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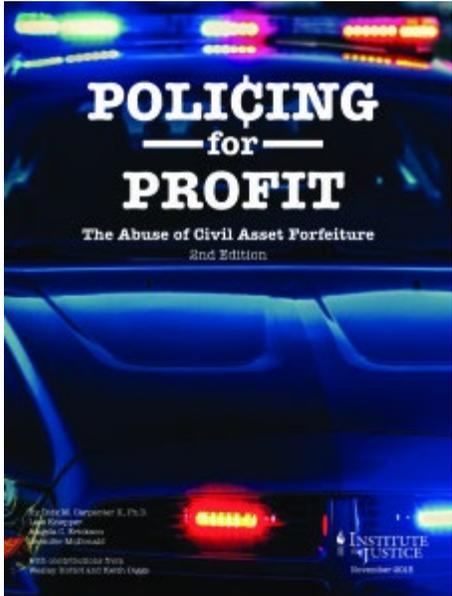
TAKEN: New Report Finds Civil Forfeiture Laws Are Fueling Explosive Growth in Property Seizures

Federal Laws Among the Nation’s Worst; Annual Federal Forfeiture Take Grew Tenfold in Just 14 Years

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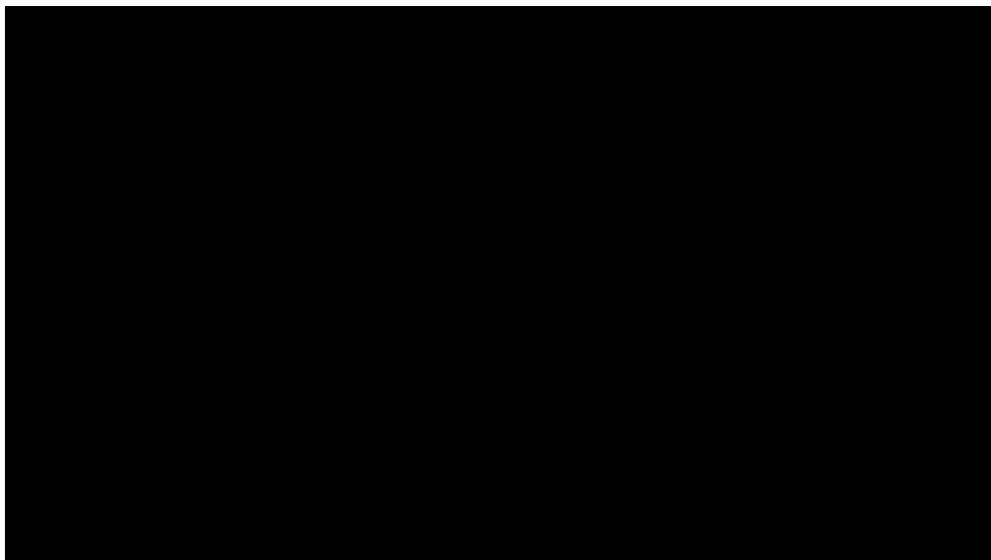
Press Release | November 10, 2015

Arlington, Va.—Draconian state and federal civil forfeiture laws are fueling an unprecedented rise in property seizures nationwide, according to a new national study—and federal laws are among the nation’s worst. The study provides the most comprehensive examination of civil forfeiture laws and forfeiture statistics yet compiled.



The federal government’s civil forfeiture scheme scores a D- in the new report, *Policing for Profit: The Abuse of Civil Asset Forfeiture*, released today by the [Institute for Justice](#). In addition to meager

protections for property and due process rights, federal law gives law enforcement a strong financial incentive to take property regardless of the owner's guilt or innocence—100 percent of the proceeds.



Most state laws likewise fail to make the grade: 35 states receive a D+ or worse, demonstrating the poor state of civil forfeiture laws across the country. Only two states receive worse grades than the federal government.

“Research has shown that the financial incentives baked into civil forfeiture laws influence law enforcement behavior,” said Dick M. Carpenter II, Ph.D., an IJ director of strategic research and one of *Policing for Profit*'s co-authors. “When laws make taking property relatively easy and lucrative for law enforcement, it should be no surprise to see agencies take advantage.”

Under civil forfeiture laws, police and prosecutors can seize cash, cars, homes and other property on the mere suspicion that it is connected to criminal activity. No charges or convictions are required.

And once property is seized, owners must navigate a confusing, complex and often expensive legal process to try to win it back before it is forfeited. Worst of all, most civil forfeiture laws give law enforcement agencies a powerful incentive to take property: a cut, or even all, of forfeiture proceeds. Such financial incentives, combined with weak protections for property owners, increasingly put people's property at risk.

Nationwide, forfeiture revenue has exploded. Since 2001, annual federal forfeiture revenue has increased from less than \$500 million to more than \$5 billion in 2014—a tenfold increase in just 14 years. And available data show forfeiture revenue across 14 states more than doubling from 2002 to 2013.

The study also finds that when police and prosecutors take property, they overwhelmingly prefer civil forfeiture to its criminal counterpart. Civil forfeiture is easier for law enforcement because it does not require a conviction, while criminal forfeiture does. Data obtained by IJ reveal that the Department of Justice took advantage of easier civil procedures in 87 percent of forfeiture cases from 1997 to 2013.

State and local law enforcement can also take advantage of a controversial federal forfeiture program called equitable sharing, which enables them to circumvent their own states' laws, which are often less lucrative, and forfeit under federal law instead—getting up to 80 percent of the proceeds back. *Policing for Profit* finds that DOJ equitable sharing payments to state and local law enforcement nationwide more than tripled between 2000 and 2013, jumping from \$198 million to \$643 million.

Several states have adopted reforms to rein in rising property seizures, but so far, Congress has not. In just the past two years, six states and the District of Columbia have raised the legal bar for forfeitures, requiring more proof of criminal activity before people can be deprived of their property—with four of those states now requiring a criminal conviction, including New Mexico, which abolished civil forfeiture altogether. And New Mexico and D.C. now direct all forfeiture proceeds to the general fund, eliminating the perverse financial incentive to seize. Those jurisdictions have also opted out of the federal equitable sharing program, though the District’s equitable sharing reform does not take effect until 2018.

At the federal level, Sen. Rand Paul (R-KY) and Rep. Tim Walberg (R-MI) in January introduced the Fifth Amendment Integrity Restoration (FAIR) Act. The bipartisan bill would remove the financial incentive to seize by directing forfeiture proceeds to the Treasury Department’s general fund, raise the legal bar to forfeit property, boost other property rights and due process protections, and eliminate equitable sharing. And earlier this year, both the House and Senate judiciary committees held hearings examining federal forfeiture laws and practices. The committees were expected to introduce their own bipartisan comprehensive reform bill, including abolishing equitable sharing, but have so far failed to do so.

In January, the Justice and Treasury Departments announced policy changes to the equitable sharing program purportedly intended to curb the practice. But IJ’s analysis of DOJ data shows the new policy is unlikely to reverse the upward trend. It targets a small slice of the program, the federal “adoption” of locally seized property, and largely leaves intact joint task force and investigative seizures. Such joint

operations accounted for 82 percent of DOJ equitable sharing proceeds from 2000 to 2013.

“As long as state and federal laws fail to protect property owners and give law enforcement a financial incentive to take property, civil forfeiture will continue to grow,” said Lisa Knepper, an IJ director of strategic research and one of the report’s co-authors. “The best solution would be to simply abolish civil forfeiture. No one should lose their property without being convicted of a crime, and law enforcement should not profit from taking people’s property.”

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