

SEARCHING A VEHICLE WITHOUT A WARRANT

Inventory Searches

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In this article of the *Quarterly Review*, I will discuss searching a vehicle without a warrant during an inventory search. Again, in discussing this exception to the Fourth Amendment's warrant requirement, the background, requirements, and scope of the search will be addressed. With regard to the scope of the search, the articles will focus on four specific areas: The passenger compartment of the vehicle; the trunk of the vehicle; unlocked containers located in the vehicle; and locked containers located in the vehicle.

BACKGROUND

Inventory searches are a "well-defined exception to the warrant requirement of the Fourth Amendment."¹ Where evidence is found during a lawfully conducted inventory search, it may be used against the defendant in a later trial. In *South Dakota v. Opperman*,² the Supreme Court outlined three justifications for allowing law enforcement officers to inventory lawfully impounded property without first obtaining a warrant. First, there is a need for law enforcement to protect the owner's property while it remains in police custody. Second, an inventory protects the police against claims or disputes over lost or stolen property. And third, an inventory is necessary for the protection of the police from potential dangers that may be located

in the property. Because inventory searches are routine, non-criminal procedures whose justification does not hinge on the existence of probable cause, "the absence of a warrant is immaterial to the reasonableness of the search."³ Instead, to be reasonable under the Fourth Amendment, "an inventory must not be a ruse for a general rummaging in order to discover incriminating evidence. The policy or practice governing inventory searches should be designed to produce an inventory."⁴ Thus, where law enforcement officers act "in bad faith or for the sole purpose of investigation,"⁵ an inventory search will be held invalid.

REQUIREMENTS

In order to conduct an inventory search on a vehicle, two (2) requirements must be met. First, the vehicle must have been lawfully impounded. There are a variety of reasons why law enforcement officers may lawfully impound a vehicle. As a practical matter, "the contact with vehicles by federal law enforcement officers

usually, if not always, involves the detection or investigation of crimes unrelated

PURPOSES OF INVENTORY SEARCHES

1. Protect Owner's Property While in Law Enforcement Custody;
2. Protect Law Enforcement Against Claims or Disputes Over Lost/Stolen Property; and
3. Protect Law Enforcement From Potential Dangers Located in the Property.

to the operation of a vehicle."⁶ In these types of cases, the federal law enforcement officer may arrest the individual and

¹ *Colorado v. Bertine*, 479 U.S. 367, 371 (1987)

² 428 U.S. 364, 369 (1976)

³ *Illinois v. Lafayette*, 462 U.S. 640, 643 (1983)

⁴ *Florida v. Wells*, 495 U.S. 1, 4 (1990)

⁵ *Bertine*, 479 U.S. at 373

⁶ *Cady v. Dombrowski*, 413 U.S. 433, 440 (1973)

impound the vehicle, should there be no other person available to take control of it. Unlike federal law enforcement officers, however, “state and local police officers ... have much more contact with vehicles for reasons related to the operation of vehicles themselves.”⁷ These state and local officers may impound vehicles for a variety of reasons unrelated to any criminal investigation.

In the interests of public safety and as part of what the Court has called ‘community caretaking functions,’ automobiles are frequently taken into police custody. Vehicle accidents present one such occasion. To permit the uninterrupted flow of traffic and in some circumstances to preserve evidence, disabled or damaged vehicles will often be removed from the highways or streets at the behest of police engaged solely in caretaking and traffic-control activities. Police will also frequently remove and impound automobiles which violate parking ordinances and which thereby jeopardize both the public safety and the efficient movement of vehicular traffic.⁸

The second requirement of a valid inventory search is that the inventory be conducted in accordance with a standardized inventory policy aimed at

accomplishing the justifications for inventory searches.

The underlying rationale for allowing an inventory exception to the Fourth Amendment warrant rule is that police officers are not vested with discretion to determine the scope of the inventory search. This absence of discretion ensures that inventory searches will not be used as a purposeful and general means of discovering evidence of crime.⁹

While the law enforcement agency involved must have a “standardized” inventory policy, several courts have upheld unwritten standardized policies.¹⁰ Nonetheless, as a practical matter, the best way for a law enforcement agency to avoid difficulty with this particular requirement would be to reduce their standardized inventory policy to writing. Finally, law enforcement agencies may establish their own standardized policies, so long as they are reasonably constructed to accomplish the goals of inventory searches and are conducted in good faith.

SCOPE

The scope of an inventory search is defined by the standardized inventory policy of the particular agency involved. As a general rule, however, inventory searches may not extend any further than

⁷ *Id.* at 441

⁸ *Opperman*, 428 U.S. at 368-369 (footnote omitted)

⁹ *Bertine*, 479 U.S. at 376 (Blackmun, J., concurring)(citation omitted)

¹⁰ See, e.g., *United States v. Griffith*, 47 F.3d 74 (2nd Cir. 1995); *United States v. Frank*, 864 F.2d 992 (3rd Cir. 1988); and *United States v. Ford*, 986 F.2d 57 (4th Cir. 1993)

is reasonably necessary to discover valuables or other items for safekeeping. For example, law enforcement officers are not justified in looking into the heater ducts or inside the door panels of a vehicle, in that valuables are not normally kept in such locations. The Supreme Court has upheld inventory searches of the passenger compartments of vehicles.¹¹ Additionally, inventory searches of the trunk have also been found valid.¹² Finally, inventory searches of containers, locked or unlocked, may be conducted, so long as the standardized inventory policy permits.¹³

¹¹ *Opperman*, 428 U.S. at 376; *Bertine*, 479 U.S. at 376. See also *United States v. Patterson*, 140 F.3d 767, 773 (8th Cir), *cert. denied*, 525 U.S. 907 (1998)

¹² *Dombrowski*, 413 U.S. at 448; *United States v. Judge*, 864 F.2d 1144, 1146 (5th Cir. 1989); and *Goodson v. City of Atlanta*, 763 F.2d 1381, 1386 (11th Cir. 1985)

¹³ *Opperman*, 428 U.S. at 371 (“When the police take custody of any sort of container [such as] an automobile ... it is reasonable to search the container to itemize the property to be held by the police”); *Bertine*, 479 U.S. at 376; *Lafayette*, 462 U.S. at 648; and *Wells*, 495 U.S. at 4.