



abandoned  
TITLES *Fraud*  
*disposal*  
SAFETY  
lien damage



Best Practices for the  
Prevention of Abandoned Vehicle  
& Mechanic's Lien Fraud



March 2020

ABANDONED VEHICLE AND MECHANIC'S LIEN  
FRAUD PREVENTION WORKING GROUP

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# Contents

<b>Chapter 1</b>	<b>Introduction</b> . . . . .	3
<b>Chapter 2</b>	<b>Glossary of Terms</b> . . . . .	5
<b>Chapter 3</b>	<b>Claiming a Mechanic’s Lien</b> . . . . .	9
	3.1 Background . . . . .	9
	3.2 Types of Liens . . . . .	9
	3.3 Lien Claimant . . . . .	10
	3.4 Fraud Identified in the Mechanic’s Lien Process . . . . .	10
<b>Chapter 4</b>	<b>Process to Locate and Notify the Vehicle Owner and Lienholders</b> . . . . .	11
	4.1 Background . . . . .	11
	4.2 Physical VIN Inspection . . . . .	11
	4.3 Obtaining Vehicle Records from the Motor Vehicle Agency . . . . .	12
	4.4 Identifying the Jurisdiction in Which the Vehicle is Currently Titled—NMVTIS . . . . .	12
	4.5 Notices to Owners, Lienholders, and Other Parties with an Interest in the Vehicle . . . . .	13
	4.6 Lien Title Services and Third-Party Agents . . . . .	14
	4.7 Timeline for Notifications to Owners, Lienholders, and Other Interested Parties . . . . .	15
	4.8 Lien Sale Advertisement . . . . .	15
	4.9 Judicial Authorization . . . . .	16
<b>Chapter 5</b>	<b>Conducting the Sale</b> . . . . .	17
	5.1 Background . . . . .	17
	5.2 The Sale . . . . .	17
	5.3 Sale Proceeds . . . . .	18
<b>Chapter 6</b>	<b>Types of Fraud</b> . . . . .	19
	6.1 Background . . . . .	19
	6.2A Fraud in Advertising . . . . .	19
	6.2B Collusion Between the Lien Claimant and Buyer . . . . .	20
	6.2C Odometer Rollbacks . . . . .	20
	6.2D Vehicles Not Branded Properly . . . . .	20
	6.2E Unauthorized Lien Removal . . . . .	21
	6.2F Intentional Holding of Vehicle by Lien Claimant . . . . .	21

<b>Chapter 7</b>	<b>Application for Title</b> . . . . .	22
	7.1 Background. . . . .	22
	7.2 Resources and Staffing. . . . .	22
	7.3 Presenting and Reviewing the Application. . . . .	23
	7.4 Lien Verification . . . . .	23
	7.5 “Stop Title” Process. . . . .	24
<b>Chapter 8</b>	<b>Review and Regulation</b> . . . . .	25
	8.1 Background. . . . .	25
	8.2 Suspected Fraud . . . . .	25
	8.3 Internal Audit . . . . .	25
	8.4 Motor Vehicle Agency Investigators, Law Enforcement, and Prosecutors . . . . .	26
	8.5 Stakeholders . . . . .	26
	8.6 Training Summary . . . . .	26
<b>Chapter 9</b>	<b>Case Studies</b> . . . . .	27
	9.1 Background. . . . .	27
	9.2 Successful Enforcement Efforts . . . . .	27
	9.3 Administrative Enforcement Efforts . . . . .	30
<b>Chapter 10</b>	<b>Conclusion</b> . . . . .	31
<i>Appendix A</i>	<i>Additional Resources</i> . . . . .	32
<i>Appendix B</i>	<i>Survey Results</i> . . . . .	33
<i>Appendix C</i>	<i>Stakeholder Questionnaire</i> . . . . .	35
<i>Appendix D</i>	<i>Working Group Roster</i> . . . . .	36

## Chapter 1 Introduction

The processing of vehicle titles for abandoned and mechanic's lien vehicles by motor vehicle agencies (MVAs) is an important responsibility, but unfortunately, it can be taken advantage of by individuals seeking to obtain financial benefits by deception. These vehicles can be nuisances to communities and consume considerable resources by those seeking to dispose of them. They may also contain undisclosed prior damage, which places future purchasers at increased risk for their safety when operating these vehicles. It's important for jurisdictions to have processes and procedures in place that allow these vehicles to be disposed of in an efficient manner but that also deter fraudulent activity. There are many terms used to reference this activity, but for the purposes of this document, the term *mechanic's lien* encompasses all types of possessory liens.

Applicants who seek to title mechanic's lien vehicles do not typically possess properly assigned titles. MVAs rely on specific laws, rules, and policies for



*There are many terms used to reference this activity, but for the purposes of this document, the term mechanic's lien encompasses all types of possessory liens.*

processing the applications, many times trusting the word and statements of the applicant without taking steps to validate the information provided. In many cases, these laws, rules, and policies were written well before current technological advancements, providing opportunities for fraud. Many of the current processes require the utilization of paper and other outdated means of communications. Updating these laws, rules, and policies to take advantage of advancements in electronic communication would support efficiencies in titling processes and efficiencies for regulatory agencies and industry stakeholders.

Jurisdictions process numerous mechanic's lien vehicle applications annually. When review practices are limited, only a small percentage of applications are found to be fraudulent, but a closer review of these processes may reveal a more significant number as revealed by investigations and stakeholders. This results in a substantial impact to consumers, industry, and MVA resources. Jurisdictions report that these processes are sometimes abused by those who use them to obtain an ownership document. In some cases, the mechanic's lien process is simpler than the process for obtaining a duplicate or replacement title. While conducting investigations involving suspected fraud in these applications, law enforcement and MVA investigators may be challenged by the lack of information in the title application as well as inadequate laws relating to enforcement, making

successful investigations and prosecution difficult. This may also result in vehicles being operated on the highway with undisclosed and unrepaired damage or cloned stolen vehicles being undetected.

Anecdotal evidence indicates that the vehicle sales and related industries are losing significant revenue each year due to fraudulent mechanic's lien title transfers.\* Financial institutions expect perfected liens will be secured by vehicle titles and will be kept secured until the loan is satisfied. Because of inadequate or outdated title processing laws, rules, and policies for mechanic's lien vehicles, financial institutions may suffer significant loss by people taking advantage of these vulnerabilities. This may result in higher finance and insurance rates and increased unnecessary use of law enforcement investigative resources. Additionally, vehicles obtained and titled fraudulently as a result of a mechanic's lien sale often end up in the hands of criminal organizations, which use them in other illegal activities such as exporting, security interest frauds, subleasing scams, and violent crimes such as robberies, burglaries, and aggravated assaults. This illegal activity may increase insurance rates and premiums because of unnecessary claims related to fraud.

Jurisdictions take a variety of approaches to regulate and process mechanic's lien vehicles, resulting in industry stakeholders struggling to comply across jurisdictions. A survey was conducted for AAMVA members regarding operating practices related to these processes. The survey results are provided in Appendix B. Differing jurisdictional processes may result in opportunities for increased fraud and cost to industry and jurisdictions. A questionnaire and follow-up discussions with stakeholders were conducted by this working group to obtain feedback related to these processes. A copy of the questions and responses are provided in [Appendix C](#).

AAMVA established the Abandoned Vehicle and Mechanic's Lien Fraud Prevention Working Group to identify and provide recommendations; to research current laws, rules, and policies for the titling, registering, and investigating of abandoned and mechanic's lien vehicles; to determine membership needs and concerns; and to conduct research with technical advisors in related fields to determine issues, vulnerabilities, and concerns. The working group consisted of subject matter experts from motor vehicle administrations, law enforcement, and technical advisors from industry.

The working group was tasked with developing best practice recommendations for the deterrence and detection of fraud in the title application process and foreclosure of mechanic's liens on vehicles. The best practices developed by the working group will assist in facilitating a consistent and balanced approach by jurisdictions to avoid regulatory practices that could create unreasonable hurdles for industry while at the same time improving the overall process of mechanic's lien title transfers and the deterrence and detection of fraud in these areas.

It should also be noted that Canadian laws related to mechanic's liens may not follow U.S. vehicle title issuance procedures because vehicle titles are not issued in Canada, and vehicle lien information is not maintained by the vehicle registration issuance agency. Therefore, Canadian jurisdictional members may need to adjust some of the recommendations to ensure they are supported by Canadian laws.

The working group recognizes that the majority of businesses involved in titling mechanic's lien vehicles are following sound business practices and are complying with the law; therefore, the intent of the best practices is to decrease fraudulent activity, increase efficiency, and not unduly increase the burden on those striving to comply.

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\* Auto magazine. <https://automotivedigest.com/wp-content/uploads/2017/04/AUTO-LENDING-FRAUD-IN-2017-2.pdf>

## Chapter 2 Glossary of Terms

For the purpose of this best practice, the following terms have been defined to explain the context used within this document.

<b>American Association of Motor Vehicle Administrators (AAMVA)</b>	A tax-exempt, nonprofit organization that develops model programs in motor vehicle administration, law enforcement, and highway safety. Founded in 1933, AAMVA represents the jurisdictional officials in the United States and Canada who administer and enforce motor vehicle laws. AAMVA's programs encourage uniformity and reciprocity among the jurisdictions. <a href="http://aamva.org">aamva.org</a>
<b>abandoned vehicle</b>	An unclaimed vehicle on private or public property. For the purposes of this document and to assist in understanding the vehicle lien process, an abandoned vehicle lien claim is synonymous with a mechanic's lien claim.
<b>certified mail</b>	A U.S. Postal Service mailing program that provides proof of mailing via a receipt to the sender.
<b>Driver Privacy Protection Act (DPPA)</b>	Federal statute 18 U.S.C. § 2721, which restricts and protects the privacy of personal driver's license and motor vehicle information assembled by U.S. motor vehicle agencies.
<b>Insurance Service Organization (ISO)</b>	An investigative database maintained by the National Insurance Crime Bureau that provides vehicle history information to members to detect and prevent fraud, evaluate risk, and process meritorious claims.
<b>International Association of Auto Theft Investigators (IAATI)</b>	An international organization that shares information and education for auto theft investigators.
<b>International Association of Chiefs of Police (IACP)</b>	An organization for police leaders around the world. Its mission is to advance the police profession through advocacy, research, outreach, and education to provide for safer communities worldwide.
<b>landlord lien</b>	A lien placed on a motor vehicle by a landlord when a tenant has left the vehicle at the premises rented or leased after eviction or after the rental or lease agreement has ended (referred to as a <i>mechanic's lien</i> in this document).

**lien claimant**  
(*also known as a lienor, possessor, or lien enforcer*)

Any entity, including a tow company, repair shop, landlord, warehouse, or self-service storage facility operator, that has a legitimate lien on a vehicle for any towing, repair, service, or storage charges on a motor vehicle.

**lien title service**

An entity that is hired by the lien claimant to conduct the mechanic's lien process and may include obtaining the vehicle records from a motor vehicle agency (MVA), or the MVA's third-party agent, sending out the required lien notices, arranging for the publication of the public sale advertisement, conducting the public sale or auction, or submitting the title transfer documents to the MVA.

**mechanic's lien**  
(*also known as a labor, possessory, service, storage, landlord, or towing lien*)

A legal ownership claim filed on a motor vehicle with the appropriate motor vehicle agency by a person or entity possessing the vehicle in order to recover expenses incurred as a result of unpaid labor, services, and storage fees when the vehicle is not retrieved. This can also include vehicles left on another's property or public property and unclaimed. (For purposes of this document, the term *mechanic's lien* is used to describe all lien types.)

**mechanic's lien sale**  
(*also known as possessory lien sale*)

A public or other authorized sale of a vehicle that occurs as the result of the lien sale process.

**motor vehicle**

A vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways but does not include a vehicle operated only on a rail line (49 USC 30102).

**motor vehicle agency (MVA)**

Jurisdiction authority that administers the title issuance process.

**National Crime Information Center (NCIC)**

An electronic index of criminal justice information (e.g., criminal record history information, fugitives, stolen properties, missing persons). It is available to federal, state, and local law enforcement and other criminal justice agencies and is operational 24 hours a day, 365 days a year. The purpose of maintaining the NCIC system is to provide a computerized database for ready access by criminal justice agencies making inquiries and for prompt disclosure and flow of information among the numerous law enforcement branches.

**National Motor Vehicle Title Information System (NMVTIS)**

An information system that enables motor vehicle titling agencies, law enforcement, prospective and current purchasers (both individual and commercial), insurance carriers, and junk and salvage yard operators to report and access vehicle titling information. Under the Anti-Car Theft Act and its implementing regulations all state motor vehicle agencies are required to report title and brand data to the system. Additionally, junk and salvage yards and insurance companies are required to report junk, salvage, and insurance (total loss) information.

<b>other interested party</b>	Someone other than the legal owner or lienholder that has an ownership interest in the vehicle.
<b>public auction</b>	An auction sale conducted openly to members of the general public after the required lien notices are sent and the required public sale advertisement is made. Public Auction sales are competitive bidding with the vehicle sold to the highest bidder.
<b>public sale</b>	Sale of a vehicle that is conducted openly to the general public after the required lien notices are sent and the required public sale advertisement is made.
<b>registration</b>	Documentary proof of authority to operate a motor vehicle on a public road, or the process of issuing such proof.
<b>salvage vehicle</b>	<p>A vehicle that has sustained sudden damage and is capable of being safely repaired, to the extent the vehicle:</p> <ul style="list-style-type: none"> <li>■ is declared a total loss by an insurance company; or</li> <li>■ repairs exceed 75% of the value of the vehicle immediately before the damage occurred; or</li> <li>■ has damage to the body, unibody, or frame to the extent it is unsafe for operation.</li> </ul> <p>A salvage vehicle also includes a vehicle obtained as a source of parts or for the purpose of scrapping or dismantling.</p>
<b>stakeholder</b>	An individual or company, public or private, which has a vested interest in the mechanic's lien title process.
<b>storage facility lien</b> <i>(also known as self-service, mini-warehouse and warehouseman's lien)</i>	A lien placed on a motor vehicle by a storage facility for unpaid storage fees when the vehicle is abandoned at a facility after the renter has been evicted or the rental agreement has ended. (For purposes of this document, these liens are described as mechanic's liens.)
<b>third-party agent</b>	An entity that is contracted by the motor vehicle agency or the lien claimant to conduct the mechanic's lien process. They provide vehicle ownership information to contracted parties and insure a verifiable and auditable process.
<b>title</b>	Documentary proof of motor vehicle ownership that is issued by a motor vehicle agency.
<b>title brand</b>	A designation placed on a vehicle's ownership document, including its electronic record, which identifies or describes an event that affects the value or safety of the vehicle. Some jurisdictions issue specific types of documents that denote an event affecting the value or safety of the vehicle.

<b>title washing</b>	A fraudulent practice that involves the processing of a title transfer on a vehicle that has a title brand in order to obtain a non-branded “clean” title, which is then used to sell the vehicle for a higher amount without revealing the past condition to the buyer.
<b>total loss</b>	A judgment by an insurer that the lost value or repair cost of a damaged property exceeds the value of its policy.
<b>Vehicle Identification Number (VIN)</b>	The unique series of Arabic numbers and Roman letters assigned to a motor vehicle for identification purposes.

## Acronyms

For purposes of this document, the following acronyms are provided.

**AAMVA** – American Association of Motor Vehicle Administrators

**FDR** – Fraud, Detection and Remediation (training developed by AAMVA)

**DPPA** – Driver Privacy Protection Act

**DMV** – Department of Motor Vehicles

**IAATI** – International Association of Auto Theft Investigators

**IACP** – International Association of Chiefs of Police

**ISO** – Insurance Service Organization

**MVA** – motor vehicle agency

**NCIC** – National Crime Information Center

**NICB** – National Insurance Crime Bureau

**NMVTIS** – National Motor Vehicle Title Information System

**NOTFEA** – National Odometer and Title Fraud Enforcement Association

## Chapter 3 Claiming a Mechanic's Lien

### 3.1 Background

Most jurisdictions consider a vehicle eligible for a mechanic's lien when the titled or registered owner does not claim or retrieve the vehicle and/or pay any fees associated with repair or services rendered on the vehicle. Some jurisdictions issue a title to a property owner if a vehicle is left unclaimed on property.



A mechanic's lien can be placed on a vehicle when the owner does not pay the fees associated with the repair for services rendered. A tow company, mechanic, or keeper of a garage or shop that performs any work on an individual's vehicle, upon request, is entitled to payment for their services and any reasonable charges incurred, including storage. After the service provider notifies the vehicle owner to retrieve their vehicle, payment for repair, towing, storage, parts, materials, supplies, and so on is made. When the owner does not make the required payment or claim the vehicle and the service provider still possesses the vehicle, the service provider can enforce a lien and proceed with taking ownership of the vehicle for the purpose of selling or otherwise properly disposing of it.

*When the owner does not make the required payment or claim the vehicle and the service provider still possesses the vehicle, the service provider can enforce a lien and proceed with taking ownership of the vehicle for the purpose of selling or otherwise properly disposing of it.*

### 3.2 Types of Liens

The following are different lien types; however, this is not all inclusive of jurisdiction liens allowed:

- Mechanic – based on unpaid charges for performing vehicle maintenance or repair including labor, parts, materials, and supplies used
- Towing – based on unpaid charges for towing services performed
- Storage facility – based on unpaid fees for the storage of a vehicle at a self-service storage facility, in violation of the terms of a lease or rental agreement



- Landlord – based on an unclaimed vehicle left on a landlord’s property following the termination of an existing lease or rental agreement with a tenant

**The above-described liens are referred to as *mechanic’s liens* in this document.**

### 3.3 Lien Claimant

A lien claimant is a person or business owed compensation for performing a service related to a motor vehicle. If the debt remains unpaid after a specified amount of time, a lien may be enforced. The vehicle may be sold with the proceeds of the sale distributed in accordance with jurisdictional law, rules, and policies. The notification process for claiming the vehicle is described in Chapter 4.

### 3.4 Fraud Identified in the Mechanic’s Lien Process

Opportunities for fraud exist when the lien claimant has not performed any type of service or when a contract has not been defaulted for which compensation is owed. Fraudsters may have stolen the vehicle or acquired the vehicle through legitimate or illegitimate means and are using the mechanic’s lien process to obtain a clear title. This allows them to sell the vehicle on the open market free of all title brands, liens, and encumbrances.

These activities are known as:

- Title brand washing – the act of fraudulently removing a vehicle brand
- Lien washing – the act of fraudulently removing a lienholder from a title, without a valid lien release
- Vehicle cloning – the act of changing a VIN to hide the true identity of the vehicle
- Title brand avoidance – The act of fraudulently using a mechanic’s lien to avoid a brand being placed on a title

- Synthetic identity or identity fraud – the act of posing as a legitimate lien claimant using a fraudulently created identity or the identity of another when selling or transferring ownership of a vehicle.
- Odometer fraud – the act of using a mechanic’s lien to obtain a title indicating a more favorable odometer reading than the actual history of the vehicle
- Excessive storage fees – In some jurisdictions, storage fees are not regulated. Fraudsters will take advantage of this gap in law and charge exorbitant storage fees, to a point at which the owner or lienholder cannot afford or justify retrieving the vehicle.

Fraud may also occur when a lien claimant intentionally circumvents the notification requirement described in Chapter 4. Examples of this type of fraud include:

- intentionally not providing or leaving out specific vehicle or owner information from the lien notice;
- intentionally not providing required notification;
- intentionally sending empty or junk filled envelopes to the titled lienholder and legal owner; and
- intentionally sending notice to the incorrect titled lienholder or legal owner address.

Fraud may also occur during the sale process. These practices are described in Chapter 6 and include:

- conducting a public sale or auction but not advertising the event or not advertising in a publication where vehicles are normally bought and sold;
- not holding a public sale but claiming to do such;
- selling the vehicle to themselves, employees, relatives, friends, or their own business; and
- the lien claimant does not make a reasonable effort to achieve the highest sale price.

## Chapter 4 Process to Locate and Notify the Vehicle Owner and Lienholders

### 4.1 Background

One of the cornerstones of titling and registration procedures is to identify as a matter of official record, the owner, lienholder, or any other stakeholder for a particular motor vehicle. This information is stored and safeguarded by jurisdictions to ensure accurate identification and to preserve the historical record. The mechanic's lien process will identify who the lien claimant is, comply with the jurisdiction's lien procedures, and document the transfer of ownership. In most jurisdictions, the lien claimant is responsible to identify and notify the current vehicle owner and any lienholder that they possess the vehicle and intend to enforce a lien against the vehicle. Some jurisdictions provide the current vehicle owner and lienholder information.

Transferring the ownership of a vehicle without the current title is one area in the mechanic's lien process most vulnerable to exploitation. Therefore, verifying that the legal owner and any lienholders have been properly notified of the pending sale and transfer is paramount in these processes.

### 4.2 Physical VIN Inspection

A component of the mechanic's lien process which is often overlooked is a visual inspection of a VIN plate by a trained professional. Some jurisdictions require law enforcement officers to check the VIN to see if it is stolen, but this is only a check of the physical VIN. Discussions with the working group revealed that the mechanic's lien process may allow vehicles with altered VINs to be issued a legitimate title. In the past, an altered VIN on the dash may be obvious because of unique rivets and a metal plate. Today, manufacturers

use a printed label for the VIN, which may be easier to alter or counterfeit, and may be more difficult for the untrained eye to detect.



Some VINs used to conceal the true vehicle identity are from other countries or are constructed to pass VIN edit software to appear legitimate but do not belong to a manufactured vehicle. Having trained law enforcement officers or MVA investigators conduct physical VIN inspections submitted in the mechanic's lien title application process will detect many fraudulent VINs. For example, training would include examining the vehicle VINs to include those other than the public VIN.

#### *Recommended Best Practices for Jurisdictions*

4.2.1 Have a trained law enforcement officer or MVA investigator conduct physical vehicle inspections prior to making the mechanic's lien title application and require each inspection to include an NMVTIS check. In cases of limited resources, jurisdictions may consider limiting VIN inspections to cases in which the VIN does not conform to VIN standards or is for a vehicle not currently titled in your jurisdiction.

4.2.2 Have MVA investigators or other skilled professionals train law enforcement officers to conduct thorough VIN inspections.

### *Recommendations for AAMVA*

4.2.3 Include vehicle manufacturer's shipping information within NMVTIS to provide the ability for jurisdictions processing mechanic's lien title applications to determine if the VIN correctly reflects manufacturer records.

4.2.4 Include Canadian and Mexican vehicle registration and/or title records within NMVTIS to ensure more complete VIN history is available for review during the mechanic's lien title application process.

4.2.5 Implement the recommendations from the AAMVA Imported Vehicles Working Group Guidance Document reference NMVTIS when that guidance is published.

## **4.3 Obtaining Vehicle Records from the Motor Vehicle Agency**

Most jurisdictions have a notification process required by law when a lien claimant is enforcing a mechanic's lien. A jurisdiction's own legislated restrictions, MVA policies, and DPPA requirements govern what vehicle owner and lienholder information is provided to the lien claimant. Lien claimants may find it difficult to identify the current owner and lienholder if this information is outside of the lien claimant's jurisdiction. In some cases, lien claimants are able to obtain the owner or lienholder information from a law enforcement agency with direct access to motor vehicle records. Any person obtaining information must follow federal and jurisdictional privacy laws for each vehicle record they obtain.

Irregularities may occur when lien notices are sent to law enforcement agencies. These lien notices are sometimes sent to the wrong law enforcement agency or to the correct law enforcement agency but the

wrong office or district intentionally. In some cases, the law enforcement agency may only query the VIN for theft and not actually provide the necessary owner and lienholder information to the lien claimant. The law enforcement agency does not normally maintain records or logs relating to the vehicle records they query, other than what is captured through telecommunication queries, and may not provide any response to lien claimants making the query untraceable.

Regardless of how the lien claimant obtains the owner or lienholder information, they must follow federal and jurisdictional privacy laws for each vehicle record they obtain. In the U.S., DPPA regulation requires any recipient that resells or re-discloses personal information to maintain records of who they released information to and the reason why. They are also required to make such records available to the MVA upon request.

### *Recommended Best Practices for Jurisdictions*

4.3.1 Identify the current owner and lienholder and provide the information to the lien claimant or require the lien claimant to perform searches that are traceable to identify the owner and lienholder.

4.3.2 Provide owner and lienholder information only to DPPA qualified entities who are required to obtain it directly from the MVA, their authorized third-party agent who has real-time access, or law enforcement.

## **4.4 Identifying the Jurisdiction in Which the Vehicle is Currently Titled—NMVTIS**

When the initial search by the lien claimant reveals that the vehicle is not titled in the jurisdiction where the lien claimant is located, it creates problems, which may result in the vehicle owner or lienholder being notified late or not being notified at all of the public sale or transfer of the vehicle.

NMVTIS records include identifying the jurisdiction in which the vehicle is titled, title brand history, and odometer information. NMVTIS currently does not include lienholder information from all jurisdictions. Lienholder records on business entities are not considered protected under DPPA but may be restricted under some jurisdictional laws. Including lienholder data in the NMVTIS response or jurisdictional record will enhance the claimants' ability to effectively notify all lienholders.

In many jurisdictions, claimants use lien title services to complete the mechanic's lien process. This includes obtaining the vehicle record from the MVA or their authorized third-party agent, conducting a NVMTIS search, and sending out the required notices.

### *Recommended Best Practices for Jurisdictions*

4.4.1 When the initial search reveals that the vehicle is not titled in the jurisdiction where the lien claimant is located, require the lien claimant to conduct an NMVTIS history search to determine the current jurisdiction in which the vehicle is titled. Require the lien claimant to contact the MVA in the current jurisdiction of title or their authorized third-party agent for the current owner and lienholder information.

4.4.2 Provide lien information to NMVTIS and share with other jurisdictions if allowable under jurisdictional laws.

4.4.3 Develop and propose legislative or policy changes to allow the disclosure of lienholder information.

4.4.4 Require lien title services that send notices to owners and lienholders on behalf of lien claimants to comply with DPPA regulations by maintaining records for five years and make such records available to jurisdictions or law enforcement upon request.

*When the initial search reveals that the vehicle is not titled in the jurisdiction where the lien claimant is located, require the lien claimant to conduct an NMVTIS history search to determine the current jurisdiction in which the vehicle is titled.*

### *Recommendation to AAMVA*

4.4.5 If a jurisdiction's privacy laws prevent lienholder data to be disclosed, allow a jurisdiction to indicate that there is an active lien by submitting a "yes" or "no" response in NMVTIS. This response would be provided to jurisdictions conducting an NMVTIS inquiry so liens across jurisdictions can be identified.

## **4.5 Notices to Owners, Lienholders, and Other Parties with an Interest in the Vehicle**

The purpose of a vehicle title is to document proper ownership and secure lien interest. The mechanic's lien process adds to the challenge of maintaining title integrity because the title of record is not present. To ensure legal owners and lienholders have adequate opportunity to claim their interest in the vehicle, it is imperative that these parties are properly notified



of pending ownership transfer. Vehicle owners and lienholders may have limited recourse or options to dispute cases in which proper notification was not provided.

Notifications from lien claimants are completed and handled according to each jurisdiction's laws, rules, and policies. Experience and research from the working group found the responsibility for these notifications normally reside with the lien claimant. The majority of the lien claimants provide proper notifications; however, this is the area most apt for fraud to occur.

During the mechanic's lien process, a notification is sent by the lien claimant, usually by certified mail, to all owners and lienholders. Most jurisdictions have specified time limits for notifications. Specific information will be provided in the notifications for the owner and lienholder to clearly understand which vehicle is involved and options for claiming ownership interest. Some jurisdictions format the information required under their laws, rules, and policies into a lien notice form made available to lien claimants.

Specific instances have been reported of fraud against service members who are on active duty and are not notified of a pending vehicle foreclosure. The Service Member Civil Relief Act provides relief from property foreclosure or lien enforcement during any period a service member is on active duty and for 90 days thereafter.

### *Recommended Best Practices for Jurisdictions*

4.5.1 Review jurisdictional laws, rules, and policies to ensure lien claimants are required to identify and make proper notification to owners and lienholders.

4.5.2 Create lien notice forms for use by lien claimants to assure consistency with information provided. Information contained in the notice should include, but not be limited to, the following:

- Year, make, and VIN
- Vehicle location

- Lien claimant's name, address, and contact information
- Amount owed the lien claimant
- How to claim interest in the vehicle
- When and where the vehicle will be sold if unclaimed
- Consequences for the lien claimant intentionally falsifying information

4.5.3 Provide a dispute resolution process for those with an ownership or lien interest.

4.5.4 Review jurisdiction laws, rules, and policies to ensure lien claimants are required to maintain and make records of all notifications available for inspection.

4.5.5 Review jurisdiction laws, rules, and policies to allow lien claimants to provide other types of trackable notifications and not limit notifications to certified mail only.

4.5.6 Publicize and be aware of information in the Service Member Civil Relief Act. For more information, see 50 USC § 537.

## **4.6 Lien Title Services and Third-Party Agents**

**lien title service:** This is an entity that is hired by the lien claimant to conduct the mechanic's lien process.

These lien title services process the documentation to ensure all requirements have been met. The lien title service obtains the vehicle record through MVA, or their authorized third-party agent, creates the lien notice forms, sends notification as required, and may also process the title transfer documents on behalf of the lien claimant. These lien title services generally charge the lien claimant a fee for this process.

The lien title service is not the same as a business that specializes in transporting title transaction information to the MVA for a customer, usually referred to as a *title runner*.

### *Recommended Best Practice for Jurisdictions*

4.6.1 Require lien title services to maintain records in accordance with DPPA laws, jurisdiction laws, rules, and policies and make those records available to MVA staff and law enforcement upon request.

**third-party agent:** This is an entity that is contracted by the MVA or the lien claimant to conduct the mechanic's lien process.

Third-party agents may perform owner and lienholder notifications through the process required by jurisdiction laws, rules, and policies. Some agents are approved by jurisdictions to directly link into the jurisdiction's databases to obtain current owner or lienholder information for the purpose of creating and sending lien notifications. Notifications sent through third-party agents may be more reliable as information is obtained directly from the MVA data base. The use of third-party agents helps deter fraud because they do not have a vested interest in the vehicle.

### *Recommended Best Practices for Jurisdictions*

4.6.2 Consider contracting with third-party agents to enhance consistency and reliability in the mechanic's lien process, encouraging notifications to be sent by other types of trackable means, not limited by certified mail.

## **4.7 Timeline for Notifications to Owners, Lienholders, and Other Interested Parties**

Most jurisdictions require a lien claimant to send all owners and lienholders a notification of a pending mechanic's lien. Some jurisdiction laws, rules, and policies require the lien claimant to send notification within a

specified period of time. This requirement is intended to provide the owner and lienholder an adequate amount of time to retrieve the vehicle before it is sold. Additionally, the time requirement also helps reduce fraud and excessive storage fees. In some jurisdictions, failure to send the notices within the required time frame limits the amount of storage fees the lien claimant may charge.

### *Recommended Best Practice for Jurisdictions*

4.7.1 Require notices to be sent within a specified period of time and provide consequences for failing to comply.

## **4.8 Lien Sale Advertisement**

In most jurisdictions, the notification process includes publication of the notice in a newspaper. This notice includes information pertaining to the sale of the vehicle, such as the vehicle description, location and date of sale, and lien claimant contact information. However, this method of communication is not used as often as it once was, and it is difficult to verify the advertisement was actually posted.

Currently, lienholders have difficulties locating mechanic's lien sale ads from across the nation that are published only in local newspapers or at local government offices. However, jurisdiction laws, rules, and policies may require these advertising practices. This working group and stakeholders found these notifications ineffective and burdensome for advertising the pending sale of a vehicle.

To make use of modern communication technology, a searchable network database allowing for a jurisdictional or national view of pending mechanic's lien sales is encouraged. Providing a link to a searchable website will allow more accessible information on these vehicles.

### *Recommended Best Practices for Jurisdictions*

4.8.1 Review and update laws, rules, and policies to allow lien claimants to publish electronic sale

advertisements to enable owners and lienholders to more effectively identify mechanic's lien vehicle sales.

4.8.2 Consider developing their own searchable website with mechanic's lien sale advertisements or provide a link to another similar resource.

## 4.9 Judicial Authorization

Some jurisdictions may require judicial action validating the mechanic's lien notification process, granting the lien claimant a court order to sell the vehicle. This process provides an opportunity for anyone to dispute the notification process in a courtroom setting.

The challenge with this system is the lack of intimate knowledge of the title process and the lack of resources to truly verify the notification processes were provided as prescribed in the paperwork the applicant is providing. Courts are not typically equipped with adequate resources to complete the verification process.

### *Recommended Best Practice for Jurisdictions*

4.9.1 Provide courts with adequate training, education, and resources so the courts issuing these orders can validate the mechanic's lien notification process.

## Chapter 5 Conducting the Sale

### 5.1 Background

Although the selling of a vehicle seems like a simple process, it can be complicated and provide an avenue for fraud. This chapter discusses the types of sales and the potential for fraud associated with those sales. It is important to note that examples listed in this document are not the only types of possible fraud.

Laws, rules, and policies regulating what type of vehicle sale is utilized by the lien claimant to sell or dispose of the vehicle vary between jurisdictions. Some of these are vague or inadequate, therefore opening the door for ineffective compliance and fraud.

### 5.2 The Sale

Jurisdiction laws, rules, and policies provide options for selling of a mechanic's lien vehicle. Three common processes the working group identified are a lien claimant sale, sheriff sale, and independent private company sale:

- **Lien claimant sale:** a sale by a private entity, such as a tow company, storage facility, private property owner, or repair shop.
- **Sheriff sale:** a sale by a law enforcement agency or other governmental agency for vehicles the agency has possession of or impounded.
- **Independent private company sale:** a company performing the sale on behalf of the above parties.

Each type of sale may be open to the general public; however, in some cases, it may be closed to private individuals. Information about these processes should be readily available and understandable to MVA staff and all parties involved in the sale process to support compliance by everyone involved. Jurisdictions are encouraged to provide information on the documents needed for the title transfer process to occur.

Some jurisdictions require the lien claimant obtain a title in their name prior to the vehicle being sold. Chapter 7 describes information that is submitted for title transfer.

Jurisdictions may have laws, rules, and policies regarding the number of days a lien claimant must possess the vehicle before a public sale or auction is allowed. Specifying the day or time a sale can occur provides an opportunity for the public to attend the sale and allows MVA or law enforcement the ability to conduct compliance checks.

#### *Recommended Best Practices for Jurisdictions*

5.2.1 Have a defined sale process in applicable law, rules, or policy.

5.2.2 Provide information about the sale process that is clearly articulated.

5.2.3 Review laws, rules, and policies to ensure days and times of mechanic's lien sales are specified.

5.2.4 If a lien claimant is required to obtain title prior to the lien sale, perform a VIN check through NMVTIS.

## 5.3 Sale Proceeds

Many laws, rules, and policies require additional sales proceeds, above and beyond the fees incurred by the lien claimant, to be surrendered to the jurisdiction. However, jurisdictions often do not verify that these proceeds have been properly accounted for because of a lack of auditing resources. The sale process is intended for the recovery of expenses incurred by the lien claimant, not intended to be a windfall. Excess proceeds should be remitted in accordance to jurisdictional laws, rules, and policies. Setting limitations, performing audits, and conducting compliance checks may assist the jurisdiction in avoiding predatory practices by unscrupulous individuals and businesses.

### *Recommended Best Practices for Jurisdictions*

- 5.3.1 Establish guidelines for setting limits on the amount a lien claimant can charge for services.
- 5.3.2 Require proceeds from the sale of the vehicle to be distributed in accordance with jurisdiction laws, rules, and policies, including but not limited to:
  - Expenses incurred by a lien claimant
  - Lienholder fees
  - Fees and fines levied by a government entity.
- 5.3.3 Review laws, rules, and policies to ensure proper distribution of excess proceeds.
- 5.3.4 Conduct routine audits of the sale process and the distribution of funds.

## Chapter 6 Types of Fraud

### 6.1 Background

Many times, lien claimants intentionally fail to follow the laws and processes for mechanic's lien sales. When a lien claimant does not follow these laws or processes, it does not automatically indicate fraud. This may mean further review is needed to either correct the deficiency or confirm the fraudulent practice. Additional information regarding fraud prevention and detection can be found in the AAMVA Best Practices Guide for the Deterrence and Detection of Fraud.

The following are examples of fraud that may occur surrounding mechanic's liens.

#### 6.2A Fraud in Advertising

Jurisdiction laws, rules, and policies may require a published advertisement for the sale of vehicle in the mechanic's lien process. The publication is usually in a newspaper of circulation in the area the vehicle is located. Generally, it is required that the publication has to describe the year, make, and VIN of the vehicle, along with the location, date and time of sale, and lien claimant contact information.

Fraud can occur by creating a fictitious ad for a sale that never takes place. This occurs when the lien claimant creates an ad for the vehicle sale but the ad is never published as required. This ad is presented as appearing to have been published, and the lien claimant attests to the fact. It is important to validate that all ads have actually been published as required. Also, it is challenging for vehicle owners and lienholders to easily search a sale ad in a printed

newspaper. Because of these challenges, fraud is allowed to be more easily perpetrated.

Fraud occurring in ads include intentionally:

- Listing an incorrect VIN or VIN with missing characters
- Changing the vehicle make or year
- Providing a false address or an address that has no association with the lien applicant
- Submitting a counterfeit sale ad or ad with false information.

Any of these indicators could be a red flag that the "sale" did not happen as presented.

Publication timeframes vary among jurisdictions and can range from several weeks, to the same day the vehicle is sold at auction. If jurisdiction laws, rules, and policies allow the sale to occur the same day as the publication, any value offered by the publication is negated.

#### *Recommended Best Practices for Jurisdictions*

6.2A.1 Review laws, rules, and policies to specify what information is required to be contained in the publication and the number of days published.

6.2A.2 Validate and verify the sale ad presented by the lien claimant has been actually published as described.

6.2A.3 Validate and verify the submitted vehicle sale ad correctly describes the vehicle being sold.

## 6.2B Collusion Between the Lien Claimant and Buyer

The sales process for a mechanic's lien is intended to be open, consistent, and fair. Unfortunately, lien claimants may intentionally enter into an agreement with an acquaintance prior to the vehicle sale happening to manipulate the sale. This results in the acquaintance "winning" the bid by circumventing the sales process and preventing legitimate bidders from buying the vehicle.

Another example is a "closed bid" sale in which the bid amounts are kept confidential. The lien claimant chooses the winner of the auction, which may not be the highest bidder, resulting in the vehicle being sold for much less than its true value. This allows the vehicle to be sold later at a much higher value by the lien claimant.



### *Recommended Best Practices for Jurisdictions*

6.2B.1 Consider regular audits to determine that sales are taking place, bids are documented, and money is actually being exchanged for vehicles sold.

6.2B.2 Vehicle sales should take place at the advertised location per jurisdiction laws, rules, and policies.

6.2B.3 Require the lien claimant to make the vehicle location known to the vehicle owner, lienholder, MVA, or law enforcement who may be inquiring about the vehicle.

## 6.2C Odometer Rollbacks

Changing or rolling back the odometer of a vehicle can increase its value significantly, which may happen prior to a mechanic's lien sale. This can be hard to detect if there are no supporting documents to verify the mileage. During public sales, previous odometer records are often not available to verify the true mileage of the vehicle. Even with current technology, odometer rollbacks are prevalent.

Mechanic's lien titles are not traditional transfers of ownership, but the transfer provides an opportunity to capture odometer information. This information can alert jurisdictions to potential odometer fraud and provide historical information for future odometer-tampering investigations. Jurisdictions should consult their laws, rules, and policies to determine proper compliance with federal odometer laws relating to what odometer information or brands are applied to the new mechanic's lien title.

### *Recommended Best Practices for Jurisdictions*

6.2C.1 Require the lien claimant to provide an odometer disclosure statement for all mechanic's lien sales.

6.2C.2 Verify odometer disclosure statements are accurate using available resources such as MVA vehicle history, NMVTIS, NICB or other commercially available vehicle history database.

## 6.2D Vehicles Not Branded Properly

Vehicle title brands and other information in NMVTIS provide important information for the potential vehicle owner and can have significant impact on the vehicle's value. Not providing the vehicle's true brand information has more implications than just a notation on the title. This can also deceive the vehicle's new owner of its safety and road worthiness.

In the mechanic's lien process, the previous title does not accompany the vehicle transaction, allowing for a brand to be left off of the new title. Reviewing

the vehicle title history is crucial to ensure previous title brands are carried forward on to the new title. Although a lien claimant may not realize there is a previous title brand, the opportunity for fraud exists by intentionally removing the title brand for profit.

### *Recommended Best Practice for Jurisdictions*

6.2D.1 Conduct a NMVTIS check searching for previous title types and brands.

## **6.2E Unauthorized Lien Removal**

Vehicles are expensive and most people today typically obtain a loan that may extend five years or more. Mechanic's lien applications regarding late model vehicles should receive extra scrutiny from MVA staff. These applications are sometimes used to wash a lien from a title, and without having a physical title available, it is difficult to make a comparison. Even applications with a lien release are recommended to be examined further because the lien release could be counterfeit or altered. The counterfeit or altered lien release often contains contact information of known associates in hopes the jurisdiction uses this information to confirm the lien was satisfied.

Another challenge with vehicle liens is other jurisdictional lien records are not accessible by the jurisdiction processing the mechanic's lien. A lienholder's interest may be removed through the mechanic's lien process, intentionally or unintentionally, without the lienholder's interest being satisfied. Vehicle owners may also intentionally use the mechanic's lien process to remove a lien from a vehicle they can no longer afford.

The use of NMVTIS will provide the last jurisdiction title of record and information on who to contact to verify if an active lien exists. Direct contact with lienholders may be of value.

### *Recommended Best Practices for Jurisdictions*

6.2E.1 Review laws, rules, and policies referencing lien release verifications.



6.2E.2 Procedures should be developed for when a vehicle owner or lienholder fails to respond or claim interest in late model vehicles or vehicles of significant value or if other fraud is suspected.

6.2E.3 Use NMVTIS to obtain last jurisdiction title of record to assist with locating lien holders.

## **6.2F Intentional Holding of Vehicle by Lien Claimant**

The working group identified situations when a lien claimant will intentionally hold a vehicle in their possession to increase storage costs, conceal a stolen vehicle, or conceal the vehicle from a lienholder looking to repossess it. This practice is exaggerated by the lien claimant intentionally delaying the time notices are sent to the owner and lienholder.

### *Recommended Best Practices for Jurisdictions*

6.2F.1 Place limits on the daily storage fee and the number of days of storage allowed for the process to be completed.

6.2F.2 The auditing process should include examining records of notifications to determine compliance and to review the lien claimant's application history for inconsistencies.

6.2F.3 Check NMVTIS for stolen vehicle records, both active and purged.

## Chapter 7 Application for Title

### 7.1 Background

A mechanic's lien title application is not a routine application for title, and specialized staff are recommended to process the applications. These applications are not based on a previous title or the permission of the previous owner to transfer the ownership of the vehicle. Instant, fast, or quick processing for these title applications is discouraged. Those perpetrating fraud use pressure techniques or bribes at the MVA when attempting to pass false documents or false information.

Jurisdictions have different requirements for when the application for title is completed during the mechanic's lien process. In some jurisdictions, the application is completed after the sale by the vehicle purchaser, but other jurisdictions require the lien claimant make application prior to the sale.

Some jurisdictions require lien claimants to have a surety bond for the business mechanic's lien sales. Other jurisdictions have a surety bond process for titles when proper ownership does not exist. Jurisdictions are cautioned to be mindful of the surety bond process being used to circumvent the mechanic's lien process.

*Processing mechanic's lien sale title transfers are non-standard transactions that require a dedicated, well-trained, and experienced team that use a specialized transactional process.*

### 7.2 Resources and Staffing

Providing adequate resources, training, and knowledge to MVA staff is integral in detecting and deterring fraud. Processing mechanic's lien sale title transfers are non-standard transactions that require a dedicated, well-trained, and experienced team that use a specialized transactional process. This process would include a thorough review at each stage, not allowing immediate, over-the-counter, window application transactions. Having a manager or a designated person review all lien claimant title applications may provide additional oversight in the process. Any fraud identified or reported should follow jurisdictional fraud reporting procedures. Providing the public with a step-by-step guide and dedicated staff to respond to inquiries regarding the mechanic's lien process may create efficiencies within the process.

#### *Recommended Best Practices for Jurisdictions*

- 7.2.1 Designate dedicated staff to review and process mechanic's lien title applications. Process applications at a location allowing for adequate time for review without the customer present.
- 7.2.2 Review laws, rules, and policies to allow sufficient time to review applications with no instant, fast, or quick title applications.
- 7.2.3 Develop, review, or update training and procedures for employees to follow when processing and reviewing these applications.
- 7.2.4 Ensure dedicated staff are participating in the AAMVA's Fraud Detection and Remediation (FDR) Training Program.

7.2.5 Provide the dedicated staff with access to adequate resources such as: NMVTIS, NICB, ISO, or other commercially available vehicle history database.

7.2.6 Conduct internal audits for compliance with jurisdiction laws, rules, and policies.

7.2.7 Jurisdictions should consider listing contact information on their website for mechanic's lien vehicle questions and provide a published FAQ. This contact information could include links to any website the jurisdiction maintains with instructions and information about finding or reclaiming mechanic's lien vehicles. Additionally, the contact information should be published and updated in titling and registration manuals and websites.

### 7.3 Presenting and Reviewing the Application

When mechanic's lien title applications are presented to the MVA, documenting who provided the information is necessary and should include a copy of the identification. Other contact information should include a phone number and an email address to allow for contact if questions arise.

The forms submitted with the application should be the most current version. Depending on jurisdiction laws, rules, and policies, the application and supporting documents may include but are not limited to:

- Title application and appropriate fees
- Title and vehicle registration, from local MVA or another jurisdiction
- Lien notice forms
- Bill of sale or chain of ownership
- Affidavit of ownership
- Power of Attorney
- Proof of notification compliance

- Receipts for services provided
- Proof of NMVTIS check
- Other acceptable documents required by the jurisdiction laws, rules, and policies

#### *Recommended Best Practices for Jurisdictions*

7.3.1 Retain a copy of identification and contact information of the person presenting the mechanic's lien application. A list may be kept of authorized representatives who regularly do business with the MVA.

7.3.2 Review policies regarding the forms utilized for the application process because older forms may be subject to counterfeiting or alterations.

7.3.3 For jurisdictions that require a lien claimant to obtain a title before sale, require the lien claimant to produce all original documents relating to compliance of a lien sale.

7.3.4 Review the MVA title transaction history, looking for any rejected title applications involving the VIN on the application submitted.

### 7.4 Lien Verification

As discussed in Chapter 6, the lien verification is an important step in the application process. A lienholder's interest may be removed through the mechanic's lien process, intentionally or unintentionally, without the lien holder's interest being satisfied.

#### *Recommended Best Practices for Jurisdictions*

7.4.1 Review laws, rules, and policies referencing lien release verifications.

7.4.2 Use NMVTIS to obtain last jurisdiction title of record to assist with locating lienholders.

## 7.5 “Stop Title” Process

The ability to place an administrative stop on an application during the review of the submitted documents is helpful. It provides an opportunity to further review and verify the submitted documents. The processing stop will deter an applicant from using another method to obtain a title and alert the MVA staff there is an issue with the transaction or another pending application.

### *Recommended Best Practices for Jurisdictions*

- 7.5.1 Establish an administrative stop process in the MVA title database on suspicious applications.
- 7.5.2 The administrative stop should include the reason for the stop and who should be contacted.
- 7.5.3 Consider placing an administrative stop on all title transactions for a specific company if there are ongoing or unresolved problems.

## Chapter 8 Review and Regulation

### 8.1 Background

The foundation of any title and registration operation is well-trained employees with the ability to verify documents and enforce the rules and regulations in place. Ongoing training and refresher training assists in ensuring employees follow policies and are attuned to any changes. Laws, rules, and policies may become outdated to the needs of customers, employees, and industry. A periodic review should be made with consideration and involvement from industry stakeholders and staff to ensure an efficient and thorough process.

### 8.2 Suspected Fraud

Title applications that are submitted to MVA for processing that are suspected of being fraudulent should be retained in accordance with department policy. For criminal prosecution, original or certified documents are necessary for successful prosecution. Complaints reported regarding the mechanic's lien process should be reported to the appropriate MVA authority. For additional information on fraud investigations, see the AAMVA Best Practices Guide for the Deterrence and Detection of Fraud.

Fraud may also occur internally within an MVA office by employees allowing lien claimants to obtain mechanic's lien titles while omitting steps in the application process. An audit and/or investigation will determine the nature of the omission to determine the cause and intent.

#### *Recommended Best Practice for Jurisdictions*

8.2.1 Any suspected criminal activity found within the mechanic's lien process should be

reported according to department policy. See the AAMVA's DMV Investigative Unit Resource Guide for implementation of a fraud investigation program.

8.2.2 It is recommended that jurisdictions create an email account or other online form for public input, listed on the MVA website, for fraud complaints associated with mechanic's liens. This email should be available for a group of staff to review each day and would avoid the possibility of emails stacking up. It is also recommended if staffing levels are sufficient that the jurisdictions have a toll-free phone number for questions.

### 8.3 Internal Audit

Internal audits of work skills and review of completed work ensure that proper procedures are being used. Lien claimants may take advantage of a lack of internal audit measures by submitting improper, incomplete, or inaccurate paperwork. The process of auditing allows for identifying poor work practices, training deficiencies, and fraudulent practices (internally and externally) and ensures those involved are held accountable for their actions.

#### *Recommended Best Practices for Jurisdictions*

8.3.1 Assign MVA staff to conduct quarterly audits (or as appropriate) for the mechanic's lien title process.

8.3.2 Develop a training program for MVA audit staff to look for signs of discrepancies in the mechanic's lien title process, including the use of ongoing skills and written tests.

### *Recommendation to AAMVA*

8.3.3 Develop a best practice for conducting internal audits for MVA titling processes.

## **8.4 Motor Vehicle Agency Investigators, Law Enforcement, and Prosecutors**

The investigation of mechanic's lien title applications is a specialized area. Many of these investigative practices are provided for in the AAMVA DMV Investigative Unit Resource Guide. This working group discussed the specialized knowledge and experience needed that is detailed in this guide. Establishing a partnership between MVAs and law enforcement may enhance the ability to detect fraud in this process.

The title application process is complicated and requires specific knowledge. Prosecutors rarely work in this area, so when provided a case involving mechanic's lien title fraud, it may take additional time and effort for MVA investigators and law enforcement to educate them.

### *Recommended Best Practices for Jurisdictions*

8.4.1 Assign MVA staff or law enforcement to physically inspect the location of lien claimants to ensure compliance and to detect potential fraud.

8.4.2 Encourage MVA investigators to attend training conferences and participate in monthly AAMVA fraud awareness calls.

8.4.3 Meet the prosecutor in person to educate them on the mechanic's lien process and deliver reports.

## **8.5 Stakeholders**

There are many industry stakeholders in each jurisdiction, and each should understand the rules and regulations involved in the mechanic's lien process. Meeting with these stakeholders will help them more clearly understand this process.

### *Recommended Best Practice for Jurisdictions*

8.5.1 Meet regularly with stakeholders in your jurisdiction to provide them training and information and to obtain feedback on the mechanic's lien process.

## **8.6 Training Summary**

Training is not limited to the suggestions listed in this publication. Some of the best knowledge of the process is passed on through mentoring by long-time employees to less tenured employees. Simple training of a local detective or patrol officer can have lasting impact. There are also private auditing companies that can share their practices and information they see that raise red flags. All knowledge is valuable and can assist in the prevention and detection of fraud in the possessory lien process.

## Chapter 9 Case Studies

### 9.1 Background

Throughout this report, efforts have been made to define and identify fraudulent activities involving mechanic's lien processes and to make recommendations for jurisdictions to consider when amending laws and rules to prevent fraudulent activity. While reading through the following examples, note how agencies collaborated, what types of charges were filed, and how criminal activity was curtailed. Although these cases were successfully prosecuted, there are many more opportunities for fraud that need attention.



### 9.2 Successful Enforcement Efforts

*Florida – May 2017 – US Secret Service – Fort Lauderdale Police Department*

Eight individuals—Mark David Johnson, David William Wheat, Michael Kennedy Brown, Jana

Kabeloya, Michael Munday (a/k/a “Micky”), Juan Ottavianelli, and Edwin Fernandez of Florida and James Carrington of Missouri—were charged and subsequently convicted in a 14-count federal indictment in Florida. Charges included conspiracy to commit mail fraud. Between September 2008 and February 2015, the defendants fraudulently obtained motor vehicles with active liens, some of which were purchased from dealerships by the use of straw buyer purchasers; prepared and mailed false and fraudulent lien sale notices on owners and lienholders; hid the motor vehicles at various locations in south Florida to avoid recovery by the rightful lienholders; fraudulently removed the current owner's and lienholder's interest in the vehicles; and then sold the vehicles to co-conspirators at below market value prices so that they could then re-sell them for larger profits. Wheat operated a title lien service and would prepare and mail fraudulent lien notices, falsely claiming that the lien claimant tow companies operated by co-defendants had incurred cost to tow and store the vehicles. Wheat would then prepare and file applications for titles with the Florida DMV, which would be used later by other co-defendants to sell and transfer the motor vehicles. In total, 199 vehicles valued at more than \$1.7 million were linked to this organized fraud scheme. The case was investigated by Fort Lauderdale Police Department and the U.S. Secret Service and was prosecuted by the United States Attorney's Office in the Southern District of Florida.

<https://www.justice.gov/usao-sdfl/pr/eight-residents-florida-and-missouri-charged-167-million-fraud-scheme>

### *Florida – March 2014 – First District Court of Appeal Case No. 1D17-5193*

At the request of law enforcement, Ken's Paint and Body towed a 2011 Jeep Compass from a crash scene to his tow yard. At the scene of the crash, law enforcement provided the business with the vehicle owner's name and address and the vehicle tag and identification numbers. Despite having the information needed to comply with Florida law requiring notification of a proposed lien and sale to the vehicle owner within 7 business days of the tow, Ken's Paint and Body failed to send notification until the 14th business day. The vehicle was unclaimed by the owner and was offered for sale on April 21, 2014. The owner of Ken's Paint and Body was the only bidder at auction and thereafter applied for and received a certificate of title.

The Jeep's insurer, State Farm, subsequently applied for and received a salvage title for the vehicle from the State of Georgia. About a year after the crash, after Ken's Paint and Body had repaired the vehicle for resale, they learned of the new Georgia salvage title. The owner of Ken's Paint and Body filed a civil suit against State Farm, asserting that its intentional and wrongful registration of the Jeep as a salvage vehicle destroyed essentially all its marketable value as a used automobile.

State Farm moved for summary judgement based on Ken's Paint and Body's failure to comply with Florida's lien notification requirements. The trial court granted the summary judgement and awarded ownership of the vehicle to State Farm. Ken's Paint and Body appealed the decision, arguing that despite failing to comply with the notification requirements, they still had basis to collect towing fees. In May 2019, the appellate court upheld the trial court's decision and affirmed that the tardy notification invalidated all of Ken's Paint and Body's claims to the vehicle.

### *Indiana – May 2019 – Indiana State Police and FBI*

Two men, Brian Fenner of Indianapolis and Dennis Birkley of Wisconsin were indicted in federal court and charged with conspiracy to commit mail, wire,

and bank fraud. The indictment is a result of Fenner and Birkley's organized scheme to defraud bankruptcy debtors and finance companies by using the mechanic's lien process to remove the active lien and obtain title to the vehicle. In this case, the indictment alleges that Fenner would target individuals that were upside down in their auto loans and make promises to pay their bankruptcy attorney fees in exchange for their turning over their vehicles to him. For a three-year period between 2013 and 2016, Fenner arranged for numerous individuals from multiple jurisdictions across the country to turn their vehicles over to him in exchange for what they thought would be a free bankruptcy. After Fenner had the vehicles, he would claim exorbitant towing and storage fees, with the intent that he would never collect those fees but would use them to justify processing a mechanic's lien and a subsequent lien sale title transfer on the vehicles. Fenner would not have the required auction and instead arranged for Dennis Birkley and his company, AMI Asset Management, to win the auction with the bid being the exact amount of the bogus towing and storage fees. Birkley would receive the vehicle with lien-free titles and then sell them, splitting the profits with Fenner. In addition to defrauding the vehicle lienholders of their right to their collateral, this scheme also left the individuals who had turned their vehicles over to Fenner with a loan debt for vehicles they no longer possessed and an inability to resolve their bankruptcy.

### *Missouri – March 2018 – Missouri Department of Revenue and Missouri Highway Patrol*

Nicholas Brock, who falsely claimed to the lienholder that a 2008 Peterbilt semi-tractor had been towed by his towing company. He falsely claimed the towing fees were \$16,096 with a daily storage fee of \$100. After the lienholder failed to exert ownership rights, Brock submitted an application for title and registration to the Missouri Department of Revenue, claiming the Peterbilt was abandoned, and provided the false tow bill to support the claim. Unfortunately

for him, Brock mailed the form to the Department of Revenue, committing felony federal mail fraud, which he subsequently pled guilty to. He was sentenced on March 18, 2019 to four month's home confinement and five years' probation and was ordered to pay \$78,180 in restitution.

<http://www.kait8.com/2019/03/18/former-kennettmo-man-sentenced-mail-fraud-charges/>

### *Nevada – August 2017 – Nevada DMV, Las Vegas Metropolitan Police Department, U.S. Social Security Administration, and U.S. Department of Housing and Urban Development*

Six individuals—Robert Milk, Kenneth Johnson, Curtis Acree, Roosevelt Warren, Kristi Milk, and Joel Hendrix—were indicted for 32 felony counts relating to a towing scam operating out of the Las Vegas area. The charges included offering false documents for filing of record, obtaining money or property under false pretenses, burglary, using personal identifying information of another, and mortgage lending fraud. According to the indictment, between 2013 and 2017, the five male defendants filed false documents with the Nevada DMV that claimed lienholders had been notified of tow and storage liens pending on the vehicles and subsequently sold the vehicles at auction. The lienholders never received any notice of the tow or subsequent auction by the towing company and were deprived of thousands of dollars and the right to recover their collateral. Three of the individuals, Robert Milk, Curtis Acree, and Kenneth Johnson, were repeat offenders and had been previously charged in a similar fraud scam in October 2016.

[http://ag.nv.gov/News/PR/2017/Attorney\\_General\\_Laxalt\\_Announces\\_Grand\\_Jury\\_Indictment\\_Against\\_Six\\_Defendants\\_for\\_32\\_Felony\\_Counts\\_of\\_Fraud/](http://ag.nv.gov/News/PR/2017/Attorney_General_Laxalt_Announces_Grand_Jury_Indictment_Against_Six_Defendants_for_32_Felony_Counts_of_Fraud/)

### *Oregon – June 2016 – Oregon DMV and Portland Police Bureau*

In 2016, Crystal Toner returned from vacation to find her 2011 Subaru had been stolen. After reporting the theft, she found that her vehicle title had been

transferred two weeks earlier to someone else without her knowledge. The subsequent investigation showed that an acquaintance of her former roommate, Omar Abu-Neel, had submitted an application to Oregon DMV for a vehicle title using a fraudulent possessory lien foreclosure form as an ownership document. After obtaining an Oregon title for the vehicle from the DMV, Abu-Neel, an active curbs Stoner, sold the vehicle to a local car dealership, where it was recovered by law enforcement. Abu-Neel was arrested for his part in the case, but Toner had to obtain a court order before the DMV was able to re-title the vehicle in her name.

Following this case, the Oregon legislature passed a law requiring (with few exceptions) lien claimants to secure a \$20,000 surety bond prior to foreclosing a possessory lien. To help deter fraud, the Oregon DMV also made some internal procedures changes to how possessory liens are processed.

<http://portlandtribune.com/pt/9-news/311232-183364-oregon-dmv-rules-make-state-ripe-for-fraud-auto-theft>

### *Oregon – October 2015 – Oregon DMV and Hillsboro Police Department*

Stephen Bremkamp was a local tow company operator in Hillsboro, Oregon, when he came to the attention of Oregon DMV investigators through a confidential informant. Bremkamp had attempted to sell at least two late-model vehicles to the informant at far less than market value. Investigation revealed that Bremkamp had a history of finding vehicle owners, primarily in the state of Nevada, who were unable to make their vehicle loan payments. He would purchase the vehicles from them for far less than what they owed, without the vehicle lien holder's knowledge. After transporting the vehicles to Oregon, he would use his personal businesses as a cover to submit fraudulent possessory lien claims to the Oregon DMV to obtain Oregon titles clear of the lienholder. Following his obtaining the titles, Bremkamp would notify the sellers, who would in turn report to their

lender (not law enforcement) that the vehicle was stolen. Bremkamp would then sell the vehicles to local car dealerships.

Oregon DMV investigators referred the case to the Hillsboro Police Department, which initiated a criminal investigation. Following the investigation, Bremkamp was arrested and subsequently convicted of multiple counts of felony theft and forgery. He was ordered to pay more than \$47,500 in fines, fees, and restitution and was sentenced to 30 days in jail and five years of probation.

### **9.3 Administrative Enforcement Efforts**

#### *Georgia Department of Revenue and NICB*

A tow company called to a highway by law enforcement to remove an abandoned vehicle. The tow company submitted the required notification and was unable to find an owner or lienholder who had an interest in the vehicle, so they filed for an abandonment. The tow company was able to sell the vehicle to recoup the storage and towing fees they incurred during the process. The new owner titled the vehicle after the submitted paperwork was reviewed. Several months later, NICB reached out to the issuing agency with a request to inspect the vehicle because the manufacturer did not issue the VIN associated with the abandoned vehicle. Although the manufacturer

did not issue the VIN, the VIN submitted conformed to standards and met VIN check reviews. Law enforcement and NICB inspected the vehicle, and it was revealed the true VIN of the vehicle was different from the displayed VIN. The true VIN was stolen from a local rental car company. Upon review of the paperwork submitted to the authority, a NMVTIS check and a VIN history review would have revealed the VIN submitted did not have any history prior to the application for an abandoned vehicle.

#### *Oregon DMV*

The State of Oregon has statutory authority allowing the Oregon DMV to inspect lien claimant records to ensure lien claimants are maintaining records sufficient to establish how the lien claimant came into possession of a vehicle being offered for sale or sold as part of the possessory lien foreclosure process. Oregon Administrative Rule 735-150-0250 requires the lien claimant to maintain additional records showing the owner of record was notified of the possessory lien, a copy of the signed and dated certificate of possessory lien foreclosure form, and a bill of sale (if applicable). These records must be maintained by the lien claimant for five years, in a manner allowing for timely and efficient retrieval for inspection, and civil penalties are authorized if the records are not maintained as required or an inspection by DMV is not allowed.

## Chapter 10 Conclusion

The foundation of this Best Practice Document and its recommendations are based on a combination of research, expertise, knowledge, and industry stakeholder input accumulated by the Abandoned Vehicle and Mechanic's Lien Fraud Prevention Working Group. Because of an increase in fraud within the mechanic's lien process and interest from jurisdiction members for preventative measures to combat this fraud, the working group developed multiple best practice recommendations for jurisdictions to consider.

The working group encourages jurisdictions to collaborate with industry stakeholders who have interest in the mechanic's lien process to determine which best practice recommendations would enhance their business procedures and aid in the elimination of fraud in these processes. In some cases, adopting recommendations from this document may require law, rule, or policy change, but the impact of adopting the best practices will have a positive impact on the residents and stakeholders of the jurisdiction.

## Appendix A Additional Resources

The following are a list of some of the resources utilized by law enforcement officers, MVA investigators, and MVA staff to conduct investigations and to confirm compliance with jurisdiction laws, rules, and policies relating to mechanic's lien sale title applications. Because the list of vehicle history data providers is not inclusive of all available providers, jurisdictions are encouraged to research resources most beneficial to them.

**Auto Data Direct:** <https://add123.com/>

**Carfax:** <https://www.carfax.com/>

**Experian AutoCheck:** <https://www.autocheck.com/vehiclehistory/>

**ISO ClaimSearch:** <https://claimsearch.iso.com/>

**National Highway Traffic Safety Administration (NHTSA):** <http://www.nhtsa.gov>

**National Insurance Crime Bureau (NICB):** <https://www.nicb.org/>

**NMVTIS:** <https://vehiclehistory.bja.ojp.gov/>

**NMVTIS Law Enforcement Access Tool (LEAT):** [https://vehiclehistory.bja.ojp.gov/nmvtis\\_law\\_enforcement](https://vehiclehistory.bja.ojp.gov/nmvtis_law_enforcement)

**Public Notice Sites:** My Public Notices: <http://www.mypublicnotices.com> 18 state public notice sites  
Public Notice Ads: <http://publicnoticeads.com/> 48 states public notice sites

**U.S. Postal Inspection Service:** <https://postalinspectors.uspis.gov>

**U.S. Postal Service – Track and Confirm Site:** [https://tools.usps.com/go/TrackConfirmAction\\_input](https://tools.usps.com/go/TrackConfirmAction_input)

## Appendix B Survey Results

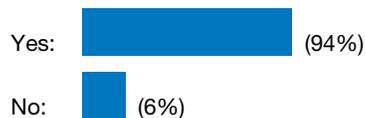
### Summary of AAMVA Jurisdictional Survey

The working group asked members to complete a survey that commenced in March 2019 and was completed on May 2019. The survey was conducted via AAMVA's web survey tool. The purpose of the survey was to gather information on jurisdictional laws, rules, and policies for reviewing and processing mechanic's lien title applications.

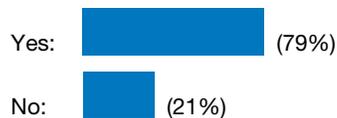
Thirty-six jurisdictions responded, although not all questions were answered. Below are the cumulative results of the survey. For complete results, visit <https://www.aamva.org/Survey/User/SurveyDefault.aspx>. The name of the survey is Abandoned Vehicle & Mechanic's Lien Fraud Prevention.

#### Aggregate Results

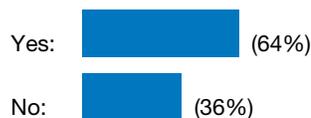
**Question 1:** Do you require notification to the owner or lien holder prior to the sale of an abandoned vehicle or the enforcement of a mechanic lien?



**Question 2:** If yes to question one, do you require these records be submitted when applying for title?



**Question 3:** 2.a. Are these records referred to in question two verified for validity? If yes, briefly describe the verification process.



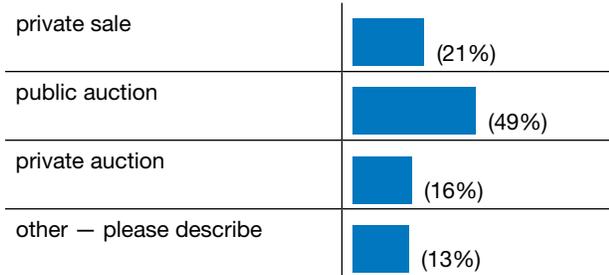
**Question 4:** Does your jurisdiction require a physical VIN inspection for an abandoned or possessory lien vehicle title application? If yes, who performs the VIN inspection?



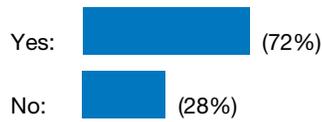
**Aggregate Results** *(continued)*

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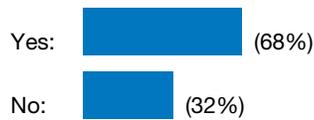
**Question 5: What ways of selling or disposing of an abandoned or possessory lien vehicle are permissible in your jurisdiction? Check all that apply.**



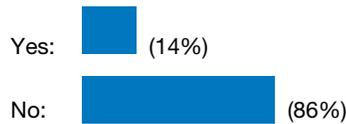
**Question 6: Is a lien claimant allowed to retain the vehicle for their own use after the lien is foreclosed?**



**Question 7: Do you require an odometer disclosure statement be completed for abandoned and possessory lien vehicle title applications?**



**Question 8: Does your jurisdiction use a third party vendor for abandoned and possessory lien vehicle notifications?**



**Question 9: Do you allow customers to use their own vendor for abandoned and possessory lien vehicle notifications?**



## Appendix C Stakeholder Questionnaire

A questionnaire and discussions with stakeholders were conducted by the working group. Stakeholders are directly impacted by MVA mechanic's lien title processes, so the working group believed it was imperative to involve stakeholders in discussions and to obtain their insight into fraud prevention strategies. Stakeholders were invited to take part in two phone calls and were asked to provide responses to the questions below. The information provided was analyzed by the working group for incorporation into this document.

### Stakeholder Questions

1. What topics do you think should be covered in the AAMVA Best Practices Guide the working group is developing for jurisdictions?
2. Are you aware of a jurisdiction(s) that have procedures and policies in place that are effective in preventing fraud in the application for abandoned and possessory lien vehicle titles?
3. What problems, issues, and concerns have you seen that allow fraud to occur in the abandoned and possessory lien vehicle title process?
4. Do you have suggestions for potential jurisdictional legislation, rules, or policies that provide fraud deterrence in the abandoned and possessory lien vehicle title process?
5. Do you believe utilizing a motor vehicle agency third-party authorized vendor to dispose of abandoned and possessory lien vehicles would provide deterrence from fraudulent activities?
6. For added consumer protection, the topic of recommending a lien claimant have a business surety bond in order to file applications for abandoned and possessory vehicle lien titles and/or recommending a title surety bond be on file for title applications has been discussed. How would this impact your members?

## Appendix D Working Group Roster

### **Richard Trinkwalder, Chair**

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Motor Vehicle Division

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New Hampshire Department of Safety  
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### **Lieutenant Daniel McCollum**

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Kansas Highway Patrol

### **Marshall Milli**

*Revenue Agent*

Department of Revenue  
South Dakota Division of Motor Vehicles

### **Shaun Peterson**

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### **Larry Purdy**

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### **Milly Ridenhour**

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Missouri Division of Motor Vehicle & Driver Licensing

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#### **Kevin Park**

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Insurance Auto Auctions Inc.

#### **Pamela Tennison (Retired)**

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#### **Paul Steier, Project Manager**

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#### **Cathie Curtis**

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## **OUR VISION**

*Safe drivers*

*Safe vehicles*

*Secure identities*

*Saving lives!*



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