



Written by [Joe Wolverton, II, J.D.](#) on January 19, 2015

Holder's Asset Forfeiture Policy Subtly Subverts 2nd and 10th Amendments

The mainstream media reported on January 16 that U.S. Attorney General Eric Holder (in the words of the *Washington Post*) "barred local and state police from using federal law to seize cash, cars and other property without warrants or criminal charges."

Constitutionalists have a more important revelation: The government of the United States never had that power to begin with.



For those readers unfamiliar with the tyrannical redistribution of wealth constitutional violation known euphemistically as "asset forfeiture," here's the *Washington Post's* summary:

Since 2008, thousands of local and state police agencies have made more than 55,000 seizures of cash and property worth \$3 billion under a civil asset forfeiture program at the Justice Department called Equitable Sharing.

The program has enabled local and state police to make seizures and then have them "adopted" by federal agencies, which share in the proceeds. It allowed police departments and drug task forces to keep up to 80 percent of the proceeds of adopted seizures, with the rest going to federal agencies.

Here's another summary, told from a [constitutional perspective](#) at pakalertpress.com"

The American government never runs out of clever ways to separate its citizens from their money. There is a relatively new game in town that has really picked up steam and this American game is called theft by law enforcement, (aka RICO). Much of the growth of federal criminal procedures has been tied to the expanded use of RICO. RICO stands for the Racketeer Influenced and Corrupt Organizations Act of 1970. RICO has succeeded in blurring the lines between state and federal law enforcement and in overturning the protections inherent in the due-process guarantees of the U.S. Constitution, namely due process. The Fifth Amendment states that government cannot deprive citizens of life, liberty and property without due process of law. As the Patriot Act negates the Fourth Amendment protections, RICO does the same with the Fifth Amendment due process rights.

RICO is essentially the seizure of goods and assets obtained as a result of ACCUSED criminal activity. At the inception of RICO in 1990, there were only three named federal criminal acts subject RICO confiscation of assets and they were treason, piracy, and counterfeiting. Now there are literally thousands of federal laws and regulations related to RICO. The mere violation of any one of them, no matter how unintentional and harmless the transgression, can lead to years of imprisonment for the convicted person and the forfeiture of all personal assets.

Here is where the police and federal law enforcement are no better than the criminals they purport to fight. Even when an individual is not charged or found innocent, their confiscated assets are still the property of the law enforcement agency. If a person is found not guilty in court, or the charges



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are dropped, the person can spend years trying to recover their assets. And sometimes, they never recover their stolen property.

Pakalertpress.com also describes the story of a man in Meridian, Mississippi, who had \$360,000 in cash hidden in a secret compartment in his car when he was stopped by local police. While an amount of cash this large is likely enough to rouse the suspicion of even the most libertarian among us, there was no law in Meridian prohibiting carrying exorbitant stashes of bills. There was, however, federal RICO statutes to that effect and the cops seized the funds, notwithstanding the fact that the driver was “free to go.”

The unnamed driver is now forced to fight the police department in court to have his money returned to him, although he was charged with no crime.

Paul-Martin Foss, president and executive director of the Carl Menger Center for the Study of Money and Banking, an Arlington, Virginia-based think tank dedicated to educating the American people on the importance of sound money and sound banking, [wrote in November](#):

Hardly a week goes by without a mention of some innocent person who is arrested and/or imprisoned for violating an unconstitutional law, an arcane regulation, or simply being in the wrong place at the wrong time. For completely innocuous conduct, they find themselves at the mercy of an uncaring, unfeeling bureaucratic apparatus that chews them up and spits them out.

A story published in October 2014 in the *Washington Post* reveals a revolting aspect of the practice where local police spend seized cash to buy luxury items for the force, including in [one strange story, a clown](#). The *Post* reported:

Sparkles the Clown was hired for \$225 by Chief Jeff Buck in Reminderville, Ohio, to improve community relations. But Buck said the seizure money has been crucial to sustaining long-term investigations that have put thousands of drug traffickers in prison.

“The money I spent on Sparkles the Clown is a very, very minute portion of the forfeited money that I spend in fighting the war on drugs.

Although Holder’s announcement purports to end such practices, there are notable exceptions wherein asset seizures are still permitted and practiced, as noted by Voices of Liberty (VOL):

- Seizures by state and local authorities working together with federal authorities in a joint task force
- Seizures by state and local authorities that are the result of joint federal-state investigations or that are coordinated with federal authorities as part of ongoing federal investigations
- Seizures pursuant to federal seizure warrants, obtained from federal courts to take custody of assets originally seized under state law.

Voices of Liberty [pointed to a subtle attack](#) on state sovereignty that seems to be at the heart of every action of the federal government:

Eapen Thampy, Director of Americans for Civil Forfeiture Reform, told VOL that this “basically formalized that unrestricted federal asset forfeiture and revenue sharing with local law enforcement was only permissible with direct federal involvement. This policy only strengthens the hand the federal government has to play against the authority of states to dictate the policy and practices of their own executive agencies.”

“In a way it’s brilliant,” added Thampy. In an interview with Tom Woods, Thampy explained why



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current laws need to be reformed in a way that preserves rights to property, due process and equal protection under the law.

There is another exemption from the new policy that will come as no surprise to constitutionalists.

In a statement, the Justice Department explains:

The Attorney General ordered that federal agency adoption of property seized by state or local law enforcement under state law be prohibited, except for property that directly relates to public safety concerns, including firearms, ammunition, explosives and property associated with child pornography.

Now, no one will defend anything or anyone that peddles, promotes, or in any way participates in the exploitation of children, but its the items enumerated earlier in that list that are genuine cause for concern.

Under the terms of the new Justice Department directive, local police are not only allowed, but they are encouraged to continue confiscating weapons and ammunition from citizens not accused of any crime.

The Second and Fifth Amendments repealed in one reportedly benign, even beneficial, bureaucratic fiat.

Of all the possessions police are still given the green light to grab, it seems suspicious that guns and ammo are topping the list, especially in light of Obama administration commitments to the United Nations to adopt and enforce its Second Amendment-supplanting [Arms Trade Treaty](#).

Americans who fear blue-helmeted UN troops coming for their guns would be wise to recognize that the helmets won't be blue, the "troops" will be American, and they'll likely come in the name of the local law enforcement agency and the all-powerful central government that has become its master.

Photo of Attorney General Eric Holder: AP Images

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