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# ODOMETER REQUIREMENTS

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## HEARING BEFORE THE SUBCOMMITTEE FOR CONSUMERS OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE NINETY-FIFTH CONGRESS

SECOND SESSION

ON

TITLE IV OF THE MOTOR VEHICLE INFORMATION AND COST  
SAVINGS ACT—ODOMETER REQUIREMENTS

JULY 26, 1978

Serial No. 95-133

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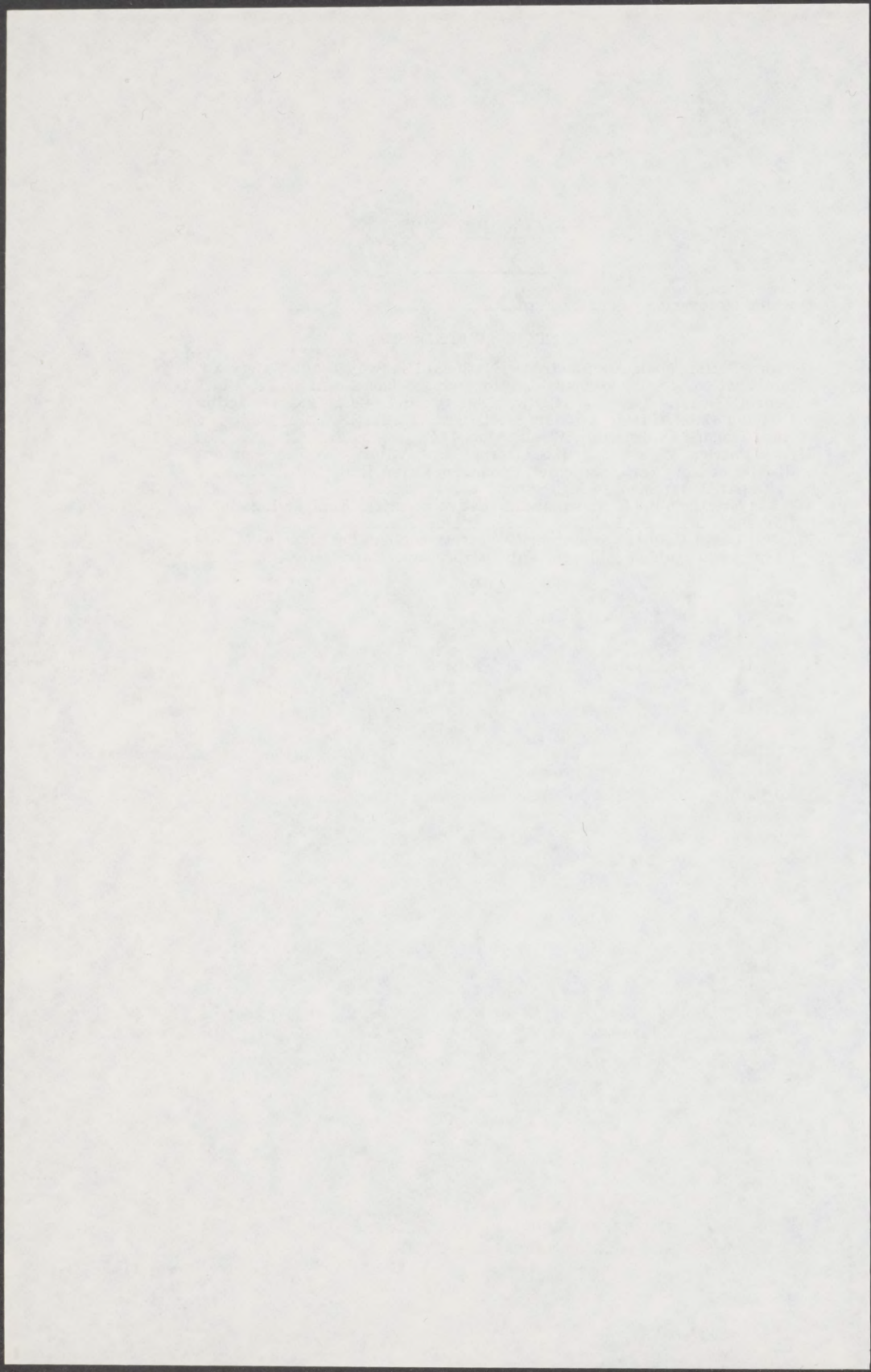
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## ODOMETER REQUIREMENTS

WEDNESDAY, JULY 26, 1978

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
SUBCOMMITTEE FOR CONSUMERS,  
*Washington, D.C.*

The subcommittee met at 9:30 a.m. in room 235, Russell Senate Office Building, Hon. Wendell Ford (chairman of the subcommittee) presiding.

### OPENING STATEMENT BY SENATOR FORD

Senator Ford. Good morning, ladies and gentlemen.

I would like to welcome you to the Senate Consumer Subcommittee hearing.

I have a brief opening statement. Our first witness will be the Honorable Joan Claybrook, who is Administrator of the National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

Last March the Consumer Subcommittee held 3 days of hearings on S. 2604, the reauthorization of the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Cost Savings Act.

Since the hearings, I have received a tremendous outpouring of mail and telephone calls from all over the country informing me of various programs and standards promulgated by the NHTSA which are not benefiting the consumer, and which are adding unnecessary costs to automobiles. In fact, I got one this morning that said, "Can't this agency just use plain commonsense?"

I feel that it is incumbent upon this subcommittee to take a closer look at the suggestions and complaints. One particular area that was brought to my attention was the rulemaking action on the part of NHTSA to regulate the automobile odometer. The final rule, published on March 16, 1978, is designed to prohibit the fraudulent practice of tampering with motor vehicle odometers.

Since the publication of the rule I have come to question whether there is such a thing as a tamperproof odometer. The purpose of this standard is to provide the consumer with the confidence, when buying a used motor vehicle, that the actual mileage registered on the odometer is the exact number of miles traveled by the motor vehicle.

However, based upon the experience of a member of my staff, who had no problem tampering with the miles registered on an uninstalled odometer, I have reason to doubt that the consumer can really rely on this standard.

Since the time that I called the initial hearing, several interesting things have happened. Indeed, there has been a flurry of activity by NHTSA, some of which was not anticipated.

I had hoped to explore this standard in detail, and draw upon the experience and comments of the various witnesses that would appear today in order to determine the deficiencies of this regulation, and possibly find solutions for a better standard.

Odometer fraud has been estimated to cost the American public as much or more than \$1 billion a year. Stamping out this widespread deception of the public must be given the highest priority by the subcommittee and NHTSA.

The earlier standard was obviously insufficient, because only 2 days ago I learned that NHTSA had proposed a new standard in response to a petition for reconsideration.

I cannot understand why this agency, in view of the fact that this hearing already was scheduled, could not wait 2 more days to release this standard. The only conclusion I can draw is that agency officials feared what might be revealed at this hearing.

Since this new regulation will not be published until tomorrow, I seriously doubt whether today's witnesses have had the opportunity or the time to review the new requirements.

This new regulation, on first reading, seems inadequate. This is significant in light of the fact that enforcement of these regulations will cost the public millions of dollars, while, as presently drafted, they will probably not provide commensurate benefits.

In light of estimates that as much as or more than \$1 billion a year is lost by American consumers due to odometer fraud, it seems that it would be more productive to try to strengthen these regulations, rather than merely reject them. If this new standard does not work, I assure you that I will call NHTSA up here again—and I think I have a track record for oversight—until we get a tamperproof odometer, before we impose a financial burden on the consumer and on the industry.

I've been around too long to be impressed by a sudden shift in direction the day before a hearing. I do not intend to confuse this flurry of activity with substance.

I wish to serve notice at this time that I intend to conduct oversight hearings of the workings of NHTSA, with the same degree of thoroughness and regularity that characterizes my continuing interest in the Consumer Product Safety Commission.

This is not a threat, this is a promise.

Our first witness this morning is Ms. Claybrook, Administrator of NHTSA.

We will be delighted to have your statement.

**STATEMENT OF HON. JOAN CLAYBROOK, ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JOHN WOMACK, ASSISTANT CHIEF COUNSEL, GENERAL LAW AND HIGHWAY SAFETY; AND GEORGE PARKER, ACTING DIVISION CHIEF, CRASH AVOIDANCE**

Ms. CLAYBROOK. Thank you, Mr. Chairman.

Before I start on my prepared text I'd like to comment on your opening statement.

Standard 127 was issued in March, and we received petitions for reconsideration of that rule within 1 month after it was issued. We have been working on those petitions for reconsideration for some 3 months.

Many comments were made about the odometer section, including some that you had brought to our attention, and the agency has been preparing an answer to the petitions for reconsideration out for some time. The final rule deals not only with odometers, but with speedometers as well, and it has several very complicated provisions in it. In an attempt to make sure that the answers to the petition for reconsideration are accurate, on point, and fair, we felt that it was terribly important to do the most thorough job possible.

For this reason, our response to the petitions has been in preparation for some time.

I'm very cognizant of the concerns that you expressed in June about the adequacy of the odometer standard and our response to the petitions for reconsideration attempted to clarify the original intention of the March 16 regulation.

We have not now proposed a new standard. I do want to clarify that. We have answered the petitions for reconsideration in order to clarify the original rule, and the standard as so amended is now an existing rule in law. The answer to the petition for reconsideration attempted—as I will explain in my statement—to clarify the original intent of the March 16 rule.

Senator FORD. Yes, but let's get to the point. You put in new requirements.

Ms. CLAYBROOK. The requirements that we included were stated in the original notice of proposed rulemaking, and they had to do with the marking of odometers, as opposed to—

Senator FORD. Well, have you changed it? Because the other one didn't work worth a darn. And if you haven't made meaningful changes, you should not have filed anything.

Ms. CLAYBROOK. What we required in the final rule that was issued in March was that odometers be movable in the forward direction only. Some people indicated that the nonreversibility of the odometer was not an adequate description of the intent of that rule, that the rule ought to make it clear that if you did turn the odometer back, the odometer itself would become inoperable. That was the clarification that we put in response to the petitions for reconsideration.

We have brought with us today some odometers and, after I make my statement, perhaps Mr. Parker, who handles this section of our staff, can show you the different types of odometers that are on the market, and what we hope will be the result of the rule.

Mr. Chairman, I am pleased to appear before your subcommittee today to discuss the DOT's efforts to combat odometer fraud and the direction of the Department's present program in this area.

With me today are John Womack, Assistant Chief Counsel for General Law and Highway Safety, and George Parker, the Acting Division Chief for Crash Avoidance.

Odometer fraud in the United States today amounts to a multi-million-dollar ripoff of the consumer. Annual used car sales in this country have approached the \$20 million mark. Consumer complaints and agency investigations indicate that in a significant number of

these transactions the seller unfairly overcharges the buyer by underrepresenting the vehicle's mileage. Without accurate mileage information, the purchaser may be unable to determine whether the vehicle is in safe operating condition or when preventive maintenance is necessary to keep it safe.

The market in which used cars are bought and sold is much more complicated than the new car market, and has a larger and more varied group of participants. In place of the straightforward manufacturer-distributor-dealer-consumer chain that characterizes new car sales, a used car transaction may involve only two parties, as in the so-called private sales between individuals, or as many as 8 or 10, as in the case of cars that enter the large wholesale markets in New York or Chicago. There is evidence that in each category of used car transaction there are individuals who make an unlawful profit through odometer fraud.

Private sales, which now account for 20 percent of all used car sales, are sometimes the occasion for do-it-yourself odometer fraud. Broken odometers go unrepaired, speedometer cables are disconnected, and, in some cases, the odometer wheels are manipulated. We do not have a specific estimate for the frequency of fraud in private sales and probably never will, but we know that it exists and there are private civil actions to document it.

Used car distributors, wholesales, and dealers and the used car lots of new car dealers are on occasion directly involved in fraud, either by having their own employees spin odometers or by hiring itinerant odometer spinners to do the job for them.

Wholesalers, particularly the smaller ones without any retail business, who the trade labels "curbstoners," are the problem in many areas. Some may be strictly local in their operation, picking up a car from one lot, adding tires and a new paint job, spinning the odometer, and selling it to a second dealer across town. Others may operate in several States, buying cars from dealers directly or through the auctions in one State and then selling them in another State. Reconditioners, or "detail men," who may have a lot for retail sales as well as a wholesale operation, are very active in some parts of the country, and are believed by the DOT and the Department of Justice to be another source of odometer fraud.

A large branch of the wholesale trade involves the disposition of cars from fleets, principally those of lease and rental companies. These vehicles are commonly late models with higher than average mileage. We suspect, based on the observation of formerly leased vehicles by Federal and State investigators, that many of these cars are being spun at some point before they are sold to customers.

Although the full scope of the odometer fraud problem is difficult to determine, we estimate the annual cost to consumers as at least several hundred million dollars. The State of Washington has placed the figure at \$1 billion.

Unfair profits of from \$200 to \$400 can be made for every 10,000 miles an odometer is rolled back. Next to counterfeiting, odometer spinning is one of the fastest ways known of making money.

Recognizing the significance of the loss caused by this type of deceit, Congress enacted title IV of the Motor Vehicle Information and Cost Savings Act in 1972, making it generally illegal for any person to disconnect or reset the odometer of any motor vehicle. Title IV, further,

prohibits the advertisement, sale, or use of odometer-altering devices and requires disclosure of mileage information to vehicle purchasers.

The act supplies a variety of remedies for odometer fraud. Private citizens can enforce their rights through private treble damage actions which, when successful, carry a minimum \$1,500 recovery. State attorneys general may also enforce these private rights of action, as well as seek injunctive relief against violators. Finally, the Federal Government, backed by investigative authority, can enforce civil penalties of up to \$100,000, criminal fines and sentences, and injunctive sanctions.

While the mere existence of title IV undoubtedly has a significant deterrent effect upon those dealing with used automobiles, we have implemented the congressional mandate with a two-pronged attack on odometer fraud, which recognizes the safety as well as monetary consequences of resetting odometers.

First, the agency has taken steps, through the recent issuance of standard 127, to limit odometer manipulation by making the odometer itself tamper resistant.

Second, the Department of Justice and DOT have initiated a broadly based effort to apprehend violators of title IV, through a combination of Federal regulations and Federal, State, and private enforcement.

The agency believes that purchasers of used vehicles should know the actual mileage of the vehicle they are buying, in order to best ascertain the safety condition of their vehicle. Odometers should be accurate so that owners can maintain preventive maintenance schedules and assure that their vehicles remain in safe working condition.

Given the current extent of rollback activity, purchasers cannot now rely on odometer readings as a measure of the safety condition of vehicles. Unfortunately, however, many consumers have no other practical means of estimating a vehicle's mechanical condition.

Concern over this problem has led the agency to issue odometer performance requirements, contained in standard 127, which applies to all motor vehicles with a gross vehicle weight rating of 16,000 pounds or less. Issued in March of this year, under the authority of the National Traffic and Motor Vehicle Safety Act, this standard not only requires that odometers record mileage accurately, but seeks to reduce the incidence of odometer fraud by making odometers very difficult to reset.

Some petitions for reconsideration of the standard misconstrued the regulation to require only that an odometer, as manufactured, be incapable of turning in the reverse direction, absent any abuse which interferes with the functioning of the mechanism such as the insertion of a pick between the wheels or the removal of a pin.

As I understand this line of reasoning, the only method of odometer tampering prevented under such a misinterpretation of the standard would be turning back the odometer by insertion of a power drill in the speedometer cable opening. This type of rollback activity has never been a realistic possibility in any case, since, for example, a 30,000-mile rollback with a 1,000-revolutions-per-minute electric drill would require 500 hours to complete. Issuance of so toothless a standard would constitute a fraud upon the consumer.

It is for that reason, Mr. Chairman, as I mentioned, that we considered all of the comments to make sure that the standard was correctly interpreted.

It is the policy of the Department that the easy alteration of odometer readings must be brought to a halt. One of the simplest and most

common means of odometer tampering is rolling back the odometer to a lower mileage total by prying apart the individual drums or wheels and rotating them, especially, the 10,000-mile drum, to a lower reading. To prevent this, our recently issued response to the petitions for reconsideration clarifies standard 127 to require that an odometer have a distance indicator that is movable in the forward direction only and that, if an attempt is made to reverse it, the odometer is rendered permanently and totally inoperable.

An alternative means of compliance provides that the odometer shall heavily score, indelibly ink, or otherwise permanently mark each numeral on the 10,000-mile wheel as the numeral rotates forward and disappears from view. Knowing removal of the marking mechanism for the purpose of altering the vehicle's indicated mileage would constitute a criminal violation of title IV of the Cost of Savings Act. While this provision will necessitate upgrading of present odometer designs, we have determined that the costs of the necessary changes are reasonable. The only previous study suggesting the contrary is now quite out of date, and we believe, no longer relevant.

The standard further requires that an odometer record, by use of a sixth digit, inking of the indicator numbers, or some other permanent means, that a vehicle has traveled 100,000 miles. This provision is intended to protect the consumer from being misled into believing that a vehicle's mileage is represented by the five-digit figure indicated on the odometer, when in reality that number may only represent usage in excess of 100,000 miles.

We also plan to develop a requirement for odometers sold in the aftermarket that their display be of a distinctive color that distinguishes them from original equipment. And, indeed, some manufacturers now already do this.

Since the odometer requirements are not effective until model year 1980, sufficient lead time exists for the automakers to meet the requirements of the standard.

We agree with the statement attributed to the chairman that it may not be possible to develop a totally "tamper-proof" odometer. However, we believe that a tamper-resistant odometer would be of substantial benefit to consumers. If persons attempting to misrepresent the mileage of their vehicles are forced to purchase and install replacement equipment, their illicit activities should be substantially reduced.

In addition, the partial destruction or replacement of the odometer would serve as a trail of evidence to make title IV enforcement more certain.

Police departments and other law enforcement agencies have expressed approval of the new regulation as a means of curbing odometer abuse. The rule also has the endorsement of the National Automobile Dealers Association. The industry's selected means of compliance with the standard will be monitored to determine whether future modification of the standard will be necessary to assure that it works properly.

Fundamental to the second phase of NHTSA's offensive against odometer tampering, the enforcement of title IV, is NHTSA's odometer disclosure regulation, part 580, which requires each transferor of a motor vehicle to furnish to the transferee—that is, the buyer—a statement as to the vehicle's mileage. This regulation was

amended on March 7 of this year to require motor vehicle distributors and dealers to retain for 4 years a copy of all odometer disclosure statements they receive or issue.

I might add, Mr. Chairman, that much of title IV was enacted by the Congress at the initiation of the National Automobile Dealers Association.

These requirements provide the basis for enforcement actions by preventing the loss or destruction of necessary mileage information.

NHTSA is now establishing, under the initial funding for this program in fiscal year 1978, an investigative staff to aid in the enforcement of title IV. The agency is closely monitoring the early stages of this project to see how the Federal Government's enforcement role can be effectively expanded in the future.

In addition to our involvement with the Federal enforcement program we have undertaken an important coordination function for State enforcement of title IV. We are committed to the goal of bringing to bear sufficient manpower at the State and Federal levels to effectively enforce the act.

State prosecutions have proven to be an effective means of combating odometer fraud, as evidenced by the recent convictions in California of several members of a large used car distribution operation. We are aiding the State enforcement effort by notifying State attorneys general of suspected odometer abuses in their jurisdictions.

We have also taken steps to encourage State cooperative efforts, such as now exist in the Western States, which allow the sharing of information on used car operations not confined to a single State.

Further, we have encouraged States to incorporate a short-form odometer disclosure statement in their title certificate forms, through our joint sponsorship with the American Association of Motor Vehicle Administrators of a task force to design such a shortened statement.

We are also studying the prospects for a model investigatory project at the State level.

The Department of Justice has for some time played an important role in the Federal enforcement effort through participation in a coordinated Federal investigation of approximately 50 automobile dealerships and wholesalers using both the FBI and Federal grand juries.

In Minnesota, five defendants pled guilty and have been sentenced to prison for short periods.

In New Jersey substantial fines and civil restitution have been imposed on at least seven defendants.

In Kentucky two defendants pled guilty, paid substantial fines, and served time in prison.

Most recently, five wholesale dealers were indicted in New York on charges they they had altered the odometers on thousands of used cars sold in New York, New Jersey, and Connecticut. These indictments have led to guilty pleas by a company, its president, and an employee and the conviction after trial of other defendants.

The Department of Justice has also instituted several civil suits seeking injunctive relief. The FBI is currently focusing its investigations on those cases where interstate transportation of vehicles or organized crime is involved.

We have learned of a significant number of actions instituted by consumers under title IV as well. The agency views consumer par-

ticipation in enforcement of the odometer laws as very important. In order to encourage consumers to take advantage of their rights under the law we have been involved in several efforts to educate consumers about the provisions of title IV. The agency is now distributing a pamphlet, which I have with me today, explaining actions consumers can take to protect themselves from odometer fraud. A significant amount of newspaper and magazine publicity has been generated concerning available remedies.

Finally, the agency has worked, for example, in conjunction with a Federal district court in Paducah, Ky., to educate the public about odometer fraud through driver education programs, vehicle registration offices, and the local newspapers. This program may serve as a model for future action in other parts of the country.

This completes my statement. I would be pleased to answer any questions you might have.

Senator FORD. Thank you very much, Ms. Claybrook.

You were going to have some other things there. Do you want to get into questions before that, or—

Ms. CLAYBROOK. If you would like, Mr. Chairman, perhaps Mr. Parker could show you the different systems that we've looked at, in considering the petitions for reconsideration, and show you what our concerns were about the particular odometers that are now used. Some of them have quite good provisions; for example, nonreversibility indicators.

You may want to take a quick look at them.

Senator FORD. Whichever would suit you. I have several questions. Whatever would fit in with your testimony would be fine.

Mr. PARKER. Senator Ford, I have a few examples here. I don't know if they're all inclusive, but they are instructive, I believe.

The American Motors odometer of a few years ago was easily defeated by a simple clip, which has been replaced by a rubberband here. You could take the odometer out and turn the 10,000-mile wheel anyplace that you'd like, and then reset the gear inside and put it back together.

We hope, with the provisions that we've added to the standard, to preclude that type of operation.

These odometers are very easy, as you can see, to disassemble. With a simple clip like that, if you'd had some practice at it, there's just nothing to it. [Demonstrating.]

Now, the Toyota. The practice that we see happening, or that we've had reported to be happening quite a bit, is inserting a pick between the wheels. You can see that small gear in there. And you just rotate that 10,000-mile wheel, as I've done right there. And then stop. So that's taken 10,000 miles off this particular odometer.

We hope, again, with the provisions that have been added, that if this happens there would be an indication, either by scribing or inking this particular wheel so you could see a purple, blue, red, or whatever type of marking on that particular wheel, or that if you tried to turn it back, the odometer would be rendered permanently inoperable. It would break.

You could do that by having a shaft, we think, made out of a soft plastic such that when you spread this apart the shaft would fracture, and then you'd have to replace the whole odometer.

The provision that was in the original regulation said that odometers could not be rolled backward through operation of a drill, or whatever. This is the drive worm for an odometer, and if you want to roll it backward, you turn it this way. If you go forward, you can see . . . [indicating]. So if you try to roll it backward, this is what would happen. [Indicating.]

Other manufacturers have done slightly different things.

This has an internal mechanism, so that if you try to roll it back it just keeps clicking.

This was a 1968 General Motors design, where the manufacturer hoped to cut down on the tampering of odometers by casing the odometer with clear plastic shielding. It was a good idea. The manufacturer felt that it was a little bit costly, and a little bit difficult to implement on the production line. The thing that makes it a little bit easy to defeat is that you can take a hot razor blade and cut through this seal here, and pull this off, pull the whole thing out, turn it, and put it all back together.

So we don't think that's a particularly good design, either. If you had something that was basically one piece, or very difficult to cut through, or glass that would break when you did that, that would be different.

This is a current, or at least a couple of years old Ford design. When you take out the drive worm you can very easily separate the wheels, and just put them any place you want. This has external gears which make that easy to do.

Again, if this type of thing is very tight, I think you'd have to have an internal gear. But if this separation wasn't allowed, it would be much better.

This is a current GM design. The tabs that allow the mechanism to operate are these tabs, right here, and they're held in place by the face plate of the speedometer. Unfortunately, if you remove that face plate, you can, again, turn the distance indicator to whatever position you want. And, again, the odometer is very, very easy to defeat. With this one, also, it's extremely simple to separate this wheel to get to the second gear. You can see it right there. [Indicating.] It's very simple.

Let's take a look at this one. The current Chrysler odometer is very easy to defeat by removing that second clip, here, pulling the whole thing apart, doing what you want with it, and putting it back together.

Again, we hope that our current standard would preclude that type of thing from happening.

This is a Mercedes Benz odometer. I don't have quite the proper tool here, but it's very easy, again, to stick in a knife or a small screwdriver, and just operate it with the screwdriver. There's a gear there that will push back the 10,000-mile indicator.

So these are the types odometers that exist today, or did exist a couple of years ago, and we agree with you that something should be done to make sure that that type of thing doesn't happen again.

Senator Ford. Let's get to a few questions, then.

How many investigators does the NHTSA presently have in the odometer area?

Ms. CLAYBROOK. We have an authorized level of two, and one is on board. We had two; one has just recently left.

Senator FORD. You just have one investigator?

Ms. CLAYBROOK. That's right.

Senator FORD. Do you think it's going to be effective to go after odometer fraud within the whole country with just one investigator?

Ms. CLAYBROOK. No. We have tried to radiate the effectiveness of our very tiny authorized level by working closely with State enforcement agencies, and we try to assist them in any way that we can. We think we've been fairly effective in doing that the last year since we've had the authorized investigators.

We've also tried to foster, through this kind of a publication, consumer rights.

Senator FORD. How many employees do you have in your agency?

Ms. CLAYBROOK. We have approximately 800.

Senator FORD. 800?

Ms. CLAYBROOK. 800, yes.

But that's not a discretionary decision of mine.

Senator FORD. I understand. I just wanted to know how many are in the agency.

How many investigators, and how much money does NHTSA intend to use as it relates to employment in odometer fraud enforcement in the coming fiscal year?

Ms. CLAYBROOK. Well—

Senator FORD. Two employees?

Ms. CLAYBROOK. That's right. I think that there is not any chance, as I see the future Federal budget, of increasing the number of employees in the agency.

Senator FORD. Is there an opportunity to maybe shift personnel from some other area into that? Can we adjust employees?

Ms. CLAYBROOK. Well, there's a possibility, Mr. Chairman. I will tell you that our authority and our burdens are quite broad, and each office in the agency feels that they're understaffed.

If you take away employees from the safety function to put them into odometer fraud investigation, I think that there would be some concern among the people who feel that we have not done enough in those safety areas.

Senator FORD. I may have found you \$3 million. I think we received an estimate from your Department that it costs about \$3 million a year to file the forms that were sent in by small businessmen on retreading tires, and the elimination of that requirement should ease your burden somewhat. I don't know whether you can use that money, or whether it would be available to you, or not.

Ms. CLAYBROOK. I think, first of all, that that provision should be removed, and I completely endorse what you did. I think most of the cost of that provision was paid not by the agency, but by the tire retreader, so I'm not sure that the money saved is really money that's available specifically to us.

Senator FORD. I understood that they filled out the form and sent it in, and their cost was borne locally, and handling of the forms was the expense of the Department. So it might be that we can get to the point where you might be able to shift some funds. And, of course, don't forget, you have to go to the Appropriations Committee to get approval.

Ms. CLAYBROOK. Right.

Senator FORD. On what basis do you set your priorities in the odometer area? For instance, how do you determine which areas are hot spots for investigation?

Ms. CLAYBROOK. Well, we've tried to work in areas where they have been interstate problems and where there have been large operations going on, not small ones. We have relied, in part, on our own investigator, but also in large measure on State officials, to alert us to these situations, because they are at the scene and are able to give us this kind of information.

We've viewed our role, under the current limitations of staff, as being one of really fostering and assisting the States with their work. Then, of course, we've also called on the Department of Justice and the FBI to help us. They've devoted substantial resources—far more than we have—to this area.

Senator FORD. As I recall we legislatively gave you very special and strong powers in this area. It seems to me that with the millions of dollars that are apparently lost—according to some estimates up to \$1 billion—it seems to me that a little more effort could be made, and maybe it's our fault on this side of the table.

But would you be willing to supply the committee with a quarterly report on expenditures in your investigative activities in the odometer area, in order to facilitate our oversight?

Ms. CLAYBROOK. Certainly. We'd be delighted to do that.

Senator FORD. There's a recent letter that the chief counsel in the NHTSA wrote to the attorney general of South Carolina, and it was stated—and I quote from that letter:

We have received several complaints that title washing frequently takes place in South Carolina. The practice of title washing is a scheme whereby the titles for the vehicles from States that record the odometer reading on the certificate of title are sent to South Carolina to obtain South Carolina titles in the name of a South Carolina dealership. A South Carolina title does not contain nor require any statement of mileage. These cars are then listed on the books of a South Carolina dealership as a sale back to the out-of-state dealer. In fact, these transactions are all shams, for the purpose of concealing that the odometer was rolled back. The vehicles need never enter South Carolina. As I understand it, all transactions take place by mail. The South Carolina dealer merely receives a fee for his services.

Would you tell the committee how prevalent you believe title washing to be?

Ms. CLAYBROOK. I believe I'm going to ask Mr. Womack, who has handled this area to comment on that for you, Mr. Chairman.

Senator FORD. In fact, you alluded to that, I believe, in your statement.

Mr. WOMACK. Senator Ford, I believe that Pat Hynes, from New York, might also have a few words to say as to New York's experience with South Carolina dealer transactions.

We don't have very good statistics to tell you how many cars are involved, or what the volume is. We do know that there have been numerous complaints up and down the east coast in the case of South Carolina dealer transactions, and also with other States who do not have limitations on their title issuances.

In the particular case of South Carolina, the State provides that cars have to be inspected before title passes, but does not require that such inspection be conducted in the case of a transaction between dealers.

So what happens is that there's a dealer resale certificate, in which one dealer will assign ownership to another dealer, and that can be done by mail.

Now, the attorney general of South Carolina has indicated an interest in taking steps to correct the problem in South Carolina. In fact, the letter which was sent down to them was one that we had discussed with him beforehand, and he had indicated a willingness to see what could be done under current South Carolina law.

It is a problem. It's a problem for the States of Maryland, Virginia, Delaware, New Jersey, and New York.

Senator FORD. And also Kentucky?

Mr. WOMACK. Kentucky as well.

Senator FORD. You referred to it several times in the statement, so we might as well get it on the record again.

Mr. WOMACK. Kentucky has a problem too.

Senator FORD. I don't know whether you're trying to compliment me or admonish me.

Mr. WOMACK. Kentucky has taken some steps in the way of cooperating with an investigation by the Department of Justice in the area around Murray, Ky.

Senator FORD. I'm very well aware of that.

How can you develop any statistics when you only have one person working on enforcement?

Mr. WOMACK. It's very difficult to do. We do have a small amount of money which will be used for contract work. One of the possible uses that we've indicated to Congress for the funds would be for development of some kind of a statistical survey. As you can appreciate, that would be very hard to do. Dealers are not willing to admit readily that they have sold or purchased cars with rolled back odometers.

Senator FORD. What powers, if any, do you have presently to require these States to provide odometer information on the certificates of title? Or would you require increased legislative authority?

Ms. CLAYBROOK. I don't think we have authority to do that.

What we have done, absent that authority, is to try and encourage them to do it. We've been working with the American Association of Motor Vehicle Administrators to try to encourage States to do that. We have a list of the States that actually include that information. We'd be glad to submit that for the record.

We would like to include a disclosure statement on the title, if it isn't already there. We've approved six States, and I believe we have five States pending. There are quite a large number of States that don't require it.

Senator FORD. Since the loss of money to the consumer apparently is growing, and with so little enforcement, would you not say it should be a requirement, or do you need legislative action to say that we require this of all the States?

Ms. CLAYBROOK. We would need legislation in order to do that, Mr. Chairman. We do not now have that authority.

Senator FORD. Would you recommend that we provide you this authority?

Ms. CLAYBROOK. I'd have to think about it, and maybe submit an answer to you for the record.

One of the concerns I have is that the States have always handled vehicle title, and that this would be really a first step by the Federal Government to take away that prerogative. And I'd like to think about the implications of that a little bit more carefully.

We have proceeded on the basis that most States would want to put the disclosure information on the title, because it's highly advantageous to them as well. And I'd like to go back and look at the reactions of the States to our request, State by State, to determine whether or not it looks as though this is something that we have a possibility of achieving on a voluntary basis in the near future, before making a final recommendation.

Senator FORD. Well, it is obvious they are not following through.

Ms. CLAYBROOK. Well, we only did this in January, Mr. Chairman, so—is that right?

Mr. WOMACK. The number of States as having the odometer information on their titles is really the product of the last 9 months or so; we worked with the American Association of Motor Vehicle Administrators in the development of forms and procedures for including odometer information on the titles.

A number of States have taken steps since that time to include the information. Our concern would be to see how that movement among the States develops. Unfortunately, it only takes one or two States in an area to create a problem; and uniformity nationwide in this respect would be something good to achieve.

Senator FORD. Well, would it be far less expensive to require the title to be changed rather than go to the expense of figuring an odometer that would be tamperproof. Would this not really solve your problem, rather than requiring a new odometer that would cost a lot of money?

If you put this in the title, every time the title changes hands you've got the mileage stated on it.

And you really don't have a tamperproof odometer yet. You've got a requirement, but that is all you have.

Ms. CLAYBROOK. We have a tamper-resistant one, Mr. Chairman; and I think it is important to have the odometer, for a very, very modest amount of money, be made as tamper-resistant as possible.

Senator FORD. You made a very, very positive statement that you have a tamper-resistant one; prove it.

Ms. CLAYBROOK. Well, we set performance standards.

Senator FORD I understand that. But do you have a testing facility, a facility to test all these odometers?

Ms. CLAYBROOK. We would certainly be able to test them. We have leased space at the University of Ohio where we do have the capability.

Senator FORD. Do you have any testing requirements?

Ms. CLAYBROOK. Yes; there are two provisions in the standard as it now stands.

Senator FORD. That is in the standards?

Ms. CLAYBROOK. That's right.

Senator FORD. OK.

Now, do you have any testing requirements?

Ms. CLAYBROOK. Certainly, we test against the standard; that is what the standard is—it is a test. The test requirement would be that either

the odometer as it moved forward has to mark indelibly, on the 10,000-mile wheel, or show that it has been.

Senator FORD. Is that indelible ink?

Ms. CLAYBROOK. Indelible ink, that's right.

And I think I talked with a gentleman from Chrysler just before we began; he indicated Chrysler has this kind of a system; and he looked at one that is some 9 years old, and it is still quite clear. It is almost impossible, without removing the numerals themselves, to remove this indelible ink. That is one option.

The other option to the manufacturer is to have the odometer designed in such a way that if you turned it backward it would break the inside of the odometer.

One of the ways that you could get around that requirement, obviously, would be to take the odometer out and put a new odometer in. But in recognizing that, what we propose to do, and what some companies have already done voluntarily, is to require that any after-market odometer be of a different color than the original equipment odometer that fits in that vehicle; so the consumer would readily be able to tell the odometer itself has been replaced.

Senator FORD. It is obvious to me that you've got a loophole in the regulations or requirements you could drive a truck through; you can go to the junkyard and get a new odometer and put it in the car.

Ms. CLAYBROOK. You have to match it to the vehicle; you can't just get any odometer.

Senator FORD. Well, I understand; but, you know, there are a lot of Chevrolets, Plymouths, Chryslers in the junkyards everywhere. They don't last forever.

Ms. CLAYBROOK. That's true. I know it always takes a while when you issue requirements such as these for them to have full effectiveness; and we view this as something we should pursue down several different tracks.

One of them is attempting to have disclosure information on the title; another for the future is to have the odometer such that it would be clear to users whether the odometer had been replaced.

Senator FORD. Are you leaning toward putting the serial number of the car on the odometers, so they will match up?

Ms. CLAYBROOK. No.

Senator FORD. You are not contemplating that?

Ms. CLAYBROOK. No, not at this time.

Senator FORD. How much do you believe your proposed odometer regulation will cost the implementor? You say in your statement—I quote: "We have determined that the cost of necessary changes are reasonable."

But exactly what do you estimate the cost to be?

Ms. CLAYBROOK. I believe our estimate is something in the nature of \$3.

Senator FORD. \$3?

Ms. CLAYBROOK. Yes, \$3.

Senator FORD. How much does this cost the industry to gear up to put all this in?

Ms. CLAYBROOK. We base our estimate on \$3 or less per vehicle; it could be as little as \$1.50 or even less than that. We view that \$3 as a maximum.

Senator FORD. Maybe you will be challenged on that figure. Everyone who wants it has a low figure; everyone who doesn't has a high figure. It's probably somewhere in between.

Ms. CLAYBROOK. Putting an indelible mark on the odometer is not an expensive proposition.

Senator FORD. Still, you have to gear up. There is an expense to industry?

Ms. CLAYBROOK. That's true.

Senator FORD. Ultimately it costs the consumer?

Ms. CLAYBROOK. That is true. I think it is a moderate cost for the consumer.

Senator FORD. Almost 1 million cars a year are stolen. What are you going to do about those? Those cars are out there somewhere running loose, changed, painted, so forth; they will take the odometers right out of them and move them into some other car if they want to or get it out of a junkyard.

Ms. CLAYBROOK. I realize that, Mr. Chairman. I think that what we are attempting to do here is to approach the problem in as rational a way as we know how, which is to say that for the future, odometers be tamper resistant, or very hard to tamper with; and that we have a disclosure statement to put on the title to the extent we can do that. If it looks as though the States are not enthusiastic about doing this on a voluntary basis, then I will let you know and perhaps we would want to recommend that there be legislation.

Senator FORD. Yes.

Ms. CLAYBROOK. I would also, as you know, probably have to coordinate with the Office of Management and Budget.

Senator FORD. Yes.

Do you believe it would be useful to add a requirement to your proposal that an odometer cannot be disassembled without making it inoperable?

Ms. CLAYBROOK. Mr. Parker?

Mr. PARKER. I think that is included, because if you disassembled it, that would be an attempt to roll back the odometer; and the wording in the document that is to be published tomorrow says that if you do that, it is going to be permanently inoperable. So you have to replace the odometer.

Senator FORD. Are you saying that disassembly is the same as rolling back?

Mr. PARKER. If you disassemble, to the extent that you are attempting to roll back, I think it would be tampering with the odometer. If you take the odometer out to replace it, that can't be considered to be tampering, per se, although if it is being done illicitly, of course, it is tampering. But we can't have a provision against that type of thing.

We do not think we can prevent anybody through our regulations from going to a junkyard and buying an odometer from a vehicle that is wrecked, and substituting it. We think in that case it is up to the title IV provisions to take care of that.

Ms. CLAYBROOK. That is a criminal violation.

Senator FORD. I understand—if you catch the criminal—and I wonder what that lone investigator is doing?

Ms. CLAYBROOK. He is working with the States, Mr. Chairman, to try and get the information.

Senator FORD. I understand. I understand he is trying to gather the information. I wonder how long it is going to take one person to get the statistics you need to say what you are doing is correct or not?

Ms. CLAYBROOK. NHTSA cannot enforce criminal provisions of the statute; that is the job of the Justice Department and the FBI.

Senator FORD. But you can never catch them?

Ms. CLAYBROOK. The Justice Department, and the FBI, particularly the FBI, have many more resources to devote to it than we do. As to criminal provisions, that would be their jurisdiction. We do work closely with them; but the manpower of the FBI is substantially greater than ours and they have agreed that in areas where they can help, particularly in certain locations where they have sufficient manpower, that they will take on the task.

Senator FORD. Well, basically, you are just depending on the States?

Ms. CLAYBROOK. Mr. Chairman, I think Mr. Parker would like to show you one example of a very inexpensive correction.

Mr. PARKER. Senator Ford, this is an odometer [indicating] out of a Chrysler product. It has the marking mechanism for the 10,000-mile wheel. I cannot believe it is going to cost as much as \$1.50, our low estimate, to implement that, including all types of modifications.

With that type of standard, I think most manufacturers would choose this option of the two that are in the regulation. This option has got to be extremely inexpensive.

Senator FORD. How does that little pad stay damp in order to make the mark?

Mr. PARKER. I would guess you would have to have some sort of reservoir with this.

Senator FORD. You've got something else that goes with it, then?

Mr. PARKER. This is the Chrysler production model. They do not have a reservoir, as I understand; they have some that last up to 6 years.

Now, to go past 100,000 miles, you might have to have a reservoir of some sort. But even with a small reservoir, a small tube here [indicating], a plastic or glass tube, it just does not seem to me that that is going to cost anywhere near \$1.50.

Senator FORD. Yes, but then you talk about labor to install it—you could get into problems. I suspect that the consumer may end up paying \$30.

Ms. CLAYBROOK. No. Our estimates are of the products cost to the consumer.

Senator FORD. We'll get Chrysler up here in a minute and talk to them about it.

I don't know, it seems to me we are getting into a field that is going to be awfully hard to make fruitful.

Certain experts in the automobile field, the automobile industry, have stated that requirements for tamper-resistant odometers would affect the ability to repair odometers if they were to normally malfunction, and thereby add significant costs to the consumer. Do you have any views as to how frequently such normal repair of odometers is necessary.

Ms. CLAYBROOK. I think Mr. Parker ought to comment. But before he does, one of your prior questions was whether we should make it virtually impossible to remove the odometer from the vehicle. We have not taken that step because there are occasions where you do have to repair your odometer for nonfraudulent purposes; so the standard makes it possible for that to be done.

I would like Mr. Parker to comment.

Mr. PARKER. Senator Ford, I believe it is common practice in the industry to replace the whole speedometer head rather than to repair the particular odometer. Now, for those shops that do odometer repairs, there should be nothing in our provisions that would prohibit them from replacing an odometer, which again would, under the proposal we would issue, have a different color on one wheel or all wheels, to indicate to the person who happens to buy that vehicle after the original owner or second owner, that it is a replacement odometer.

Senator FORD. Could that be regularly seen from a driver's seat?

Mr. PARKER. Yes.

Senator FORD. You would have a purple, green, or red, or something?

Ms. CLAYBROOK. That would be our intent.

And the other thing is, under present law if an odometer is replaced, there is a requirement that a label be placed on the doorsill, indicating the fact that the odometer was replaced and what the mileage was at the time it was replaced.

Senator FORD. Yes.

Mr. PARKER. Also, I believe there is nothing in our provision that would prevent a manufacturer from designing his odometer so it is removable, as this Chrysler one is. However, after it is removed, you can't do anything to tamper with the wheels, to roll the wheel back; you can't separate the wheels. If you did that it would fracture or whatever, so it would then be inoperable.

So replacement of this whole unit would still be allowed under our provisions.

Senator FORD. I don't believe I have any additional questions. There may be a few that will come to mind before the day is over, and I may want to send a few questions to you to submit for the record.

Ms. CLAYBROOK. We will also, Mr. Chairman, respond to you in writing about the provision of authority for the title certificate disclosure statement.

Senator FORD. Right.

I just wonder if it would not be less expensive to require the title information to do what obviously you will have a hard time getting a handle on otherwise.

Ms. CLAYBROOK. We would like to hear the comments of the manufacturers, because what we attempted to do, Mr. Chairman, was, without the pledge of a large amount of funds, to design a provision that would aid the consumer in knowing the condition of the odometer as a supplement, really, to the title information, which, as we have mentioned, is not yet uniform in the country.

Senator FORD. I would hope we could hold off until you have this information. Maybe if you had more input, you would be able to make a better decision in redrafting the requirement.

Ms. CLAYBROOK. We wanted to be responsive, Mr. Chairman, to the criticisms that were made of the standard, and that is what we at-

tempted to do. I thought it was important to do it before your hearing, so if there were still criticisms of the standard, people would be able to address those.

Senator FORD. Two more days wouldn't have hurt anything.

It reminds me of a hearing I had on an endangered species. As of the day before the hearing, there had not been a regulation filed relating to the endangered species or their habitat. The day before we got 24.

So, you know, we were having a hearing and you had some criticisms, and the day before the hearing we got a new change and it hasn't even been published yet. You know, somewhere we are in limbo or purgatory—that may not be a bad place to be.

I do appreciate your coming, and those that have joined you. I assure you we will be seeing a lot of each other in the months ahead.

Ms. CLAYBROOK. OK, I look forward to it.

Senator FORD. The next witness will be Thomas D. Regan; he is listed as an "inventor." Maybe this is the fellow who's going to solve our problem.

Mr. Regan, come forward.

You may proceed.

#### STATEMENT OF THOMAS D. REGAN, INVENTOR, WASHINGTON, D.C.

Mr. REGAN. Mr. Chairman, I am here today to discuss the problem caused by odometer resetting and to offer a solution. Time will not allow me to elaborate on the scope, magnitude, or severity of the problem; however, I would like to touch the tip of this iceberg.

Each year countless unsafe and potentially dangerous used cars are purchased because of misleading odometer readings, and current estimates place the monetary loss paid in inflated used car prices, for the same reason, at over \$1 billion annually. Used car purchasers are not the only ones affected by resetting; this problem touches all of us, and we are all losers because of it.

Auto dealers, repair shops, leasing companies, and the automobile manufacturers themselves honor countless fraudulent warranty claims each year. It would be impossible to place a dollar value on losses due to warranty fraud; but, great as these losses are, our attention must be directed to the safety hazard caused by drivers on our highways not knowing the true mileage of their cars. The false sense of security created by reset odometers causes faulty assumptions about the true condition of their cars, and needed maintenance or repairs may be forgone. No one knows exactly how many brake, steering, and other safety failures can be attributed to resetting, and probably no one ever will.

For more than 9 years manufacturers have been equipping their odometers with antitampering devices, such as ink pads, breakable retainers, and one-way drive gears in an attempt to solve the problem.

The regulation issued by the NHTSA requires similar apparatus; a six-wheel or an inking device and forward-only construction. Odometers equipped with any or all of these required devices can be reset very quickly, and tens of thousands of miles can be removed with little effort. These devices are merely expensive additions that fail to eliminate the means by which odometers are reset. They have never stopped resetting, and they never will.

In 1969 I became manager of the District of Columbia Speedometer Co. here in Washington. Our main business was the wholesale dis-

tribution of auto parts and accessories. In addition, we maintained a machine shop that rebuilt generators, carburetors, motors, starters, and speedometers. It was here that I became knowledgeable about speedometer design and construction.

At the request of a customer, we would occasionally change the reading of an odometer. This always bothered us even though it was, as now, both accepted and profitable; and, after several discussions, the owners and I agreed to stop honoring these requests—and did so in 1970.

The ease with which odometers could be reset appalled me, and I set out to make one that would stop people from resetting them. After 3 years of research in our machine shop I developed and later had patented an odometer that would solve this problem. It is not much different than present odometer designs, except it has the entire mechanism for resetting enclosed, and this mechanism can be reached only by visibly breaking the odometer. It is a simple, practical, and economical solution to the problem.

I think the manufacturers as well as the agency are sincere in their belief that their odometers cannot be reset, and both have made public statements to this effect. Unfortunately, this is not true. In a few minutes I will give a demonstration in which I will reset the mileage readings of odometers equipped with antitampering devices that meet the requirements of the regulation. I will do this very quickly and effortlessly.

I, too, sincerely believe my odometer cannot be reset, and I, too, have made public statements to this effect. It would not constitute an objective demonstration to attempt to reset my own odometer. Therefore, I will invite anyone in attendance to try to reset it.

The revelations brought to light during this demonstration should be beneficial to everyone concerned, particularly the agency and the manufacturers. I doubt if the agency would want to require manufacturers to spend money on devices that can be reset so easily, and I doubt if the manufacturers want to continue spending money on such antitampering devices. I also doubt if either would want to spend any more time and money trying to solve this problem when a solution will become apparent during this demonstration.

Because costs are of such critical importance in consumer legislation, I would like now to address myself to this issue. There is no way for me to know how much industry has spent on antitampering devices, but over the last 9 years it would be fair to say it represents many millions of dollars. The agency estimates that compliance with its regulation will cost about—well, I have to change my statement about that.

Senator FORD. Mr. Regan, I think everyone will have to change their statements in relation to what the agency has done in light of what you were expecting before you came and what they have dropped on us this week.

Mr. REGAN. Yes, sir.

I have had a chance to look at it and I will make an additional correction.

Senator FORD. They've gone to \$3 now instead of \$1, so it's \$36 million annually.

Mr. REGAN. Yes, sir.

Senator FORD. If you have \$1 a car, 12 million annually; so it's \$36 million annually.

Mr. REGAN. Yes, sir.

I will make an additional statement after I read it.

The use of my odometer will cost about 5 cents per car, approximately \$600,000 annually. Ultimately it will be the consumer who will pay to solve this problem, and I think it fair to say that there is not one consumer in this country who would spend \$1 for something that does not work when he can spend a nickel for something that does work.

Mr. Chairman, I respectfully submit that testing is absolutely necessary before any odometer is considered a solution. Because odometers are simple mechanical devices, test procedures could be formulated easily and test results would be conclusive. I recommend that test criteria be established and that actual tests be conducted as soon as possible. Performance requirements should not be written until these tests determine acceptable standards.

In closing, I submit that 9 years of experimenting with external antitampering devices by the auto industry has not stopped resetting, and the regulation in question will not stop it. The solution of the problem will become apparent in a few minutes, and I urge industry and the NHTSA to recognize this. Any more time and money spent on research to solve a problem that has a solution at hand would not be in the best interest of anyone.

Mr. Chairman, I wish to thank you very much for the opportunity to appear before this committee, and I hope the demonstration will be informative and beneficial to all concerned.

Thank you.

As you mentioned, Mr. Chairman, I just became aware of the new regulation, and I would like to add a little bit to what I have just said.

Senator FORD. That is perfectly in order.

Mr. REGAN. Thank you.

As I just said, my statement was already printed and, in fact, delivered to your subcommittee.

Senator FORD. It is a requirement of the committee to have each statement here in advance; I apologize to you for the inconvenience we may have caused you.

Mr. REGAN. I have had a chance to look at it and I might say I think they made a slight improvement on the regulation. However, as I have previously stated, I will reset those odometers that meet the requirements of the new regulation, which will be issued tomorrow. I will do it before it is issued.

Now I would like to add something else, before I give you my demonstration.

This agency, although I have written as many as 20 pages, I have talked to them personally, they have never tested my odometer; and they have never even listened to me.

May I stand up? Is that proper?

Senator FORD. You can do anything that will clarify your testimony.

Mr. REGAN. Thank you.

I guess what I had better do is read the new regulation, and then I will reset the speedometers that meet these requirements.

If you don't mind, I will leave out a lot of the words, because there are words referring to "kilometers"—

Senator FORD. Do you have it in printed form, Mr. Regan?

Mr. REGAN. I scratched off "kilometer" and "installed" and all these other words.

Senator FORD. We would be delighted to insert it in the record, and without objection it will go in the record.

Mr. REGAN. Thank you.

Each odometer shall clearly indicate to a vehicle driver by a sixth wheel or digit registering whole miles or part by a permanent means such as ink when the number of road miles has exceeded 99,999.

Mr. REGAN. I thought I would be first and my things are still over here. I will just take them in order, and just go through the legislation.

Can I show this [indicating] to you?

Senator FORD. Sure, you can show the crowd. Maybe you can find some of the auto industry people back there that will want to buy it from you.

Mr. REGAN. My experience has been they have not wanted to talk to me, either, Senator. Here is an odometer that has six wheels. That's what the regulation says, six wheels. Not only can I reset it, I can do anything I want with it. I can put 60,000, 90,000, 10,000, 2,000, 1 mile; I can do anything I want with it. Just turn it—you can do it yourself. It's fairly easy.

All you have to do is hold it in your hand and just move this [indicating] and the miles just change very quickly. I am going from 69,000, 59,000, 49,000, 39,000, 29,000, 19,000, 9,000 [indicating].

This is the one for the first requirement of this regulation in the six-wheel odometer.

The second requirement is, "by permanent means such as inking." I will now reset those.

This is from a 1975 Plymouth police car which I got out of the junkyard [indicating], and I might say it had already been reset before I took it out of the car.

Senator FORD. You say it was reset before you took it out of the car?

Mr. REGAN. Whoever bought it had reset it.

Here [indicating] is an ink pad. I will leave it with you; you might like to think about it for a minute.

How long do you think that ink pad will stay wet? If you will think about that for a minute. See how long it will last before it dries out.

This car had 82.45 miles on it when I got it.

Senator FORD. Let me ask you a question: Is this what is now being done as it relates to an ink pad?

Mr. REGAN. Yes, sir.

Senator FORD. That's a little more than a \$1 ink pad, is it not?

Mr. REGAN. I don't know how much it costs; I know it doesn't work.

Senator FORD. I understand that. I think we had testimony a few minutes ago this was going to cost about \$3; that looks a little more sophisticated than a dollar's worth of work.

Mr. REGAN. Well, besides the ink pad there's an extra cam that has to go on here [indicating]. Somehow that's supposed to make it work. I don't know why it is there.

Now, as you can see, there's no ink anywhere on that odometer. This is a 1975 car which was a police car; obviously it has traveled

a lot. There's no ink anywhere—because odometers are highlighted by a light bulb behind the dashboard. Those teeny light bulbs get really hot. If you've ever touched one, you know.

So that between the light bulb, the air-conditioning, and heater, an ink pad—based on the one you have in your hand—certainly could not last too long.

I will reset this for you.

Senator FORD. I'll take your word for it. I've been watching you.

Mr. REGAN. Thank you.

The next provision of the law says—excuse me—regulation—“or permanent means such as ink.” And that's all the first provision says.

I will go to the next provision. I'll skip two provisions for no particular reason; I'll go to S.4 2.41.2.1:

In the case of the mechanical odometer, the odometer shall heavily score in indelible ink or otherwise mark by permanent means readily visible to the driver each numeral on the wheel registering ten thousands of miles as the numeral disappears from the traveler's view.

I have not been able to obtain one of those devices. I don't know whether there is such a device. So I will simulate what it will do.

In other words, for example, if it were to be scratched with, like, a nail or something like that—so I will scratch this odometer and reset it.

I have a friend who is a dentist and he loaned me this [indicating]. As the regulation reads, a sharp instrument like this would scratch—OK? [Demonstrating.]

In other words, as this moved forward, as the regulation states, it would mark the zero as it rotated around. Now, prior to the regulation the agency points out that many people in anticipation of heavy driving can take this off.

For example, if someone were to buy a new car who has previously been a resetter, he may take this off [indicating]. It's gone. It won't work.

And this would be like the ink pad; you wouldn't have to take it off; all you would have to do would be to bend it; and it would never touch the odometer, which would be an easy proposition [indicating].

In addition, this thing will not begin registering until the car has reached 10,000 miles. For example, if he was to drive the car 9,999, it will not have made a mark; so, turn it back to 2,000. And when it gets back to 9,999, turn it back to 2,000 again. And the scratching device or ink pad will never have made a mark.

Now, all of these wheels are interchangeable; and all the wheels on this odometer [indicating] can be used on other models. Maybe they are a little longer and the gears are a little different, whatever; but the gears themselves are interchangeable, some even between manufacturers.

So what I will do is I will score this. I think it would be awful hard to score. I don't know how much pressure it would take. I'll try to score this; I'll just scratch it.

Let us say the car has gone 50,000 miles. I have scratched the numerator. That's the best I can do. It would be hard to scratch that part.

Senator FORD. What you are indicating there is it takes a lot of pressure in order to make a mark on it?

Mr. REGAN. Yes, sir; I imagine it would take quite a bit. I had to press very hard to do that.

Senator FORD. I watched you.

Mr. REGAN. I will take this off [indicating]. It won't take me very long [demonstrating]. And I will put that wheel aside [indicating] and I will put on a new wheel.

I'm no so good at this; it may take me a little longer [indicating]. Even as long as it is taking, I suspect it will be under a minute when I get through—which is really not long [indicating].

Senator FORD. You were 55 seconds.

Mr. REGAN. I thought it was taking me a bit too long. I imagine you could do it in 30 if you were good at it.

Now, what can I do? I can do anything I want. I can turn it any way I want, to 78 miles.

Senator FORD. Are these wheels easy to come by?

Mr. REGAN. If you went to a junkyard each odometer would give you four resets which you can interchange all the wheels with; just take the wheels off.

Senator FORD. I understand the wheels are interchangeable, and only the 10,000-mile wheel is scored—so you have three or four other wheels to use to interchange?

Mr. REGAN. Yes, you don't need the other parts; just throw them away and just use the wheels, like an inventory.

OK, let's see what I've done: Indelible ink, which I have there in front of you.

Senator FORD. I think it is very significant that all you have to do is just bend the pad and it never touches the wheel at all.

Mr. REGAN. As you see, just flip it up; it's no problem.

OK. Scratch it—I already scratched it. I showed you, you could lift that up.

Oh, there's something else I would mention: A lot of times amateurs try this and have trouble, and you just buy a new odometer.

Now, the new odometers—you can do anything you want with them, too.

This would be installed in a car—and by the way, odometers are never repaired; speedometers are repaired; odometers are replaced. The main problem in repairing speedometers, the odometer is broken as a result of a poor attempt at resetting.

So, see, here you can put on any mileage here that you like; and then put it in there [indicating].

I think I have covered everything. I think I have said everything this regulation requires.

Senator FORD. Let's get around to yours. Are you getting to that?

Mr. REGAN. Well, I told you I thought the law was an improvement, the regulation; so I would now like to read the section which I think may be an improvement.

Prior to doing that, I think I would like to point out—and I think those who have listened to me, this regulation requiring the devices—have I taken too much time?

Senator FORD. Not at all.

Mr. REGAN. I would suggest these are unnecessary requirements in this regulation; in other words, since they can be reset so easily, I don't know why the agency should expect the manufacturer to spend money on them.

Now, here is the good part about the regulation: It is not quite good enough, but it is getting there.

Except as provided in 42, the odometer shall have a distance indicator that cannot be reversed 10 miles—let me rephrase that—I am trying to bring both of these sections together—it shall have a distance indicator that cannot be reversed more than 10 miles unless the odometer is damaged totally and irreparably.

I just showed you this section does not prevent me from replacing any of the wheels. As I just showed you, I replaced the wheels; and it certainly would not make it permanently and totally inoperable, but I have reset it and I can put any mileage I want on it.

I think this could be strengthened, and perhaps it may solve the whole problem. In other words, if you had an odometer that could not basically be disassembled without it becoming inoperable, then you couldn't reset it.

Now, as I mentioned, I worked on this thing for 3 years, and I took the attitude of not trying to put hurdles in the way of resetters; I took the attitude of trying to remove the means.

In other words, inking devices, plastic retaining shields, all of these things are just hurdles, and in the case of resetting odometers, you take them off and reset them, and put them back; there is nothing to it.

So with knowledge of this, I approached the problem from another angle. Let us remove the means from which they can be reset: in other words, if the means are lacking, they can't be reset.

So I came up with this design [indicating]. As you notice, there is no way to turn that odometer, except in its normal function.

This is the same odometer. See what I can do with this one [indicating]?

Now, I must point out something, I want to make sure you understand something about resetting. Resetting is accomplished as I just showed you, so I would like you to know the other ways to do this.

As I showed you, you can turn those tabs [indicating]; you can take it apart; you can replace the wheels. You can turn it forward, backward, what have you. Also the problem of not being reversible, I think that is a misnomer. All the speedometers I reset, I set them going forward. The regulation says they can only be manufactured so they cannot be reversed. Well, I can set them going forward, also.

There is another way to do this, and from what I am told, this is the professional way: You take something like this [indicating], spread these apart [indicating], and flip the gears. That is called "picking."

So you can actually stick something in there, put pressure on it, take this dental pick, stick it in between those, and go like that [indicating]; and you can take off whatever mileage you want.

So I did it the easy way, easy for me, because I don't know how to "pick" them; but I have been told a professional "pick" artist can do this while it's in the automobile. He takes out the light bulk that I mentioned, takes his pick, and goes flip; he can do it. I have been told—I don't know how many cars a day, 24 cars a day at \$20 or \$30 each—

he's a rich man. The amateur could not do this. But it is common practice among professionals.

So I designed this with that in mind, also; and if any would like, I welcome them to try.

Senator FORD. No; I don't care to.

Mr. REGAN. I was just kidding you, Senator.

I will do it myself, watch me.

Senator FORD. Are you going to reset it?

Mr. REGAN. I can't and that is my point. In order to do this I will have to find the gear. Here it is.

I will have to pry this apart. As I say, I am not a pick artist. I have to get it in there to get it separated.

Now this odometer is totally inoperable—right, Senator?

Senator FORD. Yes.

Mr. REGAN. It simply breaks so the odometer will never work again. This odometer costs 5 cents as opposed to \$3. I reset everything that cost \$3. This cost a nickel; I hope you listen to me today.

Any questions?

Senator FORD. I don't have any questions. I think your demonstration has been very helpful. I'll buy it for a nickel.

Mr. REGAN. You can have the first one, Senator; hopefully there will be more.

Senator FORD. You have been very informative; thank you. We appreciate it very much. I think your demonstration has been adequate. Thank you.

You have substantiated my views and my feelings as they relate to the regulation and the additional cost to industry which would be passed on to the consumer. Hopefully your invention could be considered.

And I will admonish the Department to have conversations with you.

Mr. REGAN. Thank you, Senator.

Senator FORD. I think maybe they will.

Mr. REGAN. I hope so, Senator, for everybody's sake, especially the consumers; they are the ones getting ripped off.

Senator FORD. I think that's what we are here for, to try to make the correction.

Mr. REGAN. Yes, sir.

Senator FORD. Do you need this, too [indicating]? I just bent it so it won't mark.

Mr. REGAN. OK, thank you.

Senator FORD. The next witness is Ms. Patricia M. Hynes, assistant U.S. attorney, U.S. attorney's office for the southern district of New York, and Chief, Consumer Fraud Unit.

**STATEMENT OF PATRICIA M. HYNES, ASSISTANT U.S. ATTORNEY,  
U.S. ATTORNEY'S OFFICE, SOUTHERN DISTRICT OF NEW YORK,  
AND CHIEF, CONSUMER FRAUD UNIT**

Ms. HYNES. Good morning.

Senator FORD. We are delighted to have you here this morning, and look forward to your statement. It's nine pages, not too long. Do you want to just hit the highlights? We'll put the whole statement in the

record if you like; or if you would like to read the whole statement, I would be glad to listen.

Ms. HYNES. Thank you, very much, Mr. Chairman.

I am pleased to appear this morning before this committee to report to you my experiences as a prosecutor with the problem of odometer rollbacks.

In September of 1977, I initiated a grand jury investigation into the widespread pattern and practice of rolling back odometers by used-car wholesalers on Jerome Avenue in the Bronx, N.Y. That is within the southern district of New York.

These wholesalers are a major source of supply for used cars sold in the northeastern United States. The investigation has been conducted with the assistance of the FBI. Thus far, the grand jury has returned indictments against three major used-car wholesalers, their principal officers and some of their employees who share in the profits of these companies.

The grand jury has also returned indictments against two mechanics who were charged with actually rolling back the odometers; and these are the mechanics who operated on a freelance basis, providing their services to various wholesalers on Jerome Avenue in the Bronx.

The three wholesalers were charged with engaging in a scheme to alter and roll back odometers on literally thousands of used cars; and this was over a period, the indictment charged, the period of January 1975 until September of 1977, when the grand jury investigation began.

The indictment charged the wholesalers with violation of the mail fraud statute, the wire fraud statute and the Federal odometer statute. One wholesaler was also charged with obstruction of justice for withholding documents from the grand jury. And two of the wholesalers were indicted and charged with "title washing" which you have mentioned earlier, that involved the South Carolina situation.

And that was part of the scheme to roll back the odometers.

Now, I will briefly outline these indictments because I think that the pattern engaged in by the various wholesalers is instructive as to how the business operates, at least on the wholesale side of the business.

One of the wholesalers who was indicted operated in a very straightforward manner in terms of detection in the event of the odometer rollback; and that was they would buy from leasing companies, rental companies, obtain open title—and "open title" can mean one of two things:

An open title can mean there is no mileage requirement at all on the title; that has been referred to as an open title by the people in business; and an open title can also be a title where the State does require a mileage statement at the time of transfer, but that mileage statement is left open. And that is an open title.

Now, the wholesaler would buy cars with an open title, roll back the odometer, enter in his books and records the rollback mileage. We subpoenaed the leasing company books and records which had the mileage at the time of sale, compared the two, and were able to detect the rollback. That is the straightforward method of detection. And that company pled guilty to 30 counts of mail fraud, 20 counts of violating the odometer statute, and is presently awaiting sentencing.

But detection is not always as easy as that. Another company that was indicted and was convicted after a 2-week jury trial just a couple

of weeks ago, engaged in a much more sophisticated scheme. And this is much more the common practice by used car wholesalers, at least in my experience in investigating in my district.

And that involved the title washing. What happened is you do not get this open title, and then a dealer for a fee, which can range from \$25 to \$50, depending upon the volume of business he gives to an individual, can obtain a South Carolina title. It is called washing title.

You take a title that has a mileage statement on it, you send it down to South Carolina. South Carolina has no requirement for mileage on the title.

There was a fellow in New York and that was his business. He obtained South Carolina titles for these wholesalers. And it was a hefty business.

He sent it down by the U.S. mails to his agents in South Carolina. The agent in South Carolina would pick up these title from the post office, go to the local motor vehicle bureau, register, and get a South Carolina title in the name of the South Carolina dealership; send that South Carolina title back to the wholesaler in New York. And the wholesalers uses this to insulate himself in terms of the odometer rollback.

In other words, what I am talking about here is not only does he get a clean title, but he gets a title in the name of the South Carolina dealership which he enters on his book as a purchase from that South Carolina dealership that he bought the car in South Carolina or sold it to the South Carolina dealership, and takes his company away from the odometer rollback. You've got a title that doesn't have mileage at the time he sells the car to the South Carolina dealership.

The situation I have been describing—it was very difficult to detect for the reason that that particular wholesaler refused and withheld books from the grand jury. As I say, he was convicted of obstruction of justice 2 weeks ago, in addition to various mail fraud counts.

But the title washing operation through South Carolina was blatant, it was pervasive, it was engaged in by many, many wholesalers; and it was a major factor in facilitating and concealing odometer rollbacks by used car wholesalers.

Now, the wholesalers also set up sham companies, again, for the explicit purpose of concealing the odometer roll back.

Odometer rollback is a big business. It is a profitable business. It is worth their while to engage in these very sophisticated schemes to conceal the odometer rollback. There is a great deal of money in it from the used car business aspect, from the wholesaler aspect: A used car wholesaler will pay \$500 or \$600, and sometimes even more for a car where they can rollback the odometer, where they can have an open title or where they know they will be able to get a South Carolina title, and wash a title that has mileage on it.

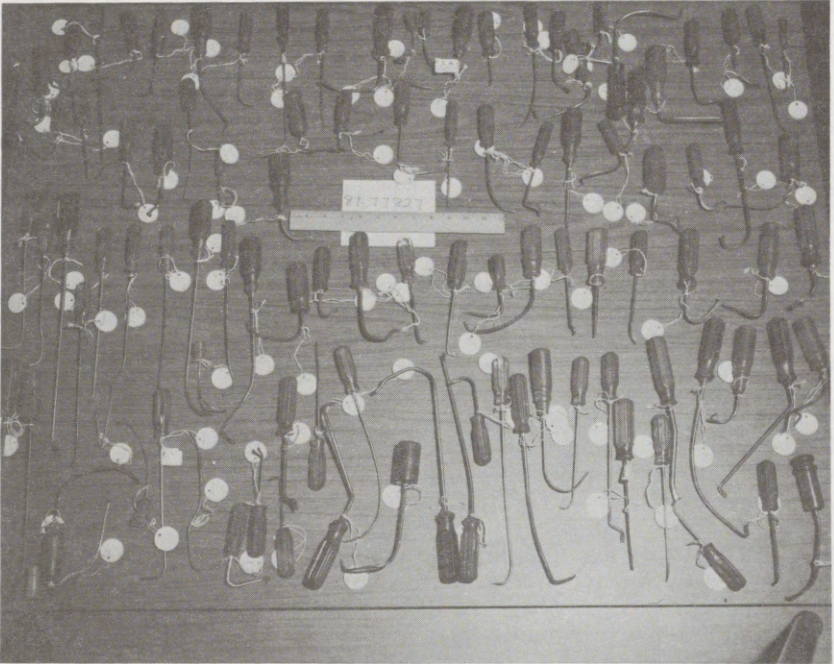
So you are talking about, even on a wholesale level, \$500 to \$600 more per car that they are willing to pay. On the retail end of it there is much more money involved for the ultimate purchaser.

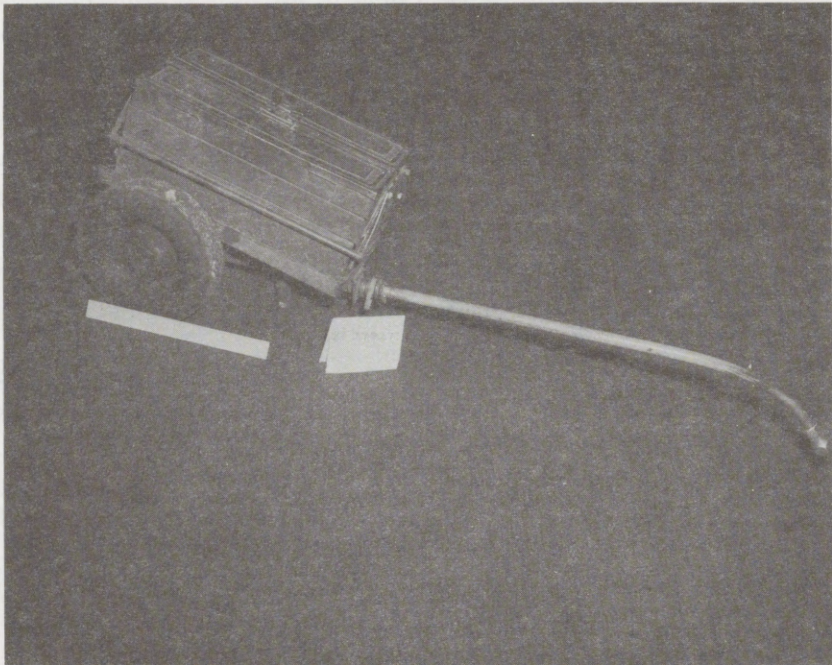
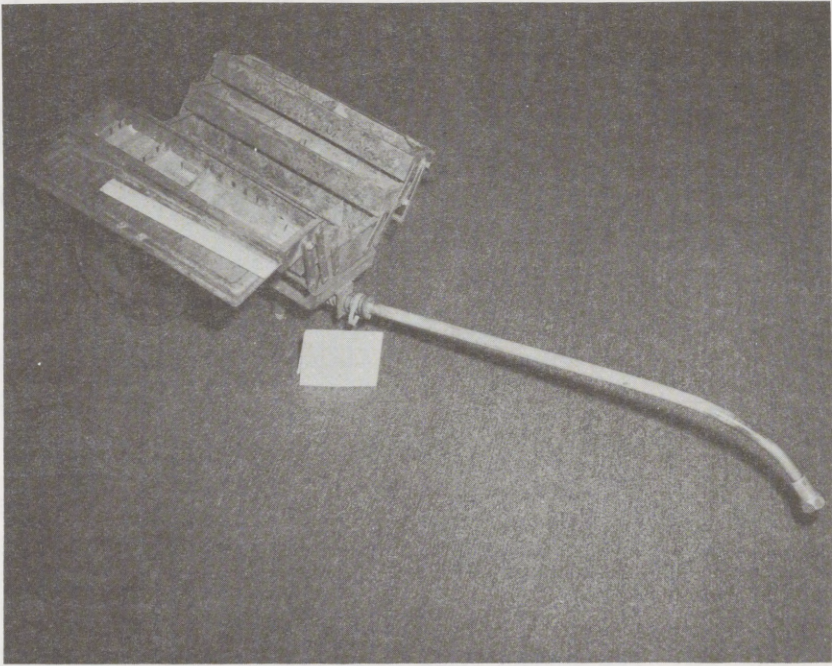
And what we're talking about in terms of rollbacks are rollbacks which range from 20,000 to 60,000 miles on cars. And this has been documented. That is the standard range of rollback that we have uncovered.

But, in addition, these wholesalers set up these sham corporations and buy and sell cars in the name of these sham corporations in order to conceal the rollbacks.

Now, we've had a good deal of success in our district with the grand jury investigation, which, as I say, is still continuing. We also indicated the two mechanics who are mechanics on Jerome Avenue. One has pled guilty. And I have made available to the committee photographs of the tools that were used by this mechanic.

[The photographs follow:]





Senator FORD. I didn't count them. What's the number of tools that were used?

Ms. HYNES. I didn't count them either, Senator. There are many. And the tools relate to various types of cars.

If you look at the photograph—and I have some of the tools with me today, just as a sample.

Senator FORD. Well, we could say it's a bunch, anyway.

Ms. HYNES. There's a bunch; yes. And they are really hand-honed tools, to get at a particular odometer.

This used to be a long screwdriver. [Indicating.] It has been bent. The end has been notched in order to snake in around, and to notch into the wheels of the odometer, in order to enable the mechanic to roll it back.

Now, this man is a pro. There's no question about it. Before coming here today I asked him what his recommendations would be about making a tamper-resistant odometer. He smiled at me and said, "What man can do, he can undo." And in his view he's very skeptical about a tamper-resistant odometer.

Nonetheless, I think that the regulation that requires at least an effort in that direction, is an important and useful step to take. If we can take some steps to make odometers more tamper-resistant I think that the consumer would be protected. We don't have all pros, as we do with this mechanic.

Senator FORD. May I ask you a question at this point?

Mr. Regan demonstrated an odometer that if you attempt to turn it back you break the wheel. This, of course, eliminates the tampering, because when you start to tamper it breaks the wheel. It seems like this would, in itself, regardless of how many tools you had—it's awful hard to have a tool that will not break it—it seems like that would eliminate the problem.

Ms. HYNES. Well, I certainly think that if that works as he said it certainly either will eliminate the problems or go a long way before somebody decides how to get in there without breaking it. I guess that's the question. Can you get in there and change it without breaking it. There have been some tamper-resistant odometers made in the past that this mechanic, at least, has been very successfully able to tamper with, nonetheless.

So claims have been made whether they can be substantiated I guess is the bottom line. But in terms of what the effectiveness has been in the area of odometer regulation. In July 1976 Congress made the odometer statute a criminal violation. In other words, you could criminally prosecute violations under the odometer statute, as of July 1976. However, our investigation showed that the practice was rampant when we began to look at it in September 1977.

This mechanic walked up and down Jerome Avenue with his pull cart, in broad daylight, did cars right out on the street. Money changed hands. Probably one effect of the criminal sanctions that were imposed in July 1976, was that he was paid more in cash than by check.

But other than that, the practice still flourished. I became aware of it by a State attorney general who called me and said, "We can't control the situation in our State because Jerome Avenue is the major source of supply; can't you do something about it?" And when I looked into it, I saw that Jerome Avenue was the major source of sup-

ply for a good deal of Northeastern States. The practice was rampant. It was out in the open. Nobody was doing anything about it.

Since the grand jury investigations and the indictments have come down, I am told—and I hope that the practice has stopped, and I'm optimistic that it will not continue to operate as it has in the past. I'm not sure of that. But nonetheless, in dealing with the problem of odometer rollback, I think that certainly the regulation requiring a sixth wheel to register mileage over 100,000 miles is a good regulation. I think we should try to have a tamper-resistant odometer, taking into account the cost.

I also think that the regulation that requires record retention for 4 years is critically important to law enforcement effort. If we are able to go back by subpoena power and see what the mileage was at the time of transfer, to odometer statements, that would be a very effective way for us to trace a vehicle through various owners and establish the mileage. We have done that in these investigations.

But I think that really the most important thing that can be done to deal with the problem is to have the States require on their title mileage at the time of transfer.

Now, if the States do not want to get into changing their title with very long involved odometer statements, fine. As a basic minimum they should have a box that would contain the mileage at the time of transfer, and make it a Federal violation to omit putting that mileage on that title at the time of transfer.

In other words, Ms. Claybrook said that she needed legislation to require the States to do that. I would strongly urge that Congress consider requiring States to put at least the mileage at the time of transfer. These cars pass across State lines, and it is of real Federal interest, and we would really be getting at the problem by doing that.

Also, to make it a Federal violation to fail to put that mileage on the title at the time of transfer.

Now, let me give you some very practical examples of the source of supply for used cars that have their odometers rolled back, and there are two major sources of supply: Leasing companies, and rental companies, and fleets, are a major source of supply of high-mileage used cars whose mileage is rolled back.

Leasing companies today can, and do, systematically transfer ownership of vehicles without filling in the mileage on the title in the States that presently require it. And approximately half the States now do require that the mileage be put on the title at the time of transfer.

Leasing companies conveniently leave that blank. They pass open title. They can still comply with all of the Federal regulations for an odometer statement, separate statement, get it signed, when the wholesaler buys it have the wholesaler sign what the mileage is—fine.

It goes into the trash can. Because that wholesaler doesn't care about the odometer statement. He cares that he has an open title. He can then kick that odometer, roll it back, enter the rolled-back mileage on that title, and sell that car. And the leasing companies can, and do, facilitate that. They pass open title. It is in their interest from a profit point of view. It is in the leasing company's interest—when I say leasing company, I include also rental fleets—it is in their interest to get the highest price for the car at the time of sale. It certainly enters into their profit picture.

A wholesaler will pay \$500 to \$600—and sometimes more—for a car if they get an open title from the leasing company. Today the leasing companies can comply with Federal regulations, and they can still give open title to facilitate odometer rollbacks. And it's in their interest to give the open title.

Senator FORD. When they have the title transferred in a State, do they not require the odometer reading to be on the title—you say about half the States now require it?

Ms. HYNES. I'm only talking about situations now where you do have a State which requires the odometer reading. I certainly think if we had the situation where every State required it, and the leasing companies were required to fill it in under penalty of Federal law, then you would have a really substantial deterrent.

The second major source of supply for used cars are the dealer auctions, and this, again, is another situation where the Federal regulations are being complied with, and it's a huge loophole—as you said, Senator—that you could drive a truck through. And the truck here is that the auctions—it's in their interest to have dealers come, they want to do business, and they do a healthy business. They must guarantee title.

If I go to an auction and I'm the dealer, and I go to sell a car, I give that auction the title. And when you, Senator, would go to buy that car, the one thing you want to know is that the auction has the title, that there are no liens on it, that everything is satisfied, and that title is going to be good. And you know that if it's a reputable auction that you're dealing with, that's what you're going to get when you get that title.

Well, the auctions can also require these odometer statements. But nonetheless the auctions will pass these open titles—again, in those 50 percent of the States that require the mileage statement. At the time of transfer, the auction has, on its bill of sale, the mileage. It has on its own internal documents what that mileage of that car was when it was sold, but when the title gets passed to you, it's an open title, a title that enables you, if you wish, to roll back the odometer and to pass along the title with the rolled-back odometer on it.

So here we have the situation that, if you got at the problem by having the mileage statement on the title, if you made it a Federal violation to fail to put that mileage on the title, you would be a long way along the road to preventing the abuses from the really major sources of supply, the high-mileage used cars which end up having their odometers rolled back.

Also, the Federal statute now, which is a criminal penalty, is a misdemeanor. It's my own personal view that when we have really a widespread pattern or practice of rolling back odometers, that it should be a felony. Because unless you make the risk as great as the profit motive, you are not going to bring balance into this picture. There's too much money to be made by rolling back odometers, particularly on the wholesale basis and volume basis.

The risk involved with a felony conviction for a wholesaler is that he can have his license revoked, because most States require a license, and if you have a felony conviction you may run into some problems. It doesn't always necessarily mean that you can't be licensed, but it doesn't make it easier for you.

So you have to have the wholesaler facing a real risk, the risk being that he may not be in the business if he starts engaging in odometer rollbacks and if he's prosecuted under a felony statute.

Now, we did prosecute the major violators under the felony statutes, under the mail fraud statutes and under the wire fraud statutes. But there are situations that I can envision where you would not have the mails used, or you would not have interstate phones used, to bring in the wire fraud.

Nonetheless, you have really a widespread pattern or practice going on that is deserving of felony prosecution. So I would urge that Congress look at that statute, and in particularly egregious situations to consider felony violations for widespread odometer rollbacks.

That brings me, I guess, Senator, to the final point, which is that I think the most effective way to deal with the deterrent effect of odometer rollbacks is enforcement of the regulations that are on the books and statutes that are on the books. And unless you have really active enforcement, and particularly criminal enforcement, of the statutes and regulations the problem will be with us for a long time.

But I think that if you have active enforcement efforts, you have the States putting the mileage on their titles, if you have the Federal Government requiring that those titles be completed with the mileage, that would go a long way to solving some of the problems that are still with us today.

Senator FORD. Thank you very much. You've made a very positive and concise statement, and I enjoyed it.

In your statement, you argue that a felony indictment should be an available remedy for odometer fraud. Is it your opinion that a felony indictment should be available under all circumstances for this crime?

Ms. HYNES. No; because I think that there are probably circumstances where it does not warrant a felony prosecution, where there could be odometer rollbacks going on that could be prosecuted under misdemeanor statutes.

I think that you can have a situation where it's more appropriately prosecuted under a misdemeanor statute. But to have really widespread violations with substantial impact, and you're not talking about 2, 3, 10, or 20 cars, but hundreds and maybe thousands of cars as we were talking about in our indictments, then that warrants a stronger penalty than a misdemeanor and a big fine. Because that is considered as a cost of doing business. The fine is considered a cost of doing business. And the misdemeanor as no effect on the license of the dealer. And that's where the real deterrent would come in.

Senator FORD. Do you have any ballpark figures, if I can use that term, of what the odometer spinners are making in New York, or were making?

Ms. HYNES. Well, the mechanics that were operating on Jerome Avenue had a brisk business, and were never at a loss for customers. They charged \$10. They work for the wholesalers. And they walked up and down the avenue and they charged \$10 per car, and it took anywhere from 5 to 10 minutes. And that's really getting access to the odometer.

I am told by the mechanics that one of the biggest difficulties—and one aspect that could be a deterrent—is to make the odometer inaccessible in terms of where it is in the dashboard. But once they got at it,

the whole procedure took 5 or 10 minutes, and they were off to the next customer.

Senator FORD. Did your investigation come up with a ballpark figure, if I can use that term again, as to the additional cost to the consumer as a result of the tampering with the odometer? You were talking about \$500 or \$600 a car, or more.

Ms. HYNES. That's wholesalers. These wholesalers would then sell to retail used car dealers, who then ultimately would sell to the consumer.

But the figures that have been mentioned here this morning of multi-millions, or as much as a billion dollar fraud, I think would not be far off the mark. We are talking about a great deal of money here.

Senator FORD. Are we talking about police cars, rental cars, fleet cars, that have high mileage, been driven over the roads real hard, that they've been touched up, cleaned up, and the odometer turned back? I think Mr. Regan made a statement a while ago that with the odometer being turned back, we have no idea how close we are to the brakes going out. We buy a car and it has 27,000 miles on it, it's 3 years old, and really had 127,000 miles on it. So we're really getting into a car that can create havoc as it relates to injury and automobile accidents.

Ms. HYNES. Well, we certainly have, in terms of our interviewing—tracing cars, our people have found situations where there were serious problems with the cars. There were accidents with the cars. Because people bought a car, believing it had 30,000 miles on it, when in fact it had 90,000.

When somebody is leasing a car, it's generally—it could be a salesman who knows he's going to put a lot of miles on that car, and—

Senator FORD. And it's not his.

Ms. HYNES. Right. So he turns it in and he gets a new car every 2 years, generally because he needs a new car every 2 years, because that one is worn out. But that wornout car gets its odometer kicked back, gets a polish job, and gets pushed into the public arena and sold as a low-mileage used car, when in fact it's not.

Senator FORD. In your legal opinion, is there any problem in requiring the insertion of the odometer information on the title?

Ms. HYNES. I don't know whether—quite frankly—whether there is any legal problem, in terms of Congress enacting legislation that would require States to do that. I certainly think that Federal interest in this area is very real, and that if Congress determines that simply putting the mileage on the title is not enough, but you must put all of the odometer statement on the title, I would think that there is sufficient Federal interest to enable Congress to require the States to do that.

Senator FORD. Would you do the committee a favor?

Would you, in your judgment, from your background and experience, develop some sort of language that you think would be proper in setting forth the reasons, in legal language, to make this mandatory?

Ms. HYNES. I can try to do that, sir.

Senator FORD. I understood Ms. Claybrook to say a few moments ago, she was trying to encourage the States—and I think that's fine. But States are not in the habit of doing some things that maybe they should do, for various reasons. And I'm not a Big Brother advocate. I don't think we ought to go out and tell the States what they ought

to do. But I'm trying to get to the end, where we can protect the consumer without increasing the cost to the consumer.

And so here we've got a lot to do. Not just one approach, I think, is going to solve it. But I think that the right kind of tamperproof odometer, if we can come up with it, and apparently we've had some indication today that we have one; second, if we can prevent at the State level, where you have to put the mileage on the title at transfer, that is another deterrent. And without increasing the cost to the industry.

I will assure you that it will not cost \$1 or \$3 to put a tamperproof odometer on, as the regulations will stipulate that will be published tomorrow.

So, if you'll do that for the committee, I'd be very grateful to you.

Ms. HYNES. I'd be very pleased to do it.

Senator FORD. You've been very nice to come down today, and you've given us a very good statement, and I appreciate it very much.

Ms. HYNES. Thank you very much.

[The statement follows:]

STATEMENT OF PATRICIA M. HYNES, ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK

Mr. Chairman and members of the committee, I am pleased to appear before this committee to report to you my experiences as a prosecutor with the problem of odometer rollbacks. In September of 1977, I initiated a grand jury investigation into the widespread pattern and practice of rolling back odometers by used car wholesalers on Jerome Avenue in the Bronx, New York. These wholesalers are a major source of supply for used cars sold in the Northeast. The investigation has been conducted with the assistance of the Federal Bureau of Investigation. Thus far, the grand jury has returned indictments against three major used car wholesalers, their principal officers and some of the their employees who share in the profits of these companies. The grand jury has also returned indictments against two mechanics who were charged with doing the actual odometer rollbacks on a free-lance basis for wholesalers on Jerome Avenue. This investigation is still continuing.

The three wholesalers were charged with engaging in a scheme to alter and roll back the odometers on thousands of high mileage used cars. The rollbacks generally ranged from 20,000 to 60,000 miles. The indictments charged these wholesalers with violations of the mail fraud statute, the wire fraud statute and the Federal odometer statute. One wholesaler was also charged with obstruction of justice in failing to produce books and records pursuant to a grand jury subpoena. Two of the wholesalers were also charged with engaging in a practice commonly called "title washing," as part of the scheme to roll back odometers.

Let me briefly review for you these three indictments of used car wholesalers because each involves a particular pattern of operation.

One of the wholesalers, its president, and an employee who had a share in the profits of the company, were charged with rolling back odometers on literally thousands of used cars. All have pled guilty to thirty counts of mail fraud and twenty counts of violating the Federal odometer statute. They are presently awaiting sentence. These people operated in the following way. They would buy used cars, generally from leasing companies, and would obtain what is commonly called an "open title." That means one of two things—either the title requires a mileage statement at the time of transfer but it is left open, or the title does not require a mileage statement. In either of these situations, the wholesaler purchased the car and simply rolled back the odometer. Where there was a title that required a mileage statement, but it was left open, the wholesaler then placed the rolled back mileage on the title, and sold the car. If there was no requirement for a mileage statement on the title, the wholesaler again merely rolled back the odometer and sold the car.

We subpoenaed records from the leasing companies who sold cars to this wholesaler. These records contained the mileage at the time of sale to the whole-

saler. However, the wholesaler placed in its books and records the rolled back mileage. Thus, by comparing the two sets of records, we were able to document the rollback.

The detection of odometer rollbacks is not always as straightforward as the case that I have just described. For example, another wholesaler who was indicted and convicted two weeks ago after a jury trial, went to great lengths to conceal the odometer rollbacks. Sham companies were set up for the purpose of purchasing high mileage used cars whose odometers had been or would be rolled back. This wholesaler also engaged in a practice commonly referred to as "title washing" to conceal odometer rollbacks.

When a wholesaler could not obtain an "open title," that is, a title without a mileage statement, it was possible, for a fee ranging from \$25 to \$50, depending on the volume, to obtain a South Carolina title which did not have a mileage statement. In short, the title was washed through South Carolina in order to facilitate and to conceal the odometer rollback.

Titles were mailed to South Carolina and South Carolina titles were obtained in the name of a South Carolina dealership. The wholesaler would then enter in its books that this car was either purchased from or sold to this South Carolina dealer when in fact this was a sham transaction to obtain the South Carolina title in order to conceal an odometer rollback.

The detection of this scheme was complicated by the withholding of documents from the grand jury. However, through third parties documents were obtained and we were able to reconstruct and trace these transactions. A jury returned guilty verdicts against the wholesaler and its president on fourteen counts of mail fraud, six counts of wire fraud, one count of violating the Federal odometer statute, and one count of obstruction of justice.

The third indictment charges another wholesaler with "title washing" to conceal odometer rollbacks, and with selling the cars in the name of another company to avoid detection of the odometer rollbacks. This company is also charged with a systematic and widespread practice of rolling back odometers on cars that were shipped overseas. That case is presently awaiting trial.

The grand jury also returned indictments against two mechanics, one of whom has pled guilty to violating the Federal odometer statute by rolling back odometers and is presently awaiting sentence. That mechanic operated as follows.

He would walk up and down the avenue, meaning Jerome Avenue, with a cart containing his tools. I have with me a picture of that cart and a picture of the tools contained in the cart. These photos were taken by the Federal Bureau of Investigation after a search warrant was served on the mechanic. I also have with me today some of the tools which are shown in these photographs.

When a wholesaler wanted a car "clocked" or "kicked" he would signal to the mechanic. The fee was \$10. The time involved was 5 to 10 minutes. His tools are hand made to enable him to get at different types of odometers. In short, he is a pro.

The new regulations requiring odometers to be tamper-resistant and to have a sixth wheel to register mileage in excess of 100,000 miles, are important and essential. So, too, the regulation requiring record retention for a period of four years is critical to effective enforcement efforts. However, more needs to be done.

First, we need more enforcement effort. No matter how many regulations and statutes are on the books, if they are not effectively enforced the public will not be protected. The most effective deterrent to odometer rollback is criminal prosecution.

Second, the Federal statute, which specifically deals with odometer rollbacks, is a misdemeanor. It is my personal opinion that where there is a widespread practice of rolling back odometers, the violation should be a felony. We must make the risk of a felony conviction, and perhaps the attendant loss of a dealer's license as a result of such felony conviction, a factor that will be considered before wholesalers and dealers engage in rolling back odometers. The profit motive is great. The risk must also be great.

Third, I strongly recommend that legislation be enacted to enable the Department of Transportation to require all States to have a place on their title for the mileage at the time of transfer. If every State required that the mileage be placed on the title at the time of transfer, and if it was a Federal violation to fail to place the mileage on the title at the time of transfer, this would have a substantial impact on the ability to roll back odometers.

Let me give you some examples. The main sources of supply for used cars are leasing companies and dealer auctions. It is in the interest of the leasing com-

pany to obtain the highest price possible for the car that they are selling. A wholesaler will pay as much as \$500 to \$600 more for a car which has an open title. Therefore, there is an incentive for the leasing company to provide open titles and they do. Many leasing companies systematically do not put the mileage on the title at the time of transfer, in States where mileage presently is required to be placed on a title. Leasing companies are the major source of "open titles." As far as I can tell from my review of the statutes and regulations, this failure to put the mileage on the title is not a Federal violation. Leasing companies today can comply with Federal odometer statutes and regulations and still pass an "open title" in order to facilitate an odometer rollback and get a higher price for their cars. However, if this loophole was plugged and leasing companies were required by Federal law to place mileage on the title at the time of transfer, and if all States were required to have the mileage, at the time of transfer indicated on the titles, odometer rollbacks would be very difficult.

The other source of supply is auto auctions. These auctions record mileage on their own internal documents and many times on the bill of sale. However, they do not require that the mileage at the time of sale be placed on a title where it is presently required by a State. In other words, the auctions knowingly look the other way in turning over open titles. Auctions should be required to see to it that the titles that they turn over to the purchasers of cars contain the mileage at the time of transfer where the States require it. This, too, would be a substantial deterrent to rolling back odometers. Today some auctions require odometer statements but do not require that mileage be placed on the title in States that presently require mileage on the title.

In sum, the statutes and regulations on the books today have loopholes that have enabled widespread and systematic odometer rollbacks to continue. Strengthening the statutes and regulations in the way I have suggested, together with substantial enforcement efforts will significantly reduce, if not eradicate, the practice.

Senator FORD. Mr. Donald R. Wolfslayer, manager-automotive security, Chrysler Corp., will be the next witness.

**STATEMENT OF DONALD R. WOLFSLAYER, MANAGER-AUTOMOTIVE SECURITY, ENGINEERING OFFICE, CHRYSLER CORP., DETROIT, MICH.**

Mr. WOLFSLAYER. Thank you, Senator Ford.

My name is Donald R. Wolfslayer. I am manager of vehicle security for Chrysler Corp. I work closely with our designers and engineers to develop automotive components and hardware that will reduce the chance of theft, tampering, or fraud.

I am also chairman of the Society of Automotive Engineers' Vehicle Security Committee and the International Standards Organization Working Group on Security.

Today we are discussing one of the most difficult security problems in the industry—the illegal practice of rolling back mileage on odometers.

We've long recognized the problem, and we've tried to do something about it for our sake and for the sake of our customers. We as manufacturers want to know actual mileage whenever there's a question of warranty, recall, or liability of some kind. And we think the buyer of a car should have a reasonable assurance that the mileage numbers are true.

However, we recognized long ago that it would be very costly to design an odometer that could not be rolled back, and still be serviced easily. Even if we could, a professional crook could probably beat any system any of us could devise—or he could easily replace the odometer with one he stole from another car or picked up in a junkyard.

We decided to take a different approach, and instead of developing a so-called tamperproof odometer that couldn't be rolled back, we devised one that showed it had been tampered with. We introduced this odometer back in 1970—and I believe it has been very successful.

The Chrysler system uses an inking device which attaches to the end of a flexible metallic arm mounted on the odometer assembly. The inking device is actually a pad with dye that doesn't dry out. It rests against the ten-thousandths wheel—the farthest wheel to the left from the driver's view—and stains the face of the wheel from white to blue-violet as it rotates past 9,999 miles.

If the odometer is rolled back, the stain shows, and it's apparent that somebody tampered with the system. If it's necessary to replace an original odometer, our dealers use an odometer with a different color. It has a white one-tenth wheel with bright red numerals. It's evident if the original equipment has been replaced by a service unit.

From time to time we have asked law enforcement agencies and insurance companies in the United States and Canada what they thought of our system. We have discussed it at the annual seminars of the International Association of Auto Theft Investigators and with special agents of the National Automobile Theft Bureau. The experts have said that our odometer does what it's supposed to do—it deters tampering, and protects us and our customers from fraud. It makes the job of the sophisticated criminal very difficult. It all but stops the amateur criminal, and those it doesn't stop it exposes with its telltale marking.

Our best judgment is that our inking system is the most effective system by any measure—superior to any system with an irreversible clutch to prevent rollback.

We are pleased that NHTSA has agreed with our belief that the ink system is an effective deterrent, and that it will allow the use of our ink system in place of an irreversible clutch under standard 127. We believe this decision is in the public's best interest. The ink system is a low-cost system. As I've said, it deters the sophisticated criminal, and it reveals the handiwork of the amateur crook.

But this technical solution alone isn't going to eliminate the practice of people rolling back odometers. The fact is that this is a legal problem and a law enforcement problem, as well as an engineering problem. And we are going to need action on all fronts to solve it.

Senator, I would be pleased to answer any questions that may have come up this morning, or that you may want to talk about. I have brought a few sample odometers to show you how our inking system works.

But first, if I may have your permission, Senator, I would like to just address some of the comments that have been made earlier that I think are pertinent to the conversation.

As I said in my talk, I've talked to police departments all over the country. I think that when somebody preconditions something during the normal use of a car, so that any attempt to later violate the security that's been built into that package leaves telltale evidence, we have created a useful vehicle for law enforcement efforts.

When the car is normally used legitimately, and we are dye stamping or dye marking a wheel, any attempt, then, to roll that back will visibly show up and immediately display that something has happened to that wheel.

I think that somebody asked the question: Is it visible on the replacement odometer? The answer is yes. Perhaps we need more education in this area, and more communications with our consumer public. But a replacement wheel has the red numbers on a white dial. Maybe someone could go right on using the system and no one would ever know. Maybe we ought to talk to people about this.

I am quite impressed with the dye marking of the wheel. I anticipated the comment that was made today, and I don't often do that. But this time I was lucky. I went to our archives and I pulled this unit out of a 1970 Plymouth Fury, and I've labeled it to show how the inking device works.

If you put your finger here on the ink pad you're going to get it stained blue, because the pad is still wet. And the reason it's still wet is because we use an oil-based, nondrying agent that's been tested in the laboratory in all types of ambient conditions the automobile will probably ever be in—including desert temperatures and extreme dryness or humidity. To the best of our knowledge, it will last.

This is, as I said, between 9 and 10 years old, and it's still working.

Senator FORD. It looks awfully clean. Did you just get it out of the junkyard, or where did you find that?

Mr. WOLFSLAYER. No, sir; this was taken out of a car, and when you say "awfully clean," it's in a very clean environment.

It really is. It's protected in the instrument panel. I had it cleaned up before I brought it here, but—

Senator FORD. Can you tell me where you found the car to remove the odometer and speedometer?

Mr. WOLFSLAYER. I can't say for sure, but I think it was out of the police pound in the Detroit City Police Department.

Senator FORD. And this is 8 years old?

Mr. WOLFSLAYER. Yes, sir.

Here are some new odometers—of course, I took them right off the shelf. They are the odometers used in the Omni and Horizon today. They use the same type of inking unit as the one you are holding from the 1970 Fury.

Now, the statement was also made—and I'd like to address this directly—if somebody wants to stop that feature from working by bending back that little inking tab and taking it out of contact with the first place, obviously that precludes the operation of that part.

But if I was a detective and I found a car that was obviously some years old, say it had 80,000 or 90,000 miles on it, and it had no marking on that wheel, I would know it had been tampered with. The inking function is there and it should be working.

I would like to mention one other thing. We hear about the high cost of repairs all the time; we have a very serious problem here, in my opinion. I have been working in security for well over 10 to 12 years; and I know that serviceability and security do not go hand-in-hand.

We have tried very hard to make all of the features in the instrument panel, easily accessible and serviceable. This is one of those features that must be serviced. Even the unit that was mentioned and shown to you earlier, if we all went to a junkyard, we could still buy one with less mileage and put it in the package.

What I am saying is that I don't know how to solve this problem; it is serious.

Senator FORD. Well, in your statement, you state, and I quote, "We recognized long ago it would be very costly to design an odometer that could not be rolled back and still be serviced easily."

Is there frequent need to service an odometer?

Mr. WOLFSLAYER. I checked on that before I left, and last year for Chrysler Corp. we replaced 45,000 passenger car odometers, and 15,000 truck odometers.

Senator FORD. Out of how many?

Mr. WOLFSLAYER. That, sir, would be what is pulled out of our service, to service all of the cars we have on the road today.

Senator FORD. So that's not just 1 year; that's every car on the road, and you replaced 45,000?

Mr. WOLFSLAYER. Yes, sir.

Senator FORD. Now, is that just the odometer part of it, or is it the speedometer, the cable, and all of that?

Mr. WOLFSLAYER. No, it is only this part [indicating].

Senator FORD. You would replace the whole part?

Mr. WOLFSLAYER. Yes, sir.

The statement made earlier is correct: I know of no one that replaces any subcomponents or substructure of the speedometer or odometer unit. It is always replaced with the total unit.

Senator FORD. What if something goes wrong with the speedometer?

Mr. WOLFSLAYER. The whole thing is replaced.

Senator FORD. The whole thing is replaced?

Mr. WOLFSLAYER. Yes.

Senator FORD. I thought maybe—is there a cable that comes up and gives you your speed?

Mr. WOLFSLAYER. Yes, sir; a cable comes up from the transmission, comes up and goes into the back end of the speedometer/odometer assembly.

Senator FORD. What if that cable breaks?

Mr. WOLFSLAYER. You just replace the cable.

Senator FORD. So then that could happen and you would not replace the whole dashboard, or the item there?

Mr. WOLFSLAYER. That is right.

And, you know, I must follow through on that thought, sir, and point that anybody could disconnect that cable at any time for any period—if they wanted not to register miles on the car, even from the transmission.

Senator FORD. You mentioned in your statement, I want to quote again, I am reading here: "A professional crook could probably beat any system any of us could devise, or could easily replace the odometer with one he stole from another car or picked up in the junkyard."

So, really, what you are saying is we are laboring here doing the best we can to come up with a tamper-proof odometer, but in your judgment as an engineer, a man with a lot of experience, in substance you say really we could never come up with a tamper-proof odometer?

Mr. WOLFSLAYER. I would like to respond to that just a bit, if I may?

Senator FORD. I want you to.

Mr. WOLFSLAYER. Maybe this is an odd way of putting it, but we engineers spend a great number of hours trying to do something that we find a 16-year-old kid can defeat.

Senator FORD. I am a grandfather, and I couldn't get the top off my aspirin bottle; but my 2-year-old grandchild popped it off like that [indicating].

Mr. WOLFSLAYER. So when I go to Associated Locksmiths of America's convention every year, and I spend a week with these people to understand how they defeat things, how they break into locks, how they develop systems to actually combat computer security, the ingenuity we are talking about is an extreme capability to overcome the safeguards we build into our cars.

We have to create a security system and then commit ourselves to it. Once we have designed it, we have a commitment to put it in our cars. We are fixed. Now, the thieves are not fixed. They can use all the ingenuity they want to try to figure out how to overcome whatever it is, a lock or whatever, or an odometer.

Now, a comment was made earlier about you can overcome anything. There is always a goal we design to; we try to establish an optimum degree of security based on what is proper for a given time. That is why, back in 1970, we anticipated some of these problems. We were aware of problems like odometer tampering and this was our answer to it [indicating] at that time.

There's one thing that has not been said today, and I guess I would really like to know the answer to it. People are saying, as the lady just said a few minutes ago from New York, that somebody goes up and down the street and for \$10 does these things to these cars—not Chrysler cars.

I would like to have a breakdown of models and years and what cars those things are happening to, because we have tried to get the answer to that question from insurance companies and the National Automobile Theft Bureau. The information does not seem to be available.

But I think you will see that if a person has a car, drives up and asks for this mileage job to be done on his car, if it is already pre-marked, it is going to expose that mark; and rolling back the mileage is not going to accomplish anything.

Senator FORD. Well, maybe he has a replacement from a junkyard, and he replaces it?

Mr. WOLFSLAYER. Yes, sir; I think this is beyond the area of the juvenile and the kids we are aiming at in the first place. Of course, I have to go back to the statement you quoted, about professionals.

Senator FORD. I am advised the young lady came well prepared, and Chrysler was in on this, and she has an odometer in her little bag that has ink on it that was tampered with. So I don't want you to get off scot-free, but I appreciate your defending your position.

Mr. WOLFSLAYER. Does it show that it has been tampered with?

Senator FORD. I will let my defense attorney answer.

Ms. HYNES. I would also like to note for the record that the inking is so light you can hardly see it; and I have to look twice. But this [indicating] is a Chrysler odometer that was provided by the mechanic, and the 9,000-10,000-digit number is the number that is inked by the factory; and it is very pale, and I can hardly tell it even when I am looking at it. That was provided by the mechanic who does the rollbacks, and he does Chrysler cars all the time.

Senator FORD. Yes.

Mr. WOLFSLAYER. It is marked and I would question the degree of how visible it is.

Senator FORD. I will rest your case.

One of the important functions, I suspect, would be law enforcement; and it appears the Department has very few investigators. In fact, they've got one lone investigator over there. And I am not sure you will get much from that.

But the licensing provision we discussed a few moments ago, where you have to put on your title the mileage, is this a deterrent that you think would be, or should be, required? Would that be helpful?

Mr. WOLFSLAYER. Yes, sir, I do. I think that the accurate recording of mileage at the transfer of the title of the car is a very essential thing for us to do, to thwart the efforts of the professional thief.

Senator FORD. You have indicated that you have done a lot of work in this area; I think I got the impression from the agency a few moments ago and from some of our other witnesses, that there are really no testing devices utilized by the Federal Government to see how foolproof the old odometers are. It's tested against the regulation, but who's going to test it and who has the ability to test it? What testing devices or what testing do you undertake to assure that you are doing as good a job as you think can be done within the constraints of the cost to the industry, cost to the consumer, and the prevention of tampering with the odometer?

Mr. WOLFSLAYER. Senator, I hope my answer is even half as good as your question; it's an excellent question.

I don't know how—

Senator FORD. Thank you for the compliment, I'll try to return it.

Mr. WOLFSLAYER. I don't know how to test for thievery and criminal activity in a laboratory or at the proving ground. When we try to talk about this subject—and I address law enforcement people all over the country—we keep saying, "We need your communication, your information; we have to build up this rapport, so you can tell us what is going on out there in the real world."

The only way I know how to test for this thing, outside of just mere compliance to a regulation, is to put it in a car, put it out in the field, and observe what happens. Then we can go back to the drawing board and correct whatever we forgot to do.

I know of no way to test-proof thievery activities in a laboratory.

Senator FORD. What is the name of that avenue in New York?

Ms. HYNES. Jerome Avenue.

Senator FORD. Jerome Avenue. I think you could probably go up on Jerome Avenue and pick up a couple of experts to come down and see, if you would let them tamper with it.

Mr. WOLFSLAYER. We use these opportunities, of course, Senator. The National Auto Theft Bureau and the FBI have been extremely cooperative in running automobile surveys and other activities to help us.

Senator FORD. I think you said a few moments ago that one thing you could possibly do is to improve your information to the customers so they would understand what the odometer is doing and what the tamper-proof provisions are that you have installed in their car; and also if the odometer had been changed, that you do have a white wheel with red numerals.

But you are not doing that as much as you maybe should be, and if they were more aware they might understand. That might be a point. That, of course, means some more expense; but it might be an effort you could include in your book.

Mr. WOLFSLAYER. We have made an effort to do a little bit of that.

Senator FORD. You brought the point up, and I think it's an excellent point.

Mr. WOLFSLAYER. I think our owner's manual and other places could be ways of informing our customers.

We do have this little tag that comes along with the replacement odometers. It talks about the law and the offense for not doing this. We make it as a stick-on tape readily available for the customer who wants to follow the law and record the mileage and the date it was recorded, and then fasten and secure it to his car [indicating].

Senator FORD. Do you think your odometer meets the present requirements or the new requirements that will be published tomorrow?

Mr. WOLFSLAYER. Well—

Senator FORD. Have you had an opportunity to analyze the new regulation?

Mr. WOLFSLAYER. Only briefly, sir, and I am not sure that my answer will be accurate.

Nevertheless, I have reasons to believe our odometer would meet the new requirements. I really think that whether or not the inking device is performing exactly the way it should in every case the intent to obliterate the miles that have been used up is still the right way to go. Our system should function properly.

Senator FORD. Yes.

Mr. WOLFSLAYER. I think it does meet the intent of the law.

Senator FORD. So then in your opinion there would not be any additional expense to Chrysler Corp. due to the new regulations?

Mr. WOLFSLAYER. I don't believe so. I think that's because we volunteered the operation back in 1970, and we have been carrying it ever since.

Senator FORD. There may be a question or two later on that would come to mind. If you don't receive anything from us within a couple of weeks, you will know there will be no additional questions for now.

Mr. WOLFSLAYER. Yes, sir.

Senator FORD. Thank you very much. You are a very good witness. I appreciate your patience in coming and being with us today.

Our final witness is David E. Martin, of the General Motors Environmental Activities Staff.

If you will come forward?

**STATEMENT OF DAVID E. MARTIN, DIRECTOR, AUTOMOTIVE SAFETY ENGINEERING, GENERAL MOTORS CORP., WARREN, MICH.; ACCOMPANIED BY DAVID VAN OSTROM; AND BURCK GROSSE**

Mr. MARTIN. My name is David Martin, and I am Director of Automotive Safety Engineering for General Motors. We appreciate this opportunity to comment briefly on General Motors' overall position regarding the regulation of motor vehicle odometers and to address

specifically the issues we believe to be of particular concern to this subcommittee.

With me today is David L. Van Ostrom from our AC spark plug division, and Burek Grosse from the GM consumer relations staff. Mr. Van Ostrom and Mr. Grosse are prepared to answer your questions as they relate to the design and serviceability aspects of odometers.

General Motors has long endorsed the provisions of title IV of the Motor Vehicle Information and Cost Savings Act. Further, we believe that title IV is the proper instrument for the regulation of odometers, since it is indeed difficult to connect safety in any way with odometers. With fraud, yes; with safety, no.

However, in recent months additional regulation of odometers has occurred in a new motor vehicle safety standard, FMVSS 127. The standard, issued on March 16, required that odometers have distance indicators which are movable in the forward direction only, are accurate within 4 percent above or below the actual distance traveled, and must clearly indicate when the odometer has exceeded 99,999 miles or kilometers.

Just yesterday, we received a new notice in response to industry petitions. While this new notice is still under careful engineering and legal review, we can offer one or two comments.

This response had the apparent intent of reinstating one of the options in the antitampering aspect of the odometer rule. NHTSA would now allow compliance by indicating if the odometer had been reversed. While the general intent may be clear, the specific language in this option as well as the revised language in the other option, for irreversible odometers, is still confusing and compliance by present GM systems is not obvious.

The speedometer portion of the rule requiring even graduations has been changed to reduce our immediate concerns. However, the language now arbitrarily precludes the introduction of a new electronic speedometer which we are now developing for future use.

General Motors does not support this new additional safety rule-making because (1) odometer regulations already exist under title IV of the Motor Vehicle Information and Cost Savings Act, (2) a safety need has not been established for this additional rulemaking under the Motor Vehicle Safety Act, and (3) we believe a natural incentive already exists for manufacturers to design tamper-resistant odometers in order to avoid warranty fraud.

The NHSTA analysis does not offer any evidence that the accuracy requirements or the 100,000-mile indicator for odometers will improve highway safety. The analysis is based on a very tenuous series of calculations which addresses only the tamper-resistant portion of the new standard. The analysis put forth to rationalize the tamper-resistant odometer as a safety feature is based on three unsubstantiated assumptions:

First, that 35 percent of the entire population of motor vehicles is estimated to have experienced odometer tampering;

Second, that 1 out of 50 vehicles involved in accidents where the vehicle itself may be a contributing factor would not have occurred otherwise; and

Finally, that the rulemaking will be 25 percent effective in reducing those accidents where odometer tampering may have been a contributing factor.

NHTSA has not been able to provide any data to support any one of these assumptions. General Motors does not believe that a safety need can be established on the basis of such arbitrary assumptions.

On the engineering side, General Motors' present odometer designs could not readily accommodate the 100,000-mile indicator requirement and still retain flag capabilities required to meet Federal emission standards. Therefore, lacking a demonstrated safety need, we believe it would be inappropriate to require a redesign, simply to accommodate the 100,000-mile feature.

Further, from a consumer protection point of view, we believe it would be a rare occasion for a vehicle having more than 100,000 miles not to exhibit wear or other physical evidence that would indicate that it had been driven 100,000 miles.

General Motors odometer designs presently include tamper-resistant features such as an antireverse mechanism and telltale markings. These features represent a reasonable approach to deterring odometer tampering by all except a small minority who have acquired considerable expertise in odometer mechanization.

Finally, and of great significance to General Motors, is the fact that odometers are currently regulated by title IV of the Motor Vehicle Information and Cost Savings Act. Title IV is aimed at providing the consumer with information regarding all operational aspects of the vehicle odometer and at reducing consumer costs associated with fraudulent acts. General Motors believes there is no basis for dual regulation in this case.

Moreover, the Information and Cost Savings Act directed the Secretary of Transportation to report within 1 year on plans and recommendations for future action. In compliance with this statutory requirement of the act, the Secretary stated in his summary of findings that "if field investigations suggest the need for mandatory adoption of the types of antitampering measures now in use, the Department would consider initiating rulemaking to that end."

NHTSA has not offered any new evidence from such field investigations which would meet the Secretary's requirements for rulemaking.

In closing, General Motors believes that title IV of the Motor Vehicle Information and Cost Savings Act is the proper instrument for motor vehicle odometer regulations, and that additional regulation of odometers under a Federal Motor Vehicle Safety Standard is not warranted. In short, odometers are of concern relative to possible fraud, but not safety.

Senator Ford. Mr. Martin, let me take a little exception to your last sentence. There has been some contention to date that if you have a car that appears to have 20,000 or 30,000 miles on it, and it really has been driven 90,000 miles, that it becomes a matter of safety, because in the owners judgment he is buying a car with only 30,000 miles on it. Therefore, the repair of that automobile should not be imminent when in fact the brakes may be seriously worn. So the tampering with the odometer—I think witnesses have stated—has created some accidents. It has caused the consumer to relax only on the basis that he thought he was buying a car that has only been driven 30,000 miles.

Mr. MARTIN. The statement is not made to indicate it is not possible to have that sort of thing to happen. Our statement is to indicate we believe the quantification of this in the economic impact statement by the Government is very tenuous; and I think that there is also some indication in the Government's impact statement that would indicate there can also be a contrary effect.

The NHTSA's economic impact analysis also suggested that in certain instances because the odometer is turned back that the dealer may put new tires on the vehicle as well.

So it is the quantification of this with which we have concern. There can be a tenuous relationship between the two of these, but not in the quantification suggested in the economic impact analysis.

Senator FORD. That sounds like the first thing a lawyer learns: If the law is on your side, argue the law; if the facts are on your side, argue the facts; if neither is on your side, just raise hell.

I am of the opinion that you can factor in these safety concerns. Say, my children for instance, it's tough for them to buy an \$8,000, \$9,000 car, and that is down in the so-called lower price. I am sure you can get smaller cars and things; but you spend that kind of money today.

So they have to go for a used car. And they go to a lot and see a car that looks pretty good. It only has 27,000 miles on it and has a reasonable price. So they get out, and the grandbaby is in there, and they are traveling down the road with an automobile that unbeknownst to them has traveled 90,000 miles.

I think there is a safety question there.

Mr. MARTIN. Again if there is a safety implication there, then we would question whether or not these three elements they have thrown together, including the effectiveness, would result in the safety benefits they have indicated.

Now, if there is a safety implication, that safety implication should also be addressed under title IV; so again, I think the implication here relates to the quantification of it. And whether or not the provisions would meet or indicate there are any safety implications that exists.

Senator FORD. I quote your statement, "However, the language now arbitrarily precludes the introduction of a new electric speedometer which we are now developing for future use."

Can you explain to us how this rule would block such a development?

Mr. MARTIN. Yes, sir.

The rule, as it was promulgated in March, indicated that the speedometer markings had to be uniformly spaced; and we pointed out that with an angular sweep needle on a linear scale, that we use on many of our speedometers, that because of the mechanization you have to have uneven graduations in order to get an accurate indication, because of the design character of the wheel.

Now, we are working on an electronic device, and because this does have proprietary value I don't want to go into it in great detail; but now the problem exists, the rule says the sweep needle shall have within 10 percent even angular graduations. The particular device we have in mind would have had uniform spacing of the numerals for the read-out, but nonuniform movement of the angular motion of the needle.

So in taking care of one particular design, they worked language in that caused problems for another design.

Senator FORD. Do you have any estimate as to the likely cost to GM in order to meet the requirements of the administration's rule?

Mr. MARTIN. Because we have just gotten the revision, and we are really not even certain as to whether we comply—although some of the conversation that we heard this morning and some of Ms. Claybrook's remarks, causes us great concern as to whether or not we comply.

I would be unable to make an estimate.

Senator FORD. It's not going to be any cheaper, is it?

Mr. MARTIN. Oh, no, sir. We would be very much concerned that millions of dollars would be involved in retooling.

Senator FORD. How much?

Mr. MARTIN. Millions of dollars.

Senator FORD. Millions of dollars would be involved in retooling?

Mr. MARTIN. If my worst fears are confirmed. But, again, sir, I stress we have just had this short period of time.

Senator FORD. I understand. I am not happy about that either. I think you made that observation earlier, because there is no input now. We are forced to hold hearings the day before the new regs are published, with no real ability to have any input.

Hopefully, we can do something, and have an opportunity to prevent that in the future.

In your statement you say, on the engineering side that GM designs could not readily accommodate the 100,000 mile indicator requirement and still retain flag capabilities required to meet Federal emission standards.

Do you want to talk to me about that little problem a bit?

Mr. MARTIN. I think I might ask Mr. Van Ostrom to come in on that.

Mr. VAN OSTROM. Mr. Chairman, in conjunction with EPA regs on emissions we have to indicate in some manner when the exhaust sensor needs to be changed or serviced; and the design we have developed, and it is now in production in some limited California applications, and which we intend to be on all 1981 odometers, would actually involve an odometer with an additional yellow flag which shows through the window.

I don't know if you can see from the distance [indicating].

Senator FORD. I can see it.

Mr. VAN OSTROM. It is essentially another wheel that we have designed into the odometer with a flag that extends out over the numbers, and when a certain mileage comes up such as 30,000 miles, the flag appears in the window.

This is the indication to the owner he needs to have the service performed.

Now, that flag, since it is at 30,000 or 20,000, or some such 10,000-increment of miles, the wheel for the flag is right adjacent to the left-hand wheel; and it ratchets to it. And that's the way the flag operates, it ratchets to the outside wheel.

When we have another wheel in there, it becomes much more difficult to attach the flag to an inside wheel. So that complicates the design, and we have redesigned in order to accomplish that. It is a very extensive tooling program in order to accomplish this, particularly

because we have an odometer already with a flag or an extra wheel for other purposes.

Senator FORD. Yes; I wondered how emissions standards were factored into it and I wanted to understand the present situation; that's the reason I asked that question.

So the new regulations will not permit the use of this type of odometer?

Mr. VAN OSTROM. No; as I say, we have designed around that; but it does cause a very complicated design.

Senator FORD. How can you do it when you haven't read it yet?

Mr. VAN OSTROM. Assuming it requires the same thing we did before, it is quite expensive and time-consuming.

Senator FORD. Are you saying to this committee, then, that on the face of it you doubt that it has created any insurmountable problems, but it could very well create problems in developing a means for alerting drivers to the need to meet certain emission standards?

What it does is just flag the replacement?

Mr. VAN OSTROM. Yes; the replacement of part of the emission system.

Senator FORD. That doesn't mean you have to; it just means you are supposed to?

Mr. VAN OSTROM. That's right.

Senator FORD. Any particular reason for doing that, or does this keep GM from getting into trouble with California law?

Mr. VAN OSTROM. Yes; it is a Federal law requirement, on a part that needs servicing that you have to indicate it. That is why it will be on all of our cars in 1981, when we will have this system on all of our cars.

It can be done in other ways. This is the most reasonable way we have found to do it. If we were forced to do it in another way, it would cost a good deal of money.

Senator FORD. I think we ought to leave the you alone, let you catch up with what we've done to you already.

Mr. VAN OSTROM. Yes, sir.

Senator FORD. Do you have any type of testing facilities in regard to tampering? I asked the gentleman from Chrysler about having laboratory testing of antitampering devices.

Do you test a car, run it through your own engineers up there, and see if they can get to it?

Mr. VAN OSTROM. I have to agree with the other statement. We really do not know how. I guess the only idea would be if you could hire someone, you know, a "professional" and let him work on it.

We have not done that. We have no test procedures for testing this.

Senator FORD. There may be some other questions. I am intrigued with the possibility of having something developed here as regulation that would prevent another agency from requiring you to do something that conflicts with what you are already required to do by another agency. That is typical of this place.

You find one agency telling you to do one thing, and another agency telling you to do something else, and as a fellow said in a letter I got this morning, "they never use any plain common sense." Apparently the left hand doesn't know what the right hand is doing. And you will be in a flux all the time.

Maybe I can be helpful after the hearings today, and we can look at the problems. And I would be very hopeful you could get me some kind of information to rely on as to what problems this regulation could cause, since you already have it. I wonder what the other auto companies are doing, and what we might be doing to them.

Mr. MARTIN. We can provide that.

Senator FORD. If you would give me that information.

Mr. MARTIN. We would be happy to, and I think it should be clarified.

Senator FORD. I would appreciate it, Mr. Martin, if you would, because it is something I might be able to help to prevent. If we are going to create a problem for you on one side where you have already solved a problem, and this is going to be expensive to the consumer, and then we turn around and create havoc, requiring additional moneys tooling up—all that sort of thing—I am very concerned about that.

As I say, maybe we ought to leave you alone for a while and let you catch up on what we've done to you already.

I will pursue this information.

I thank you gentlemen for being here today. I apologize for keeping you so long, but maybe it's been worth it. Thank you very much.

[Whereupon, at 12:19 p.m., the hearing was adjourned.]



