

Table of Contents

INTRODUCTION	Pg. 1
INVENTORY SEARCHES	Pg. 2
PURPOSES OF INVENTORY SEARCHES	Pg. 2
SOME CASES	Pg. 2
PEOPLE v WALKER, 20 NY3D 122 (2012)	Pg. 3
PRACTICE POINTERS	Pg. 5
PEOPLE V GOMEZ, 13 NY3D 61 (2009)	Pg. 5
PEOPLE V JOHNSON, 1 NY3D 252 (2003)	Pg. 6
PEOPLE V LEONARD 119 AD3D 1237 (3D DEP'T 2014)	Pg. 7
PEOPLE V ESPINOZA, 2019 NY SLIP OP 05593 (3D DEP'T 2019)	Pg. 8
BE CAREFUL WHERE YOU PARK YOUR CAR	Pg. 8
PEOPLE V RIVERA 2021 NY SLIP OP 08256 (2D DEP'T 2021)	Pg. 9
TARDI AT TARGET	Pg. 9

Table of Contents

DISSENTER SAYS THE IMPOUNDMENT AND INVENTORY WERE UNNECESSARY AND UNREASONABLE	Pg. 10
FINAL OBSERVATION	Pg. 10

TAKING STOCK OF INVENTORY SEARCHES

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INTRODUCTION

It is not uncommon for police who pull over motorists for suspected Vehicle and Traffic violations (People v Ingle, 36 NY2d 413 [1975], People v Robinson, 97 NY2d 341 [2001]) or approach a person in or near a stationary vehicle on suspicion of criminal activity (People v DeBour, 40 NY2d 210 [1976]) to end up searching the vehicle for contraband or evidence of crime.

While search warrants issued by a neutral magistrate may be the ideal legal vehicle for searching a motorized one, the practical realities of time and circumstance, coupled with considerations of vehicular mobility and motorists' diminished expectation of privacy can obviate the need for a warrant provided there is probable cause to believe that contraband, a weapon, or evidence of a crime will be found therein. (See People v Blasich, 73 NY2d 673 [1989], Carrol v US, 267 US 132 [1925]).

In People v Langen, 60 NY2d 170 (1983), the Court of Appeals held that there must be a NEXUS between the probable cause to search and the crime for which the arrest is made, but in People v Galak, 81 NY2d 463 (1993), the Court explained that the probable cause may be based on information of criminality obtained before the stop of the vehicle or developed from observations made contemporaneously with it.

In People v Thomas, 2020 NY Slip Op 01939 (2d Dep't 3/18/20), for example, the court upheld the "quick search" of a van, pursuant to the AUTOMOBILE EXCEPTION, after officers observed defendant sell several cartons of cigarettes through the open door of his minivan. The officers approached the minivan, after the sale, observed additional cartons of cigarettes, and then investigated the carton of stolen cigarettes(which lacked a NY Tax Stamp).

The key to such searches, with or without a warrant, is the existence of PROBABLE CAUSE which justifies the pursuit and recovery of incriminating evidence. Such is NOT the case, however, with INVENTORY SEARCHES, the purpose of which is simply to SAFEGUARD AND DOCUMENT THE CONTENTS of a vehicle that the police have impounded after arresting a defendant for a crime and/or violation of the Vehicle and Traffic Law.

INVENTORY SEARCHES

In *People v Walker*, 20 NY3d 122 (2012), the Court of Appeals, citing *Colorado v Bertine*, 479 US 367 (1987), held that when a motorist is arrested, the police may IMPOUND the vehicle and conduct an inventory search provided they act pursuant to reasonable police regulations relating to INVENTORY procedures administered in GOOD FAITH.

The determination of what constitutes a reasonable inventory search begins, as the Court stated in *People v Gomez*, 80 NY2d 715 13 NY 61 (2009), “with... the Fourth Amendment which protects citizens...from unreasonable searches and seizures by government actors, ...and the reasonableness of a search is calculated by weighing the governmental and societal interests advanced by the search against the individual’s right to be free from arbitrary interference by law enforcement officers.” (Citing *People v Galak*, 80 NY2d 715 [1993], *US v Brignoni-Ponce*, 422 US 873 [1975]).

PURPOSES OF INVENTORY SEARCHES

The objectives of an inventory search of a vehicle are to 1. SAFEGUARD THE DEFENDANT’S PROPERTY, 2. PROTECT POLICE FROM CLAIMS OF LOST, DAMAGED OR STOLEN PROPERTY and 3. to PROTECT law enforcement personnel from HARM from dangerous instruments or objects. (*Florida v Wells*, 495 US 1 [1990]).

An inventory search must be designed to PROPERLY CATALOGUE the contents of a vehicle searched and it CANNOT BE A RUSE for a general rummaging for incriminating evidence. (*People v Johnson*, 1 NY3d 252 [2003]).

Consequently, to meet constitutional standards, inventory searches should be conducted pursuant to ESTABLISHED PROCEDURES THAT CLEARLY LIMIT THE DISCRETION OF THE INDIVIDUAL POLICE OFFICERS TO ENSURE THAT THE SEARCHES ARE CARRIED OUT CONSISTENTLY AND REASONABLY. And, while the discovery of incriminating evidence (e.g., weapons, drugs, stolen property) may be the result of an inventory search, it CANNOT BE ITS PURPOSE. (*People v Galak*, 80 NY2d 715 [1993]).

SOME CASES

In *People v Galak supra*, police observed a vehicle with two occupants parked near a closed auto dealership. A license check revealed that the plate was from a different vehicle. The registration was also expired. The officers questioned the driver and the defendant (front-seat passenger) neither of whom had a driver’s license. The police arrested the driver and impounded the vehicle. They then searched it and found a blackjack, a dagger, and an unlawful ignition device in the passenger compartment. The defendant admitted ownership of these items and was charged with criminal possession of a weapon and burglar’s tools. The car was then transported to the police station. Five hours later, the arresting officer filled out an INVENTORY REPORT.

County Court denied the defendant’s motion to suppress physical evidence and his statements, and the Appellate Division (AD) affirmed. The Court of Appeals REVERSED, however, finding that the procedure

followed by the police was neither rationally designed to meet the objectives of an inventory search, nor did it constrain the discretion of the officers in the field.

The arresting officer testified that he did not know of any written departmental regulations for inventory searches, and he learned how to conduct them as part of his on-the-job training. Also, no inventory report was made at the time and place of the search but rather, as noted above, was prepared several hours later.

Also, instead of making a complete inventory of personal property in the vehicle, the officer followed what sounded like a haphazard procedure involving the seizure (and listing) of contraband and weapons and the undocumented return of money and other valuables to the owner. In the Court's view, the procedure did not do what inventory searches are supposed to do which is to CREATE A USEABLE INVENTORY.

With respect to the five-hour time lag between the search and the report of seized property, the Court noted that such report (which did not reflect the disposition of each item removed from the vehicle), is of little use to the police or to citizens who may dispute the whereabouts of an item or the accuracy of the record. As such, the Court considered the procedures employed here to be both arbitrary and irrational.

The Court also concluded that too much discretion was left in the hands of the officers regarding what to seize and what to return so as to render the procedure unreasonable. Accordingly, the Court belatedly granted the defendant's motion to suppress and dismissed the indictment.

PEOPLE v WALKER, 20 NY3D 122 (2012)

Here, the Court took a more generous view, finding that even though the People did not introduce the State Police policy into evidence, the trooper's testimony describing it was rather vague and the description of property returned to the defendant ("miscellaneous items and paperwork") was not detailed, the procedure employed was reasonable enough to meet the objectives of an inventory search.

The trooper testified that he pulled over the defendant's vehicle because the passenger was not wearing a seatbelt. When the defendant was asked for his license and registration, he could not produce a license (it had been revoked) and the registration listed the vehicle owner as the defendant's sister.

The trooper arrested the defendant and impounded the vehicle. Before it was towed away, he conducted an inventory search pursuant to State Police written policy ("where we go through the vehicle for any valuables and we have to write them down on a certain form,"), and found a handgun on the floorboard. He also filled out a VEHICLE INVENTORY FORM showing that in addition to the gun, he recovered "miscellaneous items" from the trunk and paperwork from the glove box (all of which had been returned).

The trial court denied the defendant's motion to suppress and after the defendant pled guilty to criminal possession of a weapon, the AD affirmed. (88 AD3d 1287 [4th Dep't 2011]). The Court of Appeals followed suit and rejected the defendant's argument that the trooper should have inquired whether the passenger was able to drive the vehicle away. In the Court's view, such inquiry was neither

constitutionally required nor administratively feasible. The Court also noted that neither the defendant nor his girlfriend presented that option to the police.

With respect to the inventory carried out in this case, the Court concluded that while it may not have been a model procedure, it met the constitutional minimum requirements for reasonableness. And, while the inventory list was neither detailed nor precise, it was sufficiently meaningful to apprise the owner of what was found. (Citing *Colorado v Bertine*, 479 US at 369).

See also *People v Kabia*, 2021 NY Slip Op 04635 (3d Dep't 8/5/21) where the Third Department upheld the lower court's denial of suppression of a shotgun found in the defendant's car because even though the police department's towing and inventory manual was not introduced in evidence, the officer gave detailed testimony regarding the substance of the procedure and the fact that he followed it and filled out the inventory report in accordance with department standards. According to the court, the inventory report and dash cam footage introduced in evidence established that the discovery of the evidence "evolved pursuant to a familiar police routine and not from a pretextual search for evidence." (Citing, *inter alia*, *People v Walker*, *supra* and *People v Brigg*, 21 AD3d 1218 [3d Dep't 2005].)

And see *People v Douglas*, 2021 NY Slip Op 02501 (1st Dep't 2021): The trial court was found to have properly found that the police followed a valid procedure for an inventory search of the defendant's vehicle leading to the discovery of a pistol. In the First Department's estimation, the forms used by the police were sufficient to create a MEANINGFUL INVENTORY LIST and there was no indication that this search was a ruse to search for incriminating evidence. (Citing *People v Walker*, *supra*).

Unlike, *People v Galak*, *supra*, the delay in conducting the inventory procedure was satisfactorily explained by the circumstances of the police investigation. (Citing *People v Echevarria*, 173 AD3d 638 [1st Dep't 2019]). The defendant's argument that the officer failed to demonstrate sufficient familiarity with inventory procedures was deemed to be UNPRESERVED.

And in *People v Peters*, 49 AD3d 957 (3d Dep't 2008), the Third Department upheld the lower court's denial of suppression of a gun and the defendant's statement that he'd gotten the gun from a friend and did not have a permit. The police arrested the defendant and his co-defendant for trespass after observing them fleeing from a vehicle that was parked behind an automotive garage in the early morning hours. The police impounded the vehicle and searched it which led to the discovery of a .44 magnum handgun, methamphetamines, and marijuana.

The court rejected the defendant's argument that the search was not conducted pursuant to legally valid procedures and found that the People MET THEIR BURDEN to show that the search was reasonable and conducted pursuant to STANDARDIZED POLICE PROCEDURES which met the objectives of inventory searches and properly limited the exercise of discretion by officers in the field. (Citing *People v Briggs*, 21 AD3d 1218 [3d Dep't 2005], *People v Johnson*, 1 NY3d at 256).

The court also noted that the defendant was given a copy of the department's towing and impound procedures at the suppression hearing, the officer testified that it was STANDARD POLICE PRACTICE to impound a vehicle LEFT ON PRIVATE PROPERTY after all occupants are arrested, and conducted an initial cursory search at the scene to identify the owner and to determine whether any items inside needed to be secured for officer safety or which could be easily lost.

A more thorough search was then conducted at the police impound lot to safeguard police personnel, protect the owner's property and to guard against claims of lost property. The police also logged the contraband into evidence, took photographs of the vehicle and LISTED THE ITEMS FOUND ON AN INVENTORY LOG.

In the court's view, the testimony ADEQUATELY DESCRIBED the established inventory search procedures and described the officer's compliance with the general objectives of inventory searches so as to make it reasonable and warrant denial of the motion to suppress. (Citing, *People v Schwing*, 13 AD3d 725 [3d Dep't 2004]).

PRACTICE POINTERS

Defense Counsel should make sure that whenever the People are relying on an inventory search to justify the seizure of evidence from a vehicle that their DISCOVERY includes the department's WRITTEN INVENTORY SEARCH POLICY MANUAL and all INVENTORY REPORT FORMS that were used to document and itemize all property that was observed and seized from the vehicle. These are also subject to FOIL.

The manual can be utilized to test the officer's knowledge of his/her own department's policies and to see whether he/she complied with them in the case at hand. If the People do not introduce the manual into evidence, the officer must sufficiently (and accurately) describe the procedures to show that the search was conducted pursuant to familiar, standardized requirements rather than on-the-fly to ensure that they satisfy the constitutional requirements of reasonable inventory searches.

Typically, when the People fail to meet their burden, it is for lack of a PROPER FOUNDATION to show that proper steps were taken in accordance with a policy that meets the objectives of inventory searches and limits the officer's exercise of discretion. (See. For example, *People v Gomez*, 13 NY3d 61 [2009]).

PEOPLE V GOMEZ, 13 NY3D 61 (2009)

In *Gomez*, police on patrol observed the defendant driving erratically on certain New York City streets, and while a computer check of the license plate revealed the defendant to be the owner, a further check showed that his driver's license was suspended. The police pulled the defendant over, arrested him and placed him in their patrol car. One of the officers recognized the defendant from a prior domestic incident in which the defendant reportedly attacked his mother and ended up being taken to a psychiatric facility for observation.

Upon their initial approach of the vehicle, one of the officers gained access via the passenger door (the driver's door was blocked) and performed a cursory search which yielded nothing of concern. A search of the trunk, however, revealed a bag containing a plastic bag of suspected cocaine, a scale, and some pills. As a crowd gathered, the officers decided to resume their inventory search at the station.

The trial court denied the defendant's motion to suppress, and the defendant then pled guilty to Criminal Possession of a Controlled Substance (CPCS) 3d degree. The AD REVERSED, finding that the People failed to: 1. establish the existence of any standardized procedure here for inventory searches, 2. present evidence that the search was conducted according to any standardized procedure and 3.

demonstrate the police created any MEANINGFUL INVENTORY LIST which is the HALLMARK of such a search of items found in a defendant's vehicle. (Citing People v Johnson, supra).

The Court of Appels AFFIRMED the AD, finding that the People FAILED TO MEET THEIR BURDEN of establishing a valid inventory search. Though the Court recognized that the NYPD has a standardized written protocol governing inventory searches in their Patrol Guide (with which the arresting officer testified that he was familiar), the People offered no evidence that the police conducted this search in accordance with such protocols. Even if they did, the Court reasoned, the People did not establish the circumstances under which opening and searching inside the trunk would be justified under such guidelines.

Also, while the officer filled out a voucher form (listing items held as evidence), the People did not demonstrate that no other items aside from the contraband were found in the defendant's vehicle. Though the failure to use a proper INVENTORY FORM was not necessarily fatal, what condemned this search, in the Court's eyes, was the absence of any indication that the procedure followed was designed to produce any inventory at all.

PEOPLE V JOHNSON, 1 NY3D 252 (2003)

The defendant in this case was pulled over after police observed him driving recklessly and at high speeds over various Manhattan streets. As the police approached the vehicle, one of the officers saw the defendant reach over and open and then close the glove box. When asked for his license and registration, the defendant produced the license and said that the vehicle was a rental for which he did not have the contract handy. The officer suggested that he check inside the glove compartment, but the defendant demurred, saying, "it's not in there." A license check showed that the defendant's driver's license was suspended.

One of the officers looked inside the glove box and found a loaded handgun. As the officers cuffed the defendant, he explained that he was a bodyguard and had the gun for protection.

The officer testified that the search of the glove compartment was an inventory search to make the car safe for police personnel when transporting the vehicle to the station, and to protect against claims of missing property. The police did not complete an inventory form at the scene or at the station. They did, however, prepare a "Stop-and-Frisk" report noting the recovery of the gun during a "search incident to arrest."

The vehicle was eventually released to the defendant's wife at the precinct house after she produced the rental contract. The vehicle was never vouchered.

The trial court rejected the officer's inventory search claim and suppressed the gun. The AD REVERSED, finding that the search at the scene was a valid limited, preliminary search. The Court of Appeals REVERSED the AD finding that the People's proof was CLEARLY INSUFFICIENT to satisfy their initial burden of establishing a proper inventory search. While the officer testified that he understood the general objectives of an inventory search, there was no evidence presented to establish the existence of any department policy.

Even if there was such a policy, the Court concluded that there was no evidence that it was followed by conducting a search that was limited to the glove compartment (and then leaving it there when they found it). The search also failed to produce a meaningful inventory list. The Court stated that an inventory search should be what its name implies; a search “DESIGNED TO PROPERLY CATALOGUE THE CONTENTS OF THE ITEM SEARCHED.” (Citing *People v Galak* 80 NY at 715).

Since the People failed to establish the existence of an inventory policy, much less that it was properly designed to meet the objectives of inventory searches or that this search was properly conducted in accordance with established procedures, the trial court was deemed to have rightly granted the defendant’s motion to suppress.

PEOPLE V LEONARD 119 AD3D 1237 (3D DEP’T 2014)

Similarly, in *People v Leonard*, 119 AD3d 1237 (3d Dep’t 2014), the People were found to have failed to meet their burden to establish a valid inventory search.

Shortly after midnight, the police stopped the defendant’s car for speeding, and a license check of the defendant/driver revealed an outstanding arrest warrant. Before his car was towed, the police conducted an inventory search and found an open plastic bag behind the driver’s seat on the floor. They searched inside the bag and found clothing and sneakers inside one of which was a bag of heroin. The officer listed on an inventory form a “bag of assorted clothes and sneakers, plastic baggie containing approx. 41 grams of off-white powder and a speaker box removed from the trunk.”

The trial court DENIED suppression, but the Third Department REVERSED, holding that the record failed to establish that the police conduct was reasonable. Though not fatal (*People v Gomez*, supra), the People did not offer the police inventory procedure manual into evidence. More importantly, they failed to elicit any testimony to establish the existence of a standardized inventory procedure, that it was reasonable and/or that it was followed in this case.

The officers gave only general explanations for their decisions with respect to the search, and any items not contained on the search list were excluded because the officers did not consider them to be of any value. Such unbridled discretion, in the court’s estimation, was contrary to the objectives of an inventory search. Consequently, absent the manual itself, or a satisfactory description of its directions and evidence of compliance with them, the exercise of discretion could not be described as reasonable.

The dissenting justice believed that the troopers gave an adequate description of the procedures they followed in conducting the search to support the conclusion that they followed a single familiar standard. (Citing *People v Walker*, 194 AD2d at 94). While this may not have been a model inventory, according to the dissenter, it met constitutional minimum standards of reasonableness and did not appear to have been motivated by a desire to search for evidence of a crime.

PEOPLE V ESPINOZA, 2019 NY SLIP OP 05593 (3D DEP'T 2019)

In *People v Espinoza*, 2019 NY Slip Op 05592 (3d Dep't 7/11/19), the trial court and the AD concluded that the so-called inventory search was just a PRETEXT for a search for incriminating evidence.

In this case, sheriff's deputies pulled the defendant over for speeding and then learned that his license was suspended. There was also an arrest warrant outstanding for the front-seat passenger. Before the vehicle was towed, the deputies searched the defendant and found forged credit and debit cards in his wallet. The deputies also found other forged credit cards and a "card reader" in the trunk of the vehicle. The defendant was charged and then later indicted on numerous counts of Criminal Possession of a Forged Instrument and Possession of a Forgery Device.

County Court granted the defendant's motion to suppress evidence and the Third Department AFFIRMED, finding that the People did not meet their initial burden of establishing a valid inventory search, and that the inventory was a pretext to locate incriminating evidence.

The court noted that that People did not offer any written inventory policy into evidence, nor did they elicit testimony establishing that any such policy was sufficiently standardized and reasonable or that the deputy followed it in this case.

The AD also chose not to disturb the credibility determinations of the lower court which appeared to be troubled by certain testimonial discrepancies with respect to when and where the wallet was located (on the defendant's person or in the car) and searched. (According to the deputy's testimony, the wallet was recovered twenty minutes before the inventory search began at 9:55am). Also, if the wallet was, in fact, discovered in the car, there was no record of it on the inventory form.

The deputy also denied giving the wallet to a Metro Transportation Authority (MTA) officer who came by to assist but the defendant introduced a recorded phone call at 9:30am wherein the deputy stated that the MTA officer had determined that the credit cards found in the defendant's wallet had been stolen from a particular drug store. Based on such testimony, County Court concluded that the deputy seized the wallet before the inventory search began and that any ensuing search was nothing more than a pretext for an evidentiary hunting trip.

BE CAREFUL WHERE YOU PARK YOUR CAR

In *People v Weeks*, 2019 NY Slip Op 08545 (2d Dep't 3/24/20), the defendant parked his car in a police station visitors lot and went inside the station to pick up some personal property of a friend who had recently been arrested. When he presented his I.D., the desk officer ran a check and found an outstanding bench warrant upon which he placed the defendant under arrest.

The police then impounded the defendant's vehicle and conducted an inventory search which led to the discovery of a handgun, a samurai sword, and some marijuana.

Supreme Court DENIED the defendant's motion to suppress but the Second Department REVERSED, holding that People had not established the lawfulness of the impoundment of the defendant's vehicle and the inventory search. (Citing, *People v Gomez*, supra).

The arresting officer testified that the defendant's vehicle was LEGALLY PARKED In a visitors parking space and there was no evidence of any posted time limits. And, while the officer testified that the car was impounded to protect the defendant's property from theft or vandalism, there was no history of vehicle break-ins or damage in the area where the car was parked.

The Court also found that the People failed to demonstrate that the impound-inventory procedure employed here served the interests of PUBLIC SAFETY and COMMUNITY CARETAKING functions. (Citing South Dakota v Opperman, 428 US 364 [1976]).

PEOPLE V RIVERA 2021 NY SLIP OP 08256 (2D DEP'T 2021)

A similar conclusion was reached in this case where the Second Department REVERSED the lower court's denial of suppression because the People offered no evidence of a history of burglaries in the area where the defendant's car was lawfully parked (near a corner) to justify impounding it in the interests of public safety or as part of law enforcement's community caretaking function. (Citing South Dakota v Opperman, supra and People v Tardi, 20 NY3d 1077 [2016]).

The officer testified that the department's inventory search policy was in the Patrol Guide, but the People offered no proof of the requirements of such policy for impounding and searching a vehicle, or whether he complied with it when conducting the search. Accordingly, since the People failed to establish the lawfulness of the impoundment of the defendant's vehicle or of the search, the defendant's motion to suppress should have been granted.

TARDI AT TARGET

In People v Tardi, supra, the Fourth Department rejected the defendant's argument that the Cheektowaga Police Department's inventory policy was unconstitutional and held that it was properly carried out when the police responded to a request from Target store security to arrest the defendant (who had reportedly stolen merchandise from this store before) for shoplifting and remove his vehicle from the parking lot.

Pursuant to the request and in accordance with their written policy, the police arrested the defendant, impounded the vehicle, and conducted a pre-tow inventory search which led to the discovery of a loaded handgun. The court noted that had the vehicle not been removed, it would have been left unattended indefinitely in a location which reportedly had a history of vandalism. Under the circumstances, the decision to impound the vehicle and conduct an inventory search was found to be consistent with a community caretaking function. (Citing, inter alia, US v Arrocha, 713 F3d 1159 [8th Cir 2013]).

There was also no indication that the officers were on the look-out for other incriminating evidence in the vehicle or towed the vehicle to search for such evidence. In the court's view, the decision to tow the vehicle pursuant to department policy was reasonable (US v Bertine 479 US at 375), and there was no requirement to inquire whether the defendant could arrange for removal of the vehicle in lieu of impoundment by the police. (Citing, inter alia, People v Walker, supra and South Dakota v Opperman, supra).

DISSENER SAYS THE IMPOUNDMENT AND INVENTORY WERE UNNECESSARY AND UNREASONABLE

The dissenting justice (Hon. Jenny Rivera), rejected the majority's community caretaking rationale, noting that the defendant was arrested outside the store, some distance from his car which was unrelated to the alleged shoplifting. The police learned at the scene that the car was registered to the defendant's mother and its location in the lot presented no threat to public safety nor did it interfere with traffic.

In the dissenter's view, there was also no basis to conclude that the defendant's car qualified as abandoned because there was no indication that it would remain in the parking lot indefinitely. (Presumably, the defendant's mother or wife could have picked it up).

As the dissenter saw it, "the Fourth Amendment cannot tolerate a practice of impoundment upon arrest. The community caretaking function must actually mean community caretaking and cannot authorize police officers to search cars that are neither a threat to public safety nor a problem for members of the community."

FINAL OBSERVATION:

As with all motor vehicle stops or approaches by police, before assessing the propriety of any search of a vehicle that results in the discovery of incriminating evidence, counsel should first determine whether the encounter initiated by law enforcement was justified from the start. For example, was there probable cause to believe the operator committed a Vehicle and Traffic violation or reasonable suspicion of criminality that justified pulling the vehicle over. Or in the case of a non-moving or parked vehicle, was the officer's approach and inquiry supported by the requisite level of suspicion under *People v DeBour*, supra.

The next step is to analyze the facts that led to the search of the vehicle and determine whether the People will be relying on the automobile exception or some other justification for the search like plain view, consent, exigency, or officer safety.

If the People argue that the evidence found was the result of an inventory search, they must be prepared to establish the existence of a standardized, written departmental policy that not only sets forth the objectives of the search (e.g., safeguarding property found therein, shielding the police against claims of missing or damaged property and protecting the searchers from harm), but also limits the exercise of individual police discretion so that the process is not just a pretextual exploration for evidence of crime. (*People v Galak*, supra).

Rather, an inventory search, as noted in *People v Johnson*, supra, is meant to be nothing more than a written recording or memorialization of all items found in a vehicle (or other object capable of holding property) that the police have elected to take control of rather than turn over to the owner or other designated party.

While the police are not required to inquire whether others are available to remove the car from the scene of an arrest (*People v Tardi*, supra), it is still worth inquiring on cross examination whether that option was available and even considered. If not, counsel may want to explore why the police felt compelled to take the time, cost, and inconvenience of having the vehicle towed to the station or

impound lot so that they could inventory its contents not unlike a grocery store stock person counting cans on the shelf at the end of a shopping cycle.

The fact is that good police officers are bloodhounds by nature and are almost always on the hunt for incriminating evidence (to make or strengthen their case), especially after pulling someone over and arresting him/her for a crime (or discovering that there is an outstanding warrant). If the officer admits that the prospect of finding evidence of a crime at least crossed his/her mind, then the door may be open to the possibility of establishing that the search was not so much a mundane, ministerial act but rather, a purposeful search for evidence.