

In which of the following cases is a defendant most likely to be convicted if charged with receiving stolen property?

- A. The defendant bought a car from a man. Before the purchase, the man told the defendant that the car was stolen. The man had stolen the car with the help of a friend who, unknown to the defendant or the man, was an undercover police informant who feigned cooperation with the man in the theft of the car.
- B. The defendant bought a car from a man. Before the purchase, the man told the defendant that the car was stolen. Unknown to the defendant, the man had stolen the car from a parking lot and had been caught by the police as he was driving it away. The man agreed to cooperate with the police and carry through with his prearranged sale of the car to the defendant.
- C. The defendant bought a car from a man. Before the purchase, the man told the defendant that the car was stolen. Unknown to the defendant, the man was in fact the owner of the car but had reported it to the police as stolen and had collected on a fraudulent claim of its theft from his insurance company.
- D. The defendant bought a car from a man who operates a used car lot. Before the purchase, the man told the defendant that the car had been stolen, which was true. Unknown to the defendant, the man is an undercover police informant who is operating the lot in cooperation with the police in exchange for leniency in connection with criminal charges pending against him.

### **Explanation:**

A defendant is guilty of **receiving stolen property** if he/she:

**took possession** of, or exercised control over, **stolen personal property**

**knew** that the property was stolen *and*

**specifically intended to permanently deprive** the owner of the property.

But property is **no longer considered stolen** once the **police recover the property**—ie, locate and exercise control over it.

Here, the defendant bought a car from the man after the man told the defendant that it was stolen (knowledge and intent). The man stole the car with a friend who, unbeknownst to the man and the defendant, had been working as an undercover police informant. But since the police did not recover the stolen car before the defendant's purchase (possession), the defendant will likely be convicted of receiving stolen property.

**(Choice B)** The defendant bought a car from the man after being told that it was stolen. Although the man had taken the car from a parking lot, he was stopped and the car was recovered by police before the defendant took possession. Therefore, the car is not considered stolen and the defendant would likely be acquitted.

**(Choice C)** Although the defendant intended to buy a stolen car from the man, the man actually owned it. Therefore, the car was not stolen property.

**(Choice D)** The defendant bought a car from the man after being told that it had been stolen. But since the man operated the used car lot in cooperation with the police, the police exercised control over the car before the defendant took possession. Therefore, the car is considered recovered—not stolen.

### **Educational objective:**

Receiving stolen property requires proof that the defendant (1) took possession of, or exercised control over, stolen personal property, (2) knew that the property was stolen, and (3) specifically intended to permanently deprive the owner of it. But once stolen property is recovered by police, it is no longer considered stolen.

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### Receipt of stolen property

■ = stolen   ■ = not stolen

