



Written by [Steve Byas](#) on September 14, 2017

Amash's Amendment Rebukes Sessions on Asset Forfeiture

In July, Attorney General Jeff Sessions told the National District Attorneys Association in Minneapolis that he was not only opposed to the national effort to rein in civil asset forfeiture (CAF), but that he was issuing a new directive to *increase* the number of police seizures of cash and property from individuals not convicted of any crime.



But earlier this week, Sessions was dealt a strong rebuke from the U.S. House of Representatives. In a voice vote, indicating overwhelming support, the House approved an amendment to the Make America Secure and Prosperous Appropriations Act by Representative Justin Amash (R-Mich.) that will, if likewise passed by the Senate, nix Sessions' plan.

Under CAF, a person does not have to be convicted of any crime before his or her property can be taken. It is used by both federal government officials and local law-enforcement officers to seize property that they simply *suspect* has been used in wrongdoing — without even having to charge the person with any crime. In cases of *criminal* asset forfeiture, however, the accused is afforded all the constitutional and statutory procedural safeguards available under criminal law. With criminal forfeiture, the accused must actually be found guilty beyond a reasonable doubt before property is forfeited.

Civil asset forfeiture is an assault upon the very concept of private property and the legal position that an accused person is innocent until found guilty beyond a reasonable doubt.

Writing in *National Review*, Tiana Lowe called civil asset forfeiture “essentially government-sanctioned stealing from citizens.”

Sessions had reinstated the Equitable Sharing Program of the Department of Justice, which allowed state and local police agencies to take assets of persons not convicted of any crime, give them to the federal government, and be rewarded with part of the “take” in return. This allowed law-enforcement agencies in states that have limited CAF to continue the practice anyway, despite state law.

Amash's effort drew strong bipartisan support, from Democrats such as Pramila Jayapal of Washington State, a staunch progressive, and from Republicans such as Mark Sanford of South Carolina, a committed conservative.

In what Lowe called “one of the few conservative legacies of the Obama Administration,” the Justice Department under Eric Holder had actually reined in the so-called Equitable Sharing scheme. “Unfortunately, these restrictions were revoked in June of this year,” Amash lamented. “My amendment would restore them by prohibiting the use of funds to do adoptive forfeitures that were banned under the 2015 rules.”



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Representative Don Byer (D-Va.) supported Amash's amendment, declaring, "Civil asset forfeiture without limits presents one of the strongest threats to our civil, property, and constitutional rights. It creates a perverse incentive to seek profits over justice."

CAF has become so common now that in 2014 federal law-enforcement officers actually seized more property of citizens than did *burglars*. A few years ago, a Michigan woman who was suspected of not complying with the state's medical marijuana law lost tools, a bicycle, and even her daughter's birthday money to civil asset forfeiture.

Sessions told the district attorneys in July that he wanted them to get tough on drug offenders, because "drug offenses are not nonviolent crimes, as most of you all know."

This is typical of CAF supporters: the contention that they are fighting illegal drugs, and that those who oppose CAF are just favoring drug kingpins over law enforcement. The drug problem is so severe, they argue, that law enforcement simply must have the "tools" to combat the drug lords. But it is unfair to charge those who wish to rein in CAF abuse as favoring criminals, just as it would be unfair to charge those who argue for due process for accused murderers as supporting homicide.

Doing wrong to "do right" is still wrong. Even in horrific murder, rape, and armed robbery cases, the accused is still afforded the due process of law. One provision of the English Bill of Rights, adopted in 1689, was crystal clear: "Forfeitures before conviction are void."

The late Congressman Henry Hyde contended that CAF also violated the Eighth Amendment, which prohibits "excessive fines." He wrote, "There is no proportionality between the crimes alleged and the punishments imposed" in most cases, citing examples of entire hotels being seized simply because a single room was used, without the knowledge of the owners, for a drug transaction.

One would think that Sessions would respect the English Bill of Rights, due process of law, private property, and the prohibition of "excessive fines." But if none of that matters to him, he should at least heed the Seventh Commandment: "Thou shalt not steal."

Amash has struck a blow for liberty in this case; however, it remains to be seen if the Senate will attempt to remove his commonsense amendment. CAF without conviction of a crime needs to be completely abolished. As Lowe wrote in her *National Review* article, "The party of small government and individual liberty must act as such and condemn the Justice Department's foray back into the murky, abusive, and authoritarian waters of asset forfeiture."



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