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Forfeiture: Proceeds of Criminal Activity Pays Law Enforcement Costs

INDIANAPOLIS (August 16, 2017) – Two Indiana Prosecutors said on Wednesday that civil forfeiture is a legal procedure, sanctioned by the Indiana Constitution, that saves city, county and state governments over \$3 million in law enforcement costs each year.

Marion County Prosecutor Terry Curry and Delaware County Prosecutor Jeff Arnold told the legislative Interim Study Committee on Courts and the Judiciary that forfeiture saves tax dollar expenditures by providing essential supplies to county prosecutor's offices that county budgets cannot pay for. Law enforcement agencies also receive essential funds for needs such as drug dogs.

"The Delaware County Prosecutor's Office has had no budget increase in seven or eight years," said prosecutor Arnold. "Forfeiture money allows us to supplement our county budget. I was able to buy all of my deputy prosecutors laptop computers that they could take to court. That may sound primitive but we would not have been able to purchase those laptops any other way." Arnold said he also was able to provide training for his office's domestic violence unit with forfeiture funds.

Prosecutor Curry explained where, in some forfeiture cases, criminal prosecution cannot be pursued, such as in drug interdiction operations. Displaying a photograph that showed piles of money amounting to \$2.6 million in cash, Curry told of a semi destined for McAllen Texas that was stopped on the west side of Indianapolis and upon investigation, a panel inside the trailer was removed and the cash fell out. "These were clearly illicit funds," said Curry. "Without a forfeiture procedure, there is no way law enforcement could receive this money. This was obviously money destined for a sophisticated drug cartel."

Curry also said that restitution to victims – including Indiana taxpayers - is also possible through forfeiture. A criminal case against a chain of restaurants returned \$1.86 million in unpaid sales tax to the state of Indiana.

Additionally, Indiana's forfeiture laws received the second-best rating in the country by the Institute for Justice, based on the protections afforded to property owners and the lack of incentives for law enforcement agencies to police for profit.

Facts about civil forfeiture in Indiana that prosecutors shared include:

- Forfeiture proceedings take place before a judge who makes the final decision on the disposition of the property.
- Innocent owners have an absolute defense against forfeiture of property.
- The state must prove the property's connection to criminal activity, that the property was used for the purpose of committing, attempting to commit, or conspiring to commit an enumerated offense.
- Forfeiture of cash from a drug cartel or criminal street gang has a greater negative impact because drugs are manufactured very cheaply on the black market and sold for huge profits; the

organizations behind drug dealers can easily manufacture more drugs – taking their profits hurts their ability to continue illegal commerce.

- The proceeds law enforcement receives for forfeitures helps pay for essential law enforcement operations; forfeiture proceeds must go to defer costs related to forfeiture proceedings and law enforcement efforts.

To further alleviate misconceptions, Indiana prosecutors are proposing changes to the Indiana Code pertaining to forfeiture. Among the legislative proposals is that if property is returned without a forfeiture action being filed, the owner is not liable for towing, storage or maintenance fees. Additionally, if the court denies a forfeiture, the owner is not subject to charges for storage or other expenses incurred in the preservation of the property.

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About the Indiana Prosecuting Attorneys Council: The IPAC is a non-partisan, independent state judicial branch agency that supports Indiana's 91 prosecuting attorneys and their chief deputies. It is governed by a 10-member board of directors of elected prosecuting attorneys. The IPAC assists prosecuting attorneys in the preparation of manuals, legal research and training seminars. It serves as a liaison to local, state, and federal agencies, study commissions, and community groups in an effort to support law enforcement and promote the fair administration of justice.