



IdahoReporter.com

Transparency. Accountability. Liberty.

IDAHO LACKS FORFEITURE REPORTING LAWS, EXPERT WARNS

Dustin Hurst

October 21, 2015

A national asset forfeiture expert said Idaho, like several other states, lacks reporting laws forcing the government to reveal how often it takes Idahoans' property.

Dick Carpenter, the director of strategic research, for the Institute for Justice, told IdahoReporter.com this week Idaho must strengthen its laws to protect property rights.

“State forfeiture reporting requirements are uniformly horrible,” Carpenter warned. “And in those states with reporting requirements, the transparency facilitated by the reports ranges from pathetic to useless. The barest of data are reported, agencies fail to file reports, and data inconsistencies are common problems in forfeiture reporting.”

Police officials see asset forfeiture as an important tool to fight organized crime and drug dealers. In theory, the practice stops criminals from profiting from their crimes.

Here's a definition, courtesy of the Heritage Foundation:

Civil asset forfeiture is a legal tool that allows law enforcement officials to seize property that they assert has been involved in certain criminal activity. In fact, the owner of the property doesn't even need to be guilty of a crime: Civil asset forfeiture proceedings charge the property itself with involvement in a crime. This means that police can seize your car, home, money, or valuables without ever having to charge you with a crime. There are many, many stories of innocent people being stripped of their money and property by law enforcement.

Legal officers can — and do — abuse the process. In Pennsylvania, a city tried to take the Sourovelis family's home over \$40 worth of heroin. The drugs belonged to a son in the family and the parents allegedly knew nothing of their son's drug habit. Still, the government tried to take the home anyway before a public outcry forced them to reverse course.

The case is one of many. Former Watchdog.org writer Steven Greenhut laid out his argument against “polificing for profit” here, a piece in which he detailed the federal government's attempt to take a Massachusetts family's hotel because visitors often dealt drugs there.

The myriad abuses unite usually warring factions of the political spectrum. The Institute for Justice leads the charge against the practice, but groups like the Heritage Foundation, the American Civil Liberties Union and the Cato Institute have sounded the alarm over the practice.

“But today, aided by deeply flawed federal and state laws, many police departments use forfeiture to benefit their bottom lines, making seizures motivated by profit rather than crime-fighting,” the ACLU’s website says. “For people whose property has been seized through civil asset forfeiture, legally regaining such property is notoriously difficult and expensive, with costs sometimes exceeding the value of the property.”

Reform slowly creeps across the country. New Mexico Gov. Susanna Martinez banned asset forfeiture sans a criminal conviction earlier this year. The New Mexico bill also requires all revenue generated from criminal forfeiture to flow into general funds, which proponents say will prevent police from using the process to fill slush funds.

Michigan Gov. Rick Snyder signed a seven-bill package this week reforming forfeiture in his state. The slate increases evidence required for police to take property, plus adds annual reporting requirements for police.

Carpenter said all states must adopt similar rules to fight improper use. “To fix this, all law enforcement agencies should be required to track and report forfeiture activity, revenues and expenditures,” Carpenter told IdahoReporter.com

“At a minimum, reporting should be standardized, made available online, and include detail down to the property or expenditure level that would enable elected officials and citizens to know what is taken, what happens to the properties, how proceeds are spent, and how much is civil versus criminal.”

Idaho scores poorly in interest group audits of its asset forfeiture policies. FreedomWorks gave Idaho a “D-” grade in a report earlier this year, and slammed the state’s low bar for takings.

“The standard of proof is too low; the government may forfeit property by showing a preponderance of the evidence,” the report said. “The burden is on the owner to prove his innocence to get his property back.”

The Institute for Justice gave Idaho a “C” grade overall.