

No Asset Forfeiture Without Criminal Conviction

End small-time seizures that burden low-income families

Proposal:

- Civil asset forfeiture should take place after the conclusion of a criminal case so that *only* people convicted of a crime lose the related cash or vehicle.
- Authorize participation in sharing agreements only if the funds are forfeited in accordance with state requirements.

Lots of forfeitures, few drug lords

Existing data on asset forfeiture in Texas tells us very little about whether asset forfeiture laws are being used in the way they were originally intended – to freeze the assets of drug kingpins who are rarely touched by day-to-day narcotics interdiction strategies.

To understand the details of asset forfeiture in practice, the Texas Criminal Justice Coalition reviewed the case files for 151 asset forfeitures in Travis County, totaling nearly \$2 million. We found few drug lords and a lot of small-time drug possession cases. Some people subjected to asset forfeiture were probably not guilty of any crime at all.¹

Civil forfeiture is not supposed to be an additional (and pretrial) punishment for drug offenses, but instead should be a way to dismantle financial networks around drug kingpins. Low dollar amount civil forfeitures of cash, or the seizure of a car from a driver on the mere allegation that it may have been used to transport contraband, are instead a significant hardship for the mostly low income families of people not yet convicted of any crime.

Conservative states and groups lead asset forfeiture reform

The Texas Public Policy Foundation, the Institute for Justice, and Freedom Works are among the leading policy and research groups calling for asset forfeiture reform because civil forfeiture of property taken by the government is anathema to conservative values.²

New Mexico, Montana, and North Carolina all require conviction before assets can be forfeited. Although New Mexico passed a strong reform in 2015, innocent owners in some parts of the state continue to report seizures of cars and cash.³ That may be due to the use of federal asset forfeiture authority. This end-run around state law can be limited by authorizing seizures through multi-jurisdictional task force arrangements only for major cases (involving more than \$50,000 in cash or other assets) and only if the task force conducts its forfeitures in accordance with state requirements.

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- Of 151 cases reviewed, five forfeitures accounted for 48% of the assets seized, while 22% involved less than \$2,000.
- Travis County settles most cases if the owner of the property gets an attorney. The settlement gives a portion of the money back to the individual and occurs long before the criminal charges are adjudicated.
- People who do not get an attorney typically lose their money through a default judgement, usually within three months of seizure.
- Civil asset forfeiture cases were filed against cash and cars, but in many cases other items found (guns, gaming equipment, drugs) were seized and later forfeited under criminal seizure authority.

¹ [Reform Asset Forfeiture](#), Texas Criminal Justice Coalition, Spring 2016.

² [Without Due Process of Law: The Conservative Case for Civil Asset Forfeiture Reform](#), Texas Public Policy Foundation, Derek Cohen, September 2015.

³ <http://www.npr.org/2016/06/07/481058641/new-mexico-ended-civil-asset-forfeiture-why-then-is-it-still-happening>, <http://ij.org/case/albuquerque-civil-forfeiture/>