

# NORTHWEST HERALD

## McHenry County law enforcement weigh in on asset forfeitures

### 'Policing for profit' or taking property and cash 'away from criminals'?

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As the McHenry County Sheriff's Office and other area police departments make moves to take property and cash, as they put it, "away from criminals," critics of asset forfeiture call the approach "policing for profit."

In Illinois, law enforcement can seize property suspected of being involved in criminal activity or property that is believed to be the proceeds of criminal enterprise. Property can mean cash, cars or real estate.

Nearly every police agency in McHenry County has initiated these legal proceedings this year, with the sheriff's office using them most frequently. It has reported \$868,546 in forfeitures to date.

Of that, \$346,070 has been in cash, but it also has seized real estate, vehicles, a trailer, motorcycles, weapons, TVs, computers and more, according to data it provided.

According to McHenry County court records, most of the seizures from various agencies are in small amounts: \$100 here or \$500 there. Other forfeiture actions are much larger. Last month, prosecutors filed the legal documents to seize \$140,618 from a Spring Grove man accused of dealing marijuana. Roger Lambrechts is charged in Lake County, but a McHenry County search of his home turned up an additional six figures that are the subject of pending forfeiture action.

Lambrechts' attorney couldn't immediately be reached for comment.

The way the law works, Lambrechts has the burden of proving the cash was not the proceeds of illegal activity. If he fails, the cash would be divided between the arresting and prosecuting agencies.

Of the money seized, 65 percent goes to the arresting agency, 12.5 percent goes to the state's

attorney's office, 12.5 percent to the appellate prosecutor's office and 10 percent to the Illinois State Police. Property seized can be sold at auction and the proceeds divided as described, or used for law enforcement purposes.

Here's where the critics come in.

In a 2010 report called "Policing for Profit," the Institute For Justice – a Washington, D.C.-based libertarian nonprofit, said the payout from these seizures can cloud the motive of law enforcement officials, whose goal, it said, should be "the fair and impartial administration of justice." Instead, law enforcement is driven largely by profit, the organization argued.

Not so, said McHenry County Sheriff's Lt. Don Carlson, who said these seizures aren't lining anyone's pockets.

"It's not like the more we seize, the more money we make," Carlson said. "I still get paid. If we seize \$50 million, I don't see any pay increase.

"The money is a benefit to the department."

Carlson said the funds or assets seized are used to further law enforcement capabilities and to target criminal activity. For example, seized money could be used to set up more drug buys, or seized vehicles can be kept for use as undercover cars, he said.

"I think we should be taking these assets from the criminals," Carlson said. "... And take some of that burden off the taxpayers in regard to enforcement actions – meaning we're not taking taxpayer money and buying undercover vehicles."

Opponents also say the legal process "make[s] civil forfeiture relatively easy for the government and hard for property owners to fight." The burden of proof is much lower for prosecutors in these civil actions than in criminal prosecutions, where they must prove guilt beyond a reasonable doubt. The government needs only to show probable cause to seize property, and the individual need not be found guilty in a criminal case to lose cash or property under forfeiture proceedings.

The burden is then on the property owner to prove their innocence or, as the institute puts it, "property owners are effectively guilty until proven innocent."

"It's not about the money," Carlson said. "It's about taking the crime off the streets and making them safer. The money is nice though, don't get me wrong."

How assets are divided once seized by authorities

- Seizing agency or agencies: 65 percent
- State's Attorney's Office: 12.5 percent

- Appellate Prosecutor's Office: 12.5 percent
- Illinois State Police: 10 percent