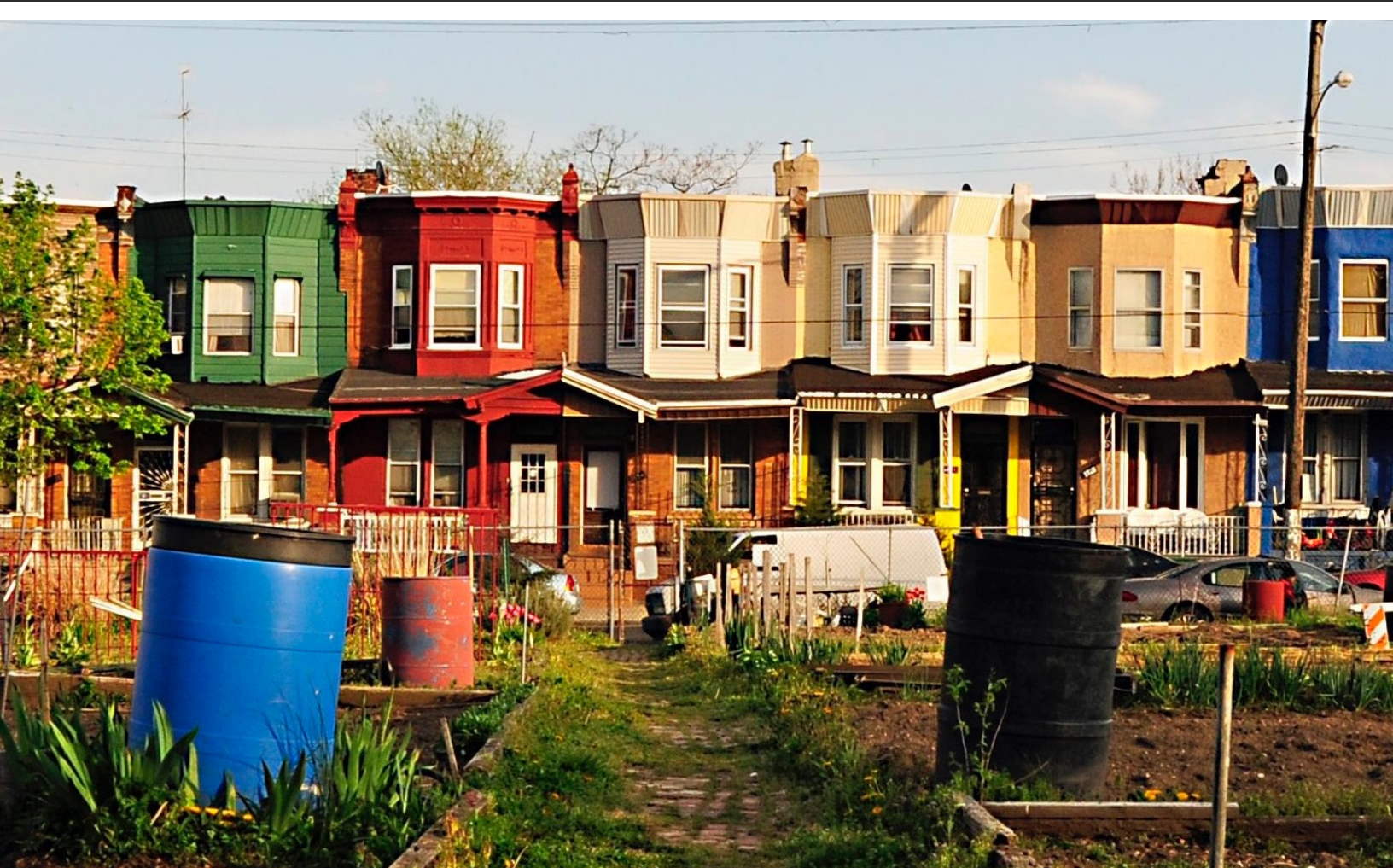


Guilty Property

How Law Enforcement Takes \$1 Million in Cash from Innocent Philadelphians Every Year — and Gets Away with It



June 2015



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American Civil Liberties Union of Pennsylvania
www.aclupa.org

The cover photo depicts a neighborhood in North Philadelphia, the area where forfeiture enforcement is concentrated. Source: Tony Fischer — some rights reserved — <https://www.flickr.com/photos/tonythemisfit/> — cropped version.

Introduction

Every year, Pennsylvania law enforcement agencies take roughly \$14 million in cash, cars, and homes from property owners and never give it back.¹ These confiscations are authorized by state civil asset forfeiture laws — powerful legal tools that let police and prosecutors seize and keep property that they claim was connected to a crime.²

But since civil forfeiture is based on the legal fiction that the property itself is “guilty,” law enforcement doesn’t actually have to charge the property owner with any wrongdoing, much less convict them of a crime.³ It’s enough that *someone* is alleged to have committed a crime using the property. And because civil forfeitures are technically proceedings against property, not people, property owners aren’t afforded the same constitutional protections they’d receive as criminal defendants. This forces property owners to wage complicated and time-consuming legal battles in civil court without the help of counsel or other safeguards.⁴

Under state civil forfeiture laws, all the revenue generated from forfeiture goes directly to law enforcement and can even be distributed to police and prosecutors as bonuses.⁵ As a result, the agencies making enforcement decisions have a strong financial incentive to pursue as many forfeitures as possible. In Philadelphia, the district attorney’s share of forfeiture proceeds is roughly \$2.2 million — or 7.3% of its appropriated budget.⁶ Assuming forfeiture proceeds are split between prosecutors and police in a similar ratio across the state, DA’s offices in other counties aren’t far behind. In fact, in four out of the next ten most populous counties, the DA would receive the equivalent of about 5% of its budget in forfeiture proceeds.⁷

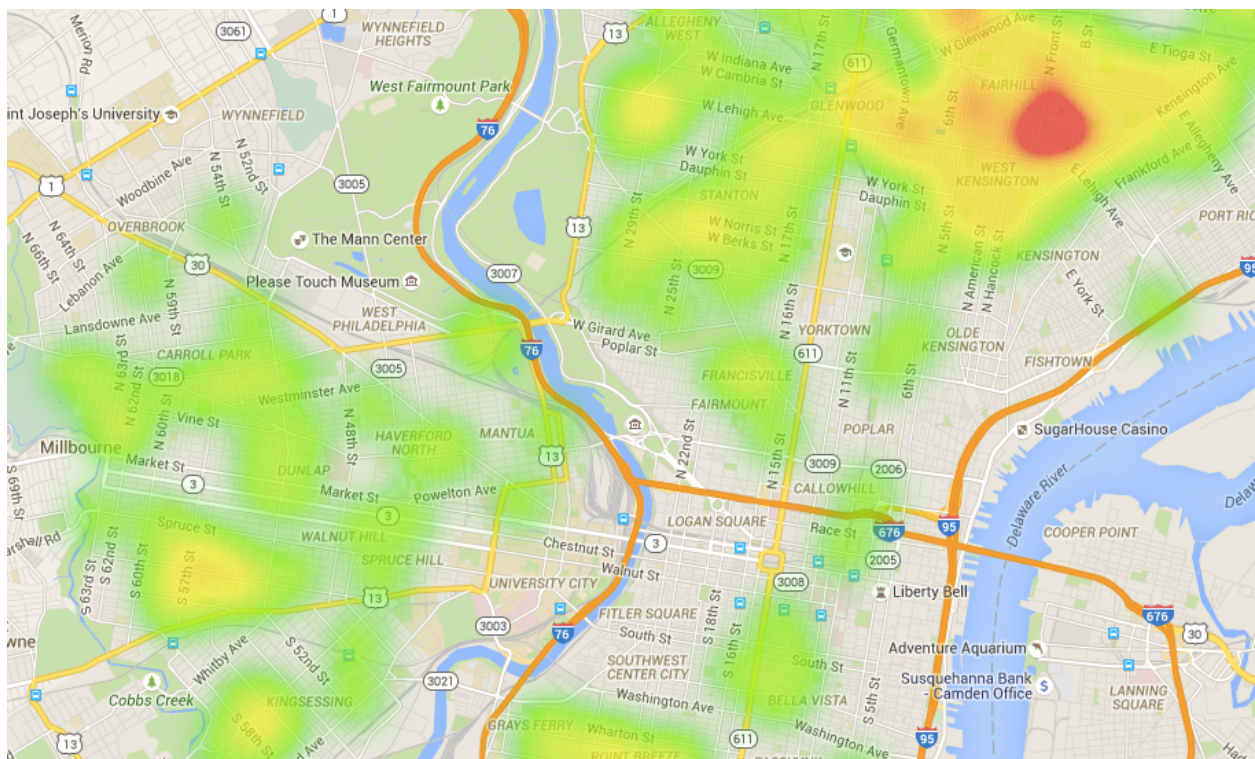


FIGURE 1 indicates the neighborhoods in Philadelphia where civil forfeiture enforcement is concentrated (based on ACLU-PA’s randomized sample of cash forfeiture cases from 2011 to 2013).⁸

Worrying evidence suggests that the profits and sweeping powers offered by civil forfeiture have distorted a tool originally targeted at cartels and drug kingpins.⁹ An article in the Philadelphia City Paper in 2012 indicated that Philadelphia prosecutors regularly forfeit sums as small as \$100 and that people trying to get their property back sometimes had to attend upwards of ten court dates just to reach a hearing before a judge.¹⁰ Other media accounts chronicled the human toll of civil forfeiture. In one, a Philadelphia grandmother faced losing her home because a grandson sold a small amount of drugs out of it.¹¹ In another, a Lancaster mother had \$300 seized from her purse when her son was arrested on narcotics charges.¹²

Law enforcement argues that stories like these are outliers and that the vast majority of forfeitures target criminals and their ill-gotten gains.¹³ In a recent op-ed in the Philadelphia Inquirer, Philadelphia District Attorney Seth Williams wrote that the public shouldn't "believe the claims that we are just snatching up property" from innocent third parties, because the forfeitures pursued by his office were "generally cash seized directly from drug dealers."¹⁴ This report aims to answer a series of questions related to these claims: Is it true that civil forfeiture is used primarily against people convicted of criminal offenses? Or has the lure of profits tempted prosecutors to pursue forfeitures with only a tenuous connection to crime? And if civil forfeiture is used to seize innocent owners' property, why do most forfeiture cases still end in the government's favor? And what communities bear the burden of forfeiture enforcement?

Though the use and abuse of civil forfeiture has garnered nationwide attention, surprisingly little research exists in any jurisdiction on enforcement patterns related to procedural fairness, conviction rates, or racial impact. To remedy this deficiency, the American Civil Liberties Union of Pennsylvania ("ACLU-PA") launched a months-long investigation into Philadelphia's civil forfeiture practices. By requesting public records and pulling physical court files, we gathered summary data on every civil forfeiture case filed in Philadelphia in recent years and in-depth information on a randomized sample of over 350 cash forfeiture cases from 2011 to 2013. We also interviewed property owners to learn about their personal experiences with our city's forfeiture system.

This report summarizes the findings of that investigation and presents evidence that, contrary to its public assurances, Philadelphia law enforcement does misuse forfeiture. The picture that emerged was troubling on several fronts. First, unfairness exists at every stage of forfeiture proceedings, from the inadequacy of initial notice to the complexity and length of cases to the prohibitive cost of reaching a final hearing before a judge. Second, an estimated 32% of cash forfeitures are not supported by a conviction, meaning that well over \$1 million is forfeited every year from innocent Philadelphians. Finally, civil forfeiture laws are enforced disproportionately against African-Americans — especially and most disturbingly, against African-Americans who were never convicted of any offense.

An estimated 32% of cash forfeitures are not supported by a conviction, meaning well over \$1 million is forfeited every year from innocent Philadelphians.

Findings

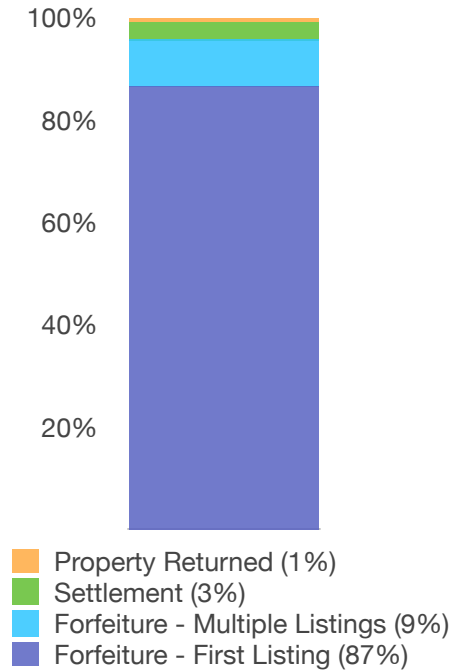
The raw numbers of forfeiture enforcement in Philadelphia are staggering. Based on data from 2011 to 2013, roughly 6,000 forfeiture cases are filed on an annual basis, including nearly 300 against houses and other real estate.¹⁵ This enforcement activity results in the forfeiture of some 100 homes, 150 vehicles, and roughly \$4 million in cash each year, for a total of around \$5 million in annual income.¹⁶

Media attention has understandably focused on the dramatic cases where people’s homes or family businesses are at risk, but the bulk of forfeiture revenues comes from the confiscation of small amounts of cash. In Philadelphia, a conservative estimate pegs cash forfeitures at 92% of all cases.¹⁷ In other counties, the percentage is even higher.¹⁸

Cash forfeitures are in particular need of close scrutiny because claimants hardly ever succeed in getting their money back. As **Figure 2** illustrates, requests by the Philadelphia DA’s office to forfeit cash (called “forfeiture petitions”) were granted in an estimated 96% of cases, settled in 3%, and rejected in only 1%.¹⁹ In fact, approximately 87% of these cases ended when the property owner failed to appear for the first court date and the property was forfeited by default.²⁰ This means that prosecutors acquired roughly \$3.3 million simply by filing a piece of paper and without presenting any evidence to a judge.²¹

Supporters of civil forfeiture laws may view statistics like these as evidence that the system is working. After all, why would truly innocent people not even dispute the loss of

FIGURE 2: Easy Money

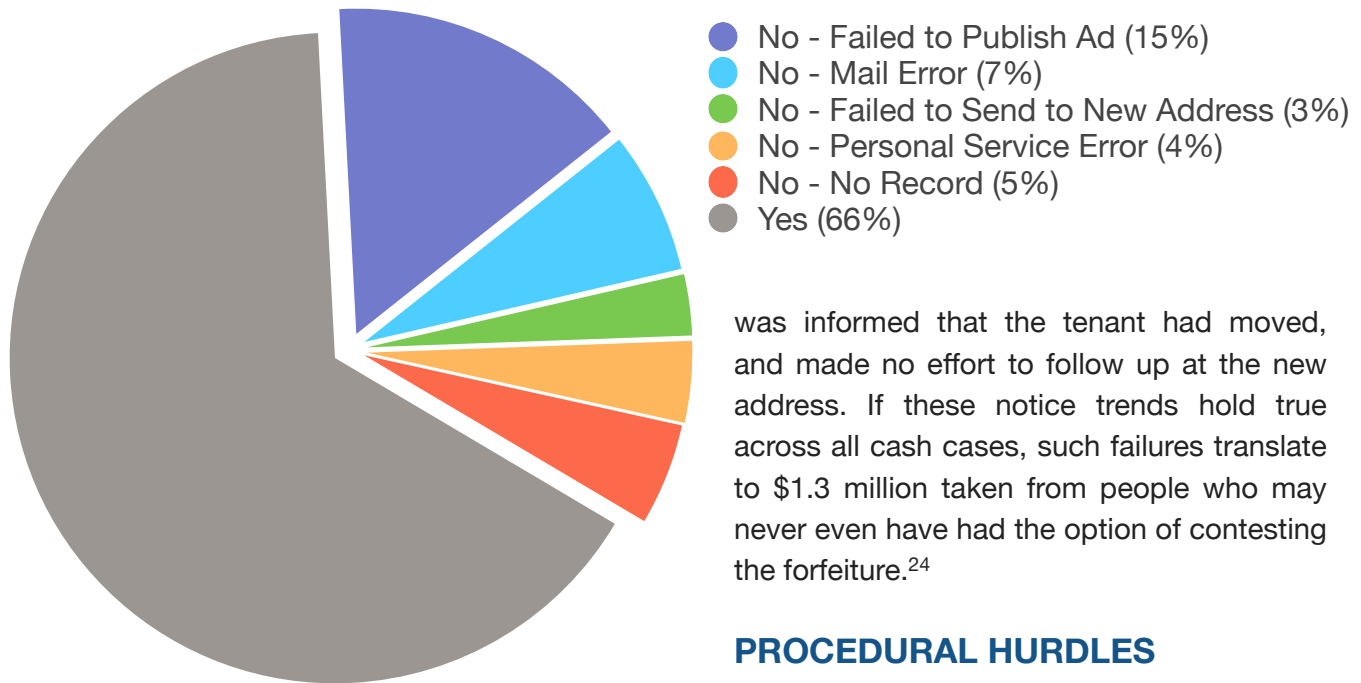


their money? This argument has a superficial logic to it — and undoubtedly some people fail to appear for court because they are guilty. However, a careful examination of data on forfeiture practices in Philadelphia points to several more troubling explanations for why so few property owners fight back and why even fewer succeed when they do.

LACK OF NOTICE

A records review indicated, for example, that a significant minority of property owners don’t even know that the DA’s office is seeking to forfeit their money. Every time a forfeiture petition is filed, state law requires that prosecutors make efforts to serve that petition on the property owner (or the person who was in possession of the property at the time of the seizure) and alert her to the upcoming court date. Prosecutors must first attempt service by mail and in person and, if

FIGURE 3: Did the DA's office give proper notice?



both fail, publish an advertisement in an area newspaper.²² After these attempts are made, the Philadelphia DA's office submits proof of notice (for example, certified mail receipts or forms completed by personal service agents) to the court and represents that it satisfied the statutory requirements.

But an examination of the proof of notice from a randomized selection of around 100 cash cases revealed that the Philadelphia DA's office routinely fails to meet this basic standard.²³ In a troubling 34% of the cases in the sample, property owners did not receive proper notice, including 5% of cases where the DA's office had no proof of notice at all. In other instances, the proof of notice showed that certified mail was sent, but the signature on the receipt was illegible and the receipt's boxes for "addressee" and "agent" were left unchecked. Other times the DA's office attempted to deliver notice in person,

was informed that the tenant had moved, and made no effort to follow up at the new address. If these notice trends hold true across all cash cases, such failures translate to \$1.3 million taken from people who may never even have had the option of contesting the forfeiture.²⁴

PROCEDURAL HURDLES

Another explanation for high default and even higher forfeiture rates is that disputing a forfeiture often isn't rational. As originally reported in the Philadelphia City Paper, property owners sometimes have to appear at upwards of ten court dates before reaching a hearing in front of a judge.²⁵ Our review of a data set compiling some 16,000 non-real-estate cases filed between 2011 and 2013 showed that property owners who disputed a forfeiture had to appear a median of four times before having their case decided.²⁶ Failure to appear at every one of these dates resulted in automatic forfeiture.

Adding to this burden, the DA's office often requires property owners to provide written answers under oath to long lists of questions, called "interrogatories." Without the assistance of counsel, replying to seven pages of invasive probings like "Did you file a federal, state, or local tax return since

January 1995? If so, please identify which ones you filed and when” can add days of effort to what is already a long and tortuous process.²⁷

The burden of a forfeiture proceeding is especially weighty when, as is true in most cash cases, the property owner faces charges in a related criminal proceeding.²⁸ When the DA’s office declines to postpone the forfeiture until after the completion of the criminal case, property owners must choose between protecting their property rights and maintaining their constitutional privilege against testifying. Defending against forfeiture is even harder for owners who are incarcerated while awaiting their criminal trial. Most people understandably opt to focus on their criminal case, with the result that, in the 78% of cash forfeitures that concluded before the related criminal case, the DA’s office secured forfeiture 99% of the time.²⁹ In comparison, when the sequence was reversed and the forfeiture concluded after the criminal trial, the property owner’s odds of success rose tenfold.³⁰

PETTY CASH

Answering stacks of interrogatories and sacrificing constitutional protections might seem like the lesser evil to a person who is facing the loss of a home or a vehicle. But more often than not, the value of the property at stake doesn’t justify it. Between 2011 and 2013, half of all cash cases are estimated to have involved sums less than \$192.³¹ When so little is at stake, hiring an attorney isn’t rational. Indeed, simple math dictates that property owners should almost never contest forfeitures at that value, even on their own. Taking off four days of work to

Grandma’s Pension Taken by Philly DA

After decades of manual labor as a dockworker, Kevin Johnson* would smoke the occasional joint to ease the pain in his arthritic bones. 87-year-old Carla Johnson* looked the other way because she knew the drug gave her husband relief.

One day in the summer of 2012, Philadelphia police entered the Johnsons’ Hawthorne home and found two joints’ worth of marijuana under Kevin’s chair. Kevin was scared but realistic. Possession charges were a small price to pay for help with his aches.

But then a strange thing happened: an officer went into an upstairs bedroom and found the \$2,000 Carla had saved up from her pension checks. Carla tried to show police documentation, but they ignored her and confiscated the money — calling it “illegal proceeds” from drug *dealing*.

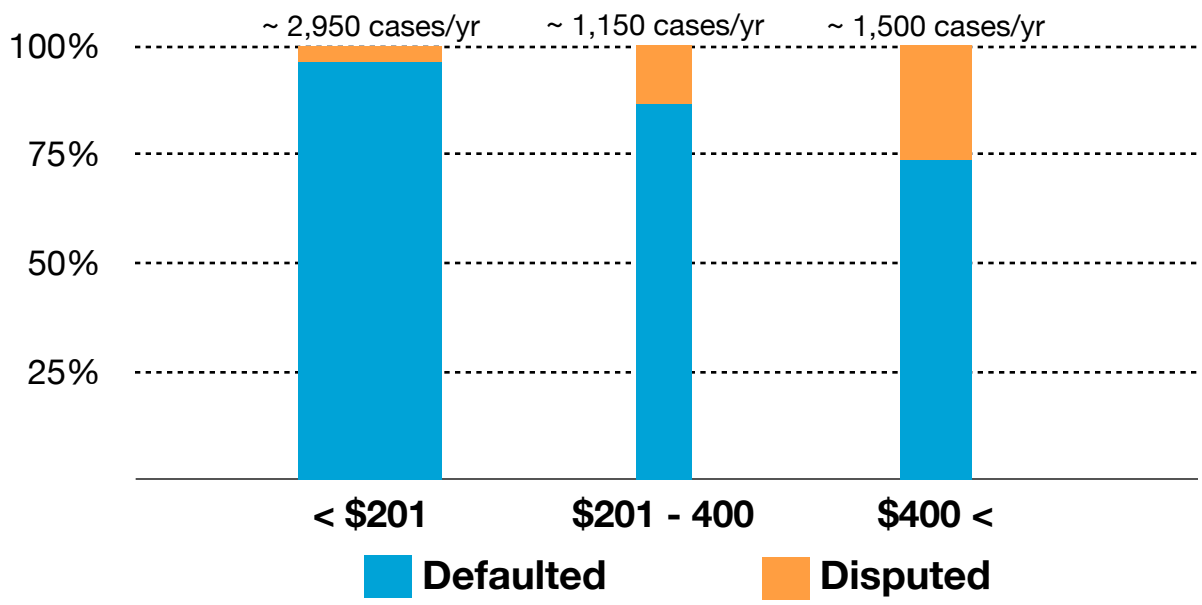
Four months later, Kevin was acquitted of all charges. The Johnsons figured they’d get their cash back any day. Instead, they received a letter saying the city was seeking to forfeit \$600 of Carla’s pension money — no explanation was given about the other \$1,400. Kevin appeared at the first court date and was informed that, despite his acquittal, the city planned to proceed with the forfeiture.

Afterward the Johnsons talked to a lawyer friend who told them to forget about the cash. Their only chance, the friend said, was to hire a decent attorney, but that would cost more than the case was worth. The Johnsons followed his advice and gave up.

A month later, the city forfeited Carla’s \$600 by default. The Johnsons still don’t know what happened to the other \$1,400.³²

**Pseudonyms*

FIGURE 4: Petty cash forfeitures take the fight out of property owners



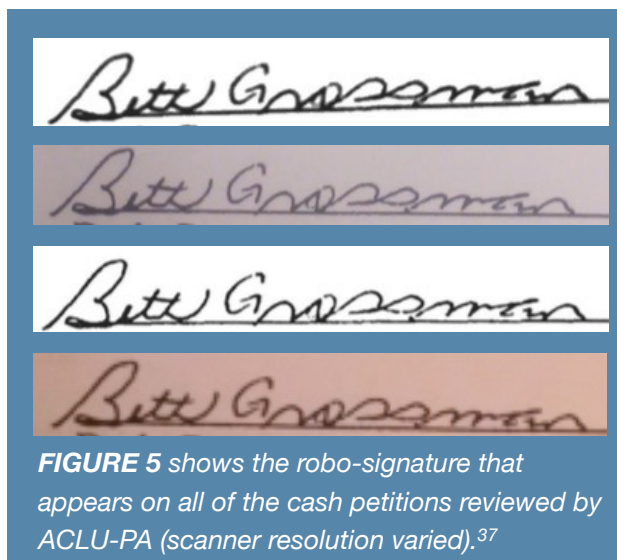
attend court — the median number of appearances when a forfeiture is disputed — would cost someone making minimum wage \$232.³³ That’s a full 20% more than the median property amount in cash forfeiture cases and doesn’t even account for expenses like travel, much less hiring a lawyer.

These cold economics bar most property owners from disputing their case. As **Figure 4** demonstrates, the willingness of property owners to show up for court plummets to 3% of all cases when the money involved falls to \$200 or under. As the value of property at stake increases, the default rates begin to drop. Even at sums as low as \$401, an estimated 26% of owners decide to contest their case.³⁴

In contrast, regularly pursuing forfeitures of \$100, \$50, and \$20 makes excellent financial sense for prosecutors.³⁵ Because the DA’s office files the same boilerplate petition in every cash case, the costs of prosecuting undisputed forfeitures is likely close to zero.

Even the affirmation on the forfeiture petitions — where prosecutors swear that the “facts set forth in the foregoing petition are true and correct to the best of his knowledge, information, and belief” — bear the same robotically penned signature, raising questions about how closely prosecutors screen cases before filing.³⁶

Even when prosecutors concede that a property owner should have their money returned, the DA’s office often doesn’t



City Police Seize Money from Neighbors

When police raided the boarding house in North Philadelphia back in 2011, they took *all* the money.

They took the cash in the drug dealing boarder's second floor apartment. They took the \$2,000 in rent money Hank Mosley* had in his third floor apartment. And they took \$1,500 of Tanya Andrews'* hard-earned wages out of her apartment.

They took it all.

Tanya and Hank didn't understand why: They weren't arrested. They weren't charged. Yet police had confiscated their money like they had done something wrong.

Three weeks later, the drug dealing boarder received several letters from the city saying it was seeking forfeiture of the money found in his "possession."

But two of the letters listed the amounts confiscated from Tanya and Hank's apartments. The boarder forwarded the letters to Tanya and Hank who immediately hired an attorney and filed affidavits explaining the mix-up.

After eighteen months and five court appearances, Tanya finally received a hearing before a judge. The judge didn't buy the prosecutor's evidence and issued a rare denial of the city's petition for forfeiture.

Hank wasn't so lucky. He'd moved to Colorado six months back and couldn't afford to travel to Philadelphia for one of the court dates.

His \$2,000 were forfeited by default.³⁸

**Pseudonyms*

withdraw the forfeiture petition. Instead, the DA's office presents property owners with a so-called "settlement agreement" that returns the property in exchange for releasing the DA from all possible liability related to the initial seizure of the cash.³⁹ In this way, law enforcement routinely shields itself from the consequences of filing unfounded forfeitures.

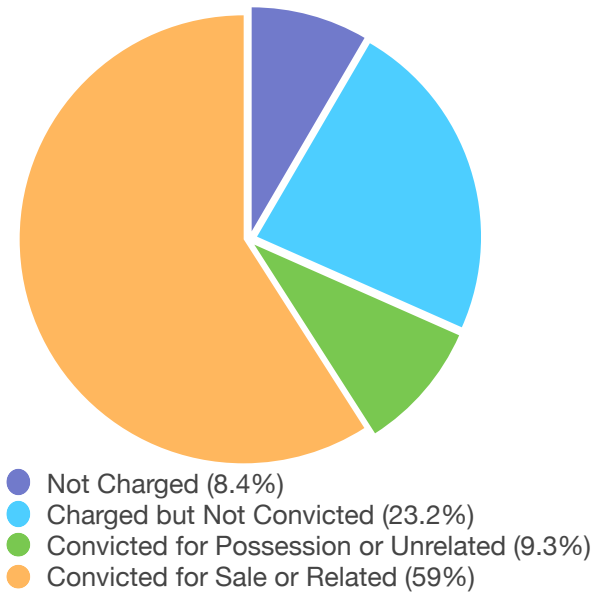
REGARDLESS OF GUILT

Both in Philadelphia and across the nation, data on the percentage of people who lose property to civil forfeitures without ever being found guilty of a crime is scant. One Philadelphia reporter conservatively estimated the yearly income from these innocent owner forfeitures in the hundreds of thousands of dollars.⁴⁰ After analyzing a randomized sample of over 300 cash cases from 2011 to 2013, however, our investigation revealed that even that startling estimate is low.

While all but 8% of property owners facing cash forfeitures are charged with a crime linked to the property seizure, only 68% are ultimately convicted.⁴¹ Unfortunately for property owners who are never found guilty of a crime, legal innocence has only a small effect on the outcome of cases — raising the odds of avoiding forfeiture from an estimated 1.8% to 9.6%. Taken together these statistics mean that law enforcement forfeits at least \$1 million in cash from some 1,500 innocent Philadelphians every year.⁴²

That figure doesn't even account for the additional 9% of cash forfeitures where the property owner was convicted of only possession of controlled substances.

FIGURE 6: Many cash forfeitures are not connected to a crime



Because forfeiture is only authorized when money was derived from or used in a drug transaction, prosecutors’ rationale for forfeiting cash seized from these drug users seems tenuous at best. It’s hard to imagine, for example, how the money in the pocket of someone convicted only of drug possession could be the proceeds of that crime, or could already have been used to buy drugs. Despite this lack of logic, the DA’s office secured forfeiture against convicted drug possessors in *every* case we reviewed that reached a final outcome.⁴³

RACIAL DISPARITY

Another concerning effect of forfeiture enforcement is its disproportionate impact on African-American communities in Philadelphia. Our investigation found that the racial composition of the group of Philadelphians affected by forfeiture laws is similar to the racial composition of the people arrested for forfeitable offenses in Philadelphia; African-Americans comprise

approximately 60% of both groups.⁴⁴ But experts have suggested that Philadelphia’s high rate of arrest for African-American people results from racial bias in policing.⁴⁵ This raises the question of whether law enforcement bias (either conscious or unconscious) is similarly responsible for the racial disparity in Philadelphia’s enforcement of civil asset forfeiture laws.

There are even more pronounced disparities among cash forfeitures without supporting convictions. An estimated 7 out of 10 people whose cash is taken by Philadelphia law enforcement *even though they have not been convicted of a crime* are African-American.⁴⁶ One explanation for this disparity is that innocent African-Americans are more likely to be subject to unfounded arrests and property seizures in the first place, which then spawn more forfeiture petitions. Whatever the underlying driver, statistics like this bring into stark relief the danger posed by civil forfeiture — a law that gives prosecutors sweeping powers and property owners little protection.

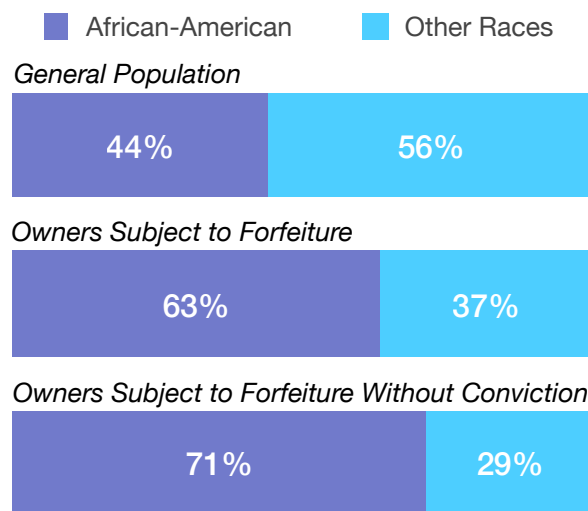


FIGURE 7: Philadelphia cash forfeitures disproportionately target African-Americans

Conclusion

The findings of our investigation illuminate the realities of how civil asset forfeiture laws are enforced on the ground. Far from only pursuing the ill-gotten gains of convicted drug dealers, the Philadelphia DA's office forfeits over \$1 million in cash each year from some 1,500 people who were not convicted of any crime — the substantial majority of whom are African-American. In most instances, these innocent owners are then systematically deprived of any meaningful opportunity to contest the forfeitures, because fighting back is simply too costly or notice is inadequate. The “troubling cases”⁴⁷ are not the exception, as prosecutors would have the public believe, but rather the norm. Indeed, while our investigation was limited to Philadelphia County, its findings suggest the broader dangers inherent to a law rooted in a basic contradiction: that the government can forfeit property connected to a crime without proving that the owner is guilty.

Sensible reform wouldn't eliminate forfeiture as a crime-fighting tool. Rather, it would replace the fiction that property is guilty with the truth that only people commit crimes. This fundamental shift — from civil forfeiture to what is termed “criminal forfeiture” — would mean that forfeiture would occur *as part of* the underlying criminal case and only after the property owner is convicted. In that way, every person facing forfeiture would receive the full range of protections our founding fathers intended for people accused of crimes. Meaningful reform would also ensure forfeiture enforcement was democratically accountable by channeling the proceeds from forfeiture into a general county or state fund that would be distributed through the normal budgeting process, instead of directly into the coffers of law enforcement as an off-budget revenue stream with no political oversight. Police and prosecutors would then be required to fund forfeiture enforcement in the same way they fund every other type of enforcement activity: by making requests through the regular budgeting process.

In cases where forfeiture is used appropriately — meaning against people convicted of crimes and for legitimate crime-fighting purposes — these reforms would have little effect and forfeiture rates would remain stable. But without reform, Philadelphia will likely continue to seize millions of dollars of property from people who have not been found guilty of a crime, without meaningful process or protections. And because the civil forfeiture laws that allow this injustice are statewide, nothing will protect other counties against similar abuse of forfeiture powers.

KEY FINDINGS

- 32% of cash forfeitures are filed against people who have not been found guilty of a crime
- Philadelphia DA's share of forfeiture funds equals approximately 7% of appropriated budget
- 34% of cash forfeitures suffer from improper notice
- Property owner's odds of success rise tenfold when cash forfeiture concludes after criminal case
- For sums under \$201, only 3% of property owners dispute forfeiture
- 71% of innocent owners in cash cases are African-American

Endnotes

1. \$13.8 million was generated from civil forfeitures under the Pennsylvania Controlled Substances Forfeiture Act, 42 Pa. C.S. §§ 6801-6802 in fiscal year 2012 — the most recent year for which forfeiture revenues are available. Office of the Pennsylvania Attorney General, *Asset Forfeiture Report FY2011-12* (from ACLU-PA Right-to-Know request). In that same year, \$10.8 million was also generated from the proceeds of federal forfeitures, which the federal government shared with the state and local agencies who participated in the investigation or seizure culminating in the federal forfeitures. Asset Forfeiture Program, Department of Justice, *Equitable Sharing Payments of Cash and Sale Proceeds Executed during Fiscal Year 2012 - Pennsylvania*, <http://www.justice.gov/afp/reports-congress/fy2012-pennsylvania>. However, federal reports do not specify what percentage of these equitable proceeds are from civil forfeiture (as compared to criminal forfeiture).
2. *E.g.*, 42 Pa. C.S. §§ 6801-6802 (state civil forfeiture statutes).
3. *United States v. Bajakajian*, 524 U.S. 321, 330 (1998) (“The theory behind [civil forfeitures] was the fiction that the action was directed against ‘guilty property,’ rather than against the offender himself.”).
4. *Commonwealth v. \$6,425.00 Seized from Esquilin*, 880 A.2d 523, 529 (Pa. 2005) (standard of proof in civil forfeitures is preponderance of the evidence); *\$9,847.00 U.S. Currency*, 704 A.2d 612, 614-16 (Pa. 1997) (claimant contesting civil forfeiture of currency has no right to appointed counsel). Note that the Pennsylvania Commonwealth Court has held out the possibility that claimants facing the civil forfeiture of their homes may have a constitutional right to counsel. *Commonwealth v. Real Property & Improvements at 2338 N. Beechwood St.*, 65 A.3d 1055, 1067 n.24 (Pa. Commw. Ct. 2013).
5. 42 Pa. C.S. § 6801(e)-(g); Kaitlyn Foti, *Berks D.A., Public Defender staffs to receive bonuses from drug forfeitures*, *The Pottstown Mercury*, Jan. 9, 2015, <http://www.pottsmmerc.com/general-news/20150108/berks-da-public-defender-staffs-to-receive-bonuses-from-drug-forfeitures>.
6. This estimate is based on the \$4.8 million Philadelphia law enforcement received in income in fiscal year 2012. Attorney General, *Report FY2011-12*, 55. According to the most recent available sharing agreement between the DA and police department, the DA receives \$727,500 out of the initial \$927,500 in income and then 40% after that. Office of the Philadelphia District Attorney, *Forfeiture Proceeds Sharing Agreement* (from ACLU-PA Right-to-Know request). This nets out to \$2,243,071, which was equal to 7.28% of the DA’s appropriated budget of \$31,310,000 for that same year. See City of Philadelphia, *Annual Report - For Fiscal Year Ended June 2012*, <http://www.phila.gov/finance/pdfs/2012%20Annual%20Report.pdf>.
7. Because the sharing agreements for other counties were not available, this estimate was based on multiplying the percentage of forfeiture proceeds received by the Philadelphia DA’s office (41.47%) into the forfeiture income received in the next ten most populous counties. See Attorney General, *Report FY2011-12*. Using this formula, forfeiture revenues received by the DAs in Bucks (estimated share of forfeiture proceeds was \$396,998 = 4.57% of budget), Dauphin (\$292,907 = 6.59%), Delaware (\$335,595 = 6.07%), and Montgomery (\$594,841 = 4.66%) would total approximately 5% of their budgets in fiscal year 2012. This suggests that practices in those counties deserve further study. Unfortunately, for many counties, the AOPC lacks the data it has for civil forfeiture in Philadelphia County. (Note that the budget figure for FY2012 was unavailable for Delaware County and that the figure for FY2015 was used for the calculation.)
8. This heat map was created by plotting the address of every claimant from our randomized sample of cash forfeitures. Review of Random Sample of 351 Civil Forfeiture Cash Cases from 2011-13, obtained from the First Judicial District (copies of court records on file with ACLU-PA).
9. Brad Cates & John Yoder, *Government self-interest corrupted a crime-fighting tool into an evil*, *Washington Post*, Sept. 18, 2014, http://www.washingtonpost.com/opinions/abolish-the-civil-asset-forfeiture-program-we-helped-create/2014/09/18/72f089ac-3d02-11e4-b0ea-8141703bbf6f_story.html.
10. Isaiah Thompson, *The Cash Machine*, *Philadelphia City Paper*, Nov. 28, 2012, <http://citypaper.net/The-Cash-Machine/>.
11. Isaiah Thompson, *Law to Clean Up ‘Nuisances’ Costs Innocent People Their Homes*, *ProPublica*, Aug. 5, 2013, <http://www.propublica.org/article/law-to-clean-up-nuisances-costs-innocent-people-their-homes>.

12. Gil Smart & Susan Baldrige, *Civil asset forfeiture: policing for profit?*, LancasterOnline, Nov. 2, 2014, http://lancasteronline.com/news/investigations/civil-asset-forfeiture-policing-for-profit/article_119468d6-6106-11e4-99dd-0017a43b2370.html.
13. Andrew Staub, *Lawmakers, advocacy groups pushing for civil asset forfeiture reform*, PA Independent, Jan. 14, 2015, <http://paindependent.com/2015/01/lawmakers-advocacy-groups-pushing-for-civil-asset-forfeiture-reform/>.
14. Rufus Seth Williams, *City must keep forfeiture laws*, Philadelphia Inquirer, March 1, 2015, http://www.philly.com/philly/opinion/inquirer/20150301_City_must_keep_forfeiture_laws.html.
15. Administrative Office of Pennsylvania Courts Summary Data Listing All Civil Forfeiture Petitions Filed in Philadelphia County from 2011-13, obtained through ACLU-PA Court Records Request (data on file with ACLU-PA).
16. For example, Philadelphia reported \$3,818,973 in revenues from cash forfeitures in fiscal year 2012. Attorney General, *Report FY2011-12*, 55.
17. This estimate comes from, first, taking the total number of non-real-estate forfeiture petitions filed annually (~5,740) and multiplying that number by — 97.2% — the percentage of cases from our initial sample of 396 non-real-estate forfeitures that involved cash (as opposed to other types of non-real-estate property like cars). This adjusted figure was then divided by the *total* number of forfeiture cases filed annually, including real estate cases (~6,036), to yield the estimate. *See supra* note 8; *see also supra* note 15.
18. Attorney General, *Report FY2011-12*. In many counties, the vast majority of forfeitures are of cash. For example, in fiscal year 2012, Allegheny County forfeited 17 cars and no real estate but made \$826,001 from cash forfeitures. *Id.* at 7. Over that same span, Montgomery County forfeited 13 vehicles, no real estate, and \$1,215,531 in cash. *Id.* at 50.
19. *See supra* note 8.
20. In our sample, first listing forfeitures accounted for 87.97% of the cases that reached a final outcome. *See supra* note 8. The report quotes the slightly more conservative 86.57% first listing forfeiture rate derived from the data provided by the AOPC, even though that data set includes some forfeitures involving cars and other types of property. *See supra* note 15.
21. This estimate comes from multiplying the first listing forfeiture rate (87%) into the money Philadelphia law enforcement received from cash forfeitures in the most recent year for which data is available (\$3,818,973). *See supra* note 8; *see also supra* note 15; Attorney General, *Report FY2011-12*, 55.
22. 42 Pa. C.S. § 6802(b)-(e).
23. Review of 99 Proofs of Notice for Cash Cases Filed in 2013, obtained from Office of the Philadelphia District Attorney (copies of proofs of notice on file with ACLU-PA).
24. This estimate comes from multiplying the improper notice rate (34%) into the money Philadelphia law enforcement received from cash forfeitures (\$3,818,973) in the most recent year for which data is available. *See supra* note 23; Attorney General, *Report FY 2011-12*, 55. Note that the improper notice rate is from 2013 while the income figure is from FY2012.
25. Thompson, *Cash Machine*, *supra* note 10.
26. *See supra* note 15.
27. Interrogatories from Civil Forfeiture Case Filed in 2011, obtained from the First Judicial District (copy on file with ACLU-PA).
28. In our sample, 92% of property owners faced charges in a related criminal case. *See supra* note 8.
29. *Id.* Note that the DA's office sometimes holds forfeiture proceedings in abeyance until after the disposition of the criminal case, but only if the property owner appears at each listing for the forfeiture case. Thompson, *Cash Machine*. Our review of cash forfeitures, however, uncovered a significant percentage of cases where a claimant disputed the forfeiture but the case was nonetheless concluded before the disposition of the parallel criminal proceeding. *See supra* note 8.
30. *Id.* To be precise, property owners avoided forfeiture in 12.5% of the cases that concluded after the criminal case as compared to in 1.2% of the cases that concluded before the criminal case.
31. *Id.*
32. Interview with "Kevin Johnson" & "Carla Johnson," Forfeiture Claimants in 2012 Case (March 23, 2015) (on file with ACLU-PA); Court Record for "Kevin Johnson" Civil Forfeiture Case, obtained from the First Judicial District (copy on file with ACLU-PA). Pseudonyms were used to protect these individuals from possible retaliation.

33. The state minimum wage is \$7.25. Pennsylvania Department of Labor & Industry, “New Pennsylvania Minimum Wage Requirements FAQ,” <http://www.portal.state.pa.us/portal/server.pt?open=514&objID=553568&mode=2>.
34. For Figure 4, the number of cases falling into each amount range was estimated by using the percentages drawn from our sample (52.8% under \$201; 20.5% from \$201-\$400; and 26.7% above \$400) and multiplying them into the estimated overall number of cash forfeiture cases per year (~5,600). *See supra* note 8; *see also supra* note 15.
35. In our review of nearly 400 forfeiture court files, one of the records that was excluded due to the incompleteness of the file was a mass forfeiture of 50 sums of money, each for under \$50. Court Record for 50 Civil Forfeitures of under \$50 Filed in 2011, obtained from the First Judicial District (copy on file with ACLU-PA). Unlike a typical forfeiture case file, which contains a property receipt, forfeiture petition, and notice letter, the file for this mass forfeiture contained only one document with information about the claimants — a long list of names, amounts seized, and property receipt numbers. Further investigation uncovered an additional record like this and court administration confirmed that records for forfeitures of sums under \$50 were routinely filed in this manner. Unfortunately, because of the incompleteness of the file, the mass forfeiture had to be excluded from our calculations, which means that overall default rates are likely higher and the mean value of property forfeited lower than what is estimated in this report.
36. *See supra* note 8.
37. *Id.*
38. Interview with Attorney of “Tanya Andrews” and “Hank Mosley,” Forfeiture Claimants in 2011 Case (April 2015) (on file with ACLU-PA); Court Record for “Tanya Andrews” Civil Forfeiture Case, obtained from the First Judicial District (copy on file with ACLU-PA). Pseudonyms were used to protect these individuals from possible retaliation.
39. Settlement Agreement from Civil Forfeiture Case Filed in 2012, obtained from First Judicial District (copy on file with ACLU-PA).
40. Thompson, *Cash Machine*, *supra* note 10.
41. *See supra* note 8.
42. This income estimate comes from multiplying the percentage of people in our sample set facing forfeiture who were not found guilty of a crime (32%) into the annual income generated by money forfeitures (\$3,818,973). *See supra* note 8; Attorney General, *Report FY2011-12*, 55. This number was then adjusted for the slightly higher rate at which owners who were not found guilty of a crime avoid forfeiture (a 9.6% forfeiture avoidance rate compared to a 1.8% forfeiture avoidance rate for property owners convicted of a crime). *See supra* note 8. The resulting figure was rounded down to the number quoted in the report — \$1 million — and represents a conservative lower bound for yearly revenues from these type of forfeitures. *E.g.*, Attorney General, *Report FY2010-11*, 54 (income generated by money forfeitures was \$4,286,074 in FY2011, which, using this formula, translates to ~\$1,290,000 in cash forfeitures from property owners who were not found guilty of a crime for that year).
43. Of the forfeitures in our sample involving property owners who were convicted of only drug possession, all 29 cases that reached a final disposition ended in forfeiture. *See supra* note 8. Note that a small minority of the civil forfeitures reviewed in our sample were for non-narcotics-related offenses like gambling and prostitution. Forfeiture is authorized for these types of offenses by separate statutes or court decisions. However, in other cases, the charged offense was not one for which forfeiture is authorized (e.g. resisting arrest) and convictions for these offenses were sorted into the “Convicted for Possession or Unrelated” category in Figure 6.
44. *See supra* note 8. The 60% figure comes from the arrest data from 2011-13 in Philadelphia County for a wide range of forfeitable offenses including drug possession, drug sale, prostitution, gambling, and liquor law violations. *Summary Arrest Report for County: PHILADELPHIA*, Pa. Uniform Crime Reporting System, *query created at* <http://www.paucrs.pa.gov/UCR/Reporting/Query/Summary/QuerySumArrestUI.asp>.
45. This issue is discussed in more detail in the Plaintiffs’ expert report filed in ACLU-PA’s litigation challenging the Philadelphia Police Department’s stop-and-frisk practices. *See* Plaintiffs’ Fifth Report to the Court and Monitor on Stop and Frisk Practices, *Bailey v. City of Philadelphia* (2013) (C.A. No. 10-5952), *available at* http://www.aclupa.org/download_file/view_inline/2230/198.
46. As Figure 7 indicates, 71% of the property owners in our sample who faced forfeiture but were not convicted of a crime were African-American. *See supra* note 8.
47. Staub, *Lawmakers, advocacy groups*, *supra* note 13.

Methodology & Credits

The primary data set used for this report was acquired through a records request to the central court administrator for the state, the Administrative Office of Pennsylvania Courts. These records compiled information on every civil forfeiture petition that was filed between 2011 and 2013 in Philadelphia County. The data was segmented into two categories — forfeitures involving real estate and those for all other types of property.

We sorted the non-real-estate forfeiture cases using a standard randomization function and selected 396 cases for review. We retrieved and scanned the court files for these cases. We then excluded 35 cases where the file was missing or incomplete or the claimant was unknown or a juvenile. We excluded 10 cases because they involved property other than cash (e.g. cars).

To determine whether the forfeiture petition corresponded to a criminal charge or conviction, we used information in the court file, including the claimant's name, date of birth, and criminal history identifier number, to retrieve the owner's official court summary listing all of the criminal cases against that person. Any criminal case with an arrest date within one year of the seizure date listed in the forfeiture file was treated as related for the purposes of our analysis.

To determine racial patterns related to enforcement, we also used each claimant's official court summary, which lists the claimant's race.

The confidence interval for both the 68% conviction rate and 63% African-American rate is approximately $\pm 5\%$ at a confidence level of 95%.

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