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Feds using forfeiture to their advantage

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The Justice Department recently announced that it is resuming the “equitable sharing” part of its civil asset forfeiture program, thus ending one of the major criminal justice reform victories of the Obama administration.

Civil asset forfeiture is a legal tool by which police officers can seize and sell private property without a convicting the owner of any crime, and equitable sharing is a process by which state and local police can circumvent state restrictions on civil asset forfeiture and take property under the color of federal law.

It may sound like a scene from a dystopian novel, but under civil asset forfeiture, a police officer can pull you over, claim he smells marijuana, and then take all the cash you have — and maybe even your car, too. Getting your property back requires going through lengthy court procedures to prove that the property is “innocent.”

Back in December, after Congress enacted reductions to the Justice Department’s civil asset forfeiture fund by \$1.2 billion, the Justice Department announced that the program was being deferred until further notice.

Criminal justice reform advocates hailed this as a major victory, but Attorney General Loretta Lynch said that it was “imperative” that the “decision to suspend the equitable sharing program be immediately reconsidered.” The Justice Department now says that “it was always our intent to resume payments as soon as it became financially feasible. ... And now, we are finally at a point where it is no longer necessary to continue the deferral.”

Over the past decade and a half, civil asset forfeiture has exploded, and federal incentives have played a large role in that transformation. Last year, American police seized more private property than actual thieves. The Justice Department’s forfeiture fund has provided a huge financial boon to the federal government. The Institute for Justice notes that the federal government “took in nearly \$29 billion from 2001 to 2014, and combined annual revenue grew 1,000 percent over the period.”

Because federal forfeiture policies allow local police to keep up to 80 percent of what they seize, abuses are rampant. When police are allowed to directly benefit from seizing assets, stark injustices can occur.

For example, an art gallery party in Detroit was raided in 2008 because the “gallery did not possess a proper license to hold such an event.” Police seized and impounded 44 vehicles parked on the adjacent street. Outrage over this incident led to Michigan officials passing a law to raise the evidentiary standard in state asset forfeiture proceedings. Now, to avoid the restrictions of that legislation, all local police will need to do is involve federal officials, entitling them to equitable sharing in the program.

Under the federal civil asset forfeiture program, state and local police are encouraged to join in federal drug investigations because their participation entitles them to a large portion of the seized assets — dispersed from the equitable fund.

While that may seem like good policy, without proper restraints it simply means the states are just as encouraged as the federal government to seize money from private citizens without just cause.

Through programs like granting clemency to nonviolent drug offenders, the Obama administration has made important strides in reigning in our oversized and overused criminal justice system. Resuming the equitable payment system is an unfortunate step in the wrong direction.

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