



Local View: US should follow Nebraska's lead on civil asset forfeiture

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When it comes to protecting our constitutional rights, the nation's top cop could learn a thing or two from Nebraska.

At issue is civil asset forfeiture, a controversial practice that allows the government to permanently seize private property suspected of having been used in committing a crime or of being the proceeds of a crime. The practice has become controversial because owners of seized property are often never charged with a crime, much less convicted, by a court of law.

Due process is a basic tenet of American society; we are all equal under the law and are innocent until proven guilty. The practice of civil asset forfeiture is an affront to these basic principles and violates our constitutional rights. Government that has the power to confiscate private property without so much as a hearing or criminal trial is too powerful and must be curtailed.

Nebraska has been a leader in efforts to curb and reform the practice. In 2016, Gov. Pete Ricketts signed into law a bill introduced by Sen. Laura Ebke eliminating civil asset forfeiture and requiring a criminal conviction in order to forfeit property.

This seems obvious, but, when Nebraska adopted our new law, we became one of only nine states in which the government must convict a person before taking their private property.

Unfortunately, at a time when more elected officials should be following Nebraska's lead, just last month U.S. Attorney General Jeff Sessions announced plans to expand civil asset forfeiture. It's easy to see why politicians are attracted to forfeiture; it's a lucrative business. Nebraska alone brought in more than \$48 million in cash, automobiles and other property from 2000 to 2013.

As the Institute for Justice points out, "This financial incentive creates a conflict of interest and encourages the pursuit of property instead of the pursuit of justice." A shocking 2014 study gave weight to this observation, showing that through asset forfeiture, government officials nationwide took more property from citizens than burglars did.

People from both sides of the political spectrum have rightly attacked the unfair practice as a violation of property and due process rights. A Cato Institute poll last year shows 84 percent of Americans from all demographics oppose civil asset forfeiture.

Change was on the horizon. Both major political parties called for civil asset forfeiture reform in their platforms last year. In 2015, the federal government imposed serious limits on the practice. States from Arizona to North Carolina joined ranks with Nebraska and passed critical reforms.

But then, last month, Sessions brought the steady drumbeat of change to a stunning halt. He announced plans to “develop policies to increase forfeitures.” In defense of his questionable reversal, he said “no criminal should be allowed to keep the proceeds of their crime.”

We can all agree that criminals ought to pay for their crimes. But it is as important, if not more important, that the constitutional “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.”

The Justice Department’s new policy disregards the will of voters, permitting law enforcement to take property without a criminal conviction even in states that passed laws prohibiting this practice.

A basic precept of a constitutional republic is that no citizen can be treated as a criminal by their government without first being convicted of a crime. Civil asset forfeiture lets government, not the rule of law, determine who is guilty and who is innocent. This runs contrary to the American concept of justice and is why our organization will work to reform this disturbing government overreach.

The attorney general should take a page out of Nebraska’s book and require a conviction prior to forfeiture. That way, he can prevent criminals from keeping their ill-gotten gains, and uphold his sworn oath to support and defend the Constitution of the United States. Right now, we’re falling short of the ideal this nation was built on.