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Asset Forfeiture Isn't about Crime. It's about the Money. This Is How We Can Tell.

Heavy police opposition to asset forfeiture restrictions in Minnesota is revealing, and shows the kind of push-back that happens in every state considering reform.

by Michael Maharrey

Last month, a Minnesota House committee passed a bill that would reform asset forfeiture laws to prohibit the state from taking property without a criminal conviction. It would also close a loophole that allows police to circumvent more strict state laws by passing cases off to the federal government. But the bill faces significant law enforcement opposition as it continues through the legislative process.

A bipartisan coalition of 15 representatives introduced House Bill 3725 (HF3725) on March 14. The legislation would reform Minnesota law by requiring a criminal conviction before prosecutors could proceed with asset forfeiture and would end civil asset forfeiture in the state. Grassroots activists on the ground in Minnesota say powerful law enforcement lobbying interests could jeopardize passage of HF3725.

Follow the Money

Police opposition to this legislation in Minnesota is illustrative. This same kind of intense push-back happens in every state that considers asset forfeiture reform, and the arguments being used by Minnesota police lobbyists feature the same twisted logic and duplicity we see across the country.

Several law enforcement officers representing various lobbying groups testified during the House committee hearing on HF3725. They swore asset forfeiture wasn't about the money, but virtually all of their reasons for opposing reform revolved around the money.

Shakopee Police Chief Jeff Tate testified representing the Minnesota Chiefs of Police Association. His argument against the bill principally focused on the potential loss of funding police departments would experience if the bill passes.

As Tate stated:

“Departments use these funds to enhance and deliver services in their communities—services drug dealers pay for, not the community.”

Wright County Sheriff Joe Haggerty testified on behalf of the Minnesota Sheriffs' Association. He echoed a similar theme, ticking off important programs funded by asset forfeiture money. Then he swore it wasn't about the money.

He said:

“This has not been a money-grab. It’s not in the back of my brain, the front of my brain that I’m doing this for money. It doesn’t occur. Certainly not in Wright County.

So, if it’s not about the money, what is it about according to the cops? Why, public safety, of course. Listening to these cops talk, you’d think that if this bill passes, police departments will just shut down and drug dealers will run Minnesota. It amounts to a scare tactic used to justify violating people’s rights.

“Forfeiture works,” Tate said, citing a study conducted by the county. He claims of all the people who had their cars taken by the state, only 17 percent reoffended. “I think that’s fantastic,” he said.

“We know people sell drugs to make money. Not having the ability to confiscate drug funds would make their job easier and more lucrative. And we can’t keep up with them right now. We use forfeiture funds to improve public safety.

Notice the pivot back to the money.

The Straw Man

But beyond that, law enforcement sets up a straw man. They argue as if reform would end forfeiture. But this legislation would not take away the ability of police to confiscate drug funds. It would merely require a criminal conviction first. Therein lies the duplicity in law enforcement arguments. They are misrepresenting the legislation to make it sound like they won’t be able to seize property used in a crime. In reality, it just means they will have to actually prove a crime was committed by the owner of the property first.

Haggerty’s fear-mongering was even more over-the-top and his

misrepresentation of HF3725 even more overt.

He said:

“Allowing them to keep their assets to facilitate this lifestyle of criminal activity and rain havoc on the very communities we serve is counterproductive to our mission of promoting public safety.

He went on to say, “I cannot think of one arrest that didn’t result in a conviction.”

Well, OK then. What’s the problem? This bill does nothing but require a conviction. If all of the forfeitures result in a conviction, how can he claim passage of H3725 will let bad guys keep their ill-gotten gains?

He can’t.

Which brings us back to the real issue—money.

One Man’s Story

H3725 would direct forfeiture proceeds to victim advocacy programs and to the general fund instead of directly to law enforcement agencies. This would remove the “policing for profit” incentive inherent in the current system.

There is no doubt asset forfeiture proceeds fund some worthwhile programs. But that doesn’t justify denying due process and basically stealing stuff from people. The mafia certainly provides benefits to some people in the neighborhood, but nobody would use that argument to justify their extortion racket.

Jimmy Cosgrove is one example of people caught up in the tangled web of forfeiture.

Jimmy and his lawyer both testified at the committee hearing. Jimmy served in Afghanistan and came back with PTSD. Like many vets, he self-medicated with alcohol. After his second DUI, police seized his car.

The car was more than just a mode of transportation. He bought it and named it in honor of one of his buddies who was killed in Afghanistan. After that second arrest, he went into a treatment program. All he wanted was his car back. Once Jimmy was in treatment, his lawyer pleaded with the city attorney to return the car. The prosecutor came back and said the police department that made the arrest and seized the vehicle wouldn't return it. They wouldn't even sell the car back to Jimmy at its current market value.

Jimmy said it was clear to him that the police were calling the shots.

“With the system in place right now, it's very clear to me, not really knowing anything about law, obviously, but it's very clear to me that the police force had the incentive and they were running the show behind the scenes, which just clearly is—it's just not right, if you ask me.

It's clear listening to police testimony that when it comes to asset forfeiture the bottom line is the bottom line. They weave it into a web of “public safety” and act like drug dealers will get away scot-free if they can't take people's stuff on a whim. But when you listen to them talk, it always comes down to their budget.

Defense attorney Dan Koehler testified at the Minnesota hearing. He said allowing police to fill their budgets with forfeiture money was “dumb” and incentivizes “predatory practices.”

“We have no business doing that to law enforcement. They’re here to serve and protect. They shouldn’t be thinking, ‘Here’s our budget. Let’s count the beans. How much property do we need to forfeit this year to make ends meet?’ Because even if not a single officer on patrol is actually thinking like that in the front of their brain, in the back of their mind the incentive is there. And it has to be there because it is part of their budget, and that’s not the way law enforcement needs to be forced to operate. They should be funded. They shouldn’t be having to eat what they kill.”

Michael Maharrey

Michael Maharrey is the national communications director at the Tenth Amendment Center.
