

THE WATCHDOGS

DEA DIDN'T ARREST GOLD MINER STOPPED AT UNION STATION BUT SEIZED HIS \$115K IN A LOSING CASH GRAB CASE

In January, he finally got back the money snatched from him in 2019 under now-discontinued program

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Benjamin Ross had a problem. The government thought he was a courier for drug money. He said he was a gold miner.

In 2019, officers on a drug task force had taken his luggage from an Amtrak train at Union Station in Chicago. Inside was \$115,000 in cash. To them, it was the usual thing. A one-way ticket. A suitcase full of bills. A long trip across the country. They had seen it before.

Ross told them the money came from the ground. He worked claims in Oregon and California. He said he pulled gold from the earth and sold it, and this was the return.

His lawyer Stephen Komie knew how it sounded.

"No one was going to believe it unless we could prove it," he says.

So Ross brought him some rock-solid evidence: a gold nugget, dull and heavy, small enough to sit in the palm. He said he had dug it out himself.

Komie carried it into federal court and set it down before U.S. District Judge Robert Dow. The judge picked it up. He turned it in his hand and looked at it.

"Judge Dow examined the gold," Komie says. "And that was the end of any question that he was a gold miner."

In late January, the government agreed to give the money back. There was no apology. Nothing on the record to say why.

For Ross, the loss had cut deep, Komie says. He went without the money for about seven years.

"Mining takes tools. It takes chemicals and fuel. It takes trucks and long drives into rough country.



Lawyer Stephen Komie (left) and his client Benjamin Ross after they were given back \$115,000 seized from Ross by a federal drug task force in 2021 at Union Station. PROVIDED

Without money, there is no work. It was catastrophic," Komie says.

The U.S. attorney's office in Chicago declined to comment on the case.

A program under scrutiny

Ross' case, unusual in its outcome, sits inside a larger fight over civil asset forfeiture. The law

allows officers to take money and property they believe is tied to crime. They do not have to arrest anyone. They do not have to file charges. The owner must go to court and try to win it back.

Ross' money was taken through the Drug Enforcement Administration's Transportation Interdiction Program. For years, agents and

local police have worked airports, train stations and bus terminals. They watched travelers. They asked questions. They searched bags for drugs and for cash.

In 2017, the Justice Department's inspector general looked at 100 cash seizures made through the program. Most, a report said, were carried out without any prior intelligence about a specific drug crime. Many did not lead to arrests. The watchdog said DEA could not tell whether the seizures risked civil liberties, moved investigations forward or stopped crime.

In late 2024, the inspector general weighed in again. A memo spoke of poor training in the program. It described a traveler who missed his flight after agents searched his bag. They found no drugs. They found no cash. The stop had begun with a tip from an airline employee. The employee had received tens of thousands of dollars from the DEA for information about passengers thought to be suspicious.

The memo prompted the attorney general's office under President Joe Biden to suspend the program in November 2024. The DEA terminated it in January 2025.

Since the program was shut down, large sums of cash pass through airport scanners in Chicago and no one stops it, says an officer assigned to another federal task force.

"Obscene amounts," says the officer, who spoke on condition of anonymity. "It ties our hands in catching the criminals. Some of the judges say we're just acting on a hunch, but we do have strong reasonable suspicion."

But the future of the Trans-

portation Interdiction Program is not settled. After Donald Trump returned to office, Drug Enforcement Administration lawyers told the courts the agency might revive some version of it. They spoke of more training.

Even without the program, officers are allowed to take cash at airports and stations if it is tied to an active criminal investigation, the attorney general's office had said when the 2024 suspension was announced.

The money involved is considerable. In the fiscal year that ended Sept. 30, 2024, U.S. attorneys reported more than half a billion dollars in civil asset forfeitures across the country. The Northern District of Illinois ranked third in total value, behind the Central District of California and the District of Columbia. More than \$60 million was reported in the Chicago region alone.

Nationwide, the DEA accounts for about 80% of civil asset forfeitures, according to the inspector general.

How the stops worked

At Union Station and at O'Hare and Midway airports, agents from the DEA worked with local police on a task force called Group 24. They read passenger lists. They studied ticket records. In their reports, they wrote about one-way tickets bought close to departure, about cash payments, about third-party credit cards. These were signs, they said, of drug couriers.

They approached travelers for what they called consensual interviews. In the reports, the traveler was often described as nervous.

The agents asked for permission to search the luggage.

If the traveler said no, as Ross did, the agents could call for a dog trained to detect drugs. If the dog alerted, that was enough to take the bags and hold them while they sought a warrant to open them. Travelers were given a receipt and went on their way without their luggage.

To get the property back, owners had to file a claim in federal court. Sometimes that meant coming back to Chicago at their own expense, to stand before a judge and say the money was theirs and not the government's.

Gold mining is still a cash trade, Komie says. At shows and small exchanges, raw minerals change hands for bills counted out on folding tables. Gold dust. Flakes. Nuggets wrapped in cotton gauze.

He says the agents ignored obvious evidence about Ross that should have cut against their suspicions.

Inside Ross' luggage was a bill of sale. It listed "gold dust, pickers, flakes and nuggets weighing 88.5 ounces from southern Oregon mining claims." Ross was named as the seller. Records from the Bureau of Land Management show he holds mining claims in Oregon and California, Komie says.

Still, the government might have been more focused on other information: Ross also had an ownership interest in a recreational marijuana dispensary.

As for a drug-detection dog's alert on Ross' money, Komie calls it thin proof.

Studies and media experiments have long suggested that a significant portion of circulating U.S. currency carries trace amounts of narcotics residue.

In a widely cited 1985 test arranged by the Miami Herald, dogs alerted to bills carried by public figures including a future attorney general, Janet Reno, and a future Florida governor, Jeb Bush.

Money passes through many hands. It carries what it has touched.

Tilted scales

The odds of getting seized money back are low.

A federal report once estimated that only about 5% of owners succeed in reclaiming their property. In many cases, no one files a claim at all.



SOME OF CHICAGO'S CIVIL FORFEITURE LOSERS — AND THEIR ALIBIS

- In 2005, a woman said she was taking \$15,000 to her sick aunt in Mexico. DEA task force officers found money order receipts in her luggage for inmates locked up in federal prison. She forfeited the money seized at the Amtrak terminal at Union Station.
- In 2015, a man said he was taking \$330,000 to Oregon to buy racing pigeons and a car. He forfeited the money seized at Union Station.
- Also in 2015, a man said he was traveling with \$76,480 he used to service ATMs. He never filed a claim for the money seized at O'Hare Airport, and the money was forfeited.

Some travelers may have been involved in crime and decided they were fortunate not to be arrested. They let the money go and did not invite more attention.

Others may have done the math. A lawyer costs money. Time costs money. A trip back to court costs money. For some, the fight would cost more than what was taken.

So the cash stays with the government, and the suitcase does not come home.

Komie calls himself the "Dean of

Lawyer Stephen Komie holds a gold nugget in the palm of his hand. He used the ore to prove to a federal judge that his client was a gold miner, not a drug money courier. MANUEL MARTINEZ/WBEZ

Forfeitures" on his firm's website. He has made a practice of fighting these seizures. It's steady work.

A review of 20 Chicago cases he has handled since 1992 shows he often gets at least something back for his clients.

Seven recovered all their money. The total was \$864,000. One was a salesman from China who carried \$294,000 in cash through Union Station after attending a jade show in New York.

Nine others settled. Prosecutors returned \$357,000 and kept \$638,000.

Four lost everything. Together, they forfeited \$257,000.

One of them was Nicholas Marrocco. He fought for 15 years. In 2018, a federal appeals court ruled against him. He lost \$101,000.

Komie says many lawyers will not take smaller cases on contingency. The money is not enough to justify the risk. And many criminal defense attorneys do not know the narrow rules and strict deadlines that govern forfeiture law. It is its own kind of fight.

"The scale is tilted in the government's favor," he says.

The financial incentives embedded in the system have drawn criti-

cism for decades. Agencies that seize assets can keep the proceeds, using them to buy vehicles, equipment and other items. State and local departments can share in the funds if they participate in federal task forces.

The Chicago Police Department has been among the agencies benefiting from federal forfeitures. In 2021, the Justice Department's inspector general criticized the department for lacking adequate policies to track how it spent those funds.

Critics say allowing agencies to keep what they seize creates what the late U.S. Rep. Henry Hyde, R-Ill., once called "contingent fee law enforcement." In 1996, as chairman of the House Judiciary Committee, he held hearings questioning the constitutionality of civil cash seizures.

"We are confronted in Illinois with a system that has run amok," Hyde said at the time.

Komie testified at Hyde's hearings. He warned that forfeited cash could be spent with little oversight from elected officials.

Courts, too, have expressed concern over the years.

In 1997, Judge William Bauer wrote for the U.S. 7th Circuit Court of Appeals that a Chicago pizzeria owner should get back more than \$500,000 seized from him by Chicago police officers and "adopted" by the federal government for civil forfeiture.

"We reiterate that the government may not seize money, even half a million dollars, based on its bare assumption that most people do not have huge sums of money lying about, and if they do, they must be involved in narcotics trafficking or some other sinister activity," Bauer said, adding, "As has likely been obvious from the tone of this opinion, we believe the government's conduct in forfeiture cases leaves much to be desired."

In 2013, an Illinois appellate court ordered the return of \$280,000 seized from a Canadian traveler at Union Station. Chicago cops seized the money more than a decade earlier. The court held that purchasing a one-way train ticket in cash less than 24 hours before departure, standing alone, did not establish probable cause to search luggage.

Komie represented the claimants in both cases.

Legislative and legal challenges

On Capitol Hill, lawmakers on both sides of the political aisle have tried and failed to tighten the rules in recent years.

In their latest effort, U.S. Sens. Rand Paul, R-Ky., and Cory Booker, D-N.J., have sponsored the FAIR Act, which would require the federal government to meet a higher burden of proof before permanently taking property.

The pending legislation would also direct forfeited funds to the U.S. Treasury rather than to law enforcement agencies, reducing what supporters describe as a financial incentive to seize assets.

A similar bill was introduced Friday in the House.

"Stories about a grocer in Michigan, a restaurant owner in Iowa and farmers in Maryland have all exposed government overreach within the civil asset forfeiture process," said U.S. Rep. Tim Walberg, R-Mich., a sponsor. "We must put the presumption of innocence back where it belongs, on the side of the American people."

Meantime, the debate over civil asset forfeiture is playing out in Pittsburgh. A lawsuit filed there in 2020 challenges a DEA seizure of \$82,373 from a Pennsylvania man who said the money represented his life savings. A woman from Florida and a man from California joined him. Their cash had been taken at airports as well.

They are asking a federal judge to stop the agency from making those kinds of seizures in the future. They want the case to proceed as a class action for other travelers who say their money was taken the same way.

The DEA says the dispute is moot. It canceled the program last year, the agency says, and there is nothing left to challenge.

But in court filings, its lawyers did not rule out bringing back the Transportation Interdiction Program with some changes. The agency declined to answer questions about those filings.

"DEA continuously evaluates the effectiveness of its investigatory techniques and adapts in accordance with the law," an agency spokesperson said, referring the Sun-Times to the Justice Department "for information related to future policies under the administration."