

## Civil Forfeiture

Civil forfeiture is a legal process by which police may impound property or money suspected of being involved in a drug crime. The threshold for “suspicion” is set extraordinarily low, and unlike in an arrest, there is no presumption of innocence; the burden of proof lies on the property owner to demonstrate that the money is not illicit. Police have taken to the practice to supplement their budgets; the procedures to reclaim seized property can be so complicated and expensive that many people give up. According to a Washington Post investigative report on the subject, the government has seized

more than \$2.5 billion since 9/11.<sup>153</sup>

The history of forfeiture can be traced as far back as the 1600’s, but use of it stepped up considerably during the Drug War. Reform efforts are underway in some states, notably Georgia and New Mexico; Wyoming’s governor vetoed a reform bill in early 2015.<sup>154</sup> The outrage forfeiture engenders in those who learn of it for the first time, and the degree of corruption that has been documented, make it a prime target for legislative reform.

### Three Stories of Forfeiture

Jennifer Boatright, her boyfriend Ron Henderson, and two young sons were driving to Linden, TX, near the Louisiana border, in 2007. This year, the annual trip—to hike among wildflowers and visit the boyfriend’s father—was intended to also buy a used car, so they brought their savings, \$6000 in cash. Instead, they were stopped by police in Tenaha, TX, who said they fit the profile of drug couriers. (No drugs were in the car, though the police claimed to have smelled pot.) Jennifer and Ron were given a choice: be arrested for money laundering and child endangerment, or sign over their cash to the police.<sup>155</sup>

The Contemporary Art Institute of Detroit used to hold a monthly party. In May 2008, police officers in commando gear stormed the museum and ordered everyone present to the ground. Then they demanded everyone’s car keys and drove off with 44 vehicles. The museum apparently did not have the appropriate license to hold the party, and a Prohibition-era law made it illegal to be at such a party, even unwittingly. Each car owner was charged over \$1000 to retrieve the vehicles, which would become city property if the fees were not paid. When the ACLU filed suit, a district court ruled the practice unconstitutional, noting it was a “widespread practice.”<sup>156</sup>

Mary Adams, 68, and her husband Leon, 70, had lived in their small house in Philadelphia since 1966. When their son was caught selling marijuana from the porch, police in riot gear executed a no-knock raid, busted down the front door, and took him away to prison. The following month, they returned one morning and told the Adamses they had ten minutes to vacate the house and take whatever they needed; it was being confiscated by the city. When an officer realized that Leon had pancreatic cancer and was quite ill, he allowed them to stay in the house while eviction proceedings went forward.<sup>157</sup> The case is still pending.<sup>158</sup>

### Talmud Bava Kamma 46b

Rabbi Shmuel bar Nachmani taught: From where do we learn the principle that the one who would take something from his fellow must bring the evidence? As the Torah says, “Whoever has a legal matter, approach them [the judges]” (Ex. 24:14)—approach them with proof. Rav Ashi challenges him: why do we even need a verse? This is simple logic. Let the one who has a pain go to the doctor’s office.

<sup>153</sup> <http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/>

<sup>154</sup> <http://blogs.wsj.com/law/2015/03/25/legislation-to-curb-civil-forfeiture-advances-in-states/>

<sup>155</sup> <http://www.newyorker.com/magazine/2013/08/12/taken>

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