



*This is an older edition of IJ's landmark
Policing for Profit report.*

You can read the third and current edition here:

ij.org/report/policing-for-profit-3/

POLICING — for — PROFIT

The Abuse of Civil Asset Forfeiture

2nd Edition

By Dick M. Carpenter II, Ph.D.
Lisa Knepper
Angela C. Erickson
Jennifer McDonald

with contributions from
Wesley Hottot and Keith Diggs

 **INSTITUTE
for JUSTICE**

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Policing for Profit:

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Foreword

Civil forfeiture threatens the constitutional rights of all Americans. Using civil forfeiture, the government can take your home, business, cash, car or other property on the mere suspicion that it is somehow connected to criminal activity—and without ever convicting or even charging you with a crime. Most people unfamiliar with this process would find it hard to believe that such a power exists in a country that is supposed to recognize and hold dear rights to private property and due process of law.

Civil forfeiture has all the hallmarks of an inviting target for public-interest litigation and advocacy: a cutting-edge legal controversy, sympathetic property owners who have little or no involvement in criminal activity, and simple, outrageous facts that show ordinary Americans facing the loss of their property.

The Institute for Justice has made combatting civil forfeiture a top priority in our work to restore constitutional protections for private property rights. And with the publication of this new edition of *Policing for Profit: The Abuse of Civil Asset Forfeiture*, we document in the greatest detail possible the sweep of the forfeiture power.

The seeds of forfeiture abuse were sown in 1984 when Congress expanded federal civil forfeiture laws and created a financial incentive for law enforcement to forfeit property. Before then, all forfeited cash and proceeds from forfeited property had gone to the general fund of the U.S. Treasury. But starting in the mid-1980s, forfeiture revenue instead went to a newly created fund controlled by federal law enforcement. As a result, all federal forfeiture revenue can go back to the very agencies charged with enforcing the law, giving them a financial stake in forfeiture efforts. State and local agencies can also participate in forfeiture with the feds and receive a cut of the revenue through the benign-sounding “equitable sharing” program. Around the same time, many states followed Congress’ lead and broadened their own state forfeiture laws while also adding incentives to police for profit.

Not surprisingly, the use of forfeiture at the federal and state levels exploded once profit incentives kicked in. And tales of abuse began to pour in. Throughout the early 1990s, newspapers such as the *Pittsburgh Press* and *Orlando Sentinel* and news programs like *20/20* featured investigative series and exposés highlighting the confiscation of property from owners never convicted of or even charged with a crime.

IJ’s involvement with civil forfeiture began only two years after our founding when we filed an *amicus* brief with the U.S. Supreme Court in *United States v. James Daniel Good*, critiquing civil forfeiture from a property rights perspective. In 1993, the Court issued an important ruling protecting the due process rights of certain property own-

ers caught up in civil forfeiture. And the majority opinion contained this stirring language: “Individual freedom finds tangible expression in property rights.”

But just three years later, the Court chipped away at those rights. In *Bennis v. Michigan*, another case in which IJ participated as *amicus*, the Court ruled that the government could use civil forfeiture to take property from wholly innocent third-party owners without violating constitutional guarantees of due process or property rights protections. The ruling shocked Americans and led to increased pressure for better protections for property owners in civil forfeiture cases.

IJ, along with other groups from across the political spectrum, responded by advocating for forfeiture reform. These calls, combined with outrage over such terrible decisions as *Bennis*, led Congress to pass the Civil Asset Forfeiture Reform Act in 2000. Among other things, CAFRA eliminated the requirement that owners post a bond before being able to contest a civil forfeiture action in court, and it provided for attorney’s fees for successful defenses against forfeiture, though only under limited circumstances.

But CAFRA did little to counter the Supreme Court’s *Bennis* ruling and, most tellingly, did nothing to change how forfeiture proceeds are distributed or to reduce law enforcement agencies’ pecuniary interest in civil forfeiture. Nor did it change any state laws, most of which also give law enforcement a direct and perverse financial incentive to seize property for forfeiture.

What happened in the wake of CAFRA’s passage is a familiar Washington, D.C., tale. Believing the forfeiture problem was fixed, many in the Capitol and the media turned their attention elsewhere.

But forfeiture continued apace. In the wake of 9/11, with the new powers afforded law enforcement, forfeiture activity and the revenue it generated skyrocketed. And when the recession hit in the late 2000s, and governments at all levels faced significant budgetary shortfalls, law enforcement agencies had even more of an incentive to raise revenue through forfeiture.

Meanwhile, IJ launched a major property rights initiative whose lessons would bear fruit in the fight against civil forfeiture. In challenging eminent domain abuse—where

local governments use their condemnation power not for a traditional public use, like a road or public park, but for private economic development—IJ took a vitally important but relatively obscure issue that affected the property rights of tens of thousands of Americans and brought it to national prominence using all the components of our program: litigation, strategic research, communications, grassroots activism and legislative advocacy.

One of our most effective tools was *Public Power, Private Gain*, a path-breaking report that documented over 10,000 instances of governments taking or threatening to take homes, small businesses, churches and other private property in order to give them to other, wealthier private owners. The report demonstrated that eminent domain abuse was a nationwide problem that demanded attention and action.

We knew a similar report on civil forfeiture could raise the profile of the issue and document the extent of the problem. So in 2010, after several years of research, IJ published another trailblazing national report: *Policing for Profit: The Abuse of Civil Asset Forfeiture*. Publication of the report coincided with the launch of IJ's initiative to challenge civil forfeiture using all aspects of public-interest litigation and advocacy.

The report demonstrated just how widespread forfeiture had become—and how deplorable most states' laws were at protecting property rights. The report also found that when laws make civil forfeiture easier and more profitable, law enforcement engages in more of it.

Policing for Profit received significant attention at the outset, and media interest in the issue has since grown exponentially. In 2013, *The New Yorker* published a searing piece on forfeiture that drew national attention. The following year, a *Washington Post* investigative series exposed abusive cash seizures on highways and drew on IJ's forfeiture research. Later in 2014, HBO's John Oliver ranted against civil forfeiture in a scathingly funny yet substantive segment, which at the time of this publication had received over six million views on YouTube.

In the meantime, IJ pursued cutting-edge litigation aimed at fundamentally changing forfeiture law while

also demonstrating its real-world consequences for property owners. We also developed model legislation to help lawmakers seeking to bring an end to forfeiture abuse.

Thankfully, lawmakers are once again taking note. In the past year alone, New Mexico and Washington, D.C., passed very strong reforms, other states passed modest reforms, and Congress has taken a renewed interest in federal reform. Opposition from law enforcement, however, is fierce, especially in the face of efforts to stem the flow of forfeiture money into agency coffers. In 2015, 13 bills were introduced to reform civil forfeiture in Texas—one of the worst states in the country on this issue—but massive pushback from state and local law enforcement killed every one of them. Such opposition to change will likely intensify in the coming years.

This second edition of *Policing for Profit* highlights the continued need for forfeiture reform. Updated grades for state and federal civil forfeiture laws find that protections against unjust forfeitures still range from bad to worse, and too many laws incentivize revenue generation over the impartial administration of justice. This edition also shows—with far more extensive data than previously available—that law enforcement's use of forfeiture continues to grow. Furthermore, this second edition shines a spotlight on the appalling lack of transparency in the use of forfeiture and its proceeds. Despite the risks to democratic decision-making in allowing law enforcement agencies to self-fund, most civil forfeiture laws lack basic transparency requirements, keeping the public and lawmakers in the dark about forfeiture activity and spending from forfeiture funds.

We hope this updated and expanded edition of *Policing for Profit* will continue to raise awareness of the injustices of civil forfeiture and further the drive for reform. We will not rest until civil forfeiture is either radically reformed or—even better—abolished.

—Scott Bullock, Institute for Justice senior attorney

This second edition of *Policing for Profit* highlights the continued need for forfeiture reform. Protections against unjust forfeitures still range from bad to worse, and too many laws incentivize revenue generation over the impartial administration of justice.



The IRS cleaned out the bank account of **Carole Hinders'** Mexican restaurant in Spirit Lake, Iowa, seizing \$33,000 without charging her with a crime.

Executive Summary

Every year, police and prosecutors across the United States take hundreds of millions of dollars in cash, cars, homes and other property—regardless of the owners’ guilt or innocence. Under civil forfeiture laws, the government can seize this property on the mere suspicion that it is connected to criminal activity. No charges or convictions are required. And once property is seized, owners must navigate a confusing, complex and often expensive legal process to try to win it back. Worst of all, most civil forfeiture laws give law enforcement agencies a powerful incentive to take property: a cut, or even all, of forfeiture proceeds.

This second edition of *Policing for Profit* examines civil forfeiture laws and activity nationwide, demonstrating how financial incentives to seize property, in combination with weak protections for property owners, put people’s property at risk. The report grades the civil forfeiture laws of each state and the federal government, documents remarkable growth in forfeiture activity across the country, and highlights a worrisome lack of transparency surrounding forfeiture activity and expenditures from forfeiture funds. Key findings include:

Forfeiture activity has exploded, particularly in the new millennium.

Forfeited cash and proceeds from the sale of forfeited property generate revenue for the government—and provide an important measure of law enforcement’s forfeiture activity.

- In 1986, the Department of Justice’s Assets Forfeiture Fund took in \$93.7 million in revenue from federal forfeitures. By 2014, annual deposits had reached \$4.5 billion—a 4,667 percent increase.
- The forfeiture funds of the DOJ and Treasury Department together took in nearly \$29 billion from 2001 to 2014, and combined annual revenue grew 1,000 percent over the period.
- Total annual forfeiture revenue across 14 states more than doubled from 2002 to 2013. Those 14 states were the only states for which the Institute for Justice could obtain forfeiture revenues for an extended period.

Civil forfeiture far outpaces criminal forfeiture.

Criminal forfeiture requires a criminal conviction to deprive people of their property. By contrast, civil forfeiture allows law enforcement to take property from innocent people never convicted of or even charged with a crime, making it easier for the government to forfeit property and harder for property owners to fight back.

- Just 13 percent of Department of Justice forfeitures from 1997 to 2013 were criminal forfeitures; 87 percent were civil forfeitures.
- Among DOJ civil forfeitures, 88 percent took place “administratively.” Administrative forfeitures happen automatically when a property owner fails to challenge a seizure in court for any reason, including the inability to afford a lawyer or a missed deadline to file a claim. The seized property is simply presumed “guilty” without a neutral arbiter such as a judge determining whether it should be permanently taken from its owner.

Federal and most state civil forfeiture laws put innocent property owners at risk.

This report's grades for state and federal civil forfeiture laws indicate the threat they pose to innocent property owners. Laws that earn poor grades provide law enforcement with lucrative incentives to pursue forfeitures and afford weak protections to property owners. High grades signify laws that limit or ban forfeiture proceeds directed to law enforcement and offer stronger protections against unjust forfeitures.

- 35 states earn grades of D+ or worse.
- Federal civil forfeiture laws are among the nation's worst, earning a D-.
- New Mexico and the District of Columbia earn the highest grades, thanks to 2015 reforms that eliminated financial incentives for civil forfeiture and improved property rights protections.

State and local law enforcement's participation in federal "equitable sharing" has soared, and 2015 policy changes are unlikely to reverse the trend.

Equitable sharing allows state and local law enforcement to team with the federal government to forfeit property under federal law instead of state law. Participating agencies receive up to 80 percent of proceeds, creating a strong incentive to use equitable sharing to circumvent more restrictive state laws. The Department of Justice announced new policies in January 2015 intended to curb one type of equitable sharing—federal "adoptions" of locally seized assets. But the changes and subsequent clarifications largely left intact another vehicle for equitable sharing—joint task forces and investigations involving federal law enforcement.

- Between 2000 and 2013, annual DOJ equitable sharing payments to state and local law enforcement more than tripled, growing from \$198 million to \$643 million. In all, the DOJ paid state and local agencies \$4.7 billion in forfeiture proceeds from 2000 to 2013.
- Only 18 percent of those proceeds resulted from federal adoptions of locally seized assets. The lion's share—82 percent—resulted from joint task forces and investigations, procedures largely unaffected by new DOJ rules.
- In a nationwide ranking, Rhode Island, California, New York and Florida rank worst for equitable sharing participation, even after accounting for the rate of drug arrests by state. South Dakota, North Dakota and Wyoming rank at the top for their less frequent use of equitable sharing.
- New Mexico's 2015 reform effectively ends equitable sharing participation in the state, and the District of Columbia's reform will do the same in the nation's capital by 2018.

Most state and federal civil forfeiture laws lack even basic transparency requirements, leaving the public in the dark about most forfeiture activity.

Poor public reporting about law enforcement's use of civil forfeiture makes it difficult, if not impossible, for lawmakers and the public to hold agencies accountable.

- Only 11 states and the federal government make any kind of forfeiture information publicly accessible online. Another three states and the District of Columbia will put forfeiture records online in 2016. Obtaining information elsewhere requires public records requests, which are often arduous and ineffective.
- The limited information available is plagued by missing data and typically lacks key details, such as whether a forfeiture was civil or criminal or, in some cases, the type of property seized.
- Although the Department of Justice's forfeiture database tracks more than 1,300 variables about cash and property seizures, not one indicates whether a criminal charge or conviction accompanied a forfeiture. The DOJ carefully tracks and reports forfeiture revenue, but fails to publicly report whether forfeitures target proven criminals.

Nearly all expenditures of forfeiture proceeds are hidden from public view.

Forfeiture laws typically place few limits on law enforcement spending of forfeiture proceeds and impose even fewer checks to ensure that expenditures are proper or legal. Scant reporting requirements heighten the risk of abuse by shielding expenditures from public scrutiny.

- The few data available for the federal government and a handful of states indicate only broad categories of spending, making it impossible to evaluate individual expenditures.
- When expenditures were provided by category, most known spending by state and local agencies was listed under equipment, "other," and salaries and overtime. Only tiny fractions went toward substance abuse or crime prevention programs.
- In 2007, law enforcement agencies in eight states spent more than \$42 million in equitable sharing payments on "other" items. In 2012, agencies in four states spent \$13.7 million in state forfeiture money on "other."

Civil forfeiture laws pose one of the greatest threats to property rights in the nation today. They encourage law enforcement to favor the pursuit of property over the pursuit of justice, and they typically give the innocent little recourse for recovering seized property. And without meaningful transparency, law enforcement faces little public accountability for its forfeiture activity or expenditures from forfeiture funds.

The best solution would be to simply abolish civil forfeiture. Short of that, lawmakers should eliminate financial incentives to take property, bolster property rights and due process protections, and demand transparency for forfeiture activity and spending. No one should lose property without being convicted of a crime, and law enforcement agencies should not profit from taking people's property.

Introduction

In February 2014, 24-year-old Charles Clarke lost his entire life savings—not to identity theft or a bad investment, but to law enforcement officials in the Cincinnati/Northern Kentucky International Airport.¹ After visiting relatives in Cincinnati, Clarke was preparing to board a flight home to Florida. He carried with him \$11,000 in cash. Over five years, Clarke had saved this money from financial aid, various jobs, gifts from family, and educational benefits based on his mother’s status as a disabled veteran. His bank had no physical branches in his area, so Clarke kept his money at home. He had taken it with him to Ohio because he and his mother were moving to a new apartment, and he did not want to risk its getting lost in the move.

Just as Clarke was about to board the plane, law enforcement officials seized his money, claiming his checked bag smelled of marijuana. Although Clarke was a recreational smoker at the time, the officers found no drugs or anything else illegal on him or in his carry-on or checked bag. In other words, the officers found no evidence that he was guilty of any crime before seizing his money. In the upside-down world of civil forfeiture, they did not have to.

It has been called “one of the most controversial practices in the American criminal justice system.”² But civil forfeiture was, until the 2010s, largely unknown to the public, to pundits and even to elected officials, despite hundreds of millions of dollars in property being seized and forfeited every year across the United States.

Civil forfeiture is a mechanism by which law enforcement agencies can seize and keep property on the mere suspicion that it is connected to a crime.³ In contrast to criminal forfeiture, where property is taken only after a criminal conviction, civil forfeiture allows law enforcement to take property from innocent people who have never been formally accused of a crime, let alone convicted of one. This evasion of the criminal justice system is based on a legal fiction in which property thought to be connected to an alleged crime is considered “guilty” of having somehow assisted in the commission of that crime. In criminal forfeiture, the government proceeds against a person charged with a crime; in civil forfeiture, the government proceeds against property.

The civil forfeiture process generally includes two distinct actions: seizure and forfeiture. Seizure occurs

when law enforcement officials—police officers, sheriff’s deputies, federal agents—confiscate property they suspect is related to criminal activity. Practically anything can be seized by law enforcement—cash, vehicles, airplanes, jewelry, homes, musical instruments, farm implements, home furnishings, electronics and more. Once property has been seized, prosecutors file civil actions against it in order to forfeit, or keep, it. This process that often produces odd-sounding case names like *State of Texas v. One 2004 Chevrolet Silverado*⁴ or *United States v. One Solid Gold Object in Form of a Rooster*.⁵

Because such actions are against property, not people, and because they are civil actions, not criminal, owners caught up in civil forfeiture proceedings lack rights afforded the criminally accused, such as the right to counsel. And under civil forfeiture, the government usually faces a lower evidentiary threshold to forfeit property than it does to convict a person of a crime. Even people who had nothing to do with an alleged crime can lose their property through civil forfeiture unless they can prove their innocence—flipping the American legal tradition of innocent until proven guilty on its head. Most troublingly, civil forfeiture laws in most states and at the federal level give law enforcement agencies a financial stake in forfeitures by awarding them some, if not all, of the proceeds. This financial incentive creates a conflict of interest and encourages the pursuit of property instead of the pursuit of justice.

Officers at the Cincinnati airport seized **Charles Clarke's** life savings—\$11,000—without any evidence it was connected to a crime.



A Brief History of Forfeiture

The origins of forfeiture laws date back to medieval times, but America’s civil forfeiture laws can be traced to 17th-century English maritime law, which allowed violations to be punished by the seizure and forfeiture of ships and cargo without regard to the guilt or innocence of the owners.⁶ Based on this concept, the first U.S. Congress adopted similar forfeiture laws.⁷ Although the laws were upheld in early Supreme Court cases, their use was limited to the maritime contexts of admiralty, piracy and customs—circumstances where commencing criminal proceedings was difficult, if not impossible, because property owners were overseas or otherwise outside of U.S. jurisdiction.⁸ The 19th century saw some expansion of the forfeiture power during the Civil War, but its use remained comparatively limited.⁹

Except for a brief expansion during Prohibition, civil forfeiture was largely moribund in the 20th century—that is, until 1984, when Congress amended the Comprehensive Drug Abuse Prevention and Control Act. Among other things, the 1984 amendments created the Department of Justice’s Assets Forfeiture Fund for depositing forfeiture proceeds for federal agency use.¹⁰ The AFF represented a sea change in the administration of civil forfeiture. For the first time, agencies could obtain a financial benefit from the proceeds of forfeited properties, using funds to do everything from purchase vehicles to pay overtime. Lawmakers in many states followed the federal government’s lead and amended their states’ civil forfeiture laws to give local and state agencies a direct financial stake in the forfeiture process.

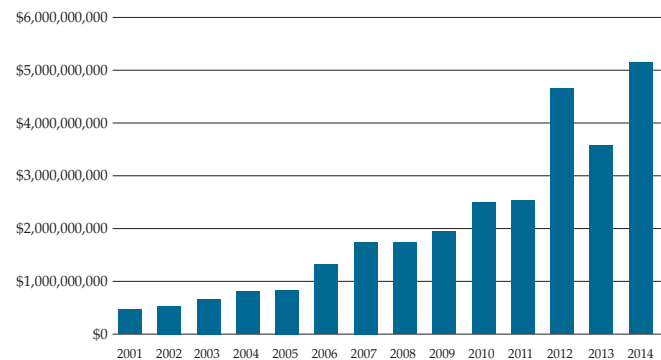
In 2000, Congress modestly reformed federal forfeiture law¹¹ through the Civil Asset Forfeiture Reform Act,¹² but it left unchanged one of the most troublesome elements—law enforcement’s ability to benefit financially from civil forfeiture. Moreover, other amendments to civil forfeiture laws at the federal and state levels have expanded their reach to cover alleged violations beyond drug crimes. Consequently, today’s civil forfeiture laws are far greater in scope than their 18th-century progenitors. And decoupled from the practical necessities that justified their use when enforcing maritime law, they are an increasingly popular and profitable tool for law enforcement agencies.¹³

Forfeiture Use Explodes

One of the most basic of economic principles is that incentives matter,¹⁴ and they matter not just to individuals but also to groups. In allowing agencies to keep some or all of what they forfeit, civil forfeiture laws permit, if not encourage, law enforcement to police for profit. And agencies have responded with zeal.

At the federal level, the departments of Justice¹⁵ and the Treasury¹⁶ have seen an astonishing increase in forfeiture activity. In 1986, the year after the Department of Justice’s Assets Forfeiture Fund was established, it took in just \$93.7 million in deposits. By 2014, deposits had increased 4,667 percent to \$4.5 billion.¹⁷ Much of that increase came during the past decade and a half. From 2001 to 2014, deposits to the DOJ and Treasury forfeiture funds exploded by more than 1,000 percent (see Figure 1).¹⁸ Total deposits across those years approached \$29 billion.

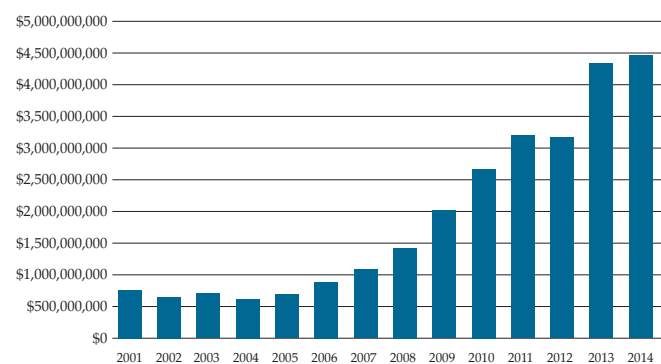
Figure 1: Total Annual Deposits to DOJ and Treasury Forfeiture Funds, Fiscal Years 2001–2014



Sources: DOJ Assets Forfeiture Fund Annual Financial Statements; Treasury Forfeiture Fund Accountability Reports.

As a measure of federal forfeiture activity, deposits can sometimes be unstable. In a given year, one or two high-dollar cases may produce unusually large amounts of money—with a portion going back to victims—thereby telling a noisy story of year-to-year activity levels. Net assets, the amount of money federal forfeiture funds retain after paying various obligations, represent a more stable metric. From 2001 to 2014, net assets in the DOJ and Treasury forfeiture funds increased 485 percent.¹⁹ Combined assets topped \$1 billion for the first time in 2007 and ballooned to nearly \$4.5 billion by 2014 (see Figure 2).

Figure 2: Total DOJ and Treasury Forfeiture Funds Net Assets, Fiscal Years 2001–2014

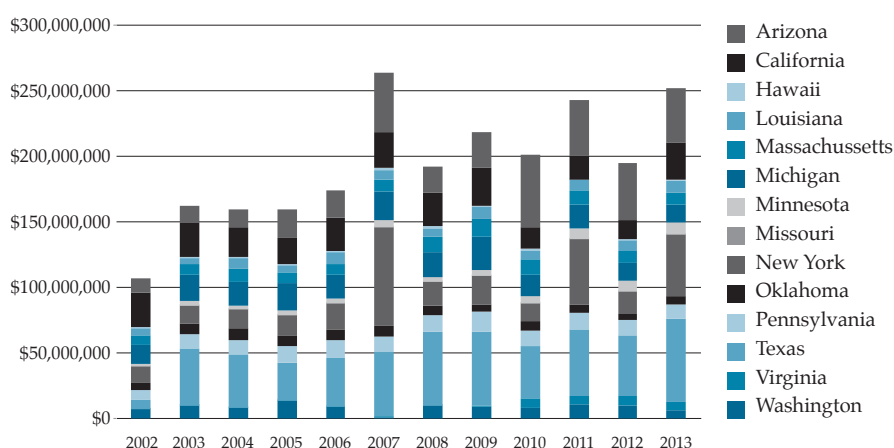


Sources: DOJ Assets Forfeiture Fund Annual Financial Statements; Treasury Forfeiture Fund Accountability Reports.

Unfortunately, deriving similar totals at the state level is impossible because most states require little to no public reporting of forfeiture activity. However, of the states from which the Institute for Justice was able to obtain usable data, the totals are also significant.²⁰ In 2012 alone, the latest year for which the most consistent data were available, state and local agencies in 26 states²¹ and the District of Columbia took in more than \$254 million through forfeiture.²² Texas led the way, with \$46 million, followed closely by Arizona with \$43 million. Illinois was third with almost \$20 million.

Like the federal government, states have had great success increasing forfeiture revenues under state law in the new millennium. For example, Figure 3 illustrates the growth in forfeiture revenue for 14 states from 2002 to 2013.²³ From the first to the final year presented, total revenue increased 136 percent.²⁴ Among the states, the two whose revenues were most consistent over the years, and which also tended to represent the greatest revenue shares, were Texas and California. However, Arizona’s revenue grew significantly over the period, eventually eclipsing California’s.

Figure 3: Annual State Forfeiture Revenues, 14 States, 2002–2013



Source: Institute for Justice analysis of civil and criminal forfeiture data from online reports and public records requests.

The Trouble with Civil Forfeiture

Civil forfeiture poses serious risks to property and due process rights. First and foremost among these risks, federal law and most states’ laws permit law enforcement officials to reap financial rewards from civil forfeiture. Defenders of the practice view this as a benefit, as it enables law enforcement to expand crime-fighting activities.²⁵ But through civil forfeiture, police and prosecutors can self-fund, financing operations entirely beyond the democratic controls embodied by city councils, county commissions and state legislatures.

Just as troubling, giving law enforcement a financial stake in civil forfeiture distorts law enforcement priorities. Allowing law enforcement agencies to reap financial benefits from forfeitures encourages the pursuit of property over the impartial administration of justice.²⁶

Providing a financial incentive is problem enough, but most civil forfeiture laws also make seizing and forfeiting property disconcertingly easy. Civil forfeiture stacks the deck against property owners from the outset: In most jurisdictions and for most types of property, all police need to seize is “probable cause” to believe that the cash, car or other property is connected to a crime that permits civil forfeiture. And once property is seized, the onus is on owners to file a legal claim to get it back.

If they do, they will likely face long and costly litigation in which the government has the upper hand. A 2015 Institute for Justice report, for example, found some civil forfeiture proceedings took a year or more to navigate.²⁷ And to traverse the complex legal landscape of civil forfeiture, owners will have to find and pay for an attorney. In civil forfeiture cases, unlike criminal prosecutions, there is no right to counsel. For most Americans, retaining a defense lawyer skilled in civil forfeiture litigation is not a familiar task. But going without legal representation is not much of an option: Challenging a seizure often involves filing court documents and paying various fees according to a strict timetable, not to mention at least one court appearance.²⁸

Illinois offers a particularly egregious example of how civil forfeiture laws discourage people from even trying to get their property back. In Illinois, to challenge a seizure in court, property owners must first pay a bond of \$100 or 10 percent of the property's value, whichever is greater. The only exceptions are for personal property worth more than \$150,000 and for real property. If owners challenge and lose, they must pay the full cost of the civil forfeiture proceedings, including the government's legal costs, and give up the full value of the bond. Even if they win, they lose 10 percent of the bond on top of whatever attorney costs they accrued.

Faced with such daunting hurdles, many owners never make it to court. These owners' cases are generally decided in the government's favor by default, resulting in forfeiture of the property. In contrast, when a person is accused of a crime, the government cannot simply win by default. The defendant either takes a plea or the government must prove its case beyond a reasonable doubt. In civil forfeiture cases, some owners give up on their property because they cannot find or afford a lawyer, miss one of the often tight deadlines to file a claim or are otherwise stymied by a confusing legal process. Other owners opt not to fight because they conclude that the costs in time, money and aggravation outweigh the value of their property.

Giving up may often be the rational choice, given the low value frequently at stake. For example, the Institute for Justice was able to obtain property-level forfeiture data for 2012 from 10 states, allowing median property values to be calculated. In those states, the median value of forfeited property ranged from \$451 in Minnesota to \$2,048 in Utah,²⁹ not much more than an American's

average annual cell phone bill.³⁰ It is little wonder, then, that owners of seized property rarely pursue its return. In Minnesota, for instance, law enforcement took 34,000 pieces of property, including vehicles, cash and homes, between 2003 and 2010—the equivalent of one piece of property from every other family in St. Paul, the state capital. Yet over one six-month period, 66 percent of forfeitures went unchallenged by property owners. Overall, from 2003 to 2010, Minnesotans saw the return of their property in just 10 percent of cases.³¹

Data from Philadelphia tell a similar story. In 2015, the American Civil Liberties Union of Pennsylvania released an analysis of cash-only forfeiture cases in the City of Brotherly Love. It revealed that between 2011 and 2013 half of the cases involved less than \$192.³² Contrary

Through civil forfeiture, police and prosecutors can self-fund, financing operations entirely beyond the democratic controls embodied by city councils, county commissions and state legislatures.

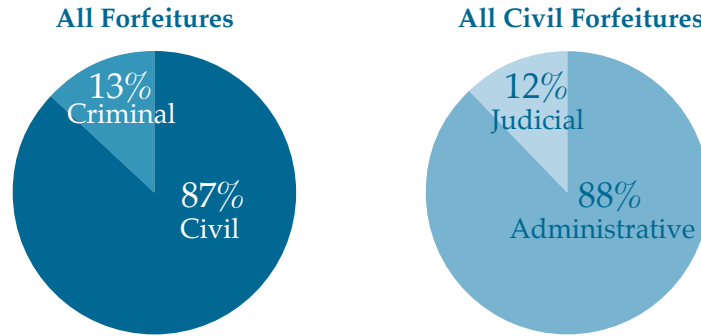
to proponents' claims that civil forfeiture is essential to thwarting drug cartels and kingpins,³³ this is hardly the stuff of large criminal enterprises. The relationship between the value of seized property and the likelihood of owners contesting its forfeiture is clear. For property worth less than \$200, just 3 percent of owners fight to retrieve their goods, and as the value of seized property increases, so too does the percentage of owners willing to contest.³⁴

If property owners choose to pursue their property in court, they face a byzantine process in which the government has all the advantages. Specifically, prosecutors often need only meet very low standards of evidence. And if a property owner entirely unconnected to an alleged crime files a claim to prevent her property from being forfeited, she usually must prove her own innocence—the opposite of what happens in criminal proceedings, where defendants are presumed innocent until proven guilty. This feature of most civil forfeiture laws risks punishing completely innocent people, such as the mother whose car is seized when her child is arrested on a drug crime while driving it.

Because it is easier to forfeit property through civil procedures, it is not surprising that law enforcement prefers civil forfeiture to criminal forfeiture. As Figure 4 indicates, 87 percent of U.S. Department of Justice forfeitures are pursued as civil rather than criminal actions. When the civil cases are further broken down, yet another troubling element is revealed: 88 percent of DOJ civil forfeitures are processed administratively rather than judicially, meaning the cases never see a judge and the property owners never have their day in court. An

administrative forfeiture occurs when a property owner opts not to contest a seizure. With no claims on the property, the forfeiture is generally accomplished through a simple paperwork shuffle, with no judicial involvement. It is only when a forfeiture is contested that a judge might review the case, if it is not settled first. Absent judicial review, the sole determination of whether a forfeiture is warranted is made by the seizing agency, which usually stands to gain from the proceeds.

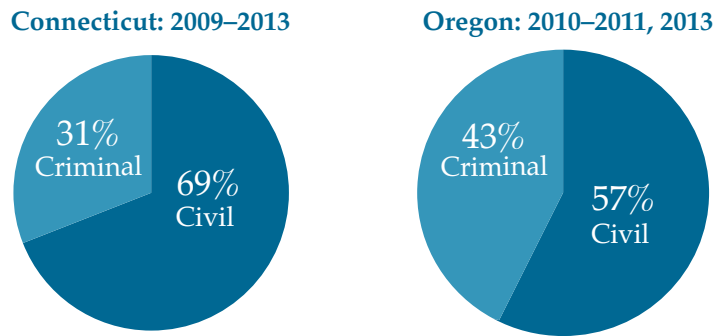
Figure 4: DOJ Forfeitures, Civil vs. Criminal and Judicial vs. Administrative, 1997–2013



Source: Institute for Justice analysis of DOJ civil and criminal forfeiture data obtained by FOIA.

The same general distinction between civil and criminal forfeitures applies under state law. Unfortunately, however, the majority of states do not keep data on whether forfeitures proceed under the civil or criminal law: Only two states’ forfeiture records distinguish between civil and criminal forfeitures. Activity in those states mirrors that at the federal level: Almost 60 percent of cash forfeited in Oregon and more than two-thirds of that forfeited in Connecticut were forfeited civilly (see Figure 5).

Figure 5: Value of Cash Forfeitures, Civil vs. Criminal, in Connecticut and Oregon



Source: Institute for Justice analysis of civil and criminal forfeiture data from online reports and public records requests.

Grading State & Federal Civil Forfeiture Laws

Nearly every state, the District of Columbia and the federal government have civil forfeiture laws, but they differ in their financial incentives and their procedures. This report grades state and federal civil forfeiture laws based on the incentives they create for law enforcement agencies to police for profit and the protections they afford to property owners.

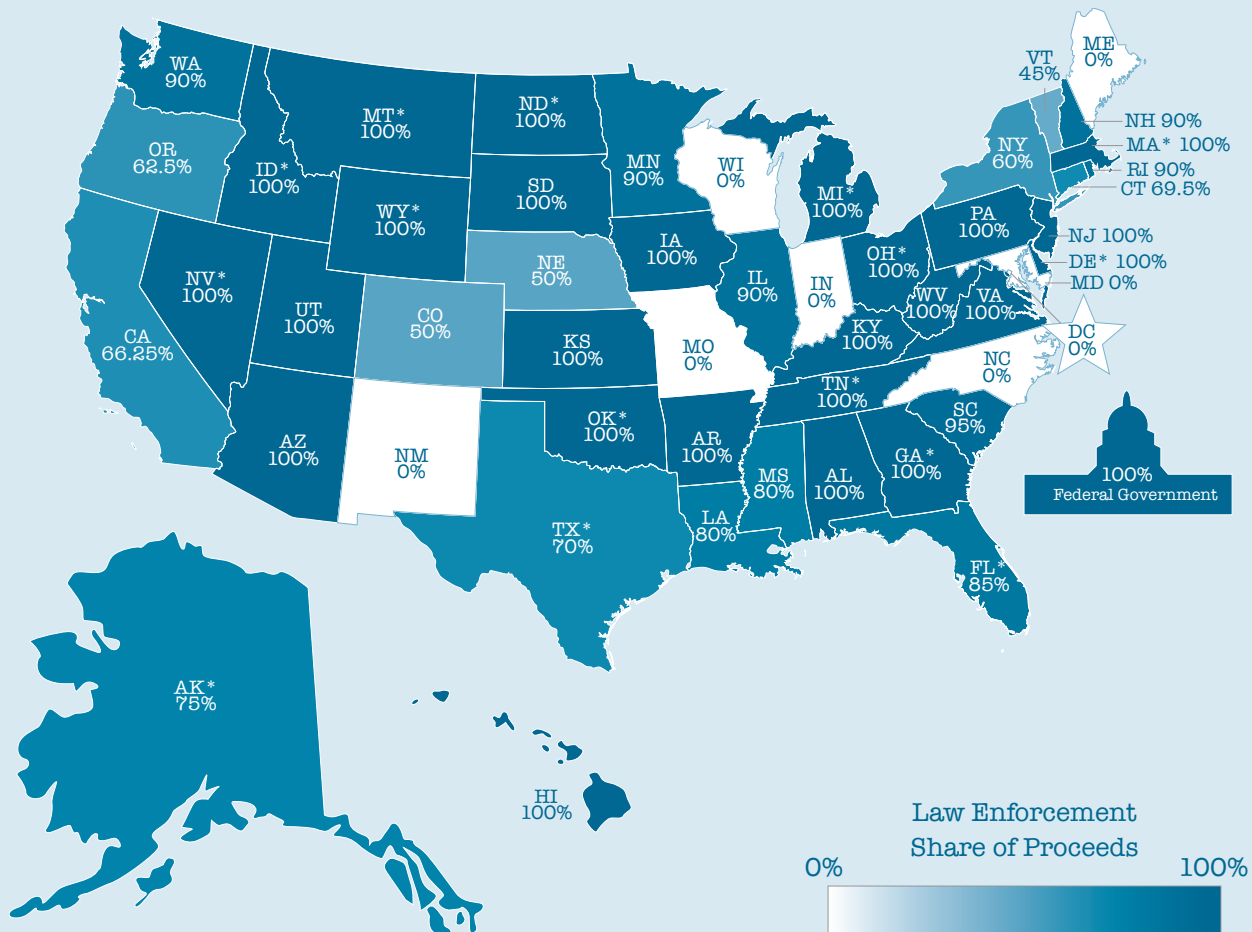
Three fundamental elements of civil forfeiture laws were examined when calculating grades: the financial incentive, the standard of proof the government must meet to forfeit property, and whether the burden to prove innocence or guilt is on innocent third-party owners or the government.

Financial Incentive

Put simply, civil forfeiture laws present law enforcement with significant incentives to seize property for financial gain. Figure 6 shows for each state, the District of Columbia and the federal government the percentage of

forfeiture proceeds allowed to flow to law enforcement. Only seven states and D.C. block law enforcement access to forfeiture proceeds. The remaining jurisdictions allow at least 45 percent—and in many cases, including the federal government’s, 100 percent—of the value of forfeited property to be directed to law enforcement. Property may also be retained for official use. These allowances represent a significant opportunity for agencies to self-fund through civil forfeiture, and evidence suggests that agencies are taking full advantage.

Figure 6: Financial Incentives in Civil Forfeiture Laws



*Agencies may keep or be awarded up to the stated percentages by a court, but a lesser amount may instead be awarded.

Note: See Appendix B for sources and greater detail.

Civil Forfeiture and the Temptation to Seize

Critics of civil forfeiture argue that giving law enforcement a financial stake in seizures encourages agencies to put revenue generation ahead of public safety or justice. Chapman University economist Bart J. Wilson and co-author Michael Preciado designed a cutting-edge experiment to see whether the financial incentives baked into many civil forfeiture laws influence behavior.¹ Results were clear: Civil forfeiture creates a strong temptation for law enforcement agencies to seize property to enhance their budgets, even at the expense of other priorities.

Thus the problem with civil forfeiture is less “bad apples” among officers than it is the laws themselves. Indeed, some law enforcement officials have openly acknowledged the powerful temptations civil forfeiture creates:

Civil Forfeiture Is a “Gold Mine”

“Now think about this, this is a gold mine, a gold mine. You can seize a house, not a vehicle. They seize the house, and it goes on to say that there’s no judiciary involved.”

—Harry S. “Pete” Connelly, Jr.,
former Las Cruces, N.M., city attorney²



“Toys” for Police

“It’s usually based on a need—well, I take that back. There’s some limitations on it. ... Actually, there’s not really on the forfeiture stuff. We just usually base it on something that would be nice to have that we can’t get in the budget, for instance. We try not to use it for things that we need to depend on because we need to have those purchased. It’s kind of like pennies from heaven—it gets you a toy or something that you need is the way that we typically look at it to be perfectly honest.”

—Kenneth M. Burton, Columbia, Mo., police chief³



“Don’t Ruin Forfeitures For All Of Us”

An Arizona Prosecuting Attorneys Advisory Council training presentation cautioned against succumbing to the temptation to “just start seizing everything in sight.” Such behavior could “screw things up” and “ruin forfeitures for all of us.”⁴

PROFESSIONAL AND ETHICAL PRACTICE

“Don’t Ruin Forfeitures For All Of Us”

- When your bosses can’t find any money in their budget they get depressed.
- When they get depressed they tell you to start doing forfeiture cases.
- When you start doing forfeiture cases you go to a Forfeitures seminar.
- When you go to a Forfeitures seminar you feel like a winner.
- When you feel like a winner you go back to your jurisdiction and just start seizing everything in sight.
- When you just start seizing everything in sight you screw things up and lose everything.
- When you screw things up and lose everything you ruin forfeitures for all of us.
- Don’t ruin forfeitures for all of us. Get the purpose of this seminar and follow an educated, ethical and professional forfeiture practice.

7

1 Wilson, B. J., & Preciado, M. (2014). *Bad apples or bad laws? Testing the incentives of civil forfeiture*. Arlington, VA: Institute for Justice.

2 Sibilla, N. (2014, November 10). “IF IN DOUBT...TAKE IT!” Behind closed doors, government officials make shocking comments about civil forfeiture. *Buzzfeed*. Retrieved from <http://www.buzzfeed.com/nicks29/aif-in-doubtatake-ita-behind-closed-doors-4y3w>.

3 Rose, L. (2012, November 27). Police Chief Ken Burton calls forfeiture funds “pennies from heaven.” *The Maneater*. Retrieved from <http://www.themaneater.com/stories/2012/11/27/police-chief-ken-burton-calls-forfeiture-funds-pen/>.

4 Arizona Prosecuting Attorneys Advisory Council. (n.d.). Forfeiture ethics training [Presentation slides]. https://www.aclu.org/sites/default/files/field_document/ex_11.pdf.

Philadelphia, for example, operates a forfeiture machine. Pennsylvania state law enables agencies to retain 100 percent of the value of forfeited property, and law enforcement in Philadelphia took in more than \$69 million between 2002 and 2013.³⁵ That total comprises more than 1,200 houses, 3,400 vehicles, \$47 million in cash, and various other items, such as electronics and jewelry.³⁶ The total also represents almost one-fifth of the district attorney's general, appropriated budget. With those funds, Philadelphia has paid for equipment, maintenance, education and training, and salaries of personnel, this last of which represents the most direct conflict of interest for the unbiased administration of justice. Conspicuously, Philadelphia spent none of its forfeiture funds on proactive, community-based anti-drug and crime prevention programs,³⁷ despite proponents' claims that forfeiture funds are essential to supporting such efforts.

Law enforcement's response to forfeiture incentives has been on even starker display in Tennessee. As part of a multiyear investigation,³⁸ a television news team followed police officers as they patrolled Interstate 40. The news team found that rather than working eastbound lanes, where smugglers transport drugs to the East Coast, officers focused on westbound lanes, where smugglers haul cash back to Mexico. A subsequent review of drug task force records indicated that officers made 10 times as many stops on the westbound side of the highway as they did on the eastbound side.

And in 2009, the tiny East Texas town of Tenaha (pop. 1,100) drew national attention when a lawsuit exposed a civil forfeiture scheme in which law enforcement netted millions of dollars through highway traffic stops.³⁹ In what became a case study of forfei-

ture abuse, police officers stopped out-of-state drivers for insubstantial reasons in order to search the vehicles. Upon discovering cash or other items of value, officers seized the properties and threatened owners with bogus charges—even state removal of their children—if they refused to waive their rights to the properties. Forfeiture proceeds were used to buy, among other things, a \$500 popcorn machine, candy for a poultry festival and \$400 worth of catering. Money also went to a local chamber of commerce, a youth baseball league, a local Baptist church and the pocket of a Tenaha police officer whose name appeared in complaints from stopped motorists.⁴⁰

The financial incentive is so compelling that some Indiana law enforcement agencies have retained large shares of forfeiture funds despite a clear state consti-

tutional mandate directing them elsewhere. Article 8, Section 2 of the Indiana Constitution requires that all forfeiture proceeds go to the state school fund. However, some officials have taken full advantage of a state statute permitting law enforcement agencies to first deduct related investigative costs.⁴¹ In Marion County—the largest county in the state—officials have used the provision to keep all of the proceeds of forfeiture⁴² by dividing forfeited property among a range of law enforcement agencies rather than according to a case-specific cost determination.⁴³ Some agencies manage to keep nearly all of the bounty, even though Indiana is, on paper, a state where they should retain zero proceeds.⁴⁴

Standard of Proof

People who manage to make it to court to fight a seizure often face a major disadvantage: the low standards of proof required to forfeit property under most civil forfeiture laws. The standard of proof is the hurdle the government must clear to win a civil forfeiture case. It dictates how convincing the government's evidence must be to a judge or jury. The most familiar standard of proof in the American legal system is "beyond a reasonable doubt," the requirement for convicting a person of a crime. American law sets such a high standard in criminal

cases to avoid punishing the innocent. Yet federal and most state civil forfeiture laws set substantially lower standards for depriving people of their property, as the map in Figure 7 shows.

Thirty-one states and the federal government set "preponderance of the evidence"

as the standard of proof for all civil forfeitures, making it the most common standard nationally. A preponderance of the evidence standard means that property is more likely than not connected to a crime. It is often thought of as a 51 percent standard, meaning the evidence must be a bit more than 50–50—or slightly better than a coin flip—in favor of the government, a much lower hurdle than beyond a reasonable doubt.⁴⁵ Remarkably, Massachusetts and North Dakota set a lower standard still, requiring only probable cause for civil forfeiture. Probable cause is the same low evidentiary standard that police must meet in order to make an arrest, carry out a search or seize property in the first place.

A growing number of states demand a higher standard of proof for civil forfeitures. Nebraska requires

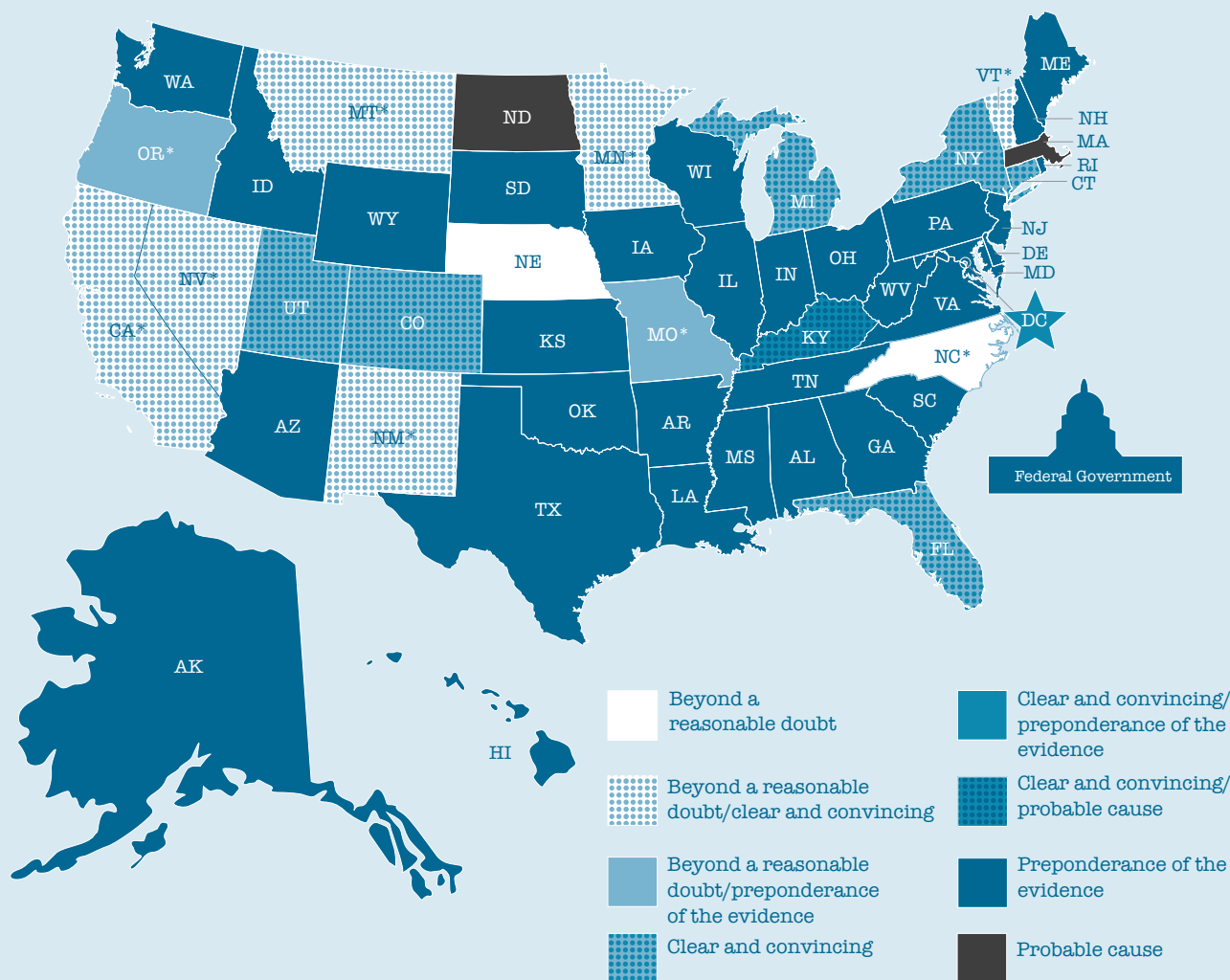
Philadelphia spent none of its forfeiture funds on proactive, community-based anti-drug and crime prevention programs, despite proponents' claims that forfeiture funds are essential to supporting such efforts.

proof beyond a reasonable doubt for most civil forfeitures, and North Carolina requires criminal convictions in most cases. California sets a standard of beyond a reasonable doubt to forfeit most kinds of property, with a conviction required (though not necessarily the owner's conviction). In 2015, New Mexico abolished civil forfeiture. It now requires a criminal conviction with proof beyond a reasonable doubt for all forfeitures; after securing a conviction, the government must prove in the same criminal proceeding that seized property is connected to the crime by "clear and convincing evidence," a standard lower than reasonable doubt but higher than preponderance of the evidence. Minnesota, Montana, Nevada and Vermont now also demand criminal convictions, followed by civil trials linking seized property to the crime by clear

and convincing evidence. Missouri requires a criminal conviction and proof by a preponderance of the evidence that seized property is connected to the crime; Oregon law is similar for forfeitures of personal property (which account for most forfeitures) but sets a higher standard of clear and convincing evidence to forfeit real property.

Six states—Colorado, Connecticut, Florida, Michigan, New York and Utah—demand that the government provide clear and convincing evidence of a property's connection to criminal activity for most or all civil forfeitures. The remaining states and the District of Columbia apply different standards to different types of property or under different circumstances. The State Profiles and Appendix B provide greater detail.

Figure 7: Standards of Proof for Civil Forfeiture



*Conviction required for most or all forfeitures.

Notes: States with multiple standards apply different standards of proof to different types of property or under certain circumstances. Oregon requires a conviction and clear and convincing evidence to forfeit real property. See Appendix B for sources.

Low standards of proof mean that, in most jurisdictions, civil forfeiture cases are fairly easy for the government to win and difficult for property owners to fight. In particular, winning a civil forfeiture case is often much easier for the government than securing a criminal conviction. In a stark illustration of the difference, a property owner in Arizona was acquitted of criminal charges yet still lost her house to civil forfeiture.⁴⁶

Prosecutors are well aware of the advantages such lower hurdles afford them. For example, when asked by a radio host why Philadelphia would not return seized property in a case where the owner was found innocent of any crime, then-Assistant District Attorney Beth Grossman made clear that a property owner's guilt or innocence, as traditionally established in American law by proof beyond a reasonable doubt, is irrelevant when it comes to civil forfeiture:

[F]irst of all, our standard, our burden of proof, is lower than beyond a reasonable doubt, and it is a civil action as opposed to a criminal one, so because the Commonwealth in a criminal case could not reach the burden of beyond a reasonable doubt does not prohibit us to continue to proceed against the property, which is our named defendant. So with the preponderance of the evidence, yes, we can continue to still proceed against it.

Pressed by the host on why the city did not wait until a person's innocence or guilt was established before seizing property, Grossman replied, "Because I am not required to do so." And asked if she thought it was a good law, Grossman answered, "I think it's a fabulous law."⁴⁷

Federal prosecutors likewise prefer civil forfeiture to criminal proceedings. Assistant U.S. Attorney Craig Gaumer, who has described civil forfeiture as "a prosecutor's secret weapon," wrote: "Civil forfeiture laws make it easier to seize potentially forfeitable personal property than their criminal forfeiture counterparts." Among their advantages, he noted that "[c]ivil forfeiture cases do not require the criminal conviction of the owner (or anyone else) as a prerequisite to forfeiture."⁴⁸

Innocent Owner Burden

With civil forfeiture, not only can people lose their property without ever being charged with or convicted of a crime, they can also lose their property when someone else allegedly uses it in the commission of a crime. For example, police in Arizona arrested a man for stealing auto parts and seized the truck he had put them on. The truck was forfeited, even though it belonged to the man's mother, who had done nothing wrong.⁴⁹ A New Jersey woman lost her car after her son used it—without her knowledge or consent—while selling marijuana. It took two years of

litigation to win it back.⁵⁰ And a Michigan woman saw the car she co-owned with her husband forfeited after he was caught soliciting a prostitute in it—a crime she neither knew about nor consented to.⁵¹

To avoid punishing such innocent third parties, civil forfeiture laws

generally create a carve-out: Property owners (or partial owners) who had nothing to do with the alleged crime that prompted a seizure can petition to get the property (or their share of it) back.⁵² In theory, such "innocent owner" claims provide protection against unjust civil forfeitures. In practice, however, most innocent owner provisions put property owners at a disadvantage, making it easy for the government to hold on to seized property.

For starters, making an innocent owner claim is no easy task. Rhonda Cox, the Arizona mother whose son was arrested for theft, learned this the hard way. After her truck was seized, she told two police officers that it was hers and that she had nothing to do with her son's crime. Both told her that she would never get her property back. Cox then provided proof of ownership to the county attorney's office and explained that she had no knowledge of the truck's involvement with any illegal activity. The prosecutor rejected her plea and started legal actions to forfeit her truck.

On her own and without a lawyer, Cox filed the paperwork required to challenge the forfeiture as an innocent owner—paying a \$304 filing fee for the privilege. But eventually she gave up. The legal process was too convoluted, and—as the prosecutor had warned her—if she lost, not only would she lose the truck, but under Arizona law she would also have to pay the government's legal costs.⁵³

A property owner's guilt or innocence, as traditionally established in American law by proof beyond a reasonable doubt, is irrelevant when it comes to civil forfeiture.

Philadelphia's Civil Forfeiture Machine Grinds Property Owners Down

The most terrifying place in Philadelphia is Courtroom 478 in City Hall. This is where property owners enter the city's civil forfeiture machine, which chews up their rights while churning out revenue for Philadelphia police and prosecutors.

Owners wishing to contest the seizure of their cash, cars and homes must go to Courtroom 478. For years, prosecutors alone—not judges or juries—have run this “courtroom,” often telling property owners they do not need a lawyer before handing them a stack of complicated legal documents to complete.¹ Prosecutors have also “relisted” cases, forcing owners to return to Courtroom 478 multiple times. Missing even one court date could mean losing property forever through default.²

When homes have been taken under “seize-and-seal” orders, prosecutors have pressured owners to agree to unreasonable and unconstitutional conditions in order to regain access to their homes pending a final determination in their cases. Conditions have included waiving their constitutional rights in future civil forfeiture actions or even barring loved ones from their homes.³

Philadelphia's civil forfeiture machine is notable for its scope and efficiency. Up to 80 cases of all types have been listed for “hearing” in Courtroom 478 in a single day.⁴ The district attorney's office won over 90 percent of its 8,284 cash-forfeiture cases in 2010.⁵ Philadelphia homeowners face even worse odds: Owners won in only 30 of the nearly 2,000 real-property cases filed from 2008 to 2012.⁶

Altogether, civil forfeiture generated more than \$69 million in revenue for the district attorney's office between 2002 and 2013—an annual average of almost \$5.8 million.⁷ The office spent about 40 percent of these funds on salaries, including those of the very prosecutors who have been running Courtroom 478.⁸ This financial stake, and the conflict of interest it engenders, is the engine of the Philadelphia civil forfeiture machine.

Philadelphia is thus the quintessential example of what happens when state actors face bad incentives and few restrictions, something Chris Sourovelis discovered in March 2014 when his son was arrested for selling \$40 worth of drugs outside the family home.⁹ Although Sourovelis had committed no crime, he was thrown out of his home and into Philadelphia's civil forfeiture machine.

To regain access to their home, Sourovelis and his wife agreed, without legal representation, to ban their son from the premises and change the locks, among other things.¹⁰ After seven days, the Sourovelises—minus their son—were back in their home, but they still were not in the clear. They had to appear in Courtroom 478 no fewer than nine times.¹¹

In August 2014, Sourovelis filed a class-action lawsuit brought by the Institute for Justice against the city and the district attorney's office for violating his and others' constitutional rights. Under pressure from the federal lawsuit and public opinion, the district attorney's office dropped the forfeiture case against Sourovelis' home in late 2014.¹² In a partial class-wide settlement, the office also agreed, in mid-2015, to stop seizing homes without giving owners warning and a chance to make their case before a judge, unless it could show such actions were necessary to prevent crimes. The office will no longer order homes sealed, absent exigent circumstances, before owners have had their day in court, nor will it demand that family members be banned from the premises.¹³

These changes should prevent other homeowners from suffering the same ordeal the Sourovelises did. But more must be done to dismantle Philadelphia's forfeiture machine once and for all, and so the litigation continues. Most significantly, law enforcement in the city still enjoys the financial fruits of forfeiture, and as long as this financial incentive persists, it is doubtful that Philadelphians and their property will be safe from the civil forfeiture machine.

1 Compl. at 19–21, *Sourovelis v. City of Phila.*, No. 14-4687 (E.D. Pa. Aug. 11, 2014) [hereinafter *Sourovelis Compl.*], available at https://ij.org/images/pdf_folder/private_property/philadelphia-forfeiture/philadelphia-forfeiture-complaint-8-11-14.pdf.

2 Sibilla, N. (2014, August 26). Philadelphia earns millions by seizing cash and homes from people never charged with a crime. *Forbes*.

3 *Sourovelis Compl.* at 21.

4 Thompson, I. (2012, November 28). The cash machine. *Philadelphia CityPaper*.

5 Thompson, 2012.

6 Thompson, I. (2013, August 5). Law to clean up “nuisances” costs innocent people their homes. *ProPublica*.

7 IJ analysis of Pennsylvania annual asset forfeiture reports. See also *Sourovelis Compl.* at 2–3, 11.

8 IJ analysis of Pennsylvania annual asset forfeiture reports. See also *Sourovelis Compl.* at 12–13.

9 Sibilla, 2014.

10 Order at 1, *Commonwealth of Pennsylvania v. 12011 Ferndale Street*, No. CP-51-MD-0003952-2014 (Ct. Com. Pl. May 16, 2014).

11 Docket, *In Re: Street 12011 Ferndale*, No. CP-51-MD-0003952-2014 (Ct. Com. Pl. May 7, 2014).

12 Newhouse, S. (2014, December 18). D.A. drops two civil forfeiture actions under controversial law. *Metro*.

13 Dirty money. (2015, July 7). *The Philadelphia Inquirer* [Editorial].

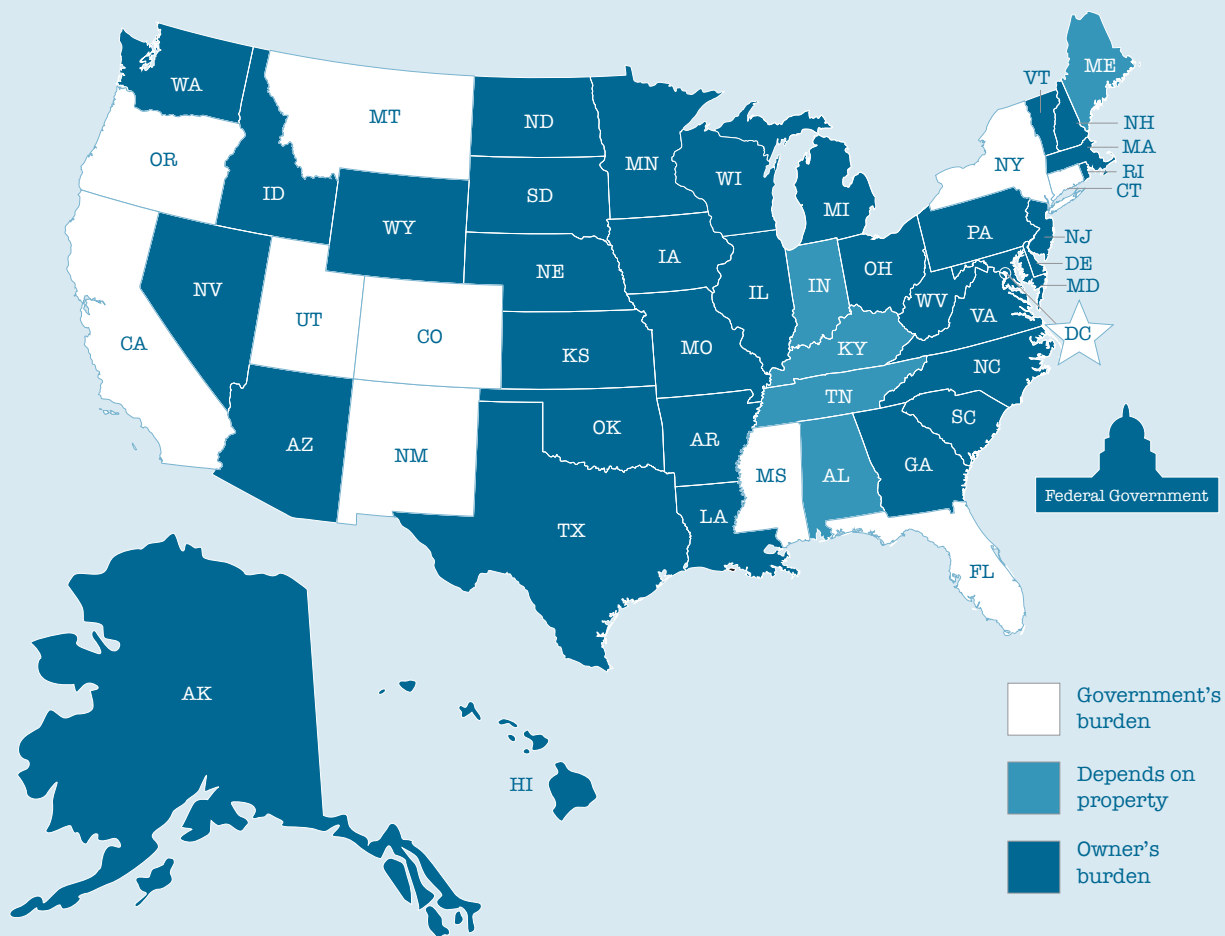
Cox lost her truck without ever having been accused of a crime and without ever having gotten her day in court. Innocent third-party owners who do make it to court will often face a bizarre and almost impossible task: proving their own innocence.

As shown in Figure 8, innocent owner provisions in federal law and 35 states place the burden of proof on owners, meaning that owners must prove they had nothing to do with the alleged crime. In essence, most civil forfeiture laws presume that people are connected to any criminal activity involving their property and force them to prove otherwise to recover it. This is precisely the opposite of what happens

in criminal trials, where the accused is presumed innocent until proven guilty by the government. It also often involves a practical impossibility, as it requires people to prove a negative—that they did not know about or consent to the illegal use of their property.

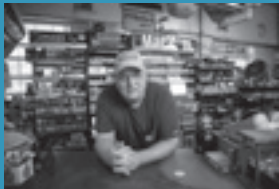
Only 10 states and the District of Columbia demand that the government prove owners did something wrong before forfeiting their property. In the remaining states, whether the burden of proof falls on the owner or the government generally depends on the type of property involved. The State Profiles and Appendix B provide greater detail.

Figure 8: Innocent Owner Burdens in Civil Forfeiture Laws



Note: See Appendix B for sources.

With Civil Forfeiture, IRS Cleans Out Bank Accounts



Lyndon McLellan runs a convenience store in Fairmont, N.C., and has done so without incident for more than a decade. All that changed in 2014, when the Internal Revenue Service used civil forfeiture to seize McLellan's entire \$107,000 bank account. He did not stand accused of selling drugs or even of cheating on his taxes; in fact, he was not charged with any crime at all. Rather, the IRS claimed that he had been "structuring" his deposits—that is, breaking them into amounts of less than \$10,000 to evade federal reporting requirements for large transactions. McLellan, like most people, did not even know what "structuring" was, let alone that it was illegal. His niece, who handles the deposits, had been advised by a bank teller that smaller deposits meant less paperwork for the bank, so she kept deposits small.¹

Unfortunately, McLellan's case is not unusual. From 2005 to 2012, the IRS seized more than \$242 million in over 2,500 structuring cases. In theory, the IRS keeps an eye out for structuring to catch criminals laundering money or committing financial crimes. Yet more than a third of those structuring cases were civil actions where only structuring, and no other crime, was suspected.²

In Iowa, Carole Hinders had \$33,000 seized after making frequent small cash deposits, even though all of the money had been legitimately earned at her cash-only Mexican restaurant.³ In Michigan, Terry Dehko and Sandy Thomas lost more than \$35,000 from their family grocery store's bank account just a few months after a routine IRS audit had found the business clean as a whistle.⁴

In each case, civil forfeiture made it possible for the IRS to raid bank accounts without any evidence of criminal wrongdoing. Had the IRS been forced to prove crimes had occurred—or even just to perform any kind of investigation—it would have discovered that each of these small-business owners had legitimate reasons for making small deposits. Instead, McLellan, Hinders, and Dehko and Thomas had to go to court and fight to get their money back.

After these cases gained publicity, in the fall of 2014, the IRS announced that it would no longer pursue bank accounts unless it believed the money came from illegal activity.⁵ Yet a federal prosecutor continued pursuing forfeiture of McLellan's money, even accusing him of "ratchet[ing] up feelings in the agency" by going public with his plight.⁶ Only in the face of public criticism did the government back down and return the funds—though it has refused to pay legal fees, costs and interest to which McLellan is entitled.⁷

Additionally, victims of the old policy have yet to be made whole. The IRS forfeited money belonging to Randy Sowers and Ken Quran, small-business owners in Maryland and North Carolina, without any evidence that they had done anything wrong. Now that the IRS has admitted its old practices were flawed, Sowers and Quran are petitioning for their money back.⁸ Meanwhile, legislation has been proposed in Congress that would make the IRS' policy change permanent.⁹

1 Dewan, S. (2015, May 1). Rule changes on IRS seizures, too late for some. *The New York Times*, p. A22; Sibilla, N. (2015, May 5). IRS seizes over \$100,000 from innocent small business owner, despite promise to end raids. *Forbes*.

2 Carpenter, D. M., & Salzman, L. (2015). *Seize first, question later: The IRS and civil forfeiture*. Arlington, VA: Institute for Justice.

3 Dewan, S. (2014, October 26). Law lets IRS seize accounts on suspicion, no crime required. *The New York Times*, p. A1.

4 Hotts, M. (2013, September 24). Fraser grocer challenges federal forfeiture law. *Macomb Daily News*.

5 Statement of Richard Weber, chief of IRS Criminal Investigation. (2014, October 25). *The New York Times*. In March 2015, the Department of Justice adopted a similar policy limiting structuring seizures (U.S. Department of Justice Office of Public Affairs. (2015). Attorney general restricts use of asset forfeiture in structuring offenses [Press release]).

6 Dewan, 2015.

7 Quinn, M. (2015, May 14). Federal government to return \$107,702 seized from North Carolina convenience store owner. *The Daily Signal*.

8 The IRS's ill-gotten gains. (2015, July 15). *The Wall Street Journal* [Editorial].

9 Sullum, J. (2015, January 27). Here is how Rand Paul's bill would curtail civil forfeiture. *Reason*; FAIR Act, H.R. 540, 114th Cong. (2015), available at <https://www.congress.gov/bill/114th-congress/house-bill/540/text>; FAIR Act, S. 255, 114th Cong. (2015), available at <https://www.congress.gov/bill/114th-congress/senate-bill/255/text>.

Civil Forfeiture Law Grades

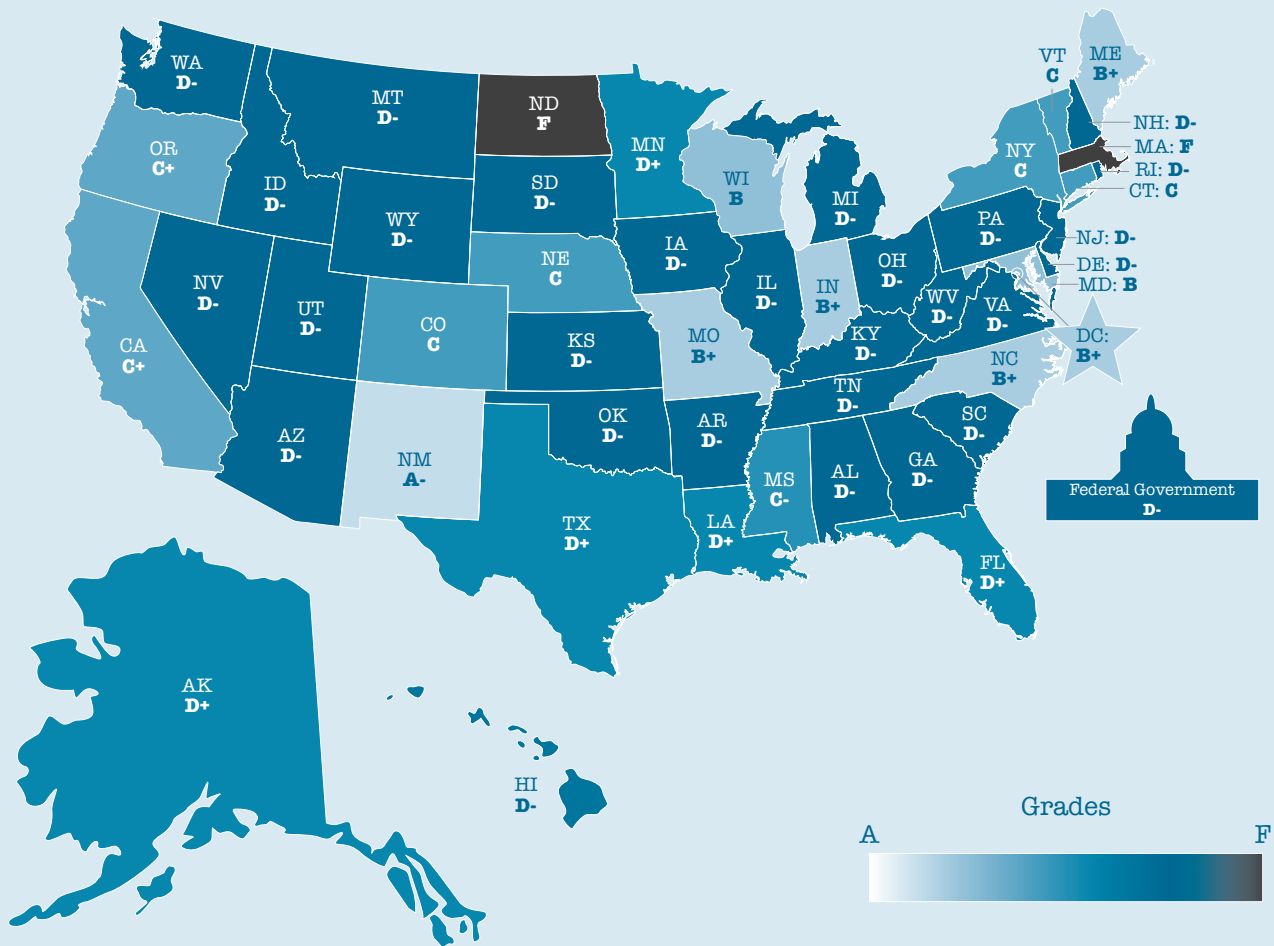
Using these three elements—the financial incentive for law enforcement to seize, the government’s standard of proof to forfeit, and who bears the burden in innocent owner claims—this report grades each state on the extent to which its civil forfeiture laws protect property rights or encourage policing for profit. Grades were assigned for each of the three key elements, as indicated in Appendix A, and then combined to create the grades. High grades denote laws that contain strong property rights protections and a smaller (or no) financial incentive to seize, while low grades indicate laws that encourage seizures of property by making civil forfeiture both easy and rewarding for law enforcement.

Table 1 provides the grades for all states, the District of Columbia and the federal government, ranked from best to worst. Figure 9 provides the grades in map form. New Mexico, D.C., North Carolina, Missouri, Indiana and Maine earn the highest grades. The laws of all six prohibit agencies from keeping forfeiture proceeds, and the top four provide some of the best protections for property owners in the country. At the bottom of the list are Massachusetts and North Dakota, both of which earn F grades. Citizens in both states get the worst of everything when it comes to civil forfeiture—laws that provide few property rights protections and allow law enforcement agencies to enjoy lucrative incentives to engage in forfeiture activity.

Table 1: Civil Forfeiture Law Grades Ranked

New Mexico	A-
D.C.	B+
North Carolina	B+
Missouri	B+
Indiana	B+
Maine	B+
Maryland	B
Wisconsin	B
California	C+
Oregon	C+
Colorado	C
Connecticut	C
New York	C
Nebraska	C
Vermont	C
Mississippi	C-
Alaska	D+
Louisiana	D+
Texas	D+
Florida	D+
Minnesota	D+
Illinois	D-
New Hampshire	D-
Rhode Island	D-
South Carolina	D-
Washington	D-
Montana	D-
Utah	D-
Nevada	D-
Kentucky	D-
Michigan	D-
Alabama	D-
Tennessee	D-
Arizona	D-
Arkansas	D-
Delaware	D-
Georgia	D-
Hawaii	D-
Idaho	D-
Iowa	D-
Kansas	D-
New Jersey	D-
Ohio	D-
Oklahoma	D-
Pennsylvania	D-
South Dakota	D-
Virginia	D-
West Virginia	D-
Wyoming	D-
Federal Government	D-
Massachusetts	F
North Dakota	F

Figure 9: Civil Forfeiture Law Grades



A scan down the list in Table 1 reveals the poor state of affairs in civil forfeiture across the United States. Only 14 states and the District of Columbia earned grades of C or better, and 35 states earned grades of D+ or worse. The federal government earned a D-, putting its civil forfeiture laws among the nation’s worst and exposing all Americans to yet another threat to their property rights. These results make it clear that significant reform is needed.

Yet, thus far, reform has been slow in coming. When the first edition of *Policing for Profit* was released in 2010, civil forfeiture was little known among members of the public and even elected officials. As awareness grew, calls for reform increased, resulting in efforts in 2013, 2014 and 2015 in at least 14 states and in Congress. To date, however, only five states—New Mexico,⁵⁴ Nevada,⁵⁵ Montana,⁵⁶ Minnesota⁵⁷ and Michigan—and the District of Columbia⁵⁸ have substantively reformed their laws to increase protections for property owners. A sixth state, Vermont,⁵⁹ also reformed its laws but offset improvements by giving law enforcement a new financial incentive to seize.

Of these changes, New Mexico’s were the most sweeping. The reform was supported by a bipartisan group of legislators and reluctantly signed into law by Gov. Susana Martinez, a former district attorney. The new law ended

civil forfeiture and replaced it with criminal forfeiture. Previously, forfeiture entailed civil litigation independent of criminal prosecution; now the government must first convict a suspect in criminal court. Then the same judge and jury determine if the property in question was linked to that crime. As for innocent owner claims, now the government must also prove that the person claiming to be an innocent owner had actual knowledge of the crime giving rise to the forfeiture—a significant change from the previous law, which, in most instances, placed the burden on property owners to prove their own innocence. The new law of the Land of Enchantment also eliminated law enforcement’s financial incentive to pursue forfeitures. Now all forfeiture monies must be deposited in the state’s general fund rather than in agency accounts, where 100 percent of forfeiture funds had gone previously. Due to these changes, the state’s grade jumped from a D- to an A-. New Mexico’s reforms set a clear example for other states to follow in protecting people from unjust forfeitures.

Nevada’s and Montana’s new laws now require a conviction in criminal court as a prerequisite to forfeiture of property in civil court, increasing protections for property owners. Reforms in Montana also shifted the burden of proof in innocent owner claims to the govern-

ment. Although these reforms are praiseworthy, both states could further improve protections for property owners by addressing the elephant in the room: the financial incentive to seize created by directing as much as 100 percent of forfeiture proceeds to law enforcement. Indeed, the persistence of the profit motive in the states' laws kept their grades from improving much: Nevada's D- stayed the same and Montana's grade budged, but barely, from an F to a D-.

Minnesota's new law as of 2014, like those of Nevada and Montana, requires a conviction in criminal court prior to forfeiture of property in civil court. The new law also changed the burden of proof for a suspect whose property was seized as part of a drug investigation. The old law required a suspect to prove that his property was unrelated to drugs found in the investigation. For example, the suspect would have had to prove that the television in his bedroom

was unrelated to marijuana in the pocket of a coat hanging in his closet. The new law requires the government to prove the connection between the seized property and the drugs.⁶⁰ These are substantial improvements, but, as in Nevada and Montana, leaders in the North Star State could significantly increase

protections for property owners—and raise the state's grade significantly—by dropping the financial incentive from its current 90 percent to zero. Because the profit incentive remains, Minnesota's reforms only raised its grade from a D to a D+.

In 2015, the Vermont Legislature, in what began as an animal fighting bill,⁶¹ amended the state's forfeiture laws to require a conviction in criminal court prior to a forfeiture proceeding in civil court.⁶² Unfortunately, this improvement was offset by another change that created, for the first time, a financial incentive to seize. Previously, 100 percent of forfeiture proceeds were deposited in the state treasury, but now law enforcement agencies get to keep 45 percent.⁶³ This explains why Vermont's grade dropped from a very respectable B+ to a C. In October 2015—after this report had gone to print—Gov. Rick Snyder of Michigan signed a package of modest forfeiture reform bills, improving the state's standard of proof to clear and convincing evidence in all cases.

The District of Columbia also adopted civil forfeiture reform that increased protections for property owners.⁶⁴ The government now must prove its case by a preponderance of the evidence for most properties and by clear and convincing evidence for cars and real property. The law also shifted the burden of proof to the government in innocent owner claims. Best of all, the reform directs all forfeiture funds to the city's general fund rather than law enforcement coffers, making D.C. and New Mexico the only jurisdictions with recent reforms eliminating the

profit incentive. Taken together, these reforms earn the District a well-deserved B+ grade.

Wyoming⁶⁵ and Maryland⁶⁶ also saw reform bills pass their respective legislatures, only to be vetoed by their governors, and the Texas⁶⁷ and Virginia⁶⁸ legislatures saw the introduction of reform bills but failed to adopt them.

A common refrain in the states where reform efforts have been unsuccessful is that resistance from law enforcement leaders killed the bills. In Texas, for example, 13 civil forfeiture reform bills were introduced during the 2015 legislative session. None of them passed, due in large part to law enforcement opposition.⁶⁹ Five⁷⁰ of the 13 that made it out of the House Criminal Jurisprudence Committee—only to die in the Calendars Committee—would have significantly reformed the state's laws by increasing the standard of proof from preponderance of the

evidence to clear and convincing evidence, shifting the burden in innocent owner claims to the government, increasing transparency through stronger reporting requirements, and granting attorney's fees to owners if the government failed to forfeit successfully.⁷¹

Another bill in Texas that would have required the government to convict a property owner of a crime before forfeiting property⁷² died in the State Affairs Committee after the chairman, under pressure from law enforcement, refused to allow the bill to move forward.⁷³ The bill's sponsor, Rep. David Simpson of Longview, in Gregg County, also felt the heat from law enforcement when he appeared on a public panel in Austin to discuss forfeiture reform. A coterie of law enforcement officers and a judge from Simpson's district flew to the panel on a donated private plane to express their opposition to reform.⁷⁴

Similarly, Virginia's H.B. 1287 would have required a criminal conviction prior to forfeiture, but law enforcement agencies, including the Virginia State Police, opposed the bill at committee hearings.⁷⁵ As one observer noted, "Anytime law enforcement opposes a bill in Virginia, it's an uphill battle."⁷⁶

Finally, at the federal level, in January 2015, Sen. Rand Paul and Rep. Tim Walberg reintroduced the Fifth Amendment Integrity Restoration (FAIR) Act.⁷⁷ If passed, the bill would, among other things, compel the Department of Justice to deposit forfeited funds in the Treasury Department's general fund, thereby reducing the financial incentive to seize; require the government to prove property is forfeitable with clear and convincing evidence; force the government to prove that an individual making an innocent owner claim was aware of the criminal use of his or her property; and provide counsel to indigent owners in civil forfeiture cases.⁷⁸

A common refrain in the states where reform efforts have been unsuccessful is that resistance from law enforcement leaders killed the bills.

Federal Equitable Sharing

State civil forfeiture laws vary in terms of how easy—and how rewarding—they make forfeiture for law enforcement, but state and local law enforcement agencies have another means of forfeiting property and getting a cut: the federal government’s equitable sharing program.

Through equitable sharing, property seized locally can be forfeited federally. Equitable sharing can happen in one of two ways. First, state and local agencies can turn property they seize over to a federal agency, which can elect to “adopt” it for federal forfeiture if the “conduct giving rise to the seizure is in violation of federal law and where federal law provides for forfeiture.”⁷⁹ Federal rules announced in 2015 limit adoptive forfeitures, though exceptions remain. Alternatively, state and local officers working as part of a joint task force or investigation with the federal government can make seizures that are eligible for equitable sharing.

Either way, cash and property seized by state and local law enforcement becomes subject to federal civil forfeiture law—not state law. Through equitable sharing, up to 80 percent of proceeds can be returned to, or “shared” with, state and local agencies, with the federal government retaining the remainder. As with civil forfeiture under the laws of most states, no charges or convictions are required.

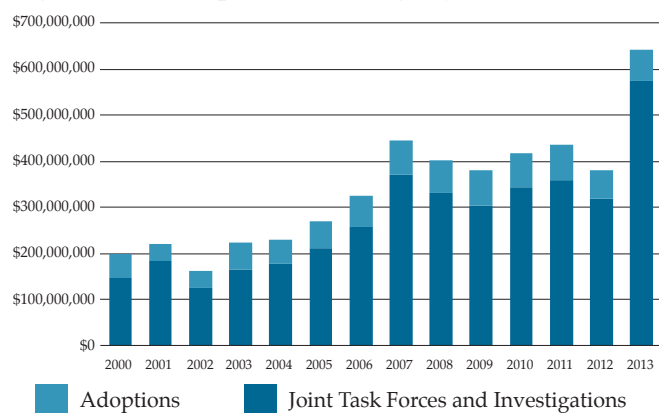
The same 1984 amendments that created the Assets Forfeiture Fund, introducing a financial incentive to federal forfeiture law, also gave rise to equitable sharing,⁸⁰ and its use has exploded. In 2014, more than 3,000 state and local law enforcement agencies received forfeiture proceeds through the Department of Justice’s equitable sharing program, a 17 percent increase from 2004.⁸¹ Between 2000 and 2013, annual payments to state and local law enforcement through the DOJ’s program more than tripled,⁸² growing from \$199 million to \$643 million, as shown in Table 2 and Figure 10. The Treasury Department maintains a smaller equitable sharing program; its payments rose about 45 percent over the same time period, from \$85 million to \$124 million.⁸³ In all, the Justice Department’s equitable sharing program generated \$4.7 billion for state and local agencies from 2000 to 2013, while the Treasury Department’s program accounted for \$1.1 billion in payments.

Table 2: DOJ and Treasury Equitable Sharing Payments, 2000–2013

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$198,739,307	\$85,129,000
2001	\$220,353,479	\$60,277,000
2002	\$161,287,179	\$50,844,000
2003	\$221,984,964	\$41,962,000
2004	\$230,703,987	\$48,123,000
2005	\$269,262,768	\$72,731,000
2006	\$325,669,954	\$66,558,000
2007	\$443,802,375	\$60,192,000
2008	\$401,878,933	\$90,198,000
2009	\$380,865,399	\$89,756,000
2010	\$416,862,701	\$129,102,000
2011	\$437,096,583	\$79,533,000
2012	\$381,504,806	\$137,627,000
2013	\$643,317,075	\$123,765,000
Total	\$4,733,329,509	\$1,135,797,000
Average per year	\$338,094,965	\$81,128,357

Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Figure 10: DOJ Equitable Sharing Payments, 2000–2013



Source: Institute for Justice analysis of DOJ civil and criminal forfeiture data obtained by FOIA.

Stricter State Law, More Equitable Sharing

Scholarly research finds a link between *state* civil forfeiture laws and *federal* equitable sharing: The tougher it is to generate forfeiture revenue under state law, the more equitable sharing payments state and local law enforcement agencies receive.

In a 2011 study published in the *Journal of Criminal Justice*, criminologists Jefferson Holcomb, Tomislav Kovandzic and Marian Williams found that a lower share of state forfeiture proceeds allowed to flow to law enforcement is associated with higher annual equitable sharing payments from the Department of Justice.¹ The first figure to the right illustrates the implications for a hypothetical law enforcement agency of average size: With each 25 percent reduction in law enforcement's cut of state forfeiture proceeds, annual equitable sharing payments increase \$6,000.² So if an agency receives \$120,000 in equitable sharing proceeds when there is a 100 percent state-law profit incentive, it can be expected to receive \$144,000—or \$24,000 more—if the profit incentive is eliminated.

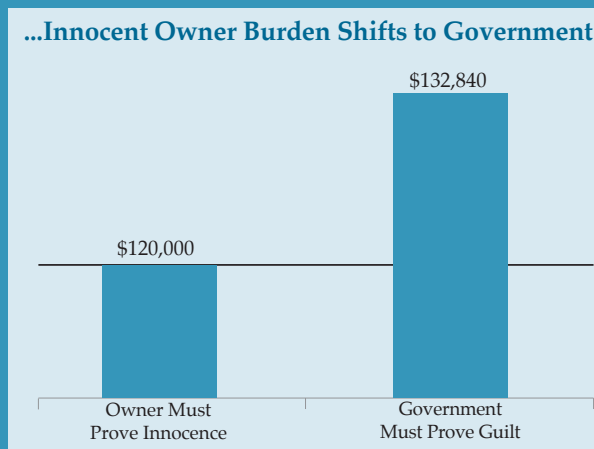
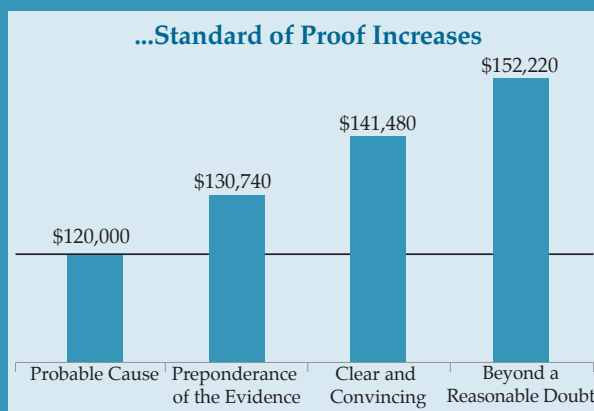
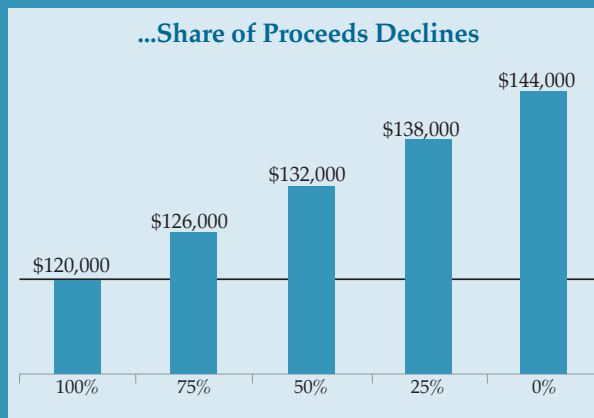
The authors also found that making it harder to forfeit property under state law by improving protections for property owners is linked to more equitable sharing. As the second figure illustrates, a hypothetical agency that receives \$120,000 in equitable sharing when the state standard of proof to forfeit property is mere probable cause will receive \$152,220 when forfeiture requires proof beyond a reasonable doubt—a boost of \$32,220. Likewise, shifting the burden of proof in state innocent owner claims from the owner to the government yields an increase of \$12,840, as illustrated in the third figure.

In short, when civil forfeiture is more difficult and less financially rewarding under state law, law enforcement agencies turn to federal equitable sharing instead. Not only do these results indicate that law enforcement uses equitable sharing to circumvent state law, but they also provide compelling evidence that pursuit of revenue is a key motivator in forfeiture proceedings.

Other researchers have reached similar conclusions.³ And a 2015 Drug Policy Alliance report documented California law enforcement's striking preference for federal forfeiture over the state's somewhat more restrictive and less rewarding procedures: From 2005 to 2013, California agencies' equitable sharing take more than tripled, while state forfeiture revenues remained flat.⁴

Illustration for an Average-Sized Agency:

Equitable Sharing Rises as...



1 Holcomb, J. E., Kovandzic, T. V., & Williams, M. R. (2011). Civil asset forfeiture, equitable sharing, and policing for profit in the United States. *Journal of Criminal Justice*, 39(3), 273–285.

2 An average-sized law enforcement agency is one that serves about 300,000 people. During the study period, such agencies received, on average, \$120,000 in equitable sharing proceeds from the Department of Justice.

3 Worrall, J., & Kovandzic, T. (2008). Is policing for profit? Answers from asset forfeiture. *Criminology and Public Policy*, 7, 219–244; Kucher, C. (2005). *Asset forfeiture: State restrictions and equitable sharing*. Master's Thesis, University of New Hampshire, Durham, NH.

4 Drug Policy Alliance. (2015). *Above the law: An investigation of civil asset forfeiture in California*. Los Angeles, CA: Drug Policy Alliance.

Equitable Sharing Rankings

Table 3 ranks states and the District of Columbia according to their law enforcement agencies' use of the Department of Justice's equitable sharing program. Rankings reflect average annual equitable sharing payments from the DOJ from 2011 to 2013. The averages are adjusted to account for drug arrest rates, since states with more drug crimes will presumably participate more extensively in equitable sharing. South Dakota, North Dakota and Wyoming top the list as the states with the lowest levels of equitable sharing payments. Agencies in California and Rhode Island, ranked 50th and 51st, take advantage of equitable sharing far more frequently than do agencies elsewhere.

Table 3: State Equitable Sharing Rankings

1	South Dakota	27	Iowa
2	North Dakota	28	Wisconsin
3	Wyoming	29	South Carolina
4	D.C.*	30	Virginia
5	Maine	31	Alabama
6	Delaware	32	Arizona
7	Hawaii	33	Kentucky
8	Idaho	34	Missouri
9	Arkansas	35	Colorado
10	Alaska	36	New Jersey
11	Montana	37	Washington
12	Utah	38	Kansas
13	West Virginia	39	Indiana
14	Oregon	40	Illinois
15	Vermont	41	Pennsylvania
16	New Hampshire	42	North Carolina
17	Nebraska	43	Ohio
18	Oklahoma	44	Michigan
19	Minnesota	45	Georgia
20	Mississippi	46	Massachusetts
21	Maryland	47	Texas
22	Connecticut	48	Florida
23	Nevada	49	New York
24	Louisiana	50	California
25	New Mexico**	51	Rhode Island
26	Tennessee		

*Effective October 2018, adoptions will be banned in the District of Columbia and proceeds from joint task force and investigative seizures will be directed to the city's general fund.

**As of July 2015, law enforcement agencies in New Mexico are prohibited from transferring property worth less than \$50,000 to the federal government for forfeiture and all proceeds are directed to the state's general fund.

Sources: Institute for Justice analysis of DOJ civil and criminal forfeiture data (average annual DOJ equitable sharing payments, 2011–2013); FBI Uniform Crime Reports (state drug arrest rates, 2011–2013).

Circumventing State Laws

The Department of Justice claims that equitable sharing, like civil forfeiture more generally, helps deter crime and provides “valuable additional resources to state and local law enforcement agencies.”⁸⁴ Equitable sharing is also said to promote cooperation among federal, state and local law enforcement.⁸⁵ With joint task forces and investigations, equitable sharing allows the federal government to act as a central processor for potentially complicated seizures involving multiple agencies across different jurisdictions and then distribute proceeds according to each agency’s contribution.

Critics warn, however, that the conflict of interest created by civil forfeiture—giving law enforcement agencies a financial stake in seizures—is also present with equitable sharing.⁸⁶ Moreover, equitable sharing enables state and local agencies to receive a cut of forfeiture proceeds they might not be able to get under their own states’ laws.⁸⁷

Once cash or property comes under an equitable sharing program, federal, and not state, forfeiture law applies—even if state law prohibits or limits law enforcement access to forfeiture funds. And not only does federal law allow forfeiture proceeds to be spent by law enforcement, but equitable sharing rules actually mandate that funds go to law enforcement. With few exceptions, DOJ rules require equitable sharing payments to be spent by law enforcement agencies on law enforcement purposes only.⁸⁸ If state law directs proceeds elsewhere, the Justice Department will cut off the flow of funds.⁸⁹

Equitable sharing offers other advantages for state and local law enforcement. While some states demand a relatively high standard of proof that seized property is connected to a crime—with a growing number now requiring a criminal conviction—federal law requires only a preponderance of the evidence.⁹⁰ Likewise, while a handful of states put the burden on the government in innocent owner claims, the federal government forces owners to prove that they neither knew about nor consented to a suspected illegal use of their property.⁹¹ Such procedural differences can make forfeiting property under federal law substantially easier than forfeiting it under state law.

Equitable sharing thus provides a convenient work-around for state and local law enforcement agencies operating under relatively restrictive state civil forfeiture laws. Forfeitures that may not be successful or provide a financial return under state law can be conducted federally with a higher chance of success. Indeed, until recently, the DOJ forms state and local officials used to request federal adoption of seized property listed the inadequacy of state forfeiture law as an acceptable justification for equitable sharing.⁹²

The attempted forfeiture of Tony Jalali’s commercial property in Anaheim, Calif., shows how local agencies can use equitable sharing to circumvent state law. Jalali

rented space in his small office building to various tenants, including a dental office, an insurance company and two medical marijuana dispensaries. The dispensaries were entirely legal under California state law. Anaheim authorities nevertheless sought to rid the city of medical marijuana businesses and targeted Jalali’s property. The authorities faced two hurdles, however: Not only is medical marijuana legal in California, but state law also prohibits the civil forfeiture of real property, such as a home, business or land, without a conviction. In other words, under state law, Anaheim could neither charge Jalali with a crime nor take his property. But local officials had a trump card: federal equitable sharing.⁹³

In August 2012, Anaheim police teamed up with federal prosecutors and used equitable sharing to seize Jalali’s building under federal civil forfeiture law. The Institute for Justice took up Jalali’s case, and, after more than a year of fighting in federal court, the government finally agreed to drop the forfeiture.⁹⁴ But had it succeeded, Anaheim police could have received up to 80 percent of the proceeds of Jalali’s property, valued at \$1.5 million⁹⁵—funds they could never have received under state law.

Scholarly research indicates that Jalali’s case is not an isolated incident. Relatively lax federal standards and generous financial returns encourage state and local law enforcement to use equitable sharing to circumvent state law. Agencies in states with stricter or less generous civil forfeiture laws participate more heavily in equitable sharing (see page 26).⁹⁶

Given California’s relatively restrictive civil forfeiture laws, the state’s poor ranking on equitable sharing—50th out of the 50 states and the District of Columbia—underscores the circumvention risks the practice poses. Likewise, North Carolina requires a conviction for most civil forfeitures and directs proceeds to public schools, earning the state a B+ for its laws, yet it ranks 42nd for equitable sharing. New York, Indiana and Missouri all receive higher marks than most states for their civil forfeiture laws but rank poorly for equitable sharing, at 49th, 39th and 34th, respectively.

Encouraging Abuse

In addition to encouraging circumvention of state laws, equitable sharing engenders the same concerns about conflicts of interest and revenue generation as civil forfeiture more generally. Criminal justice scholars have called equitable sharing “a virtual cash cow” for state and local law enforcement agencies.⁹⁷ According to a 2014 investigation by *The Washington Post*, 298 state and local agencies and 210 task forces nationwide have used the Department of Justice’s equitable sharing program to seize funds equal to 20 percent or more of their annual budgets since 2008.⁹⁸ An April 2015 report by the Drug Policy Alliance found

that some of California’s smallest cities were among the largest recipients of DOJ equitable sharing payments on a per capita basis—and several of those cities’ equitable sharing payments had increased dramatically following cuts to police budgets.⁹⁹

In written testimony before a U.S. Senate committee, the national president of the Fraternal Order of Police identified the possible elimination of equitable sharing as his organization’s “chief point of contention” with proposed forfeiture reform legislation: “[I]n our view, ending the equitable sharing program will result in yet another net reduction in Federal assistance to State and local law enforcement.”¹⁰⁰

The Washington Post’s 2014 investigation vividly illustrated how the pursuit of equitable sharing funds and lax federal standards promote forfeiture abuses by state and local law enforcement.¹⁰¹ The *Post* calculated that, since September 11, 2001, the DOJ’s equitable sharing program was responsible for nearly 62,000 seizures of cash without warrants or criminal indictments filed against the owners. Of the \$2.5 billion forfeited as a result, state and local agencies received \$1.7 billion and federal agencies \$800 million.¹⁰²

From court and police records and interviews with seizure victims, the *Post* identified a pattern to warrantless cash seizures on the nation’s highways: State troopers or local police stop motorists for minor violations, such as speeding or failure to signal a lane change, and issue a warning or ticket. Officers then extend the stop through conversation, looking for signs of nervousness or other alleged indicators of criminal activity. Eventually, they ask to search the car. If the owner refuses, officers may call in a drug-sniffing dog to try to establish probable cause for a search. If cash turns up—even in the absence of drugs or other evidence of criminal activity—it is presumed to be drug money, seized and handed over to the federal government for forfeiture. Owners must hire an attorney and fight federal prosecutors to prove their money was legitimately earned and not part of the drug trade.¹⁰³

Mandrel Stuart’s case is typical. The Staunton, Va., resident was pulled over by Fairfax County police for a minor traffic infraction. Upon discovering \$17,550 in cash in Stuart’s car, officers seized it as drug money, though no drugs were found.¹⁰⁴ Stuart said he earned the money from his barbecue restaurant and planned to spend it on equipment and supplies. Within weeks, the funds were turned over to the federal government for forfeiture.¹⁰⁵ Stuart found a local attorney willing to take his case, and, after 14 months, a jury unanimously ordered his money returned. But in the meantime, without needed operating funds, he lost his restaurant.¹⁰⁶

Warrantless highway seizures follow a similar script from state to state, the *Post* found, because a cottage industry of private companies trains state and local officers in the techniques of so-called highway interdiction, and

this training is often paid for with forfeiture funds.¹⁰⁷ The leading company, Desert Snow, claims that its trainees seized more than \$427 million in one five-year period, and the *Post* reported that the Kansas Highway Patrol and Wisconsin State Patrol doubled their seizures following Desert Snow trainings.¹⁰⁸

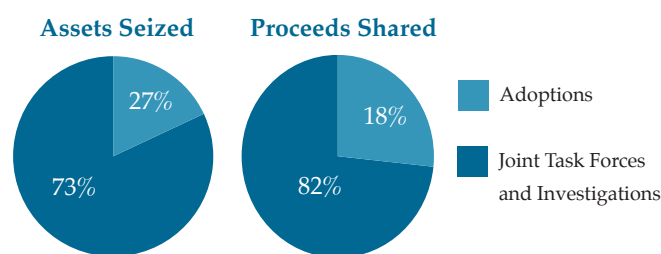
Further Reform Needed

In January 2015, following *The Washington Post* investigation and amid mounting criticism of civil forfeiture, then-Attorney General Eric Holder announced a new Department of Justice policy intended to curb equitable sharing, and the Treasury Department followed suit.¹⁰⁹ The policy generally prohibits federal agencies from “adopting” cash and property seized by state and local law enforcement for federal forfeiture. However, it created several exceptions.

First, the new policy exempts “property that directly relates to public safety concerns, including firearms, ammunition, explosives, and property associated with child pornography.”¹¹⁰ Second, it permits adoptions pursuant to a seizure warrant from a federal magistrate judge. Seizure warrants are easy for the government to secure because they are obtained in *ex parte* proceedings, meaning the owner receives no notice, there is no hearing, and the only evidence presented to the judge comes from the government.¹¹¹

Third, and most important, the DOJ policy specifically exempts seizures by task forces or as part of joint investigations, severely limiting its reach. By the DOJ’s own calculations, over a six-year period, adoptions accounted for just 3 percent of the value of all forfeitures in its system, including those initiated by federal law enforcement.¹¹² Within the equitable sharing program, joint task forces and investigations are responsible for the lion’s share of seizures and revenue. The Institute for Justice found that 73 percent of DOJ equitable sharing seizures from 2000 to 2013 came from joint task forces and investigations, as did 82 percent of equitable sharing payments, as shown in Figure 11. Figure 10 on page 25 provides an annual breakdown of payments.

Figure 11: DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



Source: Institute for Justice analysis of DOJ civil and criminal forfeiture data obtained by FOIA.

Among the seizures that would have fallen into the joint exemption was Mandrel Stuart's. Even though his cash was seized during a roadside stop by Fairfax County officers, the seizure was labeled as joint in federal records. A Drug Enforcement Administrative agent later claimed to be the "Seizing Agent" in court papers, though police records showed no federal involvement with the seizure. Eighteen of 24 federal forfeiture cases described as joint seizures and examined by the *Post* likewise appeared to have had no federal involvement until after the seizure.¹¹³

Following criticism that the policy changes did not go far enough,¹¹⁴ the DOJ in February 2015 offered additional guidance that attempts to limit joint task force and investigative seizures eligible for equitable sharing to those with "federal law enforcement oversight or participation at the time of seizure by state and local law enforcement" (emphasis in original).¹¹⁵ The guidance adds layers of review and offers "factors to consider" in deciding whether a seizure qualifies. However, as Institute for Justice attorney Darpana Sheth has noted, the factors are not requirements, nor are they ranked in order of importance.¹¹⁶ And discretion about whether to accept the seized property for federal forfeiture still "rests with line prosecutors and agency attorneys who stand to benefit from any seizure."¹¹⁷ Furthermore, the policy does not operate retroactively and does not seem to apply to pending cases.

Even if the DOJ's new policy and guidelines are followed faithfully and maintained by future attorneys general, the potential for abuse remains. Joint task force and investigative seizures are not immune to financial conflicts of interest, as the plight of Charles Clarke illustrates. One of the officers who seized the college student's cash at the Cincinnati/Northern Kentucky airport was an airport police detective, and the other was an officer of the Covington Police Department serving as a deputized DEA agent.¹¹⁸ Because these officials were part of a joint DEA task force, the new DOJ policy would not apply, even if the seizure had taken place after it was announced.

Under equitable sharing, both the airport police and the Covington police stand to gain a cut of Clarke's cash if it is successfully forfeited. Equally troubling, so do 11 other law enforcement agencies that had no involvement in the seizure. DOJ records indicate that airport police requested 40 percent of the proceeds through equitable sharing, and the Covington Police 3.07 percent.¹¹⁹ The 11 other agencies, including the Cincinnati Police Department, the Kentucky State Police and the Ohio Highway Patrol, requested shares ranging from 3.07 to 6.14 percent. The shares requested by all 13 agencies totaled just under 80 percent, the maximum that can be paid to state and local agencies under equitable sharing.

The requesting agencies that had nothing to do with the seizure of Clarke's cash all participate in the same

DEA task force that houses the Covington officer, and the member agencies likely have an agreement in place dictating how they will share forfeiture proceeds.¹²⁰ Long-standing DOJ guidelines ask agencies involved in joint task force and investigative seizures to justify the size of their share requests by listing work hours, equipment and other contributions to investigations that result in a seizure.¹²¹ But the same guidelines also allow agencies participating in a task force to enter into agreements that determine, in advance, how any equitable sharing proceeds resulting from task force activities will be distributed.¹²²

That 11 law enforcement agencies are seeking a few hundred dollars each from a seizure they had nothing to do with suggests that financial motives are as present with task force seizures as they are with adoptive ones. Indeed, pre-arranged agreements automate the process: Simply filling out a form can bring in revenue. DOJ guidelines further incentivize task force participation by allowing agencies to assign an officer to a task force and pay his replacement using equitable sharing monies—an exception to rules that normally bar paying salaries out of forfeiture funds.¹²³

As long as task force seizures are eligible for equitable sharing, regardless of federal involvement or oversight, the risk remains that task force priorities will be skewed toward generating revenue for member agencies instead of enforcing the law. And participation on a task force or a joint investigation with federal agents remains a way for agencies in states with restrictive civil forfeiture laws to generate forfeiture revenue they otherwise could not.

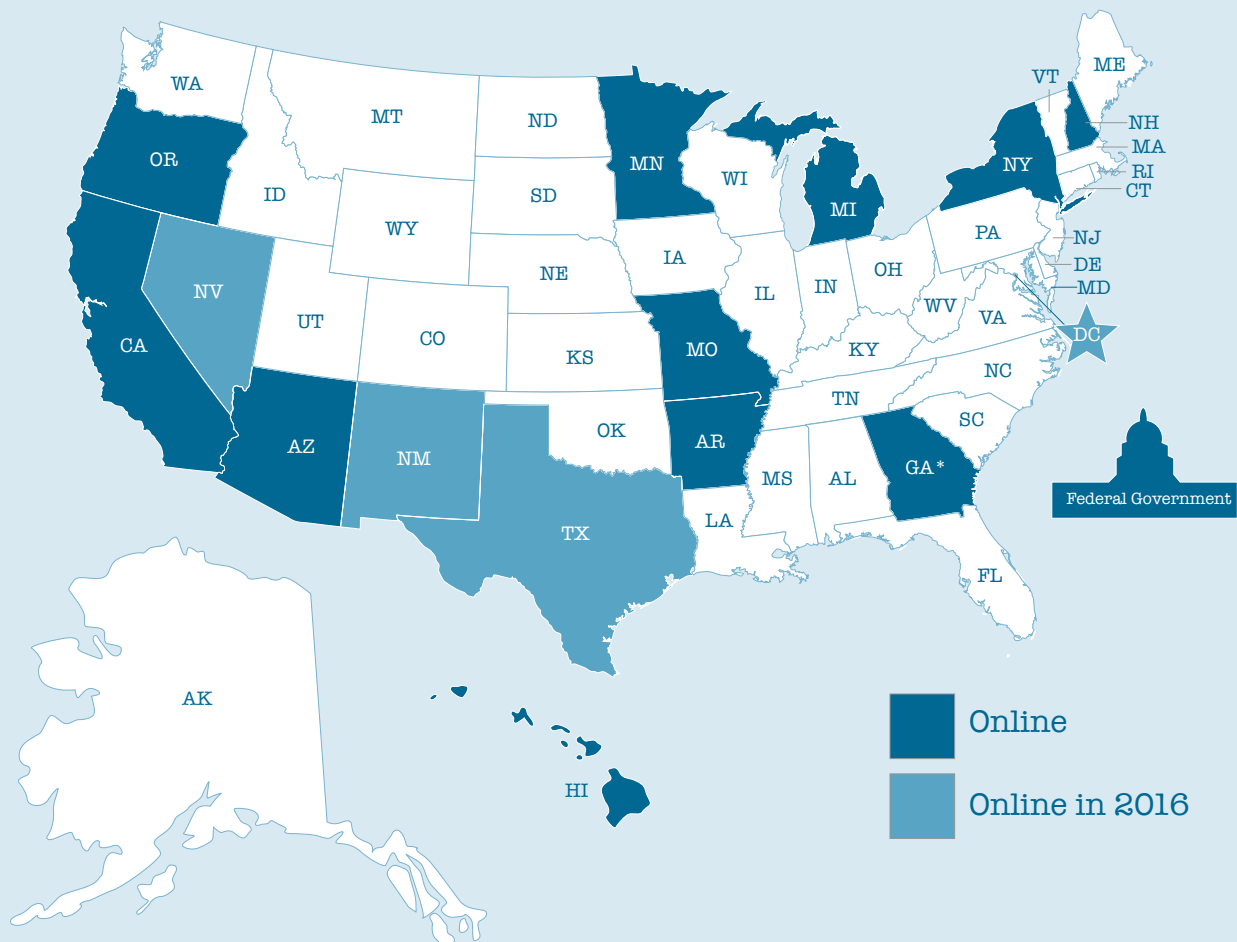
Federal and state policymakers have started seeking broader and more lasting reform. In Congress, the FAIR Act would simply abolish equitable sharing.¹²⁴ Leaders of the U.S. House and Senate Judiciary committees have encouraged the Justice Department to discontinue the equitable sharing program.¹²⁵ And as part of reforms adopted in 2015, the District of Columbia and New Mexico effectively opted out of the equitable sharing program. Starting October 1, 2018, D.C. law will prohibit law enforcement from seeking federal adoption of locally seized property and direct proceeds from task force or other multijurisdictional seizures to the city's general fund.¹²⁶ Similarly, New Mexico now prohibits law enforcement from transferring property worth less than \$50,000 to the federal government for forfeiture and directs all proceeds to the state's general fund.¹²⁷ Because DOJ guidelines require equitable sharing funds to be spent by law enforcement agencies on law enforcement purposes, these reforms will likely halt equitable sharing with D.C. and New Mexico.

Civil Forfeiture & Transparency

Civil forfeiture laws put the property of innocent citizens at risk—all the more so because most forfeiture activity is hidden from public view. Across the states and the federal government, public reporting on forfeiture activity ranges from poor to nonexistent, and most civil forfeiture laws lack even basic transparency requirements. Such poor public reporting makes it difficult, if not impossible, for lawmakers and the public to hold law enforcement agencies accountable for their forfeiture activity.

As the map in Figure 12 shows, only 11 states and the federal government make any kind of forfeiture information publicly accessible online. Another three states and the District of Columbia will put forfeiture records online starting in 2016. Thus, in the vast majority of states, learning anything about the scope of forfeiture activity is, at best, a challenge. And the little information that is available is plagued by inadequate, missing and inconsistent data.

Figure 12: Online Forfeiture Reporting



*Since 2010, Georgia law enforcement agencies have been required to file forfeiture reports with the Carl Vinson Institute of Government at the University of Georgia for online distribution, but reporting has been infrequent and inconsistent. It remains to be seen whether agencies will respond to 2015 legislative reform and report as required.

Note: See Appendix B for sources.

Despite Freedom-of-Information Laws, Forfeiture Records Are Often Neither Free Nor Informative

People interested in learning about the scope of forfeiture activity have their work cut out for them. Only 11 states and the federal government publish forfeiture reports online.¹ To obtain unreported data and unpublished reports, members of the public must turn to public records requests under federal and state freedom-of-information laws. Unfortunately, obtaining forfeiture data via public records requests is frequently neither free nor informative. The process can be arduous and expensive and is seeded with pitfalls. Worse, it may not even produce anything useful, making it a poor means for providing transparency.

To file a public records request, members of the public first have to know whom to contact and what—specifically—they are looking for. This is rarely straightforward. Agencies may deny requests that they deem too broad, and some pertinent materials may be exempt from disclosure. Further, public records requests may cost money—in some cases hundreds or even thousands of dollars—and can take months or years to fulfill. And even after forfeiture data are received, requesters' work may not be finished. Depending on what shape the data are in, they may have to complete data entry for thousands of forfeitures and perform their own analysis.

This was certainly the Institute for Justice's experience. Obtaining the data for this report took months of research, more than 200 public records requests, over 600 hours of data entry and lots of persistence. And IJ did not even request records held by local agencies, which would have added years to the project. As it was, Ohio took sev-

en months to provide the forfeiture data IJ requested. The Department of Justice took four months to turn over its forfeiture database, and the Department of the Treasury still had not fulfilled IJ's March 2015 request for its forfeiture database by press time, eight months later. Massachusetts charged IJ—a nonprofit—\$300 for its request; Mississippi charged \$100. Delaware refused IJ's initial request about its Special Law Enforcement Assistance Fund because it had not been submitted by a state citizen.² After IJ found a Delaware-based sponsor for the request, the state still refused to provide information about the SLEAF because the fund's advisory committee—a body composed solely of public officials—is not considered a public entity under state law, making SLEAF data exempt from disclosure.³

Much of the information IJ received through public records requests required additional steps to find totals for a given jurisdiction. For example, to derive statewide totals for Colorado, Louisiana and Ohio, IJ had to input data from all of the states' individual agency reports. A few other states provided scanned lists of forfeitures, which also required manual data entry.

Based on the difficulties IJ had collecting forfeiture data using public records requests, even with a team of professional researchers, two things seem clear. First, it is unreasonable and unrealistic to expect ordinary citizens to navigate the process successfully. And second, although freedom-of-information laws serve a laudable goal in theory, they are deeply insufficient to ensure transparency and freedom of forfeiture information.

1 In 2016, three states and the District of Columbia will join this group. At the federal level, the departments of Justice and the Treasury also publish forfeiture reports online.

2 Masood, O. (2014, October 23). Re: FOIA request: Special Law Enforcement Assistance Fund [Email to the Institute for Justice].

3 Masood, O. (2015, January 26). Re: FOIA request [Email to S. Friedman]; Del. Code Ann. tit. 11, § 4113(e).

State and Federal Forfeiture Reporting Requirements

Table 4 provides the forfeiture reporting and record-keeping requirements for all states, the District of Columbia and the federal government. In 17 states, agencies need not even keep records of seizures and forfeitures. Two states require only that law enforcement agencies report their forfeiture activity to their budgetary authority, such as a county commission or city council. Seven states merely require agencies engaging in forfeiture to maintain property inventory records. None of these states are required to post forfeiture information publicly.¹²⁸


In 15 states and D.C., law enforcement agencies must collect information about forfeitures and send it to a state agency that compiles an aggregate report on forfeiture activity statewide. This responsibility falls to the attorney general in some states, while in others it belongs to a legislative committee, state auditor or law enforcement unit, such as the state police or a prosecutors' council. In each state, the aggregate report is sent to the legislature. Most states with aggregate statewide reports make them available online, though Pennsylvania and Rhode Island do not. (The Institute for Justice obtained their reports through public records requests.) New reporting laws in Nevada,¹²⁹ New Mexico,¹³⁰ Texas¹³¹ and D.C.¹³² will require reports to be posted online starting in 2016. Indiana's new reporting law does not require online distribution.¹³³

Aggregate reports like these give a snapshot of forfeiture activity statewide, but they vary widely in the level of detail provided, as Table 4 indicates. A handful of states, such as California, produce an itemized list of every forfeiture. Others, like Arizona, only report forfeiture data by agency. Some compile forfeiture data at the county or judicial district level.

In eight states, law enforcement agencies must collect forfeiture records and send them to a state agency, such as the attorney general, the state treasurer or the state police, but no aggregate statewide report is produced, and no information is publicly released online. (Georgia agencies are supposed to submit records for online distribution, but they rarely comply.) Because the records are centralized in a single location, they can be obtained with a single public records request. But, depending on the state, deriving any kind of statewide picture of forfeiture activity requires compiling and analyzing tens, hundreds or even thousands of documents—a task beyond the ability or resources of the average citizen or lawmaker. As with aggregate statewide reports, these centralized records vary in level of detail available. Some states, such as Virginia, maintain records on every seizure, while others, like Louisiana, only provide forfeiture data for agencies or judicial districts.

Arkansas maintains centralized records and produces an aggregate report. The state's drug director keeps a database of all forfeitures, known as the Asset Seizure Tracking System. Based on that database, the Legislative Auditing Committee produces an annual report and makes it available online; however, the report tracks only seizures, not completed forfeitures or resulting proceeds.

At the federal level, the departments of Justice and the Treasury both must provide annual audited reports to Congress regarding their forfeiture funds. They are required to provide basic accounting information—total deposits, total expenses, property retained, and cash and property transferred to state and local officials, including the estimated total value of physical property. They must also report the type and estimated value of property seized but not yet forfeited, as well as itemize such properties if they are worth more than \$1 million. Both the departments of Justice and the Treasury make their reports available on their websites.



Local police and the federal government tried to take Russ Caswell's family-owned motel in Tewksbury, Mass. After years of litigation, a federal judge halted the forfeiture.

Table 4: Forfeiture Record-Keeping and Reporting

State	Reporting Requirement (Agency with records)	Level of Detail Provided	Online
Alabama	None		No
Alaska	None		No
Arizona	Aggregate report (Criminal Justice Commission)	Agency	Yes*
Arkansas	Centralized records (Drug Director)	Seizure	No
	Aggregate report (seizures only) (Legislative Joint Auditing Committee)	Judicial district	Yes
California	Aggregate report (Attorney General)	Forfeiture	Yes*
Colorado	Centralized records (Department of Local Affairs)	Seizure	No
Connecticut	Inventory		No
Delaware	None		No
District of Columbia	Aggregate report (Metropolitan Police Department & Attorney General)		Jan. 1, 2016
Florida	None		No
Georgia	Centralized records (Carl Vinson Institute of Government at the University of Georgia)	Forfeiture	Yes
Hawaii	Aggregate report (Attorney General)	Agency	Yes*
Idaho	None		No
Illinois	Centralized records (State Police)	Seizure	No
Indiana	Aggregate report (Prosecuting Attorneys Council)		No
Iowa	None		No
Kansas	Report to budgetary authority		No
Kentucky	Centralized records (Justice and Public Safety Cabinet)	Forfeiture	No
Louisiana	Centralized records (State Legislature)	Judicial district	No
Maine	Inventory		No
Maryland	None		No
Massachusetts	Inventory		No
Michigan	Aggregate report (State Police)		Yes
Minnesota	Aggregate report (State Auditor)	Seizure	Yes*
Mississippi	None		No

State	Reporting Requirement (Agency with records)	Level of Detail Provided	Online
Missouri	Aggregate report (State Auditor)	County	Yes*
Montana	None		No
Nebraska	None		No
Nevada	Aggregate report (Attorney General)		April 1, 2016
New Hampshire	Aggregate report (Attorney General)	None ¹³⁴	Yes*
New Jersey	None		No
New Mexico	Aggregate report (Department of Public Safety)		April 1, 2016
New York	Aggregate report (Division of Criminal Justice Services)	Forfeiture	Yes*
North Carolina	None		No
North Dakota	None		No
Ohio	Inventory		No
Oklahoma	Inventory		No
Oregon	Aggregate report (Asset Forfeiture Oversight Committee)	Agency	Yes*
Pennsylvania	Aggregate report (Attorney General)	County	No
Rhode Island	Aggregate report (Attorney General)	Forfeiture	No
South Carolina	Inventory		No
South Dakota	None		No
Tennessee	None		No
Texas	Aggregate report (Attorney General)		April 30, 2016
Utah	Inventory		No
Vermont	Centralized records (State Treasurer)	Forfeiture	No
Virginia	Centralized records (Department of Criminal Justice Services)	Seizure	No
Washington	Centralized records (State Treasurer)	Forfeiture	No
West Virginia	Report to budgetary authority		No
Wisconsin	None		No
Wyoming	None		No
Federal Government	Aggregate reports (DOJ & Treasury)		Yes*

Notes: See Appendix B for sources. Since 2010, Georgia law enforcement agencies have been required to file forfeiture reports with the Carl Vinson Institute of Government at the University of Georgia for online distribution, but reporting has been infrequent and inconsistent. It remains to be seen whether agencies will respond to 2015 legislative reform and report as required.

* Online reporting not required by statute, but is regular practice.

Inadequate Information

Unfortunately, even where some kind of public accounting or record-keeping of forfeiture activity is required, it suffers from serious flaws. First, most reports and records fail to provide information essential to evaluating law enforcement's use of forfeiture. For example, only two states, Oregon and Connecticut, distinguish between civil and criminal forfeitures—a key question given the substantial procedural differences between them. Nor do most states indicate how many people with property seized were charged with or convicted of a crime.¹³⁵ Forfeiture reports rarely disclose how many assets are forfeited absent judicial review. Often, they fail to reveal such basic information as what type of and how much property was seized or forfeited, the size of the average forfeiture, or the estimated value of property retained for law enforcement use.

The annual accounting summaries of the forfeiture funds of the departments of Justice and the Treasury suffer from similar problems. In fact, most of the DOJ data for this report comes not from information reported to Congress or made public by the DOJ but rather from information the Institute for Justice obtained through a Freedom of Information Act request. IJ secured a copy of the DOJ's forfeiture database, known as the Consolidated Asset Tracking System, or CATS.¹³⁶ With CATS data, IJ was able to determine how much equitable sharing activity resulted from adoptions instead of joint task forces or investigations—information the DOJ does not publicly report. IJ was also able to compare civil, criminal and administrative forfeitures, another important question publicly available DOJ data do not answer.

Yet CATS has its own serious limitations. Most telling is that of the more than 1,300 variables the database tracks about cash and property seizures, not one indicates whether the owner of seized property was ever charged with or convicted of a crime. The DOJ tracks very carefully and publicly reports the proceeds generated by its forfeiture activity, but fails to report whether that activity is targeted toward actual criminals or is effective at stopping crime.

Failure to Report and Missing Data

The second major problem with forfeiture reports and records is that they are often missing data. In an effort to obtain forfeiture information from as many states as possible, the Institute for Justice filed at least one public records request in each of 43 states and the District of Columbia. For the year 2012, 19 states and D.C. provided usable data and an additional seven states published data online. However, at least nine states' forfeiture records were missing data—often quite a bit, as detailed in Table 5.

Minnesota's state auditor report acknowledged missing records from 66 law enforcement agencies,¹³⁷ and California's attorney general reported missing data from nine counties.¹³⁸ Aggregate reports from Michigan, Missouri and Pennsylvania likewise admitted that law enforcement agencies had failed to report as required.¹³⁹ IJ found that Kentucky's centralized records maintained by the state's Office of Drug Control Policy, part of the Justice and Public Safety Cabinet, were missing information from 178 law enforcement agencies. Another four states that required centralized record-keeping in 2012 were also missing records. Though required to do so under state law, Oregon's Asset Forfeiture Oversight Advisory Committee did not produce a report or even collect agency data in 2012 “[d]ue to budget cuts and downsizing of personnel at the time.”¹⁴⁰ Other states' records may also be missing data, but based on information provided, it is impossible to tell.

Even when agencies file required reports, important data may be missing. For example, the Missouri state auditor's 2014 report found that more than 60 percent of forfeiture reports from law enforcement agencies were missing information.¹⁴¹ Moreover, the agencies that failed to report and the information missing varies from year to year, making it difficult to compare state data over time.

Georgia provides a case study of law enforcement's failure to report forfeiture activity. Prior to a new reporting regime adopted in 2015, law enforcement agencies faced only a limited requirement to keep itemized lists of property received through forfeiture and expenditures made from forfeiture funds. Until 2010, agencies only had to provide these lists to their local budgetary authority.

The Department of Justice tracks very carefully and publicly reports the proceeds generated by its forfeiture activity, but fails to report whether that activity is targeted toward actual criminals or is effective at stopping crime.

Table 5: Reported Forfeitures Under State Law, 26 States and D.C., 2012

State	Number*	Value	Missing	Information obtained
Arizona ^a		\$43,036,040 ^b	None	Quarterly reports of RICO funds accounting
California	2,092	\$15,046,570 ^b	9 counties	Annual attorney general forfeiture reports
Colorado		\$533,111 ^c	Most	Annual individual agency reports submitted to the Department of Local Affairs
Connecticut	810	\$2,264,680 ^b	n/a	Itemized list of civil and criminal forfeitures from the attorney general
District of Columbia	1,942	\$1,648,599 ^d	n/a	Yearly administrative civil forfeiture totals from the Metropolitan Police Department
Hawaii ^a		\$535,811 ^d	None	Annual attorney general reports
Illinois	6,764	\$19,551,517 ^d	Unknown	Itemized list of forfeitures from the state police
Iowa	960	\$2,904,915 ^e	n/a	Extrapolated from 10% of annual forfeiture proceeds received by the Iowa County Attorneys Association ¹⁴⁵
Kentucky ^a		\$2,038,918 ^d	178 agencies	Office of Drug Control Policy's summary and database of forfeitures
Louisiana		\$8,396,656 ^b	None	Annual standardized judicial district reports of total forfeitures
Massachusetts ^a		\$8,843,408 ^b	n/a	Annual deposits in the forfeiture trust fund accounts from the state comptroller
Michigan		\$13,777,858 ^d	56 agencies	Annual state police reports
Minnesota	6,851	\$8,393,164 ^d	66 agencies	Annual state auditor reports
Missouri	49	\$83,868 ^d	1 county	Annual state auditor reports
New York		\$16,928,315 ^b	Unknown	Annual Division of Criminal Justice Services reports
Ohio		\$9,091,965 ^d	10 agencies	Annual agency reports submitted to the attorney general
Oklahoma ^a		\$4,310,089 ^b	n/a	Annual judicial district fund accounting from the District Attorneys Council
Pennsylvania ^a		\$11,694,221 ^b	4 counties	Annual attorney general reports
Rhode Island	290	\$1,941,421 ^d	Unknown	Itemized list of forfeitures from the attorney general
South Carolina ^a		\$2,763,891 ^d	n/a	Extrapolated from annual general fund deposits of 5% of forfeiture proceeds from the treasurer ¹⁴⁶
Tennessee	10,424	\$15,127,022 ^c	n/a	Itemized list of forfeitures from the Department of Safety and Homeland Security
Texas ^a		\$46,821,446 ^b	Unknown	Itemized list of forfeitures from the attorney general
Utah ^a	144	\$1,362,786 ^b	n/a	Itemized list of forfeiture fund deposits from the Commission on Criminal and Juvenile Justice
Vermont	0	\$0	Unknown	General fund accounting of forfeiture deposits from the state treasurer ¹⁴⁷
Virginia ^a	1,425	\$6,951,900 ^d	Unknown	Itemized list of forfeitures from the Department of Criminal Justice Services
Washington		\$9,862,644 ^b	43 agencies	Itemized remittances to the treasurer for each agency
Wyoming	47	\$116,084 ^d	Unknown	Itemized list of forfeitures from the attorney general

Notes: New Hampshire is not represented because data provided cover a two-year period and cannot be separated into individual years. State agencies in Connecticut, Tennessee and Wyoming provided itemized reports even though state law does not require centralized data collection. Ohio law enforcement agencies were required to provide annual reports to the attorney general until a 2012 change in the law. Data from Iowa, Massachusetts, Oklahoma, South Carolina and Utah come from forfeiture fund accounts, not forfeiture reports, which are not required in those states.

* Numbers include non-valued property

a – Data represent fiscal-year forfeitures

b – Cash and sold property; c – Cash only; d – Total estimated value; e – Cash and real estate


Source: Institute for Justice analysis of civil and criminal forfeiture data from online reports and public records requests.

Yet a 2002 state audit surveyed 26 Georgia agencies and found that 85 percent of them failed to comply with even this limited reporting requirement.¹⁴² A 2011 IJ report similarly found widespread failures to report: Of a random sample of 20 law enforcement agencies contacted, only two were reporting as required by law. And of the 15 major law enforcement agencies in Georgia's five most populous cities and counties, only one had produced the required report.¹⁴³

Following a 2010 legislative mandate to publish reports online and a 2011 lawsuit that forced some agencies to begin reporting, IJ again examined forfeiture reporting by Georgia law enforcement. The second study found agencies still failing to report—and when they did, the data provided often lacked even basic details, such as type of property or dollar value of forfeitures.¹⁴⁴ The reporting reforms adopted in 2015 address this problem by requiring standardized reports, though it remains to be seen whether agencies will start filing them.

Inconsistencies Across States

A third problem with state forfeiture reporting is the considerable inconsistencies in what states record and publicly report about their forfeiture activity. As Table 5 indicates, some states' forfeiture totals represent cash and proceeds from property sold, some represent cash only, some represent cash and the value of forfeited real estate, and some provide an estimated total value of forfeitures. In five states, values do not represent reports of forfeitures—which are not required—but rather accounting records of deposits into forfeiture or other funds. Moreover, some states report forfeitures in calendar years while others report in fiscal years. All of these differences make reliable apples-to-apples comparisons across states virtually impossible.

A photograph of a man in a dark suit, white shirt, and patterned tie, standing in a grocery store aisle. The store is filled with shelves of products, and the lighting is bright. The man is looking directly at the camera with a neutral expression. The background is slightly blurred, showing the depth of the aisle.

A clean audit did not stop the IRS from seizing \$35,000 from Terry Dehko's family grocery store in Fraser, Mich.

Following the Funds

Public reporting on forfeiture activity is poor, but transparency regarding expenditures from forfeiture funds is far worse. Most jurisdictions lack any reporting requirements for forfeiture expenditures, and the limited data the Institute for Justice was able to obtain provide very little insight into what law enforcement does with forfeiture funds.

What little reporting exists only indicates expenditures across broad categories, such as equipment, salaries and “other.” No jurisdictions require agencies to itemize expenditures from forfeiture accounts, so the public and lawmakers have no way of determining whether spending is proper or within legal limits.

At the federal level, reports from the departments of Justice and the Treasury provide the bare minimum, amounting to little more than a basic accounting of monies going into and out of the Assets Forfeiture Fund and the Treasury Forfeiture Fund. Expenditures are reported across a few general categories, such as payments to third parties, equitable sharing payments to states, salaries, joint law enforcement operations, equipment and investigative costs.¹⁴⁸ These reports provide only the broadest sense of how federal forfeiture money is spent, failing to provide any details about individual agency spending.

DOJ and Treasury reports also provide no information about how state and local law enforcement agencies spend equitable sharing money. However, information IJ obtained through public records requests provides a limited window into expenditures from equitable sharing funds. Until August 2014, state and local law enforcement agencies requesting equitable sharing proceeds from the DOJ were required to indicate on a form known as the DAG-71 whether they intended to use the funds for equipment, vehicles, salaries or “other,” and agencies could check multiple categories. Responses were maintained in the DOJ’s CATS database. As shown in Figure 13, from 2000 to 2013, the most popular anticipated uses of equitable sharing money were for equipment—checked on roughly 70 percent of DAG-71 forms each year—and “other”—checked on about 50 percent of DAG-71s annually.

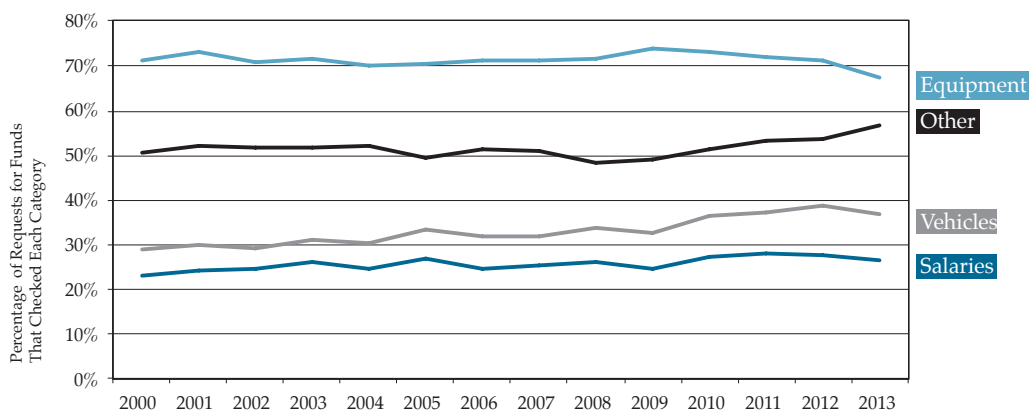
Of course, the DAG-71s indicated only the intended use of equitable sharing funds. Once state and local

agencies receive the money, they are free to spend it as they please within federal guidelines. Equitable sharing records maintained by the DOJ contain agency reports of how funds were actually spent across several categories, but these data are not publicly reported and can be obtained only by Freedom of Information Act requests.

IJ obtained the 2007 equitable sharing records for all participating law enforcement agencies in eight states, as shown in Figure 14. The records IJ obtained are called Equitable Sharing Agreement and Certification forms, and agencies must submit them annually if they wish to continue participating in equitable sharing. The forms require state and local agencies to certify that their equitable sharing accounts have been audited, and they ask agencies how much was spent from the accounts on various general categories during the previous fiscal year. These records provide a better picture of spending than DAG-71s, but obtaining them and compiling them into usable information is prohibitively time-consuming: IJ’s records requests for just eight states produced thousands of forms that required manual data entry before any analysis could be completed.

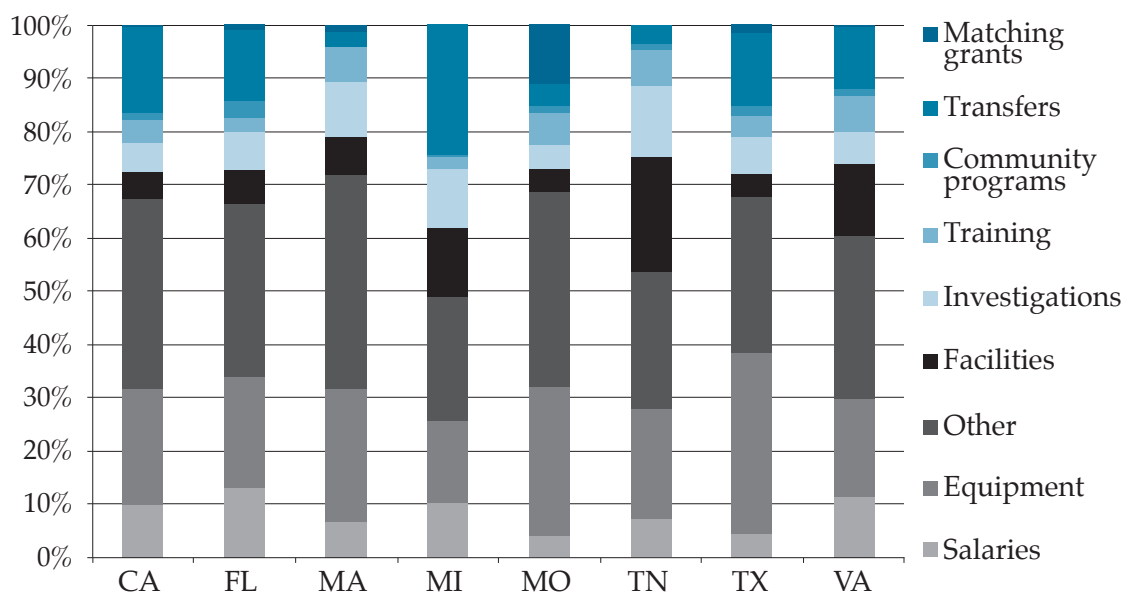
Results indicate that equipment and “other,” the same popular categories from the DAG-71 forms, accounted for a majority of equitable sharing expenditures by law enforcement in the eight states. Between 15 (Michigan) and 34 (Texas) percent of forfeiture expenditures went to equipment, and between 23 (Michigan) and 40 (Massachusetts) percent went to “other law enforcement expenses.”¹⁴⁹ The other large expenditure areas included transfers to other law enforcement agencies, salaries and overtime, investigations and facilities. Just 1.7 percent of forfeiture expenditures were for community programs, such as drug education, drug abuse treatment, crime prevention and job skills programs—despite the importance civil forfeiture’s defenders often place on such spending.¹⁵⁰

Figure 13: Agencies’ Intended Usages of DOJ Equitable Sharing Funds, 2000–2013



Source: Institute for Justice analysis of DOJ civil and criminal forfeiture data obtained by FOIA.

Figure 14: State and Local Law Enforcement's DOJ Equitable Sharing Expenditures by Category, Eight States, Fiscal Year 2007



Source: Institute for Justice analysis of Equitable Sharing Agreement and Certification forms obtained from DOJ via public records requests.

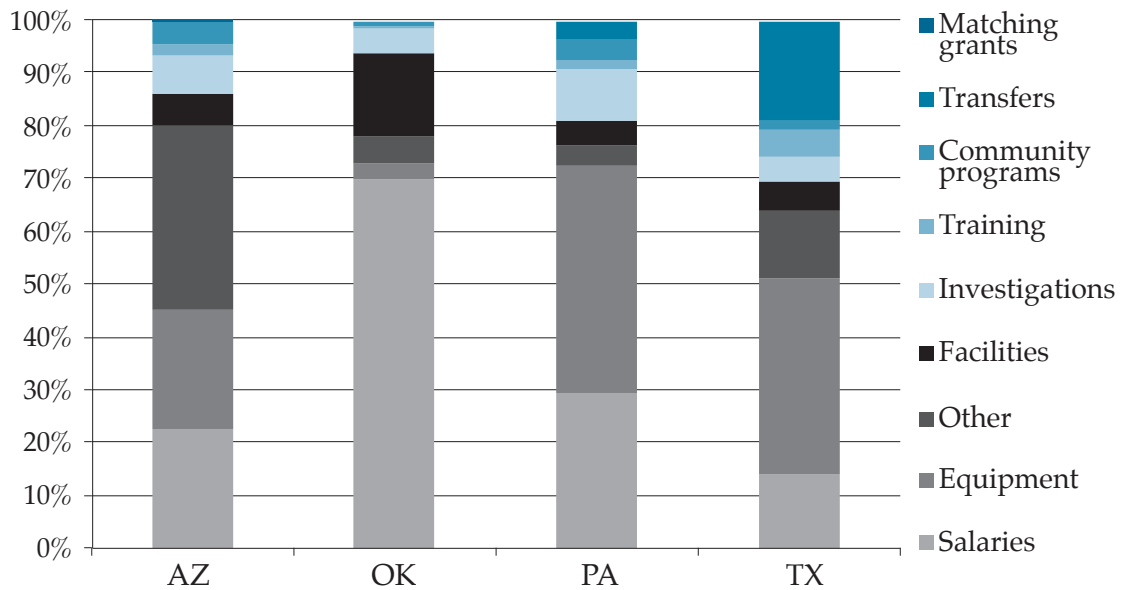
Although these data are likely the best available for equitable sharing expenditures, they probably have errors. The federal government rarely audits agencies receiving equitable sharing funds to verify compliance with DOJ guidelines and proper accounting practices, and when it does, it usually turns up problems. The DOJ's Office of the Inspector General conducts only three or four audits each year across thousands of participating agencies. In 2011, the DOJ's Asset Forfeiture and Money Laundering Section conducted 11 audits and found that a majority of agencies were not in compliance. Agencies failed to "properly account for equitable sharing receipts and expenditures[,] ... comply with the allowable uses of equitable sharing funds" and complete required audits of their equitable sharing accounts.¹⁵¹ A 2015 review by the Drug Policy Alliance of nine cities in Los Angeles County found similar results: Most agencies failed to properly comply with federal forfeiture regulations.¹⁵²

At the state level, only 11 states require the reporting of forfeiture expenditures to either a local or state agency.¹⁵³ Of those states, IJ obtained 2012 state forfeiture expenditure information from just seven,¹⁵⁴ five of which provided data so limited as to be unusable.¹⁵⁵ Data from Arizona and Texas provided enough detail to understand how forfeiture funds were used, as did data provided by Oklahoma and Pennsylvania, even though they do not require expenditure reporting (see Figure 15).¹⁵⁶

Salaries consumed a larger portion of spending from these states' forfeiture funds than from equitable sharing funds, likely because these states do not have the same restrictions on forfeiture expenditures as the federal government.¹⁵⁷ Texas law enforcement agencies, for instance, spent 14 percent (\$5.9 million) of 2012 forfeiture expenditures on salaries, a significant proportion that nevertheless pales in comparison to the 23 percent (\$4.8 million) spent in Arizona, the nearly 30 percent (\$4.2 million) spent in Pennsylvania and the remarkable 70 percent (\$2 million) spent in Oklahoma. As with equitable sharing spending, only a small fraction—between 0.7 and 4 percent—of state forfeiture funds went toward substance abuse and crime prevention programs.

Beyond salaries, Arizona spent 35 percent (\$7.5 million) of state forfeiture funds on "other" and 23 percent (\$4.9 million) on equipment. After salaries, the bulk of Pennsylvania law enforcement's state forfeiture expenditures were for equipment—nearly 43 percent, or \$6 million. Law enforcement agencies in Texas spent their state forfeiture proceeds much like their federal proceeds: In fiscal year 2012, Texas law enforcement used 37 percent (\$15.7 million) of state forfeiture expenditures for equipment and 13 percent (\$5.5 million) for "other."

Figure 15: State Forfeiture Expenditures by Category, Four States, Fiscal Year 2012



Source: Institute for Justice analysis of civil and criminal forfeiture data from online reports and public records requests.

This latter category—“other”—is particularly problematic. It is used frequently, with the result that the public has no indication of how tens of millions of dollars are being spent. Indeed, in fiscal year 2012, Arizona, Oklahoma, Pennsylvania and Texas spent a total of nearly \$13.7 million of state forfeiture money on “other,” and, in fiscal year 2007, eight states spent more than \$42 million in equitable sharing payments on “other.”

In the rare event that the public catches a glimpse of what “other” means, the impression they might get is one of off-the-books slush funds for toys, travel and salaries. Both federal and state forfeiture monies have been spent on luxurious travel,¹⁵⁸ high-end dining,¹⁵⁹ fancy equipment,¹⁶⁰ salaries¹⁶¹ and a host of questionable purchases. A former district attorney in Brooklyn, for example, was accused of spending more than \$1 million on a political consultant.¹⁶² In Romulus, Mich., police officers were charged for using forfeiture proceeds on alcohol, marijuana, prostitutes and a tanning salon.¹⁶³ A former Dallas County district attorney used forfeiture funds to pay a \$50,000 settlement following a car wreck he was involved in while looking at his phone.¹⁶⁴

Perhaps the most egregious example comes from Bal Harbour, Fla., a small village of 2,500 that in 2012 had an estimated \$30 million in equitable sharing forfeiture funds frozen after a routine inquiry by the Office of the Inspector General uncovered misuse of funds and missing records. The hamlet, it turned out, had a vice unit that had been crisscrossing the country, seizing money—without making a single arrest—and using it to pay for expensive equipment, like a \$100,000 35-foot boat and a \$108,000 mobile command truck; festivities, including a \$7,000 banquet for the police chief and a \$21,000 anti-drug beach party; and salaries. Even worse, three years into the investigation, the DOJ uncovered a money laundering scheme that ran from 2009 to 2012 and was worth well over \$70 million, with upwards of \$28 million not accounted for in agency reports.¹⁶⁵

Best Practices: Forfeiture Reporting

All law enforcement agencies with forfeiture power should be required to track and report forfeiture activity, revenues and expenditures. Agency reports should be forwarded annually to a state agency, made publicly available online and compiled by the state agency into aggregate reports for legislators and the public. At a minimum, an ideal agency report would contain detailed information about each seizure and forfeiture, such as:

- Date the property was seized
- Type of property seized, including make, model and serial number (if relevant)
- Estimated value of the property
- The offense alleged when making the seizure
- Whether there were related criminal actions and the outcome of any such actions
- Whether the seizure was conducted under state or federal law
- Whether the forfeiture was conducted under state or federal law
- Type of forfeiture: civil, criminal or administrative
- Whether the forfeiture was contested
- Whether an innocent owner made a claim to the property
- Final disposition of the property: returned, destroyed, forfeited, retained, distributed by settlement
- Date of the final disposition
- Total expenses from the forfeiture
- Total net proceeds of the forfeiture

All agencies should also be required to report each purchase made with forfeiture revenue. In addition, they should report total expenditures for standardized categories:

- Substance abuse and crime prevention programs
- Investigation costs, such as witness protection and controlled buys
- Victim reparations
- Court costs and attorney fees
- Salaries, overtime and benefits
- Third-party services
- Training and travel
- Operating expenses: supplies, postage and advertising
- Equipment
- Capital expenditures

Even agencies with no forfeitures or expenditures to report in a given year should be required to file a report so that it is clear which agencies failed to comply with the reporting law. Detailed forfeiture information should be readily available to the public through searchable databases on public websites. Many databases already exist and should be made public.¹ Audited reports should be submitted to the relevant legislative body and made available to the public, and a routine auditing process should be established to discourage abuse.

¹ U.S. Department of Justice, Consolidated Asset Tracking System (CATS); U.S. Department of Treasury, Seized Assets and Case Tracking System (SEACATS); U.S. Internal Revenue Service, Asset Forfeiture and Retrieval System (AFTRAK); U.S. Secret Service, Forfeited Asset and Seized Property Tracking System (FASTRAK); Arkansas Drug Director, Asset Seizure Tracking System (ASTS); Virginia Department of Criminal Justice Services, Excel spreadsheets received through Virginia FOIA; Tennessee Department of Safety and Homeland Security, Excel spreadsheet provided to the Beacon Center of Tennessee through a Tennessee Public Records Act request.

Conclusion

The widespread failure of civil forfeiture laws to protect property owners from unjust forfeitures—or to provide the barest essentials of transparency regarding law enforcement’s forfeiture activity or spending—makes plain the pressing need for reform.

The cost and difficulty of navigating a complex legal process to fight a forfeiture, plus the often low values of property seized, deter many from seeking their day in court. But making it to court unlocks a whole new set of challenges: Low legal standards of proof prevail throughout the country, with fewer than a dozen states requiring law enforcement to meet anything approaching the standard required in criminal proceedings. Indeed, federal and most state civil forfeiture laws merely require the government to show that property is slightly more likely than not related to a criminal violation—a far cry from proof beyond a reasonable doubt.

Most jurisdictions also force innocent property owners to prove their innocence in order to recover property. These owners are third parties—a parent, a spouse, even a landlord or motel owner—entirely disconnected from any crime who nonetheless must prove that they did not consent to or know about the alleged criminal activity involving their property. Between low standards of proof and poor protections for innocent owners, most civil forfeiture laws create an unlevel playing field, where it is easy for the government to take property, but hard for people to fight for it back.

Adding fuel to the fire are the financial incentives built into federal and most state civil forfeiture laws that encourage police and prosecutors to pursue property, even at the expense of other law enforcement priorities. Forty-three states direct at least 45 percent of forfeiture proceeds to law enforcement funds, typically those of the very agencies that seized the property. Twenty-five states and the federal government direct up to 100 percent to law enforcement funds. These funds may be spent largely at law enforcement’s discretion, subject only to loose controls and little to no oversight. From the little that is publicly reported, these funds are sometimes even spent on salaries, overtime and benefits, creating a still more troubling conflict of interest.

All of that would be bad enough, but the federal government’s equitable sharing program makes the country’s civil forfeiture landscape even worse. Even when states raise the bar and lower incentives for civil forfeiture, law enforcement can use equitable sharing to continue gener-

ating forfeiture revenue. Indeed, research shows that when faced with stricter and less generous state civil forfeiture laws, police and prosecutors circumvent them by turning to the federal government.

Such research offers compelling evidence not only that federal equitable sharing is used to evade more protective state laws but also that incentives matter to law enforcement—that when decisions are made about civil forfeiture, the ease of the process and, especially, the possibility of a financial reward are key factors. This is a dangerous reality given that allowing law enforcement to self-generate revenue undermines democratic controls, distorts law enforcement priorities and puts property owners at risk.

To protect the innocent and ensure the impartial administration of justice, civil forfeiture reform is desperately needed at the federal and state levels. The most substantive reform would be to abolish civil forfeiture outside certain narrow and strictly defined parameters, such as customs law. In all other cases, governments should have to tie forfeiture of property to the criminal convictions of specific owners. New Mexico’s 2015 reforms demonstrate how this can be accomplished.

Short of ending civil forfeiture altogether, at least five reforms can increase protections for property owners and improve transparency. First, lawmakers should eliminate any financial incentive for law enforcement to seize property. Civil forfeiture revenue should flow into a city, county or state’s general revenue fund or another neutral fund, such as one for education. Recent reforms in New Mexico and the District of Columbia show that this is eminently possible.

Second, lawmakers should adopt a high standard of proof for law enforcement to forfeit property in civil proceedings. Ideally, standards should be raised to beyond a reasonable doubt, bringing them in line with the rest of the American criminal justice system. States that already meet that standard or that come close to it include Nebraska, North Carolina, California, Minnesota, Montana, Nevada, New Mexico and Vermont.

Third, consistent with recent changes in Montana and D.C., lawmakers should introduce meaningful pro-

tections for people making innocent owner claims. The government should have to prove that owners consented to or possessed knowledge of the crime that led to the seizure of their property. Such reform would restore the presumption of innocence that prevails in criminal proceedings.

Fourth, lawmakers should adopt strong, standardized forfeiture reporting requirements in line with the best practices described on page 42. Though some states have recognized the need for greater transparency,¹⁶⁶ shoddy reporting and inadequate detail remain the rule, and the public and lawmakers remain in the dark about most forfeiture activity and spending. States without robust reporting requirements should institute them, and they should ensure that requirements are followed with consequences such as financial sanctions for noncompliance.

Finally, Congress should abolish the federal equitable sharing program. And until it does, state lawmakers should prohibit agencies from receiving equitable sharing

funds. In states that disallow policing for profit under their own laws, agencies should not be able to thwart the will of their citizens by conspiring with the federal government to keep the money flowing. In 2015, New Mexico and D.C. took important steps toward this type of reform.

Taken together, such reforms would contribute significantly to protecting one of the most important rights enshrined in the Constitution. As James Madison famously wrote in 1792, “Government is instituted to protect property of every sort.... This being the end of government, that alone is a *just* government, which *impartially* secures to every man, whatever is his *own*” (emphasis in original).¹⁶⁷ To the extent that governments, through their laws, fail in their duty to protect the property rights of citizens, their leaders are obliged to reform the laws to accord with the protections guaranteed in the Constitution. Elected representatives who take an oath to protect and defend the state and federal constitutions could do no better.



Philadelphia prosecutors kicked **Chris and Markela Sourovelis** out of their own home and tried to take it permanently, even though they had done nothing wrong.



State Profiles

Alabama earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Limited protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Alabama's civil forfeiture laws are among the worst in the nation, earning a D- grade. To forfeit property, the government need only demonstrate to the court's "reasonable satisfaction"—essentially, by a preponderance of the evidence—that the property is related to criminal activity. Owners who object that they are innocent—and therefore that the property should not be forfeited—bear the burden of proving their innocence, unless the property at issue is real property, such as a home; in real property cases, the

government bears the burden. In Alabama, law enforcement keeps 100 percent of the proceeds from forfeited property, creating a strong incentive to seize.

Unfortunately, there is no way to measure the extent to which Alabama's law enforcement agencies use civil forfeiture: Alabama law does not require law enforcement agencies to track or publicly report forfeitures or expenditures from forfeiture funds, thus providing no transparency or public accountability.

State Forfeiture Data

No data available. Agencies are not required to track or publicly report.

Alabama ranks 31st for federal forfeiture,

with over **\$75 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

Federal Equitable Sharing

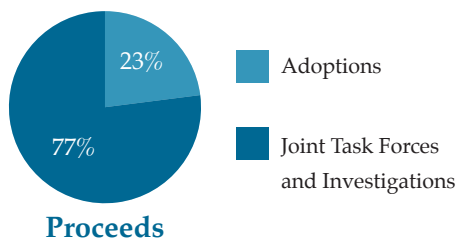
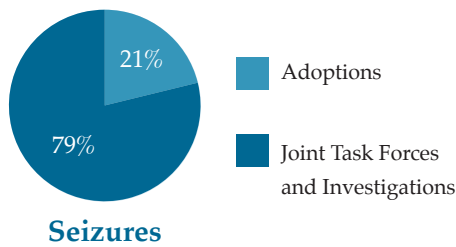
Alabama law enforcement's use of the Department of Justice's equitable sharing program ranks 31st in the nation. State and local agencies received more than \$75 million in equitable sharing proceeds from the DOJ between 2000 and 2013, averaging about \$5.4 million each calendar year. Most of the assets seized—79 percent—were seized through joint task forces and investigations with the federal government. Just 21 percent of assets seized and 23 percent of proceeds received resulted from adoptions, the procedure curbed by former Attorney General Holder. In fiscal years 2000 to 2013, Alabama agencies also obtained \$5.6 million in equitable sharing proceeds from the Treasury Department.

A seizure on I-10 in Alabama illustrates how equitable sharing gives local and federal officials a financial stake in forfeiture. A Mobile County sheriff's deputy stopped Georgia resident Ming Tong Liu for speeding and found more than \$75,000 in cash—money Liu planned to use to buy a restaurant in Louisiana. The officer did not buy Liu's story, seized the cash and called in U.S. Customs and Border Protection to share the money. Finally, after 10 months—and after Liu hired an attorney—customs officials agreed to return his money, but by then he had lost out on the restaurant deal.

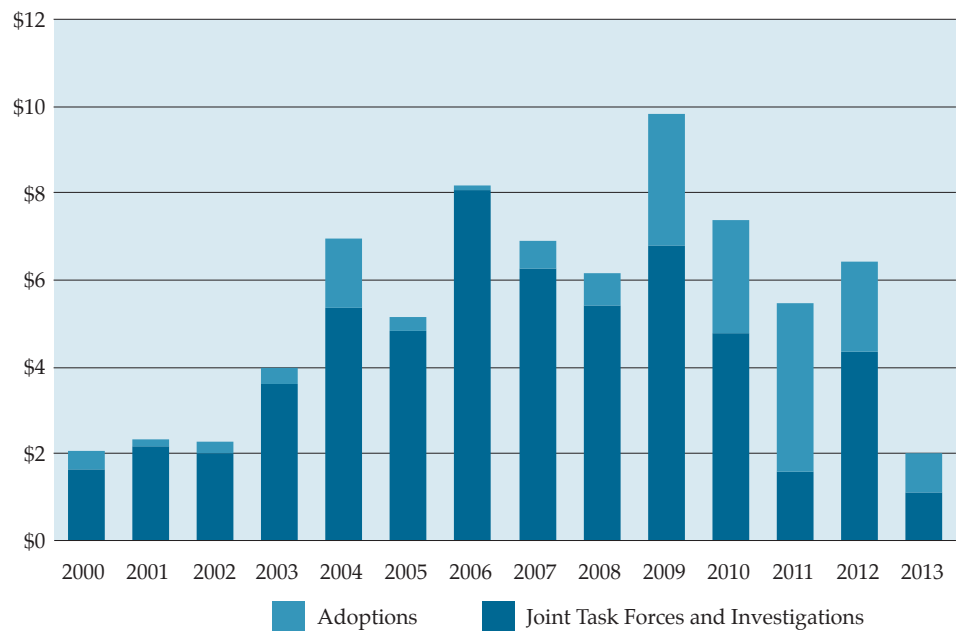
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$2,066,233	\$250,000
2001	\$2,350,234	\$123,000
2002	\$2,276,557	\$269,000
2003	\$3,999,273	\$764,000
2004	\$6,932,255	\$91,000
2005	\$5,145,432	\$373,000
2006	\$8,167,361	\$4,000
2007	\$6,891,654	\$185,000
2008	\$6,139,296	\$19,000
2009	\$9,798,597	\$295,000
2010	\$7,395,316	\$1,816,000
2011	\$5,454,326	\$950,000
2012	\$6,421,122	\$216,000
2013	\$2,010,824	\$252,000
Total	\$75,048,479	\$5,607,000
Average per year	\$5,360,606	\$400,500

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Alaska earns a **D+** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 75% of forfeiture proceeds go to law enforcement in most cases

State Civil Forfeiture Laws

Alaska's civil forfeiture laws leave much to be desired, earning a D+. In Alaska, as in all other states, the government only needs probable cause to seize property. Owners of seized property must then show by a preponderance of the evidence that their property is not related to criminal activity in order to get it back. Further, an individual making an innocent owner claim bears the burden of proving that she did not know about or consent to the alleged criminal activity giving rise to the property's seizure. In most cas-

es, law enforcement retains up to 75 percent of forfeiture revenues. Where forfeited property is something other than cash and worth \$5,000 or less, law enforcement keeps 100 percent of the sale proceeds.

The Department of Public Safety is required to keep an inventory of items seized, but other state and local law enforcement agencies are not required to track or report their forfeitures, severely limiting transparency and accountability.

State Forfeiture Data

No statewide data available. Agencies are not required to track or publicly report.



Alaska is the 10th best state for federal forfeiture,

with over **\$9 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

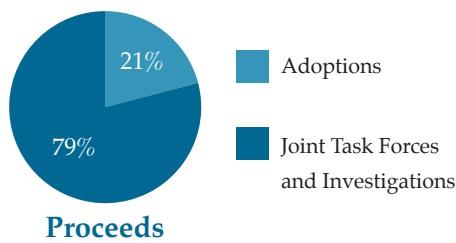
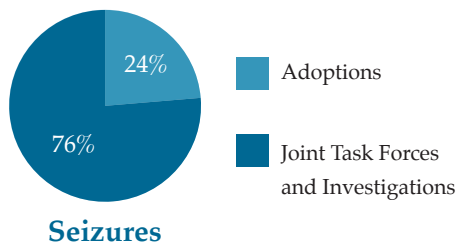
Federal Equitable Sharing

Alaska law enforcement's participation in the Department of Justice's equitable sharing program is relatively restrained, ranking 10th. Between calendar years 2000 and 2013, Alaska law enforcement agencies received more than \$9 million in equitable sharing proceeds from the DOJ. However, more than three-quarters of the assets seized were confiscated through joint task forces and investigations, equitable sharing practices that will continue after the policy change announced by former Attorney General Holder. In fiscal years 2000 to 2013, Alaska law enforcement also received \$3.5 million in Treasury Department equitable sharing proceeds.

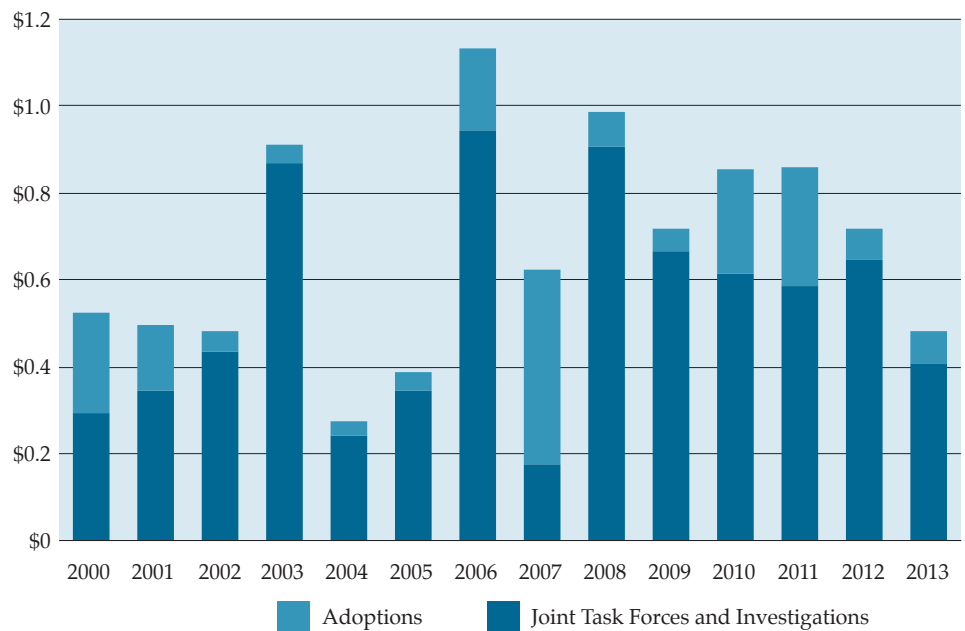
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$526,853	\$26,000
2001	\$498,980	\$0
2002	\$483,440	\$3,000
2003	\$910,534	\$51,000
2004	\$277,117	\$0
2005	\$389,951	\$5,000
2006	\$1,136,263	\$136,000
2007	\$625,837	\$401,000
2008	\$987,068	\$27,000
2009	\$717,641	\$180,000
2010	\$855,767	\$0
2011	\$859,125	\$4,000
2012	\$717,587	\$141,000
2013	\$485,111	\$2,572,000
Total	\$9,471,274	\$3,546,000
Average per year	\$676,520	\$253,286

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Arizona earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Arizona's terrible civil forfeiture laws earn a D- grade as some of the worst in the country. The standard of proof for forfeiting property in Arizona is preponderance of the evidence, meaning that the government just has to show that it is more likely than not that seized property is tied to criminal activity. Worse, when an owner wishes to make an innocent owner claim in order to retrieve seized property, that person bears the burden of proving her own innocence. Arizona law also gives law enforcement a considerable incentive to seize property, allowing law enforcement agencies to keep 100 percent of the funds raised through civil forfeiture.

The Arizona Criminal Justice Commission publishes quarterly reports of forfeiture revenues and expenditures on its website. Although useful for examining overall trends,

key details are lacking, such as the number of forfeitures, whether forfeitures accompanied criminal convictions and specifics about expenditures.

According to the reports, from 2000 to 2014, Arizona law enforcement collected a whopping \$412 million in forfeiture revenue, which equates to more than \$27 million each fiscal year. Making matters worse, Arizona agencies spend a considerable proportion of forfeiture funds on salaries and overtime for law enforcement officers: Data published by the ACJC indicate that between 2000 and 2014 law enforcement spent over \$62 million in forfeiture money—28 percent of all expenditures from forfeiture funds—on “administrative expenses,” which include benefits, salaries and overtime.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2000	\$9,367,316
2001	\$9,649,223
2002	\$11,362,722
2003	\$12,414,334
2004	\$13,807,821
2005	\$21,989,986
2006	\$20,606,951
2007	\$45,345,606
2008	\$19,836,898
2009	\$27,491,832
2010	\$55,904,233
2011	\$42,712,374
2012	\$43,036,040
2013	\$42,118,485
2014	\$36,281,212
Total	\$411,925,033
Average per year	\$27,461,669

Source: Quarterly reports of state and local forfeiture monies compiled by the Arizona Criminal Justice Commission and made publicly available on its website. These numbers are reported for fiscal years and represent the value of cash and property sold.

Arizona ranks **32nd** for federal forfeiture, with nearly **\$70 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

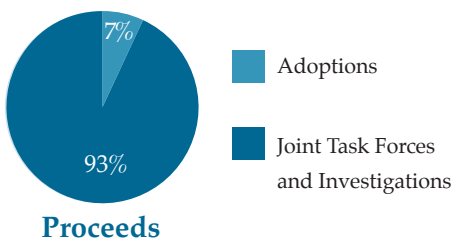
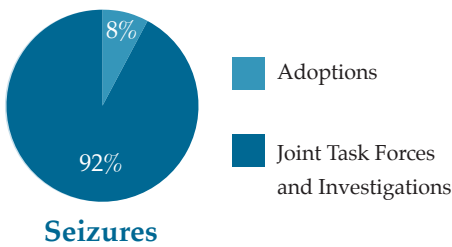
Federal Equitable Sharing

Arizona law enforcement's use of the Department of Justice's equitable sharing program results in a ranking of 32nd nationally. In calendar years 2000 to 2013, Arizona law enforcement agencies received nearly \$70 million in DOJ equitable sharing proceeds, averaging just under \$5 million per year. Most of these proceeds—93 percent—came from joint task forces and investigations, the kind of equitable sharing forfeitures largely unaffected by the DOJ's recent policy change. State and local agencies also netted \$23 million in equitable sharing proceeds—around \$1.7 million annually—from the Treasury Department over fiscal years 2000 to 2013.

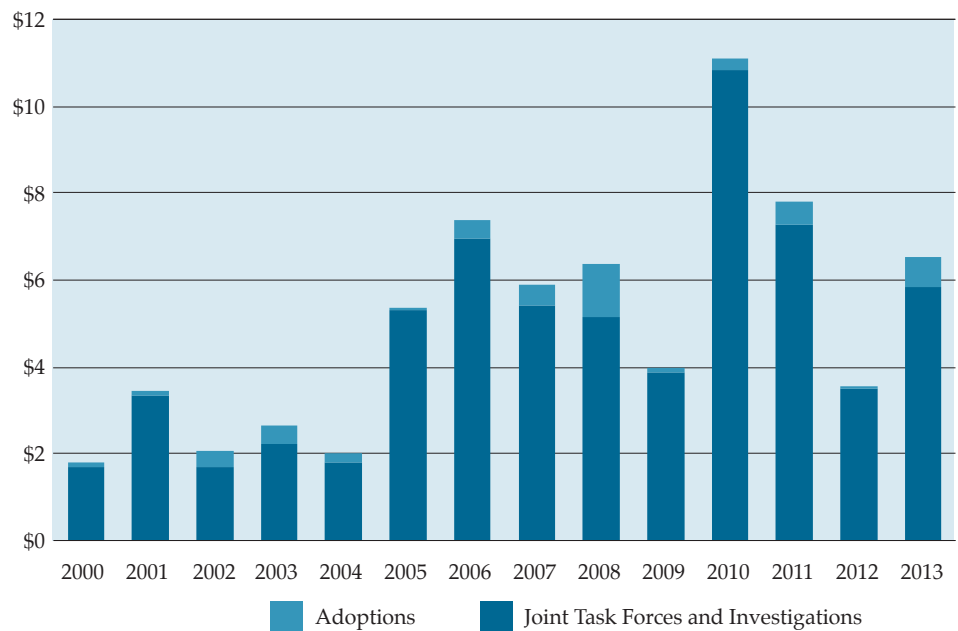
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,820,617	\$1,090,000
2001	\$3,439,388	\$1,160,000
2002	\$2,069,734	\$59,000
2003	\$2,645,960	\$2,672,000
2004	\$2,013,948	\$2,621,000
2005	\$5,317,722	\$6,259,000
2006	\$7,388,489	\$326,000
2007	\$5,893,152	\$613,000
2008	\$6,361,529	\$2,991,000
2009	\$3,990,219	\$1,004,000
2010	\$11,111,859	\$298,000
2011	\$7,815,345	\$667,000
2012	\$3,573,703	\$2,454,000
2013	\$6,552,577	\$1,017,000
Total	\$69,994,240	\$23,231,000
Average per year	\$4,999,589	\$1,659,357

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Arkansas earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Arkansas has awful civil forfeiture laws. Earning a D-grade, Arkansas law only requires the government to show that it is more likely than not that seized property is related to criminal activity—a standard of proof known as preponderance of the evidence. Innocent owners wishing to recover seized property bear the burden of proving their own innocence. Worst of all, Arkansas law enforcement agencies receive 100 percent of the funds generated through civil forfeiture—in most cases, 80 percent of proceeds go to police and prosecutors and 20 percent go to the state Crime Lab Equipment Fund. If a forfeiture exceeds \$250,000, any proceeds in excess of that figure are deposited into the Special State Assets Forfeiture Fund.

Forfeiture practice in Arkansas also suffers from a lack of public transparency. The Arkansas Drug Director has a database of all forfeitures—the Asset Seizure Tracking System. However, the only aggregate reports of this information are annual reports from the Legislative Joint Auditing Committee, which provide only the value of currency and the number of other assets that were *seized*; it is impossible to determine from this information the total amount of assets that went on to be *forfeited*. The data that are available indicate that Arkansas law enforcement seized almost \$81 million in currency and more than 9,500 cars between 2000 and 2014.

State Forfeiture Data

Year	Reported Value of Seized Currency	Number of Incidents in Which the Following Personal Property Was Reported Seized:		
		Vehicles	Weapons	Other
2000	\$5,544,742	534	249	201
2001	\$3,494,483	514	241	165
2002	\$2,805,948	522	232	141
2003	\$3,816,823	683	282	208
2004	\$4,299,354	779	245	180
2005	\$7,003,838	771	223	172
2006	\$5,556,583	655	162	141
2007	\$4,301,003	688	187	132
2008	\$5,160,593	585	147	130
2009	\$970,416	693	171	170
2010	\$6,300,505	803	357	148
2011	\$8,371,795	674	444	124
2012	\$3,677,546	516	364	125
2013	\$8,688,150	584	732	137
2014	\$10,774,104	536	359	122
Total	\$80,765,883	9,537	4,395	2,296
Average per year	\$5,384,392	636	293	153

Source: Legislative Joint Auditing Committee’s online calendar-year reports of seizures made under the state’s Uniform Controlled Substances Act. These annual reports are based on the Asset Seizure Tracking System database maintained by the Arkansas Drug Director, where law enforcement agencies and the attorney general report all seizures. Forfeitures can also occur under the Tobacco Products Tax Act. Minimal forfeiture revenues were reported by Arkansas Tobacco Control between 2007 and 2013: \$10,300 in fiscal year 2011 and \$65,000 in fiscal year 2012. This revenue is not accounted for in the seizures reported in the above table.

Arkansas is the 9th best state for federal forfeiture, with over \$27 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

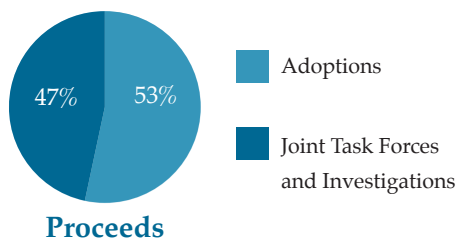
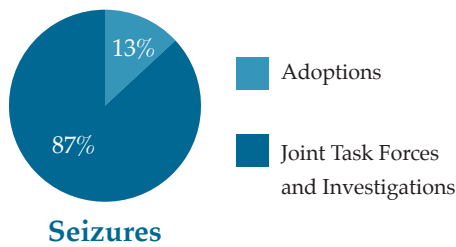
Federal Equitable Sharing

Arkansas law enforcement's participation in the Department of Justice's equitable sharing program is ranked 9th nationally. Arkansas law enforcement received \$27 million in DOJ equitable sharing proceeds between 2000 and 2013, which equates to roughly \$1.9 million each calendar year. And these proceeds have been increasing steadily over the years, from a few hundred thousand dollars a year in the early 2000s to over \$3 million in 2013. Joint task forces and investigations accounted for less than half of these proceeds, though they made up the lion's share—87 percent—of assets seized. These types of forfeitures were largely unaffected by former Attorney General Holder's policy change aimed at restricting equitable sharing. State and local agencies also received about \$3.2 million in Treasury Department equitable sharing funds across fiscal years 2000 through 2013.

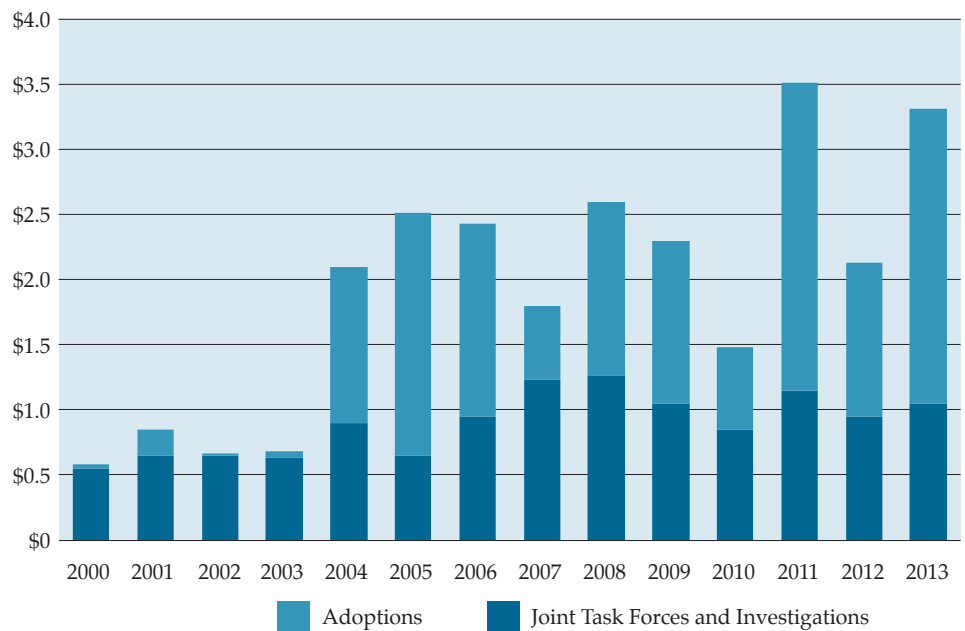
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$589,134	\$30,000
2001	\$849,898	\$4,000
2002	\$678,593	\$605,000
2003	\$687,242	\$116,000
2004	\$2,104,354	\$0
2005	\$2,525,433	\$0
2006	\$2,442,848	\$0
2007	\$1,800,522	\$182,000
2008	\$2,599,741	\$45,000
2009	\$2,299,549	\$61,000
2010	\$1,480,106	\$455,000
2011	\$3,522,050	\$484,000
2012	\$2,135,685	\$532,000
2013	\$3,312,173	\$640,000
Total	\$27,027,327	\$3,154,000
Average per year	\$1,930,523	\$225,286

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

California earns a C+ for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Stronger protections for innocent third-party property owners
- 66.25% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Earning a C+, California's civil forfeiture laws are above average, but law enforcement circumvents their intent through participation in the federal government's equitable sharing program so aggressive that it ranks 50th—second worst—in the country. In California, to forfeit most kinds of property, the standard of proof is beyond a reasonable doubt, and a conviction is required (though not necessarily the owner's conviction). Only in drug cases where more than \$25,000 is seized is the standard lower: clear and convincing evidence. When an innocent person asserts an interest in seized property, the government bears the burden of proving that

the owner was aware of the property's illegal use. California law lets law enforcement keep 66.25 percent of forfeiture revenue—less of an incentive than in many other states but still an incentive to seize property for financial gain.

The California Office of the Attorney General publishes annual reports of counties' forfeiture income on its website, though it excludes important details, such as an accounting of expenditures from forfeiture funds. According to these reports, California law enforcement forfeited almost \$280 million over the period of 2002 to 2013—an annual average of more than \$23 million.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2002	\$25,565,686
2003	\$26,589,893
2004	\$22,459,346
2005	\$19,866,810
2006	\$25,582,483
2007	\$27,603,822
2008	\$25,548,228
2009	\$28,789,945
2010	\$16,490,185
2011	\$17,958,201
2012	\$15,046,570
2013	\$28,130,455
Total	\$279,631,624
Average per year	\$23,302,635

Source: California Office of the Attorney General's online calendar-year reports of all forfeitures made by county district attorneys and the attorney general. Forfeiture proceeds do not include the value of property retained for law enforcement use.

California ranks 50th for federal forfeiture,

with over **\$696 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

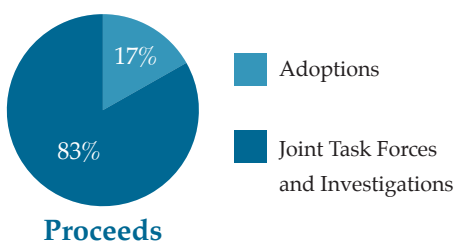
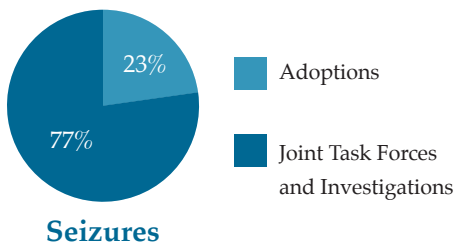
Federal Equitable Sharing

Unfortunately, California law enforcement has found a lucrative way to evade the state's better-than-average laws: the federal government's equitable sharing program. Its heavy participation in the program earns the state a rank of 50th. Indeed, a recent report by the Drug Policy Alliance noted that while state forfeiture revenue has remained flat, equitable sharing revenue has skyrocketed. Between 2000 and 2013, California agencies collected an eye-popping \$696 million, or nearly \$50 million each calendar year, through equitable sharing with the Department of Justice. A large majority of both assets seized and proceeds received resulted not from adoptions but from joint task forces and investigations with the federal government. This vehicle for equitable sharing will continue despite DOJ policy changes announced in January 2015. California law enforcement also hauled in almost \$108 million from the Treasury Department's equitable sharing program during fiscal years 2000 to 2013.

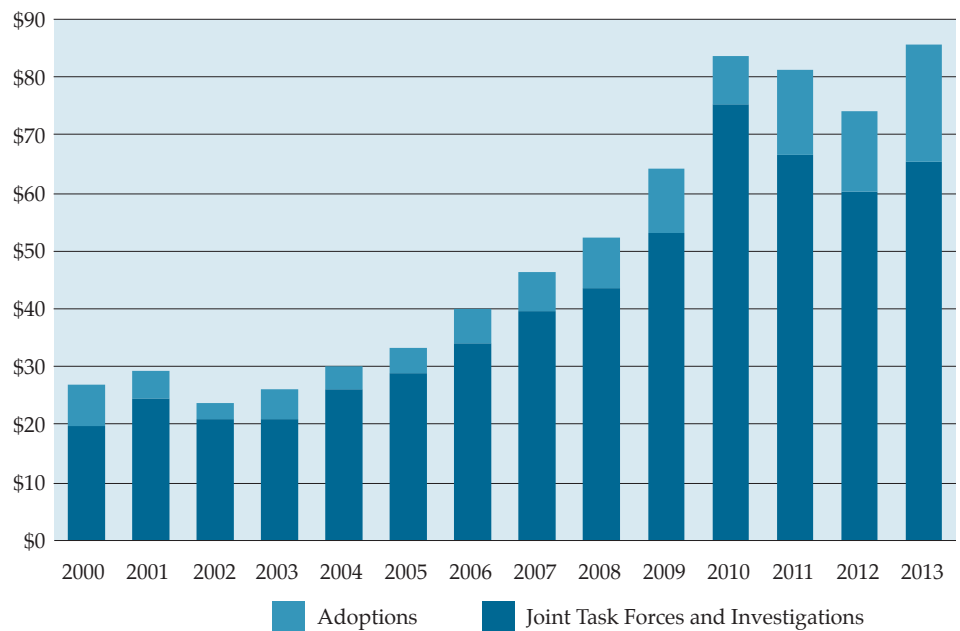
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$27,063,749	\$17,368,000
2001	\$29,138,488	\$6,818,000
2002	\$23,544,801	\$4,573,000
2003	\$25,953,184	\$2,224,000
2004	\$30,237,257	\$2,247,000
2005	\$33,281,599	\$4,846,000
2006	\$39,922,885	\$1,080,000
2007	\$46,296,566	\$5,817,000
2008	\$52,310,424	\$9,482,000
2009	\$64,093,182	\$3,440,000
2010	\$83,559,012	\$9,660,000
2011	\$81,176,283	\$10,561,000
2012	\$74,115,816	\$17,264,000
2013	\$85,536,782	\$12,347,000
Total	\$696,230,027	\$107,727,000
Average per year	\$49,730,716	\$7,694,786

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.



Colorado earns a **C** for its civil forfeiture laws:

- Higher bar to forfeit property, but no conviction required
- Stronger protections for innocent third-party property owners
- 50% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

The Centennial State reformed its civil forfeiture laws in 2002, but the laws' C grade demonstrates that the state should do more to protect Coloradans from abuse. The standard of proof the government must meet in order to forfeit property in Colorado is clear and convincing evidence. In cases where an innocent owner objects to a seizure, the government bears the burden of showing that the owner participated in, condoned or knew about the criminal activity associated with the property. Colorado law enforcement keeps 50 percent of all funds generated through civil forfeiture—one of the weaker financial incentives nationally but an incentive to seize nonetheless.

Colorado requires limited reporting on forfeitures, but the requirements are not consistently followed, nor are

reports made readily available for public or legislative review. District attorneys must file annual forfeiture reports with the Department of Local Affairs and, unusually, must indicate whether the person from whom the property was seized was charged with or convicted of a crime. Unfortunately, reviewing these reports requires filing a Colorado Open Records Act request. When the Institute for Justice did so, it found that many reports were missing. Further, report data are not reviewed and aggregated, making it impossible to get an at-a-glance sense of the scope of forfeiture in Colorado. Data from agencies that did report, compiled by IJ, indicate forfeitures totaling almost \$13 million between 2000 and 2013.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2000	\$623,651
2001	\$2,210,837
2002	\$1,454,868
2003	\$1,193,626
2004	\$249,180
2005	\$609,355
2006	\$1,106,608
2007	\$783,888
2008	\$761,082
2009	\$1,553,586
2010	\$351,442
2011	\$739,151
2012	\$533,111
2013	\$628,238
Total	\$12,798,623
Average per year	\$914,187

Source: Reports of forfeitures from law enforcement agencies and district attorneys made to the Colorado Department of Local Affairs presented in calendar-year format. Not all agencies reported every year, but the Institute for Justice was unable to determine how many agency reports were missing or whether agencies failed to report in a given year because they had no forfeiture activity. IJ found several instances of forfeited property (primarily vehicles) for which a value was not reported. It is possible that some of these numbers overlap with federal equitable sharing or include seizures rather than forfeitures due to reporting errors on the part of the local agencies.

Colorado ranks **35th** for federal forfeiture,

with over **\$47 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

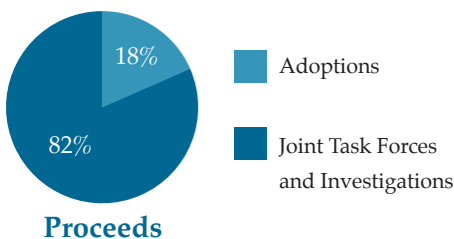
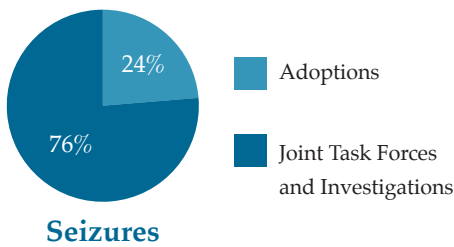
Federal Equitable Sharing

Colorado law enforcement's use of the Department of Justice's equitable sharing program, with proceeds totaling \$47.7 million over the 2000 to 2013 calendar years, earns the state an equitable sharing ranking of 35th place. Seventy-six percent of assets seized and 82 percent of proceeds received through the DOJ's equitable sharing program came from joint task forces and investigations. This equitable sharing procedure was largely unaffected by DOJ policy changes adopted in 2015. Treasury Department forfeiture proceeds totaled \$4.5 million across the 2000 to 2013 fiscal years, averaging almost \$325,000 a year.

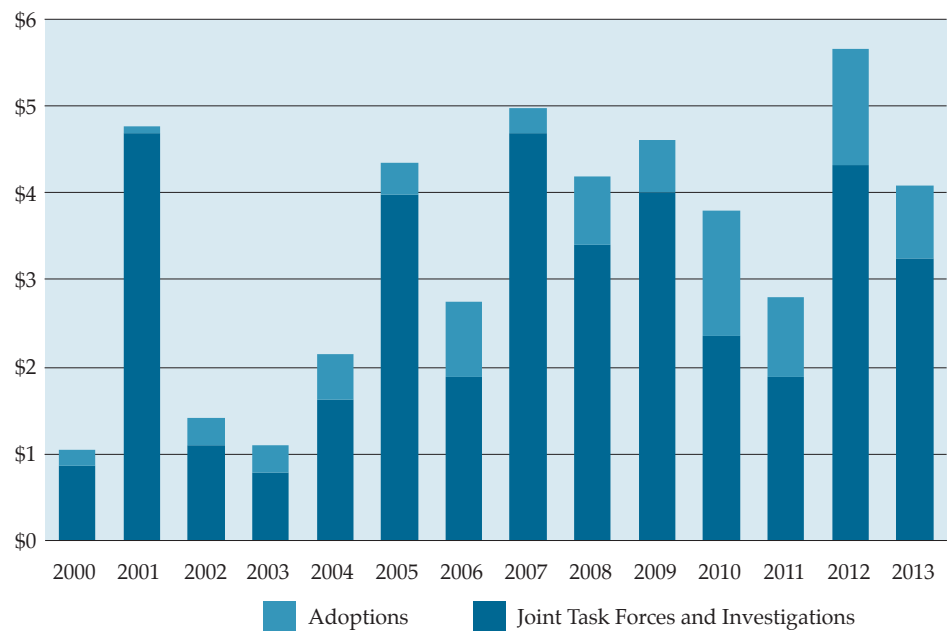
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,044,193	\$17,000
2001	\$4,763,608	\$69,000
2002	\$1,402,713	\$48,000
2003	\$1,104,719	\$111,000
2004	\$2,138,863	\$28,000
2005	\$4,360,068	\$215,000
2006	\$2,743,514	\$83,000
2007	\$4,967,980	\$336,000
2008	\$4,183,364	\$22,000
2009	\$4,613,904	\$496,000
2010	\$3,799,326	\$330,000
2011	\$2,793,638	\$261,000
2012	\$5,660,177	\$643,000
2013	\$4,080,681	\$1,885,000
Total	\$47,656,750	\$4,544,000
Average per year	\$3,404,054	\$324,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Connecticut earns a C for its civil forfeiture laws:

- Higher bar to forfeit property, but no conviction required
- Stronger protections for innocent third-party property owners
- 69.5% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

The Constitution State’s forfeiture laws earn a C because they provide some degree of property rights protection, though this protection should be stronger. In Connecticut, the standard of proof for forfeiture requires the government to offer clear and convincing evidence that the property is related to criminal activity and therefore forfeitable. The burden is on the government to disprove an innocent owner’s claim of innocence regarding an alleged illegal use of seized property. However, law enforcement agencies are permitted to keep 69.5 percent of the proceeds of civil forfeiture (59.5 percent for police, 10 percent for prosecutors), providing a substantial incentive to seize.

Although Connecticut has no statutory reporting requirement—it only requires that agencies maintain a seized

property inventory—the Institute for Justice was able to obtain reports of forfeitures from the Connecticut Office of the Attorney General. Connecticut is one of only two states—Oregon being the other—to provide reports that distinguish between civil and criminal forfeitures. State forfeiture data show that civil forfeiture cases constituted an astounding 77 percent of all Connecticut forfeiture cases between 2009 and 2013, meaning that less than one-quarter of all forfeitures in the state were achieved using procedures that required the government to prove beyond a reasonable doubt that the property owner had committed a crime.

State Forfeiture Data

Year	Reported Forfeiture Cases and Proceeds					
	Civil		Criminal		Total	
	Proceeds	Cases	Proceeds	Cases	Proceeds	Cases
2009	\$1,325,293	1,040	\$579,116	199	\$1,904,409	1,239
2010	\$1,732,822	1,026	\$299,570	138	\$2,032,392	1,164
2011	\$2,266,271	923	\$505,701	107	\$2,771,972	1,030
2012	\$992,381	604	\$1,272,299	206	\$2,264,680	810
2013	\$724,599	157	\$824,709	462	\$1,549,309	619
Total	\$7,041,366	3,750	\$3,481,395	1,112	\$10,522,761	4,862
Average per year	\$1,408,273	750	\$696,279	222	\$2,104,552	972

Source: Calendar-year reports of forfeitures carried out by state and local law enforcement. These data were obtained from the state Office of the Attorney General through a Connecticut Freedom of Information Act request made by the Institute for Justice. The state provided a value only for forfeitures of cash and property sold, not property retained for official law enforcement use.

Connecticut ranks 22nd for federal forfeiture,

with over **\$24 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

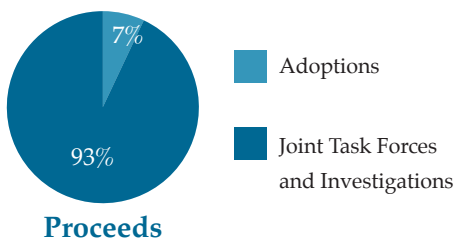
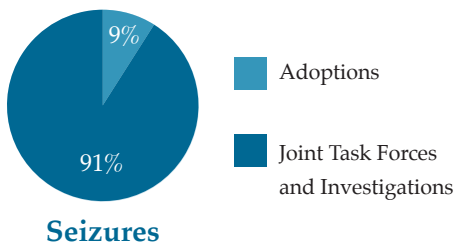
Federal Equitable Sharing

Connecticut law enforcement's use of the Department of Justice's equitable sharing program results in a 22nd place national ranking. Between 2000 and 2013, Connecticut law enforcement received over \$24 million in DOJ equitable sharing proceeds, or an average of \$1.7 million per calendar year. A colossal 93 percent of proceeds resulted from joint task forces and investigations—the type of practice largely unaffected by the DOJ's recent equitable sharing policy change. Connecticut law enforcement also received \$1.8 million from the Treasury Forfeiture Fund during the fiscal years 2000 to 2013.

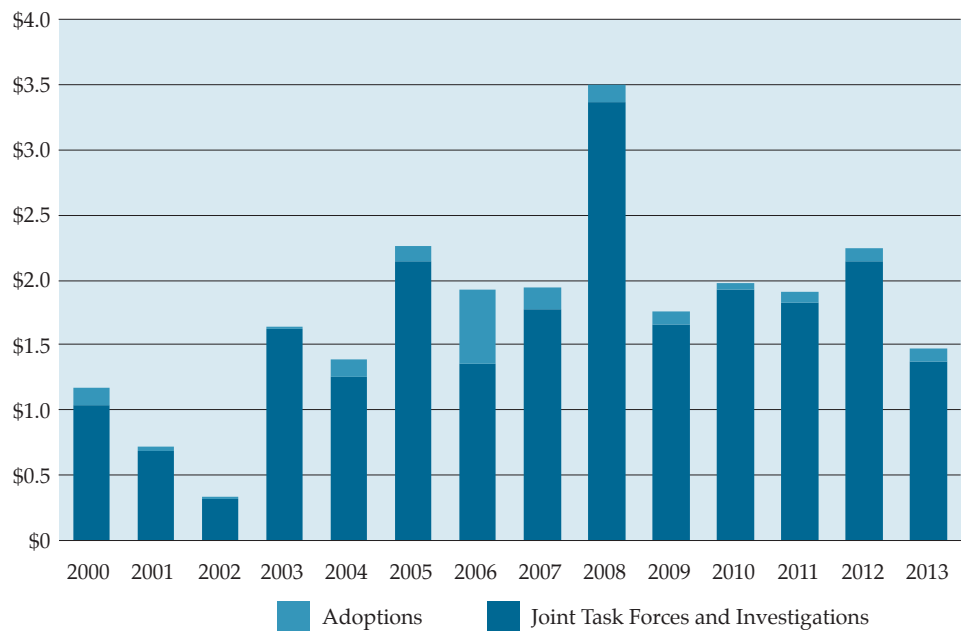
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,170,123	\$94,000
2001	\$727,051	\$292,000
2002	\$323,163	\$85,000
2003	\$1,645,321	\$31,000
2004	\$1,385,505	\$66,000
2005	\$2,265,211	\$9,000
2006	\$1,933,600	\$284,000
2007	\$1,938,407	\$203,000
2008	\$3,490,829	\$471,000
2009	\$1,750,561	\$23,000
2010	\$1,973,711	\$11,000
2011	\$1,910,586	\$29,000
2012	\$2,235,644	\$67,000
2013	\$1,468,788	\$158,000
Total	\$24,218,501	\$1,823,000
Average per year	\$1,729,893	\$130,214

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Delaware earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

The First State has some of the worst civil forfeiture laws in the country. Scoring a D-, Delaware's forfeiture laws automatically assume that seized property is forfeitable—unless an owner can prove by a preponderance of the evidence that it is not. Innocent owners also bear the burden of demonstrating that they had nothing to do with the criminal activity with which their property is alleged to be associated. In addition, Delaware law enforcement has an enormous incentive to seize property: Up to 100 percent of revenues deriving from forfeiture go into the Special Law Enforcement

Assistance Fund. From there, they are distributed to the agencies that forfeited them.

Making the situation even more dangerous for Delawareans, law enforcement has no statutory obligation to publicly account for its forfeiture activity. The Institute for Justice was unable to acquire the SLEAF accounting records because the fund's special advisory committee—made up of state and local law enforcement officers—is, by statute, not a public entity and therefore not subject to the Delaware Freedom of Information Act.

State Forfeiture Data

No data available. Agencies are not required to track or publicly report.



Delaware is the 6th best state for federal forfeiture, with over \$7 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

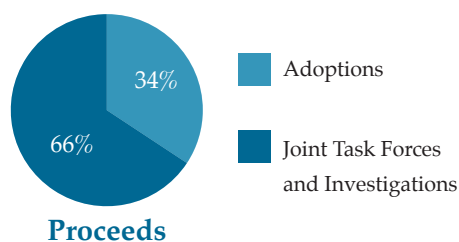
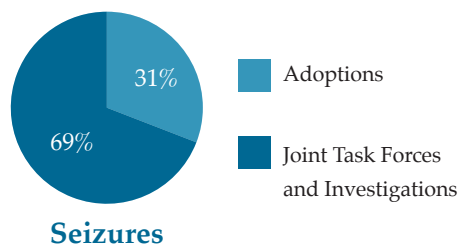
Federal Equitable Sharing

Perhaps because Delaware's laws are already so generous to law enforcement, state and local agencies make fairly limited use of the Department of Justice's equitable sharing program, ranking sixth nationally. Delaware law enforcement collected \$7.8 million between 2000 and 2013 through the DOJ program. More than two-thirds of assets seized and forfeiture proceeds received derived from joint task forces and investigations with the federal government. This type of equitable sharing was largely left intact when the DOJ announced policy changes in early 2015. Between fiscal years 2000 to 2013, Delaware law enforcement also garnered about \$1.3 million—nearly \$90,000 a year—from the Treasury Department's equitable sharing program.

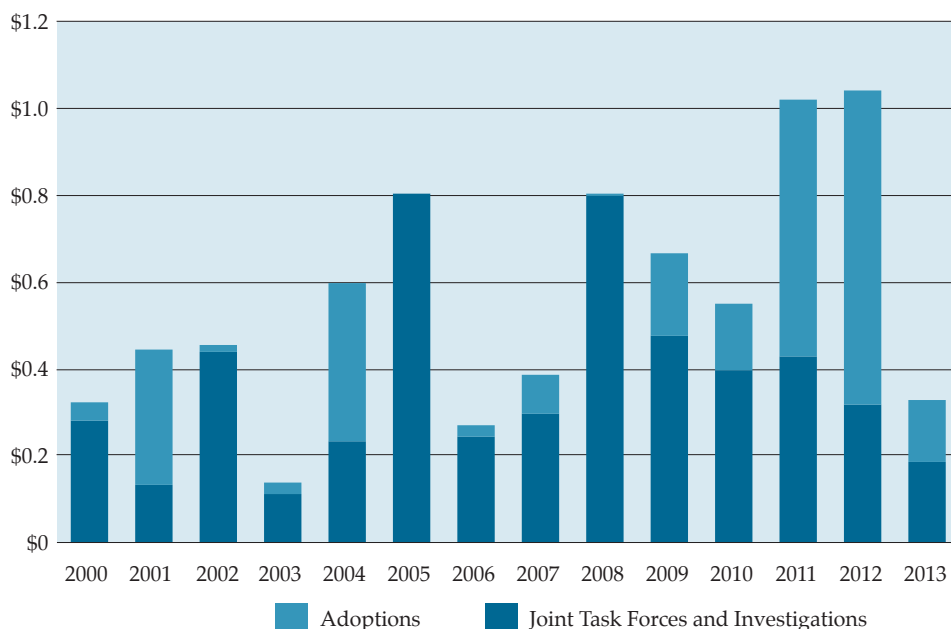
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$321,646	\$61,000
2001	\$444,573	\$9,000
2002	\$455,912	\$0
2003	\$136,668	\$0
2004	\$599,011	\$0
2005	\$806,227	\$11,000
2006	\$268,857	\$4,000
2007	\$389,585	\$55,000
2008	\$804,649	\$70,000
2009	\$664,530	\$62,000
2010	\$552,965	\$218,000
2011	\$1,021,882	\$315,000
2012	\$1,043,154	\$84,000
2013	\$330,615	\$365,000
Total	\$7,840,273	\$1,254,000
Average per year	\$560,020	\$89,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

The District of Columbia earns a **B+** for its civil forfeiture laws:

- Higher bar to forfeit some property, but low bar for other property; no conviction required
- Stronger protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

District Civil Forfeiture Laws

Following reforms adopted in 2015, the District of Columbia’s civil forfeiture laws are now some of the best in the nation, earning a B+. In the District, the general standard-of-proof rule is still too low: The government need only show by a preponderance of the evidence that property is forfeitable. But in order to forfeit vehicles, real property or cash amounts less than \$1,000, the government must meet a higher standard, presenting clear and convincing evidence that the property is associated with a crime. And if a property owner faces the forfeiture of her primary residence, at least one owner must be convicted of the offense giving rise to the seizure. The government also bears the burden of proof when an innocent owner makes a claim to regain seized property. Best of all, D.C.’s forfeiture laws no longer provide law enforcement with a financial incentive to for-

feit property, as all proceeds must now be deposited into the District’s general fund.

In addition, the District’s reforms entitle property owners to contest seizures in court shortly after they happen, giving them an opportunity to get their car, money or other property back while awaiting a forfeiture trial rather than letting the government hold on to the property. The reform legislation will also substantially improve forfeiture reporting. The data obtained by the Institute for Justice reflect only administrative civil forfeitures reported by the Metropolitan Police Department rather than all types of forfeitures conducted in Washington, D.C. Beginning in 2016, the MPD and the Office of the Attorney General will be required to report their forfeiture activity to the City Council and publish that information on their websites.

District Forfeiture Data

Year	Metropolitan Police Department Forfeiture Cases and Proceeds							
	Currency		Vehicles		Other		Total	
	Proceeds	Cases	Proceeds	Cases	Proceeds	Cases	Proceeds	Cases
2010	\$1,072,593	4,121	\$821,685	108	\$0	0	\$1,894,278	4,229
2011	\$695,864	2,665	\$576,025	83	\$0	0	\$1,271,889	2,748
2012	\$524,729	1,789	\$1,123,870	148	\$0	5	\$1,648,599	1,942
Total	\$2,293,187	8,575	\$2,521,580	339	\$0	5	\$4,814,767	8,919
Average per year	\$764,396	2,858	\$840,527	113	\$0	2	\$1,604,922	2,973

Source: Reports of administrative civil forfeitures submitted by the Asset Forfeiture Unit to the Evidence Control Branch of the Metropolitan Police Department, obtained by the Institute for Justice through the District of Columbia Freedom of Information Act.

The District of Columbia ranks **4th best** for federal forfeiture, with over **\$8 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

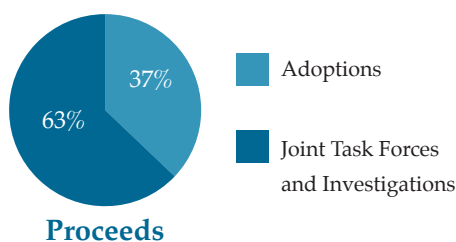
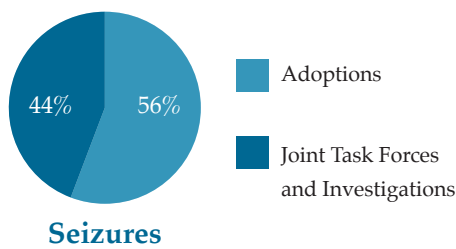
Federal Equitable Sharing

The District ranks fourth on equitable sharing, and the 2015 reforms will end D.C.'s participation in federal equitable sharing programs altogether, effective October 2018. Adoptions will be banned and proceeds from joint task force and investigation forfeitures will be directed to the city's general fund, effectively making D.C. ineligible for equitable sharing funds. From 2000 to 2013, D.C. law enforcement took in, on average, over \$592,000 each calendar year from the Department of Justice and approximately \$134,000 each fiscal year from the Treasury Department.

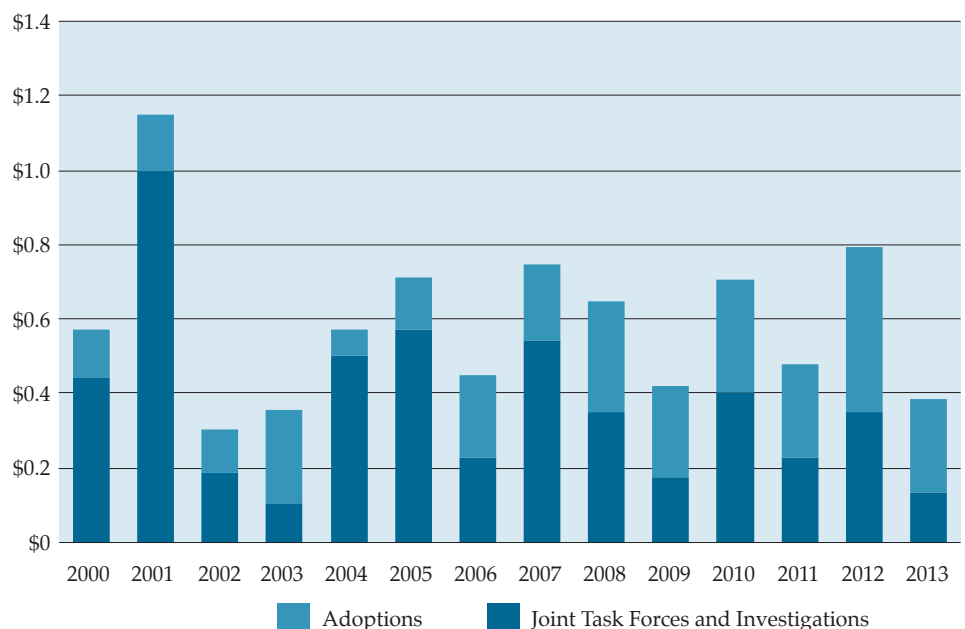
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$573,345	\$228,000
2001	\$1,147,239	\$27,000
2002	\$303,387	\$70,000
2003	\$356,190	\$152,000
2004	\$573,195	\$204,000
2005	\$714,395	\$124,000
2006	\$449,535	\$321,000
2007	\$746,401	\$187,000
2008	\$650,181	\$171,000
2009	\$418,892	\$206,000
2010	\$707,939	\$28,000
2011	\$476,539	\$63,000
2012	\$792,296	\$83,000
2013	\$384,344	\$11,000
Total	\$8,293,878	\$1,875,000
Average per year	\$592,420	\$133,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Florida earns a **D+** for its civil forfeiture laws:

- Higher bar to forfeit property, but no conviction required
- Stronger protections for innocent third-party property owners
- As much as 85% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Meriting a D+, Florida’s civil forfeiture laws are subpar and need reform, but state and local law enforcement’s use of equitable sharing is even worse—it ranks 48th in the country. The standard of proof for forfeiture in Florida is clear and convincing evidence that the property is connected with criminal activity—a higher standard than that of most states but still lower than the standard of beyond a reasonable doubt required for criminal convictions. In addition, the government bears the burden of disproving any innocent owner claim. But these protections are somewhat overshadowed by a strong incentive to seize: Florida law enforcement agencies get to keep up to 85 percent of forfeited funds.

Making matters worse, Florida law enforcement agencies are not required to report forfeitures. The Institute for Justice obtained some records of forfeiture proceeds through a Florida Public Records Act request. However, these data only reflect forfeitures conducted by the state policing agency; forfeitures occurring at the local or county level are unreported and unknown. The data, which may double count income from participation in the federal equitable sharing program, show that state law enforcement forfeited more than \$117 million in currency, real property and vehicles between 2009 and 2014, or about \$19.5 million a year.

State Forfeiture Data

Year	Florida Department of Law Enforcement Forfeiture Proceeds			
	Currency	Real Property	Vehicles	Total
2009	\$33,558	\$0	\$0	\$33,558
2010	\$110,132,229	\$189,500	\$35,000	\$110,356,729
2011	\$111,744	\$0	\$84,000	\$195,744
2012	\$1,482,335	\$0	\$2,800	\$1,485,135
2013	\$1,369,559	\$0	\$66,100	\$1,435,659
2014	\$3,554,535	\$0	\$9,066	\$3,563,600
Total	\$116,683,960	\$189,500	\$196,966	\$117,070,425
Average per year	\$19,447,327	\$31,583	\$32,828	\$19,511,738

Source: Reports of forfeitures conducted by the Florida Department of Law Enforcement. Other state and local law enforcement agencies are not required to report. It is possible that FDLE proceeds also include income from participation in equitable sharing programs—the data provided were unclear.



Florida ranks 48th for federal forfeiture,

with over **\$412 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

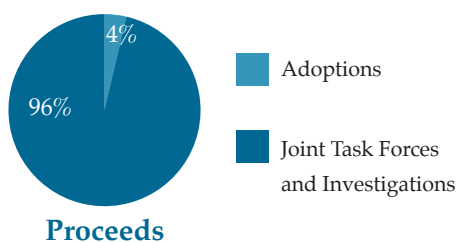
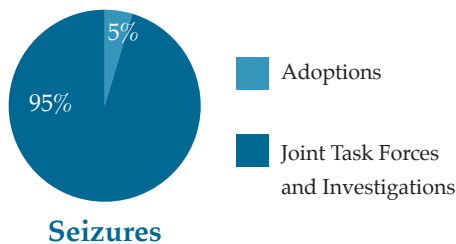
Federal Equitable Sharing

Ranking 48th nationally, Florida law enforcement agencies also generate substantial revenue through the Department of Justice's equitable sharing program. Between 2000 and 2013, Florida agencies received a staggering \$412 million in DOJ equitable sharing proceeds, averaging more than \$29 million each calendar year. Almost all of these proceeds resulted from joint task forces and investigations. Given the small share of revenue—just 4 percent—accruing to agencies from adoptions, it seems unlikely that Florida law enforcement's equitable sharing behavior will change significantly in light of the DOJ's recent policy change curbing adoptions. Finally, Florida agencies also brought in more than \$100 million between fiscal years 2000 and 2013, or nearly \$7.2 million annually, from the Treasury Department.

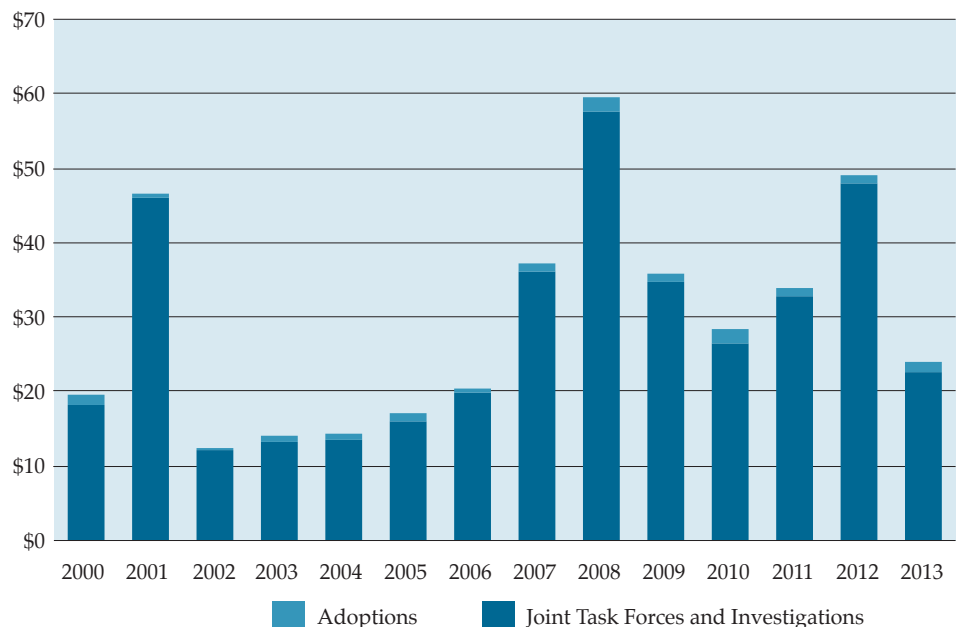
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$19,707,238	\$9,027,000
2001	\$46,666,632	\$8,765,000
2002	\$12,423,163	\$14,350,000
2003	\$14,027,532	\$5,080,000
2004	\$14,371,191	\$4,648,000
2005	\$16,978,255	\$6,054,000
2006	\$20,483,263	\$10,477,000
2007	\$37,249,820	\$5,878,000
2008	\$59,440,310	\$5,289,000
2009	\$35,906,737	\$5,148,000
2010	\$28,328,804	\$11,853,000
2011	\$33,929,000	\$5,114,000
2012	\$49,017,452	\$8,369,000
2013	\$24,092,897	\$365,000
Total	\$412,622,293	\$100,417,000
Average per year	\$29,473,021	\$7,172,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.



Georgia earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Under Georgia law, which earns a grade of D-, the government need only prove by a preponderance of the evidence that seized property is connected to a crime or that there is no other likely source for the property other than criminal activity. Property owners who file an innocent owner claim bear the burden of proving that they neither knew about nor consented to any illegal uses of their property. Worse, joint owners of vehicles are not even permitted to bring innocent owner claims in Georgia. State law provides no way for them to petition for their vehicle or to get a share of it back. And Georgia law provides a strong incentive to seize: Up to 100 percent of forfeiture proceeds go to law enforcement.

Historically, Georgia has had very little oversight of forfeiture activity. Although state law required agencies to report forfeiture proceeds and expenditures, reports provided online by the Carl Vinson Institute for Government at the University of Georgia were unusable. Too few agencies reported, and the reports on file were inconsistent. A 2015 law will require all law enforcement agencies to use standardized forfeiture reports when filing reports with the Vinson Institute. It remains to be seen whether this reform will improve forfeiture transparency in the Peach State.

State Forfeiture Data

No reliable data yet available. Agencies are required to collect, but actual reporting rates have been inconsistent and data provided were unusable. A 2015 reform will require standardized reporting by all agencies starting January 31, 2016.

Georgia ranks 45th for federal forfeiture,

with over **\$243 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

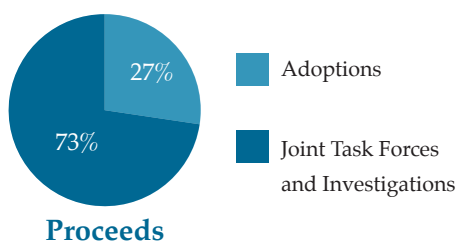
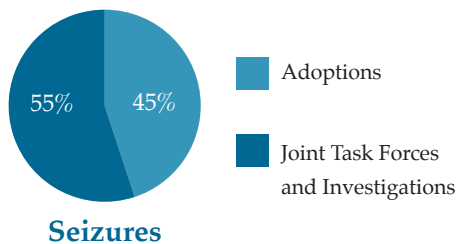
Federal Equitable Sharing

Georgia law enforcement agencies also seek equitable sharing proceeds at an alarming rate: The state ranks 45th for equitable sharing. From 2000 to 2013, Georgia law enforcement received more than \$243 million from the Department of Justice’s program, an average of more than \$17 million each calendar year. Nearly three-quarters of these proceeds came from joint task forces and investigations—the type of equitable sharing forfeitures largely unaffected by the DOJ’s new policy. Georgia agencies also brought in \$44 million in Treasury Department equitable sharing proceeds between fiscal years 2000 and 2013.

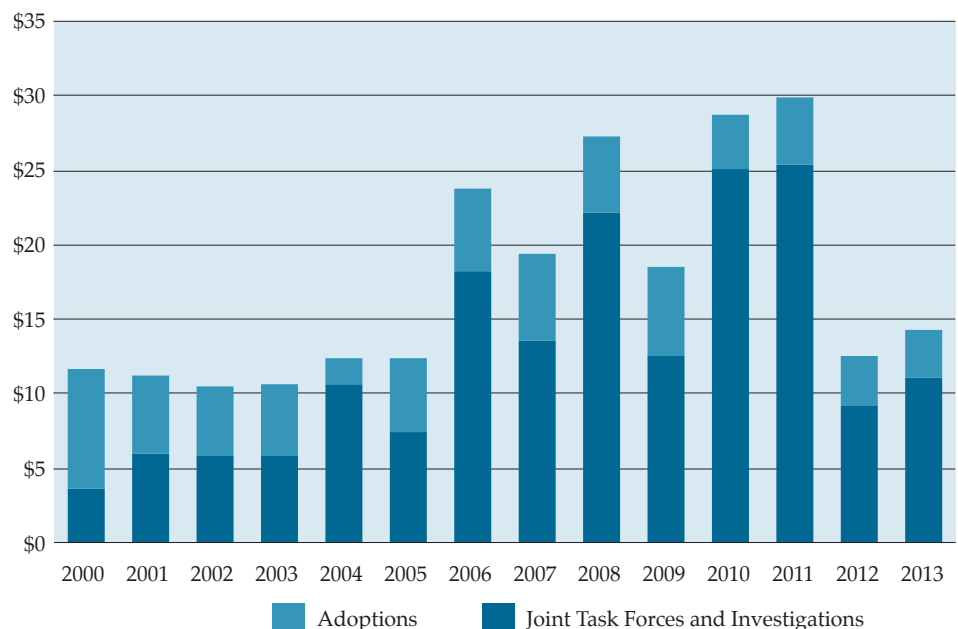
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$11,632,866	\$523,000
2001	\$11,214,476	\$417,000
2002	\$10,451,949	\$3,364,000
2003	\$10,628,074	\$637,000
2004	\$12,396,492	\$141,000
2005	\$12,313,910	\$1,070,000
2006	\$23,806,628	\$1,963,000
2007	\$19,351,132	\$662,000
2008	\$27,316,724	\$2,798,000
2009	\$18,489,542	\$3,984,000
2010	\$28,683,810	\$17,740,000
2011	\$29,909,178	\$2,683,000
2012	\$12,591,597	\$5,279,000
2013	\$14,224,702	\$2,754,000
Total	\$243,011,078	\$44,015,000
Average per year	\$17,357,934	\$3,143,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Hawaii earns a D- for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Hawaii’s civil forfeiture laws are among the nation’s worst, earning a D-. State law has a low standard of proof, requiring only that the government show by a preponderance of the evidence that property is tied to a crime. Furthermore, innocent owners bear the burden of proving that they had nothing to do with the alleged crime giving rise to the forfeiture. Most troubling, law enforcement has a large financial stake in forfeiture, receiving 100 percent of civil forfeiture proceeds: 25 percent goes to police, 25 percent to prosecuting attorneys and 50 percent to the attorney general.

Reporting on forfeiture activity in Hawaii is better than elsewhere but still incomplete. Hawaii’s Office of the Attor-

ney General must submit annual forfeiture reports to the Legislature. The reports, which are also published online, include the seizure and forfeiture activity of police departments, the types of property seized and forfeited, and the attorney general’s expenditures of forfeited funds—but not expenditures by other agencies nor other key details, such as whether forfeitures were civil or criminal or whether related charges were filed. The attorney general reports show that Hawaii’s state forfeiture income remained relatively constant between fiscal years 2000 and 2010 but dropped significantly between fiscal years 2011 and 2013.

State Forfeiture Data

Year	Reported Forfeiture Proceeds			Total
	Currency	Vehicles	Other	
2000	\$555,715	\$343,550	\$224,071	\$1,123,336
2001	\$450,945	\$536,040	\$207,033	\$1,194,018
2002	\$503,762	\$564,173	\$547,110	\$1,615,045
2003	\$561,015	\$194,600	\$194,262	\$949,877
2004	\$737,668	\$457,792	\$461,625	\$1,657,085
2005	\$414,395	\$332,230	\$316,627	\$1,063,252
2006	\$698,035	\$460,855	\$334,709	\$1,493,599
2007	\$636,598	\$468,290	\$300,396	\$1,405,284
2008	\$492,398	\$353,907	\$627,362	\$1,473,667
2009	\$636,598	\$468,290	\$300,396	\$1,405,284
2010	\$622,497	\$441,865	\$733,513	\$1,797,875
2011	\$309,095	\$331,375	\$21,150	\$661,620
2012	\$131,127	\$273,555	\$131,129	\$535,811
2013	\$368,889	\$356,176	\$143,311	\$868,376
Total	\$7,118,737	\$5,582,698	\$4,542,694	\$17,244,129
Average per year	\$508,481	\$398,764	\$324,478	\$1,231,724

Source: Fiscal-year reports of police departments’ forfeiture proceeds, presented in annual reports available on the website of the Hawaii Office of the Attorney General.

Hawaii is the 7th best state for federal forfeiture,

with over **\$20 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

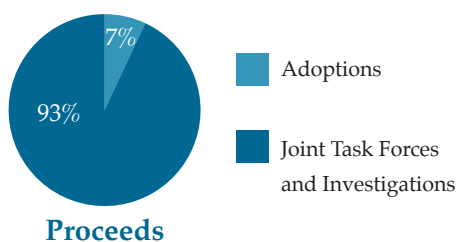
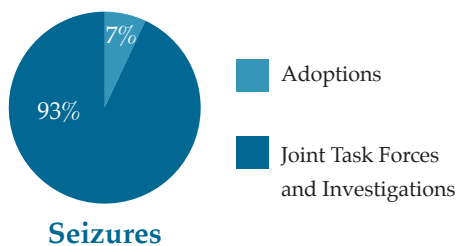
Federal Equitable Sharing

The Aloha State ranked seventh on equitable sharing, indicating that its law enforcement agencies do not participate in the Department of Justice’s program as heavily as do those in most other states. Between 2000 and 2013, Hawaii agencies brought in \$20 million in DOJ equitable sharing proceeds, averaging \$1.4 million each calendar year. Almost all of these proceeds—93 percent—were the result of joint task forces and investigations, equitable sharing activity left mostly untouched by former Attorney General Holder’s 2015 policy change. Finally, Hawaii law enforcement agencies also brought in \$169,000 in annual Treasury Department equitable sharing proceeds, for a total of about \$2.4 million during fiscal years 2000 to 2013.

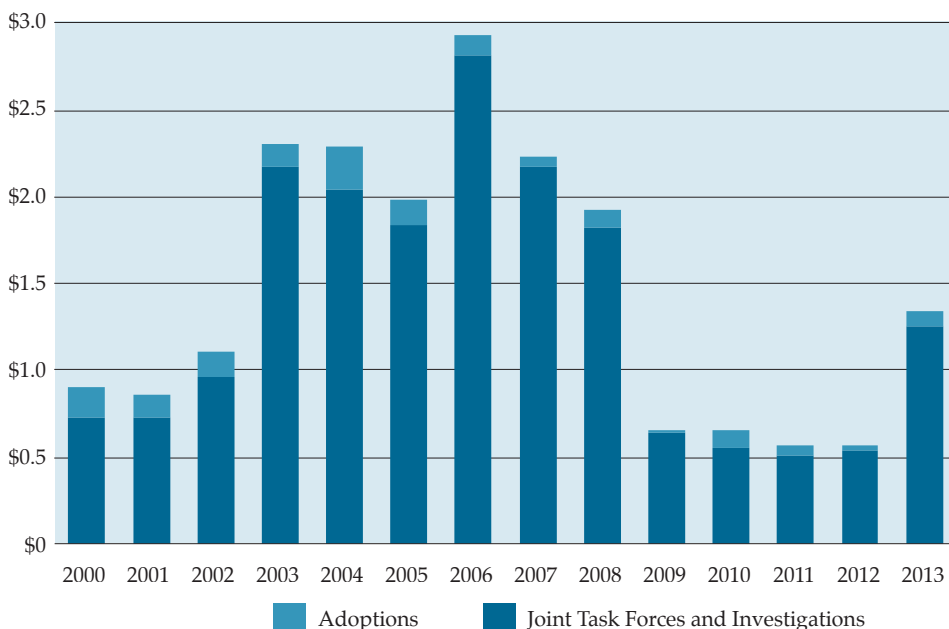
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$897,972	\$0
2001	\$851,441	\$187,000
2002	\$1,104,026	\$75,000
2003	\$2,301,702	\$5,000
2004	\$2,293,845	\$4,000
2005	\$1,976,669	\$188,000
2006	\$2,925,536	\$496,000
2007	\$2,230,865	\$184,000
2008	\$1,919,738	\$67,000
2009	\$640,898	\$22,000
2010	\$648,346	\$798,000
2011	\$565,622	\$237,000
2012	\$564,161	\$12,000
2013	\$1,337,168	\$92,000
Total	\$20,257,989	\$2,367,000
Average per year	\$1,446,999	\$169,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.



Idaho earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Idaho's civil forfeiture laws earn a D- for putting property owners at risk. Law enforcement agents need only tie property to a crime by a preponderance of the evidence—a low bar to forfeit. Under Idaho law, innocent owners wishing to retrieve seized property bear the burden of proving their innocence of any crimes to which their property has been linked. Idaho law enforcement agencies also enjoy a strong incentive to forfeit property because they are able to retain up to 100 percent of the proceeds.

Because the Gem State has no statutory reporting requirements, law enforcement's forfeiture activity is far from transparent. The limited data the Institute for Justice was able to track down from state police suggest that Idaho's law enforcement agencies probably only modestly pursue civil forfeitures, but there are no records providing a comprehensive picture of forfeiture activity in the state.

State Forfeiture Data

No data available. Agencies are not required to track or report their forfeitures.

Idaho is the 8th best state for federal forfeiture,

with over **\$5 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

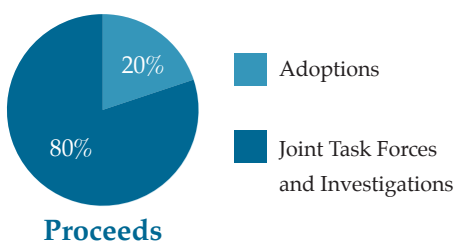
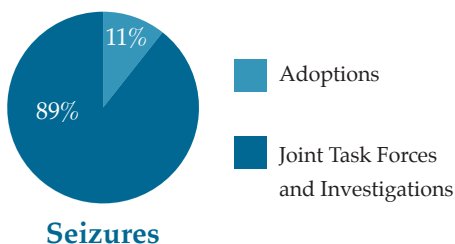
Federal Equitable Sharing

Idaho law enforcement performs better than most in terms of its equitable sharing behavior, ranking eighth nationally. Idaho's law enforcement agencies brought in over \$5 million in Department of Justice equitable sharing proceeds between 2000 and 2013, averaging nearly \$384,000 per calendar year. The majority—80 percent—of Idaho agencies' equitable sharing income comes from joint task forces and investigations, the procedures largely unaffected by the DOJ's 2015 policy change. Indeed, just 26 assets, or 11 percent of DOJ equitable sharing seizures, were adopted between 2000 and 2013—an average of fewer than two assets per calendar year. The DOJ reform mainly targets adoptions, not joint task forces and investigations. Idaho law enforcement also brought in \$2.5 million in Treasury Department funds between fiscal years 2000 and 2013, averaging almost \$180,000 annually.

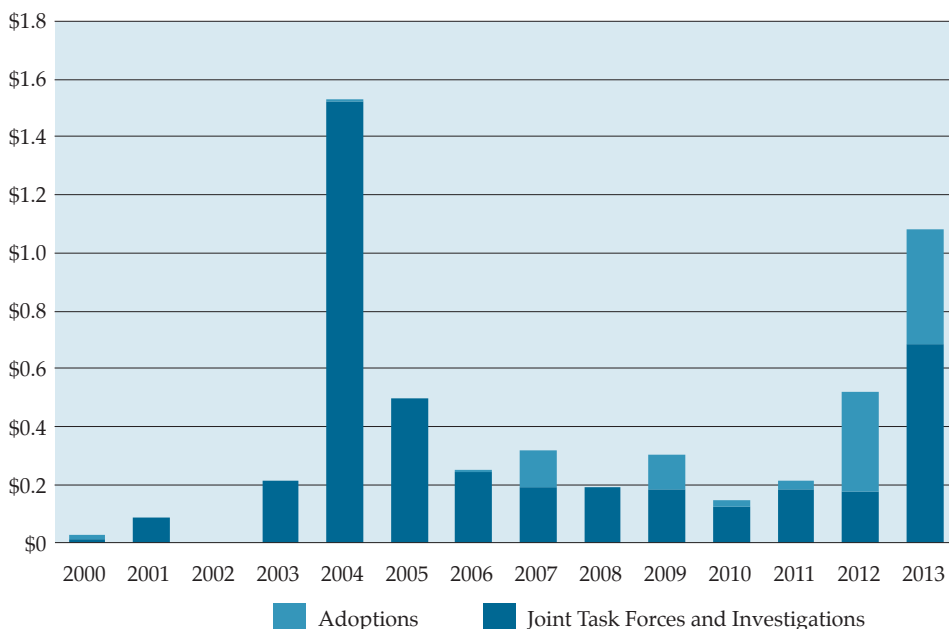
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$23,965	\$0
2001	\$86,499	\$25,000
2002	\$0	\$2,000
2003	\$210,174	\$1,000
2004	\$1,526,064	\$0
2005	\$497,411	\$746,000
2006	\$249,734	\$31,000
2007	\$321,353	\$132,000
2008	\$190,800	\$28,000
2009	\$302,182	\$440,000
2010	\$144,973	\$170,000
2011	\$216,946	\$563,000
2012	\$524,071	\$152,000
2013	\$1,080,693	\$229,000
Total	\$5,374,865	\$2,519,000
Average per year	\$383,919	\$179,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Illinois earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 90% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Illinois' civil forfeiture laws offer property owners very little protection, earning a D-. In general, the standard of proof required to forfeit property in Illinois is preponderance of the evidence, and Illinois has been graded on that basis. However, the Prairie State also has terrible forfeiture procedures unlike those of any other state. Unless the property seized is real property—a house or a piece of land, for example—worth more than \$150,000, property owners must pay a bond worth \$100 or 10 percent of the value of the property, whichever is greater, just for the opportunity to challenge a seizure in court. If they lose their case, owners must give up their entire bond and pay the full cost of the forfeiture proceedings; but even if they win, they must relinquish 10 percent of the bond. To make matters worse, innocent owners bear the burden of

proving that they were in no way involved with the criminal activity associated with their property, and law enforcement retains 90 percent of all forfeiture revenue—a strong incentive to seize.

Seizing agencies in Illinois are required to report only very basic information about each incident to the state's attorney: An inventory of the seized property and an estimate of the property's value. Although this requirement creates some internal accountability for law enforcement, the data are not aggregated or made publicly available, meaning taxpayers must file a request under the Illinois Freedom of Information Act for any information about forfeiture activity. Data obtained for this report indicate that law enforcement agencies forfeited more than \$113 million between 2009 and 2013.

State Forfeiture Data

Year	Reported Forfeiture Proceeds				
	Currency	Vehicles	Real Property	Other	Total
2009	\$17,396,274	\$1,362,085	\$1,279,090	\$123,557	\$20,161,006
2010	\$18,278,337	\$1,235,066	\$14,705	\$376,005	\$19,904,113
2011	\$23,494,749	\$2,232,821	\$413,063	\$203,633	\$26,344,266
2012	\$17,652,206	\$1,442,077	\$328,501	\$128,734	\$19,551,517
2013	\$24,052,013	\$2,048,724	\$494,161	\$500,553	\$27,095,451
Total	\$100,873,578	\$8,320,773	\$2,529,520	\$1,332,482	\$113,056,353
Average per year	\$20,174,716	\$1,664,155	\$505,904	\$266,496	\$22,611,271

Year	Reported Number of Forfeited Assets				
	Currency	Vehicles	Real Property	Other	Total
2009	8,753	1,013	3	584	10,353
2010	7,603	1,018	1	907	9,529
2011	8,469	1,270	14	974	10,727
2012	5,390	851	4	519	6,764
2013	6,085	1,209	8	925	8,227
Total	36,300	5,361	30	3,909	45,600
Average per year	7,260	1,072	6	782	9,120

Source: A file from an internal database maintained by the Illinois State Police of forfeitures conducted by all Illinois law enforcement agencies. These data were provided by the Illinois State Police in response to an Illinois Freedom of Information Act request filed by the Institute for Justice.

Illinois ranks 40th for federal forfeiture,

with over **\$186 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

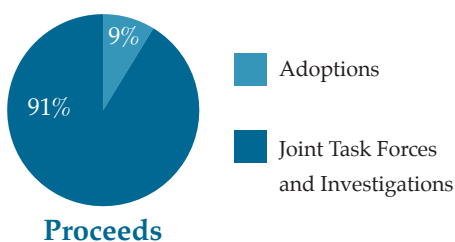
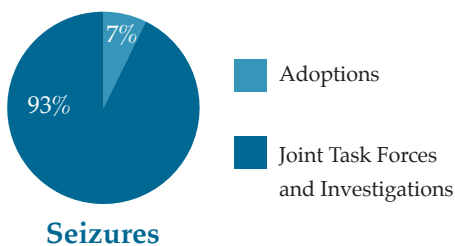
Federal Equitable Sharing

Illinois ranks 40th on equitable sharing, with law enforcement agencies bringing in \$186.8 million in Department of Justice equitable sharing proceeds between the 2000 and 2013 calendar years. The vast majority of equitable sharing proceeds—91 percent—were from joint task forces and investigations. This vehicle for equitable sharing was left largely intact by policy changes announced in 2015 intended to curb the practice. Illinois law enforcement agencies also netted \$36.7 million in Treasury Department forfeiture funds during fiscal years 2000 to 2013.

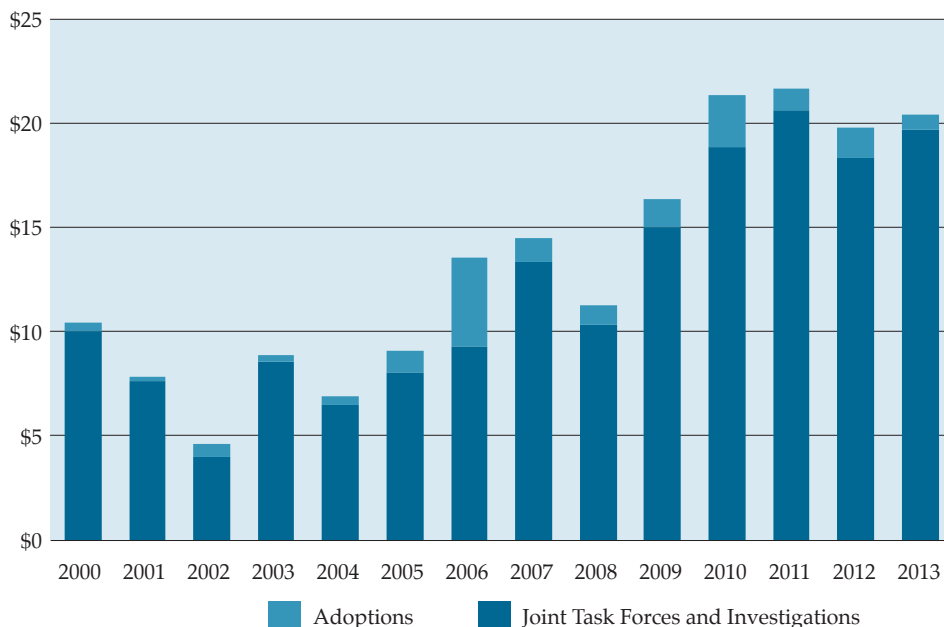
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$10,459,357	\$259,000
2001	\$7,871,659	\$3,513,000
2002	\$4,593,596	\$1,322,000
2003	\$8,919,475	\$1,511,000
2004	\$6,883,366	\$2,620,000
2005	\$9,075,774	\$999,000
2006	\$13,611,463	\$2,408,000
2007	\$14,486,447	\$873,000
2008	\$11,252,419	\$3,622,000
2009	\$16,416,401	\$5,112,000
2010	\$21,339,048	\$7,249,000
2011	\$21,694,200	\$2,406,000
2012	\$19,806,175	\$3,245,000
2013	\$20,393,352	\$1,537,000
Total	\$186,802,730	\$36,676,000
Average per year	\$13,343,052	\$2,619,714

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Indiana earns a **B+** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Limited protections for innocent third-party property owners
- By law, no forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

On paper, Indiana has some of the country's better civil forfeiture laws, earning a B+, primarily because of a strong prohibition on the use of forfeiture funds by law enforcement; instead, the Indiana Constitution directs forfeiture proceeds to the state school fund. However, it appears that this prohibition is often undermined in practice. By statute, law enforcement agencies can deduct the "law enforcement costs" of a forfeiture case before depositing the remaining proceeds in the school fund. Exploiting this provision, several large agencies have reportedly begun classifying most—or even all—forfeiture proceeds as deductible law enforcement costs. Other features of Indiana's civil forfeiture laws fail to protect property owners and need reform: Law enforcement need only connect property to a crime by a preponderance of the evidence in order to forfeit it, and, to win an innocent owner claim, owners bear the burden of proving their inno-

cence for nearly all types of property. The only exceptions are vehicles and recording equipment allegedly used in the commission of a sex crime; in these cases, the government bears the burden. Although Indiana receives a high grade for its laws, property owners are likely at risk due to poor procedural protections and a strong incentive to seize, as law enforcement agencies are often able to stretch state law and violate the state Constitution with impunity.

In 2015, the Hoosier State adopted a new law that requires judicial districts to report their forfeiture activity to the Indiana Prosecuting Attorneys Council, which is required to produce an aggregate report. The IPAC's aggregate reports should provide more information about forfeiture activity, although they may require an Indiana Access to Public Records Act request to obtain and the level of detail that will be included is not yet known.

State Forfeiture Data

No data available. Law enforcement agencies were not required to track or report their forfeitures prior to 2015. The Indiana Prosecuting Attorneys Council will be required to provide aggregate reports starting July 15, 2016.

Indiana ranks 39th for federal forfeiture,

with over **\$55 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

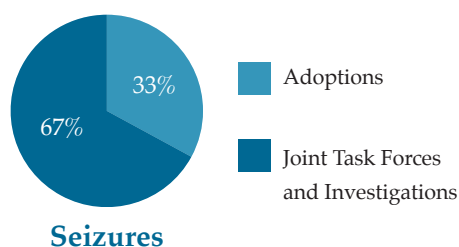
Federal Equitable Sharing

Indiana is ranked 39th in the country on equitable sharing. During the 2000 to 2013 calendar years, Indiana law enforcement received more than \$55 million in Department of Justice equitable sharing proceeds. Most of these proceeds—79 percent—were the result of joint task forces and investigations, procedures largely unaffected by the DOJ’s new policy intended to curb equitable sharing. Further, Indiana agencies collected close to \$6.9 million in equitable sharing proceeds from the Treasury Department between the 2000 and 2013 fiscal years.

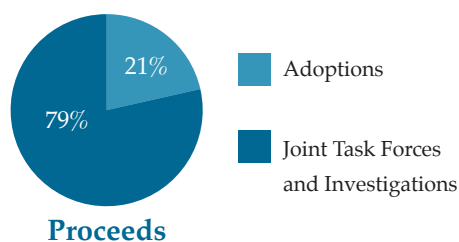
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$2,515,075	\$14,000
2001	\$2,466,493	\$210,000
2002	\$3,777,263	\$235,000
2003	\$2,474,070	\$265,000
2004	\$1,778,229	\$283,000
2005	\$3,206,333	\$870,000
2006	\$2,508,652	\$373,000
2007	\$3,132,961	\$291,000
2008	\$6,218,137	\$579,000
2009	\$3,621,188	\$1,240,000
2010	\$3,471,980	\$705,000
2011	\$7,085,337	\$334,000
2012	\$8,481,825	\$1,327,000
2013	\$4,662,651	\$135,000
Total	\$55,400,194	\$6,861,000
Average per year	\$3,957,157	\$490,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013

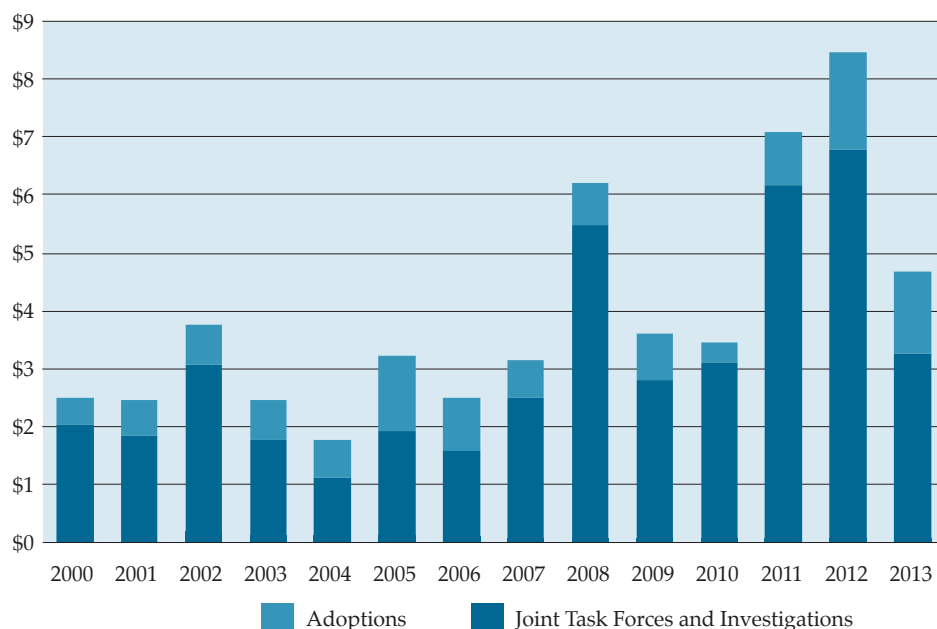


Seizures



Proceeds

DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Iowa earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Iowa has terrible civil forfeiture laws, earning a D-. State law only requires that the government demonstrate a property's guilt by a preponderance of the evidence to forfeit it. When individuals bring innocent owner claims, they bear the burden of proving they had no knowledge of, or involvement in, the alleged illegal use of their property. Aggravating the situation, Iowa law enforcement agencies retain 100 percent of all proceeds from forfeited property and thus enjoy a strong incentive to seize property whenever possible.

Not only does Iowa have some of the worst civil forfeiture laws in the country, but state and local law enforcement agencies face virtually no public accountability for their for-

feiture actions. State law contains no provision for maintaining records of assets forfeited or for making reports of forfeitures to a centralized agency. However, state law does require that 10 percent of all forfeiture proceeds be directed to the Iowa County Attorneys Association. The Institute for Justice filed an Iowa Open Records Law request and was able to use records of proceeds received by the ICAA to estimate the value of forfeited assets. The records indicate that Iowa law enforcement agencies forfeited an average of more than \$3 million per calendar year between 2009 and 2013, or almost \$16 million in total.

State Forfeiture Data

Year	Estimated Forfeiture Proceeds			Number of Forfeited Vehicles
	Currency	Real Property	Total	
2009	\$2,262,420	\$28,000	\$2,290,420	194
2010	\$1,929,236	\$16,500	\$1,945,736	132
2011	\$5,640,969	\$2,000	\$5,642,969	169
2012	\$2,864,915	\$40,000	\$2,904,915	173
2013	\$3,035,221	\$8,100	\$3,043,321	140
Total	\$15,732,761	\$94,600	\$15,827,361	808
Average per year	\$3,146,552	\$18,920	\$3,165,472	162

Source: Accounting of forfeiture proceeds received by the Iowa County Attorneys Association and obtained by the Institute for Justice through an Iowa Open Records Law request. Pursuant to Iowa Code § 809A.17.5.e, the ICAA receives 10 percent of all forfeiture proceeds. The Institute for Justice obtained figures for forfeiture proceeds received by the ICAA and multiplied those numbers by 10 to arrive at a 100 percent picture of Iowa forfeitures. These data are presented in calendar years.

Iowa ranks 27th for federal forfeiture,

with over **\$36 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

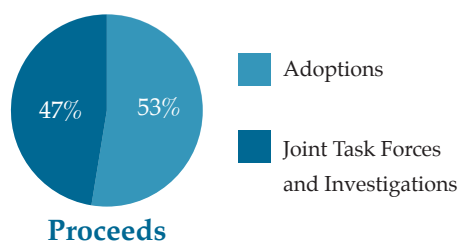
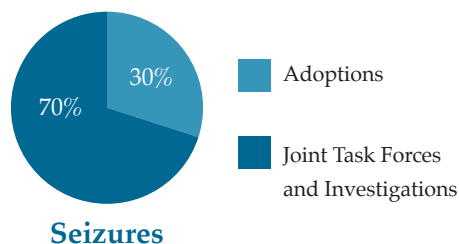
Federal Equitable Sharing

The Hawkeye State ranks 27th for equitable sharing. Between 2000 and 2013, law enforcement received over \$36 million in Department of Justice equitable sharing proceeds, or roughly \$2.6 million per calendar year. Nearly half of these proceeds came from joint task forces and investigations, the type of procedures allowed to continue with few limits by the DOJ's policy change aimed at reining in equitable sharing. Iowa agencies also brought in \$2.5 million in forfeiture proceeds from the Treasury Department between the 2000 and 2013 fiscal years.

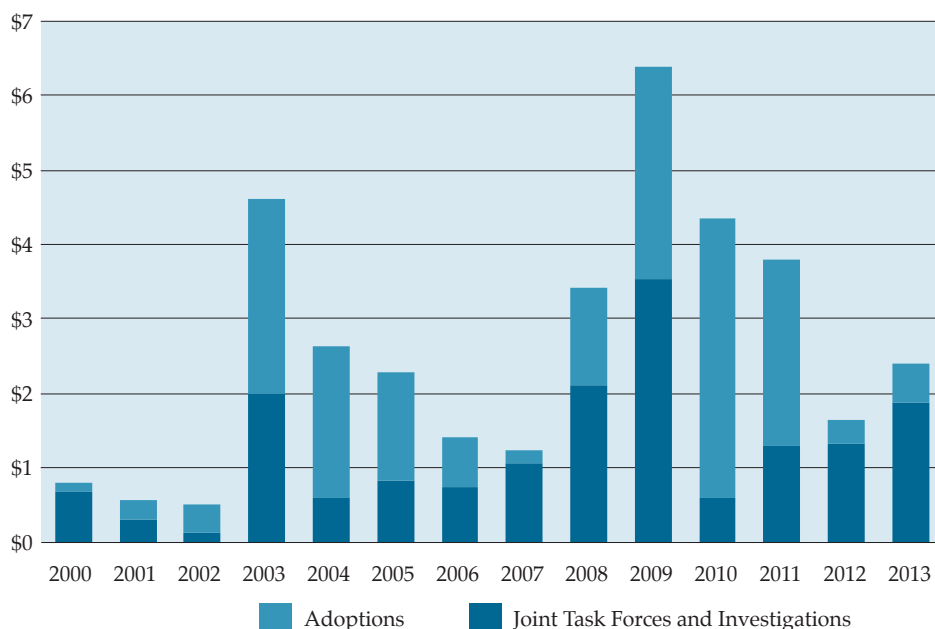
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$793,520	\$2,000
2001	\$575,284	\$2,000
2002	\$500,572	\$4,000
2003	\$4,623,620	\$161,000
2004	\$2,643,657	\$5,000
2005	\$2,287,631	\$91,000
2006	\$1,400,976	\$111,000
2007	\$1,246,584	\$0
2008	\$3,417,109	\$20,000
2009	\$6,382,194	\$4,000
2010	\$4,341,782	\$118,000
2011	\$3,790,540	\$232,000
2012	\$1,650,927	\$1,220,000
2013	\$2,415,217	\$543,000
Total	\$36,069,612	\$2,513,000
Average per year	\$2,576,401	\$179,500

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Kansas earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Kansas has some of the worst civil forfeiture laws in the country, earning a D-. State law requires only a preponderance of the evidence in order to establish a connection between property and a crime, thus making the property forfeitable. Individuals bringing an innocent owner claim bear the burden of proving that they were not involved in any criminal activity to have their seized property returned. Furthermore, Kansas law enforcement agencies keep 100 percent of forfeiture proceeds. Although the Kansas attorney general has ruled that forfeiture funds may only be used for special law enforcement projects and not to meet normal operating expenses, this still provides considerable incentive to seize.

Each Kansas law enforcement agency must deposit its forfeiture proceeds into a special law enforcement trust fund

maintained by its budgetary authority—such as a city council or the state Legislature—and make annual reports to that authority. Unfortunately, state law does not require that these reports be standardized or filed with a central entity, meaning that obtaining an accurate picture of all forfeiture activity in the Sunflower State would require submitting a Kansas Open Records Act request to every law enforcement agency or budgetary authority in the state and then compiling those records. This process does not hold law enforcement agencies accountable, nor does it provide the public with any understanding of forfeiture activity in the state.

State Forfeiture Data

No data readily available. While law enforcement agencies are required to make reports to their budgetary authorities, there is no requirement that those reports be centralized or made easily accessible to the public.

Kansas ranks 38th for federal forfeiture,

with nearly **\$52 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

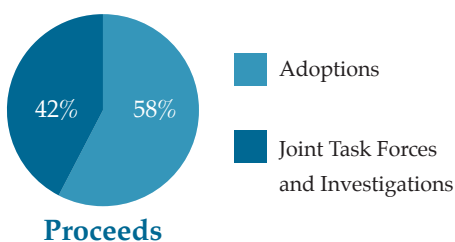
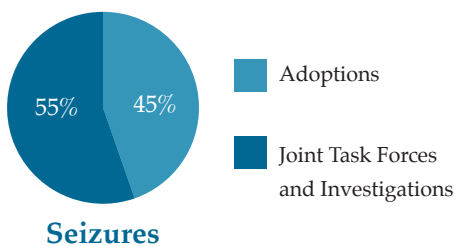
Federal Equitable Sharing

Having received nearly \$52 million in Department of Justice equitable sharing proceeds between calendar years 2000 and 2013, Kansas law enforcement agencies earn their state a ranking of 38th. Fifty-eight percent of DOJ equitable sharing proceeds came from adoptions—the forfeiture procedure curtailed by former Attorney General Holder. The remainder came from joint task forces and investigations, the type of equitable sharing largely unaffected by the 2015 policy change. Kansas agencies also received \$1.4 million from the Treasury Department’s equitable sharing program between fiscal years 2000 and 2013.

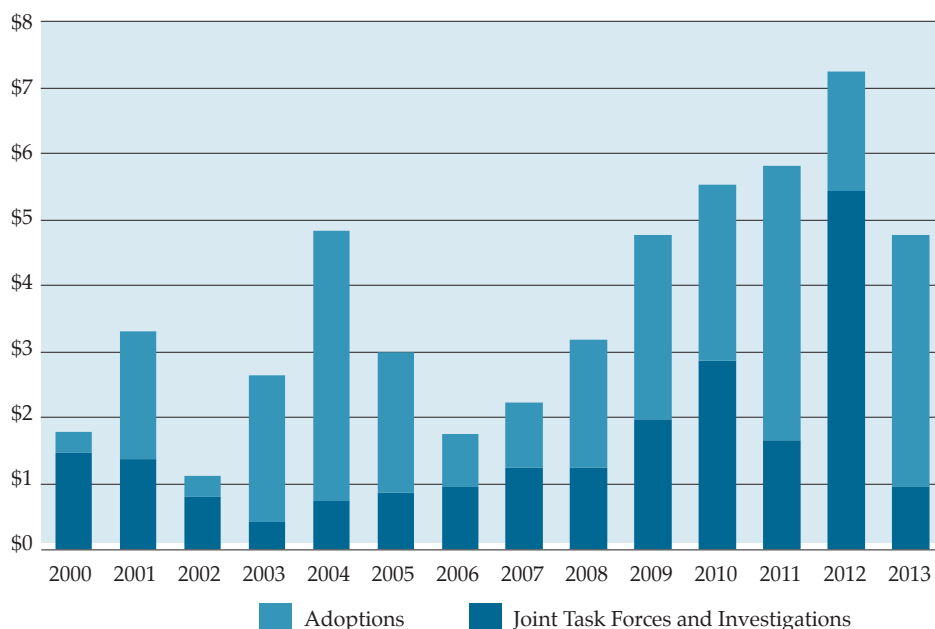
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,784,838	\$49,000
2001	\$3,320,756	\$0
2002	\$1,124,709	\$12,000
2003	\$2,641,185	\$0
2004	\$4,824,653	\$0
2005	\$2,993,941	\$26,000
2006	\$1,756,466	\$9,000
2007	\$2,219,680	\$17,000
2008	\$3,195,155	\$192,000
2009	\$4,764,920	\$21,000
2010	\$5,523,251	\$293,000
2011	\$5,800,667	\$88,000
2012	\$7,254,484	\$357,000
2013	\$4,769,390	\$375,000
Total	\$51,974,095	\$1,439,000
Average per year	\$3,712,435	\$102,786

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Kentucky earns a **D-** for its civil forfeiture laws:

- Higher bar to forfeit real property, but low bar for other property; no conviction required
- Limited protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Kentucky’s civil forfeiture laws are in dire need of reform, earning a D-. While the government must show clear and convincing evidence to forfeit real property, such as a family home or tract of land, it need only demonstrate “slight evidence of traceability” to a crime—a standard akin to probable cause—to forfeit all other types of property. Owners can challenge this finding, but they must provide clear and convincing evidence of the property’s innocence. And innocent owners bear the burden of proving that they were not involved in any criminal activity in order to recoup their property. However, in innocent owner claims involving real property, the onus shifts to the government. Finally, Kentucky law enforcement agencies enjoy virtually

unbridled access to forfeiture funds—they receive 100 percent of the proceeds from forfeiture.

Law enforcement agencies must report to the state a detailed listing of all property seized and forfeited under controlled substances laws. The Office of Drug Control Policy compiles this data at the state level; however, of the more than 400 agencies with the authority to forfeit property, only 14 percent reported forfeitures. The Institute for Justice obtained these data with a Kentucky Open Records Act request. Between fiscal years 2007 and 2014, reporting law enforcement agencies forfeited more than \$15 million worth of cash, cars, weapons and real property, but these figures likely severely undercount the true amount forfeited.

State Forfeiture Data

Year	Reported Forfeiture Proceeds				
	Currency	Vehicles	Weapons	Real Property	Total
2007	\$926,627	\$53,362	\$0	\$0	\$979,989
2008	\$678,796	\$112,520	\$14,270	\$325	\$805,910
2009	\$1,650,632	\$249,154	\$196,445	\$20,372	\$2,116,603
2010	\$1,386,464	\$171,693	\$150,861	\$141,869	\$1,850,887
2011	\$1,690,994	\$193,434	\$129,064	\$26,308	\$2,039,801
2012	\$1,715,091	\$163,823	\$138,618	\$21,385	\$2,038,918
2013	\$1,925,161	\$146,696	\$172,739	\$25,707	\$2,270,303
2014	\$2,725,297	\$268,054	\$184,140	\$39,607	\$3,217,098
Total	\$12,699,062	\$1,358,735	\$986,138	\$275,574	\$15,319,509
Average per year	\$1,587,383	\$169,842	\$123,267	\$34,447	\$1,914,939

Source: Reports of forfeitures from law enforcement agencies compiled by the Office of Drug Control Policy and obtained through a Kentucky Open Records Act request. Of the more than 400 agencies with the authority to forfeit property, only 14 percent reported data. These figures represent the fiscal-year forfeitures for the reporting agencies.



Kentucky ranks **33rd** for federal forfeiture, with over **\$66 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

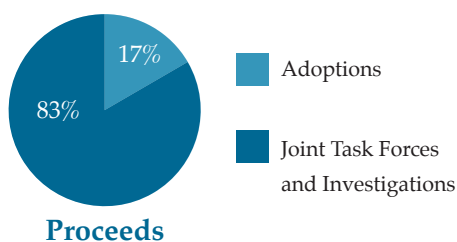
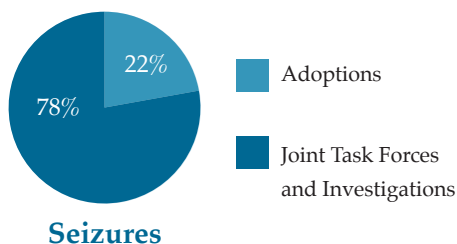
Federal Equitable Sharing

Kentucky law enforcement agencies received over \$66 million in Department of Justice equitable sharing proceeds between the 2000 and 2013 calendar years, earning their state a 33rd-place ranking. The lion's share—83 percent—of these proceeds came from joint task forces and investigations, the equitable sharing procedures largely unaffected by the DOJ's 2015 policy change. Kentucky law enforcement also gained \$6.8 million in equitable sharing proceeds from the Treasury Department.

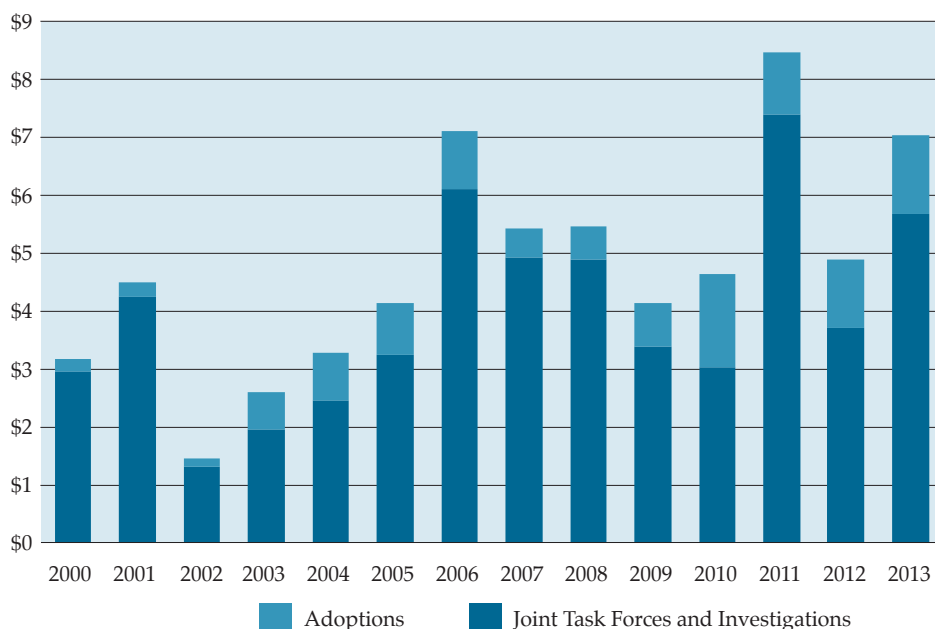
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$3,186,484	\$431,000
2001	\$4,491,608	\$94,000
2002	\$1,438,037	\$355,000
2003	\$2,588,263	\$156,000
2004	\$3,290,088	\$211,000
2005	\$4,148,799	\$1,460,000
2006	\$7,103,210	\$254,000
2007	\$5,432,780	\$311,000
2008	\$5,449,909	\$783,000
2009	\$4,125,411	\$697,000
2010	\$4,641,615	\$460,000
2011	\$8,454,461	\$439,000
2012	\$4,878,114	\$846,000
2013	\$7,021,809	\$308,000
Total	\$66,250,589	\$6,805,000
Average per year	\$4,732,185	\$486,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Louisiana earns a **D+** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 80% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Earning a D+, Louisiana civil forfeiture law fails to protect property owners. The law requires only that the government show by a preponderance of the evidence that property is associated with criminal activity in order to forfeit it. Further, to make an innocent owner claim successfully, individuals must find a way to prove that they did not know about or consent to the criminal activity in which their property was implicated. Law enforcement retains 80 percent of forfeiture revenue—a large incentive to seize. The remaining 20 percent goes to the criminal court fund. This system creates a serious conflict of interest in allowing the court that orders the forfeiture of property to receive a portion of the proceeds.

Louisiana’s forfeiture reporting requirements also leave much to be desired. Every district attorney must file an annual report with the Legislature detailing the amount and value of property seized and distributed after forfeiture, though reports lack key details, such as whether any criminal charges accompanied the forfeiture or how forfeiture funds were spent. These reports also are not compiled into an aggregate report or made available online, forcing interested parties to file a Louisiana Public Records Law request to access the information. Reports indicate that Louisiana district attorneys forfeited more than \$99 million between 2000 and 2014, over 88 percent of which resulted from cash forfeitures.

State Forfeiture Data

Year	Reported Forfeiture Proceeds		
	Currency	Property	Total
2000	\$4,165,829	\$317,718	\$4,483,547
2001	\$2,672,317	\$437,988	\$3,110,305
2002	\$3,137,589	\$1,662,860	\$4,800,448
2003	\$4,009,327	\$626,537	\$4,635,863
2004	\$6,968,061	\$960,531	\$7,928,592
2005	\$4,530,248	\$462,166	\$4,992,414
2006	\$7,363,078	\$879,630	\$8,242,709
2007	\$6,691,976	\$747,161	\$7,439,137
2008	\$5,870,955	\$794,173	\$6,665,129
2009	\$7,895,871	\$1,029,334	\$8,925,206
2010	\$5,539,756	\$848,109	\$6,387,866
2011	\$7,261,609	\$640,626	\$7,902,235
2012	\$7,801,039	\$595,617	\$8,396,656
2013	\$7,352,431	\$1,004,253	\$8,356,684
2014	\$6,496,495	\$552,493	\$7,048,988
Total	\$87,756,581	\$11,559,196	\$99,315,778
Average per year	\$5,850,439	\$770,613	\$6,621,052

Source: Judicial district reports obtained by the Institute for Justice through a Louisiana Public Records Law request to the state Office of the Attorney General. Data are presented in calendar years and only represent cash and property sold, not property retained for official use.



Louisiana ranks 24th for federal forfeiture,

with over **\$36 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

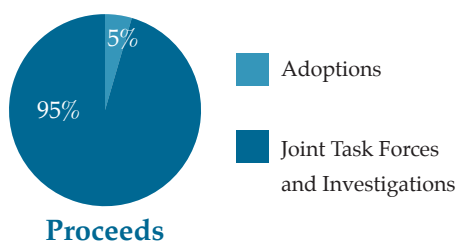
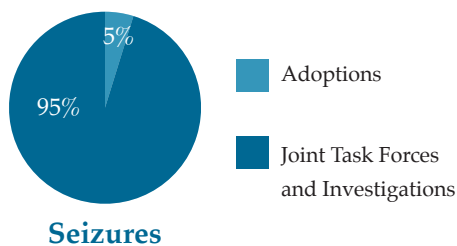
Federal Equitable Sharing

Louisiana law enforcement’s regular participation in the Department of Justice’s equitable sharing program puts the state in 24th place on equitable sharing nationwide. Between 2000 and 2013, Louisiana law enforcement brought in \$2.6 million per calendar year, or more than \$36 million total, in DOJ equitable sharing proceeds. Almost all—95 percent—of these proceeds came from joint task forces and investigations, equitable sharing practices left largely intact under a DOJ policy change intended to rein in the program. Finally, Louisiana law enforcement also received \$11 million in Treasury Department equitable sharing proceeds between 2000 and 2013—an average of just under \$800,000 per fiscal year.

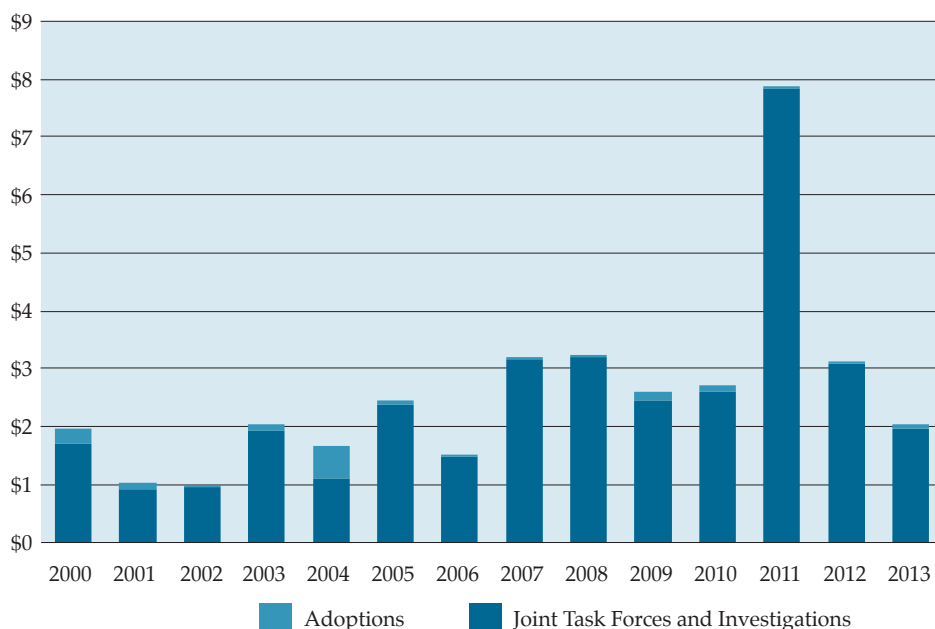
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,976,260	\$1,746,000
2001	\$1,028,422	\$172,000
2002	\$1,007,816	\$4,513,000
2003	\$2,023,684	\$81,000
2004	\$1,665,119	\$0
2005	\$2,470,030	\$188,000
2006	\$1,532,528	\$1,398,000
2007	\$3,191,793	\$160,000
2008	\$3,244,194	\$560,000
2009	\$2,594,124	\$657,000
2010	\$2,696,934	\$545,000
2011	\$7,878,356	\$331,000
2012	\$3,124,013	\$188,000
2013	\$2,028,621	\$522,000
Total	\$36,461,893	\$11,061,000
Average per year	\$2,604,421	\$790,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Maine earns a **B+** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Limited protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Maine's civil forfeiture laws earn a B+. The state's high law grade stems from the lack of an incentive to police for profit: With few exceptions, all forfeiture proceeds go directly into the state general fund. Maine's law grade could be even higher if not for the state's low standard of proof. Law enforcement may forfeit property by showing by a mere preponderance of the evidence that it is tied to a crime. In most cases, Maine law also puts the burden on innocent owners to prove that they had nothing to do with the alleged criminal activity with which their property has been associated. However, in cases involving a family's primary residence, the burden is on the government to prove that a spouse or

child knew about the owner's illegal activity before it may forfeit the home.

Maine law requires law enforcement agencies to maintain an inventory of the property they seize and forfeit. However, reports need not be filed with a centralized agency or published online, making it difficult for the public to hold law enforcement accountable for forfeiture actions. Between calendar years 2009 and 2013, the Maine Drug Enforcement Agency forfeited almost \$1.5 million in cash, as well as additional non-cash assets for which no value is given in the MDEA's inventory.

State Forfeiture Data

Year	Maine Drug Enforcement Agency Currency Forfeitures
2009	\$200,503
2010	\$276,353
2011	\$315,698
2012	\$192,235
2013	\$350,372
2014	\$149,209
Total	\$1,484,371
Average per year	\$247,395

Source: Inventory of currency forfeitures conducted by the Maine Drug Enforcement Agency. The Institute for Justice obtained these data through a Maine Freedom of Access Act request made to the Maine Department of Public Safety. The inventory is organized by calendar year and includes vehicles and other forfeited property, though no value is provided for non-currency items. While MDEA forfeitures do not offer a complete picture of forfeiture in Maine, they likely capture a large portion of the state forfeiture revenues, given that drug-related cases are probably the most common type of forfeiture.

Maine is the 5th best state for federal forfeiture,

with over **\$5 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

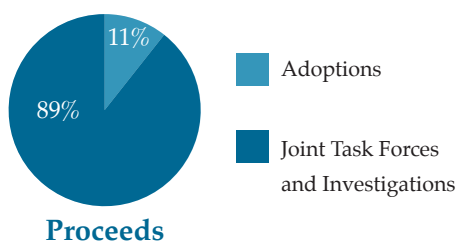
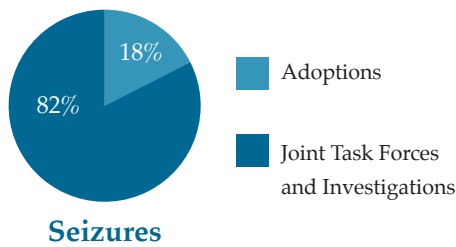
Federal Equitable Sharing

Maine law enforcement participates sparingly in the Department of Justice’s equitable sharing program, earning the state a fifth-place ranking. Between 2000 and 2013, law enforcement agencies received nearly \$5.8 million in DOJ equitable sharing proceeds—about \$400,000 per calendar year. The vast majority of Maine law enforcement’s DOJ equitable sharing proceeds came from joint task forces and investigations, indicating that proceeds are likely to hold steady in the face of the 2015 policy change curbing adoptive forfeitures. Over fiscal years 2000 to 2013, Maine law enforcement agencies also received almost \$4.4 million in Treasury Department equitable sharing funds.

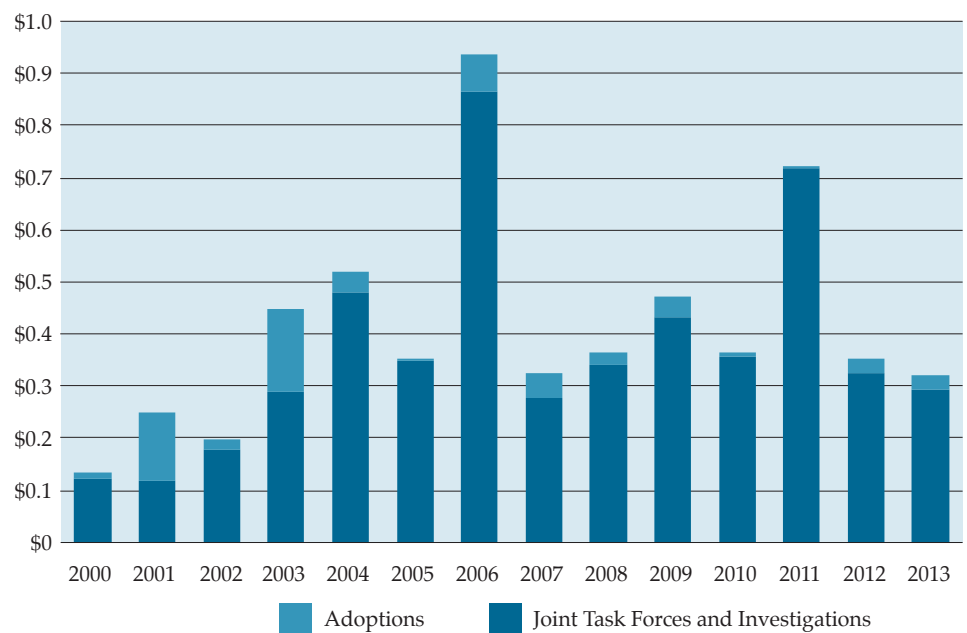
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$134,147	NA
2001	\$250,101	NA
2002	\$198,281	NA
2003	\$448,554	NA
2004	\$520,694	NA
2005	\$352,412	\$41,000
2006	\$934,795	\$70,000
2007	\$324,085	\$658,000
2008	\$364,989	\$49,000
2009	\$470,897	\$511,000
2010	\$363,336	\$1,605,000
2011	\$723,251	\$26,000
2012	\$353,497	\$47,000
2013	\$322,702	\$1,370,000
Total	\$5,761,741	\$4,377,000
Average per year	\$411,553	\$312,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Maryland earns a **B** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Earning a B grade, Maryland's civil forfeiture laws are better than those of most other states, thanks largely to their lack of a profit incentive. However, the state should provide stronger protections to property owners. In order to forfeit property, law enforcement generally only has to tie the property to a crime by a preponderance of the evidence. An innocent owner typically bears the burden of proving that she had nothing to do with the alleged criminal activity giving rise to the seizure, but a primary family residence cannot be forfeited unless both spousal co-owners are convicted of a crime. Finally, Maryland law enforcement agencies have no financial incentive to seize property under state law—all forfeiture proceeds must be deposited into the general fund of the state or local governing body.

The Maryland General Assembly voted in 2015 to modestly reform the state's civil forfeiture laws, but Gov. Larry Hogan vetoed the bill. The bill would have shifted the innocent owner burden, requiring the government to prove that property owners had actual knowledge of the alleged crime that prompted the seizure or consented to the use of their property in that crime's commission.

Even though Maryland's civil forfeiture laws are better than those of most states, they still suffer from a troubling lack of transparency: Agencies are not required to track or report their forfeitures.

State Forfeiture Data

No data available. Agencies are not required to track or report their forfeitures.

Maryland ranks **21st** for federal forfeiture, with over **\$80 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

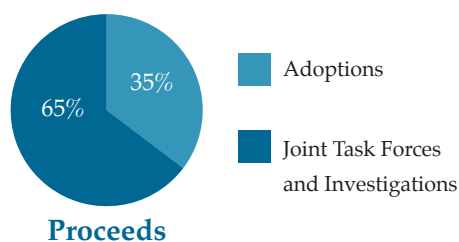
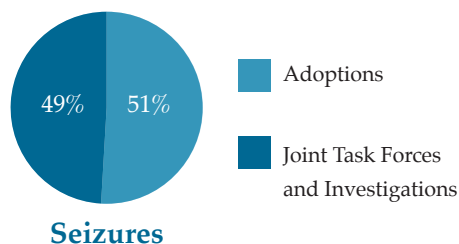
Federal Equitable Sharing

In a ranking of states' participation in the Department of Justice's equitable sharing program, Maryland places 21st. Between 2000 and 2013, Maryland law enforcement agencies received \$80.8 million in equitable sharing proceeds from the DOJ, or almost \$5.8 million per calendar year. Joint task forces and investigations accounted for about half of equitable sharing seizures and nearly two-thirds of proceeds. These kinds of seizures were generally unaffected by new DOJ rules intended to curb equitable sharing. Maryland agencies also received more than \$26 million in Treasury Department equitable sharing proceeds between 2000 and 2013, which equates to close to \$1.9 million each fiscal year.

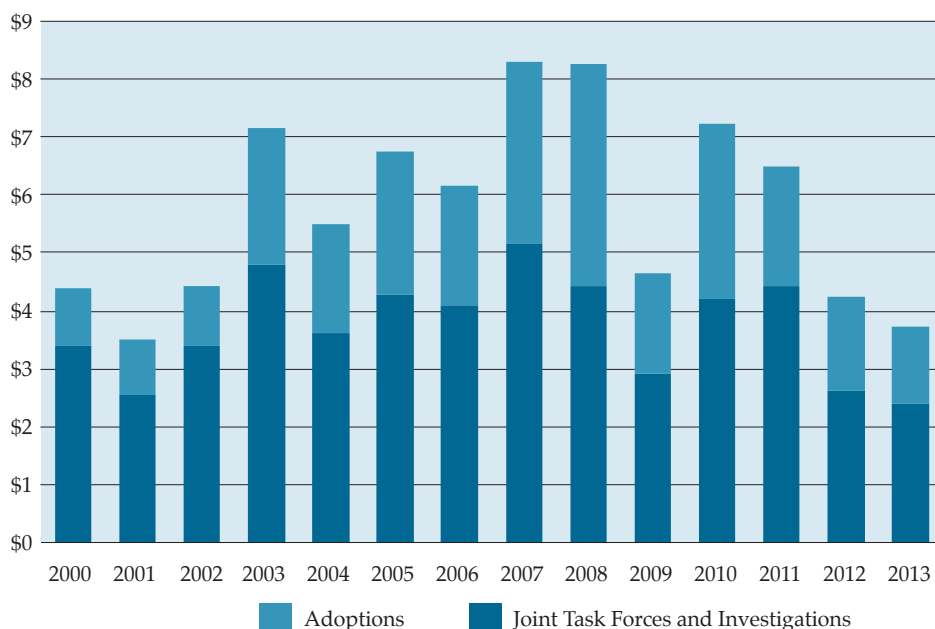
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$4,403,627	\$61,000
2001	\$3,492,572	\$191,000
2002	\$4,434,798	\$8,000
2003	\$7,140,208	\$2,099,000
2004	\$5,505,727	\$513,000
2005	\$6,752,896	\$1,886,000
2006	\$6,172,518	\$1,777,000
2007	\$8,315,814	\$1,570,000
2008	\$8,248,758	\$5,942,000
2009	\$4,657,945	\$1,406,000
2010	\$7,220,677	\$1,846,000
2011	\$6,506,505	\$2,658,000
2012	\$4,249,535	\$2,876,000
2013	\$3,724,533	\$3,206,000
Total	\$80,826,113	\$26,039,000
Average per year	\$5,773,294	\$1,859,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Massachusetts earns an **F** for its civil forfeiture laws:

- Lowest bar to forfeit property and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Along with North Dakota, the only other state to earn an F for its law grade, Massachusetts has the worst civil forfeiture laws in the country. Massachusetts law enforcement agents just need probable cause—the lowest possible standard of proof—to believe that property was involved in a crime in order to forfeit it. State law also places the burden on innocent owners to demonstrate their innocence or ignorance of any criminal activity associated with their seized property in order to recover it. Finally, Bay State law enforcement agencies get to keep up to 100 percent of forfeiture proceeds, giving them considerable incentive to seize property.

Forfeiture reporting requirements in Massachusetts are also very poor. Law enforcement agencies are only required to keep an inventory of property seized for controlled sub-

stances violations; they are not required to produce comprehensive annual forfeiture reports. By filing a Massachusetts Public Records Law request, the Institute for Justice received accounting records that allowed statewide forfeiture proceeds to be estimated. This onerous process and the lack of any detailed information about individual forfeiture cases or even agency-level forfeiture proceeds make it impossible for the average citizen or lawmaker to hold state and local law enforcement agencies accountable for their forfeiture activity. According to IJ's calculations, Massachusetts law enforcement forfeited almost \$139 million between 2000 and 2014, an average of about \$9.3 million each fiscal year.

State Forfeiture Data

Year	Estimated Forfeiture Proceeds
2000	\$5,614,705
2001	\$7,322,901
2002	\$7,300,236
2003	\$7,592,214
2004	\$10,092,662
2005	\$8,803,362
2006	\$8,399,550
2007	\$9,294,064
2008	\$11,093,076
2009	\$13,178,878
2010	\$11,303,308
2011	\$10,410,558
2012	\$8,843,408
2013	\$9,808,804
2014	\$9,766,698
Total	\$138,824,424
Average per year	\$9,254,962

Source: Data were obtained by the Institute for Justice through a Massachusetts Public Records Law request made to the Comptroller of the Commonwealth. These data are based on fiscal-year deposits to the special forfeiture trust funds for the attorney general and each district attorney. Under state law, the attorney general and district attorneys receive half of all forfeiture proceeds, while state and local law enforcement agencies receive the other half. To arrive at the totals represented in the above table, IJ took the sum of the proceeds sent to the attorney general and district attorneys and doubled it to account for proceeds distributed to state and local law enforcement that were not represented in the data obtained.



Massachusetts ranks 46th for federal forfeiture, with over \$63 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

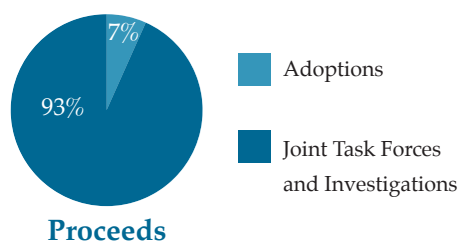
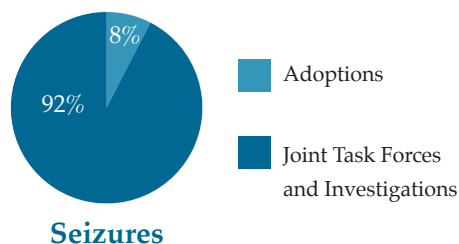
Federal Equitable Sharing

Massachusetts law enforcement's extensive participation in the Department of Justice's equitable sharing program—earning the state a ranking of 46th nationally—compounds the problems with the state's forfeiture laws. Law enforcement agencies received \$63.5 million in equitable sharing proceeds between 2000 and 2013, or \$4.5 million per calendar year. Only 7 percent of those proceeds came from adoptive forfeitures, while the rest came from joint task forces and investigations, equitable sharing procedures left largely intact by the DOJ's 2015 policy change intended to limit equitable sharing. This means that use of equitable sharing in Massachusetts is likely to continue on much the same scale. Finally, Massachusetts agencies also received more than \$13 million in Treasury Department forfeiture proceeds from 2000 to 2013, averaging nearly \$1 million per fiscal year.

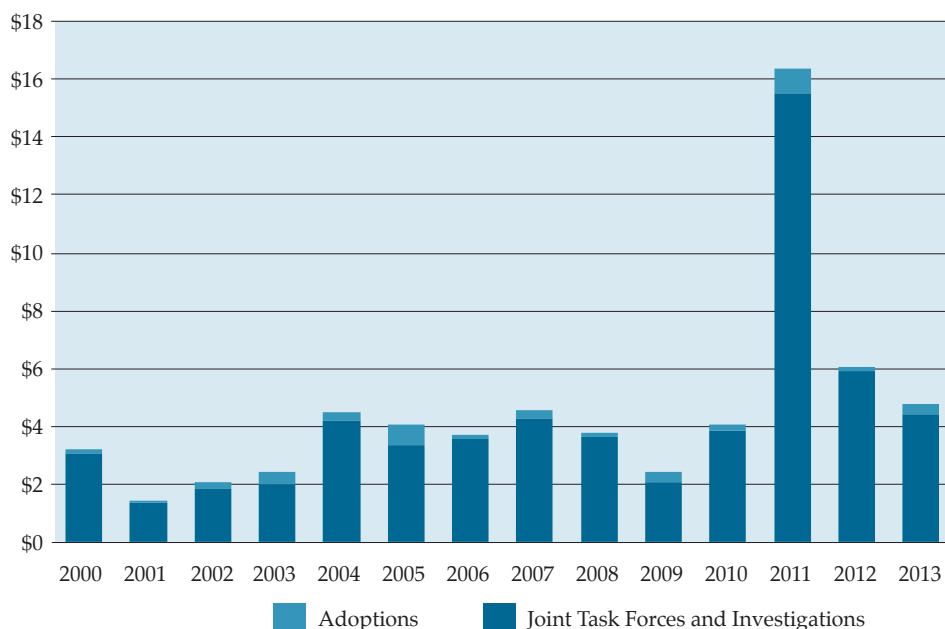
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$3,194,714	\$512,000
2001	\$1,425,567	\$603,000
2002	\$2,073,417	\$234,000
2003	\$2,424,388	\$850,000
2004	\$4,514,645	\$1,223,000
2005	\$4,099,432	\$663,000
2006	\$3,719,291	\$241,000
2007	\$4,589,227	\$814,000
2008	\$3,790,929	\$1,166,000
2009	\$2,423,516	\$832,000
2010	\$4,102,981	\$3,059,000
2011	\$16,334,522	\$981,000
2012	\$6,042,698	\$882,000
2013	\$4,780,083	\$1,193,000
Total	\$63,515,410	\$13,253,000
Average per year	\$4,536,815	\$946,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Michigan earns a **D-** for its civil forfeiture laws:

- Higher bar to forfeit, but no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Despite modest reforms approved in October 2015 that raised the standard of proof required to forfeit property, Michigan’s laws still earn a D-, largely because the state’s large profit incentive remains intact. The standard of proof in forfeiture cases is now clear and convincing evidence—higher than preponderance of the evidence but still far from the gold standard of proof beyond a reasonable doubt. For seizures where drug activity is alleged—as it is for most seizures—innocent owners bear the initial burden of proving their innocence or ignorance of the activity to recover seized property. But in innocent owner claims where no drug activity is alleged, the government bears the burden of proof. Finally, Michigan law enforcement agencies may retain up to 100 percent of forfeiture proceeds.

Law enforcement agencies in the state must file annual

forfeiture reports with the Michigan State Police, which then compiles and submits them to the state Legislature. In October 2015, the reporting requirements were strengthened to include forfeitures under more statutes. The improvements also included more detailed agency reporting requirements, such as whether someone was charged with a crime and the alleged violation that led to the seizure. Starting July 1, 2017, the State Police will be required to publish the aggregate reports online; part of the 2015 reform package, this statutory requirement codifies current practice. The reports provide some transparency, but they could be improved by including details about forfeiture expenditures. Between 2001 and 2013, Michigan law enforcement agencies reported more than \$244 million in gross forfeiture proceeds—an average of almost \$19 million per calendar year.

State Forfeiture Data

Year	Reported Forfeiture Proceeds				
	Currency	Vehicles	Personal Property	Real Property	Total
2001	\$18,811,343	\$2,243,151	\$1,863,773	\$1,185,229	\$24,103,496
2002	\$10,830,841	\$1,616,571	\$1,488,995	\$1,087,136	\$15,023,543
2003	\$15,552,632	\$1,823,974	\$1,447,460	\$1,663,423	\$20,487,489
2004	\$13,452,202	\$2,038,834	\$809,730	\$1,472,376	\$17,773,142
2005	\$16,470,668	\$2,400,526	\$584,176	\$723,407	\$20,178,777
2006	\$13,307,677	\$2,808,412	\$1,010,544	\$911,889	\$18,038,522
2007	\$17,526,192	\$2,717,738	\$1,023,081	\$777,833	\$22,044,844
2008	\$14,592,874	\$2,927,416	\$867,111	\$652,003	\$19,039,404
2009	\$21,425,900	\$2,883,794	\$685,027	\$293,029	\$25,287,750
2010	\$13,132,330	\$2,728,406	\$592,064	\$244,203	\$16,697,003
2011	\$15,189,280	\$2,447,388	\$565,356	\$134,508	\$18,336,532
2012	\$9,844,672	\$3,034,895	\$722,416	\$175,875	\$13,777,858
2013	\$10,436,894	\$2,453,658	\$513,572	\$254,807	\$13,658,931
Total	\$190,573,505	\$32,124,763	\$12,173,305	\$9,575,718	\$244,447,291
Average per year	\$14,659,500	\$2,471,136	\$936,408	\$736,594	\$18,803,638

Source: Annual Michigan State Police reports of all reporting law enforcement agencies’ forfeitures submitted to the Legislature and published online. Values represent the total value of forfeited property. Several agencies’ reports are missing for any given year, indicating that these figures likely severely underreport the full value of forfeitures in Michigan.

Michigan ranks 44th for federal forfeiture,

with over **\$127 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

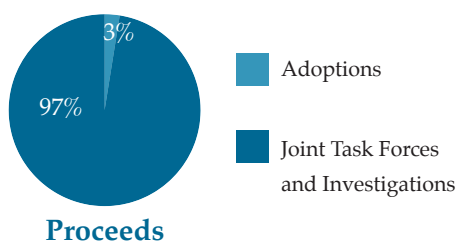
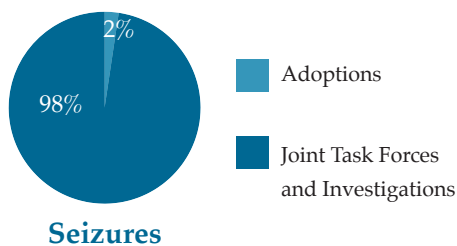
Federal Equitable Sharing

Michigan's law enforcement agencies have made extensive use of the Department of Justice's equitable sharing program over the years, earning the Great Lakes State 44th place in a nationwide ranking. Between 2000 and 2013, Michigan law enforcement agencies received \$127.6 million in equitable sharing proceeds from the DOJ, averaging \$9.1 million per calendar year. Nearly all equitable sharing proceeds—97 percent—resulted from joint task forces and investigations, the equitable sharing activity left largely unaffected by new DOJ rules. It appears those rules will have little effect on equitable sharing participation in Michigan. Agencies also received more than \$19 million in equitable sharing proceeds from the Treasury Department over the 2000 to 2013 fiscal years.

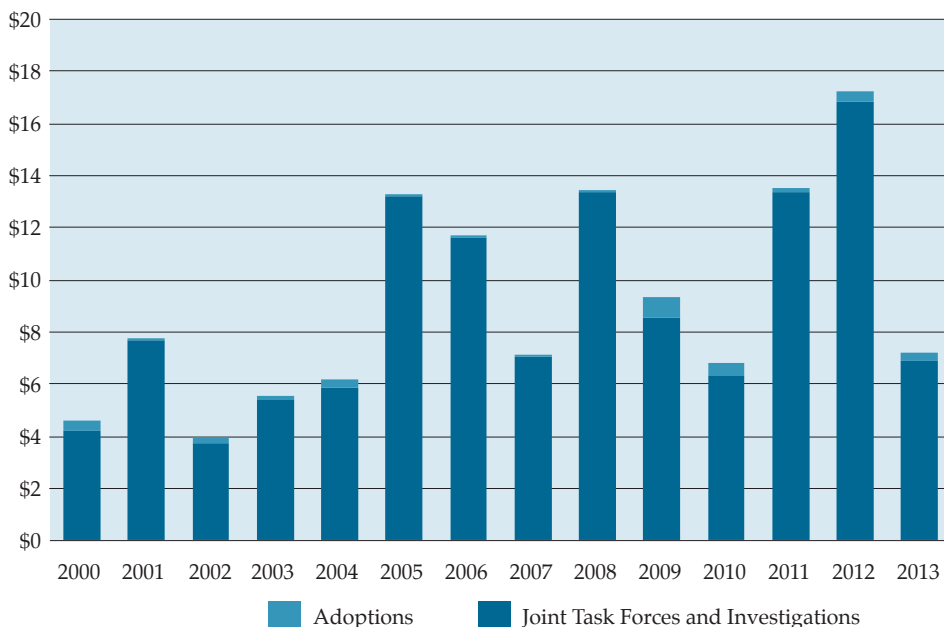
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$4,601,434	\$26,000
2001	\$7,712,687	\$1,271,000
2002	\$3,978,755	\$1,060,000
2003	\$5,540,692	\$565,000
2004	\$6,164,006	\$1,004,000
2005	\$13,243,130	\$1,251,000
2006	\$11,676,994	\$2,530,000
2007	\$7,117,338	\$899,000
2008	\$13,453,873	\$1,234,000
2009	\$9,355,633	\$4,926,000
2010	\$6,847,816	\$1,660,000
2011	\$13,562,944	\$1,569,000
2012	\$17,204,705	\$451,000
2013	\$7,174,227	\$687,000
Total	\$127,634,232	\$19,133,000
Average per year	\$9,116,731	\$1,366,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.



Minnesota earns a D+ for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Poor protections for innocent third-party property owners
- 90% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Minnesota has taken several steps to improve its civil forfeiture laws, but the laws still present law enforcement with a dangerous financial incentive to seize property and thus earn a D+ grade. Most promising among recent reforms, all forfeitures in Minnesota now require that the property owner be convicted in criminal court. A guilty owner's property may then be forfeited in civil court if the government can tie it to the crime by clear and convincing evidence. Unfortunately, in innocent owner cases, the burden remains on property owners to prove that they had nothing to do with the alleged criminal activity involving their property. And in drunk-en-driving cases, a joint owner of a seized vehicle who is not charged with a crime cannot raise an innocent owner defense at all if the other owner is convicted of drunken driving. Most troubling of all, Minnesota law continues to give law enforce-

ment agencies a compelling reason to seize: In all but a few cases, they get to keep 90 percent of all forfeiture proceeds.

Minnesota agencies must report their forfeitures to the state auditor each month. These monthly reports are aggregated into an annual forfeiture report published on the auditor's website. State law could improve transparency by requiring reporting on how forfeiture funds are spent and ensuring that agencies report as required. As it stands, dozens of agencies fail to report each year. Between 2000 and 2013, Minnesota agencies reported forfeiting more than \$62 million. Prior to 2010, the auditor's reports did not include vehicles forfeited in relation to drunken-driving offenses. It is therefore impossible to tell how much of the increase in forfeiture proceeds after 2010 was due to additional reporting requirements versus an increase in forfeiture activity.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2000	\$1,448,462
2001	\$1,433,278
2002	\$1,697,945
2003	\$2,806,891
2004	\$3,130,577
2005	\$3,709,487
2006	\$3,918,321
2007	\$4,866,485
2008	\$3,823,464
2009	\$4,778,457
2010	\$5,367,197
2011	\$8,348,910
2012	\$8,393,164
2013	\$8,777,183
Total	\$62,499,821
Average per year	\$4,464,273

Source: Annual state auditor reports of forfeitures reported by law enforcement agencies published online each calendar year. Each year, some agencies failed to file reports or to report having conducted no forfeitures, as required.

Minnesota ranks 19th for federal forfeiture,

with nearly **\$26 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

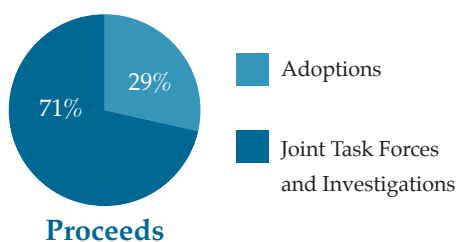
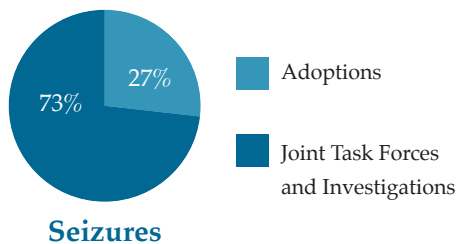
Federal Equitable Sharing

Minnesota ranks 19th on equitable sharing. Between 2000 and 2013, law enforcement agencies received \$25.9 million in Department of Justice equitable sharing proceeds, averaging nearly \$1.9 million per calendar year. The vast majority of those proceeds—71 percent—came via joint task forces and investigations, suggesting that 2015 DOJ reforms that left such equitable sharing activity largely intact will have little effect in Minnesota. Minnesota agencies also took in over \$1.6 million in Treasury Department equitable sharing proceeds between the 2000 and 2013 fiscal years.

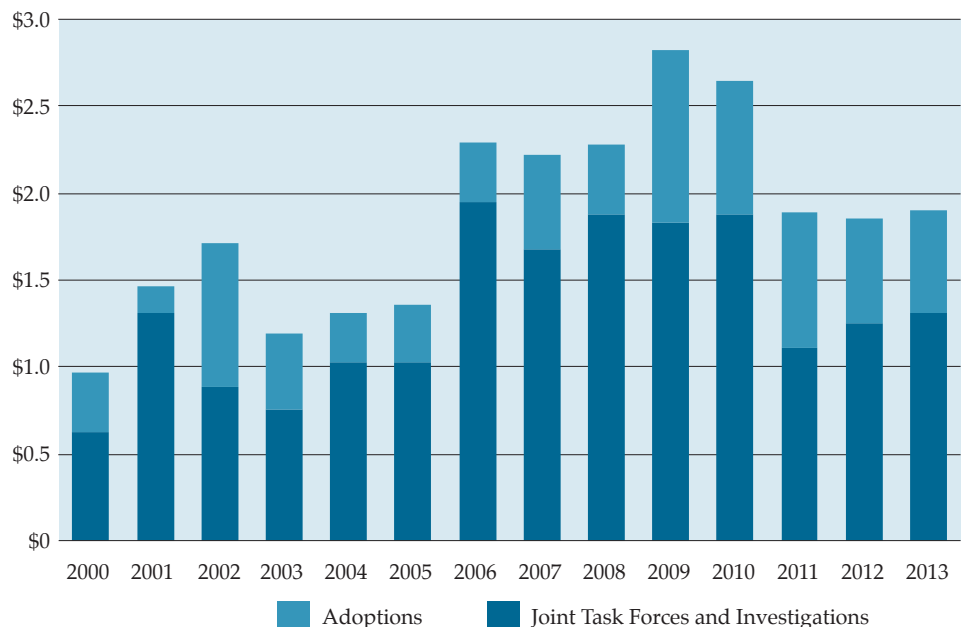
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$965,139	\$71,000
2001	\$1,467,249	\$19,000
2002	\$1,714,825	\$2,000
2003	\$1,188,553	\$24,000
2004	\$1,308,685	\$7,000
2005	\$1,361,625	\$0
2006	\$2,286,719	\$434,000
2007	\$2,215,532	\$46,000
2008	\$2,276,567	\$7,000
2009	\$2,827,271	\$71,000
2010	\$2,644,155	\$235,000
2011	\$1,885,715	\$192,000
2012	\$1,854,540	\$81,000
2013	\$1,905,826	\$457,000
Total	\$25,902,398	\$1,646,000
Average per year	\$1,850,171	\$117,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Mississippi earns a **C-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Stronger protections for innocent third-party property owners
- 80% of forfeiture proceeds go to law enforcement in most cases

State Civil Forfeiture Laws

Under Mississippi's civil forfeiture laws, which earn a C- grade, the government just has to connect property to a crime by a preponderance of the evidence in order to forfeit it. However, the government bears the burden of disproving an innocent owner claim—an improvement over most states where owners must, in effect, prove their own innocence to win back seized property. Law enforcement agencies may retain 80 percent of forfeiture proceeds when only one agency investigated the case and a full 100 percent if more than one agency was involved, creating a troubling conflict of interest and a strong incentive to seize.

That conflict is on full display in Richland, Miss., where construction of a new \$4.1 million law enforcement training

facility was funded entirely by forfeiture proceeds garnered by police in Richland—a town of just 7,000 people. A sign in the building's window boasts: "Richland Police Station tearfully donated by drug dealers." The controversial facility illustrates the conflict of interest created when law enforcement can directly benefit from the proceeds of forfeiture. Such self-funding is especially worrisome in states like Mississippi where agencies are not required to track or publicly report forfeitures or expenditures from forfeiture funds, leaving the public and lawmakers in the dark.

State Forfeiture Data

No data available. Agencies are not required to track or report their forfeitures.

Mississippi ranks 20th for federal forfeiture,

with over **\$47 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

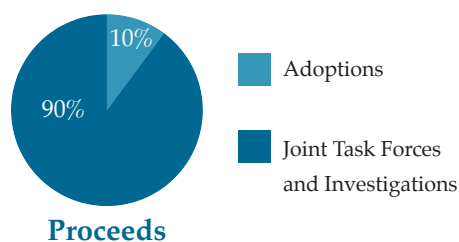
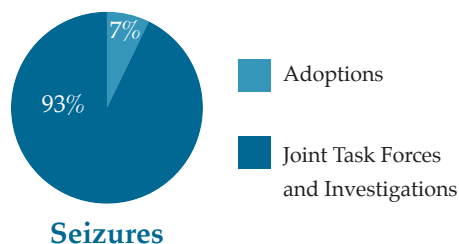
Federal Equitable Sharing

On equitable sharing, the Magnolia State places 20th in the nation. Between 2000 and 2013, Mississippi law enforcement agencies received an average of almost \$3.4 million per calendar year in equitable sharing proceeds from the Department of Justice, totaling more than \$47 million over that period. Ninety percent of those proceeds came through joint task forces and investigations, the type of equitable sharing generally exempt from new DOJ rules. Mississippi agencies also received almost \$3 million in equitable sharing proceeds from the Treasury Department between 2000 and 2013, or approximately \$208,000 per fiscal year.

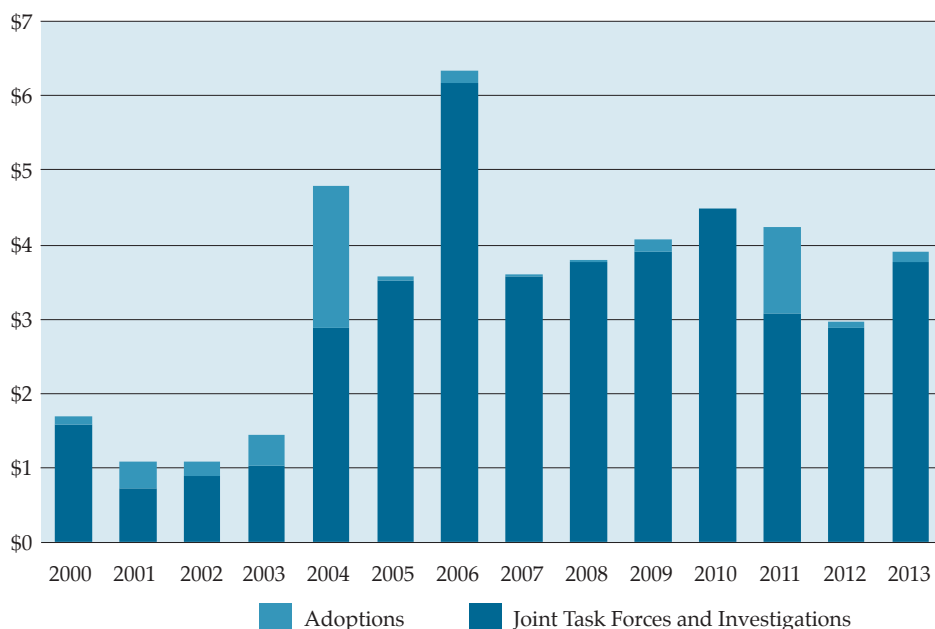
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,702,015	\$145,000
2001	\$1,075,526	\$291,000
2002	\$1,081,900	\$226,000
2003	\$1,457,573	\$107,000
2004	\$4,781,097	\$271,000
2005	\$3,583,051	\$462,000
2006	\$6,341,369	\$650,000
2007	\$3,585,895	\$40,000
2008	\$3,783,495	\$249,000
2009	\$4,066,018	\$25,000
2010	\$4,478,419	\$3,000
2011	\$4,235,566	\$195,000
2012	\$2,979,259	\$217,000
2013	\$3,915,863	\$25,000
Total	\$47,067,047	\$2,906,000
Average per year	\$3,361,932	\$207,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Missouri earns a **B+** for its civil forfeiture laws:

- Conviction required, but low bar to connect property to the crime
- Poor protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Missouri's civil forfeiture laws are better than most, scoring a B+. Unlike most states, Missouri requires a criminal conviction or a guilty plea before property can be forfeited civilly. However, from there, the government need only connect the property to the crime only by a preponderance of the evidence. And an innocent owner wishing to have property returned must intervene and prove that she had no knowledge of the criminal activity of which her property is accused in order to recover it. Finally, Missouri provides no incentive to police for profit: All forfeiture money must be used to fund schools.

Missouri's forfeiture reporting requirements look good on paper, but they do little to provide transparency in actuality. Law enforcement officers must report seizures and forfeitures to their prosecuting attorneys or the attorney

general, who then provide annual reports to the state auditor. These reports are presented to the Legislature and published on the state auditor's website. Prosecuting attorneys and the attorney general are also required to detail any criminal charges that were filed and the final disposition of the property—an unusually high level of detail. However, reports only cover assets seized in that calendar year, so assets not fully forfeited by year's end are simply reported as "pending" and will not appear again in future reports. Thus, these reports may never account for millions of dollars' worth of forfeitures. In addition, several Missouri agencies failed to report their forfeitures on a yearly basis. The data available show that agencies reportedly forfeited approximately \$1.6 million between 2000 and 2014, but this figure likely severely undercounts forfeitures.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2000	\$115,156
2001	\$224,721
2002	\$231,255
2003	\$210,340
2004	\$45,273
2005	\$71,225
2006	\$74,223
2007	\$74,461
2008	\$58,532
2009	\$30,673
2010	\$25,974
2011	\$158,589
2012	\$83,868
2013	\$116,220
2014	\$127,856
Total	\$1,648,366
Average per year	\$109,891

Source: Annual state auditor reports provided online that compile reports submitted by the state Office of the Attorney General and prosecuting attorneys. Proceeds represent forfeitures completed and transferred to the state during the calendar year in which they were seized. Millions of dollars still pending at the end of a calendar year are not accounted for in the reports, and many counties failed to file reports each year.

Missouri ranks 34th for federal forfeiture,

with over **\$126 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

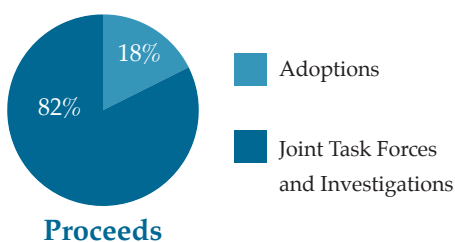
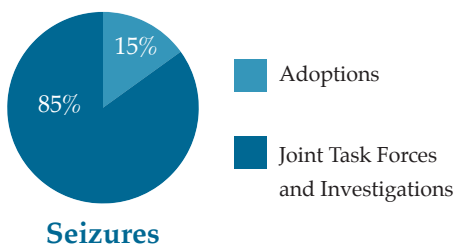
Federal Equitable Sharing

Missouri law enforcement's participation in the Department of Justice's equitable sharing program earns the state 34th place when compared to other states. Missouri agencies received \$126.7 million in DOJ equitable sharing proceeds between 2000 and 2013—more than \$9 million per calendar year. The 2015 DOJ policy change intended to curb the practice is unlikely to affect much equitable sharing activity in Missouri: 82 percent of payments to state and local law enforcement came from joint task forces and investigations, seizures largely unaffected by the new policy. The Show-Me State also received over \$11 million in forfeiture funds from the Treasury Department between fiscal years 2000 and 2013.

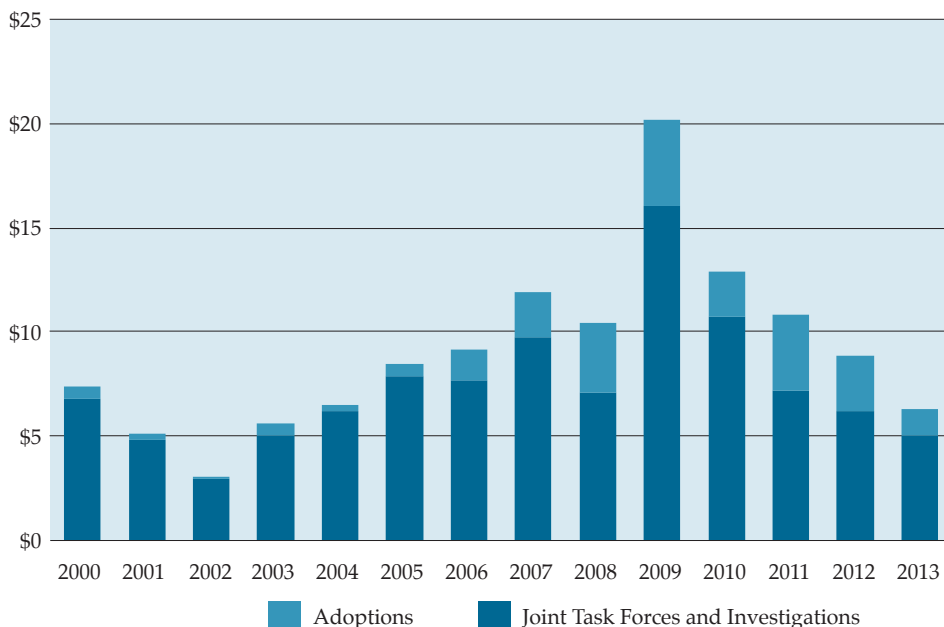
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$7,348,177	\$323,000
2001	\$5,161,911	\$464,000
2002	\$3,105,749	\$219,000
2003	\$5,600,012	\$207,000
2004	\$6,462,518	\$32,000
2005	\$8,483,669	\$32,000
2006	\$9,165,824	\$229,000
2007	\$11,952,962	\$118,000
2008	\$10,459,559	\$55,000
2009	\$20,135,700	\$224,000
2010	\$12,871,134	\$1,459,000
2011	\$10,848,192	\$1,677,000
2012	\$8,855,773	\$748,000
2013	\$6,271,159	\$5,255,000
Total	\$126,722,340	\$11,042,000
Average per year	\$9,051,596	\$788,714

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Montana earns a **D-** for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Stronger protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Despite positive reform in 2015, Montana's civil forfeiture laws earn a D- due to the hefty profit incentive they create for law enforcement agencies to seize property. Montana law now requires a criminal conviction to forfeit property. Then, the government must prove the property is tied to that crime in civil court by clear and convincing evidence. Further, the 2015 reform shifted the innocent owner burden to the government. Innocent owners no longer have to prove their own innocence to win their property back. However, Montana's law grade takes a major hit because of the substantial incentive given to law enforcement

to seize. Local law enforcement retains up to 100 percent of forfeiture proceeds. State law enforcement agencies also retain up to 100 percent of proceeds, but when the value of property seized and forfeited exceeds \$125,000, any excess proceeds must be divided equally between a state forfeiture fund and the state general fund.

There is no way of knowing the scope of forfeitures conducted under Montana state law because law enforcement agencies are not required to track or report on their forfeiture activity.

State Forfeiture Data

No data available. Agencies are not required to track or report their forfeitures.

Montana ranks 11th for federal forfeiture,

with over **\$5.5 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

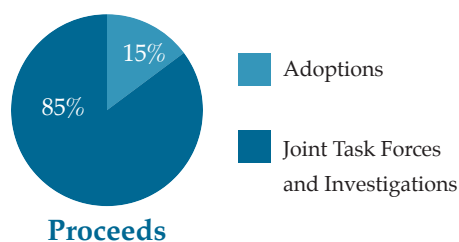
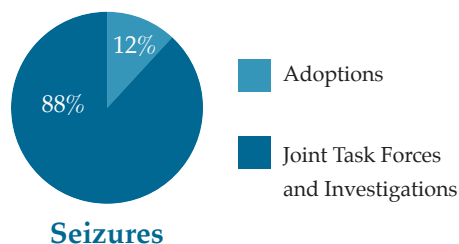
Federal Equitable Sharing

Montana law enforcement agencies do not extensively participate in the Department of Justice's equitable sharing program, earning the state 11th place in a nationwide ranking. Between 2000 and 2013, Montana agencies received more than \$5.5 million in equitable sharing proceeds, an annual average of nearly \$400,000 per calendar year. The vast majority of those proceeds—85 percent—resulted from joint task forces and investigations, the type of equitable sharing activity 2015 DOJ rules did little to reform. During this period, adoptions have accounted for as much as 47 percent and as little as zero percent of proceeds; on average, they account for 15 percent of equitable sharing proceeds. It is therefore unlikely that the DOJ policy change will have a major impact on Montana agencies' participation in the program. From 2000 to 2013, Montana law enforcement agencies also received more than \$1 million in Treasury Department equitable sharing proceeds, averaging over \$78,000 per fiscal year.

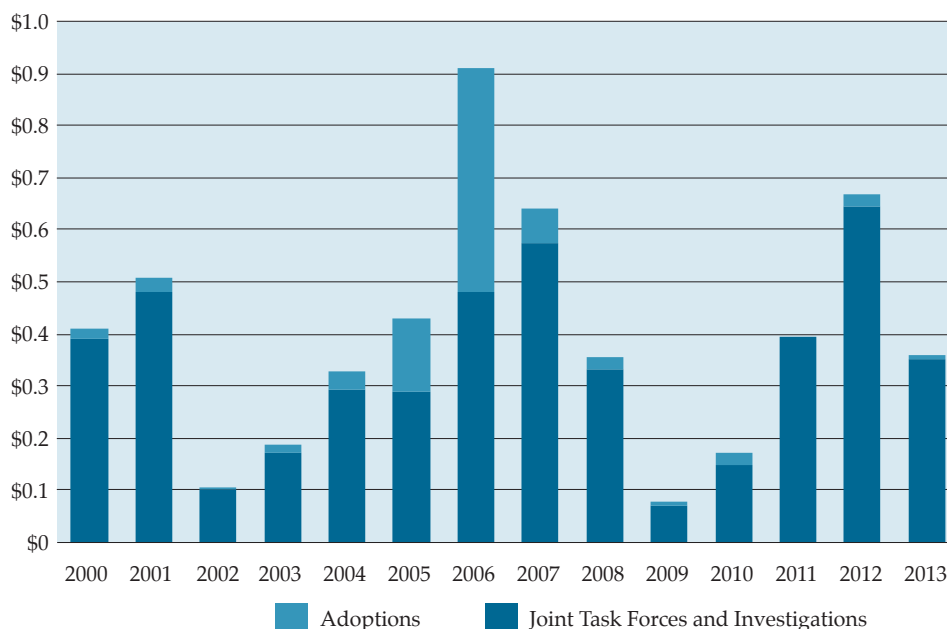
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$410,389	\$126,000
2001	\$506,133	\$37,000
2002	\$107,396	\$27,000
2003	\$188,263	\$88,000
2004	\$328,520	\$337,000
2005	\$429,801	\$80,000
2006	\$911,197	\$0
2007	\$641,131	\$10,000
2008	\$355,716	\$73,000
2009	\$77,366	\$67,000
2010	\$170,963	\$53,000
2011	\$393,947	\$28,000
2012	\$668,177	\$129,000
2013	\$359,101	\$41,000
Total	\$5,548,099	\$1,096,000
Average per year	\$396,293	\$78,286

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Nebraska earns a **C** for its civil forfeiture laws:

- Highest bar to forfeit property
- Poor protections for innocent third-party property owners
- 50% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Nebraska's civil forfeiture laws—earning a C—have both good and bad components. Nebraska has the best possible standard of proof, requiring the government to tie property to a crime beyond a reasonable doubt. If the seizure was related to gambling, however, that standard drops to preponderance of the evidence. Unfortunately, where owners are innocent of the criminal activity to which their property has

been tied, they bear the burden of demonstrating their innocence in order to recover it. And Nebraska law enforcement agencies get to keep 50 percent of forfeiture proceeds—a lower percentage than in other states but still an opportunity to generate revenue.

Nebraska law enforcement agencies are not required to track or report their forfeitures.

State Forfeiture Data

No data available. Agencies are not required to track or report their forfeitures.

Nebraska ranks 17th for federal forfeiture,

with over **\$48 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

Federal Equitable Sharing

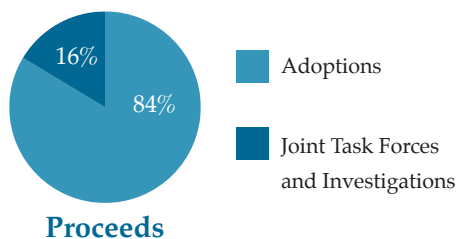
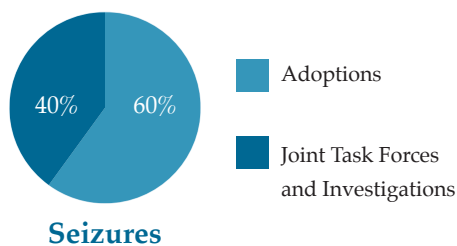
Ranking 17th on equitable sharing, Nebraska law enforcement agencies received \$48 million in Department of Justice equitable sharing proceeds between calendar years 2000 and 2013. Unusually, the bulk of equitable sharing cases in the state were adoptions, accounting for 84 percent of proceeds received. These are the type of equitable sharing cases most impacted by recent DOJ policy changes aimed at reining in the program. Nebraska agencies' use of equitable sharing may therefore dwindle—or shift to joint task forces and investigations, procedures largely untouched by the new rules. Nebraska agencies also brought in over \$2.6 million in Treasury Department equitable sharing proceeds between fiscal years 2000 and 2013.

Belying its middling ranking, Nebraska has been the scene of some of the country's worst equitable sharing cases. In 2011, Mark Brewer was pulled over while changing lanes without signaling on Interstate 80. Although the sheriff's deputy found no evidence of criminality, he seized \$63,500 that Brewer planned to use as a down payment on a house. The sheriff's office asked the federal government to adopt the seizure and Brewer lost his savings despite never having been charged with a crime—indeed, he did not even get a ticket.

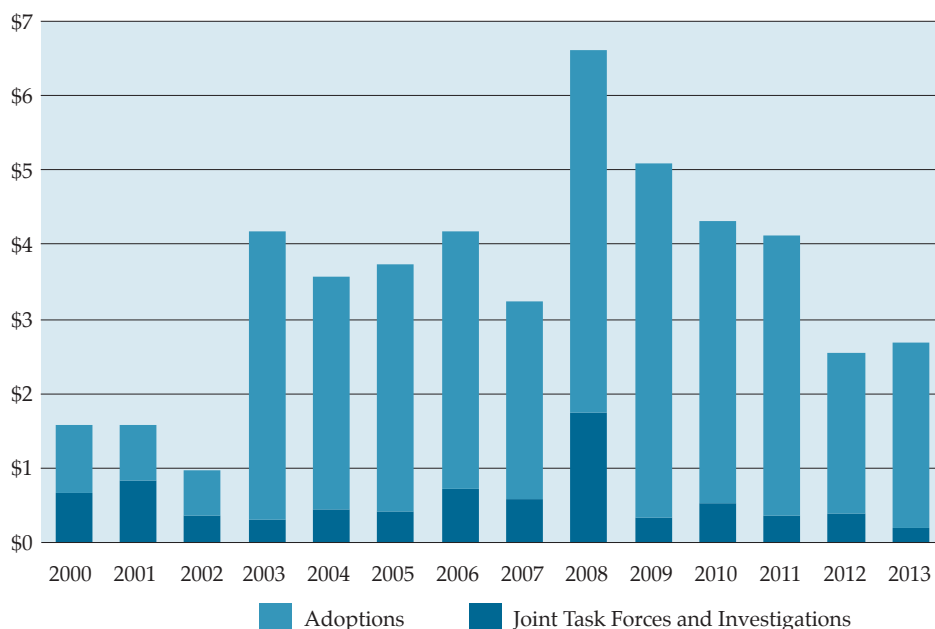
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,586,185	\$37,000
2001	\$1,585,501	\$22,000
2002	\$961,029	\$0
2003	\$4,168,515	\$687,000
2004	\$3,572,684	\$43,000
2005	\$3,735,336	\$20,000
2006	\$4,190,021	\$12,000
2007	\$3,240,650	\$55,000
2008	\$6,618,301	\$0
2009	\$5,083,002	\$17,000
2010	\$4,307,533	\$0
2011	\$4,119,109	\$56,000
2012	\$2,539,274	\$1,548,000
2013	\$2,676,761	\$150,000
Total	\$48,383,901	\$2,647,000
Average per year	\$3,455,993	\$189,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Nevada earns a **D-** for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Nevada adopted positive reforms to its civil forfeiture laws in 2015, but its law grade is pulled down to a D- by weak protections for innocent owners and a strong financial incentive to seize. Nevada took a step in the right direction by amending state law to require a criminal conviction as a prerequisite to forfeit property seized in connection to a crime. After securing a conviction, prosecutors must tie property to that crime with clear and convincing evidence. However, innocent owners continue to bear the burden of proving that they had no involvement in or knowledge of the crime associated with their property. The Silver State's grade is further tarnished by a large incentive to seize: Law enforcement agencies retain up to 100 percent of forfeiture proceeds. However, if a given forfeiture account exceeds \$100,000 at the end of the fiscal year, 70 percent of the excess funds must

be given to the school district in the judicial district where the property was seized. This stipulation creates a "use it or lose it" situation, whereby law enforcement is encouraged to spend forfeiture proceeds as quickly as possible.

In 2015, Nevada adopted a new reporting regime that will require law enforcement agencies to file annual forfeiture reports with the attorney general. Starting April 1, 2016, the Nevada Office of the Attorney General must post each agency's report, as well as an aggregate report of forfeitures statewide, online. Unfortunately, at the time this report went to print, law enforcement agencies were only required to file quarterly forfeiture reports with their budgetary authorities. These quarterly reports were not aggregated or made available online.

State Forfeiture Data

No data available. The Office of the Attorney General is required to begin publishing forfeiture reports online on April 1, 2016, but no aggregate reports were available at the time this report went to print.

Nevada ranks 23rd for federal forfeiture,

with over **\$37 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

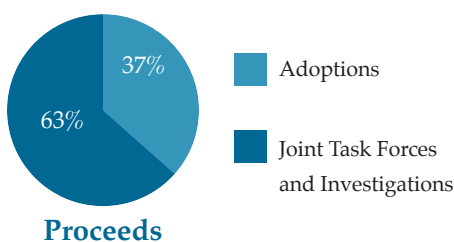
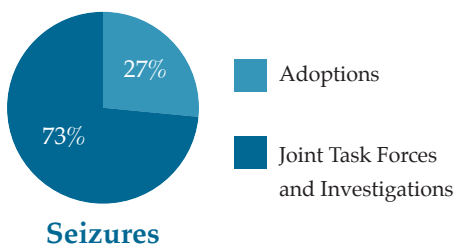
Federal Equitable Sharing

Nevada law enforcement's use of the Department of Justice's equitable sharing program earns the state a ranking of 23rd place. Between 2000 and 2013, agencies received more than \$37 million in equitable sharing proceeds, for a calendar-year average of roughly \$2.7 million. Nearly two-thirds of those proceeds came from joint task forces and investigations, the kind of procedure generally exempt from 2015 DOJ reforms. Finally, law enforcement agencies also brought in almost \$13 million in proceeds from the Treasury Department's equitable sharing fund between fiscal years 2000 and 2013.

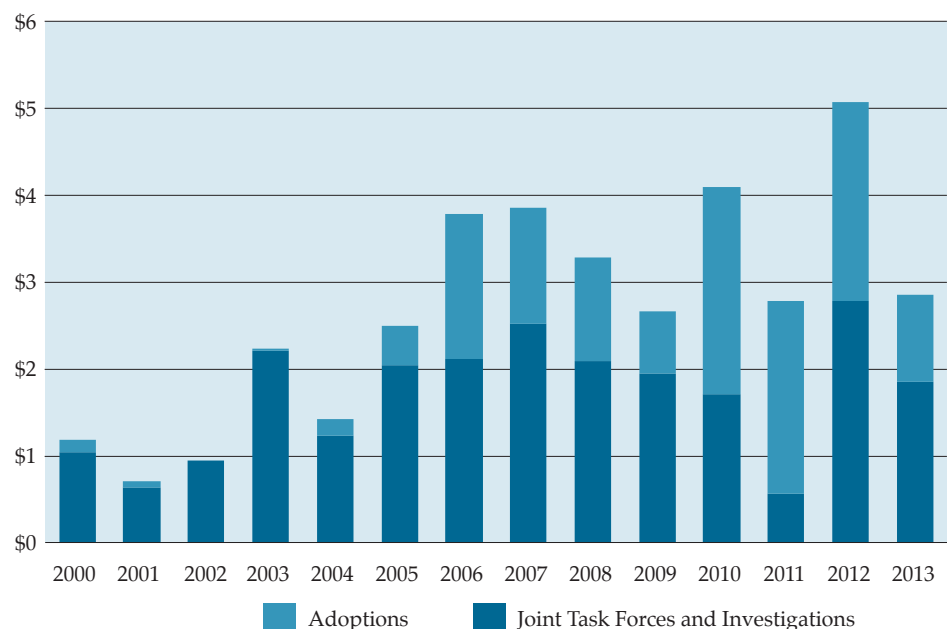
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,171,302	\$5,717,000
2001	\$696,573	\$128,000
2002	\$936,361	\$87,000
2003	\$2,221,647	\$338,000
2004	\$1,419,342	\$153,000
2005	\$2,487,376	\$103,000
2006	\$3,780,762	\$0
2007	\$3,845,255	\$155,000
2008	\$3,287,808	\$1,124,000
2009	\$2,667,871	\$338,000
2010	\$4,101,216	\$859,000
2011	\$2,769,505	\$124,000
2012	\$5,074,625	\$3,392,000
2013	\$2,862,224	\$229,000
Total	\$37,321,868	\$12,747,000
Average per year	\$2,665,848	\$910,500

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

New Hampshire earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 90% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

New Hampshire's civil forfeiture laws are a threat to property owners. Earning a D-, state law only requires the government to link property to a crime by a preponderance of the evidence in order to forfeit it. But state drug law also prohibits the forfeiture of property when the owner has been found not guilty of the underlying criminal charge. And innocent owners bear the burden of proving they were not involved in the criminal use of their property. Furthermore, 90 percent of forfeiture proceeds go to law enforcement: 45 percent to local law enforcement and 45 percent to a state drug forfeiture fund. Local law enforcement may keep no more than \$225,000 from a single forfeiture, and amounts in the state drug forfeiture fund in excess of \$1 million must be turned over to the state general fund, encouraging agencies to spend the money while they can.

The state attorney general is required to submit biennial reports to the Legislature detailing all items seized and forfeited. However, reports simply summarize the total value of cash and other property forfeited during the biennium; the data are not disaggregated to allow further analysis, such as estimating the average value of a seized asset or the percentage of forfeiture cases that are civil as opposed to criminal. The Institute for Justice obtained more recent reports from the attorney general's website and the rest through a New Hampshire Right-to-Know Law request. Reports indicate that the Office of the Attorney General's Drug Unit, which serves as a clearing house for all drug-related seizures in the state, reportedly forfeited nearly \$1.2 million between 1999 and 2013, or approximately \$164,000 every two fiscal years.

State Forfeiture Data

Biennium	Reported Forfeiture Proceeds
1999–2001	\$63,237
2001–2003	\$250,507
2003–2005	\$281,636
2005–2007	\$142,000
2007–2009	\$97,000
2009–2011	\$131,800
2011–2013	\$184,853
Total	\$1,151,033
Average per biennium	\$164,433

Source: Reports of total value of all cash, vehicles and other property forfeited by the New Hampshire Office of the Attorney General's Drug Unit, which prosecutes all drug-related forfeitures in the state. Reports are made each fiscal biennium (e.g., from July 1, 1999, to June 30, 2001) and are available on the attorney general's website going back through 2005. Earlier reports were obtained by the Institute for Justice via a New Hampshire Right-to-Know Law request.

New Hampshire ranks 16th for federal forfeiture, with over \$15 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

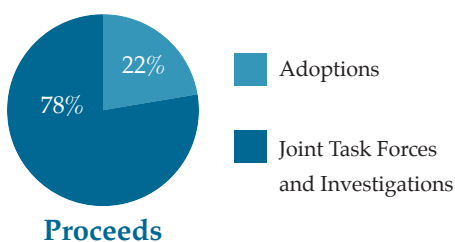
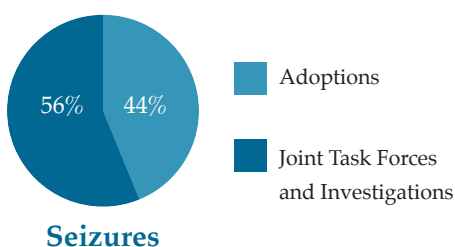
Federal Equitable Sharing

New Hampshire law enforcement's participation in the Department of Justice's equitable sharing program earns the Granite State a 16th-place ranking. Between 2000 and 2013, New Hampshire agencies received over \$15 million in equitable sharing funds from the DOJ, averaging more than \$1 million per calendar year. The lion's share—78 percent—of proceeds came through joint task forces and investigations, the kind of equitable sharing generally exempt from new DOJ limits on the practice. Agencies also brought in almost \$2.6 million in equitable sharing proceeds from the Treasury Forfeiture Fund between 2000 and 2013, averaging \$184,000 per fiscal year.

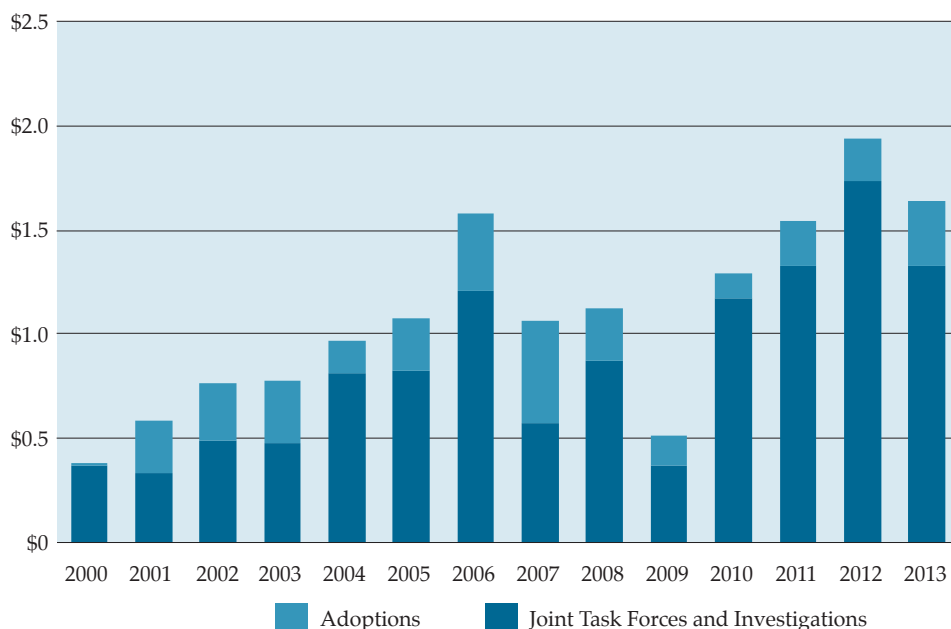
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$377,702	\$544,000
2001	\$583,327	\$0
2002	\$760,911	\$854,000
2003	\$778,112	\$0
2004	\$965,239	\$0
2005	\$1,074,514	\$0
2006	\$1,578,231	\$55,000
2007	\$1,063,132	\$14,000
2008	\$1,123,649	\$119,000
2009	\$516,531	\$282,000
2010	\$1,294,439	\$481,000
2011	\$1,537,310	\$159,000
2012	\$1,939,529	\$64,000
2013	\$1,642,408	\$1,000
Total	\$15,235,033	\$2,573,000
Average per year	\$1,088,217	\$183,786

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

New Jersey earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

New Jersey’s civil forfeiture laws are some of the worst in the country, earning a D-. In order to forfeit property, the government need only show by a preponderance of the evidence that the property was used in a crime. Innocent owners bear the burden of proving that they had nothing to do with the alleged criminal use of their property. Even worse, Garden State law enforcement enjoys a hefty financial incentive to seize: Local law enforcement agencies retain 100 percent of forfeiture proceeds. And when the state attorney general’s office brings a forfeiture case, it retains 95 percent of proceeds; the remaining five percent it deposits into the Hepatitis Inoculation Fund.

New Jersey agencies have no statutory requirement to track or report their forfeitures. However, it is the official policy of the Division of Criminal Justice that county district attorneys and local agencies report all forfeitures to the attorney general on a quarterly basis. The Institute for Justice submitted New Jersey Open Public Records Act requests to each of the state’s 21 counties and learned that New Jersey district attorneys forfeited roughly \$72.6 million between calendar years 2009 and 2013, 79 percent of which came from cash forfeitures. These totals represent forfeitures conducted just at the county level, however—they do not reflect forfeitures conducted at the municipal or state level.

State Forfeiture Data

Year	County District Attorney Forfeiture Proceeds				Total
	Currency	Vehicles	Real Property	Other	
2009	\$17,356,606	\$2,409,726	\$3,395,000	\$1,129,687	\$24,291,019
2010	\$11,748,931	\$2,468,033	\$236,500	\$702,251	\$15,155,716
2011	\$9,631,874	\$1,486,604	\$0	\$101,018	\$11,219,495
2012	\$8,504,849	\$1,640,893	\$0	\$126,628	\$10,272,370
2013	\$10,181,872	\$1,145,853	\$0	\$293,117	\$11,620,842
Total	\$57,424,132	\$9,151,109	\$3,631,500	\$2,352,702	\$72,559,443
Average per year	\$11,484,826	\$1,830,222	\$726,300	\$470,540	\$14,511,889

Source: Reports of forfeitures supplied by county district attorneys in response to requests made under the New Jersey Open Public Records Act. These data are presented in calendar-year format and do not include the proceeds from several vehicles that were retained for official use and for which no value was given. The Institute for Justice also requested forfeiture reports from the Office of the Attorney General, which provided an incomplete set of reports. Requests for missing reports went unanswered. The Division of Criminal Justice also requires municipalities to report their forfeitures, but IJ did not request reports from each of these agencies.

New Jersey ranks **36th** for federal forfeiture, with over **\$70 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

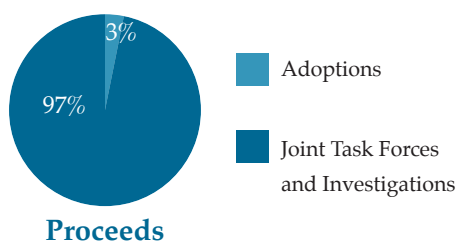
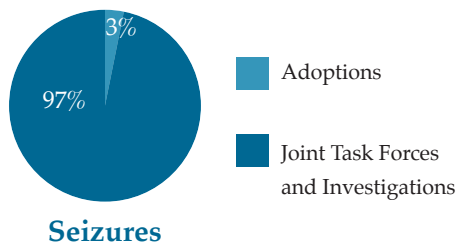
Federal Equitable Sharing

Ranking 36th in the nation on equitable sharing, New Jersey law enforcement agencies made more use of the Department of Justice's equitable sharing program than did agencies in most other states. Between 2000 and 2013, agencies received \$70.6 million in DOJ equitable sharing proceeds, averaging more than \$5 million per calendar year. Almost all assets seized and proceeds received—97 percent in both cases—came from joint task forces and investigations, activity largely unaffected by the DOJ's 2015 policy change. New Jersey law enforcement agencies also received over \$38 million in equitable sharing proceeds from the Treasury Department, averaging more than \$2.7 million per fiscal year.

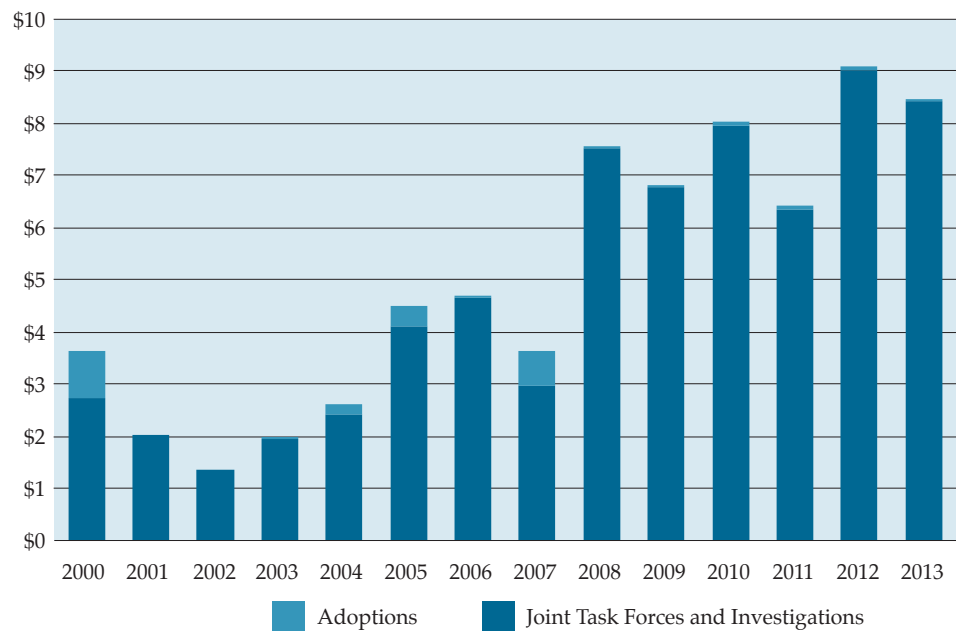
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$3,626,894	\$0
2001	\$2,029,842	\$1,830,000
2002	\$1,353,809	\$172,000
2003	\$1,939,229	\$2,161,000
2004	\$2,596,303	\$2,615,000
2005	\$4,502,998	\$3,021,000
2006	\$4,644,547	\$2,453,000
2007	\$3,622,276	\$997,000
2008	\$7,532,310	\$2,371,000
2009	\$6,770,763	\$1,822,000
2010	\$8,035,130	\$7,893,000
2011	\$6,439,456	\$5,924,000
2012	\$9,083,767	\$3,843,000
2013	\$8,457,766	\$3,187,000
Total	\$70,635,090	\$38,289,000
Average per year	\$5,045,364	\$2,734,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

New Mexico earns an **A-** for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Stronger protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

In 2015, New Mexico enacted sweeping reforms that abolished civil forfeiture and replaced it with criminal forfeiture. New Mexico's forfeiture laws are now the best in the country, earning the state an A- law grade. In order to forfeit property now, the government must first convict its owner of a crime. It must then tie the property to that crime with clear and convincing evidence in criminal court. New Mexico's reforms also shift the innocent owner burden to the government, which must disprove an innocent owner claim by providing clear and convincing evidence that the person had knowledge of the crime giving rise to the forfeiture. Finally,

a full 100 percent of forfeiture proceeds must be deposited into the state's general fund, eliminating law enforcement's motive to police for profit.

New Mexico's new forfeiture laws require law enforcement agencies to file annual forfeiture reports with the Department of Public Safety, which will have to publish them on its website starting in 2016. However, without a statutory reporting requirement prior to 2015, no state forfeiture data were available for this report.

State Forfeiture Data

No data available. New Mexico's new forfeiture laws require agencies to provide the Department of Public Safety with annual forfeiture reports, which will be published online beginning April 1, 2016.

New Mexico ranks 25th for federal forfeiture, with over \$41 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

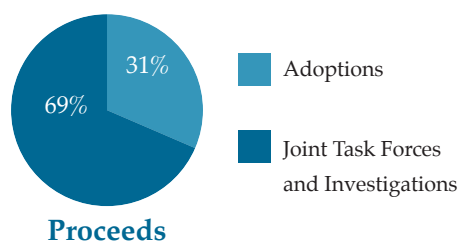
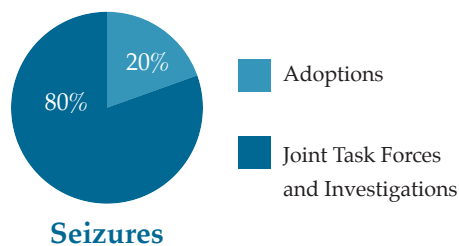
Federal Equitable Sharing

New Mexico law enforcement's use of the Department of Justice's equitable sharing program earns the state 25th place in a national ranking, with agencies having received more than \$41 million in DOJ equitable sharing proceeds between the 2000 and 2013 calendar years. The state's rank is likely to improve in the future, however: New Mexico's 2015 reforms prohibit law enforcement from transferring property worth less than \$50,000 to the federal government for forfeiture and require that all proceeds be deposited in the state's general fund. This rule effectively disqualifies New Mexico from participating in federal equitable sharing since DOJ guidelines require that equitable sharing funds be spent solely by law enforcement on law enforcement purposes. Finally, New Mexico law enforcement agencies also received more than \$29 million in Treasury Department equitable sharing proceeds between the 2000 and 2013 fiscal years.

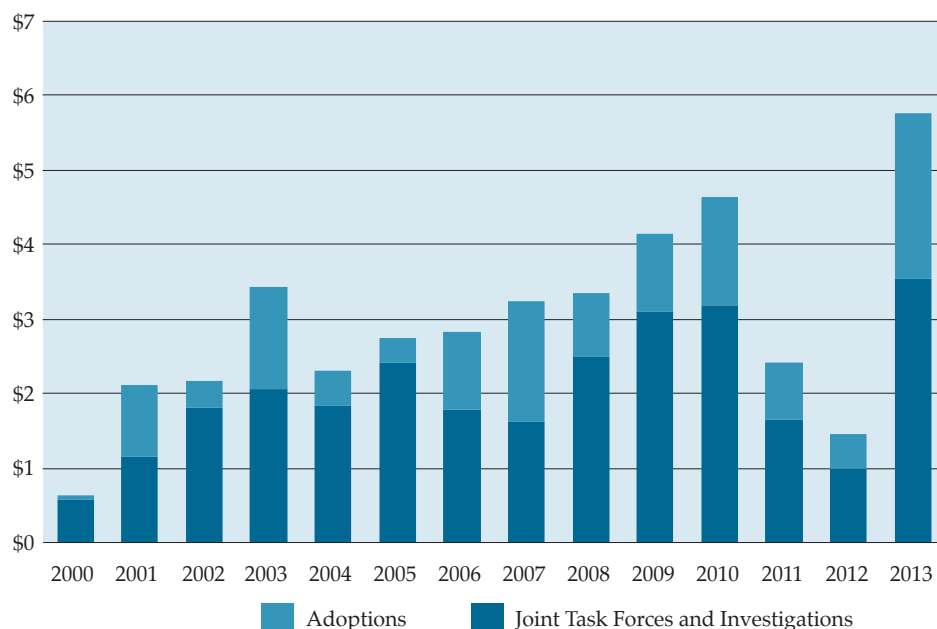
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$632,621	\$27,449,000
2001	\$2,113,046	\$41,000
2002	\$2,159,321	\$108,000
2003	\$3,427,170	\$136,000
2004	\$2,296,066	\$253,000
2005	\$2,751,648	\$117,000
2006	\$2,835,259	\$3,000
2007	\$3,237,591	\$8,000
2008	\$3,344,397	\$178,000
2009	\$4,157,954	\$3,000
2010	\$4,646,825	\$20,000
2011	\$2,423,660	\$220,000
2012	\$1,444,546	\$432,000
2013	\$5,769,752	\$202,000
Total	\$41,239,856	\$29,170,000
Average per year	\$2,945,704	\$2,083,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

New York earns a C for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required for some forfeitures
- Stronger protections for innocent third-party property owners
- 60% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

New York's civil forfeiture laws are not the nation's worst, earning a C, but law enforcement is able to bypass them through equitable sharing activity so extensive it is surpassed by that of only two states. For drug crimes, which typically draw the greatest amount of forfeiture activity, the government must prove that an individual committed a crime by clear and convincing evidence. Then the government must connect seized property to that crime by a preponderance of the evidence in order to forfeit it. Most other non-drug crimes generally require a criminal conviction. And in innocent owner claims the government bears the burden of proving that a claimant had knowledge of or involvement in the crime giving rise to the forfeiture. New

York law enforcement keeps 60 percent of all forfeiture proceeds—one of the lower incentives nationally but still a significant reason to seize.

New York law enforcement agencies are required to report "the disposal of property and collection of assets" to the Division of Criminal Justice Services, which makes annual reports to the Legislature and publishes them online. Reports could be improved with the addition of itemized lists of forfeited assets, detailed breakdowns of forfeiture fund expenditures, and other key details. Between 1997 and 2013, New York agencies reported forfeiting an astounding \$367 million, averaging \$21.6 million per calendar year.

State Forfeiture Data

Year	Reported Forfeiture Proceeds		
	District Attorneys	Task Forces & State Agencies	Total
1997	\$6,017,036	\$1,995,320	\$8,012,356
1998	\$5,863,458	\$2,579,656	\$8,443,114
1999	\$10,347,820	\$2,163,736	\$12,511,556
2000	\$10,971,543	\$3,113,189	\$14,084,732
2001	\$5,269,566	\$0	\$5,269,566
2002	\$9,231,936	\$3,426,377	\$12,658,313
2003	\$11,504,813	\$2,234,839	\$13,739,652
2004	\$10,852,869	\$3,691,085	\$14,543,954
2005	\$13,784,406	\$1,975,790	\$15,760,196
2006	\$15,187,011	\$4,846,924	\$20,033,935
2007	\$22,015,787	\$53,129,385	\$75,145,172
2008	\$17,528,212	\$372,858	\$17,901,070
2009	\$20,893,136	\$1,057,203	\$21,950,339
2010	\$12,944,287	\$770,502	\$13,714,789
2011	\$20,882,521	\$29,101,000	\$49,983,521
2012	\$16,088,304	\$840,011	\$16,928,315
2013	\$46,313,714	\$504,013	\$46,817,727
Total	\$255,696,419	\$111,801,888	\$367,498,307
Average per year	\$15,040,966	\$6,576,582	\$21,617,547

Source: Calendar-year forfeiture reports obtained online from the Division of Criminal Justice Services. Reports include data submitted to the division by all law enforcement agencies. Data represent the value of all cash forfeitures and the sale value of forfeited property; they do not represent the value of property that is forfeited but not sold.

New York ranks 49th for federal forfeiture,

with over **\$437 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

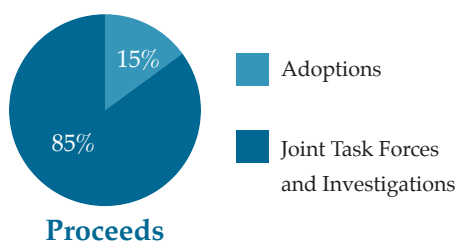
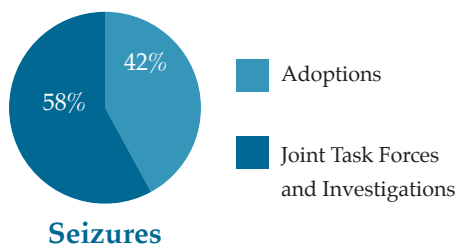
Federal Equitable Sharing

New York agencies apparently work around the Empire State’s lower profit incentive and better-than-average property rights protections through the Department of Justice’s equitable sharing program, which allows agencies to retain up to 80 percent of forfeiture proceeds. New York agencies’ participation in the program ranks 49th out of the 50 states and the District of Columbia. Agencies received a whopping \$437.5 million in DOJ equitable sharing proceeds between 2000 and 2013—more than \$31 million each calendar year. Eighty-five percent of proceeds stemmed from joint task forces and investigations, equitable sharing practices largely unaffected by former Attorney General Holder’s 2015 policy change. Moreover, proceeds have displayed an upward trend over the years, starting at \$24 million in 2000 and exceeding \$67 million in 2013. New York agencies also brought in \$174.6 million from the Treasury Department’s equitable sharing program between fiscal years 2000 and 2013.

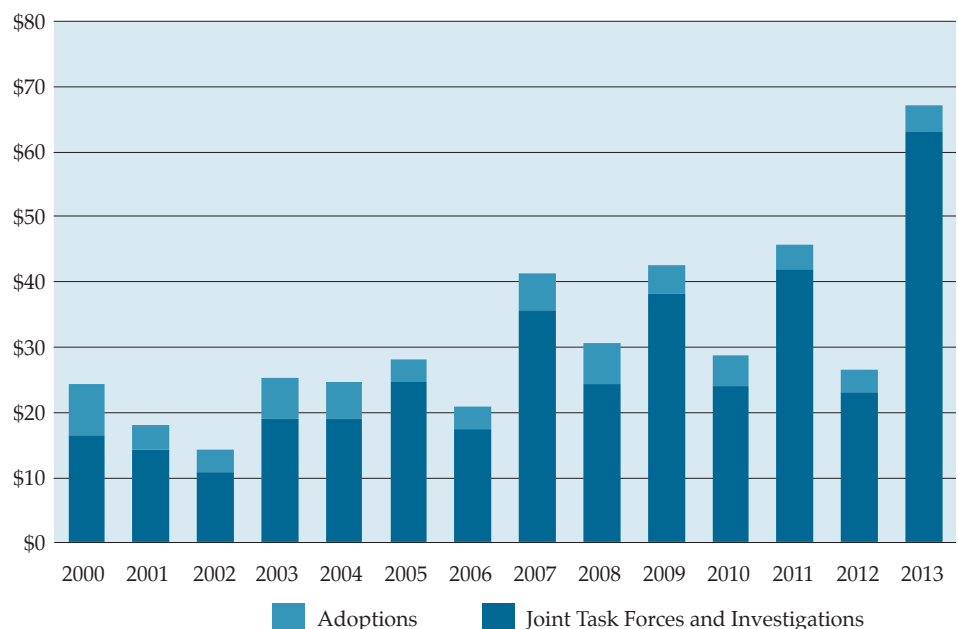
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$24,271,882	\$980,000
2001	\$18,003,629	\$22,266,000
2002	\$14,153,690	\$8,427,000
2003	\$25,138,936	\$9,466,000
2004	\$24,676,590	\$9,820,000
2005	\$28,181,250	\$15,303,000
2006	\$20,776,571	\$9,605,000
2007	\$41,330,522	\$9,064,000
2008	\$30,495,247	\$8,613,000
2009	\$42,575,559	\$11,959,000
2010	\$28,668,646	\$16,598,000
2011	\$45,562,000	\$12,863,000
2012	\$26,545,255	\$28,437,000
2013	\$67,134,340	\$11,192,000
Total	\$437,514,116	\$174,593,000
Average per year	\$31,251,008	\$12,470,929

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

North Carolina earns a **B+** for its civil forfeiture laws:

- Highest bar to forfeit property and conviction required
- Poor protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

North Carolina has some of the best forfeiture laws in the country, earning a B+. State law requires the highest possible standard of proof in most cases: a criminal conviction and therefore proof of guilt beyond a reasonable doubt. However, in racketeering cases—those involving organized crime—property can be forfeited in civil court by a preponderance of the evidence. Also in racketeering cases, innocent owners bear the burden of demonstrating that they were in no way involved in the criminal activity associated with their property. North Carolina law provides no incentive for law enforcement agencies to police for profit, as all forfeiture proceeds must go to fund public schools.

North Carolina suffers from a severe lack of transparency and accountability on forfeiture: Law enforcement agencies are not required to report on their forfeitures. The Institute for Justice obtained records of forfeited property sold at auction by filing a North Carolina Public Records Law request with the North Carolina Department of Revenue. Those data indicate that law enforcement agencies forfeited more than \$4.6 million worth of property—including a “cowboy lamp,” an Xbox 360 and a “red blanket”—between 2009 and 2013. However, that figure underreports total forfeiture proceeds because it does not include forfeited cash.

State Forfeiture Data

Year	Proceeds from Sale of Forfeited Property		
	Vehicles	Other Property	Total
2009	\$532,934	\$509,971	\$1,042,904
2010	\$563,901	\$400,789	\$964,690
2011	\$589,671	\$393,043	\$982,714
2012	\$486,585	\$311,982	\$798,568
2013	\$595,063	\$248,259	\$843,322
Total	\$2,768,154	\$1,864,045	\$4,632,199
Average per year	\$553,631	\$372,809	\$926,440

Source: Inventory of the sale value of forfeited property obtained through a North Carolina Public Records Law request made to the North Carolina Department of Revenue. These figures are organized by calendar year and do not include cash forfeitures.



North Carolina ranks **42nd** for federal forfeiture, with over **\$162 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

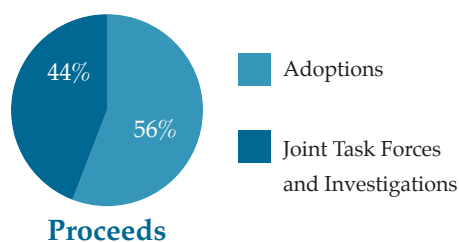
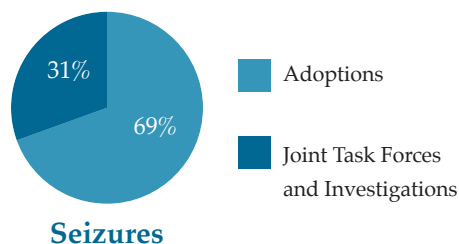
Federal Equitable Sharing

North Carolina law enforcement agencies may not be able to profit from civil forfeiture under state law, but they have found another way to supplement their budgets through forfeiture: the Department of Justice's equitable sharing program. Ranking 42nd in the nation on equitable sharing, law enforcement agencies in the Tar Heel State received more than \$162 million in DOJ proceeds between the 2000 and 2013 calendar years. Over half of these proceeds—and 69 percent of all assets seized—were the result of adoptions, the equitable sharing procedure curbed by former Attorney General Holder. The remainder stemmed from joint task forces and investigations, the vehicle for equitable sharing that will continue largely unencumbered following the DOJ policy change. Finally, agencies received over \$42 million from the Treasury Department's equitable sharing program between 2000 and 2013, averaging more than \$3 million per fiscal year.

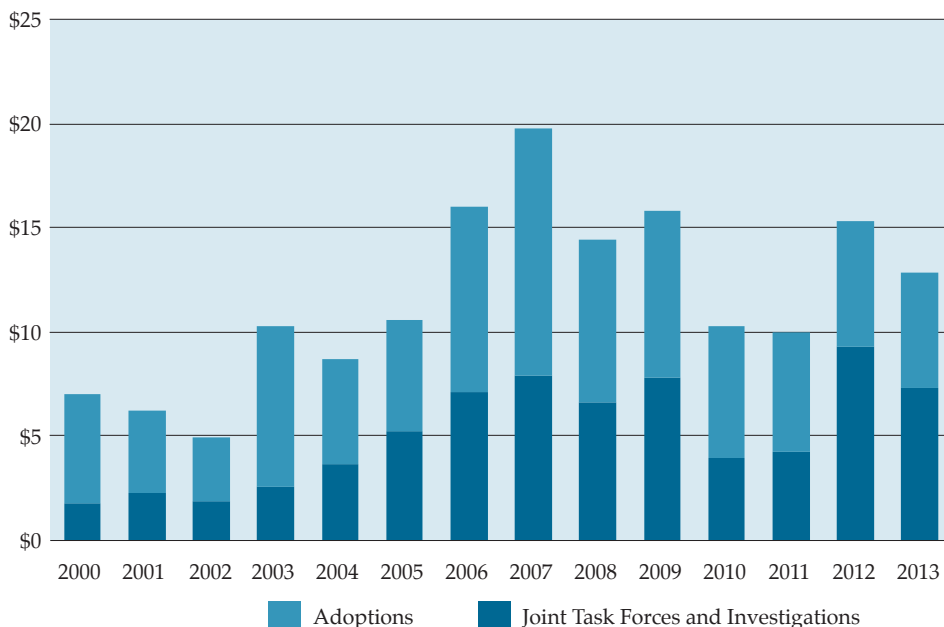
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$7,054,017	\$46,000
2001	\$6,181,517	\$754,000
2002	\$4,976,389	\$1,632,000
2003	\$10,273,438	\$899,000
2004	\$8,686,128	\$720,000
2005	\$10,601,098	\$3,802,000
2006	\$16,012,628	\$2,675,000
2007	\$19,812,152	\$2,734,000
2008	\$14,386,700	\$6,888,000
2009	\$15,826,136	\$7,081,000
2010	\$10,275,267	\$3,276,000
2011	\$9,996,968	\$2,761,000
2012	\$15,278,506	\$4,108,000
2013	\$12,821,362	\$5,002,000
Total	\$162,182,307	\$42,378,000
Average per year	\$11,584,450	\$3,027,000

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

North Dakota earns an **F** for its civil forfeiture laws:

- Lowest bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Along with Massachusetts, North Dakota has the worst civil forfeiture laws in the country, scoring an F. In North Dakota, law enforcement only needs to meet the lowest possible standard of proof—probable cause—to forfeit property. And when property has been used for illegal activity without the owner’s knowledge, the burden is on the owner to prove her innocence in order to recover it. Finally, North Dakota law enforcement agents operate under a particularly dangerous financial incentive: Agencies receive up to 100 percent of forfeiture proceeds up to \$200,000. If the government’s forfeiture fund exceeds \$200,000 over any two-year budget period, the excess must be deposited in

the general fund—encouraging law enforcement agencies to adopt a use-it-or-lose-it mentality.

The story of Adam Bush illustrates the hazards these laws pose to property owners. In August 2013, Bush was charged with stealing a safe full of cash. A jury later found him innocent of any wrongdoing, and the state’s attorney even admitted the evidence against Bush was “highly circumstantial.” Nonetheless, county sheriffs were able to forfeit Bush’s alleged getaway car. Unfortunately, it is impossible to get a good picture of the extent of forfeitures in North Dakota because law enforcement agencies are not required to track or report their forfeitures.

State Forfeiture Data

No data available. Law enforcement agencies are not required to track or report their forfeitures.

North Dakota is the 2nd best state for federal forfeiture, with **\$550,000** in Department of Justice equitable sharing proceeds from 2000 to 2013.

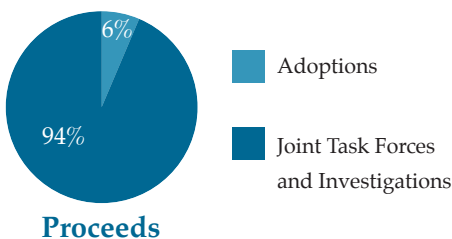
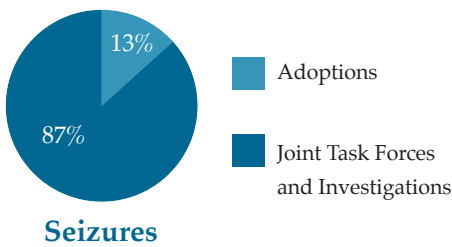
Federal Equitable Sharing

North Dakota has made such little use of the Department of Justice's equitable sharing program that the only state with a better track record is its neighbor South Dakota. Between 2000 and 2013, North Dakota law enforcement agencies received \$550,000 in equitable sharing proceeds, averaging nearly \$40,000 per calendar year. Just 75 assets were seized during this period, which averages out to five equitable sharing assets seized each calendar year. Eighty-seven percent of assets seized and 94 percent of proceeds received resulted from joint task forces and investigations, equitable sharing practices largely untouched by the DOJ policy intended to curb equitable sharing. North Dakota agencies also received almost \$1.4 million in Treasury Department forfeiture funds between 2000 and 2013, averaging out to over \$97,000 each fiscal year.

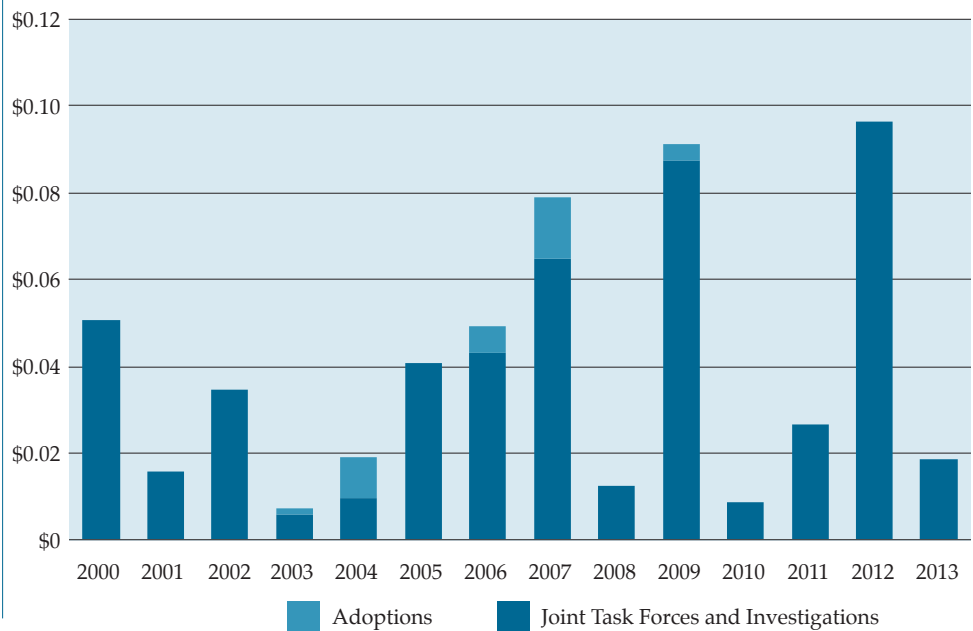
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$50,660	\$711,000
2001	\$15,705	\$2,000
2002	\$34,384	\$0
2003	\$7,353	\$0
2004	\$19,167	\$296,000
2005	\$40,874	\$0
2006	\$49,348	\$0
2007	\$78,824	\$0
2008	\$12,568	\$349,000
2009	\$91,410	\$0
2010	\$8,524	\$0
2011	\$26,582	\$0
2012	\$96,481	\$2,000
2013	\$18,604	\$0
Total	\$550,483	\$1,360,000
Average per year	\$39,320	\$97,143

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Ohio earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Ohio has terrible civil forfeiture laws, earning the state a D-. The government need only show by a preponderance of the evidence that seized property was used in or is the proceeds of a crime in order to forfeit it. Ohio law also places the burden on innocent owners to prove that they did not consent to, or have any knowledge of, the crime to which their property is allegedly tied. Compounding these problems, Ohio law enforcement agencies retain up to 100 percent of forfeiture proceeds in most cases and up to 90 percent in juvenile cases.

The Buckeye State's forfeiture reporting requirements are also lacking. Agencies were previously required to provide the state attorney general with reports of their annual

forfeitures, but this requirement was done away with in 2012. Agencies are now only required to keep an inventory of seized and forfeited property. Through an Ohio Public Records Act request made to the state Office of the Attorney General, the Institute for Justice was able to obtain some forfeiture records for the period of 2010 to 2012. However, several counties and law enforcement agencies failed to provide the attorney general with their forfeiture records, so the data included in this report are incomplete. Between 2010 and 2012, Ohio law enforcement acquired at least \$25.7 million—likely much more—in forfeiture proceeds. Ohio could greatly improve law enforcement accountability and forfeiture program transparency with comprehensive reporting requirements.

State Forfeiture Data

	Reported Forfeiture Proceeds				
	Currency	Vehicles	Real Property	Other	Total
2010					
Police	\$2,617,510	\$144,119	\$35,494	\$110,446	\$2,907,570
Sheriff	\$953,616	\$27,738	\$15,545	\$235,368	\$1,232,267
Prosecutor	\$1,797,349	\$28,753	\$15,212	\$81,299	\$1,922,613
State Agencies	\$770	\$0	\$0	\$293	\$1,063
Task Forces	\$204,356	\$37,171	\$0	\$2,976	\$244,503
Total	\$5,573,601	\$237,781	\$66,251	\$430,383	\$6,308,016
2011					
Police	\$4,807,982	\$231,591	\$0	\$231,928	\$5,271,502
Sheriff	\$1,369,994	\$122,913	\$90,701	\$116,646	\$1,700,254
Prosecutor	\$2,435,681	\$37,237	\$127,023	\$82,124	\$2,682,065
State Agencies	\$232,691	\$0	\$0	\$75,675	\$308,366
Task Forces	\$335,355	\$28,237	\$0	\$2,039	\$365,631
Total	\$9,181,703	\$419,979	\$217,724	\$508,412	\$10,327,818
2012					
Police	\$2,892,867	\$167,454	\$9,308	\$63,284	\$3,132,914
Sheriff	\$1,985,042	\$119,615	\$0	\$119,515	\$2,224,172
Prosecutor	\$2,153,093	\$8,428	\$11,699	\$104,134	\$2,277,354
State Agencies	\$315,647	\$0	\$0	\$48,850	\$364,497
Task Forces	\$929,141	\$47,403	\$54,964	\$61,521	\$1,093,029
Total	\$8,275,790	\$342,900	\$75,971	\$397,304	\$9,091,965
Grand Total	\$23,031,094	\$1,000,660	\$359,945	\$1,336,100	\$25,727,799
Average per year	\$7,677,031	\$333,553	\$119,982	\$445,367	\$8,575,933

Source: Reports of calendar-year forfeitures from state and local law enforcement agencies provided to the Ohio attorney general and obtained by the Institute for Justice through an Ohio Public Records Act request. Several agencies did not report to the attorney general, and several reports contained forfeited vehicles for which no value or proceeds were listed. In 2012, the requirement for agencies to report to the attorney general was eliminated.

Ohio ranks **43rd** for federal forfeiture,

with nearly **\$139 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

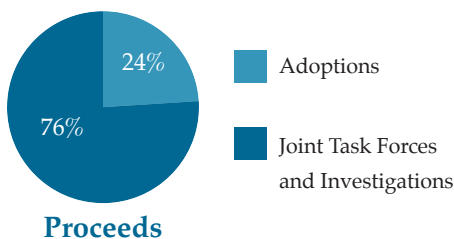
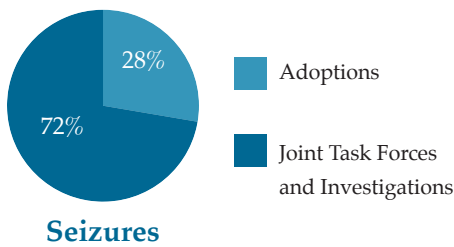
Federal Equitable Sharing

Ohio law enforcement agencies are also some of the worst offenders when it comes to participation in the Department of Justice’s equitable sharing program, ranking 43rd nationally. Between 2000 and 2013, Ohio agencies received \$138.9 million in DOJ equitable sharing proceeds, averaging almost \$10 million per calendar year. More than three-quarters of these proceeds were the result of joint task forces and investigations—practices left mostly untouched by former Attorney General Holder’s policy change attempting to curb equitable sharing. Ohio agencies also received \$14.7 million in equitable sharing proceeds from the Treasury Department between 2000 and 2013, averaging over \$1 million per fiscal year.

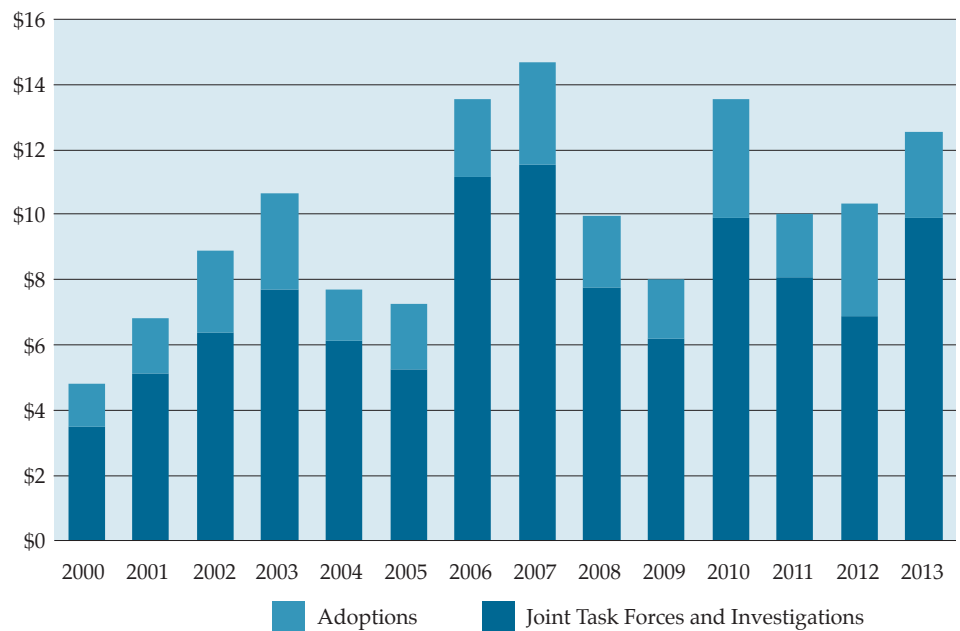
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$4,810,268	\$7,000
2001	\$6,816,723	\$1,009,000
2002	\$8,914,533	\$254,000
2003	\$10,672,377	\$78,000
2004	\$7,693,145	\$1,212,000
2005	\$7,251,515	\$574,000
2006	\$13,542,369	\$117,000
2007	\$14,695,725	\$2,533,000
2008	\$9,949,982	\$2,021,000
2009	\$8,041,896	\$430,000
2010	\$13,562,934	\$970,000
2011	\$10,017,794	\$3,068,000
2012	\$10,362,789	\$1,673,000
2013	\$12,525,943	\$768,000
Total	\$138,857,992	\$14,714,000
Average per year	\$9,918,428	\$1,051,000

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Oklahoma earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Oklahoma’s civil forfeiture laws are in dire need of reform. Earning a D-, Oklahoma state law only requires the government to prove a property’s connection to a crime by a preponderance of the evidence in order to forfeit it. Individuals wishing to bring an innocent owner claim bear the burden of proving that they had nothing to do with the illegal use of their property. Oklahoma law enforcement agencies also get to keep up to 100 percent of the spoils of forfeiture.

Law enforcement agencies in the Sooner State are only required to maintain an inventory of seized and forfeited

property, providing little to no transparency. However, the Institute for Justice submitted an Oklahoma Open Records Act request to the Oklahoma District Attorneys Council and obtained the judicial district fund accounting of cash forfeitures and proceeds from the sale of forfeited property for fiscal years 2000 to 2014. These data indicate that Oklahoma law enforcement agencies forfeited nearly \$99 million during this period, the vast majority of which—72 percent—derived from cash forfeitures.

State Forfeiture Data

Year	Reported Forfeiture Proceeds		
	Currency	Non-Currency	Total
2000	\$3,428,322	\$932,007	\$4,360,329
2001	\$3,807,605	\$1,287,544	\$5,095,149
2002	\$3,924,541	\$1,109,558	\$5,034,099
2003	\$6,520,748	\$1,836,377	\$8,357,125
2004	\$5,887,904	\$3,151,573	\$9,039,477
2005	\$5,236,443	\$2,628,347	\$7,864,790
2006	\$5,378,123	\$2,508,176	\$7,886,299
2007	\$5,648,549	\$2,406,032	\$8,054,581
2008	\$6,131,372	\$1,775,205	\$7,906,577
2009	\$4,229,714	\$1,345,651	\$5,575,365
2010	\$5,746,450	\$1,217,681	\$6,964,130
2011	\$4,337,087	\$1,910,194	\$6,247,282
2012	\$3,028,379	\$1,281,709	\$4,310,089
2013	\$4,330,733	\$2,249,982	\$6,580,715
2014	\$4,114,801	\$1,595,682	\$5,710,483
Total	\$71,750,771	\$27,235,719	\$98,986,490
Average per year	\$4,783,385	\$1,815,715	\$6,599,099

Source: Proceeds from cash forfeitures and forfeited property sold at auction, displayed in fiscal-year format. The Institute for Justice obtained these data from the Oklahoma District Attorneys Council through an Oklahoma Open Records Act request.



Oklahoma ranks 18th for federal forfeiture,

with over **\$59 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

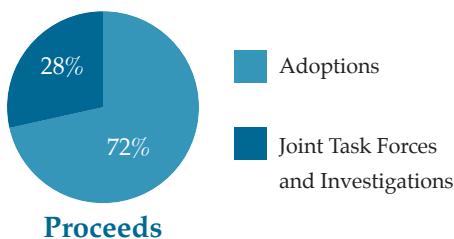
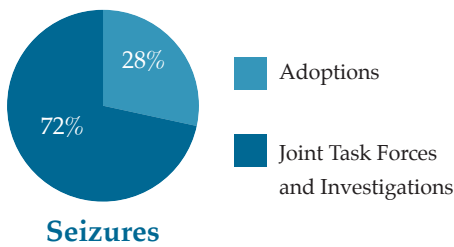
Federal Equitable Sharing

Oklahoma law enforcement agencies' participation in the Department of Justice's equitable sharing program earns the state 18th place in the national rankings. Between the 2000 and 2013 calendar years, agencies received more than \$59 million in DOJ equitable sharing proceeds. While just 28 percent of assets seized through the program resulted from adoptions—the type of equitable sharing severely limited by former Attorney General Holder—these accounted for almost three-quarters of Oklahoma agencies' equitable sharing proceeds received. Data indicate that the average value of an adopted asset was approximately \$134,000—more than six times the average value of an asset seized through a joint task force or investigation. It is possible that Oklahoma agencies requested federal adoptions primarily for high-dollar cases that would have been more complicated to process at the state or local level. Law enforcement agencies also received over \$2.7 million in Treasury Department equitable sharing proceeds between fiscal years 2000 and 2013.

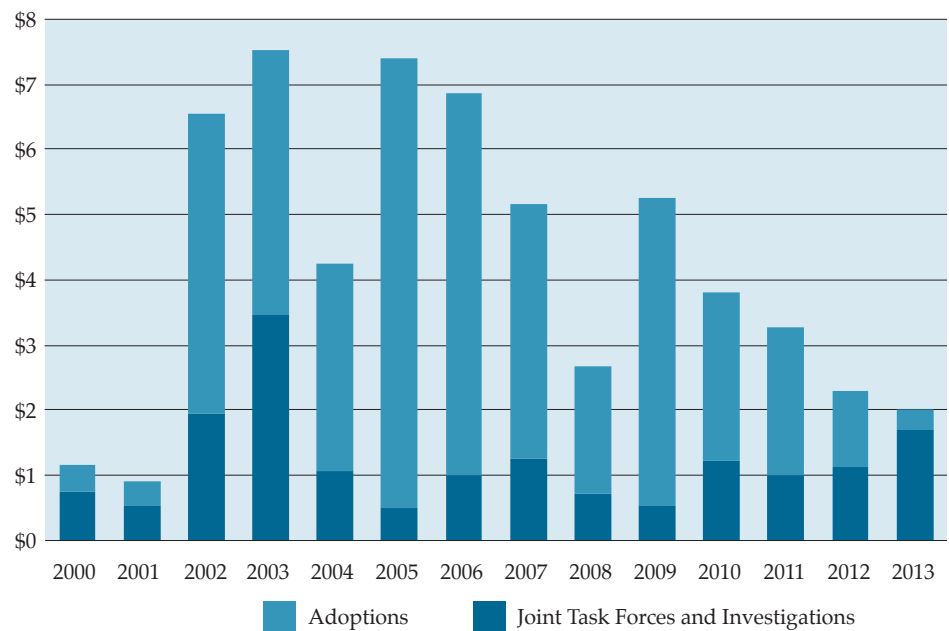
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,149,992	\$45,000
2001	\$893,449	\$0
2002	\$6,551,075	\$8,000
2003	\$7,515,027	\$6,000
2004	\$4,256,057	\$179,000
2005	\$7,414,118	\$142,000
2006	\$6,875,791	\$21,000
2007	\$5,175,668	\$5,000
2008	\$2,667,450	\$63,000
2009	\$5,265,364	\$249,000
2010	\$3,821,659	\$114,000
2011	\$3,281,106	\$739,000
2012	\$2,302,774	\$1,000,000
2013	\$2,006,956	\$155,000
Total	\$59,176,486	\$2,726,000
Average per year	\$4,226,892	\$194,714

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Oregon earns a C+ for its civil forfeiture laws:

- Conviction required, but low bar to connect most property to the crime
- Stronger protections for innocent third-party property owners
- As much as 62.5% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Oregon's civil forfeiture laws provide property owners with some protections, earning the state a C+ law grade. Oregon law requires a criminal conviction for civil forfeiture. Once the government wins a conviction, it must then link property to the crime in civil court to justify its forfeiture. In the civil proceeding, the standard of proof for most types of property is just preponderance of the evidence, though the standard is slightly higher for real property, such as a home or piece of land. In most cases, the government bears the burden of disproving an innocent owner claim, unless money or weapons are found in close proximity to drugs; in such cases, owners bear the burden of showing by a preponderance of the evidence that the property neither derived from nor played a part in a drug crime. Finally, Oregon agencies get to keep 62.5 percent of forfeiture proceeds when a case is brought by local law enforcement, and 57 percent when a case is brought by a state agency. These percentages are low-

er than those of most other states, but they still represent a sizable incentive to seize.

Oregon law enforcement agencies are required to report details of seized and forfeited property to the Asset Forfeiture Oversight Advisory Committee, which aggregates the data and publishes annual reports online. However, data are missing for 2009 and 2012 because the AFOAC did not have adequate funding to collect and compile reports during those years—even though forfeiture proceeds may have averaged more than \$1 million annually between 2009 and 2013. Available data indicate that Oregon law enforcement agencies reportedly forfeited \$5.2 million over the years 2010, 2011 and 2013. Unlike every other state except for Connecticut, Oregon reports civil and criminal forfeiture proceeds separately; civil forfeitures accounted for 58 percent of proceeds.

State Forfeiture Data

Year	Case Type	Reported Forfeiture Proceeds		
		Currency	Other Property	Total
2010	Civil	\$488,689	\$41,933	\$530,622
	Criminal	\$212,796	\$33,093	\$245,888
	Total	\$701,484	\$75,026	\$776,510
2011	Civil	\$1,192,532	\$70,481	\$1,263,013
	Criminal	\$479,530	\$49,573	\$529,103
	Total	\$1,672,062	\$120,053	\$1,792,116
2013	Civil	\$1,033,807	\$208,105	\$1,241,912
	Criminal	\$1,316,736	\$71,868	\$1,388,604
	Total	\$2,350,543	\$279,973	\$2,630,516
Grand Total		\$4,724,090	\$475,052	\$5,199,142
Average per year		\$1,574,697	\$158,351	\$1,733,047

Source: Reports of calendar-year civil and criminal forfeiture revenue obtained from the Oregon Criminal Justice Commission, either through its website for newer reports or through an Oregon Public Records Law request for older ones. The Asset Forfeiture Oversight Advisory Committee compiles data received from law enforcement agencies into aggregate reports, but it reportedly lacked funding to compile reports in 2009 and 2012.

Oregon ranks 14th for federal forfeiture,

with over **\$16 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

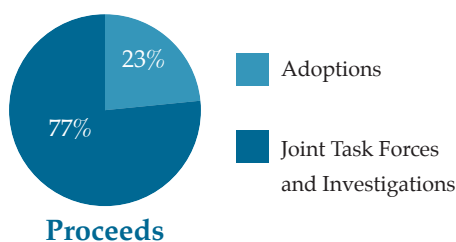
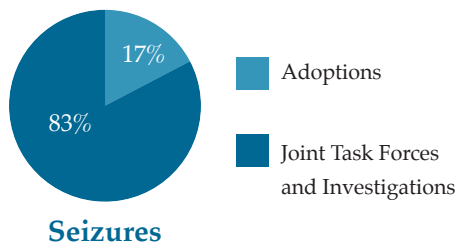
Federal Equitable Sharing

Ranking 14th in the nation on equitable sharing, law enforcement agencies in Oregon made less use of the Department of Justice's equitable sharing program than did agencies in most other states. Between 2000 and 2013, agencies received over \$16 million in DOJ equitable sharing proceeds, averaging almost \$1.2 million per calendar year. Over 80 percent of assets seized and more than three-quarters of proceeds received resulted from joint task forces and investigations—the type of equitable sharing generally exempt from the DOJ's new limits on the practice. Finally, Oregon law enforcement agencies also received \$10.6 million in equitable sharing proceeds from the Treasury Department between the 2000 and 2013 fiscal years.

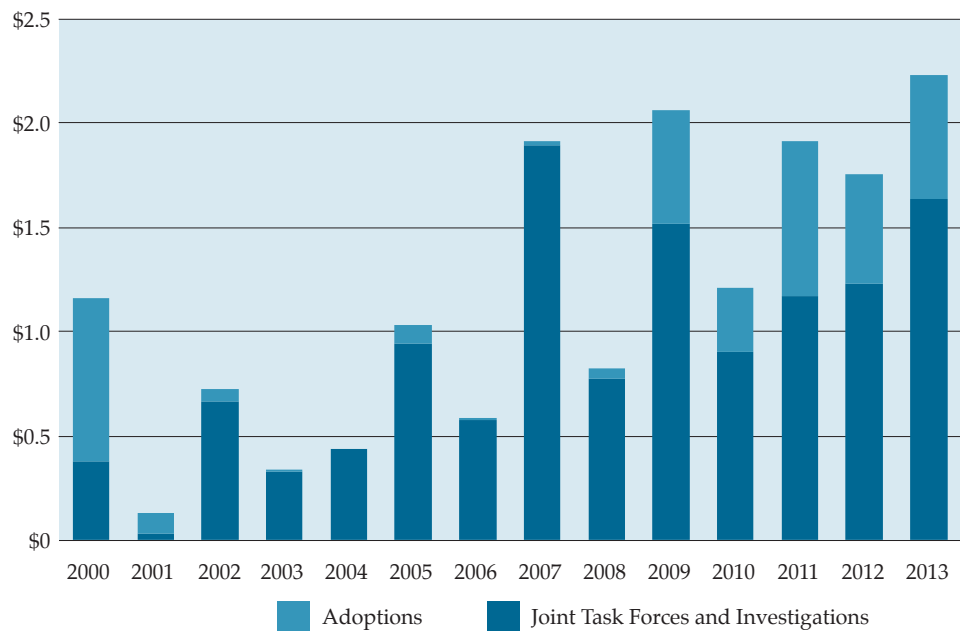
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,165,931	\$607,000
2001	\$128,834	\$46,000
2002	\$729,363	\$826,000
2003	\$336,960	\$1,322,000
2004	\$441,062	\$449,000
2005	\$1,037,933	\$920,000
2006	\$585,642	\$528,000
2007	\$1,913,000	\$727,000
2008	\$821,585	\$896,000
2009	\$2,063,316	\$1,486,000
2010	\$1,211,101	\$974,000
2011	\$1,918,465	\$656,000
2012	\$1,755,165	\$730,000
2013	\$2,231,360	\$436,000
Total	\$16,339,718	\$10,603,000
Average per year	\$1,167,123	\$757,357

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Pennsylvania earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Pennsylvania has some of the worst civil forfeiture laws in the country. Earning a D-, Pennsylvania law only requires law enforcement to tie property to a crime by a preponderance of the evidence in order to forfeit it. Innocent owners are required to prove that they did not participate in, give consent to or have knowledge of the criminal activity with which their property is associated. Worst of all, law enforcement agencies have every incentive to seize: They retain 100 percent of all forfeiture proceeds.

Law enforcement agencies in Philadelphia have taken full advantage of the money-making opportunity afforded by Pennsylvania law. Between 2002 and 2013, forfeiture revenues were equivalent to nearly one-fifth of the Philadelphia district attorney's budget.

The Keystone State's forfeiture reporting requirements provide limited transparency. Each county is required to make annual reports of its forfeitures and forfeiture fund expenditures to the attorney general, who aggregates the reports and sends them to the Legislature. However, these reports would be more helpful if they included such features as itemized lists of forfeited assets or breakdowns of civil versus criminal forfeitures. The reports are not available online, forcing interested parties to file a request under the Pennsylvania Right-to-Know Law. Data obtained by the Institute for Justice using a RTKL request indicate that Pennsylvania law enforcement agencies reportedly forfeited more than \$152 million between 2000 and 2013, averaging about \$10.9 million per fiscal year.

State Forfeiture Data

Year	Reported Forfeiture Proceeds				Total
	Currency	Vehicles	Real Property	Other	
2000	\$5,521,524	\$656,273	\$362,518	\$103,134	\$6,643,449
2001	\$5,052,475	\$440,521	\$460,349	\$44,958	\$5,998,303
2002	\$6,353,097	\$818,455	\$350,433	\$93,250	\$7,615,235
2003	\$8,016,870	\$609,507	\$2,178,054	\$45,321	\$10,849,751
2004	\$7,117,420	\$901,419	\$2,051,150	\$224,456	\$10,294,444
2005	\$9,953,843	\$744,491	\$1,770,187	\$35,587	\$12,504,108
2006	\$9,987,015	\$1,089,929	\$2,183,496	\$95,689	\$13,356,129
2007	\$7,757,828	\$1,202,026	\$2,716,312	\$64,046	\$11,740,212
2008	\$9,393,068	\$1,207,816	\$1,196,849	\$205,040	\$12,002,774
2009	\$11,965,015	\$831,473	\$1,999,110	\$151,472	\$14,947,070
2010	\$8,955,802	\$887,842	\$1,297,060	\$145,239	\$11,285,943
2011	\$10,102,475	\$1,108,395	\$975,014	\$83,871	\$12,269,755
2012	\$9,508,357	\$974,925	\$1,099,026	\$111,912	\$11,694,221
2013	\$8,381,972	\$832,639	\$1,677,598	\$82,727	\$10,974,936
Total	\$118,066,759	\$12,305,711	\$20,317,156	\$1,486,703	\$152,176,329
Average per year	\$8,433,340	\$878,979	\$1,451,225	\$106,193	\$10,869,738

Source: The Institute for Justice obtained the Office of the Attorney General's forfeiture reports by filing a Pennsylvania Right-to-Know Law request. The data represent fiscal-year forfeitures, including both forfeited cash and proceeds from the sale of forfeited property.

Pennsylvania ranks 41st for federal forfeiture, with nearly \$105 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

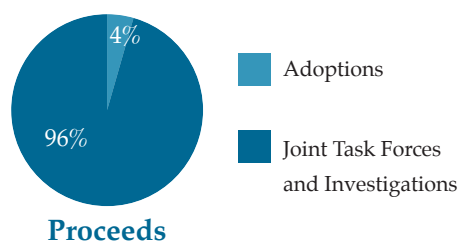
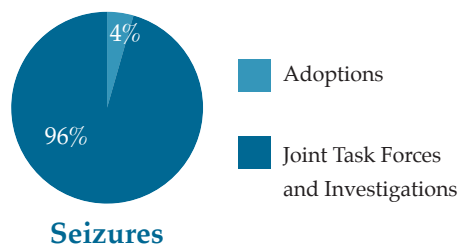
Federal Equitable Sharing

Ranking 41st in the nation on equitable sharing, Pennsylvania law enforcement agencies participated in the Department of Justice's equitable sharing program to a much greater extent than did most other states' agencies. Between 2000 and 2013, Pennsylvania agencies received \$104.9 million in equitable sharing proceeds from the DOJ, a calendar-year average of almost \$7.5 million. The overwhelming majority of both assets seized and proceeds received—96 percent of both—came from joint task forces and investigations, which former Attorney General Holder's policy change did little to restrain. Agencies also received nearly \$15.5 million in proceeds from the Treasury Forfeiture Fund, averaging over \$1.1 million per fiscal year.

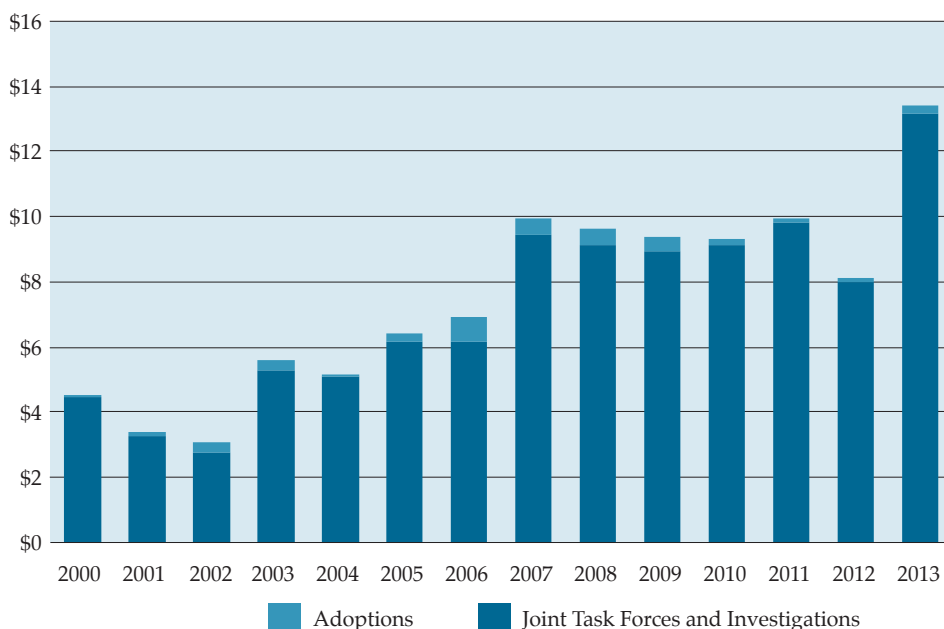
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$4,524,767	\$444,000
2001	\$3,407,270	\$786,000
2002	\$3,098,388	\$587,000
2003	\$5,586,394	\$445,000
2004	\$5,115,294	\$112,000
2005	\$6,402,002	\$710,000
2006	\$6,952,958	\$3,238,000
2007	\$9,970,265	\$578,000
2008	\$9,604,562	\$2,217,000
2009	\$9,349,668	\$214,000
2010	\$9,333,625	\$3,803,000
2011	\$9,955,269	\$699,000
2012	\$8,130,351	\$1,138,000
2013	\$13,425,422	\$485,000
Total	\$104,856,235	\$15,456,000
Average per year	\$7,489,731	\$1,104,000

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Rhode Island earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 90% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Rhode Island has awful civil forfeiture laws, earning a D- grade. As in every state, law enforcement need only show probable cause to seize property. But for property to be returned in Rhode Island, it is up to owners to prove by a preponderance of the evidence that their property is not forfeitable. Individuals making innocent owner claims also bear the burden of proving that they had no involvement in the illegal use of their property in order to recover it. Finally, Rhode Island law enforcement agencies retain 90 percent

of all forfeiture proceeds, a generous incentive to wield their forfeiture powers.

Law enforcement agencies in Rhode Island are required to report their forfeitures to the state treasurer and attorney general, who then aggregate the data and provide annual reports to the Legislature. Disappointingly, these reports are not available online. Law enforcement agencies reportedly forfeited more than \$8.3 million between 2009 and 2014, averaging almost \$1.4 million per calendar year.

State Forfeiture Data

Year	Property Type	Reported Forfeiture Proceeds			Total
		Local Police	State Police	Other Agencies	
2009	Currency	\$861,770	\$138,389	\$1,409	\$1,001,567
	All Other Property	\$546,588	\$15,214	\$0	\$561,802
	Total	\$1,408,358	\$153,603	\$1,409	\$1,563,370
2010	Currency	\$388,261	\$49,751	\$2,073	\$440,085
	All Other Property	\$496,234	\$37,125	\$0	\$533,359
	Total	\$884,495	\$86,876	\$2,073	\$973,444
2011	Currency	\$530,706	\$70,339	\$1,693	\$602,738
	All Other Property	\$472,184	\$250,702	\$0	\$722,887
	Total	\$1,002,890	\$321,042	\$1,693	\$1,325,625
2012	Currency	\$513,626	\$246,161	\$1,818	\$761,605
	All Other Property	\$1,135,429	\$44,387	\$0	\$1,179,816
	Total	\$1,649,055	\$290,548	\$1,818	\$1,941,421
2013	Currency	\$491,665	\$133,850	\$1,480	\$626,995
	All Other Property	\$540,396	\$84,368	\$0	\$624,764
	Total	\$1,032,061	\$218,218	\$1,480	\$1,251,759
2014	Currency	\$631,533	\$134,184	\$8,375	\$774,092
	All Other Property	\$407,390	\$69,881	\$0	\$477,271
	Total	\$1,038,923	\$204,065	\$8,375	\$1,251,363
Grand Total		\$7,015,782	\$1,274,351	\$16,848	\$8,306,981
Average per year		\$1,169,297	\$212,392	\$2,808	\$1,384,497

Source: Reports of calendar-year forfeitures obtained from the Rhode Island Office of the Attorney General via an Access to Public Records Act request. The data reflect the total value of forfeited property.

Rhode Island is the **worst** state for federal forfeiture, with over **\$248 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

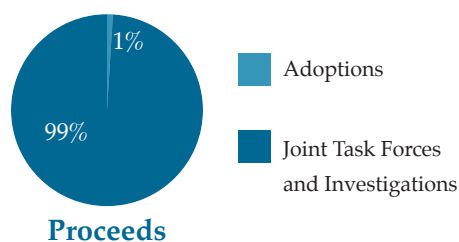
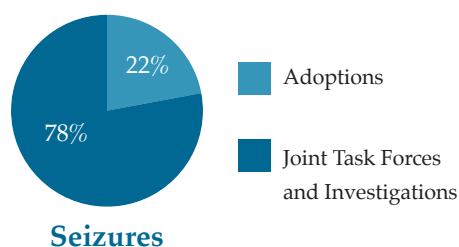
Federal Equitable Sharing

Rhode Island ranks 51st—dead last—on equitable sharing, thanks in no small part to a large 2013 payout from the Department of Justice’s equitable sharing program. Between the 2000 and 2013 calendar years, agencies in the Ocean State received more than \$248 million in DOJ equitable sharing proceeds, but most of that came in a single year. In 2013, five Rhode Island agencies split a \$229 million payout from the DOJ—the spoils of participating in a task force whose investigation resulted in a \$500 million settlement agreement between Google and the federal government. Former Attorney General Holder also took the unusual step of allowing the East Providence and North Providence police departments to use \$49.2 million and \$20.6 million, respectively, of the proceeds to backfill police pension funds—a practice generally prohibited by the DOJ. Finally, Rhode Island agencies received almost \$5.2 million in Treasury Department equitable sharing proceeds over the 2000 to 2013 fiscal years.

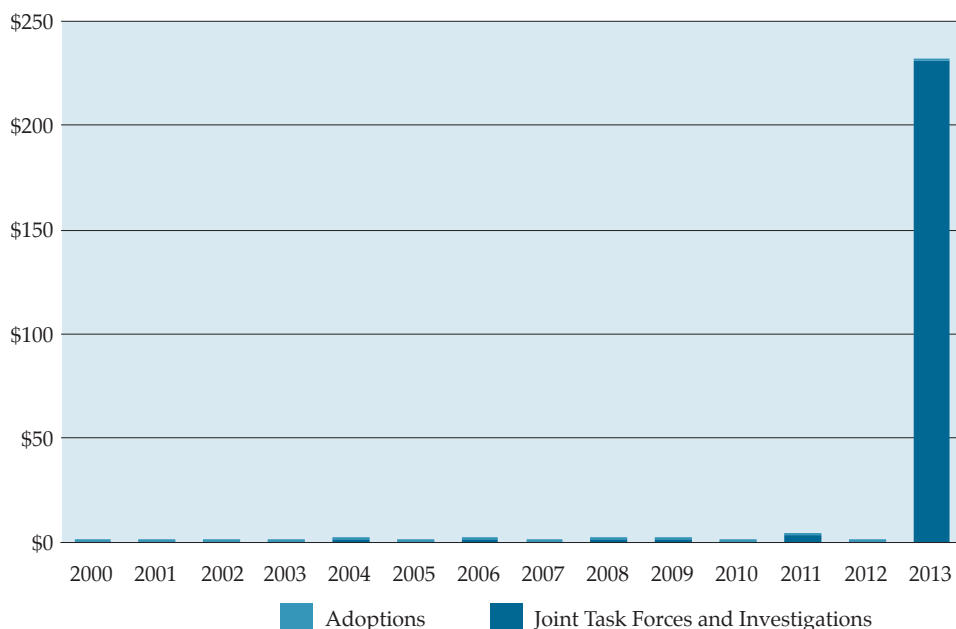
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$572,149	\$8,000
2001	\$406,444	\$673,000
2002	\$163,988	\$45,000
2003	\$897,074	\$12,000
2004	\$1,605,107	\$3,458,000
2005	\$880,906	\$584,000
2006	\$1,871,089	\$6,000
2007	\$984,973	\$6,000
2008	\$1,766,691	\$63,000
2009	\$1,242,657	\$0
2010	\$1,399,315	\$98,000
2011	\$4,339,622	\$0
2012	\$547,548	\$89,000
2013	\$231,417,276	\$132,000
Total	\$248,094,838	\$5,174,000
Average per year	\$17,721,060	\$369,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

South Carolina earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 95% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

South Carolina's civil forfeiture laws offer very little protection for property owners, earning a D- grade. As in all states, law enforcement need only have probable cause to seize property. But to get seized property back in South Carolina, an owner must show that it is not forfeitable by a preponderance of the evidence. Innocent owners also bear the burden of proving that they did not consent to the illegal use of their property. Making matters worse, South Carolina law enforcement agencies have a powerful incentive to seize property: They retain 95 percent of forfeiture proceeds, with 75 percent going to police agencies and 20 percent to prosecutors. The remaining 5 percent is deposited into the state's general fund.

Not only do South Carolina's laws fail to protect property owners, but they also fail to provide much transparency: Law enforcement agencies are not required to track or report their forfeitures. Instead, they only have to maintain an inventory of seized property and share that information with the appropriate prosecution agency. The Institute for Justice was able to obtain records of the 5 percent of forfeiture proceeds deposited into the state general fund by filing a South Carolina Freedom of Information Act request with the state treasurer. IJ used these records to estimate that law enforcement agencies obtained \$22.7 million in forfeiture proceeds between 2009 and 2014, averaging \$3.8 million per fiscal year.

State Forfeiture Data

Year	Estimated Forfeiture Proceeds
2009	\$3,355,238
2010	\$5,350,240
2011	\$4,838,507
2012	\$2,763,891
2013	\$2,633,693
2014	\$3,735,480
Total	\$22,677,048
Average per year	\$3,779,508

Source: Estimated forfeiture proceeds based on data obtained from a South Carolina Freedom of Information Act request made to the Office of the State Treasurer. By law, 5 percent of all forfeiture proceeds must be deposited into the state general fund. The Institute for Justice obtained records of these deposits and multiplied fiscal-year totals by 20 in order to estimate the total value of forfeitures in South Carolina. These totals do not include the proceeds of "chop shop" (stolen vehicles or auto parts) forfeitures, which are sent directly to the relevant county general fund.

South Carolina ranks 29th for federal forfeiture, with over \$56 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

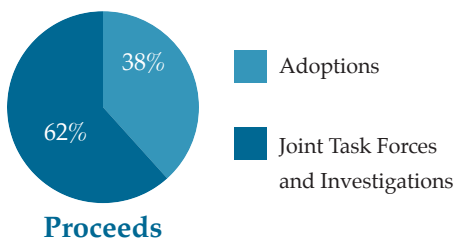
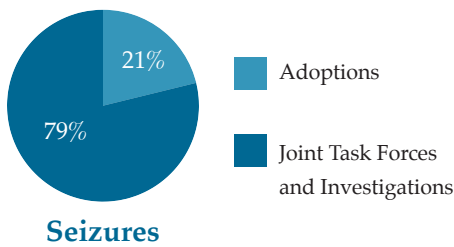
Federal Equitable Sharing

South Carolina law enforcement's participation in the Department of Justice's equitable sharing program earns the Palmetto State 29th place in the national rankings. Between 2000 and 2013, South Carolina agencies received over \$56 million in DOJ equitable sharing proceeds, averaging more than \$4 million each calendar year. Almost 80 percent of assets seized and 62 percent of proceeds received came from joint task forces and investigations, equitable sharing practices largely unaffected by the DOJ's new policy intended to rein in equitable sharing. Further, South Carolina agencies received more than \$18 million in equitable sharing proceeds from the Treasury Department, averaging \$1.3 million each fiscal year between 2000 and 2013.

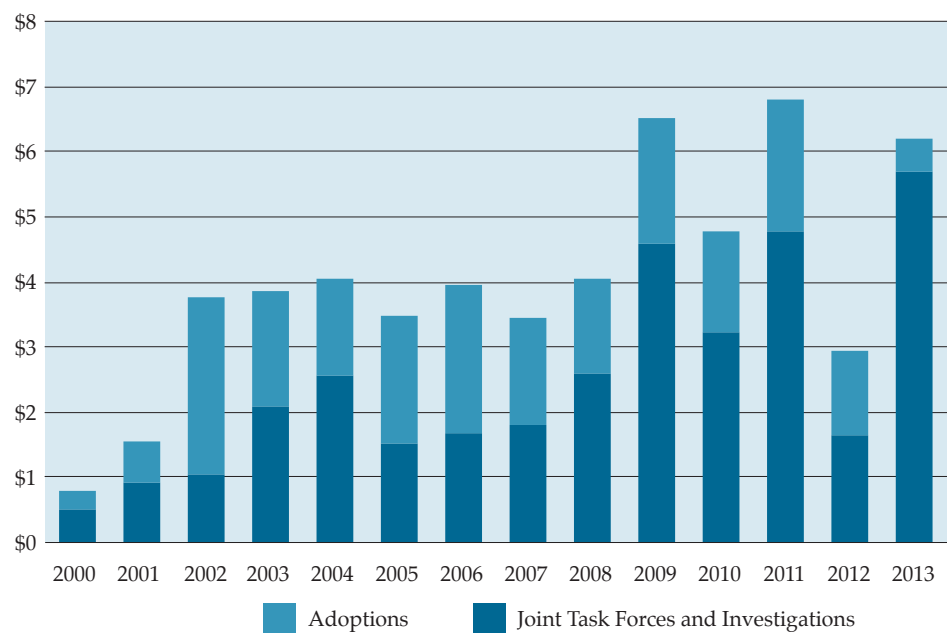
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$779,698	\$182,000
2001	\$1,553,493	\$156,000
2002	\$3,773,898	\$179,000
2003	\$3,873,238	\$909,000
2004	\$4,049,345	\$1,286,000
2005	\$3,490,372	\$1,012,000
2006	\$3,955,589	\$186,000
2007	\$3,454,685	\$491,000
2008	\$4,041,224	\$828,000
2009	\$6,506,996	\$4,410,000
2010	\$4,786,969	\$2,014,000
2011	\$6,800,641	\$397,000
2012	\$2,928,667	\$3,618,000
2013	\$6,212,660	\$2,457,000
Total	\$56,207,475	\$18,125,000
Average per year	\$4,014,820	\$1,294,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

South Dakota earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

South Dakota has some of the worst civil forfeiture laws in the country, earning a D-. In order to forfeit property, law enforcement need only tie it to a crime by a preponderance of the evidence. An individual wishing to bring an innocent owner claim in the Mount Rushmore State faces the burden of proving that she had nothing to do with the criminal activity in which her property has been implicated. Law enforcement also retains 100 percent of forfeiture proceeds, which are first deposited into the attorney general's Drug Control Fund and then distributed to law enforcement agencies for drug enforcement efforts. For example, in 2013, South Dakota Attorney General Marty Jackley pro-

vided the South Dakota Highway Patrol with a particularly large forfeiture award—\$240,936—for the purchase of a single SWAT vehicle.

Compounding those problems, South Dakota law does not require law enforcement agencies to track or report their forfeitures. By filing a South Dakota Open Records Law request, the Institute for Justice was able to obtain records of forfeiture proceeds from the South Dakota Office of the Attorney General, which prosecuted almost \$4.1 million in forfeitures between 2010 and 2013, or over \$1 million per fiscal year. These figures represent all drug-related civil forfeitures conducted in South Dakota during this time.

State Forfeiture Data

Year	Reported Drug-Related Civil Forfeiture Proceeds			
	Currency	Vehicles	Other	Total
2010	\$288,776	\$165,841	\$4,805	\$459,423
2011	\$499,596	\$160,487	\$3,300	\$663,382
2012	\$1,183,938	\$176,600	\$4,258	\$1,364,796
2013	\$1,281,194	\$301,048	\$7,900	\$1,590,142
Total	\$3,253,504	\$803,976	\$20,263	\$4,077,743
Average per year	\$813,376	\$200,994	\$5,066	\$1,019,436

Source: Proceeds from drug-related civil forfeitures conducted by the South Dakota Office of the Attorney General. These data are presented in fiscal-year format and were obtained via a South Dakota Open Records Law request.

South Dakota is the best state for federal forfeiture, with just over **\$1 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

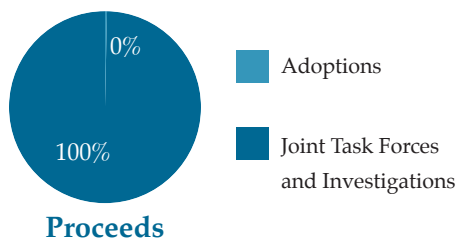
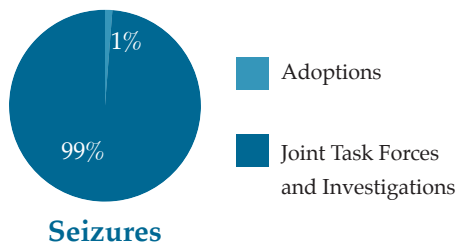
Federal Equitable Sharing

Law enforcement agencies in South Dakota make less use of the Department of Justice’s equitable sharing program than do agencies in any other state, perhaps because state law makes it relatively easy for agencies to benefit handsomely from civil forfeiture. Ranking first in the nation on equitable sharing, South Dakota agencies received over \$1 million in DOJ equitable sharing proceeds between the 2000 and 2013 calendar years. More than 99 percent of those proceeds resulted from joint task forces and investigations, however, meaning that agencies’ rate of participation in the DOJ program is unlikely to drop following former Attorney General Holder’s policy change, which primarily affects adoptions. Finally, agencies received \$52,000 in equitable sharing proceeds from the Treasury Department between 2000 and 2013—or about \$3,700 per fiscal year.

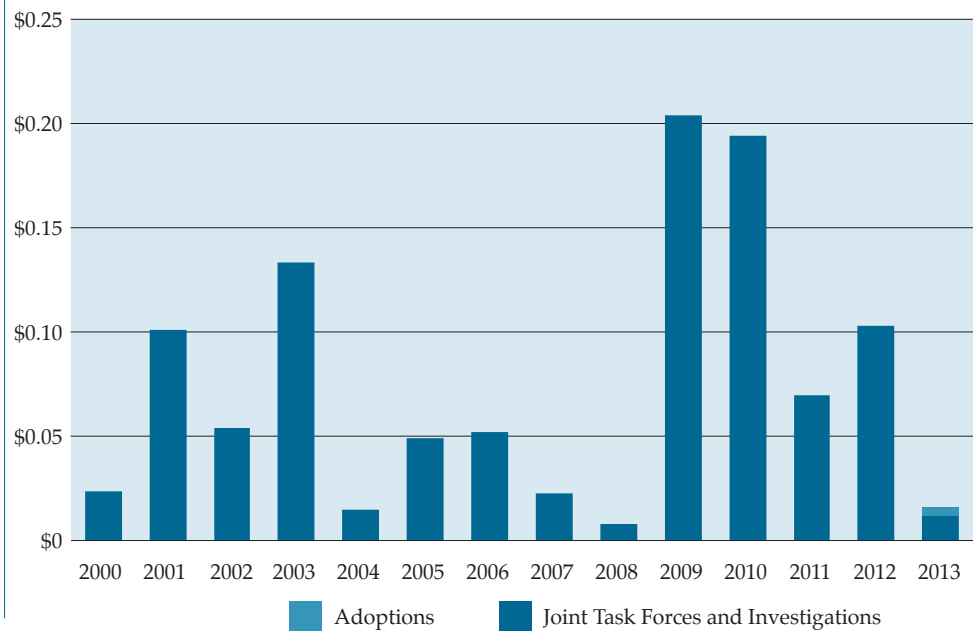
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$23,520	\$0
2001	\$101,424	\$0
2002	\$53,711	\$0
2003	\$133,472	\$0
2004	\$14,837	\$39,000
2005	\$49,048	\$1,000
2006	\$51,649	\$0
2007	\$23,056	\$0
2008	\$8,395	\$0
2009	\$203,961	\$0
2010	\$193,756	\$0
2011	\$69,608	\$0
2012	\$102,994	\$0
2013	\$15,592	\$12,000
Total	\$1,045,023	\$52,000
Average per year	\$74,645	\$3,714

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Tennessee earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Limited protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Tennessee has appalling civil forfeiture laws, earning a D-. Law enforcement only needs to tie property to a crime by a preponderance of the evidence in order to forfeit it. In cases where property has been used in illegal activity without the owner's knowledge, the government generally bears the burden of disproving an innocent owner claim. However, if the property in question is a vehicle, an innocent owner bears the burden of demonstrating that she had no knowledge of the criminal use of her car. Law enforcement agencies in the Volunteer State also retain up to 100 percent of the proceeds from forfeiture.

Although Tennessee has no statutory forfeiture reporting requirement, the state's Department of Safety and Home-

land Security maintains records of the value of calendar-year forfeitures. However, this practice provides little transparency as interested parties must file a request under the Tennessee Open Records Act in order to access the records. Data shared with the Institute for Justice indicate that Tennessee law enforcement agencies forfeited nearly \$86 million in cash between 2009 and 2014; this figure does not include the value of any physical property forfeited, such as cars or electronics, suggesting that the total value of forfeitures in Tennessee over the period was much higher.

State Forfeiture Data

Year	Reported Currency Forfeiture Proceeds
2009	\$14,244,407
2010	\$18,861,974
2011	\$11,639,516
2012	\$15,127,022
2013	\$13,126,402
2014	\$12,973,137
Total	\$85,972,458
Average per year	\$14,328,743

Source: Value of calendar-year cash forfeitures obtained from the Tennessee Department of Safety and Homeland Security via a Tennessee Open Records Act request made by a state citizen working for the Beacon Center of Tennessee. Figures do not include the value of any physical property that was forfeited.

Tennessee ranks 26th for federal forfeiture,

with over **\$69 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

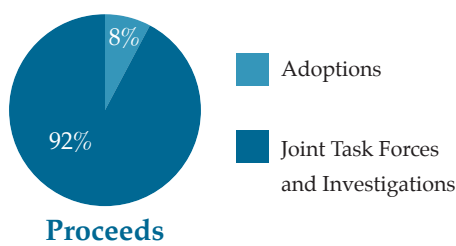
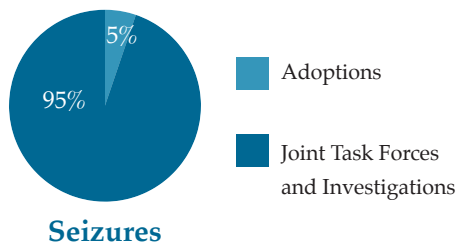
Federal Equitable Sharing

Tennessee law enforcement agencies' participation in the Department of Justice's equitable sharing program earns the state 26th place in the national rankings. Agencies received more than \$69 million in DOJ equitable sharing proceeds between 2000 and 2013, averaging almost \$5 million per calendar year. The overwhelming majority of both assets seized and proceeds received—95 and 92 percent, respectively—stemmed from joint task forces and investigations, the type of equitable sharing largely untouched by former Attorney General Holder's policy change. Finally, Tennessee law enforcement agencies received more than \$11 million in equitable sharing proceeds from the Treasury Department between 2000 and 2013—a fiscal-year average of nearly \$800,000.

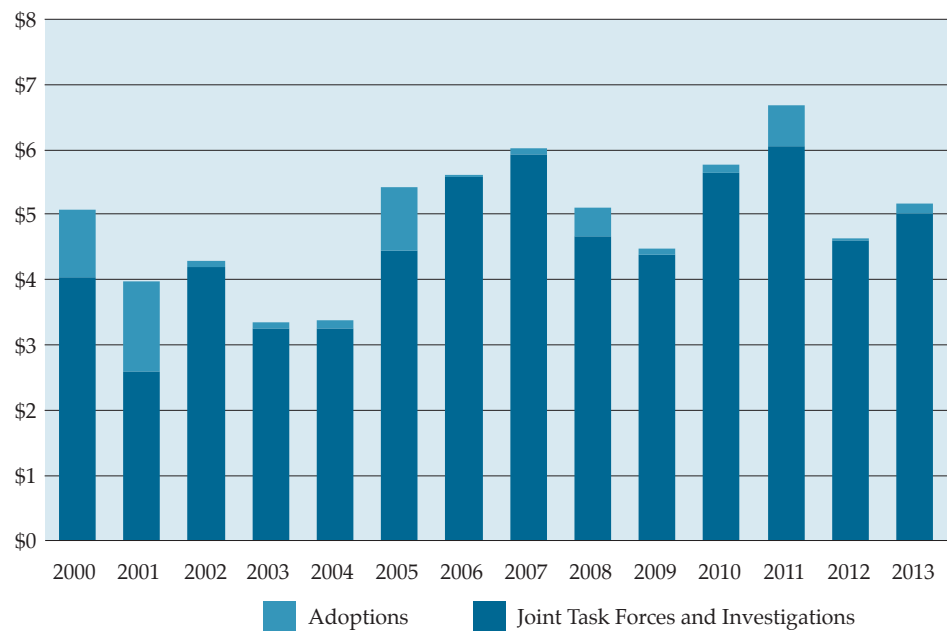
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$5,076,408	\$476,000
2001	\$3,991,668	\$2,220,000
2002	\$4,295,220	\$1,309,000
2003	\$3,354,244	\$107,000
2004	\$3,382,851	\$268,000
2005	\$5,427,348	\$479,000
2006	\$5,605,520	\$2,197,000
2007	\$6,009,737	\$55,000
2008	\$5,107,079	\$1,303,000
2009	\$4,473,733	\$1,885,000
2010	\$5,767,881	\$440,000
2011	\$6,693,475	\$214,000
2012	\$4,644,197	\$180,000
2013	\$5,172,256	\$48,000
Total	\$69,001,617	\$11,181,000
Average per year	\$4,928,687	\$798,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Texas earns a D+ for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 70% of forfeiture proceeds go to law enforcement in most cases

State Civil Forfeiture Laws

Texas has terrible civil forfeiture laws, earning a D+. The standard of proof required to forfeit property in Texas is just preponderance of the evidence, and an innocent owner bears the burden of proving that she was not involved in any crimes associated with her property before she can get it back. In addition, law enforcement agencies enjoy a strong incentive to seize property. In cases where a default judgment is entered—as is the case in the majority of forfeiture actions—agencies retain up to 70 percent of forfeiture proceeds. In contested cases—those in which the property owner challenges the basis for the seizure—agencies retain up to 100 percent of proceeds.

Texas law enforcement agencies are required by law to submit annual forfeiture reports to the Office of the Attorney General of Texas, but these reports are far from comprehen-

sive. Additional information—such as itemized lists of assets forfeited, whether an arrest or conviction occurred and breakdowns of civil versus criminal forfeiture cases—would make the reports more useful. The attorney general’s office is required to compile the reports and make them publicly available starting April 30, 2016. Unfortunately, this new requirement was not in place during the data collection for this report. The Institute for Justice was therefore forced to file a Texas Public Information Act request to obtain the reports and then manually comb through them to arrive at a complete picture of forfeiture statewide. Data obtained and aggregated by IJ reveal that agencies reported forfeiting more than half a billion dollars—almost \$541 million—between 2001 and 2013, a fiscal-year average of nearly \$41.6 million.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2001	\$18,983,273
2002	\$7,294,323
2003	\$43,416,158
2004	\$40,798,353
2005	\$29,491,437
2006	\$37,588,776
2007	\$49,414,291
2008	\$56,615,941
2009	\$56,100,475
2010	\$40,713,990
2011	\$50,524,997
2012	\$46,821,446
2013	\$62,926,512
Total	\$540,689,972
Average per year	\$41,591,536

Source: Fiscal-year forfeiture reports filed by law enforcement agencies and district attorneys with the Office of the Attorney General of Texas. The Institute for Justice obtained copies of these reports by filing a Texas Public Information Act request with the attorney general’s office. Values represent cash and sold property and do not include the value of property retained for official use.



Texas ranks 47th for federal forfeiture,

with over **\$349 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

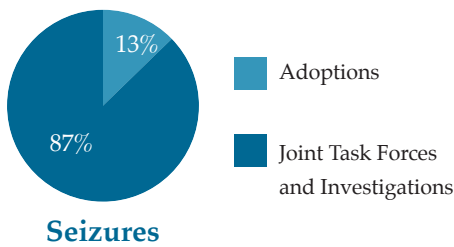
Federal Equitable Sharing

Texas law enforcement agencies are some of the nation's most aggressive participants in the Department of Justice's equitable sharing program, earning the Lone Star State 47th place in the national rankings. Between 2000 and 2013, Texas agencies received a staggering \$349.7 million in DOJ equitable sharing proceeds, averaging almost \$25 million per calendar year. As 82 percent of those proceeds came from joint task forces and investigations, Texas agencies are unlikely to be seriously impacted by the DOJ's policy change intended to curtail equitable sharing; the new policy has little effect on such joint activity. Law enforcement agencies in Texas also received nearly \$170 million in equitable sharing proceeds from the Treasury Department between the 2000 and 2013 fiscal years.

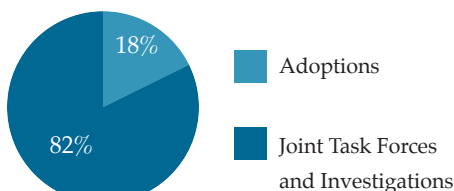
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$20,488,438	\$8,944,000
2001	\$20,477,030	\$2,769,000
2002	\$12,514,424	\$2,184,000
2003	\$16,831,494	\$5,524,000
2004	\$17,323,278	\$10,239,000
2005	\$19,260,566	\$11,114,000
2006	\$31,991,647	\$11,290,000
2007	\$30,833,881	\$14,434,000
2008	\$30,415,342	\$12,376,000
2009	\$22,856,539	\$12,903,000
2010	\$42,176,737	\$23,201,000
2011	\$27,809,359	\$14,518,000
2012	\$23,002,298	\$35,193,000
2013	\$33,738,553	\$5,084,000
Total	\$349,719,587	\$169,773,000
Average per year	\$24,979,970	\$12,126,643

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013

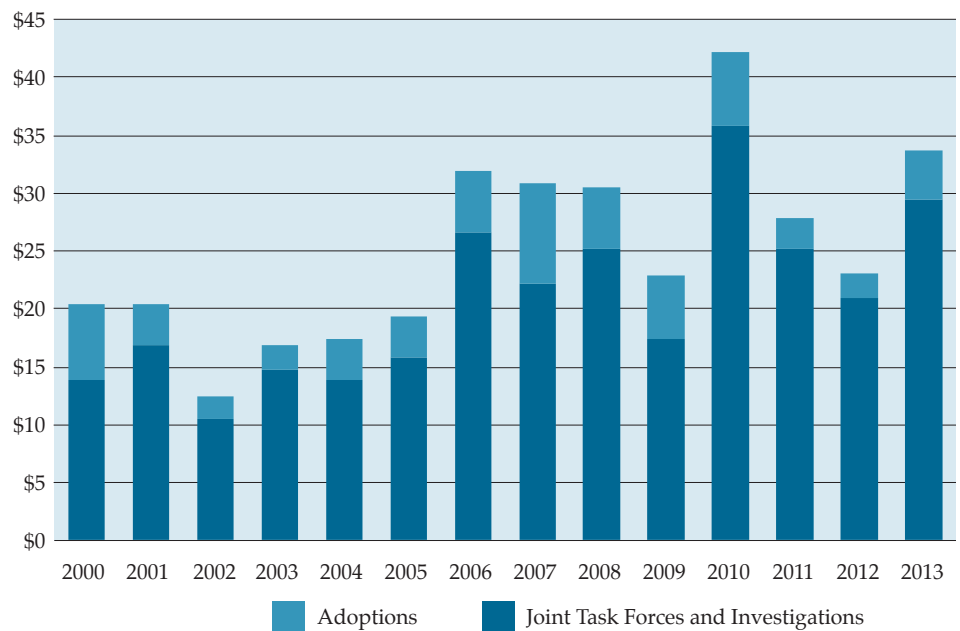


Seizures



Proceeds

DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Utah earns a **D-** for its civil forfeiture laws:

- Higher bar to forfeit property, but no conviction required
- Stronger protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Utah's civil forfeiture laws have some good points, but they still earn a D- due to the outrageous incentive they provide law enforcement to police for profit. Utah's standard of proof is better than most, requiring law enforcement agencies to tie property to a crime by clear and convincing evidence, but this standard still falls short of the standard applied in criminal proceedings—proof beyond a reasonable doubt. The government also bears the burden of disproving an innocent owner claim. However, these above-average provisions are undercut by the tempting incentive Utah gives law enforcement to seize property: Agencies may retain 100 percent of all forfeiture proceeds.

Utah's laws also contain no reporting requirements, only mandating that agencies maintain an inventory of seized and forfeited property. The Utah Commission on Criminal and Juvenile Justice has a policy requiring agencies to liquidate forfeited assets and deposit them into a state Criminal Forfeiture Restricted Account to be spent on various law enforcement projects. The Institute for Justice obtained reports of forfeiture proceeds from the CCJJ by filing a request under the Utah Government Records Access and Management Act. Data show that Utah agencies reportedly forfeited more than \$10 million between 2009 and 2014, averaging nearly \$1.7 million per fiscal year.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2009	\$661,301
2010	\$1,233,709
2011	\$1,578,427
2012	\$1,362,786
2013	\$2,609,383
2014	\$2,649,593
Total	\$10,095,199
Average per year	\$1,682,533

Source: Reports of fiscal-year forfeiture proceeds obtained from the Utah Commission on Criminal and Juvenile Justice via a Utah Government Records Access and Management Act request.

Utah ranks 12th for federal forfeiture,

with over **\$11 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

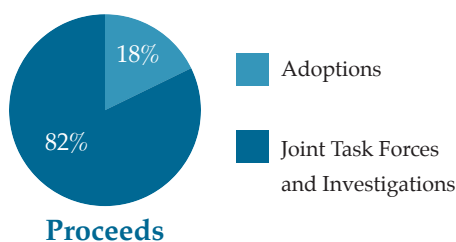
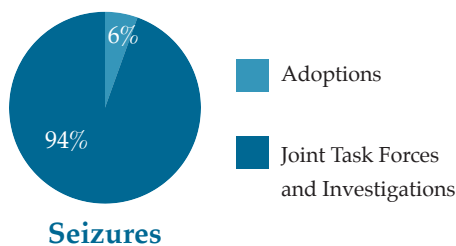
Federal Equitable Sharing

Law enforcement agencies in Utah made less use of the Department of Justice's equitable sharing program than did agencies in most other states, ranking 12th nationally. Between the 2000 and 2013 calendar years, Utah agencies received more than \$11 million in DOJ equitable sharing proceeds. A large majority of assets seized and proceeds received—94 and 82 percent, respectively—derived from joint task forces and investigations, procedures largely unaffected by the DOJ's new policy intended to rein in equitable sharing. Utah agencies also received more than \$1.7 million in Treasury Department equitable sharing proceeds between the 2000 and 2013 fiscal years.

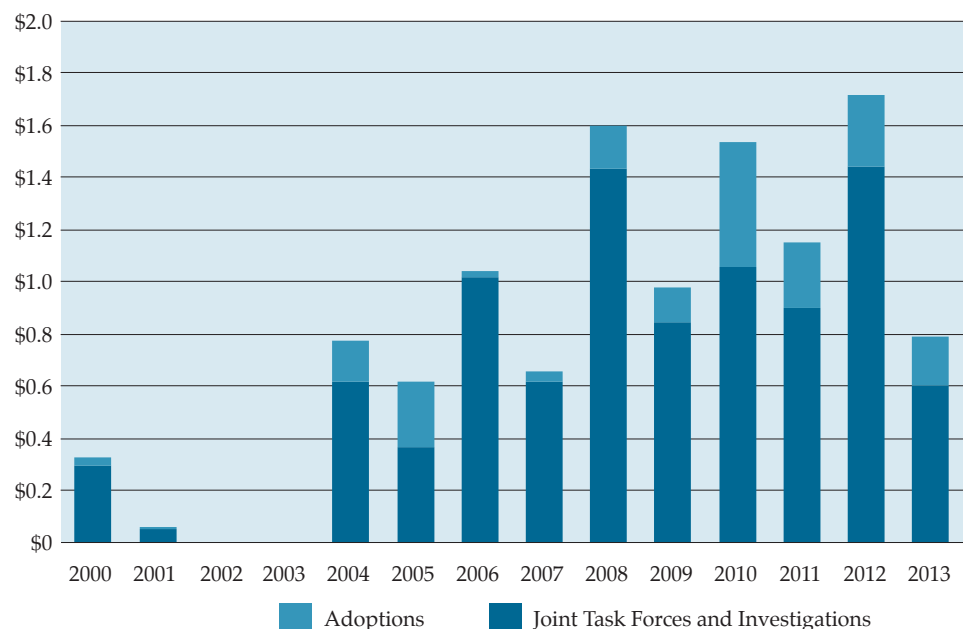
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$328,831	\$0
2001	\$56,597	\$1,000
2002	\$0	\$38,000
2003	\$0	\$0
2004	\$777,303	\$0
2005	\$619,796	\$36,000
2006	\$1,040,810	\$268,000
2007	\$654,481	\$202,000
2008	\$1,601,988	\$10,000
2009	\$979,711	\$0
2010	\$1,539,393	\$0
2011	\$1,151,273	\$934,000
2012	\$1,720,958	\$88,000
2013	\$791,343	\$135,000
Total	\$11,262,484	\$1,712,000
Average per year	\$804,463	\$122,286

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Vermont earns a **C** for its civil forfeiture laws:

- Higher bar to forfeit property and conviction required
- Poor protections for innocent third-party property owners
- 45% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

In 2015, Vermont took one step forward and two steps back with its civil forfeiture laws, raising the government's standard of proof to forfeit property while also creating a new incentive for law enforcement agencies to police for profit. Vermont's laws, which earn a C grade, now require the government to provide clear and convincing evidence tying property to an owner's conviction in criminal court before the property may be forfeited. Unfortunately, the General Assembly did not reform Vermont's innocent owner burden—a third-party owner must still prove that she was not involved in the illegal use of her property in order to recover it. Last but not least, law enforcement can now retain 45 percent of forfeiture proceeds. Although this incentive is much lower than those in most other states, it is

considerably worse than what Vermont had before: a statute mandating that all forfeiture proceeds be delivered to the state treasurer rather than to law enforcement coffers.

Vermont law requires law enforcement agencies to file reports of their controlled substances forfeitures with the state treasurer. When the Institute for Justice submitted a Vermont Public Records Law request to the Office of the State Treasurer in order to obtain forfeiture reports from 2009 to 2014, the treasurer's office replied: "No such records, reports, or funds were sent to the Office of the State Treasurer during those years." It was unclear at press time whether agencies failed to report because no forfeitures had occurred under state law or because agencies were out of compliance with reporting requirements.

State Forfeiture Data

No data available. Agencies are required to track and report their controlled substances forfeitures to the Office of the State Treasurer, but no such reports were received by that office between 2009 and 2014.



Vermont ranks 15th for federal forfeiture,

with over **\$13 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

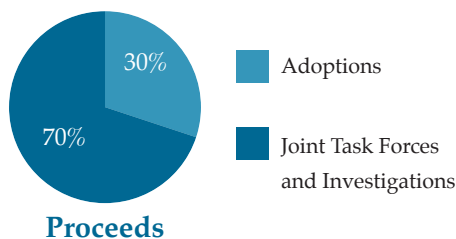
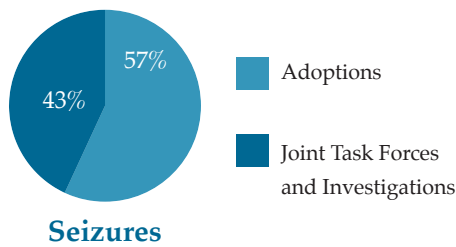
Federal Equitable Sharing

Vermont ranks 15th in a nationwide comparison of law enforcement agencies' participation in the Department of Justice's equitable sharing program. Between 2000 and 2013, agencies received more than \$13 million in DOJ equitable sharing proceeds, averaging nearly \$929,000 per calendar year. Although 57 percent of assets seized were taken through adoptive forfeitures, 70 percent of proceeds received resulted from joint task forces and investigations—equitable sharing practices left largely intact by the 2015 DOJ policy change. Vermont agencies also received more than \$4.2 million from the Treasury Department's equitable sharing program, an average of over \$302,000 per fiscal year.

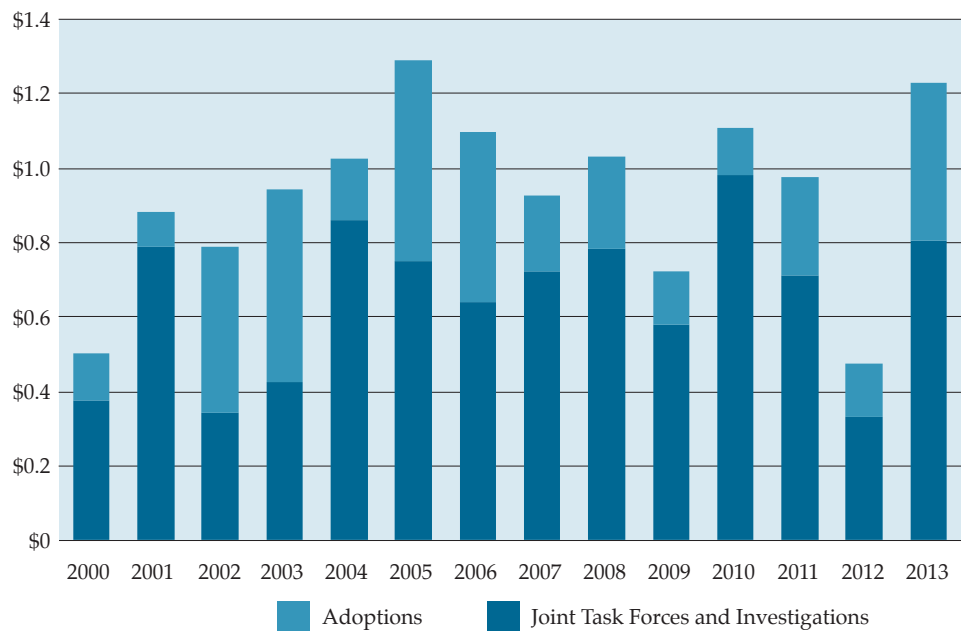
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$501,223	\$68,000
2001	\$884,229	\$0
2002	\$786,808	\$0
2003	\$945,358	\$0
2004	\$1,024,029	\$3,302,000
2005	\$1,289,909	\$90,000
2006	\$1,099,626	\$34,000
2007	\$927,044	\$36,000
2008	\$1,030,892	\$123,000
2009	\$724,628	\$225,000
2010	\$1,110,274	\$209,000
2011	\$973,688	\$18,000
2012	\$472,794	\$33,000
2013	\$1,231,963	\$95,000
Total	\$13,002,463	\$4,233,000
Average per year	\$928,747	\$302,357

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Virginia earns a D- for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Virginia has some of the worst civil forfeiture laws in the nation, earning a D-. In order to forfeit property in Virginia, the government need only show by a preponderance of the evidence that property is related to criminal activity. Innocent owners also bear the burden of proving that they had nothing to do with the alleged criminal activity in which their property has been implicated. Worst of all, Virginia law provides a tempting incentive to seize property as it allows law enforcement to retain 100 percent of forfeiture proceeds: Participating agencies keep 90 percent of the bounty, while the balance goes to the state's Department of Criminal Justice Services.

In 2015, the Virginia House of Delegates overwhelmingly approved a bill that would have required a criminal conviction before property could be forfeited under state

law. However, the Virginia Senate killed the bill, opting instead to refer the proposal to the Virginia State Crime Commission for further study.

Virginia law requires law enforcement agencies to report the type of property seized and the property's final disposition to the DCJS. It does not require reporting on other important details, such as whether any criminal charges were filed in a case. Moreover, there is no requirement that the DCJS aggregate those reports or publish them online, providing little transparency. The Institute for Justice filed a request with the DCJS under the Virginia Freedom of Information Act and learned that Virginia law enforcement agencies reportedly forfeited more than \$34 million between 2000 and 2014, 80 percent of which came from cash forfeitures.

State Forfeiture Data

Year	Reported Forfeiture Proceeds				
	Currency	Vehicles	Real Property	Other	Total
2000	\$4,514	\$0	\$0	\$350	\$4,864
2001	\$1,697	\$25,300	\$0	\$2,110	\$29,107
2002	\$3,282	\$25,300	\$0	\$0	\$28,582
2003	\$9,888	\$21,550	\$0	\$0	\$31,438
2004	\$16,279	\$44,525	\$0	\$300	\$61,104
2005	\$19,296	\$7,000	\$0	\$5,700	\$31,996
2006	\$64,288	\$65,500	\$109,000	\$9,729	\$248,517
2007	\$248,664	\$130,080	\$167,600	\$500	\$546,844
2008	\$187,620	\$149,535	\$0	\$10,193	\$347,348
2009	\$641,335	\$272,403	\$397,600	\$26,398	\$1,337,736
2010	\$5,079,344	\$1,374,702	\$109,202	\$201,890	\$6,765,138
2011	\$5,378,117	\$1,238,682	\$110,000	\$122,335	\$6,849,134
2012	\$5,886,958	\$939,962	\$26,000	\$98,980	\$6,951,900
2013	\$5,614,249	\$854,472	\$59,300	\$48,941	\$6,576,962
2014	\$3,928,669	\$400,743	\$0	\$30,973	\$4,360,385
Total	\$27,084,201	\$5,549,754	\$978,702	\$558,399	\$34,171,056
Average per year	\$1,805,613	\$369,984	\$65,247	\$37,227	\$2,278,070

Year	Reported Number of Assets Forfeited				
	Currency	Vehicles	Real Property	Other	Total
2000	5	0	0	4	9
2001	2	8	0	9	19
2002	5	7	0	0	12
2003	11	5	0	0	16
2004	11	4	0	2	17
2005	9	3	0	3	15
2006	16	22	2	14	54
2007	37	24	1	2	64
2008	64	34	1	17	116
2009	147	73	4	36	260
2010	1,139	298	3	155	1,595
2011	1,085	262	4	122	1,473
2012	1,033	284	4	104	1,425
2013	947	169	1	42	1,159
2014	844	95	0	21	960
Total	5,355	1,288	20	531	7,194
Average per year	357	86	1	35	480

Source: Data represent the total value of forfeitures organized by the fiscal year in which assets were seized. The Institute for Justice obtained these data in a spreadsheet from Virginia's Department of Criminal Justice Services by filing a Virginia Freedom of Information Act request.



Virginia ranks 30th for federal forfeiture,

with nearly **\$111 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

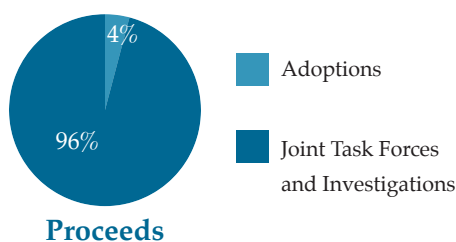
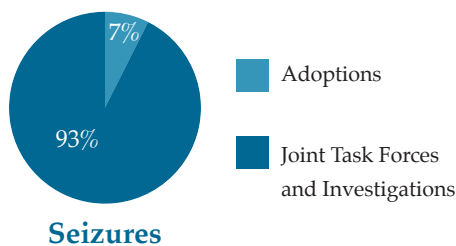
Federal Equitable Sharing

Virginia law enforcement agencies' use of the Department of Justice's equitable sharing program earns the state a rank of 30th. Between 2000 and 2013, agencies received nearly \$111 million in DOJ equitable sharing proceeds, though much of that came in just one year, 2007, when law enforcement hauled in over \$46 million. An astonishing 96 percent of these proceeds came from joint task forces and investigations, practices mostly unaffected by former Attorney General Holder's policy change, indicating that Virginia agencies' equitable sharing behavior is likely to continue on much the same scale. Finally, law enforcement agencies also received over \$75 million in equitable sharing proceeds from the Treasury Department between 2000 and 2013, averaging close to \$5.4 million per fiscal year.

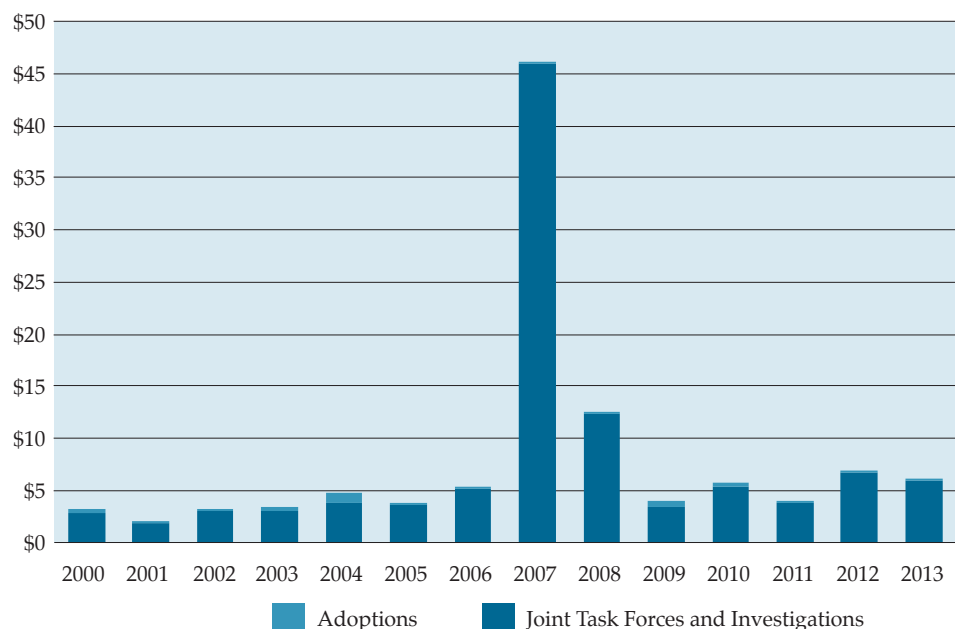
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$3,204,727	\$1,203,000
2001	\$2,140,180	\$1,731,000
2002	\$2,977,011	\$523,000
2003	\$3,380,939	\$1,084,000
2004	\$4,709,337	\$434,000
2005	\$3,726,431	\$3,877,000
2006	\$5,407,170	\$2,954,000
2007	\$46,113,588	\$1,880,000
2008	\$12,546,214	\$10,827,000
2009	\$4,030,424	\$1,794,000
2010	\$5,763,384	\$1,386,000
2011	\$4,019,777	\$994,000
2012	\$6,836,413	\$628,000
2013	\$6,077,868	\$45,838,000
Total	\$110,933,461	\$75,153,000
Average per year	\$7,923,819	\$5,368,071

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Washington earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 90% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Washington's civil forfeiture laws are among the nation's worst, earning a D-. State law only requires the government to prove by a preponderance of the evidence that property is associated with criminal activity in order to forfeit it. Furthermore, innocent owners bear the burden of demonstrating that they had nothing to do with the criminal activity associated with their property in order to recover it. Washington law enforcement agencies retain 90 percent of forfeiture proceeds—a considerable incentive to police for profit.

Washington law contains only vague forfeiture reporting requirements: Law enforcement agencies must submit quarterly "records of forfeited property" to the Office of the State

Treasurer. This leaves important details—such as whether a case was criminal or civil or what type of property was forfeited—unaccounted for. Further, there is no requirement that even these limited reports be published online, requiring interested parties to file Washington Public Records Act requests in order to understand the scope of forfeiture in the state. The Institute for Justice filed such a request with the state treasurer and obtained records of the 10 percent of all forfeiture proceeds that law enforcement agencies pay to that office. These records enabled IJ to estimate the total value of forfeiture proceeds in Washington—more than \$108 million between 2001 and 2013.

State Forfeiture Data

Year	Estimated Forfeiture Proceeds
2001	\$7,050,840
2002	\$6,806,450
2003	\$9,864,000
2004	\$8,243,900
2005	\$13,299,350
2006	\$8,664,060
2007	\$1,043,408
2008	\$9,458,470
2009	\$8,872,587
2010	\$8,179,924
2011	\$10,688,738
2012	\$9,862,644
2013	\$6,354,510
Total	\$108,388,882
Average per year	\$8,337,606

Source: The Institute for Justice filed a Washington Public Records Act request with the Office of the State Treasurer, and obtained calendar-year records of forfeiture proceeds transferred from law enforcement agencies to the treasurer. These transfers represented 10 percent of all forfeiture proceeds in Washington, so IJ multiplied the figures by 10 in order to estimate the total value of forfeiture proceeds in the state.

Washington ranks 37th for federal forfeiture,

with over **\$38 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

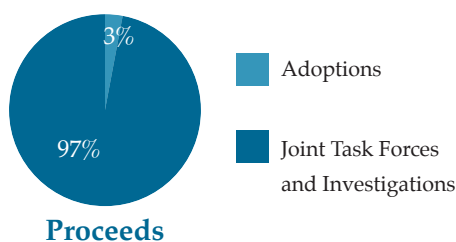
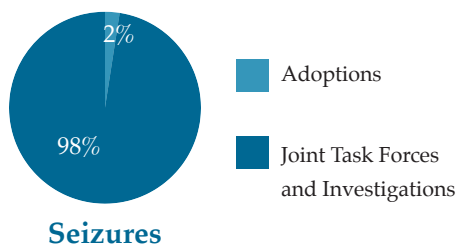
Federal Equitable Sharing

Washington law enforcement agencies participate in the Department of Justice's equitable sharing program more often than most other states' agencies, earning 37th place in the rankings. Between 2000 and 2013, Washington law enforcement agencies received over \$38 million in equitable sharing proceeds, averaging more than \$2.7 million per calendar year. Nearly all of these proceeds resulted from joint task forces and investigations—one of the federal procedures mostly left alone by the 2015 DOJ policy change—suggesting that equitable sharing will remain a problem in the Evergreen State. Washington agencies also received over \$25.6 million from the Treasury Department's equitable sharing program between 2000 and 2013, averaging more than \$1.8 million per fiscal year.

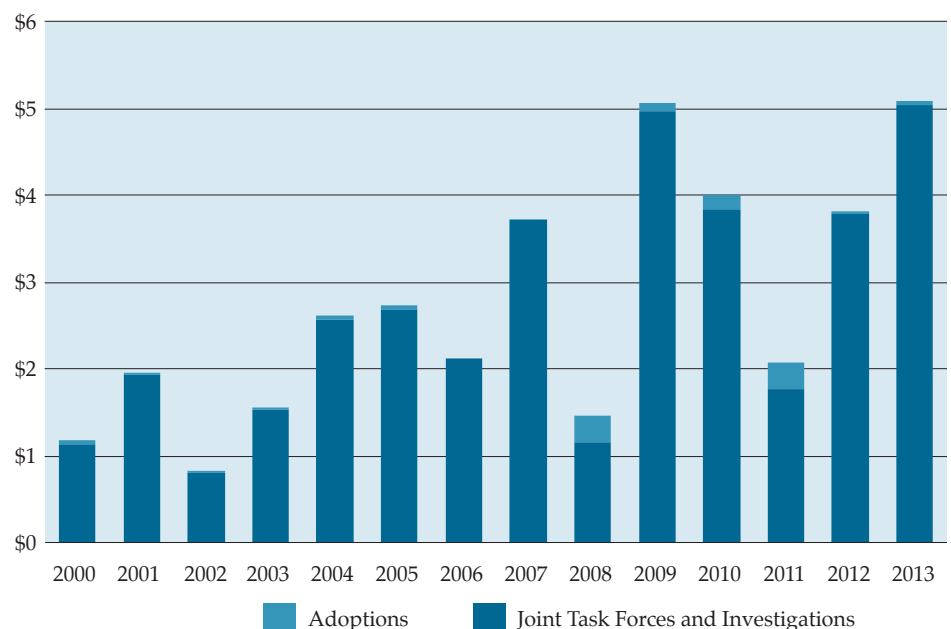
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$1,174,744	\$180,000
2001	\$1,955,291	\$804,000
2002	\$831,932	\$745,000
2003	\$1,558,070	\$310,000
2004	\$2,617,737	\$292,000
2005	\$2,724,235	\$575,000
2006	\$2,128,441	\$711,000
2007	\$3,713,673	\$4,249,000
2008	\$1,455,282	\$2,107,000
2009	\$5,051,539	\$8,910,000
2010	\$3,997,841	\$1,526,000
2011	\$2,082,927	\$997,000
2012	\$3,798,990	\$1,340,000
2013	\$5,071,076	\$2,871,000
Total	\$38,161,778	\$25,617,000
Average per year	\$2,725,841	\$1,829,786

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

West Virginia earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

West Virginia has some of the worst civil forfeiture laws in the country, earning a D-. In order to forfeit property, the government need only tie it to a crime by a preponderance of the evidence. Further, in order to have their property returned, innocent owners must prove their innocence of the criminal activity in which their property was allegedly involved. Finally, West Virginia law enforcement agencies have every reason to police for profit—they retain 100 percent of forfeiture proceeds.

Forfeiture reporting requirements in the Mountain State provide little to no internal accountability or public trans-

parency. Law enforcement agencies are required to report the type, value and sale proceeds of all forfeited property to their respective budgetary authorities. However, these reports are not centralized at the state level, meaning that obtaining statewide forfeiture figures would require submitting West Virginia Freedom of Information Act requests to every local budgetary authority in the state. Even if one were to go to all that effort, the reports lack key details, such as breakdowns of civil versus criminal cases and accounting of forfeiture fund expenditures.

State Forfeiture Data

No data readily available. While law enforcement agencies are required to make reports to their budgetary authorities, there is no requirement that those reports be centralized or made easily accessible to the public.

West Virginia ranks 13th for federal forfeiture, with over \$56 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

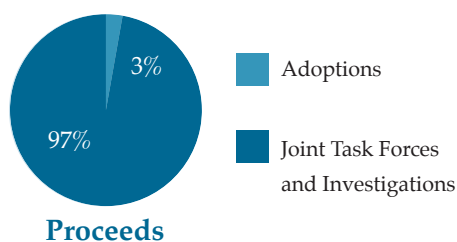
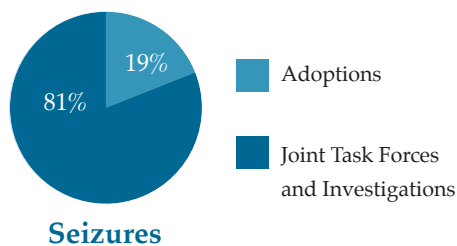
Federal Equitable Sharing

West Virginia ranks 13th for law enforcement agencies' participation in the Department of Justice's equitable sharing program. Between 2000 and 2013, West Virginia agencies received \$56.8 million in equitable sharing proceeds, though most of that came in a single year, 2007, when law enforcement in the state took in \$39 million. Nearly all—97 percent—of those proceeds came from joint task forces and investigations, the type of equitable sharing that former Attorney General Holder's new policy did little to change. West Virginia agencies also received nearly \$2.5 million in Treasury Department equitable sharing proceeds between 2000 and 2013, averaging almost \$178,000 per fiscal year.

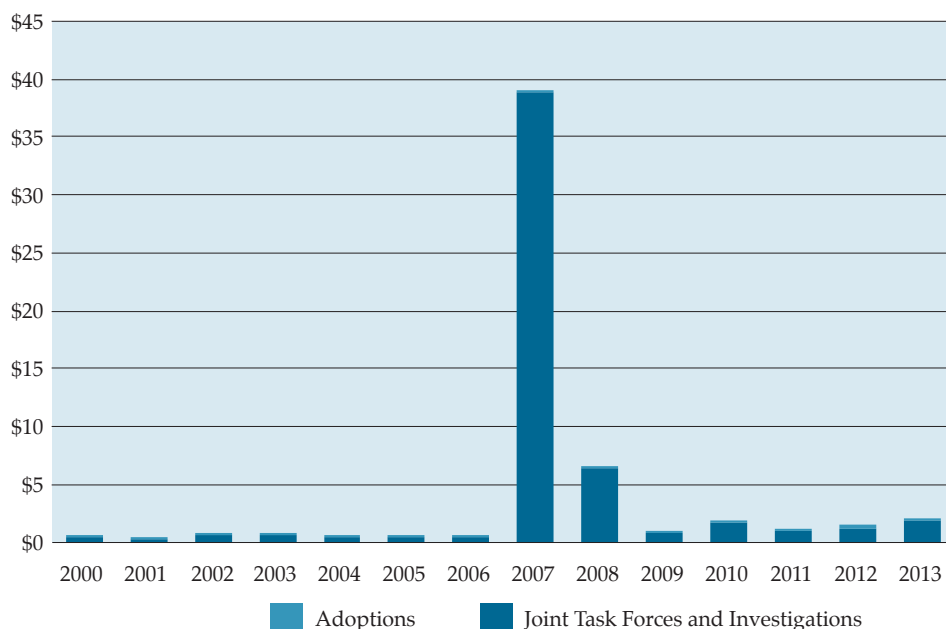
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$599,080	\$21,000
2001	\$307,451	\$210,000
2002	\$647,929	\$7,000
2003	\$767,293	\$66,000
2004	\$439,283	\$0
2005	\$489,826	\$373,000
2006	\$574,704	\$58,000
2007	\$39,036,787	\$24,000
2008	\$6,424,002	\$67,000
2009	\$944,550	\$284,000
2010	\$1,869,484	\$0
2011	\$1,078,692	\$43,000
2012	\$1,456,658	\$0
2013	\$2,160,783	\$1,336,000
Total	\$56,796,521	\$2,489,000
Average per year	\$4,056,894	\$177,786

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Wisconsin earns a **B** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- No forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Wisconsin's civil forfeiture laws lack important protections for property rights, but they are tempered by the lack of a financial incentive to seize, earning the state a B grade. State law only requires the government to have "reasonable certainty by the greater weight of the credible evidence" that property is tied to a crime in order to forfeit it—a standard of proof akin to preponderance of the evidence. Innocent owners also bear the burden of demonstrating that they had nothing to do with the illegal use of their property in order to get it back. On the plus side, forfeiture proceeds in Wisconsin must be transferred to schools, providing law enforcement agencies with no incentive to police for profit.

Wisconsin law enforcement agencies are not required to track or report their forfeitures. Despite a lack of state-level

data, there is anecdotal evidence of forfeiture abuse. For example, in 2011, Beverly Greer called the Brown County jail to find out how to post bail for her son. Police instructed her to bring the \$7,500 bail to the jail in cash. When she arrived, police brought out a drug-sniffing dog, which alerted to the smell of drugs on the money. Claiming this as evidence that the cash was implicated in illegal activity, police seized it—even though most currency in circulation in the U.S. bears traces of narcotics and Greer had documentation proving the money had come from legal sources. It took four months and the help of an attorney to recover the money.

State Forfeiture Data

No data available. Law enforcement agencies are not required to track or report their forfeitures.

Wisconsin ranks 28th for federal forfeiture,

with over **\$51 million** in Department of Justice equitable sharing proceeds from 2000 to 2013.

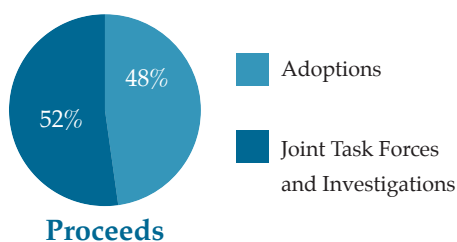
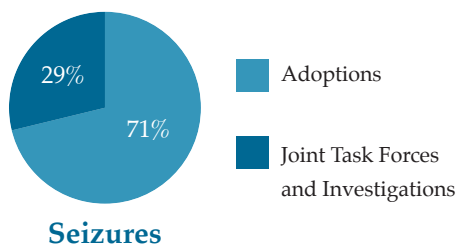
Federal Equitable Sharing

Wisconsin ranks 28th for its law enforcement agencies' use of the Department of Justice's equitable sharing program. Agencies received more than \$51 million in equitable sharing proceeds from the DOJ between calendar years 2000 and 2013. Over 70 percent of assets seized resulted from adoptions—the procedure curtailed by the DOJ in 2015—but over half of proceeds received stemmed from joint task forces and investigations, procedures largely unaffected by the policy change. Wisconsin agencies also received nearly \$6.7 million in equitable sharing proceeds from the Treasury Department between fiscal years 2000 and 2013.

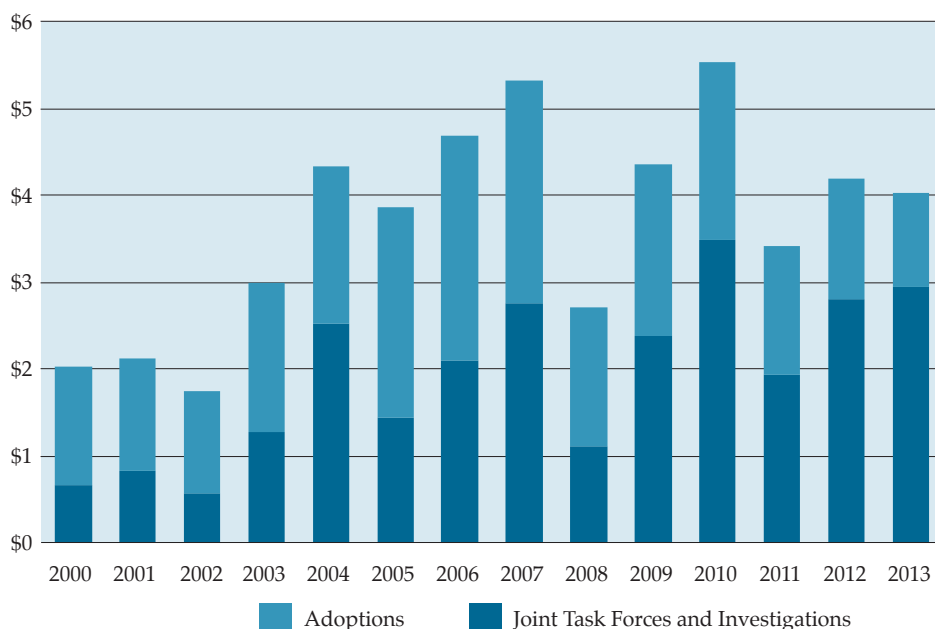
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$2,016,412	\$108,000
2001	\$2,122,265	\$31,000
2002	\$1,732,909	\$821,000
2003	\$2,993,749	\$0
2004	\$4,341,389	\$38,000
2005	\$3,848,951	\$90,000
2006	\$4,678,932	\$99,000
2007	\$5,326,058	\$837,000
2008	\$2,706,203	\$852,000
2009	\$4,345,815	\$3,070,000
2010	\$5,537,999	\$182,000
2011	\$3,401,564	\$89,000
2012	\$4,178,782	\$319,000
2013	\$4,027,616	\$121,000
Total	\$51,258,644	\$6,657,000
Average per year	\$3,661,332	\$475,500

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Wyoming earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- As much as 100% of forfeiture proceeds go to law enforcement

State Civil Forfeiture Laws

Wyoming's civil forfeiture laws are in serious need of reform. Earning a D-, state law only requires the government to tie property to a crime by a preponderance of the evidence in order to forfeit it. Innocent owners bear the burden of proving that they had nothing to do with the criminal activity associated with their property in order to have it returned to them. Wyoming law enforcement agencies also have a tremendous incentive to police for profit—they may retain up to 100 percent of forfeiture proceeds.

Even the Wyoming Legislature has recognized that the state's laws need fixing. In 2015, both houses approved a bill

that would have required a felony drug conviction and a sentence of at least one year in prison before property could be forfeited. But Gov. Matt Mead vetoed the bill, arguing that civil forfeiture "is important and it is a right."

Unfortunately, Wyoming law enforcement agencies are not required to report forfeitures. However, the Institute for Justice did receive data from the Office of the Attorney General in response to a Wyoming Public Records Act request. Data report a total of more than \$1 million in state forfeiture proceeds between 2008 and 2013, averaging close to \$172,000 per year.

State Forfeiture Data

Year	Reported Forfeiture Proceeds
2008	\$184,704
2009	\$299,621
2010	\$145,130
2011	\$237,279
2012	\$116,084
2013	\$47,974
Total	\$1,030,792
Average per year	\$171,799

Source: The Office of the Attorney General's calendar-year reports of forfeitures reported by Wyoming law enforcement agencies. The Institute for Justice obtained these data via a Wyoming Public Records Act request.

Wyoming is the 3rd best state for federal forfeiture, with nearly \$1.9 million in Department of Justice equitable sharing proceeds from 2000 to 2013.

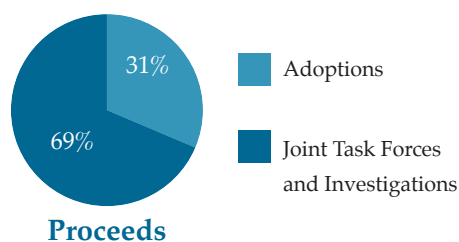
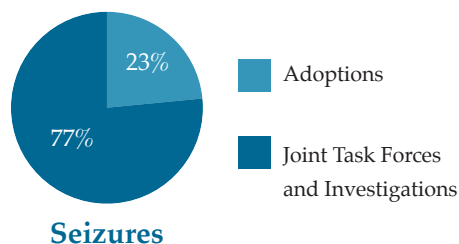
Federal Equitable Sharing

When it comes to equitable sharing, Wyoming is one of the better states in the country, ranking 3rd nationally. Wyoming agencies received nearly \$1.9 million in equitable sharing proceeds from the Department of Justice between 2000 and 2013, averaging slightly more than \$133,000 per year. More than two-thirds of these proceeds came from joint task forces and investigations, procedures that remain mostly intact following the DOJ's 2015 equitable sharing policy change. Wyoming agencies also received \$652,000 in equitable sharing proceeds from the Treasury Department between 2000 and 2013, averaging close to \$47,000 per fiscal year.

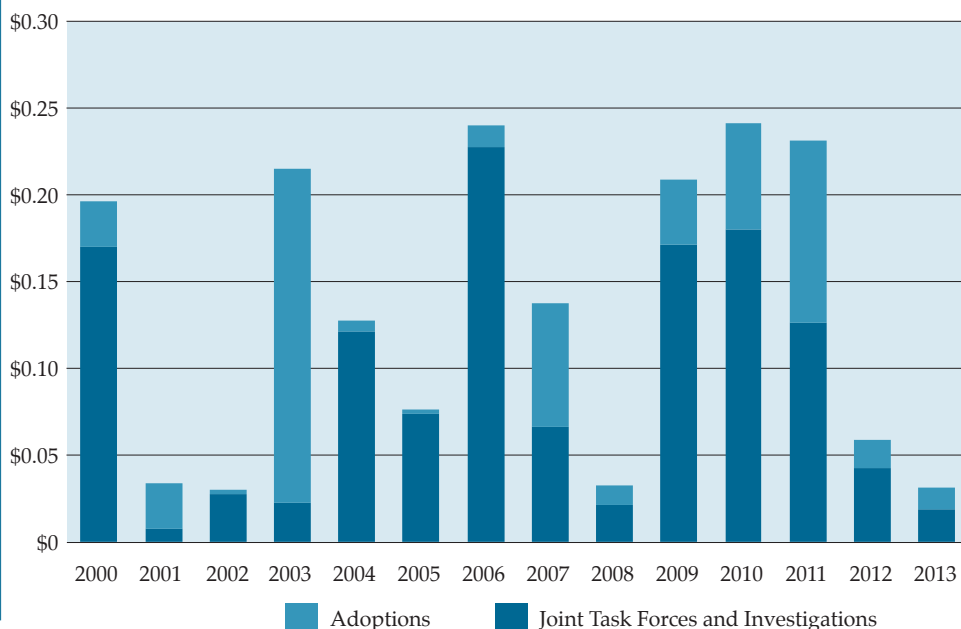
DOJ and Treasury Equitable Sharing Proceeds

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$196,909	\$0
2001	\$34,190	\$8,000
2002	\$30,494	\$228,000
2003	\$214,840	\$6,000
2004	\$127,874	\$43,000
2005	\$76,572	\$0
2006	\$240,308	\$0
2007	\$137,887	\$0
2008	\$32,632	\$0
2009	\$209,339	\$17,000
2010	\$241,867	\$270,000
2011	\$231,888	\$68,000
2012	\$58,597	\$0
2013	\$31,983	\$12,000
Total	\$1,865,381	\$652,000
Average per year	\$133,241	\$46,571

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Proceeds, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

The Federal Government earns a **D-** for its civil forfeiture laws:

- Low bar to forfeit and no conviction required
- Poor protections for innocent third-party property owners
- 100% of forfeiture proceeds go to federal law enforcement

Federal Civil Forfeiture Laws

The federal government's civil forfeiture laws earn a D-, setting a terrible example that, unfortunately, many states have followed. Regardless of any protections afforded under states' laws, federal law poses serious risks to property owners nationwide. In order to forfeit property, the government need only tie it to a crime by a preponderance of the evidence—a low standard. Making matters worse, innocent third-party property owners bear the burden of proving that they had nothing to do with the alleged criminal activity that led to the seizure of their property. Worst of all, federal law enforcement agencies have a considerable incentive to seize property: 100 percent of forfeiture proceeds go to federal law enforcement.

The departments of Justice and the Treasury are required to submit annual audited accounting reports of their forfeiture funds to Congress. These reports are published online, but they provide only basic accounting details of the funds and do not disaggregate the data in a way that would allow for a more detailed analysis of federal forfeiture. The Department of Justice tracks its forfeitures more comprehensively through an internal database called the Consolidated Assets Tracking System. The Institute for Jus-

tice obtained CATS data by filing a federal Freedom of Information Act request with the DOJ. While this system provides more detailed records than do those in many states, it is not publicly available online and its thousands of variables and hundreds of tables make it extremely difficult, if not impossible, for the average citizen to navigate. Requests made to the Treasury Department for its forfeiture tracking database, the Seized Assets and Case Tracking System, or SEACATS, had not been fulfilled by the time this report went to print.

The federal government's use of forfeiture has exploded in recent years, increasing by more than 1,000 percent between fiscal years 2001 and 2014. During that period, deposits into the forfeiture funds of the DOJ and Treasury totaled nearly \$29 billion. Measuring the funds' net assets provides a more stable picture of the volume of federal forfeiture accounts from year to year, accounting for proceeds carried over from previous years as well as for obligations paid out from the funds, such as equitable sharing payments made to states. Net assets in the DOJ and Treasury forfeiture funds increased by 485 percent, from \$763 million in fiscal year 2001 to almost \$4.5 billion in fiscal year 2014.

Federal Forfeiture Data

Fiscal Year	Deposits to Federal Forfeiture Funds		
	DOJ	Treasury	Total
2001	\$406,800,000	\$65,745,000	\$472,545,000
2002	\$423,600,000	\$113,072,000	\$536,672,000
2003	\$486,000,000	\$194,854,000	\$680,854,000
2004	\$543,100,000	\$271,565,000	\$814,665,000
2005	\$595,500,000	\$258,636,000	\$854,136,000
2006	\$1,124,900,000	\$214,651,000	\$1,339,551,000
2007	\$1,515,700,000	\$252,192,000	\$1,767,892,000
2008	\$1,286,000,000	\$464,762,000	\$1,750,762,000
2009	\$1,444,568,000	\$516,736,000	\$1,961,304,000
2010	\$1,573,330,000	\$959,767,000	\$2,533,097,000
2011	\$1,737,965,000	\$817,154,000	\$2,555,119,000
2012	\$4,314,710,000	\$397,002,000	\$4,711,712,000
2013	\$2,012,249,000	\$1,612,361,000	\$3,624,610,000
2014	\$4,467,127,000	\$736,531,000	\$5,203,658,000
Total	\$21,931,549,000	\$6,875,028,000	\$28,806,577,000

Fiscal Year	Federal Forfeiture Funds Net Assets		
	DOJ	Treasury	Total
2000	\$536,500,000	NA	NA
2001	\$525,800,000	\$237,300,000	\$763,100,000
2002	\$485,200,000	\$173,000,000	\$658,200,000
2003	\$528,400,000	\$177,231,000	\$705,600,000
2004	\$427,900,000	\$194,103,000	\$622,000,000
2005	\$448,000,000	\$255,307,000	\$703,300,000
2006	\$651,100,000	\$236,757,000	\$887,900,000
2007	\$734,200,000	\$361,387,000	\$1,095,600,000
2008	\$1,000,700,000	\$426,779,000	\$1,427,500,000
2009	\$1,425,883,000	\$594,513,000	\$2,020,396,000
2010	\$1,687,400,000	\$986,071,000	\$2,673,471,000
2011	\$1,760,544,000	\$1,452,922,000	\$3,213,466,000
2012	\$1,620,387,000	\$1,555,895,000	\$3,176,282,000
2013	\$1,855,767,000	\$2,486,628,000	\$4,342,395,000
2014	\$2,560,848,000	\$1,903,622,000	\$4,464,470,000

Sources: DOJ Assets Forfeiture Fund Annual Financial Statements; Treasury Forfeiture Fund Accountability Reports.

The Federal Government paid out over \$4.7 billion

to state and local law enforcement agencies through the Department of Justice's equitable sharing program from 2000 to 2013.

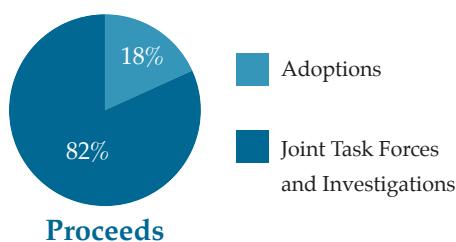
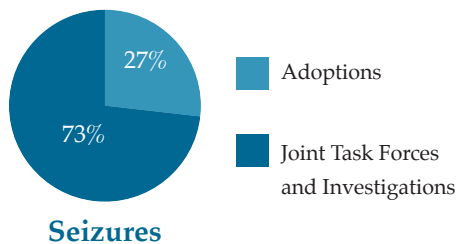
Federal Equitable Sharing

Forfeitures conducted under federal equitable sharing programs have also escalated considerably in recent years. Between the 2000 and 2013 calendar years, the Department of Justice paid out more than \$4.7 billion in equitable sharing proceeds to state and local law enforcement agencies, including those in U.S. territories. DOJ rules require that these funds be spent by law enforcement agencies for law enforcement purposes—even if state law directs forfeiture proceeds to a neutral fund, such as a state's general fund or school fund. Annual DOJ equitable sharing payments have grown from approximately \$199 million in 2000 to over \$643 million in 2013—an increase of 224 percent. The large majority of these payments—82 percent—were the proceeds of joint task forces and investigations. These types of forfeitures were left largely untouched by former Attorney General Holder's policy change intended to reduce equitable sharing, suggesting that the equitable sharing program is likely to continue relatively unhindered. Finally, from 2000 to 2013, the Treasury Department paid out over \$1.1 billion in equitable sharing proceeds.

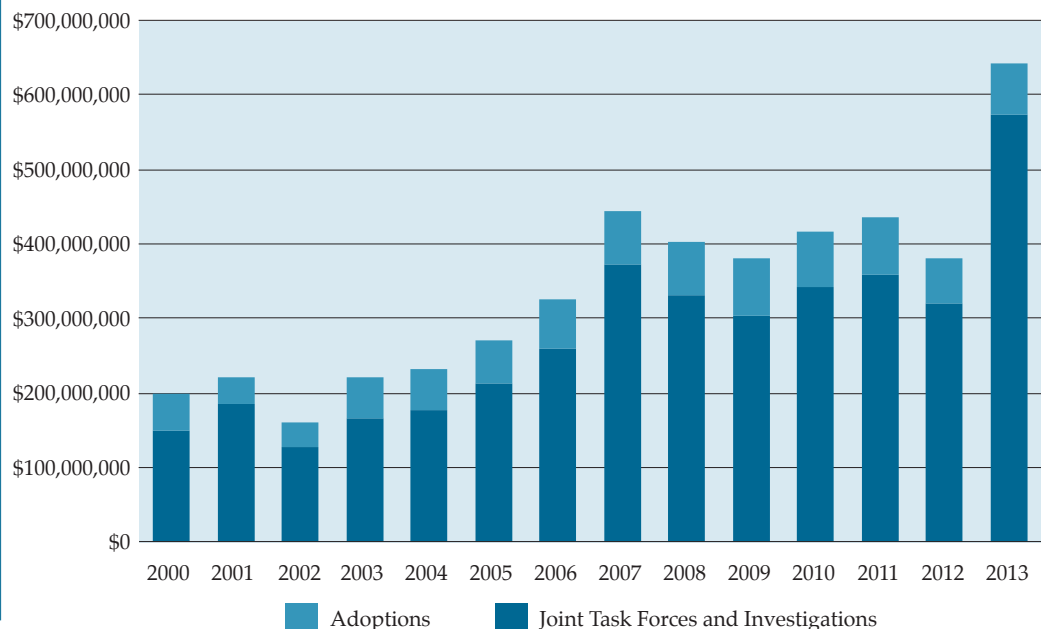
DOJ and Treasury Equitable Sharing Payments Made to State and Local Agencies

Year	DOJ (calendar years)	Treasury (fiscal years)
2000	\$198,739,307	\$85,129,000
2001	\$220,353,479	\$60,277,000
2002	\$161,287,179	\$50,844,000
2003	\$221,984,964	\$41,962,000
2004	\$230,703,987	\$48,123,000
2005	\$269,262,768	\$72,731,000
2006	\$325,669,954	\$66,558,000
2007	\$443,802,375	\$60,192,000
2008	\$401,878,933	\$90,198,000
2009	\$380,865,399	\$89,756,000
2010	\$416,862,701	\$129,102,000
2011	\$437,096,583	\$79,533,000
2012	\$381,504,806	\$137,627,000
2013	\$643,317,075	\$123,765,000
Total	\$4,733,329,509	\$1,135,797,000
Average per year	\$338,094,965	\$81,128,357

DOJ Equitable Sharing, Adoptive vs. Joint, 2000–2013



DOJ Equitable Sharing Payments, 2000–2013 (in millions)



Sources: Institute for Justice analysis of DOJ forfeiture data obtained by FOIA; Treasury Forfeiture Fund Accountability Reports. Data include civil and criminal forfeitures. Because DOJ figures represent calendar years and Treasury figures cover fiscal years, they cannot be added.

Appendix A: State Law Grading Methods

The tables below include the grades each state earned on the three elements that make up the civil forfeiture law grades. Table A.1 shows the grades related to standards of proof. Only two states earned an A grade with standards equivalent to proof beyond a reasonable doubt that the property was part of a criminal act. Most states—31 of them—and the federal government earned a D grade with standards of preponderance of the evidence. Under such standards, the government need only show that it is more likely than not that the property was related to criminal conduct. Two states earned an F grade for requiring mere probable cause.

Table A.1: Standard of Proof Grades

Grade	Standard of Proof	States
A	Beyond a reasonable doubt	Nebraska, North Carolina
B+	Beyond a reasonable doubt/ clear and convincing	California, Minnesota, Montana, Nevada, New Mexico, Vermont
B	Beyond a reasonable doubt/ preponderance of the evidence	Missouri, Oregon*
C+	Clear and convincing	Colorado, Connecticut, Florida, Michigan, New York, Utah
C	Clear and convincing/ preponderance of the evidence	D.C.
D+	Clear and convincing/ probable cause	Kentucky
D	Preponderance of the evidence	Alabama, Alaska, Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Mississippi, New Hampshire, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Federal Government
F	Probable cause	Massachusetts, North Dakota

* Oregon requires a conviction and clear and convincing evidence to forfeit real property.

With respect to innocent owner claims, the federal government and most states reverse the traditional burden of proof by forcing owners to prove that they are innocent of and had no knowledge of a crime in order to regain seized property. As Table A.2 illustrates, only 10 states and the District of Columbia require the government to prove guilt in order to forfeit any type of property, thereby earning an A grade for their innocent owner burdens. Thirty-five states and the federal government earned F grades for requiring owners to establish their innocence. The other five states earned C grades, with the burden generally depending on the type of property.

Table A.2: Innocent Owner Burden Grades

Grade	Innocent Owner Burden	States
A	Government's burden	California, Colorado, Connecticut, D.C., Florida, Mississippi, Montana, New Mexico, New York, Oregon, Utah
C	Depends on property	Alabama, Indiana, Kentucky, Maine, Tennessee
F	Owner's burden	Alaska, Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Federal Government

Turning to the financial incentive grade, the federal government and most states allow law enforcement to keep some or all forfeiture proceeds. As shown in Table A.3, 25 states and the federal government earned F grades for enabling law enforcement agencies to keep up to 100 percent of forfeiture proceeds. Another seven states earned D grades for allowing police and prosecutors to keep between 85 and 95 percent. Only seven states and the District of Columbia earned A grades for barring forfeiture proceeds from flowing into law enforcement accounts.

Table A.3: Financial Incentive Grades

Grade	Proceeds Retained	States
A	0% to 5%	D.C., Indiana, Maine, Maryland, Missouri, New Mexico, North Carolina, Wisconsin
B	5.1% to 20%	
C	20.1% to 80%	Alaska, California, Colorado, Connecticut, Louisiana, Mississippi, Nebraska, New York, Oregon, Texas, Vermont
D	80.1% to 95%	Florida, Illinois, Minnesota, New Hampshire, Rhode Island, South Carolina, Washington
F	95.1% to 100%	Alabama, Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Montana, Nevada, New Jersey, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wyoming, Federal Government

After states were assigned their respective grades, the standard of proof and innocent owner burden grades were combined into a single "burden" grade by creating a weighted average, where standard of proof accounted for 66 percent of the grade and innocent owner burden for 33 percent. These weights reflect the relative difficulty each process represents for law enforcement agencies in keeping seized properties. The burden grades were then combined with financial incentive grades into a single weighted grade by assigning a weight of one to the burden grades and a weight of three to the financial incentive grades, based on the premise that law enforcement agencies are more encouraged to pursue asset forfeiture by the percentage of forfeited assets they are allowed to keep than by the relative ease of the forfeiture process.

Appendix B: Civil Forfeiture Law Citations and Other References

The table below provides further detail on the key elements of civil forfeiture laws discussed in this report, including forfeiture reporting requirements, as well as supporting citations. Where applicable, it also lists other sources relied upon for state profiles.

Alabama	
Standard of proof	Reasonable satisfaction, which is akin to preponderance of the evidence. <i>Ex parte McConathy</i> , 911 So. 2d 677, 681, 687–88 (Ala. 2005) (overturning forfeiture on grounds that mere suspicion property was involved in a crime does not meet the “reasonable satisfaction” standard); <i>see also Alabama Evidence</i> § 3:29 (3d ed. 2014) (explaining that “reasonable satisfaction” is equivalent to the preponderance standard).
Innocent owner burden	The government bears the burden of proof when an owner claims an interest in real property (for example, a home). An owner bears the burden in all other cases. Ala. Code § 20-2-93(h).
Profit incentive	100 percent. Ala. Code § 20-2-93(e).
Reporting requirements	None.
Other sources	Sallah, M., O’Harrow, R., Jr., Rich, S., Silverman, G., Chow, E., & Mellnik, T. (2014, September 6). Stop and seize. <i>The Washington Post</i> . Retrieved from http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/ .
Alaska	
Standard of proof	Government must show probable cause for seizure, and the owner must show that the property is not forfeitable by a preponderance of the evidence. <i>Resek v. State</i> , 706 P.2d 288, 290–91 (Alaska 1985); <i>see also</i> Alaska Stat. §§ 17.30.110, .114(a).
Innocent owner burden	Owner. <i>Resek v. State</i> , 706 P.2d 288, 291 (Alaska 1985); <i>see also</i> Alaska Stat. § 17.30.110(4)(A)–(B) (placing burden on owner with respect to any conveyance, like an airplane or car).
Profit incentive	100 percent if the property is worth \$5,000 or less and something other than money, and up to 75 percent in all other cases. Alaska Stat. § 17.30.112(c); <i>see also id.</i> § 17.30.122.
Reporting requirements	None.
Arizona	
Standard of proof	Preponderance of the evidence. Ariz. Rev. Stat. § 13-4311(M).
Innocent owner burden	Owner. Ariz. Rev. Stat. §§ 13-4304(4)–(5), 13-4311(M).
Profit incentive	100 percent. Ariz. Rev. Stat. §§ 13-4315, 13-2314.01.
Reporting requirements	Law enforcement agencies are required to file quarterly forfeiture reports with the Criminal Justice Commission, which must aggregate those reports and submit them to the Legislature. Ariz. Rev. Stat. § 13-2314.01(F)–(H). http://www.azcjc.gov/ACJC.Web/finance/ricomain.aspx
Other sources	Keller, T., Simpson, D., & Carpenter, D. M. (2012). <i>Arizona’s profit incentive in civil forfeiture: Dangerous for law enforcement; dangerous for Arizonans</i> . Tempe, AZ: Institute for Justice. Retrieved from http://www.ij.org/images/pdf_folder/private_property/forfeiture/az-forfeiture-report.pdf .

Arkansas	
Standard of proof	Preponderance of the evidence. Ark. Code Ann. § 5-64-505(g)(5)(B)(i), (h)(1).
Innocent owner burden	Owner. Ark. Code Ann. § 5-64-505(a)(4)(B), (a)(6)(B), (a)(8)(A).
Profit incentive	80 percent of the first \$250,000 of each forfeiture goes to police and prosecutors and the remaining 20 percent goes to the state Crime Lab Equipment Fund. For forfeitures of more than \$250,000, the balance in excess of that figure goes to the Special State Assets Forfeiture Fund. Ark. Code Ann. § 5-64-505(h)–(i); <i>see also</i> Ark. Op. Att’y. Gen. No. 99-282.
Reporting requirements	Law enforcement agencies and prosecuting attorneys must submit reports of seizures and final disposition to the Arkansas Drug Director, which maintains the Asset Seizure Tracking System database. Ark. Code Ann. § 5-64-505(f)(2–4), (i)(2)(B). These reports are subject to audit by the Legislative Joint Auditing Committee, which produces an annual report of seizures. Ark. Code Ann. § 10-4-417. http://www.legaudit.state.ar.us/#search
California	
Standard of proof	Clear and convincing evidence for cash or cash equivalents of \$25,000 or more; beyond a reasonable doubt—and a criminal conviction—for all other property, including real property. Cal. Health & Safety Code § 11488.4(i); <i>see also</i> <i>People v. \$9,632.50 U.S. Currency</i> , 75 Cal. Rptr. 2d 125, 128 n.4 (Ct. App. 1998) (saying the standard of proof “in this case” for cash worth less than \$25,000 is beyond a reasonable doubt).
Innocent owner burden	Government. Cal. Health & Safety Code § 11488.5(d).
Profit incentive	66.25 percent (55.25 percent to police, 10 percent to prosecutors, 1 percent to a fund controlled by prosecutors). Cal. Health & Safety Code § 11489(b)(2).
Reporting requirements	The Attorney General is required to compile annual aggregate forfeiture reports using data provided by counties. Cal. Health & Safety Code § 11495(c)–(e). http://oag.ca.gov/publications
Other sources	Drug Policy Alliance. (2015). <i>Above the law: An investigation of civil asset forfeiture in California</i> . Los Angeles, CA: Drug Policy Alliance. Retrieved from http://www.drugpolicy.org/sites/default/files/Drug_Policy_Alliance_Above_the_Law_Civil_Asset_Forfeiture_in_California.pdf .

Colorado	
Standard of proof	Clear and convincing evidence. Colo. Rev. Stat. §§ 16-13-307(1.7)(c) (public nuisance), 16-13-505(1.7)(c) (contraband), 16-13-509 (currency), 18-17-106(11) (racketeering).
Innocent owner burden	Government. Colo. Rev. Stat. §§ 16-13-303(5.1)(a), (5.2)(c), 16-13-504(2.1)(a), (2.2)(c).
Profit incentive	50 percent. Colo. Rev. Stat. §§ 16-13-311(3)(a)(VII), 16-13-506(1), 18-17-106(2)(d). NB: This restriction does not apply to funds received through federal equitable sharing. Colo. Rev. Stat. § 16-13-601.
Reporting requirements	District attorneys are required to file annual forfeiture reports with the Department of Local Affairs. Colo. Rev. Stat. § 16-13-701.
Connecticut	
Standard of proof	Clear and convincing evidence. Conn. Gen. Stat. §§ 54-36h(b), 54-36p(b).
Innocent owner burden	Government. Conn. Gen. Stat. § 54-36h(b)-(c); <i>see, e.g., State v. One 2002 Chevrolet Coupe</i> , No. CV2200243, 2003 Conn. Super. LEXIS 458, at *8-9, 2003 WL 824266 (Conn. Super. Ct. Jan. 23, 2003) (holding innocent owner could recover her property because state failed to prove by clear and convincing evidence that she knew about her son's illegal activities).
Profit incentive	69.5 percent (59.5 percent to police, 10 percent to prosecutors), except in cases of sexual exploitation, prostitution and human trafficking, when 100 percent of proceeds go to a victims' compensation fund. Conn. Gen. Stat. §§ 54-36i(c), -36p(f).
Reporting requirements	Seizing agencies must maintain an inventory of seized property. Conn. Gen. Stat. § 54-36a(b)(1).
Delaware	
Standard of proof	Government must show probable cause, at which point a rebuttable presumption in favor of forfeiture arises, which an owner can rebut by a preponderance of the evidence. Del. Code Ann. tit. 16, § 4784(c)-(j); <i>Brown v. State</i> , 721 A.2d 1263, 1265 (Del. 1998); <i>In re One 1987 Toyota</i> , 621 A.2d 796, 799 (Del. Super. Ct. 1992).
Innocent owner burden	Owner. Del. Code Ann. tit. 16, §§ 4784(a)(7), 4785(a); <i>Brown v. State</i> , 721 A.2d 1263, 1265 (Del. 1998).
Profit incentive	Up to 100 percent. Del. Code Ann. tit. 11, §§ 4110-4111; <i>id.</i> tit. 16, § 4784(f)(3).
Reporting requirements	None.

District of Columbia	
Standard of proof	Preponderance of the evidence (general rule); clear and convincing evidence (motor vehicles, real property and up to \$1,000 in currency). If the property is the primary residence of the owner, <i>an</i> owner of the property must be convicted of the offense giving rise to forfeiture. D.C. Code § 41-308(d)(1), (4).
Innocent owner burden	Government. D.C. Code §§ 41-302(b), 41-308(d)(1).
Profit incentive	No profit incentive. All currency and proceeds from sales of forfeited property must be deposited in the general fund. D.C. Code § 41-310(a)(2).
Reporting requirements	The attorney general and Metropolitan Police Department are required to create aggregate forfeiture reports and will be required to publish them on their websites beginning January 1, 2016. D.C. Code § 41-312.
Other sources	D.C. Code § 41-306 (requiring a prompt hearing when property is seized).
Florida	
Standard of proof	Clear and convincing evidence. Fla. Stat. § 932.704(8); <i>Dep't of Law Enforcement v. Real Prop.</i> , 588 So. 2d 957, 967–68 (Fla. 1991) (requiring clear and convincing standard of proof in forfeiture cases as a matter of constitutional law).
Innocent owner burden	Government. Fla. Stat. § 932.703(6); <i>Gomez v. Vill. of Pinecrest</i> , 41 So. 3d 180, 184–85 & n.2 (Fla. 2010) (explaining that Florida law changed in 1995 to place the burden of proof on the seizing agency).
Profit incentive	Up to 85 percent. Fla. Stat. § 932.7055(5)(c)(3).
Reporting requirements	None.
Georgia	
Standard of proof	Preponderance of the evidence. Ga. Code Ann. § 9-16-17(a)(1).
Innocent owner burden	Owner. But in cases involving a jointly owned vehicle, no innocent owner claim is allowed. Ga. Code Ann. § 9-16-17(a)(2).
Profit incentive	Up to 100 percent. Ga. Code Ann. § 9-16-19(f).
Reporting requirements	Local law enforcement agencies and multijurisdictional task forces are required to file forfeiture reports with their governing jurisdiction and state agencies and district attorneys with the state auditor. All agencies are required to also submit their reports to the Carl Vinson Institute of Government at the University of Georgia. Ga. Code Ann. § 9-16-19(g). https://ted.cviog.uga.edu/financial-documents/asset-forfeiture

Hawaii	
Standard of proof	Preponderance of the evidence. Haw. Rev. Stat. § 712A-12(8).
Innocent owner burden	Owner. Haw. Rev. Stat. § 712A-12(8).
Profit incentive	100 percent (25 percent to police, 25 percent to prosecuting attorney, 50 percent to attorney general for various law enforcement projects). Haw. Rev. Stat. § 712A-16(2)–(4).
Reporting requirements	The Office of the Attorney General is required to aggregate agency forfeiture reports and submit them to the Legislature. Haw. Rev. Stat. § 712A-16(6). http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/
Idaho	
Standard of proof	Preponderance of the evidence. Idaho Code § 37-2744(d).
Innocent owner burden	Owner. Idaho Code §§ 37-2744(d)(3)(D)(IV) (conveyances), 37-2744A(d)(4) (real property).
Profit incentive	Up to 100 percent. Idaho Code §§ 37-2744(e), 57-816(1).
Reporting requirements	None.
Illinois	
Standard of proof	In general, the government must show probable cause and an owner must show by a preponderance of the evidence that her property is not forfeitable. 725 Ill. Comp. Stat. 150/9(G); <i>People v. \$174,980 United States Currency</i> , 996 N.E.2d 1102, 1109–11 (Ill. App. Ct. 2013). But when property is worth less than \$150,000 and is not real property, the government need not make <i>any</i> showing. Forfeiture is automatic in these circumstances unless an owner files a claim and deposits a bond worth the greater of \$100 or 10 percent of the value of the property. The owner must pay the cost of the forfeiture proceeding in full if she loses and must pay 10 percent of her bond to the court even if she prevails. The owner forfeits 90 percent of the bond to the prosecutor if she loses <i>any</i> of her property in the proceeding. 725 Ill. Comp. Stat. 150/6(C)–(D).
Innocent owner burden	Owner. 725 Ill. Comp. Stat. 150/8, 150/9(G).
Profit incentive	90 percent. 720 Ill. Comp. Stat. 570/505(g).
Reporting requirements	Seizing agencies must provide an inventory of drug-related seizures to the Director of the Department of State Police and reports of all property seized for forfeiture to the state’s attorney for the county. 720 Ill. Comp. Stat. 550/12(d); 725 Ill. Comp. Stat. 150/5.

Indiana	
Standard of proof	Preponderance of the evidence. Ind. Code § 34-24-1-4(a); <i>see also Serrano v. State</i> , 946 N.E.2d 1139, 1143–44 (Ind. 2011) (requiring state to prove a close “nexus” between vehicle and drugs); <i>Lipscomb v. State</i> , 857 N.E.2d 424, 428 (Ind. Ct. App. 2006) (requiring state to show connection between money and drugs).
Innocent owner burden	Depends on the property. The state bears the burden when an owner makes a claim to equipment allegedly involved in the recording of a sex crime or makes a claim to a vehicle, but the owner bears the burden with respect to other property. Ind. Code §§ 34-24-1-1(a)(10), (b), (c), (e), 34-24-1-4(a).
Profit incentive	No profit incentive. Ind. Const. art. 8, § 2; Ind. Code § 34-24-1-4(c)–(d); <i>Serrano v. State</i> , 946 N.E.2d 1139, 1142 (Ind. 2011).
Reporting requirements	The Indiana Prosecuting Attorneys Council is required to aggregate forfeiture reports submitted by judicial districts and, beginning on July 15, 2016, must submit a compiled report to the Legislature. Ind. Code §§ 33-39-8-5(7), 34-24-1-4.5.
Other sources	Gillers, H., Alesia, M., & Evans, T. (2010, November 7). Forfeiture law invites abuse of the system. <i>The Indianapolis Star</i> . Retrieved from http://archive.indystar.com/article/20101107/NEWS14/311070003/Forfeiture-law-invites-abuse-of-the-system .
Iowa	
Standard of proof	Preponderance of the evidence. Iowa Code § 809A.13(7).
Innocent owner burden	Owner. Iowa Code § 809A.13(7).
Profit incentive	100 percent. Iowa Code § 809A.17.
Reporting requirements	None.
Kansas	
Standard of proof	Preponderance of the evidence. Kan. Stat. Ann. § 60-4113(g).
Innocent owner burden	Owner. Kan. Stat. Ann. §§ 60-4112(g)–(h), 60-4113(g)–(h).
Profit incentive	100 percent. Kan. Stat. Ann. § 60-4117(c)–(d); <i>cf.</i> Kan. Att’y. Gen. Op. No. 2007-15, 2007 Kan. AG LEXIS 16, at *7–8, 2007 WL 2021740 (July 6, 2007) (determining that forfeiture proceeds may be applied to special law enforcement projects, but cannot be used as a regular funding source).
Reporting requirements	Seizing agencies are required to submit forfeiture reports to their budgetary authorities. Kan. Stat. Ann. § 60-4117(d)(1)–(2).
Kentucky	
Standard of proof	Government must show clear and convincing evidence to forfeit real property but need only show “slight evidence of traceability” to a crime for other property, at which point the owner must show the property’s innocence by clear and convincing evidence. Ky. Rev. Stat. Ann. § 218A.410(1)(j); <i>Robbins v. Commonwealth</i> , 336 S.W.3d 60, 64–65 (Ky. 2011).
Innocent owner burden	Owner, except in the case of real property. Ky. Rev. Stat. Ann. § 218A.410(1)(j); <i>Robbins v. Commonwealth</i> , 336 S.W.3d 60, 64–65 (Ky. 2011).
Profit incentive	100 percent. Ky. Rev. Stat. Ann. § 218A.420(4).
Reporting requirements	Seizing agencies must report their forfeitures to the Office of the State Auditor and to the secretary of the Justice and Public Safety Cabinet. Ky. Rev. Stat. Ann. § 218A.440.

Louisiana	
Standard of proof	Preponderance of the evidence. La. Stat. Ann. § 40:2612(G).
Innocent owner burden	Owner. La. Stat. Ann. § 40:2605.
Profit incentive	80 percent, while the remaining 20 percent goes to the criminal court fund. La. Stat. Ann. § 40:2616(B)(3).
Reporting requirements	District attorneys are required to file annual seizure reports with the state Legislature. La. Stat. Ann. § 40:2616(D).
Maine	
Standard of proof	Preponderance of the evidence. Me. Stat. tit. 15, § 5822(3).
Innocent owner burden	Owner, except in cases involving a family's primary residence, when the government bears the burden to show that any spouse or minor children knew about or consented to the owner's illegal conduct. Me. Stat. tit. 15, §§ 5821(7)(A), 5822(3).
Profit incentive	No profit incentive—all forfeiture proceeds go to the general fund unless another transfer is specifically approved by the court and by the governor or attorney general (in the case of a state forfeiture) or the relevant governmental entity (in the case of county-level or municipal-level forfeitures). Me. Stat. tit. 15, §§ 5822(4), 5824.
Reporting requirements	Agencies must maintain an inventory of seized property. Me. Stat. tit. 15, § 5825.
Maryland	
Standard of proof	Generally, preponderance of the evidence. <i>1986 Mercedes Benz v. State</i> , 638 A.2d 1164, 1168 (Md. 1994). But, in some circumstances, the government can (but need not) establish a rebuttable presumption in favor of forfeiture if the government shows by clear and convincing evidence that, for example, money was acquired shortly after a drug crime when there is no other apparent source for the money. Md. Code Ann., Crim. Proc. § 12-312(a).
Innocent owner burden	Generally, an owner bears the burden of proof, but a primary family residence cannot be forfeited unless both spousal co-owners are convicted of a crime. Md. Code Ann., Crim. Proc. §§ 12-103(a), (e), 12-312(b).
Profit incentive	No profit incentive. Md. Code Ann., Crim. Proc. § 12-403(c)–(e).
Reporting requirements	None.
Other sources	S.B. 528, 2015 Gen. Assemb., 2015 Reg. Sess. (Md. 2015). Snead, J. (2015, June 1). Hogan fails on forfeiture reform. <i>The Baltimore Sun</i> . Retrieved from http://www.baltimoresun.com/news/opinion/oped/bs-ed-civil-forfeiture-20150601-story.html .
Massachusetts	
Standard of proof	Probable cause. Mass. Gen. Laws ch. 94C, § 47(d); <i>Commonwealth v. One 2004 Audi Sedan</i> , 921 N.E.2d 85, 88–89 (Mass. 2010).
Innocent owner burden	Owner. Mass. Gen. Laws ch. 94C, § 47(d).
Profit incentive	Up to 100 percent. Mass. Gen. Laws ch. 94C, § 47(d).
Reporting requirements	Agencies must maintain an inventory of seized property. Mass. Gen. Laws ch. 94C, § 47(e).

Michigan	
Standard of proof	Effective Jan. 18, 2016, clear and convincing evidence. H.B. 4505, 98th Legis., Reg. Sess. (Mich. 2015) (to be codified at Mich. Comp. Laws § 333.7521(2)).
Innocent owner burden	Owner for drug-related forfeitures, government for other types of forfeiture. Mich. Comp. Laws § 333.7531(1); <i>In re Forfeiture of a Quantity of Marijuana</i> , 805 N.W.2d 217, 221 (Mich. Ct. App. 2011); <i>cf.</i> Mich. Comp. Laws § 600.4707(6) (placing burden on government for non-drug-related forfeitures).
Profit incentive	Up to 100 percent. Mich. Comp. Laws § 333.7524(1)(b)(ii).
Reporting requirements	Agencies are required to file annual forfeiture reports with the State Police, which must compile those reports at the county level, submit them to the state Legislature and, beginning on July 1, 2017, publish them online. H.B. 4504, 98th Legis., Reg. Sess. (Mich. 2015). http://www.michigan.gov/msp/0,4643,7-123-1593_34040_34043_54578-15547--,00.html
Minnesota	
Standard of proof	A criminal conviction is required for civil forfeiture and government must connect property to a crime by clear and convincing evidence. Minn. Stat. § 609.531, subd. 6(a), (b), (d).
Innocent owner burden	Owner. Minn. Stat. § 609.5311, subd. 3; <i>Jacobson v. \$55,900 in U.S. Currency</i> , 728 N.W.2d 510, 520 & n.6 (Minn. 2007); <i>Blanche v. 1995 Pontiac Grand Prix</i> , 599 N.W.2d 161, 167 (Minn. 1999). NB: In DWI/DUI cases, a vehicle's joint owner may not raise an innocent owner defense if the vehicle's other owner is guilty. Minn. Stat. § 169A.63, subd. 7(d); <i>Laase v. 2007 Chevrolet Tahoe</i> , 776 N.W.2d 431, 439–40 (Minn. 2009).
Profit incentive	90 percent, except in cases involving prostitution or human trafficking, when 60 percent goes to law enforcement. Minn. Stat. § 609.5315, subds. 5, 5a, 5b.
Reporting requirements	Agencies are required to report their forfeitures to the state auditor on a monthly basis, and the auditor must then make annual reports to the state Legislature. Minn. Stat. § 609.5315, subd. 6. http://www.osa.state.mn.us/default.aspx?page=CriminalForfeitures
Mississippi	
Standard of proof	Preponderance of the evidence. Miss. Code Ann. § 41-29-179(2).
Innocent owner burden	Government. Miss. Code Ann. § 41-29-179(2); <i>Galloway v. City of New Albany</i> , 735 So. 2d 407, 411–12 (Miss. 1999); <i>Curtis v. State</i> , 642 So. 2d 381, 384–86 (Miss. 1994); <i>1994 Mercury Cougar v. Tishomingo Cnty.</i> , 970 So. 2d 744, 747–49 (Miss. Ct. App. 2007). <i>But cf.</i> Miss. Code Ann. § 41-29-153(a)(4)(B), (a)(7)(A) (placing burden on owner, but statute has been interpreted in above cases to place burden on government).
Profit incentive	80 percent if one law enforcement agency participated in the forfeiture; 100 percent otherwise. Miss. Code Ann. § 41-29-181(2).
Reporting requirements	None.
Other sources	Wing, N. (2015, May 19). Police in Mississippi town buy new station, cruisers with funds from aggressive civil forfeiture program. <i>The Huffington Post</i> . Retrieved from http://www.huffingtonpost.com/2015/05/19/richland-mississippi-civil-asset-forfeiture_n_7312988.html .

Missouri	
Standard of proof	Preponderance of the evidence and a criminal conviction or guilty plea. Mo. Rev. Stat. §§ 513.607(2), (6), .617(1), .645(6); <i>City of Springfield v. Gee</i> , 149 S.W.3d 609, 615–16 (Mo. Ct. App. 2004); <i>State v. Eicholz</i> , 999 S.W.2d 738, 742–43 (Mo. Ct. App. 1999); <i>see also Rodriguez v. Suzuki Motor Corp.</i> , 936 S.W.2d 104, 110 (Mo. 1996) (noting preponderance is the minimum standard in civil cases).
Innocent owner burden	Owner. Mo. Rev. Stat. § 513.615; <i>State v. Beaird</i> , 914 S.W.2d 374, 378 (Mo. Ct. App. 1996); <i>State v. 1973 Fleetwood Mobile Home</i> , 802 S.W.2d 582, 584 & n.3 (Mo. Ct. App. 1991).
Profit incentive	All forfeiture proceeds go to fund schools. Mo. Const. art. IX, § 7; Mo. Rev. Stat. § 513.623.
Reporting requirements	Agencies are required to report seizures to the prosecuting attorney or attorney general, who must then create annual aggregate reports and submit them to the state auditor. Mo. Rev. Stat. § 513.607(6)(2), (8)–(10). http://www.auditor.mo.gov/AuditReports/AudRpt2.aspx?id=6
Montana	
Standard of proof	Clear and convincing evidence and a criminal conviction are required to forfeit property. Mont. Code Ann. § 44-12-207(1).
Innocent owner burden	Government must disprove innocent owner claim by clear and convincing evidence. Mont. Code Ann. § 44-12-211; <i>see also id.</i> § 45-9-206.
Profit incentive	Up to 100 percent. When forfeiture money goes to the state, however, annual proceeds in excess of \$125,000 must be divided equally between the general fund and a state forfeiture fund. Mont. Code Ann. § 44-12-213.
Reporting requirements	None.
Nebraska	
Standard of proof	Beyond a reasonable doubt, unless the seizure is gambling-related, in which case the government’s burden is preponderance of the evidence. Neb. Rev. Stat. §§ 28-431(4), 28-1111; <i>State v. Franco</i> , 594 N.W.2d 633, 639–40 (Neb. 1999); <i>State v. One 1985 Mercedes 190D Auto.</i> , 526 N.W.2d 657, 663 (Neb. 1995).
Innocent owner burden	Owner. Neb. Rev. Stat. § 28-431(4).
Profit incentive	50 percent. Neb. Const. art. VII, § 5(2); Neb. Rev. Stat. § 28-1439.02.
Reporting requirements	None.
Other sources	<i>United States v. \$63,530.00 in U.S. Currency</i> , 781 F.3d 949 (8th Cir. 2015).
Nevada	
Standard of proof	Clear and convincing evidence and a criminal conviction are required for civil forfeiture of property seized in connection with a crime. Nev. Rev. Stat. § 179.1173.
Innocent owner burden	Owner. Nev. Rev. Stat. § 179.1164(2).
Profit incentive	Up to 100 percent. However, if the government’s forfeiture account contains more than \$100,000 at the end of each fiscal year, 70 percent of the money in excess of \$100,000 must be given to the school district in the judicial district where the property was seized. Nev. Rev. Stat. § 179.1187.
Reporting requirements	Agencies must submit annual forfeiture reports to the Office of the Attorney General, and the attorney general must then aggregate those reports and, beginning on April 1, 2016, must publish reports on its website. 2015 Nev. Laws ch. 436 (S.B. 138), Sec. 30.

New Hampshire	
Standard of proof	Preponderance of the evidence. But no forfeiture may be maintained against a person's interest in property if that person has been found not guilty of the underlying criminal charge. N.H. Rev. Stat. Ann. § 318-B:17-b(IV)(b), (d); <i>State v. Pessetto</i> , 8 A.3d 75, 79 (N.H. 2010).
Innocent owner burden	Owner. N.H. Rev. Stat. Ann. § 318-B:17-b(IV)(b).
Profit incentive	90 percent (45 percent to local law enforcement, 45 percent to a state drug forfeiture fund), with caps. Local law enforcement may keep no more than \$225,000 from a single forfeiture, and amounts in the state drug forfeiture fund over \$1,000,000 must be turned over to the state general fund. N.H. Rev. Stat. Ann. § 318-B:17-b(V).
Reporting requirements	The attorney general must submit aggregate forfeiture reports to the state Legislature. N.H. Rev. Stat. Ann. § 318-B:17-f. http://doj.nh.gov/media-center/biennial-reports.htm
New Jersey	
Standard of proof	Preponderance of the evidence. <i>State v. Seven Thousand Dollars</i> , 642 A.2d 967, 975 (N.J. 1994); <i>State v. \$2,293 in U.S. Currency</i> , 95 A.3d 260, 266 (N.J. Super. Ct. App. Div. 2014).
Innocent owner burden	Owner. N.J. Stat. Ann. § 2C:64-5(b); <i>State v. Seven Thousand Dollars</i> , 642 A.2d 967, 974 (N.J. 1994).
Profit incentive	100 percent when forfeiture is pursued by local law enforcement; 95 percent when forfeiture is pursued by the attorney general. N.J. Stat. Ann. § 2C:64-6(a), (c).
Reporting requirements	None.
New Mexico	
Standard of proof	Clear and convincing evidence and a criminal conviction are required to forfeit property. N.M. Stat. Ann. § 31-27-4.
Innocent owner burden	When a person claims to be an innocent owner and shows an ownership interest, the government must prove by clear and convincing evidence that the person had actual knowledge of the underlying crime giving rise to the forfeiture. N.M. Stat. Ann. § 31-27-7.1(D).
Profit incentive	100 percent of proceeds must be deposited in the general fund. N.M. Stat. Ann. § 31-27-7(B).
Reporting requirements	Agencies are required to submit annual seizure and forfeiture reports to the Department of Public Safety, which must aggregate the reports and, beginning on April 1, 2016, publish them on its website. N.M. Stat. Ann. § 31-27-9.

New York	
Standard of proof	Generally, forfeitures must be based on a criminal conviction. For drug crimes, however, a criminal conviction is not necessary and the government need only establish that a drug crime has occurred by clear and convincing evidence and then connect property to that crime by a preponderance of the evidence in order to forfeit it. N.Y. C.P.L.R. §§ 1310(5)–(6), (9)–(10), 1311(3)(a)–(b)(McKinney); <i>Hendley v. Clark</i> , 543 N.Y.S.2d 554, 556 (N.Y. App. Div. 1989).
Innocent owner burden	Government. N.Y. C.P.L.R. § 1311(3)(McKinney).
Profit incentive	60 percent. N.Y. C.P.L.R. § 1349(2)(g)–(h)(McKinney).
Reporting requirements	Agencies are required to make annual forfeiture reports to the Division of Criminal Justice Services, which must provide aggregate annual reports to the Legislature. N.Y. C.P.L.R. § 1349(4)(McKinney); N.Y. Exec. § 837-a(6)(McKinney). http://www.criminaljustice.ny.gov/ops/docs/
North Carolina	
Standard of proof	In general, forfeiture requires a criminal conviction. However, civil forfeiture is available in racketeering cases, which are governed by a preponderance of the evidence standard. N.C. Gen. Stat. §§ 75D-5, 90-112; <i>State ex. rel. Thornburg v. \$52,029</i> , 378 S.E.2d 1, 3–5 (N.C. 1989); <i>State v. Johnson</i> , 478 S.E.2d 16, 25 (N.C. Ct. App. 1996).
Innocent owner burden	In the context of a racketeering forfeiture, the owner bears the burden. N.C. Gen. Stat. § 75D-5(i); <i>State ex. rel. Thornburg v. 1907 N. Main St.</i> , 384 S.E.2d 585, 586–87 (N.C. Ct. App. 1989).
Profit incentive	All forfeiture proceeds must go to public schools. N.C. Const. art. IX, § 7; <i>State ex. rel. Thornburg v. 532 B St.</i> , 432 S.E.2d 684, 686–87 (N.C. 1993).
Reporting requirements	None.
North Dakota	
Standard of proof	The government’s burden is probable cause; an innocent owner’s burden is preponderance of the evidence. N.D. Cent. Code § 19-03.1-36.6; <i>State v. One 2002 Dodge Intrepid Auto.</i> , 841 N.W.2d 239, 242 (N.D. 2013); <i>State v. \$44,140.00 U.S. Currency</i> , 820 N.W.2d 697, 702 (N.D. 2012); <i>but cf.</i> N.D. Cent. Code § 19-03.1-36.2 (stating that the standard of proof in forfeiture proceedings is preponderance of the evidence).
Innocent owner burden	Owner. N.D. Cent. Code § 19-03.1-37(1).
Profit incentive	Up to 100 percent. If the government’s forfeiture fund exceeds \$200,000 over any two-year budget period, the excess must be deposited in the general fund. N.D. Cent. Code §§ 54-12-14, 19-03.1-36(5).
Reporting requirements	None.
Other sources	J.F. (2014, May 12). Not so fast. <i>The Economist</i> . Retrieved from http://www.economist.com/blogs/democracyinamerica/2014/05/asset-forfeiture .
Ohio	
Standard of proof	Preponderance of the evidence. Ohio Rev. Code Ann. § 2981.05(D).
Innocent owner burden	Owner. Ohio Rev. Code Ann. §§ 2981.04(E), .09(A).
Profit incentive	Up to 100 percent in general and up to 90 percent in juvenile cases. Ohio Rev. Code Ann. § 2981.13(B)(4).
Reporting requirements	Agencies must maintain an inventory of seized property. Ohio Rev. Code Ann. §§ 2981.03(G), 2981.11(B).

Oklahoma	
Standard of proof	Preponderance of the evidence. Okla. Stat. tit. 63, § 2-503(B)–(C).
Innocent owner burden	Owner. Okla. Stat. tit. 63, § 2-503(A)(4)(b), (A)(7); <i>State ex rel. Campbell v. \$18,235</i> , 184 P.3d 1078, 1081 (Okla. 2008).
Profit incentive	Up to 100 percent. Okla. Stat. tit. 63, §§ 2-503(F)(2), 2-506(L), 2-508.
Reporting requirements	Agencies must maintain an inventory of seized and forfeited property. Okla. Stat. tit. 63, § 2-503(G).
Oregon	
Standard of proof	A criminal conviction is required for all civil forfeitures. Preponderance of the evidence applies to personal property; clear and convincing evidence applies to real property. Or. Rev. Stat. § 131A.255(1), (3).
Innocent owner burden	Government, except in cases where cash, weapons or negotiable instruments were found in close proximity to drugs, in which cases the owner bears the burden of showing by a preponderance of the evidence that the items are not the proceeds or instrumentalities of a drug crime. Or. Rev. Stat. § 131A.255(2), (5).
Profit incentive	62.5 percent when brought by local law enforcement; 57 percent when brought by the state. Or. Rev. Stat. §§ 131A.360(4), (6), .365(3), (5).
Reporting requirements	Agencies are required to report forfeiture information to the forfeiture counsel, which is required to report every seizure and its final disposition to the Asset Forfeiture Oversight Advisory Committee. The committee must aggregate these reports and submit them to the Legislature. Or. Rev. Stat. §§ 131A.450, 131.600, 131A.455(5). http://www.oregon.gov/cjc/assetforfeiture/Pages/Reporting.aspx
Pennsylvania	
Standard of proof	Preponderance of the evidence. <i>Commonwealth v. \$6,425</i> , 880 A.2d 523, 529–30 & n.6 (Pa. 2005); <i>Commonwealth v. 2314 Tasker St.</i> , 67 A.3d 202, 206 nn.8–9 (Pa. Commw. Ct. 2013).
Innocent owner burden	Owner. 42 Pa. Cons. Stat. § 6802(j); <i>Commonwealth v. \$6,425</i> , 880 A.2d 523, 530 (Pa. 2005); <i>Commonwealth v. 2314 Tasker St.</i> , 67 A.3d 202, 206 n. 9 (Pa. Commw. Ct. 2013).
Profit incentive	100 percent. 42 Pa. Cons. Stat. § 6801(e)–(h).
Reporting requirements	Counties are required to submit annual forfeiture reports to the Office of the Attorney General, which must aggregate the reports and provide them to the Legislature. 42 Pa. Cons. Stat. § 6801(i)–(j).
Other sources	Philadelphia district attorney budget figures: http://www.phila.gov/investor/CAFR.html

Rhode Island	
Standard of proof	Government must show probable cause for seizure and the owner must show that the property is not forfeitable by a preponderance of the evidence. 21 R.I. Gen. Laws § 28-5.04.2(p).
Innocent owner burden	Owner. 21 R.I. Gen. Laws § 28-5.04.2(p).
Profit incentive	90 percent. 21 R.I. Gen. Laws § 28-5.04(b)(3).
Reporting requirements	Agencies are required to provide annual forfeiture reports to the state treasurer, and the treasurer and attorney general must submit aggregate annual forfeiture reports to the state Legislature. 21 R.I. Gen. Laws § 28-5.04(d); 7 R.I. Gen. Laws § 15-4.1(e).
Other sources	U.S. Department of Justice Office of Public Affairs. (2015). Google forfeits \$500 million generated by online ads & prescription drug sales by Canadian online pharmacies [Press release]. Retrieved from http://www.justice.gov/opa/pr/google-forfeits-500-million-generated-online-ads-prescription-drug-sales-canadian-online . Office of U.S. Senator Sheldon Whitehouse. (2013). U.S. Department of Justice grants RI cities flexibility to use Google settlement funds to stabilize pensions [Press release]. Retrieved from http://www.whitehouse.senate.gov/news/release/us-department-of-justice-grants-ri-cities-flexibility-to-use-google-settlement-funds-to-stabilize-pensions .
South Carolina	
Standard of proof	Government must show probable cause for seizure and the owner must show that the property is not forfeitable by a preponderance of the evidence. S.C. Code Ann. §§ 44-53-520(b) to -586(b); <i>Pope v. Gordon</i> , 633 S.E.2d 148, 151 (S.C. 2006).
Innocent owner burden	Owner. S.C. Code Ann. § 44-53-540; <i>Pope v. Gordon</i> , 633 S.E.2d 148, 151 (S.C. 2006).
Profit incentive	95 percent (75 percent to law enforcement, 20 percent to prosecutors). S.C. Code Ann. § 44-53-530(e).
Reporting requirements	Agencies are required to maintain an inventory of seized property and submit those inventories to the appropriate prosecution agency. S.C. Code Ann. § 44-53-520(j).
South Dakota	
Standard of proof	Preponderance of the evidence. S.D. Codified Laws § 34-20B-80.
Innocent owner burden	Owner. S.D. Codified Laws § 34-20B-88.
Profit incentive	100 percent. Forfeiture proceeds go into the attorney general's "drug control fund" and then are distributed to law enforcement for drug enforcement efforts. S.D. Codified Laws §§ 34-20B-64, 34-20B-89.
Reporting requirements	None.
Other sources	South Dakota Office of the Attorney General. (2013). South Dakota Highway Patrol to receive money for SWAT vehicle from Drug Control Fund [Press release]. Retrieved from http://atg.sd.gov/News/NewsReleases/NewsReleasesView/tabid/441/itemID/3177/moduleID/597/Default.aspx .

Tennessee	
Standard of proof	Preponderance of the evidence. Tenn. Code Ann. § 40-33-210(a); <i>Stuart v. Dep't of Safety</i> , 963 S.W.2d 28, 33 (Tenn. 1998).
Innocent owner burden	Government, except in cases of vehicles, when the claimant must prove that she had no knowledge of the criminal use before a claim will be allowed. Tenn. Code Ann. §§ 40-33-108(a), 40-33-210(a)(2), (c)–(f).
Profit incentive	Up to 100 percent. Tenn. Code Ann. § 40-33-211(a)–(b).
Reporting requirements	None.
Texas	
Standard of proof	Preponderance of the evidence. Tex. Code Crim. Proc. Ann. art. 59.05(b).
Innocent owner burden	Owner. Tex. Code Crim. Proc. Ann. art. 59.02(c), (h)(1).
Profit incentive	Up to 100 percent in contested cases; up to 70 percent in cases where a default judgment is entered. Tex. Code Crim. Proc. Ann. art. 59.06(c), (c-3); <i>see also</i> Tex. Att'y Gen. Op. GA-0122 (Nov. 18, 2003) (noting 70–30 split between district attorney and Department of Public Safety).
Reporting requirements	The Office of the Attorney General is required to create annual aggregate forfeiture reports from reports submitted by agencies and, beginning on April 30, 2016, to publish those aggregate reports online. Tex. Code Crim. Proc. Ann. art. 59.06(g), (s).
Utah	
Standard of proof	Clear and convincing evidence. Utah Code Ann. § 24-4-104(6).
Innocent owner burden	Government. Utah Code Ann. § 24-4-107(2).
Profit incentive	100 percent. Utah Code Ann. §§ 24-4-115 to -117.
Reporting requirements	Agencies are required to maintain an inventory of seized property. Utah Code Ann. § 24-2-103(2)(b).
Vermont	
Standard of proof	Clear and convincing evidence and a criminal conviction are required for civil forfeiture. Vt. Stat. Ann. tit. 18, §§ 4243(a), (c), 4244(e).
Innocent owner burden	Owner. Vt. Stat. Ann. tit. 18, § 4244(d).
Profit incentive	45 percent. Vt. Stat. Ann. tit. 18, § 4247(b)(1).
Reporting requirements	Agencies are required to submit reports of drug-related forfeitures to the state treasurer. Vt. Stat. Ann. tit 18, § 4248.
Other sources	Email correspondence between Angela C. Erickson of the Institute for Justice and Tim Lueders-Dumont, public records officer in the Vermont Office of the State Treasurer (2015, June 15).

Virginia	
Standard of proof	Preponderance of the evidence. Va. Code Ann. § 19.2-386.10(A).
Innocent owner burden	Owner. Va. Code Ann. §§ 19.2-386.10(A), 19.2-386.8(3).
Profit incentive	100 percent (90 percent to participating agencies, 10 percent to the Department of Criminal Justice Services). Va. Code Ann. § 19.2-386.14(A1)–(B).
Reporting requirements	Agencies must report seizures and forfeitures to the Department of Criminal Justice Services. Va. Code Ann. § 19.2-386.4; 6 Va. Admin. Code §§ 20-150-30, -40.
Other sources	Fain, T. (2015, February 17). Virginia senate kills asset forfeiture reforms. <i>Daily Press</i> . Retrieved from http://www.dailypress.com/news/politics/dp-nws-ga-asset-forfeiture-20150217-story.html .
Washington	
Standard of proof	Preponderance of the evidence. Wash Rev. Code § 69.50.505(5).
Innocent owner burden	Owner. Wash. Rev. Code § 69.50.505(1)(d)(ii), (g), (h)(i).
Profit incentive	90 percent. Wash. Rev. Code § 69.50.505(9).
Reporting requirements	Seizing agencies are required to file quarterly reports of forfeited property with the state treasurer. Wash. Rev. Code § 69.50.505(8)(c)–(d).
West Virginia	
Standard of proof	Preponderance of the evidence. W. Va. Code § 60A-7-705(e).
Innocent owner burden	Owner. W. Va. Code § 60A-7-703(a)(5)(ii), (7), (8).
Profit incentive	100 percent. W. Va. Code § 60A-7-706.
Reporting requirements	Agencies are required to submit annual forfeiture reports to their local budgetary authorities. W. Va. Code § 60A-7-707(h).
Wisconsin	
Standard of proof	“[R]easonable certainty by the greater weight of the credible evidence.” Wis. Stat. § 961.555(3); <i>In re Return of Prop.</i> , 594 N.W.2d 738, 744 & n.9 (Wis. 1999); see generally <i>Nommensen v. Am. Cont'l Ins. Co.</i> , 629 N.W.2d 301, 303–05 (Wis. 2001) (describing this unique standard as the burden of proof in civil cases).
Innocent owner burden	Owner. Wis. Stat. § 961.56(1).
Profit incentive	No profit incentive. Wis. Stat. § 961.55(5)(b), (e) (permitting seizing agencies to retain reasonable expenses).
Reporting requirements	None.
Other sources	Balko, R. (2012, May 21). Under asset forfeiture law, Wisconsin cops confiscate families’ bail money. <i>The Huffington Post</i> . Retrieved from http://www.huffingtonpost.com/2012/05/20/asset-forfeiture-wisconsin-bail-confiscated_n_1522328.html . Park, M. (2009, August 17). 90 percent of U.S. bills carry traces of cocaine. <i>CNN</i> . Retrieved from http://www.cnn.com/2009/HEALTH/08/14/cocaine.traces.money/ .

Wyoming	
Standard of proof	Preponderance of the evidence. <i>See In re U.S. Currency Totaling \$7,209.00</i> , 2012 WY 75, ¶ 9, 278 P.3d 234, 237 (Wyo. 2012).
Innocent owner burden	Owner. Wyo. Stat. Ann. § 35-7-1050.
Profit incentive	Up to 100 percent. Wyo. Stat. Ann. § 35-7-1049(e).
Reporting requirements	None.
Other sources	Harper, C. (2015, February 17). Wyoming governor vetoes asset forfeiture reform bill. <i>The Daily Caller</i> . Retrieved from http://dailycaller.com/2015/02/17/breaking-wyoming-governor-vetos-asset-forfeiture-reform-bill/ .
Federal Government	
Standard of proof	Preponderance of the evidence. 18 U.S.C. § 983(c).
Innocent owner burden	Owner. 18 U.S.C. § 983(d).
Profit incentive	100 percent. 18 U.S.C. § 981(e); <i>see also United States v. Pescatore</i> , 637 F.3d 128, 137 (2d Cir. 2011).
Reporting requirements	The Department of Justice and Department of the Treasury are required to compile annual forfeiture reports and publish them online. 28 U.S.C. § 524(c)(6); 31 U.S.C. § 9705(f). DOJ Assets Forfeiture Fund Annual Financial Statements: http://www.justice.gov/afp/annual-financial-statements Treasury Forfeiture Fund Accountability Reports: http://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Pages/annual-reports.aspx

Endnotes

- 1** Ingraham, C. (2015, June 30). Drug cops took a college kid's savings and now 13 police departments want a cut. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/06/30/drug-cops-took-a-college-kids-life-savings-and-now-13-police-departments-want-a-cut/>.
- 2** Gabbidon, S. L., Higgins, G. E., Martin, F., Nelson, M., & Brown, J. (2011). An exploratory analysis of federal litigation in the United States challenging asset forfeiture. *Criminal Justice Policy Review*, 22(1), 50–64.
- 3** Chi, K. A.-Y. (2002). Follow the money: Getting to the root of the problem with civil asset forfeiture in California. *California Law Review*, 90(5), 1635–1673.
- 4** *State of Texas v. One 2004 Chevrolet Silverado*, Civ. No. 2009-52869 (Tex. Dist. Ct. Aug. 19, 2009).
- 5** *United States v. One Solid Gold Object in Form of a Rooster*, 191 F. Supp. 198 (D. Nev. 1961).
- 6** Boudreaux, D. J., & Pritchard, A. C. (1996). Civil forfeiture and the war on drugs: Lessons from economics and history. *San Diego Law Review*, 33, 79–135.
- 7** Boudreaux and Pritchard, 1996.
- 8** Pilon, R. (1994). Can American asset forfeiture law be justified? *New York Law School Law Review*, 39(1–2), 311–333.
- 9** Boudreaux and Pritchard, 1996.
- 10** Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, § 310, 98 Stat. 1837 (1984).
- 11** Among other modest changes, the Civil Asset Forfeiture Reform Act required the government, not the claimant, to prove the property is connected to a crime, eliminated the requirement that claimants post a cost bond before being able to contest a civil forfeiture in court, and provided representation for indigent claimants under limited circumstances.
- 12** Civil Asset Forfeiture Reform Act, Pub. L. No. 106-185, 114 Stat. 202 (2000).
- 13** Rainbolt, G., & Reif, A. F. (1997). Crime, property, and justice: The ethics of civil forfeiture. *Public Affairs Quarterly*, 11(1), 39–55.
- 14** Roberts, R. (2006). Incentives matter. Library of Economics and Liberty. Retrieved from <http://www.econlib.org/library/Columns/y2006/Robertsincentives.html>.
- 15** For the annual financial statements of the DOJ's Asset Forfeiture Program, see U.S. Department of Justice. (2015). *Annual financial statements*. Retrieved from <http://www.justice.gov/afp/annual-financial-statements>.
- 16** For the annual accountability reports of the Treasury Forfeiture Fund, see U.S. Department of the Treasury. (2015). *Annual reports*. Retrieved from <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Pages/annual-reports.aspx>.
- 17** 2,107 percent in inflation-adjusted dollars.
- 18** 724 percent in inflation-adjusted dollars.
- 19** 338 percent in inflation-adjusted dollars.
- 20** These states may not be representative.
- 21** Arizona, California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington and Wyoming.
- 22** This figure is an estimate for at least three reasons. First, despite reporting requirements, agencies in some states sometimes do not submit reports. Second, some reports use calendar years and others fiscal years, the latter of which may vary from state to state. Third, some states do not have standardized reporting requirements, making some degree of interpretation necessary in calculating totals.
- 23** These 14 states were included because they had the most consistent data over the time span. However, in some states, agencies did not report in some years, meaning that these numbers likely undercount total forfeiture proceeds. In addition, these are estimates for at least three reasons. First, despite reporting requirements, agencies in some states sometimes do not submit reports. Second, some reports use calendar years and others fiscal years, the latter of which may vary from state to state. Third, some states do not have standardized reporting requirements, making some degree of interpretation necessary in calculating totals.

- 24** 82 percent in inflation-adjusted dollars.
- 25** Williams, H. E. (2002). *Asset forfeiture: A law enforcement perspective*. Springfield, IL: Charles C. Thomas.
- 26** Miller, J. M., & Selva, L. H. (1994). Drug enforcement's double-edged sword: An assessment of asset forfeiture programs. *Justice Quarterly*, 11(2), 313–335; Wilson, B. J., & Preciado, M. (2014). *Bad apples or bad laws? Testing the incentives of civil forfeiture*. Arlington, VA: Institute for Justice; Drug Policy Alliance. (2015). *Above the law: An investigation of civil asset forfeiture in California*. Los Angeles, CA: Drug Policy Alliance. Retrieved from http://www.drugpolicy.org/sites/default/files/Drug_Policy_Alliance_Above_the_Law_Civil_Asset_Forfeiture_in_California.pdf.
- 27** Carpenter, D. M., & Salzman, L. (2015). *Seize first, question later: The IRS and civil forfeiture*. Arlington, VA: Institute for Justice.
- 28** For a detailed description of the steps necessary to navigate just the federal forfeiture process, see The Heritage Foundation. (2015). *Arresting your property: How civil asset forfeiture turns police into profiteers*. Washington, DC: The Heritage Foundation. Retrieved from http://thf_media.s3.amazonaws.com/2015/pdf/Forfeiture-Booklet-FINAL-Full.pdf.
- 29** The states, the total value of forfeitures, the number of properties forfeited and the median property values are as follows. Note that these states may not be representative.

State	Value	Number	Median
California	\$15,046,570	2,092	\$1,901
Connecticut	\$2,264,680	810	\$655
Illinois	\$19,551,517	6,764	\$530
Minnesota	\$8,393,164	6,851	\$451
Missouri	\$83,868	49	\$1,529
Rhode Island	\$1,941,421	290	\$1,525
Tennessee	\$15,127,022	10,424	\$502
Utah	\$1,362,786	144	\$2,048
Virginia	\$6,951,900	1,425	\$1,433
Wyoming	\$116,084	47	\$1,130

- 30** Johnson, H. (2014, July 3). 5 low-cost alternatives to your pricey cellphone plan. *U.S. News & World Report*. Retrieved from <http://money.usnews.com/>

[money/blogs/my-money/2014/07/03/5-low-cost-alternatives-to-your-pricey-cellphone-plan](http://money.usnews.com/blogs/my-money/2014/07/03/5-low-cost-alternatives-to-your-pricey-cellphone-plan).

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- 35** IJ analysis of Pennsylvania annual asset forfeiture reports. See also: Compl. at 2–3, 9, 11, *Sourovelis v. City of Phila.*, No. 14-4687 (E.D. Pa. Aug. 11, 2014) [hereinafter *Sourovelis* Compl.], available at https://www.ij.org/images/pdf_folder/private_property/philadelphia-forfeiture/philadelphia-forfeiture-complaint-8-11-14.pdf.
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- 37** IJ analysis of Pennsylvania annual asset forfeiture reports. See also: *Sourovelis* Compl. at 10, 12–13.
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- 41** Ind. Code § 34-6-2-73.
- 42** Marion County is not alone. Howard County has demonstrated a similar pattern. See Munsey, P. (2010, December 2). Prosecutor sued over forfeiture

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- 44** The situation is even worse under Indiana’s RICO statute. RICO—Racketeer Influenced and Corrupt Organizations—is a category of laws designed to fight organized crime. Unlike the state’s basic civil forfeiture law, the RICO statute makes no provision at all for the common school fund, thus allowing law enforcement to retain all forfeiture proceeds (Ind. Code § 34-24-2-1). Unsurprisingly, some prosecutors have taken to bringing forfeiture cases exclusively under RICO, enabling them to avoid even the pantomime of reckoning law enforcement costs.
- 45** Making matters worse, while it is usually the government’s job to prove the connection between seized property and a crime, in a handful of states where preponderance of the evidence is the standard—Alaska, Delaware, Georgia, Illinois, Rhode Island and South Carolina—owners of seized property must prove by a preponderance of the evidence that their property is not connected to a crime.
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- 51** *Bennis v. Michigan*, 516 U.S. 442 (1996).
- 52** In *Bennis v. Michigan*, the U.S. Supreme Court ruled that there is no right to an innocent owner defense against forfeiture under the U.S. Constitution. The Court found no violation of the 14th Amendment’s guarantee of due process or of the Fifth Amendment’s protection against takings in Michigan law enforcement’s forfeiture of a car co-owned by Tina Bennis after her husband solicited a prostitute in it.
- 53** Compl., *Cox v. Voyles*, No. 2:15-cv-01386 (D.Ariz. July 22, 2015) available at <https://www.aclu.org/legal-document/cox-v-voyles-et-al-complaint>.
- 54** Associated Press. (2015, July 1). New law restricting asset seizures takes effect. *Las Cruces Sun-News*. Retrieved from http://www.lcsun-news.com/las_cruces-news/ci_28417912/new-law-restricting-asset-seizures-take-effect.
- 55** 2015 Nev. Laws ch. 436 (S.B. 138), Secs. 34.3, 34.6.
- 56** Somin, I. (2015, April 24). Montana Legislature passes asset forfeiture reform law. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/04/24/montana-legislature-passes-asset-forfeiture-reform/>.
- 57** S.F. 874, 88th Leg., Reg. Sess. (Minn. 2014), available at https://www.revisor.mn.gov/bills/text.php?number=SF874&version=2&session=ls88&session_year=2013&session_number=0.
- 58** D.C. Code § 41-310(a)(3).
- 59** 2015 Vt. Legis. Serv. 53 (S. 102), available at <http://legislature.vermont.gov/bill/status/2016/S.102>.
- 60** Note that this does not refer to Minnesota’s innocent owner burden, which remains unchanged.
- 61** Mansfield, E. (2015, March 27). Civil asset forfeiture

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- 69** Texas District & County Attorneys Association. (2015a). *Legislative update: Week 14*. Retrieved from <http://www.tdcaa.com/content/legislative-update-week-14>; Nicholson, E. (2015, April 24). Texas prosecutors really don't want you to know how they seize and spend money. *Dallas Observer*. Retrieved from <http://www.dallasobserver.com/news/texas-prosecutors-really-dont-want-you-to-know-how-they-seize-and-spend-money-7182287>; Texas District & County Attorneys Association. (2015b). *Legislative update: Week 18*. Retrieved from <http://www.tdcaa.com/content/legislative-update-week-18>; Evans, 2015. An additional bill, H.B. 530, which did pass, requires the Texas attorney general to publish aggregate forfeiture reports on its website. The law also includes a provision that allows forfeiture funds to be used to pay for scholarships for children of parents killed in the line of duty. According to legislative committee documents, law enforcement did not oppose this bill (H.B. 530, 84th Leg., Reg. Sess. (Tx. 2015), available at <http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=HB530>).
- 70** H.B. 249, 84th Leg., Reg. Sess. (Tx. 2015); H.B. 472, 84th Leg., Reg. Sess. (Tx. 2015); H.B. 1012, 84th Leg., Reg. Sess. (Tx. 2015); H.B. 1975, 84th Leg., Reg. Sess. (Tx. 2015); H.B. 3415, 84th Leg., Reg. Sess. (Tx. 2015).
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- 77** FAIR Act, H.R. 540, 114th Cong. (2015), available at <https://www.congress.gov/bill/114th-congress/house-bill/540/text>; FAIR Act, S. 255, 114th Cong. (2015), available at <https://www.congress.gov/bill/114th-congress/senate-bill/255/text>.
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- 79** U.S. Department of Justice. (2009). *Guide to equitable sharing for state and local law enforcement agencies*. Washington, DC: U.S. DOJ. Retrieved from <http://www.justice.gov/sites/default/files/usao-ri/legacy/2012/03/26/esguidelines.pdf>, p. 6.
- 80** Weber, R. (2009). Foreword. In U.S. Department of Justice, *Guide to equitable sharing for state and local law enforcement* (n.p.). Washington, DC: U.S. DOJ. See also 18 U.S.C. 981(e)(2) and 21 U.S.C. 881(e).
- 81** Calculated from FY 2004 and 2014 DOJ Assets Forfeiture Fund Reports to Congress retrieved from <http://www.justice.gov/afp/reports-congress/jmd-afp-2004-afpr-equitable-share-cash-and-sale-proceeds-0> and <http://www.justice.gov/afp/reports-congress/equitable-sharing-payments-cash-and-sale-proceeds-recipient-agency-fiscal-year-2014>.
- 82** 139 percent in inflation-adjusted dollars.

- 83** 7 percent in inflation-adjusted dollars.
- 84** Weber, 2009.
- 85** Gaumer, 2007, p. 60.
- 86** For examples of scholarly criticism, see Blumenson, E., & Nilsen, E. (1998). Policing for profit: The drug war's hidden economic agenda. *The University of Chicago Law Review*, 65, 35–114; Duffy, M. J. (2001). Note: A drug war funded with drug money: The federal civil forfeiture statute and federalism. *Suffolk University Law Review*, 34, 511–540; Hadaway, B. (2000). Executive privateers: A discussion on why the Civil Asset Forfeiture Reform Act will not significantly reform the practice of forfeiture. *University of Miami Law Review*, 55(1), 81–121; Worrall, J. L. (2004). The Civil Asset Forfeiture Reform Act of 2000: A sheep in wolf's clothing? *Policing: An International Journal of Police Strategies and Management*, 27(2), 220–240.
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- 88** Interim policy guidance published in July 2014 explains, “Except as noted in this Guide, equitably shared funds shall be used by law enforcement agencies for law enforcement purposes only.” Exceptions include support for community-based programs, such as drug treatment facilities, jobs skills programs and crime prevention education (U.S. Department of Justice. (2014). *Interim policy guidance regarding the use of equitable sharing funds*. Retrieved <http://www.justice.gov/sites/default/files/criminal-afmls/legacy/2014/07/31/Use-of-Shared-Funds-Policy-2014.pdf>).
- 89** The interim guidance states that “[s]haring will be withheld from any state or local law enforcement agency where the governing body, state or local law, regulation, or policy requires or directs 1) specific expenditures of shared funds, 2) the transfer of federal equitable sharing funds to non-law enforcement agencies, or 3) expenditures for non-law enforcement purposes” (U.S. Department of Justice, 2014).
- 90** 18 U.S.C. § 983(c)(1).
- 91** 18 U.S.C. § 983(d)(1).
- 92** The DOJ's “Request for Adoption of State or Local Seizure” form used to contain the following language: “As a general rule, if a state or local agency has seized property as part of ongoing state criminal investigation, and if the criminal defendants are being prosecuted in state court, the forfeiture action should also be pursued in state court. However, certain circumstances may make federal forfeiture appropriate. These circumstances include, but are not limited to, the following: (1) *state laws* or procedures are inadequate or forfeiture experience is lacking in the state system *with the result that a state forfeiture action may be unfeasible or unsuccessful* (emphasis added)” (Williams, M. R., Holcomb, J. E., Kovandzic, T. V., & Bullock, S. (2010). *Policing for profit: The abuse of civil asset forfeiture*. Arlington, VA: Institute for Justice). The current form omits this language (cf. U.S. Department of Justice and Department of the Treasury. (2015). Request for adoption of state or local seizure. Retrieved from <http://www.justice.gov/sites/default/files/criminal-afmls/legacy/2015/01/16/request-for-adoption-form.pdf>).
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- 96** Holcomb, J. E., Kovandzic, T. V., & Williams, M. R. (2011). Civil asset forfeiture, equitable sharing, and policing for profit in the United States. *Journal of Criminal Justice*, 39(3), 273–285.
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- 98** Sallah, M., O'Harrow, R., Jr., Rich, S., Silverman, G., Chow, E., & Mellnik, T. (2014, September 6). Stop and seize. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/>.

- 99** Drug Policy Alliance, 2015.
- 100** The need to reform asset forfeiture: Hearings before the U.S. Senate Committee on the Judiciary, 114th Cong. (2015) (Testimony of Chuck Canterbury). Retrieved from <http://www.judiciary.senate.gov/imo/media/doc/04-15-15%20Canterbury%20Testimony.pdf>, pp. 3–4.
- 101** Sallah et al., 2014.
- 102** Sallah et al., 2014.
- 103** Sallah et al., 2014.
- 104** O’Harrow, R., Jr., Sallah, M., & Rich, S. (2014b, September 8) They fought the law. Who won? *The Washington Post*. Retrieved from <http://www.washingtonpost.com/sf/investigative/2014/09/08/they-fought-the-law-who-won/>.
- 105** O’Harrow, R., Jr., & Rich, S. (2015, February 11). Justice clarifies new limits on asset forfeiture involving local, state police. *The Washington Post*. Retrieved from http://www.washingtonpost.com/investigations/attorney-general-holders-curbs-on-seizures-did-not-go-far-enough-critics-say/2015/02/11/19ec34b4-a1c0-11e4-903f-9f2faf7cd9fe_story.html.
- 106** O’Harrow and Rich, 2015.
- 107** Sallah et al., 2014; O’Harrow, R., Jr., Sallah, M., & Rich, S. (2014a, September 7). Police intelligence targets cash. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/sf/investigative/2014/09/07/police-intelligence-targets-cash/>.
- 108** Sallah et al., 2014.
- 109** Office of the Attorney General of the United States. (2015). Prohibition on certain federal adoptions of seizures by state and local law enforcement agencies [Order]. Retrieved from <http://www.justice.gov/file/318146/download>; U.S. Department of the Treasury Executive Office for Forfeiture. (2015). Policy limiting the federal adoption of seizures by state and local law enforcement agencies (Directive no. 34). Retrieved from <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/TEOAF%20Dir.%2034%20on%20Adoptions%20-%20Revised%20Jan%2016%202015.pdf>.
- 110** Office of the Attorney General of the United States, 2015. Beyond these categories, adoptions under the public safety exception require approval by the assistant attorney general for the Criminal Division.
- 111** The need to reform asset forfeiture: Hearings before the U.S. Senate Committee on the Judiciary, 114th Cong. (2015) (Testimony of Darpana M. Sheth). Retrieved from <http://www.judiciary.senate.gov/imo/media/doc/04-15-15%20Sheth%20Testimony.pdf>, p. 8.
- 112** U.S. Department of Justice Office of Public Affairs. (2015). Attorney general prohibits federal agency adoptions of assets seized by state and local law enforcement agencies except where needed to protect public safety [Press release]. Retrieved from <http://www.justice.gov/opa/pr/attorney-general-prohibits-federal-agency-adoptions-assets-seized-state-and-local-law>.
- 113** O’Harrow and Rich, 2015.
- 114** Sullum, J. (2015, January 19). The fine print in Holder’s new forfeiture policy leaves room for continued abuses. *Reason*. Retrieved from <http://reason.com/blog/2015/01/19/the-fine-print-in-holders-new-forfeiture>; Balko, R. (2015, January 20). How much civil asset forfeiture will Holder’s new policy actually prevent? *The Washington Post*. Retrieved from <http://www.washingtonpost.com/news/the-watch/wp/2015/01/20/how-much-civil-asset-forfeiture-will-holders-new-policy-actually-prevent/>.
- 115** U.S. Department of Justice Criminal Division. (2015). Additional guidance on the attorney general’s January 16, 2015 order on adoptions (Policy Directive 15-2). Washington, DC: U.S. DOJ. Current DOJ data provide no way of identifying seizures labeled as joint that had no federal involvement until after the seizure. However, such data may be available in the future: The DOJ’s new guidelines direct agencies to record whether assets seized locally were accepted for federal forfeiture under the public safety exception, as joint seizures or under a federal seizure warrant. For joint seizures, agencies must also indicate whether the seizing agent was a state or local officer and whether the seizure was initially part of a federal task force or joint investigation and record the date and name of the approving federal prosecutor.
- 116** Hearings before the U.S. Senate Committee on the Judiciary, 114th Cong., 2015 (Sheth Testimony), p. 9.
- 117** Hearings before the U.S. Senate Committee on the Judiciary, 114th Cong., 2015 (Sheth Testimony), p. 9.

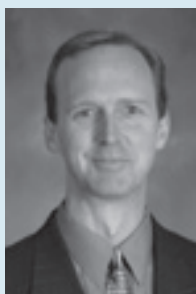
- 118** Ingraham, 2015.
- 119** Records on file with the Institute for Justice.
- 120** Ingraham, 2015.
- 121** U.S. Department of Justice, 2009.
- 122** The DOJ equitable sharing guide states, “Many task forces involving federal, state, and local law enforcement agencies have pre-arranged, written equitable sharing agreements based upon relative numbers of personnel and other contributions to the task force operation” (U.S. Department of Justice, 2009, p. 13).
- 123** U.S. Department of Justice, 2014.
- 124** FAIR Act, H.R. 540, 114th Cong. (2015); FAIR Act, S. 255, 114th Cong. (2015).
- 125** O’Harrow, R., Jr. (2015, January 9). Lawmakers urge end to program sharing forfeited assets with state and local police. *The Washington Post*. Retrieved from http://www.washingtonpost.com/investigations/lawmakers-urge-end-to-program-sharing-forfeited-assets-with-state-and-local-police/2015/01/09/8843a43c-982f-11e4-8005-1924ede3e54a_story.html.
- 126** D.C. Code § 41-310(a)(3). Although the rest of the District of Columbia’s reforms took effect in June 2015, the equitable sharing provision was delayed three years—over the objections of the Institute for Justice and the American Civil Liberties Union of the Nation’s Capital—because the police department had already earmarked anticipated payments for a department fund that pays informants and rewards. D.C. Police Chief Cathy L. Lanier denied planning for the funds in the department’s budget, which would have violated federal guidelines against committing to spending in anticipation of equitable sharing payments, saying that the department is using them “to augment the reward pool of funding and confidential fund programs (witness protection, rewards for information in homicides)” (O’Harrow, R., Jr. (2014, November 18). D.C. Council votes to overhaul asset forfeiture, give property owners new rights. *The Washington Post*. Retrieved from http://www.washingtonpost.com/investigations/dc-council-votes-to-overhaul-asset-forfeiture-give-property-owners-new-rights/2014/11/18/d6945400-6f72-11e4-8808-afaa1e3a33ef_story.html; *Civil Asset Forfeiture Amendment Act of 2013*, B20-0048 (D.C. 2013), COUNC. OF THE DIST. OF COLUMBIA OFF. OF THE SEC’Y – LEGISLATION DETAIL, available at http://lims.dccouncil.us/_layouts/15/uploader/AdminProxy.aspx?LegislationId=B20-0048; Spitzer, A. B., & Sheth, D. M. (2014). Re: Bill 20-48, the Civil Asset Forfeiture Amendment Act of 2014 [Letter to Council of the District of Columbia]. Retrieved from http://ij.org/images/pdf_folder/11-17-14-letter-to-dc-council-regarding-bill-20-48.pdf.
- 127** N.M. Stat. Ann. § 31-27-11(A)(1), (B).
- 128** In these states, it may be possible to collect forfeiture records through public records requests, but it would often be prohibitively time-consuming and costly, requiring requests to every agency or budgetary authority statewide. And in some states, inventory records may even be considered exempt from disclosure under public records laws.
- 129** 2015 Nev. Laws ch. 436 (S.B. 138), Sec. 30.
- 130** N.M. Stat. Ann. § 31-27-9.
- 131** Tex. Code Crim. Proc. Ann. art. 59.06(g), (s).
- 132** D.C. Code § 41-312.
- 133** Ind. Code §§ 33-39-8-5(7), 34-24-1-4.5.
- 134** Though required to provide detailed information about each seizure, the New Hampshire attorney general only provides the Legislature with the total value of forfeited property.
- 135** Missouri law requires that this information be reported, but it is frequently missing. Further, Missouri reporting includes only assets that were seized during the calendar year, when charges may not yet have occurred, making the state’s data on charges and convictions unreliable.
- 136** The Institute for Justice received only the CATS variables considered releasable by the DOJ. Hundreds of variables were considered nondisclosable under various FOIA law exemptions. See CATS: FOIA Disclosure Report as of 4/11/2015. Retrieved from <http://www.justice.gov/file/441201/download>.
- 137** State of Minnesota Office of the State Auditor (2013). *Criminal forfeitures in Minnesota for the year ended December 31, 2012*. Saint Paul, MN: Office of the State Auditor. Retrieved from <http://www>.

- osa.state.mn.us/reports/gid/2012/forfeiture/forfeiture_12_report.pdf.
- 138** Harris, K. D. (n.d.). *2012 annual report asset forfeiture*. Sacramento, CA: Office of the Attorney General, California Department of Justice. Retrieved from http://oag.ca.gov/sites/all/files/agweb/pdfs/publications/asset_forf/2012_af/af.pdf?
- 139** Michigan State Police. (2013). *2013 asset forfeiture report (covers 2012)*. Lansing, MI: Department of State Police. Retrieved from http://www.michigan.gov/msp/0,4643,7-123-72297_34040_34043_54578-15547--,00.html; Schweich, T. A. (2013). *Citizens summary: Compilation of 2012 Criminal Activity Forfeiture Act seizures*. Jefferson City, MO: State Auditor's Office. Retrieved from <http://www.auditor.mo.gov/AuditReports/CitzSummary.aspx?id=171>; Commonwealth of Pennsylvania Office of the Attorney General. (n.d.). *Asset forfeiture report: Fiscal year 2012–2013*.
- 140** Thompson, S. (2014, September 15). Re: Public records request [Email to the Institute for Justice].
- 141** Schweich, T. A. (2015). *Citizens summary: Compilation of 2014 Criminal Activity Forfeiture Act seizures*. Jefferson City, MO: State Auditor's Office. Retrieved from <http://www.auditor.mo.gov/AuditReports/CitzSummary.aspx?id=366>.
- 142** Hinton, R. (2002). *Property forfeitures under state and federal drug laws* [Program evaluation]. Atlanta, GA: Performance Audits Operations Division, Department of Audits and Accounts.
- 143** Norman, E., & Sanders, A. (2011). *Forfeiting accountability: Georgia law enforcement's hidden civil forfeiture funds*. Arlington, VA: Institute for Justice.
- 144** Carpenter, D. M., & McGrath, L. (2013). *Rotten reporting in the Peach State: Civil forfeiture in Georgia leaves the public in the dark*. Arlington, VA: Institute for Justice.
- 145** Iowa Code § 809A.17(5)(e).
- 146** S.C. Code Ann. § 44-53-530(e)(3).
- 147** Vermont had “no such records, reports, or funds ... sent to the Office of the State Treasurer,” suggesting the possibility that zero forfeitures were conducted under Vermont state law (Lueders-Dumont, T. (2015, June 15). Re: Public records request [Email to the Institute for Justice]).
- 148** U.S. Department of Justice, 2015; U.S. Department of the Treasury, 2015.
- 149** These categories represent the original categories from the Equitable Sharing Agreement and Certification form. Some other categories were combined into broader categories. Salaries are a combination of salaries and overtime; equipment of communications and computers with weapons and protective gear; and investigations of informants, “buy money,” and rewards and electronic surveillance.
- 150** Williams, M. R. (2002). Civil asset forfeiture: Where does the money go? *Criminal Justice Review*, 27(2), 321–329.
- 151** U.S. Government Accountability Office. (2012). *Justice Assets Forfeiture Fund: Transparency of balances and controls over equitable sharing should be improved* (GAO-12-736). Washington, DC: GAO. Retrieved from <http://www.gao.gov/assets/600/592349.pdf>.
- 152** Drug Policy Alliance, 2015.
- 153** Ariz. Rev. Stat. Ann. §§ 13-2314.01(F)–(H); Ark. Code Ann. § 5-64-505(f); Ga. Code Ann. § 9-16-19(g); Haw. Rev. Stat. § 712A-16(6); Kan. Stat. Ann. §§ 60-4117(4d)(1)–(2); Mich. Comp. Laws § 333.7524a; Minn. Stat. §§ 609.5315(5)(b), (6); Ohio Rev. Code Ann. § 2981.11; Or. Rev. Stat. §§ 131.600, 131A.450; R.I. Gen. Laws § 7-15-4.1(c), (e); Tex. Code Crim. Proc. Ann. art. 59.06(g)(1).
- 154** Arkansas and Kansas law enforcement agencies must send expenditure data to their local budgetary authority; obtaining these reports would require making records requests of each agency. In Minnesota, only the commissioner of public safety is required to report expenditures, and the Institute for Justice did not obtain those numbers. The Rhode Island attorney general did not include expenditures in legislative reports.
- 155** Hawaii reports only the attorney general's expenditures; Michigan only provides the number of agencies reporting to have spent money on specific expenditure categories; and Oregon did not produce a 2012 report. In Georgia and Ohio, the reporting was too inconsistent to understand what forfeiture expenditures were used for.
- 156** These four states do not break expenditures down in exactly the same way. However, they do have categories that can be combined to create equivalent categories. In Arizona, the investigations

category covers witness protection, civil remedies and outside services. In Oklahoma, confidential informants and investigation were combined into investigations, and operating expenses, rent and storage into facilities. In Pennsylvania, equipment comprises data processing equipment and supplies, task force supplies, other equipment/supplies and vehicles; investigations comprises confidential cases, investigative equipment/supplies and witness relocation/protection; and facilities comprises maintenance of property and real estate. In Texas, salaries and overtime were combined into salaries; equipment and supplies into equipment; training and travel into training; and miscellaneous fees and other into other.

- 157** U.S. Department of Justice, 2009; Ariz. Rev. Stat. § 13-4315; Okla. Stat. tit. 63, § 2-503; 42 Pa. Cons. Stat. § 6801; Tex. Code Crim. Proc. Ann. art. 59.06.
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- 161** Sallah, 2015a.
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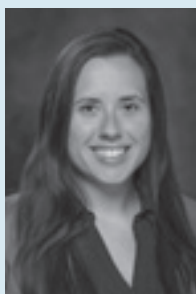


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About IJ

The Institute for Justice is a nonprofit, public-interest law firm that litigates to secure economic liberty, school choice, private property rights, freedom of speech and other vital individual liberties and to restore constitutional limits on the power of government. Founded in 1991, IJ is the nation's only libertarian public-interest law firm, pursuing cutting-edge litigation in the courts of law and in the court of public opinion on behalf of individuals whose most basic rights are denied by the government. The Institute's strategic research program produces social science and policy research to inform public policy debates on issues central to IJ's mission.

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