



Sessions' police policy unwelcome

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Attorney General Jeff Sessions upset most of America (84 percent, according to a survey by the conservative Cato Institute) when he announced a return to pre-2015 civil-asset forfeiture policy.

Civil asset forfeiture allows law-enforcement agencies to permanently take cash and property from individuals suspected of a crime. The owners of the property do not have to be convicted, or even charged.

No wonder it's unpopular.

One might think that civil asset forfeiture is unconstitutional, violating the Fifth Amendment, which says citizens can't "be deprived of life, liberty, or property without due process of law," but so far, the Supreme Court disagrees. However, more recent decisions by the Court (like Honeycutt v. United States) may indicate a disdain for asset forfeiture that could lead to reform of the practice.

Last month, Justice Clarence Thomas called the practice unfair and unconstitutional.

"These forfeiture operations frequently target the poor and other groups least able to defend their interests in forfeiture proceedings," he observed when considering a Texas case. "They are more likely to use cash than alternative forms of payment, like credit cards, which may be less susceptible to forfeiture. And they are more likely to suffer in their daily lives while they litigate for the return of a critical item of property, such as a car or a home."

When assets are seized from actual criminals, it makes sense for law enforcement to keep the proceeds to fund future crime-fighting. But there are legitimate concerns that civil asset forfeiture encourages police officers to be overly zealous in order to seize more assets. In the last three years, 24 states have reformed civil asset forfeiture to more heavily regulate it.

In 2015, then-Attorney General Eric Holder put an end to civil-asset forfeiture policy from the 1980s that allowed "federally adopted forfeiture," called adoption for short. Under that policy, the federal government can "adopt" assets seized by state and local authorities. The federal government returned up to 80 percent of the assets to state or local authorities.

Holder's policy allowed adoption only in cases directly related to public safety; for example, when guns or ammunition were seized.

The new policy by Sessions allows adoption of seizures of cash between \$5,000 and \$10,000, if there is some level of criminality or if a U.S. attorney signs off on it. Justice Department guidelines state that in most cases, the federal government cannot seize or adopt assets worth less than \$5,000.

Sessions made a legitimate point when he said “civil asset forfeiture is a key tool that helps law enforcement defund organized crime.” However, law enforcement often end up defunding private citizens as well. That’s been documented in several media investigations, including the 2014 Washington Post series, “Stop and Seize.”

We need our elected representatives to urge the Justice Department toward a more balanced policy concerning civil-asset forfeiture. There must be a way to starve criminal organizations of their assets while also protecting the rights of individual citizens who have not been convicted of any crime.

This issue is something we can unite on — nearly every American agrees about this. That can’t be said about much else right now.