

HOW IT WORKS

In civil forfeiture cases, as many as 80% of people who have their assets seized are never charged with a crime.³ In most state and federal courts, the government is only required to show there is a “preponderance of evidence” (i.e., more likely than not) that the property abetted a criminal act.⁴ Proceedings are brought against the property, rather than the individual. These actions result in bizarre case names, such as *State of Alabama v. One 2003 Toyota Corolla* and *United States of America v. \$124,700 in U.S. Currency*.

Without the need to issue a warrant or criminal charge, police are able to seize private property based

on unsubstantiated claims. Using highway interdiction, for example, police can set up checkpoints, pull over motorists for minor violations, and seize their assets (usually cash) based on “indicators” of criminal activity. According to *The Washington Post*, these indicators can include signs as minor as “trash on the floor

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administration – Attorney General Je Sessions reversed Holder’s reforms altogether. Sessions in July 2017 announced a return to the “longstanding DOJ policy” of a more expansive program, with minimal additional procedural changes, including expediting federal notice of seizure to owners and requiring

RECOMMENDATIONS

CONVICTION BEFORE FORFEITURE Property should never be forfeited to the government without first obtaining a conviction of the underlying crime that is subjecting the property to forfeiture.

BURDEN OF PROOF The government should bear the burden of proof, by clear and convincing evidence (not the lower civil standard of preponderance of the evidence), that an owner either knew that his property was being used for an illicit purpose or was otherwise willfully blind to the use of his property in criminal activity.

PROCEEDS To remove the profit incentive of civil forfeiture, proceeds from forfeited property should be placed in neutral accounts, such as a state's general fund – not in a local or state budget designated for a specific law enforcement agency.

EQUITABLE SHARING Reforms should prohibit state and local law enforcement from sharing proceeds from forfeitures litigated in federal court, under the federal government's equitable sharing program, as a way of bypassing state reforms.

PUBLIC REPORTING REQUIREMENT Reform should require law enforcement agencies to account for what they seize and how they spend the proceeds.

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