

Private Property, Police Profit:

Explaining and Reforming
Civil Asset Forfeiture in New Jersey

The government can take someone's property without a criminal conviction – and even without an arrest. It's called civil asset forfeiture, and it's allowed by state law.



Here's how it can happen:



1. Law enforcement stops you on the street or in your car or searches your home.



2. If law enforcement thinks the car you're driving, the money in your pocket, or any other property you have on you is the proceeds of a crime, used to commit a crime, or "integral" to a crime, they can seize it.



3. Law enforcement keeps those assets permanently unless you challenge the seizure in court and win—a process that is often expensive and complex, and in which the State only has to meet a low burden of proof.

Civil asset forfeiture: what it is and why it's so ripe for abuse

When law enforcement seizes property that officers think could be involved in criminal activity, the government uses the legal process of civil asset forfeiture. It doesn't require a conviction, or even an arrest.



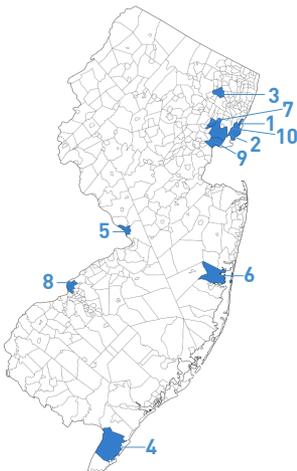
In order to take your money permanently, the government only has to show that it's more likely than not that the property was part of a crime.

What happens to forfeited money?

It goes into the hands of law enforcement – the same people who seize the property – to pay for equipment and other expenses.

Transparency? Almost none.

There is almost no transparency, so we don't know how much money is seized or where it's spent. Governor Chris Christie vetoed a transparency bill that the Legislature passed in 2017. The bill will get another chance in the Legislature, but even if it's passed, it will only be the first of many reforms that we need.



Top 10 Cities by Number of Seizures

January through May 2016

1. Jersey City.....	346
2. Newark.....	175
3. Paterson.....	93
4. Middle Township.....	89
5. Trenton.....	79
6. Toms River.....	37
7. East Orange.....	32
8. Camden.....	31
9. Elizabeth.....	31
10. Union City.....	23

Where it happens: everywhere.

The ACLU of New Jersey requested civil asset forfeiture records from each county between January and June 2016. Amount seized in five months:



5.5 Million

234 Cars



were seized from January through May 2016.

Largest volume of forfeiture actions: Hudson County.



Hudson county made over 400 seizures in five months. About half were less than \$175.

Until the ACLU-NJ drew attention to it with a lawsuit, prosecutors in Hudson County were improperly combining unrelated forfeiture suits to have cases heard in a court where the fee to file papers challenging forfeiture is \$175. Hudson County has stopped the practice, which the judge in the case said was unacceptable. But the normal filing fees, between \$50 and \$75, are still sizable and often prohibitive. Because the suit was dismissed, the client got his money back.

Civil forfeiture disproportionately affects people of color, who are more likely to be stopped by the police.

In 2013, Black people in Jersey City, Hudson County's largest city and the county seat, were arrested for low-level offenses at a rate **9.6 times** that of white people.

Greatest assets seized:
Bergen County, the fifth wealthiest county in New Jersey.



\$795,295

seized in five months

Other Seized Items

- | | |
|---------------------------------------|--|
| 1. Baseball Cards (Ocean County) | 5. A CD/DVD Player (Camden County) |
| 2. A Bicycle (Passaic County) | 6. An Unopened Condom and Vibrator (Camden County) |
| 3. An iPod (Passaic County) | 7. A "Multicolor Plastic Cube" (Camden County) |
| 4. Six Pairs of Shoes (Bergen County) | 8. Ten Laptops (Various Counties) |

— **There is no right to a lawyer in civil asset forfeiture proceedings so people rarely challenge them.** —

The process for trying to get your property back:

The government files a lawsuit against your property (yes, really – your property) based on an allegation that your property is involved in a crime.

You pay for a lawyer to represent you in response to the government's suit – or, far more likely, you have to go it alone.

You go to trial, where the government has a low burden of proof, meaning you can lose your property even if the state doesn't have enough evidence to convict you of a crime.

You go to trial – a long, complex, potentially expensive process – or, far more likely, you lose the money by default for not challenging the seizure.

You pay a fee to challenge the seizure – or, far more likely, you decide it's too expensive and complicated to challenge it.



Total forfeiture actions statewide in five months: **over 1,860**

Number of forfeitures contested statewide in five months: **50**

The ACLU of New Jersey is trying to change that.

A lawyer on staff is working almost exclusively on representing people whose property has been seized through civil asset forfeiture.

But to really make sure the process is fair and level, we need system-wide reforms.

This unjust system is ripe for reform.

Three main changes New Jersey needs:

- 1 **Fair Process:** No forfeiture without a criminal conviction and the protections of a criminal forum.
- 2 **No Profit Motive:** Law enforcement should not keep forfeited assets.
- 3 **Transparency:** The public needs to know how assets are seized, the extent of forfeiture, and how this property is used.

Join the **ACLU of New Jersey** in that effort.

Sign up for action alerts at: <https://www.aclu-nj.org/act>

Forfeiting to the feds: inequitable sharing.

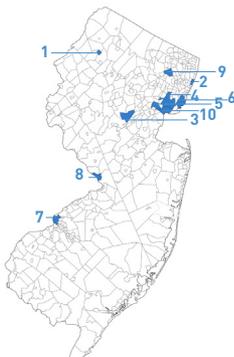
U.S. Attorney General Jeff Sessions announced plans to ramp up **“equitable sharing”**: a program that lets law enforcement get around state protections against civil asset forfeiture.



Under equitable sharing, state law enforcement can transfer seized assets to federal law enforcement. Federal agencies then give back a portion to state authorities.

Regardless of the federal government’s policies, state reform is necessary.

Not all property seized by local law enforcement is shared with the federal government, and New Jerseyans need protections in those cases, too. And federal policy can always change.



Top 10 Cities by Amount Seized

From January through May 2016

1. Newton	\$660,025.00	6. Jersey City	\$148,627.00
2. Fort Lee	\$429,193.00	7. Camden	\$145,537.00
3. Warren	\$419,193.00	8. Trenton	\$143,309.19
4. Newark	\$282,073.88	9. Paterson	\$131,557.00
5. Union	\$266,858.92	10. Elizabeth	\$93,272.60

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