

Civil Forfeiture Laws Pit Police Versus Everybody Else

Conservatives and liberals are teaming up to restrict or ban the laws that let officers seize billions of dollars a year from people who haven't been convicted or, sometimes, even charged with a crime.

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You may not realize it, but in most parts of the country law enforcement officers have the legal right to stop you and demand any cash you might have on hand, threatening arrest if you fail to turn it over, even if there's no evidence you have done anything illegal.

That's what's known as civil forfeiture. It's unpopular just about everywhere, and roughly a dozen states have passed new laws over the past couple

of years to curb it. "Once you understand civil forfeiture and how it actually works, it's horrifying," says Maryland state Sen. Michael Hough. "It completely robs people of their due process rights."

Under civil forfeiture, police or prosecutors can claim that money or property contributed to a crime, even if no underlying criminal charge has been filed. "The idea that the money would be separated from the person and prosecuted on its own as a civil issue seems absurd," says New Hampshire state Rep. Michael Sylvia. What's worse, that "money would be taken before the person is convicted."

If it's an old car or a couple of thousand dollars, the aggrieved party may feel it's not worth the greater cost of challenging the forfeiture in court. But the proceeds from such actions add up, totaling \$4.5 billion in 2014, according to the Institute for Justice, a conservative nonprofit legal group. And there have been clear instances of mischief. One prosecutor used forfeiture funds to pay off his student loans. In February, a Christian rock band called Klo & Kweh Music Team was stopped for a broken tail light in Oklahoma. Sheriff's deputies seized \$53,234 because of a band member's "inconsistent stories," even though the money was made up of concert proceeds and donations meant for charities in Southeast Asia. Amid an outcry, including complaints from members of Congress, Muskogee County returned the money in May.

Civil forfeiture also creates perverse incentives for law enforcement. Cops might find it in their interest to patrol the westbound side of the highway because more cash travels that way, rather than patrol the eastbound side that attracts the illegal drugs they're supposed to be stopping.

For all these reasons, bills to address civil forfeiture have won bipartisan support from legislators and are backed by a strange-bedfellows alliance of liberal groups such as the ACLU and Common Cause, and the conservative Cato Institute and Heritage Foundation. "There is no public policy organization in the United States that defends the status quo," says Lee McGrath, legislative counsel for the Institute for Justice. "The only people on the other side are those receiving forfeiture proceeds that benefit their budgets."

But police, sheriffs and district attorneys make up a powerful lobbying force. They argue that civil forfeiture is a necessary tool in fighting crime, and they often claim that they need the proceeds to fund their agencies. They can sometimes even get legislative leaders or committee chairmen to water down legislation if they fail to stop it altogether. That's why the bills addressing civil forfeiture vary widely, from measures simply requiring greater disclosure to legislation banning the practice altogether in absence of a conviction.

No one is arguing that law enforcement shouldn't seize cash or property used in the commission of a crime. They should just have to prove it. "You can't get away from the fact that there's a corrupting influence," says Rep. Sylvia, "if you can just grab money and throw it in the budget."