Carol Cornwall

From: Carlyn Ward [carlyn.ward@gmail.com]
Sent: Wednesday, March 15, 2017 10:50 AM
To: Carol Cornwall; Representative Ilana Rubel
Subject: HB 202 Testimony

Chairwoman Lodge, members of the Committee, my name is Carly Ward and I served as the lead researcher to obtain civil asset forfeiture data in Idaho through the last few months.
I am a student at Concordia University School of Law, and was asked by Representatives Rubel and Harris to research incidents of civil asset forfeiture around the state.

Today, I want to share with you what I found, which is that there is no uniform recording of data, no public access to the data, and no transparency of the civil asset forfeiture system.

With the help of IFF and ACLU we submitted information requests to the following counties. For their records of civil asset forfeiture cases from 2010 thru Oct 2016

- Ada
- Bannock
- Bonneville
- Canyon
- Elmore
- Kootenai
- Latah
- Payette
- Twin Falls
- And the Idaho State Police

We felt these counties would provide a good sample of the counties within the state.

Of those 10 counties,

5 of the counties responded to our request with varying forms of information. These counties either did not have the information in one place,or would have to go through a number of cases in storage to determine which cases were asset forfeitures.
2 counties did not respond to our requests at all.
Only 3 of the counties had logs of civil asset forfeitures, only two of those provided the amount or designation of what was seized. None of the counties were able to tell us the value of the non monetary items seized.

The Idaho State Police was one of those agencies that has been very forthcoming.

I was able to piece together information for 2 other counties by looking up civil cases on the Idaho repository that contained the county prosecutor as the plaintiff, and since these are in rem actions, the defendant is an object or sum of money

Because of the difficulty in obtaining these numbers, it took approximately 90 hours to accumulate and analyse the information we were able to put in our sample size.

The reporting requirements included in this bill would remedy this time consuming venture. The information we were able to gather ranged greatly and the consistency with which the information reported was haphazard at best.

There is currently no method or requirement to report civil asset forfeitures. In some counties, reporting was not consistent from year to year. Between information requests and research there is no central location to find this information. Some counties were able to give us names, items forfeited, case numbers, criminal charges, arrest reports, receipts, intake sheets and financial records. Others just contained a name and a date.

None of the counties kept a record of the worth of items seized. There is no way to determine what the counties received from seized items like personal vehicles, a Peterbuilt, diamond rings, jewelry, gold and silver, weapons, lottery tickets, motorhomes, animals, etc.

So why do we need reporting? In a word, accountability. Reporting would reduce the temptation and incentive to police for profit. Additionally, the transparency of the records will reduce claims of abuse of the statute.

If we did have the reporting requirements proposed by this legislation, what would the public discover?

I discovered some signs of questionable practices regarding civil asset forfeitures that should be examined further. These signs included:

- In two counties, over 50% of seizures involved a vehicle.
- There were notes on the civil asset forfeiture logs that the amount of money was under $500 so the money wasn't worth seizing.
- Notes on civil asset forfeiture logs that noted that vehicles weren't seized because it was leaking oil, or wasn't worth it etc.,
- Notes in civil asset forfeiture logs that the defendant paid anywhere from $500-$3000 in 'exchange' for the vehicle seized, a number well in excess, and sometimes in addition to, paying the costs of towing and storage.
- A number of cases where judgements were handed down that split significant amounts of money (most $10k+) between the state and the defendant. This seems to indicate settlements like the ones mentioned earlier.
- The number of stipulated and contested judgements also lead one to believe that often these civil asset forfeitures might not have a major corresponding criminal action. In other counties we see that those forfeitures that default often default because the defendant is in prison or cannot afford representation. If a large amount of contested judgements exist, there seems to be an inference that there are no corresponding criminal charges or convictions.

In conclusion, the uniform reporting and public access requirements proposed by this bill will lead to transparency.

I thank you for your time. I stand for questions.

Carly Ward