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Police value, don't bank on drug forfeiture windfalls

by Andrew Sawmiller

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While not seen as a reliable funding source, drug forfeiture money and assets are becoming an important tool for area law enforcement agencies. While there's some strings attached to the cash seized through some drug forfeiture programs, these occasional windfalls can help departments equip officers, conduct additional drug enforcement activities, and save taxpayer money.

According to reports produced by the Michigan Office of Drug Control Policy, Oakland County law enforcement agencies received over \$4.6 million in forfeited assets during 2007, the latest year for which such information is available.

In 2006, that number was over \$4.5 million. Oakland departments received just over \$2.5 million in drug forfeiture funding in 2005.

That money can come in a variety of ways, depending on whether a particular department seized the assets on its own, in partnership with other departments, or as part of a federal operation. The more authorities involved, the more the seized assets are divided up or shared.

According to Lt. Joe Quisenberry, who leads the Oakland County Sheriff's Department Narcotics Enforcement Team (NET), the goal of all drug forfeiture programs remains the same.

"They all work on the premise that the legislatures have given law enforcement a tool to hit drug distribution organizations by seizing their assets and taking away their money," he said.

The drug forfeiture system under Michigan Compiled Law (MCL) 333.7521 specifically applies to drug case seizures. An administrative forfeiture consists of a notice of seizure to the owner or owners of the property, or someone who may have an ownership interest in it.

The law states when property is seized in connection with a drug raid, property that has a value of \$50,000 or less may be administratively forfeited to the agency conducting the operation.

The notice of seizure, mandated by state law, affords a suspect 20 days to claim an interest to keep the property, and to contest its forfeiture. When such a claim is filed, the forfeiture case is forwarded to the county for review, and ultimately a determination is made on whether to proceed to the circuit court with a civil case.

If the suspect doesn't respond to the notice of seizure within those 20 days, the property is automatically declared forfeited, and its proceeds are allocated to the appropriate law enforcement agency.

It must be proven that the seized property directly contributed to the sale of illicit substances or was obtained with funds from the sale of illicit substances in order for the property to be seized. The confiscating agency must use funds obtained through drug forfeiture cases to further enhance their enforcement of controlled substance laws.

"What we do with any property, whether it be real property, a house, a car, or whatever, is it has to go through a legal proceeding and once it's successfully forfeited and a court order comes about, then we can convert that into cash or the law says we can put that property into government use, as long as it enhances narcotics enforcement," Quisenberry said.

The law governing omnibus forfeitures, MCL 600.4701, also grants authority to law enforcement agencies to seize property determined to be the proceeds of a crime. The crimes enumerated in the statute include theft and

property crimes.

"There's actually different criteria on how certain things can be used," said West Bloomfield Police Lt. Carl Fuhs. "There's state forfeiture and federal forfeiture. The state is much more controlled than the federal. Federal funds, I believe, can be used for any law enforcement function. There are some restrictions; such as you can't supplant operational funds (with forfeiture funds). In other words, the township can't say, 'Well, we've got \$1 million in forfeiture money here so we'll cut the police budget by \$1 million and they can use the drug money for whatever.' When it comes to the state laws, I believe that money can only be used for drug-related law enforcement opportunities."

Area law enforcement agencies say any drug forfeiture windfall they can get is helpful, but they can't count on those cases as a stable funding source.

The following is a breakdown of area law enforcement agency uses and experiences with drug forfeiture funds and assets.

OAKLAND COUNTY SHERIFF'S DEPARTMENT

"We currently have cars, TVs, and a couple of homes that are currently undergoing forfeiture proceedings," said Undersheriff Mike McCabe. "That's kind of typical."

Currently, the department has \$400,000 in a drug forfeiture account, according to McCabe.

"From year to year the amount that we get can range anywhere from zero to ... last year, we got \$1.3 million," he said. "Now, that \$1.3 million was distributed between every agency that participates in NET."

The remaining funds that don't get dole out to other agencies remains at the county level for use in purchasing various things for the sheriff's department.

"Most of what we try to utilize those funds for is training, or one-time, large-scale capital purchases, and things of that nature," said Sheriff Michael Bouchard. "We've bought equipment for the crime lab, weapons for our special response team and a number of our dogs for the department through those funds."

When property or money is seized with the assistance of sheriff's department Highland Township Substation deputies, it's sent to the department headquarters in Pontiac.

"All forfeitures, all the way around, no matter where they occur, go to our department's drug forfeiture fund," said Lt. David Pement, commander of the Highland Substation.

Although the money doesn't get distributed to each substation that contributed to a seizure, Pement said the county typically uses some of the forfeited money to purchase things that benefit the substation and township, like the K-9 unit involved in a heroin bust that occurred in the township earlier this month.

The same goes for the department's Commerce Township Substation.

Although the drug forfeiture process isn't looked at as a reliable funding source, it has been a beneficial tool, according to Bouchard.

"The way I look at it, and the directive that they operate under is, they're not to be concerned with funding their job or anyone else's job as a focus," he said of drug enforcement operations. "If there comes an important time in an investigation where we can either seize drugs or seize money, I'd rather seize drugs and get them off the streets. That's my job, to see that we have adequate funds. Having said that, in these extremely difficult budget time, it's a huge help for us to have those resources to fill the holes that recent budgets have created."

WEST BLOOMFIELD TOWNSHIP

The township police department is currently holding a variety of items seized through drug enforcement operations, according to Lt. Carl Fuhs.

"We've got everything," he said. "There's electronics, cars, jewelry, guns, and clothes — everything imaginable. In the past, and I don't think we have any vehicles pending, but we've had vehicles. Vehicles are big. Occasionally in big cases, we'll get some real estate."

While it's hard to nail down a cash value for all forfeited property currently held by the department, Fuhs said the figure currently stands at about \$200,000.

"The best we can figure it, we have about \$100,000 in cash forfeitures pending and at least that much in property, so probably another \$100,000 there," he said. "Now, that's pending. Whether we get it all or not, that's something else. Split up between the different groups involved with each case, we may only see \$30,000 to \$40,000 of that."

The amount gathered in a year through drug raids varies greatly, according to Fuhs.

"That amount often varies from very high to very low," he said. "Last year, we got over \$72,000. In 2007, we got over \$62,000. Occasionally we'll have a real high year, like \$1 million. We've had a couple of those in the last 15 years. But we've also had years where we had \$20,000."

Fuhs said that in the past, the department has used forfeiture funds for a variety of things.

"We've used it on vehicles, drug enforcement equipment, surveillance equipment, overtime surveillance costs, and computers," he said. "We've replaced our in-car video systems, and we've bought guns with it. I can't even imagine all the stuff we've used it for."

Fuhs said that in the last 18 years or so, between \$4 million and \$5 million in drug forfeiture funding has been spent on various things to enhance police operations.

One of the biggest purchases in recent memory came at the end of 2007 and beginning of 2008. With the township Board of Trustees' approval, the department used over \$120,000 in forfeiture funds to install a digital camera security system at the police station, the Township Hall, and the entire civic center complex. That didn't cost the taxpayers a penny.

"Drug forfeitures, though, aren't really a funding source for the department," Fuhs said. "It's not intended that way and we don't use it that way. Obviously, though, at \$4 million or \$5 million in the past 18 years, it has helped the department and saved the taxpayers a lot of money."

WHITE LAKE TOWNSHIP

The White Lake Police Department isn't currently in possession of any property forfeited through raids on illegal drug operations.

"We don't have any physical property at this time," said White Lake Police Lt. Ed Harris. "We do have our drug forfeiture fund account."

In the past, the department had been in possession of a forfeited Corvette, a mobile home and various electronics. Those items would generate cash through auctions.

"As far as actual cash, we currently have about \$25,000 in our drug forfeiture account," Harris said. "We typically use that to purchase equipment. We've used drug forfeiture funds in the past to purchase equipment for our special response team that also does drug interdiction in the township. We've equipped them with heavier body armor, the automatic weapons that they carry and other equipment."

"We've also used drug forfeiture money in the past for the department as a whole," he said. "We've used it for arming all of our officers with new sidearms and pay for the associated training. We've also used it to replace all the body armor for all the officers."

Like in most departments, the amount of drug money coming into the department's coffers varies from year to year.

"It could be anywhere from a couple hundred dollars, to a couple thousands dollars, to tens of thousands of dollars," Harris said. "A few years back we did a joint operation with the (federal Drug Enforcement Administration) and as a result we shared in their proceeds and we got \$11,000 from them that year."

Given the nature of drug forfeiture programs, forfeiture funds are viewed as being important in White Lake.

"If we make an arrest and successfully seize a few hundred dollars through property or otherwise, just that few hundred dollars would go into the drug fund for the year," Harris said. "It's not something we can rely on because it varies so much year to year."

WALLED LAKE

Walled Lake officials may allocate drug forfeiture money for City Hall and police station upgrades, or possibly new buildings.

The current building housing the city offices and police station needs over \$500,000 in required upgrades and can't accommodate police staff or departmental needs.

"It's not just about a City Hall and police department but what's best for the community as a whole," said Walled Lake Police Chief Brent Liddy. "Federal forfeiture dollars are used to increase and enhance training, equipment, drug prevention education and operations which would include a new or updated police station. We're putting 60 percent into a police station where we'd occupy 65 percent of that building, but at this point, it's all conceptual."

The Walled Lake department has been accruing drug forfeiture funds since local police officers started working alongside Drug Enforcement Administration (DEA) personnel in drug raids. The department also collects funds through state and omnibus forfeiture programs.

Though there is no guarantee on how much money the federal government will dole out each year, historically the city receives over the \$200,000 a year.

In addition to the police station/City Hall development or renovation plan, the department plans to use its forfeiture funds to purchase immediate response equipment, including a rescue boat, dive equipment, and an all-terrain vehicle (ATV) by Memorial Day.

The total expenditure is capped at \$40,000.

The "jump" boat is expected to enhance the department's abilities to perform water and ice rescues.

State forfeiture dollars have allowed Walled Lake police to keep up with technological advances such as new digital audio/visual systems for patrol cars and a new fingerprint system called "Live Scan." A new mug shot system that aligns with Oakland County's has also been obtained.

In 2007-08 the department was entitled to state drug forfeiture dollars estimated at \$22,000. It's received \$3,800 thus far in 2008-09. To date, the department has received federal forfeiture funds totaling \$145,000.

The department stands to receive a minimum of \$300,000 this year alone.

WOLVERINE LAKE

The village's police department indirectly benefits from Walled Lake's federal drug forfeiture program as part of a public safety consolidation agreement, and also gleans state forfeiture dollars on its own.

According to Police Chief Joe George, though the village and city departments maintain their autonomy, the village would also reap benefits from a new Walled Lake police station.

"We will be able to operate more easily out of one facility and if they acquire new 911 communication equipment, that too will benefit us," George said. "Technically, via our consolidation, Walled Lake has been able to send an officer over to the DEA so we all benefit."

Wolverine Lake police receive state forfeiture funds, but the windfalls have been nominal.

According to Wolverine Lake Treasurer Mike Kondek, the village netted \$1,522 in drug forfeiture funds in 2007; \$1,000 in 2008; and \$822 thus far in 2009.

George said that in the past, the department has used such monies to purchase weapons used by officers involved in drug busts.

"We can use the monies for anything that aids drug enforcement investigations, but can't use it for supplanting the village operating budget," he said. "In the past we've used some of the money for weapons.

"We haven't spent any of the (currently accrued) money and have no plans to," Kondek said. "The little we've accrued, we've invested. By law the cash must be separately sequestered and sits to earn interest. Perhaps if the budget was super tight we would resolve to use it, but we have no plans per se."

George said it would be imprudent to rely on drug forfeiture funding as a steady source of funding.

"You never know what can happen," he said. "We could get zero one year, but \$2,000 the next. There are no guarantees so we don't count on that money in our budget. Forfeiture money comes in handy to help out departments. That's what they're meant for, but we have a budget and operate within those parameters. We don't use forfeiture funds unless it's an absolute necessity and we're not about to act frivolously with these dollars."

WIXOM

The city's police department has accrued approximately \$10,000 over the last two to three years from drug forfeiture cases. No forfeited personal property is currently held by the department.

According to Wixom Public Safety Director Clarence Goodlein, most of the department's drug forfeiture funds come through the execution of search warrants.

"If there's probable cause from a location, we file an affidavit for a search warrant and if we find controlled substances packaged for sale and money in close proximity, we assume those are the proceeds and the money is then forfeited," he said. "We have to be reasonably sure the proceeds are from illicit transactions. We don't want to be taking away anyone's money unless there is probable cause involved."

Forfeiture funds can be used for any purpose related to drug enforcement, according to Goodlein. They can be used to pay salaries for officers dedicated to drug law enforcement, weapons, equipment, or vehicles.

"They can also be used for educational purposes," he said. "They must be related in some way or hooked into enforcing drug laws or preventing chemical dependence."

Wixom police have also used drug forfeiture funding to offer a reward for the apprehension of a suspect involved

in a recent hold up.

"We had a recent hold up in one of our drug stores in the city, where the person responsible person stole controlled substances," he said. "Since it's a drug-related crime, some of drug forfeiture money has been earmarked for a reward for his arrest and conviction."

The Wixom department doesn't include the forfeiture funds in its operating budget, but looks at the dollars as supplemental income.

"For us it's just additional money," Goodlein said. "It's difficult, in my opinion, to rely on it on an annual basis because it's hard to project what the revenue will be. We have no idea what cases we will be involved in so it would just be speculation on our part."

WATERFORD TOWNSHIP

The Waterford Township Police Department collects about \$125,000 in drug forfeiture cash and property each year, according to Police Chief Dan McCaw.

"We don't normally hold any property that's seized," he said. "Once we get it it's sent off to an auction within a short period of time. Things we normally seize include phones, any devices used for manufacturing or distributing narcotics, electronics — anything that we can determine, within reason, that was purchased with drug money, including cars and boats."

According to McCaw, the department doesn't hold a lot of seized property at the police station.

"Generally we don't have any property that we just hold on to, it's either been adjudicated or given to us by a court order under the statute," McCaw said.

In the past few years the department has spent forfeiture funds on uniforms, weapons and equipment for its special operations unit and special response unit. These units are instrumental in combating drug activity in the township.

"They handle drug raids and things so we buy them uniforms and special tactical equipment," McCaw said. "We also purchase vehicles but it has to be reinvested into drug-combating activities. I can't use it to pay for an overtime detail or things like that."

The department also used forfeiture funds to purchase a K-9 unit vehicle.

The forfeiture funds the department receives are critical to the operations of the special units, according to McCaw.

"They are very important," he said. "Without those funds we probably wouldn't be able to have the drug team or special operations unit as we have it today."

MILFORD

According to Lt. Tom Callahan of the Milford Police Department, about \$25,000 in cash that has been forfeited and accumulated over the years is now being held by the department, along with two vehicles and weapons such as rifles and handguns.

"Some of that money, depending on the result of the civil forfeiture cases, may be divided up between our department, Wixom and Walled Lake, as the result of some joint efforts on cases," he said.

Some forfeiture funds are used annually to buy equipment such as armor for police officers, night vision equipment and a digital camera for photographing evidence during an investigation, according to Callahan.

The forfeiture funds the department collects in a year can fluctuate from \$6,000 to \$20,000.

Callahan added that the department doesn't rely on drug forfeiture money to fund drug enforcement operations.

"It is beneficial to cover costs and training, but there's no way of gauging what we'd get in a one- to two-year period," he said.

Staff writers Brooke Meier, Leslie Shepard-Owsley, and Michael Shelton contributed to this report.