

2007
SUNSET
REVIEW

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

Automobile Theft Prevention Authority and Board



October 15, 2007

STATE OF COLORADO



Bill Ritter, Jr.
Governor

D. Rico Munn
Executive Director

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October 15, 2007

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of the Colorado Automobile Theft Prevention Authority (CATPA) and Board. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2008 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination...

The report discusses the question of whether the regulatory program provided under Section 112 of Article 5 of Title 42, C.R.S., serves to protect the public health, safety or welfare. The report also discusses the effectiveness of the CATPA and staff in carrying out the intent of the statutes and makes a recommendation regarding the continuation of this program by the General Assembly.

Sincerely,

D. Rico Munn
Executive Director



2007 Sunset Review Automobile Theft Prevention Authority and Board

Department of Regulatory Agencies

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Executive Director

Executive Summary

Quick Facts

What Does the Program Consist Of? The Colorado Automobile Theft Prevention Authority (CATPA) was created by the General Assembly for the general purpose of collecting voluntary financial contributions, and dispersing donated funds to qualified applicants for combating, preventing and prosecuting motor vehicle theft.

How Does the Program Operate? Article 5 of Title 42, Colorado Revised Statutes (C.R.S.), was enacted pursuant to House Bill 03-1251, which established the CATPA. The CATPA was placed under the supervision of the Colorado Department of Public Safety. The statutory provisions provided for program administration to be administrated by a CATPA Board, created to effectuate the goals and responsibilities of the CATPA program. Pursuant to section 42-5-201(3)(f), C.R.S., the CATPA adopted a set of rules concerning the operation of the CATPA program. Generally, these rules created a process by which law enforcement agencies or other qualified applicants could apply for grants to be utilized in improving and supporting motor vehicle theft prevention programs.

What Does it Cost? There is no direct financial cost to the State of Colorado as the CATPA program receives no state funding for any aspect of its operations. All funds dispersed consist of contributions received from the insurance industry.

Major CATPA Donations:

| | |
|-----------------------|-----------|
| State Farm Insurance | \$693,448 |
| Progressive Insurance | \$100,000 |

Where Do I Get the Full Report? The full sunset review can be found on the internet at:
<http://www.dora.state.co.us/opr/oprpublications.htm>

Key Recommendations

Sunset the Colorado Automobile Theft Prevention Authority and Board. The overriding problem with the CATPA relates to the funding source provided for in the CATPA's enabling statute. The statute that created the CATPA limited program funding to voluntary donations and contributions. The majority of the contributions and donations to support the CATPA occurred in the first year of the CATPA's existence, 2004. Since then, contributions and donations have been insignificant and insufficient to maintain and fund the CATPA program in a viable capacity.

This program cannot continue without a consistent source of revenue. Indeed, the responsibilities of the CATPA program consist of collecting and dispersing donations and contributions by awarding financial grants to qualified and appropriate applicants. However, grants cannot be awarded without sufficient finances to fund them.

Although the statistical data and evidence indicate a reduction in motor vehicle thefts in 2006, this one-year correlation does not establish or justify a specific recommendation to provide state funding to continue the CATPA program.

Major Contacts Made During This Review

Colorado State Patrol
Colorado Department of Revenue
State Farm Insurance
LoJack Corporation
Automobile Theft Protection Authority Administrators and Regulators in Other States
Colorado Law Enforcement Agencies
Office of the Colorado Attorney General
Colorado Automobile Theft Investigators Association

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:
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Background

The Sunset Process

Regulation, when appropriate, can serve as a bulwark of consumer protection. Regulatory programs can be designed to impact individual professionals, businesses or both.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation. Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

As regulatory programs relate to businesses, they can enhance public protection, promote stability and preserve profitability. But they can also reduce competition and place administrative burdens on the regulated businesses.

Regulatory programs that address businesses can involve certain capital, bookkeeping and other recordkeeping requirements that are meant to ensure financial solvency and responsibility, as well as accountability. Initially, these requirements may serve as barriers to entry, thereby limiting competition. On an ongoing basis, the cost of complying with these requirements may lead to greater administrative costs for the regulated entity, which costs are ultimately passed on to consumers.

Many programs that regulate businesses involve examinations and audits of finances and other records, which are intended to ensure that the relevant businesses continue to comply with these initial requirements. Although intended to enhance public protection, these measures, too, involve costs of compliance.

Similarly, many regulated businesses may be subject to physical inspections to ensure compliance with health and safety standards.

Regulation, then, has many positive and potentially negative consequences.

The functions of the Colorado Automobile Theft Prevention Authority (CATPA), in accordance with Section 112 of Article 5 of Title 42, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2008, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the CATPA pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the CATPA should be continued for the protection of the public, and to evaluate the performance of the staff of the Colorado Department of Public Safety. During this review, the CATPA must demonstrate that the CATPA serves to protect the public health, safety or welfare, and that the CATPA is the least restrictive program consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 22.

Methodology

As part of this review, DORA staff attended CATPA meetings, interviewed CATPA Board members and staff, reviewed CATPA records and minutes, interviewed officials with state and national professional associations, reviewed Colorado statutes and the CATPA rules, and reviewed data and laws from other states.

Automobile Theft Overview

The automobile has brought convenience, mobility, and countless other social and economic benefits to the citizens of Colorado. Because of these factors, and a host of others, the automobile has become a ubiquitous symbol of our culture. Unfortunately, the proliferation of motor vehicles also presents opportunities for theft and criminal activity.

The CATPA was created by the Colorado General Assembly for the general purpose of collecting financial contributions, and dispersing said contributions to the law enforcement community for the purpose of combating, preventing, and prosecuting those engaged in automobile theft. The CATPA program is administered by the Automobile Theft Prevention Board (CATPA Board) established in section 42-5-112(2)(a), C.R.S. For purposes of this report, any reference to “CATPA” includes both the CATPA and the CATPA Board. A reference in this sunset report to the CATPA Board, only, specifically refers to the CATPA Board.

Colorado ranks among the top ten states in the country for automobile theft per capita according to 2005 crime data from the Federal Bureau of Investigation.¹ Colorado’s auto theft rate, the number of thefts per 100,000 Coloradans, in 2005, was 559.5,² compared to the national rate of 416.7.³ During 2005, the Colorado Bureau of Investigation reported a total of 25,315 motor vehicles were stolen in Colorado.⁴ The number of auto thefts in Colorado in 2005 increased by almost 10 percent over 2004, while the statistics showed no increase nationally.⁵ The estimated value of the vehicles reported stolen in Colorado in 2005 was \$156.3 million.⁶

The organization in Colorado most directly associated with the CATPA is the Colorado Auto Theft Investigators Association (CATI). This organization consists of private insurance investigators and individuals employed in law enforcement agencies statewide. CATI’s stated mission is:

To bring together law enforcement, other public officials, and insurance company investigators, who are dedicated to the prevention and investigation of motor vehicle theft and kindred crimes, to promote communication and training among investigators and to reduce vehicle crimes and the effects of these crimes for the public good.⁷

¹ Colorado Auto Theft Authority, Auto Theft Statistics. Accessed from <http://www.coloradoautotheft.org/final%20CATPABrochure07.pdf>, on June 4 and September 28, 2007.

² Colorado Auto Theft Authority. Accessed from <http://www.coloradoautotheft.org/final%20CAPTABrochure07.pdf>, on June 4 and September 28, 2007.

³ Ibid.

⁴ Colorado Theft Prevention Authority. Accessed from <http://www.coloradoautotheft.org/June-07-stats.html>, on June 4 and September 28, 2007.

⁵ Colorado Auto Theft Investigators. Accessed from <http://www.coloradoautotheft.org/FBIAutoTheftStats99-05.htm>, on June 4 and September 28, 2007.

⁶ Colorado Theft Prevention Authority. Accessed from <http://www.coloradoautotheft.org/final%20CATPABrochure07.pdf>, on June 4 and September 28, 2007.

⁷ Colorado Auto Theft Investigators, www.coloradoautotheft.org. Accessed on September 20, 2007.

Motor vehicle theft, while often characterized simply as a property crime, is considered by law enforcement authorities to be a gateway crime that often leads to more serious criminal activity. Vehicles are often stolen for use in the commission of crimes including drug and smuggling activities, and often the stolen vehicles are disposed of at “chop shops,” where the vehicles are dismantled and the parts sold.

The reasons for motor vehicle theft are relatively narrow. Vehicles are stolen:

- To sell the entire vehicle – some vehicles can be sold to unsuspecting buyers both in and out of the state and usually involve vehicle identification number (VIN) switches; some high value vehicles are sold out of the country (Mexico and overseas).
- To “chop” the entire vehicle for parts – If all the parts are sold separately, they are typically worth more than the whole vehicle, particularly in older vehicles where parts are often not as readily available. Many of these parts end up in unscrupulous body repair shops.
- To steal parts such as rims, stereo equipment, high performance engines and equipment, etc. These are usually hard to trace.
- To trade for drugs.
- For transportation (considered a crime of opportunity).
- To commit other crimes such as robberies, transporting drugs, or moving illegal immigrants from border areas.
- To commit insurance fraud – the vehicle is disposed of, often with the help of a co-conspirator and then reported as stolen resulting in a payoff by the insurance company.

Information available from the National Insurance Crime Bureau suggests that thieves target particular types of motor vehicles for theft. Based on motor vehicle theft data reported by law enforcement agencies nationwide to the National Crime Information Center (NCIC) in 2001, the 10 most frequently stolen vehicles in the U.S. are: Toyota Camry, Honda Accord, Oldsmobile Cutlass, Honda Civic, Jeep Cherokee/Grand Cherokee, Chevrolet Full Size C/K (truck), Toyota Corolla, Chevrolet Caprice, Ford Taurus, and Ford F150 (truck).⁸ The top 10 vehicles stolen in Colorado differ from the national statistics, and are set forth in Table 1, below.

⁸ Colorado Auto Theft Investigators, Auto Theft Statistics. Accessed from <http://www.coloradoautotheft.org/>, on March 2, June 27, and September 28, 2007.

Table 1
Top 10 Cars Stolen in Colorado⁹

| |
|---------------------------------------|
| 1. Chrysler/Dodge/Plymouth Colt |
| 2. Jeep Cherokee/Grand Cherokee |
| 3. Honda Accord |
| 4. Honda Civic |
| 5. Ford Full Size Truck (150/250/350) |
| 6. Chevrolet Full Size C/K Truck |
| 7. Ford Explorer |
| 8. Chevrolet Compact SUV (Blazer) |
| 9. Toyota Camry |
| 10. Dodge Intrepid |

History of Regulation

At the urging of the CATI, a not-for-profit professional organization of law enforcement and insurance investigators, legislation to establish the CATPA was proposed. This process took several years, and in 2003 House Bill 03-1251 was passed by the General Assembly establishing the CATPA. The bill, as originally introduced, called for the CATPA's funding to come from mandatory monetary assessments from the insurance industry, but was subsequently amended, making contributions to the CATPA voluntary.

The CATPA bill was signed into law by Governor Bill Owens on April 22, 2003, and the CATPA was placed under the supervision of the Colorado Department of Public Safety (CDPS), and administered by the CATPA Board, created by statute to effectuate the goals and responsibilities of the CATPA. CATPA's funds are held in a separate trust account that can only be used for auto theft prevention, enforcement, and prosecution programs approved by the CATPA Board.

In 2004, under the authority set forth in section 42-5-112(3)(f), C.R.S., the CATPA adopted a set of rules and regulations concerning the operation of the CATPA. These rules are codified in 8 Colorado Code of Regulations 1507-50.

Generally, these rules created a process by which law enforcement agencies or other qualified applicants would apply for grants to assist in improving and supporting automobile theft prevention programs, or programs for the enforcement or prosecution of motor vehicle theft crimes, through statewide planning and coordination.

⁹ Ibid.

On November 9, 2004, the Colorado Senate Committee on Legal Services (Committee) reviewed these rules and found that these rules involved an unlawful delegation of rule-making authority from the Executive Director of CDPS to the CATPA. Specifically, the Committee found that the rules conflicted with the statutes which require that the Executive Director of CDPS adopt the rules instead of delegating that responsibility to the CATPA Board.

Additionally, members of the CATPA Board, and the CATPA Board's past legal counsel, indicate that the Committee's position was that the Executive Director of CDPS has the final decision as to whether an agency receives a grant, and the CATPA Board disagreed. The CATPA Board desired to retain the ultimate decision making authority and subsequently submitted the same exact rules to the Committee.

The CATPA Board also felt that since this program consisted of voluntary contributions from the insurance industry, it was inappropriate to allow appointed government officials to be allowed to exercise a veto power over the CATPA Board's grant determination/selection process. Individual CATPA Board members have indicated that in at least two other states (Illinois and Michigan), designated ATPA funds were raided and shifted from their ATPA programs to other state agencies and programs. It should be noted that the controlling statutes do not specify that the Executive Director retains the final authority on grant allocations, but merely that the Executive Director is responsible for promulgating rules relating to:

- Requirements for qualified applicants;
- Application procedures;
- Grant criteria (selection, amount, and duration); and
- Procedures for reviewing success of programs.

The Committee voted unanimously to terminate the rules submitted by the CATPA, and therefore included them in the annual rule review bill, SB 05-183, for expiration on May 15, 2005. The Committee indicated that this was necessary due to the fact that the CATPA Board readopted the very same rules that the Committee previously determined were in conflict with the statutes. The CATPA Board's readoption of the identical rules appears to be intentional as the subsequent rules' statement of basis and purpose notes that CATPA rule numbers 5, 6, 7, 10, and 11 sunset on May 15, 2005. Generally, the rules that were considered to be contrary to the enabling statutes related to:

- CATPA Rule 5 – Application Procedures
- CATPA Rule 6 – Grant Recipient Criteria
- CATPA Rule 7 – Grant Amount/Duration Criteria
- CATPA Rule 10 – Appeal Process
- CATPA Rule 11 – Success Review Procedures

Legal Framework

The Colorado Automobile Theft Prevention Authority (CATPA) was established by the 2003 Colorado General Assembly in House Bill 03-1251, and subsequently codified in Section 112 of Article 5 of Title 42, Colorado Revised Statutes (C.R.S.). The CATPA was developed in conjunction and cooperation with Colorado motor vehicle theft investigators and private insurance industry members to solicit and award grants to qualified applicants for the general purpose of improving and supporting motor vehicle theft prevention programs, and for the enforcement and prosecution of motor vehicle theft crimes. Specifically, section 42-5-112(1), C.R.S., created the CATPA.

The CATPA's statutory directives allow law enforcement agencies or other qualified applicants to apply for financial grants to assist in improving and supporting automobile theft prevention programs, or programs for the enforcement or prosecution of automobile theft crimes through statewide planning and coordination.¹⁰

To administer and facilitate the CATPA's duties and responsibilities, a nine-member Colorado Automobile Theft Prevention Board (CATPA Board) was created.¹¹ The Board's composition consists of the following positions:

- Executive Director of the Department of Public Safety (CDPS), or his or her designee;¹²
- The Executive Director of the Department of Revenue, or his or her designee;¹³ and
- Seven members appointed by the Governor as follows:¹⁴
 - Three representatives of insurance companies who are authorized to issue motor vehicle insurance policies pursuant to Part 6 of Article 4 of Title 10, C.R.S.;¹⁵
 - Two representatives of law enforcement;¹⁶
 - A representative of a statewide association of district attorneys;¹⁷ and
 - A representative of the public who may also be a representative of a consumer group.¹⁸

¹⁰ § 42-5-112(1), C.R.S.

¹¹ § 42-5-112(2)(a), C.R.S.

¹² § 42-5-112(2)(a)(I), C.R.S.

¹³ § 42-5-112(2)(a)(II), C.R.S.

¹⁴ § 42-5-112(2)(a)(III), C.R.S.

¹⁵ § 42-5-112(2)(a)(III)(A), C.R.S.

¹⁶ § 42-5-112(2)(a)(III)(B), C.R.S.

¹⁷ § 42-5-112(2)(a)(III)(C), C.R.S.

¹⁸ § 42-5-112(2)(a)(III)(D), C.R.S.

CATPA Board members may not serve more than two consecutive six-year terms.¹⁹ CATPA Board members serve without compensation, except that CATPA Board members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the CATPA Board.²⁰

As part of its duties and responsibilities, the CATPA Board solicits and reviews applications for grants, and the CATPA Board may award grants for one to three years. Grant applications representing multi-jurisdictional programs are given a priority by the CATPA Board.²¹

Each program's grant application must describe the type of theft prevention, enforcement, prosecution, or offender rehabilitation program to be implemented.²² Such programs may include:

- Multi-agency law enforcement and national insurance crime bureau task force programs.²³
- Programs that engage in crime prevention efforts, that are intended to reduce the public's victimization by motor vehicle theft, fraud, and related crimes.²⁴
- Programs that provide or develop specialized training for motor vehicle theft investigations personnel to detect, prevent and combat motor vehicle theft and fraud and related crimes.²⁵
- Programs to provide for the support and maintenance of prosecutors with enhanced expertise in complex criminal cases arising from the activities of a multi-agency law enforcement program.²⁶
- Programs to prevent future criminal behavior by first time offenders who have been charged, convicted, or adjudicated for motor vehicle theft.²⁷

¹⁹ § 42-5-112(2)(b), C.R.S.

²⁰ § 42-5-112(2)(c), C.R.S.

²¹ § 42-5-112(3)(a), C.R.S.

²² Ibid.

²³ § 42-5-112(3)(a)(I), C.R.S.

²⁴ § 42-5-112(3)(a)(II), C.R.S.

²⁵ § 42-5-112(3)(a)(III), C.R.S.

²⁶ § 42-5-112(3)(a)(IV), C.R.S.

²⁷ § 42-5-112(3)(a)(V), C.R.S.

In selecting grant recipients, the CATPA Board, to the extent possible, ensures that grants are awarded to law enforcement agencies or other qualified applicants in a variety of geographic areas of the state. The CATPA Board is prohibited from requiring, as a condition of a receipt of a grant, that an agency or other qualified applicant provide any additional moneys to operate an automobile theft prevention program or a program for the enforcement or prosecution of automobile theft crimes.²⁸

The CATPA Board may appoint a director for the CATPA who may employ such staff as may be necessary to operate and administer the CATPA, subject to available moneys.²⁹ However, no more than eight percent of the moneys raised may be used for operational or administrative expenses of the authority.³⁰ Staff deemed necessary to support the CATPA shall be eliminated should moneys from gifts, grants or donations no longer be available to the CATPA.³¹

The Executive Director of CDPS is authorized to promulgate rules for the administration of the CATPA, including but not limited to:³²

- Requirements for an entity other than a law enforcement agency to be a qualified applicant;³³
- Application procedures;³⁴
- Grant selection criteria; and³⁵
- Procedures for reviewing the success of the programs that receive grants from the CATPA.³⁶

CDPS is authorized to accept gifts, grants, or donations from public or private sources to support the purposes of the CATPA. All such funds received by the CATPA must be transmitted to the State Treasurer, who then credits said moneys to the Colorado Auto Theft Prevention Cash Fund (Cash Fund). The moneys deposited in the Cash Fund are subject to annual appropriations by the General Assembly for the direct and indirect costs associated with this program. Any unexpended and unencumbered moneys remaining in the Cash Fund at the end of any fiscal year remains in the Cash Fund, and may not be credited or transferred to the General Fund or any other cash fund.³⁷

No moneys from the General Fund may be used to pay for grants awarded by the CATPA, or any expenses of the CATPA.³⁸

²⁸ § 42-5-112(3)(b), C.R.S.

²⁹ § 42-5-112(3)(c), C.R.S.

³⁰ § 42-5-112(3)(d), C.R.S.

³¹ § 42-5-112(3)(e), C.R.S.

³² § 42-5-112(3)(f), C.R.S.

³³ § 42-5-112(3)(f)(I), C.R.S.

³⁴ § 42-5-112(3)(f)(II), C.R.S.

³⁵ § 42-5-112(3)(f)(III), C.R.S.

³⁶ § 42-5-112(3)(f)(IV), C.R.S.

³⁷ § 42-5-112(4)(a), C.R.S.

³⁸ § 42-5-112(4)(b), C.R.S.

Program Description and Administration

A nine-member board of directors administers the Colorado Auto Theft Prevention Authority (CATPA). The individual CATPA Board (CATPA Board) members consist of:

- The Executive Director of the Colorado Department of Public Safety or his or her designee.
- The Executive Director of the Colorado Department of Revenue or his or her designee.
- Three members representing insurance companies in Colorado.
- Two members representing law enforcement in Colorado.
- One member representing a statewide association of district attorneys in Colorado.
- One member representing the public at large or a consumer group.

The CATPA Board receives and reviews applications for funding and awards grants for the following specific purposes:

- Programs to provide for multi-agency vehicle theft/fraud investigative units.
- Programs for crime prevention and public awareness to reduce auto theft.
- Programs to provide for specialized training for auto theft prevention and enforcement.
- Programs to provide for dedicated prosecutors for complex auto theft prosecutions.
- Programs to prevent future criminal behavior by first time offenders.

Beginning in 2004, the CATPA received financial donations and grants from several insurance companies. The majority of the donations were received in 2004, the first year of the program, and allowed the CATPA to commence its statutory duties. The specific donations received by the CATPA are set forth in Table 2, below.

Table 2
CATPA Donations Received

| Donation Received From | Date of the Donation | Total Amount of the Donation |
|--------------------------------|-------------------------------|-------------------------------------|
| State Farm Insurance Companies | January 2004 | \$693,448 |
| Progressive Insurance | January through December 2004 | \$30,000 |
| | January through December 2005 | \$35,000 |
| | January through December 2006 | \$35,000 |
| Country Companies | January 2005 | \$500 |
| | January 2006 | \$500 |
| TOTAL AMOUNT RECEIVED | | \$794,448.00 |

These voluntary donations came solely from insurance companies, with State Farm Insurance contributing the lion's share of the CATPA's operating budget.

Table 3, below, consists of total budget data for the CATPA, and includes donations, expenditures and operating expenses, and computes amounts available for disbursement through April 30, 2007.

Table 3
CATPA Budget Data

| Colorado Automobile Prevention Authority | | |
|--|---------------------------------------|---------------------|
| Account Balances as of 04/30/07 | | |
| Donations | | |
| Donors | State Farm Insurance Company | \$693,448.00 |
| | Progressive Insurance Company | \$100,000.00 |
| | Country Insurance | \$1,000.00 |
| TOTAL DONATIONS | | \$794,448.00 |
| Interest on the Account | | \$46,640.00 |
| TOTAL AMOUNT AVAILABLE | | \$841,088.00 |
| Expenditures - Actual as of 04/30/2007 | | |
| Contractor | Compensation | \$52,000.00 |
| | Expenses | \$3,289.14 |
| | Travel | \$0.00 |
| TOTAL FOR CONTRACTOR | | \$55,289.14 |
| Operating | Laptop Computer | \$2,687.32 |
| | Cell Phone | \$1,282.74 |
| | Office Supplies/Board Expenses | \$230.58 |
| | Printing of "Watch Your Car" Stickers | \$900.00 |
| TOTAL FOR OPERATING EXPENSES | | \$5,100.64 |
| TOTAL EXPENDITURES FOR FY 05, 06, and 07 | | \$60,389.78 |
| TOTAL AMOUNTS AVAILABLE FOR GRANTS AWARDS | | \$780,698.22 |

Pursuant to section 42-5-112(3)(d), Colorado Revised Statutes (C.R.S.), the total amount of moneys utilized by the CATPA for operational and administrative expenses may not exceed eight percent of funds collected. The total amount in the fund reached \$841,088 including interest earned on the capital, and eight percent of this amount is approximately \$67,287.04. Table 3 indicates that the CATPA used slightly less than the eight percent threshold amount for operational and administrative expenses, as limited by statute.

Table 4 delineates the specific grants awarded to various Colorado law enforcement agencies. This table also sets forth the number of stolen vehicle recoveries, and the value of the vehicles recovered. It should be noted that the donations set forth in Table 2 have been exhausted by the operating expenses set forth in Table 3, and the grant awards disbursed in Table 4.

Not all of the funds disbursed through financial grants went directly to the various law enforcement task forces to finance the direct interdiction of automobile thefts. Table 4 indicates that almost \$50,000 was directed to educational programs intended to educate Colorado citizens in relation to motor vehicle theft prevention.

**Table 4
Project Grant Awards**

| Lead Agency | Project Name | Purpose | Grant Award Number | Grant Award Period | FINANCIAL INFORMATION | QUARTERLY COMBINED ACTIVITY | | | |
|---|---|-------------|--------------------|--------------------|-----------------------|-----------------------------|------------------------------------|---------------------------|--------------|
| | | | | | Grant Award Amount | Stolen Vehicles Recovered | Value of Stolen Vehicles Recovered | "Chop Shops" Investigated | Altered VINS |
| Basalt Police Dept | Park Smart | Task Force | CATPA-06-0004 | 1/1/06-12/31/07 | \$39,344 | 141 | \$1,486,916 | 0 | 16 |
| Colorado State Patrol | Northern Colorado Auto Theft Team | Task Force | CATPA-07-0002 | 03/07/07-12/31/07 | \$44,244 | 0 | \$0 | 0 | 0 |
| Colorado State Patrol | Denver Metro Auto Theft Team | Task Force | CATPA-05-0001 | 12/1/04-06/30/07 | \$300,000 | 653 | \$4,825,202 | 65 | 21 |
| Colorado State Patrol | Motor Vehicle Investigative Fund | Task Force | CATPA-06-0007 | 01/01/06-12/31/07 | \$18,000 | 0 | \$0 | 0 | 0 |
| Pueblo Police Dept | Pueblo Auto Theft Prevention Program | Task Force | CATPA-06-0002 | 01/01/06-12/31/07 | \$21,200 | 0 | \$0 | 0 | 0 |
| Colorado Springs Police Department | Metro Reduce Auto Theft Task Force | Task Force | CATPA-07-0001 | 02/01/07-01/31/08 | \$32,298 | 0 | \$0 | 0 | 0 |
| Wheat Ridge Police Department | Multi-Family Housing Resident Sticker Program | Educational | CATPA-06-0005 | 1/1/06-12/31/06 | \$6,000 | 0 | \$0 | 0 | 0 |
| Colorado State Patrol | Northern Colorado Auto Theft Team | Task Force | CATPA-05-0003 | 12/01/04-12/31/06 | \$138,400 | 43 | \$1,053,900 | 2 | 5 |
| Colorado Springs Police Department | Metro Reduce Auto Theft Task Force | Task Force | CATPA-05-0005 | 01/01/06-11/30/06 | \$71,502 | 78 | \$1,232,925 | 1 | 1 |
| Colorado State Patrol | Watch Your Car Program | Educational | CATPA-05-0002 | 12/1/04-11/30/05 | \$6,795 | 0 | \$0 | 0 | 0 |
| Colorado State Patrol | Watch Your Car - Part II | Educational | CATPA-06-0001 | 10/1/04-09/30/06 | \$7,990 | 1 | \$5,000 | 0 | 0 |
| Colorado Auto Theft Investigators | CATI Training & Community Education | Educational | CATPA-05-0006 | 12/1/04-11/30/05 | \$10,000 | 0 | \$0 | 0 | 0 |
| Colorado Auto Theft Investigators | CATI Training & Community Education | Educational | CATPA-06-0003 | 2/1/06-12/31/06 | \$10,000 | 0 | \$0 | 0 | 0 |
| Washington County Sheriffs Office | Project Gotcha | Task Force | CATPA-06-0006 | 01/01/06-12/31/06 | \$4,100 | 2 | \$28,000 | 0 | 0 |
| Denver CopShop / Bear Valley Community Policing Storefront Inc. | Watch Your Car | Educational | CATPA-06-0009 | 03/15/06-12/31/06 | \$1,800 | 0 | \$0 | 0 | 0 |
| Arapahoe County Sheriffs Office | Bait Car Advertisement Campaign | Educational | CATPA-06-0008 | 3/2/06-12/31/06 | \$5,000 | 0 | \$0 | 0 | 0 |
| TOTALS: | | | | | \$716,673 | 918 | \$8,631,943 | 68 | 43 |

VINS = Vehicle Identification Numbers
CATI = Colorado Automobile Theft Investigators Assn.

Although Table 4 sets forth the numbers of vehicles recovered, and the total value of the vehicles recovered, it is difficult to estimate the number of vehicles that were initially stolen, as these vehicle theft task forces frequently worked in multiple jurisdictions, and over varied time periods. Nonetheless, Table 4 indicates that the total amount of recovered vehicles, \$8,631,943, far exceeds the \$794,448 (Table 3) invested in the CATPA.

Highlights from the CATPA Grant Activity

The CATPA contributed funding to grant applicants as part of the CATPA's statutory responsibilities. The funds were utilized to provide personal services, investigative operations, training and equipment. Although some of the grants went to single county law enforcement agencies, much of the funding went to multi-jurisdictional law enforcement entities.³⁹ Of course, most law enforcement agencies in Colorado conduct motor vehicle theft investigations as part of their normal operating procedures. The following is a short narrative of major grant recipients.

The Denver Metro Auto Theft Team

This team is comprised of 14 law enforcement agencies from the Denver Metropolitan Area including the Colorado Attorney General's Office, Department of Revenue, and State Parks. This task force has recovered a total of 653 stolen vehicles, investigated 65 chop shops, inspected 56 businesses, and arrested a total of 159 persons on automobile theft-related charges.

Northern Colorado Auto Theft Team

This is a collaborative effort among 10 law enforcement agencies in northern Colorado. This task force has recovered 43 stolen vehicles and arrested 47 persons on vehicle theft related charges. Additionally the team members have provided automobile theft training to 151 officers.

Metropolitan Reduce Automobile Theft

This partnership is comprised of the Colorado Springs Police Department, the El Paso County Sheriff's Office, and the Colorado State Patrol, which are working together to reduce automobile theft in the Colorado Springs area. El Paso County and the Colorado Springs area have experienced a significant reduction in vehicle thefts between 2004 and 2006 (see Table 5, page 19).

³⁹ §42-5-112(3)(a), C.R.S., indicates that the Board must give priority to applicants from multi-jurisdictional programs.

Roaring Fork Valley Task Force

Located on Colorado's Western Slope, this task force is comprised of the eight law enforcement agencies in the Glenwood Springs/Aspen area. To date, this task force has recovered a total of 54 stolen vehicles.

Project Gotcha

The Washington County Sheriff's Office received funding to purchase a Global Positioning System (GPS) device to combat the theft of farm machinery and construction equipment in Colorado's northeast corner.

Additionally, the CATPA provided funding for educational and citizen participation programs, which included:

Watch Your Car Program

Responding to high auto theft rates, a number of states and regions, with encouragement and support from federal agencies, began to organize to promote public awareness of vehicle theft and to lobby for passage of state legislation aimed at combating vehicle theft. Anti-car theft groups and automobile theft prevention authorities have implemented various prevention programs. The Watch Your Car program (WYC), sponsored by the Bureau of Justice Assistance, is one such program. The WYC program involves motor vehicle owners who voluntarily place stickers in their windshields that alert police that they can stop the car for a theft check during certain hours of the night and in certain locations.

Training and Community Education

A number of advanced training courses in the area of automobile theft were provided to all members of the Colorado Auto Theft Investigators (CATI). CATI is an organization whose members come from 30 law enforcement agencies, the insurance industry, and the National Insurance Crime Bureau. This is a tri-state organization (Colorado, Wyoming, and Nebraska) and its purpose is to educate its members about the latest developments in the field of automobile theft and associated crimes.

Analysis and Recommendations

Recommendation 1 – Sunset the Automobile Theft Prevention Authority and Board.

The effectiveness of the Colorado Automobile Theft Prevention Authority (CATPA) program lies in its capacity to prevent vehicle theft or, in the event a vehicle is stolen, to reduce the time between theft and recovery. More rapid recovery can reduce the amount of incurred damage, damage costs, and other personal losses specifically attributable to the theft incident. Thus, the primary measure of performance for the program is the number of prevented thefts, and the avoided costs and losses associated with those thefts. This value might be expressed as the difference between the observed incidence rate (actual incidents) and the expected incidence rate (incidents that would reasonably have been expected in the absence of the program).

Generally, automobile theft prevention programs are inherently difficult to evaluate because they are successful, by definition, when some event or act does not happen in the future. In other words, if a program to prevent motor vehicle theft is successful, incidents of theft will be reduced below expected levels or not observed at all. It is extremely difficult to isolate the effects of a motor vehicle theft prevention program from the effects of other factors that influence the rate of theft, the likelihood of recovery, and the elapsed time between the moment of theft and the point of recovery.

Automobile theft prevention authority (ATPA) programs are beneficial to individual states in that they have a real and diminishing impact on motor vehicle thefts and related crimes. However, it is difficult to evaluate these types of programs due to the number and types of factors that can influence the statistical data and analysis. Although Colorado experienced a decrease in stolen vehicles in 2006, as evidenced by the data in Table 6 on page 20, one year of positive data does not necessarily indicate a trend. Additionally, there is insufficient evidence to attribute a motor vehicle theft decline solely to the CATPA, and the grants that the CATPA allocated to law enforcement agencies.

The overriding problem with the CATPA relates to the funding source provided for in the CATPA's enabling statute. The statute that created the CATPA provided program funding by limiting funding to voluntary contributions and donations (from insurance companies doing business in Colorado) to the CATPA. Table 2, located on page 12, sets forth the total amounts and dates of these contributions to the CATPA.

The vast majority of the contributions and donations to support the CATPA occurred in the first year of the CATPA's existence, 2004. Since then, contributions and donations have been insignificant and insufficient to maintain and continue the CATPA in a viable capacity. It is apparent that most of the insurance companies doing business in Colorado have neglected, failed, or refused to make voluntary donations or contributions to this program, with only two insurance companies, State Farm and Progressive Insurance, tendering meaningful contributions to the CATPA. However, insurance companies do not need a state agency to act as a pass-through in order to provide funding, through donations or grants, to individual law enforcement groups that are involved in automobile theft programs. They could make donations directly to such programs.

This program cannot continue without a clear and consistent source of revenue. Indeed, the responsibilities of the CATPA are to collect and disperse donations and contributions by awarding financial grants to qualified and appropriate law enforcement applicants. Grants cannot be awarded if there is no money to fund them.

The problem of automobile theft is not limited to Colorado. Nationally, at least one million automobiles per year have been stolen in each of the past five years. The number of stolen automobiles has been increasing both nationally and in Colorado. Other states have found that ATPA programs have been beneficial in reducing auto theft, and have taken steps to provide adequate funding for an ATPA or similar agency to combat this far reaching crime.

Other States' ATPA Funding

Arizona ATPA: Funded by mandatory \$1.00 assessment per insured vehicle.

Pennsylvania ATPA: Funded by mandatory assessment per insured vehicle. Pennsylvania uses a formula to calculate the assessment to insurance companies. It is based on the percentage of policies that an insurance company issues in Pennsylvania compared to the total number of policies issued by all insurance companies in that state.

Virginia ATPA: Funded by 0.25 percent of total direct gross premium income from automobile physical damage insurance other than collision on a yearly basis.

Michigan ATPA: \$1.00 assessment on each insured noncommercial passenger vehicle, plus interest earned by investing those funds.

Louisiana ATPA: Funded by voluntary gifts, donations and grants.

Illinois ATPA: \$1.00 assessment per insured vehicle.

Texas ATPA: \$1.00 assessment on motor vehicle insurance policies.

Maryland ATPA: Funded yearly with a \$2 million appropriation from the legislature.

Washington ATPA: Funded by \$10 surcharge on all traffic citations.

Nevada ATPA: Fifty cents for each vehicle insured under policy of motor vehicle liability insurance collected semi-annually (January 31 & July 31).

Although the CATPA has been in existence for several years, it has helped fund several programs that have been instrumental in combating automobile theft. Table 5, below, sets forth the total number of vehicle thefts, and rate of thefts (number of vehicle thefts per 100,000 population), for the period including 2004, 2005, and 2006, in Colorado's seven largest metropolitan areas.

Table 5 indicates that, between 2005 and 2006, the Denver-Aurora and Colorado Springs metropolitan areas have experienced a decrease in the number of automobile thefts, and consequently a decrease in the rate of automobile thefts. Although many factors can influence or contribute to a statistical decline in automobile thefts, a significant but generally unquantifiable factor is the utilization of multi-jurisdictional law enforcement programs, which in Colorado are funded (at least partially) by the CATPA.

Table 5
Colorado Automobile Theft Rates and National Ranking - 2006⁴⁰

| National Rank | | | Area | 2004 | | 2005 | | 2006 | |
|---------------|------|------|---|--------|--------|--------|--------|--------|--------|
| 2004 | 2005 | 2006 | | Thefts | Rate* | Thefts | Rate* | Thefts | Rate* |
| 17 | 18 | 32 | Denver-Aurora, CO Metropolitan Statistical Area | 16,524 | 718.47 | 17,773 | 762.28 | 13,887 | 588.43 |
| 76 | 96 | 106 | Colorado Springs, CO Metropolitan Statistical Area | 2,516 | 439.99 | 2,352 | 405.93 | 2,200 | 374.47 |
| 139 | 125 | 131 | Pueblo, CO Metropolitan Statistical Area | 480 | 322.37 | 517 | 344.77 | 492 | 325.13 |
| 119 | 90 | 134 | Greeley, CO Metropolitan Statistical Area | 763 | 359.82 | 928 | 421.89 | 723 | 315.80 |
| 196 | 179 | 159 | Grand Junction, CO Metropolitan Statistical Area | 306 | 245.46 | 342 | 268.70 | 361 | 277.97 |
| 239 | 229 | 245 | Fort Collins-Loveland, CO Metropolitan Statistical Area | 537 | 201.53 | 584 | 217.13 | 512 | 188.29 |
| 265 | 210 | 264 | Boulder, CO Metropolitan Statistical Area | 482 | 173.39 | 664 | 237.52 | 497 | 177.22 |

* Thefts per 100,000 populations.

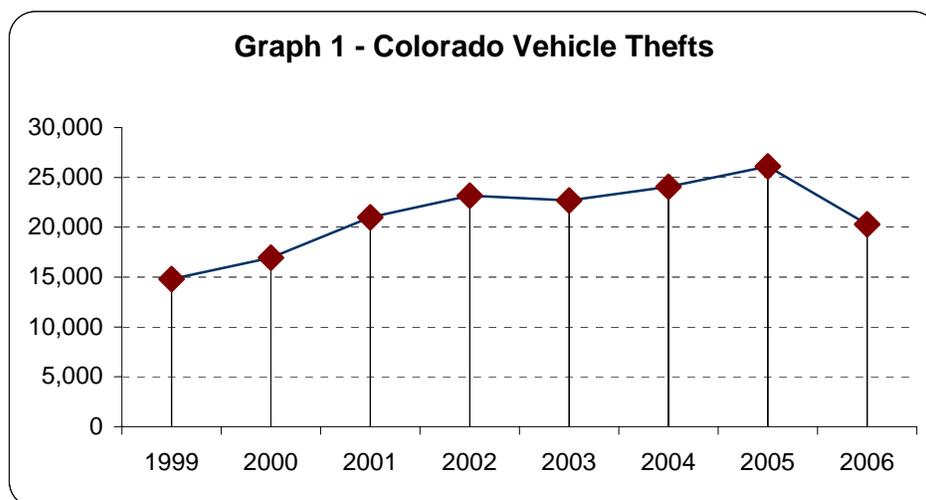
⁴⁰ NICB Hot Spots, Colorado, Accessed from <https://nicb.org/cps/rde/xchg/nicb/hs.xsl/index.htm>, on June 11, 2007.

In 2006, a total of 20,305 motor vehicle thefts were reported by Colorado law enforcement agencies. This constitutes an approximate 19.8 percent decrease in motor vehicle thefts from 2005. Automobiles accounted for 16,313 or 80.34 percent of the vehicles stolen in Colorado in 2006, and trucks or buses accounted for 2,418 or 11.91 percent of the vehicles stolen.⁴¹

Colorado has experienced a relatively steady increase in the number of motor vehicle thefts since 1999. In 1999, Colorado experienced almost 15,000 motor vehicle thefts statewide. The number of motor vehicle thefts increased to almost 20,000 in 2001, and over 25,000 in 2005, with an increase in each year, except 2003. Table 6 and Graph 1, below, demonstrate the increase in the number of motor vehicle thefts in Colorado since 1999.

Table 6
Total Colorado Motor Vehicle Theft

| Motor Vehicle Thefts in Colorado as reported by the CBI ⁴² | | | | | | | | 8-year total |
|---|--------|--------|--------|--------|--------|--------|--------|--------------|
| 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | |
| 14,633 | 16,132 | 19,373 | 21,679 | 20,176 | 22,971 | 25,315 | 20,305 | 160,584 |



Source: CATPA – Based on Figures from Table 6.

⁴¹ Colorado CBI, Motor Vehicle Theft, http://www.cbi.state.co.us/dr/cic2k6/major%20crime/motor_vehicle_theft.htm. Accessed July 24, 2007.

⁴² Colorado CBI, Annual Reports, http://cbi.state.co.us/us/dr/docs_reports.asp. Accessed March 12 and July 31, 2007.

While it can be argued that the CATPA should continue because of the value of the program goals, the effectiveness of this program cannot be proven. Since the program relies on voluntary funding from the insurance industry, and insurance companies do not need a state agency to effectuate funding for specific law enforcement agencies, the goals of the program can be pursued in the private sector even if the program is sunsetted. Indeed, the insurance industry could initiate and fund a non-profit entity to accept and dispense financial donations, if the industry felt that the goals of the program had value to the industry and the people of Colorado.

However, the statistical data and evidence showing a reduction in motor vehicle thefts is limited to 2006, and this one-year correlation does not establish or justify a specific recommendation to provide adequate funding to continue the CATPA program. Relatively simple factors, such as weather, local events, or population changes, could impact the overall motor vehicle theft rate in Colorado.

In the absence of a consistent funding source, the CATPA cannot function effectively. However, due to the many factors impacting motor vehicle theft, it cannot be conclusively established or proven that the CATPA program is responsible for the decline of Colorado motor vehicle thefts in 2006. Therefore, the CATPA should be repealed.

Appendix A – Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.