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Leaked Handbook Reveals How ICE Uses Civil Forfeiture To Seize Millions

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**Nick Sibilla**, Contributor

In a bombshell report, *The Intercept* on Friday published excerpts from the U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) “Asset Forfeiture Handbook,” which instructs agents on how to seize cash, real estate and other valuable property. Asset forfeiture includes property taken through both criminal forfeiture, which can occur only after the owner has been convicted, and civil forfeiture, which does not require a conviction or any charges to be filed and has a far lower standard of proof.

Thanks to this two-tier system, the handbook notes that there can be cases where a property owner “is not convicted of a crime but is also not an innocent owner.” As a result, “under criminal forfeiture, that property owner would be entitled to the return of

the property. Under civil forfeiture, however, the owner would lose his or her interest to the Government.” That makes “the civil proceeding essential to forfeiture” for ICE agents.

The handbook further includes several tips on how agents can maximize profit through seizing property. Agents should “not waste instigative time and resources” confiscating “liabilities.” In fact, the handbook outlines a “general rule” for asset forfeiture: “if total liabilities and costs incurred in seizing a real property or business exceed the value of the property, the property should not be seized.”



A police officer and a security officer look on at the US Immigration and Customs Enforcement (ICE) office, part[+]

Tellingly, for cases where “there is not enough net equity to justify seizure and forfeiture,” property can be seized if there is an “overriding law enforcement reason.” “In these cases,” the

handbook states, “the value of the item may be of secondary importance,” with the implication that a property’s value typically comes first.

When it comes to seizing real estate, the handbook outlines six key factors agents should consider:

“ (1) the assessed value, (2) known liens, (3) the probable equity, (4) possible environmental problems, (5) the existence of sufficient probable cause for seizure, and (6) the ability to overcome possible defenses to the forfeiture.”

In other words, out of those six considerations, four involve how much a property is worth. And to better appraise real estate, the handbook teaches agents how to conduct “post-and-walk” viewings. With a search warrant in hand, ICE agents, along with a private real estate appraiser, walk through a property’s premises and document “all items that may be of concern or may deter the Government from pursuing forfeiture of the property.” The handbook even calls post-and-walk viewings “potentially one of the most important steps in the seizure/forfeiture process.”

Thanks in no small part to the handbook’s guidelines, forfeiture has become a boondoggle for ICE. According to a report by the [Government Accountability Office](#), from fiscal 2003 to 2013, Department of Homeland Security agencies contributed a staggering \$3.6 billion to the Treasury Forfeiture Fund. In recent years, “forfeiture revenue from ICE has consistently been approximately 50 percent or more of total forfeiture revenues by DHS.”

ICE contributes an even bigger proportion to “equitable sharing,”

which allows local and state law enforcement to collaborate with federal agencies and forfeit seized property under federal law. During that same period, DHS distributed \$1.2 billion through equitable sharing to state and local agencies, with ICE accounting for 90 percent of those payments.

Equitable sharing is rife with abusive seizures. In one infamous case that was covered in *The Washington Post* and *The New Yorker*, Victor Ramos Guzman, a church secretary and legal resident, had \$28,500 in parishioner donations confiscated by a Virginia state trooper. Even though he was never charged with a crime, his seized cash was promptly transferred to ICE to proceed under equitable sharing. Fortunately, Guzman did recover the money, but only after a former deputy chief of the Justice Department's Asset Forfeiture Office accepted his case pro bono.

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In July, Attorney General Jeff Sessions [reversed](#) one of the few limitations on equitable sharing, a ban on so-called adoptions. One week later, the Treasury Department (where ICE's forfeiture proceeds are deposited) [followed](#) suit.

But many lawmakers staunchly oppose equitable sharing. Last month, the U.S. House of Representatives [unanimously passed](#) amendments that would defund the adoption program and the Sessions forfeiture directive. On the state level, [seven states](#) and the District of Columbia have passed legislation to curtail their agencies from participating in equitable sharing.

By showcasing ICE's forfeiture handbook, *The Intercept* has pulled

the curtain back on an otherwise hidden program. In a recent report on forfeiture transparency and accountability, the Treasury Department received an F for [failing to publically disclose](#) how it tracks seized property.

Yet ICE, along with U.S. Customs and Border Protection (CBP), tracks seized property through a forfeiture database called the Seized Assets and Case Tracking System (SEACATS), which contains at least four million records. The Institute for Justice filed an open records request to gain access to SEACATS, which CBP refused. Last December, the Institute for Justice [sued](#) CBP, though the case is still ongoing.

“The lack of transparency surrounding forfeiture is deeply troubling, especially considering the vast power law enforcement has to take property from people without so much as charging them with a crime,” Lisa Knepper, director of strategic research at IJ, said in a [statement](#). “The public ought to know how forfeiture is being used.”

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