

Mangino column: Asset forfeitures provide a \$70 billion windfall for law enforcement

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Two Middle Eastern men were driving through Pennsylvania on their way from Brooklyn to Tennessee. Their vehicle was stopped by the Pennsylvania State Police. According to Spotlight PA, an independent, nonpartisan news service affiliated with The Philadelphia Inquirer, during the traffic stop the state trooper asked if either man was carrying a large sum of cash.

The men said yes, explaining that they had \$10,000 because they were worried about their car breaking down and wanted cash for repairs. They told the trooper whatever money was left would be used for one of the men to travel to Egypt.

After getting consent to search the vehicle, the police found nothing. Regardless, the state police took the \$10,000. The money was later tested and found to have “high levels of PCP.”

The Pennsylvania Attorney General’s Office concluded the cash was “used to buy or sell drugs through an unknown drug-trafficking ring.” Neither man was charged with a crime or even cited for a traffic violation. However, because the men did not contest the civil forfeiture of the cash, the state kept it.

This form of government-sanctioned theft is not unique to Pennsylvania - although Pennsylvania Governor Tom Wolf has requested the state’s Office of Inspector General conduct a review of whether Pennsylvania State Police troopers are following the law when initiating traffic stops and then searching vehicles.

This week, the Institute for Justice released the third edition of “Policing for Profit: The Abuse of Civil Asset Forfeitures.” With data from 45 states, the District of Columbia and the federal government, the report reveals that civil asset forfeitures are a massive nationwide problem. According to the report, states and the federal government have forfeited at least \$68.8 billion, in the last 20 years.

That is probably why, according to a Cato Institute/YouGov Survey, 84% of Americans oppose civil asset forfeitures. Only one in six people think police ought to be allowed to seize property before a person is convicted.

How can the assets of a person not convicted of a crime be forfeited to the government?

Forfeiture cases are brought against the property, meaning prosecutors file suit against items like cash, cars or homes. According to Spotlight PA, the courts then require the owners to prove they have the legal basis to challenge the state and then argue to get their property back. Since the process is handled in civil court, people seeking to get their money back are not entitled to a court-appointed attorney.

In 2019, the U.S Supreme made a ruling that many thought would kick the legs out from under civil asset forfeiture. An Indiana man was convicted of drug trafficking. The police seized his recently purchased Land Rover SUV. He purchased the SUV with the proceeds of his late father's life insurance.

The vehicle was worth \$42,000. His fine was \$10,000. The trial judge said the forfeiture was, pursuant to the Eighth Amendment, excessive and disproportionate to the offense. The Supreme Court agreed.

In spite of the Supreme Court's ruling, civil asset forfeitures continue. There is tremendous incentive for police to grab assets. In most states, police and prosecutors have complete access to those funds for any "law enforcement" purpose they can dream up.

The Institute of Justice report also revealed that forfeitures rarely target big-time criminals. Nearly half of all currency forfeitures are "worth less than \$1,300." The data reflects that the police are not taking the assets of kingpins, but rather small-time offenders who can't afford to hire an attorney and who simply walk away from their property.

Lisa Knepper, a research director with the Institute of Justice, put it best, "Most laws still stack the deck against property owners and give law enforcement perverse financial incentives to pursue property over justice."