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the owner's intentions pertaining to the disposition of the vehicle.

(b) *Stolen POVs or vehicles involved in criminal activity*. (1) When the POV is to be held for evidentiary purposes, the vehicle should remain in the custody of the applicable Service or DLA until law enforcement purposes are served.

(2) Recovered stolen POVs will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen, as appropriate.

(3) A POV held on request of other authorities will be retained in the custody of the applicable Service or DLA until the vehicle can be released to such authorities.

§ 634.52 Search incident to impoundment based on criminal activity.

Search of a POV in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(a) The owner or operator is not present. This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be obtained before searching.

(b) The owner or operator is present. This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the police or public or if there is risk of loss or destruction of evidence, an investigative type search of the vehicle may be conducted without search authority. (Air Force, see AFP 125–2).

§ 634.53 Disposition of vehicles after impoundment.

(a) If a POV is impounded for evidentiary purposes, the vehicle can be held for as long as the evidentiary or law enforcement purpose exists. The vehicle must then be returned to the owner without delay unless directed otherwise by competent authority.

(b) If the vehicle is unclaimed after 120 days from the date notification was mailed to the last known owner or the owner released the vehicle by properly completing DD Form 2505, the vehicle will be disposed of by one of the following procedures:

(1) Release to the lienholder, if known.

(2) Processed as abandoned property in accordance with DOD 4160.21–M.

(i) Property may not be disposed of until diligent effort has been made to find the owner; or the heirs, next of kin, or legal representative of the owner.

(ii) The diligent effort to find one of those mentioned in paragraph (a) of this section shall begin not later than 7 days after the date on which the property comes into custody or control of the law enforcement agency.

(iii) The period for which this effort is continued may not exceed 45 days.

(iv) If the owner or those mentioned in §634.52 are determined, but not found, the property may not be disposed of until the expiration of 45 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at his last known address.

(v) When diligent effort to determine those mentioned in paragraph (b)(2)(iv) of this section is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of more than $500, the law enforcement official may not dispose of the property until 45 days after the date it is received at the storage point.

(c) All contracts for the disposal of abandoned vehicles must comply with 10 U.S.C. 2575.