

January 23, 2018

Senator John Thune, Chairman  
Senator Bill Nelson, Ranking Member  
U.S. Senate Committee on Commerce, Science, & Transportation  
Walter E. Washington Convention Center  
801 Mt Vernon Pl NW  
West Salon Room  
Washington, DC 20001

Dear Chairman Thune and Ranking Member Nelson:

We write to you regarding the upcoming hearing on *Driving Automotive Innovation and Federal Policies*.<sup>1</sup> The witnesses asked to testify represent only auto companies and private research firms. So, EPIC provides these comments for the hearing record to help ensure that a consumer protection perspective is present in the Committee's consideration of these important issues.

The Electronic Privacy Information Center ("EPIC") was established in 1994 to focus public attention on emerging privacy and civil liberties issues. EPIC has worked extensively on the privacy and data security implications of connected cars. EPIC has testified before House Committee on Energy & Commerce on "The Internet of Cars"<sup>2</sup> and has also provided detailed comments to this Committee.<sup>3</sup> In a recent amicus brief to the Supreme Court, EPIC underscored the privacy risks of modern vehicles, which collect vast troves of personal data.<sup>4</sup> In another amicus brief, EPIC urged the Ninth Circuit Court of Appeals to protect the right of consumers to pursue safety issues with connected vehicles.<sup>5</sup> EPIC has also submitted numerous comments to NHTSA on privacy issues raised by networked vehicles,<sup>6</sup> including comments on the Federal

<sup>1</sup> *Driving Automotive Innovation and Federal Policies* before the Senate Comm. on Commerce, Science, & Transportation (Jan. 24, 2018), <https://energycommerce.house.gov/hearings-and-votes/hearings/self-driving-cars-road-deployment>.

<sup>2</sup> Statement of Khaliah Barnes, EPIC Associate Director, hearing on *The Internet of Cars* before the House Committee on Oversight and Government Reform, November 18, 2015, <https://epic.org/privacy/edrs/EPIC-Connected-Cars-Testimony-Nov-18-2015.pdf>.

<sup>3</sup> EPIC Statement, *Paving the Way for Self-Driving Vehicles* before the Senate Comm. on Commerce, Science, & Transportation (June 13, 2017), <https://epic.org/testimony/congress/EPIC-SCST-Paving-Self-Driving-Vehicles-Jun2017.pdf>.

<sup>4</sup> Brief of *Amicus Curiae* EPIC, *Byrd v. United States*, 679 Fed. Appx. 146 (3<sup>rd</sup> Cir. 2016), *cert granted*, 138 S.Ct. 54 (U.S. Sept. 28 2017) (No. 16-1371), <https://epic.org/amicus/fourth-amendment/byrd/Byrd-v-US-EPIC-Amicus-Brief.pdf>.

<sup>5</sup> Brief of *Amicus Curiae* EPIC, *Cahen v. Toyota Motor Corporation*, No. 16-15496 (9th Cir. Aug. 5, 2016), <https://www.epic.org/apa/comments/EPIC-NHTSA-AV-Policy-comments-11-22-2016.pdf>.

<sup>6</sup> *E.g.*, EPIC, Comments on the "Automated Driving Systems: A Vision for Safety" Nat'l Highway Traffic Safety Admin., Docket No. NHTSA-2017-0082 (Nov. 14, 2017), <https://epic.org/apa/comments/EPIC-NHTSA-AutomatedDrivingSystems.pdf>; EPIC, Comments on the Federal Motor Vehicle Safety Standards: "Vehicle-to-Vehicle (V2V) Communications", Nat'l Highway Traffic Safety Admin., Docket No. NHTSA-2014-0022 (Oct. 20, 2014),

Automated Vehicle Policy.<sup>7</sup> Last year EPIC delivered remarks to a joint workshop of the FTC and NHTSA on autonomous vehicles.<sup>8</sup>

New vehicle technologies are being quickly implemented by car manufacturers. But these new technologies also raise serious safety and privacy concerns that Congress must address. Current approaches, based on industry self-regulation, are inadequate and fail to protect driver privacy and safety. Increased congressional oversight is imperative, as this fast-evolving industry affects the safety and privacy of millions of Americans.

Connecting cars to the Internet has created many safety and privacy risks. Researchers have been able to hack into and take control of connected cars.<sup>9</sup> And there have been several high-profile accidents involving self-driving cars, for example, a bicyclist was struck by a self-driving car after it suddenly activated its brakes<sup>10</sup> and a self-driving car failed to stop at a red light at a busy intersection.<sup>11</sup> Cars with telematics transmit location data from a car and a service provider.<sup>12</sup> This leads to the collection of vast amounts of location information that exposes extensive private information on driver habits such as where a driver lives and works or where they go on a Friday night.<sup>13</sup>

Car manufacturers should be required to adopt data security and privacy measures. Early mitigation of threats to public safety may reduce auto fatalities, spur innovation, and result in safer vehicles.<sup>14</sup> There should be great concern for public safety because each autonomous car

---

<https://epic.org/privacy/edrs/EPIC-NHTSA-V2V-Cmts.pdf>; EPIC et al., Comments on the Federal Motor Vehicle Safety Standards; Event Data Recorders, Nat'l Highway Traffic Safety Admin., Docket No. NHTSA-2012-0177 (Feb. 11, 2013), <https://epic.org/privacy/edrs/EPIC-Coal-NHTSA-EDR-Cmts.pdf>; *see generally* EPIC, State Auto Black Boxes Policy (2015), <https://epic.org/state-policy/edr/>; EPIC, Automobile Event Data Recorders (Black Boxes) and Privacy (2015), <https://epic.org/privacy/edrs/>.

<sup>7</sup> EPIC, Comments on the Federal Automated Vehicle Policy, Nat'l Highway Traffic Safety Admin., Docket No. 2016-22993 (Nov. 22, 2016), <https://epic.org/apa/comments/EPIC-NHTSA-AV-Policy-comments-11-22-2016.pdf/>.

<sup>8</sup> EPIC Recommends National Safety Standard for "Self-Driving" Vehicles (June 28, 2017), <https://epic.org/2017/06/epic-recommends-national-safet.html>.

<sup>9</sup> Dr. Charlie Miller & Chris Valasek, Adventures in Automotive Networks and Control Units, IOActive (2014) [http://www.ioactive.com/pdfs/IOActive\\_Adventures\\_in\\_Automotive\\_Networks\\_and\\_Control\\_Units.pdf](http://www.ioactive.com/pdfs/IOActive_Adventures_in_Automotive_Networks_and_Control_Units.pdf); Steve Henn, With Smarter Cars, The Doors Are Open To Hacking Dangers, NPR (July 30, 2013), <http://www.npr.org/sections/alltechconsidered/2013/07/30/206800198/Smarter-CarsOpen-New-Doors-To-Smarter-Thieves>; Andy Greenberg, Hackers Remotely Kill a Jeep on the Highway – With Me in It, Wired, Jul. 21, 2015, <https://www.wired.com/2015/07/hackers-remotelykill-jeep-highway/>; Bruce Schneier, Hackers Stealing Cars, Schneier on Security, Aug. 11, 2016, [https://www.schneier.com/blog/archives/2016/08/hackers\\_stealin.html](https://www.schneier.com/blog/archives/2016/08/hackers_stealin.html); Bruce Schneier, Autonomous Vehicles as Bombs, Schneier on Security, Oct. 6, 2015, [https://www.schneier.com/blog/archives/2015/10/autonomous\\_vehi.html](https://www.schneier.com/blog/archives/2015/10/autonomous_vehi.html).

<sup>10</sup> Patrick May, Robot-Human Smackdown: Self-Driving Car and Bicyclist Collide in San Francisco, The Mercury News, Jun. 9, 2017, <http://www.mercurynews.com/2017/06/09/robot-human-smackdown-self-driving-car-and-bicyclist-collide-in-san-francisco/>.

<sup>11</sup> Mike Isaac & Daisuke Wakabayashi, A Lawsuit Against Uber Highlights the Rush to Conquer Driverless Cars, New York Times, Feb. 24, 2017, <https://www.nytimes.com/2017/02/24/technology/anthony-levandowski-waymo-uber-google-lawsuit.html>.

<sup>12</sup> 8 U.S. Gov. Accountability Office, GAO-14-649T, Consumers' Location Data: Companies Take Steps to Protect Privacy, but Practices Are Inconsistent, and Risks May Not be Clear to Consumers (2014), <http://gao.gov/products/GAO-14-649T>.

<sup>13</sup> *Id.* at 2

<sup>14</sup> *See generally*, Ralph Nader, *Unsafe at Any Speed* (1965).

maker wants to be the first to have their vehicle available to the public.<sup>15</sup> A functioning autonomous vehicle does not mean security and the race to be the first with a functioning, marketable autonomous vehicle jeopardizes the safety and security of consumers.

The Senate is considering a bill<sup>16</sup> on connected cars and the NHTSA recently released revised guidance<sup>17</sup> for connected cars, but both lack mandatory safety standards and encourage industry self-regulation. The recent trend by federal agencies to issue voluntary guidance and allow manufacturers to self-regulate is not working. While NHTSA's guidance is a helpful starting point, consumers would be safer if there were concrete minimum safety and privacy requirements for connected cars.

EPIC urges this Committee to take privacy and security risks into account as it examines the future of transportation as it relates to these vehicles. Several states have adopted laws for connected vehicles, but they vary from state to state.<sup>18</sup> Consumers nationwide deserve these protections. National minimum standards for safety and privacy are needed to ensure the safe deployment of connected vehicles.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee.

Sincerely,

*/s/ Marc Rotenberg*  
Marc Rotenberg  
EPIC President

*/s/ Christine Bannan*  
Christine Bannan  
EPIC Policy Fellow

---

<sup>15</sup> Mike Isaac, *Lyft and Waymo Reach Deal to Collaborate on Self-Driving Cars*, New York Times, May 14, 2017, <https://www.nytimes.com/2017/05/14/technology/lyft-waymo-self-driving-cars.html>; Alex Davies, *Detroit Is Stomping Silicon Valley in the Self-Driving Car Race*, Wired, Apr. 3, 2017, <https://www.wired.com/2017/04/detroit-stomping-silicon-valley-self-driving-car-race/>.

<sup>16</sup> S. 1885, AV START Act.

<sup>17</sup> Nat'l Highway Traffic Safety Admin., *Automated Driving Systems 2.0: A Vision for Safety* (Sept. 2017), [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0\\_090617\\_v9a\\_tag.pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0_090617_v9a_tag.pdf).

<sup>18</sup> Ark. Code § 23-112-107; Cal. Veh. Code § 9951; Colo. Rev. Stat. § 12-6-401, -402, -403; Conn. Gen. Stat. § 14-164aa; Del. Code § 3918; Me. Rev. Stat. Ann. tit. 29-A §§ 1971, 1972, 1973; Mont. Code § 61-12-1001 et seq.; Nev. Rev. Stat. § 484D.485; N.H. Rev. Stat. § 357-G:1; N.J. Stat. § 39:10B-7 et seq.; N.Y. Veh. & Traf. Code § 416-b; N.D. Cent. Code § 51-07-28; Or. Rev. Stat. § 105.925 et seq.; Tex. Transp. Code § 547.615; Utah Code § 41-1a-1501 et seq.; Va. Code §§ 38.2-2212(C)(s), 38.2-2213.1, 46.2-1088.6, 46.2-1532.2; Wash. Rev. Code § 46.35.010. 62 Va. Code Ann. § 38.2-2213.1 (West).