



# OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Help Center

## VEHICLE SEIZURE (“KRIMSTOCK”) TRIALS AT OATH

### Basic rule

Following the NYPD seizure, or taking, of a vehicle as part of an alleged crime, the registered owner of the vehicle, or the person who was driving the vehicle at the time it was seized, may ask OATH to have the vehicle returned to them. The hearing to determine whether the vehicle may be returned is held at OATH's Trials Division and is called a “Krimstock” hearing.

**Note:** The person seeking the return of the vehicle must be either the registered or titled owner of the vehicle or the person who was driving the vehicle at the time it was seized. Only one of those people may make the request for the OATH hearing, and preference is given to the owner.

**Note:** The NYPD may file a lawsuit in New York State Court (separate and apart from OATH) against the vehicle owner to keep the car permanently, even if the vehicle is returned temporarily after a “Krimstock” hearing at OATH. This is called a forfeiture proceeding.

### Notice of right to a hearing

The NYPD must serve the driver at the time of arrest with notice of the right to an OATH hearing to have the vehicle returned (the notice is included within the “Vehicle Seizure Form”). The NYPD must also serve the registered or titled owner (or both) by mail with the same notice within 5 business days of the vehicle seizure. If NYPD fails to serve the driver and the owner with these two notices, at the time of arrest and in the mail, that may be a basis for the car to be returned.

### Scheduling the hearing

The NYPD must schedule the OATH hearing within 10 business days of receiving a request for a hearing. The request can be made by respondent by filling out the bottom of the Vehicle Seizure Form.

**Note:** The person arrested, or vehicle owner, may also demand a written statement from the District Attorney's office that keeping the vehicle as evidence is not necessary. The District Attorney must issue the written statement within 7 days of receiving such a demand or must seek, within those same 7 days, from the court handling the criminal case, a “retention order” (a court determination allowing the NYPD to hold the vehicle).

### What the NYPD must prove at the OATH “Krimstock” hearing to deny the return of the vehicle

- 1) “Probable cause” (similar to a reasonable basis) existed for the arrest.
- 2) It is “likely” that the NYPD will win in a lawsuit to keep the vehicle.
- 3) Keeping the vehicle is necessary because to return it would create a risk of vehicle loss, sale, destruction or would be a risk to public safety.

**Note:** To deny the return of the vehicle, the NYPD must prove all 3 of these things at the OATH “Krimstock” hearing.

**Note:** “Probable cause” is automatic if there has been a guilty plea to the charges in criminal court.

### Situations that may result in the return of the vehicle

◦ **“Innocent Owner”** – An owner may seek the return of the vehicle if the owner was not driving the vehicle at the time of the arrest and seizure, and if the owner did not allow or permit the use of the vehicle to commit a crime. (Note: The NYPD may try to show that the arrested driver, not the registered/titled owner, is the real owner of the vehicle.)

◦ **Notice** – An owner or driver may seek the return of the vehicle if there is evidence that NYPD did not serve the two required notices of the right to request a hearing.

These are only two potential situations; there may be others that result in the return of the vehicle. You have the right to appear at your hearing with an attorney. If you have these or other issues to raise and show with evidence, i.e., failure of NYPD to follow any of the above legal requirements, you may discuss those issues with your attorney and raise your concerns with the OATH Judge at your OATH “Krimstock” hearing. For more information, [click here](#).

**In order to schedule an appointment with someone from the OATH Help Center, please email us using this [Online Contact Form](#) or call us at [\(212\) 436-0845](#) prior to your scheduled OATH appearance.**