



LIBERTY & LAW

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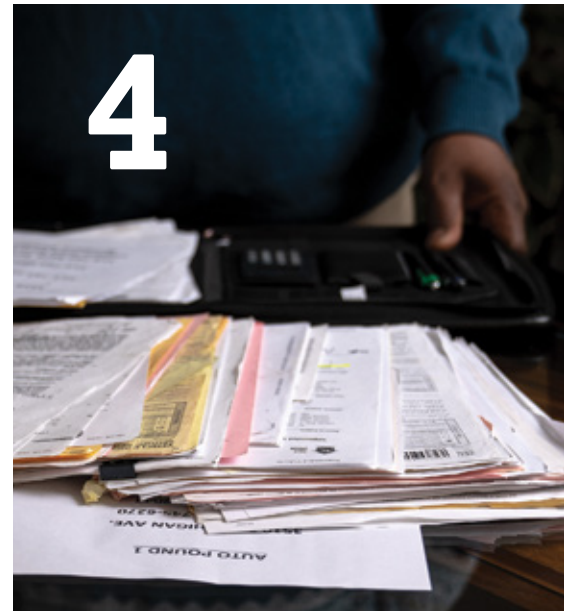
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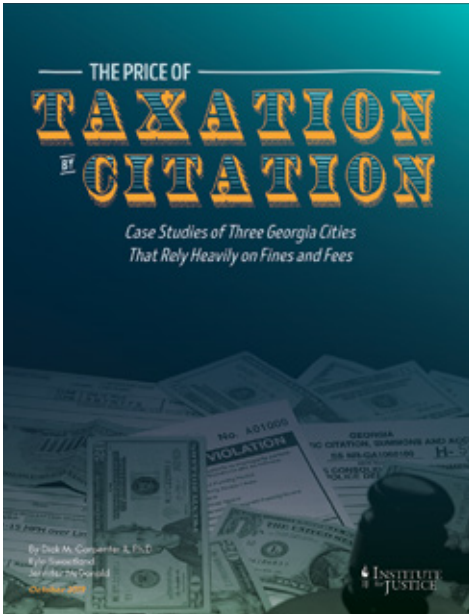
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About the publication:

Liberty & Law is published bimonthly by the Institute for Justice, which, through strategic litigation, training, communication, activism, and research, advances a rule of law under which individuals can control their destinies as free and responsible members of society. IJ litigates to secure economic liberty, educational choice, private property rights, freedom of speech, and other vital individual liberties, and to restore constitutional limits on the power of government. In addition, IJ trains law students, lawyers, and activists in the tactics of public interest litigation. Through these activities, IJ challenges the ideology of the welfare state and illustrates and extends the benefits of freedom to those whose full enjoyment of liberty is denied by government.

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IJ's Plan to End Taxation by Citation

BY SCOTT BULLOCK

IJ's campaign to end civil forfeiture is one of our most sweeping and successful efforts yet. And it continues to bear fruit in the fight for liberty. That's because out of that initiative grew our new, pioneering work challenging "taxation by citation."

Civil forfeiture is not the only illegitimate means that state and local governments use to fill their coffers. They are also implementing and aggressively enforcing abusive and outrageous fines and fees schemes. Just like civil forfeiture, these criminal and civil sanctions are not about protecting public health and safety—they are about extracting as much revenue from citizens as possible.

Take, for instance, cities in California where a \$100 fine for a traffic infraction requires a driver to pay \$490 through various surcharges and fees. If the defendant misses the initial deadline, the \$100 citation goes up to \$815. Although these sky-high fines and fees may be an annoyance and an inconvenience to people of some means, they are often devastating to those living on the edge of poverty. If people can't pay or if they miss the next deadline, the state will

suspend their driver's licenses, thereby depriving them of the ability to get to work. This could make it harder to pay court debt, leading to more charges and a downward spiral of debt and despair—and potentially even jail time.

IJ's first case—and our first victory—in this fight is a quintessential example of this dynamic. In Pagedale, Missouri, low-income residents were fined thousands of dollars for trivial offenses like missing curtains, peeling paint, and even walking on the left side of crosswalks. The city set up special, highly irregular municipal court procedures to prosecute these abusive citations, stacking the deck against Pagedale's poorest residents and exacerbating tensions between the community and law enforcement.

So what is IJ doing about this disturbing nationwide trend? As we have done so successfully before, we are using all the tools of public interest law to elevate to national prominence a once obscure issue of vital importance to liberty.

We currently have nine pathbreaking cases against these schemes in federal and state courts. Our historic U.S.

From our very first taxation by citation case in Pagedale, Missouri, to our historic victory on behalf of **Tyson Timbs** before the U.S. Supreme Court earlier this year, IJ is using all the tools of public interest law to elevate this issue to national prominence.





Governments use abusive and outrageous fines and fees schemes to pad their budgets. Challenging these unconstitutional schemes is a top IJ priority for 2020.

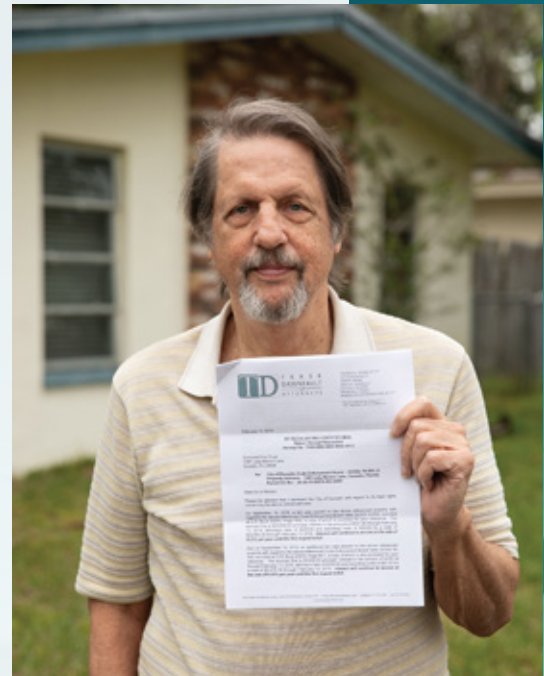
Supreme Court victory in *Timbs v. Indiana* earlier this year allowed us to give life to the long-neglected Excessive Fines Clause of the Eighth Amendment. We are combining that landmark decision with other precedent we've already secured in this area to restrain the grasping hand of government.

From our class action lawsuit against Chicago's car impound racket (update on page 6) to our newest case against Richland, Washington's attempt to extort tens of thousands of dollars in fees from a widow simply trying to construct a small addition to her modest home (described on page 8), our big picture goal is to end the use of fines and fees for revenue generation.

Meanwhile, we're combining litigation with our peerless approach to the media to educate reporters and the public about these abuses and what can be done to stop them. Our challenge to a Florida city's attempt to foreclose on a home due to unmowed grass made front-page news everywhere from the local paper to *USA Today*. Moreover, we are conducting innovative research on this issue, including creating a database of state laws that may encourage cities to abuse their power to levy fines and fees (set for release next year). And our new study focusing on three Georgia cities and their heavy reliance on taxation by citation is highlighted on page 6.

Challenging abusive fines and fees is one of IJ's top priorities for 2020. The cases themselves are demanding and resource intensive. They are, frankly, hard to put together and hard to litigate. But they are exciting, cutting edge, and vitally needed to curtail government abuse. We look forward to keeping you closely posted on our progress. ♦

Scott Bullock is IJ's president and general counsel.





Allie Nelson's car was impounded by the city of Chicago while she was in another state recuperating from cancer treatment. The city disposed of her car after she couldn't pay the nearly \$6,000 required to get it back.

IJ Case Against Chicago Impound Racket Grows

In April, IJ filed a class action lawsuit against the city of Chicago for its outrageous and abusive impound program. Under this program, the city snatches tens of thousands of cars each year and imposes harsh penalties and rapidly accruing towing and storage fees on the cars' owners, even if they're not guilty of any crime. The system is bursting with constitutional violations, so we teamed up with three Chicagoans to challenge it in court.

Since filing suit, IJ attorneys have heard from hundreds of Chicago residents struggling to get their cars out of impound. We've now added two of these individuals to the class action as named plaintiffs. These additions make our case against a system that treats innocent owners like criminals even stronger.

Allie Nelson is a retired law enforcement officer and longtime Chicagoan. Two years ago, she went to Houston to recuperate from cancer treatment. She left her car with her granddaughter, with strict instructions that her granddaughter's then-boyfriend could not drive it. The boyfriend ignored her direction, and Allie's car was impounded. Though Allie was innocent of any wrongdoing and the city ultimately dropped charges against her granddaughter's boyfriend, Chicago still ordered Allie to pay nearly \$6,000 in fines and fees. When she couldn't pay, the city disposed of her car.

We also now represent Lewrance Gant, a retired limousine driver who lent his car to a longtime friend. When police discovered the friend's license had been suspended for unpaid tickets and allegedly found a bag of marijuana with him, they impounded the car. Again, the charges were dropped, but the city still demands Lewrance pay thousands of dollars to get his car back—even though he had no knowledge that his friend had broken the law.

With our case set to go before a judge next year, we are pushing forward aggressively to help all Chicagoans and to stop impound abuses. ♦

When Cities Ticket for Revenue, Residents Pay a Price

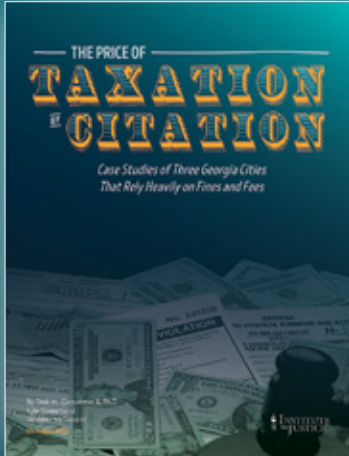
BY KYLE SWEETLAND

As you'll read throughout this issue of *Liberty & Law*, IJ is fighting—and winning—against cities' use of fines and fees to raise revenue. Now, thanks to new IJ research, we know that "taxation by citation"—relying on traffic and other code enforcement to generate fines and fees revenue, rather than to protect public health and safety—can easily become business as usual, jeopardizing people's rights and public trust.

In October, IJ published *The Price of Taxation by Citation*, a report that studies three metro-Atlanta cities that have historically relied heavily on fines and fees revenue from code violations: Morrow, Riverdale, and Clarkston. We dug deep to learn as much as we could about taxation by citation in these cities. Among other things, we analyzed public data and records, surveyed and interviewed residents, and even visited the cities to observe them and their court systems in person. What we found was revealing.



Read the report at
[ij.org/report/the-price-of-taxation-by-citation](https://www.ij.org/report/the-price-of-taxation-by-citation)



On average over five years, the three cities reaped between 14% and 25% of their revenues from fines and fees—well above the 3% garnered by similarly sized Georgia cities. Many of the tickets generating this revenue were for violations that presented little threat to the public, suggesting a desire for revenue outweighed concerns for public safety.

The cities also leaned most heavily on fines and fees during difficult times: Fines and fees peaked as a share of total revenues in 2012 before declining as the economy—and tax revenues—recovered from the recession. Yet even after the recovery, fines and fees remained the cities' second largest revenue source. That suggests that once cities take up taxation by citation, they have a hard time letting it go.

The taxation by citation we saw in Morrow, Riverdale, and Clarkston is made possible by two
Taxation by Citation Report continued on page 18



Thousands of residents in Philadelphia have submitted claims to the city's \$3 million fund to compensate victims of civil forfeiture.

Philadelphia to Repay \$3 Million to Forfeiture Victims

Last year, IJ secured a landmark consent decree that dismantled Philadelphia's forfeiture machine. After four years of litigation, the city agreed to end "policing for profit," fundamentally reform its practices to ensure due process, and establish a \$3 million fund to compensate forfeiture victims.

Before IJ intervened, Philadelphia used civil forfeiture to strip thousands of individuals of their rights and property, regardless of whether they had been convicted of—or even charged with—a crime. The city forfeited millions of dollars each year, sending residents to a "courtroom" run exclusively by city prosecutors who were permitted to keep all the cash and property they forfeited. Owners who asked if they needed a lawyer were frequently told that one wasn't necessary, only to then be given a stack of complicated legal documents they had to fill out under oath. They were then asked to return to the "courtroom" for further questioning—up to 10 or more times in some cases. If they missed a single appearance, they lost their property.

In the months since IJ's victory, thousands of victims of civil forfeiture in Philadelphia have submitted claims against the city's restitution fund. Everyone who lost property through the city's abusive practices is entitled to a cash settlement, and those who were not convicted in any criminal case associated with their forfeiture are entitled to receive up to the full cash value of the forfeited property.

Claims must be submitted by December 6, 2019, and IJ is spearheading an aggressive outreach campaign to ensure that all property owners who are entitled to restitution have an opportunity to reclaim some or all of their property and finally receive justice. Awards to victims will be finalized in April 2020. ♦

Planning a Simple Home Renovation?

THAT WILL COST YOU \$60,000 IN PERMIT FEES

BY PAUL AVELAR

Linda Cameron has lived in the same Richland, Washington, home for more than 40 years. It is a modest home, with only one small bedroom and bathroom. Linda and her late husband, Gary, had long wanted to renovate to add some space, but life always got in the way.

Sadly, Gary passed away in 2012. Over the following years, Linda returned to her dream of adding space to be better able to accommodate visiting family and friends. After consulting with a builder, Linda decided to use proceeds from Gary's life insurance policy to turn her outdated carport into a garage and to add a second bedroom and bathroom.

But Richland turned that dream into a nightmare. Even though Linda's simple home renovations meet all public health and safety requirements, Richland refused to grant her a permit. Instead, the city held her ability to renovate her own home hostage. The ransom? Making \$60,000 in improvements to *city-owned* property.

That's right. Whenever a Richland resident wants to make more than \$50,000 in home renovations, the property owner is also required to "renovate" the city

street adjoining the property. For Linda, this means paying to widen 400 feet of pavement, install sidewalks, and add curbs and storm drains to the street—all of

which the city has deemed necessary to "complete the street in accordance with city standards." Keep in mind, Linda's home is set back far from the street and her proposed renovation in no way interferes with the current thoroughfare or necessitates the road upgrades.


Linda can't afford to renovate her home and the city's property, too—and she

shouldn't have to. That's where IJ comes in. In October, we filed suit against Richland for placing unconstitutional conditions on Linda's right to renovate her own home.

The government often imposes permit requirements on property owners that go well beyond what is reasonable to protect public interests. Instead, these requirements become opportunities to coerce people into giving up their rights. The U.S. Supreme Court has recognized that land use and building permit applicants are especially vulnerable to this type of coercion because the government often has broad discretion to deny permits. So long as the permit is more valuable than the costs of the condition,

WA Street Fees continued on page 18





**Linda can't afford
to renovate her
home and the city's
property, too—and
she shouldn't have to.**

So Many Ways to Give the Gift of Freedom

The Institute for Justice exists to come to the aid of individuals across the country who want to do the simple things every American has the right to do—but can't because the government is standing in their way. And we couldn't do it without you!

As you will read throughout this issue of *Liberty & Law*, your gift to IJ will help us secure long-fought victories for economic liberty, educational choice, property rights, and free speech. It will also help us break new ground for individual liberty.

No matter how you want to give, we have an option for you.

Want Your Gift to Go Even Further?

You could double or triple your contribution to IJ by applying for a matching donation with your employer. Some companies even match donations made by a retiree or a spouse. Visit IJ's website to see if your company has a matching gift policy and how to apply.

ij.org/support/employer-match

Want to Leave a Legacy Through IJ's Work?

Providing for IJ through your will or living trust costs you nothing now but can make a big impact on our future and the lives of those we help. These gifts also entitle you to membership in IJ's Four Pillars Society.

ij.org/will-or-trust

Want to Support IJ While Shopping?

Amazon gives shoppers the option to donate 0.5% of every purchase to the nonprofit of their choice. That means some of the money you pay to Amazon goes directly to IJ—at no additional cost to you!

ij.org/support/other-ways-to-give

Want to Support IJ All Year Long?

IJ's Merry Band is a special group of donors who contribute monthly, providing the steady income we need to make tangible results for liberty while keeping our donation processing costs low.

ij.org/support/monthly-giving

Have Appreciated Stock You Don't Need?

By donating stock to IJ, not only do you receive an income tax deduction equal to the fair market value of the shares you give, but you also avoid paying capital gains taxes on the appreciation.

ij.org/support/donate-stock

Want to Keep Your Tax-Free Money Tax Free?

Donors age 70½ or older can transfer up to \$100,000 from their IRAs to support IJ's mission. These gifts are not subject to income tax and can also count toward your required minimum distribution.

ij.org/IRA-gifts

Want to Give Later, but Don't Want to Change Your Will?

Naming IJ as a beneficiary of your IRA, 401(k), or other account is an easy way for you to make a gift without the need to change an existing will or other financial plans.

ij.org/beneficiary

Want Income for Life?

You can establish a charitable gift annuity with IJ for as little as \$10,000 and receive a tax deduction now and quarterly annuity payments for life. Those age 65 and older are eligible.

ij.org/CGA

Want More Ideas?

Did you know you can support IJ by recommending a grant through your donor advised fund, by giving Bitcoin, or with a car donation?

ij.org/support/other-ways-to-give

Want to Keep It Simple?

You can give by credit card or check using the envelope in this newsletter, or you can donate online at ij.org/donate.

Or do you just want to talk to someone about how best to support IJ? We would love to hear from you! Call and talk to a member of IJ's development team at (703) 682-9320, ext. 399. ♦



Institute for Justice: A Charity Navigator 4-Star Charity for 18 Consecutive Years

In November, for the 18th year running, IJ was awarded Charity Navigator's highest 4-star rating for our commitment to financial health, accountability, and transparency.

Less than 1% of the more than 9,000 charities Charity Navigator evaluates have received at least 18 consecutive 4-star evaluations and, as of this writing, IJ is the highest-ranked charity in that elite group.

In awarding the designation, Charity Navigator writes that this distinction indicates that IJ "outperforms most other charities in America." What's more, "this exceptional designation from Charity Navigator sets the Institute for Justice apart from its peers and demonstrates to the public its trustworthiness."

Public interest law is a long-term endeavor. To be successful, we must bring our very best efforts to bear, year after year. IJ's ongoing fiscal excellence is just another indication that we are well positioned to pursue and achieve long-term change.

For more information, visit www.CharityNavigator.org. ♦

IJ is currently the #1 ranked charity among those who have received 4 stars 18 years in a row.



The Litigator's Notebook:

When Fighting One Injustice Exposes Another

BY DANA BERLINER

IJ files lawsuits to right government wrongs against not just our clients but others like them. The best way to secure that far-reaching impact is to set strong precedent through court rulings in our favor. And getting those decisions often means finding a way to keep our cases alive and in front of judges in the face of government attempts to make them go away by righting the wrong against our client—but no one else.

We've described in past issues of *Liberty & Law* one way we've addressed this challenge: class action lawsuits. We've also increasingly come to rely on a new tactic, particularly in our forfeiture litigation. That's asking the court for "retrospective relief."

When plaintiffs in a lawsuit ask for "prospective relief," they are asking the court to order the government to stop its unconstitutional behavior and to act differently in the future. Retrospective relief then, as you might guess, means asking a court to find that the government has acted unconstitutionally in the past and to order some

kind of compensation for that previous violation of someone's rights.

In a forfeiture case, for instance, prospective relief is getting your car back. Retrospective relief is getting back the money you had to pay while the government had your car, even if you already have your vehicle back. Retrospective relief can come in a number of forms, but it is almost always some amount of money. You can ask for one dollar in "nominal damages." You can ask for interest on the money that the government has held. Or you can ask for reimbursement for expenses like car rentals if the government unjustly seized your car.

IJ's litigation team expected that asking for both prospective and retrospective relief would return wrongly taken property or compensation to our

clients while—crucially—helping ensure that a court would review and decide on the constitutionality of the government's actions.

What we didn't expect was to run headlong into a whole new area of injustice in law.

The culprit? Government immunity doctrines. These



IJ litigates not only to right the wrong that has been committed against our client (in the case of client **Gerardo Serrano**, ensuring the return of his vehicle) but also to ensure that the same injustice will not happen to others.



IJ intends to hold government officials accountable in our lawsuit against Chicago's unconstitutional impound scheme.

court-created protections for governments and government agents shield them from a crucial form of accountability by dictating that they—unlike private organizations and individuals—do not have to pay damages, even when they have egregiously violated someone's rights. And since they don't have to pay damages, courts can escape even deciding whether anyone's rights were violated.

IJ's forfeiture cases, for example, are often directed toward prosecutors, who have a strong financial incentive to pursue forfeiture. IJ argues that allowing prosecutors to profit from forfeiture violates due process. Unfortunately, prosecutors enjoy "prosecutorial immunity," which means they are completely immune from any suit for damages.

Police and other government agents, too, have a lot of protection from suit—a doctrine called "qualified immunity," which has become an almost insurmountable obstacle to liability for misconduct. When suing federal agents, there is yet a different doctrine, and one can bring *Bivens* suits (named after the seminal case) only in very limited contexts.

In the real world, this complex system of government immunity means that it is virtually impossible to hold the government accountable in a crucial way.

In the real world, this complex system of government immunity means that it is virtually impossible to hold the government accountable in a crucial way. Prosecutorial

immunity, qualified immunity, and the *Bivens* doctrine all mean that even if your rights are indisputably violated, there may be no way to

get that determination from a court.

As IJ learned more about all these legal impediments, we became more and more interested in challenging them directly. We have begun asking for small amounts of money for our clients in forfeiture and impoundment cases and then fighting back when the government tries to claim immunity. We also now file friend-of-the-court briefs advocating for holding the government and individual government agents accountable when they violate someone's rights. And in the coming years, you can expect other legal challenges as we explore this injustice and strategically challenge it. ♦

Dana Berliner is IJ's senior vice president and litigation director.



Miss Virginia Discusses *Miss Virginia*

New Movie Spotlights Battle to Create D.C.'s School Choice Program

BY VIRGINIA WALDEN FORD

"Your son is never going to do anything with his life."

These words—spoken by my son's public school teacher—convinced me I needed to find William a teacher who recognized his potential. I was not going to let my son be lost to the District of Columbia's streets. I had seen too many promising children lost to murder, to teenage pregnancy, and to drugs. My son would not be the next statistic.

I took a second job and enrolled William in a local Catholic school that had high standards for students and high academic performance. Making ends meet while supporting my family and adding this financial burden was a struggle, to say the least. But it was essential.

Then I learned there was going to be a discussion about a possible scholarship program in D.C. that would give low-income parents the resources we so desperately needed to send our children to the schools of our choice. I was enthusiastic. To my surprise, no other parents showed up.

But for me, the spark was lit. I spoke with folks from the Institute for Justice and other organizers of that meeting and realized that I needed to step forward and explain to other D.C. parents not just the potential of such a program but why it was necessary and just. That little beginning grew into a full-fledged grassroots movement of parents across D.C.

William went on to graduate as the valedictorian of his class. And when we finally got the D.C. Opportunity Scholarship Program passed and signed into law, thousands of other kids who, like him, desperately needed educational options now had them. Since the program's passage, nearly 10,000 students have gone on to get a quality education.

I am so honored that this story is now being told in theaters and on small screens across the country with the October release of the feature film *Miss Virginia*, which was produced by the Moving Picture Institute. Among the movie's stars are Uzo Aduba (*Orange Is the New Black*), Matthew Modine (*Full Metal Jacket*), Niles Fitch



Virginia Walden Ford's real-life fight to create the D.C. Opportunity Scholarship Program is featured in the new feature film *Miss Virginia* by the Moving Picture Institute.



(*This Is Us*), and Vanessa Williams (the first African American Miss America and star of *Desperate Housewives*).

Miss Virginia is a testament not to me, but to the hundreds of parents who have raised their voices and demanded educational choice for their children. My hope is that the movie will inspire parents in communities across the country to be the next generation of spokespeople for choice—to be the next Miss Virginia. This movie shows parents that we can be heard and we can make a difference for our children, but we must have the courage to speak out.

If that happens across the country—if parents are inspired by this film to “be brave, be heard, and believe” as the movie’s tag line exhorts—then our years of struggle in D.C. will have produced something just as vital as the D.C. scholarship program: another generation of parent advocates to pave the way for even more choice for children for years to come. ♦

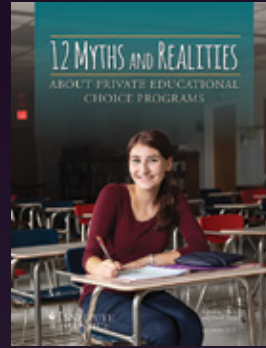
Virginia Walden Ford is a former Institute for Justice client and the champion who helped make the D.C. Opportunity Scholarship Program a reality.



Jump-start a conversation about educational choice in your city:

HOST A
GRASSROOTS
SCREENING OF
MISS VIRGINIA!

Visit www.missvirginiamovie.com and click on “screenings.”



DEBUNKING MYTHS ABOUT EDUCATIONAL CHOICE

Read the report at
ij.org/report/myths-realities

IJ released our original policy report *12 Myths and Realities About Private Educational Choice Programs* in 2017 to dispel and disprove 12 of the most common misconceptions about educational choice. Our goal was to help legislators, our allies, and the public make well-informed decisions about the merits of giving parents more control over their children’s education.

The publication proved to be one of our most popular resources for those seeking to expand educational choice, so we rereleased the material this fall. Using the latest empirical research, the new edition contains the most up-to-date data on choice programs and sets straight the misleading sloganeering from teachers’ unions and their allies.

With state legislatures going back into session soon, this rerelease could not be more timely. Each year, policymakers seeking to expand educational options for families must combat misleading campaigns mounted by special interest groups committed to maintaining the public school status quo. *Myths and Realities* equips policymakers with a mountain of evidence showing that students and families benefit when they can choose the educational environment that works best for them.

What’s more, with IJ’s landmark educational choice case *Espinoza v. Montana Department of Revenue* headed to the U.S. Supreme Court this winter, this new edition has added resonance. A win in that case will remove the biggest barrier to choice in many states that have been reluctant to adopt programs. If the high court clears the way for students and families to be free to choose, IJ will help make even more new programs a reality, freeing thousands of American families to choose the education that works best for them. ♦

IJ Wins for Economic Liberty in State Legislatures



BY NICK SIBILLA

“No man’s life, liberty, or property are safe while the legislature is in session,” the lawyer Gideon Tucker once quipped. Alas, Tucker never had a chance to meet IJ’s legislative team, which continued, against long odds, to notch major wins for individual liberty in statehouses across the country in 2019.

Braiding freedom continues to spread nationwide. **Rhode Island** and **North Dakota** both eliminated licensing laws for African-style natural hair braiders. Previously, braiders had to finish 1,200 hours of hairdressing courses and 1,800 hours of cosmetology training before they could legally earn a living, even though those classes were completely irrelevant to hair braiding. As part of its reform, North Dakota also exempted eyebrow threaders from licensure. Meanwhile, **Minnesota** became the first state to repeal its specialty braiding license, ending a 14-year-long battle that began when IJ sued the state back in 2005. Today, braiders are free to work without a government permission slip in 28 states.

To promote economic opportunity and facilitate reentry for ex-offenders, **North Carolina** enacted a sweeping reform that eliminates licensing barriers for people with criminal records—without jeopardizing public safety. Based on IJ’s model legislation, licensing boards in the Tarheel State cannot deny

a license unless someone’s criminal record is “directly related” to the license sought. Nor can boards disqualify an applicant based on the person’s supposed “moral turpitude,” a vague and arbitrary standard that has nothing to do with public health and safety.

Likewise, **Florida** removed obstacles that prevent ex-offenders from becoming licensed barbers, cosmetologists, and construction contractors, which are some of the most common types of employment for people with criminal records. In both states, applicants can petition licensing boards to see if their criminal record would be disqualifying *before* they begin taking any expensive and time-consuming required courses.

Thanks to IJ’s efforts, several states also significantly eased restrictions on “cottage food” producers, making it possible for home bakers to sell cookies, cakes, jams, and other shelf-stable homemade food without a permit or the need to rent commercial kitchen space. **Nebraska** now lets home bakers sell from home and take online orders, while **West Virginia** went even further and allows cottage food businesses to sell through grocery stores and other retail outlets, greatly expanding economic opportunity in the Mountain State.

In **Texas**, cottage food producers can finally sell canned foods (like salsa) as well as any type of pickled fruit or

IJ advocates to secure victories for liberty on behalf of entrepreneurs in statehouses across the nation.



vegetable. Prior to reform, an absurd regulation allowed Texans to sell only pickled cucumbers, while prohibiting the sale of other pickled vegetables.

And sometimes, the best offense is a good defense. **North Dakota** currently has a food freedom law that lets residents sell almost any homemade food, aside from raw dairy and red meat, without any licensing or inspection requirements. But the state Department of Health has repeatedly tried to gut the food freedom law by proposing legislation and rules that would place onerous restrictions on producers, citing bogus public health concerns. This spring, IJ testified against the health department's proposed bill, pointing out that there has not been a single reported illness from a food freedom business.

During the 2019 session, IJ worked on approximately 90 pieces of legislation at the state and federal levels, and we're planning for even more real-world results in 2020. ♦

Nick Sibilla is an IJ writer and legislative analyst.



New Law Protects Small-Business Owners from IRS Seizures

For the first time in nearly two decades, Congress has ended a civil forfeiture program.

Enacted as part of a larger IRS reform package, the Clyde-Hirsch-Sowers RESPECT Act reins in notorious "structuring" laws, which let the IRS seize cash from hundreds of ordinary Americans simply because they made frequent deposits or withdrawals in amounts under \$10,000. Small-business owners in particular were regularly targeted.

The Clyde-Hirsch-Sowers RESPECT Act is named in part in honor of two IJ clients: Jeff Hirsch and Randy Sowers. Both men testified before Congress about how they fell victim to IRS structuring seizures. When the agency seized more than \$400,000 from the Long Island convenience store owned by Jeff and his brothers, IJ made their case a front-page story in *The New York Times*. We also fought to get \$29,500 returned to Randy, a Maryland dairy farmer. Like many other structuring victims, neither man was ever charged with a crime.

Under the new law, structuring forfeitures would be strictly limited to cases where the money is derived from an illegal source or conceals illegal activity. The act also creates a new hearing process so that property owners can quickly challenge a structuring seizure. Previously, owners had to wait months or even years before a judge heard their case.

While politics today is quite polarizing, the Clyde-Hirsch-Sowers RESPECT Act is a welcome exception: It passed both houses of Congress unanimously before it was signed by President Trump. This legislation never would have happened without IJ taking on this issue, and it's a victory we will build on as we fight to abolish civil forfeiture once and for all. ♦

Taxation by Citation Report continued from page 7 factors. First, all three cities have their own courts, which depend on the cities for funding, creating a conflict of interest that may lead to more fines. And, in fact, the courts process far more citations than similarly sized cities' courts and returned guilty verdicts in 97% of the cases we observed. Second, the cities have few legal provisions to prevent them from using code enforcement to raise revenue—or from violating people's rights in the process.

As reliance on fines and fees becomes entrenched, cities may pay a price, too. We surveyed city residents and found that those with recent citations reported lower levels of trust in city government than those without, suggesting that what cities gain in fines and fees revenue, they may lose in community trust and cooperation.

Morrow, Riverdale, and Clarkston aren't alone. Nationwide, scores of other cities rely on fines and fees for comparably large revenue shares. We'll be using our new research to encourage reporters and concerned citizens to investigate those cities' fines and fees behavior. We'll also be using it to promote reform—to make the case that cities should find other ways to balance their budgets and save citations for when public safety is on the line. ♦

Kyle Sweetland is a researcher at IJ.



The city of Richland, Washington, wants Linda Cameron to make \$60,000 worth of renovations to city roads and sidewalks before she can complete simple renovations to her home.

WA Street Fees continued from page 8

the owner is likely to accede to the government's demand, no matter how unreasonable.

This gives rise to, as the Supreme Court has noted, the threat of "out-and-out . . . extortion." And not just in Richland. While it is difficult to determine how many municipalities impose these fees, the National Association of Home Builders has reported that a majority of states have authorized municipalities to charge them. The U.S. Government Accountability Office estimates that nearly 40% of counties and 60% of communities with populations greater than 25,000 impose such fees.

That makes it all the more important to ensure that any fees a city imposes are directly related—and proportional—to the impact of a proposed building project. For Linda, and for many homeowners like her doing small repairs and renovations, there is no public impact at all. So we've put Richland on notice: You can't treat your residents like ATMs. And we won't rest until we win. ♦

Paul Avelar is managing attorney of IJ's Arizona office.





IJ MAKES HEADLINES

These articles and editorials are just a sample of recent favorable local and national pieces IJ has secured. By getting our message out in print, radio, broadcast, and online media, we show the real-world consequences of government restrictions on individual liberty—and make the case for change to judges, legislators and regulators, and the general public.

You can access the articles by clicking on the headlines in the online edition of *Liberty & Law* at iam.ij.org/december-2019-headlines.

reason
OF FREEDOM AND JUSTICE

Chicago Impounded This Grandmother's Car For A Pot Offense She Didn't Commit. Now She Owes \$6,000

October 3, 2019

ajc The Atlanta Journal-Constitution

Study Says Clarkston, Morrow, Riverdale Using Fees To Pad Budgets

October 23, 2019

Tri-City Herald

This Widow Wants To Add A 2nd Bedroom. Richland Says She Must Widen The Street Too

October 8, 2019

The Philadelphia Inquirer

Airbnb Property Manager Accused Of Violating Law Asks Pa. Supreme Court To Weigh In On Gig Economy

October 21, 2019

The New York Times

As The Supreme Court Gets Back To Work, Five Big Cases To Watch

October 6, 2019

THE BALTIMORE SUN

Baltimore's Food Truck Fight Continues: Maryland Court of Appeals To Hear Case Against City Restrictions

September 12, 2019

The Washington Post

For The Formerly Incarcerated, Occupational Licensing Laws Are Legal Prisons

September 3, 2019

ESSENCE

Twisting The Dream

October 9, 2019

Dunedin, Florida, fined me nearly \$29,000 for
overgrown grass.

When I was unable to pay the fines, the city
voted to foreclose on my property.

I'm fighting back to save my house—and
so the city doesn't do this to anyone else.

I am IJ.

