

## “Give Us The Man, We Will Make The Case”: Civil Forfeiture, RussiaGate And The Police State

### Description

## How to legally rob a 73-year-old Amtrak employee and lock up citizens for non-crimes.

by [Jim Jattras](#) or [JIM JATTRAS](#) December 19, 2017



[Washington Babylon](#)

When do we realize we're already living in a police state?

Maybe one clue is when our betters make a point of assuring us that we aren't. Here's [Deputy Attorney General Rod Rosenstein](#) testifying before a House Judiciary Committee inquiry into political bias in the Robert Mueller "Russia-gate" investigation:

Department of Justice employees are united by a shared understanding that our mission is to pursue justice, protect public safety, preserve government property, defend civil rights, and promote the rule of law.

Rosenstein's contempt for his interlocutors' intelligence was unconcealed. [These aren't the droids you're looking for.](#)

Rod's on the job! Americans can certainly sleep peacefully tonight.

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Or maybe not. Besides cracking down on states' playing fast and loose with federal marijuana laws, one of the first enforcement actions ordered by Attorney General Jeff Sessions (R-Recused) was to [step up use of civil forfeiture](#), which is a fancy way of saying "taking the property of people who have not been convicted of anything, or even accused of anything, with little recourse."

But no sweat, there are "safeguards" to assure that [property seizures only impact drug kingpins and gangsters](#) – right?

Sessions's order . . . resuscitates a practice known as "federal adoption," which allows police and prosecutors to circumvent state restrictions on asset seizures by collaborating with federal authorities. Through this partnership, state and local authorities turn their seizures over to federal colleagues, who "adopt" them for prosecution—ultimately returning up to eighty per cent of the assets to the originating cops or prosecutors to keep. One result, often unaddressed in critiques of forfeiture, is the tacit encouragement of racial profiling and targeting of property owners of color, who remain prime targets of the practice in much of the country.

A seventy-three-year-old Amtrak retiree named Elizabeth Young understands what's at stake in Sessions's civil-forfeiture endorsement. In 2009, she was resting in her West Philadelphia home, recovering from a hospitalization for two blood clots in her lungs, when suddenly she felt her house begin to shake. "I really thought we'd had one of those landslides, like they have in California," Young told me recently. "I said, 'What in the world is happening?' " She poked her head out into the hallway from her second-floor bedroom, and that's when she saw them: "a bunch of cops in fatigues," storming her stairs in a swat-style raid; down below, they were ransacking rooms. The Narcotics North Division was tearing up the house in pursuit of Young's son, whom they later alleged had sold some hundred and forty dollars' worth of pot from the residence and from his mom's 1997 Chevrolet. Nearly a year after the raid, Ms. Young got another round of alarming news: the Commonwealth of Pennsylvania had filed a petition to seize her house and car, by way of civil forfeiture. [ . . . ]

Sessions sees a different picture. "Four out of five administrative civil-asset forfeitures filed by federal law enforcement agencies were never challenged in court," he said recently, implying that a lack of legal challenge is proof of guilt. But if hiring a lawyer to fight your civil-forfeiture case costs more than

your property is worth, the math prevails. Unlike a criminal defendant, Young's 1997 Chevrolet had no right to a public defender.

Or consider the global move toward what is euphemistically called international financial "transparency." I mean, who can be opposed to a certified [doubleplusgood](#) concept like transparency?

But it depends on who's being transparent about what. Take [Ken Silverstein's examination](#) of the International Consortium of Independent (sic) Journalists: why do hardly any Americans get transparency-ed in the Panama Papers but so many folks with connections with Russia do? Why so little transparency about who's lavishly paying the ICIJ piper and for what purpose? Why does a law like FATCA ("Foreign Account Tax Compliance Act") [catch so few actual "fat cat" tax cheats and recover so little revenue](#), but pours tons of private financial data of innocent middle class people [into the maw of the intelligence agencies](#)?

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Why? For the same reason James Clapper perjured himself telling Senator Rand Paul that the [NSA doesn't collect our cell phone metadata](#):

—Inquiring minds want to know.

—If you have nothing to hide, why would you object.

—Big Brother Is Watching You (and listening, and compiling your data, etc)...

—...but it's all for your own protection.

[This is literally the opposite of genuine transparency](#): "It is a practice of good government for institutions to be transparent and open to the people. It is a practice of tyranny for individuals to be made transparent to the government."

Police state? We hardly need mention the feds' zeal to protect our virgin eyes and ears from "[Russian propaganda](#)" or any [American media that betrays its disloyalty by carrying any news or opinion that allegedly resembles it](#).

Or take the guilty pleas of former National Security Adviser Mike Flynn and peripheral Trump foreign policy adviser George Papadopoulos for the [non-crime of "lying to the FBI."](#) Both detractors and defenders of the Trump administration have gleefully piled on the hapless Flynn and Papadopoulos. They lied! They lied! They lied!

But did they lie? Are we that naïve about how our diligent [organs of state security](#) work? [Take the case of Flynn](#):

Russia-gate enthusiasts are thrilled over the guilty plea of President Trump's former National Security Adviser Michael Flynn for lying to the FBI about pre-inauguration conversations with the Russian ambassador, but the case should alarm true civil libertarians.

What is arguably most disturbing about this case is that then-National Security Adviser Flynn was pushed into a perjury trap by Obama administration holdovers at the Justice Department who

concocted an unorthodox legal rationale for subjecting Flynn to an FBI interrogation four days after he took office, testing Flynn's recollection of the conversations while the FBI agents had transcripts of the calls intercepted by the National Security Agency.

In other words, the Justice Department wasn't seeking information about what Flynn said to Russian Ambassador Sergey Kislyak – the intelligence agencies already had that information. Instead, Flynn was being quizzed on his precise recollection of the conversations and nailed for lying when his recollections deviated from the transcripts.

Keep in mind that [when these "interviews" take place](#) –

...the federal agent is typically well-informed about the facts of the case, but plays dumb in order to instill a false sense of confidence in the interview subject. And, unlike you, the agent has had time to examine all relevant documents. (It also bears noting that the FBI will usually not tape record the interview and that the only official interview report will be an FBI 302, which is the agent's own dictated version of the conversation. Agents usually work in pairs as well, so in any later dispute over what was said in the interview, guess whose version is likely to prevail? Yours, or the two FBI agents who dictated the 302?)

Good grief! You're better off not saying anything at all. Except that's not an option either:

If you are not in custody, your total silence, especially in the face of an accusation, can very possibly be used against you as an adoptive admission under the Federal Rules of Evidence.

This means you are subjected to questioning on a matter where you have done nothing wrong, your responses are being compared (without your knowledge) to detailed records (which you haven't consulted) and to the agent's subjective notes (to which you are not privy). Even though you're not under oath every discrepancy of date, time, name, sequence, or other detail becomes a separate felony charge, each one of which is punishable by years in prison: Alright, Mr. or Ms. X. We're prepared to charge you with 14 felony counts, which will put you in prison for the rest of your life. Or you can plead guilty to one charge of lying to the FBI, with a light or possibly suspended sentence. Which will it be?

Your other option is to go to trial before a jury of sheep your peers, where the feds have a 90 percent-plus conviction rate. Or you can try to fight the charges until you've utterly bankrupted yourself, you've gone into debt you can never pay back, and your marriage has broken up – they can afford to wait — and still be in the same pickle. The mystery is that everyone doesn't take the plea offer right away.

In short, if they want to nail you, they can. Like the boychiks used to say in the good ol' NKVD (People's Commissariat for Internal Affairs; ????????? ????????????? ?????????????): ["Give Us the Man, and We Will Make the Case."](#) (I guess nowadays, we should say "person.")

Oh come on! What hyperbole! We don't torture or shoot people like the NKVD did! We don't work people to death in concentration camps!

That's right, we – or rather, they – don't have to resort to that kind of thing. In fact, during the late Soviet period they hardly shot anyone and didn't even lock that many people up. For most, it was enough to know that they could lock you up.

That's more than sufficient for the sort of weaklings today's Americans are.

There you have it. Your property can be seized at any time. Your "private" information, isn't. We are told what media to believe and what not. You can be put in jail if someone decides you need to be put in jail.

Merry Christmas!