

Testimony
Attn: Senate Judiciary Committee
Tonya Jahner
February 3, 2023

RE: Senate Bill #2385

Committee Chair & Members of the Committee,

My name is Tonya Jahner. I am a Cass County resident and I am employed by the Cass County Sheriff's Office. I have approximately 15 years of Law Enforcement experience and currently serve as the Sergeant of Investigations at the Sheriff's Office.

I went into the Law Enforcement Profession as I wanted to serve my community. As part of my service to our citizens I have investigated and responded to many different types of calls. Whether it is a Homicide, Sexual Assault, Theft, Domestic Violence, Crimes Against Children, Narcotics (drugs) or Burglary they all seem to involve property. From my experience these crimes are committed on both private and public properties. Victims, suspects, and witnesses can be located at both private and public properties.

When property is seized as part of a case it has to be seized legally. This means the Officer must have been legal where they stood when the property was collected. This could mean the Officer received consent, they obtained a search warrant, or the property was in plain view where the Officer was. Once the property is seized and collected as evidence, a property receipt should be issued. The case will then move on to Criminal Court. If the State is going to request the property be forfeited there will also be a Civil Court hearing. Both the Criminal Court and Civil Court allow for the defendant to have Due Process, as outlined in the Constitution. If an Officer did not seize the property legally there are legal remedies through the court process. One example of this includes having the evidence thrown out in court as "Fruit of the Poisonous Tree." Officers have a very real interest in not violating an individual's rights because that is what we are sworn to protect. Additionally, Officers want to do things procedurally correct so the evidence can be used.

Senate Bill 2385 would greatly hamper our ability to investigate crimes and serve our citizens. Based on how the bill is written it does not appear a Search Warrant would be enough to seize the property (evidence) according to the definition of Due Process. Due Process is where the Defendant would have notice, an opportunity to be heard, and a decision by a neutral decision maker. In a Search Warrant application, a Defendant does not have prior notice the warrant is being issued and they do not have an opportunity to be heard prior to the warrant being issued. However, all of this would come into play through our current procedures in the Criminal and Civil Court processes.

If Senate Bill 2385 went into effect I believe many crimes may not be solved if a hearing has to be held prior to seizing evidence. It is my belief that many suspects/criminals may try to get rid of the property (evidence) prior to any hearing.

In conclusion, I believe Senate Bill 2385 would be doing the citizens of North Dakota a great disservice and would essentially allow for more criminal activity to continue. I urge you to vote "NO" on Senate Bill 2385.

Respectfully,



Tonya Jahner