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January 5, 2016

Oklahoma State Capitol Building
2300 N. Lincoln Blvd.
Oklahoma City, OK 73105

RE: Civil Asset Forfeiture

Dear Representative:

We write to express the opposition of Oklahoma's prosecutors to the civil asset forfeiture bill (SB 838) authored by Senator Kyle Loveless.

Asset forfeiture is based upon the simple notion that no one should be allowed to profit from breaking the law. This notion has been a part of our laws since the very first Congress in 1789, and it has been repeatedly upheld by the Supreme Court. Similarly, Oklahoma's asset forfeiture laws have been in existence for over 40 years and have been repeatedly upheld by Oklahoma Appellate Courts. Oklahoma's asset forfeiture laws are an important tool used by prosecutors and law enforcement officers to prevent drug dealers, traffickers, street gangs, and drug cartels from profiting from the drugs they sell to our citizens.

Oklahoma's District Attorneys take seriously our oath to support, obey and defend our Constitution. We believe Oklahoma's laws are consistent with that oath. Allow us to share some facts about Oklahoma's asset forfeiture laws.

- ❑ Oklahoma law provides that law enforcement can only seize money found in close proximity to drug or money derived from drug transactions, along with vehicles used to transport or conceal drugs.
- ❑ All seizures are reviewed by prosecutors prior to the filing of a forfeiture action, and our state's prosecutors are directly accountable to the citizens who elect them.
- ❑ Notice must be given to any and all potential owners of the seized property so they can have an opportunity to be heard and to exercise their due process rights.
- ❑ The state must prove the property's connection to drug activity. Contrary to the suggestions of some who favor the bill, it is *always* the State's burden to make this showing. In other words, property is never "guilty until proven innocent."
- ❑ Innocent owners have an absolute defense. If they did not know or could not have known their property was going to be used for illegal activity, their property will be returned to them.

- Property owners have a right to a jury trial in which their fellow Oklahomans would determine whether their property should be forfeited.
- Under Oklahoma law, property cannot be forfeited unless and until a judge, or a jury if requested, determines that the seized money or property has a connection to the drug trade or other illegal activity. This means that a judge, or a jury if requested, must review and approve *each and every* seizure before the property is forfeited to the State—even in cases in which no one is contesting the forfeiture.

Seizing and forfeiting the money and property of drug dealers, drug cartels and criminal street gangs has a much greater impact on criminal enterprises than seizing the actual drugs they manufacture or sell. While drugs are relatively inexpensive to make, the return on their “investment” is often astronomical. For instance, a kilogram of methamphetamine costs drug cartels and criminal street gangs approximately \$400 to manufacture. This kilogram of methamphetamine can be easily sold to men, women and children for over \$90,000—a profit of over 22,000%! These proceeds from drug sales in the United States and Oklahoma often go back to Mexico and other foreign countries to reinforce the influence and power of the cartels and to underwrite their expenses.

Enactment of SB 838 will dramatically hinder law enforcement efforts aimed at stopping the drug trade in Oklahoma. It is estimated that \$5 to \$10 million per year of the drug enforcement efforts in Oklahoma are funded by the forfeited proceeds of drug dealers, traffickers, criminal street gangs, and drug cartels. Limiting the use of this valuable tool will place the burden of funding this effort on the taxpayers—hard working, innocent Oklahomans. Oklahoma’s prosecutors believe these drug enforcement efforts should continue to be paid by dealers, traffickers, street gangs, and cartels rather than by law abiding citizens. Asset forfeiture is one tool which requires profiteers from crime to fund public safety efforts.

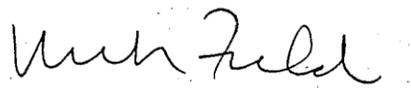
There has been much misinformation about the asset forfeiture process in Oklahoma. Oklahoma’s laws are not the same as other states. They are not the same as the federal government. They have been carefully crafted to ensure constitutional protections for the citizens we are sworn to protect. Oklahoma’s prosecutors and law enforcement officers welcome an honest, frank and factual discussion of the law to help policy-makers determine the best path for our state.

Thank you for your time and attention. Please do not hesitate to contact us if you would like to discuss this matter further.

Sincerely,



Mike Boring
District Attorney
District 1
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Mike Fields
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Cc: Oklahoma District Attorneys