



**LGIT'S ROLL CALL REPORTER  
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**An inventory search must be carried out pursuant to standardized criteria or routine established by the law enforcement agency whose officer conducts it.**

**QUESTION: Can an officer conduct an inventory search of a vehicle subsequent to arrest as part of the ongoing criminal investigation?**

**ANSWER: No. An inventory search authorizes the search of a vehicle in lawful police custody for the purpose of cataloging property located therein. Criminal investigation is *not* grounds upon which to conduct an inventory search.**

**CASE: *William E. Briscoe v. State of Maryland*, Court of Appeals of Maryland  
Decided October 24, 2011**

In this case, the Court of Appeals of Maryland once again considered the subject of inventory searches. The facts established that on June 26, 2007, Officer Lavgh Bormanshinov of the Baltimore City Police Department observed a minivan traveling near the 1200 block of Presstmen Street in Baltimore. Its taillights were not illuminated. Officer Bormanshinov activated his lights and trained his spotlight on the minivan indicating to the driver to pull over. The driver, William Briscoe, immediately pulled over. Officer Bormanshinov approached and asked Briscoe for his driver's license and registration. Briscoe could only produce the registration. The registration showed that the minivan was registered to Ms. Luella Lane.

Officer Bormanshinov returned to his car and ran a check on Briscoe. He learned that Briscoe's license was suspended and that there was an open warrant for his arrest. The officer then returned to the minivan and asked Briscoe for his keys. After getting the keys, Officer Bormanshinov went back to his car and confirmed that the warrant was still open. With this information, he returned to the minivan and ordered Briscoe and his passenger to exit the vehicle and take a seat on the curb. He told Briscoe that he was under arrest and then, in his words, he "did an inventory search of the vehicle." Using the keys given to him by Briscoe, the officer unlocked the glove compartment and found a handgun inside. He also found several vials of suspected cocaine, one in the coin slot to the left of the steering well and two more in a Colt 45 can that was in the vehicle's center console.

At some point, Officer Bormanshinov decided to have the minivan towed to the "City yard." He was unable to reach the vehicle's owner, Ms. Lane, to let her know where the car could be found. It was Officer Bormanshinov's understanding that departmental procedure required him to search a vehicle before it was towed from the scene. He further understood

that departmental procedure allowed him to have a vehicle towed once he determined that the driver's license was suspended or that the driver was not the registered owner. At the suppression hearing, however, the officer testified that he wasn't aware of any specific general orders that dictated what he or any other officer should do in these circumstances. On the other hand, he testified that he was familiar with the procedures that required him to do an inventory of the car's contents prior to its being towed. In addition to the gun and drugs, an empty oxygen tank was found in the car.

Briscoe was charged with possessing a regulated firearm after having been convicted of a disqualifying crime; wearing, carrying, or transporting a handgun in a vehicle; possessing cocaine; and driving on suspended license. His motion to suppress the handgun was denied on grounds that it was discovered during a valid inventory search and/or a valid search incident to arrest. Briscoe was tried by jury and convicted of all counts. He was sentenced to five years of imprisonment without the possibility of parole. Briscoe appealed.

On appeal, the Court of Special Appeals held that the handgun was recovered during a valid inventory search. The Court of Appeals, Maryland's highest court, then agreed to review it. Although the Court of Appeals ultimately affirmed the conviction, it did so on grounds discussed in the Note below. Before reaching its decision, however, the Court held that the search of the glove compartment box was *not* a valid inventory search. An "inventory search," which is an exception to the warrant requirement, generally authorizes the search of a vehicle in lawful police custody for the purpose of cataloging property located therein. The purposes of an inventory search are threefold: (1) to protect police from danger; (2) to protect the owner's property; and (3) to protect police against claims and disputes over lost property. An inventory search must be carried out pursuant to standardized criteria or routine established by the law enforcement agency whose officer conducts it. Criminal investigation is *not* grounds upon which to conduct an inventory search. Here, the Court of Appeals was concerned with the officer's inability to articulate his department's procedures controlling inventory searches in greater detail. He testified in general terms and without reference to a single general order. Officer Bormanshinov gave no indication that his department's inventory search policy provided any standardized criteria controlling the search of closed or locked containers and whether the search of the locked glove compartment was done according to that policy.

In sum, the absence of evidence of concerning standardized criteria, both in the officer's testimony and in the State's failure to introduce the written departmental policy at the suppression hearing, was fatal to the contention that a valid inventory search led to the discovery of the handgun.

**NOTE:** This case emphasizes that officers need to be well versed in their departmental policies and procedures governing inventory searches. Also, at suppression hearings where inventory searches are an issue, always provide the court with a copy of all pertinent departmental rules, regulations, and general orders. The appellate courts will not read into the record evidence that was not produced in the trial court. If the evidence is not there, it is impossible to distinguish a valid inventory search from a general investigatory search. As stated above, Briscoe's conviction was ultimately upheld. The court upheld it on grounds that the officer acted in good faith and in accordance with the decision in *New York v. Belton*, which was still controlling law at the time the search of the locked glove

compartment was made. In 2009, the holding in *Belton* (which allowed passenger compartments and their contents to be searched incident to arrest) was severely limited by the 2009 decision in *Arizona v. Gant*. Would the holding in *Arizona v. Gant* have allowed the search of the locked glove box? Keep in mind that the suspect was secured and away from the vehicle at the time of the search and his arrest was based on an open warrant. Since the outcome of this question is not critical here, I leave it for discussion among patrol officers and their supervisors.

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