This July 4th Holiday, Remember Our Founding Principles

New report reveals continued problems with civil asset forfeiture

AUSTIN, TX – Today we release the first in a series of new studies that attempt to fill in the many gaps in what we know about the use of civil asset forfeiture in Texas. Our first study, conducted in Travis County, reinforces investigations being conducted around the country.

- A majority of cases involve relatively small amounts of cash, and only a tiny fraction of cases involve the kinds of forfeitures that make headlines. The median cash forfeiture was $4,451 and 22% of cases involved less than $2,000.
- If you get an attorney for your cash (these cases carry titles like State of Texas v. $8,000 U.S. currency) you are likely to get a portion of it back in a settlement agreement. Almost three quarters of closed cases where the assets were represented by an attorney got some money back. If you do not get an attorney, you will lose all your assets in a default judgment.
- The average time from an incident (roadside stop, home search) to the filing of a forfeiture case was 19.9 days, or almost three weeks. During this time, there is no procedure for getting your car or money back because the civil forfeiture does not exist until the state files its civil notification.
- While cash was generally seized using civil forfeiture, other assets taken during major busts (gaming machines for example) were taken using criminal forfeiture.

TCJC attempted to determine the relationship between the civil case against the cash or car and any related criminal charge, but in most of the 151 recent civil asset forfeiture cases reviewed for this study, the criminal case was still open. The asset forfeiture cases were completely finished within 100 days (on average) of the incident, but the criminal cases were largely still open many months later.

Recommendations

- **Use criminal asset forfeiture**: We saw routine use of criminal forfeiture for other items taken during a bust. Criminal forfeiture can be used for all assets and will ensure due process.
- **Discontinue current civil forfeiture practices**: An increasing number of states have moved to end the use of civil forfeiture unless there is a criminal conviction.

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The Texas Criminal Justice Coalition works with peers, policy-makers, practitioners, and community members to identify and promote smart justice policies that safely reduce the state’s costly over-reliance on incarceration – creating stronger families, less taxpayer waste, and safer communities.