

# *Questions in Politics*

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## The Partisan Politics of Civil Asset Forfeiture

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John A. Tures, Robert Allen, Peter Alford, Agrlin Braxton,  
Casey Evans, Breckin Lewis, Alanna Martin, Wade Ray,  
Yasmin Roper, Damir Rosencrants, and Stephen Wagner  
*LaGrange College*

*Starting with the well-publicized Timbs v. Indiana case, our article begins with an explanation of what civil asset forfeiture is and how it has historically been used by law enforcement in the United States. We then examine how states differ in their civil asset forfeiture rules and test whether there is a partisan element to the variation by state, in terms of whether the law empowers the police, or limits the power of law enforcement.*

In 2015, Tyson Timbs of Marion, Indiana, made the ill-fated decision to sell \$385 of heroin to two undercover police officers. Hoping to support his opioid addiction, he had no way of knowing that his case would eventually be heard by the Supreme Court in its October 2018 term (Stohr 2018). The legal issue presented in *Timbs v. Indiana* centered on the fact that even though the maximum fine that could be imposed for this crime was \$10,000, after Timbs pleaded guilty, the police attempted to use the process of “civil asset forfeiture” to seize his \$42,000 Land Rover. Timbs’s attorneys argued that this seizure violated the Eighth Amendment to the U.S. Constitution’s prohibition on “Excessive Fines” (Sibilla et al. 2018). Before the Justices could address that argument, they had to decide whether this portion of the Eighth Amendment should be “incorporated,” via the Due Process Clause of the Fourteenth Amendment, to apply to states at all.

*Amicus curiae* briefs were filed from a variety of organizations weighing in on the legal issues and hoping to influence the Supreme Court’s decision in the case. The National Association of Counties and the National League of Cities supported Indiana’s position that the “excessive fines” clause should not apply

to states and that seizing Timbs's vehicle was constitutional. But almost all the other *amicus* briefs, including organizations as disparate as the Chamber of Commerce, the Rutherford Institute, the ACLU, and the National Association of Criminal Defense Lawyers, supported Timbs's legal arguments in the case (Stohr 2018). Indeed, one reflection of the kind of "bipartisan" support his argument received was a joint *amicus* brief filed by the Southern Poverty Law Center, known for providing pro bono representation to low-income civil rights plaintiffs, and the Cato Institute, a libertarian think tank. Based on the pattern of *amicus* briefs, this is not always a policy issue that could break down neatly into a Republican-versus-Democratic divide.

In the opinion issued by the Supreme Court in February 2019, both the justices considered "liberal" and those widely viewed as "conservative" all agreed that the Eighth Amendment's "excessive fines" clause should be applied to states, and remanded the case back to Indiana to apply that constitutional standard. Now that it is clear that all states' use of civil asset forfeiture will be subjected to constitutional review under the Eighth Amendment, even more controversy can be expected to emerge about how different states use this practice and whether reform of civil asset forfeiture is likely to happen.<sup>1</sup>

### **Democrats v. Republicans on Civil Asset Forfeiture**

Despite the show of bipartisanship of Democrats and Republicans who ruled in favor of Timbs, including both Trump nominees, party clashes over civil asset forfeiture are never far behind. Trump and his former attorney general, Jeff Sessions, have shown to be hardline supporters of civil asset forfeiture, a policy opposed by Democrats. Trump's new attorney general, William Barr, was criticized by Kentucky GOP Senator Rand Paul for being a vigorous supporter of civil asset forfeiture (Miller 2018). On one hand, we can see some conservatives and liberals agreeing that civil asset forfeiture is an excessive policy that gives too much power to law enforcement. On the other hand, we can see that such seizures can generate a partisan battle.

Our work will explain civil asset forfeiture, its definition, historical use, and connection to U.S. law and law enforcement. We will discuss issues raised by the critics and see its connection to partisan politics and ideological debates. The research will test whether national and state politics concerning political parties play a role in each state's policies on civil asset forfeiture, while looking at a variety of other elements, from crime to geography to socioeconomic factors, to account for the variation in local laws concerning such seizures.

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<sup>1</sup> The authors are thankful for an anonymous reviewer for this.

## Literature Review

### Civil Asset Forfeiture: A History

Every state in the United States, including the U.S. government, “allow[s] law enforcement to seize and forfeit cash, property, and other materials that they believe are associated with illegal activity,” wrote Holcomb et al. (2011, 273). “While there are variations among state and federal laws, the essence of such practices is quite similar: police or other investigative agencies seize cash or property (hereafter referred to as “assets”) suspected of being associated with criminal activity and then initiate forfeiture actions to permanently deprive an individual of those assets,” the authors add.<sup>2</sup> “Forfeiture allows the government to keep the seized cash and property (both personal and real), destroy the property, or sell the property and keep the proceeds to fund a number of activities” (Holcomb et al. 2011, 273). Moreover, such seizures do not have to involve proof of criminal wrongdoing (Skorup 2012). In examining the standard for seizure, we found that only 10 states require a criminal conviction for money or property to be taken. This is true of the federal government as well. CBS reported that “Last March, the U.S. Justice Department Inspector General released a report saying from 2007–2016, the DEA seized \$3.2 billion with zero convictions tied to this money” (CBS 13 Sacramento 2018).

Such civil asset forfeiture policies are almost as old as the U.S. government itself.<sup>3</sup> Early uses of this action included taking ships used in the act of piracy for anti-pirate operations. It was the same story for smugglers and slave traders after the Slave Trade Ban of 1807. Such powers of the government to confiscate assets expanded during the Civil War, as well as the Prohibition Era where cars and boats could be taken if used to transport illegal goods (Chi 2002; Moores 2009; Williams et al. 2010; Gibson 2012; Schreibner 2017).<sup>4</sup>

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<sup>2</sup> The federal government often teams up with states in a plan known as equitable sharing, which is “a DOJ [Department of Justice] program designed to enhance cooperation among federal, state, and local law enforcement agencies through the sharing of proceeds resulting from federal forfeitures.” (U.S. Marshals Service, 2017). Such laws have enabled law enforcement to circumvent their own state’s strict laws on civil asset forfeiture, according to critics (Holcomb et al. 2011; Holcomb et al. 2018).

<sup>3</sup> Such laws predate the United States. One can go back to the Old Testament to see the policy from biblical times determining what should happen to an ox that gores a man or woman, where “property,” and not just the owner, is held accountable (Chi 2002; Moores 2009; Williams et al. 2010; Gibson 2012; Schreibner 2017). British Navigation Acts, and even English royal policy kept around such “deodand” laws, dealing with everything from high seas crimes to paying for funerals of the deceased by seizing the instruments that led to the death (Chi 2002; Moores 2009; Williams et al. 2010; Gibson 2012; Schreibner 2017).

<sup>4</sup> Gupta (2002) shows that this is a policy adopted in many other countries. His focus is on South Africa and civil asset forfeiture law reform.

**Table 1: Types of Civil Asset Forfeiture Assets and Value Documentation**

<b>Asset Type</b>	<b>Valuation Documentation</b>
Cash/Currency, Monetary Instruments	Copy of Check, Brinks Receipt, EFT, Wire Confirmation
Financial Instruments	Web-based, financial market, account statement, other source in accordance with agency policy
Vehicles	National Automobile Dealers Association (NADA) or Kelly Blue Book value in accordance with agency policy
Real Property	Real Property Appraisal/Broker's Price Opinion (BPO)
Other Valued Assets	Professional appraisal, Usedprice.com, other source in accordance with agency policy

Source: Office of the Inspector General (2017).

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When the Nixon administration announced its “War on Drugs,” Congress passed The Comprehensive Drug Abuse Prevention and Control Act of 1970 which empowered the government to expand its civil asset forfeiture powers to target drugs, instruments of manufacture of such substances, storage units, and even the medium of transportation for drugs (Chi 2002; Baicker and Jacobson 2004; Moores 2009). A decade later, during the Reagan administration, the law was expanded to include proceeds and property from drug sales in a bill known as the Comprehensive Crime Control Act, in 1984 (Chi 2002; Baicker and Jacobson 2004; Moores 2009; Williams et al. 2010). Table 1 shows examples of modern-day assets that can be seized and how they are valued.

The state data for civil asset forfeiture comes from Thomson Reuters’ site FindLaw, which contains information on each state’s laws on the standard for seizure, reporting, and whether law enforcement can keep some or all of the assets seized.

The standard for seizure varies by state. As Holcomb et al. (2011, 274) report, the standards include probable cause, or a reasonable suspicion that the assets or property are connected to a crime. The standard for “preponderance of the evidence” or weight of what is presented in court, is typical of civil court cases when reaching a judicial decision. These are *in rem* proceedings “which translates from Latin as ‘against a thing’ or ‘about a thing.’ A person’s property is the target of the proceeding and the owner or interested party is secondary. Furthermore, because civil liberties extend only to individuals, and not to property, owners of seized property have fewer protections than in legal actions against the individuals themselves” (Holcomb et al. 2011).

This differs from “*in personam*” hearings, which are directed against an individual (Holcomb et al. 2011). Some states, but not all, do require that

standard when deciding on whether that person’s assets can be taken. These states require “clear and convincing proof,” or a standard of “beyond a reasonable doubt.” A few even require a criminal conviction before money or property can be taken by law enforcement.

We look at whether states are tougher on the police, or on the suspects. States that have more lenient legal standards for seizure do not require law enforcement to report what they have seized and allow them to keep the assets or the proceeds from their sale are prioritizing what they hope is the deterrence or punitive value of CAF policies. These are found in Table 2 and Figure 1.

States that have higher legal standards that must be met, ensure transparency by requiring law enforcement to report what and how much has been seized, and want to discourage the incentive to seize assets simply because it is profitable for law enforcement to do so, are prioritizing the protection of individual property rights of those accused or convicted of crimes.<sup>5</sup>

In examining the standard for seizure, as noted earlier, we found that only 10 states require a criminal conviction for money or property to be taken. Only a minority of states mandate either a criminal conviction, beyond a reasonable doubt, or other clear and convincing evidence for police to take and keep the assets in question. Half of all states use “preponderance of evidence,” which is the modal category and standard in civil cases. Yet eight states do not even require that standard to confiscate assets belonging to a citizen.

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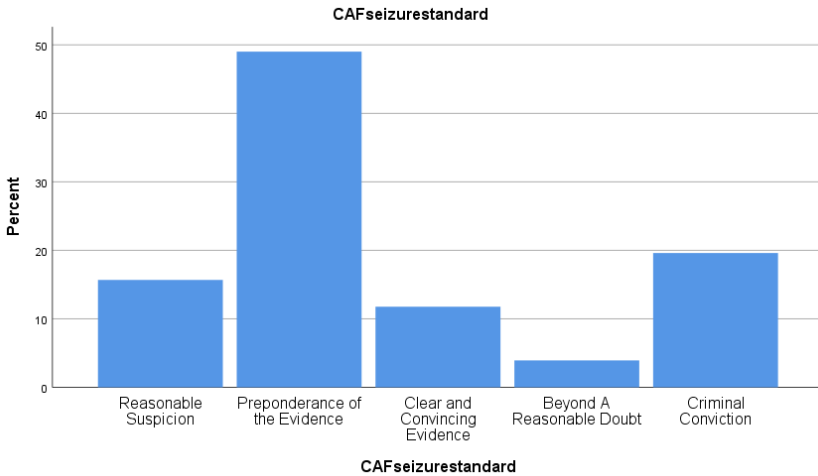
**Table 2: Frequency Distribution for Civil Asset Forfeiture Standard of Seizure**

		CAF Seizure Standard			Cumulative
		Frequency	Percent	Valid Percent	Percent
Valid	Reasonable Suspicion	8	15.7	15.7	15.7
	Preponderance of the Evidence	25	49.0	49.0	64.7
	Clear and Convincing Evidence	6	11.8	11.8	76.5
	Beyond a Reasonable Doubt	2	3.9	3.9	80.4
	Criminal Conviction	10	19.6	19.6	100.0
	<b>Total</b>		<b>51</b>	<b>100.0</b>	<b>100.0</b>

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<sup>5</sup> The authors thank an anonymous reviewer for this suggestion.

**Figure 1: Graph for Civil Asset Forfeiture, Standard of Seizure**

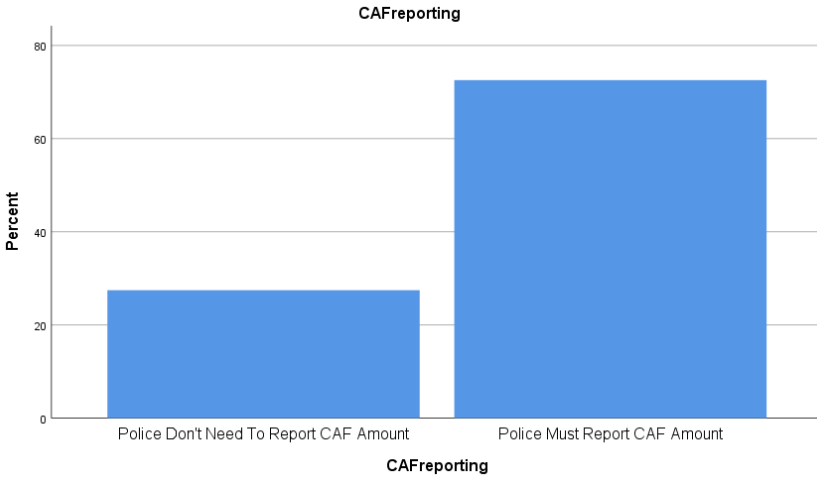


When it comes to reporting what has been taken, the news is a little better for those concerned about the potential for abuse. Nearly three quarters of states require the amount held by police to be fully disclosed. Fourteen states don't require the police to keep such an inventory of assets taken (see Table 3 and Figure 2).

**Table 3: Frequency Distribution for Civil Asset Forfeiture Reporting**

		CAF Reporting			Cumulative
		Frequency	Percent	Valid Percent	Percent
Valid	Police Don't Need to Report CAF Amount	14	27.5	27.5	27.5
	Police Must Report CAF Amount	37	72.5	72.5	100.0
<b>Total</b>		<b>51</b>	<b>100.0</b>	<b>100.0</b>	

**Figure 2: Graph for Civil Asset Forfeiture, Reporting**

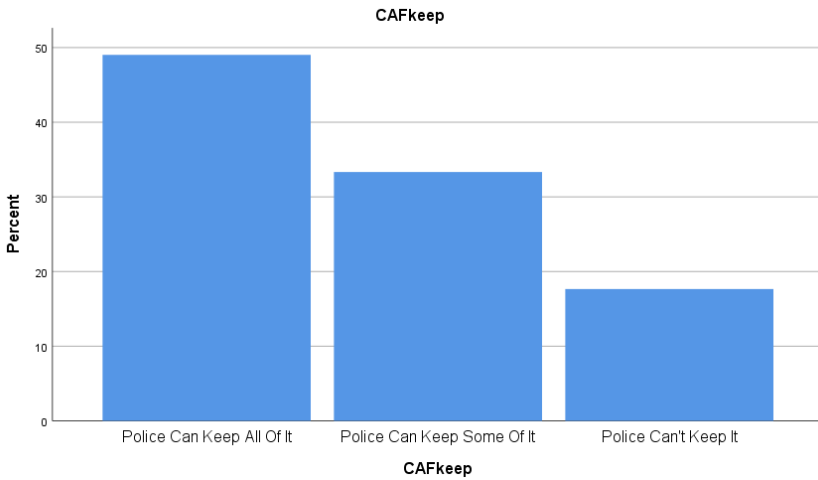


Those upset about the “perverse incentives” in civil asset forfeiture that permit police to keep what they take will be disturbed by the evidence that just about half of all states can hold all of what has been obtained in civil asset forfeiture, as noted in Table 4 and Figure 3. Another third can keep some of the assets or proceeds from the sale, leaving just nine cases where the assets are disposed in some manner that do not come back directly to law enforcement.

**Table 4: Frequency Distribution for Civil Asset Forfeiture Police Keeping Assets**

	CAF Keep			Cumulative Percent
	Frequency	Percent	Valid Percent	
Valid Police Can Keep All of It	25	49.0	49.0	49.0
Police Can Keep Some of It	17	33.3	33.3	82.4
Police Can't Keep It	9	17.6	17.6	100.0
<b>Total</b>	<b>51</b>	<b>100.0</b>	<b>100.0</b>	

**Figure 3: Graph for Civil Asset Forfeiture, Law Enforcement Keeping Assets**



The results of combining these scores for the seizure standard, reporting requirements, and provisions for keeping what has been taken are combined into a single measure, and are described here (see Table 5 and Figure 4). The results are generally normally distributed (with a few exceptions), with few giving all the power to the police, or the suspect, with most providing at least some rigorous standards for law enforcement.

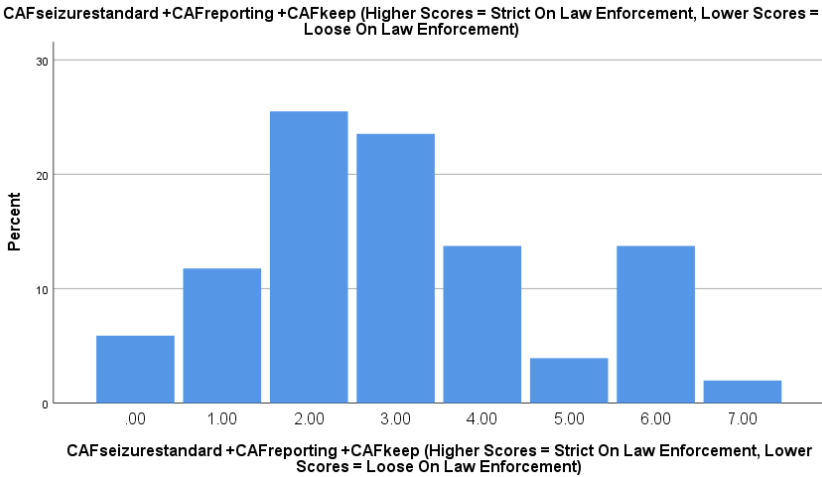
**Table 5: Frequency Distribution for Civil Asset Forfeiture Standard of Seizure, Reporting, and Keeping Assets Combined**

CAFseizurestandard + CAFreporting + CAFkeep (Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	.00	3	5.9	5.9	5.9
	1.00	6	11.8	11.8	17.6
	2.00	13	25.5	25.5	43.1
	3.00	12	23.5	23.5	66.7
	4.00	7	13.7	13.7	80.4
	5.00	2	3.9	3.9	84.3
	6.00	7	13.7	13.7	98.0
	7.00	1	2.0	2.0	100.0
<b>Total</b>		<b>51</b>	<b>100.0</b>	<b>100.0</b>	



**Figure 4: Graph for Civil Asset Forfeiture, Standard of Seizure + Reporting + Keeping**



Just as there is differentiation in the types of civil asset forfeiture policies that states enact, there is also variation in arguments in defense of these policies, as well as critiques of these CAF elements.

### Support for Civil Asset Forfeiture

Former federal prosecutor Stefan D. Cassella, the deputy chief of the Justice Department’s Asset Forfeiture and Money Laundering Section, argues that “asset forfeiture has become one of the most powerful and important tools that federal law can employ against all manner of criminals and criminal organizations—from drug dealers to white collar criminals who prey on the vulnerable for financial gain” (Cassella 1997). He discusses the danger of drug dealers and gives the example, “if drug dealers are using a ‘crack house’ to sell drugs to children as they pass by on the way to school, the building is a danger to the health and safety of the neighborhood. Under the forfeiture laws, we can shut it down” (Cassella 1997).

Pimentel’s (2017) article also outlines the case for civil asset forfeiture. He points out that sometimes transnational criminal enterprises, such as those run by drug kingpins, operate outside the United States, making arrests unlikely, even as their operations can be shut down within the United States, thus not necessitating a criminal conviction. Moreover, assets may be seized, even as the

perpetrator might not be known, like cops who come across a meth lab abandoned by an owner. Still yet, the asset itself might be contraband, such as a vehicle with a special compartment for drug shipments or a house that becomes an incubator for drugs. These goods would clearly be used in the commission of a crime, and necessitate such a seizure (Pimentel 2017, 179–80).

Civil asset forfeiture also assisted the U.S. government in several high-profile crime cases. Rainbolt and Reif (1997) add that civil asset forfeiture policies were able to help law enforcement significantly hamper the operations of the notorious Cali Cartel out of Colombia. Deputy Attorney General Rod Rosenstein (2017) argued that thanks to civil asset forfeiture, victims of Bernie Madoff’s illicit schemes would have billions of dollars returned to them. And the federal government’s use of civil asset forfeiture helped defray the cost of Special Counsel Robert Mueller’s investigation of Paul Manafort (Higgins and Malter 2018) and others tied to Russia’s involvement in the 2016 U.S. election.<sup>6</sup>

The strongest evidence for civil asset forfeiture policies is the drop in crime in the 1990s, which occurred after the 1984 law was passed (Kantor et al. 2017). Supporters can claim this, along with the continued low levels of crime that extend into subsequent decades, as the strongest reason to maintain strong civil asset forfeiture laws.

### **Critiques of Civil Asset Forfeiture Policies**

Critiques of the civil asset forfeiture laws led Congress to pass the Civil Asset Forfeiture Reform Act (CAFRA) in 2000 (Cassella 2015). “CAFRA included many ... important changes, including an innocent-owner defense and court-appointed counsel for indigent owners whose primary residences had been seized” (Moores 2009, 783). Some opponents of civil asset forfeiture have claimed that many of the abuses still were not addressed, namely the perverse incentives for police to fund themselves through aggressive seizure tactics and potential corruption from being to keep such assets or proceeds, even off the books in many cases (Moores 2009; D’Alessio et al. 2015).

Part of the problems with civil asset forfeiture policies stem from the first word in the title. Even though the money or property is seen as acting as a criminal, the case is handled in civil court. This means that the standard for seizure is often far less than a criminal conviction (Somin 2015), because most civil cases are decided by the preponderance of evidence. Whereas criminal defendants are entitled to legal representation, defendants in a civil case are not. The airplane, boat, car, or dollars

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<sup>6</sup> Government rules forbid the money the Mueller investigation directly seized from going directly to the Mueller investigation; it was deposited in the general budget, but it undermined the critics’ argument that the investigation was a waste of time, costing the taxpayers’ money, especially when it netted criminal indictments, guilty pleas, potential future criminal convictions, and assets to the government.

are treated as the party of the case, making it difficult to defend, which is why a majority of assets seized cannot be claimed by the original owner (Bishopp and Worrall 2009; Moores 2009; Gibson 2012; D'Alessio et al. 2015; Schreiber 2017).<sup>7</sup>

Those studying civil asset forfeiture have found that rather than use such laws to pursue the most dangerous drug dealers or criminals, they tend to target “low hanging fruit,” or people too poor to fight back or stop the seizure. The targets tend to be minorities and low-income people (Moores 2009; Crawford 2015; Owen and Weinberg 2016; Schreiber 2017). But as Moores (2009) documents with the case of the Ricks family,<sup>8</sup> and as Gibson (2012) notes with the sad story of Donald Scott, killed in a raid that may have been orchestrated by deliberately false information motivated in part by those agents wanting to seize his ranch, the rich can also pay a hefty price for such laws. D'Alessio et al. (2015) discovered that such civil asset forfeiture cases tend to undermine confidence in all law enforcement.

Given that the United States operates under a federal system, there is a wide variation in each state's laws (Holcomb et al. 2011; Whittle and Parker 2014; Holcomb et al. 2018). Baicker and Jacobson (2004) contend that such variation is so widespread that it is difficult to develop a common instrument to measure state laws. But Williams et al. (2010) with the Institute for Justice have developed a grading system to evaluate the laws and law enforcement, showing it is possible to compare such policies across state boundaries.

These laws are graded based upon (a) the standard for seizing such assets, (b) the reporting of all seized assets, and (c) whether law enforcement is permitted to keep the seized assets or proceeds from them.

### **Inter-Party and Intra-Party Clashes over Civil Asset Forfeiture**

In addition to variations across states, there are also stark differences between America's political parties, and within them as well, when it comes to the subject of civil asset forfeiture. Whittle and Parker (2014) see the Republican Party as identified with “law and order” and conservative policies, where tougher sentences and appeals to crime victim families and potential targets in their messaging. Helms and Costanza (2010) contend that Republicans support more

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<sup>7</sup> This was illustrated in 2016 when Alex Temple was pulled over for tailgating in New Hampshire. He wasn't even given a traffic citation, but police confiscated \$46,000 from his trunk, which a second man (Edward Phipps) claimed belonged to him. The case in federal court is titled “U.S. v. \$46,000 (Bookman 2018).”

<sup>8</sup> There is also the case of Josh Gingerich, who “was set up by the officers who he says claimed to smell marijuana on a plastic bag filled with dirty laundry in his backpack. He said officers dumped the clothes, filled the bag with cash; and then brought it to the drug dog. “They can just do what they want,” said Gingerich. Within the United States, it is legal to carry cash, says Benjamin Ruddell of the ACLU. “There's no prohibition on carrying cash, or carrying a large amount of cash,” said Ruddell, who points out what they believe is flawed with the DEA Civil Asset Forfeiture Program.” (CBS 13 Sacramento 2018).

severe penalties for crime. Roberts (2018) also finds that Trump is not only pro-forfeiture, but claims to strongly back more power for law enforcement.

This stark difference in policy was put on display in 2017 when President Trump's new attorney general Jeff Sessions (U.S. Department of Justice 2017) announced:

As any of these law enforcement partners will tell you and as President Trump knows well, civil asset forfeiture is a key tool that helps law enforcement defund organized crime, take back ill-gotten gains, and prevent new crimes from being committed, and it weakens the criminals and the cartels. Even more importantly, it helps return property to the victims of crime. Civil asset forfeiture takes the material support of the criminals and instead makes it the material support of law enforcement, funding priorities like new vehicles, bulletproof vests, opioid overdose reversal kits, and better training. In departments across this country, funds that were once used to take lives are now being used to save lives. It also removes the instrumentalities of crimes, such as illegal firearms, ammunition, explosives and property associated with child pornography from criminals—preventing them from being able to use these tools in further criminal acts. President Trump has directed this Department of Justice to reduce crime in this country, and we will use every lawful tool that we have to do that. We will continue to encourage civil asset forfeiture whenever appropriate in order to hit organized crime in the wallet.

Sessions added, “The Federal Government will not adopt seized property unless that seizure was justified by probable cause. The burden of government in these cases will be the preponderance of evidence, for civil cases” (U.S. Department of Justice 2017). His words were criticized by the liberal Brennan Center for Justice (2018) at New York University, calling it an expansion of civil asset forfeiture where seizures occur without even an arrest or conviction of person forced to surrender the assets in question.

Trust in law enforcement is a partisan issue, as Ekins and Feeney (2017) discovered. Using research from the Cato Institute, they found wide partisan gaps in perceptions of law enforcement, with Democrats being far more skeptical about police conduct. The issue is also linked to race, as African Americans and Hispanics, who are more likely to vote Democratic, also perceive harassment, having known someone who has been harassed, or having personally experienced it (Ekins and Feeney 2017).

But to label the Republican Party as monolithically pro-civil asset forfeiture would certainly be misleading. Though Helms and Costanza (2009) find local GOP support and past political support in national elections as a strong factor

for the variation in asset forfeiture and drug arrests, Republicans may not be so monolithic in their support for civil asset forfeiture. Longtime House Judiciary Chair Henry Hyde led the fight for stricter standards on police in seizure cases, but was forced to settle for the preponderance of evidence standard. The libertarian-leaning Senator Rand Paul of Kentucky criticized the nomination of William Barr, George H. W. Bush's former attorney general, to succeed Sessions, on the grounds that Barr was a noted strong support of civil asset forfeiture policies (Miller 2018).

Roger Pilon, the conservative Cato Institute's Vice-President for Legal Affairs, has spoken out about the need to protect the private property rights of U.S. citizens from the regulatory powers of the government, which should be limited, in his opinion. "When a thief takes 75 percent of his victim's property, no one has difficulty calling that a taking. When government does the same thing, however, the court has been unable to call it a taking" (Pilon 1995).

At the same time, Democrats are not uniformly opposed to law enforcement. Most still give these legal institutions good marks (Ekins 2016) and give more support to the FBI than Republicans do (Rucker and Costa 2018).

To determine if there is a partisan difference when it comes to state laws, and where Republicans stand on the seizure of assets accused of being complicit in crimes, we look at a series of political variables in our tests, as well as a number of elements concerning crime, geography, and socioeconomic factors.

### **Hypothesis Tests**

#### **Partisan Political Factors**

In our specific, testable connection between variables, we examine how partisan politics play a role. Helms and Costanza (2009, 3) take up arguments that the drug war may be about politics, an attempt to appeal to conservative voters on the issues of both "get tough" on criminals and in the realm of morality by opposing "sin." Additionally, conservatives tend to reward candidates who practice fiscal restraint; politicians who fund law enforcement with assets seized by criminals instead of tax dollars would be more favorably viewed by such Republicans (Helms and Costanza 2009, 8). In their analysis, Helms and Costanza (2009, 9) consider local support for the GOP, particularly the average amount of support each county gave to the Republican Party in the 1988 and 1992 elections, as well as the connection to the ratio of civil asset forfeiture dollars per drug sale and manufacturing arrest.

In their study, Whittle and Parker (2014, 2) consider how criminal punishment is a "highly political issue." They see not only that crime is a personal choice instead of an economic or societal outcome, but that a strong sanction against a criminal provides the greatest deterrent to future lawbreaking. The authors look

at votes for John McCain in the 2008 election in their analysis, as well as a measure of public opinion concerning crime and punishment.<sup>9</sup>

In addition, Cassella (2000) and Pimentel (2017) examine the role of state legislatures in asset forfeiture policies. Though they note the role of state legislatures in the civil asset forfeiture debate, neither author focuses on party control of the lawmaking body at the state level. Their work focuses mostly on what each state is doing. A recent reform effort in Idaho demonstrated the role of the state's legislature and chief executive officer play in the process, as Governor Butch Otter reversed an early position and supported the state's legislative reform effort to limit seizures simply due to their proximity to illegal substances (Gilson 2018). We therefore examine the following theory and three hypotheses derived from this:<sup>10</sup>

*Theory: The more conservative a state is, the more likely a state is to have civil asset forfeiture laws that make it easier for law enforcement to seize and keep assets of individuals.*

*Hypothesis 1: If the state's legislature is controlled by the Republican Party, the state is more likely to have civil asset forfeiture laws that have a lower standard for seizure, require little or no reporting of such assets, and enable law enforcement to keep these assets.*

*Hypothesis 2: If the governor's mansion is controlled by the Republican Party, the state is more likely to have civil asset forfeiture laws that have a lower standard for seizure, require little or no reporting of such assets, and enable law enforcement to keep these assets.*

*Hypothesis 3: If the state's voters show a preference for the Republican Party nationwide, the state is more likely to have civil asset forfeiture laws that have a lower standard for seizure, require little or no reporting of such assets, and enable law enforcement to keep these assets.*

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<sup>9</sup> Interestingly enough, Whittle and Parker (2014) also look at several polling measures of support for strong punitive sanctions, such as the respondent being pro-death penalty. While votes for Republicans were associated with backing for collateral sanctions from civil asset forfeiture, belief in other punitive sanctions were not.

<sup>10</sup> This political data represents a cross-sectional analysis of politics for the fall of 2018, predating the 2018 election. It reflects the political climate of not only the 2016 election, but the composition of state legislatures and occupants of the governor's mansions from 2017, ending in January 2019. Future studies may examine how laws and a state's preferences for a particular political party have changed over time.

It is reasonable to suggest that the partisan political factors examined have a temporal issue. Many of these laws were written years, even decades ago. What would be the rationale for looking at the current partisanship of each state, with respect to these policies? The reason we are doing this is because nearly every U.S. state is currently debating whether or not to reform their laws (Thomson Reuters 2018), to require more reporting, less keeping, or even a different standard for seizure. Some states have recently made these changes, while others have resisted such reforms. This analysis will help uncover which states fit in both categories, and what role party politics plays in this dichotomy.

### **Other Factors**

Though civil asset forfeiture and partisanship are the primary focus of this article, we will not neglect other key factors suggested by the literature. These include variables covering issues of crime and law enforcement, socioeconomic elements, and the role geography may play in the variation of civil asset forfeiture policies. These will be discussed in the next section.

### **Research Design**

For our research on states, we look at the state as the unit of analysis. This is because each state has its own policies, and these vary widely. “Nearly every state, the District of Columbia, and the Federal government, have civil forfeiture laws, but they differ in their financial incentives and their procedures” (Carpenter et al. 2015).

### **Dependent Variables**

#### ***Civil Asset Forfeiture Policies***

There are three types of federal forfeiture: criminal forfeiture, civil judicial forfeiture, and administrative forfeiture. The U.S. Department of Justice defines each of these as follows. “Criminal forfeiture is an action brought as a part of the criminal prosecution of a defendant” (U.S. Department of Justice 1994). Criminal forfeiture is against the person and requires action from the government. During this type of forfeiture, not only is the property charged but the defendant is as well. “If the jury finds the property forfeitable, the court issues an order of forfeiture,” meaning if the judge declares the defendant’s property forfeited then that property then becomes property of the U.S. government and is disposed of however the law in that state deems it (U.S. Department of Justice 1994).

The second form of civil asset forfeiture does not involve the defendant but instead focuses on the property. During civil judicial forfeitures, “the property is the defendant and no criminal charge against the owner is necessary” (U.S. Department of Justice 1994). In addition to this, during civil judicial forfeiture,

“an individual has the right to contest the seizure through trial proceedings” (U.S. Department of Justice 1994).

The third and final form of federal forfeiture, administrative forfeiture, “permits the federal seizing agency to forfeit the property without judicial involvement” (U.S. Department of Justice 2017). The only restraint is the property must not exceed \$500,000. Many argue that this form of forfeiture is unconstitutional and violates citizens’ private property rights. This unconstitutionality as well as violation of rights will be discussed at length throughout this article, but first, the assets the government can seize must be listed and described.

For our combined measure, we add up all of the scores for the seizure standard, the reporting measure, and the indicator of how much, if any, the police can keep. Lower scores indicate that the police in that state have a lot of leeway to seize and hold any seized assets, with little accountability. Higher scores indicate a more strict set of laws on the police, with tougher standards for law enforcement to follow, with scores ranging from zero to seven.<sup>11</sup> Tables 6–8 show how each element of civil asset forfeiture is measured, creating our dependent variable for a state’s overall laws on civil asset forfeiture.

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**Table 6: Measurement of Civil Asset Forfeiture Standard for Seizure by States**

Measurement	Standard for Seizure
0	Reasonable Suspicion/Probable Cause
1	Preponderance of Evidence
2	Clear and Convincing Proof
3	Beyond a Reasonable Doubt
4	Criminal Conviction

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**Table 7: Measurement of Civil Asset Forfeiture Reporting Status by States**

Measurement	Amount of Seizure Reporting Required
0	No Reporting
1	Reporting

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<sup>11</sup> Ours is not the only measure of civil asset forfeiture. The group FreedomWorks also assigns a grade to each state for their civil asset forfeiture policy, after viewing each state’s laws (Greibrok 2015). Our measures are strongly correlated (see Table 12), but there is less subjectivity in our grading of states using these strict standards.



**Table 8: Measurement of Amount of Property Kept by Law Enforcement**

Measurement	Amount of Seized Property Kept
0	All
1	Some
2	None

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## Independent Variables

### *Party Politics*

To examine the partisan political factors that could impact a state’s civil asset forfeiture laws, we look at several measures that uncover that state’s partisan allegiances. One involves the composition of a state’s legislature; such information comes from the National Conference of State Legislatures (NCSL 2017).<sup>12</sup> The data for the governors comes from the NCSL (2017), which tracks the same information on that graph.<sup>13</sup> Information from both reflects the composition of these institutions in the summer of 2018 (between the 2016 election and the 2018 contest).

For the state’s political party support on a national scale, we use data from CNN (2016), with the vote percentage coded as a raw number. A second measure is also included with groups the states into blue, purple, and red cases based upon their level of support for Donald Trump in 2016 (CNN 2016).<sup>14</sup> In this way, our research not only updates previous studies (Helms and Costanza 2009; Whittle and Parker 2014), which looked at older elections, but we also provide new variables of support for Republicans in state politics.

### *Crime*

The political conflicts surrounding civil asset forfeiture are not limited to partisan battles. They also encompass other laws on crime, especially drug laws. Gibson (2012) and Earleywine and Loflin (2013) consider the role that a state’s

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<sup>12</sup> The state legislature data is coded trichotomously: If the Democrats control both houses of the legislature, the variable receives a score of 0. If the Republican Party holds both houses of the legislature, the variable is coded as a two. A score of one is for cases where the institutions are split between the Democratic Party and the Republicans.

<sup>13</sup> The gubernatorial data is coded similarly to the state legislative measure. If the governor is from the Democratic Party, the variable receives a zero. GOP Governors give the state a score of two. For party independents who are the chief executive of the state, a score of one is given.

<sup>14</sup> States which have given Democrats less than 45% of the vote get a score of zero, while those giving more than 55% of the vote receive a score of two. Those between 45% and 55% support for Republicans in the 2016 presidential election get a score of one. The number 55% is commonly given for landslide results in elections (Sabato 2018).

marijuana laws play in the discussion of civil asset forfeiture.<sup>15</sup> Bishopp and Worrall (2009), Holcomb et al. (2011), and Schreibner (2017) document how nearly half of all police chiefs describe the need for such civil asset forfeiture dollars for their budget, with D’Alessio et al. (2015) discovering that such funds can make up nearly a quarter of many police budgets.<sup>16</sup> Therefore, a study including state variation in law enforcement size per capita might be linked to variations in state policies, making it easier to seize such assets.

The crime rate is also a frequently analyzed variation in civil asset forfeiture. Gius (2018) finds a negative relationship between the value of assets seized in a state, and the drug-related arrests in a state. Leggett et al. (2003), Bishopp and Worrall (2009), Whittle and Parker (2014), and D’Alessio et al. (2015) incorporate the crime rate in general, and violent offenses in particular. We also look at the property crime rate in our analysis.

We look at four measures reflecting crime. These include data on the number of law enforcement personnel in each state (FBI 2015a) as well as a state’s laws on marijuana possession, which come from the National Cannabis Industry Association (2017).<sup>17</sup> Two measures of the crime rate are provided, both by the Federal Bureau of Investigation (FBI 2015b). These include the violent crime rate (crimes against persons) as well as the property crime rate, both taken from the Uniform Crime Reporting (UCR) data tables per state.

### ***Geography***

As there are variations in state policies when it comes to law enforcement seizing goods and money suspected of being connected to a crime, one common source of variations for state policies is the region where they are found. In fact, Holcomb et al. (2011) include a special measure for region, as do D’Alessio et al. (2015). The latter contend that the South, in fact, represents a unique case among U.S. states while analyzing civil asset forfeiture.

A comparison of states for their differences in the rural/urban divide is a similar geographic subject for civil asset forfeiture. Rakich and Mehta (2018) find

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<sup>15</sup> One of the issues involving civil asset forfeiture and national drug policy was the Cole Memo, which “was a policy memo created during the Obama administration that mostly protected marijuana-legal states from federal scrutiny.” (Auerbach 2018). The former deputy attorney general James Cole “wrote the memo, which instructed U.S. attorneys to focus on drug cartels and cross-border trafficking, not marijuana outlets complying with state regulatory schemes.” (Auerbach 2018).

<sup>16</sup> The money can also be later used by police departments as revenue to buy equipment such as guns, vehicles, etc. (Snead 2014).

<sup>17</sup> The marijuana laws are coded this way: cases of zero are where the state has deemed marijuana to be illegal in all cases. For those which allow some legalization, often more medical purposes, the state case is coded as a one. For a two, the state has provided full legalization, for medical, recreational use, or any other reason.

strong differences in support for Trump based upon whether someone lives in a city, suburb, small town, or rural area, with the president's support strong only in less densely populated areas. Bishop (2013) also sees a divide across the country not just in ideology, but also in economic preferences and social behavior. D'Alessio et al. (2015) find that population density matters in their study of asset forfeiture laws and their potential to corrupt the police. Leggett et al. (2003) see a connection between population density and crime, while Earleywine and Loflin (2013) include it in their analysis connecting law enforcement and cannabis laws.

For the geography-independent variables, we look at two factors, both taken from the U.S. Census Bureau. These include a state's population density (U.S. Census Bureau 2010) and its regional classification (U.S. Census Bureau 2015).<sup>18</sup>

### *Socioeconomic Elements*

The Earleywine and Loflin (2013) study of cannabis prohibition also studies the unemployment rate, and not just the variations in urban and rural location of the subject. Indeed, Schreiber (2017) claims that the lower-income individuals in America are more likely to be targeted by civil asset forfeiture seizures. Helms and Costanza (2009) claim that economic inequality is another key element in civil asset patterns across U.S. counties. And the racial composition of the region has been cited as a factor in whether one's property is seized by police or not by Bishopp and Worrall (2009), Helms and Costanza (2009), and Whittle and Parker (2014), who all find that minorities are disproportionately targeted by such policies in practice. McDonald (2016) finds this to be the case in California, while the Southern Poverty Law Center (2018) contends it is happening in Alabama as well, showing the presence of this across the country, and across state ideologies.

Therefore, in our analysis, we will look at four variables from the socioeconomic system in America. These include the unemployment rate, the GDP per capita, the median household income, and the percentage of minorities in the population. As with other factors in this study, all will be measured at the state level, as discussed in the next section which provides details on where the variables are gathered from.

We have four measures of socioeconomic factors. These include the states' unemployment rate, which is calculated by the Bureau of Labor Statistics (2016). There is also the median household income, calculated by the U.S. Census Bureau (2016). Another economic factor examined is the GDP per capita for each state, as measured by the Bureau of Economic Analysis (2016). Finally, we look at the percentage of nonwhite people who live in the state, calculated by the U.S. Census Bureau (2014), as a raw number.

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<sup>18</sup> Population density is measured as a raw number, while region is measured this way: 1 = West, 2 = Midwest, 3 = Northeast, and 4 = South.

**Results**

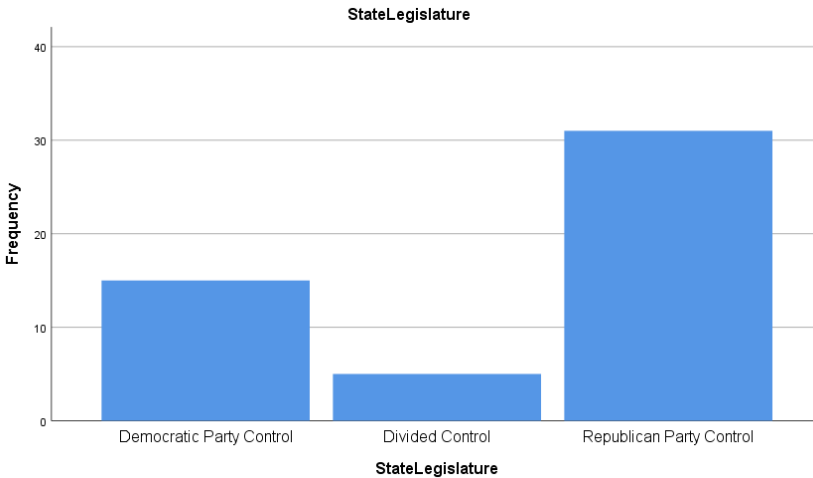
**Descriptive Data of Partisan Politics Factors**

Results from the 2016–2018 political cycle show the Republican Party domination of state legislatures, as well as the gubernatorial mansions. Nearly two-thirds of each branch of state politics is controlled by the GOP, with a few independent governors, and state legislatures with divided control between both houses (see Table 9 and Figure 5, as well as Table 10 and Figure 6).

**Table 9: Frequency Distribution for State Legislature**

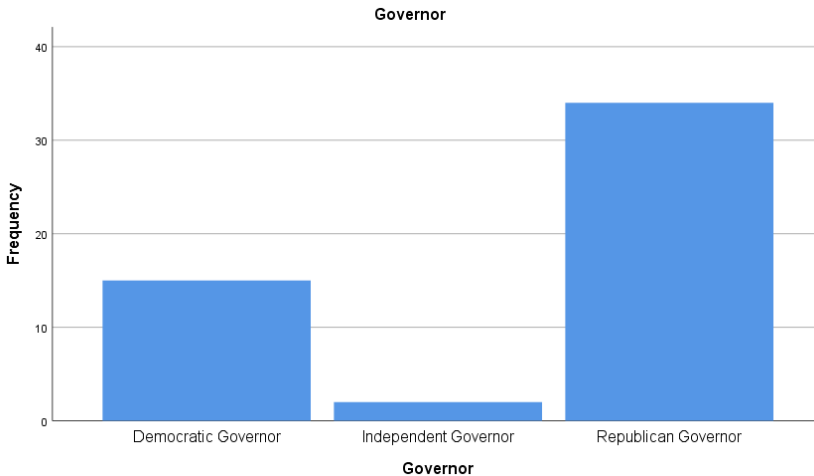
		State Legislature			
Valid		Frequency	Percent	Valid Percent	Cumulative Percent
	Democratic Party Control	15	29.4	29.4	29.4
	Divided Control	5	9.8	9.8	39.2
	Republican Party Control	31	60.8	60.8	100.0
	<b>Total</b>	<b>51</b>	<b>100.0</b>	<b>100.0</b>	

**Figure 5: Graph for State Legislatures**



**Table 10: Frequency Distribution for Governors**

		Governor		Valid Percent	Cumulative Percent
		Frequency	Percent		
Valid	Democratic Governor	15	29.4	29.4	29.4
	Independent Governor	2	3.9	3.9	33.3
	Republican Governor	34	66.7	66.7	100.0
	<b>Total</b>	<b>51</b>	<b>100.0</b>	<b>100.0</b>	

**Figure 6: Graph for Governors**

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Nationally, the results are a little more closely divided between the Democratic Party and the Republican Party, as Table 11 and Figure 7 show. Eighteen states with vote percentages in 2016 favor the Republicans, and another 15 give similar support to the Democrats in that presidential contest. Roughly another third of all states are divided in their support for the two political parties.

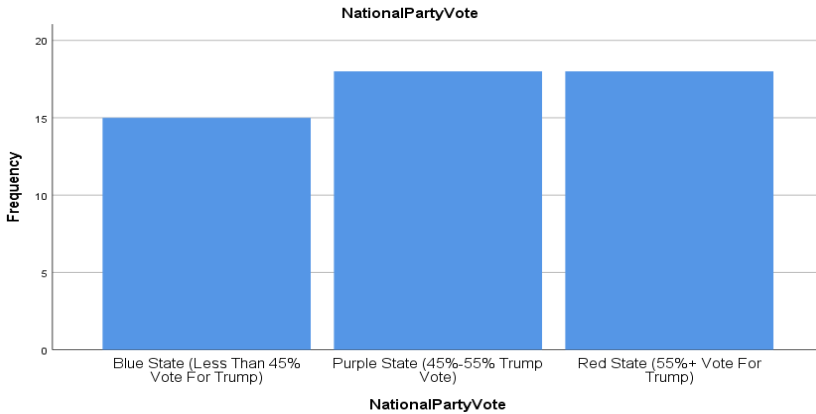
A scatterplot of states and the vote percentage for Donald Trump in 2016 (see Figure 8) reveal how states cast their votes in that contest. The reader can

also get a preliminary idea of how such results relate to the data on civil asset forfeiture policies by state, the subject of our next section.<sup>19</sup>

**Table 11: Frequency Distribution for National Party Vote**

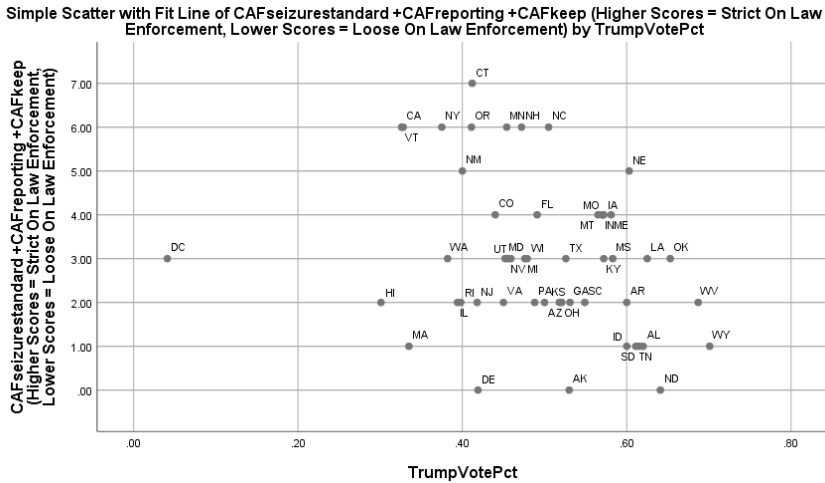
		National Party Vote		Valid	Cumulative
		Frequency	Percent	Percent	Percent
Valid	Blue State (Less Than 45% Vote for Trump)	15	29.4	29.4	29.4
	Purple State (45%–55% Trump Vote)	18	35.3	35.3	64.7
	Red State (55%+ Vote for Trump)	18	35.3	35.3	100.0
	<b>Total</b>	<b>51</b>	<b>100.0</b>	<b>100.0</b>	

**Figure 7: Graph for the National Party Vote**



<sup>19</sup> Due to the length of the article, the frequency distribution and measures of central tendency for all of the independent variables on all 10 crime, geography and socioeconomic factors are not included here. They can be made available upon a request to the authors.

Figure 8: Scatterplot for Civil Asset Forfeiture Laws and Trump Vote Percentage



**Bivariate Analysis**

We examined the correlation with each partisan political factor and a state’s civil asset forfeiture policies in Table 12. We found that a state’s support for the Republican Party, in terms of the composition of the state’s legislature and chief executive, as well as the state’s vote for Donald Trump in 2016, display a negative relationship with “Republican” states and the strict civil asset forfeiture scores, indicating that it is easier for police in that state to seize assets, and keep most or all of them, with little in the way of reporting requirements.

While partisan political factors are strongly associated with a state’s civil asset forfeiture policies, the same cannot be said for the other elements examined (see Table 13). Factors from crime, geography, or the socioeconomic realm were neither positively nor negatively associated with a state’s policies on confiscating a person’s assets. There is one exception: the more liberal a state’s marijuana policies are, the stricter that state is on the power of law enforcement to take a person’s money or property.

**Table 12: Correlations: Civil Asset Forfeiture Laws and Partisan Political Factors**

		Correlations				
		CAFseizurestand ard +CAFreportin g +CAFkeep (Higher Scores = Strict On Law Enforcement, Lower Scores = Loose On Law Enforcement)	CAFgrade	CAFseizurestand ard	CAFreporting	CAFkeep
CAFseizurestand +CAFreporting +CAFkeep (Higher Scores = Strict On Law Enforcement, Lower Scores = Loose On Law Enforcement)	Pearson Correlation	1	.582**	.853**	.338 <sup>†</sup>	.615**
	Sig. (2-tailed)		.000	.000	.015	.000
	N	51	51	51	51	51
CAFgrade	Pearson Correlation	.582**	1	.462**	.065	.498**
	Sig. (2-tailed)	.000		.001	.650	.000
	N	51	51	51	51	51
CAFseizurestandard	Pearson Correlation	.853**	.462**	1	.026	.195
	Sig. (2-tailed)	.000	.001		.858	.171
	N	51	51	51	51	51
CAFreporting	Pearson Correlation	.338 <sup>†</sup>	.065	.026	1	.152
	Sig. (2-tailed)	.015	.650	.858		.287
	N	51	51	51	51	51
CAFkeep	Pearson Correlation	.615**	.498**	.195	.152	1
	Sig. (2-tailed)	.000	.000	.171	.287	
	N	51	51	51	51	51
StateLegislature	Pearson Correlation	-.244	-.031	-.082	-.275	-.261
	Sig. (2-tailed)	.084	.828	.567	.051	.065
	N	51	51	51	51	51
Governor	Pearson Correlation	-.292 <sup>†</sup>	-.120	-.289 <sup>†</sup>	-.086	-.116
	Sig. (2-tailed)	.038	.403	.040	.546	.418
	N	51	51	51	51	51
TrumpVotePct	Pearson Correlation	-.289 <sup>†</sup>	-.211	-.110	-.333 <sup>†</sup>	-.283 <sup>†</sup>
	Sig. (2-tailed)	.040	.138	.444	.017	.044
	N	51	51	51	51	51
NationalPartyVote	Pearson Correlation	-.252	-.078	-.107	-.338 <sup>†</sup>	-.196
	Sig. (2-tailed)	.075	.588	.454	.015	.167
	N	51	51	51	51	51

Source: Data compiled by the authors.



**Table 13: Correlations: Civil Asset Forfeiture Laws and Crime, Geography, and Socioeconomic Factors**

	Correlations			
CAFseizurestandard + CAFreporting + CAFkeep (Higher Scores = Strict On Law Enforcement, Lower Scores = Loose On Law Enforcement)	CAFgrade	CAFseizurestandard	CAFreporting	CAFkeep

Source: Data compiled by the authors.

Additionally, we looked at a series of chi-square tests (see Tables 14–16), designed to uncover the more detailed relationship between a state’s partisanship and its policies on civil asset forfeiture. In each case, we can be at least 90 percent confident in our rejection of the null hypothesis that there is no relationship, with the strongest results coming from the independent variable for state legislative control.

In general, we find that cases of “Democratic” states and tough standards on law enforcement on civil asset forfeiture laws are more likely to be observed than expected. Cases of “GOP states” and states with loose laws on civil asset forfeiture requirements on law enforcement are also more likely to occur than expected, in Tables 14, 15, and 16.

**Table 14: Chi-Square Analysis:  
Civil Asset Forfeiture Laws and State Legislatures**

State Legislature		CAFseizurestandard + CAFreporting + CAFkeep (Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)								Total
		.00	1.00	2.00	3.00	4.00	5.00	6.00	7.00	
Democratic Party Control	Count	1	1	4	4	0	1	4	0	15
	Expected Count	.9	1.8	3.8	3.5	2.1	.6	2.1	.3	15.0
Divided Control	Count	0	0	0	0	2	1	1	1	5
	Expected Count	.3	.6	1.3	1.2	.7	.2	.7	.1	5.0
Republican Party Control	Count	2	5	9	8	5	0	2	0	31
	Expected Count	1.8	3.6	7.9	7.3	4.3	1.2	4.3	.6	31.0
Total	Count	3	6	13	12	7	2	7	1	51
	Expected Count	3.0	6.0	13.0	12.0	7.0	2.0	7.0	1.0	51.0

**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	26.364 <sup>a</sup>	14	.023
Likelihood Ratio	25.725	14	.028
Linear-by-Linear Association	2.976	1	.084
N of Valid Cases	51		

**Table 15: Chi-Square Analysis: Civil Asset Forfeiture Laws and Governors**

Governor		CAFseizurestandard + CAFreporting + CAFkeep (Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)								
		.00	1.00	2.00	3.00	4.00	5.00	6.00	7.00	Total
Democratic Governor	Count	1	0	4	2	2	0	5	1	15
	Expected Count	.9	1.8	3.8	3.5	2.1	.6	2.1	.3	15.0
Independent Governor	Count	1	0	0	1	0	0	0	0	2
	Expected Count	.1	.2	.5	.5	.3	.1	.3	.0	2.0
Republican Governor	Count	1	6	9	9	5	2	2	0	34
	Expected Count	2.0	4.0	8.7	8.0	4.7	1.3	4.7	.7	34.0
Total	Count	3	6	13	12	7	2	7	1	51
	Expected Count	3.0	6.0	13.0	12.0	7.0	2.0	7.0	1.0	51.0

**Chi-Square Tests**

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	21.747 <sup>a</sup>	14	.084
Likelihood Ratio	20.533	14	.114
Linear-by-Linear Association	4.258	1	.039
N of Valid Cases	51		

a. Twenty-two cells (91.7%) have expected count of less than 5. The minimum expected count is .04.

**Table 16: Chi-Square Analysis: Civil Asset Forfeiture Laws and National Party Vote**

National Party Vote		CAFseizurestandard + CAFreporting + CAFkeep (Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)								
		.00	1.00	2.00	3.00	4.00	5.00	6.00	7.00	Total
Blue State (Less Than 45% Vote for Trump)	Count	1	1	4	2	1	1	4	1	15
	Expected Count	.9	1.8	3.8	3.5	2.1	.6	2.1	.3	15.0
Purple State (45%–55% Vote for Trump)	Count	1	0	7	6	1	0	3	0	18
	Expected Count	1.1	2.1	4.6	4.2	2.5	.7	2.5	.4	18.0
Red State (55%+ Vote for Trump)	Count	1	5	2	4	5	1	0	0	18
	Expected Count	1.1	2.1	4.6	4.2	2.5	.7	2.5	.4	18.0
Total	Count	3	6	13	12	7	2	7	1	51
	Expected Count	3.0	6.0	13.0	12.0	7.0	2.0	7.0	1.0	51.0

**Table 16: Chi-Square Analysis:  
Civil Asset Forfeiture Laws and National Party Vote (continued)**

Chi-Square Tests			Asymptotic Significance (2-sided)
	Value	df	
Pearson Chi-Square	22.482 <sup>a</sup>	14	
Likelihood Ratio	26.361	14	
Linear-by-Linear Association	3.166	1	
N of Valid Cases	51		

a. Twenty-four cells (100.0%) have expected count of less than 5. The minimum expected count is .29.

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### **Multivariate Analysis**

When it comes to examining the partisan political factors, when other independent variables are worked into the equation, the results are generally upheld in Tables 17, 18, and 19. National party support for Trump and the cases of the GOP in control of the governor’s office are associated with lax law enforcement requirements on civil asset forfeiture policies and remain significant factors at the .05 level, though the state legislative variable drops out as a significant factor. A more liberalized state law on marijuana usage remains a significant factor in states with civil asset forfeiture policies that limit police power, at the .10 level, when the political variable for governor is included in the model.<sup>20</sup>

### **Disaggregating Civil Asset Forfeiture Policies**

The results of our bivariate and multivariate tests show the power of partisan political factors in general, and GOP strength in particular, to account for the ease of law enforcement to engage in civil asset forfeiture with little oversight. Such measures involving party politics trumped other independent variables from crime and geography to social and economic factors.

But the findings could have been a little stronger. Could several “small government conservatives” on law enforcement like Representative Henry Hyde or Senator Rand Paul account for these variations? To see whether this is the case, we disaggregate the measure of civil asset forfeiture to see if party politics are more closely tied to some elements of the police policy than others.

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<sup>20</sup> Several of the independent variables are not included simultaneously in the multivariate regression analysis because they displayed tolerance levels with other independent variables consistent with the presence of multicollinearity. This is especially the case when putting all of the political variables in a single model.

**Table 17: Regression Analysis: Civil Asset Forfeiture Laws and State Legislatures as Well as Crime, Geography, and Socioeconomic Variables**

Variable	Beta	T-Ratio	Significance
(Constant)		2.045	.048**
Violent Crime Rate FY 2015 (Incidents per 100,000 people)	-.273	-1.304	.200
Property Crime Rate FY 2015 (incidents per 100,000 people)	-.122	-.545	.589
Police Per Capita	.012	.067	.947
State Unemployment rate %	-.074	-.356	.724
Marijuana Laws	.227	1.327	.192
GDP per Capita	-.041	-.171	.865
Median Household Income	-.130	-.528	.600
Minority Population %	.170	.793	.432
Population Density Per Square Mile	-.195	-.926	.360
State Legislature	-.232	-1.101	.278

Dependent Variable: CAFseizurestandard + CAFreporting + CAFkeep

(Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)

F-Statistic: 1.142

For Tables 17–19: \* = .10 significance; \*\* = < .05 significance; \*\*\* = < .01 significance

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**Table 18: Regression Analysis: Civil Asset Forfeiture Laws and Governors as Well as Crime, Geography, and Socioeconomic Variables**

Variable	Beta	T-Ratio	Significance
(Constant)		2.903	.006**
Violent Crime Rate FY 2015 (Incidents per 100,000 people)	-.100	-.477	.636
Property Crime Rate FY 2015 (incidents per 100,000 people)	-.236	-1.102	.277
Police Per Capita	-.135	-.779	.441
State Unemployment rate %	-.307	-1.465	.151
Marijuana Laws	.273	1.932	.061*
GDP per Capita	-.097	-.420	.677
Median Household Income	-.192	-.818	.418
Minority Population %	.252	1.307	.199
Population Density Per Square Mile	-.139	-.732	.468
Governor	-.402	-2.359	.023**

Dependent Variable: CAFseizurestandard + CAFreporting + CAFkeep

(Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)

F-Statistic: 1.142

For Tables 17–19: \* = .10 significance; \*\* = < .05 significance; \*\*\* = < .01 significance

**Table 19: Regression Analysis: Civil Asset Forfeiture Laws and National Party Vote as Well as Crime, Geography and Socioeconomic Variables**

Variable	Beta	T-Ratio	Significance
(Constant)		2.825	.007***
Violent Crime Rate FY 2015 (Incidents per 100,000 people)	-.270	-1.353	.184
Property Crime Rate FY 2015 (incidents per 100,000 people)	-.066	-.307	.761
Police Per Capita	.144	.794	.432
State Unemployment rate %	.058	.276	.784
Marijuana Laws	.110	.645	.523
GDP per Capita	-.005	-.023	.982
Median Household Income	-.233	-.973	.337
Minority Population %	-.004	-.016	.987
Population Density Per Square Mile	-.305	-1.467	.150
Trump Vote Pct.	-.540	-2.241	.031**

Dependent Variable: CAFseizurestandard + CAFreporting + CAFkeep

(Higher Scores = Strict on Law Enforcement, Lower Scores = Loose on Law Enforcement)

For Tables 17–19: \* = .10 significance; \*\* = < .05 significance; \*\*\* = < .01 significance

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### **Disaggregating Civil Asset Forfeiture Policies**

The results of our bivariate and multivariate tests show the power of partisan political factors in general, and GOP strength in particular, to account for the ease of law enforcement to engage in civil asset forfeiture with little oversight. Such measures involving party politics trumped other independent variables from crime and geography to social and economic factors.

But the findings could have been a little stronger. Could several “small government conservatives” on law enforcement like Representative Henry Hyde or Senator Paul account for these variations? To see whether this is the case, we disaggregate the measure of civil asset forfeiture to see if party politics are more closely tied to some elements of the police policy than others.

Examination of the Pearson Correlation Coefficients in Table 12 shows that there are some associations stronger than others. A state’s governor is more likely to be negatively correlated with the standard for seizure, while the state legislature’s political composition and national party support by the state are more likely to be linked with light reporting and full keeping requirements when it comes to asset forfeiture.

An additional study of chi-square analyses in Tables 14, 15, and 16 revealed something surprising. In some states, Republican governors, state legislatures, or national party support for the GOP, with some strict standards for law

enforcement, were higher than expected in some cases. But there are also states where Democrats are in charge, with higher-than-expected numbers of cases where it is easier for law enforcement to seize money and property from citizens. For example, there are twice as many cases of cops only needing a “reasonable suspicion” to seize and hold assets in states that voted strongly against Donald Trump, as well as for full state legislative control for Democrats.<sup>21</sup>

### Conclusion

In this study, we have found that partisan political factors have a strong link to a state’s civil asset forfeiture policy. In particular, states that support Republican candidates on the national stage or in local office are more likely to give police more power to seize money and property, and keep most or all of it, without needing to report it. It appears that currently, support for the GOP in the 2016 election trumps concerns some Republicans have about the abuses of government power.

Given the support the president and his administration has for civil asset forfeiture policies, such trends should continue unless the more libertarian wing of the party wrestles away control of the GOP.

Other factors, ranging from crime variables to socioeconomic elements to geography, did not play as strong a role in accounting for the variation in state policy, with the one exception. The more liberal a state’s marijuana laws were, the more likely a state would have stricter standards against police for taking, holding, and reporting assets potentially connected to criminal activity, but only when the variable is alone or in a model including at the state’s governor, in the full model (with other independent variables).



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<sup>21</sup> Additional tables with each political variable and each civil asset forfeiture measure can be made available upon request.

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