



Robeson County returns to asset forfeiture program despite ongoing concerns

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It's been more than a decade since 22 people with the Robeson County Sheriff's Office were ousted because of rampant corruption.

The state and federal investigation operation "Tarnished Badge" led to multiple criminal convictions, including perjury, kidnapping, drug trafficking, money laundering, armed robbery, and pirating satellite television signals. The investigation took several years, and investigators at the time said corruption went back to at least 1997.

The indictment alleged that three deputies — Roger Taylor, C.T. Strickland, and Steven Lovin — burned two homes and a business, assaulted people, paid informants with drugs, and stole and laundered public money.

Corruption was only part of the problem. Under federal law, it's perfectly legal for North Carolina law enforcement to take property and profit from it monetarily, even if the property owner isn't a convicted criminal, or even a suspect. The federal program is called Equitable Sharing.

But because of the convictions, in 2004 the Robeson County Sheriff's Office was removed from the program. Robeson County has been reinstated, the U.S. Department of Justice announced Thursday, Nov. 21. Sheriff Burnis Wilkins, sworn in last December, labeled the re-entry a significant achievement.

"This has been a huge undertaking and has taken almost a year to make recommended changes to earn the trust of not only all federal law enforcement agencies but the US Attorney's Office as well," he said in an emailed statement. "My office is proud to have earned that trust as this program will bring back many resources and funding opportunities that were lost almost two decades ago."

But opponents of civil forfeiture say the old problems won't go away with new officers. The problem, rather, is inherent in the policy.

"I don't think this is necessarily about corruption," said Dan Alban, a senior attorney with the Institute for Justice. "The problem of civil forfeiture is one of perfectly good cops responding to incentives."

The Equitable Sharing program allows state and local agencies to keep 80% of whatever they take from forfeiture. The federal government keeps the other 20%. In 2018, N.C. law enforcement agencies made a little more than \$17 million from forfeited cash and sales proceeds, show records from the DOJ.

Bypassing state law

Equitable Sharing allows law enforcement to bypass state law. In North Carolina, agencies can only forfeit property upon a criminal conviction, with all proceeds going straight to the state's schools, and not to law enforcement pockets.

North Carolina is the gold standard when it comes to civil asset forfeiture laws, said Jon Guze, director of legal studies at the John Locke Foundation. Until four or five years ago, it used to be the only state that didn't direct proceeds from civil forfeiture back to law enforcement.

But it's much more profitable for law enforcement to take the federal loophole. Notably, Washington, D.C., and seven states — not including North Carolina — prohibit local law enforcement from participating in the Equitable Sharing Program.

The Institute for Justice gives the federal government a “D-minus” for its civil asset forfeiture policy. North Carolina, on the other hand, is among the top three states for best forfeiture policy, earning a “B-plus.” The reason the grade isn't higher? North Carolina allows exceptions in racketeering cases, where a conviction isn't required.

Still, it pays the bills

Eddie Caldwell, executive vice president and general counsel of the N.C. Sheriffs Association, says Equitable Sharing is “absolutely without question” a very beneficial program for law enforcement.

Although he labeled the 2004 Robeson County sheriff corruption a “tragedy,” he said that doesn't mean the federal program should be abolished altogether.

“People steal money from churches, but you don't shut down the churches,” he said. “People steal money from convenience stores, but you don't shut down the convenience stores. There are all sorts of situations where bad people commit a criminal activity, but that's not any reason to shut down an entire, successful program.”

Without the program, Caldwell says, law enforcement would have to depend even more on taxpayer dollars. It makes more sense to make criminals pay.

Nearly united opposition

But others point out it's not just the criminals who pay. If law enforcement needs more funding, they should seek it through a different channel — like their municipality, or the state legislature.

“We want law enforcement agencies to be adequately funded,” Guze said “But it's wrong to let them fund themselves by preying on citizens.”

The issue unites people from the right and left, Alban said, with Republicans touting property rights, and Democrats civil liberties. One Cato Institute poll found 84% of Americans oppose civil asset forfeiture.

“You can’t get 80% to 90% of the American public to agree on anything,” Alban said. “In the past several years, people have become more aware of it.”

Leah Kang, a staff lawyer for the ACLU, agrees.

“Regardless of who is in the sheriff’s office, the policy undermines constitutional policing, and it undermines due process rights,” she said. “You have to make sure you have a criminal conviction in hand before you force someone to give up their property.”