



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 either be** 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 a 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 with the same notice within 5 business days of the vehicle seizure. If NYPD fails to show that it served the driver or the owner with this notice, that may be a defense and 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 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 requesting that they show why keeping the vehicle is necessary. The District Attorney must issue a written response within 7 days of receiving such a demand and must also seek a “retention order” (a court determination allowing the NYPD to hold the vehicle) from the New York State Supreme Court within those 7 days.

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.

Potential defenses

The “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 can try to show that the arrested driver, not the registered/titled owner, is the actual owner of the vehicle.

The “Innocent Co-Owner” – *Co-owners* of the vehicle are also allowed to be heard at an OATH seizure hearing, and ask for the return of the vehicle, *if* the co-owner can show that they did not allow or permit the vehicle to be used as a means of committing a crime by the driver of the vehicle.

Note: These are just two possible defenses. If you have different defenses, i.e., failure of NYPD to follow any of the above legal requirements, you may discuss those with the OATH Judge at your OATH “Krimstock” hearing.

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.

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