



Written by [Steve Byas](#) on February 9, 2019

Theft by Oklahoma State Employee Illustrates Inherent Injustice of Civil Asset Forfeiture

Stephanie Ware, a 52-year-old employee of the Oklahoma Department of Public Safety (DPS), which oversees the Highway Patrol), has admitted that she took money seized through civil asset forfeiture (CAF) for her own personal use, it was revealed this past week. Ware has been the coordinator of CAF in the department since 1999.



Ware has been fired, but has not yet been charged.

Under CAF, law enforcement seizes personal property from citizens during traffic stops, often keeping the property even if the property owner has never been charged with any crime, or even arrested.

Ware filed a bankruptcy petition in 2014, and has admitted that she dipped into the funds that had been taken from citizens about 15 times. An investigator for DPS reported that Ware had taken varying amounts, from about \$1,000 to \$10,000 since 2015.

Ware's thefts are, of course, indefensible, and she likely faces deserved criminal punishment. But in a way, her pilfering from the civil asset forfeiture funds raises an obvious question — what is the moral difference between her using the funds seized from private citizens for her own personal use and law enforcement officials using the funds for their own personal use?

Law enforcement agencies often use such property themselves, this despite it having been taken from a private citizen who has never been charged, much less convicted of any crime.

Civil asset forfeiture (CAF) is a controversial legal process in which law-enforcement officers take assets from persons suspected of illegal activity without necessarily charging the owners with wrongdoing. Legally speaking, with CAF, the case is between the police and the *asset itself*, sometime referred to by the Latin term *in rem*, meaning “against the property”; the property itself is the defendant and no criminal charge against the owner is needed. This has led to some odd-sounding cases, such as *The State v. \$12,000 Cash*, or *The State v. A 2014 Toyota Camry*, when the assets are taken from owners without the property owners themselves being charged at all. Contrast this with *criminal* asset forfeiture, where the accused is afforded all of the constitutional and statutory procedural safeguards available under criminal law and must be found guilty beyond a reasonable doubt before property is forfeited.

Many times, a law-enforcement agency does not even file criminal charges, but simply takes the cash or other property. The harsh reality is that if law enforcement seizes cash or property, the expense of hiring an attorney and fighting to get the money back is often simply not worth it for the suspect — the amount seized is generally less than the expense of going to trial. For this reason, many poor and working-class Americans find themselves victims of CAF with no legal recourse.

What are the seized assets used for? Randy Balko wrote in *The Washington Post* in January 2015, that money has been used for new equipment, parties, and travel expenses to seminars held in places like



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Hawaii or Las Vegas. In Fulton County, Georgia, forfeiture money has gone for steak dinners and lavish parties. One police chief even purchased a tanning bed for his wife.

Are there any checks on abuse? Balko wrote, “My all-time favorite story has to be the one about Ron Sutton, the 30-year Texas prosecutor who spent more than \$25,000 in forfeiture money to take his entire staff, their spouses, and a judge on a Hawaiian vacation. Sutton’s defense: A judge signed off on the trip. Yes, it was the same judge who went on the same trip he’d just approved.”

Even in cases in which law enforcement figures believe they are fighting the scourge of drugs or other such vices with CAF, the practice is still wrong. After all, if we truly believe in the presumption of innocence, then why do CAF supporters insist on forfeiture without conviction? Doing wrong supposedly to do right is still wrong. Even in cases of murder, the accused are afforded the due process of law. One provision of the English Bill of Rights states clearly: “Forfeitures before conviction are void.”

Our own Fourth Amendment is likewise clear that the people have a right “to be secure in their persons, house, papers, and effects, against unreasonable searches and seizures.” Clearly, CAF is unconstitutional in the absence of a warrant, based upon probable cause. It is an assault upon the very concept of private property and the legal position that a person is presumed innocent until found guilty beyond a reasonable doubt.

At the end of the day, seizing private property and keeping it without the property owner being found guilty of any crime is theft, and there is no substantive difference between what the Oklahoma DPS employee did and many law enforcement officials across the country.



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