

The Washington Post

TRANSPORTATION

Homeland Security seized \$2 billion from travelers, but most were never charged with a crime, report says



By Justin Jovenal

July 30, 2020 at 10:00 a.m. EDT

Anthonia Nwaorie headed to a Houston airport with more than \$41,000 in her bags in 2017, planning to use the cash to build a free medical clinic for women and girls in her native Nigeria, according to a lawsuit.

But the registered nurse was stopped on the boarding bridge by agents from Customs and Border Protection, who claimed she failed to report taking more than \$10,000 out of the country as required by federal law.

Nwaorie's currency was seized and though she was never charged with a crime, it took months and a legal battle before CBP returned the money without conditions. Such seizures are hardly unique.

More than \$2 billion was taken from travelers at the nation's airports by the CBP and other agencies now associated with the Department of Homeland Security between 2000 and 2016, according to a first-of-its-kind analysis of a government database of every seizure.

Federal law allows CBP and other agencies to take cash from travelers as a way to combat drug trafficking and other criminal enterprises, but the new report by the Institute for Justice found nearly 70 percent of such cases are like Nwaorie's — no arrest accompanies a seizure.

Critics argue federal agencies are abusing civil forfeiture to fatten budgets, since the cash flows into government coffers and is redistributed. The report found DHS airport seizures have exploded over the decade-and-a-half studied, climbing 178 percent. In all, DHS agencies made more than 30,500 cash seizures during the period.

Dulles International Airport led the nation in DHS seizures during 2016, the latest year for which data was available. About \$41 million was taken from travelers, or nearly a quarter of the amount seized nationwide, according to the report. Dulles only accounts for 2 percent of the nation's air travelers.

Other major hub airports also saw large numbers of seizures in recent years, including Chicago's O'Hare International Airport, New York City's John F. Kennedy International Airport, Dallas/Fort Worth International Airport and Atlanta's Hartsfield-Jackson International Airport. The report says the findings suggest DHS agents at certain airports may be particularly aggressive.

"When you consider that these agencies have the ability to seize different types of property wherever they operate, the scope of the entire program is just so large," said Jennifer McDonald, senior research analyst at IJ and the author of the report. "The reason we focused on cash seizures at airports is because we've heard they are some of the most abusive."

Nwaorie recalled how she was searched and at one point, handcuffed.

"That was a very big nightmare," Nwaorie said. "You think you would wake up and it would go away, but it didn't go away."

DHS officials referred questions to the CBP. A CBP spokesman defended civil forfeiture in a statement after reviewing the IJ report, saying the requirements to declare currency are clearly displayed in CBP facilities and on the agency's website.

"The most common reason for currency seizures is a failure to comply with reporting requirements, which is a violation of federal law," the statement read. "However, currency seized by CBP at ports of entry has also been connected with bulk cash smuggling, counterfeiting, narcotics trafficking, and other criminal offenses. An individual may petition for the return of seized currency, but the petitioner must prove that the source and intended use of the currency was legitimate."

The report found half of the DHS airport seizures were from travelers who allegedly failed to report they were traveling internationally with more than \$10,000 in cash. Other common claims for seizing cash was that it was involved in drug trafficking, smuggling goods or there was some violation of local or state law, according to the report.

IJ became one of the first nongovernment entities to obtain the forfeiture database maintained by the Treasury Department after roughly four years of legal action and negotiations following a freedom of information request in 2015. IJ is a libertarian public interest law firm based in Virginia. The Washington Post is the first to report on the findings.

Nwaorie's ordeal began in October 2017. Nwaorie, 62, said she was unaware of the law requiring her to declare her cash, before she arrived at Houston's George Bush Intercontinental Airport.

She said she had spent years saving the money to open the clinic and had tucked it into envelopes in her purse and carry-on bag. But on the boarding bridge, CBP agents asked her how many people she was carrying money for and another question that stung: "How long have you been in the United States?"

Nwaorie had been a U.S. citizen since 1994. She said she was led to a room where she was questioned, before the agents seized all \$41,377. She was then let go, but didn't have money to continue her trip immediately.

In the months that followed, CBP sent her a forfeiture letter and Nwaorie requested the case be transferred to a U.S. attorney's office for judicial forfeiture proceedings, according to court documents.

In April 2018, the CBP sent another letter saying the U.S. attorney's office declined to pursue forfeiture proceedings and it was returning Nwaorie's money, court documents show.

But there was a catch: CBP wanted Nwaorie to sign an agreement saying she would not sue. If Nwaorie did not respond in 30 days, CBP would initiate its own forfeiture proceedings, according to court documents.

Nwaorie refused to sign and decided to sue CBP in federal court in Texas. The same day the agency relented and started the process of refunding her money, according to court documents. She was sent a check in May 2018.

Critics argue the system is stacked against people such as Nwaorie. Subjects must affirmatively challenge the seizure within a window of time if they hope to get their money back, and most cases are decided by an attorney with the seizing agency, rather than a judge.

Civil forfeiture is not limited to DHS agencies. Other local, state and federal agencies engage in it as well, and the practice has come under increasing scrutiny.

A 2017 Department of Justice Inspector General report found the Drug Enforcement Administration had seized over \$28 billion worth of assets over a 10-year period, but found only 44 of 100 seizures it studied were related to an ongoing investigation or resulted in a new investigation, arrest or prosecution.

Earlier in the year, a Pennsylvania man and his daughter sued the DEA and the Transportation Security Administration in a federal class-action lawsuit after DEA agents seized the man's life savings at an airport. The money was eventually returned, but the lawsuit is ongoing.

The Supreme Court limited the power of state and local agencies to seize property in an important ruling in 2019. At the end of June, a group of senators introduced legislation known as the Fair Act that would increase the burden of proof before assets could be seized among other changes to strengthen protections.

For her part, Nwaorie was able to resume her work. The medical clinic is under construction, although it was delayed by over a year.

"It's been something that I prayed and thought about for many years," Nwaorie said. "I grew up in the town where I'm doing the clinic. Women die in childbirth. It's a situation that shouldn't happen."