

## What are my rights if my property is taken by the police?

If the police take your car, money, merchandise, tools, clothing, jewelry, medication, or cellular phone when they arrest you, they must give you a voucher. The voucher is your receipt. It is a pink copy of a document that lists and describes everything that was taken from you. Cars, money, and personal effects are listed on separate vouchers. Boxes near the top of the voucher indicate why the property was taken. The back of the voucher contains directions for getting your property back.

Often, a prisoner is not given a voucher because he is transported to the central booking facility before the voucher has been prepared. If that happened to you, you may obtain one by going in person to the precinct of your arrest after you are released. Ask to speak to the property officer, and be prepared to tell her your arrest date, arrest number, and the name of the arresting officer. Your attorney has this information if you don't recall it. If the voucher is still not ready, ask the property officer for the number assigned to it.

You are entitled to a property voucher that is correct and complete. If the voucher is incorrect or incomplete, don't sign it. Indicate any missing item on the original white copy. If the officer forbids you to write on the voucher, or requires you to sign it, suggest that he consult his patrol guide. You do not have to sign the voucher to have your property returned. Tell your attorney if the voucher given to you is incomplete.

## Why was my property taken?

The police take property for four reasons:

**1. SAFEKEEPING** — Valuables such as money, jewelry and furs are often taken from a prisoner to prevent them from being stolen. A prisoner's car is sometimes impounded to keep it safe while he is in custody. Property taken for safekeeping will be returned upon presentation of the voucher and proper identification.

**2. FORFEITURE** — Property may be seized and held by the police because they believe it was used or ob-

tained while committing a crime. The police may permanently keep or sell property if they can prove in a civil court that it was unlawfully used or obtained. The police have been seizing for forfeiture:

**CARS** driven by a drunk or reckless driver or without a valid driver's license, or used to obtain drugs or the services of a prostitute, or that contain a loaded gun. Cars used in these crimes may be seized even if the owner of the car was not arrested for the offense.

**MONEY** that was exchanged for drugs, or that was intended to be exchanged for drugs, or used in gambling.

**MERCHANDISE** that was sold on the street without a vendor's license.

**TOOLS OR EQUIPMENT** that were used to break into a car or building or to sell drugs. This may include a beeper or mobile phone that was possessed for communication during a crime.

**3. EVIDENCE** — Property may be temporarily held as evidence by the district attorney, even though it is rightfully yours and was not used illegally. Although your attorney may sometimes be able to promptly reclaim this property for you, "arrest evidence" will often be held until the end of the criminal case, including all appeals. For example, the district attorney may hold your coat as evidence, if they believe that it will identify you as the person who committed a crime. If you are arrested for selling drugs, any large sum of cash that you were carrying will probably be held as evidence of the charge. Evidence may also be taken from people who are not charged with any crime, such as witnesses to or victims of a crime.

**4. CONTRABAND** — This is property that has been taken or confiscated because it is a crime to have it. This category includes illegal dugs, unlicensed handguns, switchblade knives, forged papers, counterfeit money, or fake credit cards. If you have been charged with possession of contraband, it will be held as evidence while your case is in court, and may be destroyed afterwards. Your lawyer will be aware of any alleged contraband, and will have an opportunity to inspect it before trial. Your lawyer may argue that your possession of this property is lawful, or that it was illegal for the police to search for this property.

## How do I get my property back?

The answer depends on whether the property was taken for safekeeping, evidence, forfeiture, or as contraband. Contraband will not be returned. If it is held as evidence, you will first need a release from the district attorney. Otherwise, you should apply directly to the police for return of your property. A listing of police property clerk offices appears on the last page of this brochure.

**SAFEKEEPING** — Property held for safekeeping can be obtained by presenting the voucher in person at the station house or property clerk's office after you are released from custody. Your property may still be at the station house where you were held, or it may have been brought to the property clerks' office in the county where you were arrested. If your car was taken for safekeeping, after 48 hours it will have been towed to one of the police auto pounds. To reclaim an automobile, you must submit a copy of the registration or title, as well as the police voucher. For all other property, your voucher is the only proof of ownership that is needed.

If you are held in custody while your case is pending, property held for safekeeping can be obtained by a friend or relative who has your voucher, a notarized letter from you which authorizes that friend or relative to claim your property, and proper identification. You may also apply for the return of your property by mail.

**EVIDENCE OR INVESTIGATION** — If your property is being held as evidence, the property clerk will require a release from the district attorney, as well as a voucher and proper identification for you or your claimant. A release is a short letter from the district attorney stating that she does not need the property as evidence. You can obtain a release directly from the district attorney while your criminal case is pending or when it is over. However, although your case is no longer in court, there may be a long delay in obtaining a release if the case is being appealed, reheard by a grand jury or adjourned in contemplation of dismissal (ACD). In these cases, ask your attorney if an earlier property release can be arranged. The district attorney must respond in writing to your request for a release within 15 days. If you are denied a release, you are entitled to a written explanation of why your property is

being held and review of an unfavorable decision by a supervising district attorney. The most common reasons for not releasing property are that the case is not completely over, the property is contraband, or there is an ongoing criminal investigation about its source.

In the case of a car impounded as evidence, the prosecutor must obtain an order from a judge authorizing impoundment for that reason. A person has the right to a hearing in criminal court to challenge such an order.

**FORFEITURE** — Cars are the most common item for which the police seek forfeiture. Before 2004, the legal process for recovering a seized car often took months or years. But, because of a federal lawsuit brought by The Legal Aid Society, *Krimstock v. Kelly*, that process has been greatly expedited.

Now, if your car has been seized by the police after an arrest, you have the right to a prompt hearing within 10 business days to challenge the impoundment of the car. The police are obligated to give you a form entitled "Notice of Right to Retention Hearing," which is used to request a hearing and also explains the hearing process.

Complete this form and make sure that it is served upon the Police Department at the address indicated. If you did not receive it from the police as part of the arrest paperwork, make sure to tell your attorney, who can help you to obtain a blank form.

Keep in mind that nothing happens with respect to a seized car until the Police Department receives the form requesting a hearing. When the police receive the form, they will schedule the hearing that will take place within two weeks at the **Office of Administrative Trial and Hearings (OATH), 40 Rector St., NY, NY 10006; 212-442-4900.**

You will be informed by letter of the date and time of the hearing. You have the right to be represented by an attorney at the hearing.

In order to retain the car, the police have the burden to show that it was used in the commission of a crime and that it must remain impounded to protect the public safety. You can challenge their assertions and their evidence, present evidence of your own, and, if you choose, testify and tell your side of the story. Either the driver of the seized car or its registered

owner (if a different person) may appear as a claimant at a hearing. An “innocent owner” defense may be available to an owner who did not know that the vehicle would be used in a crime. The OATH judge will issue a written decision a few days after the hearing. It will state whether the car will remain impounded or be returned to you, and explain the reasons.

The police may offer to settle the case before the hearing. Their terms always include a payment of money by you to regain the car and, in DWI cases, participation in an alcohol counseling program. It is best to consult with your attorney before you decide whether a hearing or a settlement is in your best interest.

### Getting to the Auto Pound

After you obtain from the NYPD Vehicle Seizure Unit the document authorizing return of your vehicle, present it at the main auto pound at College Point in Queens. It is also advisable to bring proof of your identity and ownership of the vehicle.

The College Point pound can be reached by taking the No. 7 train to Main Street, Flushing, and the Q25 bus to the pound. By car, take the Van Wyck Expressway (Whitestone Expressway) to the Linden Pl. exit. Take 31st Ave. to the end on Flushing Bay. Ask the Vehicle Seizure Unit whether your car is being held at College Point, or at the Erie Basin or Gowanus Pound. You may need to drive if your car is at the other pounds. Bring booster cables if your car has been in the pound for a long time.

### Retrieving Merchandise

Items seized because the seller did not have a vendor’s license are usually kept in the “large items” section in the Property Clerk’s office in Queens (see address below). Advice about how to recover this category of property can be obtained from the Urban Justice Center, Street Vendor Project. Its address is:

Urban Justice Center  
Street Vendor Project  
666 Broadway, 10th Floor  
New York, NY 10012  
646-602-5679 • 646-602-5681

### NYPD PROPERTY CLERK OFFICES

Manhattan	1 Police Plaza Rm. 5-20 New York, NY 10038 646-610-5906
Brooklyn	301 Gold Street Brooklyn, NY 11201 718-875-6676
Bronx	215 E161st St. Rm. C-27 Bronx, NY 10451 718-590-2806
Queens	47-07 Pierson Place Long Is. City, NY 11101 718-433-2678
Staten Island	1 Edgewater Plz. Rm 521 Staten Island, NY 10305 718-876-8413
Large items	Pierson Annex 47-15 Pierson Place Long Is. City, NY 718-361-1021
Automobiles	NYPD Legal Bureau Vehicle Seizure Unit 2 Lafayette St., 5th Fl. New York, NY 10007 917-454-1100 917-454-1111  College Point Auto Pound 129-05 31st Ave. College Point, NY 11354 718-445-0100  Erie Basin Auto Pound 700 Columbia St. Brooklyn, NY 11231 718-246-2030  Gowanus Auto Pound 2nd Ave and 29th St. Brooklyn, NY 11232 718-832-3584



## THE LEGAL AID SOCIETY

**Criminal Defense Practice**  
199 Water Street  
New York, NY 10038

TEL: 212-577-3300 • FAX: 212-509-8432

**BRONX COUNTY OFFICE**  
1020 Grand Concourse  
Bronx, NY 10451

TEL: 718-579-3000 • FAX: 718-588-2611

**KINGS COUNTY OFFICE**  
111 Livingston Street  
Brooklyn, NY 11201

TEL: 718-237-2000 • FAX: 718-237-8737

**NEW YORK COUNTY OFFICE**  
49 Thomas Street  
New York, NY 10013

TEL: 212-298-5000 • FAX: 212-298-5252

**QUEENS COUNTY OFFICE**  
120-46 Queens Blvd.  
Kew Gardens, NY 11415

TEL: 718-286-2000 • FAX: 718-286-2286

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# HOW DO I GET MY STUFF BACK

## Regaining Property from the New York City Police Department

