

Washington Post

# Stop and seize

Investigative series

In recent years, thousands of people have had cash confiscated by police without being charged with crimes. The Post looks at the police culture behind the seizures and the people who were forced to fight the government to get their money back.

[Part 1:](#) After Sept. 11, 2001, a cottage industry of private police trainers emerged to teach aggressive techniques of highway interdiction to thousands of local and state police.

[Part 2:](#) One training firm started a private intelligence-sharing network and helped shape law enforcement nationwide.

[Part 3:](#) Motorists caught up in the seizures talk about the experience and the legal battles that could take over a year.

[Part 5:](#) Highway seizure in Iowa fuels debate about asset-forfeiture laws.

[Part 6:](#) D.C. police plan for future seizure proceeds years in advance in city budget documents.

# Part 1:

# Stop and seize

Aggressive police take hundreds of millions of dollars from motorists not charged with crimes

Written by [Michael Sallah](#), [Robert O'Harrow Jr.](#), [Steven Rich](#)

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**A**fter the terror attacks on Sept. 11, 2001, the government called on police to become the eyes and ears of homeland security on America's highways.

Local officers, county deputies and state troopers were encouraged to act more aggressively in searching for suspicious people, drugs and other contraband. The departments of Homeland Security and Justice spent millions on police training.

The effort succeeded, but it had an impact that has been largely hidden from public view: the spread of an aggressive brand of policing that has spurred the seizure of hundreds of millions of dollars in cash from motorists and others not charged with crimes, a Washington Post investigation found. Thousands of people have been forced to fight legal battles that can last more than a year to get their money back.

Behind the rise in seizures is a little-known cottage industry of private police-training firms that teach the techniques of “highway interdiction” to departments across the country.

One of those firms created a private intelligence network known as Black Asphalt Electronic Networking & Notification System that enabled police nationwide to share detailed reports about American motorists — criminals and the innocent alike — including their Social Security numbers, addresses and identifying tattoos, as well as hunches about which drivers to stop.

Many of the reports have been funneled to federal agencies and fusion centers as part of the government’s burgeoning law enforcement intelligence systems — despite warnings from state and federal authorities that the information could violate privacy and constitutional protections.

A thriving subculture of road officers on the network now competes to see who can seize the most cash and contraband, describing their exploits in the network’s chat rooms and sharing “trophy shots” of money and drugs. Some police advocate highway interdiction as a way of raising revenue for cash-strapped municipalities.

“All of our home towns are sitting on a tax-liberating gold mine,” Deputy Ron Hain of Kane County, Ill., wrote in a [self-published book](#) under a pseudonym. Hain is a marketing specialist for Desert Snow, a leading interdiction training firm based in Guthrie, Okla., whose founders also created Black Asphalt.

Hain’s book calls for “turning our police forces into present-day Robin Hoods.”

Cash seizures can be made under state or federal civil law. One of the primary ways police departments are able to seize money and share in the proceeds at the federal level is through a long-standing Justice Department civil asset

forfeiture program known as [Equitable Sharing](#). Asset forfeiture is an extraordinarily powerful law enforcement tool that allows the government to take cash and property without pressing criminal charges and then requires the owners to prove their possessions were legally acquired.

The practice has been controversial since its inception at the height of the drug war more than three decades ago, and its abuses have been the subject of journalistic exposés and congressional hearings. But unexplored until now is the role of the federal government and the private police trainers in encouraging officers to target cash on the nation's highways since 9/11.

“Those laws were meant to take a guy out for selling \$1 million in cocaine or who was trying to launder large amounts of money,” said Mark Overton, the police chief in Bal Harbour, Fla., who once oversaw a federal drug task force in South Florida. “It was never meant for a street cop to take a few thousand dollars from a driver by the side of the road.”

To examine the scope of asset forfeiture since the terror attacks, The Post analyzed a database of hundreds of thousands of seizure records at the Justice Department, reviewed hundreds of federal court cases, obtained internal records from training firms and interviewed scores of police officers, prosecutors and motorists.

The Post found:

- There have been 61,998 cash seizures made on highways and elsewhere since 9/11 without search warrants or indictments through the Equitable Sharing Program, totaling more than \$2.5 billion. State and local authorities kept more than \$1.7 billion of that while Justice, Homeland Security and other federal agencies received \$800 million. Half of the seizures were below \$8,800.
- Only a sixth of the seizures were legally challenged, in part because of the costs of legal action against the government. But in 41 percent of cases — 4,455 — where there was a challenge, the government agreed to return money. The appeals process took more than a year in 40 percent of those cases and often required owners of the cash to sign agreements not to sue police over the seizures.

- Hundreds of state and local departments and drug task forces appear to rely on seized cash, despite a federal ban on the money to pay salaries or otherwise support budgets. The Post found that 298 departments and 210 task forces have seized the equivalent of 20 percent or more of their annual budgets since 2008.
- Agencies with police known to be participating in the Black Asphalt intelligence network have seen a 32 percent jump in seizures beginning in 2005, three times the rate of other police departments. Desert Snow-trained officers reported more than \$427 million in cash seizures during highway stops in just one five-year period, according to company officials. More than 25,000 police have belonged to Black Asphalt, company officials said.
- State law enforcement officials in Iowa and Kansas prohibited the use of the Black Asphalt network because of concerns that it might not be a legal law enforcement tool. A federal prosecutor in Nebraska warned that Black Asphalt reports could violate laws governing civil liberties, the handling of sensitive law enforcement information and the disclosure of pretrial information to defendants. But officials at Justice and Homeland Security continued to use it.

Justice spokesman Peter Carr said the department had no comment on The Post's overall findings. But he said the department has a compliance review process in place for the Equitable Sharing Program and attorneys for federal agencies must review the seizures before they are "adopted" for inclusion in the program.

"Adoptions of state and local seizures — when a state and local law enforcement agency requests a federal seizing agency to adopt a state and local seizure for federal forfeiture — represent an average of only 3 percent of the total forfeiture amount since 2007," Carr said.

The Justice Department data released to The Post does not contain information about race. Carr said the department prohibits racial profiling. But in 400 federal court cases examined by The Post where people who challenged seizures and received some money back, the majority were black, Hispanic or another minority.

A 55-year-old Chinese American restaurateur from Georgia was pulled over for minor speeding on Interstate 10 in Alabama and detained for nearly two hours. He was carrying \$75,000 raised from relatives to buy a Chinese restaurant in Lake Charles, La. He got back his money 10 months later but only after spending thousands of dollars on a lawyer and losing out on the restaurant deal.

A 40-year-old Hispanic carpenter from New Jersey was stopped on Interstate 95 in Virginia for having tinted windows. Police said he appeared nervous and consented to a search. They took \$18,000 that he said was meant to buy a used car. He had to hire a lawyer to get back his money.

Mandrel Stuart, a 35-year-old African American owner of a small barbecue restaurant in Staunton, Va., was stunned when police took \$17,550 from him during a stop in 2012 for a minor traffic infraction on Interstate 66 in Fairfax. He rejected a settlement with the government for half of his money and demanded a jury trial. He eventually got his money back but lost his business because he didn't have the cash to pay his overhead.

“I paid taxes on that money. I worked for that money,” Stuart said. “Why should I give them my money?”

## In defense of seizures

Steven Peterson, a former U.S. Drug Enforcement Administration agent who arranged highway interdiction training through a company called the 4:20 Group, said that patrol officers used to try to make their names with large drug busts. He said he saw that change when agency leaders realized that cash seizures could help their departments during lean times.

“They saw this as a way to provide equipment and training for their guys,” Peterson said. “If you seized large amounts of cash, that’s the gift that keeps on giving.”

There is no question that state and federal forfeiture programs have crippled powerful drug-trafficking organizations, thwarted an assortment of criminals and brought millions of dollars to financially stressed police departments.

Advocates of highway interdiction say it plays an important role in protecting the public and that officers take care to respect the rights of citizens.

“We don’t go hunting for money in general,” said Sandy Springs, Ga., Officer Mike DeWald, who has served as a trainer for 4:20. “I never have been pressured to go after money. We are in pursuit of the criminal element.”

Police trainers said that their work has helped make the country safer by teaching police to be more vigilant in identifying drug smugglers and terrorists.

“9/11 caused a lot of officers to realize they should be out there looking for those kind of people,” said David Frye, a part-time Nebraska county deputy sheriff who serves as chief instructor at Desert Snow and was operations director of Black Asphalt. “When money is taken from an organization, it hurts them more than when they lose the drugs.”

Frye and Desert Snow’s founder, a former California highway patrolman named Joe David, defended Black Asphalt, which David started in 2004. They said they have taken steps in recent years to ensure that the informal police network complies with state and federal laws. David declined to speak to The Post.

“The Black Asphalt is not flawless, however the intent behind it is,” David and Frye wrote in a letter in 2012 sent to police and obtained by The Post. “The information being moved through the system has proven itself reliable on hundreds of occasions. Much more reliable than any criminal informant. The results have been staggering. It has proven itself an extremely valuable tool for law enforcement.”

Hain, Desert Snow’s marketing official, said “the operational and software platforms of the Desert Snow site and Black Asphalt site are completely separate.” He said Black Asphalt is “a secure system for intelligence sharing” and does not store information.

“No personal identifying information from seizure reports have ever been collected or stored by the Black Asphalt,” Hain said. “The Black Asphalt software is simply a pass-through system that allows the user to input data, which is then sent directly, via e-mail, to a select group of law enforcement (i.e. local investigators, ICE Bulk Cash Smuggling Center, DEA agents, etc.). Again, none of the personal information is held within the system, only the summary of the seizure. And then the seizure narratives are only maintained for 21 days before they get purged.”

The Post obtained hundreds of Black Asphalt records from law enforcement sources with access to the system.

Among Black Asphalt’s features is a section called BOLO, or “be on the lookout,” where police who join the network can post tips and hunches. In April, Aurora, Colo., police Officer James Waselkow pulled over a white Ford pickup for tinted windows. Waselkow said he thought the driver, a Mexican national, was suspicious in part because he wore a University of Wyoming cap.



“He had no idea where he was going, what hotel he was staying in or who with,” Waselkow wrote. The officer searched the vehicle with the driver’s consent but found no contraband. But he was still suspicious, so he posted the driver’s license plate on Black Asphalt. “Released so someone else can locate the contraband,” he wrote. “Happy hunting!”

Waselkow’s department did not respond to a request for an interview.

**“The results have been staggering. It has proven itself an extremely valuable tool for law enforcement.”**

—David Frye and Joe David, talking about the Black Asphalt network in a 2012 letter to police

The Post’s review of 400 court cases, which encompassed seizures in 17 states, provided insights into stops and seizures.

In case after case, highway interdictors appeared to follow a similar script. Police set up what amounted to rolling checkpoints on busy highways and pulled over motorists for minor violations, such as following too closely or improper signaling. They quickly issued warnings or tickets. They studied drivers for signs of nervousness, including pulsing carotid arteries, clenched jaws and perspiration. They also looked for supposed “indicators” of criminal activity, which can include such things as trash on the floor of a vehicle, abundant energy drinks or air fresheners hanging from rearview mirrors.

One recent stop shows how the process can work in the field.

In December 2012, Frye was working in his capacity as a part-time deputy in Seward County, Neb. He pulled over John Anderson of San Clemente, Calif., who was driving a BMW on Interstate 80 near Lincoln. Frye issued a warning ticket within 13 minutes for failing to signal promptly when changing lanes.

He told Anderson he was finished with the stop. But Frye later noted in court papers that he found several indicators of possible suspicious activity: an air freshener, a radar detector and inconsistencies in the driver's description of his travels.

The officer then asked whether the driver had any cocaine, methamphetamine, heroin or large amounts of cash and sought permission to search the BMW, according to a video of the stop. Anderson denied having drugs or large amounts of cash in his car. He declined to give permission for a search. Frye then radioed for a drug-sniffing dog, and the driver had to wait another 36 minutes for the dog to arrive.

"I'm just going to, basically, have you wait here," Frye told Anderson.

The dog arrived and the handler said it indicated the presence of drugs. But when they searched the car, none was found. They did find money: \$25,180.

Frye handcuffed Anderson and told him he was placing him under arrest.

"In Nebraska, drug currency is illegal," Frye said. "Let me tell you something, I've seized millions out here. When I say that, I mean millions. . . . This is what I do."

Frye suggested to Anderson that he might not have been aware of the money in his vehicle and began pressing him to sign a waiver relinquishing the cash, mentioning it at least five times over the next hour, the video shows.

“You’re going to be given an opportunity to disclaim the currency,” Frye told Anderson. “To sign a form that says, ‘That is not my money. I don’t know anything about it. I don’t want to know anything about it. I don’t want to come back to court.’ ”

Frye said that unless the driver agreed to give up the money, a prosecutor would “want to charge” him with a crime, “so that means you’ll go to jail.”

An hour and six minutes into the stop, Frye read Anderson his Miranda rights.

Anderson, who told Frye he worked as a self-employed debt counselor, said the money was not illicit and he was carrying it to pay off a gambling debt. He would later say it was from investors and meant to buy silver bullion and coins. More than two hours after the stop had begun, he finally agreed to give up the cash and Frye let him go. Now Anderson has gone to court to get the money back, saying he signed the waiver and mentioned the gambling debt only because he felt intimidated by Frye.

A magistrate has ruled at a preliminary step in the case that Frye had reasonable suspicion to detain Anderson. Frye said he always follows the law and has never had a seizure overturned.

Legal scholars who viewed the video of the stop told The Post that such practices push constitutional limits. Officers often are taught not to tell the driver they have a right to leave at any time after a traffic stop is concluded. But extended stops in which the officer uses psychological pressure on the driver without charges or Miranda warnings can cross the line.

“Encouraging police to initiate searches for the purpose of seizing cash or other assets, rather than to seize evidence to be used in a prosecution, is a dangerous development,” said Clifford Fishman, a law professor at Catholic

University and former New York City prosecutor. “It is particularly troubling if police officers are trained to manipulate the suspect into forfeiting the assets or waiving the right to contest the search.”

David A. Harris, a University of Pittsburgh law professor, said Frye’s stop crossed the line when he detained the driver while summoning a canine.

“You cannot elongate the stop to bring in the dogs,” he said. “In doing that, you’re detaining the person without probable cause. That ain’t kosher.”

## A tool in the drug war

Civil asset forfeiture law is among the more unusual areas of American jurisprudence. It does not involve evidence of a crime or criminal charges. It is a civil action against an object, such as currency or a boat, rather than a person. It has its basis in British admiralty law, which allowed the taking of a ship to recover damages.

In 1970, Congress turned the federal civil asset forfeiture law into a weapon against the illegal drug trade, allowing for the seizure of aircraft, boats and vehicles used to transport drugs. The federal law was eventually expanded to include cash tied to drug trafficking and to allow the money to be shared with local and state police, who could keep up to 80 percent of the seized assets. When police make a seizure, a federal agency must approve or “adopt” it for inclusion in Justice’s Equitable Sharing Program.

It was a much more effective tool for federal prosecutors than criminal forfeiture, which required the conviction of a defendant with proof beyond a reasonable doubt. Most significantly, the law places the burden of proof on the property owner to demonstrate that an object is not tied to criminal activity.

As the drug trade ramped up throughout the 1980s, money deposited into Justice's federal forfeitures fund increased from \$27 million in 1985 to \$556 million in 1993. (It reached \$2.6 billion in 2007.) Some of that increase was driven by Operation Pipeline, a nationwide DEA program launched in 1986 that promoted highway interdiction training for state and local police.

Several newspapers later wrote exposés about innocent people being caught up in the forfeiture net and police spending on luxuries. [The Orlando Sentinel won a Pulitzer Prize](#) in 1993 for pointing out that the Volusia County Sheriff's Office had used state seizure laws to take \$8 million from motorists, nine out of 10 of them minorities.

The attention prompted Congress to reform federal seizure laws in 2000, allowing owners to be reimbursed for their legal fees after successful lawsuits. But a key reform was cut. It would have removed what some lawmakers called the "perverse incentive" to target cash — the sharing of money between the feds and locals. It died after police and Justice waged a "voracious lobbying" campaign, according to former representative Barney Frank (D-Mass.).

"We didn't have the votes," said Frank, who is still an ardent critic of asset forfeiture. "There is this terrible unfairness. It is about as fundamental a denial of their constitutional rights as I can think of."

After Sept. 11, 2001, civil forfeiture and the war on drugs became entwined with efforts to improve homeland security. Smugglers of all kinds turned away from airports because of the tightened security and took to the nation's interstate highway system. With federal encouragement, police from small towns, rural counties and big cities sought specialized training.

Among those that met the demand was Desert Snow, a family-owned company founded in 1989 by Joe David, a California highway patrolman. Other firms

also stepped up, including the 4:20 Group, Caltraps, Hits, Diamondback Training, and Global Counter-Smuggling Training Consultants. Soon more than a dozen companies were competing for millions in state and federal grants and contracts, along with fees from local departments across the country.

The training had an immediate effect in some areas.

After the Kansas Highway Patrol arranged sessions through Desert Snow for state and local police in 2005 and 2006, the amount of cash flowing into police budgets from seizures nearly doubled, from an average of \$2.6 million a year between 2000 and 2006 to \$4.9 million a year after 2007.

After 25 Wisconsin State Patrol officers received training from Desert Snow in 2010, the agency's cash seizures the following year more than doubled to \$585,657. "It creates a surge period," said Sgt. Nate Clarke, a state patrol supervisor. "These guys get all fired up because they're seeing photo after photo of seizures on the PowerPoints."

The number of agencies participating yearly under Equitable Sharing went up 22 percent to 2,842 between 2003 and 2007, while cash seizures without search warrants or indictments during that period rose more than 50 percent, to \$242 million. Under the Obama administration, police have made more than 22,000 such seizures worth about \$1 billion through the Justice Department program.

Federal support helped drive the surge. In Florida, Indiana, Oklahoma, Tennessee and Wisconsin alone, police spent a total of at least \$1 million during the last decade in Justice and Homeland Security grants for Desert Snow training. The DEA, Customs and Border Protection, Immigration and Customs Enforcement and others spent an additional \$2.5 million in contracts

on Desert Snow training for police, records show. The DEA also paid more than \$2 million for training from the 4:20 Group. Individual local and state police forces across the country paid millions more for the training using seized cash, one of the uses permitted by Equitable Sharing rules.

The police trainers estimate they have taught more than 50,000 police officers in the more aggressive techniques during the last decade.

Some trainers say they worry that an overemphasis on seizing money has distorted policing.

“Over a period of a single decade, the culture was now totally changed,” said Shawn Pardazi, a detective in Pearl, Miss., and owner of Global Counter-Smuggling Training Consultants and a former Desert Snow trainer.

As the demand for training grew, the competition among the firms for business became fierce.

“It’s all about the money,” said James Eagleson, owner of the 4:20 Group, who also once worked at Desert Snow.

## Getting the money back

Decisions that police make during brief roadway stops take motorists who challenge the seizures a year on average to resolve, according to a Post analysis. For 350 owners, it took more than two years to get their money back.

Last year, Ming Tong Liu, 55, a Chinese-born American from Newnan, Ga., was stopped on I-10 in Alabama for driving 10 miles over the speed limit while heading to Louisiana to buy the Hong Kong Chinese restaurant in Lake Charles for himself and his investors — two daughters and another relative.

A Mobile County sheriff's deputy gave Liu a ticket for speeding and asked for permission to search the car. The deputy found \$75,195 in a suitcase in the back seat, neatly wrapped in white napkins and placed in a black plastic bag and then took the money after the deputy said Liu gave conflicting accounts of his travel plans.

The deputy took Liu to a sheriff's department office and called for an officer from U.S. Customs and Border Protection, which stood to share in the money.

Liu's attorney, Rebecca Ding-Lee, said the officers overstepped their authority, held Liu for nearly two hours and searched his car unlawfully without a warrant. "He cannot speak English," she said. "He didn't understand what the police said."

Ten months after the cash was seized, customs officials agreed to return the money, documents show.

Police often rely on drug-sniffing dogs to justify warrantless searches when a driver refuses to give consent. In 48 cases examined by The Post, dogs alerted to the presence of drugs but the officers found only money.

In October 2008, Benjamin Molina, 40, a permanent resident from El Salvador, was traveling through Virginia on I-95 when an Emporia police officer pulled him over for tinted windows. A carpenter, Molina was going from North Carolina to his home in Perth Amboy, N.J. The officer wrote him a warning ticket and began asking him questions, including whether he had cash in the car.

Molina told the officer that he was shopping for a used car and had \$18,000 in his pockets. Molina's face began to tremble, which police said they took as a sign of possible wrongdoing. Molina said his cheek twitched from medication



**he was taking for a health condition that included kidney disease. Molina also had duct tape in his car, which police said is “commonly used by traffickers.”**

Know your rights: During traffic stops on the nation’s highways, the U.S. Constitution’s Fourth Amendment protects motorists “against unreasonable searches and seizures.” The law also gives police the power to investigate and act on their suspicions.

1. Police have a long-established authority to stop motorists for traffic infractions. They can use traffic violations as a pretext for a deeper inquiry as long as the stop is based on an identifiable infraction.
2. An officer may detain a driver only as long as it takes to deal with the reason for the stop. After that, police have the authority to request further conversation. A motorist has the right to decline and ask whether the stop is concluded. If so, the motorist can leave.
3. The officer also has the authority to briefly detain and question a person as long as the officer has a reasonable suspicion that the person is involved in criminal activity. Reasonable suspicion is based on specific and articulable facts but falls short of the legal standard for making an arrest.
4. A traffic infraction or reasonable suspicion alone do not give police authority to search a vehicle or a closed container, such as luggage. Police may ask for permission to search; drivers may decline. Police do not have to tell drivers that they have a right to refuse.
5. An officer may expand a roadside investigation if the driver’s responses and other circumstances justify a belief that it is more likely than not that criminal activity is occurring. Under this standard, known as probable cause, an officer can make an arrest or search a vehicle without permission. An alert by a drug-sniffing dog can provide probable cause, as can the smell of marijuana.
6. Police can seize cash that they find if they have probable cause to suspect that it is related to criminal activity. The seizure happens through a civil action known as asset forfeiture. Police do not need to charge a person with a crime. The burden of proof is then on the driver to show that the cash is not related to a crime by a legal standard known as preponderance of the evidence.

*Sources: Jon Norris, criminal defense attorney; David A. Harris, University of Pittsburgh law professor; Scott Bullock, civil liberties lawyer, Institute for Justice; Department of Homeland Security.*

The officer asked Molina, who had no criminal history, to hand over the cash. The officer placed the money in an envelope, which he set down on the ground alongside two empty envelopes.

A dog called to the scene sat down next to the envelope with the cash, indicating the presence of drugs, according to police.

The police took the money, but Molina took steps to get it back.

He hired David Smith, an Alexandria attorney and former federal prosecutor who once headed the federal government's forfeiture program in the Eastern District of Virginia.

After Molina appealed, a federal prosecutor refunded the money. It took four months.

Smith said the Molina case is an example of the kind of overreach that the civil asset forfeiture reforms passed by Congress in 2000 were aimed at preventing.

"This type of police bounty hunting is antithetical to everything our criminal justice system is supposed to stand for," said Smith, who helped craft the reform legislation.

Among the indicators police look for are rental cars, which are often used by smugglers.

On Nov. 1, 2011, Jose Jeronimo Sorto and his brother-in-law, Victor Ramos Guzman, were driving a rented sedan on I-95 south of Richmond when a Virginia state trooper stopped them. Both were lay leaders of the Pentecostal Nuevo Renacer church in Baltimore. They were carrying \$28,500 in church funds meant for the purchase of land to build a church in El Salvador and a trailer for a new congregation in North Carolina.

Their experience has been cited as a case study in civil forfeiture abuse by The Post's [editorial page](#), the [New Yorker magazine](#) and others. Unknown until now in the public debate is the fact that the trooper who made the stop, C.L. Murphy, is a top interdiction trainer for Virginia State Police and Desert Snow, as well as a member of Black Asphalt.

Murphy told Sorto and Guzman that they were speeding and following too closely. Murphy said Guzman told him about the cash and consented to a search of the car.

Guzman, 39, of Sterling, Va., said he showed the trooper documents indicating that he belonged to a tax-exempt church, and he said the cash had been collected from congregation members. But Murphy disregarded their explanations, saying they contained inconsistencies. He called Immigration and Customs Enforcement, which accepted the seizure for the Equitable Sharing Program, and he escorted the men to a nearby police station. He did not issue a ticket but seized the cash after Guzman signed a waiver.

Three lawyers agreed to represent the church members for free. Three months later, they received a check from ICE for \$28,500.

Virginia State Police spokeswoman Corinne Geller would only say, "The facts of the stop speak for themselves."

ICE spokeswoman Marsha Catron defended the seizure, saying in a statement "the situation was indicative of bulk cash smuggling" and that Guzman consented by signing a waiver for the money.

"Both the male driver and passenger disclaimed ownership of the money and provided inconsistent and contradictory statements," Catron said. She added:

“Money was ultimately returned to Mr. Ramos Guzman after he provided documentation that the cash belonged to his church.”

Guzman told The Post he was truthful to the trooper the entire time. The experience left him shaken.

“They didn’t give me a chance to explain,” Guzman said. “There was no way out.”

*Alice Crites contributed to this report. Also contributing were Alexia Campbell, Cathaleen Chen, Hoai-Tran Bui, Nagwa Abdallah and Justin Warren, who were attached to The Washington Post’s Investigative Unit through a partnership with the Investigative Reporting Workshop at American University.*

#### About this story

The Washington Post relied on an array of materials to explore the rise of civil seizures in recent years, with a particular focus on highway seizures made by state and local police. For details about seizures and the techniques employed by police, reporters reviewed more than 400 federal court cases in which owners of cash filed legal appeals to get it back. The Post also examined some seizures made under state forfeiture laws.

Through Freedom of Information Act requests, The Post obtained a database from the Justice Department containing details about 212,000 seizures since 1996 through the Equitable Sharing Program, the federal government’s largest asset forfeiture effort.

Justice officials did not release data that pinpointed the geographic location of each seizure, so it is impossible to identify precisely how many seizures occur during traffic stops. To focus on roadside stops, The Post looked at cases that

were not made at businesses and that occurred without warrants or indictments: 61,998 seizures have met those criteria since Sept. 11, 2001. That group of cases was then compared to a list obtained by The Post of 1,654 departments and agencies with officers who are members of an unofficial police intelligence network known as the Black Asphalt Electronic Networking & Notification System that is focused on highway stops and seizures.

The Post also obtained more than 43,000 Justice Department reports from state and local police departments across the country that participated in Equitable Sharing, along with records provided by the Institute for Justice, a nonprofit civil liberties group, to assess how seizures contribute to department budgets.

# Part 2: Police intelligence targets cash

Reports on drivers, training by firm fueled law enforcement aggressiveness

**D**uring the rush to improve homeland security a decade ago, an

invitation went out from Congress to a newly retired California highway patrolman named Joe David. A lawmaker asked him to brief the Senate on how highway police could keep “our communities safe from terrorists and drug dealers.”

David had developed an uncanny talent for finding cocaine and cash in cars and trucks, beginning along the remote highways of the Mojave Desert. His reputation had spread among police officers after he started a training firm in 1989 to teach his homegrown stop-and-seizure techniques. He called it Desert Snow.

The demonstration he gave on Capitol Hill in November 2003 startled onlookers with the many ways smugglers and terrorists can hide contraband, cash and even weapons of mass destruction in vehicles. It also made David's name in Washington and launched his firm into the fast-expanding marketplace for homeland security, where it would thrive in an atmosphere of fear and help shape law enforcement on highways in every corner of the country.

Over the next decade, David's tiny family firm would brand itself as a counterterrorism specialist and work with the departments of Homeland Security and Justice. It would receive millions from federal contracts and grants as the leader of a cottage industry of firms teaching aggressive methods for highway interdiction. Along the way, working in near obscurity, the firm would press the limits of the law and raise new questions about police power, domestic intelligence and the rights of American citizens.

In 2004, David started a private intelligence network for police known as the Black Asphalt Electronic Networking & Notification System. It enabled officers and federal authorities to share reports and chat online. In recent years, the network had more than 25,000 individual members, David said.

"Throughout history law enforcement investigations have been stymied because of law enforcement's inability to move information and because enforcement entities refuse to work together," David wrote in a 2012 letter to Black Asphalt members that was obtained by The Post. "This website allows all of us to do that."

Operating in collaboration with the U.S. Drug Enforcement Administration, Immigration and Customs Enforcement and other federal entities, Black Asphalt members exchanged tens of thousands of reports about American motorists, many of whom had not been charged with any crimes, according to

a company official and hundreds of internal documents obtained by The Post. For years, it received no oversight by government, even though its reports contained law enforcement sensitive information about traffic stops and seizures, along with hunches and personal data about drivers, including Social Security numbers and identifying tattoos.

Black Asphalt also has served as a social hub for a new brand of highway interdictors, a group that one Desert Snow official has called “a brotherhood.” Among other things, the site hosts an annual competition to honor police who seize the most contraband and cash on the highways. As part of the contest, Desert Snow encouraged state and local patrol officers to post seizure data along with photos of themselves with stacks of currency and drugs. Some of the photos appear in a [rousing hard-rock video](#) that the Guthrie, Okla.-based Desert Snow uses to promote its training courses.

Annual winners receive Desert Snow’s top honorific: Royal Knight. The next Royal Knight will be named at a national conference hosted in Virginia Beach next year in collaboration with Virginia State Police.

In just one five-year stretch, Desert Snow-trained officers reported taking \$427 million during highway encounters, according to company officials. A Post analysis found the training has helped fuel a rise in cash seizures in the Justice Department’s main asset forfeiture program.

In January last year, David hired himself and his top trainers out as a roving private interdiction unit for the district attorney’s office in rural Caddo County, Okla. Working with local police, Desert Snow contract employees took in more than \$1 million over six months from drivers on the state’s highways, including Interstate 40 west of Oklahoma City. Under its contract, the firm was allowed to keep 25 percent of the cash.



When Caddo County District Court Judge David A. Stephens learned that Desert Snow employees were not sworn law enforcement officers in Oklahoma, he denounced the arrangement as “shocking,” and he threatened to put David in jail if it continued.

The state’s American Civil Liberties Union chapter called for an investigation of the district attorney and criminal charges against Desert Snow employees for impersonating law enforcement officers.

“Desert Snow. It sounds like a covert military operation or a street name for designer cocaine. Truth be told, it’s something much more sinister in my modest opinion,” Oklahoma defense attorney Adam Banner wrote in a [legal blog](#), adding that it “seems to amount to little more than a free-for-all cash grab.”

District Attorney Jason Hicks set aside more than a dozen convictions relating to the seizures and promised a review. He said he was just trying to offset the loss of federal funding for a drug task force.

“I fully believe we are in compliance with state law and, at the time the program was formed, my intent was to see that my investigators received top-notch training and to ensure that we could continue the operation of the drug and violent crime task force,” Hicks said.

David A. Harris, a professor at the University of Pittsburgh Law School, said highway interdiction now “works just like all the drug interdiction efforts” in the 1990s. “But the focus is on money,” he said. “That makes it all the more insidious.”

Desert Snow officials in interviews disclaimed the practice of targeting drivers for money, sometimes known as “policing for profit.” They said that seizing cash is a proven tool for hurting drug and crime organizations.

But privately, they promote a book that extols the quest for cash. Ron Hain, a marketing official with Desert Snow and a full-time deputy sheriff in Kane County, Ill., has urged police to use cash seizures to bolster municipal coffers. [“In Roads: A Working Solution to America’s War on Drugs,”](#) a book Hain self-published under the pen name Charles Haines in 2011, states that departments can “pull in expendable cash hand over fist.”

The firm defends its training as first-rate, and David once likened the firm’s students to special forces operators. “Like the SEAL team, Army Rangers or any other top notch outfit it requires commitment and perseverance to be part of ‘the team,’ ” David wrote in a sales pitch posted on Black Asphalt.

Desert Snow officials have taken pains to ensure that Black Asphalt complies with all laws and that its site is securely encrypted, David wrote in his 2012 letter to the membership. He said the system does not store any sensitive information about drivers but only passes it along to law enforcement. Only “certified peace officers” can access the system. After questions arose several years ago about the system’s private ownership, David transferred authority to the sheriff’s office in Logan County, just north of Oklahoma City.

David said that more than 16,000 “major incidents” had been reported through the system, leading to hundreds of follow-up investigations, arrests and seized assets.

“Over the years I have also received phone calls and letters of gratitude from all levels,” David wrote in 2012. “I have even met with federal people in both Washington D.C. and elsewhere regarding the website and have even received

financial contributions for the Black Asphalt from District Attorneys, agencies and federal entities.”

DHS spokeswoman Marsha Catron downplayed the department’s involvement, saying in a statement that it has awarded “Desert Snow less than 20 contracts since 2008 for specialized law enforcement training and educational services.” That includes three contracts this year worth more than \$268,000 with Customs and Border Protection, one of them in August.

Catron defended the use of Black Asphalt. “The network simply allows law enforcement officers to alert fellow agencies about seizures that have been made,” her statement said. “Participation in this network by state, local or federal agencies is voluntary. This kind of networking allows law enforcement agencies to develop leads, corroborate investigative information and aids in the pursuit of criminal enterprises.”

She said that Black Asphalt reports no longer contain any personally identifiable information about drivers.

DEA spokesman Rusty Payne said that computers at the agency’s El Paso Intelligence Center (EPIC) once housed Black Asphalt. In a subsequent e-mail, Payne said that agents only used it as a source of information. “We would go in there to grab information,” he said.

Payne also told The Post that the DEA had recently stopped using Black Asphalt reports because of concerns that they “would never hold up in court.”

Payne said officials at Justice and DEA are now reviewing their use of the system. However, as recently as May, internal Black Asphalt records continued to list officials at the agency, along with officials at DHS, CBP and ICE, as members.

## The start of Desert Snow

Joe David, 61, did not respond to multiple requests for an interview. This account is based on interviews with two Desert Snow officials and more than a dozen current and former members of the Black Asphalt network, along with hundreds of internal documents, legal records and the account given by Hain in “In Roads.”

David married as a teenager, started a family and worked his way up from the road patrol. He was smart and gregarious, with a close-cropped haircut and a special way with the drivers he encountered.

His career began on the hard-baked desert highways of southeast California, where he was assigned soon after joining the California Highway Patrol in 1985. From the start, he was intrigued by the cat-and-mouse game with smugglers. One day, he was driving through Needles, Calif., not far from the Arizona border, when he saw a Ford Thunderbird on the side of the road. The driver and passenger struck David as suspicious. Though he had no evidence of a crime, he asked whether he could search the car.

The driver agreed but David’s search was turning up blank — until an old school acquaintance drove up and stopped to watch. The classmate happened to be an automobile upholsterer. David asked him to look at the car and see if anything was amiss in the interior. The classmate spotted an irregularity in the sewing on the seats. Hidden underneath was 44 pounds of cocaine.

David was hooked on interdiction. Year after year, he made big seizures. He once found 2,500 pounds of cocaine in a box truck, worth more than \$22 million. “Trooper David became a one-man wrecking ball, and terrorized members of drug cartels for years to come,” Hain wrote.

David earned the nickname “Canine,” and he claimed that he could smell cocaine concealed among other odors, like detergent, court records show.

He began moonlighting as a personal instructor for police who found the prospect of highway interdiction exciting and useful. He started in the late 1980s with informal tutorials over backyard barbecues and later moved the sessions into the family garage.

Today, Desert Snow is still a family business that employs his wife and children.

From the beginning, David lectured about the damage drugs do to communities and portrayed his students as soldiers on the front lines of a war.

“These pioneers realized there is one vital course of action for the local police officer to begin conquering our nation’s continuing battle: knowledge, training in profiles, and the relentless pursuit of narcotics smugglers,” Hain wrote.

## Facing scrutiny

In the early 1990s, as he took on teaching assignments during breaks from his day job, David’s reputation grew. Soon, he was teaching local police for the DEA’s El Paso Intelligence Center, a clearinghouse for information about drug smugglers and their associates. He also taught for the Drug Interdiction Assistance Program at the Department of Transportation, which focuses on commercial vehicle safety.

But his methods came under scrutiny in court. In July 1993, David stopped a man driving a half-ton pickup with tinted windows on Interstate 40 near the California-Arizona border. He asked the driver, a Hispanic man, to roll down the window and hand over his license and registration.

David said he thought the driver was suspiciously nervous and he thought he smelled cocaine through the open window, according to court records. David was by now a canine officer, but he didn't have his dog with him that day.

He told the driver to stand on the side of the road and began conversing with him.

David eventually told the driver that he was convinced there was a large amount of cocaine in the truck and asked for permission to search. The driver was reluctant, but he eventually signed a bilingual form giving consent. David found more than 40 pounds of the drug.

At a court hearing, the driver's attorney unsuccessfully argued that the evidence should be suppressed because it was obtained through intimidation. David responded that he behaved appropriately. Prosecutors said he spoke "without coercion in a low-key conversational tone."

But a three-member federal appeals court ordered a new trial for the driver, saying David overstepped his authority to obtain approval for a warrantless search.

"Officer David persisted in his 'low key' questioning until he got the answer he sought," the court's ruling said. "Such persistent questioning is characteristic of a stationhouse interrogation."

The court ruled that David had improperly detained the driver without arresting him. The court did not specify how long he kept the driver on the roadside, but it said David should have given the driver a Miranda warning that he had a right to remain silent after David concluded he was going to arrest him.

**“Miranda warnings are intended to deter precisely the sort of conduct engaged in by Officer David: isolation, psychological pressure, and relentless pursuit of a confession.”**

—Court statement

“It takes 30 seconds to give Miranda warnings,” the court said. “Officer David delayed giving Miranda warnings in order to subject [the driver] to psychological pressure to make incriminating statements. That was a blatant Miranda violation.”

“Miranda warnings are intended to deter precisely the sort of conduct engaged in by Officer David: isolation, psychological pressure, and relentless pursuit of a confession,” the court said.

Desert Snow would adopt “Relentless Pursuit” as the firm’s motto.

By the late 1990s, David also participated as an instructor in Operation Pipeline, a highway interdiction program run by the DEA that trained nearly 27,000 police in 48 states over more than a decade. The program encouraged the same sorts of techniques that David had long employed on his own: high volumes of stops for minor traffic infractions and conversations with drivers to look for inconsistencies and obtain permission for warrantless searches.

David received acclaim for a Pipeline stop of a truck-trailer in 1998. Pulling the vehicle over on a minor infraction — straddling two lanes — David and his partner found 720 pounds of marijuana.

About the same time, Democrats in the California statehouse formed a task force to investigate claims that Operation Pipeline was profiling Hispanic drivers.

“Pipeline teams are able to pull over a great many cars to find drivers who fit established ‘profiles,’” the task force report said. “If a motorist ‘fits’ the profile, then the officer’s goal becomes to conduct a warrantless search of the car and its occupants, in the hope of finding drugs, cash and/or guns.”

The ACLU found that the majority of those stopped nationwide by interdiction programs such as Operation Pipeline were minorities, according to a 1999 report titled “[Driving While Black](#).”

“All the evidence to date suggests that using traffic laws for non-traffic purposes has been a disaster for people of color,” said the report, written by Harris, the University of Pittsburgh law scholar. “Law enforcement decisions based on hunches rather than evidence are going to suffer from racial stereotyping, whether conscious or unconscious.”

The ACLU filed a class-action lawsuit over such stops, and in 2003 the California Highway Patrol settled, paying \$875,000 and agreeing to provide additional training for officers but admitting to no wrongdoing.

That year, David retired and began ramping up Desert Snow. The new Department of Homeland Security was forming and a new market was opening up in the wake of the Sept. 11, 2001, attacks.

The invitation from Sen. Charles E. Grassley (R-Iowa) in the fall of 2003 paved the way for David and Desert Snow. David took a tractor-trailer to Capitol Hill, where he surprised lawmakers and Capitol Police by revealing myriad cubbyholes for hiding contraband. Once he would have focused on



drugs and money. Now he emphasized that the hiding places could be used by terrorists.

Funding for Desert Snow soon came from DHS, which provided a grant to help the firm tailor its instruction to counterterrorism. Over the years, the firm has received scores of contracts from DHS, Justice and other federal agencies worth more than \$2.5 million. States and localities also have used homeland security grants and seized cash to pay for classes from Desert Snow and its competitors.

In 2004, one of the main thrusts of the homeland security efforts was to connect the dots of potential threats through information-sharing. Officials at ICE also began working with the DEA on an initiative to fight cash smuggling through better intelligence and collaboration with local and state police. The effort was framed as a fight against terror financing.

“To address this increasing threat, the DEA, IRS [Criminal Investigation] and ICE are working together to initiate a bulk currency program to coordinate all U.S. highway interdiction money seizures,” DEA Administrator Karen Tandy told a Senate panel.

That year, David launched Black Asphalt.

Run as a private adjunct to the for-profit Desert Snow, Black Asphalt’s goal was to enable highway patrolmen in different states to informally share information about drivers as quickly as possible. David has said he saw the need for such a system when he was a Pipeline instructor and noticed that only a quarter of the highway stops were being reported to anyone. Such information could be valuable to the DEA’s El Paso Intelligence Center and the 28 federally supported High Intensity Drug Trafficking Areas (HIDTA) task forces across the nation.

“The Black Asphalt was designed to support EPIC, HIDTA and other government programs,” David wrote in his 2012 letter to the membership.

Black Asphalt soon attracted thousands of members from across the country. One lauded feature of the site is an extensive “concealment database” of hiding places in vehicles. By 2011, it had more than 30,000 members, according to Hain. Any sworn officer can join after filling out a membership application online for a \$19.95 processing fee. State and federal officials who assist in interdiction, such as intelligence analysts, can also be members.

“It was built by cops for cops,” David Frye, Desert Snow’s chief trainer and former director of operations at Black Asphalt, told The Post. “It’s a specialized culture.”

Using a template developed by Desert Snow, police filed thousands of automated reports through the secure Web site, whether or not the drivers had been charged, documents show. Details included the location of the stop, the vehicle identification number, the names, addresses, Social Security numbers and descriptions of the drivers.

Documents and interviews obtained by The Post show that reports were funneled to the DEA, ICE, CBP and other federal agencies. In 2009, the DEA paid \$6,700 to Black Asphalt for an improved user interface with the system.. In its law enforcement-only newsletter, the National Bulk Cash Smuggling Center, a part of ICE, describes Black Asphalt as one of “its valuable law enforcement partnerships.”

In another part of Black Asphalt, users posted “be on the lookout” reports, also known as BOLOs, to single out certain drivers for police attention in other jurisdictions. The private BOLO reports generally rely on police intuition rather than hard evidence or probable cause.

In April, a California Highway Patrol officer stopped a woman driving in a Kentucky car that was littered with food wrappers and energy drinks. He did not believe her statement that she was driving to a funeral and asked her why she didn't fly. She did not have good answer, he said. So he posted her driver's license number and urged other police to be on the lookout. "She will be loaded coming back for sure," he wrote.

To meet the growing demand for training, Desert Snow each year has cultivated up to 75 of the most successful and aggressive interdiction police officers from around the country. A part-time job at the firm's seminars was considered prestigious. Among the trainers are Royal Knights, the stars of the interdiction world.

Desert Snow charges as little as \$590 for an individual for its three- and four-day workshop of lectures and hands-on training in such subjects as "roadside conversational skills" and "when and how to seize currency." The firm often sets up its training in hotel conference rooms. The firm's three-day "Advanced Commercial Vehicle, Criminal & Terrorist Identification & Apprehension Workshop" cost 88 students a total of \$145,000, according to a price list posted by the state of New Jersey.

Police are taught the techniques that David had refined over the years, including how to assess the driver for signs of nervousness. "As a general rule, the innocent motoring public doesn't lie to you," Frye, Desert Snow's chief trainer and a part-time deputy in Nebraska, said in an interview.

If asked in court if it is normal for drivers to be nervous after being stopped by police, they are instructed to say: "While it is true that most people are nervous when stopped by law enforcement, my training and experience has shown that once persons who are not engaged in serious criminal activities

**learn what type of enforcement action is being taken, their nervousness subsides.”**

Black Asphalt: The Black Asphalt Electronic Networking & Notification System is used to share reports of traffic stops, most related to drug enforcement, among member law enforcement officers and agencies across the country. Indicators that made police suspicious have included:

- Dark window tinting
- Air fresheners or their smell
- Trash littering a vehicle
- An inconsistent or unlikely travel story
- A vehicle on a long trip that is clean or lacks baggage
- A profusion of energy drinks
- A driver who is too talkative, or too quiet
- Signs of nervousness, such as sweating, swallowing or redness of face
- Designer apparel or other clothing that seems inappropriate
- Multiple cellphones

**Frye said the firm does not teach racial profiling. “We never have and we never will!” BlackAsphalt.org proclaims on its Web site. “We teach officers to conduct legal traffic stops and how to identify major criminal activity by taking into account the totality of the circumstances on each and every traffic stop.”**

**Frye, who was also a former Nebraska state trooper, said Desert Snow instructors look for “indicators” of criminal activity. Indicators cited in Desert Snow training materials obtained by The Post include air fresheners hanging from rearview mirrors, trash on the floor and the driver’s demeanor, such as being too talkative or too quiet.**

**“Indicators are seemingly innocent things heard, smelled and/or observed during an enforcement encounter, including the contents of the vehicle, what was said, and the manner in which it was said, which when taken in their**

totality and compared with the innocent motoring public and traffic patterns of that geographic area, along with the officer's training and experience, show reasonable suspicion or probable cause that criminal activity was, is, or will be taking place," the material states.

A cornerstone of Desert Snow's instruction rests upon two 1996 U.S. Supreme Court decisions that bolstered aggressive highway patrolling. One decision affirmed the police practice of using minor traffic infractions as pretexts to stop drivers. The other permits officers to seek consent for searches without alerting the drivers that they can refuse and leave at any time.

"Police Officers Are Not Required To Inform A Motorist At The End Of A Traffic Stop That He Or She Is 'Free To Go' Before Seeking Permission to Search The Motorist's Car," the training material says.

Desert Snow urges police to work toward what are known as a "consensual encounters" — beginning with asking drivers whether they mind chatting after a warning ticket has been issued. The consensual chat gives police more time to look for indicators and mitigates later questions in court about unreasonably long traffic stops.

They're also instructed in how to make their stops and seizures more defensible to judges. "One Of The Most Critical Areas Scrutinized By The Courts Is The Reason For And The Length Of Any Detention," the material says.

As business boomed, David bought a yacht and a condo in Cabo San Lucas, Mexico, and invited associates down for fishing trips, interviews and documents show. Starting in 2010, the firm began spending tens of thousands each quarter on the lobbying firm Brandon Associates to stoke interest in interdiction training in Washington — almost \$200,000 in all through last

year. Brandon Associates has arranged meetings with senior officials at DHS, documents show.

Success has not shielded the company from criticism. Some of it has come from current and former Black Asphalt users who felt the site tolerated unprofessional behavior in its secure chat rooms. “We have to start policing ourselves and remembering that we are professionals,” wrote DEA Agent Donald Bailey, now retired, in a chat room. “I have seen some postings and language on here that have made me cringe and can’t believe that it was ever posted.”

Computer-generated animations made by a Desert Snow marketing official featuring a cartoon cop called Larry the Interdictor have drawn especially ribald commentary. One is set in a courtroom where Larry insinuates that the defense lawyer questioning him is gay. He testifies that he disdains “Rastafarian douchebags who do nothing all day but smoke weed, live with their mom, and beat off to kiddie porn.”

The video prompted hoots from Black Asphalt users online.

“omg i’m still rolling!!!! this has got to be the funniest stuff ive ever heard!” one user wrote.

“DUUUUUUUUUUUUDE! That crap is HILARIOUS!” said another.

“Thanks for the video laughs,” Joe David wrote. “It was great.”

Larry the Interdictor was created by Hain, the Kane County deputy and author of “In Roads.”

Hain told The Post said he made some of the videos as a hobby, on his own time. Others were part of a monthly marketing initiative at Desert Snow “to

deliver information and statistics in an entertaining format,” he said. He said he did not write all the scripts but declined to detail who did.

The Black Asphalt report narratives sometimes went on for 400 words or more, and included an officer’s intent and attitude toward defendants. Some of them were meant to be humorous and earthy. This one, about a \$2.5 million cash seizure, went out to 18 DEA agents:

“The driver starred [sic] blankly to the ditch, more than likely with visions of himself running through it,” one Black Asphalt report said. “But as he was fantasizing about freedom, it gave me another good look at his carotid and he was thumping. Crazy thing, but my mouth went dry. I could see that this guy was truly scared, and all I could think was ‘oh boy this is going be good.’ ”

Law enforcement authorities in several states began cautioning that Black Asphalt might run afoul of laws requiring prosecutors to disclose any relevant case information to criminal defendants. In several interviews with The Post, Black Asphalt members said they did not share the reports with their superiors or prosecutors because they did not think they had to.

In 2012, Kurt F. Schmid, executive director of the federal HIDTA task force in Chicago, wrote in a letter to the International Association of Chiefs of Police that such reports are “outside the bounds of [law enforcement] information flow” and so would not be made available to defendants.

“Courts around the country are extremely vigilant at ensuring appropriate disclosures are made to defense counsels at criminal trials,” said the letter, a copy of which was obtained by The Post.

Frye has recently said in a posting on Black Asphalt that officers can address any disclosure issues by sharing Black Asphalt reports with their prosecutors.

“The whole discovery argument is BS and ultimately comes down to the officer working with their prosecutors to determine what they need for each case,” he wrote.

Iowa and Kansas prohibited police from filing reports into the system. Kevin Frampton, director of investigative operations at the Iowa Department of Public Safety, wrote on March 1, 2012, that the state attorney general determined that state police “sharing intelligence or investigative information with a private company creates an increased risk for civil and criminal liability for officers and the department.”

On June 11, 2012, Assistant U.S. Attorney Deborah Gilg in Nebraska warned in a letter to state law enforcement there that such reports “may, in fact, violate state criminal law(s) and citizens’ civil rights and liberties” because they contained law-enforcement sensitive information and personal data on citizens.

Hoping to maintain confidence in the system and provide an official imprimatur, David and Frye in 2012 asked the Logan County Sheriff’s Department in Guthrie, Okla., to take control of the Black Asphalt system.

“Since taking control of Black Asphalt Law Enforcement Network in August of 2012 the entire website has been overhauled, updated, and improved,” Logan County Sheriff Jim Bauman wrote in an open letter to police.

In an interview, Frye acknowledged that he and other Desert Snow trainers were on loan to Logan to help run the system. A search of the term Black Asphalt on Google takes computer users to the Desert Snow site.

David and Frye also have sought guidance from the Bureau of Justice Assistance at the Justice Department. David P. Lewis, a senior policy adviser



at Justice, said it was “a positive step” that the network had gone under the authority of Logan County, according to a December 2012 letter obtained by The Post. Lewis said the network was then being used by 12,000 officers who accessed the system 1,000 times a day, an apparent decline from previous years.

“We recognize the unique and innovative nature of the Black Asphalt Web site and its efficacy for law enforcement,” Lewis wrote. “However, it is not a criminal intelligence system” subject to federal law.

Lewis pointed out it did not meet federal standards for police intelligence systems, which require police to evaluate the information for relevance and a “reasonably suspected” link to criminal activity. It made 11 recommendations for improving the site, including requiring that BOLOs “be limited to situations of ‘significant investigative interest’ ” and “be based on ‘credible and reliable’ information.”

In June, the Logan County Sheriff’s Office announced that it was handing over control of Black Asphalt to the sheriff’s office in Kane County. The point of contact is Deputy Ron Hain, the author of “In Roads” and the creator of Larry the Interdictor.

#### About this story

The Washington Post relied on an array of materials to explore the rise of civil seizures in recent years, with a particular focus on highway seizures made by state and local police. For details about seizures and the techniques employed by police, reporters reviewed more than 400 federal court cases in which owners of cash filed legal appeals to get it back. The Post also examined some seizures made under state forfeiture laws.

Through Freedom of Information Act requests, The Post obtained a database from the Justice Department containing details about 212,000 seizures since 1996 through the Equitable Sharing Program, the federal government's largest asset forfeiture effort.

Justice officials did not release data that pinpointed the geographic location of each seizure, so it is impossible to identify precisely how many seizures occur during traffic stops. To focus on roadside stops, The Post looked at cases that were not made at businesses and that occurred without warrants or indictments: 61,998 seizures have met those criteria since Sept. 11, 2001. That group of cases was then compared to a list obtained by The Post of 1,654 departments and agencies with officers who are members of an unofficial police intelligence network known as the Black Asphalt Electronic Networking & Notification System that is focused on highway stops and seizures.

The Post also obtained more than 43,000 Justice Department reports from state and local police departments across the country that participated in Equitable Sharing, along with records provided by the Institute for Justice, a nonprofit civil liberties group, to assess how seizures contribute to department budgets.

# Part 3:

# They fought the law. Who won?

Many drivers faced a long ordeal in court to try to get their money back from police

**M**andrel Stuart and his girlfriend were on a date driving on Interstate 66 toward the District when a Fairfax County police cruiser pulled out of the median and raced after them. The cruiser kept pace alongside Stuart's old blue Yukon for a while, then followed behind for several miles before turning on its flashing lights.

The traffic stop on that balmy afternoon in August 2012 was the beginning of a dizzying encounter that would leave Stuart shaken and wondering whether he had been singled out because he was black and had a police record.

Over the next two hours, he would be detained without charges, handcuffed and taken to a nearby police station. He also would be stripped of \$17,550 in cash — money that he had earned through the Smoking Roosters, a small

barbecue restaurant he owned in Staunton, Va. Stuart said he was going to use the money that night for supplies and equipment.

The reason for the police stop: Stuart's SUV had tinted windows and a video was playing in his sightline. He was never charged with a crime, and there was no evidence of criminal wrongdoing. But police took his money because they assumed it was related to the drug trade.

Stuart would have to fight the federal government for any chance of getting his money back.

"Why didn't he just give me a ticket?" Stuart asked the prosecutor. "What was the reason for him harassing me as much as he did?"

Stuart's case is among 400 seizures from 17 states examined by The Washington Post to assess how the practice known as "highway interdiction" has affected American drivers. Their experiences, gleaned from legal papers and interviews, contain striking similarities that underscore questions about police power in an era when security has often trumped the rights of individuals.

Many of the highway officers involved were trained in the techniques of interdiction after the Sept. 11, 2001, terror attacks, some with financial support from the departments of Homeland Security and Justice. The officers were able to seize cash and have their departments share in the proceeds through a long-standing Justice Department civil asset forfeiture program known as Equitable Sharing. Police can also make seizures under their state laws.

Their methods often involve the use of minor traffic infractions as pretexts for stops; an analysis of "indicators" about drivers' intentions, such as

nervousness; a request for warrantless searches; and a focus on cash. In most of the cases, police never make an arrest.

Some of the drivers had prior run-ins with police and lived their lives in cash economies, paying for everything from food to rent and business expenses with hard currency. Many of them had to engage in long legal struggles to get their money back after officers made roadside judgments about one of the most fundamental of American rights — the right to own property.

Police say the stop-and-seizure tactic hurts drug organizations and increases security on the highways. But drivers and their advocates say that all too often it is the innocent who suffer the emotional and financial consequences of misplaced power.

“We have been fighting this battle for a number of years . . . but it is just breathtaking to hear what is happening on a grand scale,” said Scott Bullock, senior attorney at the Institute for Justice, a nonprofit civil liberties group in Arlington. “It should not exist in a country that respects fundamental notions of due process.”

## A cracked windshield

In several of the cases reviewed by The Post, police claimed to smell drugs before searching vehicles but did not turn up any. That’s what happened to Vincent Costello, a home-improvement contractor, and his girlfriend, Romilda Demartino.

It was May 2010 and the couple were traveling from Queens in New York to Florida. They were stopped on U.S. Highway 17 by a sheriff’s deputy in Charleston County, S.C., who said Costello’s work van had a cracked

windshield. Deputy Mason Ashby asked them a series of questions about their travels before bringing up the matter of currency.

Ashby is among 88 deputies in the department who have been trained in methods promoted by Desert Snow, the nation's leading interdiction training firm. Ashby's boss, Capt. Ransom Williams, moonlights as one of Desert Snow's trainers.

Costello told Ashby the couple had visited a relative and were heading to Pompano Beach, Fla., to fix up a house they had bought in foreclosure. As Ashby listened, he claimed he noticed the odor of marijuana. Based on his "training and experience," Ashby decided Costello was probably involved in criminal or drug-related activity and sought a search of the van, according to court records.

## **“Why would [they] give anything back if they thought you were guilty?”**

—Vincent Costello, who agreed to accept a deal from the government for half of his money back.

Ashby asked how much currency was in the van. Costello gave a low-ball estimate of \$5,000 to \$10,000, records show. He agreed to a search because he believed he had done nothing wrong, he told *The Post*. Ashby did not find any drugs, but he turned up more than \$32,000 in the van and seized it through the federal Equitable Sharing Program.

Ashby called a fellow deputy who was assigned to a regional U.S. Drug Enforcement Administration task force. The second officer asked Costello why he didn't leave the money in a bank. Costello said he needed it to buy supplies to fix up the Florida house. In court papers, the police justified their seizure by

claiming that Costello was unusually nervous. They also said that Florida is a source of drugs for New York and that drug smugglers often use large amounts of cash.

Costello told The Post he could not believe that Ashby and his colleague disregarded the fact that they found no marijuana in the van. Before the couple were permitted to leave, Ashby made Costello hand over the money in his pocket, Costello said.

“He turned around and he says, ‘Give me the money out of your back pocket,’” Costello said. “I said, ‘What if the car breaks down?’ The guy has such an attitude with me. He said, ‘You have a debit card. Go find an ATM.’ ”

When Costello said he was not leaving without a receipt, the deputy pulled out a scrap of paper and wrote down the sum he was taking: \$32,934.

Department officials did not return calls seeking comment about the stop.

Costello hired a local attorney to get the money back. After making a few calls, the lawyer told him to accept a deal from the government for half of the money. Costello agreed. But his legal fees were \$9,000 — leaving him with only about \$7,000.

None of it makes any sense to him.

“Why would [they] give anything back if they thought you were guilty?” he said.

## The Nevada desert

Police can also seize cash under their state laws.

Matt Lee of Clare, Mich., got snared in an interdiction net in 2011 on Interstate 80 in Humboldt County, Nev. Lee was a 31-year-old college graduate who had struggled to find work and had moved back in with his parents to save money. When a friend promised him an entry-level job as a sales rep at a photo studio in California, Lee's father, a postal employee, loaned him \$2,500 in cash and Lee drove west in a decade-old Pontiac Bonneville.

On his third day, Lee was passing through the Nevada desert, wearing aviator sunglasses. A sheriff's deputy raced up alongside the Bonneville, stared at Lee and then pulled him over.

Humboldt County Sheriff's Deputy L.A. Dove, a member of the K-9 drug interdiction unit, has received instruction from the 4:20 Group, a contractor for the DEA and one of the leading interdiction trainers in the country.

Dove asked whether Lee was carrying any currency and summoned a K-9 officer. Dove told Lee, who is white, to get out of the car and stand at the edge of the desert, while a dog sniffed for drugs. The deputy told Lee that he didn't believe his story that he was moving to California, because he was carrying so little baggage, Lee told *The Post*. Lee has no criminal record.

When a search turned up Lee's remaining \$2,400 in cash, Dove and his colleague exchanged high-fives, Lee said. Dove said he was taking the money under state law because he was convinced that Lee was involved in a drug run. Lee was left with only the \$151 in his pocket.

After he was set free, Lee said his hands were shaking so much that he couldn't call his parents. "I just couldn't believe that police could do that to anyone," Lee told *The Post*. "It's like they are at war with innocent people."



Things went downhill for him. Depressed and distracted, Lee botched his final interview and did not get the job he was aiming for in California. He hired a Reno attorney to get his money back and Humboldt County agreed to return it. But the attorney took about half as his fee and costs, \$1,269.44, leaving Lee with only \$1,130.56.

Humboldt sheriff's officials did not respond to a request to interview Dove.

In February, Lee wrote an angry opinion piece about his experiences for the Silver Pinyon Journal, an online news service in Humboldt County.

"I intend to throw a spotlight on this little operation they've got going on in Humboldt County, Nevada," he wrote. "I intend to make it as difficult as possible for them to continue with their modus operandi. If they are going to violate civil rights, I'm going to make sure people hear about it."

This year, the department was the focus of media coverage of lawsuits filed by motorists to recover their seized cash, two of which were later settled.

## Years of savings

José Cristobal Guerrero of Raleigh, N.C., was stopped by police in DeKalb County, Ga. He had just visited his brother's suburban Atlanta home to pick up his two nephews and take them to Mexico to see their grandfather when police blocked his family's Tahoe SUV in a parking lot.

Know your rights: During traffic stops on the nation's highways, the U.S. Constitution's Fourth Amendment protects motorists "against unreasonable searches and seizures." The law also gives police the power to investigate and act on their suspicions.

1. Police have a long-established authority to stop motorists for traffic infractions. They can use traffic violations as a pretext for a deeper inquiry as long as the stop is based on an identifiable infraction.

2. An officer may detain a driver only as long as it takes to deal with the reason for the stop. After that, police have the authority to request further conversation. A motorist has the right to decline and ask whether the stop is concluded. If so, the motorist can leave.
3. The officer also has the authority to briefly detain and question a person as long as the officer has a reasonable suspicion that the person is involved in criminal activity. Reasonable suspicion is based on specific and articulable facts but falls short of the legal standard for making an arrest.
4. A traffic infraction or reasonable suspicion alone do not give police authority to search a vehicle or a closed container, such as luggage. Police may ask for permission to search; drivers may decline. Police do not have to tell drivers that they have a right to refuse.
5. An officer may expand a roadside investigation if the driver's responses and other circumstances justify a belief that it is more likely than not that criminal activity is occurring. Under this standard, known as probable cause, an officer can make an arrest or search a vehicle without permission. An alert by a drug-sniffing dog can provide probable cause, as can the smell of marijuana.
6. Police can seize cash that they find if they have probable cause to suspect that it is related to criminal activity. The seizure happens through a civil action known as asset forfeiture. Police do not need to charge a person with a crime. The burden of proof is then on the driver to show that the cash is not related to a crime by a legal standard known as preponderance of the evidence.

*Sources: Jon Norris, criminal defense attorney; David A. Harris, University of Pittsburgh law professor; Scott Bullock, civil liberties lawyer, Institute for Justice; Department of Homeland Security.*

**Guerrero, a Mexican national with permanent resident status in the United States, was a construction foreman who once served as a church deacon. But on this day in July 2005, he was caught up in a drug investigation, according to legal documents and interviews.**

**DeKalb Officer Mike DeWald had been watching Guerrero's brother's home as a part of an ongoing investigation into one of the tenants. DeWald asked Guerrero a few questions and Guerrero described his family's travel plans and said he was carrying \$13,630, his attorney later said.**

Police brought a K-9 unit to the scene, and the dog indicated the presence of drugs. The officers emptied the family's suitcases onto the pavement, court records show. No drugs were found.

When DeWald found the money, he seized it and began processing it through the federal Equitable Sharing Program.

The money represented several years worth of savings and was intended to pay for land in Mexico and bills for Guerrero's extended family there, according to his attorney, Josh Stone.

Federal prosecutors in Atlanta defended seizing the cash "on grounds that it was furnished or intended to be furnished in exchange for controlled substances."

The prosecutors eventually offered to return half the money, but Guerrero refused. Ultimately, prosecutors agreed to return all the money to Guerrero — but only if he signed an agreement that he would not sue the police or prosecutors. He signed and received his \$13,630 in 2008, three years after his money had been seized. The Post found that more than 1,000 people have signed such agreements to get all or part of their money back.

In one respect, Guerrero was lucky. His construction firm paid a small amount to make his legal struggle possible, and Stone had agreed to do much of the work without pay. Given the time involved, the legal bills would have been \$50,000, Stone said. But he agreed not to press for his fee from the government as part of the settlement.

"We didn't take this case to make money," Stone said. "Most people don't have this kind of money to fight these cases."

In a footnote to his court filings, Stone tried to reframe the circumstances to show the authorities why the stop was so wrong.

“This case should be extremely troubling for any red-blooded American. Jose Guerrero is a legal immigrant to this Country with a stable and exceptional employment record,” he wrote. “One can only imagine the cries of outrage if Americans were subject to similar treatment by the Mexican authorities.”

Sally Quillian Yates, the current U.S. attorney in Atlanta, told The Post that “under our current office practice, we would not have proceeded forward with this case.”

DeWald, who now works for the Sandy Springs, Ga., Police Department, said his decision to seize the money was carefully considered and based on the totality of the circumstances. “There was a lot involved in that case,” he said. He added that highway interdiction is an important tool for police, who strive to make lawful seizures.

“We’re not out here trying to violate anybody’s rights,” he said. “The Fourth Amendment is something we have to hold dear to our hearts. We have to operate within the scope of the law.”

## Tinted windows

When the Fairfax police cruiser turned on its lights, not far from the Fairfax County Parkway in Northern Virginia, Mandrel Stuart did not panic.

At 6-feet-1-inch tall and 225 pounds, he was big and genial. At 35, he was experienced in dealing with the police. He had lived a rough life as a young man, with multiple arrests for possessing or peddling small amounts of pot.

Officer Kevin Palizzi began by asking about the movie that was still playing on screen inside the vehicle, “Flashdance.” It is illegal to drive with a video playing in sight of the driver.

Though Palizzi later said that he initiated the stop because Stuart’s tinted windows appeared to be too dark, he did not have the device needed to check to see whether the tinting was within legal limits, police records show.

As his partner began talking with Stuart’s girlfriend, Palizzi asked Stuart to join him behind the SUV, where he began peppering him with questions. Where did he live? What did he do in Staunton? Why was he going to the District of Columbia? What was his criminal history?

“He admitted to having been arrested for a lot of things in the past,” Palizzi said in the police report. “He kept asking why we were asking so many questions and wanted to know why he was not able to leave already.”

Palizzi went to his cruiser to write a summons for the video infraction but not for the tinted windows. A K-9 officer arrived in the meantime, and, as he walked around Stuart’s Yukon, his dog seemed to smell drugs on the left front bumper and wheel. That was what they needed to conduct a search.

Palizzi is a member of Black Asphalt Electronic Networking & Notification System, an informal national intelligence network started by the founder of Desert Snow, according to documents obtained by The Post. Palizzi trains other officers in the techniques. “He truly is one of the most passionate officers I have ever seen,” Fairfax County police spokesman, Don Gotthardt said. “His passion is to take drugs off the street.”

Palizzi did not return calls seeking an interview.

During the stop, Palizzi drew on his training to take stock of indicators of possible criminal activity, documents and interviews show. He thought it was suspicious that Stuart's girlfriend did not know where they were going.

He also thought the dash and interior trim of the 12-year-old car were "suspiciously loose," and he took as evidence a "yellow straw with green residue," according to his report of the stop.

Palizzi and his partner searched the car and found large bundles of cash in a brown paper bag. Palizzi told Stuart and his girlfriend they were taking the vehicle into the station for a more thorough search. According to a record of the stop, he gave them a choice: They could be left on foot at a highway exit or go with police.

"They both chose to come with us," Palizzi wrote. "For safety reasons, they were both searched, handcuffed and transported in the back of our car."

Now Stuart started to fret. Everything felt out of control, even though he had done nothing wrong.

"They were going to leave us at the side of the road," he told The Post. "I am saying to myself, 'Why are they handcuffing me if I'm not under arrest?' I didn't understand it."

A more intensive search of the vehicle at the station turned up only a few flecks of marijuana: 0.01 gram. It was in the bottom of a bag holding DVDs that were there to entertain Stuart's four kids when he drove them around.

As for the suspicious yellow straw, it turned out to be from a Capri Sun juice pouch that one of his kids had left behind.

During further questioning in the station house, Stuart maintained that he was heading into the District on a date with his girlfriend. He also said he was going to a friend's restaurant to buy kitchen equipment and staples, such as oxtail, goat and cocoa bread, for his own restaurant, the Smoking Roosters.

When they asked why he didn't have a checkbook or credit card, he said he had gotten in trouble over meal taxes and did not have an account. They had searched through his phone and found a street reference to pot in a text. When they asked whether he still smoked pot, Stuart answered yes.

More than two hours after stopping Stuart for driving with tinted windows, Palizzi tore off a piece of note paper, wrote down the amount of money he had seized — \$17,550 — and gave it to Stuart as a receipt, along with his car keys and phone. And they let him go.

Stuart made a phone call: to his mother, asking for help.

Stuart faced financial problems almost immediately. He had rent to pay and even bigger electricity bills at his restaurant. He still had to buy supplies for the Smoking Roosters and pay his few employees. He had no credit. And now he had no cash, either.

He wanted to get his money back, but he had no idea how to sort through the intricacies of the federal civil forfeiture system, an arcane corner of the American legal world. Though he was never charged with a crime, he would have to prove, in effect, that he made the money legally.

Shawn Stout, a lawyer then based in Fairfax, does not know how Stuart found him. But he said it was a lucky thing. Stout was a recent graduate of George Mason University Law School and was looking for cases to take on. He was outraged by what Stuart told him about the stop. "It's gross," he said.

He took on Stuart under a \$1,000 initial fee and began guiding him through the civil legal process.

In one deposition, Assistant U.S. Attorney Karen Taylor of the Justice Department office in Alexandria asked Stuart more than 300 questions. Drawing on criminal records and other material she had obtained about Stuart, Taylor asked about his work history, his children and his affinity for pot. She brought up earlier run-ins with the law. She asked about his mother and girlfriends and wanted to know why he called his restaurant the “Smoking Roosters” and why he was going into the District.

“Me and my lady friend was going up there to pick up some supplies I had already ordered,” he told her, adding later in the session that those included oxtails.

“Oxtails? What’s that?” Taylor said.

“It’s the tail of a cow,” he said. “It’s real tender.”

Last year, prosecutors changed their position and offered to return half the money as part of a settlement. Stuart refused and Stout arranged to take the case before a jury. “Why should the government keep half of his money?” Stout told The Post.

In a day-long trial, Stuart took the stand and repeated much of what he had told authorities. The jury deliberated for 35 minutes before ruling unanimously in his favor.

In addition to returning his \$17,550, the government had to pay Stuart’s legal fees: an additional \$11,825.40. Uncounted is the cost to taxpayers of the government’s effort to keep the money.



Gotthardt, the Fairfax police department spokesman, declined to comment about the jury's decision. But he said that interdictions and seizures are effective tools — as long as they are properly used.

“There is absolutely the potential for misuse and abuse,” he said. “Fairfax County absolutely would not tolerate misuse and abuse.”

Stuart was thrilled to win, but saddened by the 14-month-long episode.

Almost a year earlier, saddled with bills and lacking any credit to pay them, he shuttered the two-year-old Smoking Roosters. He had hoped to leave it to his four kids someday.

“Did I win? I lost my restaurant,” he said. “I’m not whole.”

Now he works in construction.

*Steven Rich and Alice Crites contributed to this article. Alexia Campbell, Cathaleen Chen, Hoai-Tran Bui, Nagwa Abdallah and Justin Warren also contributed through an investigative reporting program at American University.*

#### About this story

The Washington Post relied on an array of materials to explore the rise of civil seizures in recent years, with a particular focus on highway seizures made by state and local police. For details about seizures and the techniques employed by police, reporters reviewed more than 400 federal court cases in which owners of cash filed legal appeals to get it back. The Post also examined some seizures made under state forfeiture laws.

Through Freedom of Information Act requests, The Post obtained a database from the Justice Department containing details about 212,000 seizures since

1996 through the Equitable Sharing Program, the federal government's largest asset forfeiture effort.

Justice officials did not release data that pinpointed the geographic location of each seizure, so it is impossible to identify precisely how many seizures occur during traffic stops. To focus on roadside stops, The Post looked at cases that were not made at businesses and that occurred without warrants or indictments: 61,998 seizures have met those criteria since Sept. 11, 2001. That group of cases was then compared to a list obtained by The Post of 1,654 departments and agencies with officers who are members of an unofficial police intelligence network known as the Black Asphalt Electronic Networking & Notification System that is focused on highway stops and seizures.

The Post also obtained more than 43,000 Justice Department reports from state and local police departments across the country that participated in Equitable Sharing, along with records provided by the Institute for Justice, a nonprofit civil liberties group, to assess how seizures contribute to department budgets.

# Part 4: Asset seizures fuel police spending

**P**olice agencies have used hundreds of millions of dollars taken from Americans under federal civil forfeiture law in recent years to buy guns, armored cars and electronic surveillance gear. They have also spent money on luxury vehicles, travel and a clown named Sparkles.

The details are contained in thousands of annual reports submitted by local and state agencies to the Justice Department's Equitable Sharing Program, an initiative that allows local and state police to keep up to 80 percent of the assets they seize. The Washington Post obtained 43,000 of the reports dating from 2008 through a Freedom of Information Act request.

The documents offer a sweeping look at how police departments and drug task forces across the country are benefiting from laws that allow them to take cash and property without proving a crime has occurred. The law was meant to decimate drug organizations, but The Post found that it has been used as a routine source of funding for law enforcement at every level.

“In tight budget periods, and even in times of budget surpluses, using asset forfeiture dollars to purchase equipment and training to stay current with the ever-changing trends in crime fighting helps serve and protect the citizens,” said Prince George’s County, Md., police spokeswoman Julie Parker.

Brad Cates, a former director of asset forfeiture programs at the Justice Department, said the spending identified by The Post suggests police are using Equitable Sharing as “a free floating slush fund.” Cates, who oversaw the program while at Justice from 1985 to 1989, said it has enabled police to sidestep the traditional budget process, in which elected leaders create law enforcement spending priorities.

“All of this is fundamentally at odds with the U.S. Constitution,” said Cates, [who recently co-wrote an article](#) calling for the program’s abolition on The Post’s editorial page. “All of this is at odds with the rights that Americans have.”

Of the nearly \$2.5 billion in spending reported in the forms, 81 percent came from cash and property seizures in which no indictment was filed, according to an analysis by The Post. Owners must prove that their money or property was acquired legally in order to get it back.

The police purchases comprise a rich mix of the practical and the high-tech, including an array of gear that has helped some departments militarize their operations: Humvees, automatic weapons, gas grenades, night-vision scopes

and sniper gear. Many departments acquired electronic surveillance equipment, including automated license-plate readers and systems that track cellphones.

The spending also included a \$5 million helicopter for Los Angeles police; a mobile command bus worth more than \$1 million in Prince George's County; an armored personnel carrier costing \$227,000 in Douglasville, Ga., population 32,000; \$5,300 worth of "challenge coin" medallions in Brunswick County, N.C.; \$4,600 for a Sheriff's Award Banquet by the Doña Ana County (N.M.) Sheriff's Department; and a \$637 coffee maker for the Randall County Sheriff's Department in Amarillo, Tex.

Sparkles the Clown was hired for \$225 by Chief Jeff Buck in Reminderville, Ohio, to improve community relations. But Buck said the seizure money has been crucial to sustaining long-term investigations that have put thousands of drug traffickers in prison.

"The money I spent on Sparkles the Clown is a very, very minute portion of the forfeited money that I spend in fighting the war on drugs," he told The Post.

About 5,400 departments and drug task forces have participated in the Equitable Sharing Program since 2008. Justice spokesman Peter Carr said the program is an effective weapon to fight crime but should not be considered "an alternative funding source for state and local law enforcement."

"It removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime," he said in a statement. "Any funds received through the equitable sharing program are meant to enhance and supplement, not supplant or replace an agency's appropriated budget and resources."

## Money for gear, training

A local or state police agency can seize cash or property under federal law through the Equitable Sharing Program when a federal agency such as the Drug Enforcement Administration or Immigration and Customs Enforcement agrees to adopt the seizure under federal law. Federal agencies generally are allowed to keep 20 percent or more of the seizure after an adoption.

In September, [The Post reported](#) that police across the country became more aggressive in their use of federal civil asset forfeiture laws after the Sept. 11, 2001, terrorist attacks. Officials at Justice and the Department of Homeland Security encouraged a technique known as highway interdiction to help in the fight against drugs and terror.

There have been 61,998 cash seizures on highways and elsewhere since 9/11 without search warrants or indictments and processed through the Equitable Sharing Program, according to an analysis of Justice data obtained by The Post.

Equitable Sharing participants must follow rules contained in a 50-page Equitable Sharing guide that require the proceeds of seizures to be used “by law enforcement agencies for law enforcement purposes only.”

Permissible uses include overtime pay, training, building construction and improvements and equipment — everything from file cabinets and fitness gear to automatic weapons, surveillance systems and cars. They also can use proceeds to buy food and drinks at conferences or during disaster operations.

Police generally may not pay ongoing salaries or otherwise support annual budgets. One exception allows for departments to pay salaries of newly hired officers for one year or officers assigned to a drug task force as a replacement

“so long as the replacement officer does not engage in the seizure of assets or narcotics law enforcement as a principal duty.”

The Justice Department has about 15 employees assigned to overseeing compliance. Five employees review thousands of annual reports for discrepancies. Justice employees also use analytical tools to search for spending patterns. Several attorneys review all sharing requests for \$1 million or more, Carr said, adding that the locals also do their own audits.

The annual reports from local and state police are required to help “promote public confidence” in the program and to protect against “waste, fraud and abuse,” the guidelines say. But the forms provide few details about what is actually purchased, according to documents and interviews. That is in part because the department leaves it up to local officials to decide how to categorize their spending. There is little room to provide line-item detail.

Justice’s inspector general’s office has conducted 25 audits on spending since 2008, an average of four a year, examining more than \$18 million in Equitable Sharing spending, roughly three-quarters of 1 percent of the money spent during that time. Justice has challenged millions of dollars in spending as unsupported or unallowable.

One audit examined about \$3.4 million in Equitable Sharing funds that the Oklahoma Highway Patrol spent from July 2009 to June 2012.

The audit found \$1.9 million in unallowable and unsupported expenditures relating to salaries, overtime pay, construction, fees paid to contractors and the use of two Ford F-150 pickup trucks by non-law enforcement personnel.

Oklahoma authorities did not return calls seeking comment.

Auditors found the Mesa County, Colo., Sheriff's Office paid thousands for projectors, scanner equipment and other items that were not intended for law enforcement. They also paid for 20 lawyers in the Mesa County prosecutor's office to attend a conference at the Keystone ski resort. Auditors questioned more than \$78,000 in spending.

The Mesa Sheriff's Office also did not respond to calls from The Post.

## Trading cards and BMWs

One task force used the money for a subscription to High Times, a magazine for marijuana enthusiasts, at \$29.99 for a year.

Several departments bought custom-made trading cards, complete with photos and data about their officers. Some, including police in Chelsea, Mass., share them with children in their communities.

"We have found that this is a great way to build trust and foster long-lasting relationships with the youth in our community who get to know officers on a first-name basis," said Chelsea Police Chief Brian Kyes.

Ten agencies have used the asset forfeiture funds to pay their fees for the Defense Department's excess property initiative, better known as the 1033 program, which enables local and state police to buy surplus military-grade equipment at cut rates. The equipment includes automatic weapons, night-vision gear and clothing.

Police in Sahuarita, Ariz., paid \$4,300 to outfit a Humvee obtained through the 1033 program. The New Bedford, Mass., Police Department in 2012 paid \$2,119 for shipping costs for M-16s from the military.



Dozens of sheriff and police offices paid a total of more than \$100,000 for keepsakes known as “challenge coins” and lapel pins that they could share with one another and with local residents.

Scores of departments spent money on vehicles. Many of them were typical police cruisers, but dozens were new and used sports and luxury cars, including at least 15 Mercedes, a dozen Mustangs, a handful of BMWs and two Corvettes.

Others bought a variety of armored cars. Among them was the police department in Douglasville, Ga., and the sheriff’s office in Douglas County, Ga., which teamed up several years ago to buy an eight-ton, \$227,000 BearCat (Ballistic Engineered Armored Response Counter Attack Truck).

Douglasville Deputy Chief Gary E. Sparks said they have used the vehicle a few times in barricade situations. But mostly it has been deployed for “officer down” and SWAT team exercises.

“It’s better to have it and not need it than need it and not have it,” he said.

Police in Ferguson, Mo., also participate in Equitable Sharing. Since 2008, the department reported using seizure proceeds to buy \$18,000 in weapons and protective gear, \$71,000 in computers and communications gear, and about \$43,000 in electronic surveillance equipment. Some of the money was seized in partnerships with other agencies, the annual reports show.

Jurisdictions in the Washington region have used the federal asset forfeiture program as well.

Virginia State Police spent \$33 million on buildings and improvements and \$11 million on computers and communications gear. A state police spokeswoman said the funds came from money forfeited by Purdue Frederick

Company, the maker of OxyContin, to settle allegations that the company played down the drug's addictive properties.

The D.C. Metropolitan Police Department was a leader in spending on informants and undercover drug purchases, reporting about \$3.3 million under that category. The department declined a request to provide details.

Prince George's police spent \$382,000 on license-plate readers, \$56,000 to paint two aging helicopters and an undisclosed amount on a "cell site simulator" that can surreptitiously track cellphones.

Parker, the Prince George's police spokeswoman, said the cellphone-tracking system is only used under court order and that the department "follows best practice policies" when spending forfeiture funds.

Fairfax County police have spent \$1.3 million on weapons and protective gear, \$561,000 on buildings and improvements and \$208,000 on electronic surveillance gear. The department declined to share details about the spending.

The Justice Department audited Fairfax's spending in 2009 and 2010 and found the department had complied with the guidelines at that time.

"Our financial stewardship of our Seized Account Funds is in compliance with all Federal rules and laws, State rules and laws, County rules and laws, and we undergo audits of these accounts by local and federal agencies," Col. Edwin C. Roessler Jr., the Fairfax police chief, said in a statement. "Additionally, we are subjected to internal audit processes to review all requests for expenditures to ensure purchases are pre-approved for compliance."

## Steady money for Ga. town

The Post analysis found that since 2008, more than 500 departments and drug task forces have reported receiving the equivalent of 20 percent of their annual spending plans at least once. Nearly 100 have done so in at least three of the past six years.

The local department that makes the most consistent use of Equitable Sharing funds per capita is in [Braselton, Ga., a town of about 8,000 people](#) along Interstate 85 northeast of Atlanta. It has reported receiving the equivalent of 20 percent or more of its budget from the Justice program in five of the past six years, documents show.

The Braselton Police Department's approach to Equitable Sharing offers insights about the latitude the Justice Department gives local and state departments to spend seized proceeds. It also underscores how little Equitable Sharing participants are required to disclose to Justice each year.

According to the town's annual reports, police in Braselton have spent \$79,000 on weapons and protective gear since 2008, \$139,000 on travel and training, \$134,000 on salaries, \$224,000 on computers and communications gear, \$875,000 on a category characterized on the Justice form as "other," and \$905,000 on buildings and improvements.

Their spending included \$806,000 for the purchase and modification of vehicles.

**“It’s legit. We’re not buying stuff just to buy stuff,” he said, adding, “We spend the money if we have it. . . . It’s pretty**

**cool. We're not only able to help us, we're able to help others."**

—Braselton Assistant Chief Lou Solis

In interviews, Assistant Chief Lou Solis said that not all the reported spending went to items for the town police. He said that Braselton uses its membership in the Equitable Sharing Program to buy things for law enforcement partners, such as the Georgia State Patrol.

The federal guidelines allow the formation of task forces and the participants to decide how to split the seizures among themselves, with Justice's approval. Most of Braselton's seizure proceeds came as a result of its participation in an Atlanta-based DEA drug task force that relies heavily on local police. Braselton has one officer assigned to the task force, Solis said.

Braselton police recently paid \$6,000 for copiers for a nearby DEA office. "The DEA says, 'Hey man, we need a copier,' " Solis said.

In some instances, town police help out on "whisper stops" after receiving informal tips about smugglers from the DEA, he said. Some of the seizures are made by the state patrol on nearby I-85, with help from Braselton officers, he said.

State police have sometimes partnered with Braselton on seizures in exchange for pledges from town police to provide cars and equipment for the state police. For example, Solis said, Braselton police recently bought 27 M-4 assault rifles, at about \$2,000 each, for state police with proceeds from Equitable Sharing. Braselton also paid almost \$8,000 in program funds for radar, lights and a tag reader for the state police.

The deals with Braselton enabled state police offices to receive the direct benefit of seizure proceeds rather than have the money go through the state patrol's general fund, according to Solis and Capt. Kermit Stokes, a state patrol official.

Braselton police also used seizure proceeds to build an enclosed shooting range used by local, state and federal authorities, including the Department of Homeland Security, which also contributed funding, Solis said.

"It's legit. We're not buying stuff just to buy stuff," he said, adding, "We spend the money if we have it. . . . It's pretty cool. We're not only able to help us, we're able to help others."

In every instance, planned purchases are submitted to town authorities before being approved by Braselton's police chief, he said. Every request from Georgia's state patrol is accompanied by a formal letter, as required by the Justice program, he said.

"It's checked and it's double-checked," Solis said about the spending. "It's audited."

When town police help out, other agencies sometimes promised to include them in a "DAG-71," the federal form that specifies how sharing should occur. So many seizures have occurred in recent years, leading to so much sharing among local, state and federal authorities, that it has become common for one officer to tell another, "We're going to 'DAG you in," Solis said.

After The Post brought the transactions to Justice's attention, a department official told Braselton to stop using Equitable Sharing funds to buy items for other departments, said Carr, the Justice spokesman. Such transactions were

not “explicitly prohibited previously,” but a new interim guidance for the program was issued this summer, Carr said.

“Braselton Police Department is now aware that this is not permitted and has assured the department it will comply with the new guidance,” Carr said. He added that other departments had made similar transactions in recent years.

Braselton Police Chief Terry Esco said he was not aware of the interim guidance but is happy to comply.

“We just never received the e-mail,” he said.

## Part 5:

# Highway seizure in Iowa fuels debate about asset-forfeiture laws

This is the fifth installment in the “Stop and Seize” investigative series.

By [Robert O'Harrow Jr.](#) November 10, 2014

The two men in the rented red Nissan Altima were poker players traveling through Iowa on their way to Las Vegas. The police were state troopers on the hunt for criminals, contraband and cash.

They intersected last year on a rural stretch of Interstate 80, in a seemingly routine traffic stop that would soon raise new questions about laws that allow police to take money and property from people not charged with crimes.

By the time the encounter was over, the gamblers had been detained for more than two hours. Their car was searched without a warrant. And their cellphones, a computer and \$100,020 of their gambling “bankroll” were seized under state civil asset-forfeiture laws. The troopers allowed them to leave, without their money, after issuing a traffic warning and a citation for possession of marijuana paraphernalia that carried a \$65 fine, court records show.

Months later, an attorney for the men obtained a video of the stop. It showed that the motorists were detained for a violation they did not commit — a

failure to signal during a lane change — and authorities were compelled to return 90 percent of the money.

Now the men are questioning the police tactics in an unusual [federal civil rights lawsuit](#). In the suit, filed Sept. 29, William Barton Davis, 51, and John Newmerzhycky, 43, both from Humboldt County, Calif., claim their constitutional rights against unreasonable searches and seizures were violated. They also contend the stop was part of a pattern connected to the teachings of a private police-training firm that promotes aggressive tactics.

Davis is a professional poker player, and Newmerzhycky worked as glass blower, according to court records. In an interview, Davis said the men felt as though they were being “stalked” by the police.

If allowed to proceed, the lawsuit could illuminate the widespread but little-known police practice known as “highway interdiction.” The suit names [Desert Snow, the Oklahoma-based training firm](#), and its founder, Joe David, court records show. It also names the two Iowa State Patrol troopers who participated in the traffic stop and were trained by Desert Snow.

Desert Snow’s lead instructor, David Frye, said the lawsuit has no merit and contains “outrageous” and “inaccurate” accusations.

“The evidence will show that the individuals who had their money seized were involved in drug trafficking and that the vacuum sealed packages of cash they had in their possession were tied to the sale of narcotics,” Frye said in a statement to The Washington Post. “Desert Snow is a top-notch training program which will continue to teach officers how to legally and professionally identify and apprehend persons involved in criminal activity.”



The case has created a stir in Iowa's political and law enforcement worlds. The [Des Moines Register](#) wrote about the lawsuit and called for legislative reforms in an Oct. 19 editorial that cited the I-80 seizure and a recent investigation by [The Post](#), which found that police nationwide have seized \$2.5 billion in cash from almost 62,000 people without warrants or indictments under federal civil asset-forfeiture laws since 2001. The laws allow police departments to keep up to 80 percent of the cash they seize.

“As long as police agencies know that all or some of the cash they seize will be funneled back into them, the roadside shakedowns are going to continue,” the Register's Oct. 19 editorial said.

In September, The Post reported that police trained by Desert Snow, along with those who participate in Black Asphalt, an informal police intelligence network started by the firm, said they had seized more than \$427 million in one five-year stretch. Among others things, Black Asphalt enables police to share tips across state lines about drivers who raise their suspicions.

The troopers in the Iowa case, Justin Simmons and Eric Vanderwiell, were both trained by Desert Snow, court documents show. They also were members of Black Asphalt, according to internal documents obtained by The Post. They were also part of a drug interdiction unit in eastern Iowa.

A spokesman for the Iowa Department of Public Safety said the troopers declined requests for interviews. In response to inquiries by The Post, spokesman Alex Murphy acknowledged that the troopers were still members of Black Asphalt. But he said they had not submitted any information to the network since 2012, when the department prohibited such reporting because of concerns about civil liberties and “an increased risk for civil and criminal liability for officers and the department.”

An earlier Register analysis last year found that 86 percent of warnings and citations issued by Iowa's aggressive interdiction units between 2008 to 2012 were given to out-of-state drivers. The newspaper reported that the units seized more than \$18 million in drugs and \$7 million in cash from 2011 to 2013.

The stop of the gamblers in Iowa on April 15, 2013, illustrates some of the highway interdiction methods in use nationwide.

Earlier that morning, an officer in Illinois alerted an Iowa trooper to a suspicious red car with Nevada license plates driving west, court records show. When the Altima appeared in Iowa, Trooper Simmons followed it for several miles before pulling it over. He told the motorists that they had been stopped for failing to signal when they passed a black SUV.

Simmons said he was issuing a warning for the failure to signal. After handing over the paperwork, he said the stop was over. Then he asked the driver, Newmerzhycky, if he had "time for just a couple quick questions."

Police who specialize in highway interdiction use casual conversations to avoid triggering legal questions about the length of stops. If the conversations are consensual, courts consider the added delay to be legal.

Highway police are trained to use the chats as an opportunity to take stock of alleged "indicators" of criminal activity, including nervous speech patterns, a pulsing carotid artery and inconsistencies in stories. They are also trained to seek permission for warrantless searches.

"Do you got any drugs?" Simmons asked on the video recording that was later obtained by his lawyer. "Any large amounts of U.S. currency?"

“Absolutely not,” Newmerzhycky said.

“Nothing in there? Could I search your car?”

“I don’t see any reason to. I’m not going to consent to that.”

“Okay. I’m just asking you if I can,” Simmons said.

“No.”

At this point, the stop is supposed to come to an end and the driver allowed to leave, unless during the consensual conservation the officer has developed a suspicion — one that can be articulated — that a crime has occurred.

Scholars of constitutional law said that a refusal to consent cannot count as suspicious behavior. Nervousness on its own also is not sufficient to justify continued detention, they said.

But rather than release the motorists, Simmons told them he wanted to bring in an officer with a drug-sniffing dog.

“Could I just call him? Do you want to wait? I’ll call him and just run a dog around it real quick.”

“I’d prefer to be on my way. I mean, I’m telling you the truth, there’s nothing in my car,” Newmerzhycky said.

“I’m just asking you if you want to wait for me to run a dog around,” Simmons said. “I’d like to.”

“Do I have the right to say ‘no’ to that?”

“You do.”

“I’d prefer to be on my way.”

At that point, the stop had gone on for almost half an hour. Simmons told Newmerzhycky that you “seem like you were really nervous” and that “I’ve seen your pulse running here.”

Minutes later, Trooper Vanderwiell arrived with the dog, which alerted on the back area of the car. That gave Simmons and Vanderwiell probable cause to search the vehicle without a warrant or the driver’s consent. They found more than \$100,000 in cash, most of it shrink-wrapped in plastic. They also found an herb grinder that contained some flakes of marijuana.

“I’ll be honest with you, we didn’t find anything illegal, so you are not arrested, right?” Simmons said on the video. “But you are being detained.”

In a recent interview with The Post, Davis, the passenger in the car, said the men lied because they were concerned the police might take the money.

The troopers took the men to a state highway maintenance facility, where they were joined by two state investigators and continued to question the men about the money and examine the car. Two hours later, they let the men go — without their cash. Newmerzhycky was given a drug-paraphernalia citation for having the grinder, a misdemeanor.

Davis and Newmerzhycky hired a lawyer and challenged the seizure in Iowa, citing the video of the stop. In September 2013, authorities reversed course and cut a deal to give back 90 percent of the money.

That wasn't the end of it, though. The day of the traffic stop, one of the state investigators had called authorities in Humboldt County, Calif., who raided the men's homes the next day. They found that each was growing marijuana.

California authorities brought criminal charges against them for unlawful cultivation of marijuana, possession of marijuana with intent to sell, and providing a place for the use, storage, manufacturing of a controlled substance.

But the California prosecutor dropped the charges in April after learning more about the circumstances of the traffic stop.

"We're moving to dismiss in the interest of justice because the officers that conducted the search warrants here in California were given information from an officer who was out of state," the prosecutor told a judge in Humboldt County. "The officer who was out of state got it from a traffic stop, but the traffic stop was done without probable cause."

The prosecutor added: "The People realize that everything else would be fruit of the poisonous tree."

Their attorney would later note in legal filings that Davis and Newmerzhycky both had permits allowing them to grow marijuana for personal medicinal purposes, court records show.

After the California case was dropped, Davis and Newmerzhycky hired another lawyer, Glen Downey, to pursue the civil rights claims.

Downey said he believes the evidence will demonstrate that the Desert Snow training encourages police to go too far.

“They’re telling these officers how to do it step by step,” Downey said. “They’re giving them a manual on how to violate motorists’ constitutional rights.”

A spokesman for Iowa Attorney General Tom Miller said the office will represent the police in the lawsuit. In a statement, Miller said that “civil forfeiture law is an important tool needed by law enforcement to deny criminals (especially drug dealers) the fruits of their crimes” and that abuses of the law by police are “isolated.”

## Part 6:

# D.C. police plan for future seizure proceeds years in advance in city budget documents

This is the sixth installment in the “Stop and Seize” investigative series.

By [Robert O'Harrow Jr.](#) and [Steven Rich](#) November 15, 2014

D.C. police have made plans for millions of dollars in anticipated proceeds from future civil seizures of cash and property, even though federal guidelines say “agencies may not commit” to such spending in advance, documents show.

The city’s proposed budget and financial plan for fiscal 2015 includes about \$2.7 million for the District police department’s “special purpose fund” through 2018. The fund covers payments for informants and rewards.

The financial details emerged Wednesday, when the D.C. Council’s judiciary committee unanimously voted to [forward a bill](#) that would overhaul asset forfeiture laws in the nation’s capital. The bill would raise the threshold of proof required for a forfeiture, bolster the rights of individuals whose property has been taken and require that proceeds from seizures under federal law go into the city general fund, rather than directly to the police department. The full council is set to vote on the bill Tuesday.

Council member Tommy Wells, chairman of the Committee on the Judiciary and Public Safety, said police should not have a financial incentive to make seizures. He said the bill addresses problems that are common across the country.

“All across the nation, law enforcement agencies are directly benefiting from forfeiture,” said Wells (D-Ward 6), who is leading the effort to reform asset forfeiture in the District. “In those places, forfeiture proceeds go directly to the law enforcement entity, creating at best the appearance of a conflict of interest, and at worst, an unchecked incentive for slush funds.”

Civil forfeiture laws permit local and state police to take cash, cars, homes and other property from people suspected of involvement in drug trafficking or other wrongdoing without proving a crime has occurred. Police can make seizures under state or federal laws.

Since 2009, D.C. officers have made more than 12,000 seizures under city and federal laws, according to records and data obtained from the city by [The Washington Post](#) through the District’s open records law. Half of the more than \$5.5 million in cash seizures were for \$141 or less, with more than a thousand for less than \$20. D.C. police have seized more than 1,000 cars, some for minor offenses allegedly committed by the children or friends of the vehicle owners, documents show.

When D.C. police seize cash or property under District law, the proceeds go into the city’s general fund. But proceeds of seizures made under federal law go directly to the police department through the Justice Department’s [Equitable Sharing Program](#), which allows local departments to join with federal agencies in forfeitures and keep up to 80 percent of the proceeds.



District financial records show that D.C. police receive about \$670,000 annually from the Equitable Sharing Program. About \$30,000 in proceeds from forfeitures under District law go into the general fund.

Justice Department spokesman Peter Carr declined to discuss civil asset forfeiture practices in the District. He said police agencies can participate in the program only if they comply with its guidelines. Among other things, the guidelines say that agencies “should not ‘spend it before you get it’ or budget anticipated receipts. Receiving agencies may not commit to the spending of sharing monies for a certain purpose in advance.”

In a statement, D.C. Police Chief Cathy L. Lanier said the department is not building its budget with the proceeds of civil seizures but is using them “to augment the reward pool of funding and confidential fund programs (witness protection, rewards for information in homicides).”

Lanier said the department’s focus is not on generating revenue but on “removing the profit gained from facilitating a crime. By forfeiting those assets, the expansion of criminal activities can also be reduced.”

The council’s reform effort began last year after the Public Defender Service for the District filed a class action lawsuit against the city, alleging that police violated the constitutional rights of residents in the process of seizing their cars. Among other things, the Public Defender Service focused on a city requirement that vehicle owners post bonds of up to \$2,500 before they were permitted to challenge seizures.

In August 2013, all parties agreed to put the lawsuit on hold as the District worked to modify its forfeiture laws.

Wells said the proposed bill would create a fairer system under District law by scaling back the bond requirement, creating a clearer appeals process and imposing a requirement for notifying property owners within 10 business days of a seizure.

But the bill has been opposed by law enforcement officials, partly for the same reason other reform efforts across the country have been stymied: money. The officials also said it would create an administrative burden. In addition to tightening oversight and the rules for civil seizures, the District proposal would cut back on revenue.

“Enacting this Bill would almost certainly decrease the number of successful forfeiture cases, which would lead to a loss of significant forfeiture revenues,” D.C. Attorney General Irvin B. Nathan warned in a statement to the council last year.

Nathan, who has resigned effective Monday, did not respond to a request for an interview. But a knowledgeable official who spoke on the condition of anonymity because the negotiations are ongoing said that Nathan was addressing an earlier version of the bill. The official said the attorney general’s office thinks that the current version is an improvement but declined to provide details.

The bill would require that the federal proceeds from seized property go into the city’s general fund rather than to the department. Because the Equitable Sharing Program requires that seizure proceeds go to the department, D.C. police would effectively be blocked from participating in the program and using the federal law. That would force city police to make all seizures under District law, which already requires that seizure proceeds go into the general fund.

Wells said the general fund provision in the bill cannot take effect until fiscal 2019, because the city has already budgeted the anticipated proceeds to that point.

“That is personally offensive to me,” said Wells, whose council term ends in January. “I want to make it fair. There is a financial incentive not to do that.”

In a fiscal impact statement Wednesday, the city’s chief financial officer, Jeffrey S. DeWitt, said that the bill “could reduce federal resources received by the District by approximately \$670,000” each year if the general fund provision takes effect.

Wells and the Public Defender Service contend that the department’s aggressive use of seizure laws — originally intended to fight drug kingpins and deprive them of ill-gotten riches — has had a disproportionate impact on the poor and working class.

One case cited by the [Public Defender Service](#) involves Sharlene Powell, who had worked for three decades as a Postal Service employee. She loaned her car to her son, who was stopped and arrested on a misdemeanor drug offense. Prosecutors dropped the charges, but District police kept the car. To get her car back, Powell had to pay a \$1,772 “penal sum” bond to challenge the seizure, the Public Defender Service said in a statement last year to the judiciary committee.

In response to questions about seizures, the police department directed The Post to a general order signed by Lanier called “Handling and Accounting for Seized and Forfeited Property.” The document, which spelled out procedures police should follow, was released two days before a council hearing in July 2013 about civil asset forfeiture.

“We know this has been getting a lot of attention nationally, and we agree that there have been troubling practices around the country,” Lanier said in her statement. “These programs must have strong oversight and supervision.”

Darpana Sheth, an attorney with the [Institute for Justice](#), a nonprofit public interest law firm that advocates for seizure reform, said the District bill could have a wide impact.

“Short of eliminating civil forfeiture entirely, this bill is a good model to strengthen protections for property owners and remove the profit incentives that have been fueling the District’s aggressive seizing of people’s property,” she said.