Change in Civil Forfeiture Law Makes Sense

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By **Alexander Klein** | April 02, 2019 at 08:29 AM

In **Lawmakers Look to Curb Civil Asset Forfeiture in NY Budget Proposal** (March 30, 2019), the New York Law Journal reported an important modification in New York State's civil forfeiture laws. Under the old regime, prosecutors could freeze not just funds they believed were tainted by crime, but also funds that had no criminal taint at all. For people accused of wrongdoing, the results were often large-scale freezes of their assets, causing financial despair lasting the duration of criminal cases.

The new regime reduces this problem, allowing prosecutors to freeze only those assets that they anchor to the crimes charged. This change is welcome. New Yorkers—like defendants in every other state—are supposed to be presumed innocent until proven guilty. Allowing prosecutors to freeze untainted assets reversed this principle: it allowed law enforcement to destroy someone's finances not by the scope of proven wrongdoing but by the scope of the sheer allegations.

Surely, victims had a better chance of obtaining full restitution when prosecutors could impose large-scale freezes of people's assets. But this defense of the old regime was narrow-minded. Victims would benefit if police could search people's homes without a warrant, too, or if juries could convict despite reasonable doubt. But our society has countervailing interests—like reducing the pretrial suffering of innocent criminal defendants, and reducing the frequency with which people plead guilty simply because of that pretrial suffering.

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