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Consent Decree Reforms Egregious Asset Forfeiture Practices and Rampant Racial Profiling by Police

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NEW YORK – Police in an East Texas city will no longer enrich their coffers by seizing assets from innocent Black and Latino drivers and threatening them with baseless criminal charges, under a settlement reached today with the American Civil Liberties Union.

The ACLU settled a class-action suit, pending court approval, against officials in Tenaha and Shelby County, where it is estimated police seized \$3 million between 2006 and 2008 in at least 140 cases. Police officers routinely pulled over motorists in the vicinity of Tenaha without any legal justification, asked if they were carrying cash and, if they were, ordered them to sign over the cash to the city or face charges of money laundering or other serious crimes.

Almost all of the stops involved Black and Latino drivers. None of the plaintiffs in the case were ever arrested or charged with a crime. The seized assets were used to enrich the defendants' offices and themselves.

“This was a brazen case of highway robbery, plain and simple,” said Elora Mukherjee, a staff attorney with the ACLU Racial Justice Program. “Law enforcement needs to focus on protecting the communities they serve, not on policing for profit. This far-reaching settlement radically alters how officers in Tenaha and Shelby County can go about their daily duties and protects all motorists driving along Highway 59.”

The ACLU has found multiple instances of this happening across other states, but Tenaha represented some of the worst abuses in racial profiling and civil asset forfeiture. The suit, [which was filed in 2008](#), detailed several instances of police pulling over motorists with no legal justification. In one instance, a Black man and his partner, a white woman, were detained during a 2007 traffic stop. In response to a question by an officer, they stated they had about \$6,000 in cash. The officer threatened to charge the couple with money laundering and put their children, who were traveling with them, in foster care, if they did not sign papers agreeing to forfeit the money.

“What happened in Tenaha is not unique when it comes to abuse of civil asset forfeiture laws,” said Vanita Gupta, ACLU deputy legal director. “Permissive civil asset forfeiture laws invite racial profiling. They incentivize police agencies to engage in unconstitutional behavior in order to fund themselves off the backs of low-income motorists, most of whom lack the means to fight back, without any hard evidence of criminal activity. It is no way to run our justice system.”

Texas law allows for the confiscation of personal property police believe is connected to commission of a crime. It also allows for police agencies to retain seized assets, though 2011 reforms in Texas's civil asset forfeiture law no longer permit those assets to be used for

increasing officers' salaries without prior approval from the commissioners' court or other governing body.

Under the consent decree filed today in the U.S. District Court in Marshall, police will now be required to observe rigorous rules that will govern traffic stops in Tenaha and Shelby County. All stops will now be videotaped, and the officer must state the reason for the stop and the basis for suspecting criminal activity. Motorists pulled over during a traffic stop must be advised orally and in writing that they can refuse a search.

In addition, officers are no longer using dogs in conducting traffic stops. No property may be seized during a search unless the officer first gives the driver a reason for why it should be taken. All property improperly taken must be returned within 30 business days. And any asset forfeiture revenue seized during a traffic stop must be donated to non-profit organizations or used for the audio and video equipment or training required by the settlement.

Lawyers on the case include Mukherjee and Sarah Hinger of the ACLU, as well as Timothy Garrigan of Stuckey Garrigan & Castetter, David Guillory of Lone Star Legal Aid, and Stephanie Kay Stephens, Attorney at Law, all in Nacogdoches, Texas.