

Opinion: Policing for profit prevails at Alabama Legislature

Leah Nelson and Shay Farley

May 3, 2018

During this legislative session, advocates from across the ideological spectrum came together with one goal in mind – to eliminate civil asset forfeiture. In the end, we learned that policing for profit was more important than protecting the due process and property rights of Alabamians.

Alabama’s civil asset forfeiture laws can ruin lives – even the lives of people never found guilty of any crime. Just ask Jamey Vibbert, a Dothan car dealer, former president of the Dothan/Houston County Rotary Club, three-time Ambassador of the Year for the area Chamber of Commerce, and victim of this un-American law. He lost his life savings and his business fighting to clear his name. Even after he was found innocent, he still had to pay a lawyer to help him get his money back – all because of Alabama’s civil asset forfeiture laws, which allow law enforcement to take people’s money without obtaining a conviction or even charging them with a crime.

Vibbert’s case was no outlier. Over the past year, we documented abuse after abuse.

In the course of our investigation, we talked with individuals across the state whose lives had been disrupted by this abusive practice. There was a young woman from Tuscaloosa who had just cashed her paycheck when police searched her boyfriend’s car, in which she was a passenger, and found marijuana. They seized her money, saying they had probable cause to believe it was from selling drugs. Frightened by her first arrest and in the throes of a difficult pregnancy, she didn’t have it in her to hire a lawyer to contest the seizure in court. She never saw that money again.

There was a man in Mobile who had just received almost \$100,000 in worker’s compensation when police raided his house. They found a small quantity of drugs, and used that as a basis to take his settlement money – along with his girlfriend’s collection of purses and sunglasses, and even pictures off the walls. Also in Mobile was a man whose cousin was a former football star. When police raided his home, they took his cousin’s football memorabilia, claiming, somehow, that it was derived from drug dealing. And in Montgomery, there was a man whose car was seized because his son alleged used it to commit a crime. Even though they knew the father was not involved, police took his car anyway, forcing him to pay a lawyer to try to get it back.

These stories are appalling, but they are not unusual.

We examined court records in 1,110 cases in 14 counties, representing 70 percent of civil asset forfeiture cases filed in Alabama in 2015. In 25 percent of cases, the government took a person's property without even charging them with a crime. In that same year, the government took – and kept – at least \$670,000 from people never charged with a crime.

Two bills introduced in this legislative session would have done much to fix this abusive system. The effort led by Senator Arthur Orr (R-Decatur) and Representative Arnold Mooney (R-Birmingham) would have protected the due process rights of Alabama property owners while still ensuring that the government could collect the proceeds of criminal activity. It would have protected innocent owners whose property was used in alleged criminal activity without their knowledge or consent; brought transparency to the forfeiture process; and limited the ability of state law enforcement to use the abusive federal forfeiture program.

We knew that, despite having broad, bipartisan support, we would face an uphill battle. That's because civil asset forfeiture laws incentivize the pursuit of profit over the fair administration of justice. Under Alabama law, law enforcement agencies can keep up to 100 percent of the proceeds from forfeited property, and we're talking about a lot of money. When you combine the amount that Alabama law enforcement takes in through the state and federal programs, it adds up to more than \$5 million a year.

With time running out at the State House, discussion focused on a small subset of the original bill: requirements to improve transparency and collect and make public basic information about how civil asset forfeiture works in Alabama. Though we collected similar information for 2015, we believed the state should provide taxpayers transparency and, in turn, be accountable for its actions. Even this modest reform was a step too far for those comfortable with the status quo. Despite passing the Alabama Senate 25-1, the transparency bill was never addressed by the House before session ended.

The abuses happening in Alabama are not limited to here. States across the country are taking action to end this abusive program. Already 26 states and the District of Columbia have reformed their civil asset forfeiture laws. And, according to a CATO Institute survey, 84 percent of Americans agree that civil asset forfeiture should end. With election season coming up, we urge legislators to remember that fact. It's time for Alabama to show that policing for profit has no place here.