

Repo Madness- Dangers, Developments, and Calls for Change in Auto Repossession

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April 15, 2010

Speakers

- **Leah Plunkett**
 - The National Consumer Law Center Inc.
- **Joseph S. Taylor**
 - Vice President of Recovery Industry Services Company
- **Jay Stanley**
 - Director of Public Education for the ACLU's Technology and Liberty Program

Self-Help Repossession

- Creditor or creditor's agent takes the car
 - Requirements
 - Valid Security Interest in the Vehicle
 - Default
 - Acceleration
 - Must Not Breach the Peace
 - Law enforcement not involved

Self-Help Repossession

An Anomaly

- Policy Generally Disfavors Self-help
- Historical Reasons
- Time to take another look...

THE SELF-HELP COLLATERAL RECOVERY (REPOSSESSION) PROCESS

Joe Taylor

Vice-President, Director of Education

RISC

NCLC
NATIONAL
CONSUMER
LAW
CENTER*

Advancing Fairness
in the Marketplace for All

LEGALITY OF THE PROCESS

- **US Supreme Court Rulings**
- **Appellate and State Court Rulings**
- **Uniform Commercial Code (UCC) Language**

SELF-HELP COLLATERAL RECOVERY PROCESS AS A PUBLIC SAFETY ISSUE

- **Including all types of repossessions....over 3 million per year.**
- **“Inherent” Risks**
- **Sub-Prime....Loose Credit Requirements.**
- **Proliferation of untrained, uninsured, improperly insured, criminal element into the industry.**
- **No cost effective method for lending community to select certified collateral recovery professionals. RISC working on a procedure.**
- **State regulatory oversight by only Florida, California, Louisiana and City of Chicago.**

SOLUTIONS

Legal process for all repossession activity.

- **Would overwhelm court system and law enforcement.**
- **Also result in stricter credit requirements which would punish consumers most in need of financing services.**
- **Would punish an entire profession for the acts of a few.**
- **Example; over 3 million repossessions....54 serious incidents**
- **Bernie Madoff actions devastated thousands, mostly senior consumers.**

SOLUTIONS

Minimal, Sensible, Effective state regulatory oversight of licensing and activities.

- **Only 3 states, Florida, California, Louisiana, and City of Chicago have specific law governing licensing and activities.**
- **Our national organization, RISC, has developed a Legislative Template.**
- **Being considered in South Carolina presently.**
- **Currently working with collateral recovery professional in Michigan, Pennsylvania, New Jersey, Indiana, Georgia and Alabama.**
- **Difficulty of legislative process.**

Repo Madness

Questions

New Technology in Repossession

- Electronic repossession
 - Disabling
 - GPS tracking
 - Buzzers, Horns
- Concerns
 - Placing people in dangerous situations
 - Unfair leverage over consumer
 - Privacy
 - Damage to vehicle after disabled

New Technology in Repossession

- License Plate Scanners
 - Used by military, law-enforcement, toll booths, now repo agents
 - Fixed and mobile cameras
 - Data used in immediately and can be stored for future use
 - What data is stored and how

Repo Madness

Questions

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For more information

- To subscribe to the listserv of those interested in Cars and Working Families just go to:
<http://lists.nclc.org/subscribe/> and check the Auto Ownership, Finance, and Policy list
- Visit the following websites:
 - National Consumer Law Center's Auto Page:
 - <http://www.consumerlaw.org/issues/auto/index.shtml>
 - Recovery Industry Services Company:
 - <http://www.riscus.com/>
 - ACLU's Technology and Liberty Program:
 - <http://www.aclu.org/technology-and-liberty>

Repo Madness: How Automobile Repossessions Endanger Owners, Agents and the Public

April 15, 2010

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National Consumer Law Center

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REPO MADNESS

HOW AUTOMOBILE REPOSSESSIONS ENDANGER
OWNERS, AGENTS AND THE PUBLIC

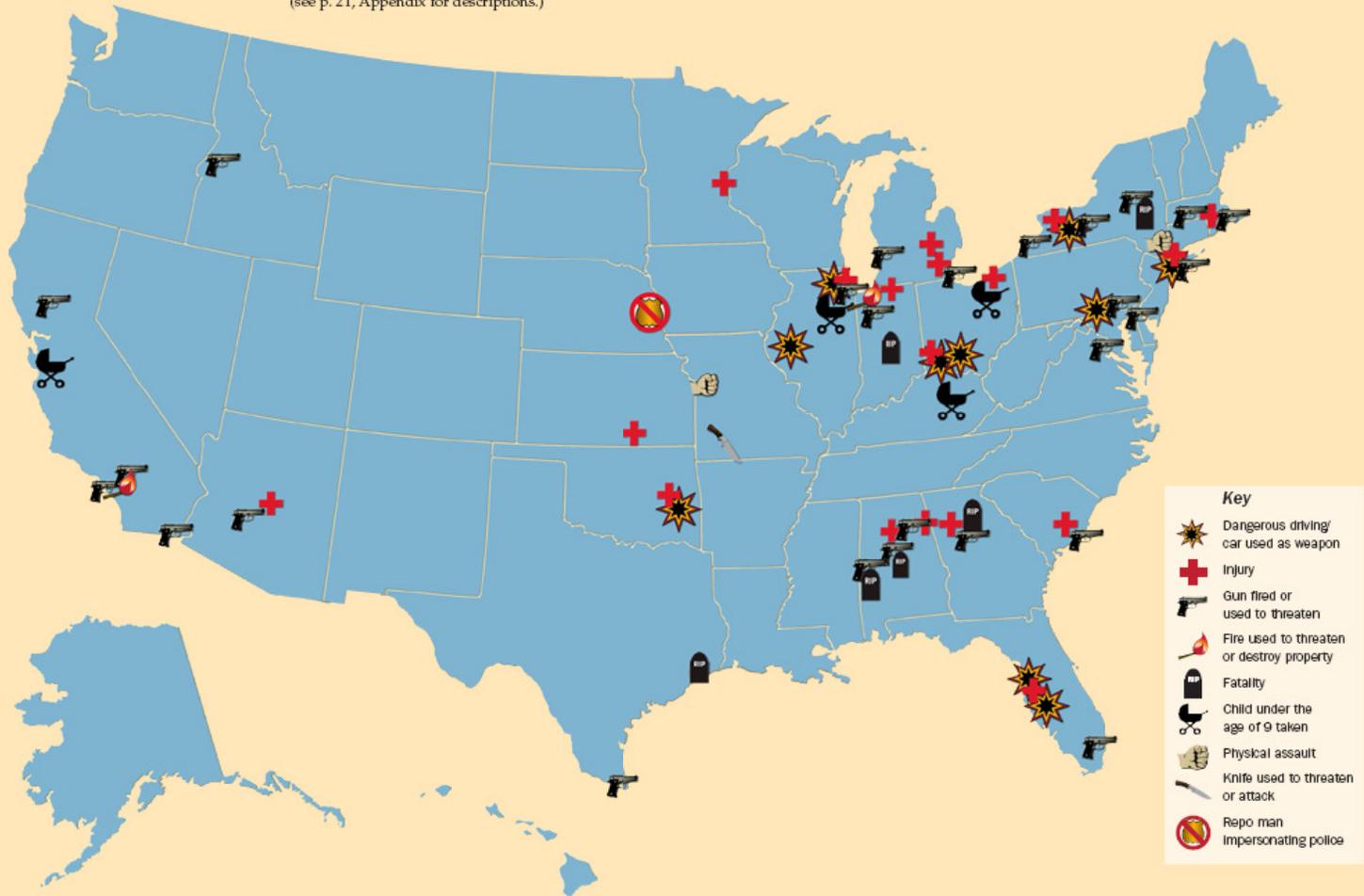


March 2010

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Locations of Violent or Traumatic Repossession Incidents
since Jan. 1, 2007; including incidents that resulted in deaths,
injuries, violence or the taking of small children.

(see p. 21, Appendix for descriptions.)



APPENDIX I

This chart was compiled from a survey of reports by newspapers and television stations that described repossession incidents since Jan. 1, 2007. The chart lists and summarizes those incidents that, according to a news report, resulted in death, injury or the arrest of

someone involved or a bystander. It also lists and summarizes incidents in which a child under the age of 9 was taken. In some cases, the reports were supplemented by a review of court records.

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Birmingham, AL		2/10/2009	See report pg. 16. <i>Birmingham News</i> story, 2/12/09
Hoover, AL		6/4/2009	A 29-year-old man was injured during an attempted vehicle repossession. <i>Birmingham News (Alabama)</i> , 6/10/2009
Lisman, AL		6/26/2008	See report pg. 14. <i>AP</i> story, 2/27/09; <i>Birmingham News (Alabama)</i> , 6/28/2009 <i>The Virginian-Pilot</i> , 2/28/2009
Birmingham, AL		1/8/2009	See report pg. 16. <i>Birmingham News (Alabama)</i> , 1/9, 2/6/2009
Mesa, AZ		11/6/2009	A car owner was arrested after he allegedly approached a repo man who was taking the owner's car from a restaurant parking lot and took out a pistol that discharged after the owner used it to strike the repo man in the head. <i>East Valley Tribune</i> , 11/6/09, <i>AP State & Local Wire</i> , 11/7/2009
Spring Valley, CA		6/30/2008	A man was arrested after he allegedly fired a shot at a tow truck driver who was about to repossess his vehicle. <i>San Diego Union-Tribune</i> , 7/1/2008
Yuba City, CA		12/12/2008	A 48-year-old schoolteacher was convicted of assault and threatening, was sentenced to 90 days in jail and lost her teaching license after she pointed a gun at two repo men who had come to repossess her 1989 Mercedes Benz. <i>Marysville Appeal-Democrat</i> , 11/14/09, 8/14/09
Highland, CA		3/17/2009	Police executed a search warrant at the home of a 32-year-old man who was believed to have fled after he allegedly used a shotgun to take and drive away in a pickup truck being towed away by a repo man. <i>San Bernardino County Sun (CA)</i> , 3/19/2009, 3/20/2009
Fontana, CA		11/24/2009	A 41-year-old woman was arrested on suspicion of arson after she allegedly used a lighter to set fire to the driver's seat of a Kia Optima as it was being repossessed. <i>Inland Valley Daily Bulletin (Ontario, CA)</i> , 11/25/2009

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Hemet, CA		12/2009	A 45-year-old man was arrested on suspicion of assault with a firearm and negligent discharge of a firearm after he allegedly fired shots at a repossession agent. <i>City News Service, 12/21/09</i>
San Jose, CA		1/12/2010	A police helicopter and a dozen officers searched for half an hour for a 2-year-old boy whose mother had called 911 and reported him missing. Police found the boy crying in the lobby of an automobile dealer who had repossessed the mother's 2000 Honda Accord after she was 17 days late in making her \$285 monthly payment. The dealer told police that took the car but failed to notice the 2-year-old asleep in a car seat. <i>San Jose Mercury News, 1/13/10, 1/19/10</i>
New Castle, DE		11/10/2009	A 37-year-old man was charged with aggravated menacing and possession of a firearm during a felony after he allegedly pointed a handgun at a repo man who was repossessing a car. <i>Wilmington News Journal, 11/10/09</i>
New Port Richey, FL		6/12/2009	A 49-year-old man was charged with grand theft auto after he allegedly drove away in the tow truck that repossession agents were using to repossess two of his cars. <i>Tampa Tribune, 6/12/2009</i>
Miami, FL		12/21/2009	A man was arrested and charged with aggravated assault with a deadly weapon after he allegedly fired seven rounds into a tow truck being used by three repossession agents to repossess the arrested man's 1995 Chevrolet. <i>Miami Herald, 12/22/09</i>
St Petersburg, FL		7/13/2007	The 42-year-old owner of a 1995 Jeep Cherokee was run over and hospitalized in serious condition and a 44-year-old repo man was charged with reckless driving, leaving the scene of an accident involving injury and driving on a suspended or revoked license after the vehicle owner. The owner was injured after he reached in the window to try to grab the keys to his car as the repo man drove it away, police said. <i>St. Petersburg Times 7/13/2007</i>
Atlanta, GA		11/12/2009	A 29-year-old man was charged with murder, aggravated assault with a deadly weapon, possession of a weapon while committing a crime and running from police after he allegedly chased two repo men who were towing his 2004 Ford Mustang, ran them off the road and fired his shotgun, killing one and injuring another. <i>UPI, 11/12/2009, Atlanta Journal-Constitution, 11/16/2009, 11/18/2009, 11/22/2009, 12/3/2009</i>
Genesee, ID		7/11/2009	A 49-year-old man was charged with felony aggravated assault after he allegedly pointed a rifle at a repo man who was towing away his Chevrolet pickup truck. <i>Lewiston Morning Tribune (Idaho), 11/21/2009</i>

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Aurora, IL		9/6/2007	A four-year-old boy was injured when he jumped from a Ford Excursion being towed away by a pair of repo men. <i>AP online, 9/9/07</i>
Chicago, IL		1/13/2009	A 42-year-old man pled guilty to aggravated discharge of a firearm and was sentenced to 30 days in jail and 30 months of probation after he fired a gun at repo agents towing away his Isuzu SUV. <i>Chicago Daily Herald, 4/2/2009, 1/31/2009</i>
Aurora, IL		8/25/2009	A 35-year-old man was arrested and charged with aggravated fleeing or eluding police, driving more than 40 mph above the speed limit, concealment of collateral to avoid repossession, aggravated assault, reckless driving and driving without insurance after he allegedly drove away at up to 90 mph in an attempt to escape from repo agents and a police officer who came to repossess his 1997 Lincoln Town Car. <i>Chicago Daily Herald, 8/27/09</i>
Clayton, IL		12/2/2009	A man was charged with criminal damaging and his son was charged with assault after they allegedly attempted to prevent repossession of an SUV that repo men had already hooked up to a tow truck. <i>Dayton Daily News (Ohio), 12/2/2009</i>
South Bend, IN		10/24/2008	A 23-year-old repo man suffered a severe concussion and neck sprain and a 19-year-old man was charged with aggravated assault after he allegedly drove into a pair of repo men who were there to repossess his Chrysler 300M. <i>South Bend Tribune, 10/26/2008, 11/1/2008</i>
Porter County, IN		9/29/2009	A 31-year-old man was arrested after he allegedly threatened to use a blowtorch or to shoot two repo men who had come to repossess his 2007 Honda Odyssey minivan. <i>Chicago Sun Times, 10/2/2009</i>
Greenwood, IN		7/6/2007	A 63-year-old man was ejected from his car and killed as he fled an attempted repossession. <i>www.theindychannel.com/print/13632591/detail.html</i>
Wichita, KS		8/11/2009	A 37-year-old repo man suffered a bruised leg after a 34-year-old woman allegedly struck him with the 2001 Grand Prix he was attempting to repossess. <i>Wichita Eagle, 8/12/09</i>
Nicholasville, KY		4/2008	A 44-year-old repo man was charged with unlawful imprisonment and operating a vehicle without a valid license after he allegedly took a truck with the owner's 9-month-old, 2-year-old and 8-year-old children. <i>Associated Press, 4/8/2008</i>
Kingston, MA		1/2/2008	A 36-year-old car owner was charged with assault with a dangerous weapon, discharging a firearm within 500 feet of a home, threatening to commit a crime and improperly storing a firearm after he allegedly fired shots into the air and the ground in an effort to stop repossession of his Ford F-350. <i>The Patriot Ledger (Quincy, MA) 1/4/2008</i>

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Leicester, MA		1/5/2009	A 38-year-old man was arrested and charged with assault with a dangerous weapon and armed robbery after he allegedly pointed a pistol at a repo man who was hooking his car up to a tow truck. <i>Telegram & Gazette (Massachusetts) 1/8/2009</i>
Abington, MA		5/18/2007	See report pg. 4. <i>Boston Globe 5/23/07, Quincy Patriot Ledger 5/26/07</i>
Millersville, MD		11/28/2008	A 33-year-old man was charged with two counts each of first- and second-degree assault and reckless endangerment and a count of disorderly conduct and a 46-year-old woman was charged with second-degree assault and disorderly conduct after the man allegedly pulled out a gun and the woman allegedly sought to grab the keys from the tow truck of two repo men seeking to repossess a vehicle. <i>The Maryland Gazette, 12/3/2008, The Capital (Annapolis, MD) 12/4/2008</i>
Cheshire Township, MI		9/3/2009	A 48-year-old man was charged with four counts of assault with intent to do murder and four counts of assault with intent to do great bodily harm after he allegedly fired guns and chased in a pickup truck two repo agents who had repossessed his 2008 pickup. <i>Grand Rapids Press (Michigan), 9/5/2009, Kalamazoo Gazette (Michigan), 9/2/2009</i>
Flint, MI		9/2/2008	A 62-year-old man injured his head when he fell to the ground after jumping on the back of a pickup truck being driven by a repo man who had just repossessed the 62-year-old man's car. <i>Flint Journal (Michigan), 9/7/2008</i>
Detroit, MI		8/17/2009	A 41-year-old man doing a repossession was shot in the head and chest by a man in a ski mask but escaped serious injury. <i>Detroit Free Press, 8/18/09</i>
Chaska, MN		7/13/2009	A man was charged with assault on a police officer after an officer was injured when the arrested man and others attempted to resist repossession of his vehicle. <i>Star Tribune (Minneapolis, MN) 8/19/2009</i>
Excelsior Springs, MO		5/21/2009	A 29-year-old man pled guilty to charges of unlawful use of a weapon and assault after an incident in which, while he was helping in the repossession of black Pontiac Bonneville, he grabbed a teen by the throat and dragged him from a green Pontiac Bonneville. <i>KCTV5, July 23, 2009 (see clip at www.kctv5.com/video/20165335/index.html); case 09CY-CR01964-01, posted on-line at www.courts.mo.gov/casenet</i>
Springfield, MO		11/23/2009	Two men, ages 61 and 29, were arrested, and the 29-year-old was charged with aggravated assault after he allegedly pulled a knife on two repo men who were trying to repossess a black Toyota. <i>Springfield News-Leader, 11/25/09</i>

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Papillion, NE		2/20/2009	A 39-year-old repo man was arrested on suspicion of impersonating a police officer, making terroristic threats and possession of marijuana and drug equipment after he allegedly pulled out a fake law enforcement badge and a BB gun as he tried to repossess a car. <i>Omaha World-Herald, Feb. 24, 2009</i>
Brooklyn, NY		7/10/2007	A 36-year-old car owner was charged with assault after he allegedly climbed into the cab of a repo man's tow truck and put his hands on the 44-year-old driver's neck. <i>The New York Post, 7/11/2007</i>
Canarsie, NY		9/20/2007	A 33-year-old man was arrested after he allegedly rammed his Mercedes Benz into a tow truck being used by a repo man in an attempt to repossess the Mercedes. <i>The New York Post, 9/21/2007</i>
Seward, NY		10/14/2008	A 32-year-old man was charged with second-degree menacing after he allegedly fired a rifle at two repo men who were trying to repossess his pickup truck. <i>The Times-Union (Albany, NY) 10/16/2008</i>
Cheektowaga, NY		10/14/2009	A 28-year-old man was arrested and charged with menacing and he and a 30-year-old woman were charged with criminal possession of marijuana and criminal possession of a weapon after the man allegedly threatened to shoot a repo man who had come for the arrested man's vehicle. <i>Buffalo News (NY), 10/17/2009</i>
Syracuse, NY		2/12/2007	A 27-year-old woman was treated for a leg injury and a 43-year-old repo man was charged with reckless endangerment and harassment after the woman was dragged down the street by a tow truck trying to repossess her sister's 2000 Ford Windstar. <i>The Post-Standard (Syracuse, NY) 2/13/2007</i>
Syracuse, NY		7/2/2007	A 37-year-old repo man was shot at during an aborted repossession and the 36-year-old owner of a car being repossessed was charged with reckless endangerment, criminal possession of a weapon and three counts of menacing. <i>The Post-Standard (Syracuse, NY) 7/3/2007</i>
Staten Island, NY		10/8/2009	A 59-year-old woman was charged with assault and a repo man suffered minor injuries after she allegedly jumped into a car that was being repossessed, drove it into the agent and then drove 10 blocks with the repo man hanging on the hood. <i>Staten Island Advance, 10/10/09</i>
Rotterdam, NY		8/2/2007	A 44-year-old man was killed when he was run over by the rear wheels of a tow truck being used to repossess his SUV. <i>Albany Times-Union</i>
Silverton, OH		11/14/2009	A 41-year-old man was arrested and charged with attempted vehicular assault after he allegedly struck a repo man with a car he was trying to repossess. <i>Associated Press, 11/17/09</i>

LOCATION	MAP ICON	DATE	NARRATIVE, SOURCE
Cleveland, OH		9/20/09	A woman told a local television station that she was injured after she was dragged by a repo agent who allegedly towed away her car with her 4-year-old boy asleep in the back seat and abandoned it five miles away. <i>UPI, 9/23/09</i>
West Price Hill, OH		9/22/2009	A 59-year-old woman was charged with felonious assault after she allegedly struck a repo man with her vehicle and injured his left ankle. <i>Cincinnati Enquirer, 9/25/09</i>
Muskogee County, OK		3/29/2008	A repo man was hospitalized and a 47-year-old car owner was arrested and charged with assault with a dangerous weapon after he allegedly ran over the repo man in an effort to block a repossession. <i>Muskogee Phoenix, 3/31/08</i>
Lancaster, PA		5/2/2008	A 32-year-old man was charged with making terroristic threats after he allegedly pointed a shotgun at two repo men preparing to tow his 2003 Chevrolet Tahoe. <i>Lancaster New Era (Pennsylvania), 5/2/2008</i>
Gettysburg, PA		7/10/2009	A 21-year-old man was charged with theft, unauthorized use of an automobile, reckless endangerment, defiant trespass and criminal mischief after he allegedly rammed his pickup, which had been repossessed, into a tractor belonging to the repo man. <i>Hanover Evening Sun, 8/2/09</i>
Ridgeville, SC		6/28/2009	A 49-year-old man was charged with assault and battery with intent to kill after he allegedly shot birdshot into the face and back of repo man who was repossessing the arrested man's pickup truck. <i>The Post and Courier (Charleston, SC), 6/30/2009</i>
Brownsville, TX		8/19/2009	A 53-year-old man was arrested and charged with two counts of aggravated assault with a deadly weapon after he allegedly pointed a shotgun at two repo men attempting to take his 2005 Chevrolet Silverado. <i>Brownsville Herald, 8/21/09</i>
Baytown, TX		6/23/2007	A 53-year-old woman suffered a fatal head injury and police filed a manslaughter charge against a 34-year-old repo man who was trying to repossess a car on behalf of the woman's estranged husband. <i>www.khou.com, 7/6/07</i>

Key

	Dangerous driving/ car used as weapon		Fire used to threaten or destroy property		Knife used to threaten or attack
	Injury		Fatality		Repo man impersonating police
	Gun fired or used to threaten		Physical attack		Child under the age of 9 taken

“It was exactly like a car-jacking.”
--Sara Bradley, describing the self-help repossession of her car.

A police dispatcher inquiring about the status of caller's car payments "was reasonable and often anticipated when a caller tells emergency personnel that his car has been or is being towed." -- Judge Alexander Williams, U.S. District Court for the District of Maryland

He was "killed over a durn car."
-- James Lovette, Choctaw County Sheriff

“The trucks simply need to roll more hours, and pick up more units . . . Each of you have the ability to do **WHATEVER** it takes to pick up more cars.”

-- Renovo Regional Manager

Self-help repossession is
legal in all 50 states.

In 33 out of the 50 states, no special license is required to carry out a self-help repossession.

All 50 states have summary
process, a judicial
procedure, for evictions.

Fundamental Protection

- Prohibit repossession undertaken without court order.
- Only trained law enforcement carry out authorized repossession.

Agenda for Reform

1. A requirement that an automobile owner receive formal notice of a lender's claim that a default has occurred, and have the right and opportunity to dispute that claim.

Agenda for Reform

2. A requirement that whenever a repossession is authorized by a court or initiated by a creditor, an automobile owner receive a written notice that includes a description of the times, places and conditions under which the repossession may occur.

Agenda for Reform

3. A requirement that a lender provide a car owner the right, for a set period, to cure a loan default by making any missed payments and paying reasonable late fees, and that the lender notify the owner of this right.

Agenda for Reform

4. A rule making it clear that a prohibition on the breach of peace in a repossession requires that a repossession agent immediately discontinue the seizure whenever the car owner objects in any way.

Agenda for Reform

5. Prohibition of a creditor's right to sell or dispose of a seized car until the passage of a set period (such as 15 to 20 days) during which the owner of the car has right to reinstate a loan and regain possession of the car by making late payments and paying reasonable late fees and repossession costs.

Agenda for Reform

6. Strict licensing and bonding requirements for any private individuals who carry out repossessions, including a prohibition of repossessions by individuals with histories of serious criminal offenses or violence.

Agenda for Reform

7. Clear liability by creditors for any bad acts by repossessioners they have dispatched or engaged.

Information in this PowerPoint can be found on our website at link below.

http://www.nclc.org/issues/auto/content/Repo_madness_Report_0310.pdf

Automatic License Plate Recognition: Privacy Concerns

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AMERICAN CIVIL LIBERTIES UNION



Part I: Context

From Old Technology to New

- Biometrics
 - RFID tags
 - Internet tracking
 - GPS
 - DNA
- Video surveillance

Video surveillance

- Cameras everywhere
- Government networks
- Aerial surveillance
- Non-visual: thermal, infrared, etc
- Video analytics
 - Face Recognition
 - License Plate Recognition

Other factors at work

- Moore's law = more powerful privacy-challenging technology
- Powerful national security state
- A “Surveillance Industrial Complex”

To conserve the
privacy we've
always had, we
must act

The courts aren't keeping up:

- Olmstead v. U.S.: 1928
- Katz v. U.S.: 1967
= 39 years

Part II: License-plate Scanners

ALPR Technology

1. Picture of license plate
2. Optical character recognition
3. Database lookup

Uses...

- Unpaid and fines
- Patrol cars
- Town entrances

ACLU position

Legitimate when narrowly used but don't like:

- Lack of standards & controls on use
- Mission creep
- Systematic tracking
- Sharing of data
- Combination with other surveillance



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Automatic Number / Licence Plate Recognition (ANPR) **- applications**

ANPR APPLICATION AREAS

There are application areas over a very broad range of end users and the need for automatic number plate recognition (ANPR) systems are often driven by:

- Convenience - e.g. support of customer values, disabled drivers, prestigious customers, selected personnel etc.
- Cost/Manpower Savings - e.g. substantial reduction in manpower and guarding costs.
- Fraud Prevention - e.g. can eliminate fraud for car parking fees etc.
- Security - e.g. vehicle theft, auto vehicle movement logging, rapid search and find facilities
- Marketing Applications - e.g. traffic flow, visitor demographic information etc. for retain complexes.

Once the number plate has been successfully 'captured' applications for it's use are limited only by imagination and almost anything is possible.

A customers own database can be used for example to achieve specific and tailored results. Local authorities for instance already have databases which could allow disabled drivers easy access to car parks without the great inconvenience often experienced with traditional entry systems.

Customer profiling and habits for marketing purposes knows no bounds and the Westminster Sentinel NPR system can provide an information source on customer demographics which is not available by other means.

New York's "Ring of Steel"

- Link thousands of police, private cameras
- Combine with license plate readers, central monitoring, Face recognition
- Access-control gates

No privacy in public?

- “Being in public” is not a binary yes/no state
- *Katz* decision on phone booth
- There are always gradations of privacy even in public

Inevitable?

No.

Technology can be channeled by
policy

- Automobiles heavily regulated
- Surveillance cameras don't have microphones – because of wiretapping laws

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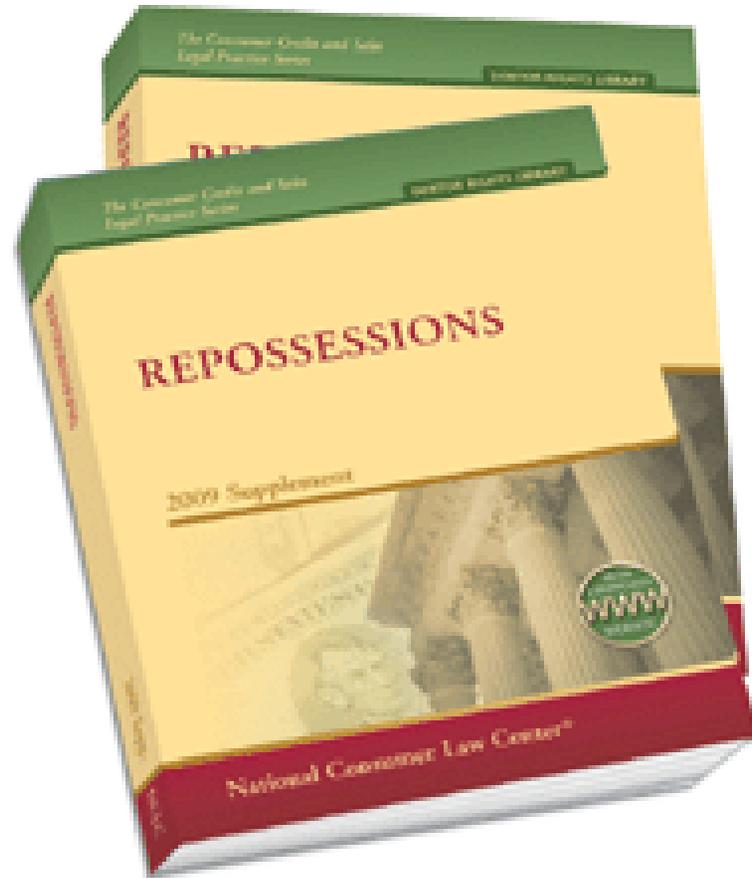
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**For information about all aspects of motor vehicle repossessions, see
NCLC's REPOSSESSIONS WITH COMPANION WEBSITE**

<http://shop.consumerlaw.org/repossessions.aspx>



(6th Ed. and 2009 Supplement) (872 pp. and 246 pp. Supp.)