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Under Asset Forfeiture Law, Wisconsin Cops Confiscate Families' Bail Money

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When the [Brown County, Wis., Drug Task Force](#) arrested her son Joel last February, Beverly Greer started piecing together his bail.

She used part of her disability payment and her tax return. Joel Greer's wife also chipped in, as did his brother and two sisters. On Feb. 29, a judge set Greer's bail at \$7,500, and his mother called the Brown County jail to see where and how she could get him out. "The police specifically told us to bring cash," Greer says. "Not a cashier's check or a credit card. They said cash."

So Greer and her family visited a series of ATMs, and on March 1, she brought the money to the jail, thinking she'd be taking Joel Greer home. But she left without her money, or her son.

Instead jail officials called in the same Drug Task Force that arrested Greer. A drug-sniffing dog inspected the Greers' cash, and about a half-hour later, Beverly Greer said, a police officer told her the dog had alerted to the presence of narcotics on the bills -- and that the police department would be confiscating the bail money.

"I told them the money had just come from the bank," Beverly Greer says. "We had just taken it out. If the money had drugs on it, then they should go seize all the money at the bank, too. I just don't understand how they could do that."

The Greers had been subjected to civil asset forfeiture, a policy that lets police confiscate money and property even if they can only loosely connect them to drug activity. The cash, or revenue from the property seized, often goes back to the coffers of the police department that confiscated it. It's a policy critics say is often abused, but experts told The HuffPost that the way the law is applied to bail money in Brown County is exceptionally unfair.

It took four months for Beverly Greer to get her family's money back, and then only after attorney Andy Williams agreed to take their case. "The family produced the ATM receipts proving that had recently withdrawn the money," Williams says. "Beverly Greer had documentation for her disability check and her tax return. Even then, the police tried to keep their money."

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Wisconsin is one of four states (along with Illinois, Kentucky, and Oregon) that prohibits bail bondsmen. So bail must be paid either in cash, with a registered check, cashier's check or credit card. In fact, Donna Kuchler, a Wisconsin criminal defense attorney based in Waukesha, said police aren't allowed to insist on cash.

"I would be suspicious of why they would do that," Kuchler says. "I had a case last year in For my client could only pay in cash. My guess is that they probably intended to do the same cashier's check anyway, and they knew they had to accept it."

But the Greers still fared better than Jesus Zamora, whose family and friends continue to f

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Zamora was arrested in January on misdemeanor drug possession and a misdemeanor gun charge. A judge set his bail at \$5,000.

"My girlfriend borrowed some money from her sister and mother and a few friends, and they came to bail me out," Zamora says. "But then they started asking her if she had brought drug money. They took the money away and said they were going to have the drug dogs sniff it. She asked them when I would be let out, and they told her, 'He isn't going anywhere'."

The police then seized Zamora's bail money, just as they did with the Greers'. "I stayed in jail for, I think, another 11 days. I lost count. I had never been arrested for drugs before. And this was for a really small amount. Seventeen painkillers, for which I had a prescription, and a small bag they say had traces of cocaine. And they say my girlfriend and I just had \$5,000 in drug money lying around."

Zamora's girlfriend borrowed more money from friends and coworkers, which she promised to pay back out of her mother's tax return. They waited until Zamora had a court date, and this time posted his bail in front of a judge, with a cashier's check. Wisconsin law enforcement officials also are required to provide a receipt when they confiscate property under forfeiture laws. Beverly Greer and Jesus Zamora both said they were never given receipts.

Brown County Drug Task Force Director Lt. Dave Poteat says the dog alerts were not the only factors. According to Poteat, the Greers and Zamora's girlfriend appeared nervous when they brought in the bail money. "Their stories didn't add up. Their ATM receipts had the wrong times on them. And they were withdrawing from several different locations. The times just didn't correspond to their stories."

Poteat says an additional reason Zamora's bail money was confiscated was because during calls from the jail to multiple people, he indicated the money was drug-related. "Mr. Zamora made a number of calls in which he appeared to be trying to disguise or hide where the money was coming from," Poteat says. "At one point, he even said to another party, 'of course the money is dirty.'"

According to Poteat, all inmate calls from the jail are recorded, and both the inmate and the party they call are warned before the call begins.

Zamora says he was merely telling his girlfriend where to get the bail money. "There's a guy who still owes me money from a car I sold to him. And where I'm from, everyone has a nickname. So I was telling her who she could go to that might be able to give her some money for my bail. I used nicknames because I didn't want the police to visit their houses."

Zamora says he was not attempting to disguise where the money was from, only telling his girlfriend and sister to find someone else to bring in the money so they wouldn't be interrogated. "I know how police do this. My sister just got her immigration papers. I didn't want them harassing her or threatening to deport her or to change her immigration status. I just wanted to protect them, so I told them to find someone else to bring in the money."

[Civil asset forfeiture](#) is based on the premise that a piece of property -- a car, a pile of cash, a house -- can be guilty of a crime. Laws vary from state to state, but generally, law enforcement officials can seize property if they can show any connection between the property and illegal activity. It is then up to the owner of the property to prove in court that he owns it or earned it legitimately. It doesn't require a property owner to actually be convicted of a crime. In fact, most people who lose property to civil asset forfeiture are never charged.

The laws were created to go after the ill-gotten gains of big-time dealers, but critics say they've since become a way for police departments to generate revenue -- often by targeting lower-level offenders. In 2010, the Institute for Justice (IJ), a libertarian law firm, rated the forfeiture laws in all 50 states, assigning higher grades to states with fairer policies. The [firm gave Wisconsin a "C."](#) When there's less than \$2,000 at stake, law enforcement agencies in the state get to keep 70 percent of what they take. If more than \$2,000 is taken, departments can keep half.

But in all states, police agencies can contact the Drug Enforcement Administration (DEA), making the case federal, and under federal law, local police departments can keep up to 80 percent of forfeiture proceeds, with the rest going to the Department of Justice. The institute reports that between 2000 and 2008, police agencies in Wisconsin took in \$50 million from the equitable sharing program with the federal government. According to Williams, the DEA recently filed a claim on Zamora's money in federal court, to take possession of the money through federal civil asset forfeiture laws.

But even in the odd world of asset forfeiture, the seizure of bail money because of a drug-dog alert raises other concerns. In addition to [increasing skepticism](#) over the use of drug-sniffing dogs, studies have consistently shown that most U.S. currency contains traces of cocaine. [In a 1994 ruling](#), for example, the U.S. 9th Circuit Court of Appeals cited studies showing that 75 percent of U.S. currency in Los Angeles included traces of narcotics. [In 2009](#), researchers at the University of Massachusetts analyzed 234 bills collected from 18 cities, and found that 90 percent contained traces of cocaine. [A 2008 study](#) published in the Trends in Analytical Chemistry came to similar conclusions, [as have studies](#) by the Federal Reserve and the Argonne National Laboratory.

Zamora says he was referring to the common presence of drugs on money when he told his girlfriend, "of course the money is dirty." "I had talked to my attorney about how all money has some drugs on it," Zamora says. "So I was trying to tell her what to say if they told her a dog alerted to it. That she was supposed to say, 'Of course the money is dirty -- all money is dirty.'"

Stephen Downing, a retired narcotics cop who served as assistant police chief in Los Angeles, says it isn't surprising that a drug dog would alert to a pile of cash, since it usually has traces of drugs.

"I'd call these cases direct theft. They're hijackings," says Downing, who is now a member of [Law Enforcement Against Prohibition](#), an organization of former police and prosecutors who advocate ending the drug war.

Downing says he recently consulted a medical marijuana activist in California who was told to fact that state law allows payment with a cashier's check, a registered check or a credit card. ' is a new idea getting shopped around in law enforcement circles."

[Law Enforcement Against Prohibition on](#)
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Poteat says he's aware of some studies from the 1980s about traces of narcotics on most U.S. currency, but that he didn't know about the more recent research. "Our dogs are trained with currency that's taken out of circulation. So they wouldn't alert to bills that have the same traces most other bills have."

Steven Kessler, a New York-based forfeiture attorney and the author of the legal treatise "Civil and Criminal Forfeiture: Federal and State Practice," said he had never heard of simply confiscating bail. "It's abhorrent. You can reject bail if you suspect the money is dirty. But you don't simply take it and hand it over to the police department."

Virginia attorney David Smith, who wrote a book on forfeiture, says he has seen other cases in which authorities have confiscated bail money, but adds, "No courts have ordered forfeiture simply on the basis of a dog alert. There has to be other evidence."

Forfeitures like these may not hold up in court, but failed cases wouldn't necessarily discourage police departments from continuing the practice. If the defendant never challenges the seizure, the department generates revenue. If the defendant challenges and wins, the department loses little.

Indigent defendants, in particular, may decide not to pursue a forfeiture case due to the expense, particularly if they've already used their savings on bail, or are more concerned with fighting pending criminal charges. In many cases, the amount of cash seized would be exceeded by the costs of hiring an attorney to win it back anyway. [In addition, under Wisconsin law](#), indigent defendants are not entitled to a public defender in civil asset forfeiture cases.

"I would think that one of these cases would be the perfect opportunity for a court to impose punitive damages against the police department," Kessler says. "You need to make it clear that it would be damaging for the police to attempt this sort of thing in the future. Considering how appalling these cases are, I don't see why a court couldn't do that."

Poteat says it "isn't unusual" for his task force to seize bail money under forfeiture laws. "I'd say we've done it maybe eight or nine times this year."

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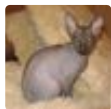
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Antony C. (outlandish)

121

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Clinical analysis of all American paper currency done 3 years ago found trace residue of cocaine and other drugs on more than 90% of a controlled sample batch of used notes.

They extrapolated that to a nationwide level and said that in total the amount trapped on the fibers would be between 50 thousand pound and 90 thousand pound.

This is obviously state sanctioned theft and the cops know it.

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No matter what you do, unless you take just printed money, 9 out of 10 notes will read positive and if you take a cash bundle to be later tested, the drug sniffing dogs will go haywire.

What a cheap and nasty way to raise revenue.

The family is going through a personal crisis and is in emotional distress then they are labeled as potential criminals.

It seems that the Walker police junta will find no level that they won't steep too , to raise revenue off of the backs of Wisconsin's hard done by population.

20 MAY 2012 6:44 AM

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121

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James W. (dadw5boys)
SUPER USER · 5,783 Fans · Disabled Vietnam Vet

1

the cops don't care it cost them nothing to take it but will cost you plenty to get it back

20 MAY 2012 10:04 AM

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Ron R. (TheHandyman)
SUPER USER · 2,986 Fans · Death...the last new experience you will ever have

96

And not too long ago on Democracy Now that had a lawyer and a scientist who discussed how drug hundreds of "drug dogs" had been test independently of their handlers and found that dogs only found drugs 5% of the time and with their handlers 92% of the time even when drugs were not present indicating that the dogs were picking up cues from their handlers that they wanted the dog to find drugs so they could search where they otherwise would not be allowed to.

Welcome to America Home of the Free to steal, maim, shoot, or taser someone to death, or beat them in the face with one until you kill them as 2 officers did in Fullerton California recently to a homeless man, in the name of good police work. This is just another reason to decriminalize drugs. And this abuse didn't just start a month ago. It has been going on for decades now!

20 MAY 2012 11:27 AM

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DismayedRepub
242 Fans · 300Mm/s Not just common sense, it's the law

1

The problem with dogs is that they cannot be cross-examined.

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**AntithiChrist**

343 Fans · Rhymes with Grist

19

Someone please give me a good reason why I should ever trust a cop, that I don't know personally, to do the right thing in any situation from a traffic stop to a routine administrative task, to a criminal investigation..

20 MAY 2012 6:16 AM

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**poguemahoney80**

197 Fans · What fresh hell is this...

11

I've worked with Law Enforcement for a couple of decades now...and most officers are professional and competent. But in a job like that it doesn't take many to blemish all of them. I personally think ending the drug "war" would help a lot because it would lessen the incentive to corruption.

20 MAY 2012 6:29 AM

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**Jeff_MacDonald**

SUPER USER · 936 Fans · Rights and privileges are not the same.

9

I was taught in history class that this is the kind of thing that our forefathers revolted against.

20 MAY 2012 8:49 PM

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**Rounder**

1,025 Fans · There is no such thing as superfluous bacon

9

Cops need to understand this. They are deliberately destabilizing our society and sowing the seeds of their own destruction. That's not some kind of threat, just an acknowledgment of the fact that they are crapping where they eat.

20 MAY 2012 8:52 PM

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**Wes Baggett** (Wes_Baggett)

SUPER USER · 179 Fans

10

and they wonder why people don't like or trust cops

20 MAY 2012 8:31 PM

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**elgeezr**

384 Fans · annoying Libs daily with orgasmic gusto

5

The people in this story don't deserve to be called Cops. They are small time, petty ante, hustlers working a scam.

20 MAY 2012 8:37 PM

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McGyver1
753 Fans · Big Fan of Mr. Bojangles

1

I know several cops and it's not all of them. People like this give cops a bad name.
20 MAY 2012 10:08 AM

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mugwhump
SUPER USER · 1,413 Fans · My chihuahuas own me.

6

The "good" cops turn a blind eye to what is wrong. That does not make them good.
20 MAY 2012 10:16 AM

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alans0222
401 Fans

I have another solution. Don't be a criminal, get arrested, and put yourself in that situation. I wonder what Mom is getting disability for??
20 MAY 2012 6:51 AM

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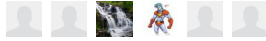


tom_sproule
385 Fans · Fudd Season

9

She's got PTSD from knowing tools like you exist.
20 MAY 2012 6:59 AM

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Fadel F. (fadelff)
SUPER USER · 348 Fans · Fancy pants, ivy league, liberal, elite

1

Wow...does the timing of this story have anything to do with smearing the police in Wisconsin who are against Walker? How dumb does the right think people are..will they fall for it, and blame the police...yes, this just did!
20 MAY 2012 8:30 PM

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robertinonanob
SUPER USER · 258 Fans · Hey it's dark in here. Who turned out the lights?

9

This does not have anything to do with Walker. This is about a tactic police have been using for some time all over the country. This just happens to be the most blatant example of thievery yet.

And it is not smearing if it is true which it is.
20 MAY 2012 8:41 PM

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Randy Bettis (Randy_Bettis)

10

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SUPER USER · 91 Fans

"Civil Asset Forfeiture" was the beginning of the end of our Democracy. It turned the police into crooks (as seen in this enlightening story) and unfairly targets the poor.
20 MAY 2012 6:58 AM

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John P. (PengieP)
SUPER USER · 198 Fans

6

Well, I don't know about "turning" the police into crooks. There have been cops who have been crooks pretty much since the beginning. This bad law just makes the bad ones more efficient crooks.
20 MAY 2012 7:05 AM

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mugwhump
SUPER USER · 1,413 Fans · My chihuahuas own me.

5

If the police bend this law imagine how many others they bend.
20 MAY 2012 10:01 AM

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smokeedaclown
757 Fans · Cannabis Cures

3

They break them all, don't kid yourself
20 MAY 2012 10:27 AM

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