

**Casper Star Tribune, February 13, 2016: “Asset forfeiture is unreasonable, unjust.”  
Wyoming Tribune Eagle column to be published Wednesday or Thursday in  
sequence with this week’s submission of similar topic**

The evils of asset forfeiture are mounting. In the current session of the Wyoming legislature, this unjust and unreasonable practice is once again the subject of a bill, HB 14, tendered unsuccessfully last year by Rep. David Miller who continues to pursue it this year. We should all hope the bill becomes law this time around.

I asked a LEAP representative (Law enforcement Against Prohibition) why law enforcement lobbied against the bill last year. “Asset forfeiture amounts to policing for profit,” he said. “It’s the cash cow of the war on drugs.”

It’s also the reason why investigations of violent crimes—murder, rape, burglaries—are neglected in favor of chasing after nonviolent occasional drug users. Today’s law enforcement agencies use the gains from asset forfeiture to finance anything from salaries to drug-bust operations. In one well-publicized case, a Philadelphia couple’s home was seized after their son made \$40 worth of drug sales on the porch.

“Cities and counties continue . . . supplementing their budgets by engaging in the type of seizures that we’ve seen in Philadelphia and elsewhere,” said Lee McGrath, a lawyer for the Institute for Justice, a public-interest law firm that has mounted a legal assault on civil forfeiture.

Prosecutors and law enforcement officials learn the nuts and bolts of civil forfeiture via seminars. Some of the seminars have been video-taped, and Mr. McGrath’s Institute has brought them to public attention. The videos demonstrate how cynical the practice has become. Not only does asset forfeiture run roughshod over due process rights; worse, the profit motif outweighs considerations for public safety.

Last year The New York Times reviewed three sessions, one in Santa Fe, N.M., that took place in September 2014, another in New Jersey that’s undated, and one in Georgia in September 2014 that was not videotaped. In the seminars, officials share tips on maximizing profits, on how to defeat the objections of so-called “innocent owners” who were not present when the alleged offenses occurred, and on how to keep the proceeds in the hands of law enforcement and out of general-fund budgets. They offered advice on dealing with skeptical judges. They mocked Hispanics whose cars were seized.

Their comments illustrate how asset forfeiture encourages decisions based on the value of the assets to be seized rather than on the crimes committed. In the Georgia session, the prosecutor leading the talk boasted that he had helped roll back Republican-led efforts to reform his state’s asset forfeiture. There, seized money has been used by the authorities, according to news reports, to pay for sports tickets, office parties, a home security system, a \$90,000 sports car.

Sean McMurtry, the chief of the forfeiture unit in the Mercer County, N.J., prosecutor’s office, claims that forfeiture contributes to only a small percentage of local budgets while acting as worthwhile deterrent. “We’re very proud of our forfeiture operations,” he said in an interview.

Yet in the video he made it clear that his handling of cases is sometimes determined by departmental wish lists. “If you want the car, and you really want to put it in your fleet, let me know — I’ll fight for it,” Mr. McMurtry said while addressing law enforcement officials. Prosecutors estimate that between 50 to 80 percent of the cars seized are driven by someone other than the owner, which means, often parents or grandparents lose their cars.

In New Jersey, warrior cops and prosecutors are allowed to retain cars, cash, and other seized

goods; the rest must be sold at auction. Cellphones and jewelry, Mr. McMurtry advised, are “not worth the bother.” Flat screen televisions, however, “are very popular with the police departments.” The video comments made it clear that forfeitures are highly contingent on perceived needs of law enforcement.

Prosecutors boasted in the sessions that seizure cases are rarely contested or appealed. That’s because civil forfeiture places the burden on owners, who must pay court fees and legal costs to get their property back. When court costs outweigh property values, seizures go uncontested.

in the 1980s, asset forfeiture was conceived as a way to cut into the profits that fueled rampant drug trafficking by cartels and other criminal enterprises. In 1986, it was expanded to include not only cash but also purchases or investments supposedly made with that money, creating a whole new scheme of crimes that could be prosecuted as “money laundering.” Eventually, more than 200 crimes beyond drugs came to be included in the forfeiture scheme. The property eligible for seizure was expanded also.

Until the U.S. Congress abolishes this evil, states must act on their own. Wyoming, too, has its warrior cops and warrior tactics. HB 14 will prevent local law enforcement agencies from using confiscated property for their own gains. It should be enacted.

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