

Testimony of Justin E. Herdman
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“Federal Support for Preventing and Responding to Carjackings”
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Good morning. Thank you Senator Durbin, thank you Senator Grassley, and thank you members of the Committee for the opportunity to speak to you today on the vital issue of federal responses to carjacking. My name is Justin Herdman and from 2017 until early 2021, I served as the United States Attorney for the Northern District of Ohio.

The Northern District of Ohio is comprised of Ohio’s 40 northernmost counties, essentially every county north of Columbus. Pennsylvania borders us to the east, Indiana to the west, and Michigan, as well as a maritime border with Canada, to our north. Of Ohio’s eight major cities, the Northern District has five of them: Cleveland, Toledo, Akron, Canton, and Youngstown. In addition to major city crime problems, there are many rural communities, suburbs, and exurbs. Thus, when we’re talking about criminal trends in Ohio, and by extension the Midwest and beyond, the Northern District of Ohio has big-city problems, small-town problems, and everything in between.

Unfortunately, violent crime has increasingly touched all types of communities over the past several years. It is in our major cities, however, where the most profound violent crime problems continue to plague our district. As U.S. Attorney, I witnessed a pressing need to provide coordinated federal law enforcement support to local law enforcement in tackling violent crime. Unlike other areas of focus for federal prosecutors, the vast majority of violent crimes involve reactive law enforcement: a shooting or robbery takes place, police officers and other first responders arrive at the scene, and there is an immediate need to apprehend a suspect. The FBI, the ATF, the DEA, and the U.S. Marshals Service, among other agencies, each provide unique areas of expertise to assist local law enforcement in their investigations and prosecutions of all violent crimes. And while many of these crimes are best prosecuted on the local level, there are certain categories of violent crime that call for a heightened federal prosecutorial response. Traditionally, this has meant bank robberies and other violent robberies affecting interstate commerce. Within the past several years, however, I have seen a greater need for expansion of federal law enforcement activity, and overall will, to prosecute carjacking.

The reasons for a ramped-up federal response to carjacking are numerous. Before I get to some specific reasons why this crime calls for prioritized federal prosecution, let me first offer a view from my seat as the U.S. Attorney in Cleveland. In 2020 and 2021, the city witnessed a surge in all violent crime, but carjacking increased at a particularly alarming rate. Based on publicly available data, Cleveland experienced 285 carjackings in 2019. This number shot up to 355 in 2020, an increase of 25-percent, and went up to 433 carjackings in 2021. Thus, the overall number of carjackings in Cleveland in 2021 was over 50-percent higher than it was just two years before.

Obviously, behind each of these frightening numbers are victims who are forever changed by the crimes committed against them. In the summer of 2020, I highlighted one such case when we announced the expansion of Operation Legend, a comprehensive federal law

enforcement initiative, to the city of Cleveland. On the night of May 25, 2020, 17 year old Eric Hakizimana was returning home from soccer practice when he was senselessly murdered in a carjacking. Eric's family had fled to Cleveland as refugees from war-torn Congo, only to see their son murdered during a violent takeover of his vehicle. We announced a \$25,000 reward for information leading to the arrest of Eric's killer, and less than one month later a suspect was brought to justice. The investigation determined that Eric's killer was fleeing from another shooting when he came upon the teenager's car. After killing Eric, the murderer used his car to flee the scene.

Of course, there are more stories that underscore the highly dangerous nature of carjacking. Just to briefly touch on one additional one. On New Year's Eve this past year, 25 year old Shane Bartek, an off-duty Cleveland policeman, was shot and killed during a carjacking in the parking lot of an apartment building. The individuals arrested in that incident had numerous prior arrests for vehicle-related thefts and robberies. One of them, the alleged murderer of Officer Bartek, is an 18 year old woman with a juvenile record of robbery offenses involving firearms.

These two tragic cases are among hundreds of other carjacking offenses committed in Cleveland that, while not always involving injury or death, still pose outsized risks to the public. The reason for this is fairly obvious. Any robbery involves the use of force, and therefore is a serious violent crime, but here the object that is being taken is itself in motion and poses a variety of dangers. This fact requires the perpetrator to act quickly, with an overwhelming display or use of force, in order to force compliance from the victim. This is why we more often see shootings and killings associated with carjackings than we do with robberies of static locations like a store. Based on my experience as U.S. Attorney, I believe that the likelihood of force actually being used in a carjacking is much higher than with other crimes, which makes this a particularly pernicious form of violent crime.

Carjacking is also a facilitation crime. While there are clearly many examples of the robbery being committed for the purposes of "joyriding" the vehicle for a brief period of time, in my experience the vehicle that has been carjacked is most likely to be used for committing additional violent crimes, most notably pre-mediated shootings or commercial robberies. This fact also means that carjackings tend to be committed in serial fashion, usually by more than one person. For example, over nine days in December of last year, a group committed four armed carjackings in the geographically confined area of Cleveland's Little Italy. In the last of these carjackings, a 22 year old graduate student was shot and wounded.

One last general point that I would offer for the Committee involves the prevalence of juvenile offenders in committing these crimes. In March of last year, a group of 10 teenagers, ranging in ages from 14 to 19 years old, was arrested for a series of thirty armed carjackings and other violent robberies. The youngest offender, who again was only 14 years old, had been released from house arrest and ankle monitoring by a juvenile court judge only one month before embarking on the carjacking spree.

For purposes of fashioning effective federal responses to the crime of carjacking, then, I offer the following specific suggestions:

- First, the addition of a conspiracy offense to the federal carjacking statute, 18 U.S.C. §2119, would allow for an appropriate expansion of federal prosecutions aimed at preventing carjackings before they occur. As the examples provided earlier help to demonstrate, there are often juveniles involved in the commission of the immediate carjacking and we have seen cases where this was done deliberately in order to insulate adult offenders from federal prosecution. In order to effectively extend federal authority over the entirety of the carjacking group, including adult leaders and enablers, the addition of a substantive conspiracy charge would allow for a sensible extension of federal investigative resources and, ultimately, wider use of federal prosecutions to address those serial, serious offenders who are currently operating in a gray zone outside of federal reach.
- Second, prioritize carjacking responses in the current planning for violent crime reduction by federal investigative agencies, especially in violent crime task forces that are staffed by federal, state, and local law enforcement. As I've stated, carjacking plays an outsized role in the commission of other violent crimes. Federal agencies bring a wide variety of investigative tools that are either unavailable or underutilized by local partners. On the local level, each federal investigative agency, as well as every U.S. Attorney's Office, should develop a strategy specific to reducing carjacking in their given geographic area of responsibility. I would also encourage a similar planning process to be undertaken nationwide by the Department of Justice in order to identify assets and resources that could be deployed to assist cities dealing with a rash of carjackings.
- Third, and related to what I've just said, develop a nationwide best practices for carjacking response investigations that can be provided to every big city patrol officer and detective. In Cleveland and several of our other large cities, we routinely provided laminated cards that offered contact numbers for federal law enforcement and prosecutors, applicable federal statutes, and in some instances, a checklist of suggested on-the-scene questions, follow-up, and sensible steps that could be taken immediately (for example, seizing suspects' cellular telephones for possible execution of search warrants and identifying commercial or residential cameras that may be in the area). These outreach efforts are particularly effective when addressed at a specific offense that is prosecutable on the federal level, and carjacking would seemingly be an appropriate crime on which to focus such an effort.
- Fourth, the issue of juvenile offenders is one that does not necessarily weigh in favor of an expanded federal prosecution strategy. To be sure, there are certain cases that will involve juveniles and, based on the particular facts and circumstances of the case, merit potential federal prosecution. Still, the number of juvenile carjacking offenders far outweighs what U.S. Attorney's Offices could – or more importantly, should – charge. Instead, the prosecution of juvenile carjacking offenders will continue to be handled primarily by state and local authorities. Since many of the most violent juvenile offenders will have had prior contact with the criminal justice system, there is a place for smart screening of the highest risk offenders and ensuring that there are robust re-entry and rehabilitation efforts directed at those youth.

These are just a few of my suggestions, based on a twenty-plus year legal career, almost all of which has been spent as a state or federal prosecutor. Once again, I thank the Committee for an opportunity to address this critical issue of national importance and I look forward to answering any questions that you may have.