

FORFEITING ACCOUNTABILITY

Georgia Law Enforcement's
Hidden Civil Forfeiture Funds

Welcome
Georgia



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EXECUTIVE SUMMARY

Georgia has some of the worst civil forfeiture laws in the country. A recent national report gave the Peach State a D- for its civil forfeiture laws and practices; only four other states received similarly low grades. To make matters worse, this report finds that Georgia law enforcement agencies routinely fail to follow basic state reporting laws that would provide some measure of public accountability.

Civil forfeiture is the power of law enforcement to seize cash, cars, homes and other property on the mere suspicion of criminal activity. Unlike *criminal* forfeiture, the owner need not be convicted to lose property. Indeed, a key problem with Georgia's law is that it forces owners to prove their innocence to get their property back, effectively treating people caught up in forfeiture proceedings as guilty until proven innocent. Worse, the law enforcement agencies that take the property receive 100 percent of the proceeds for their own use, providing a strong incentive to pursue property instead of criminals.

Georgia's civil forfeiture laws do have one good feature: They require law enforcement agencies to annually report forfeiture proceeds and expenditures to the local authority that provides their funding. Local governments are then required to make these records publicly available online.

These reporting requirements ought to serve as a minimal check on forfeiture practices and potential abuse. They should also prevent forfeiture funds from becoming off-the-books slush funds through which law enforcement agencies can self-finance, exempted from democratic controls.

However, this report finds that Georgia's reporting requirements are rarely followed by law enforcement agencies:

- In a random sample of 20 Georgia law enforcement agencies, only two were found to be reporting as required by law.
- Of 15 major law enforcement agencies in Georgia's five most populous cities and counties, only one produced the forfeiture report required by law.
- Our findings mirror a 2002 state audit that found that 85 percent of 26 agencies surveyed failed to create annual reports as required.

**Welcome to
Georgia**

FORFEITING ACCOUNTABILITY

At the same time, federal data indicate that forfeiture use is on the rise in Georgia:

- A federal survey shows that Georgia agencies took in \$6 million in forfeiture proceeds in 1993, but that figure rose to \$33 million by 2003, the most recent year for which data are available. These figures are likely understated significantly as the survey covers only a sample of Georgia agencies.

- Georgia agencies are taking in large and increasing amounts of property under federal forfeiture law; it is unlikely that agencies forfeiting property under federal law are not also doing so under state law. From 2000 to 2010, Georgia agencies received more than \$185 million from forfeitures processed under federal law. In 2010, Georgia agencies took in a record \$28.6 million—more than any other state except Texas and California and four times the national average.

- The 15 major law enforcement agencies in Georgia's most populous areas accounted for more than 70 percent of the forfeiture proceeds reported in 2003, according to the federal survey.

- Some of these agencies have taken in large amounts compared to their annual budget: 2003 data show the Cobb County Sheriff's Office took in \$9.5 million in forfeiture proceeds—76 percent of its \$12.4 million budget for the same year.

These federal data are incomplete, not specific to Georgia law and do not reveal how law enforcement agencies are spending forfeiture funds. Thus, they are no substitute for agencies following state reporting requirements. They do indicate, however, that millions in forfeiture proceeds are being used by law enforcement with little or no accounting to public officials or the public at-large.

The limited protections for innocent owners and perverse incentives of Georgia's civil forfeiture regime make it ripe for abuse—problems compounded by a lack of public accountability. Georgia's civil forfeiture laws are in need of reform. But at the very least, law enforcement should follow the reporting laws that are already on the books.



INTRODUCTION

Julian Smith felt he had nothing to hide during a routine traffic stop in Rockdale County, Ga., so he consented to a vehicle search. Police then spent an hour ransacking his car, including a child's diaper bag, before they found less than one one-thousandth of an ounce of marijuana. Because of this trace presence of illegal drugs, police assumed the \$12,000 in cash Julian was carrying as part of his job as a music promoter was drug-related and seized it.¹ With the help of an attorney, Julian recovered his money because Georgia law does not allow forfeiture when the suspected crime is possession of less than four ounces of marijuana,² but it cost him \$8,000 in legal fees.³



Through civil asset forfeiture, law enforcement agencies can seize property merely with a suspicion it is connected to a crime even if the owner has not been accused, let alone formally convicted. In contrast to *criminal* asset forfeiture, where property is taken only after a conviction, *civil* asset forfeiture laws allow law enforcement to take action against the property itself. The property can be deemed “guilty” and taken regardless of the innocence of the owner.

The incentives in Georgia for pursuing such actions are significant. The agency that seizes the assets keeps up to 100 percent of the proceeds minus a fee paid to the District Attorney's office for processing, usually around 10 percent. From there, it is hard to tell what these agencies do with forfeited property. While a Georgia statute⁴ requires law enforcement agencies to report proceeds from forfeiture to the local governments that provide their financing, many municipalities have no record of these reports and a large number of law enforcement agencies admit to being in non-compliance with the reporting law.

While it is impossible to determine exactly where seized property is going, some individual cases suggest proceeds are not always used for legitimate law enforcement purposes. In one instance, Camden County Sheriff Bill Smith was voted out of office after it was publicized that he used seized assets to purchase a \$90,000 sports car and a \$79,000 boat and to hire inmates to work on his, his girlfriend's and his ex-wife's private property, among other questionable expenditures.⁵ In DeKalb County, Police Chief Terrell Bolton assigned 10 vehicles for his personal use, including a 2004 Range Rover valued at \$32,000 and a 2006 Mercedes-Benz valued at \$55,000. Both were acquired by civil forfeiture. Bolton explained that the vehicles were at his home because he feared another agency would take them and defended his weekend use of the vehicles by claiming it was needed to keep the batteries and tires in working order.⁶

Such abuses highlight the dangers of a legal regime that incentivizes forfeiture and the need for meaningful public

accountability. To gain a better understanding of the use of forfeiture in the Peach State, the Institute for Justice examined existing data and attempted to acquire additional information through public record requests. Ultimately, we found that data were almost impossible to obtain despite state laws that require law enforcement agencies to keep records and to make them available to the public. What data we did find points to sizable and increasing use of forfeiture by Georgia law enforcement officials.

GEORGIA'S CIVIL FORFEITURE REGIME: AMONG THE NATION'S WORST

Although its use is widespread throughout the United States,⁷ civil asset forfeiture is not widely recognized or understood. Unlike a criminal proceeding in which legal action is brought against an individual, in civil forfeiture, the government proceeds against the property directly, as if the property somehow acted to assist in the commission of a crime. It is a scheme based on 18th-century maritime law that permitted courts to obtain jurisdiction over property when it was virtually impossible to obtain jurisdiction over the property owners—pirates, for example—guilty of violating the law.

Although civil forfeiture remained a relative backwater in American law for many years, modern civil forfeiture expanded greatly during the early 1980s as governments at all levels stepped up the war on drugs. No longer tied to the practical necessities of enforcing maritime law, the forfeiture power now applies to a broad range of crimes. Almost all states and the federal government have civil forfeiture laws, and Georgia's is among the worst. Indeed, a recent Institute for Justice report gave Georgia a D- for its civil forfeiture laws and practices; only four other states received similarly low grades.⁸

One key feature that makes Georgia's civil forfeiture law particularly bad is how it shifts the burden of proof in forfeiture cases. In a criminal

case, the government must prove its case against the accused, who is presumed innocent. If it cannot, the accused goes free. The burden of proof is on the government. In Georgia, the burden to prove that seized assets are not related to criminal acts rests on the person whose assets were seized. In other words, the property owner is presumed guilty and has to prove his innocence to get his property back.⁹ And the government only needs to meet a low “preponderance of the evidence” standard to hold on to seized assets.¹⁰ This standard is significantly lower than the “beyond a reasonable doubt” standard law enforcement must meet to convict a person of a crime, again putting owners at a disadvantage.

Another reason for the D- grade is that up to 100 percent of forfeiture money can go to law enforcement under Georgia law.¹¹ This provides Georgia police with a strong incentive to pursue property instead of criminals. It also provides law enforcement with large amounts of cash and other assets that they do not have to obtain through the normal budgetary channels, i.e., convincing elected representatives to levy taxes or issue bonds. This money and property becomes a “self-funding” mechanism exempt from the democratic process.

To try to prevent civil forfeiture proceeds from becoming an off-the-books slush fund, the Georgia legislature requires local law enforcement agencies to annually report and itemize all property obtained through civil forfeiture as well as what they do with it. The law is clear: “Any

local law enforcement agency receiving property under [the forfeiture statute] shall submit an annual report to the local governing authority. The report shall be submitted with the agency's budget request and shall itemize the property received during the fiscal year and the utilization made thereof.”¹²

This specific statute concerns forfeitures related to drug crimes (which constitute most civil forfeiture actions), but statutes of many other criminal offenses incorporate the statute by reference.¹³ Thus, local law enforcement agencies are legally required to report almost all forfeiture proceeds.

A RECENT INSTITUTE FOR JUSTICE REPORT GAVE GEORGIA A D- FOR ITS CIVIL FORFEITURE LAWS AND PRACTICES; ONLY FOUR OTHER STATES RECEIVED SIMILARLY LOW GRADES.

Despite this crystal clear command many, perhaps most, Georgia law enforcement agencies simply fail to report their forfeitures.¹⁴ Thus, millions of dollars flow every year through law enforcement coffers without notice to outside elected officials or taxpayers. The temptation for abuse with that money is obvious. The money and property obtained through forfeiture can easily turn into a slush fund. Not only that, the failure to report is in violation of state law.

It is not as though the legislature required these reports but then forgot about them. In 2010, the legislature passed a new law that requires all local units of government to make their financial records publicly available on a website run by the University of Georgia's Carl Vinson School of Government. In addition to general budgets, the law singles out forfeiture reports. Thus, not only does state law require law enforcement to account for their forfeiture money and property, but they must make that accounting publicly available on the Internet.

STATE REPORTING REQUIREMENTS IGNORED

To gain some sense of the extent of forfeiture actions under Georgia law, as well as to find out whether reporting requirements are being followed, we randomly selected 20 Georgia law enforcement agencies¹⁵ and requested from



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each agency's financing municipality a copy of the annual forfeiture report required by law. Only eight of the 20 surveyed municipalities responded with the relevant information.¹⁶ These

reports show the receipt and expenditure of amounts between a few thousand dollars and well over half a million dollars in a single year.

However, of the eight localities that sent information only two are in full compliance with the law. The remaining six

have several issues which keep them in non-compliance. First, the requests in all six of these localities were passed off to law enforcement agencies, suggesting the municipalities are not in possession of forfeiture information as the law requires. Secondly, two of the six responses did not appear to be formal reports but simply information compiled to fulfill our open records request. Finally, another two of the six municipalities did not report expenditures as required. Thus, based on this random sample, compliance with the law appears spotty at best with only two of the 20 law enforcement agencies reporting as required.

But since the random selection of agencies skewed toward smaller counties and cities, it is possible some of these smaller agencies do not participate as frequently in state-level forfeiture and therefore simply have nothing to report. To test this theory, we requested annual reports for the police departments in the five most populous counties and cities in Georgia.¹⁷ We requested these documents from both the financing municipalities and law enforcement agencies themselves to maximize the chances we would find the data we were after. In total, we made 20 requests in hopes of obtaining 10 documents. We received one of the 10 reports we sought.

None of the counties sent a forfeiture report. Clayton, Fulton and Gwinnett Counties admitted no report existed in their records. Cobb and DeKalb counties sent some relevant forfeiture data, but had not completed the formal report required by law.

Among the cities, only Savannah provided us with a formal forfeiture report. Athens-Clarke sent forfeiture data but specifically mentioned

in a cover letter that “[the reports] have been prepared in response to [the] request.”¹⁸ Agencies within the city of Atlanta kept referring us to different agencies, and no one has yet produced a meaningful response. The city of Columbus informed us it does not fund the Narcotics and Vice Unit of the police department and therefore would not be in possession of the report but has not answered our question about what body does supply funding. The Columbus Police Department has not responded to requests for the report. As of this writing, officials from Richmond County (Augusta) said they were still working on the request.¹⁹

We then followed up by requesting copies of required reports from sheriffs’ offices in the five counties listed above. These offices were equally poor in complying with the law, with none of the five supplying us with reports (see Table 6 for details). The Clayton and DeKalb county sheriffs did not respond and the Cobb, Fulton and Gwinnett sheriffs sent some information but not the formal report required by law.

In sum, of 15 major law enforcement agencies in the most populated areas of Georgia, only one was able to produce the asset forfeiture report required by law. Our findings do not seem to be atypical as a study conducted by the Performance Audit Operations Division of the Department of Audits and Accounts for the state of Georgia in 2002 showed 85 percent of 26 agencies surveyed did not create an annual

forfeiture report as required. The report also concluded additional reporting requirements are necessary and would be inexpensive to implement.²⁰ Until law enforcement agencies follow the law, it will be impossible for public officials or citizens to know how much cash and property these agencies are forfeiting and how they are using the resulting proceeds.

SEEKING FORFEITURE DATA FROM JUDICIAL CIRCUITS

We also tried gathering forfeiture data by recreating a part of the 2002 Performance Audit Operations Division Program Evaluation. This report included a survey of Georgia’s judicial circuit courts to determine the amount of property forfeited under state law. This was a one-time report not required by state law. Moreover, the report admits that the data produced from this survey underestimate the extent of forfeiture as over half of the circuits that responded to the survey did not report values of real property forfeited. Results reveal civil asset forfeiture occurred in nearly every judicial circuit in Georgia,²¹ with agencies taking in a combined \$18.5 million between December 2000 and November 2001.

In hopes of gathering comprehensive data on asset forfeiture under Georgia law, we likewise sent each of Georgia’s 49 circuit courts a letter requesting public records detailing the

TABLE 1

RESULTS OF FORFEITURE SURVEY OF 49 GEORGIA JUDICIAL CIRCUITS

	Number of Circuits	Percentage of Circuits
No Response	4	8.2
Request Denied	3	6.1
Unaware in Possession of Records	6	12.2
Available for Review in Person Only	14	28.6
Willing to Send	22	44.9

TABLE 2

SUMMARY OF FORFEITURES BY JUDICIAL CIRCUITS, 2008-2009

	2008	2009
Clayton		
Currency	\$285,325.44	\$128,702.78
Property Items	227	391
Griffin		
Currency	\$217,011.02	\$217,995.36
Property Items	26	39
Northeastern		
Currency	\$130,924.68	\$69,683.16
Property Items	61	74
Flint		
Currency	\$47,150.71	\$94,098.78
Property Items	78	60
Waycross		
Currency	\$58,103.32	\$107,108.82
Property Items	154	213

total amount of forfeiture that occurred in the jurisdiction in each year and how the proceeds were distributed.

Of the 49 judicial circuits from which we requested information, we obtained records from only five. Three circuits denied our request, with one calling our request for data “unreasonable.”²² Five circuits that had previously outsourced forfeiture proceedings to the Prosecuting Attorneys’ Council of Georgia (PAC), a statewide agency tasked with assisting judicial circuits, were unaware records had been sent back after budget cuts required PAC to discontinue its forfeiture work. A sixth admitted it received the records but still referred us back to PAC.²³ Many circuit courts simply did not know how many forfeiture cases were pursued in their jurisdiction and had no record-keeping system in place to keep track.

While more than five circuits were willing to send data, the cost of obtaining it was prohibitive.²⁴ Only 20 circuits were able to provide us with a cost estimate. The remaining circuits either gave no information or gave

the hourly cost of labor that would be used to process the request but were unable to give an estimate of how many records existed or how long it would take to retrieve them. As shown in Table 3, based on the approximations we did receive, we estimate the cost of obtaining all of the relevant records for the state of Georgia would be more than \$42,000, assuming all circuits were to comply with the request. Even still, this estimate may be understated. One circuit, where we originally estimated the cost at \$300, responded to our letter seven months later asking for \$3,500 plus the cost of copies before they would fulfill the request.²⁵

The court system has a record of every time police seize property under civil forfeiture law and this information is public record. These records are no substitute for law enforcement agencies producing and filing required reports, but at the very least, they would provide citizens some idea of how much property is being taken via civil forfeiture. Nonetheless, it is nearly impossible to access this information without spending thousands of dollars and investing a

TABLE 3

TOTAL COST ESTIMATES FOR OBTAINING FORFEITURE DATA FROM GEORGIA JUDICIAL CIRCUITS

Alapaha	\$3,067.85*
Alcovy	\$1,030.84
Appalachian	\$1,045.00
Atlanta	\$584.85*
Atlantic	\$584.85*
Augusta	\$282.32
Bell-Forsyth	\$534.11*
Blue Ridge	\$448.76
Brunswick	\$584.85*
Chattahoochee	\$3,788.03*
Cherokee	\$433.81
Clayton	\$20.75
Cobb	\$2,057.00
Conasauga	\$584.85*
Cordele	\$584.85*
Coweta	\$830.00
Dougherty	\$584.85*
Douglas	\$885.25*
Dublin	\$584.85*
Eastern	\$584.85*
Enotah	\$1,549.80*
Flint	\$28.75
Griffin	\$81.82
Gwinnett	\$1,575.00
Houston	\$584.85*
Lookout Mountain	\$355.33
Macon	\$428.00
Middle	\$8,024.70*
Mountain	\$584.85*
Northeastern	\$0.00
Northern	\$1,151.70*
Ocmulgee	\$53.85
Oconee	\$567.50
Ogeechee	\$178.75
Pataula	\$584.85*
Paulding	\$623.13*
Piedmont	\$584.85*
Rockdale	\$493.45*
Rome	\$584.85*
South Georgia	\$1,100.00
Southern	\$450.00
Southwestern	\$584.85*
Stone Mountain	\$584.85*
Tallapoosa	\$547.35*
Tifton	\$288.30*
Toombs	\$676.17*
Towaliga	\$584.85*
Waycross	\$55.00
Western	\$543.45*
Total	\$42,553.64

* Estimated based on averages of administrative, legal, copying and shipping costs from circuits that responded with estimates. Some circuits provided partial information. In those cases, costs not directly quoted were estimated.

great deal of time submitting public records requests and visiting judicial circuits in person, things the average Georgia citizen likely cannot do. This is yet another reason why Georgia’s reporting requirements are essential—and law enforcement agencies ought to comply with them.

FEDERAL SOURCES SUGGEST FORFEITURE USE EXTENSIVE AND GROWING IN GEORGIA

With law enforcement agencies failing to follow state reporting requirements and judicial circuits refusing to provide information or requesting exorbitant sums for it, there is no way to know how much forfeiture is happening under Georgia law, nor how the funds are being spent. However, two federal sources give a picture of the extent of asset forfeiture in Georgia—albeit an incomplete one. These federal data suggest that forfeiture use is on the rise in Georgia—and millions in proceeds are being used by law enforcement with little or no accounting to public officials or the public at-large.

First, the Law Enforcement Management and Administrative Statistics survey (LEMAS) is a study of law enforcement agencies nationwide conducted every three to four years by the U.S. Census Bureau for the Bureau of Justice Statistics within the Department of Justice. LEMAS collects information on, among other

things, the total amount of funds received by agencies through drug forfeitures.²⁶

Second, the U.S. Department of Justice’s Asset Forfeiture Fund (AFF) reports annually on assets forfeited via a federal program called “equitable sharing” in which Georgia law enforcement agencies participate. With equitable sharing, state and local law enforcement can forfeit property under *federal* forfeiture law rather than state law, as long as the underlying criminal offense is also a federal offense. Agencies may do this in joint operations (such as multi-jurisdictional task forces) or to take advantage of federal resources for processing forfeiture claims. State and local agencies turn the property over to the federal government for forfeiture proceedings and then receive as much as 80 percent of the resulting proceeds for their own use.

Both of these data sources are limited and neither is a substitute for the kind of detailed agency-level reporting required by Georgia law. The LEMAS survey is only done every three to four years, the most recent data made public are eight years old and the survey covers only a sample of Georgia law enforcement agencies. LEMAS also does not distinguish between forfeitures under state and federal law, so these data may contain some of both. Equitable sharing data are reported annually and cover all agencies that participate in the program, but report only how much Georgia agencies

TABLE 4

FORFEITURE PROCEEDS FOR LEMAS-SURVEYED AGENCIES*

	Total Assets Forfeited
1993	\$6,134,768
1997	\$22,516,125
2000	\$10,354,997
2003	\$33,672,939
Total	\$72,678,829

*LEMAS covers only a sample of agencies in Georgia. These figures likely underestimate the total value of assets forfeited in Georgia by local law enforcement agencies. See endnote 26 for more information.

TABLE 5

**FORFEITURE PROCEEDS RECEIVED BY GEORGIA AGENCIES FROM THE
DEPARTMENT OF JUSTICE EQUITABLE SHARING PROGRAM, 2000-2010**

	Total Assets Forfeited*
2000	\$13,997,177
2001	\$11,476,049
2002	\$10,578,412
2003	\$10,113,910
2004	\$10,544,040
2005	\$13,852,774
2006	\$20,266,682
2007	\$23,866,060
2008	\$15,878,429
2009	\$25,133,072
2010	\$28,660,009
Total	\$184,366,614

*Includes cash and proceeds from sale of property.

receive from forfeiture under federal law, not state law (though it is unlikely that agencies engaging in federal forfeiture are not also using state procedures). Finally, neither data source addresses expenditures, or what agencies are spending forfeiture proceeds on—critical information for ensuring accountability in the civil forfeiture process.

It is also worth noting that both of these sources include data from both civil and criminal asset forfeiture and do not report them separately. However, since the LEMAS survey and Department of Justice AFF program specifically address drug forfeiture and an earlier study found that approximately 80 percent of federal drug forfeitures were not accompanied by prosecution,²⁷ it is safe to assume the vast majority of the data collected through this study represents civil rather than criminal asset forfeiture.

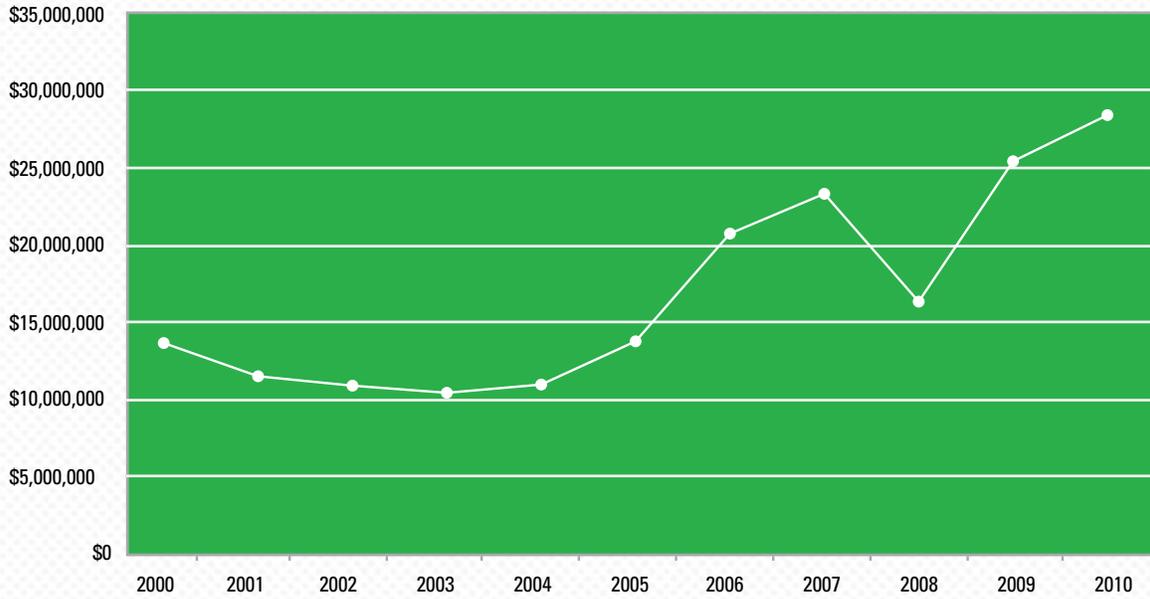
As shown in Table 4, LEMAS data reveal that Georgia law enforcement agencies have

received a substantial amount of forfeiture money.²⁸ Data show a sharp upward trend during the period from 1993 to 2003, the most recent year for which LEMAS data are available.²⁹ In 1993, the agencies surveyed took in about \$6 million through forfeiture, but by 2003 that number rose to more than \$33 million. It is important to remember the LEMAS data are understated and likely by a significant amount. For example, the 2003 LEMAS survey showed 47 agencies of 78 surveyed³⁰ taking in proceeds through some type of asset forfeiture program. In contrast, 115 Georgia agencies participated in DOJ equitable sharing in the same year.

Equitable sharing data show a similar trend—large and increasing amounts of property being seized by law enforcement agencies. Table 5 reports total equitable sharing payments to Georgia agencies from 2000 to 2010, and Figure 1 shows a graphical representation of these data. Over this time period, equitable sharing proceeds to Georgia law enforcement agencies

FIGURE 1

**FORFEITURE PROCEEDS FOR GEORGIA AGENCIES FROM THE
DEPARTMENT OF JUSTICE EQUITABLE SHARING PROGRAM, 2000-2010***

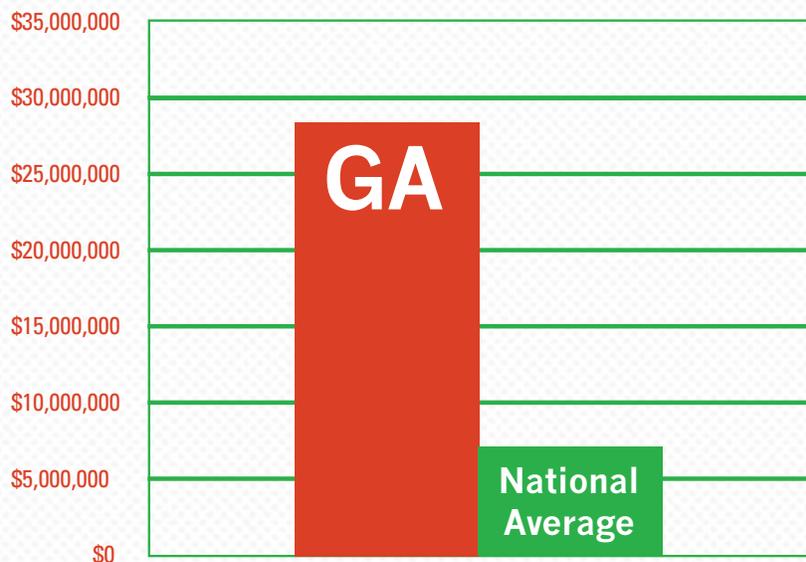


*Includes cash and proceeds from the sale of seized assets.



FIGURE 2

EQUITABLE SHARING PAYMENTS TO STATES FROM DEPARTMENT OF JUSTICE ASSET FORFEITURE FUND, 2010



increased steadily and totaled more than \$185 million. In 2010 alone, Georgia agencies took in a record \$28.6 million, which is more than seven percent of total equitable sharing payments for the entire nationwide program—more than any other state except Texas and California.³¹ Figure 2 shows that Georgia received more than four times the national average in equitable sharing payments in 2010.

LARGEST JURISDICTIONS FORFEIT THE MOST—AND FAIL TO REPORT

While LEMAS gives only a partial picture of asset forfeiture in Georgia, it does allow for the tracking of forfeiture proceeds for certain larger agencies over time. Table 6 shows the total amount of property forfeited by the five most populous counties and cities in Georgia,³² as reported by LEMAS. Together these 15 law enforcement agencies accounted for more than 70 percent of the forfeiture reported in

the 2003 LEMAS. Moreover, some of these agencies have taken in a staggering amount of property compared to their annual budget. For example, the Cobb County Sheriff's Office, with a budget of \$12.4 million, took in \$9.5 million in forfeited property—76 percent of its budget.³³

The agencies in Table 6 are the same ones for which we sought annual forfeiture reports through open records requests. These agencies are taking in upwards of hundreds of thousands of dollars each year and yet are failing to report exactly how much is seized and how it is spent.

These population centers have also taken in a sizeable amount of money through equitable sharing payments, as illustrated in Table 7 (though some of these funds may be accounted for in the LEMAS data as well). Over the last six years, agencies in these localities have received payments totaling more than \$50 million, with several localities receiving more than \$2 million in a single year.

TABLE 6

FORFEITURE PROCEEDS OF TOP FIVE MOST POPULOUS COUNTIES AND CITIES IN GEORGIA, AS REPORTED BY LEMAS

	1993	1997	2000	2003	Agency Averages	Supplied Forfeiture Report on Request**	Forfeiture Proceeds in 2009***
Counties							
Cobb County Police Department	\$141,225	\$0	\$3,310,000	\$456,000	\$976,806	No	
Cobb County Sheriff's Office	\$446,723	\$611,832	\$70,000	\$9,531,701	\$2,665,064	No	
Clayton County Police Department	\$80,000	\$70,571	NA	\$45,000	\$65,190	No	
Clayton County Sheriff's Office	NA	\$213,378	\$30,000	\$0	\$81,126	No	
Fulton County Police Department	\$177,506	\$16,774	\$42,434	\$315,485	\$138,050	No	
Fulton County Sheriff's Office	NA	\$12,000	NA	NA		No	
DeKalb County Department of Public Safety	\$775,563	\$550,000	\$769,900	\$985,100	\$770,141	No	
DeKalb County Sheriff's Office	\$18,000	\$36,909	\$21,221	\$14,095	\$22,556	No	
Gwinnett County Police Department	\$161,176	\$329,659	\$272,585	\$292,314	\$263,934	No	
Gwinnett County Sheriff's Office	\$45,000	\$18,798	\$5,000	NA	\$22,933	No	\$94,223
Cities							
Atlanta Police Department	\$1,523,000	\$1,207,441	\$858,594	\$11,592,328	\$3,795,341	No	
Richmond County Sheriff's Office*	\$38,609	\$470,192	\$350,000	\$900,000	\$439,700	No	
Columbus Police Department	\$115,774	\$269,625	\$20,000	\$205,888	\$152,822	No	
Savannah-Chatham Metropolitan Police Department	\$5,077	\$400,000	\$6,000	NA	\$137,026	Yes	\$858
Athens-Clarke Police Department	\$100,000	\$19,168	\$50,000	\$104,345	\$68,378	No	
Totals	\$3,627,653	\$4,226,347	\$5,805,734	\$24,442,256			
Average Forfeited per Agency	\$279,050	\$281,756	\$446,595	\$2,222,023			

Order based on population.

*The city of Augusta does not have its own police department. It uses the services of the Richmond County Sheriff's Office.

**"No" indicates a report was not provided by the agency, the agency did not respond to our request or the report provided was not in full compliance with the law.

***Based on reports obtained through open records requests.

TABLE 7

FORFEITURE PROCEEDS RECEIVED BY FIVE MOST POPULOUS COUNTIES AND CITIES IN GEORGIA FROM THE DEPARTMENT OF JUSTICE EQUITABLE SHARING PROGRAM, 2005-2010

	2005	2006	2007	2008	2009	2010	Total Equitable Sharing Payments to Agencies	Average Equitable Sharing Payment to Locality Per Year
Counties								
Fulton County Agencies	\$791,885	\$326,880	\$1,948,392	\$845,853	\$871,353	\$2,153,769	\$6,938,132	\$1,156,355
Gwinnett County Agencies	\$68,688	\$663,476	\$2,673,712	\$1,642,882	\$1,521,398	\$4,688,927	\$11,259,083	\$1,876,514
DeKalb County Agencies	\$1,264,887	\$2,594,906	\$2,167,126	\$1,206,771	\$2,908,579	\$2,506,096	\$12,648,365	\$2,108,061
Cobb County Agencies	\$249,048	\$93,667	\$329,224	\$322,184	\$540,004	\$554,156	\$2,088,283	\$348,047
Clayton County Agencies	\$261,280	\$248,146	\$1,541,365	\$1,512,864	\$361,859	\$837,068	\$4,762,582	\$793,764
Cities								
City of Atlanta Police Department	\$1,015,962	\$2,349,665	\$2,341,767	\$780,714	\$1,342,714	\$2,912,641	\$10,743,463	\$1,790,577
Richmond County Sheriff's Department*	\$126,933	\$72,537	\$1,154,457	\$111,333	\$225,770	\$23,695	\$1,714,725	\$285,788
Columbus Police Department	\$0	\$0	\$0	\$0	\$100,143	\$9,163	\$109,306	\$18,218
Savannah-Chatham Metropolitan Police Department	\$35,121	\$3,531	\$90,499	\$37,351	\$97,947	\$86,720	\$351,169	\$58,528
Athens-Clarke County Police	\$18,105	\$0	\$5,924	\$7,044	\$0	\$24,392	\$55,465	\$9,244
Total	\$3,831,909	\$6,352,808	\$12,252,466	\$6,466,996	\$7,969,767	\$13,796,627	\$50,670,573	

Order based on population. City totals are not included in their respective counties.

*The city of Augusta does not have its own police department. It uses the services of the Richmond County Sheriff's Office.

CONCLUSION

Civil asset forfeiture laws create incentives for law enforcement agencies to seize property even when it is unclear if a crime has been committed. On top of these perverse incentives is the lack of accountability and transparency with forfeited assets and how the proceeds are dispersed.

Georgia legislators recognized the potential for abuse and enacted laws designed to inform citizens of the frequency of forfeiture through mandatory reporting. However, law enforcement agencies appear to be ignoring this required reporting, leaving Georgia citizens to wonder how prevalent civil asset forfeiture and its abuses are in the state. The courts that process these actions are themselves unable to quantify the magnitude of forfeiture that occurs in their jurisdictions and do not seem to be interested in doing so.

Georgia's civil asset forfeiture regime allows law enforcement agencies to gain financially by seizing property from the innocent. Ideally, laws would be amended to require that people be convicted before they lose their property and to remove the perverse incentives that encourage law enforcement to pursue forfeitures. At the very least, law enforcement agencies in Georgia should be required to follow the existing laws designed to inform the public of their actions.



ENDNOTES

- 1 Torpy, B. (2008, November 30). Georgia legal scene: Controversial attorney, *Atlanta Journal-Constitution*, p. 1D.
- 2 GA. CODE ANN., § 16-13-49(e)(2).
- 3 Torpy, 2008.
- 4 GA. CODE ANN., § 16-13-49(u)(4)(c)(iii).
- 5 Williams, M. R., Holcomb, J. E., Kovandzic, T. V., and Bullock, S. (2010). *Policing for profit: The abuse of civil asset forfeiture*. Arlington, VA: Institute for Justice.
- 6 Tagami, T. & Simpson, D. (2009, February 21). DeKalb CEO outlines case to fire Bolton, *Atlanta Journal-Constitution*. <http://www.ajc.com/services/content/printedition/2009/02/21/bolton0221.html>.
- 7 Williams, Holcomb, Kovandzic, and Bullock, 2010.
- 8 *ibid*
- 9 GA. CODE ANN., §§ 16-13-49(e), (s).
- 10 Sanders v. State, 259 Ga. App. 422, 577 S.E.2d 94 (2003).
- 11 GA. CODE ANN., § 16-13-49(u)(4).
- 12 GA. CODE ANN., § 16-13-49(u)(4)(c)(iii).
- 13 See, e.g., § 16-5-44.1(e) (motor vehicle hijacking); § 16-6-13.3(b) (underage prostitution).
- 14 See *State Reporting Requirements Ignored* below.
- 15 The agencies were selected from a list of those that had participated in the U.S. Department of Justice's Equitable Sharing Program in 2009.
- 16 Law enforcement agencies randomly selected (information provided by agencies in italics): Atlanta HIDTA, *Brantley County Sheriff's Office*, Brooks County Sheriff's Department, Candler County Sheriff's Department, Douglas City Police Department, Early County Sheriff's Department, *Forsyth County Sheriff's Office*, Gainesville City Police Department, *Georgia State Patrol* (not technically required by law), *Lake City Police Department*, *Lamar County Sheriff's Office*, Lowndes County Sheriff's Department, *Monroe County Sheriff's Office*, Morgan County Sheriff's Office, *Oakwood City Police Department*, Troup County Sheriff's Department, Upson County Sheriff's Office, *Waycross City Police Department*, *Whitfield County Sheriff's Department*.
- 17 Based on the 2000 Census.
- 18 Letter from Kimberly Vassak, Open Records Technician at Athens-Clarke County, December 9, 2010.
- 19 These findings were written three months after the initial request was sent to the five most populous counties and cities.
- 20 Bernard, P.E. (2002). Program evaluation: Property forfeitures under state and federal drug laws. Atlanta, GA: Department of Audits and Accounts.
- 21 One circuit did not reply to the survey.
- 22 Email dated July 21, 2010, from Travis Sakrison, Deputy Chief Assistant District Attorney, DeKalb County District Attorney's Office.
- 23 The Prosecuting Attorneys' Council of Georgia (PAC) is a state agency that formed in 1975 and provides support to prosecutor offices throughout the state. PAC was responsible for handling asset forfeiture prosecutions in several circuits until the start of Georgia's 2010 fiscal year when budget cuts forced PAC to turn this type of prosecution back to the individual circuits. As of July 1, 2010 PAC had returned forfeiture records to the individual circuits.
- 24 We paid for and received data where the total charge was less than \$100. This was done in an attempt to mimic what an average citizen would be capable of doing. Even if all circuits had come under this \$100 cap, the total cost of data collection could have been as much as \$4,900.
- 25 Letter from Chattahoochee District Attorney Julia Slater, February 21, 2011.
- 26 LEMAS data are based on a sample that includes all state police agencies (i.e., state trooper or highway patrol) and local police agencies with 100 or more full-time sworn officers. In addition, a nationally representative sample of smaller police agencies is selected for participation. Data and supporting documentation for the study are available at <http://www.icpsr.umich.edu/icpsrweb/ICPSR/series/00092>.
- 27 Blumenson, E., & Nilsen, E. (1998). Policing for profit: The drug war's hidden economic agenda. *University of Chicago Law Review*, 65(1), 35-114.
- 28 The LEMAS survey uses a weighting scheme to ensure it is a nationally representative sample. As we are not reporting national figures, the numbers in Table 4 are unweighted. The corresponding weighted figures for 1993, 1997, 2000 and 2003 are \$7,856,684; \$26,022,402; \$20,767,039; and \$38,330,861.
- 29 LEMAS surveys in any given year ask about forfeiture proceeds for the previous calendar year.
- 30 LEMAS contacted 88 Georgia agencies in 2003 but 10 responded with "Don't know" to the forfeiture question and are thus excluded from this analysis.
- 31 <http://www.justice.gov/jmd/afp/02fundreport/2010affr/report2b.htm>.
- 32 Based on the 2000 Census.
- 33 Cobb County Comprehensive Annual Financial Report for the year ending September 30, 2002.

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ABOUT IJ

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