



GEORGIA
CENTER for OPPORTUNITY

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CIVIL ASSET FORFEITURES IN GEORGIA:

Procedures, Activity, Reporting,
and Recommendations

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EXECUTIVE SUMMARY

Civil forfeiture of assets from law enforcement activities is an issue that raises policy concerns intersecting the principles of justice, freedom, and prosperity. Individual rights against unwarranted seizure of property and excessive fines enshrined in the Georgia and the United States Bills of Rights need to be protected. Because law enforcement agencies get to retain and use those assets for law enforcement activities, there is the potential for abuse. At the same time, civil asset forfeiture has become an important tool for often underfunded law enforcement agencies, or LEAs, in the fight against criminal activity that can undermine the conditions necessary for free market forces to flourish without which society would not be as prosperous.

Georgia's approach to address this important policy issue can be found in the Georgia Uniform Civil Forfeiture Procedures Act of 2015. It relies on establishing judicial procedures for law enforcement to follow that are intended to provide a level of protection for individuals against unwarranted confiscations, including a process for individuals to recover seized property. Before law enforcement entities—consisting of LEAs, multi-jurisdictional task forces, district attorney offices, and state agencies—may benefit from the seized property, the property must go through judicial or quasi-judicial processes, depending on the property's estimated value, before it is declared to be forfeited and distributed to law enforcement entities. Once distributed, tangible property may be sold, destroyed, spent, or retained. If retained or spent, it can only be used for enumerated categories of law enforcement purposes.

The 2015 statute also requires law enforcement entities to file annual reports on their civil asset forfeiture activities. These reports summarize the values of total distributed currency received, including net proceeds from the sale of properties, expenditures from the assets received, and “cash on hand” that are year-end balances in financial accounts holding distributed liquid assets. The reports also itemize distributed property received, distributed currency received, returned properties, and expenditures. The itemizations require disclosure of certain details for each property received, such as description and disposition of the property, dates received, sold, destroyed or spent, income if sold, category of utilization if retained, category of expenditure if spent, and the statute relied upon for the seizure. These reporting requirements not only bring transparency to civil asset forfeiture activity but also reinforce the statutory requirements on how law enforcement entities may use the property distributed to them.

However, these reports have limitations. It is not always possible to know accurately the number of cases where the civil asset forfeiture law was applied or to be able to identify any specific case using the reports. It is not possible to use the reports to determine if any itemized property was seized and forfeited consistent with the law, if an expenditure resulting from distributed funds was proper, or if the utilization of retained property was proper. It is also not possible to know the outcome of any case, such as whether there was charges filed or conviction or arrest in the case that resulted in the property being forfeited. Finally, it is unlikely that these reports can be helpful in discovering any cases of abuse.

The 877 reports reviewed in this study represent all known filings for 2016, 2017, and 2018 as of July 2019 with the Carl Vinson Institute of Government of the University of Georgia, or the Institute, that were submitted through the Prosecuting Attorneys' Council of Georgia, or Council. A review of the data indicates that there may be at least 130 reports missing from about 100 law enforcement entities that filed at least one report over the three-year period. This study also found some reports that were filed directly with the Institute that did not go through the Council. Although care was taken to capture these reports, it is still possible that others were missed or filed after the reports were accessed by GCO staff in July of 2019.

In addition, there were 61 law enforcement entities who indicated 80 times they had no assets to report. However, there are still hundreds of law enforcement agencies who did not file reports and did not indicate they had no assets to report. With 159 counties and 461 police departments listed by the Georgia Sheriffs' Association, there are approximately 375 police departments who fall into this category.

Over the three years studied—2016 through 2018—law enforcement entities reported an aggregate of \$49,073,127 in state revenue and \$31,948,225 in federal revenue from civil asset forfeitures, including \$4,452,238 in state net income from the sale of seized assets. All entities reported spending \$41,538,570 from state revenue and \$35,105,522 from federal programs over the three years. The total ending balances in 2018 for all accounts holding money received from these forfeited assets were \$31,584,567 for state activity and \$26,397,405 for participating in federal activity. However, all these numbers are low because of underreporting and non-reporting by numerous entities. In addition, the entities received numerous in-kind distributions that they retained, but the individual reports do not provide a summation of those retained assets nor were the itemized values of those retained properties summed for this study.

The law requires the reports to be filed with the local governing bodies for local law enforcement agencies and the state auditor for the state agencies and district attorneys, or DAs. All reports are required to be filed with the Institute. This requirement allows for public access to the individual reports. The Council and Institute established a protocol for the entities to fulfill their legal responsibility whereby the entities submit the reports to the Council who then transfers the files to the Institute in batches and forwards the reports to each

entity's respective governing body if the entity chose to provide a forwarding email address.

Although the reports are available on the Institute's website, which provides a good public service, and navigating its GeorgiaDATA website is easy, navigating the Institute's main website to find the reports was found to be less than friendly. Once the webpage containing the asset forfeiture reports is found, the next step of finding specific reports is relatively easy for sheriffs' offices and other county-based law enforcement agencies simply by the user selecting the name of the respective county. Likewise, finding reports for specific city police departments was easy because these reports are found simply under the name of the city.

However, finding reports for state agencies, district attorneys, and multijurisdictional task forces was more difficult and cumbersome. Many of them were lumped under a single category of "State: Georgia." Because finding these reports through the Institute's main website required navigation through local government webpages and a financial documents "upload" page, navigating the webpages to find reports from state agencies and DAs was not intuitive.

The search engine on the Institute's website was helpful but imperfect. Some test searches failed to retrieve known filings. Our review discovered some reports that were mislabeled and misfiled. Our review also found one unreadable report, perhaps because the file was corrupted.

Of the filed reports, 90 percent were on the proper forms. This means, of course, that 10 percent were not—despite the training, notifications, and availability to answer questions by staff of the Prosecuting Attorneys' Council. There was little to no improvement in compliance with the reports over the three years studied, and the imperfect compliance will likely continue, unless steps are taken to rectify the situation, because no one checks to make sure the reports are in the proper form, are complete, and are filled out correctly.

Consistency and completeness of the filings remain an issue. Of the reports filed using the proper forms, 28 percent had incomplete summary pages. A common omission was the failure to report the state cash on hand, which is the year-end balance on the accounts. Twenty-two percent (22%) of the reports that used the proper form did not have the detail pages attached to the reports despite a mechanism provided by the Council in the report templates to do so. Sixty-one percent (61%) of the filings on the proper form

did not correctly report currency. The currency reporting issue occurred because the information on the net income from the sale of property required double entry into two separate spreadsheet tabs. Most of those reports where currency was reported correctly were when no sales proceeds were involved, meaning there was no need to enter data twice. Of those reports where a double entry of the data was required, only 5 percent of the law enforcement organizations correctly entered the data.

The reports also require filing of federal activity, giving similar detail as to state activity on property received, currency, expenditure, and ending balance of separate accounts required by an agreement with federal agencies. However, a comparison of the state reports with federal reports submitted to Congress revealed that 15 Georgia law enforcement entities failed to file state reports. Another 49 Georgia entities may have underreported their federal activities in the state reports.

Most entities that filed the proper reports appeared to be diligent in listing retained property with its intended purpose. One notable exception was the National Guard Counterdrug Task Force that listed in its 2017 report “everything retained.” We were also able to find only one report filed by this task force over the three years, suggesting two years of noncompliance.

One common formatting problem found in 40 reports using the proper form was very fine print on some of the pages to the point of being illegible or at least extremely difficult to read. Pagination problems occurred another 53 times, making it difficult to match rows and columns split out across pages. Although these problems may be due to user error, the lack of training or competence in Excel, or not following instructions, experimentation with the templates themselves discovered that these problems can occur easily.

This study also surveyed law enforcement entities on their experience with and recommendations for the reporting requirements. Responses were received from 32 law enforcement agencies and two multijurisdictional task forces. Seventy-six percent (76%) of the respondents stated that the Council’s templates and instructions were clear, and fifty-three percent (53%) sought help in filling out the reports. Only 44 percent of the respondents kept their records in a database. Fifty-five percent (55%) of the respondents said it took only a couple of hours or less to fill out the reports, but 26 percent said it took at least one day or up to three days to do so.

Of the survey respondents, 46 percent found the reporting requirement to be burdensome, especially if not kept up during the year. Some complained about taking resources away from other duties to fill out the reports. The respondents had numerous suggestions for improving the process, including using the civil action numbers in the template to help identify and pull data. There was overwhelming enthusiasm for the idea of a secure, web-based reporting system if it were user friendly and made the task of reporting activity easier for them. Some respondents pointed out that the reporting system with federal agencies worked well.

Consistency and completeness of the filings remain an issue

Seventy-four percent (74%) of the respondents said their accounts holding distributed assets from forfeitures were audited, and some were audited annually. However, there is no systematic requirement for auditing to ensure compliance with the law and reporting requirements.

Although there are many similarities between federal and state asset forfeiture programs, there are some differences. The federal programs require reports to Congress, but no such reports are sent to the Georgia State Legislature. The federal program requires annual audits, but Georgia does not. The federal government makes compensation of victims a priority with revenue from forfeited assets. Although Georgia allows the resources to be used for victim assistance, it is not a priority.

Based on the findings and conclusions, we have recommendations to improve accountability and transparency intended to protect civil liberties better by leading to better oversight, making more information available, and reducing the opportunities for abuse. Our recommendations fall into two groupings: immediate action items for the Prosecuting Attorneys' Council and the Carl Vinson Institute of Government for changes within the confines of the current system, and recommended legislative changes for the General Assembly for more comprehensive improvements. The recommendations are as follows:

1. Changes to the Council's Report Template Given to Law Enforcement Entities

It is recommended that the Prosecuting Attorneys' Council of Georgia revises its template to address some issues found with the filed reports for 2016, 2017, and 2018. The biggest issue was the incorrect reporting of currency by neglecting to include the net income from the sale of assets. In addition, we recommend creating a new summation spreadsheet cell that adds up the value of all property retained and displays the data more clearly. Finally, when the law enforcement entity chooses "other" as the statute relied on for the seizure of an asset, we recommend having an input field to give the exact statute.

2. Better Navigation on the Carl Vinson Institute Website

We recommended that the Carl Vinson Institute of Government improve the navigation of its main website to make it easier and more intuitive for users to find asset forfeiture reports.

3. Improved Search and Browsing Capabilities on Carl Vinson Institute Website

It is our recommendation that the Institute improve its search capabilities on its website to find reports more easily. Providing an advanced search feature that asks for specific fields—such as year range, geographical inputs, etc.—may be helpful to users. In addition, it would be an improvement if the website would allow for displaying and browsing through all asset forfeiture reports with labels clearly identifying the organization. Finally, it would be helpful if the website had a feature that displayed all law enforcement organizations that filed statements indicating they did not have any assets to report.

4. Cooperation between the Council and the Institute to Check Reports

Recognizing that the Council and the Institute are not legally obligated to do so, our recommendation is that they come up with an arrangement for a more thorough review of submitted reports to make sure that the files are readable, in the proper form, complete, and filled out correctly. One idea is the

creation of a checklist when the reports are uploaded to help officials uploading the document ensure that their reports are complete, in compliance with the law, and without formatting issues. Another idea is to assign a work-study student at the University of Georgia to the task. In response to this recommendation based on our findings, the Council informed us that they will be changing the process to include a review of submissions with a mechanism to accept or reject filings.

5. Secure, Web-based Reporting System

We recommend that the General Assembly consider establishing a system for law enforcement entities to enter the data relating to civil asset forfeitures and to track cases. The system should have the following characteristics:

- Be run by a state agency, such as the Georgia Technology Authority.
- Be secure and not accessible to make changes or view sensitive data outside the law enforcement community, other than the state agency given responsibility for administering the system.
- Be user-friendly.
- Other than having an access terminal, not require a law enforcement entity to have any special technical knowledge or equipment.
- Require data to be entered only once, or updated when necessary.
- Coordinate the entry of data across entities, such as the DA office and the LEAs within its jurisdiction.
- Use judicial coding, such as Civil Action Codes, to clearly identify cases and actions.
- Automatically prompt entities on missing data fields and when information needs to be entered for state reports.
- Have the state agency responsible for administering the system generate the state's reports, after receiving clearance from the law enforcement organization, and send copies of the reports to the governing bodies, state auditor, and the Carl Vinson Institute.
- Allow law enforcement entities to use the system to generate their federal Equitable Sharing Reports.
- Allow law enforcement entities to generate specialized reports for any other purpose.
- Allow the public to search data on specific cases, provided no sensitive information is released.
- Allow public access to the data, including downloading data, provided that no sensitive information is released.

In addition, the state agency given responsibility for the system should produce an annual report for the General Assembly, giving aggregate data by year on net income from the sale of property, value of retained property, currency received, expenditures, and balance on accounts for both state and federal activities. The annual report should also provide summary data for all reports.

In order to fund the web-based system, it is recommended that a portion of the forfeited assets be used for this purpose. The General Assembly would need to estimate the start-up cost and dedicate a percentage of the proceeds for that purpose. After the start-up costs are paid for, the percentage can be reduced to generate an amount necessary to maintain the system.

The General Assembly may also consider using a portion of the proceeds to help smaller police departments without adequate resources connect to the system, such as providing computer terminals.

Also, for the purpose of having more complete data, we recommend requiring DA offices to also report revenue from participating with federal agencies that resulted in the sharing of forfeited property.

6. Random Compliance Audits

The General Assembly should consider establishing a system of random compliance audits of law enforcement entities that participate in civil asset forfeiture activity. The audits should check that procedures are being followed, records are adequately kept, funds are kept separate as required, retained property are used appropriately, and expenditures are used pursuant to legal guidelines. If deficiencies are found, the audit reports should make recommendations for corrective action and the respective DA office should be given copies of the audit. If the deficiency is with a DA office, then the attorney general should be given a copy. Funding for the audits should come from a percentage of the proceeds of civil asset forfeitures.

In addition to the recommendations, this study identified areas for future civil asset forfeiture inquiries, including defining and examining excessive fines, forfeitures without convictions or being charged with crime, case studies on when forfeitures occurred, interstate comparisons of the law and practice, and an examination of forfeiture revenue relative to the funding of law enforcement.

This study also provides 17 appendices with data and survey questions, including tables that itemize the summary data from all law enforcement entities who filed reports.



INTRODUCTION

This Georgia Center for Opportunity, or GCO, study was made possible by a grant from the Searle Freedom Trust that supports work leading toward a more just, free, and prosperous society.¹ The forfeiture of assets to law enforcement is an issue that raises policy concerns intersecting all three principal concerns of the Searle Freedom Trust: justice, freedom, and prosperity. The system of asset forfeiture by law enforcement needs to be executed in a just manner and in a way that respects and protects the freedom of citizens, which relate to prosperity.

Criminal activity can undermine the conditions necessary for free market forces to flourish, and flourishing free markets are necessary for a prosperous society. In the fight against crime, asset forfeiture laws have become an important tool for law enforcement. These laws deprive criminals of the benefit of funds they received from illicit activity. They also funnel funds to law enforcement entities to enhance their capacity to protect society against further illegal operations and assist victims and witnesses. Today, when local and state governments are struggling to find adequate funding for their many budgetary obligations, asset forfeiture funds have given them flexibility to enhance their law enforcement activities without increasing pressure to raise additional revenue by raising taxes.

A legal justification of using civil asset forfeiture procedures to seize someone's assets is that the moneys and property,

when illegally obtained, are not the rightful property of the defendants. This requires a distinction between determining rightful property obtained legally and wrongful property obtained through illegal means.

Despite these arguments and advantages in favor of civil asset forfeiture laws, allowing law enforcement to seize assets is fraught with the danger of crossing the line when it comes to protecting civil liberties. If proper procedures are not in place and followed, individual rights enshrined in three amendments to the U.S. Constitution could be violated. The fourth amendment to the U.S. Constitution provides protection against unreasonable searches and seizures. The fifth amendment protects against the seizure of property without due process of law. And the eighth amendment protects against excessive fines. Likewise, the Georgia State Constitution has enshrined the same protections enumerated in its Bill of Rights. "No person shall be deprived of ... property except by due process of law." "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated..." And excessive fines shall not be imposed.²

In response to civil liberty concerns over civil asset forfeiture laws, Georgia has tightened its procedures, established judicial processes to contest seizures of property, and provided for enforcement of those procedures. On May 6, 2015, Governor Nathan Deal signed House Bill 233 into law. Known

as the Georgia Uniform Civil Forfeiture Procedures Act and enacted as Act 98 of 2015, this law prescribes procedures intended to bring more uniformity to the process and to allow for property owners and interest holders of property to reclaim seized property. The process prescribed by the law requires a court order of distribution before any law enforcement entity may spend any proceeds from forfeited assets. After an order of distribution is received, the seized property becomes governmental property for use of the entities involved in the action resulting in the forfeiture but may only be spent on enumerated law enforcement purposes.

Intended to increase transparency and accountability, the law also imposes reporting requirements on law enforcement agencies, or LEAs, multi-jurisdictional task forces, or MJTFs, and state attorneys, also known as district attorneys, or DAs. Georgia's civil forfeiture statute is very clear that the General Assembly intended the law to bring "accountability and transparency applicable to the distribution of forfeited property and income from the sale of forfeited property," including "appropriate accounting and auditing standards."³ In this report, the term law enforcement entity, or entity, is used to designate any organization engaged in law enforcement, including DAs, LEAs, and MJTFs.

This study reviews the new procedures and analyzes the effectiveness of the reporting requirement. It also compares those procedures and reporting requirements to federal programs. Specifically, the following questions on the reporting requirements are addressed in detail to the degree that the answers could be determined.

- Are law enforcement entities submitting reports as required?
- How many assets are forfeited each year?
- How much money is being spent, how is it spent, and are the expenditures consistent with the law?
- What are the ending balances in accounts from seized assets that were distributed?
- How useful and complete are the reports?
- How easily can the public access the reports?
- Are the data elements in the reports sufficient for purposes of transparency and accountability?
- Can the data be used to determine the number of cases resulting in the forfeiture where there was no charges filed or conviction or arrest?
- How can the reports and reporting procedures be improved?

- Can the Georgia legislature take any other steps to improve the system and ensure better compliance?

Two major data sources were used in this study. The first data source came from three years of those state mandated reports by law enforcement entities on activities related to distributed forfeited assets pursuant to the Georgia Uniform Civil Forfeiture Procedures Act. These reports were obtained from the Prosecuting Attorneys' Council of Georgia, or PACGA or the Council, and the Carl Vinson Institute of Government of the University of Georgia, or the Institute. In consultation with law enforcement associations and pursuant to requirements of the law, the Council developed the templates used by LEAs and DAs to complete these reports. LEAs, DAs, MJTFs, and state agencies are all required to file copies of their reports with the Institute. However, most entities provide their reports to PACGA who then forwards the reports to the Institute. On occasion, an entity may file its report directly with the Institute, bypassing the Council. Although care was taken to capture these reports, it is still possible that others were missed or filed after the reports were accessed by GCO staff in July of 2019.

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The second major data source came from surveys distributed to 270 LEAs and MJTFs who had filed state reports showing they received distributed forfeited assets in 2017 or 2018. LEAs and MJTFs who did not show that they received distributed forfeited assets in 2017 or 2018, or where the filed reports were deemed problematic, were not sent surveys. GCO received 34 responses to the surveys for a response

rate of 12.6 percent. The respondents included 15 sheriff's offices, 17 city police departments, and two multi-jurisdictional task forces. The respondent LEAs came from jurisdictions representing a wide population range—from about 2,800 to more than 900,000—and were geographically diverse. The two multijurisdictional task forces that responded are both coordinated by the Georgia Bureau of Investigation.

Most questions on the survey were descriptive, ranging from simple questions, such as confirming that the person answering the survey is responsible for filling out the state reports, to open-ended questions, such as whether they want to bring up any issues related to the process or if they have recommendations. A few LEAs were given seven additional questions on the forfeiture process. The survey questions are attached as Appendix Q to this report. Because the persons filling out the surveys were promised that they would not be quoted directly without them granting us permission, the individual responses to the surveys are not being released.

A similar survey was sent to 46 DA offices. Despite reminder emails to all 46 offices and phone calls to select DAs, not a single office responded to the survey. Therefore, this study did not have the benefit of learning from the perspective of state attorneys.

In general, this study reveals that Georgia's new statutory procedures promise more consistency and fairness in the implementation of civil asset forfeitures. The new reporting requirements increase transparency and for the first time allow the collection of financial data on how law enforcement agencies benefit from the practice. We show the law enforcement entities who submitted reports and identified a number of entities that should have filed a report but did not. There also remain a large number of police departments where no information was available on whether they had forfeiture activity that would have required them to file reports. The appendices to this study detail for each law enforcement entity that filed reports their reported revenue from distributed civil asset forfeitures, their net income from the sale of forfeited assets, their expenditures, and their ending account balances. In addition, comments are provided where problems or other issues were encountered with the reports, such as the completeness of the filed reports.

However, this study finds limitations on the usefulness of the reports. The reports do not provide case numbers that would allow for counting the total number of cases when forfeiture laws were used. The lack of case numbers also pre-

vents case-related calculations, such as the average amount forfeited per case. Moreover, the lack of case numbers—in addition to the lack of input fields on the outcome of cases—prevents using the reports to examine cases resulting in the forfeiture of property where the person being charged with the offense was not convicted or the person was not even charged with a crime. Likewise, the reports do not allow anyone to follow up on any particular case.

As another limitation, the reports as designed prevent any analysis on whether asset forfeitures were appropriately implemented or expenditures from distributions of forfeited assets were appropriately spent or retained property was properly used. Therefore, it is not possible to use the reports to find non-compliance with procedures or the application of civil asset forfeiture laws. The reason is simple. The templates for the reports provided by the Georgia Prosecuting Attorneys' Council utilize controlled lists of prepopulated data for the laws relied on when property is forfeited, for how funds from forfeited asset accounts were spent, or how retained property was used. These controlled lists are all proper categories, and it is not possible for any official filling out a report to indicate a category that would be inappropriate. For example, when an official fills out a report for an LEA, the only choices for how funds were expended must come from a list of broad categories that are legally allowable expenditures. The details of any expenditure are not shown, only the category of expenditure. It is not even possible for the official to select a category that would be outside permissible expenditures or for anyone viewing the report to know differently.

This study also examines the ease to which the public can access reports and notes that there is no method to tabulate data from the reports other than the labor intensive method of reviewing every single report and manually inputting data. Although this study undertook that process of reviewing every report and inputting data manually, GCO had a grant to underwrite the cost and there are no provisions for anyone to do it again in the future.

Finally, this study makes recommendations on how to improve the reporting requirement that will be less burdensome for law enforcement entities while increasing transparency and accountability. Among the recommendations are a secure online reporting system that will automatically compile data and submit the reports on behalf of law enforcement entities and a statewide system of auditing to ensure that law enforcement entities are compliant with the law.



GEORGIA'S STATUTORY PROCEDURE ON CIVIL ASSET FORFEITURE

The Georgia Uniform Civil Forfeiture Procedures Act of 2015 provides a judicial process to guide the seizure of property due to wrongdoing that is also intended to provide a level of protection against abuse of the forfeiture system. Georgia's law specifies that the procedures are civil in nature because the assets are forfeited not through criminal proceedings but through non-criminal proceedings. In this study, the terms civil asset forfeiture and asset forfeiture are used synonymously.

Most people associate asset forfeiture with drug trafficking violations, and indeed drug trafficking is a big part of it as evidenced by the revenue streams reported by law enforcement. Not only do the illegal drugs themselves become contraband that can be seized under forfeiture laws, but also the implements relating to the drug use, anything used in the delivery of the illegal drugs, or property purchased with illegal proceeds from selling the drugs.⁴

However, other criminal acts are also subject to asset forfeiture. Asset forfeiture provisions are found in other sections of Title 16 (Crimes and Offenses), including gambling offenses, high-jacking of motor vehicles, pimping a prostitute out of a motor vehicle, and offenses relating to the Georgia Racketeer Influenced and Corrupt Organization Act.⁵ Asset forfeiture is also found in non-Title 16 provisions of the law, including violations relating to the distillation or manufacture of spirits, trademarks, hunting, deep oil drilling, water well drilling without a license, and dumping in storm water systems.⁶

Once seized, an asset must go through the uniform procedure. Any law enforcement officer who seized property under the provisions of the law has 30 days to report that seizure to his or her respective district attorney. The report must be in writing and include an inventory of the property with estimates of the value of the property seized. The district attorney then has 60 days from the date of the seizure to initiate a quasi-judicial forfeiture or file a complaint for forfeiture before the judicial circuit court. Failure of either the law enforcement officer or the district attorney can result in the release of the property back to the owner or interest holder upon request, provided the property is not being held as evidence.⁷

The quasi-judicial process applies only to property valued at \$25,000 or less. In those cases, the district attorney is required to post details of the seizure in a prominent place in the courthouse, including a statement that the owner or interest owner of the property has 30 days to file a claim with the district attorney. Additionally, the district attorney must serve a copy of the notice to the owner, interest holder, and person in possession of the property at the time of the seizure. If the district attorney receives a claim for the property, the district attorney must file a complaint with the court to continue the forfeiture proceedings. All property without claims within the 30 days is forfeited to the state and disposed of pursuant to further procedures in the law.⁸

The district attorney may move seized property to storage for safekeeping or require the sheriff or police chief where the property was seized to take custody of the property until its disposition is determined. Upon motion of the district attorney, claimant or custodian of the property, the court may order the property to be sold. If the property is currency, the district attorney is required to deposit the currency in a separate account at a financial institution.⁹

For property worth over \$25,000, a court order is necessary for its disposition. The law provides that the action can be either *in rem*¹⁰—against the property where the property becomes the defendant—or *in personam*¹¹—against a specific person. For the burden of proof, the state must prove with a preponderance of the evidence that the property is subject to forfeiture. However, the property is not subject to forfeiture if the owner or interest holder can establish that he or she:

- was not privy to the alleged conduct giving rise to the forfeiture, henceforth, the conduct
- did not consent to the conduct
- did not know of the conduct
- should not have reasonably known of the conduct
- did not stand to acquire substantial proceeds from the conduct
- did not jointly own the property with those who committed the conduct in transportation conveyances
- did not own the property for the benefit of the person who committed the conduct
- purchased bona fide the property from those who committed the conduct without knowingly taking part in an illegal transaction
- acquired interest in the property prior to the completion of the conduct, among other conditions specific to holding interest and knowledge of the transactions and conduct¹²

After the property has completed the process—whether through the quasi-judicial or the full judicial process—and it is determined that the property is forfeited to the state, the district attorney is required to submit a proposed order of distribution to the court. The order must include the law enforcement agencies and multijurisdictional task forces involved in the action that resulted in the forfeiture. The district attorney is further required to provide a copy of the order of distribution to the law enforcement agency and to the chief executive officer of the agency's political subdivision.¹³

All property forfeited in the same proceeding is pooled together, and the order of distribution is as follows:

- the first distribution from the pool pays for court costs and other costs, including court costs incurred by the law enforcement agency or multijurisdictional task force
- 10 percent of the pool is distributed to the district attorney's office for "official prosecutorial purposes"¹⁴
- the third distribution goes to the law enforcement agencies and multijurisdictional task forces on a pro rata basis based on the roles they played that resulted in the forfeiture.¹⁵

Official prosecutorial purpose is defined as expenditures for the following:

- "investigations
- hearings
- trials
- appeals
- forensic services
- language interpreters or interpreters for the hearing impaired
- travel expenses that conform to the provisions ... [of law]
- training related to the official functions of the district attorney
- the purchase, lease, maintenance, and improvement of equipment
- victim assistance and witness assistance services
- the payment of matching funds for state or federal grant programs that enhance prosecution, victim, or witness services to the community or judicial circuit
- reimbursement to a governing authority for a pro rata share of the indirect costs incurred by the governing authority for a common or joint purpose benefiting the district attorney's office and other local government agencies which are not readily assignable to any particular agency
- the payment of salaries and benefits in conformity with subsection (e) of Code Section 15-18-19 and Code Section 15-18-20.1."¹⁶

Exceptions to the order of distribution exist for violations of the Banking and Finance Code relating to laws for records and reports of currency transactions (O.C.G.A. § 7-1-910, et seq., or Article 11), human trafficking (O.C.G.A. § 16-5-46), resi-

The district attorney may move seized property to storage for safekeeping or require the sheriff or police chief where the property was seized to take custody of the property.

dential mortgage fraud (Article 5 of Chapter 8 of Title 16), and Georgia's Racketeer Influenced and Corrupt Organizations Act (Chapter 14 of Title 16).¹⁷ In those cases, after restoring losses to innocent parties, the distribution is simply divided among the participating law enforcement entities, including the district attorney.¹⁸

Currency distributed to local LEAs or multijurisdictional task forces may be used "for any official law enforcement purpose" at the discretion of its chief executive officer, provided the currency does not supplant any funds appropriated for staff or operations or to pay for salaries or rewards to law enforcement personnel. Also, currency cannot exceed more than 33 1/3 percent of the agency's appropriated budget.¹⁹

The law defines official law enforcement purpose as:

- "expenditures associated with investigations
- training
- travel
- the purchase, lease, maintenance, and improvement of equipment, law enforcement facilities, and detention facilities
- capital improvements
- victim assistance and witness assistance services
- the costs of accounting, auditing, and tracking of expenditures for federally shared cash, proceeds, and tangible property
- awards, museums, and memorials directly related to law enforcement
- drug and gang education and awareness programs
- the payment of matching funds for state or federal grant programs that enhance law enforcement services to the community or judicial circuit
- reimbursement to a governing authority for a pro rata share of the indirect costs incurred by the governing authority for a common or joint purpose benefiting the law enforcement agency and other local government agencies which are not readily assignable to any particular agency."²⁰

In-kind distributions may be used by the political subdivisions and disposed of when no longer needed according to the political subdivision's policy and procedure. Real property may be transferred to a land bank.²¹

Currency not distributed to local LEAs and multijurisdictional task forces must also be used for official law enforcement purpose, but may also be used:

- "for the representation of indigents in criminal cases
- for drug treatment, mental health treatment, rehabilitation, prevention, or education or any other program which deters drug or substance abuse or responds to problems created by drug or substance abuse
- for use as matching funds for grant programs related to drug treatment or prevention
- to fund victim assistance."²²

Currency distributed to the state may be used as follows:

- for funding of ... the Georgia Indigent Defense Act of 2003, for representation of indigents in criminal cases
- for funding of the Georgia Crime Victims Emergency Fund
- for law enforcement and prosecution agency programs and particularly for funding of advanced drug investigation and prosecution training for law enforcement officers and prosecuting attorneys
- for drug treatment, mental health treatment, rehabilitation, prevention, or education or any other program which deters drug or substance abuse or responds to problems created by drug or substance abuse
- for use as matching funds for grant programs related to drug treatment or prevention;
- or for financing the judicial system of the state."²³

In-kind property distributed to the state or a state agency or district attorney, when no longer needed, is delivered to the Department of Administrative Services for disposition.²⁴

All law enforcement entities that receive any property, distributions, or income from the sale of forfeited property are required to file annual reports. All LEAs, MJTFs, and DAs are required to file their annual reports with their governing bodies. State agencies and district attorneys are required to submit their reports to the state auditor.²⁵ There are no requirements in the code that the reports by local agencies are audited, or the state auditor actually audits the reports. The law also does not specify how records must be kept, other than the “appropriate accounting and auditing standards shall be applicable.”²⁶ The specifics of the filing requirements will be covered under a separate section in this report.

District attorneys are given authority to enforce compliance of LEAs and MJTFs, allowing the DA to bring criminal or civil action to ensure compliance. LEAs and MJTFs can be prohibited from receiving forfeiture funds until the time they come into compliance. If the DA is disqualified from conducting the investigation, he or she shall notify the attorney general. If an audit reveals that a DA is in violation, the auditor must notify the DA to remedy the situation. If the DA fails to remedy the situation, the auditor is required to notify the attorney general.²⁷

Finally, any person who knowingly and willfully makes false or fraudulent statements in an annual report can be found guilty of obstruction of public administration.²⁸ If convicted, the entity, whether a LEA, MTJF, or DA office, who employed the person would be barred from receiving any property or proceeds from forfeited property for a period of two years, unless the person is no longer employed by the entity.²⁹

FEDERAL EQUITABLE SHARING PROGRAM

Both the U.S. Department of Justice (DOJ) and the U.S. Department of the Treasury have statutory authority to run asset forfeiture programs and, at their discretion, share the net proceeds after mandatory expenses, including compensation of victims, with state and local LEAs who participated in joint activities with the federal agencies. Five non-DOJ federal agencies participate with the Department of Justice Program. Three agencies of the Department of Homeland Security, including the Coast Guard, participate with the Department of the Treasury Program. The Departments of Justice and the Treasury issued a joint guide for state and local participation with their shared equity programs distributing a portion of the net proceeds to participating state and local agencies based on their contribution to the law enforcement activity that resulted in the forfeiture.

The DOJ and the Treasury each manages its own fund for the purpose, and each has equitable sharing programs with state and local LEAs that participate in the law enforcement activities that result in the forfeited assets.

The federally stated purpose of asset forfeiture is to:

“remove the tools of crime from criminal organizations, deprive wrongdoers of the proceeds of their crimes, recover property that may be used to compensate victims, and deter crime.”³⁰

Federal law allows federal agencies to use net proceeds—after compensating victims and returning property to the rightful owners—to pay for operational expenses and to share a portion of the net proceeds with state, local, and tribal LEAs.

Various federal statutes give federal law enforcement agencies the power to seize civil and criminal assets, including

- Comprehensive Drug Abuse Prevention and Control Act of 1970³¹
- Anti-Drug Abuse Act of 1986³²
- Tariff Act of 1930, as amended³³
- Appropriation Bill for U.S. Department of the Treasury and other agencies for Federal Fiscal Year 1992-1993, Public Law 102-393³⁴, also known as the Treasury Forfeiture Act of 1992, which also established the Treasury Forfeiture Fund
- Racketeer Influenced and Corrupt Organization Act³⁵

- Money Laundering Control Act³⁶
- Comprehensive Crime Control Act of 1985, which established the Asset Forfeiture Fund for proceeds of forfeiture of any law enforced by agencies of the Asset Forfeiture Program or administered by the Department of Justice.³⁷

The DOJ website defines three types of federal forfeiture as Criminal, Civil Judicial, and Administrative:

- Criminal forfeiture is an action brought against a person (*in personam*) and requires the government to charge also the property in question as part of the charges against the person. It also requires a conviction.
- Civil Judicial forfeiture is an action against the property (*in rem*). No criminal charge against the defendant is necessary.
- Administrative forfeiture is also an *in rem* action and requires no judicial judgment.³⁸

There are several funds related to the federal Asset Forfeiture Program:

- the Seized Asset Deposit Fund, or SADP
- the Asset Forfeiture Fund, or AFF
- the Treasury Forfeiture Fund, or TFF
- the U.S. Postal Inspection Service Forfeiture Fund

Federal law
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agencies to use
net proceeds...to
pay for operational
expenses.

The Department of Justice uses the SADF to hold seized cash, pre-forfeiture sale of seized property, and forfeited cash prior to the conclusion of forfeiture action. Funds in the SADF are not government property and may be returned to the owners if the forfeiture is unsuccessful. Once a forfeiture action is successfully completed, the funds are transferred to the AFF for disposition to be spent for purposes allowed by law. At the discretion of the federal agencies in charge of the operation, some of those proceeds may be shared with state and local law enforcement agencies who participated in the law enforcement action that resulted in the forfeited assets.³⁹

The TFF is the fund used by the Treasury to expend proceeds from the forfeiture program of its agency (the Internal Revenue Service) and agencies of the Department of Homeland Security, including the U.S. Coast Guard. The TFF was created in 1992 as the successor to the Forfeiture Fund of the United States Customs Service.⁴⁰ These agencies also have the discretion to share proceeds with state and local LEAs who participated in the law enforcement action resulting in the forfeited assets.

Seventeen federal LEAs are listed as participating in either of the two asset forfeiture programs: one run by the Department of Justice and the other by the Department of the Treasury. The participating agencies⁴¹ are as follows:

Department of Justice Agencies:

- Asset Forfeiture Management Staff, Justice Management Division
- Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
- Drug Enforcement Agency (DEA)
- Federal Bureau of Investigation (FBI)
- Money Laundering and Asset Recovery Section, Criminal Division (MLARS)
- Executive Office for Organized Crime Drug Enforcement Task Force (OCDETF)
- Executive Office for the United States Attorneys (EOUSA) & United States Attorney Offices (USAOs)
- United States Marshals Service (USMS)

Other Agencies Participating with the Department of Justice:

- Department of Defense Criminal Investigative Service (DCIS)
- Department of State Bureau of Diplomatic Security (DS)

- Department of Health and Human Services Office of Criminal Investigations, Food and Drug Administration (FDA-OCI)
- Department of Agriculture Office of Inspector General (USDA-OIG)
- United States Postal Inspection Service (USPIS)

Department of the Treasury Agencies:

- Department of the Treasury Internal Revenue Service – Criminal Investigation (IRS-CI)

Department of Homeland Security Agencies participating with the Department of the Treasury:

- Immigration and Customs Enforcement – Homeland Security Investigations (HSI)
- United States Department of Homeland Security Secret Service (USSS)
- Customs and Border Protection (CBP), includes the U.S. Coast Guard

A federal agency may use net proceeds for statutorily defined purposes. Distribution to states are from net proceeds after expenses. DOJ's audit of its forfeiture program provides the following list on how funds may be used.

- "Victims and other innocent third party claims
- Equitable sharing of forfeiture proceeds to state, local, and tribal agencies and foreign governments which directly assist in law enforcement efforts that lead to the seizure and forfeiture of assets
- Federal, state and local task forces expenses incurred in a joint law enforcement operation
- Forfeiture-related investigation and litigation
- Contract support services
- Information systems and equipment used in forfeiture work
- Management and disposal of assets
- Storage, protection and destruction of drugs
- Forfeiture training"⁴²

Note that payments to victims and returning property to rightful owners are listed as a top priority of federal asset forfeiture programs.

Both the Secretary of the Treasury and the Attorney General are required by law to report to Congress on their Asset Forfeiture Programs. The Treasury's Executive Office of Asset

Forfeiture has various program information available on its website, including program guidelines, strategic plan, annual reports, and audits. The Department of Justice also has various reports available on its website, including annual reports to congress, audits, guidelines, and distribution to participating LEAs.

Note that payments to victims and returning property to rightful owners are listed as a top priority of federal asset forfeiture programs.

Secretary of the Treasury

The Secretary of the Treasury is required to submit a report to Congress not later than February 1 of each year on its Asset Forfeiture Program. The components of the report are as follows:

“(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993

(B) the estimated total value of all such property transferred to any State or local law enforcement agency

(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year

(D) any defendant’s property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over \$100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year

(F) the balance of the Fund at the end of the preceding fiscal year

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101–576)

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property)

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).⁴³

Attorney General

“(A) The Attorney General shall transmit to Congress and make available to the public, not later than 4 months after the end of each fiscal year, detailed reports for the prior fiscal year as follows:

(i) A report on total deposits to the Fund by State of deposit.

(ii) A report on total expenses paid from the Fund, by category of expense and recipient agency, including equitable sharing payments.

(iii) A report describing the number, value, and types of properties placed into official use by Federal agencies, by recipient agency.



(iv) A report describing the number, value, and types of properties transferred to State and local law enforcement agencies, by recipient agency.

(v) A report, by type of disposition, describing the number, value, and types of forfeited property disposed of during the year.

(vi) A report on the year-end inventory of property under seizure, but not yet forfeited, that reflects the type of property, its estimated value, and the estimated value of liens and mortgages outstanding on the property.

(vii) A report listing each property in the year-end inventory, not yet forfeited, with an outstanding equity of not less than \$1,000,000.

(B) The Attorney General shall transmit to Congress and make available to the public, not later than 2 months after final issuance, the audited financial statements for each fiscal year for the Fund.

(C) Reports under subparagraph (A) shall include information with respect to all forfeitures under any law enforced or administered by the Department of Justice.

(D) The transmittal and publication requirements in subparagraphs (A) and (B) may be satisfied by—

(i) posting the reports on an Internet website maintained by the Department of Justice for a period of not less than 2 years; and

(ii) notifying the Committees on the Judiciary of the House of Representatives and the Senate when the reports are available electronically.”⁴⁴

Federal law requires both the DOJ and Treasury programs to be audited annually.⁴⁵ As of this writing, the most recent au-

dit for the DOJ Program was conducted by the Office of the Inspector General, released in December 2018, and is available online.⁴⁶ The Treasury’s most recent audit was released on December 13, 2018, and is also available online.⁴⁷

For the purpose of encouraging intergovernmental cooperation, the U.S. Attorney General and the Secretary of the Treasury have discretion to share net proceeds of seized assets with state, local, and tribal LEAs who participated in an enforcement action. The amount shared must have some reasonable relationship to the actual participation in the enforcement action.⁴⁸

Participants need to fall into one of the following categories:

- State, local, and tribal LEAs, provided they meet the definition of a law enforcement agency.
- State and local prosecutorial agencies.
- Interagency task forces, provided one agency is designated as the fiduciary agency.
- Counterdrug Units of a state national guard may be eligible if counterdrug activities is its primary mission. Otherwise, state national guard units are not eligible.⁴⁹

When the federal agency allows for equitable sharing, it is instructed to distribute the shares in a reasonable way, based on any number of factors, including hours of work contributed, information leading to the seizure, and the quality of the assistance. In any case, the federal agency share cannot be less than 20 percent, and no distribution can exceed the lesser of \$2 million plus twice the agency’s most recent budget, or \$30 million. Some task forces have contracts that guide the distribution of funds.⁵⁰

Occasionally, a criminal conviction or a forfeiture will be reversed. In those cases, LEAs that received a share of those proceeds must return them.⁵¹

To join a federal equitable sharing program, law enforcement entities must:

- File an affidavit to the Money Laundering and Asset Recovery Section (MLARS) of the DOJ.
- File an Automated Clearing House (ACH) Vendor form with the United States Marshals Services (USMS) and with the Treasury.
- File an Equitable Sharing Agreement and Certification (ESAC) form.

Annual filing requirement:

- In addition, law enforcement entities must annually file the ESAC form

Participation with the equitable sharing program follows specific cases. Therefore, law enforcement entities must file forms each time they participate in a law enforcement action to receive any equitable sharing.

- To the DOJ, an electronic DAG-71 form through DOJ's eShare Portal for each asset for which LEAs would like to receive an equitable share. Requested information includes contribution in man-hours and a narrative on the LEAs contribution.
- To the Treasury, a TD F form.

In general, law enforcement entities cannot use distributed funds to supplant their budgets. The idea is to enhance a budget to allow for more law enforcement activity. Entities are prohibited from committing distributed funds prior to the receipt of those funds.

Allowable Uses

- Support of investigation and operations.
- Law enforcement training and education.
- Costs associated with law enforcement, public safety, or detention facilities.
- Law enforcement equipment.
- Joint law enforcement operations.
- Costs associated with contracts for specific law enforcement services (like translation).
- Law enforcement travel and per diems, provided they are prudent.
- Law enforcement awards and memorials.
- Drug, gang, and other prevention and awareness programs.
- Matching funds for a state or federal grant relating to law enforcement.
- Support of community-based organizations related to law enforcement, subject to certain limitations.

Disallowable Uses

- Use by non-law enforcement personnel.
- Creation of endowments or scholarships.
- Uses contrary to state or local laws.
- Personal or political use of assets.
- Purchase of food and beverages, except during a local emergency operation (like an earthquake).
- Entertainment and extravagant and wasteful expenditures.
- Cash on hand, secondary accounts, stored value cards.
- Transfers to other law enforcement agencies.
- Purchase of items for other law enforcement agencies.
- Costs related to lawsuits.
- Loans.
- Money laundering operations unless federally approved.
- Salaries and benefits, but there are exceptions (see below).

In general, law enforcement entities cannot use distributed funds to supplant their budgets.

Exceptions to Disallowance for Salaries and Benefits

- Match to a federal grant that pays salaries and benefits when allowed.
- Overtime.
- Federal task force replacement salary.
- Specialized programs, such as the Drug Abuse Resistance Education (DARE) program.

In addition, law enforcement entities may request tangible assets, such as computer equipment or vehicles, and real property to be transferred to them. In all cases, transferred assets must be used for law enforcement purposes.

All participating law enforcement entities must use standard accounting procedures and internal controls. These funds must be tracked and maintained separately from other funds.⁵²

Participant entities must be compliant with the Single Audit Act Amendments of 1996 and the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.⁵³

Participating LEAs must retain all records for at least five years. These records may be subject to local Freedom of Information laws.⁵⁴

Participating entities must share documents with the Feds upon request and may be audited or subject to compliance reviews at any time.⁵⁵

Non-compliant participating entities may be subject to any of the following sanctions:⁵⁶

- Denial or extinguishment of sharing requests.
- Temporary or permanent exclusion from program.
- Freeze on receipt or expenditure of shared funds.
- Return of funds or offsets to future funds.
- Civil enforcement in U.S. District Court.
- Criminal prosecution for false statements, fraud, theft, or other crime.

Georgia law enforcement entities participate in both the DOJ and Treasury programs. The table below summarizes what Georgia LEAs received in FFY 2018 from the DOJ program.⁵⁷

GEORGIA PARTICIPANTS WITH DOJ EQUITABLE SHARING PROGRAM, 2018

Agency Type	Count	Cash Value	Sale Proceeds	Totals
Local	92	\$9,210,011	\$3,311,541	\$12,521,552
Task Force	10	\$454,108	\$86,111	\$540,219
State	4	\$1,399,731	\$99,511	\$1,499,282
Totals	106	\$11,063,850	\$3,497,203	\$14,561,053

In FFY 2018, Georgia LEAs received \$2,657,000 from the Treasury program.⁵⁸ No distribution to LEAs was found on the Treasury's website. An inquiry was placed with the Treasury to receive a list of the recipients in Georgia, but no answer was received.

The DOJ website has Excel spreadsheets with distribution by law enforcement participant. Appendix N compares DOJ equitable sharing total funds received with total currency reported in the state reports for 2016, 2017, and 2018. Appendix O lists LEAs and task forces in federal reports to Congress as receiving equitable sharing funds but who did not file state reports. Appendix P highlights state filing discrepancies of federal amounts that may have been underreported.

GEORGIA REPORTING REQUIREMENTS FOR CIVIL ASSET FORFEITURES

In addition to establishing the procedure for civil asset forfeitures, the Georgia Uniform Civil Forfeiture Procedures Act imposes annual reporting requirements on any law enforcement agency, multijurisdictional task force, state attorney, or state agency that receives any forfeited property or proceeds from the sale of forfeited property or receives any distribution from forfeitures, whether income or in-kind property for the reporting year.⁵⁹

The reports must include all property, proceeds, and income received from forfeited property. In addition, the reports must specify the use of such property, expenditures from the income, and funds held on deposit in financial institutions. The reports must be legible and complete. However, the information may not include any confidential source, investigative or prosecutorial material that could endanger the life of anyone, or disclose any investigative or prosecutorial techniques or procedures, including disclosure of the existence of any confidential surveillance or investigation.⁶⁰

The reports are due January 31st of each year for the preceding calendar year and must be submitted on forms developed by the Prosecuting Attorneys' Council of Georgia. The forms for district attorneys differ from those for LEAs, MJTFs, and state agencies. Local LEAs and MJTFs must submit copies of their reports to the governing bodies of their respective political subdivisions. District attorneys and state agencies must file copies of their reports with the state auditor. All entities are required to submit copies of their reports in Portable Document Format, or PDF, to the Carl Vinson Institute of Government of the University of Georgia⁶¹ so the Institute can post the report on its website.⁶²

In developing the LEA, MJTF, and state agency form, the Prosecuting Attorneys' Council must consult with the Georgia Peace Officer Standards and Training Council, the Georgia Sheriffs' Association, and the Georgia Association of Chiefs of Police. For the district attorney form, the Council must consult with the District Attorneys' Association of Georgia. The Council is required to promulgate and post the forms on its website and to amend the forms periodically when necessary.⁶³

All reports are required to include the following information for the reporting year:

- itemization of in-kind property received, including
 - the date the property was received
 - the make, model, and serial number, when relevant⁶⁴
 - the statutes upon which the property was subject to forfeiture
 - the purpose for which the property is being used⁶⁵
- itemization of currency received, including
 - the amount of currency
 - the date the currency was received
- itemization of expenditures from forfeited currency, including
 - a description of the use and purpose for each expenditure
- total currency received, including net income from sale of property
- the amount remaining that has not been expended, including any interest earned⁶⁶

Other than for district attorneys, all reports must also include the following information:

- the estimated value of the property when received
- if the property was sold:
 - the date the property was sold
 - the gross income from the sale
 - the net income from the sale
- if the property was destroyed, the date of the destruction
- the statute used for the forfeiture of the currency
- if the property was returned to the owner or interest holder:
 - a description of the property
 - date it was returned⁶⁷

The law further allows for the electronic submission of the annual reports.⁶⁸

IMPLEMENTATION OF THE REPORTING REQUIREMENTS

Based on interviews with Council's staff, the Council has been working faithfully to implement its responsibilities under the provisions of the Georgia Uniform Civil Forfeiture Procedures Act. Throughout the year, the Council conducts training to law enforcement officers and prosecutors. At least one hour of that training is dedicated to disposition, distribution, and reporting under the forfeiture law. The training includes information on how to report the information and when to file the reports. PACGA also has a webinar available on disposition, distribution, and reporting on the asset forfeiture law. Throughout the year, PACGA is active in answering questions by email, text, or telephone. Most of these questions occur during the months of December and January because the statutory deadline for submission is January 31st of each year. For the first year after the law became effective, which was July 1, 2015, PACGA received literally hundreds of questions. Since then the Council fields roughly 50 questions over the course of a year on the reporting requirements. Finally, PACGA sends out reminders every December to all agencies and offices on their obligations to file the reports.⁶⁹

State law requires that LEAs, MJTFs, state agencies, and district attorneys file copies with either their governing bodies or with the state auditor. In addition, all are required to file copies with the Carl Vinson Institute of Government. Established as a new protocol by the Institute and the Council,⁷⁰ PACGA collects the reports through its submission form and forwards those reports directly to the Institute. In addition, the form allows the report to be sent to additional emails that may include the governing body or state auditor. Not all law enforcement entities have followed this protocol. Some entities have filed their reports directly with the Institute based on past practice to fulfill their legal requirement of filing the reports with the Institute.⁷¹

The Institute plays a smaller role in the process, but its role is important for public access to the information. Reporting entities were informed that submitting the reports to PACGA as a new protocol effectively fulfilled their responsibilities to file the reports with the Institute. By having the reports sent to the Institute in batches instead of the Institute receiving hundreds of emails has reduced the costs of the Institute to post them. Other than simply posting the reports, the Institute has no other responsibilities and does not review the information in the reports in any way. However, the Institute does open

a random sampling of the reports to make sure they are not corrupted.⁷²

The following is the process to find the forfeiture asset reports posted on the websites of the Carl Vinson Institute of Government, University of Georgia: its main website (<https://cviog.uga.edu>) and the GeorgiaDATA website (<https://georgiadata.org>). Once on the main website, one must navigate to the "Local Government" webpage (<https://cviog.uga.edu/local-government-resources-landing.html>). Next, the user must select "Financial Documents Upload" webpage (<https://ted.cviog.uga.edu/financial-documents>). From there, the user must select "Asset Forfeiture Reports" in the dropdown menu for "Budget and Financial Reports." This brings up the webpage on the Asset Forfeiture Reports (<https://ted.cviog.uga.edu/financial-documents/asset-forfeiture>). It is quicker to navigate to this webpage from the GeorgiaDATA web address. One needs to simply select "Financial Data" on the top of the page that brings the viewer to the "Local Government Financial Portal" webpage (<https://georgiadata.org/financial-data>). One of the choices on this webpage is "Asset Forfeiture Reports."

Once on the webpage with the reports, the viewer can find specific reports by selecting a fiscal year data range and the city, county, school district, or state. A selection of a city should bring up any asset forfeiture reports filed under the name of the city, which would normally be the police department of that city, if there is one, and if there were any reports filed.

The selection of county will do the same, but usually this would bring up the county's sheriff's office or other LEAs that may reside in the county. The selection of the state is a broad category bringing up a large number of reports from all state agencies, all district attorneys, and some MJTFs. Other MJTFs may be filed under county or city names where they are hosted. The page also allows the user to enter a search term if the report cannot be readily found by walking through the menu options.

In consultation with the proper law enforcement associations, the Prosecuting Attorneys' Council of Georgia has fulfilled its obligations under the Georgia Uniform Civil Forfeiture Procedures Act in developing, promulgating, and posting on its

website the forms that DAs, LEAs, MJTFs, and state agencies must use to report on their civil asset forfeiture activities.

On the PACGA website, three documents are available for each of the two reporting groups, that is, the DAs and then the LEAs, MJTFs, and state agencies that have different reporting requirements.⁷³ The first documents for each group are the instructions that give the definitions, how to fill out the templates, how to convert the template to a PDF document, and how to submit the reports. The instructions run four pages for the DAs but eight pages for the larger group. In addition to having to report more information—such as the estimated value of property before sale, information on property that was sold, and information if the property was returned to the owner or interest owner—LEAs, MJTFs, and state agencies also are required to report the same information from participating in joint federal law enforcement activities resulting in receiving income, property, or proceeds from forfeited assets.⁷⁴

The second documents for each group are the “reporting forms,” also known as the “headers,” that are used for uploading the reports. In absence of having assets to report, the entity is asked to certify using the form that the agency “did not receive any forfeited assets, did not return any assets seized for forfeiture, and did not expend any forfeited funds” for the reporting year. In case of a DA office with assets to report, the office is asked to certify that it “did not receive any forfeited assets and did not expend any forfeited funds” for the reporting year. In addition, these forms ask the reporting entities for identifying information through a dropdown arrow of prepopulated data and contact information. The forms are submitted online by clicking on a “submit” button, and when there is a report to be filed, there is a prompt to upload the report. A PDF copy of the submission of this header form is emailed back to the submitter using the email address inputted into the form.⁷⁵

The last documents are the templates that are Excel workbooks for the entities to use to report their asset activities. Using the workbooks for 2018, the DA workbook has four spreadsheet tabs: general information, forfeited property, forfeited currency, and expenditures. Working backwards through the spreadsheet tabs, the “expenditure” spreadsheet tab asks for the date of the state expenditure (using currency from forfeited assets), the amount of the expenditure, and the purpose. The columns are clearly marked, and comments appear when the computer mouse cursor hovers over the input cells giving the user directions: “date of expenditures (mm/dd/yyyy),” “amount of expenditures,” and “pur-

pose for expenditure.” For the “purpose” input column, there is a dropdown arrow, limiting the input to 11 choices. There are no other options for the DA office to choose. The choices are as follows:

- Investigations
- Hearing, trials and appeals
- Forensic services
- Language interpreters or interpreters for the hearing impaired
- Travel expenses that conform with O.C.G.A. §§ 15-18-12 and 50-5b-5
- Training related to the official functions of the district attorney
- Purchase, lease, maintenance and improvement of equipment
- Victim and witness assistance services
- The payment of matching funds for state or federal grant programs that enhance prosecution, victim, or witness services to the community or judicial circuit
- Reimbursement for a pro rata share of indirect costs incurred for a common or joint purpose benefitting the district attorney’s office and other local government agencies which are not readily assignable to any particular agency
- Payment of salaries and benefits in conformity with O.C.G.A. §§ 15-18-19(e) and 15-18-20.¹⁷⁶

For the “forfeited currency” spreadsheet tab, the DA office is prompted to provide state forfeited currency. The input columns are date received, statute, and amount. Again, the columns are clearly marked, and comments appear over the input cells giving directions to the users: “mm/dd/yyyy,” “statute upon which property was forfeited,” and “value of property received.” Input under the “statute” column is limited to 12 prepopulated choices. However, this time, it includes the choice of “other”. The choices for statute are as follows:

- O.C.G.A. § 16-13-49
- O.C.G.A. § 16-5-46
- O.C.G.A. § 16-8-85
- O.C.G.A. § 16-8-106
- O.C.G.A. § 16-12-32
- O.C.G.A. § 16-14-7
- O.C.G.A. § 16-15-5
- O.C.G.A. § 16-16-2

- O.C.G.A. § 17-5-51
- O.C.G.A. § 40-6-391.2
- O.C.G.A. § 49-4-146.3
- Other⁷⁷

The “forfeited property” tab is for state forfeited property and asks for the date received, item description, statute, and property utilization. When in the proper columns, prompts provide further input directions for the user as follows: “mm/dd/yyyy,” “Please include make, model, and serial number where known, except a general description may be entered if a detailed description would fall within the ‘Public Safety’ exception of O.C.G.A. §§ 9-16-19(g)(2) and 9-16-19(g)(3)(a)(i) (II),” “Statute upon which the property was forfeited,” and “How was property utilized.” The “statute” column limits the inputs to the same 12 choices itemized above for the “forfeited currency” spreadsheet tab. The “property utilization” column limits the inputs to the exact same 11 choices listed above for the “purpose” column in “expenditures” spreadsheet tab.

The “general information” spreadsheet tabs serves two purposes. First, it identifies the DA office along with its address and phone number, and provides contact information of the reporting officer. The field to identify the DA office is controlled by a down arrow that lists all 49 judicial circuits. The second purpose is to summarize the data and provide the ending balances of unexpended asset forfeiture funds. The summarized data are the total amount of state currency, which is automatically summed from the “amount” input column in the “forfeited currency” spreadsheet tab, and the total expenditures, which is automatically summed from the “amount” input column in the “expenditure” spreadsheet tab. The end balance is listed as “state cash on hand” and there is a comment providing the following directions to users: “Total amount of forfeited currency held in a financial institution at the end of the reporting year, including interest earned.”

Finally, the workbook template has on its general information spreadsheet tab a button that automatically saves the entire workbook as a “PDF” document. All spreadsheet tabs are saved in the report even if no data was entered, and the name of the file is automatically generated based on information entered into the judicial circuit field to identify the DA office. For example, if Alapaha is the judicial circuit for the DA office, by clicking on the “save as PDF” button, the file name would be “Alapaha_Judicial_Circuit_2018_Forfeiture_Report.pdf.”

The 2018 template for LEAs, MJTFs, and state agencies is larger than the template for the DAs, overall requiring more information to be included in the reports. Instead of four spreadsheet tabs, there are nine. Four of the spreadsheet tabs are the same but have more data input fields for the “general information” and “forfeited property” spreadsheet tabs. The additional spreadsheet tabs are “forfeited property from previous cycles,” “returned property,” “federal forfeited property,” federal forfeited currency,” and “federal expenditures.”

The “general information” spreadsheet tab has two drop down lists. The first lists 704 options for the jurisdiction name consisting of 534 cities, 160 counties (includes Macon-Bibb as an option), five state agencies, three task forces, and two universities. If the name of the jurisdiction or task force is not listed, there is a field to enter the name. The other dropdown list is for the LEA type, giving the options of police department, sheriff’s office, state agency, multi-jurisdictional task force, or other. If “other”, there is a field to enter the LEA type. There is a field for the originating agency identification (ORI) number that is issued by the Federal Bureau of Investigation. The total federal currency and total federal expenditures are automatically summed from their respective spreadsheet tabs. There is a field to enter the federal cash on hand with the note: “Total amount of forfeited currency held in a financial institution at the end of the reporting year, including interest earned.” And there is also a “Save As PDF” button that automatically saves the report as a PDF document. The file name is automatically generated based on the fields for the jurisdiction name and LEA type. For example, for the City of Abbeville police department, the generated file name would be `City_of_Abbeville_2018_Asset_Forfeiture_Report_Police_Department.pdf`.

The “forfeited property” spreadsheet tab has six more input fields than the template for the DAs. LEAs, MJTFs, and state agencies are required to input also the value, disposition or distribution of the property, date of sale, gross income, net income, and date of destruction, if relevant. When the cursor is over cells within the input columns, comments appear giving the user further direction: “value of property received” for value, “mm/dd/yyyy” for date of sale, “gross income from property sold,” “net income from property sold,” and “mm/dd/yyyy” for date of destruction. The disposition or distribution of property field has a dropdown list for the required inputs: “sold,” “retained,” “destroyed,” “sale pending at time of report,” and “destruction pending at time of report.” No other options are available. Finally, eight of the options for “proper-

ty utilization” are essentially the same as for the DAs. However, instead of options for “hearing, trials, and appeals,” “forensic services,” “language interpreters or interpreters for the hearing impaired,” and “payment of salaries and benefits,” LEAs, MJTFs, and states agencies have the following options:

- capital improvements
- drug and gang education and awareness programs
- the costs of accounting, auditing and tracking of expenditures for federally shared cash, proceeds and tangible property
- awards, museums and memorials directly related to law enforcement

The “forfeited property previous cycle” spreadsheet tab is almost identical to the “forfeited property” spreadsheet tab. One difference is that there is no longer a field for property utilization. Another difference is that the field for “disposition/distribution of property” has only two options: sold or destroyed.

The “returned property” spreadsheet tab has only two input fields: date returned and description of property. Users are prompted with the directions “mm/dd/yyyy” and “please include make, model, and serial number where known.”

The “expenditures” spreadsheet tab is identical to the same tab for the DA template with one exception. The dropdown list options for the purpose field are not the same. However, they are identical to property utilization options in the “forfeited property” spreadsheet tab of the template for LEAs, MJTFs, and state agencies.

With only two differences, the three remaining spreadsheet tabs are simply the federal versions for the “forfeited property,” “forfeited currency,” and “expenditure” spreadsheet tabs that are explicit to the state civil asset forfeiture program. The first difference is that there is only one allowable option for the statute field—“federal law”—that has the prompt: “statute upon which property was forfeited.” The other difference is that the input options for “property utilization” and “purpose”—that are identical options for the federal forfeited

property and federal expenditures spreadsheet tabs, respectively—are not the same. In this case, there are 13 options instead of 11 options. It turns out that six of the options are the same or similar. Listed below are all 13 options:

- operations and investigations
- training and education
- travel
- the purchase, lease, construction, improvement or operation of law enforcement facilities and detention facilities
- the purchase, lease, maintenance or operation of equipment for use by law enforcement facilities and detention facilities
- the costs associated with the purchase of multi-use equipment and operations used by both law enforcement and non-law enforcement activities
- the costs associated with a contract for a specific service that supports or enhances law enforcement
- the costs associated with payments of a state or local law enforcement agency’s matching contribution or share in a state or federal grant program
- the cash transfers of shared funds from one state or local law enforcement agency to another
- salaries
- drug and gang education and awareness programs
- awards and memorials
- support of community-based programs

One reason the DA has less reporting requirements is that the law enforcement agency always has custody of the seized assets. Therefore, many of the data fields required for LEAs, MJTFs, and state agencies would be extraneous.⁷⁸

Also, DA offices are not required to report federal money received from participating in federal operations that resulted in forfeited assets. The Council chose not to include federal revenue for DAs in the templates because it is not required by the Georgia Uniform Civil Forfeiture Procedures Act of 2015.⁷⁹



FINDINGS ON THE REPORTING REQUIREMENTS

General Findings

The reporting requirements in the Georgia Uniform Civil Forfeiture Procedures Act allow for transparency, public scrutiny, and awareness. The public may review information on distributed property received by law enforcement, how they used retained properties, and how they spent money received from distributions. The types of information reported is listed below. The items marked with an asterisk (“*”) do not apply to DA office reports.

- complete list and description of state forfeited property received
- estimated value of state forfeited property*
- property held over from previous cycles that were not yet disposed*
- the disposition of distributed properties, whether sold, retained, destroyed, or pending sale or destruction*
- utilization of the property if retained
- dates when received, sold* or destroyed*
- gross and net income if sold*
- list of currency received of property
- income received from sale of property is required to be listed with currency received*
- state statutes relied on when property was seized
- description and date when property was returned to owner or interest holder*

- list of expenditures by amount, date, and purpose
- similar information on federal property received, currency, and expenditures*

The statute allows for more than transparency, scrutiny, and awareness. It provides a framework to help law enforcement agencies to be compliant with their duties and responsibilities relative to procedures of civilly forfeited property. For example, all entities are required to list from a prepopulated field the statute under which each property was received.⁸⁰ The reporting template provided by PACGA gives guidance on the disposition and utilization of the property by limiting the choices on what may be done with the property, and if retained, what the property may be used for. Finally, the PACGA reporting template limits choices on what the distributed revenue from forfeited assets may be spent.

Based on responses to our questions by phone and email, the PACGA has been very active in helping law enforcement entities in fulfilling their legal obligations in properly filling out the reports. In addition, a number of LEAs indicated they directed and received assistance from PACGA. The Carl Vinson Institute also has dutifully been posting the submitted reports on its website, making them available for public access and scrutiny.

A more detailed review of the reports, which follows, showed general compliance with the law but revealed areas of concern that need to be addressed.

Limitations on the Usefulness of the Reports

Although the reporting requirements provide useful information unavailable previously, there are limitations to the usefulness of the information in the reports.

Although the reports itemize expenditures, the templates used in producing the reports limit the description of those expenditures to a set of 11 categories of expenditures for state expenditures or 13 categories for federal expenditures. The templates do not allow any variation from the categories. Also, the reports provide no detail on the specifics of the expenditures beyond those predetermined categories, preventing any viewer from knowing whether the category was the proper place for the expenditure. While this method may help law enforcement entities to know what expenditures are allowed and how to categorize them, it is not possible to draw any conclusions from the reports on whether the expenditures were proper or improper.

The reports also do not enable users to know anything about specific cases because case numbers are absent in the reports. Except for reports where the law enforcement entity had comparatively little activity resulting in the forfeiture of property, it is difficult to determine from the reports the number of cases resulting in the forfeited property. For example, law enforcement entities are required to itemize each property received in the “forfeited property” spreadsheet tab. One of the required fields is “date received” that must comport to the date when the court distributed the property to the entity. Likewise, the “forfeited currency” spreadsheet tab also has a “date received” tab that also must be the same date when the court distributed the property to the entity. While it is theoretically possible to match those dates and manually sum the total property forfeited on each day, it presumes that each day contains only one case. Therefore, the reports cannot be used to accurately sum the total cases, although manually it would be possible to sum the number of days that the entity received distributions. Because it is not possible to accurately know the total number of cases, it is also not possible to examine related statistics, such as average value of property forfeited.

The lack of case numbers also makes it difficult to follow up on any particular case. The only way to use a report to follow up on a case would be to find the court orders of distribution and match the dates with the date received fields. While this is possible, it would be simpler just to retrieve the orders of distribution as the starting point.

For the same reasons, the reports do not enable the viewers to know the outcome of any case, such as whether there was charges filed or conviction or arrest.

The templates also limit the choices for what laws were relied on that resulted in the property being forfeited. Combined with the fact that no specifics are provided on any case, the reports cannot be used to determine whether the law enforcement entity acted irregularly in the seizure of the property or if the ultimate forfeiture of the property was justified.

Review of Reported State Data

For this study, 877 filed reports from 375 entities were reviewed for calendar years 2016 through 2018. One filing was unreadable.⁸¹ In addition, 14 LEAs and 1 MJTF indicated they had assets to report but filed no report at the time we procured the reports in July of 2019, which was long after the January 31st deadline. Another 80 times over the three years, 60 LEAs and one DA office indicated that they had no assets to report.⁸²

Most reports reviewed in this study were obtained directly from PACGA. In addition, the Carl Vinson Institute cooperated in providing files and helped in cross-referencing for completeness of the data received. Because reports can be uploaded directly onto the Carl Vinson Institute website and the reporting entity can bypass submission through PACGA, it is possible that some filings were not captured in this study. In fact, a few reports were discovered on the Institute’s portal that did not go through PACGA.

A review of the data indicates that there may be at least 130 reports missing from about 100 law enforcement entities that filed at least one report over the three year period. In addition, it is not possible to know whether hundreds of law enforcement agencies needed to file reports. With 461 police departments listed by the Georgia Sheriffs’ Association, there are approximately 375 police departments who did not file a report or did not fill out a form indicating they had no assets to report.

The table below shows by entity type and year the total reports that were filed and captured for this study. Nearly 75 percent of all reports were either from sheriffs’ offices and city police departments, and split about evenly between them. DA offices accounted for 14 percent of all filings, and MJTFs accounted for 7 percent of all filings. The remaining filings were from county police departments (two percent), state agencies (two percent), university or school police departments (one percent), and authority police (less than one percent).

TOTAL FILINGS OF STATE CIVIL ASSET FORFEITURE REPORTS

Law Enforcement Entity	2016		2017		2018		All 3 Years	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Multi-Jurisdictional Task Forces	24	8%	21	7%	20	7%	65	7%
State Agencies	6	2%	4	1%	4	1%	14	2%
District Attorneys	46	15%	42	15%	37	13%	125	14%
Sheriffs' Offices	107	36%	111	39%	111	38%	329	38%
County Police Departments	7	2%	5	2%	8	3%	20	2%
City Police Departments	107	36%	100	35%	111	38%	318	36%
University and School Police	1	0%	2	1%	2	1%	5	1%
Authority Police	0	0%	1	0%	0	0%	1	0%
Totals	298	100%	286	100%	293	100%	877	100%

Of the reports submitted, 90 percent used the proper forms. State agencies and university and school police departments always filed the proper forms over the years studied. All DA offices filed the correct forms for 2017 and 2018. In 2016, five DA offices filed the incorrect forms intended for LEAs and MJTFs instead of the DA form, and one LEA incorrectly filed the DA form. In 2017, only one LEA made this mistake, and in 2018 two LEAs made this mistake.

Over the years studied, there was no improvement in the rate of entities correctly filing the proper forms. It was 89 percent in 2016, increased to 91 percent in 2017, but dropped back down to 89 percent in 2018. At 85 percent each, city police departments and county police departments had the lowest rates of compliance over the three years.

ENTITIES WHO FILED PROPER FORMS

Law Enforcement Entity	2016		2017		2018		All 3 Years	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Multi-Jurisdictional Task Forces	23	96%	21	100%	19	95%	63	97%
State Agencies	6	100%	4	100%	4	100%	14	100%
District Attorneys	40	87%	42	100%	37	100%	119	95%
Sheriffs' Offices	98	92%	104	94%	97	87%	299	91%
County Police Departments	6	86%	4	80%	7	88%	17	85%
City Police Departments	92	86%	83	83%	95	86%	270	85%
University and School Police	1	100%	2	100%	2	100%	5	100%
Authority Police			1	100%			1	100%
Totals	266	100%	261	91%	261	89%	788	90%



For those entities that filed the proper forms, only 72 percent of the filing over the three years fully completed the summary pages. This rate of compliance remained virtually the same over the three years with only small incremental improvement from 71 percent in 2016, to 72 percent in 2017, and to 73 percent in 2018. Errors may include missing fields, such as the name of the organization filing the report or other contact information on the summary page. However, most often the error was leaving the field for the state cash on hand blank. In these cases, the reporting agency may have missed or ignored the instructions that they must submit their ending balance of their separate account where they are required to hold these assets.

PROPER FILINGS WITH COMPLETED SUMMARY PAGE

Law Enforcement Entity	2016		2017		2018		All 3 Years	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Multi-Jurisdictional Task Forces	18	75%	15	71%	16	80%	49	75%
State Agencies	6	100%	2	50%	3	75%	11	79%
District Attorneys	35	76%	40	95%	31	84%	106	85%
Sheriffs' Offices	75	70%	82	74%	76	68%	233	71%
County Police Departments	4	57%	3	60%	6	75%	13	65%
City Police Departments	74	69%	63	63%	82	74%	219	69%
University and School Police	1	100%	1	50%	0	0%	2	40%
Authority Police			0	0%			0	0%
Totals	213	71%	206	72%	214	73%	633	72%



Only 78 percent of the reports that were on the proper forms over the three years included the detail pages. In these cases, the entities did not use the “save as PDF” button in the template that would have saved all pages in the document.⁸³ All state agencies and university and school police departments included all detail pages for all three years. All task forces were compliant in 2017, and all DA offices were compliant in 2018. Over the three year period, city police departments (73 percent) and sheriffs’ offices (74 percent) had the lowest compliance rates.

PROPER FILINGS THAT INCLUDED DETAIL PAGES

Law Enforcement Entity	2016		2017		2018		All 3 Years	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Multi-Jurisdictional Task Forces	21	88%	21	100%	19	95%	61	94%
State Agencies	6	100%	4	100%	4	100%	14	100%
District Attorneys	33	72%	40	95%	37	100%	110	88%
Sheriffs’ Offices	79	74%	87	78%	78	70%	244	74%
County Police Departments	6	86%	4	80%	7	88%	17	85%
City Police Departments	80	75%	71	71%	82	74%	233	73%
University and School Police	1	100%	2	100%	2	100%	5	100%
Authority Police			1	100%			1	100%
Totals	226	76%	230	80%	229	78%	685	78%

An area of difficulty was the reporting of total currency. The instructions required LEAs and MJTFs to itemize net income from the sale of assets with the reporting of currency, requiring the information to be entered twice. However, most LEAs and MJTFs did not do so. Only 39% of those entities correctly included the net income from the sale proceeds with the currency data. This rate of compliance remained virtually unchanged over the three years.

The accuracy of reporting currency was determined manually and individually for each report by comparing the gross and net income, along with the dates, from the declared sale of assets declared on the “State Forfeited Property” spreadsheet page(s) with declared amounts on the “State Forfeited Currency” spreadsheet page(s). If the amounts could not be found or matched, then it was marked as incorrect.

PROPER FILINGS THAT CORRECTLY REPORTED CURRENCY

Law Enforcement Entity	2016		2017		2018		All 3 Years	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Multi-Jurisdictional Task Forces	8	33%	5	24%	3	15%	16	25%
State Agencies	6	100%	4	100%	4	100%	14	100%
Sheriffs' Offices	39	36%	46	41%	42	38%	127	39%
County Police Departments	3	43%	3	60%	5	63%	11	55%
City Police Departments	58	54%	53	53%	58	52%	169	53%
University and School Police	1	100%	2	100%	2	100%	5	100%
Authority Police			1	100%			1	100%
Totals	115	39%	114	40%	114	39%	343	39%

However, the number of reports that correctly reported currency include reports where no assets were sold—where no double entry of the data was required. Excluding those reports to focus on only those reports with declared sold assets, the compliance rates dropped dramatically. Only five percent of filings on proper forms where the LEA or MJTF reported it sold assets did the entity report its currency numbers correctly. This very low compliance rate shows an area that needs to be immediately addressed.

PROPER FILINGS WITH NET SALES PROCEEDS THAT CORRECTLY REPORTED CURRENCY

Law Enforcement Entity	2016			2016			2016			2016		
	Ct.	%	Tot.	Ct.	%	Tot.	Ct.	%	Tot.	Ct.	%	Tot.
Task Forces	0	0%	16	0	0%	14	0	0%	16	0	0%	46
State Agencies	1	100%	1								100%	1
Sheriffs' Offices	2	3%	60	1	2%	61	1	2%	59	4	2%	180
County Police Departments	0	0%	3	1	50%	2	1	33%	3	2	25%	8
City Police Departments	3	8%	38	4	10%	40	5	12%	43	12	10%	121
Totals	6	5%	118	6	5%	117	7	6%	121	19	5%	356

One question in the survey given to LEAs and MJTFs was whether they were aware that the sale of assets was to be entered a second time in the currency spreadsheet tab. In response, 94% indicated that they were aware of this requirement. However, half of those who responded that they were aware of this requirement had incorrectly reported currency received from the sale of property in either 2017 or 2018.

Over the three years, LEAs and MJTFs reported revenue of \$4,452,238 from the net income from the sale of seized assets. Each year the revenue increased, from \$912,397 in 2016 to \$1,545,887 in 2017 and \$1,992,953 in 2018. Sheriffs' offices accounted for most net income of the sales revenue each year, followed by MJTFs and then city police departments. DA offices do not sell assets.

TOTAL FILINGS REPORTED NET STATE SALE PROCEEDS

Law Enforcement Entity	2016	2017	2018	All 3 Years
Task Forces	\$322,934	\$618,822	\$545,574	\$1,487,330
State Agencies	\$1	\$0	\$0	\$1
Sheriffs' Offices	\$427,237	\$723,148	\$1,179,146	\$2,329,532
County Police Departments	\$29,901	\$40,740	\$97,525	\$168,166
City Police Departments	\$132,325	\$163,178	\$171,708	\$467,211
Totals	\$912,397	\$1,545,887	\$1,993,953	\$4,452,238

Using the information in the reports on net income for the sale of property, the declared state currency numbers were corrected to show the real amount received to be consistent with the instructions for the templates. In reviewing the reports, when no match was found from itemized sale proceeds, the net income was added to the currency, giving a revised number closer to the actual currency received.⁸⁴

Over the three years, reporting entities from all filings, including those on improper forms, received \$49,073,127 in revised state currency income from civil asset forfeitures. The greatest amount received—\$18,801,799—was in 2018. Sheriffs' offices received the most over the three years (\$14,329,480), followed by MJTFs (\$9,699,113), DA offices (\$9,371,297), city police departments (\$8,218,633), and county police departments (\$4,432,058).

TOTAL FILINGS REVISED STATE CURRENCY RECEIVED

Law Enforcement Entity	2016	2017	2018	All 3 Years
Task Forces	\$3,223,423	\$3,226,448	\$3,249,243	\$9,699,113
State Agencies	\$857,245	\$717,193	\$1,404,898	\$2,979,337
District Attorneys	\$2,357,829	\$3,281,897	\$3,731,570	\$9,371,297
Sheriffs' Offices	\$5,062,855	\$4,277,840	\$4,988,784	\$14,329,480
County Police Departments	\$1,031,977	\$1,311,784	\$2,088,296	\$4,432,058
City Police Departments	\$2,794,611	\$2,096,608	\$3,327,414	\$8,218,633
University and School Police	\$19,772	\$11,843	\$11,594	\$43,210
Totals	\$15,347,714	\$14,923,614	\$18,801,799	\$49,073,127

Over the same time period and based on all filings, including those filed on improper forms, \$41,538,570 was spent from civil asset forfeiture distributions. Each consecutive year, the total spent has increased from \$12,395,369 in 2016 to \$13,919,828 in 2017 to \$15,223,372 in 2018. Consistent with the finding for the highest amount received in revised currency, sheriffs' offices spent the most amount (\$14,299,070). City police department spent the next highest amount (\$9,626,245), followed by MJTFs (\$7,448,076) and DA offices (\$6,895,699).

TOTAL FILINGS REPORTED STATE EXPENDITURES

Law Enforcement Entity	2016	2017	2018	All 3 Years
Task Forces	\$2,058,687	\$2,966,796	\$2,442,593	\$7,448,076
State Agencies	\$197,345	\$688,062	\$982,642	\$1,868,049
District Attorneys	\$1,105,197	\$2,847,608	\$2,942,894	\$6,895,699
Sheriffs' Offices	\$5,188,391	\$4,657,760	\$4,452,919	\$14,299,070
County Police Departments	\$504,731	\$246,406	\$604,004	\$1,355,140
City Police Departments	\$3,312,613	\$2,505,631	\$3,808,002	\$9,626,245
University and School Police	\$28,407	\$7,565	\$10,318	\$46,290
Totals	\$12,395,369	\$13,919,828	\$15,223,372	\$41,538,570

As for the ending balances in separate state accounts set aside for civil asset forfeiture distributions, the balance has been growing based on reported balances on both proper and improper forms. In 2016, the aggregate balance was \$20,031,779. It grew to \$23,015,884 in 2017 and \$31,584,567 in 2018. For the close of 2018, Sheriffs' offices were sitting on the largest balances (\$9,397,694), followed by city police departments (\$7,924,207), DA offices (\$6,029,419), county police departments (\$3,685,908), and MJTFs (\$3,620,883). Considering that state cash on hand is likely underreported—entities filing proper forms left the field blank 47 times in 2016, 51 times in 2017, and 46 times in 2018—the true aggregate ending balances for each year must be significantly higher.

TOTAL FILINGS REPORTED STATE CASH ON HAND

Law Enforcement Entity	2016	2017	2018
Task Forces	\$3,516,525	\$3,366,668	\$3,620,883
State Agencies	\$730,724	\$504,201	\$926,457
District Attorneys	\$2,143,690	\$5,008,178	\$6,029,419
Sheriffs' Offices	\$6,620,475	\$6,521,537	\$9,397,694
County Police Departments	\$1,966,503	\$3,040,248	\$3,685,908
City Police Departments	\$5,013,323	\$4,574,651	\$7,924,207
University and School Police	\$10,539	\$401	\$0
Totals	\$20,031,779	\$24,015,884	\$41,584,567

Review of Federal Data in State Reports

The state LEA and MJTF reports require information on federal funds received from asset forfeiture activities that involved the LEA or MJTF. DA offices are not required by Georgia law to report this information. Over the three-year period examined, Georgia LEAs and MJTFs received a total \$31,948,225 in federal currency. At \$14,309,545, the amount reported for 2018 was

significantly more than for the two prior years. City police departments reported the most amount at \$11,651,819, followed by sheriffs' offices (\$9,800,070), MJTFs (\$3,879,477), and state agencies (\$3,879,477).

TOTAL FILINGS REPORTED FEDERAL CURRENCY RECEIVED

Law Enforcement Entity	2016	2017	2018	All 3 Years
Task Forces	\$717,956	\$2,123,154	\$1,068,016	\$3,909,127
State Agencies	\$1,403,988	\$786,396	\$1,689,093	\$3,879,477
District Attorneys	n/a	n/a	n/a	n/a
Sheriffs' Offices	\$2,211,268	\$2,258,602	\$5,330,201	\$9,800,070
County Police Departments	\$1,285,039	\$292,498	\$1,056,762	\$2,634,300
City Police Departments	\$3,802,846	\$2,683,501	\$5,165,473	\$11,651,819
University and School Police	\$0	\$0	\$0	\$0
Totals	\$9,421,097	\$8,217,583	\$14,309,545	\$31,948,225

When comparing the total federal currency received in the state reports to the totals reported to Congress by the U.S. Department of Justice for the state of Georgia, it appears that the numbers are reasonably close. The state reporting requirement is based on the calendar year, but the federal reporting requirement is based on the fiscal year. Therefore, the difference between \$31,948,255 in state reported activity and \$30,403,074 in equitable sharing funds provided to Georgia law enforcement appears to be reasonable.

COMPARING STATE REPORTS ON FEDERAL CURRENCY RECEIVED WITH DOJ REPORT TO CONGRESS

Data Source for Georgia LEAs and MJTFs	2016	2017	2018	All 3 Years
State Reports (Calendar Year Basis)	\$9,421,097	\$8,217,583	\$14,309,545	\$31,948,225
Federal Report to Congress (Fiscal Year Basis)	\$9,424,804	\$7,281,373	\$13,696,897	\$30,403,074

However, a closer examination reveals major discrepancies. First, the report to Congress only includes equitable sharing with federal agencies that cooperate with the DOJ. It does not include activity by other federal LEAs, including the Departments of Homeland Security and Treasury. Second, a line-by-line comparison shows 15 Georgia law enforcement entities that received equitable sharing funds as reported to Congress but failed to file state reports. Appendix O lists those 15 agencies consisting of two MJTFs, three state agencies, three sheriffs' offices, one county police department, one county marshal's office, four city police departments, and one school police department. The federal report also listed eight DA offices that received equitable sharing funds, including one office with insufficient information to identify the district.⁸⁵ However, the state template does not provide for the disclosure of federal funds by DA offices.

In addition, Appendix P lists 49 Georgia law enforcement entities that may have underreported federal funds in the state reports. Appendix N lists the federal amounts reported in the state reports alongside equitable sharing data that the DOJ reported to Congress. These discrepancies raise concerns on the accuracy of the reported data in the state reports.

The reports showed that Georgia LEAs and MJTFs spent more in federal funds than what they received in federal funds from asset forfeiture activity, implying that they spent funds saved from prior years that they were required to store in separate

accounts at financial institutions. The entities spent \$14,201,706 in 2016, \$11,265,149 in 2017, and \$9,638,667 in 2018, totaling \$35,105,522 for all three years. One DA Office, specifically the Lookout Mountain Judicial Circuit DA office, used the wrong form but reported it spent \$12,628 in federal funds, revealing that the reporting requirements are missing financial data from DA offices that participate in joint operations with federal agencies. Overall, sheriffs' offices spent \$13,742,293 in federal distributions that was slightly higher than the \$13,729,117 spent by city police departments. County police departments spent the next highest amount (\$3,970,937), followed by MJTFs (\$2,183,445) and state agencies (\$1,393,624).

TOTAL FILINGS REPORTED FEDERAL EXPENDITURES

Law Enforcement Entity	2016	2017	2018	All 3 Years
Task Forces	\$717,956	\$772,847	\$633,460	\$2,183,445
State Agencies	\$439,536	\$320,741	\$633,347	\$1,393,624
District Attorneys	\$12,628	n/a	n/a	\$12,628
Sheriffs' Offices	\$4,417,805	\$4,824,184	\$4,500,304	\$13,742,293
County Police Departments	\$1,022,624	\$1,767,779	\$1,180,534	\$3,970,937
City Police Departments	\$7,531,975	\$3,506,120	\$2,691,022	\$13,729,117
University and School Police	\$0	\$0	\$0	\$0
Totals	\$14,201,706	\$11,265,149	\$9,638,667	\$35,105,522

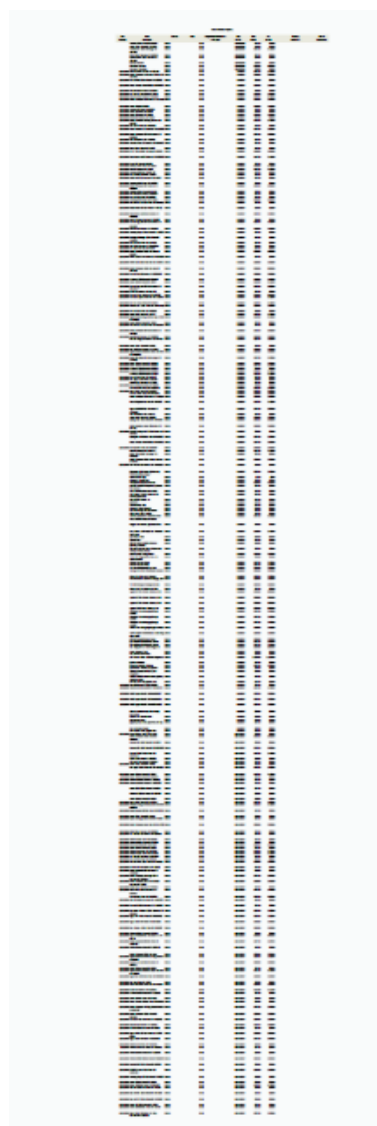
For the end of 2018, Georgia LEAs and MJTFs reported a balance of \$26,397,405 in their separate accounts for distributions of federal funds from asset forfeiture activity. This amount was higher than what was reported for 2016 (\$21,177,569) and 2017 (\$17,694,124). Sheriffs' offices reported the largest balance (\$8,746,035), followed by city police departments (\$7,653,009), state agencies (\$5,587,493), MJTFs (\$2,722,069), and county police departments (\$1,638,799).

TOTAL FILINGS REPORTED FEDERAL CASH ON HAND

Law Enforcement Entity	2016	2017	2018
Task Forces	\$1,392,216	\$2,334,383	\$2,772,069
State Agencies	\$2,444,054	\$4,144,195	\$5,587,493
District Attorneys	n/a	n/a	n/a
Sheriffs' Offices	\$8,953,846	\$5,032,373	\$8,746,035
County Police Departments	\$3,361,564	\$1,793,029	\$1,638,799
City Police Departments	\$5,025,842	\$4,390,145	\$7,653,009
University and School Police	\$46	\$0	\$0
Totals	\$21,177,569	\$17,694,124	\$26,397,405

Reported Retained Property

In addition to the summary data presented here, many LEAs and MJTFs reported having retained property that they are legally authorized to use for official law enforcement purposes already enumerated in this study. The types of properties retained ranged widely. They are often firearms, ammunition, or motor vehicles, but they also include many other items, such as money counters, drones, tools, chainsaws, night vision goggles, a hard hat, shop vacs, a water hose, computers, smart phones, TVs, a plastic folding table, and gift cards. Although it can only be known by conducting audits, it appeared that most LEAs and MJTFs were diligent in identifying retained property. However, the National Guard Counterdrug Task Force that only filed a report for 2017 failed to itemize retained property with the single entry of “everything retained” without providing data for the other fields of the dates, value, and purpose for retaining the property.



The reported value of the retained property was not tabulated for this study for several reasons. The templates did provide a summation of the data, meaning that the summation would need to be done manually on each report before aggregating all the summations. Also, there were cases where the reporting entities failed to provide estimated values of the property.

Nevertheless, despite not having totals or a complete list of all retained property, they are clearly an additional benefit above the cash benefits afforded to law

enforcement from the civil asset forfeiture program. As pointed out earlier in this report, LEAs and MJTFs cannot retain property on their own unless they receive a court order of distribution.

Some Other Reporting Issues

About 10 percent of the filed report were not on the proper forms. In 2016 and in 2018, there were 32 reports on the improper forms. In 2017, there were 25 reports on the improper form. Sometimes the entities just filed budget statements or their federal equitable sharing form or some other document. Appendices H, J, and L provide comments on many of the reports with specific concerns.

Two common formatting problems encountered were severe enough that they could interfere with the ability of viewers to read the data in the reports. The lesser of the two problems was pagination issues with 53 submissions or 6 percent of the total filings. For example, pagination problems caused some columns to run onto other pages, making it difficult to match fields across the pages.

The more serious formatting issue was that some reports had pages with very fine print to the point of being impossible to read without the aid of computer technology. Even with computer technology, the data were sometimes cut in half. The very fine print problem occurred 40 times, or 4.6 percent of all filings. Some other reports also had fine print issues, but these are not counted in these totals. To illustrate this problem, to the left is one of the worst cases of very fine print.

PACGA staff were asked about the problems of very fine print and pagination and speculated that the law enforcement entities may have attempted to print the documents on their own instead of using the “Save As PDF” button in the templates. This speculation was not unreasonable because 24 percent of submissions did not include the detail pages and 37 submissions were missing the front page or were clearly scanned after being printed. In those cases, the entities clearly did not make use of the “Save As PDF” button. However, closer inspections and experimentation with the 2018 template revealed that the algorithm could allow the fine print problem to occur.

Example of Very Fine Print Problem to the Point of Being Illegible: State Forfeited Property Page (Full Page) of Macon-Bibb Sheriff’s Office’s 2017 Filed Report.

In response to an advance draft of this report, PACGA informed us that they will change the process of how reports are submitted to address these findings of reports being filed without using the proper form and the various formatting problems with the reports. The new process will include a review where reports will be either accepted or rejected.⁸⁶

This study did not audit the reported data for accuracy. However, during this review, it was noted on numerous occasions the possibility of misreporting of data in the detail pages. There are examples where fields were left blank and other examples where the data simply did not appear to be correct. Although almost all reports correctly reported the data on a calendar year basis, there were a few exceptions, including two cases from the same LEA where only a partial year of data was reported.

Public Access of Reports through the Carl Vinson Institute

The state law gave the Carl Vinson Institute of Government of the University of Georgia the responsibility to provide copies of the reports on its website. This provision facilitates public access to the documents and creates a repository for those reports. The Institute fulfilled its responsibility by making these reports available on its website. However, upon review, a number of issues were encountered where improvements can be made.

Although the navigation to find the asset forfeiture reports from the Institute's GeorgiaDATA website is relatively easy, the navigation from its main website is not intuitive. First, all reports—even for state agencies and district attorneys, i.e., state attorneys—are found under local government financial documents. Next, one must select “Financial Documents Upload” even if one wants to only view a report, leading one to think that it is only for uploading and not for viewing documents. Moreover, the description for “Financial Documents Uploads” mentions nothing about civil forfeiture reports.

Once on the “Local Government Financial Documents Online” webpage, the civil forfeiture reports show up in the dropdown menu under “Budgets and Financial Reports.” However, the description on this webpage, nor on any of the prior webpages, explicitly states that this is where these reports are to be found.

Once on the webpage with the reports, the viewer can find the reports by selecting the governmental entity organized by city, county, school district, or state along with date range consisting only of the year. The DA reports are lumped to-

gether with state agencies reports and some MJTF reports under the heading “State: Georgia.” For 2018, the reports are spread over five pages. Only the file names give an indication of the entity that filed the report, which was an enhancement from the prior years.⁸⁷ The reports for 2016 span over six pages but the file names are all the same, giving the viewer no ability to find a specific report by its name. It may require the user to open all 59 files before finding the one of interest. Spanning over five pages, the reports for 2017 have the same problem as the 2016 reports.

A few reports were found to be misfiled or misnamed or both. In 2016 and 2018, the Ben Hill County Sheriff's Office reports were misfiled under “Georgia: State,” and the 2018 report is mislabeled as Cordele Judicial Circuit District Attorney's Office. The 2018 Marietta City Police Department report is misnamed the Cobb Judicial Circuit DA's Office. The Terrell County Sheriff's Office 2017 report was filed under the City of Dawson. The Southern Georgia's Judicial Circuit District Attorney's Office 2018 report was filed twice under “State: Georgia” for both the Southern and Southern Georgia Judicial Circuits Districts. (These are two different circuits.) Two reports without names or any other contract information were filed under “State: Georgia” in 2017. Another report in 2016 filed under “State: Georgia” gave only the state forfeited currency page without any identification.

Experimenting with the general search function on the website did locate some reports, but not always. For example, in attempting to find the reports from the Georgia Bureau of Investigation, the following search terms yielded no results: bureau, investigation, and GBI.

PACGA informed us
that they will change
the process of how
reports are submitted
to address these
findings.

SURVEY OF LEAS AND MJTFS

Staff from the Institute and the Council has been cooperating to collect and upload the reports on the Institute's website. However, no one is checking for accuracy. Institute staff informed us that they randomly open reports to make sure they are readable, but there is no further checking of the information. The naming of files has improved for 2018, but the problem of mislabeling and misfiling continued from prior years.

Overview of Survey

Surveys on the reporting requirements were sent by email to 46 DA offices and 270 LEAs and MJTFS. The questions were open-ended to learn about the overall experience of the law enforcement entities related to the reporting requirements, including whether they have any suggestions for improvement. Survey recipients were informed that they would not be quoted directly unless they gave us permission to do so.

The surveys were initially sent on August 9, 2019, to a select list of 28 law enforcement entities. Because of the low response rate even after several email and phone call reminders, a second batch of surveys was sent to the remaining entities on September 5, 2019. Email reminders were sent two weeks later. All surveys were sent to the listed contacts on the filed reports.

The initial set of 28 law enforcement entities were selected based on size and geographic representation, and the survey to LEAs and MJTFS included 27 questions. The survey for the second set of LEAs and MJTFS included only 20 questions. The surveys to the DAs were similar in length, but the questions were not the same. Instead, they were specific to the role of the DA. The second set of recipients were selected based on two criteria: that they had filed reports for either 2017 or 2018 or both years, and there were no discernable issues with the filing, such as filing the reports using the wrong form or neglecting to include all pages.

For LEAs and MJTFS, survey responses were received from 17 city police departments, 15 sheriffs' offices, and two MJTFS, totaling 34 responses for a response rate of 12.6 percent of those entities that received a survey. The last response received was on October 3, 2019. However, no DA office responded to the survey despite multiple reminders. Because the number of respondents exceed the theoretical threshold for the central limit theorem of statistics and the fact that the responses are used only for descriptive purposes, the total responses are deemed to be useful in representing opinions of LEAs.

The exact survey questions for the LEAs and MJTFS can be found in Appendix Q. The topics covered are summarized below:

- Verification that the person filing out the survey is the correct person to do so.
- Adequacy of human and technological resources to complete the reports.
- Clarity of the instructions.
- Seeking help to fill out the reports.
- Record keeping.
- Time required to fill out reports.
- Burdensomeness of reports.
- Streamlining the reports.
- Opinion on the development of a web-based reporting system.
- Keeping distributions in separate accounts.
- Audits of the civil forfeiture funds.
- Any problems encountered.
- Any recommendations.

The survey responses received give a good representation of LEAs across the state. For sheriffs' offices, nine percent of all sheriffs' offices in the state responded to the survey. When evaluating the responses by population, the survey includes responses from 12 percent of counties with populations from 10,001 to 50,000; 13 percent of counties with populations from 50,001 to 100,000, 10 percent of counties with populations from 101,000 to 500,000, and 25 percent of counties with populations over 500,000. No counties responded with populations under 10,000. It may be reasonable to conclude that the lower response rate among smaller counties may have more to do with the lack of participation in civil forfeiture activity than any other factor.

Survey responses were received from 17 city police departments, 15 sheriffs' offices, and 2 MJTFS, totaling 34 responses for a response rate of 12.6 percent.

COUNTY POPULATION AND SHERIFFS' OFFICES' RESPONSES

Population Range	Counties	Survey Responses	Response Rate
10,000 or less	33	0	0%
10,001 to 50,000	85	10	12%
50,001 to 100,000	16	2	13%
101,000 to 500,000	21	2	10%
Over 500,000	4	1	25%
All	159	15	9%

For cities with police departments, overall five percent of all city police departments in the state responded. By population ranges, 16 percent of city police departments responded from cities with populations between 10,001 and 50,000; 33 percent of city police departments responded from cities with populations between 50,001 and 100,000; and 25 percent of city police departments from cities with populations over 100,000. Only one percent of police departments from cities with populations with 10,000 or less responded, which may be not unreasonably attributed to the lack of participation in civil forfeiture activity.

CITIES WITH POLICE DEPARTMENTS (PDS) AND SURVEY RESPONSES

Population Range	Cities with PDs	Survey Responses	Response Rate
10,000 or less	242	2	1%
10,001 to 50,000	69	11	16%
50,001 to 100,000	9	3	33%
Over 100,000	4	1	25%
All	324	17	5%

For cities with police departments, overall five percent of all city police departments in the state responded. By population ranges, 16 percent of city police departments responded from cities with populations between 10,001 and 50,000; 33 percent of city police departments responded from cities with populations between 50,001 and 100,000; and 25 percent of city police departments from cities with populations over 100,000. Only one percent of police departments from cities with populations with 10,000 or less responded, which may be not unreasonably attributed to the lack of participation in civil forfeiture activity.

Adequacy of Human and Technological Resources

Of the respondents, 94 percent indicated that they have the hardware and software required to use the templates. One indicated that they find Excel⁸⁸ difficult to use, and another indicated that if it were anything other than Excel, it might pose difficulties. The two respondents who indicated that they did not have the required hardware and software were both police departments from cities with relatively small populations.

All respondents indicated that they have the human resources necessary to fill out the reports. One deputy sheriff indicated

that it is a time consuming task, requiring the deputy to set aside all other responsibilities.

Clarity of the Instructions and Seeking Help

Seventy-six percent (76%) of the respondents indicated that the template instructions provided by PACGA were clear. Nine percent (9%) indicated that they were somewhat clear, and 12 percent said that there were not. Three percent (3%) of the respondents did not answer the question. One respondent said that the instructions were confusing for the first couple of years, but now it was not. One respondent who answered “no,” indicating that they were not clear, added that the federal forfeiture reporting system is much better. Another respondent indicated that the instructions could be confusing.

Fifty-three percent (53%) of the respondents sought help to understand the template. PACGA was the most common response to the follow-up question on where they went to get help. A few of the respondents went to other law enforcement personnel within their organization.

Record Keeping

When it comes to record keeping, 56 percent of the respondents keep records in a database or an Excel workbook. Otherwise, they kept records in individual files, Quickbooks, or a Microsoft Word document.

A smaller number of those surveyed were asked additional questions on the relationship between keeping records and filling out the reports. The law enforcement agencies must pull from their records and then enter the information into the reports. These questions were asked to assess the opportunity to streamline the process by having a single system that records the information and generates the reports.

Time Requirements, Burdensomeness, and Streamlining

The amount of time required to complete the reports varied considerably among the respondents. Of the responses, 55 percent stated that it takes a couple hours or less. Most of these entities had reported smaller amounts in activity. Another 26 percent reported that it took at least one full day up to several days to complete. Most of these entities reported larger amounts in activity, but not always. A police department from a small city with less than \$22,000 in currency and a small sheriff’s office with about \$32,000 in currency reported taking eight manhours to fill out their reports. Another sheriff’s office from a small county with about \$110,000 in currency said it took about three days.

On the question on whether the process was burdensome, 46 percent of the respondents said yes.

On the question on whether the process was burdensome, 46 percent of the respondents said yes. One lieutenant from a sheriff’s office said, “I dread doing it each year.” A commander from a city police department wrote “Very burdensome!!!” A deputy sheriff suggested that “if it were a standard form where you could keep it up to date throughout the year, it would be a lot easier.” Another deputy suggested that the form “should be like the Federal Asset agreement and certification. There should be more details of how the agency spends asset funds.” A major from a sheriff’s office said, “Tracking the expenditures is very burdensome and it could be streamlined with a program designed for this.”

For the 54 percent of respondents who did not indicate that it was burdensome, most of them reported smaller activity. One administrator from a city police department said, “At first it was [burdensome] until I got more organized on my end; it goes a lot smoother [now].” Another administrator from a sheriff’s office said, “It would be [burdensome] if not kept up with throughout the year.”

Keeping up with the information throughout the year was a theme with the responses. Under the question for suggestions for streamlining, a GBI agent said, “if the information could be added throughout the year as opposed to only one time during the year” it would help streamline the process. A field operations commander from a city police department wrote: “It could be streamlined by entering and finding information by civil action #. The master template should be searched by civil action number, then select the year & which field you need to add info to. The current system is very time consuming. A computer programmer should be able to develop a more user friendly system.”

Of the respondents who answered the question on streamlining, 64 percent definitely thought the process could be streamlined or offered a suggestion. Only one respondent from a small sheriff’s office indicated it seemed pretty simple,

implying that streamlining is unnecessary. An administrator from a city police department exclaimed: “I think the spreadsheets are GREAT!”

Opinions on a Web-Based Reporting System

The survey included a question to seek opinions on whether LEAs would be interested in a secure online system to track asset forfeitures on a continual basis that automated the production of the state annual report and the federal equitable sharing forms, if applicable.

In answer to this question, 74 percent of the respondents said that they would be in favor of such a system. Some of the responses were enthusiastic about the suggestion. Two respondents wrote “Absolutely,” one in all caps with an exclamation mark. A field commander wrote: “This sounds perfect. That way as an agency reported they could update the report daily, weekly whenever there is activity to report.” A major said it would be “very helpful.”

Other yeses qualified their answers. A deputy wrote “Yes, but remember these assets come from an agency assigned case number and usually a Clerk of Court case number. If ALL the DATA was generated-stored this would aid in agency’s operating policies, audits, and certainly improve record keeping.” Another deputy wrote: “Yes, only if the program was user friendly and did not ask a million questions. The Federal Forfeiture Program has their act together. I rarely have a problem completing and submitting their form.” In similar vein, a city police captain said: “Yes. As long as it is user-friendly. If the system allowed the agency and the state to see it and the agency used it all year long, and then the state just pulls the data they need at the end of the year.”

The Federal Forfeiture Program has their act together. I rarely have a problem completing and submitting their form.”

On the question of a secure online system, 15 percent of the respondents said maybe or were unsure. One asserted that there was not enough information to know. A sheriff from a small county said, “Possibly, but the present system seems pretty adequate to me.” A deputy police chief added a warning: “Maybe. I don’t like the idea of yet another piece of tech that I have to keep up with that isn’t integrated into our system.”

Finally, 12 percent of the respondents indicated that they would not be interested in an online system. One police chief wrote: “Not really. We have our own system we use to log our information.” A major wrote: “No. Once the forfeiture is sent to the DAs office for processing, we have no reason to track it until we receive final disposition. Our current process seems to be working.” A city police department with little activity to report said, “No. We don’t have too many to track.”

Separate Accounts and Audits

Almost all respondents said that the funds are kept in a separate account. The only exceptions were those who were not sure and a single city police department who said the funds are noted as condemned or pending so they know the difference.

Seventy-four percent (74%) of the respondents said that their accounts have been audited, some on an annual basis. Eighteen percent (18%) said they did not know. Another 18 percent said no.

Problems Encountered and Recommendations

Finally, the survey had open-ended questions for any issues or problems and recommendations. A major in a sheriff’s office said: “It is extremely irritating and, at times, confusing to submit and run this Georgia annual report on a calendar year basis instead of on a fiscal year like all of the other accounting is done.” A deputy sheriff wrote: “The DOJ sends each agency an email stating the website is open, and we can start our report. I get nothing from the State. I have to go look for their website and try to download the current form. At least send out an email to each reporting agency that the new form is available and give us a link.”

For recommendations, a deputy sheriff wrote: “If there are any changes to reporting State Asset Forfeiture’s I do hope there is more effort in providing transparency. As far as the state report, it should be modeled like the federal assets. This should also include the bookkeeping procedures and internal controls.” Another deputy wrote: “They need to be



consistent and also give agencies plenty of time. We have other job duties that must be done.” An administrative assistant in a sheriff’s office suggested “a step by step demo to watch.”

One manager from a sheriff’s office had numerous suggestions: “PAC needs to update their form when federal ESAC [Equitable Sharing Agreement and Certification] form is updated (specifically expenditure purpose codes.) The instructions need to be rewritten in a step by step format (in order of entry). For example, the title page is my last step, but it’s listed first in the instructions. State form requires federal expenditures and federal funds received. This can be time consuming listing each of them individually. Why can’t we just attach a copy of our federal ESAC form to it rather than having to input it again. To do so the deadline for the state form would need to be moved to after the federal form is due (maybe 3/31?). On summary spreadsheet, make the automatically populated areas greyed out.”

One sheriff issued this warning: “I hope this information is used to provide ACCURATE information regarding asset forfeiture in Georgia pursuant to cases that are handled pursuant to Georgia law and not the federal forfeiture laws. I have found that most of info broadcast or otherwise disseminated related to asset forfeiture in State of Georgia has been WANTONLY VOID OF VERACITY, or has been spun

in a way which fails to reveal the complete picture of asset forfeiture under Georgia law.”

A police chief had this to say: “There is too long of a gap in time between asset forfeiture reporting and this survey to remember specifics. I would suggest that this survey be conducted immediately following the next asset forfeiture reporting when the pros & cons of reporting can be addressed more accurately with better recollection.”

In the recommendations, a number of respondents used the opportunity to emphasize the suggestion to have an online system. A field commander stressed that he likes the idea of a web-based reporting system. A manager for a city police department said: “I feel like we should be able to send information after we receive a seizure and all information is collected. Not wait until the end of the year. Take care of it while it’s in front of us. And the computer system complete the rest.” An administrator for a police department suggested that “changing password for not logging in frequently is burdensome.” A deputy said: “I can’t stress enough the need for an online system for easier submission.” A Lieutenant in a sheriff’s office said: “I like the idea of a secure, online reporting system for use during the year. I think that this would be very helpful.” A manager from a sheriff’s office said, “Any help would be appreciated.”



COMPARING THE FEDERAL PROGRAM WITH GEORGIA'S

A comparison of Georgia's program with the federal program shows many of the same standards, although the approach and details may differ. LEAs and MJTFs receiving federal equitable shares may only use the proceeds for defined law enforcement activities and the revenue cannot supplant the local agency's budget. Distributions from Georgia's civil asset forfeiture procedures have the same restrictions. Likewise, in both cases records must be retained, funds must be kept separate, and standard (or appropriate) accounting and auditing practices must be used. The DOJ and the U.S. Treasury may impose sanctions against noncompliant participating state or local agencies. In Georgia, the DA has the ability to impose sanctions on a noncompliant agency, including filing of charges, if necessary. If a DA is disqualified or non-compliant, the matter can be referred to the attorney general.

However, there are some differences worth noting. Both the U.S. attorney general and the treasury secretary are required to provide detailed reports to Congress on their asset forfeiture programs. No such reporting requirement exists in Georgia. Although law enforcement entities are required to submit

reports on their activities to either their local governing body or the state auditor if a state agency or a district attorney, there is no compilation of the data let alone a requirement for filing a comprehensive report to the General Assembly.

Federal law requires the asset forfeiture program of DOJ and the Department of Treasury to be audited annually. Although Georgia law states that "appropriate accounting and auditing standards shall be applicable," there is no specification on the auditing or the frequency that the program should be audited.

The federal government uses an eShare portal. No such portal exists in Georgia. Several survey respondents pointed out that the feds "have their act together."

The federal program prioritizes forfeited asset expenditures for assistance to victims. Although Georgia law allows for the expenditures for victim assistance, it is not earmarked as a priority.

CONCLUSION

The Georgia Uniform Civil Forfeiture Procedures Act of 2015 brings fairness, accountability, and transparency to the issue of civil forfeitures, an area of concern when it comes to protecting civil liberties. The process allows for claims against property unlawfully seized and establishes a process within the judicial system to make those determinations, including a quasi-judicial process for items less than \$25,000. Once forfeited, distribution requires DAs to file a proposed order before the courts, and the courts to rule on that order. The DAs have special responsibility within the process, including enforcing compliance of law enforcement entities.

The reporting requirements make important information available to the public on forfeiture activities of law enforcement activities. The public may view itemized lists of distributed property, distributed currency, returned property, and expenditures. The reports further detail categories of property utilization, disposition of properties, categories of expenditures, and dates that properties were sold or destroyed. The public can also see in each report the total currency received, including net income from the sale of property, total expenditures, and ending balances on accounts with funds from distributed forfeited properties. For LEAs and MJTFs, the information is provided for both the state civil asset forfeiture program as well as the participation with federal law enforcement agencies that result in forfeited funds shared with the LEA and MJTF.

The reporting requirement in the 2015 law is a major step forward in transparency and public awareness. It enabled our research team to compile and aggregate data giving a sense of the total civil asset forfeiture activity. However, without a grant to do this work, the data would not be compiled and, unlike federal requirements for federal agencies, no comprehensive report is submitted to the General Assembly, enabling it to oversee and assess the program.

Moreover, the reports have limitations. Except for reports with little forfeiture activity, it is not possible to sum accurately the number of cases or know related statistics, such as the average value of forfeited property per case. It is not possible to use the reports to determine if the law was improperly used in the seizure of property, if the expenditures resulting from distributed forfeiture funds were proper, or if the utilization of distributed tangible property was proper. It is also not possible to know the outcome of any case, such as whether there was a conviction in the case that resulted

in the property being forfeited. The reports do not allow an interested citizen or a reporter to follow up on a particular case, nor do they provide a window on potential abuse. Attempting to answer these questions will require compliance audits and going through court records, or perhaps, if corruption is involved, whistleblower reports or investigative journalism on a case-by-case basis. Likewise, it was beyond the scope of this study to detect situations where property may have been seized inappropriately and the person from which it was seized was unable to contest the seizure.

One reason why the reports do not provide a view on potential improper expenditures, seizures, or utilization of property is that many of the fields are prepopulated, forcing the entities to choose one of the options. For example, the expenditures spreadsheet tab limits what the agency may choose for the purpose of the expenditure. Likewise, choices are limited for the statute upon which the property was forfeited, for the disposition or distribution of the property, and for the utilization of the property if retained. On the other hand, prepopulating the fields and limiting the choices does have one advantage. It serves as a powerful reminder to the law enforcement entities of what they may or may not do relative to received distributions.

Civil asset forfeitures have provided financial and tangible resources to law enforcement entities to enhance their law enforcement activities. Over the three years studied—2016 through 2018, LEAs and MJTFs reported an aggregate of \$49,073,127 in state revenue and \$31,948,225 in federal revenue from civil asset forfeitures, including \$4,452,238 in state net income from the sale of seized assets. All entities reported spending \$41,538,570 from state forfeiture revenue and \$35,105,522 from federal forfeiture programs over the three years. The total ending balances in 2018 for all accounts holding money received from these forfeited assets were \$31,584,567 for state activity and \$26,397,405 for participating in federal activity. It should be emphasized that all these numbers are based on what was reported. Evidence of under-reporting or non-reporting by numerous entities suggests that the total forfeited revenue received and spent might be significantly higher than reported. In addition, the entities received numerous in-kind distributions that they retained, but the entities are not required to sum the values of these resources used for official law enforcement purposes. In addition, the value of these retained properties as based on estimates by the entities and lack consistency. Therefore, the value of total retained property was not summed in this study.

The 877 reports reviewed in this study represent all known filings for 2016, 2017, and 2018 as of July 2019 with the Carl Vinson Institute that were submitted through the Prosecuting Attorneys' Council of Georgia. A review of the data indicates that there may be at least 130 reports missing from about 100 law enforcement entities that filed at least one report over the three year period. This study also found some reports that were filed directly with the Institute that did not go through the Council. Finally, although care was used to capture reports that bypassed the protocol of submitting their reports through the Council, it is possible that a few reports filed directly with the Institute escaped detection.

In addition, there were 61 law enforcement entities who indicated 80 times they had no assets to report. However, there are still hundreds of law enforcement agencies who did not file reports and who did not indicate they had no assets to report. With 461 police departments listed by the Georgia Sheriffs' Association, there are approximately 375 police departments who fall into this category.

The law requires the reports to be filed with the local governing body for local law enforcement and the state auditor for the state agencies and DAs. All reports are to be filed with the Institute. This requirement allows for public access to the individual reports. The Prosecuting Attorneys' Council and the Institute have provided a new protocol for the entities to help them fulfill their responsibility by transferring the files to the Institute and by forwarding the reports to their respective governing bodies if the entities choose to provide a forwarding email address.

While the Institute provides a good and very important public service by making the reports available on its main and GeorgiaDATA websites, navigating the Institute's main website to find the webpage that hosts the state reports on asset forfeiture was found to be less than friendly. The navigation on the GeorgiaDATA website was easy once it is understood that the civil asset reports are categorized as financial data.

Once that webpage with the reports is found, the next step of finding reports is relatively easy for sheriffs' offices, other county-based law enforcement agencies, and city police departments. However, finding reports for state agencies, district attorneys, and multijurisdictional task forces was more difficult and cumbersome. Many of them were lumped under a single category of "State: Georgia." Because finding these reports required navigation through local government webpages and a financial documents upload page, it was not intuitive.

The reporting requirements make important information available to the public on forfeiture activities of law enforcement activities.

The search engine on the Institute's website was helpful but imperfect. Some test searches failed to retrieve known filings. Our review discovered some reports that were mislabeled and misfiled. Our review also found one unreadable report, perhaps because the file was corrupted.

Of the filed reports, 90 percent were on the proper forms. This means, of course, that 10 percent were not—despite the training, notifications, and availability to answer questions by the Prosecuting Attorneys' Council. The imperfect compliance may continue because, up to this point in time, no one checked to make sure that the reports are in the proper form, complete, and filled out correctly. In response to this finding, PACGA informed us they will be changing the process to include a procedure to accept or reject the reports.⁸⁹

In total, when filled out correctly and completely, the reports provide a nice overview of activity and financial gain from civil asset forfeiture activity. However, consistency and completeness of the filings remain an issue. Of the reports that used the proper forms, 28 percent had incomplete summary pages. A common omission was the failure to report the state cash on hand, which is the year-end balance on the accounts. Another 22 percent did not have the detail pages attached to the reports despite a mechanism provided to do so in the PACGA templates. And 61 percent did not correctly report currency. The currency reporting issue occurred because the information on the net income from the sale of property required double entry into two separate spreadsheet tabs. Most of those reports where currency was reported correctly were with reports when the reporting entity had no sale proceeds to report. Of those reports where a double entry of the data was required, only 5 percent of the law enforcement organizations correctly entered the data.

The reports also require filing of federal activity, giving similar detail as to state activity on property received, currency, expenditure, and ending balance of separate accounts required by agreement with federal agencies. However, a comparison of the state reports with federal reports submitted to Congress revealed 15 Georgia law enforcement entities that failed to list any federal amounts in the state reports. Another 49 Georgia entities may have underreported their federal activities in the state reports.

Most entities that filed the proper reports appeared to be diligent in listing retained property with its intended purpose. One notable exception was the National Guard Counterdrug Task Force that listed in its 2017 report—it's only discovered filing over the three years—"everything retained."

One common formatting problem found in 40 reports using the proper forms was very fine print on some of the pages to the point of being illegible or at least extremely difficult to read. Pagination problems occurred another 53 times, making it difficult to match rows and columns split out across pages. Although these problems may be due to user error, the lack of training or competence in Excel, or the reporting person for the entities not following instructions, experimentation with the templates themselves discovered that these problems can occur easily. Again, PACGA informed us they will change the process to address these concerns.⁹⁰

Survey results consisting of 32 LEAs and 2 MJTFs provided opinions of law enforcement organizations on the law's reporting requirements. Seventy-six percent (76%) of the respondents stated that the PACGA template instructions were clear, and 53 percent sought help in filling out the reports. Only 44 percent of the respondents kept their records in a database. Fifty-five percent (55%) of the respondents said it took only a couple of hours or less to fill out the reports, but 26 percent said it took at least one day up to three days to do so.

On the question of burdensomeness, 46 percent of the respondents found the reporting requirement to be burdensome, especially if not kept up during the year. Some complained about taking resources away from other duties to fill

out the reports. The respondents had numerous suggestions for improving the process, including using the civil action numbers in the template to help identify and pull data. There was overwhelming enthusiasm for the idea of a secure, web-based reporting system if it were user friendly and made the task of reporting activity easier for them. Some respondents pointed out that the reporting system with federal agencies worked well.

Of the filed reports, 90 percent were on the proper forms. This means, of course, that 10 percent were not—despite the training

On the question of auditing, 74 percent of the respondents said their accounts were audited, and some were audited annually. However, there is no systematic requirement for auditing to ensure compliance with following the law and reporting requirements. Given that the templates use prepopulated fields and the opportunity for misreporting, the importance of auditing is accentuated.

Although there are many similarities between federal and state asset forfeiture programs, there are some differences. The federal programs require reports to Congress, but no such reports are sent to the Georgia State Legislature. The federal program requires annual audits, but Georgia does not. The federal government makes compensation of victims a priority with revenue from forfeited assets. Although Georgia allows the resources to be used for victim assistance, it is not a priority.

RECOMMENDATIONS TO REFORM CIVIL ASSET FORFEITURE IN GEORGIA

Based on the findings and conclusions, we have recommendations to improve accountability and transparency, which are stated goals of the General Assembly as expressed in the Georgia Uniform Civil Forfeiture Procedures Act. In theory, these improvements will better protect civil liberties because they will lead to better oversight, make more information available, and reduce the opportunities for abuse. In making these recommendations, we are cognizant of the many demands on law enforcement entities as well as their budgetary restraints. Therefore, these recommendations are crafted in a way to simultaneously make the reporting easier for them and without requiring new revenue from any political subdivision.

In general, the recommendations are intended to improve:

- participation of law enforcement entities in filing the reports,
- compliance with the reporting requirements,
- the reports themselves by making them better,
- transparency by making more information available for the General Assembly and the public,
- information available to allow for easier follow-up on specific cases, and
- accountability by establishing a state-wide system of auditing.

Our specific recommendations fall into two groupings: immediate action items for the Prosecuting Attorneys' Council and the Carl Vinson Institute of Government for changes within the confines of the current system, and recommended legislative changes for the General Assembly for more comprehensive improvements.

Immediate Action Item Recommendations for the Council and the Institute

1. Changes to PACGA's Template

It is recommended that the PACGA revises its template to address issues found in this study.⁹¹

The biggest issue with reports filed by law enforcement en-

tities was the failure of LEAs and MJTFs to reenter the net income from the sale of assets as currency in the templates. We recommend that PACGA changes the template to eliminate this problem as follows:

1. Eliminate the procedure of reentering net income from the sale proceeds in the currency spreadsheet tab;
2. Instead, create a new summation spreadsheet cell on the "General Information" spreadsheet tab for "net income from state property sold;"
3. This new cell should be a formula that automatically sums the net income of all property sold;
4. This new cell should be listed separately and in way where it is clearly seen that it gets added to currency to give total currency;
5. The instructions would, of course, need to make these changes clear.

In addition, we recommend creating a new summation spreadsheet cell that adds up the value of all property retained. Although there is inconsistency in estimating the value of retained property, at least the summation will give a general sense of the total value of retained property. This new summation should be included on the "General Information" spreadsheet tab.

We recommend that PACGA create a new spreadsheet tab for entering the ending balance of accounts to reinforce this reporting requirement that was missed by many law enforcement entities when filing their reports.

We also recommend a new spreadsheet tab to guide the input of identifying information and contact information, including prompts if fields are left blank. This will help with the issue of entities that neglected to fill out all the required fields.

In addition, it may be better if the "General Information" spreadsheet tab were entirely populated from data from the other spreadsheet tabs. The tab can also be renamed "Summary Page" to be more intuitive for the users. The tables below show how the data summations on the new "Summary Page" would compare to the data summations in the current "General Information" page.

CURRENT DATA SUMMARIES IN THE “GENERAL INFORMATION” SPREADSHEET TAB

State Totals Received For Reporting Year
State Currency (Calculated Do Not Enter Value)
State Expenditures (Calculated Do Not Enter Value)
State Cash On Hand:
Fed Totals Received For Reporting Year
Fed Currency (Calculated Do Not Enter Value)
Fed Expenditures (Calculated Do Not Enter Value)
Fed Cash On Hand:

PROPOSED DATA SUMMARIES IN THE “GENERAL INFORMATION” SPREADSHEET TAB PROPOSED TO BE RENAMED “SUMMARY PAGE”

State Totals Received For Reporting Year (Calculated Values: Do Not Enter Data Here)
Net Income from State Property Sold:
+ State Currency Received:
= State Total Currency Received:
Value of State Property Retained:
State Expenditures
State Cash on Hand:
Fed Totals Received For Reporting Year (Calculated Values: Do Not Enter Data Here)
Net Income from Fed Property Sold:
+ Fed Currency Received:
= Fed Total Currency Received:
Value of Fed Property Retained:
Fed Expenditures
Fed Cash on Hand:

Finally, we have one last recommendation for the template. When the law enforcement entity chooses “other” as the statute relied on for the seizure of an asset, there should be an input field to give the exact statute.

2. Better Navigation on the Carl Vinson Institute Website

Recognizing that the Institute continuously makes improvements to its websites,⁹² we recommend that the Carl Vinson Institute of Government consider improving the navigation of its main website to make it easier and more intuitive for users to find the asset forfeiture reports, including relabeling of instructions and webpages. For example, a viewer should not need to enter local government webpages to find a state report or to choose an option to upload files when all they want to do is view a report.

In addition, we recommend the webpage that hosts the reports should provide more categories to find the reports. It might be helpful to utilize a two-step process to find the reports. First, the user can be asked to choose the type of organization, such as the following:

- District attorney
- State agency
- Sheriff's office
- Other county office
- City police department
- Multijurisdictional task force
- School or university police force
- Authority police departments (such as the Savannah/Hilton Head International Airport Police Department)

Next, the user can be asked to choose the specific names within each category and the timeframe. For example, the district attorney category should list all district attorneys that submitted reports at any time. The state agency category should list all state agencies that submitted reports at any time. The same should be done for all other categories.

3. Improved Search and Browsing Capabilities on Carl Vinson Institute Website

Recognizing again that the Institute continuously makes improvements to its websites,⁹³ it is our recommendation that the Carl Vinson Institute website improves its search capabilities to more easily find reports. Providing an advanced search feature, asking for fields such as year range, geographical inputs, etc., may be helpful to users.

In addition, it would be an improvement if the website

In making these recommendations, we are cognizant of the many demands on law enforcement entities as well as their budgetary restraints.

would allow for displaying and browsing through all asset forfeiture reports with labels identifying the organization. For example, if someone wants to see all reports filed for 2018, there should be a way to bring them all up and allow the user to browse through them. Or, as another example, if the user wants to restrict the display and browse through just sheriffs' offices in 2018, there should be a way to allow for that option.

Finally, it would be helpful if the website had a feature that displayed all law enforcement organizations that filed statements indicating they did not have any assets to report.

4. Cooperation between the Council and the Institute to Check Reports

Recognizing that the Council and the Institute are not legally obligated to do so, our recommendation is that they come up with an arrangement for a more thorough review of submitted reports to make sure that the files are readable, in the proper form, complete, and filled out correctly.

One idea is the creation of a checklist when the reports are uploaded. For example, a checklist can help a law enforcement organization to know all the required items for the report to be considered in compliance with the law. The checklist should include formatting issues as well, to prevent the problems of very fine print to the point of being illegible or improper pagination.

The checklist should be provided to the entities as an attachment to the instructions with a contact number for help with any questions.

When an entity is ready to upload the report, the checklist should appear again as a prompt to remind the person up-



loading the report of the required items. Even better, the person submitting the report could be asked to electronically sign that they went through the checklist and believe to the best of their knowledge that the report is complete, in compliance with the law, and without formatting issues.

Likewise, if an entity chooses to upload its report directly on the Institute's website instead of submitting the report to the Council, the Institute's website should defer the person uploading the report to the Council instead.

Finally, there probably still needs to be a better way to check that the reports are readable with at least a glance through them to assure that they appear complete. Staffing limitations may make this difficult, but perhaps the Institute and Council can devise a plan to accomplish this task. For example, it might make a good project for a work-study student at the University of Georgia.⁹⁴

In response to receiving an advance draft of this report, the Council informed us that they will be changing the process of submitting the reports to review the submissions. This new process will include a mechanism to accept or reject the reports.⁹⁵

Recommendations for Legislative Changes

5. Secure, Web-based Reporting System

We recommend that the General Assembly consider establishing a system for law enforcement entities to enter the data relating to civil asset forfeitures and to track cases.⁹⁶

The system shall set up to serve the law enforcement entity, benefit the public, and have the following characteristics:

- Be run by a state agency, such as the Georgia Technology Authority
- Be secure and not accessible outside the law enforcement community, other than the state agency given responsibility for administering the system
- Be user-friendly
- Other than having an access terminal, not require a law enforcement entity to have any special technical knowledge or equipment
- Require data to be entered only once, or updated when necessary
- Coordinate the entry of data across entities, such as the DA office and the LEAs within its jurisdiction
- Use judicial coding, such as Civil Action Codes, to clearly identify cases and actions
- Automatically prompt entities on missing data fields and when information needs to be entered for state reports
- Have the state agency given responsibility for administering the system generate the state reports, after receiving clearance from the law enforcement entity, and send copies of the reports to the governing bodies, state auditor, and the Carl Vinson Institute
- Allow law enforcement entities to use the system to generate their federal Equitable Sharing Reports
- Allow law enforcement entities to generate specialized reports for any other purpose

- Allow the public to search data on specific cases, provided no sensitive information is released
- Allow public access to the data, including downloading data, provided that no sensitive information is released

In addition, it is our recommendation that the state agency given responsibility for the system shall produce an annual report for the General Assembly. This report shall aggregate data by year on net income from the sale of property, value of retained property, currency received, expenditures, and balance on accounts for both state and federal activities. To make the reporting system more complete, we also recommend that DA offices also report any federal revenue received from participation with federal agencies resulting in shared forfeited assets. In addition, the report shall provide data by law enforcement entity similar to the appendices attached to this study.

This new system would know when a LEA or MJTF received a distribution, and the state agency responsible for the system would then be responsible for following up with each DA, LEA, and MJTF to make sure they input the data necessary to complete the reports. Also, the responsibility should be given to the state agency to follow-up with all other law enforcement entities to make sure they are inputting appropriate data in case they had activity or have funds in accounts from prior year activities. The agency would be also responsible for verifying and recording those law enforcement entities that have no asset forfeiture activity requiring no report.

In order to fund the web-based system, it is recommended that a portion of the forfeited assets are used for this purpose. The General Assembly would need to estimate the start-up cost and dedicate a percentage of the proceeds for that purpose. After the start-up costs are paid for, the percentage can be reduced to generate an amount necessary to maintain the system.

The General Assembly may also consider using a portion of the proceeds to help smaller police departments without adequate resources to connect to the system, such as providing computer terminals.

6. Random Compliance Audits

The General Assembly should consider establishing a system of random compliance audits of law enforcement entities that participate in civil asset forfeiture activity. The audits shall check that procedures are being followed, records are adequately kept, funds are kept separate as required, retained property are used appropriately, and expenditures are used pursuant to legal guidelines. If deficiencies are found, the audit reports should make recommendations for corrective action and the respective DA office shall be given copies of the audit. If the deficiency is with a DA office, then the attorney general should be given a copy.

The General Assembly should choose the best state agency to conduct the compliance audit. The Department of Audits would be a good candidate for this role.

Funding for the audits should come from a percentage of the proceeds of civil asset forfeitures.

FOLLOW-UP INQUIRIES

While our study provides recommendations to improve accountability and transparency through better reporting and auditing, civil asset forfeiture will continue to be an issue with major legal, law enforcement, and civil liberty consequences. Therefore, we are recommending further inquiries into other questions left unanswered in our study. Below are some of the follow-up studies that we believe will advance public understanding and debate that can lead to better public policies.

Defining and Examining Excessive Fines

The question of what constitutes an excessive fine in relation to civil asset forfeiture laws remains yet undefined. Answering this question is important not only for Georgia but the nation as well. The study would examine numerous court rulings on the appropriateness of asset forfeitures, especially in regard to the question on when the penalties become excessive, and it would delve into the question if civil liberties are in jeopardy due to current practice. This study would further provide perspectives on the limitations on the seizure of property given constitutional protections and propose ways that public policy can guard against excessive penalties.

As a matter of background, the U.S. Supreme Court unanimously held in February of 2019 that “the eighth amendment’s excessive fines clause is an incorporated protection applicable to the states under the fourteenth amendment’s due process clause.”⁹⁷ Therefore, according to the opinion of the court, the State of Indiana must abide by a prior U.S. Supreme Court ruling that the excessive fines clause applies to civil asset forfeiture proceedings because “such forfeitures fall within the clause’s protection when they are at least partially punitive.”⁹⁸

The significance of the *Timbs* decision is not that the legal concept of excessive fines is now applied to the states, but rather it is a reaffirmation that this clause applies to civil asset forfeitures. However, it leaves open the question of what constitutes an excessive fine. As Lisa Soronen, executive director of the State and Local Legal Center of the National Conference of State Legislatures, explains:

The Supreme Court’s opinion explains why this case doesn’t change much. All 50 state constitutions have excessive fines clauses that apply to states and local govern-

ments—some have been there for centuries. It is possible that some of these state constitutional provisions have been interpreted differently than the federal provision. But there is so little federal case law on what constitutes an excessive fine that it is unlikely most interpretations of state constitutions contradict the scant federal case law.

...

*The Supreme Court has previously held that criminal and civil forfeitures are “fines” because they constitute punishment. So, in *Timbs*, the court didn’t provide any guidance on what is a “fine.” Had it done so this case would have been a bigger deal.”⁹⁹*

In perhaps the first state decision in the aftermath of the *Timbs* decision, a South Carolina judge ruled on August 28, 2019, that its forfeiture fines are excessive. Chief Administrative Judge Steven H. John ruled that “This court finds that South Carolina’s forfeiture statutes, S.C. Code Sections 44-53-520 and 44-53-530, violate the prohibition on excessive fines found in the eighth amendment to the United States Constitution and Article I, Section 15 of the South Carolina Constitution.”¹⁰⁰ This South Carolina case highlights the need for a more thorough examination.

Forfeitures without Convictions or Being Charged with a Crime

Another important area for study is the degree to which assets are being civilly forfeited without the person from whom the assets were seized being convicted or even charged with a crime. Such a study could provide critical information on the extent of the problem and form the basis for public debate on the fairness of these forfeitures in those circumstances.

Currently, fifteen states require a criminal conviction before seized assets can be forfeited.¹⁰¹ Georgia is not one of those states. Georgia law does not require law enforcement agencies to include the case number where the assets are evidence. This practice makes it all but impossible to determine if the owner of the assets was convicted of a crime.

Furthermore, Georgia’s current reporting requirements make it almost impossible to know how many forfeited assets came from people who were never charged with a crime. Evidence outside Georgia suggests the number of people who lose as-

sets via forfeiture and are never charged with a crime could be quite large. A Washington Post analysis of the federal program found that “of the nearly \$2.5 billion in spending reported [in the thousands of annual reports submitted by local and state agencies to the U.S. Justice Department’s Equitable Sharing Program] forms, 81 percent came from cash and property seizures in which no indictment was filed, according to an analysis by The Post.”¹⁰² In South Carolina, the Greenville News examined 3,200 cases between 2014 and 2016 involving asset forfeiture and found: “Nearly 800 times when police seized money or property, no related criminal charge was filed. In another 800 cases, someone was charged with a crime but not convicted.”¹⁰³ In other words, nearly 50 percent of the asset forfeiture cases reviewed by the Greenville News did not result in a conviction or a criminal charge.

Case Study Analysis

Using a standard academic technique of case studies, following specific cases chosen at random or based on a set of criteria could be revealing. This study would investigate the circumstances of the selected cases and how the law was applied. The case-study approach will provide real-life examples where the appropriateness of law enforcement actions, either positive or negative, can be debated and may also reveal incidences where the penalty of forfeiture can be judged as fair or excessive. Such a study could help provide important context to the public understanding of civil asset forfeiture as a tool for law enforcement.

Interstate Comparisons and Best Practices

A useful study would be comparing Georgia law and practice with those of other states. This approach will help define the differences among the states and could highlight some best practices that Georgia or other states could adopt.

Civil Asset Forfeitures and Funding of Law Enforcement

Another worthwhile study would be an examination of the adequacy of funding law enforcement agencies vis-a-vis revenue from asset forfeitures. This study would explore the fi-

nancial struggles of law enforcement and any dependence that has developed on forfeiture distributions.

According to the Tax Policy Center of the Urban Institute and Brookings Institution, Georgia spends \$251 per capita on law enforcement. This ratio is less than the national average of \$328, and less than the \$292 spent on average across the southeastern United States.¹⁰⁴ The policy question will focus on the adequacy of this funding level for law enforcement in Georgia.

Civil asset forfeitures do more than take the profits from the illegal drug trade. They are used as resources for law enforcement to fight the drug trade and the other criminal enterprises. Clearly, it is in the public interest to shut down criminal drug cartels, but to do so, the public must make the commitment to adequately fund that fight.

Given these circumstances, the policy question arises if there are unintended negative consequences by encouraging law enforcement to seek more opportunities to obtain property that can be forfeited given Georgia’s current burden of proof in civil asset forfeiture cases.

Some in law enforcement feel they are asked to do too much. In the wake of five officers murdered in a Dallas shooting rampage, Dallas Police Chief David Brown said:

“We’re asking cops to do too much in this country. We are. Every societal failure, we put it off on the cops to solve. Not enough mental health funding, let the cops handle it. ... Here in Dallas we got a loose dog problem; let’s have the cops chase loose dogs. Schools fail, let’s give it to the cops. ... That’s too much to ask. Policing was never meant to solve all those problems.”¹⁰⁵

The core function of law enforcement is to keep our communities safe. Combating the drug trade and other criminal enterprises is central to reaching that goal, and LEAs need adequate resources to carry out their duties. The public must commit to provide those resources and answer the question about what role civil asset forfeiture should play in funding law enforcement activities.



GRATITUDE FOR COMMENTS ON DRAFT REPORT

A draft report of this study was provided to the Council and the Institute to solicit comments for the improvement. Both the Council and the Institute made suggestions for clarification and correction. All their comments were helpful and are addressed in this final report.

The Institute provided nine comments. Five of those comments dealt with the procedure for law enforcement entities to submit their reports to the Council who then would forward those submissions in batches to the Institute. The draft report called the procedure a courtesy service, and the Institute asserted it was a protocol. The final report adopted the recommended change. The Institute also pointed out that the prior process required law enforcement entities to file their reports directly with the Institute, which is why some entities had continued to do so, which meant they bypassed the new protocol. The Institute further predicted the bypassing of the protocol will cease as the entities become more familiar with the new protocol. The Institute also reasserted a point made earlier that receiving the reports in

batches is more efficient. All these points were made clearer in the final report.

Two of the Institute's comments dealt with its websites to access the reports. The draft sent to the Institute neglected the GeorgiaDATA.org website, and this information was added to the final report. The Institute also pointed out that they continually make enhancements to their websites and will consider the ideas presented in the draft report for future enhancements. The final report was changed to reflect those points. The Institute also mentioned that it already enhanced its system for 2018 reports by more clearly naming the files for easier identification by users. Although this point was already made in the draft report, it was made clearer in the final report.

The last two comments by the Institute emphasized that the role of the Institute is to provide access to the reports and be a repository of the reports along with other government reports. Therefore, the Institute asserted that the accuracy

of the reports is not its responsibility. It was not the intention of the draft report to imply that the Institute had such a responsibility, other than to make sure that the reports are readable and to suggest cooperation with the Council in helping with the task of reviewing the reports for formatting issues or completeness. The language was made clearer in the final report not to imply the Institute has that responsibility.

The Council provided ten comments on the draft report. Three of the comments clarified the procedure of forfeiting assets. The first point clarified that the DA has 60 days from the date of seizure to initiate forfeiture proceedings. The language in the draft report was ambiguous on when the sixty days started. The second point clarified that when a DA receives a claim for property, he or she must file a complaint with the court. The draft language suggested that the claim must be sufficient before the DA filed the complaint. The third comment clarified the point that a copy of an order of distribution must be provided to both the law enforcement agency and the chief executive officer of the corresponding political subdivision. Changes addressing these three comments were incorporated into the final report.

Three of the Council's comments dealt with the distribution of forfeited assets. The Council pointed out language that did not clearly distinguish between court costs and other costs to be paid from forfeited asset pools. The Council also clarified that the exceptions for the order by which distributions are made for certain offenses allow DA offices to receive more than the 10 percent of the forfeited asset

pools, and it gave the reasons why the General Assembly created the exceptions. The Council also made clear that it is the net income from the sale of assets that are received by LEAs and MJTFs that are to be reported as currency. The language in the draft report did not state this clearly enough. All of these points made by the Council were clarified in the final report.

The fifth comment pointed out that one of four exceptions to the order of distribution in the draft report referred to the wrong offense. The draft report listed the offense of interference with custody of a child (O.C.G.A. § 16-5-45). The final report corrected the reference to be the offense of human trafficking (O.C.G.A. § 16-5-46).

The Council pointed out that a DA office can also receive assets from participating with federal agencies when forfeited assets are shared with state and local law enforcement entities. Although already known by us, the draft report had erroneously stated that they do not participate. The final report was corrected and inserted the true reason why DA offices do not report federal distributed assets, i.e., the Georgia statute does not require it.

The last two comments of the Council were on the draft findings on law enforcement entities that failed to use the proper forms when filing reports and the various formatting issues with the filings. The Council informed us that they will be making changes to address these findings, including creating a review process where filings can be rejected. Our final report acknowledges these comments.

LIST OF APPENDICES

Appendix A: Total Filings and Responses from Asset Forfeiture Reports by Law Enforcement Entities

Appendix B: Filing Status When Proper Form Was Filed from Asset Forfeiture Reports by Law Enforcement Entities

Appendix C: Reported Asset Forfeiture Totals for Filings Using Proper Forms by Law Enforcement Entities

Appendix D: Reported Asset Forfeiture Totals Including Estimates from Improper Forms and Partial Filings by Law Enforcement Entities

Appendix E: Focus on Reported State Currency Tabulated from Asset Forfeiture Reports by Law Enforcement Entities

Appendix F: Reported State Currency When Net Sale Proceeds Exceeded \$0 from Asset Forfeiture Reports by Law Enforcement Entities

Appendix G: Log of State Asset Forfeiture Report Filings for 2016, 2017, and 2018

Appendix H: 2016 Asset Forfeiture Report Filings Overview

Appendix I: 2016 Asset Forfeiture Summary Data as Reported by Law Enforcement Entities

Appendix J: 2017 Asset Forfeiture Report Filings Overview

Appendix K: 2017 Asset Forfeiture Summary Data as Reported by Law Enforcement Entities

Appendix L: 2018 Asset Forfeiture Report Filings Overview

Appendix M: 2018 Asset Forfeiture Summary Data as Reported by Law Enforcement Entities

Appendix N: Comparing Federal Equitable Sharing Funds Received with Total Currency Reported in State Reports

Appendix O: Law Enforcement Entities with Federal Equitable Sharing Funds without Filing State Reports

Appendix P: Law Enforcement Entities That May Have Underreported Federal Amounts

Appendix Q: LEA Survey Interview Questions

ENDNOTES

¹ See the Searle Freedom Trust website: <https://searlefreedomtrust.org>.

² The Georgia State Constitution: Article I, Section I, paragraphs I, XIII, and XVII.

³ Official Code of Georgia Annotated, or O.C.G.A., § 9-16-19-g1.

⁴ O.C.G.A. §§ 16-13-30.1, 16-13-30.2, 16-13-30.4, 16-13-32.1, and 16-13-49.

⁵ O.C.G.A. §§ 16-5-44.1, 16-6-13.2, 16-12-24, 16-12-30, 16-12-32, and 16-14-1 et seq.

⁶ O.C.G.A. §§ 3-10-11 & -12, 10-1-454, 12-4-48, 12-5-137, 12-8-2, 27-3-12, and 27-3-26.

⁷ O.C.G.A. § 9-16-7.

⁸ O.C.G.A. § 9-16-11.

⁹ O.C.G.A. § 9-16-10.

¹⁰ O.C.G.A. § 9-16-12.

¹¹ O.C.G.A. § 9-16-13.

¹² O.C.G.A. § 9-16-17.

¹³ O.C.G.A. § 9-16-19.

¹⁴ According to the Prosecuting Attorneys' Council of Georgia, or the Council, the district attorney sometimes forgoes his portion. Because the DA drafts the order of disposition and distribution to be approved by the court, he can easily choose not to receive his 10 percent share simply by excluding it in the proposed order. Email correspondence with Council staff.

¹⁵ O.C.G.A. § 9-16-19.

¹⁶ *Idem*.

¹⁷ O.C.G.A. §§ 9-16-19, 7-1 Article 11, 16-5-46, 16-8 Article 5, and 16 Chapter 14.

¹⁸ Comments provided by the Council, December 12, 2019, based on an advance draft of this report pointed out that this exception allows the district attorney's office "to potentially receive more than 10 percent of the remaining forfeiture pool. The Legislature created this exception because of the extraordinary time and labor a district attorney's office must dedicate to prosecute a forfeiture under these four statutes."

¹⁹ O.C.G.A. § 9-16-19.

²⁰ *Idem*.

²¹ *Idem*.

²² *Idem*.

²³ *Idem*.

²⁴ *Idem*.

²⁵ *Idem*.

²⁶ *Idem*.

²⁷ *Idem*.

²⁸ O.C.G.A. § 9-10-20

²⁹ O.C.G.A. § 9-16-19

³⁰ U.S. Department of Justice and U.S. Department of the Treasury, Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies, July 2018, p. 1.

³¹ 21 U.S. Code § 881.

³² 18 U.S. Code §§ 981 to 987.

³³ 19 U.S. Code § 1616a.

³⁴ 31 U.S. Code § 9705.

³⁵ 18 U.S.C. § 1963; U.S. Department of the Treasury Office of Inspector General, Audit of the Department of the Treasury Forfeiture Fund's Financial Statements for Fiscal Years 2018 and 2017, OIG-19-022, Dec. 13, 2018, p. 2.

³⁶ 18 U.S.C. § 1956; DOJ OIG, 2018 Audit, p. 3.

³⁷ *Idem*; Limitations on use of Asset Forfeiture Funds are delineated in 28 U.S.C § 524(c).

³⁸ U.S. Department of Justice, Types of Federal Forfeiture, Asset Forfeiture Program, online, accessed May 2, 2019, last updated February 1, 2017: <https://www.justice.gov/afp/types-federal-forfeiture>.

³⁹ DOJ OIG, 2018 Audit, p. 5

⁴⁰ Treasury OIG, 2018 Audit Report, p. 1.

⁴¹ Combined list from two publications: DOJ and the Treasury, Guide, pp. 2 and 3, and DOJ OIG, 2018 Audit, p. 3.

⁴² DOJ OIG, 2018 Audit, p. 5.

⁴³ Quoted verbatim per 31 U.S. Code § 9705 (Department of the Treasury Forfeiture Fund).

⁴⁴ Quoted verbatim per 28 U.S.C § 524(c).

⁴⁵ 28 U.S.C § 524(c) and 31 U.S. Code § 9705, respectively.

⁴⁶ DOJ OIG, 2018 Audit.

⁴⁷ Treasury OIG, 2018 Audit Report.

⁴⁸ DOJ and the Treasury, Guide, p. 2.

⁴⁹ *Ibid*, p. 4.

⁵⁰ *Ibid*, pp. 9 and 10.

⁵¹ Ibid, p. 20.

⁵² Ibid, p. 21.

⁵³ Ibid, p. 24.

⁵⁴ Ibid, p. 24.

⁵⁵ Ibid, p. 21.

⁵⁶ Ibid, p. 26.

⁵⁷ U.S. Department of Justice, FY 2018 Asset Forfeiture Fund Reports to Congress, Summary of Equitable Sharing Payments by State, accessed online on May 1, 2019. Last updated February 14, 2019: <https://www.justice.gov/afp/fy2018-asset-forfeiture-fund-reports-congress>.

⁵⁸ Treasury OIG, 2018 Audit Report, p. 47.

⁵⁹ O.C.G.A. § 9-16-19.

⁶⁰ Idem.

⁶¹ O.C.G.A. § 9-16-19.

⁶² O.C.G.A. § 36-80-21.

⁶³ O.C.G.A. § 9-16-19.

⁶⁴ The make, model, and serial number may be withheld if they would disclose the identification of property being used in a confidential investigation or if it would jeopardize an on-going investigation. O.C.G.A. § 9-16-19.

⁶⁵ Information on how retained property is being used may be withheld if it would disclose the identification of property being used in a confidential investigation or if it would jeopardize an on-going investigation. O.C.G.A. § 9-16-19.

⁶⁶ O.C.G.A. § 9-16-19.

⁶⁷ Idem.

⁶⁸ Idem.

⁶⁹ Based on written responses to email inquiries and interview questions with Council staff.

⁷⁰ The Carl Vinson Institute of Government, University of Georgia, or the Institute, described the new procedure to submit reports as a new protocol. The Council referred to the procedure as a courtesy service. In truth, it is both.

⁷¹ Based on comments by the Institute, December 2, 2019, on an advance draft of this report. In its comments, the Institute predicted that the practice of submitting the reports directly to the Institute will cease as law enforcement entities become familiar with the new protocol.

⁷² Based on written responses to email inquiries and interview questions with Institute staff.

⁷³ The Council's website address is <https://pacga.org/resources/for-law-enforcement/asset-forfeiture-reporting>.

⁷⁴ Directions for Filling out the Asset Forfeiture Reporting

Form for District Attorneys Pursuant to O.C.G.A. § 9-16-19(g)(3)(B) (https://pacga.org/wp-content/uploads/2019/01/INSTRUCTIONS_FOR_DAs_UCFPA_FORM.pdf) and Directions for Filling out the Asset Forfeiture Reporting Form for LEAs, MJTFs and State Agencies Pursuant to O.C.G.A. § 9-16-19(g)(3)(A) (https://pacga.org/wp-content/uploads/2019/01/INSTRUCTIONS_FOR_LEAs_UCFPA_FORM.pdf).

⁷⁵ Council's reporting forms: Asset Forfeiture Reporting For District Attorneys O.C.G.A. 9-16-19(g)(3)(B) (<http://lf.pacga.org/forms/assetforfeitureda>) and Asset Forfeiture Reporting Law Enforcement, Multi-Jurisdictional Task Forces, and State Agencies O.C.G.A. 9-16-19(g)(3)(A) form (<http://lf.pacga.org/forms/assetforfeiture>).

⁷⁶ Council's Excel workbook template: "Asset-Forfeiture-DA-2018-Template.xlsm" (<https://pacga.org/resources/for-law-enforcement/asset-forfeiture-reporting/>).

⁷⁷ Idem.

⁷⁸ Based on written responses to email inquiries and interview questions with PACGA staff.

⁷⁹ The Council clarified that O.C.G.A. § 9-16-21(b) excludes DA offices from the requirement of reporting federal revenue from participation in joint operations with federal agencies. Council comments, December 12, 2019.

⁸⁰ One option in the prepopulated field is "other." It is our recommendation that when "other is selected" the entity needs to input the exact statute.

⁸¹ The Jenkins County Sheriff's Office 2016 report was unreadable.

⁸² 43 LEAs indicated for one year from 2016 to 2018 they had no assets to report, 17 LEAs indicated for two of those years they had no assets to report, and 1 DA Office, i.e., Gwinnett Judicial Circuit District Attorney's Office, indicated for all three years it had no assets to report.

⁸³ Because of this finding, the Council informed us that they will disable the "save as" function and work more closely with law enforcement entities with a revised procedure to avoid these problems of incomplete filings. Council comments, December 12, 2019.

⁸⁴ There were a few cases where the entity did not report net income or when the gross income matched the net income, indicating a possible error in reporting. In those cases, the gross income was used.

⁸⁵ The federal report listed the entity as "Judicial Circuit—Office of the District Attorney" without further information.

⁸⁶ Council comments, December 12, 2019.

⁸⁷ The Institute spelled out in more detail the process of

creating the category of “State: Georgia” for reports from DA offices and state agencies. In addition, the comments confirmed the improvement of clearly naming the files for the 2018 reports. Institute comments, December 2, 2019

⁸⁸ Excel is the spreadsheet program for Microsoft Office that enables storing, organizing, and manipulating data, including a wide range of formulae, including financial, statistical, and engineering, and is programmable for more sophisticated users and can be set up as standard forms and templates for reporting purposes.

⁸⁹ Council comments, December 12, 2019,

⁹⁰ Idem.

⁹¹ The Council was given an advance copy of this report to allow it to make these changes for the 2019 reports.

⁹² The Institute stressed that they “continually make enhancements.” Institute comments, December 2, 2019. We did not mean to imply otherwise in the draft submitted to the Institute.

⁹³ Idem.

⁹⁴ Idem; the Institute made the point that it does not have the resources to check the reports nor do they see it as their role. Specifically, the Institute stated that “it is the responsibility of local governments and state government auditors to evaluate the accuracy of the reports.” Institute comments, December 2, 2019.

⁹⁵ Council comments, December 12, 2019,

⁹⁶ The institute considered a web-based data collection system. However, the Institute is “tasked with being a repository of a variety of local government financial reports” and a new system “would require significant time and resources.” Institute comments, December 2, 2019.

⁹⁷ *Timbs v. Indiana*, Supreme Court of the United States, Decided February 20, 2019, Syllabus by the Reporter of Decisions, p 1: https://www.supremecourt.gov/opinions/18pdf/17-1091_5536.pdf.

⁹⁸ Ibid, p 2.

⁹⁹ Lisa Soronen, “Timbs vs. Indiana Civil Forfeiture Case Won’t Have Much Impact,” The NCSL Blog, National Conference of State Legislatures, April 10, 2019: <http://www.ncsl.org/blog/2019/04/10/timbs-vs-indiana-civil-forfeiture-case-wont-have-much-impact.aspx>.

¹⁰⁰ *Richardson, Jr, on behalf of the 15th Circuit Drug Enforcement Unit v. \$20,771 and Travis Lee Green*, Court of Common Pleas, 15th Circuit Order, 2017-CP-26-07411, Decided August 28, 2019: <https://publicindex.sccourts.org/Horry/PublicIndex/PImageDisplay.aspx?ctagency=26002&doctype=D&docid=1567016063507-983&HKey=8410957535484798510610468981141081011121001091215674977285102761039711898834357679956547352996611785>.

¹⁰¹ “Civil Forfeiture Reforms on the State Level,” Institute for Justice webpage: <https://ij.org/activism/legislation/civil-forfeiture-legislative-highlights>, accessed Dec. 17, 2019.

¹⁰² Robert O’Harrow, Jr., Steven Rich, and Shelly Tan, “Asset seizures fuel police spending,” The Washington Post, October 11, 2014: <https://www.washingtonpost.com/sf/investigative/2014/10/11/asset-seizures-fuel-police-spending>.

¹⁰³ National Cary, “Civil asset forfeiture in South Carolina is unconstitutional, circuit court judge rules,” The Greenville News, October 15, 2019: <https://www.greenvilleonline.com/story/news/2019/10/15/civil-asset-forfeiture-sc-unconstitutional-circuit-judge-rules/3988345002>.

¹⁰⁴ “State and Local General Expenditures, Per Capita: 2004 to 2015,” Tax Policy Center of the Urban Institute and Brookings Institution, webpage table, December 15, 2017: <https://www.taxpolicycenter.org/statistics/state-and-local-general-expenditures-capita>.

¹⁰⁵ Brady Dennis, Mark Berman, and Elahe Izadi, “Dallas police chief says ‘we’re asking cops to do too much in this country,’” The Washington Post, July 11, 2016: <https://www.washingtonpost.com/news/post-nation/wp/2016/07/11/grief-and-anger-continue-after-dallas-attacks-and-police-shootings-as-debate-rages-over-policing>.



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