I got it.

25 DEPUTY COMMISSIONER BILICH: Yeah.

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CHAIRPERSON GARODNICK: I guess my question was a simpler one and I understand the...

[crosstalk]

DEPUTY COMMISSIONER BILICH: Right, right.

[crosstalk]

CHAIRPERSON GARODNICK: The issue that you're...

[crosstalk]

DEPUTY COMMISSIONER BILICH: Yeah.

[crosstalk]

CHAIRPERSON GARODNICK: Describing.

DEPUTY COMMISSIONER BILICH: Yeah.

CHAIRPERSON GARODNICK: It was just that if we put these requirements in place, you will be able to integrate them into the system that you currently have, and I think the answer to that is yes.

DEPUTY COMMISSIONER BILICH: That's correct and in addition to that, it's compatible with about 150 different point of sale software that's commonly used in the pawn shop and second-hand dealer industry and if they have no software whatsoever, it's not a requirement. You could

1 still use Leads Online and do your recordkeeping
2 there. So it's compatible with... it won't cause a
3 disruption with the lion's share of software that's
4 out there that folks use now and in addition to
5 that, even if they used none before they could use
6 this.
7

8 CHAIRPERSON GARODNICK: And there is
9 no... historically has been no obligation on any
10 second-hand dealer or collateral loan broker to
11 inform someone of the fact that it must be
12 registered once it is delivered to their shop,
13 right? There's no... we don't have like posting
14 requirements or anything which say if you come to
15 you know, deliver a product here that we will be
16 recording it onto Leads Online or we're working in
17 cooperation with the NYPD or anything like that.
18 None of... there's no disclosure requirements that
19 exist today. Is that right?

20 ASSISTANT COMMISSIONER PETITO:

21 Chairman, Susan Petito, NYPD. I believe that the
22 form itself indicates that it's a Police Department
23 form and a copy of that is given to the person who
24 comes into the business, so it is literally a
25 Police Department form.

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CHAIRPERSON GARODNICK: This is the
trifold...

[crosstalk]

ASSISTANT COMMISSIONER PETITO: The
tri... right.

[crosstalk]

CHAIRPERSON GARODNICK: Tear-off
sheet...

[crosstalk]

ASSISTANT COMMISSIONER PETITO: Right,
the...

[crosstalk]

CHAIRPERSON GARODNICK: That we're
talking about?

ASSISTANT COMMISSIONER PETITO:
Carbonless copy, right. They get one of the
copies.

CHAIRPERSON GARODNICK: Oh, okay, got
it and...

ASSISTANT COMMISSIONER PETITO: And
it's a Police Department form with a logo on it.

CHAIRPERSON GARODNICK: So in the
absence of a written form, is there any other
interaction with the person... between the person

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who's bringing in the products and NYPD at that point of contact?

DEPUTY COMMISSIONER BILICH: No, there's not.

CHAIRPERSON GARODNICK: Okay. Okay, with that, we thank you very much for your testimony. We appreciate it and we'll look forward to working with you to seeing this through, so thank you.

DEPUTY COMMISSIONER BILICH: Thank you very much for your time.

CHAIRPERSON GARODNICK: Alright.

DEPUTY COMMISSIONER BILICH: Thank you.

CHAIRPERSON GARODNICK: Terrific. Our next panel is a panel in opposition. Eric Modell of the Collateral Loan Brokers Association of New York, Jordan Tabach-Bank of the National Pawnbrokers Association, and Paul Solda, Esquire of the New York Pawnbrokers Secondhand Dealers Association. Welcome.

[Pause]

CHAIRPERSON GARODNICK: Make yourselves comfortable and I don't know who wants to start. Do you want to kick it off for us?

JORDAN TABACH-BANK: [off mic] Sure.

CHAIRPERSON GARODNICK: Good, go ahead.

Let's just make sure that that microphone is on for you. Test it out.

JORDAN TABACH-BANK: Hello?

CHAIRPERSON GARODNICK: You're good.

Thank you.

JORDAN TABACH-BANK: Thank you. Good afternoon. My name is Jordan Tabach-Bank. I am a proud pawnbroker in New York City and a director of the National Pawnbrokers Association. As the only nationwide trade association that represents the pawn industry and its independent pawnbroker members, the National Pawnbrokers Association appreciates the opportunity to submit a statement on Intro 1177, which we strongly oppose. The bill proposes that all transactional data associated with a pawn transaction, second-hand purchase from the public or scrap transaction be shared with local law enforcement via an unencrypted electronic data upload. As a third-generation pawnbroker, I am keenly aware of many misconceptions that are associated with our industry, one of which is that pawn shops deal in stolen merchandise. This could

1 not be farther from the truth. Pawn customers are
2 hard working New Yorkers in need of short-term
3 safety net loans. In fact, the incidence of stolen
4 items in pawn shops nationwide is less than one-
5 tenth of one percent. The National Pawnbrokers
6 Association opposes 1177 for numerous reasons,
7 which include, but are not limited to the
8 following: 1. 1177 is based on the empirically,
9 unfounded and offensive notion that pawnbrokers are
10 fences for stolen property and their customers are
11 thieves. 2. 1177 violates consumer's federal
12 statutory financial privacy rights and due process
13 rights and will enable the NYPD to engage in
14 impermissible profiling based on age, gender,
15 ethnicity, zip code of residence, description of
16 goods exchanged and the amount of proceeds
17 obtained. 3. 1177 offers no meaningful protection
18 to consumers against the abuse of their
19 confidential, personal and financial information or
20 to pawnbrokers against the capture of their
21 proprietary business records. 4. 1177 enriches
22 third-party for-profit software vendors at a
23 considerable risk to consumers and cost to
24 pawnbrokers without providing more than a marginal
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1 benefit to law enforcement. By no means do we
2 suggest that the NYPD will not receive the same
3 level of cooperation it has historically enjoyed
4 from pawnbrokers. On the contrary, pawnbrokers
5 respect and rely upon law enforcement and have
6 strong incentives to avoid stolen property. 1177
7 is based on a faulty premise and attempts to solve
8 a problem that simply does not exist, while in the
9 process stripping away the constitutionally
10 protected rights of New York City's consumers and
11 pawnbrokers. Pawn transactions are consumer
12 financial products or services fully protected by
13 Title V of the federal Gramm-Leach-Bliley Financial
14 Services Modernization Act of 1999. Both this
15 federal statute and the associated regulations that
16 implement it preempt local ordinance amendments
17 such as 1177. Consumers using pawn transactions
18 should not be denied the federal financial privacy
19 protections that Gramm-Leach-Bliley affords the
20 consumers who frequent banks; credit unions;
21 security brokers for their credit needs. Would you
22 want your retail purchases, auto leases or ATM
23 withdrawals shared with NYPD in the absence of some
24 suspicion of wrongdoing? If not, please do not
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2 impose the same profiling risk on fellow New
3 Yorkers. We respectfully request that this
4 legislation be held for all of the reasons I just
5 set forth and for all of the reasons articulated in
6 our prepared statement. I thank you for the
7 opportunity to appear before you and I would be
8 pleased to answer your questions. Thank you.

9 ERIC MODELL: [off mic] Good afternoon.
10 My name is Eric Modell and I am president of...
11 good afternoon. My name is Eric Modell and I'm
12 president of Modell Financial, the fourth
13 generation president of a pawnbroker business;
14 family-owned pawnbroker business that has operated
15 in New York City for 120 years. I'm also the
16 president of the Collateral Loanbrokers Association
17 of New York and a director of the National
18 Pawnbroker's Association of America. Today we're
19 talking about legislation number 1177, which would
20 require the transmission of all transactional data
21 directly or indirectly to law enforcement to be
22 held indefinitely. This arises from the belief
23 that stolen merchandise turns up in pawn shops;
24 however, there is very little evidence to support
25 this. As my colleague, Jordan, has pointed out,

1 studies have shown that less than one-tenth of one
2 percent of the merchandise that comes through a
3 pawn shop is ultimately deemed to be stolen. The
4 fact is stolen merchandise is bad for business.
5 Pawnbrokers lose the money and the merchandise and
6 have no chance at recovery. Currently, Section 436
7 of the New York City Administrative Code authorizes
8 law enforcement to inspect the books and records to
9 ensure that they are being kept in accordance with
10 the law. This Section is not intended to authorize
11 police to search the books and records without a
12 warrant for known or suspected criminals conducting
13 criminal activity. The precedent exists in People
14 v. Keta when the New York Court of Appeals found
15 warrantless search of a business to determine if
16 the business is trafficking in stolen merchandise
17 violated Article 1, Section 10 of the New York
18 Constitution. Pawn shops are a financial
19 institution. Data mining of a financial
20 institution is a violation of the civil rights of
21 each and every customer of that institution. Would
22 passage of a law requiring other financial
23 institutions such as Bank of America, Banco Popular
24 or Morgan Stanley even be entertained? The
25

1
2 tremendous amount of data mined if this bill were
3 to be enacted would result in profiling and
4 customers would be treated as criminals simply for
5 conducting business in a pawn shop or a second-hand
6 shop. This amounts to nothing more than electronic
7 stop and frisk, which is unconstitutional in New
8 York. I refer you to my written testimony for
9 greater detail on the issues that this bill raises
10 and I urge the council and its attorneys to examine
11 the proposed legislation while considering the
12 merit of our arguments. I welcome your questions
13 and I appreciate the opportunity to speak before
14 you.

15 PAUL SOLDA: Good afternoon. My name
16 is Paul Solda. My law firm represents the
17 interests of four of the largest pawnbrokers in the
18 city of New York as well as the New York
19 Pawnbrokers and Secondhand Dealers Association.
20 We, of course, take the position that any proposed
21 modification to this law would be unconstitutional
22 per se. Let me take a step back and discuss the
23 statutes and the relevant case law that really
24 brings us here today. We start with the New York
25 State General Business Law, Article 5, which

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2 pursuant to Sections 43 and 45 therein provide that
3 the businesses must keep detailed records and make
4 them available for reasonable inspections, and the
5 New York City Administrative Code and the New York
6 City Charter further develop these requirements to
7 make them applicable to pawnbrokers within the city
8 of New York. Several decades back, many business
9 operations were deemed suspect and thereafter
10 became closely regulated by government; not just
11 pawnbrokers; scrap shops, garbage facilities et
12 cetera. It was in 1987 that the New York Supreme
13 Court held that such warrantless administrative
14 inspections of pervasively regulated industries
15 including pawnbrokers was not violative of the
16 Fourth Amendment. That case was *New York v.*
17 *Burger*. With that, however, came a flood of law
18 enforcement activity here in New York, which
19 clearly surpassed the bounds of these inspection
20 rights. As a consequence, it's been repeatedly
21 argued that the NYPD and the city has consistently
22 used the foregoing inspection statutes to justify
23 investigations of criminal activity while
24 circumventing traditional judiciary and legal
25 requirements, for example, search warrants and

1 subpoenaes. In fact, you heard the NYPD quip
2 earlier how troublesome it is for subpoenaes.
3 That's exactly the heart of what the problem is
4 here in part. These abuses led to the 1992
5 decision of the highest court of the State of New
6 York, People v. Keta, which Mr. Modell spoke about.
7 That decision ruled Section 436 of the New York
8 City Charter unconstitutional. That Section, by
9 the way, goes hand in hand with the New York City
10 Administrative Code and what you're all seeking to
11 enlarge the law on, so keep that in mind. However,
12 that 1992 decision has really been ignored because
13 I guess it just hasn't been challenged at all,
14 other than a few remote lawsuits, and the NYPD
15 continues to run rampant with disguising criminal
16 investigations under the guise of doing an
17 administrative inspection. That court stated that
18 the ruling was to curtail abuses and to
19 specifically define inspection rights of law
20 enforcement, as police are only permitted to
21 undertake administrative inspections that are a
22 part of a defined systematic regulatory scheme.
23 These inspections must've been conducted on a
24 regular basis as part of an ongoing program to
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1 enforce licensing and recordkeeping requirements.
2 Now, let's just think about that for a moment,
3 recordkeeping requirements and licensing. It's not
4 talking about tracking down a criminal. It's not
5 talking about tracking down alleged thievery. The
6 pawnbrokers and the entire industry are as a
7 closely regulated business, they are... they're
8 empowered with the responsibility to keep accurate
9 records and that's what law enforcement is supposed
10 to do, is to go into the business to look at those
11 records to make sure that they're being compliant.
12 If there is in fact some criminal investigation
13 going on, well, we have what we all know as the
14 Fourth Amendment to the United States Constitution
15 and all the search warrant rules therefore,
16 including the New York State Constitution and the
17 rights of the use of subpoenas. New York City
18 Charter 436 was again held unconstitutional in a
19 New York City criminal court just a few years ago.
20 It was following the arrest of a prominent New York
21 City pawnbroker who's here today. He simply asked
22 for a warrant before allowing the police to search
23 his business safe and its collateral jewelry. That
24 particular Queens criminal court not only dismissed
25

1 his criminal arrest and charges entirely, but it
2 also took the prominent step of again echoing the
3 Court of Appeals that Section 436 is in fact
4 unconstitutional. That case, by the way, is cited
5 in my memo. And again, 436 lies at the heart of
6 the New York City Administrative Code. We still
7 have all these abused today. The proposed
8 modifications here simply don't seek to follow the
9 spirit of the courts under defined law enforcement
10 practice and constitutionality or lack thereof, no;
11 rather it takes a nosedive into an unconstitutional
12 realm where there is no escape. This is something
13 that our democracy should not so easily permit and
14 really, this council should not allow this bill to
15 get presented.

17 Real time recordkeeping of the detail
18 of a pawnbroker's loan transactions enables the
19 NYPD and wherever else the information may wind up,
20 and I'll get to that in a moment. It enables them
21 to scour all the transactional information within
22 the comfort of their precincts and other situated
23 locations. Of course, the use over the last decade
24 of such web-based reporting entitled Leads Online
25 has brought this to the forefront and we've been

1 talking about Leads Online. We've learned through
2 credible sources over the last 10 years that law
3 enforcement developed their own software program,
4 which permits them to selectively search the
5 databases of all pawnbrokers, second-hand dealer
6 customers to run against recidivates and known
7 parolees. Now, I'm a little insulted that the
8 NYPD, all of them, left and can't face my questions
9 because the reality is they have a software
10 program, which they already developed, which
11 enables them to take the Leads Online information
12 and take the names and run them against recidivates
13 or known parolees to make it easier for them to
14 identify who, in fact, may have just been in a pawn
15 shop or a second-hand dealer and may have, in fact,
16 pawned or sold stolen merchandise. Now, isn't that
17 racial profiling? I strongly suggest it is.

19 You know, Justice Sandra Day O'Connor,
20 our first lady female Justice of the United States
21 Supreme Court back in the early 1980s, observed in
22 a case involving administrative searches that
23 they're the 20th Century equivalent of Colonial
24 Writs of Assistance and those were writs in the
25 general warrants authorizing English officials to

1 search any and all residential and commercial
2 premises without particularized suspicion to
3 enforce various trade regulations and restrictions.
4 Such writs were an important component of Colonial
5 resentment against the crown and it, in fact,
6 ignited the flame that led to American
7 independence. I get goose bumps when I read that
8 and think about that because the fact is that
9 aren't we here just taking another step about
10 junking the Fourth Amendment? Isn't that really
11 what's going on here? Because it is. Because the
12 obligation of law enforcement; the right of law
13 enforcement to do administrative inspections at the
14 business at the business premises is constitutional
15 so long as it's part of a regulatory systematic
16 scheme. It's done once every 30 days, once every
17 15 days, or I think as the Captain quipped, once
18 every 10 days and they keep records of it and they
19 keep it evenhanded over all the pawnbrokers and
20 second-hand dealers, but that's not really what
21 happens. What happens is they run in every day if
22 they have to when they're chasing the lead of a
23 crime and they're using the inspection laws to mask
24 what they're illegitimate activities really are.
25

1 While these areas of regulated businesses, you
2 know, again, there's a substantial government
3 interest in justifying inspections. They have to
4 be for the purpose of the regulation of the
5 business and not for the purpose of discovering
6 evidence of criminality. How will this new law be
7 part of a defined systematic regulatory scheme to
8 inspect records? The new proposal, in fact, turns
9 further away and provides a stepping stone to
10 socialistic governance. More importantly, they
11 further relax the standards of the police that must
12 abide by the general laws of our constitution, both
13 state and federal, for undertaking criminal
14 investigations. And again, I find it shocking that
15 the NYPD and the city has couched the discussion of
16 this law and tried to mask it under the curtailing
17 of the sale of stolen Apple products because while
18 I'm just a lawyer for these businessmen, I do
19 understand that about 99 percent of the collateral
20 that they take in exchange for a loan is jewelry;
21 is gold, so what you're really putting on them is
22 asking them or requiring them I should say to send
23 all of their information, which, they are in fact,
24 protected by the federal government because they're
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2 a non-depository financial institution and they
3 have an obligation to protect the privacy of their
4 customers. You're asking them to send the
5 information to the precincts and from there I'm
6 sure that the officers that don't want to work too
7 late can then send it to their home and they can
8 sit with a doughnut and coffee and look at the
9 information at their home computer. The fact of
10 the matter is that that's illegal. That's
11 unconstitutional. Again, I suppose if there's a
12 way to carve out the sale of Apple products and
13 other electronic products, I guess that may be
14 something for all of you to consider, but in terms
15 of the gold and the jewelry that the second-hand
16 dealer and the pawnbroker do business in, that
17 should not be a part of this equation. Thank you.

18 CHAIRPERSON GARODNICK: Thank you very
19 much, gentlemen. I appreciate you giving us a
20 variety of things to think about, although I do
21 want to probe a little further on a couple of
22 things that you have said, if you don't mind.
23 First is, the new requirements here of 1177 because
24 as far as I can tell, if the Police Department of
25 the City of New York wants to go into a pawn shop

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2 today and look through that log book, they don't
3 need a warrant to do that. Is that correct?

4 PAUL SOLDA: That's correct.

5 CHAIRPERSON GARODNICK: And they are
6 not limited to looking for information about Apple
7 products or any one product over another product.
8 Is that right?

9 PAUL SOLDA: That's correct.

10 CHAIRPERSON GARODNICK: Okay and this
11 law doesn't add any new categories of reporting.
12 It... you know, other than adding a photograph it
13 is the same stuff that you would otherwise be
14 keeping in the log book. Is that right?

15 PAUL SOLDA: [off mic] Other than to
16 say that it has to be kept...

17 CHAIRPERSON GARODNICK: And use the
18 mic.

19 PAUL SOLDA: Other than to say it has
20 to be kept electronically, that's correct.

21 CHAIRPERSON GARODNICK: Right, okay.

22 PAUL SOLDA: The photograph is the new
23 addition.

24 CHAIRPERSON GARODNICK: Okay, so what
25 I'm struggling with is if there was a due process

1
2 issue present here, it seems like it would've been
3 present before as much as it would be present now.

4 Am I missing something?

5 JORDAN TABACH-BANK: Yeah, I believe
6 so. Right now they can come in for an
7 administrative search to look through your books
8 and records and make sure your books and records
9 are actually intact and that you're keeping books
10 and records, which all pawnbrokers do. This would
11 essentially allow for a search for stolen property
12 without probable cause, without subpoena; a Grand
13 Jury subpoena, without a warrant. It is no longer
14 an administrative search. It's a search for stolen
15 property.

16 CHAIRPERSON GARODNICK: And do you
17 think that what the Police Department is doing now
18 constitutes an administrative search?

19 JORDAN TABACH-BANK: Yes.

20 PAUL SOLDA: Absolutely not. Let me...

21 [crosstalk]

22 CHAIRPERSON GARODNICK: Yes and no,
23 okay, so...

24 JORDAN TABACH-BANK: Well... well, what
25 they're supposed...

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[crosstalk]

CHAIRPERSON GARODNICK: You can start with yes and then you can finish it.

[crosstalk]

JORDAN TABACH-BANK: What they're supposed to be doing is an administrative search, but they're... but in reality, most of the time they're not.

ERIC MODELL: I would say that the difference today with this bill is that this gives them unfettered access to all the information. If they have a particular crime and they are looking for a particular item and they come into one of our pawn shops, they are looking for something specific because they have a reason to be there. To have unfettered access to all of the information, which includes name, address, age, race, amount financed, none of which is pertinent to the property at hand, they can use that information for whatever they see fit, not only to find stolen property, but also to target suspected criminals.

CHAIRPERSON GARODNICK: They have access to all that information now though if they were to show up to your business, correct?

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PAUL SOLDA: Let me... they do but...

[crosstalk]

CHAIRPERSON GARODNICK: And I mean just for clarity, the answer is yes to that?

PAUL SOLDA: Right, but under the guise of an administrative inspection they are to just be ensuring that the business is properly keeping records. Now...

CHAIRPERSON GARODNICK: [interposing] You regard the Police Department's role in inspecting the books of pawn shops to be just about making sure that records are kept.

PAUL SOLDA: It's regulatory.

CHAIRPERSON GARODNICK: Only. There's no... there's no basis for the Police Department to interpret, analyze or make conclusions based on any of the information that exists in the log books. It's just about the maintenance of the log books from your perspective?

PAUL SOLDA: Well, I can just suggest this: that if a police officer is doing an administrative inspection, whether it's justified or not, whether the pawnbroker believes he's really looking to trace the lead of a crime, if he sees a

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2 particular name in the book or a transaction that
3 was undertaken the day before with a particular
4 piece of article that was reported by a crime
5 victim as being stolen, then what he is to at that
6 point is to ask the pawnbroker to put a hold on
7 that collateral and then go to a court to a neutral
8 magistrate to get a warrant or a subpoena. That's
9 how it's done in this country. It's as simple as
10 that, and I want to just return to one point that
11 you made earlier, Mr. Garodnick. What you asked, I
12 think, well, why is... what has changed over the
13 last decade or so, right? Well, a lot has. It's
14 just that everybody's ignored it. The people
15 versus Keta decision in 1992 ruled this all
16 unconstitutional unless they followed specific
17 guidelines and those guidelines, in fact, were
18 reproduced by the Lieutenant Grasso, Lieutenant
19 Commissioner of the NYPD, if I'm not mistaken, in
20 1998, which set forth the guidelines. I've seen
21 them somewhere attached to your papers, but even
22 right now there's a federal court lawsuit, in which
23 I'm representing one of the larger pawnbrokers,
24 right now that got written up in the New York Post
25 that was referenced as a footnote in your very

1 papers. I believe it is... footnote 13 and the
2 point of the fact is is that the police have been
3 bullying pawnbrokers without a law in place for the
4 last five to seven years and forcing pawnbrokers
5 that don't use Leads Online to either deal with
6 their heavy-handedness or go onto Leads Online and
7 so many pawnbrokers, and maybe there are some
8 sitting in this room; in fact, I'm sure there are;
9 that are using Leads Online right now against their
10 will. Let me say one last thing. The pawnbroker
11 is to be distinguished from the second-hand dealer
12 and yes, while there's been a huge explosion in the
13 growth of second-hand dealers over the last few
14 years and yes, they may truly be more of a magnet
15 for a criminal enterprise, the pawnbroker is making
16 a loan. He's providing a service to everyone, who
17 in exchange, those customers are entitled to
18 reasonable expectation of privacy of their
19 transaction and that's under federal law. How does
20 the use of Leads Online and where that information
21 goes to; how does that speak to that right?

22
23 CHAIRPERSON GARODNICK: Let's talk
24 about the broader question about administrative
25 inspections. It's 2013. The idea that you guys or

1
2 anybody else is keeping a triplicate pad, which the
3 Police Department walks into and has to decipher
4 handwritten notes, I mean this is antiquated. This
5 is old news. This is not the way I would think you
6 guys want to be operating and it surely isn't the
7 way that we want the Police Department to be
8 operating. How do you do an administrative search
9 in a modern era where all this stuff really... if
10 it's not you know, today collected online it will
11 be collected online and the log books that we're
12 talking about, they're a relic, right? So the
13 question is how do you do an administrative search
14 when it is all kept electronically and where the
15 Police Department previously had to physically step
16 into your shop and now may have the ability to
17 access it always or periodically?

18 ERIC MODELL: I'll address that. So
19 the first thing to consider is that yes, what the
20 Captain said before, handwritten triplicate forms
21 are not ideal. There are questions of handwriting
22 and that's understandable. In the efforts of the
23 police that come into my shops and I know several
24 of my members, and they have allowed us to produce
25 for them computer generated reports. Now, in my

1
2 own experience, I have provided such reports with
3 the elimination of certain customer information
4 such as the name, the address and the amount
5 financed because it's not pertinent to their stolen
6 records search. I have offered that to them and it
7 has been given back to me saying they need the
8 complete records. Today they would take this form
9 and they would bring it back to their... they would
10 take our computer generated forms and they would
11 bring them back to the Police Department and they
12 would go through them and do with it whatever they
13 did. It is my understanding that it was reverse
14 engineered into a database, as Mr. Solda has said,
15 and customers of our institutions were targeted for
16 simply doing business here with us. They were
17 identified and located. I can tell you from my own
18 experience using Leads Online, that one of the
19 problems that we had was that there was too much
20 information available. A police officer... a case
21 in point and I'll tell you that I did subscribe to
22 Leads Online for a few years and I had several
23 customer issues. One of them, the final one that
24 happened, which is documented in my written
25 testimony, is that a police officer went to one of

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2 my customer's homes at about 2:00 in the morning,
3 knocked on the door and aggressively was asking
4 questions about the receipt for the item that she
5 had pawned and where she got the money to buy it.
6 A thorough inspection of records if this... if the
7 police had a reason to be looking at this
8 particular customer, they would've seen that this
9 customer has been a customer of mine for over five
10 years and the particular item in question had been
11 in and out of my pawn shop for those five years,
12 but they didn't look for that. They just saw that
13 the woman had pledged a gold chain weighing
14 approximately certain number of penny weights and
15 they had a report for a stolen chain weighing
16 something close to the same amount. So I had that
17 customer on the phone yelling at me very... you
18 know, for a very long time and I've since lost that
19 customer, but it's not the only time that we've had
20 situations like that arise. In fact, in my duties
21 as president of CLANY, I've been told that there's
22 a pawn shop in the Bronx that does participate with
23 Leads Online and it has gotten... word has sort of
24 spread in the community that the... that should an
25 ex-convict do business in this particular pawn

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shop, they're regularly picked up immediately after transacting business just to see what they did and where they got it from. The fact that they are conducting business in a pawn shop does not make them a criminal.

CHAIRPERSON GARODNICK: Okay, so you're raising broader issues than are present with this specific bill. You're raising question about the Police Department's use of information secured through existing laws and regulations and using that in opposition to transforming a relic of a system into a more modernized system. I hear your points about the process, although it seem to me that if the Police Department in the example that you gave with the woman who had brought that product in and out of your pawn shop over five years, with an electronic record they probably could've seen that much easier as opposed to having to go through maybe...

ERIC MODELL: [interposing] Excuse me.

[crosstalk]

CHAIRPERSON GARODNICK: Five...

[crosstalk]

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2 ERIC MODELL: It was an electronic
3 record.

4 CHAIRPERSON GARODNICK: Okay and they
5 didn't... and they weren't able to...

6 [crosstalk]

7 ERIC MODELL: They...

8 [crosstalk]

9 CHAIRPERSON GARODNICK: To sort that
10 out?

11 ERIC MODELL: They didn't... for
12 whatever reason... that incident happened in 2010
13 and I had subscribed to Leads Online since 2004, so
14 the records were available on that particular
15 woman; however, they were looking at whatever had
16 happened in that most recent report and it wasn't a
17 thorough investigation of the quote unquote
18 "suspect" or her... or her...

19 [crosstalk]

20 CHAIRPERSON GARODNICK: Okay, so you're
21 raising specific issues about Police Department
22 activity as opposed to the benefit of making these
23 records electronic, if I'm understanding you. I
24 recognize that maybe having more electronic records
25 make you even more worried about the Police

1 Department, if I understand your testimony, but it
2 does not answer the question as to why we should
3 not be making these records electronic and more
4 easily accessible for administrative review.
5

6 JORDAN TABACH-BANK: It seems to me
7 that this is an efficiency argument and with Gramm-
8 Leach-Bliley, which we are covered under, there is
9 not a balancing test for privacy. They don't say
10 due to the fact that this is more efficient, you'll
11 forego the privacy concerns and the National
12 Pawnbrokers Association submitted a questionnaire
13 to Leads Online and other third-party-for-profit
14 data reporting services requesting certain things;
15 where is the property stored; do you... I mean
16 where is the... I'm sorry. Where is the personal
17 information stored? Do you own that data? And
18 will you indemnify us if there's a breach of that
19 data? Data is compromised. Data from the national
20 government's been compromised from Fortune 500
21 companies and when there's a leak, Leads Online has
22 refused to answer the question of whether or not
23 they would indemnify us, and just because this is
24 arguably a more efficient approach does not mean
25 it's a constitutional approach.

1
2 ERIC MODELL: Just to follow up on
3 Jordan's point, I asked the same questions of the
4 NYPD about three years ago and I'm still waiting
5 for an answer. They assured me that those answers
6 were coming.

7 PAUL SOLDA: No, I have nothing further
8 to say.

9 CHAIRPERSON GARODICK: Well, gentlemen,
10 thank you very much for your testimony. It was
11 very helpful and we appreciate hearing from you and
12 your presence here. The next panel is going to be
13 Lawrence Schillinger of the Institute of Scrap
14 Recycling Industries and Michael Powers of TNT
15 Scrap.

16 [Pause]

17 CHAIRPERSON GARODNICK: Welcome.

18 LAWRENCE SCHILLINGER: Thank you. Good
19 afternoon, sir.

20 CHAIRPERSON GARODNICK: Go right ahead.

21 LAWRENCE SCHILLINGER: My name's
22 Lawrence Schillinger. I represent the New York
23 Chapter of the Institute of Scrap Recycling
24 Industries, ISRI. ISRI is a Washington, DC based
25 national trade association who represent processors

1 and brokers of scrap commodities, including ferrous
2 and nonferrous metals, paper, fiber, plastic,
3 rubber and electronics. More than 75 ISRI member
4 companies comprise the ISRI New York Chapter and
5 those companies range in size from family-owned
6 businesses to multi-national corporations. The
7 scrap recycling industry is a sophisticated capital
8 intensive industry that has been creating green
9 jobs in the United States for decades. As the
10 first link in the manufacturing supply chain, scrap
11 recycling has been integral to the U.S. economy;
12 job creation, resource sustainability, energy
13 savings and global trade. Despite the sluggish
14 economic recovery in the aftermath of the global
15 recession, in the United States the scrap recycling
16 industry rebounded from a \$54 billion in total
17 sales in 2009 to more than \$90 billion sales in
18 2012. The scrap recycling industry has also been
19 at the forefront of job creation. In fact, in New
20 York State, the industry employs over 7,500 people
21 and accounts for 24,000 jobs through direct,
22 indirect and induced impacts and adds \$5 billion
23 and more to the state's economy; that's \$5 billion.
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2 Now, to speak to the issues of concern
3 today, we know that high demand for metal such as
4 copper and aluminum have had the unfortunate effect
5 of encouraging metal theft and we know that
6 nationwide we've seen problems with metal thieves
7 removing wiring and piping from vacant homes,
8 construction sites and utility property. Because
9 of this, ISRI has been proactive on the issue of
10 scrap metal theft. In fact, we've developed a
11 nationwide scrap theft alert system developed in
12 coordination with law enforcement authorities, and
13 that system notifies scrap processors within 100
14 miles of a reported scrap metal theft to be on the
15 lookout for stolen scrap and in fact, this program
16 has resulted in dozens of successful prosecutions.
17 Locally, ISRI New York members have a long history
18 of cooperation with the New York Police Department,
19 particularly at the precinct level. It's very
20 commonplace for a scrap processor to assist a
21 detective or a beat cop by providing direct access
22 to records of scrap purchases, which pursuant to
23 state law already, must identify the person selling
24 the scrap and describe the scrap material that's
25 been offered for sale. Now, just parenthetically,

1
2 I just want the Chair and the committee to know
3 that we will be meeting next week with NYPD Deputy
4 Commissioner Bilich, who was here earlier, and his
5 staff to try to develop some programs jointly.

6 ISRI New York supports the proposed
7 statutory requirement in Intro 1177, which mandates
8 the maintenance of electronic records. In fact,
9 there's other potential measures to consider, which
10 could deter and/or aid in the investigation of
11 scrap metal theft such as requirements that scrap
12 processors possess the requisite equipment to take
13 a photo or a video image of either the scale or the
14 point of sale, the transaction locus, which would
15 be the cash register, and to require that those
16 images be retained for 60 or 90 days. Having said
17 that, we do strongly object to the reference in
18 Intro 1177, which would authorize the city agency,
19 perhaps the NYPD, to mandate the electronic upload
20 of every transaction on a daily basis. We contend
21 that any such requirement and particularly to a
22 third party entity such as Leads Online, is unduly
23 intrusive, excessively burdensome and in fact, it's
24 meaningless as an investigatory tool. The way we
25 see it, the coerced download of each and every

1 transaction is tantamount to a commercial stop and
2 frisk policy. Just as stopping and frisking people
3 without cause or suspicion is based on the faulty
4 premise that the intrusion on personal liberty is
5 justified somehow on the premise that doing so
6 could possibly lead to an arrest, well, that same
7 faulty rationale extends to the proposed mandatory
8 upload of every transaction on the basis that
9 maybe, just maybe a reviewing agency may find
10 something interesting, and never mind the burden
11 and the imposition on the commercial entity. In
12 fact, we estimate that there are at least 5,000 and
13 perhaps as many as 10,000 transactions every day by
14 New York City scrap processors, which would need to
15 be uploaded and these scrap purchases are based and
16 recorded by weight, not by individual item. A
17 transaction on record showing a purchase of say,
18 five pounds of copper or 10 pounds of computer
19 electronics or 50 pounds of mixed metal, well, that
20 provides no investigatory value. It's nothing like
21 a discreet item like an Apple iPhone with a serial
22 number. Scrap processors don't deal in those types
23 of materials, and it would be misleading to require
24 and frankly impossible for a scrap processor to
25

1 identify each piece of purchased material with that
2 level of specificity.

3
4 Now, with regard to electronics,
5 recordkeeping requirements for recyclers of
6 electronic waste are already established by state
7 law. That requires that we record our purchase of
8 electronics by the pound and that's the way the
9 recordkeeping is done, by which the original
10 equipment manufacturers are credited with their
11 participation in New York State's recycling
12 program, and New York State's electronic recycling
13 law preempts all local laws.

14 You know with all due respect, the idea
15 of reporting every purchase of specified materials
16 every day with the hope of finding stolen goods,
17 it's analogous to establishing like a present
18 person's bureau, so you know, instead of a Missing
19 Person's Bureau, you know, the idea would be let's
20 all report in every day to the NYPD or whatever
21 agency that we're here today and then if you know,
22 Joe Blow doesn't report in, well then, obviously
23 Joe Blow is missing; we'll go look for him. So
24 it's really an inverted logic, and with all due
25 respect to the NYPD and the other hard working city

1 regulatory agencies, we actually feel that local
2 law enforcement and the other agencies could
3 actually be doing more to combat scrap material
4 theft. Our experience is that scrap theft is a low
5 priority crime. We also urge the Department of
6 Consumer Affairs to step up its enforcement of the
7 registration and recording requirements that are
8 already on the books. Let's start enforcing the
9 existing laws before we add new regulatory burdens,
10 which will put New York City scrap processors at a
11 competitive disadvantage, particularly relative to
12 scrap processors in neighboring jurisdictions.

14 And this last point is like to
15 highlight one item. We've pushed for enactment of
16 a state legislation, which would significantly
17 increase criminal penalties for the crime of scrap
18 material theft. By doing so, a criminal act, which
19 may otherwise result in say, two misdemeanor
20 charges, petty larceny and criminal mischief, the
21 economic value of those two crimes would be
22 aggregated to step up the consequence of the act up
23 to a felony level and create a greater law
24 enforcement deterrence. We urge the council to
25 support that legislative initiative.

1
2 ISRI New York scrap processors are
3 eager to work with the city to develop meaningful
4 and effective deterrents to scrap metal theft and
5 in fact, we welcome the opportunity host interested
6 council members and staff on a tour of scrap
7 processing facilities in the city. So in
8 conclusion, just to recap, we respectfully request
9 that Intro 1177 be amended to preclude the city's
10 scrap processors from mandatory electronic
11 reporting. However, we do support the proposed
12 requirement for electronic recordkeeping. On
13 behalf of all ISRI New York Chapter members, we
14 look forward to working cooperatively with your
15 committee, with the Department of Consumer Affairs
16 and the NYPD to develop a meaningful and effective
17 response to the issue of scrap metal theft. Thank
18 you very much.

19 MICHAEL POWERS: Good afternoon. My
20 name is Michael Powers. I thank you for the
21 opportunity to speak today. I represent TNT Scrap.
22 I am a scrap metal processor with two locations in
23 Brooklyn and one location in Queens. We're also
24 ISRI members. I just felt that maybe we should
25 come up to be able to shed a little bit of a light

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2 on what scrap processors really do. We specialize
3 in the purchasing, the processing and the shipping
4 of scrap metal for recycling. We recycle thousands
5 of tons of scrap metal in just our facilities each
6 year in the city of New York. We handle ferrous
7 and nonferrous metals for recycling all over the
8 world. We employ roughly 50 New York City
9 residents and our customer base of thousands of New
10 Yorkers extends to all boroughs of the city.

11 In regards to this proposed bill, TNT
12 Scrap strongly supports the basics for which this
13 bill is intended; however, we cannot support this
14 proposed legislation as written. As a company,
15 we've invested in electronic records that surpass
16 current city and state laws. We are in strong
17 support of preventing theft of any type, especially
18 theft of scrap metal. We work closely with and
19 have a tremendous relationship with the NYPD. The
20 NYPD knows that we, TNT Scrap, maintain records of
21 our customers and we are willing participants in
22 assisting with their investigations. However, the
23 type of electronic reporting that this legislation
24 is proposing is impractical and quite frankly,
25 unconstitutional. Our company cannot upload every

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2 single transaction to a third party or directly to
3 the NYPD, as it would be unduly burdensome for our
4 company, as well as impossible for the NYPD to
5 continually surveille the information that goes to
6 them. We are currently in excess of 650 individual
7 transactions per day and we are simply one of many
8 companies; I think Larry, it was 75 companies in
9 New York City. Operationally, this would become
10 very difficult for a growing company; transmitting
11 every transaction to a third party, absent and
12 imminent threat of a violation of the law, will
13 provide little assistance and simply bring small
14 businesses to a grinding halt. The burden does not
15 outweigh the benefit. As it stands, the scrap
16 processing industry is heavily regulated and
17 recordkeeping is already a requirement. Police
18 have the ability, through cooperation of a private
19 business or through the constitutional requirement
20 of a warrant to obtain these records. Real time
21 electronic surveillance of our records by the
22 police is not justified unless a suspected crime
23 has been committed. Our business and the industry
24 do not condone nor want to purchase stolen goods.
25 This is already illegal and is a poor business

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2 practice and it threatens to eradicate all of the
3 hard work that we've done. Further, regulation is
4 not the answer to catching a thief. Enforcement of
5 the existing laws and regulations is the answer.
6 To place these burdensome regulations solely on the
7 businesses that currently follow the regulations
8 and laws that are in place is unfair. In addition,
9 our industry now falls under the jurisdiction of
10 the Department of Consumer Affairs, again, as an
11 example that we are regulated. To date all scrap
12 metal processors are required to hold a Consumer
13 Affairs license, required to take copies of
14 identification and required to maintain records of
15 transactions, and in here I just wanted to say when
16 we were listening to the gentlemen from the NYPD,
17 there is a separate license from... a scrap metal
18 processor's license with the Consumer Affairs that
19 allows you to take a motor vehicle and which then
20 you have to report a VIN or a vehicle
21 identification number. A scrap processor with the
22 license such as we have in our three facilities are
23 not required and are not allowed to take motor
24 vehicles and that is not a scrap processor's
25 license, so I think that maybe that could be

1 removed and you know, then we're supportive. The
2 current safeguards and enforcement of all scrap
3 metal processors needs to be enforced. There are
4 entities out there that do what we do, but do not
5 follow the laws that are current meaning taking
6 identification; meaning computerized electronic
7 records; meaning the proper licensing for the
8 materials with which they are purchasing. Further,
9 we'd like to extend an invitation to any of the
10 members on this committee to come to our facility;
11 see how we operate; see how we obtain records to
12 get a real feel for how scrap metal processors
13 operate. And just to go back, it seems like
14 iPhones and Apple is a big part of this proposed
15 legislation. In reference to scrap processors like
16 us and you know, the rest of the ISRI members, if
17 you were to bring me an Apple iPhone, which I've
18 never ever seen one come into our facility, I would
19 pay you 75 cents for that iPhone, so that's
20 certainly you know, based on what I was hearing
21 that they're getting \$200 and \$300, we aren't the
22 outlet for something along those lines. We could
23 certainly support signature pads, no problem. I
24 have one, but to make me then turn around and
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2 upload every single one of those 650 transactions
3 per day to Leads or a third party would be very
4 difficult to a small business.

5 CHAIRPERSON GARODNICK: Thank you very
6 much. Let me just pose a couple questions to you.
7 First, just to make sure I understand, the reason
8 why you would offer 75 cents for an iPhone is
9 because that's its value in metal.

10 MICHAEL POWERS: If I...

11 [crosstalk]

12 CHAIRPERSON GARODNICK: Is that
13 correct?

14 MICHAEL POWERS: Correct. There's
15 prices for everything and an Apple iPhone or an
16 Ipad falls into a certain category and that price
17 would dictate me to pay. I would pay about
18 \$1.25...

19 [crosstalk]

20 CHAIRPERSON GARODNICK: Whatever,
21 ballpark. It's not... mostly nothing.

22 MICHAEL POWERS: Yeah, yeah.

23 CHAIRPERSON GARODNICK: And you're
24 looking at it as its component parts; you're not
25 looking at it as the sum of its whole, right?

1 MICHAEL POWERS: Exactly and that's...

2 [crosstalk]

3 CHAIRPERSON GARODNICK: Okay.

4 MICHAEL POWERS: And that's where if
5 you're looking for something in particular and at
6 the precinct level, as Larry said, they know they
7 can come to us when there's something that we would
8 get.
9

10 CHAIRPERSON GARODNICK: Okay, let's
11 talk about the 650 transactions per day because
12 under the General Business Law, the state law,
13 scrap metal processing facilities are required
14 to... or scrap processors are required to record
15 the purchase of any pig or pigs of metal.
16 [laughter] those are... and I'm not familiar with
17 the term, but pigs of metal; bronze or brass
18 castings or parts thereof, sprues or gates or parts
19 thereof, utility wire or brass car journals or of
20 metal beer kegs and...

21 MICHAEL POWERS: Which is a felony now.
22 You're not allowed to take beer kegs anymore.

23 CHAIRPERSON GARODNICK: Okay, and each
24 purchase of iron or other nonferrous scrap for the
25 price of \$50 or more et cetera.

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MICHAEL POWERS: Right.

CHAIRPERSON GARODNICK: When you say
you have 650 transactions a day...

MICHAEL POWERS: Correct.

CHAIRPERSON GARODNICK: Is it of any of
that stuff or is it all of that stuff that I...

[crosstalk]

MICHAEL POWERS: It is...

[crosstalk]

CHAIRPERSON GARODNICK: Just read to
you?

MICHAEL POWERS: Take out the kegs.

CHAIRPERSON GARODNICK: Other than the
kegs 'cause we... right, we know that's...

[crosstalk]

MICHAEL POWERS: Yep, yep.

[crosstalk]

CHAIRPERSON GARODNICK: Legal.

MICHAEL POWERS: Correct.

CHAIRPERSON GARODNICK: So it's all
within there, so you are... so those are 650
individual transactions; individual purchases by
you of a product from somebody else. Is that...

[crosstalk]

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MICHAEL POWERS: Individual...

[crosstalk]

CHAIRPERSON GARODNICK: Correct?

MICHAEL POWERS: Transactions maybe you know, to the same person two different times a day.

CHAIRPERSON GARODNICK: Okay, so I hear from both of you that there's... that the electronic piece of this is not what concerns you. It is the uploading of the electronic piece of this which concerns you.

MICHAEL POWERS: And...

[crosstalk]

CHAIRPERSON GARODNICK: Is that accurate?

LAWRENCE SCHILLINGER: That's accurate, yes.

MICHAEL POWERS: And if I could just... and one of the reasons for that is the computer systems that we utilize in the scrap... you know, the guys that are doing it the right way, is incredibly expensive to invest in and it is a closed system so that nobody else can go into it. The only way that we've been working with the NYPD when they come to us looking for something

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2 specific, we can go through quickly and find
3 exactly what they are looking for. So to take
4 the... to open up a portal outside of our network
5 could be a concern.

6 LAWRENCE SCHILLINGER: you know, I
7 could just sharpen that point a little bit. If you
8 look at... ISRI, as the trade association, which
9 has been established for I don't know, 50 or 60
10 years, has gone through and goes through on an
11 annual basis an identification methodology, by
12 which metals are identified by grade, so I'm sure
13 Mike knows it better than I do 'cause he's in the
14 industry, but take copper, for instance. There are
15 probably about what, 75, 80, 100 different grades
16 of copper, so when Mike is buying copper, he's
17 buying not just... it doesn't just say copper; he's
18 buying a specific metallic component of copper
19 that's got a particular resale to a particular
20 market and that's why the software is so complex.

21 MICHAEL POWERS: And then also the
22 software would not work with what Leads Online has
23 to do, so of those 650 transactions a day that I
24 have, 95 percent of them are mixed metal, like a 30
25 yard dumpster full of mixed metal or a tractor

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2 trailer truck full of old sheet aluminum, so to be
3 able to say what is specifically in that trailer is
4 very difficult.

5 LAWRENCE SCHILLINGER: And what the
6 scrap... the reason why we're called scrap
7 processors is what we're doing is we're taking in
8 mixed loads of metal and literally processing that
9 material to make them extremely uniform and
10 distinct as to their particularized metallic
11 components and by doing so we add value to that
12 product and then we work to find the match with the
13 user in the remanufacturing process.

14 CHAIRPERSON GARODNICK: Alright well,
15 thank you very much. I think I understand your
16 position and with that, we will excuse you guys and
17 we do not have other witnesses to testify at
18 today's hearing, so I will thank everybody for
19 having participated. It definitely was helpful in
20 thinking through Intro 1177. We'll look forward to
21 future conversations about this and seeing where it
22 takes us, but with that, this hearing is adjourned.

23 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Date: 12/13/2013