

Frustrating, Corrupt, Unfair

Civil Forfeiture

in the Words of Its Victims



 INSTITUTE
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By Jennifer McDonald and
Dick M. Carpenter, II, Ph.D.

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Executive Summary

Frustrating. Corrupt. Unfair. That is how victims of one notorious civil forfeiture program described it. Civil forfeiture is a nationwide problem, but systematic data about the people who experience it are sparse. This first-of-its-kind survey tells the story of Philadelphia forfeiture victims in their own words—with important implications for forfeiture programs nationwide.

From 2012 until it was dismantled in 2018, Philadelphia's civil forfeiture program seized property from more than 30,000 people. IJ surveyed these victims in late 2020 and early 2021, gathering data from 407 respondents. Key findings include:

- Forfeiture victims tended to come from some of the city's most disadvantaged communities—those often least able to fight city hall.
 - » Two-thirds of respondents were Black, 63% earned less than \$50,000 annually and 18% were unemployed.
 - » Compared to Philadelphians overall, respondents were more often minority and lower income. They also had less education and higher rates of unemployment.
 - » Geographically, forfeitures were clustered in predominantly minority and low-income areas, with just four ZIP codes in the city's center accounting for 57%.
- Philadelphia police frequently seized small amounts of cash and low-value cars—hardly the stuff of the big-time drug criminals that forfeiture purportedly targets.
 - » Cash was the most common property seized, from nearly two-thirds of respondents, often alongside a car or other personal property.
 - » Seizure amounts were very small: The median value of a single item seized was just \$600.
 - » Police seized as little as \$25 in cash, a cologne gift set worth \$20 and crutches.
- Philadelphia regularly forfeited money and property from people not proven guilty of doing anything wrong.
 - » Only about 1 in 4 respondents was found or pleaded guilty to any wrongdoing.
 - » Yet 69% saw their seized property forfeited forever.
- Philadelphia's forfeiture program made it extremely difficult to get seized property back.
 - » Simply getting a receipt meant people were eight times more likely to win their property back, but more than half of respondents—58%—never received one.

- » Philadelphia typically required numerous court appearances to fight a forfeiture, and the working poor often gave up: Victims earning less than \$50,000 were almost 70% less likely to even try, while the employed were 53% less likely.
- » Fighting forfeiture was especially difficult without an advanced education: Those without a college degree were 82% less likely to get their property back.
- » “Innocent owner” claims rarely succeeded: People whose property was seized while in someone else’s possession were 92% less likely to win their property back compared to people who had property seized from them directly.
- » If people did beat the forfeiture, it took an average of nine months to get their property back.

These findings suggest civil forfeiture enabled Philadelphia to shake down innocent people and minor offenders rather than fight serious crime—and they speak to fundamental problems with civil forfeiture that extend far beyond Philadelphia:

- Civil forfeiture is likely to sweep up the disadvantaged largely because it is part of the criminal justice system yet offers property owners only the limited protections of civil procedures—and then gives law enforcement a financial incentive to pursue forfeitures.

- Civil forfeiture effectively puts the onus on property owners to prove their innocence and fight for the return of their property, and this will inevitably deter valid claims and wind up victimizing innocents.
- By making it possible—and lucrative—to take property without proving wrongdoing, civil forfeiture is unlikely to reliably distinguish between the guilty and the innocent, making it unfit as an effective crime-fighting tool.

These elements of civil forfeiture are not unique to Philadelphia. Indeed, most state and federal civil forfeiture laws are similar to the Pennsylvania laws that made Philadelphia’s abuse possible. The victims’ experiences chronicled here therefore provide a cautionary tale for forfeiture programs nationwide. To protect people from losing property unjustly, states and the federal government must end civil forfeiture and the financial incentive that fuels it.



“The way the system is now, it’s not for the people. It’s for themselves.”

The Need to Understand Forfeiture Victims’ Experience

“They came in, they made me go down to my basement and put a gun to my head and forced me to open my safe up.”

That may sound like an armed robbery, but what it actually describes is the moment Philadelphia police seized a person’s cash for the city’s notorious civil forfeiture program. The program allowed police and prosecutors to seize and permanently keep people’s cash, cars, homes and other property often without so much as charging the owners with a crime. Law enforcement called the program a crime-fighting tool. But to victims, it often felt more like a government stickup: “It’s an excuse to get into people’s houses. Once they get it, they do whatever they want.”

After property was seized, owners had to navigate a complex process to try to get it back. Philadelphia’s process stacked the deck against owners from the start, with police frequently failing to give people documentation regarding seized property: “When they confiscated the money, they never even gave us a receipt.” And when owners made it to court, they found themselves in a courtroom without a judge, where prosecutors decided whether they deserved to get their property back. As one victim described, “[The district attorney] told me, ‘If you beat your [criminal] case, you can get some of your money back—if not, you won’t get any of it back.’ When I did beat the case, they only gave me half of my money back, which I didn’t understand.” As another victim put it, “I was blindsided when I went to court. I’m not illiterate, but I didn’t understand the legalese.”

Making matters even worse, the Philadelphia police department and prosecutor's office were allowed to keep the proceeds from forfeitures, creating an incentive to police for profit. Said one victim, "[T]he way the system is now, it's not for the people. It's for themselves."

These quotations from real forfeiture victims come from a first-of-its-kind survey of people whose property was seized using civil forfeiture. Although awareness about civil forfeiture has grown in recent years, hard data about its victims are sparse and incomplete, with most knowledge about their experiences limited to anecdotes. This study seeks to change that by providing systematic information about people whose property is seized for forfeiture and what they go through to try to get it back.

The survey was made possible by a successful civil rights class action lawsuit. In 2014, the Institute for Justice joined with several forfeiture victims to sue Philadelphia over its particularly abhorrent civil forfeiture practices. The lawsuit alleged Philadelphia's forfeiture program was unconstitutional as it provided few due process protections for property owners and gave city police and prosecutors a strong financial motive to pursue forfeiture revenue over public safety or justice.¹ After a multiyear legal battle in federal court, IJ succeeded in ending Philadelphia's most abusive practices and secured a consent decree that included \$3 million in restitution for victims—a class of over 30,000 people.² This settlement presented a unique opportunity to speak to people victimized by civil forfeiture.

To better understand the experience of forfeiture victims, we surveyed 407 Philadelphians once ensnared in the civil forfeiture process. Key findings include:

- Forfeiture victims tended to come from some of the city's most disadvantaged communities—those often least able to fight city hall.
- Philadelphia police frequently seized small amounts of cash and low-value cars—hardly the stuff of big-time drug criminals.

- Philadelphia's forfeiture program made it extremely difficult to get seized property back—even though the vast majority of forfeiture victims were never proven guilty of any wrongdoing.

These findings suggest Philadelphia's civil forfeiture program was shaking down innocent people and minor offenders—not fighting serious crime. The reasons the program was able to do so speak to fundamental problems with civil forfeiture laws and have implications that extend far beyond Philadelphia. Specifically:

- Civil forfeiture is likely to sweep up the disadvantaged largely because it is part of the criminal justice system yet offers property owners only the limited protections of civil procedures.
- The problem is made worse by laws that give law enforcement a financial stake in forfeitures.
- Civil forfeiture effectively puts the onus on property owners to prove their innocence and fight for the return of their property, and this will inevitably deter valid claims and wind up victimizing innocents.
- By making it possible—and lucrative—to take property without proving wrongdoing, civil forfeiture is unlikely to reliably distinguish between the guilty and the innocent, making it unfit as an effective crime-fighting tool.

Philadelphia's forfeiture program was abhorrent, but it was not aberrant. It would not have existed without state civil forfeiture laws that make it extremely easy and lucrative to seize and forfeit property. But Pennsylvania's lax civil forfeiture laws are not unique. Thus the experience of Philadelphia's forfeiture victims provides a cautionary tale for forfeiture programs nationwide.

Civil Forfeiture: A Nationwide Problem

To understand our survey results—and how they relate to the larger discussion about civil forfeiture nationwide—it is helpful to understand how civil forfeiture worked in Philadelphia, how state law made the city’s abusive program possible and how other states’ civil forfeiture laws contain the same features.

Philadelphia’s civil forfeiture program

Philadelphia’s civil forfeiture program was once among the most egregious examples of forfeiture abuse nationwide, ensnaring thousands of property owners each year. Respondents to our survey reported feeling like police used every available opportunity to seize as much property as they could. Often, police used the city’s controversial “stop and frisk” policy to stop people for alleged low-level “quality of life” offenses like littering, search them without probable cause, and then seize whatever cash they had on them—whether or not they found any contraband or other evidence of illegal activity.

Philadelphia processed civil forfeiture cases in a kangaroo court—the notorious Courtroom 478—in which prosecutors and city staff, not judges, ran proceedings. The only court official in attendance was typically the “trial commissioner,” whose job it was to schedule hearings. There was not even a court reporter present to transcribe the proceedings.

Courtroom 478 operated like a well-oiled machine, with automatic approval for many cases. If a property owner failed to attend court on their appointed hearing date, prosecutors marked the case for default judgment without any determination, judicial or otherwise, as to the reason the property owner did not appear. And property owners would frequently show up to court for a hearing only to have prosecutors postpone the hearing until the following month without explanation. Called “relisting,” this would often occur

multiple months in a row, forcing owners to return to court on multiple occasions or lose their property automatically. Some cases were relisted as many as a dozen times, drawing them out for years and increasing the likelihood an owner would miss a court date and thereby lose their property by default.³

Often, the property seized was low in value. For example, Philadelphia’s average cash forfeiture was so small that one observer referred to it as “pocket change.”⁴ Given the low value of most of the city’s forfeitures, it may be surprising that police and prosecutors pursued them so aggressively. But the city made up for the low values in volume: Philadelphia’s forfeiture machine conducted thousands of forfeitures each year. In 2011 alone, Philadelphia filed 6,560 civil forfeiture petitions. From 2002 to 2014, Philadelphia seized and forfeited over \$50 million in cash, along with 1,248 homes and other real properties and 3,531 automobiles and other vehicles.⁵ Those figures do not include the countless personal items forfeited, such as cell phones, jewelry, clothing or legally registered firearms.

The Philadelphia District Attorney’s Office frequently spent the millions it garnered in forfeiture proceeds on the salaries of the prosecutors who ran Courtroom 478. Between 2002 and 2014, Philadelphia’s spending from forfeiture funds on salaries was nearly twice that of all other Pennsylvania district attorneys *combined*.⁶ When law enforcement agencies can keep and spend forfeiture proceeds, this creates a perverse financial incentive to police for profit. When agencies can use those proceeds to pay the very people who make decisions about whether to forfeit property, this gives prosecutors a direct personal stake in forfeiture, amplifying civil forfeiture’s perverse financial incentive.

Civil forfeiture in Pennsylvania

Thanks to IJ’s successful lawsuit, and the resulting consent decree, Philadelphia’s civil forfeiture machine is now defunct. But civil forfeiture continues to ensnare thousands of innocent people across the country each year. This is because most states have civil forfeiture laws that make it easy and profitable for police and prosecutors to seize and forfeit people’s property.

Philadelphia’s civil forfeiture program was made possible by Pennsylvania’s civil forfeiture laws—laws that are still on the books and only slightly improved since Courtroom 478’s heyday. Pennsylvania’s laws make it extremely easy to forfeit property, requiring prosecutors to prove seized property’s connection to a crime by only a low standard of proof.⁷ And because civil forfeiture actions proceed against seized property itself rather than its owner, an owner’s personal guilt or innocence is essentially irrelevant. Pennsylvania’s laws also allow police and prosecutors to keep 100% of forfeiture proceeds—which Philadelphia took particular advantage of—creating a strong financial incentive to police for profit.⁸

In Pennsylvania, as in all states, police can seize property with mere probable cause. Probable cause is one of the lowest standards of evidence, requiring only that a reasonable person could believe there is a fair chance a crime occurred.⁹ Once property is seized, Pennsylvania prosecutors must prove it is connected to a crime by “clear and convincing evidence” to forfeit it.¹⁰ This standard is below the proof beyond a reasonable doubt required in criminal cases. And until 2017 the standard was even lower—preponderance of the evidence, which meant prosecutors had to prove only that property was “more likely than not” connected to a crime.¹¹ And if owners fail to contest forfeiture of their property in time, Pennsylvania’s law allows the government to forfeit it automatically.¹²

Not only is the burden of proof typically lower in civil forfeiture cases than in criminal cases, but other due process protections found in criminal court also do not apply. This is because seized property—not its owner—is on trial. For example, property owners are not entitled to a public defender if they cannot afford to hire their own attorney.¹³ This means indigent owners are often left to fend for themselves when it comes to navigating the civil forfeiture process’s complexities.

In addition to lacking due process protections, Pennsylvania’s forfeiture laws let the police and prosecutors responsible for seizing and forfeiting property keep the proceeds.¹⁴ By law, police and prosecutors can spend forfeiture proceeds only on “the enforcement of or prevention of a violation of the provisions of the Controlled Substance, Drug, Device and Cosmetic Act.”¹⁵ However, in practice, this means virtually anything in any way related to fighting drug crimes—including paying the salaries of the people involved, which risks turning forfeiture into a self-funding machine. Between 2002 and 2018, Pennsylvania law enforcement agencies spent more than \$51 million—nearly a third of their forfeiture fund expenditures—on personnel, including salaries and bonuses for police, prosecutors and public defenders.¹⁶ Notably, only 4% of Pennsylvania agencies’ forfeiture fund expenditures went toward anti-drug community programs during that time.¹⁷ This is particularly striking because civil forfeiture enthusiasts believe it is an important means of fighting drug use and drug crimes.¹⁸

Civil forfeiture nationwide

Pennsylvania is not alone. Most states across the country, not to mention the federal government, continue to enforce civil forfeiture laws that offer few due process protections and promote policing for profit.¹⁹ Only four states—Maine, Nebraska, New Mexico and North Carolina—do not permit civil forfeiture under state law. Instead, those states must use criminal forfeiture to deprive people of their property.²⁰ This means prosecutors must prove—in criminal court, not civil—both a person’s guilt beyond a reasonable doubt and the seized property’s connection to that crime. The rest of the states permit civil forfeiture, and most set standards of proof below reasonable doubt.²¹

Worse yet, civil forfeiture laws typically allow the government to forfeit one person’s property because *someone else* might have used it in an alleged crime. In cases involving third-party innocent (or joint) owners, most states’ laws are similar to those that made Philadelphia’s forfeiture machine possible. Like Pennsylvania until its 2017 reforms, 29 states effectively require parents, spouses and other third-party owners to prove their own innocence to get their property back rather than requiring the government to prove they

knowingly and willingly allowed their property to be used to facilitate a crime.²² In practice, this turns the presumption of innocence on its head.

Finally, nearly all state and federal forfeiture laws give law enforcement a financial stake in forfeitures, as Pennsylvania does. Just six states and the District of Columbia direct forfeiture proceeds away from law enforcement, eliminating forfeiture’s perverse financial incentive. The other 44 states direct some or all proceeds to law enforcement.²³ And just like Pennsylvania, most states allow law enforcement to spend forfeiture proceeds on personnel, giving police and prosecutors a direct personal financial stake in seizure and forfeitures. In 2018, roughly 19% of forfeiture expenditures across states that track this information went toward personnel,²⁴ a category that includes salaries, benefits, overtime and even bonuses.²⁵

Philadelphia took extreme and highly efficient advantage of state civil forfeiture laws, but the core legal features that enabled its abuses are common. Thus, not only do this study’s findings provide a rare systematic look at how people caught up in civil forfeiture experienced it, but they also have important implications for civil forfeiture wherever it occurs.

Methods

Three main research questions guided the survey:

1. What was the demographic profile of people caught up in Philadelphia's civil forfeiture system?
2. What did the typical experience with Philadelphia's civil forfeiture system look like?
3. In what ways, if any, did Philadelphia's civil forfeiture system make it difficult for owners to get their property returned?

As part of the settlement in our class action lawsuit against the city, IJ obtained the names and contact information of over 30,000 individuals who had property seized as part of Philadelphia's civil forfeiture system between approximately August 2012 and June 2018, enabling us to conduct this survey. The market research firm TechnoMetrica contacted forfeiture victims²⁶ on our behalf between September 2020 and February 2021, returning a final sample of 407 respondents.²⁷

To answer research questions 1 and 2, we used descriptive statistics to determine the demographic profile of a typical Philadelphia forfeiture victim and the typical experience with Philadelphia's seizure and forfeiture processes. To answer research question 3, we used statistical analysis to estimate the likelihood of (a) victims attempting to get their property back and (b) successfully getting property back. The statistical analysis allowed us to identify various details about victims and their experiences that may have influenced their decision to claim their property and their success in doing so. See Appendix B for further details of our statistical analysis methods.

It is important to note that our analysis relies on self-reports. Not only might some respondents' mem-

ories have been faulty, especially when recalling events that are several years in the past, but a minority of respondents answered the survey on behalf of someone else. This occurred when the forfeiture victim was deceased, incarcerated or otherwise unavailable. There also exists the possibility of some sampling bias: Forfeiture victims who took the time to complete the survey may have had particularly bad experiences with Philadelphia police or prosecutors, while victims with less bad experiences may have opted out in greater numbers. However, the large sample size paired with the many consistencies in respondents' stories suggest our results are robust and paint an accurate and illuminating portrait of forfeiture victims' experiences.

Results

1. What was the demographic profile of people caught up in Philadelphia’s civil forfeiture system?

Philadelphia forfeiture victims tend to come from some of the city’s most disadvantaged communities—those least able to fight city hall.

The demographic characteristics of Philadelphia forfeiture victims look quite different from those of Philadelphians overall. Figure 1 disaggregates the racial and ethnic makeup of the sample, showing the large majority of respondents were Black. Indeed, as Figure 2 shows, Philadelphia forfeiture victims are more likely to be Black than the general population. They are also more likely to earn lower incomes and be unemployed and less likely to have a college degree or own their homes.²⁸ These results suggest Philadelphia’s civil forfeiture machine disproportionately entangled members of disadvantaged communities.

Given these characteristics, those caught in Philadelphia’s forfeiture system may have had particular difficulty fighting back. With less economic and social capital, navigating Philadelphia’s complex system was likely especially challenging. And because Black workers, less-educated workers and lower-income workers are more likely to hold hourly jobs,²⁹ they may have found it difficult to take time off to go to court to try to get their property back. Thus the average Philadelphia forfeiture victim might have had a harder time fighting city hall than the average Philadelphian.³⁰

In addition, survey respondents’ demographic characteristics tend to mirror those of people caught in the criminal justice system more broadly. Members of disadvantaged communities, including Black people (and especially Black men), people with less education and people with lower incomes, are all more likely to be arrested and incarcerated than the general population.³¹ And Black Americans are nearly three times

more likely to be arrested than white Americans for an alleged drug offense despite similar rates of drug use and sales.³² Given that any arrest—indeed, any interaction with police—can lead to a person’s property being seized and that forfeitures are often related to drug offenses,³³ it makes sense that members of these heavily policed communities would be more likely to be caught in civil forfeiture.

Indeed, a geographic analysis of the locations where forfeited property was seized confirms that the bulk of Philadelphia’s seizures were highly concentrated in some of the city’s lowest-income Black and Hispanic communities. As part of the settlement agreement with the Philadelphia District Attorney’s Office, IJ obtained a list of the number of cash forfeitures by ZIP code where seizures occurred from 2012 to 2018. The map in Figure 3 indicates the percent of total cash forfeitures by ZIP code.³⁴ As the map shows, the vast majority of cash forfeitures took place in just a few areas. While half of the city’s ZIP codes each saw 1% or less of total cash forfeitures, just four ZIP codes in the city’s center accounted for 57%.

The accompanying charts in Figure 3 compare the population and demographics of these four areas with those of an average Philadelphia ZIP code. (We averaged population and demographic metrics over the same time period as the forfeiture data.)³⁵ Not only did these areas see a disproportionate share of forfeitures as compared to their populations, but they had lower median incomes and higher percentages of Black and Hispanic residents. For example, ZIP code 19134 had

Figure 1: Most victims of Philadelphia’s forfeiture machine are Black

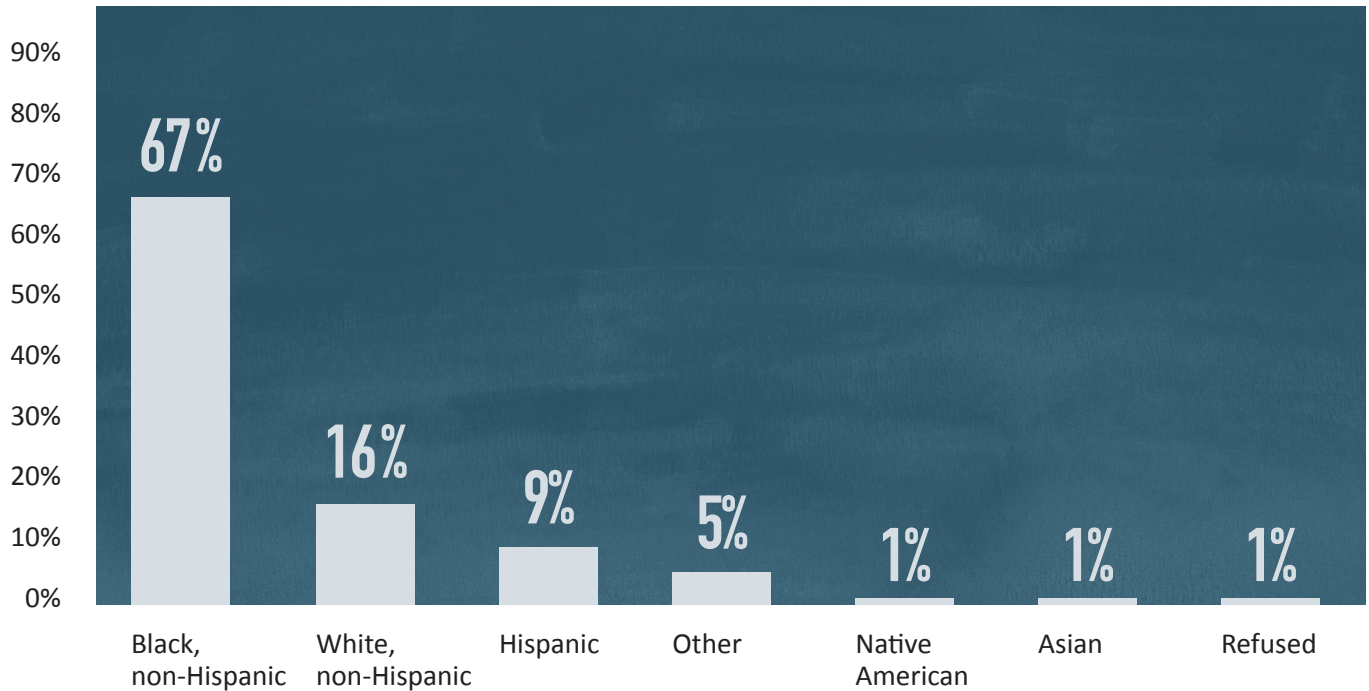
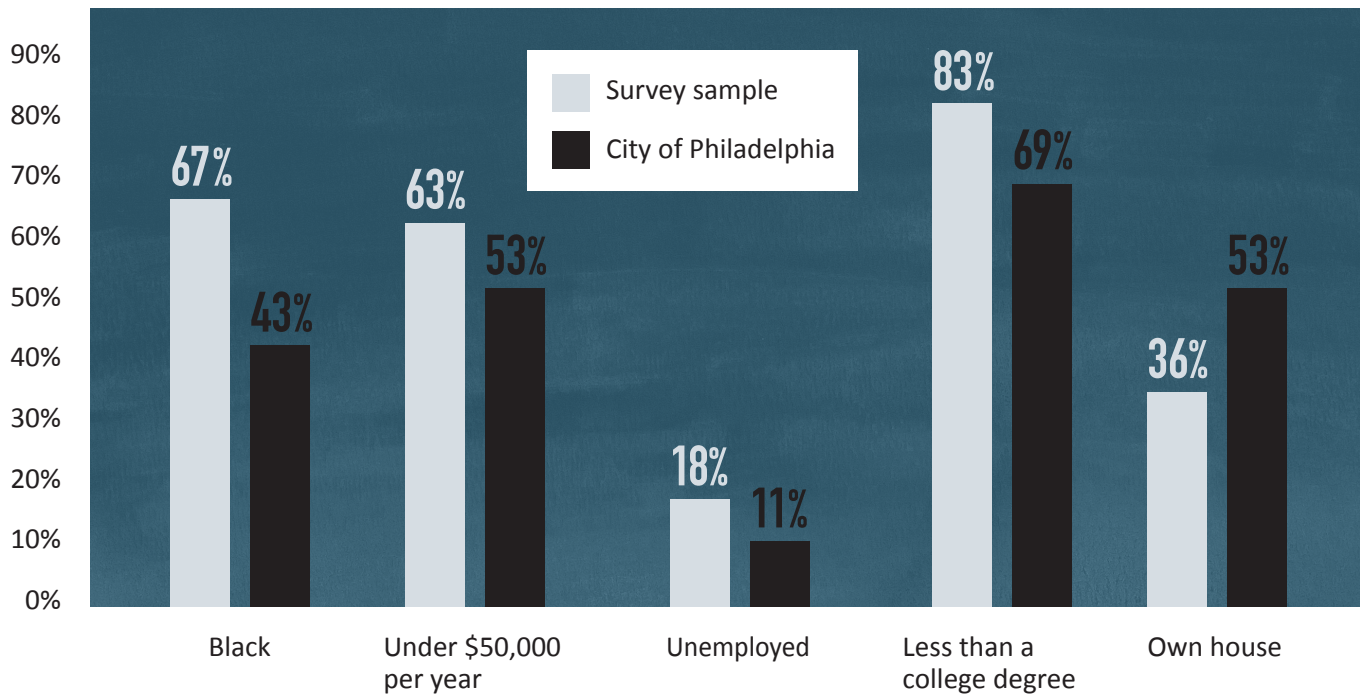


Figure 2: Philadelphia’s civil forfeiture machine disproportionately affected disadvantaged communities

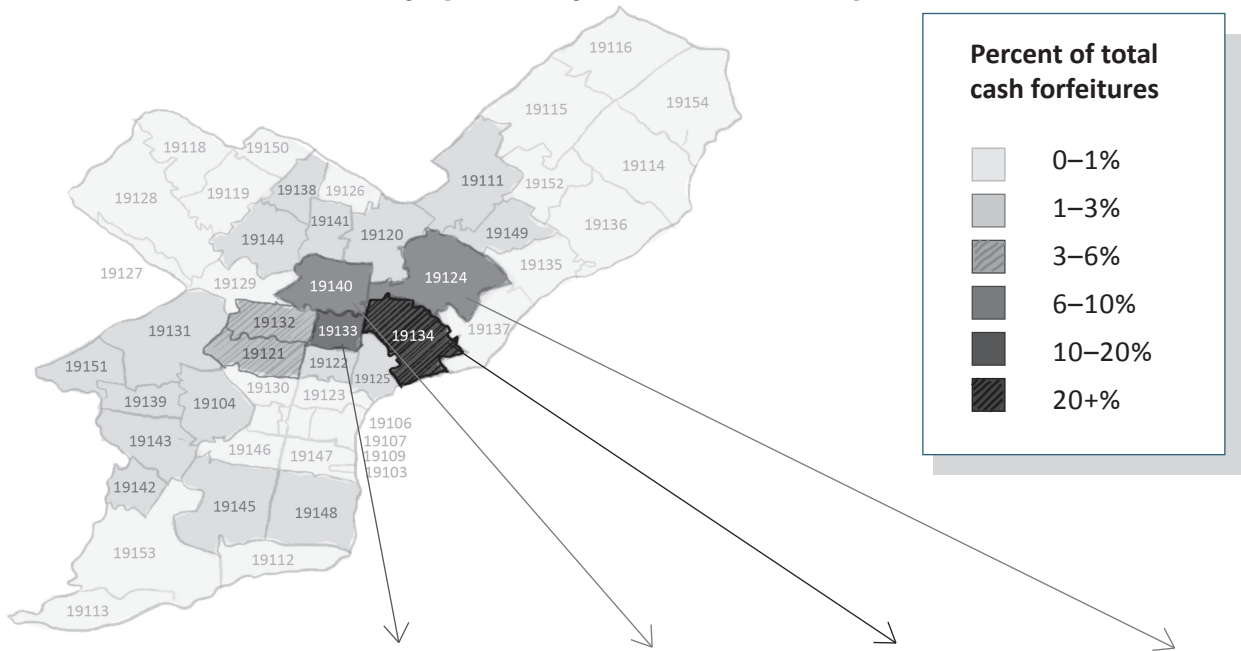


Source: U.S. Census Bureau American Community Survey 2019 1-Year Population Profiles; Bureau of Labor Statistics Monthly Unemployment Statistics for September 2020–February 2021 (the same period our survey was in the field).

by far the largest share of cash seizures at 31% but contained just 4% of the city’s population. Residents of 19134 had a median income of just \$26,000—well below the average ZIP code’s median of \$45,000—and 66% were non-white. An even starker example is

19133, where 12% of forfeitures occurred among just 1.7% of the city’s population and the median income was only \$16,000—slightly more than the annual salary of someone earning Philadelphia’s minimum wage of \$7.25 per hour.³⁶

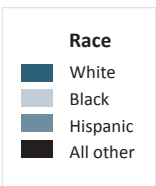
Figure 3: Forfeited cash was disproportionately seized from areas of Philadelphia with low median incomes and high percentages of Black and Hispanic residents³⁷



Average ZIP in Philadelphia

2.0% of all cash forfeitures

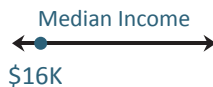
Population: 34K
2.1% of city pop.



ZIP 19133

12.3% of all cash forfeitures

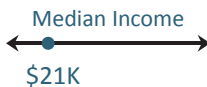
Population: 26K
1.7% of city pop.



ZIP 19140

6.8% of all cash forfeitures

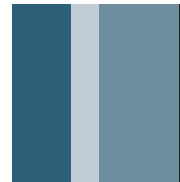
Population: 52K
3.4% of city pop.



ZIP 19134

31.2% of all cash forfeitures

Population: 62K
4% of city pop.



ZIP 19124

6.9% of all cash forfeitures

Population: 66K
4.3% of city pop.

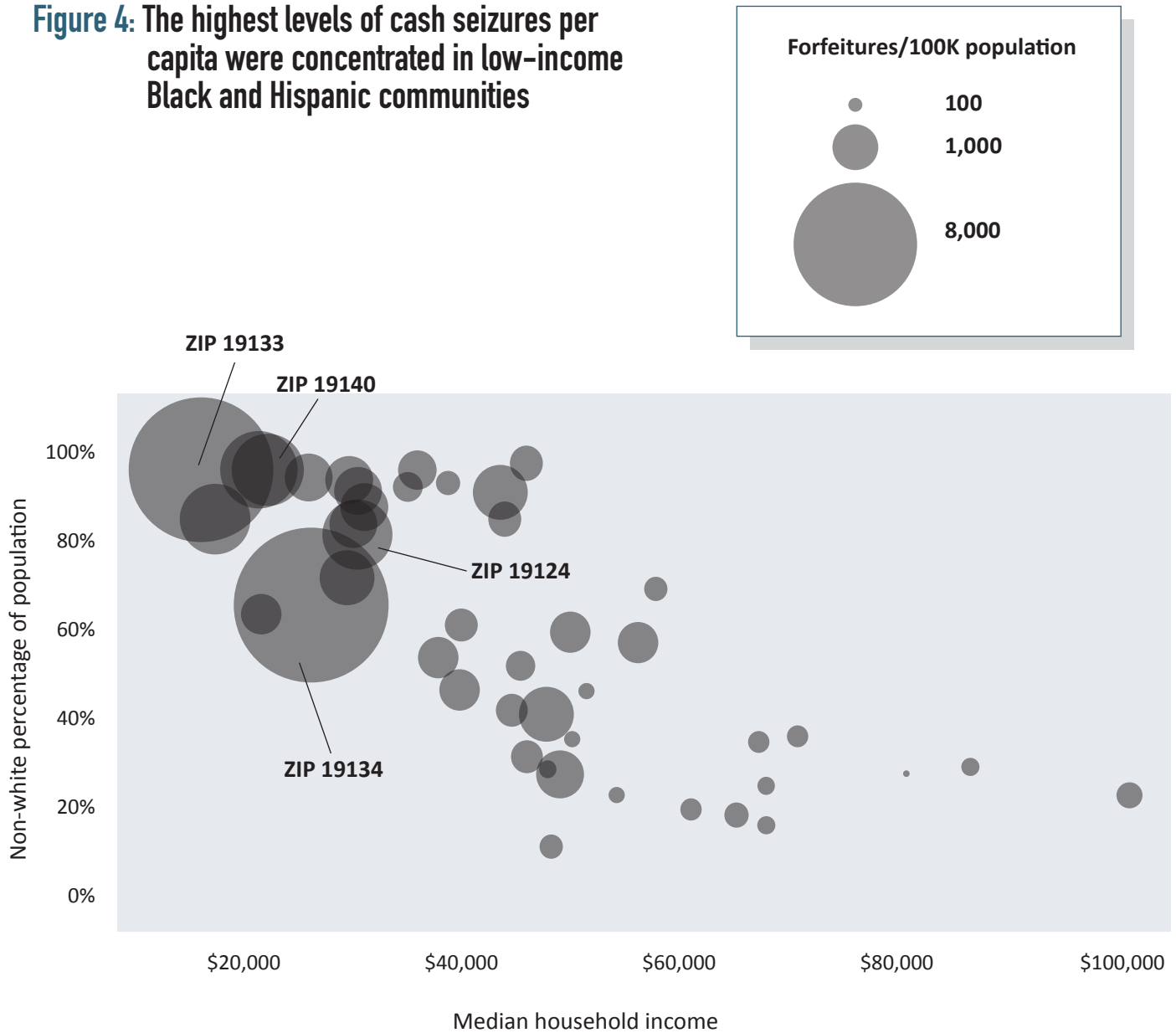


Boxes sized by population share

Figure 4 makes the relationship between ZIP code demographics and concentration of forfeitures even clearer. In the figure, each circle represents a ZIP code, with larger circles signifying more forfeitures per capita, and these are plotted by median income and percentage of non-white residents. The largest circles

cluster in the upper left—the lowest median incomes and largest percentages of minorities. Forfeitures per capita generally diminish among wealthier and less heavily minority ZIP codes.

Figure 4: The highest levels of cash seizures per capita were concentrated in low-income Black and Hispanic communities



2. What did the typical experience with Philadelphia’s civil forfeiture system look like?

Philadelphia police frequently seized small amounts of cash and low-value personal property—hardly the stuff of big-time drug criminals.

Most property seized by Philadelphia’s civil forfeiture machine was low in value, suggesting that, in practice, police often used the program to shake people down rather than to fight serious crime. The median value of an individual item seized (including cash, which counted as one item in our analysis) was just \$600, and the median value of all items seized during a single incident was only \$1,370. Respondents reported having as little as \$25 in cash seized from them, as well as other low-value items, such as a cologne gift set worth just \$20.

Such low-value seizures, including items like cologne that are not plausibly connected to criminal activity, are far from the major drug money busts or financial fraud asset recoveries often touted as evidence that forfeiture programs work to hinder large criminal enterprises.³⁸ In fact, our survey data suggest such large busts are, at best, outliers while small-dollar seizures are the norm (see Figure 5). This is in line with prior research finding that across 21 states with available data the median value of cash forfeited between 2015 and 2019 was just \$1,276. Pennsylvania had the lowest median of those states: just \$369.³⁹

Figure 5: Most individual items seized were worth \$600 or less

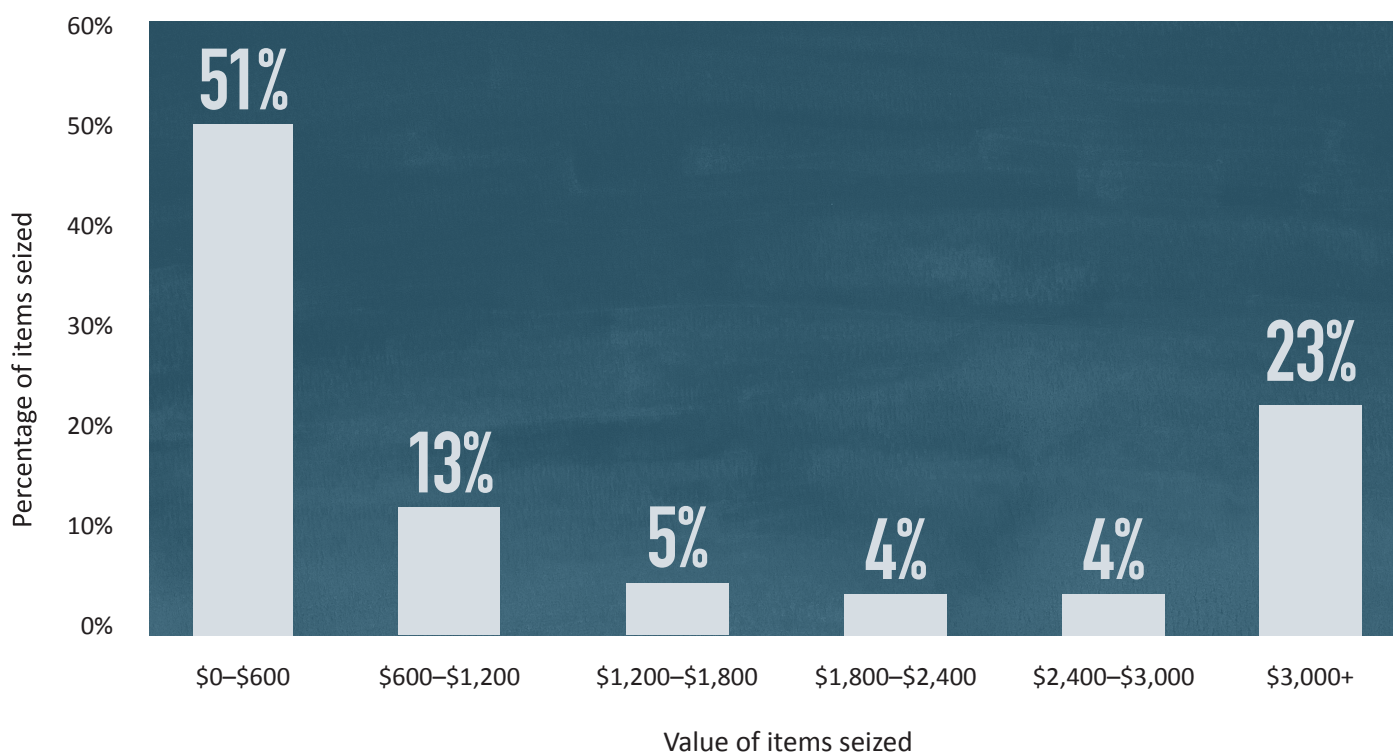
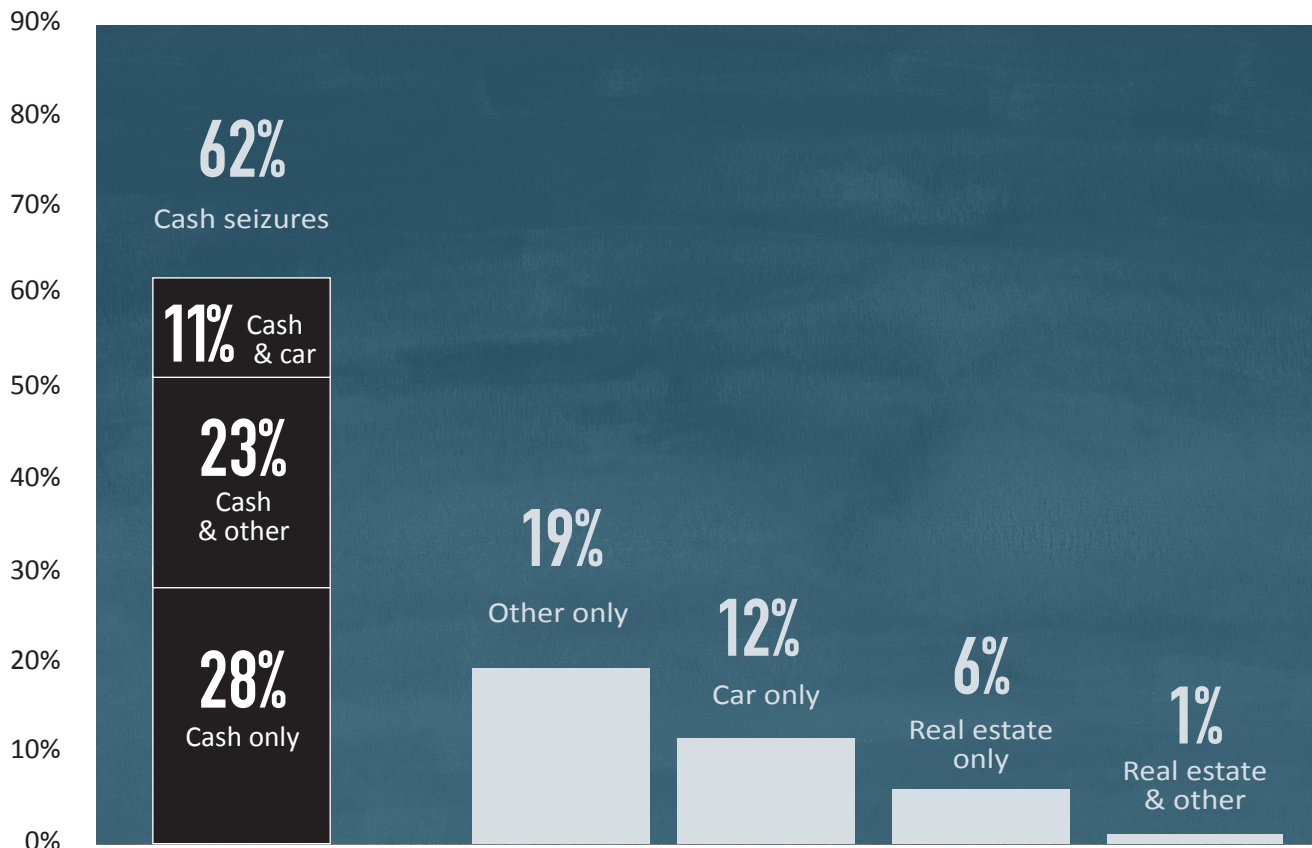


Figure 6: Cash was the most common type of property seized, most often alongside other personal property



Cash was by far the most common type of property seized from Philadelphia forfeiture victims: 62% of survey respondents reported cash was seized from them (see Figure 6). Respondents often told us police treated the mere fact that they had cash as suspicious, with one victim who had \$250 seized from him reporting, “I was standing on the street with my friends and the cops came up to me on the street because

they thought [we were] suspicious. They proceeded to search us, and they took my money because they thought that it was ‘drug money.’”

Among respondents who had cash seized, more than half reported it was seized alongside other items like a car or other personal property. This could mean that police often simply seized whatever cash people happened to have with them during a traffic

stop or other interaction. One respondent told us how police seized his cash, crutches and other personal property while he was recovering from an injury:

Since it was cold out, I hit the automatic start on my car to have it heat up. It took me a little while on the crutches to make it around the corner to where my car was. When I rounded the corner, I noticed the police were surrounding my vehicle and looking inside. As I approached, they asked me who I was, and since I had nothing to hide I told them. They proceeded to tell me that I was being arrested. I was shocked and asked them for what reason, and they kept telling me not to resist. I was confused and kept questioning them, so they threw me to the ground and searched my pockets. They took the key fob out of my pocket and told me that they were arresting me for leaving my car parked, running and unattended. Since that was their probable cause to arrest me, it gave them legal access to search my car. . . .⁴⁰ I had kept my prescriptions to help with the pain of my injury in the car. . . . When the police found them, they claimed that I was hiding them, which was ridiculous considering they were in my own car. I explained my circumstance and even had proof of prescription in the car with my name and date on it to show that they were mine. The cops seemed to dismiss this fact and took me down to the 35th district. . . . I felt completely violated and taken advantage of by these Philadelphia cops.

Stories like these—and the preponderance of low-value seizures of cash and other personal property like crutches—call into question forfeiture proponents’ frequent claims that it is an essential way to take the profit out of crime.⁴¹

And while the values involved are low, the property may be important to victims. Particularly for the lower-income individuals typically swept up in

Philadelphia’s forfeiture system, even small amounts of cash may have been needed to make rent or to buy food or medicine. Similarly, many of the cars seized may have been forfeiture victims’ primary mode of transportation, the loss of which could have had severe consequences. For example, the mother of one forfeiture victim reported that her son “didn’t [get] a job that he was trying to get because he didn’t have a car.” Still more respondents reported losing jobs after their property was seized: One victim who had his work tools forfeited said, “It can cost you a lot. Cost me all of my tools, my job, a lot of heartache.”

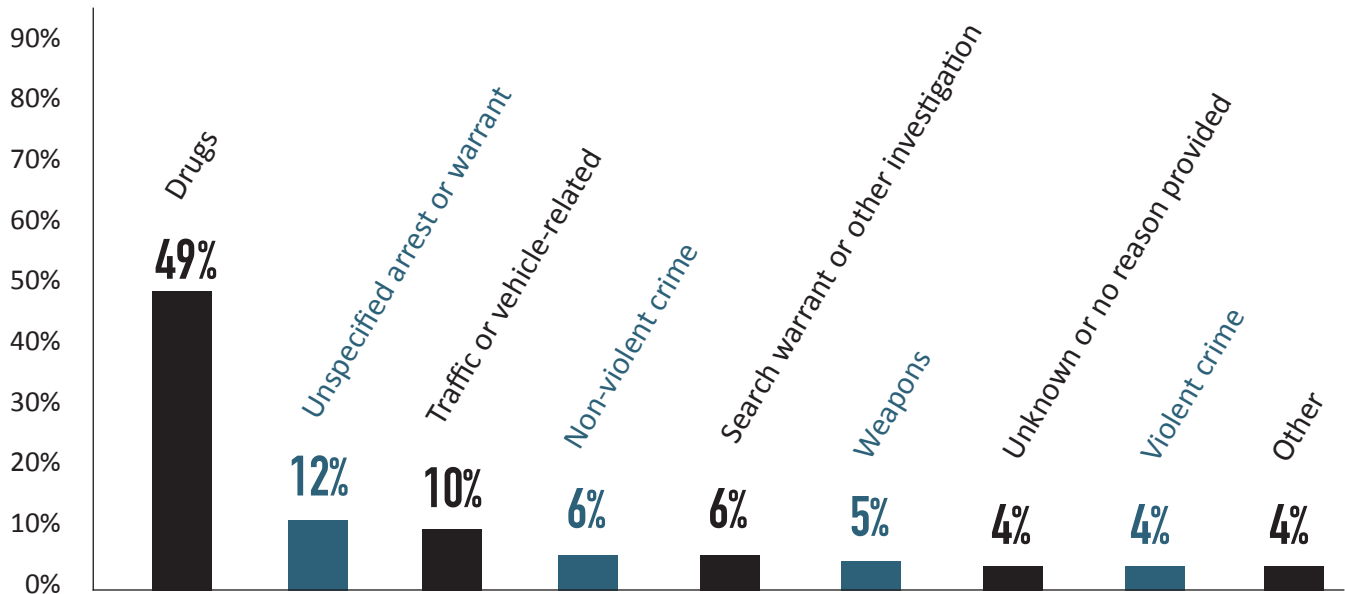
Philadelphia police frequently seized property from alleged low-level drug offenders—as well as entirely innocent people.

To the extent Philadelphia’s civil forfeiture machine targeted crime at all, it seems to have pursued mostly low-level drug offenses rather than large drug trafficking operations. A plurality of victims had their property seized for an alleged drug offense, representing nearly half of all seizures (see Figure 7). Yet, and as discussed above, the relatively low value of seizures suggests Philadelphia’s civil forfeiture machine most often went after alleged low-level drug offenders—as well as entirely innocent people, using alleged minor drug offenses as a pretext.

Another 10% of seizures occurred due to some sort of traffic violation, including unpaid parking tickets, expired vehicle registration and minor moving violations. Any nexus between a moving violation and the types of crime that traditionally give rise to forfeiture is dubious at best.

Not only were most of the alleged offenses that gave rise to seizures minor, but many forfeiture victims were never arrested or charged—let alone found guilty of a crime. Thirty percent of survey respondents were not arrested at the time of their property’s seizure. Some of these people were not present

Figure 7: Alleged drug offenses gave rise to nearly half of all seizures



when their property was seized; that is to say, some were third-party innocent owners. For example, one respondent told us:

I was not driving the vehicle at the time. I'd given permission to my friend to use the vehicle. The police got suspicious of my friend who was sitting in the driver's seat of the parked car. They searched him and it's my understanding that drugs were found in the car. I am not sure whose drugs they were, but the police ended up arresting my friend as a result. After the arrest, my vehicle was seized and towed down to the police station where it was held.

Despite going to court to try to get the vehicle back, the respondent was unsuccessful. Many respondents told similar stories in which their spouses or former partners drove their cars without their permission, got pulled over for an alleged moving violation and had the car seized. Cars were reportedly seized for

offenses ranging from running a red light to driving on a suspended license. Other respondents reported losing their legally registered firearms to the city's forfeiture machine because the firearms had been stolen from them and then used to commit a crime. Rather than return the firearms to their rightful owners, the city seized them for forfeiture.

Others who were not arrested at the time of seizure were simply let go after police relieved them of their property, suggesting that their alleged offense was not egregious enough, or the evidence strong enough, to warrant an arrest.

And among the 70% of survey respondents who reported being arrested when their property was seized, 57% were charged and only 35% were found or pleaded guilty to any wrongdoing. That translates to 23% of forfeiture victims overall. Meanwhile, only 31% of victims reported getting their cash, wallet, cell phone or other personal property back.

Together, the low value of seized property and the fact that so many victims had property seized in the

course of arrests for minor offenses for which they were never even charged or found guilty cast doubt on whether Philadelphia's seizure and forfeiture activity was targeted to fighting serious crime. Instead, it appears the city's forfeiture program often ensnared minor offenders and shook down the innocent.

Many Philadelphia forfeiture victims reported unprofessional, disrespectful or frightening interactions with police when their property was seized.

A common thread among survey respondents was their disappointment in how they were treated by the Philadelphia police officers who seized their property—particularly when police entered their homes. Experiences included unprofessional and disrespectful behavior; verbal abuse, including derogatory comments about race and ethnicity, and threats of violence; property damage; and assault. Javier's story is typical. (Victims' names are pseudonyms.) Javier had \$7,000 in cash seized from him when police searched his home with a warrant; police also seized another \$3,400 from his then-partner. According to Javier, the first thing police asked him was whether the cameras on the outside of his house were working. He said the officers asked his ex, "Why are you with him? He's a trash Hispanic." Police also went through Javier's

fridge: "I just brought the food home for [my family] to eat, and [the police] sat there and ate the hoagies."

Robert's experience involved more overt intimidation. He told us that when police entered his home during a domestic dispute and seized his legally registered firearm, "[t]hey took me down to the basement. The cop put a gun to the back of my head, said 'open the safe.' I said, 'you need a warrant.' And he poked me with the gun and said, 'open the safe,' then hit my head against the frame of the door. . . . I really thought they were going to shoot me, I'll be honest with you." Other respondents also reported being threatened with violence, with one saying, "I was just relaxing at home watching TV. . . . There were four cops in total. They put a gun to my head and threatened to shoot me if I didn't open my safe."⁴²

Additional respondents reported police causing property damage during seizures that took place in their homes. One respondent said they had to replace their front door after police smashed it open before they could answer it. Another told us a police officer used a crowbar to open their safe after they refused to open it without a warrant.

These experiences took a significant toll on some victims. As one respondent put it, "You feel unsettled in your house after something like that. It took us a long time to get some peace back."

"You feel unsettled in your house after something like that. It took us a long time to get some peace back."



3. In what ways, if any, did Philadelphia’s civil forfeiture system make it difficult for owners to get their property returned?

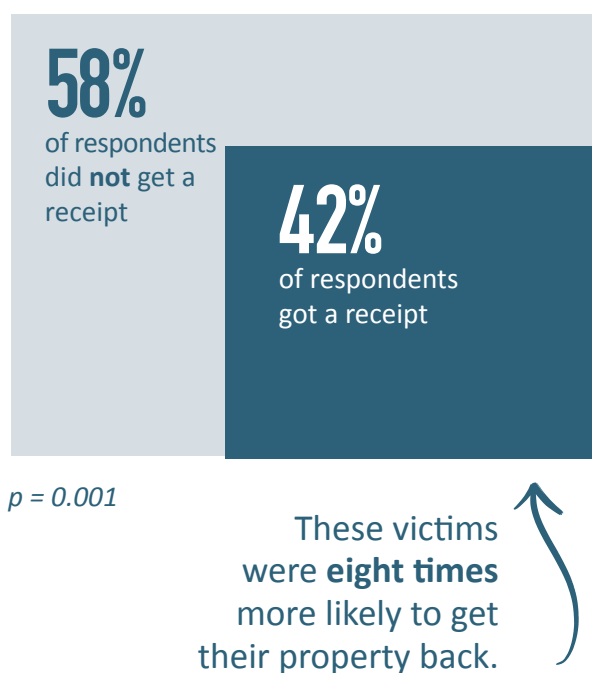
Forfeiture proponents often argue processes exist to ensure innocent property owners get their property back quickly and easily.⁴³ The experience of Philadelphia’s forfeiture victims, however, suggests otherwise. Overall, most survey respondents—72%—tried to get their property back, but less than half of them—43%—succeeded. More than two-thirds (69%) of all Philadelphia forfeiture victims never got their property back. Our analysis identified several factors that may have made it more difficult for victims to get their seized property back.

Police often failed to give victims documentation of the property they seized.

In many cases, police never provided Philadelphia forfeiture victims with documentation of the property they seized, making it difficult for owners to prove they rightfully owned seized property. More than half of respondents—58%—never received a receipt for their property at the time of seizure, and two thirds did not receive any information from police about how to begin the process of getting their property back. A simple receipt may not sound like much in the grand scheme of the complex civil forfeiture process, but people who received a receipt at the time of seizure were eight times more likely to get their property back than those who did not ($p = 0.001$; see Figure 8).⁴⁴ The court is also required to send property owners notice of the government’s intention to forfeit the property, but survey responses suggest that notice was not always particularly helpful. One respondent told us, “The DA called me the night before the hearing and told me to show up.”

Without a receipt, it is next to impossible to prove ownership of many types of seized property, including cash. For example, when police raided forfeiture victim Duy’s business and home in search of small plastic bags commonly used in drug crimes, Duy reported they seized \$5,000 but recorded seizing only a few hundred dollars: “There was no record of [the full amount of money seized]. We did tell a lawyer

Figure 8: Victims who received a receipt at the time of seizure were eight times more likely to get their property back



about it but figured forget it. . . . It's your word against their word. They took our cameras, too, so you have no proof." Without proof of the full amount seized, Duy decided not to fight for its return, saying, "What they're doing is like robbery. They took [our money] and didn't report it and there's no one to complain to."

Survey responses suggest Duy's experience was not unique. While cash was by far the most common item seized, it was the type of property people were least likely to try to get back. Survey respondents tried to get seized cars back 82% of the time; the similar figure for cash was only 63%. Unsurprisingly, respondents were twice as likely to try to get their property back if the seized property was a vehicle ($p = 0.043$). Without a receipt, it is much easier to prove ownership of a car—by showing the title or other paperwork—than it is cash. And only 42% of people who had cash seized received a receipt at the time of seizure. People who had cash seized from them were 48% less likely to try to get it back ($p = 0.029$) and 80% less likely to succeed in doing so ($p = 0.018$) than people who had other types of property seized from them. Furthermore, being without a car may present particular hardship, possibly motivating owners to fight harder for seized vehicles than they do other property.

The process to reclaim seized property was long and arduous—often insurmountably so.

Philadelphia forfeiture victims found the process of trying to get seized property back exceedingly lengthy. Survey responses indicate it took an average of nine months for people to get their property back, which is a long time to go without one's cash, car or other property. Some respondents had to wait more than three years before their property was returned. As forfeiture victim Javier told it, "[Prosecutors] would always ask for a continuance. Postpone it for another month, and another month, and it just went on like that for almost two and a half years."

People who had cash seized may have needed that money in the meantime—to pay rent, to put food on the table, to secure medical care or to take advantage of a business opportunity. Similarly, forcing people to go without a car for weeks or months on end can pose substantial hardships, including job loss. Few people can go nine months, let alone three years, without their primary means of transportation. And even after getting property back, owners were not made whole: Philadelphia forfeiture victims received neither interest on seized cash nor attorney fees.

Philadelphia's working poor, in particular, had trouble navigating the process necessary to get seized property back.

Navigating Philadelphia's civil forfeiture system was no easy feat, and it seems to have presented particular difficulties for the working poor. More than one-third of property owners reported that they cut their losses and walked away rather than spend time, money and energy fighting for their property's return. And survey responses suggest the working poor were less likely than others to have the resources to fight back. For example, after forfeiture victim Matthew attended a drug treatment program, the district attorney dropped the criminal charges against him but only returned half of the \$350 in cash police had seized from him. Matthew decided not to fight for the rest because it "would have taken more money that I didn't have." Indeed, a few socioeconomic factors appear to have made forfeiture victims more or less likely to get their property back—or to even try. Those factors are education, employment and income.

A first factor linked with the likelihood of getting property back is education. The vast majority (83%) of survey respondents had less than a college degree. And people without a college degree were 82% less likely to get their property back than those with a degree ($p = 0.013$; see Figure 9). This suggests that

successfully navigating Philadelphia's Courtroom 478 may have required a level of formal education that most forfeiture victims simply did not have.

A second factor that appears to have made people more or less likely to get property back is employment. Survey respondents who were employed (whether full or part time) were 53% less likely to try to get their property back than those who were unemployed, retired, students, homemakers or unable to work ($p = 0.004$; see Figure 10). This may be due, in part, to the number of times Philadelphia forfeiture victims had to go to court to fight for their property. Respondents reported having to go to court a median of two times. People who did not get their property back made a median of two trips to court, while people who did get property back made a median of three. Ten percent of respondents reported having to go to court more than seven times, with a few saying they went to court as many as 30 or 40 times. Unsurprisingly, people who said they went to court twice were 20% more likely to be successful than those who never went to court ($p = 0.044$).

Having to attend court multiple times was likely difficult for all of those affected, but it may have been especially difficult for Philadelphia forfeiture victims working hourly or other jobs with inflexible schedules and little or no paid time off. In fact, several survey respondents reported that they gave up fighting for their property because they were unable to get time off work to go to court. When asked why they chose not to fight to get their property back, one respondent told us, "I was unable to due to work and family obliga-

“What they’re doing is like robbery ... and there’s no one to complain to.”

tions. To make matters worse, when I tried contacting police to explain to them my situation, my calls were never returned. I was left in the dark.”

A third factor influencing the likelihood of getting seized property back is income. Survey respondents who earned less than \$50,000 a year were 69% less likely to even try to get their property back than those who earned more ($p = 0.002$; see Figure 10). One possible explanation is that those who earned higher incomes had more time and money with which to contest forfeiture. Another possible explanation is differences in the value of seized property: It could be that those with higher incomes had more valuable property seized such that it made more financial sense to fight for it. And, in fact, for people who earned more than \$50,000, the median value of an individual item seized was \$1,300, and the median total value of all items seized during a single incident was \$2,050. For those earning less, the median value of an individual item seized was \$800 and the median total value of all items seized during a single incident was \$1,500.

The lower the value of seized property, the less sense it may make to spend the time and money required to try to get it back. Forty-three percent of survey respondents reported hiring an attorney to

help them fight forfeiture of their property, spending a median of \$3,500 on attorney fees. Lower-income individuals would likely have had substantial difficulty coming up with that kind of money and thus may have been deterred from even trying to fight for the return of their property. Moreover, quite logically, the amount of the seizure seems to have influenced the decision to hire an attorney: The median value of cash and other property seized from people who did not hire an attorney was \$1,700, while the median value seized from people who did hire an attorney was \$4,765 (see Figure 11). Furthermore, people who had more than one item seized during a single incident were more likely to get their property back, suggesting that the value or quantity of seized property significantly influenced the decision to fight. The median number of items seized in a given incident was one, but people who had two items seized were 24% more likely to get their property back ($p = 0.033$). Paired with the finding that people with jobs were less likely to try to get their property back, this suggests that forfeiture disproportionately burdens the working poor, who may be unable to get time off work or afford to take unpaid time off to attend court.

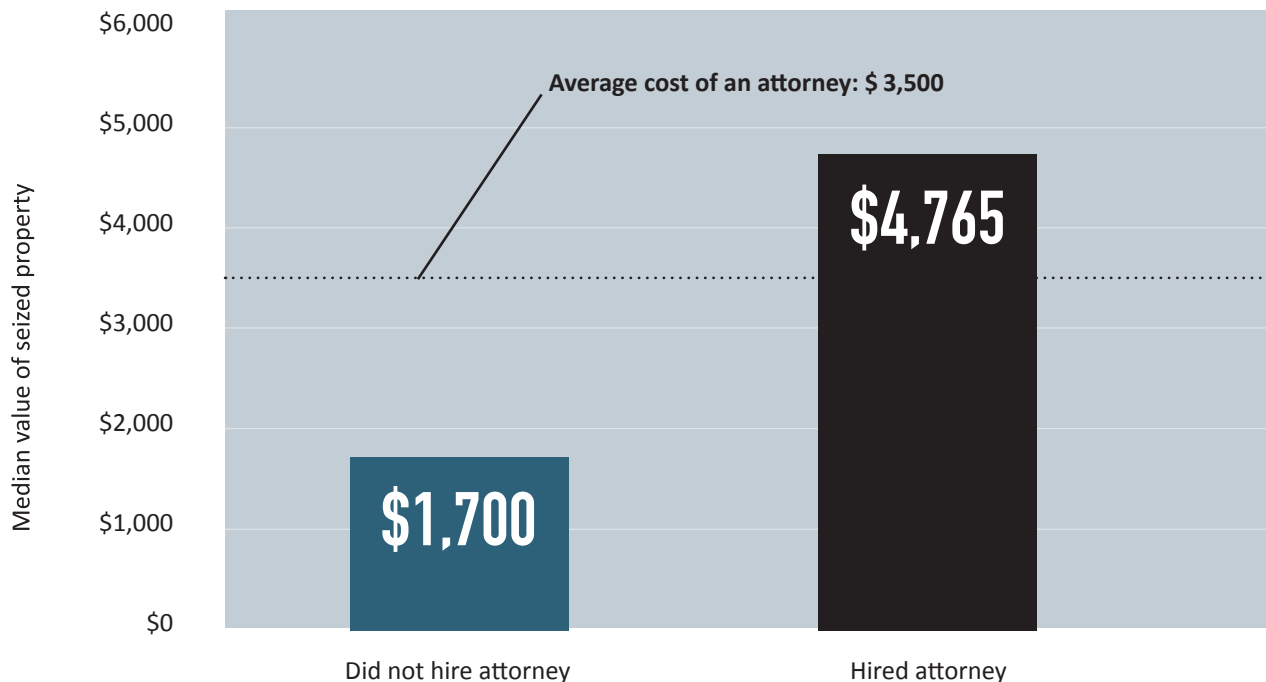
Figure 9: Victims without a college degree were much less likely to get their property back



Figure 10: The working poor were much less likely to even try to get their property back



Figure 11: Victims who did not hire an attorney had lower-value property seized, well below average attorney costs



“The police buried me in paperwork. I was so overwhelmed, and my lawyer told me that it would cost too much money to get anything resolved anyway.”

A property owner’s guilt or innocence had little to do with whether they got their property back.

Forfeiture proponents often claim the system is set up to allow innocent owners to easily get their property back while confiscating the proceeds and instrumentalities of crime from wrongdoers. But our results suggest it is much more complicated than that—the vast majority of Philadelphia forfeiture victims in our survey were never proven guilty of any wrongdoing.

Of those respondents who ultimately lost their property to forfeiture, more than half (56%) were never charged with a crime, and three-quarters were never found guilty of any wrongdoing—that is, they were not convicted of a crime, nor did they enter into any sort of plea deal with the court (see Figure 12).⁴⁵

Some of those who lost their property without charges or a guilty plea or conviction may have chosen to walk away from money or property because they were indisputably connected to criminal activity, as forfeiture proponents often claim.⁴⁶ But many respondents told us they had entirely innocent reasons for not trying to get their property back. Those who did not try to get their property back often said they did not know how to get it back or did not think they would be successful if they tried, which makes sense given the complexity of the court process and the power of police and prosecutors. One respondent who did try to get their property back told us, “The police buried me in paperwork. I was so overwhelmed, and my lawyer told me that it would cost too much money to get anything resolved anyway.”



Other victims reported having been too afraid to make trouble for themselves by fighting back. Survey responses suggest property owners may have been motivated to allow the city to forfeit their property without a fight in order to avoid having criminal charges filed against them—even when they were innocent of the alleged offense. One respondent said he “was told it would not be in my best interest to pursue the money. I did not want to open up a can of worms[,] making the situation worse.” Another told us, “After a day in a holding cell, I was set free upon my day in court. I was told however, that I basically had two options and that was to leave free without my property or to try and get it back with potential for repercussion.” But the decision to walk away under

such circumstances should not be construed as guilt: Fighting criminal charges can throw innocent people’s life into turmoil, so it is understandable that innocent people would decide their property was a small price to pay to make the problem go away.

Results also indicate that a person’s decision to try to get their property back has little to do with a property owner’s guilt or innocence. The rate of guilty pleas and convictions did not differ much for people who attempted to get their property back and people who did not. For people who did not try to get their property back, 65% were never found guilty. For those who did try, that non-conviction rate was only slightly higher (74%). This result suggests other components of the city’s seizure practices and forfeiture system—such

as those previously outlined in this section—have more to do with a person’s decision to challenge a forfeiture than their criminal culpability.

Finally, third-party innocent owners also appeared to have a particularly difficult time getting their property back. People whose property was seized while in the possession of someone else were 92% less likely to get it back ($p = 0.038$; see Figure 13) than those whose property was seized directly from them. Innocent owner provisions are supposed to stop this type of injustice by providing a way for people who were not present when their property was seized to enter a claim to get it back; before the introduction of innocent owner provisions, third-party owners had no recourse at all. But this finding suggests that making and winning an innocent owner claim is extremely difficult.

This is likely because Pennsylvania’s innocent owner provision, like those of most states, turns the

presumption of innocence on its head. In addition to needing to prove they are the rightful owners of seized property, third-party owners in most states must prove they did not participate in, give consent to or have knowledge of the criminal activity with which their property is allegedly associated.⁴⁷ Our finding may reflect the difficulty of proving this negative.

The problem of innocent owners is far from uncommon. Perhaps the most notorious U.S. Supreme Court case involving civil forfeiture, 1996’s *Bennis v. Michigan*, involved a wife who lost her family car to Wayne County after police caught her husband using the vehicle to solicit a prostitute.⁴⁸ To this day, the county’s vehicle forfeiture program continues to sweep up innocent owners, including IJ client Melisa Ingram, who had her car seized twice by Detroit police, both times while her boyfriend was borrowing it.⁴⁹ Albuquerque’s vehicle forfeiture program also frequently saw cars taken from innocent owners. According to the

Figure 12: Among 280 victims who lost their property permanently to forfeiture, only 25% were ever found guilty of wrongdoing



*Includes a small number of individuals whose charges were still pending at the time of our survey or who did not know the final disposition of their case.

city's chief hearing officer, about half the cars seized belonged to someone other than the alleged offender, usually a parent, spouse, girlfriend or other loved one.⁵⁰ That program is now defunct thanks to a lawsuit IJ brought on behalf of Arlene Harjo, a mother whose car was seized because her son drove it while allegedly under the influence.⁵¹

While it is certainly possible that some respondents may have loaned their money, car or other property to another person knowing that the person would use the property to commit a crime, most innocent owners told us they had nothing to do with the alleged criminal activity that gave rise to their property's seizure. As one respondent put it, "I felt like a criminal simply for letting someone else use my car." Though innocent owners represent only 7.4% of our sample and it is difficult to draw firm conclusions from our data, this result serves as additional evidence that a property owner's guilt or innocence had little to do with whether they eventually got their property back.

Philadelphia's forfeiture system stacked the deck against property owners every step of the way.

Survey responses suggest Philadelphia's civil forfeiture program set property owners up to fail. Police seized cash and other property wherever possible and frequently failed to provide documentation of the seizure or information on how to file a claim for their property's return. Prosecutors made it extremely difficult to get seized property back, relisting cases more than three times on average and dragging out the process for months or even years. It should come as no surprise, then, that when asked to describe their experience with Philadelphia's civil forfeiture program in one word, Figure 14 shows victims most often used words like "frustrating," "corrupt" and, most of all, "unfair."

Figure 13: Despite "innocent owner" protections, victims were less likely to win property back when it was seized while in someone else's possession

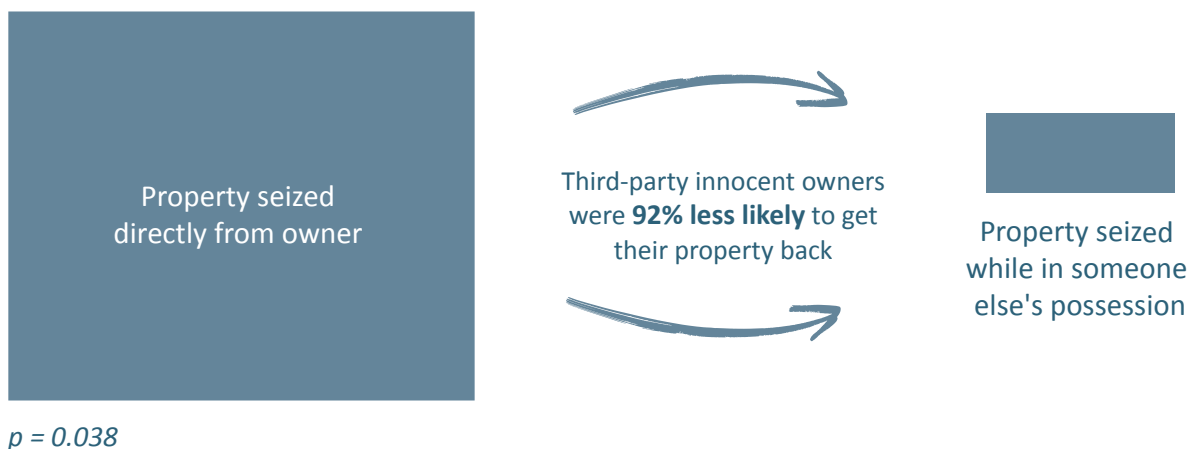


Figure 14: Victims were most likely to describe their experience with Philadelphia's forfeiture program using words like "unfair"



Note: The figure displays the words most often used to describe the forfeiture experience, with the size of the text indicating how often each word appeared in survey responses. Prior to creating the word cloud, we removed "stop words" such as "the" and "and," numbers, and other material not relevant to the forfeiture experience. Only words that appeared at least three times in the data are included.

Implications Beyond Philadelphia


Philadelphia's civil forfeiture machine disproportionately affected people from disadvantaged communities, made it extremely difficult for people to get their property back and seemingly had little to do with fighting serious crime. But while Philadelphia's machine may have been particularly egregious, the legal processes and incentives that gave rise to these problems are not unique. Thus, the experiences of those victimized by Philadelphia offer lessons about fundamental problems with civil forfeiture wherever it happens.

First, civil forfeiture programs are likely to disproportionately affect the disadvantaged. In large part, this is because civil forfeiture is part of the criminal justice system—and, indeed, police and prosecutors claim it is a crime-fighting tool—yet it offers property owners only the limited protections of civil procedures. So the same populations subject to frequent police interactions will be subject to seizure and forfeiture. And as our survey results show, it is quite easy for police contact—whether entirely innocent or on suspicion of minor offenses—to lead to seizure, a dynamic likely made worse by the financial stake forfeiture gives law enforcement in pursuing property. If civil forfeiture is not only available to law enforcement but carries financial benefit, it should not be surprising if it is used as opportunities arise.

Then, once property is seized, owners face a civil process with few due process protections, and this situation can be more difficult to navigate precisely because many owners are disadvantaged. As we found, the working poor and those with less formal education were substantially less likely to try or to succeed at getting their property back. As a result, disadvantaged populations are more likely to have property seized in the first place and less likely to be able to fight back.

These findings may help explain previous research that suggests civil forfeiture disproportionately affects non-white communities. Building on research that found forfeitures are most often tied to drug arrests, one study found that forfeiture revenues increase at a faster rate with Black and Hispanic drug arrests than with white drug arrests. The same study also found that these Black and Hispanic arrests and associated property seizures were most pronounced during periods of local budget deficits, suggesting forfeiture proceeds distort law enforcement behavior—and that Black and Hispanic people are more likely to pay the price.⁵² Another study found that forfeiture revenues are higher for agencies that police majority non-white communities, though the relationship is not as strong when the policing agency has a higher share of minority officers.⁵³

News investigations have also highlighted examples of forfeiture programs disproportionately entangling racial and ethnic minorities. For example, one investigation found that South Carolina's forfeiture system disproportionately affects Blacks. Between 2014 and 2016, 71% of people facing forfeiture in the state were Black, and 65% of seized cash was taken from Black men. Yet Blacks make up just 27% of South Carolina's population and Black men just 13%.⁵⁴ According to one observer, crime and arrest rates alone cannot account for why South Carolina's seizure and forfeiture activity disproportionately affects Black people.⁵⁵ Other investigations have found that Las Vegas⁵⁶ and California⁵⁷ also typically see low-income, non-white communities affected by forfeiture and that cash seizures of \$100 or less predominate in Chicago's poorest—and least white—neighborhoods.⁵⁸




A second lesson offered by our results is that a system that effectively puts the onus on owners will inevitably deter valid claims and wind up forfeiting property from innocents. Courtroom 478's pitfalls may have made it particularly hard for less-educated and lower-income Philadelphians to get their property back, but the core problem is baked into most civil forfeiture laws: To get property back, owners must file a claim or, in some states, a complaint or answer in civil court. If for any reason they fail to do so, or if the process becomes too onerous and they quit, the government will simply forfeit the property by default, without having had to prove anyone guilty of wrongdoing.

Respondents to our survey offered sensible reasons for failing to fight, such as the low value of property, the high cost of hiring an attorney, work and family

commitments that made attending court difficult or impossible, offers to drop charges in exchange for giving up the property, and fear of reprisal. These findings may explain why prior research has found that people infrequently contest forfeitures. Among four states that track such data, people sought return of their property in only 22% of cases or fewer.⁵⁹ Like our survey respondents, people may walk away because it is too hard, is too expensive or does not make economic sense to fight. Indeed, across 21 states with available data, the median value of forfeited cash is just \$1,300. Meanwhile, the estimated cost of hiring an attorney to fight a fairly straightforward state forfeiture case is \$3,000.⁶⁰

Moreover, even if people decide to fight, simply filing a claim may not be as easy as it sounds. For example, at the federal level, more than one-fifth of all



claims for property seized by Department of Justice agencies are rejected before a judge even considers them, often based on mere technicalities like people neglecting to sign their claim forms “under penalty of perjury.”⁶¹

Minnesota provides another example of how difficult civil forfeiture procedures can be to navigate. In Minnesota, when a vehicle is seized due to an alleged driving-while-impaired offense, the owner must initiate a lawsuit within 60 days of the seizure to have any hope of getting their car back.⁶² If they miss that deadline, they lose their property by default—even though Minnesota law requires a criminal conviction before property can be forfeited. The Minnesota judicial branch has laid out the process on its website, including providing copies of the forms that must be filed,⁶³ but this is not much help. Nearly all forfeitures of vehicles for alleged DWI offenses happen by default.⁶⁴

Tragically, few of the reasons respondents gave for failing to contest forfeitures had much to do with guilt or innocence—nor did success rates in securing the return of seized property. This runs counter to claims by forfeiture proponents that low claim rates indicate guilt. In fact, of survey respondents who lost property, 75% were never proven guilty of anything. And innocent people whose property was used by someone else to allegedly engage in wrongdoing were 92% less likely to successfully get their property back, further illustrating how easy it is for civil forfeiture to punish the innocent.

This leads to the third lesson our survey presents about civil forfeiture: It is fundamentally unfit to be an effective crime-fighting tool precisely because it decouples the taking of property from any finding of wrongdoing—and incentivizes the taking. It is hard

to see how stripping innocent people—or even those guilty of minor offenses—of cash, personal property like crutches and cologne sets, cars, and even homes reduces criminal activity and makes communities safer. It is similarly hard to see how taking small amounts of cash or low-value property (a median of just \$600 per item among our survey respondents) cripples criminal enterprises, as forfeiture’s proponents maintain. But it is easy to see how many small forfeitures can add up to a sizable windfall for law enforcement agencies.

Indeed, Philadelphia’s forfeiture machine was good at generating revenue but not very good at telling the guilty from the innocent. This insight may help explain why prior research has found little evidence that forfeiture reduces crime. One previous IJ study compared crime rates in New Mexico before and after landmark reform eliminating civil forfeiture and the profit incentive to crime rates in Colorado and Texas, neighboring states with lax forfeiture laws. It concluded that New Mexico’s reforms had no effect on crime rates or on law enforcement’s ability to fight crime.⁶⁵

Other IJ studies examined large datasets of federal and state forfeitures, as well as crime clearance and drug use rates, and concluded that forfeiture does not appear to improve police effectiveness at solving crimes or reducing illegal drug use. The same studies did, however, find that as unemployment increases—signaling a downturn in economic conditions—so too does police forfeiture activity, suggesting that forfeiture is a convenient way for police to self-fund when local budgets are squeezed.⁶⁶

In short, the core elements of civil forfeiture—few due process protections and no determination of guilt, putting the onus on owners, and giving law enforcement a financial stake—are likely to affect the disadvantaged and will inevitably victimize the innocent and minor offenders. At the same time, civil forfeiture is unlikely to make communities safer. Unfortunately, while Philadelphia’s civil forfeiture machine was particularly rapacious, the same laws that allowed it to grind people down exist in most jurisdictions across the country.



While Philadelphia's civil forfeiture machine was particularly rapacious, the same laws that allowed it to grind people down exist in most jurisdictions across the country.



Conclusion and Reform Recommendations

Philadelphia's civil forfeiture machine is now defunct thanks to IJ's class action victory. But it was lax state civil forfeiture laws that served as the fertile ground in which such abuses could grow. Those laws remain on the books and, in many other Pennsylvania cities, in force.⁶⁷ Similar laws are prevalent nationwide, and civil forfeiture programs across the country continue to violate Americans' due process and property rights.

Our results suggest procedures matter when it comes to victims successfully recovering their seized property. Simple procedures, such as providing a receipt at the time of seizure, are the very least state and local governments can do to ensure property owners have even a chance of getting their cash, cars and other property back. But gathering such low-hanging fruit would do little to address the primary concerns with civil forfeiture. The heart of the problem remains the ease with which governments can deprive people of their property and the financial motivation the laws give them to do so.

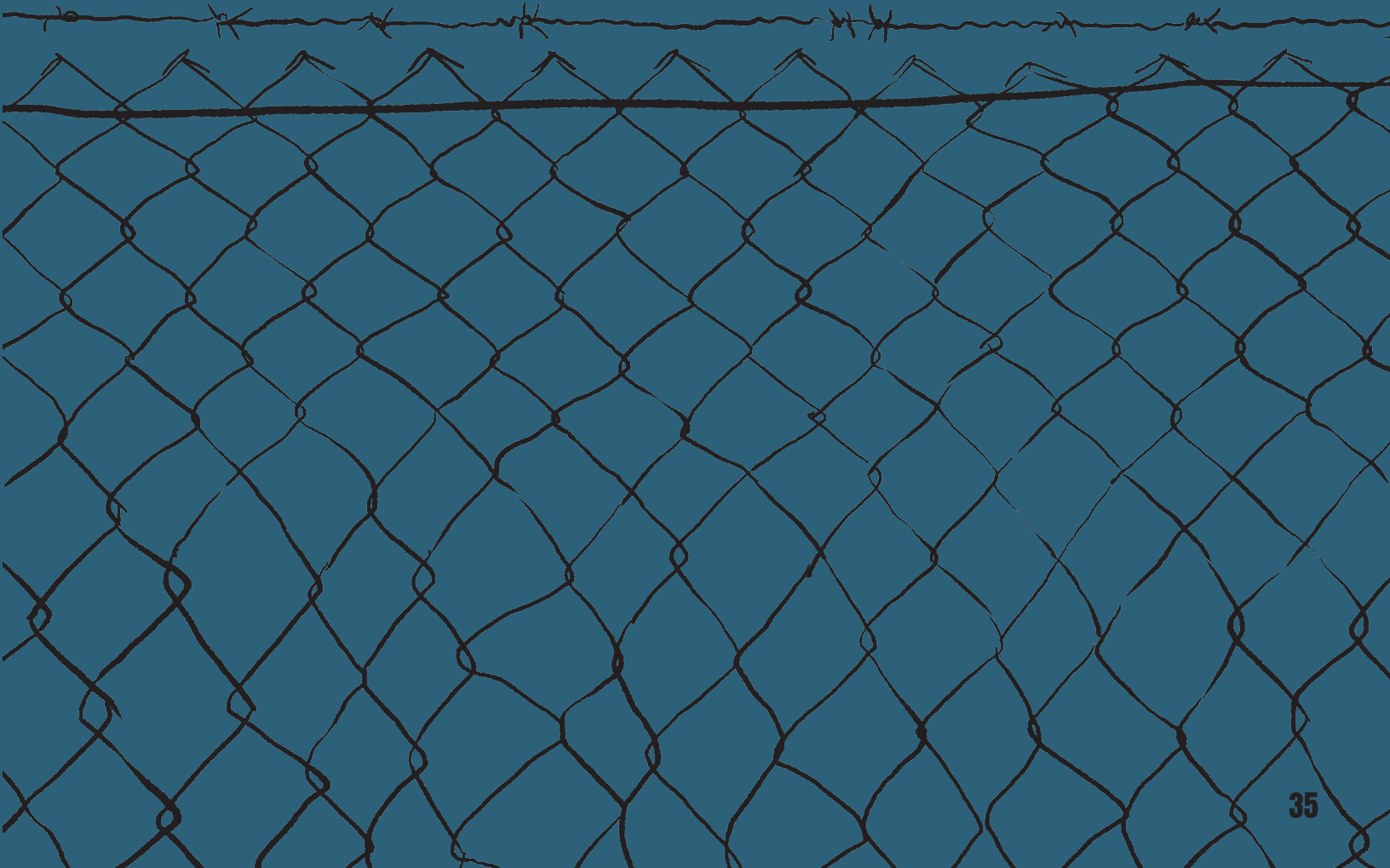
Most states and the federal government make it far too easy for police and prosecutors to seize and forfeit people's property, and the results of this study suggest the working poor and people with less education may not be able to navigate the process of regaining seized property successfully. The burdens property owners must try to overcome to get their property back likely lead to unjust outcomes, with people losing property not because they have done anything wrong but because they do not have the resources to stop what is happening to them.

To prevent innocent people from losing property unjustly, states and the federal government should abolish civil forfeiture and replace it with criminal forfeiture, requiring prosecutors to prove a property owner's criminality beyond a reasonable doubt and then bear the burden of connecting their property to that crime.

Most states and the federal government also make forfeiture, both civil and criminal, a lucrative proposition for law enforcement. Philadelphia's pattern of shaking down property owners by taking small amounts of cash and low-value properties is evidence that the financial incentive baked into forfeiture laws is strong—and that rational actors will respond to those incentives accordingly.⁶⁸ Police and prosecutors should not be able to profit from seizing and forfeiting people's property. In addition to eliminating civil forfeiture entirely, states and the federal government should also eliminate the financial incentive by directing all forfeiture proceeds to funds beyond law enforcement control. Until both civil forfeiture and the financial incentive are a thing of the past, innocent people's property will remain at risk.



**Until both civil forfeiture
and the financial incentive
are a thing of the past,
innocent people's property
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Appendix A: Sample Descriptive Statistics

Note: Percentages may not sum to 100 because of rounding.

Age	
Mean	45
Med.	43
Std. Dev.	12.5

Race		
	Freq.	Percent
Black	271	67
White	64	16
Other	19	5
Native American	5	1
Asian	4	1
Refused	44	11

Are you Hispanic?		
	Freq.	Percent
No	365	90
Yes, white Hispanic	19	5
Yes, Black Hispanic	6	1
Yes, other Hispanic	13	3
Refused	4	1

What is the highest level of education that you have completed?		
	Freq.	Percent
Some high school	42	10
High school graduate	177	43
Some college	112	28
College graduate	46	11
Some graduate courses	2	0
Graduate/professional degree	21	5
Refused	7	2

Income		
	Freq.	Percent
Under \$20,000	109	27
Between \$20,000 and \$30,000	76	19
Between \$30,000 and \$40,000	43	11
Between \$40,000 and \$50,000	28	7
Between \$50,000 and \$75,000	40	10
Between \$75,000 and \$100,000	29	7
Between \$100,000 and \$200,000	16	4
Between \$200,000 and \$250,000	3	1
Over \$250,000	3	1
Refused	60	15

Employment status		
	Freq.	Percent
Employed full time (40 or more hours per week)	149	37
Employed part time (up to 39 hours per week)	29	7
Unemployed and currently looking for work	75	18
Unemployed and not currently looking for work	24	6
Student	1	0
Retired	23	6
Self-employed	26	6
Unable to work	45	11
Other	30	7
Refused	5	1

Housing status		
	Freq.	Percent
Own	146	36
Rent	142	35
Live with family	85	21
Live with a roommate	18	4
Refused	16	4

Are you the parent of any children under 18 living in your household?		
	Freq.	Percent
No	242	60
Yes	161	40

Appendix B: Statistical Analysis Methods

Three main research questions guided the survey:

1. What was the demographic profile of people caught up in Philadelphia’s civil forfeiture system?
2. What did the typical experience with Philadelphia’s civil forfeiture system look like?
3. In what ways, if any, did Philadelphia’s civil forfeiture system make it difficult for owners to get their property returned?

Questions 1 and 2 were analyzed using descriptive statistics. We conducted the analysis for research question 3 using two logistic regression models to test two sub-questions:

- a. What factors impacted the odds of victims attempting to get their property back?

Model: $\ln(p/1-p) = \beta_0 + \beta_1 \Theta$ where:

$\ln(p/1-p) = 1$ when a respondent reported attempting to get their property back, 0 otherwise

Θ = a vector of predictor variables, including:

- #items_seized = Number of items seized.
- property type = Dummy variables for type of property seized (money, real estate, vehicle) with “other” types of property as the comparison.
- value = Total value seized.
- offense type = Dummy variables for type of alleged offense leading to seizure (drug offense or traffic offense) with all other alleged offenses as the comparison.
- from_owner = 1 if property was seized directly from owner, 0 if seized from someone else.
- info = 1 if police provided information on how to claim property, 0 otherwise.
- receipt = 1 if police provided receipt for seized property, 0 otherwise.
- ticket = 1 if respondent received ticket at time of seizure, 0 otherwise.
- arrested = 1 if respondent arrested at time of seizure, 0 otherwise.
- charged = 1 if respondent charged with a crime in connection with the seizure, 0 otherwise.
- Hispanic = 1 if respondent is Hispanic, 0 if not Hispanic.
- Black = 1 if respondent is Black, 0 if identified as a different race.
- under50k = 1 if respondent earns less than \$50,000 per year, 0 if earns \$50,000 per year or more.
- female = 1 if respondent is female, 0 otherwise.
- college_grad = 1 if respondent has achieved education at least to the level of a college degree, 0 otherwise.
- employed = 1 if respondent is employed, 0 otherwise.
- own_home = 1 if respondent owns their home, 0 otherwise.

b. Of those who attempted to get their property back, what factors impacted the odds of their success?

Model: $\ln(p/1-p) = \beta_0 + \beta_1\Theta + \beta_2\Omega$, where:

$\ln(p/1-p) = 1$ when a respondent reported getting their property back, 0 otherwise

Θ = a vector of predictor variables included in model a

Ω = a vector of additional predictor variables, including:

- attorney_cost = Amount it cost to hire an attorney.
- #times_court = Number of times respondent went to court.

Three variables were missing enough data to warrant conducting multiple imputation before beginning our analysis: respondent race, respondent income category and cost to hire an attorney. We used iterative chained equations to impute the race and income variables, which we then used to construct the corresponding binary variables “Black” and “under50k.” We used multivariate normal regression to impute the continuous variable “attorney_cost.” All three models used 20 imputations. Throughout this report, descriptive statistics display the original, non-imputed data.

Appendix C: Regression Results

Model a: What factors impacted the odds of victims attempting to get their property back?

Variable	Odds Ratio	SE	t	P> t
#items_seized	1.059	0.058	1.04	0.296
money	0.518	0.157	-2.18	0.029
real_estate	2.161	2.436	0.68	0.494
vehicle	2.086	0.757	2.03	0.043
value	1.000	0.000	0.55	0.579
drug_offense	0.885	0.261	-0.41	0.679
traffic_offense	0.451	0.217	-1.66	0.097
from_owner	0.812	0.499	-0.34	0.735
info	1.213	0.362	0.65	0.518
receipt	0.983	0.258	-0.07	0.947
ticket	1.136	0.463	0.31	0.755
arrested	1.069	0.369	0.19	0.848
charged	0.733	0.213	-1.07	0.284
Hispanic	0.695	0.317	-0.80	0.425
Black	0.902	0.306	-0.30	0.761
under50k	0.313	0.119	-3.05	0.002
female	1.182	0.358	0.55	0.580
college_grad	1.354	0.535	0.77	0.443
employed	0.468	0.124	-2.87	0.004
own_home	0.996	0.301	-0.01	0.989
constant	12.298	10.785	2.86	0.004

Model b: Of those who attempted to get their property back, what factors impacted the odds of their success?

Variable	Odds Ratio	SE	t	P> t
#items_seized	1.239	0.125	2.14	0.033
money	0.196	0.135	-2.37	0.018
real_estate	3.787	4.145	1.22	0.224
vehicle	0.342	0.277	-1.33	0.185
value	1.000	0.000	-2.05	0.041
drug_offense	1.634	1.086	0.74	0.460
traffic_offense	9.156	12.749	1.59	0.112
from_owner	11.889	14.168	2.08	0.038
info	0.680	0.432	-0.61	0.545
receipt	7.919	4.953	3.31	0.001
ticket	0.237	0.238	-1.43	0.152
arrested	0.470	0.415	-0.85	0.393
charged	2.482	1.513	1.49	0.136
Hispanic	0.267	0.261	-1.35	0.176
Black	0.584	0.357	-0.88	0.379
under50k	0.700	0.401	-0.62	0.534
female	3.227	2.084	1.81	0.070
college_grad	5.548	3.829	2.48	0.013
employed	3.001	1.988	1.66	0.097
own_home	0.833	0.501	-0.30	0.762
attorney_cost	1.000	0.000	-0.82	0.412
#times_court	1.094	0.049	2.01	0.044
constant	0.009	0.016	-2.72	0.006

Endnotes

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- 25 See, e.g., Institute for Justice, n.d.; Foti, 2015; Merlin and Esack, 2019; Allyn and Briggs, 2019; Ciaramella, C.J. (2017b, November 28). New York prosecutors gave themselves \$3.2 million in bonuses with asset forfeiture funds. *Reason*. <https://reason.com/2017/11/28/new-york-prosecutors-gave-themselves-32/>; Stillman, S. (2013, August 5). Taken. *The New Yorker*. <https://www.newyorker.com/magazine/2013/08/12/taken>; U.S. Department of Justice Office of the Inspector General Audit Division. (2013). *Audit of the Oklahoma Highway Patrol's equitable sharing program activities* (Audit Report Number GR-60-13-014). <https://www.oversight.gov/sites/default/files/oig-reports/g6013014.pdf>; U.S. Department of Justice Office of the Inspector General Audit Division. (2017). *Audit of the Henry County Sheriff's Office's equitable sharing activities, New Castle, Indiana* (Audit Report Number GR-50-17-001). <https://oig.justice.gov/reports/2017/g5017001.pdf>; Complaint, *Cox v. Voyles*, Case No. 2:15-cv-01386-PJH (D. Ariz. July 22, 2015), ECF No. 1, https://www.aclu.org/sites/default/files/field_document/cox_v_voyle_et_al_-_stamped_complaint.pdf
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- 43** See, e.g. McVeigh and Sutton, 2018; Rosenstein, 2017.
- 44** Throughout this section, the inclusion of a p-value indicates a statistically significant result. See the Methods section and Appendix B for further information regarding the statistical analysis and Appendix C for full regression results.
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