



George Leef Contributor

I write on the damage big government does, especially to education.

Opinions expressed by Forbes Contributors are their own.

3/25/2015 @ 1:00PM | 7,466 views

New Mexico Nixes Civil Asset Forfeiture: Leviathan Can Be Defeated

[Comment Now](#)

It's spring, and just as the appearance of shoots and buds makes you optimistic that winter is departing, so too are there signs around the country that make you optimistic that our leviathan state is, if not departing, at least starting to retreat.

Americans are becoming increasingly distrustful of government, and with good reason. Among those reasons is the abominable use of civil asset forfeiture laws to deprive people (largely but not exclusively poorer people) of property without due process of law. The slightest suspicion that a person might have engaged in a crime or allowed his or her property to be used in a crime is sufficient under these laws for police to seize the property.

Then it is up to the owner to fight through a legal minefield to get the property back by somehow proving innocence. Talk about a perversion of justice!

Thankfully, that perversion has gotten a lot of attention over the last few years, with quite a barrage of bad publicity last year. The [Washington Post](#) and [New York Times](#) both covered the egregious abuses of this tactic. The Institute for Justice trumpeted its victories over asset forfeiture in [cases such as that of Dr. Alireza Yarahmadi](#), who had over \$344,000 seized from his bank account merely because the government found his pattern of deposits suspicious.

And we also found out that law enforcement officials aren't above forging documents if necessary to grease the rails for a big confiscation of cash, [as occurred in Baltimore](#).

Civil asset forfeiture is one of those issues where Americans of all political persuasions grasp the truth that government has grown far too powerful and arrogant, with officials serving their own interests rather than those of the

public. Some officials have badly overreached, using their power to engage in what [Frederic Bastiat called “legal plunder”](#) and thereby awakened a huge cross section of the populace to the fact that government is often more about helping itself than about serving the public interest.

The silver lining to civil asset forfeiture is that it helps people to understand that, as Albert Jay Nock argued in the 1930s, the state is our enemy. (His book [Our Enemy, the State](#) is as pertinent today as when he wrote it in 1935.)

In particular, state legislatures have responded to this abuse and New Mexico is on the verge of a complete turnabout. Both chambers of the state legislature have unanimously passed HB 560 sponsored by Representative Zachary Cook. Cook is a Republican, and the GOP controls the House 37 to 33, but the Senate is controlled by the Democrats, 24 to 17. Nevertheless, it passed without a single no vote and now awaits Governor Martinez’s signature.

The key provisions of the bill include that no citizen will suffer forfeiture prior to conviction of a criminal act, that proceeds from forfeitures in those cases will go into the state’s general fund and not into the coffers of the seizing agencies (thus removing the temptation for, as the Institute for Justice puts it [“policing for profit.”](#)) and that state and local law enforcement agencies will not be able to get around the state law by resorting to the [federal “equitable sharing”](#) law.

This is quite remarkable. Civil asset forfeiture has been a “growth industry” for many police departments around the country, allowing them to pad their budgets at the expense of hapless individuals. That is going to come to a screeching halt in New Mexico, and other states have similar bills pending.

Furthermore, civil asset forfeiture is under attack at the federal level. Senator Rand Paul and Representative Tim Walberg have reintroduced the [Fifth Amendment Integrity Restoration Act](#) (FAIR, of course, since most bills these days have catchy acronyms) which, inter alia, raises the level of proof required for seizure, abolishes the “equitable sharing” program, and, as in the New Mexico legislation, eliminates the temptation to grab property for the benefit of the agency’s budget, by requiring that any proceeds go into the treasury.

The crucial reason why the opposition to civil asset forfeiture has spread so fast and across party and philosophical lines, I believe, is that the *stories* about the victims resonate with Americans. ([This piece](#) has seven stories about egregious abuse of civil asset forfeiture, for example.) We read them

and think, “That could easily have happened to me.” And that suggests a means of whittling away at many other aspects of our governmental leviathan.

Government officials are constantly damaging people with needless SWAT raids, eminent domain seizures, regulatory impediments to simple business startups, and much more. Candidates who tell their stories and pledge to put an end to these abuses will find wide support.