

# Attorney General Jeff Sessions issues directive to revitalize civil forfeiture laws

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22 July 2017

Attorney General Jeff Sessions introduced a directive early on Wednesday that will encourage state and local police to seize cash and property from people who are suspected of a crime, even without a criminal charge.

The practice is known as “civil asset forfeiture.” As opposed to “criminal forfeiture,” where a person must be convicted of an actual crime in a court of law before their property or assets can be seized, “civil forfeiture” offers no such protections. Instead, government agencies can simply seize the property if it is suspected of being connected to a crime.

In these scenarios, the property, an inanimate object, is treated as if it were charged with a crime. The owner of the property is often not charged with any crime. Since the action taken against the object is a “civil action,” it is not afforded the protections given to people, and thus the property is arbitrarily confiscated.

Legal cases of civil forfeiture have names such as *U. S. vs. \$15,000* or *State of Florida vs. AK47*. The inanimate objects do not often win their cases, which must be fought for at the expense of their owner.

Civil forfeiture has a long history in the United States. It was introduced in the very first Congress of the United States based on the British precedent of the seventeenth century Navigation Acts that mandated that all imported and exported goods from Britain be transported on British vessels. If violated, the ship’s cargo would be taken by force and added to the king’s possessions. In those early days of the country, civil forfeiture was used as a means of collecting customs duties and was restricted to customs collections, piracy laws, and admiralty laws.

The modern rise of civil forfeiture as it is currently practiced began with the War on Drugs in the 1980s. A financial incentive was placed on the confiscation of property related to illegal drugs: law enforcement was

now allowed to keep the money that civil forfeiture produced.

This was a massive change in policy. Before the change, proceeds had gone into the general fund of the government that seized the property. In 1984, under an amendment to the 1970 Comprehensive Drug Abuse and Prevention Act, Congress created the Assets Forfeiture Fund, which allowed the U.S. attorney general to put the money gained through civil forfeiture into this new fund and then use it to finance law enforcement agencies.

This process quickly escalated over the years. The types of things that civil forfeiture proceeds being put toward greatly expanded. Law enforcement used the money to acquire new policing vehicles and even to finance overtime pay with little to no oversight.

Today, law enforcement agencies confiscate all types of property on a regular basis—cash, cars, homes, even entire businesses—without convicting anyone of a crime. Only mere suspicion is required to justify a seizure. Property owners are then left to prove their own innocence to get their property back, turning the long-standing democratic principle of “innocent until proven guilty” on its head.

These policies have resulted in some of the most outrageous cases. In 2008, police raided the Contemporary Art Institute of Detroit because it did not have a liquor license. During the raid, they seized 44 cars in the parking lot under civil forfeiture laws. They claimed that “simply driving vehicles to the location of an unlawful sale of alcohol was sufficient to seize a car.”

In another well-publicized case, a family’s house was seized in Philadelphia after their 22-year-old son was arrested on drug charges; he allegedly sold \$40 worth of heroin. Police and prosecutors came for the house a

month and a half later, armed with a lawsuit against the house itself. Authorities said the house was tied to illegal drugs and therefore subject to civil forfeiture.

In 2014, the *Washington Post* issued a report showing that there were nearly 62,000 cash seizures worth more than \$2.5 billion since September 11, 2001, all made “without search warrants or indictments.” The investigation also revealed that more than 500 task forces and departments had “seized the equivalent of 20 percent or more of their annual budgets.” In 2010 alone, more than \$500 million was distributed through the program. Over \$5 billion has been collected since the program began in 1984.

Many media sources are reporting Sessions’s directive as “repealing Obama efforts to curb civil forfeiture.” This is incredibly deceptive, it is much more accurate to report that Sessions is embracing the policy of former President Barack Obama’s Justice Department regarding civil forfeiture. Under the first five years of the Obama administration, civil forfeitures more than doubled.

The Obama administration, in the face of mass popular protests against police violence and other rampant abuses, issued modest restrictions on forfeitures in 2015. Sessions’s directive is lifting those restrictions and encouraging state and local law enforcement to take part in more civil forfeitures going forward.

To justify the change, the Sessions stressed that this policy is aimed at going after “criminals.” In a statement announcing the Justice Department’s new policy directive, Sessions described civil forfeiture as a “key tool that helps law enforcement defund organized crime, take back ill-gotten gains, and prevent new crimes from being committed.”

This is a well-worn tactic used as a cover for attacks on the working class, carried out on a large scale during the War on Drugs and more recently with the attacks on immigrants. In fact, by nature, *civil* forfeiture targets people who have not been convicted of anything.

A report from the Justice Department’s own inspector general looked at a sample of 100 seizures by the Drug Enforcement Agency. It concluded that more than half were not related to any identifiable criminal investigation or prosecution. Instead, police took the cash and let the purported “criminals” walk free.

The push to revitalize civil forfeiture is in line with

the fascistic law-and-order campaign of the Trump administration and the overall movement to the right of the entire political establishment, which has little popular support. A recent survey found that 84 percent of Americans oppose civil forfeiture.



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