Ensuring basic fairness: Civil asset forfeiture reform in Alabama

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February 8, 2019

Protection against unreasonable searches and seizures is a basic guarantee of both the U.S. and Alabama constitutions. But Alabama’s civil asset forfeiture policies allow police to seize cars, cash or other personal property without a conviction – or even a criminal charge – if they find probable cause to link the property to a crime. In most cases, owners can’t get their property back unless they then prove it wasn’t connected to a crime.

Civil asset forfeiture disproportionately harms communities of color and low-income people, who often can’t afford to challenge seizures in court. The centuries-old practice surged into common use in drug trafficking cases in the 1980s, but its reach quickly grew. Many Alabamians affected today are charged with marijuana possession or other low-level crimes.

And in many cases, the property owner isn’t charged with a crime at all. Alabama Appleseed and the Southern Poverty Law Center ( SPLC) reviewed 1,110 civil asset forfeiture cases filed in Alabama in 2015. In one in four of those cases, property owners weren’t charged with a crime. (The head of the Alabama District Attorneys Association said many of the seizures resulted from informants but didn’t cite a percentage.)

In half of the cases that Appleseed and SPLC reviewed, the amount of cash involved was $1,372 or less. That’s more than a month’s pay for a minimum-wage worker – but far less than it would cost to hire a lawyer to fight the seizure in court.

**Solutions in other states**

Every state allows asset forfeiture, but many have implemented meaningful reforms to lower the risk of unjustifiable seizures. Florida’s civil forfeiture law requires proof beyond a reasonable doubt that the property was involved in a crime. North Carolina requires a conviction with evidence of the property’s probable connection to crime. Fourteen states, including Georgia, make forfeiture records available to the public online. All these protections make unjust forfeitures less likely.

**What Alabama can do**

Alabama’s civil asset forfeiture practices need numerous changes to protect due process and ensure basic fairness. Here are a few options:

- Require a criminal conviction to transfer property ownership.
- Place all proceeds in the General Fund rather than letting agencies keep them.
- Require proof beyond a reasonable doubt of the property’s connection to a crime.
- Require judges to consider the hardship that loss of a primary residence or vehicle would cause for families or others.
- Eliminate “abandonment” forms that can be used to urge drivers to give up their property rights during a traffic stop.
- Award attorney fees to anyone who prevails against the government in forfeiture cases.
- Require forfeiture records to be made publicly available online.

Alabamians deserve a fairer and more transparent civil asset forfeiture process. These reforms and others would add needed protections and help deter abuses of civil asset forfeiture in Alabama.