



OLR RESEARCH REPORT

February 10, 2011

2011-R-0060

PROPERTY OF INNOCENT VICTIMS OF CRIMES

By: Amanda Gordon, Research Fellow

You asked how Connecticut and other states handle the property of innocent victims of crimes. You are particularly interested in what happens when a motor vehicle is seized as part of a criminal investigation when the owner of the car was not involved in the crime.

SUMMARY

People whose property is seized by law enforcement and held as evidence may have suffered the loss of property by: (1) seizure as part of a criminal act or (2) theft, then seizure as part of a criminal act.

In Connecticut, individuals have the right to have any property they own that is seized by police in connection with an arrest returned to them at the final disposition of the criminal action, or within six months if there is no criminal action. Recovered stolen property must be returned within 30 days of the victim's request unless law enforcement shows good cause for holding it longer.

Four other New England states and New York also require seized property to be returned to its owner when it is no longer needed as evidence in a criminal prosecution. Three of these states distinguish between stolen property and other seized property.

VICTIM'S RIGHT TO RETURN OF SEIZED PROPERTY IN CONNECTICUT

In Connecticut, a crime victim has the right to have any property he or she owns, which was seized by police in connection with an arrest, returned to him or her.

With several exceptions, courts must order seized property returned to its owner at the final disposition of the criminal action or as soon thereafter as practical. If there is no criminal action, the court must issue an order to return the property within six months after the owner makes a claim for its return. A crime victim makes a claim by contacting the prosecutor and asking him or her to file a motion to have such property returned.

Stolen property is treated differently. The law requires that stolen property be returned within 30 days of the request for return unless the court is holding it as evidence and shows cause for holding it longer. In the latter case, the court determines when the property must be returned ([CGS § 54-36a](#)).

If your constituent's car was stolen, the fact that he or she cannot get it back may indicate that the court needs to hold it longer as part of the ongoing investigation of the robbery.

VICTIM'S RIGHT TO RETURN OF SEIZED PROPERTY IN OTHER NEW ENGLAND STATES

We surveyed the other New England states and New York. Every state, except Maine, has a law that requires seized property to be returned to its owner when it is no longer needed as evidence in a criminal prosecution. New Hampshire, New York, and Rhode Island laws distinguish between stolen property and other seized property.

Massachusetts

In Massachusetts, seized property may be maintained for "as long as necessary" to be produced or used as evidence in any trial. The property must be restored to the owners as soon thereafter as practical (Massachusetts General Laws, Chap. 276, §3).

New Hampshire

In New Hampshire, seized property may be maintained “so long as necessary” to permit it to be produced or used as evidence in any trial. Upon request, property that is stolen, embezzled, fraudulently obtained, or of evidential value may be returned to the owner before trial unless cause is shown for holding it longer (NH RSA § 595-A:6).

New York

In New York, the court may maintain stolen property as evidence when there is “good cause” for doing so. Upon request by the owner, a motor vehicle necessary for “the health or welfare of any person” may be returned to the owner either (1) 48 hours after receipt of the request or (2) when examination, testing, photographing or reproduction of such property is completed, whichever occurs first (New York Code, Article 450, § 450.10).

Rhode Island

In Rhode Island, seized property may be maintained “so long as may be necessary” to be used as evidence in any case. Property that is stolen or otherwise unlawfully taken from the owner, not used or intended for an unlawful purpose, or used without knowledge of the owner must be returned to the owner “as soon as may be thereafter” (R.I.S. § 12-5-7).

Vermont

In Vermont, seized property may be maintained for evidentiary purposes, but must be returned to the owner upon the prosecutor’s authorization (13 V.S.A. § 5311).

AG: ek