

Vehicle Inventory Search

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In the past we have discussed motor vehicle inventory searches and the ability of officers to conduct inventory searches to protect the valuables of the vehicle owner and to protect the agency and officers from later claims of theft. But are officers able to go back and conduct a second search of the car under the community caretaker function when the actions of the operator lead officers to believe they may have missed something the first time through? Let's see what the Second Circuit had to say about that in *US vs. Williams*¹.

FACTS

The untimely death of a local gang member led NYPD detectives to conduct a surveillance of a funeral home based on information that there may be clashes between rival gangs. Surveillance detectives observed a white Nissan sedan heading towards the funeral home at a high rate of speed and weaving between lanes in a reckless manner. The detectives pursued the Nissan and motioned the driver to pull over.

Detectives approached the car and learned that the driver, Andy Williams, was properly licensed but was not included on the car rental agreement. Williams claimed his girlfriend rented the car and that he had been the only operator of the vehicle. Williams was arrested for speeding, reckless driving and unauthorized use of the rental car. A detective then drove the Nissan to the station while officers transported Williams in an unmarked car.

While detectives processed the arrest, other detectives conducted an inventory search of the car. During the inventory search officers located the following items:

- A roll of duct tape in the glove box;
- A pair of black gloves from the driver's side door;
- A hard, black mask found in the trunk in the spare tire compartment.

As the detectives were fingerprinting Williams, Williams asked what would become of the car. The detective responded that the car would be picked up by the rental company. Williams became visibly upset and asked to make a phone call. Within earshot of the detective, Williams called his girlfriend and directed her to immediately come to the police department and claim the car. Detective Lattore testified that Williams was visibly upset and agitated during the call.

Lattore advised other detectives that they should re-inventory the car because he believed there was something of value still in the car. During the second inventory search Detective Breton removed the top cover of the center console and found a loaded pistol. Breton testified that the particular car model does not have an opening in the center console, but the top is easily removed and suspects often hide items of value there. Breton further testified that the console top is easily removed and reattached by engaging three plastic snaps and does not require the use of any tools.

Williams was charged with possession of a firearm by a felon and agreed to talk with the detectives. Williams waived his rights and signed a statement that the gun was his. He also offered to work with detectives to set up firearms and narcotics “deals”.

Williams filed a motion to suppress the firearm, claiming that the second inventory search was prohibited by the 4th Amendment. The federal trial court denied the motion and Williams was convicted and sentenced to five years in federal prison. Williams then filed this appeal.

2nd Circuit Findings

On appeal, Williams makes the claim that the second search was strictly investigational and not conducted for the limited purposes required under the community caretaker exception to the warrant requirement.

The Second Circuit noted that the vehicle inventory search of a warrantless vehicle is allowed for three limited reasons – to protect the owner’s property while it is in police custody, to protect the police from “spurious” claims of lost or stolen property, and to protect the police from potential danger. In order to protect the privacy interests of the vehicle owner, officers must follow “standardized criteria or established routine” when conducting inventory searches. In this case officers followed NYPD directives when they conducted the initial inventory search of the vehicle. However, based on the defendant’s actions, officers believed they had missed “something of value” in the car and, therefore, conducted the follow-up inventory.

The court first concluded that both searches were conducted in conformance with the NYPD “Patrol Guide” that states “whenever an automobile comes into the custody of the NYPD, officers should search the interior of the vehicle thoroughly including any area that may contain valuables.” The Patrol Guide also authorizes officers to force entry into compartments within the vehicle “as long as it can be done with minimal damage”.

Williams argued that the Patrol Guide did not authorize a second search. However, the court held that “not every step of the search needs to be standardized by the policy”. The court concluded that, under the facts testified to at trial, “it was eminently reasonable” to conclude that Williams’ own behavior suggested a need to go back and re-inventory the vehicle. The fact that the detectives missed a valuable piece of property during the initial

search “did not make it any less valuable”. The court also noted that the issue of safety was even more acute since the vehicle was being returned to the rental agency.

The court concluded that the fact officers thought they might find evidence of a crime during the second search does not preclude their ability to conduct a second inventory under the community caretaker principles. The appellate court affirmed the conviction.

WRAP UP

Obviously, this is a good case for the NYPD detectives. That said, there are several court findings that are worth further review. First and foremost, in order to conduct inventory searches your agency must have a policy and procedure that addresses this activity. In addition, the directive must address whether officers can open locked containers during such searches.

Finally, the inventory practice is narrowly tailored to protect vehicle owners, officers and agencies from theft or false claims of theft or to protect officers from dangerous items. The purpose of the search IS NOT to find and secure evidence and officers need to testify accordingly during any court proceedings.

¹ U.S. v Williams, 2019 U.S. App. LEXIS 20262 (2d Cir. N.Y. July 9, 2019)

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