CIVIL ASSET FORFEITURE

POLICING THE PROFITS

Nationwide, concerns about overzealous seizure of assets by law enforcement have reached the U.S. Supreme Court. In Hawaii, the Legislature has just approved a bill to improve due-process protections that curb potential for abuse.

Hawaii’s reforms go a long way to restore public trust in police

By Mandy Fernandez and Carl Bergquist

Hawaii’s Legislature has passed House Bill 748, a bill to reform the civil asset forfeiture program, and Gov. David Ige should sign it. Originally designed in the 1970s by the federal government to seize property from organized crime and cartels, asset forfeiture in its heyday seized, sold and laundered the proceeds from yachts, luxury cars and jewelry once enjoyed by career criminals and murderers into a fund that supports local policing. In Hawaii alone, asset forfeiture garnered over $1 million for the state between 2005 and 2015. Local police and prosecutors each kept 25% of that.

Sounds OK, right? Even righteous. We all saw “The Wire.” But what happens when these good motives go awry?

The truth is that there are low-government actions as stacked against the law-abiding public as civil asset forfeiture. While intended to deter crime, it is now used to pad police departments’ budgets by allowing them to take people’s property, even when they’ve never accused or convicted of a crime. This oft-abused system has hurt innocent people, and HB 748 goes a long way to fixing it.

If accused of a crime, we expect to be read our rights, have a lawyer, go to court, and if found

Please see POLICING THE PROFITS, F7
POLICING THE PROFITS

Continued from F1

innocent, be released. That's the due process our legal system (and every episode of "Law and Order") provides. But that's not what happens with asset forfeiture.

Imagine you are driving, excited to buy a motorcycle from some- one off Craigslist. All your liquid cash — $4,000 — sitting on your passenger seat. You get pulled over. The officer sees the cash, assumes you came by the money illegally, and seizes it.

Your $4K is now being sued by the government (yes, it is a weird idea that the government is suing a pile of money). The kicker? This all happens even if no charges are ever brought against you. Freaking out a little? You should be.

To get it back, you can pay a cash bond of $2,500 and hire a lawyer to take the government to court.

If you can prove you are too poor, the bond may be waived. If the court decides against your money, you lose it, AND now have to pay the costs and attorney's fees of the government as well. If you win, you only get your money and bond back — nothing else.

When profit becomes part of policing, there is a motive to go after not just the big bad criminals.

There's profit in going after everyone, especially when the game is rigged so heavily toward the government.

As revealed in a scorching audit last year, asset forfeiture in Hawaii goes unchallenged 85-95% of the time, is more commonly abused on the neighbor islands and frequently occurs without a conviction.

The real end result of asset forfeiture is erosion of public trust in our police. That's bad because we all want to be able to trust our police, but it's even worse now with the Honolulu Police Department embattled by ever-widening corruption scandals.

Thanks to the support of state Reps. Joy San Buenaventura, Chris Lee, Tom Brower, John Mizuno, Dee Morikawa and Chris Todd; and Senate Judiciary Chairman Karl Rhoads, HB 748 is a strong reform — it dilutes the profit incentive by directing all proceeds (after administrative expenses) to a general fund — eliminating earmarks for police or prosecutors — and requires the state to convict you before they get to auction off your property.

It will bring common sense and due process protections to Hawaii's forfeiture program, and ease the appearance of "policing for profit."

At a critical time to restore public trust in our police, the governor signing HB 748 would be a strong signal and a welcome step away from the shady forfeiture laws now e

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