

The title "BAD DATA" is rendered in a bold, blue, distressed font. The letter "I" is replaced by a stylized map of Indiana, colored in a gradient of orange and red. The background is a bright yellow with faint, repeating patterns of stars and the word "INDIAN" in a light, sans-serif font.

# BAD DATA

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## How Indiana's Flawed Forfeiture Reporting Misinforms Hoosiers

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By David Warren, Ph.D.  
November 2025

 INSTITUTE  
IJ for JUSTICE





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# EXECUTIVE SUMMARY

Indiana's civil forfeiture system allows the government to seize and permanently keep—or forfeit—cash, cars, homes, and other property without charging the owners with a crime, much less securing a conviction. Not only that, but the same police and prosecutors who seize and forfeit property are entitled to a substantial share of the proceeds, giving law enforcement agencies a strong financial incentive to pursue forfeiture.

Indiana's civil forfeiture system is not unusual in these respects. However, it uniquely permits prosecutors to farm out forfeiture cases to private attorneys who get paid only if they successfully forfeit property.

This contingency-fee arrangement gives these private prosecutors a personal financial stake in forfeiting property and has earned the ire of legal scholars and reform advocates alike for creating a conflict of interest.

Recognizing the risks posed by forfeiture, Indiana legislators in 2015 passed a law requiring prosecutors—including private prosecutors working on contingency—to report all forfeiture cases. The goal was to give lawmakers a clear view of how forfeiture works in practice. In reality, as this study shows, Indiana's forfeiture

reporting fails to accomplish this goal. Instead of providing transparency and accountability, it delivers incomplete, inaccurate, and misleading information—in short, bad data.

To assess whether prosecutors reported forfeiture cases as required, I compared the cases they reported with a database of court records. Then, to test the accuracy of reported information, I compared details in prosecutors' reports to those

in court records for a random sample of reported cases. The results were alarming.

First, many cases go unreported. Between 2016 and 2021, nearly 30% of forfeiture cases in Indiana were not reported at all. These missing cases involved 144 vehicles, more than \$6.2 million in cash forfeited

under state law, and another \$3.8 million in currency transferred to the federal government for forfeiture. The problem was worse in counties that use contingency-fee prosecutors, which accounted for nearly three-quarters of all unreported cases.

Second, when cases *are* reported, the data are riddled with errors. In a random sample of 415 reported cases from 2019 to 2023, about two-thirds contained at least one error when compared to court documents. Common errors included

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misreporting whether property was returned to its owner, whether a case was settled, and the amounts forfeited and disbursed to various agencies.

These problems call into question the entire forfeiture reporting enterprise in Indiana. Moreover, a deep dive into the sampled cases raises serious concerns about how forfeiture works in the state. There is good reason to worry that innocent people are being swept up in the state's confusing forfeiture system and losing property simply because they cannot afford to fight the government. Not only were people more likely to walk away when less money was at stake, but when people did contest forfeiture, prosecutors usually settled, giving back some or even all of their cash or other property. These findings suggest that forfeiture in Indiana is less about targeting criminals than raising revenue.

In short, Indiana's forfeiture reporting system does not deliver the transparency lawmakers sought. Instead, it distorts the reality of forfeiture in Indiana, misleads the public about how cases resolve, and masks the weakness of many cases. And all of this inhibits the ability of legislators to understand, hold accountable, and reform the state's often criticized forfeiture system.

To restore integrity and protect Hoosiers' rights, Indiana should adopt comprehensive reforms. As this study makes clear, lawmakers should insist on full transparency and accountability for all forfeiture activity. More fundamentally, Indiana should follow the examples of New Mexico and Maine by ending civil forfeiture and instead relying on criminal forfeiture. Until Indiana enacts real reforms, innocent owners will remain at risk—and lawmakers will continue to legislate in the dark.

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# INTRODUCTION

Jeana Horner is a law-abiding resident of Greenfield, Indiana, and a loving mother. Together with her late husband, Jack, she paid a heavy price for trying to help her adult son Jeremy get back on track after a brush with the law. Jeremy had pleaded guilty to a marijuana-related offense and been sentenced to a work-release program. Under the program's terms, he needed to spend his days at his construction job and his nights at a county corrections facility. To help him get from place to place and do his job, Jeana and Jack allowed Jeremy to use their Ford pickup truck and Jeep Grand Cherokee while they were out of town during the summer of 2013.

While driving the Jeep in Marion County one August day, Jeremy was pulled over and arrested for marijuana possession. Police impounded the Jeep and found and seized the Ford pickup truck as well. Then prosecutors moved to keep the vehicles permanently. Jeana and Jack were entirely innocent, and the charges against Jeremy were eventually dismissed, but prosecutors did not care.

Jeana and Jack spent a month unsuccessfully trying to find out which agency had their vehicles. And that was just the beginning of a complicated legal process they had to retain an attorney to help them navigate. Over the next several months, Jeana and Jack had to file summary judgment papers and appear for a hearing in the Marion County Superior Court. Finally, in April 2014, the court ordered their vehicles returned to them. It was another three weeks before they got their vehicles back, one of them with damage.

All told, Jeana and Jack were without their vehicles for nine months, during which they had to purchase another car so that Jack, who suffered from serious health issues, could get around.<sup>1</sup>

The process that allowed Marion County police and prosecutors to seize and try to keep Jeana and Jack's vehicles is called civil forfeiture. In Indiana—as in most states and at the federal level—law enforcement agencies can use civil forfeiture to seize and permanently keep cars, cash, homes, and other property if they allege the property is related to crime. In general, they do not

have to arrest, charge, or convict anyone—not even the property's owners. And in Indiana and most other states, the law enforcement agencies that seize property and the prosecutors' offices that forfeit it receive a portion of any proceeds to spend with limited legislative oversight.

These realities mean that people who are innocent will inevitably

lose property to civil forfeiture. Civil forfeiture also gives police and prosecutors an incentive to pursue property over justice. And in Indiana, something else exacerbates that perverse incentive. The state allows prosecutors to farm out forfeiture cases to private attorneys who get paid only if they win, creating a conflict of interest that further clouds the pursuit of justice. Described as both a “scandal” and an “institutionalized bounty hunter system” in a leading civil forfeiture treatise, Indiana's contingency-fee forfeiture scheme is the only one of its kind following the court-ordered elimination of a similar scheme in Georgia in 2012.<sup>2</sup>

My analysis finds that substantial numbers of forfeiture cases go unreported and that reported cases frequently contain errors.

State law requires prosecutors to report information on their forfeiture cases, or lack thereof, to the Indiana Prosecuting Attorneys Council. Prosecutors must also report information on forfeiture cases handled by private attorneys on a contingency-fee basis. IPAC, in turn, is required to compile this information into annual aggregate reports for the General Assembly. In theory, this provides much-needed transparency into forfeiture activity in the state. In practice, however, the quality of forfeiture reporting in Indiana is abysmal. My analysis finds that substantial numbers of forfeiture cases go unreported and that reported cases frequently contain errors.

In fact, from 2016 to 2021, almost 30% of known forfeiture cases in the state were not reported. Those unreported cases involved 144 vehicles and \$6.2 million in currency forfeited under state law, as well as \$3.8 million in seized currency transferred to the federal government for forfeiture under federal law. Put another way, over six years, prosecutors failed to report over \$10 million worth of seizures and forfeitures. And across a random sample of 415 cases that were reported as required between 2019 and 2023, about two-thirds contained at least one error when compared with court documents.

As a result, prosecutors' reports present an incomplete and frequently false picture of forfeiture activity in Indiana, undercutting transparency and accountability. Without reliable information, lawmakers cannot exercise meaningful authority over the state's much criticized system, let alone identify needed reforms. Most worrying, the reports' misleading data make Indiana's forfeiture system appear more effective and less abusive than my analysis suggests it really is.



Prosecutors' reports present an incomplete and frequently false picture of forfeiture activity in Indiana, undercutting transparency and accountability.

# LAWMAKERS' EFFORTS TO “GET A HANDLE ON” FORFEITURE IN INDIANA

Until fairly recently, Indiana had “no unified reporting mechanism for forfeitures.”<sup>3</sup> In 2015, the General Assembly passed a law requiring prosecutors to annually report limited information on their forfeiture cases, including any farmed out to private attorneys working on contingency, to the Indiana Prosecuting Attorneys Council. The law also requires IPAC, a state judicial agency that supports state prosecutors’ offices, to compile this information into annual aggregate reports for the General Assembly.<sup>4</sup> The reporting law’s goal was, as one bill author explained, to “get a handle on how much is being forfeited in this state” to help “determine whether ... it makes any sense to change some rules in the forfeiture law.”<sup>5</sup>

In 2018, lawmakers introduced a bill with additional reporting requirements, with one author noting that lawmakers were “bereft of any of that real information about what’s going on out there. We don’t have nearly enough information to be able to make intelligent decisions about how the [state’s forfeiture law] affects people.”<sup>6</sup> The bill passed, requiring prosecutors to report additional details about seized and forfeited property, including the type of property seized; whether the

forfeiture was contested; whether an innocent owner made a claim; and whether the property was returned to the owner, destroyed, forfeited, retained, or distributed via settlement.<sup>7</sup>

While far from perfect, Indiana’s reporting laws promised to provide a clearer picture of forfeiture in the state.<sup>8</sup> One thing they have made clear is that forfeiture is big business. From fiscal years 2016 to 2023, IPAC reports compiled for the General Assembly reported nearly \$36 million in forfeiture proceeds.<sup>9</sup> On top of that, between fiscal years 2016 and 2022, Indiana agencies transferred at least \$14.9 million in cash and other property to the federal government for forfeiture under its equitable sharing program.<sup>10</sup>

Unfortunately, as my analysis below shows, the promise of a truly clear picture remains unfulfilled. These top-line figures, as well as other information reported to the legislature, should be taken with a multimillion-dollar grain of salt. Not only are many forfeiture cases missing entirely, but the data reported are hopelessly inaccurate. Now, instead of no data, lawmakers have bad data, giving them less of “a handle on” forfeiture activity than before they instituted transparency laws.

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# A HISTORY OF “SERIOUS CONCERNS” WITH FORFEITURE

Indiana lawmakers have good reasons to want to know how forfeiture operates, as the state’s civil forfeiture system has come under harsh criticism. The Indiana Supreme Court has called it “punitive for those whose property is confiscated ... and profitable for the government.”<sup>11</sup> In addition, individual members of the state high court have raised “serious concerns with the way Indiana carries out civil forfeitures,” with some criticizing the “overreach” of forfeiture and likening it to a “law enforcement Weapon[] of Mass Destruction.”<sup>12</sup>

The problem in Indiana starts with civil forfeiture laws that provide poor protections for property owners and generous financial incentives for police and prosecutors to take property. And as several high-profile cases have shown, police and prosecutors often take full advantage.

First, no person needs to be convicted, charged, or even arrested to lose property forever. This is because civil forfeiture involves a civil *in rem* proceeding, not a criminal *in personam* one—in other words, a civil proceeding against things rather than a criminal proceeding against people. With civil forfeiture, prosecutors bring civil cases against cars, cash, homes, and other property as though the property itself did something wrong. In addition, the standard of proof for tying property to an alleged crime in Indiana’s civil

courts is far lower than the proof required in a criminal case. While criminal cases require proof beyond a reasonable doubt to convict a person of a crime, Indiana civil forfeiture cases require a preponderance of the evidence to take property for an alleged crime—a standard that translates to “more likely than not.”<sup>13</sup>

Second, Indiana provides limited protection for property owners like Jeana and Jack Horner who

may be swept up in forfeiture proceedings because *someone else* allegedly used their property to commit a crime. Indiana provides an “innocent owner defense” for such third-party owners, but in most cases, Indiana forces such owners to prove their own innocence to recover their property. The only exceptions are for vehicles and (with odd specificity) equipment

allegedly used to record sex crimes. In these cases, the government bears the burden of proving third-party owners knew or should have known about the criminal use of their property.<sup>14</sup> As construed by some Indiana courts, however, the standard the government must meet is relatively low.<sup>15</sup>

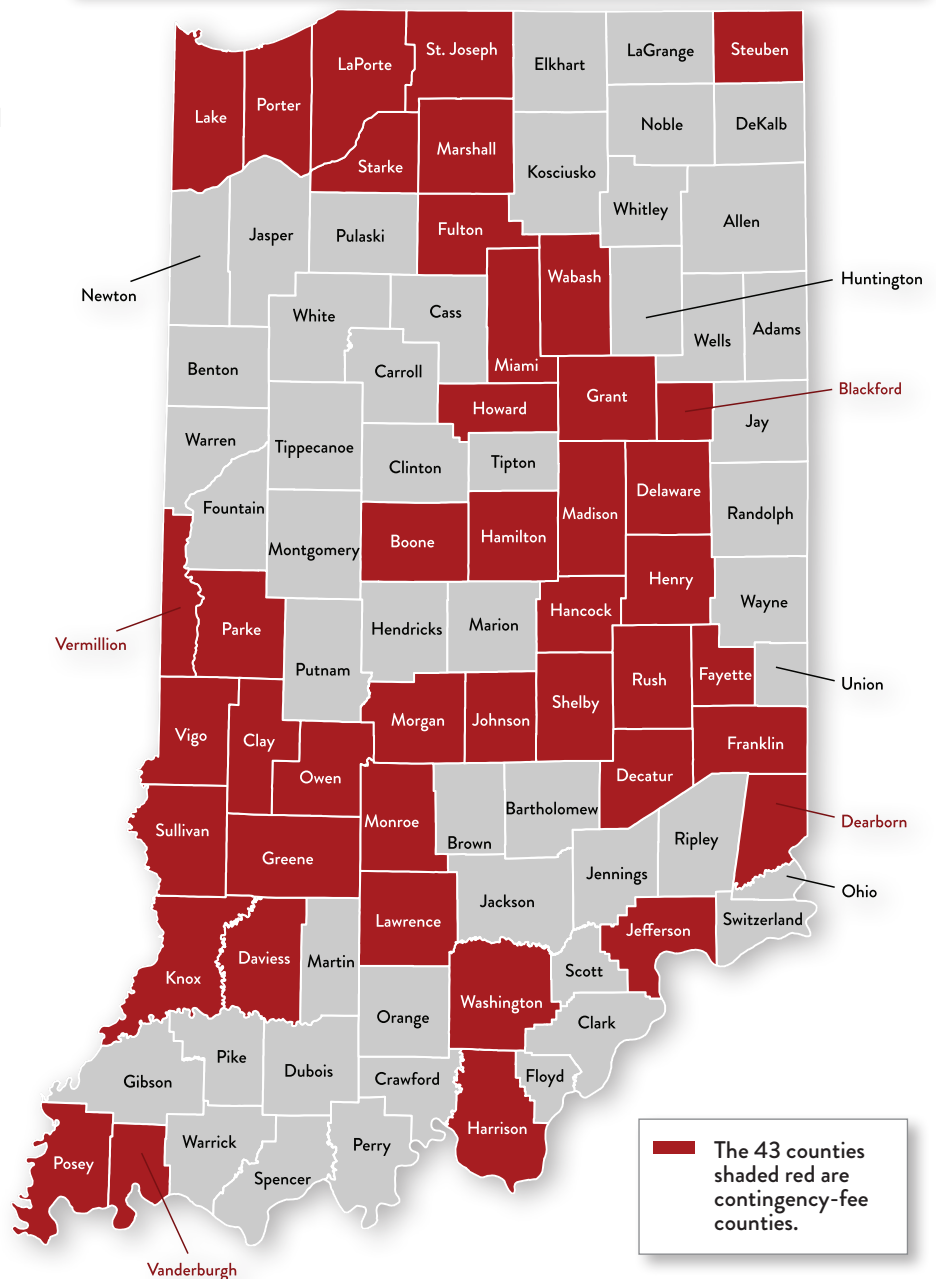
Third, Indiana gives law enforcement agencies a large financial stake in forfeitures, allowing them to keep and spend up to 93% of forfeiture proceeds with little legislative oversight.<sup>16</sup> This creates perverse incentives for agencies to use forfeiture to raise revenue rather than to fight crime or

Indiana’s contingency-fee forfeiture scheme allows private prosecutors to receive up to a third of the proceeds from any forfeiture cases they win, even in cases where owners do not respond in time and lose by default.

pursue justice.

These three features of Indiana's civil forfeiture laws earned the state a D in the third edition of the Institute for Justice's *Policing for Profit* report—an indication of laws that make forfeiture easy and lucrative for the government while putting property owners at risk.<sup>17</sup> But Indiana's laws make matters worse with the state's unique contingency-fee arrangements. This scheme, used in 43 of the state's 92 counties, allows private prosecutors to receive up to a third of the proceeds from any forfeiture cases they win, even in cases where owners do not respond in time and lose by default.<sup>18</sup> (See Figure 1.) Ordinarily, prosecutors are expected to recuse themselves in cases where a financial or other interest creates a conflict or even the appearance of a conflict.<sup>19</sup> This is because prosecutors have a duty not to maximize punishment but to ensure that justice is done. Making a prosecutor's personal compensation directly depend on whether they win a particular case subverts that duty. Indiana's contingency-fee forfeiture scheme has earned derision inside and outside the legal arena and is currently the subject of an IJ class action lawsuit.<sup>20</sup>

**Figure 1:** Indiana counties that use private prosecutors working on contingency for forfeiture cases



In short, Indiana offers meager legal protections for owners and generous financial incentives for the government and private prosecutors. And several cases illustrate that police and prosecutors have a history of pushing the state's civil forfeiture laws to their limits, giving lawmakers good reason for continued concern about how forfeiture is used and whether the state's system needs reform.

In a recent example, police in Indianapolis have become frequent visitors to the city's FedEx hub, America's second largest.<sup>21</sup> They subject in-transit packages to K-9 inspection. If a dog alerts, police obtain warrants to open the packages. Officers often then hold on to the contents for forfeiture—even if no drugs or other contraband are found (and despite the known problems with dog alerts).<sup>22</sup> Since 2022, Marion County prosecutors have brought forfeiture cases to keep at least \$2.5 million from 130 cash seizures at the Indianapolis FedEx hub.<sup>23</sup>

Making matters worse, all the seized packages were from out-of-state senders, who must navigate a complicated court process from afar. Owners must respond in court within 23 days or give up their rights to the property.<sup>24</sup> Not only that, but they typically do not know why their property was seized in the first place. This is because Marion County forfeiture complaints typically fail to specify what Indiana crime supports the forfeiture, simply claiming that seized cash is linked to "a violation of a criminal statute."<sup>25</sup>

**Police and prosecutors have a history of pushing the state's civil forfeiture laws to their limits, giving lawmakers good reason for continued concern about how forfeiture is used and whether the state's system needs reform.**

In another prominent example, Indiana prosecutors spent seven years trying to forfeit Tyson Timbs' \$42,000 Land Rover, bought with proceeds from his late father's life insurance, because he happened to be driving it when he was arrested for a first-time, nonviolent drug offense. Tyson pleaded guilty, served a year on house arrest, and paid \$1,200 in court fees. But prosecutors insisted on also taking his car—worth more than four times the maximum allowable fine for his offense. It took a ruling from the U.S. Supreme Court, applying the Constitution's

Excessive Fines Clause to the states, followed by still more litigation in state courts, before Tyson won his Land Rover back for good.<sup>26</sup>

Even the current financial incentive in Indiana's civil forfeiture laws provides an example of how police and prosecutors have pushed the limits of state law. The state constitution explicitly requires

that "all forfeitures which may accrue" be directed to the state's Common School Fund for the benefit of Indiana public schools.<sup>27</sup> But for years, agencies sidestepped this requirement by deducting nearly all proceeds as "law enforcement costs," with virtually nothing going to the school fund.<sup>28</sup> Despite a legal challenge to the practice, agencies ultimately succeeded in undermining the state constitution's provision by successfully advocating for a statute, upheld by the Indiana Supreme Court, automatically granting up to 93% of proceeds to police and prosecutors.<sup>29</sup>



# METHODS

The Institute for Justice has long had reason to question the quality of Indiana's forfeiture reporting. During the course of multiple lawsuits against Indiana's civil forfeiture system, some of them still ongoing, IJ attorneys have noticed peculiar errors or omissions in the state's reporting. Numbers would not add up, and known forfeiture cases would be absent in the data. These problems prompted a closer look. Specifically, I examined two apparent problems with IPAC forfeiture reports: (1) cases that went entirely unreported and (2) cases whose data in the IPAC reports did not match those in court records.



## IDENTIFYING UNREPORTED FORFEITURE CASES

To identify *unreported* Indiana forfeiture cases, I obtained a database of nonconfidential civil court cases from the Indiana Office of Court Services and searched it for forfeiture cases opened between January 1, 2016, and December 31, 2021, and closed by October 31, 2022.<sup>30</sup> This resulted in a list of all known completed forfeiture cases in the state for calendar years 2016 through 2021. I then used case numbers to compare that list against the forfeiture cases reported to the Indiana Prosecuting Attorneys Council. To do that, I used annual forfeiture case reporting spreadsheets provided to IJ by IPAC for fiscal years 2016 through 2023, which ended on June 30, 2023, eight months after the most recent cases in the IOCS database had closed.<sup>31</sup> I considered any cases not present in the IPAC datasets as unreported.<sup>32</sup> My team then downloaded the final orders for all unreported cases using “MyCase,” an online search engine operated by the Indiana Supreme Court’s Office of Judicial Administration, and recorded key information from those orders, including the amounts of any currency forfeitures, the number of vehicles forfeited, and whether seized property was transferred to the federal government.<sup>33</sup> Recording that information allowed me to identify the total amount of unreported currency forfeitures, vehicle forfeitures, and federal transfers. And because forfeiture case numbers include a county code, I was also able to observe how nonreporting varied across counties, including counties that contract out forfeiture cases to private attorneys working on contingency.



## IDENTIFYING ERRORS IN REPORTED CASES

To examine how accurately forfeiture case data are recorded when cases *are* reported as required, I first selected a simple random sample of 415 forfeiture cases from the 3,982 appearing in the IPAC datasets for fiscal years 2019 through 2023. I then used court records in MyCase to independently record the same types of information captured in the IPAC data, a process depicted in Figure 2 using one of the random forfeiture cases included in the accuracy analysis. I excluded earlier years from this analysis because MyCase records for those years were often missing court orders, while later years were more consistently complete. I then compared the values I recorded to those in the IPAC data. When there were close calls, I gave the benefit of the doubt to the IPAC data so that results would be conservative. For instance, I considered an amount in the IPAC data incorrect only if it differed by more than one dollar from the amount I recorded from MyCase.<sup>34</sup> I then calculated error rates.

The Institute for Justice has long had reason to question the quality of Indiana’s forfeiture reporting.

Additional details on my methods and results are available in the appendix.

**Figure 2: Sample court record showing information recorded for comparison to information captured in the IPAC data**

STATE OF INDIANA )  
 ) SS: ST. JOSEPH CIRCUIT COURT  
 ST. JOSEPH COUNTY ) CAUSE NO. 71C01-1909-MI-000504

STATE OF INDIANA, )  
 )  
 Plaintiff, ) **FILED**  
 ) April 28, 2021  
 v. ) ST. JOSEPH CIRCUIT & SUPERIOR COURT  
 ) JB  
 )  
 [REDACTED] and \$9,043.00 )  
 IN UNITED STATES CURRENCY, )  
 )  
 Defendants. )

**JUDGMENT**

This cause comes before the Court on the **Stipulation of the Parties** for the forfeiture of the **Settlement = Yes**  
 following **property: \$9,043.00 in United States Currency.**

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. That the defendant, [REDACTED], has **forfeited** his rights in the amount of **1 cash property forfeited**  
**\$1,500.00** of the \$9,043.00 in United States Currency named as a defendant in this action. **Amount of cash forfeited**


2. That the **seized \$1,500.00 forfeited in United States Currency is ordered**  
**distributed as follows:**

- a. **Attorney's fees to [REDACTED]** **\$500.00** **Distributed to attorney fees**  
 per fee agreement with St. Joseph County Prosecutor's Office
- b. Statutory Distribution to the **County Prosecutor's Forfeiture Fund** **\$333.33** **Distributed to prosecutor's office**
- c. Statutory Distribution to **St. Joseph County Police Department** **\$566.67** **Distributed to police department**
- d. Statutory Distribution to the **Indiana Common School Fund** **\$100.00** **Distributed to Common School Fund**

3. **The remaining \$7,543.00 in United States Currency within police custody shall be** **Amount returned to claimant**  
**released to defendant [REDACTED] attorney, [REDACTED]** **1 cash property returned**

Entered on the date file-marked hereon.

*Tom Beech*  
 Judge, St. Joseph Circuit Court



# RESULTS

Despite state law requiring prosecutors to report on their forfeiture cases, my results indicate that Indiana's forfeiture reporting provides little in the way of true transparency or accountability. Instead, a substantial number of forfeiture cases go unreported and those that are reported often contain errors that present an inaccurate accounting of Indiana's forfeiture system.

**KEY FINDING #1:**  
Many forfeiture cases in Indiana go unreported—especially in counties with contingency-fee prosecutors.

Indiana prosecutors fail to report a substantial number of forfeiture cases each year. Not only does this mask the true number of forfeiture cases occurring throughout the state, but it also means decision-makers and the public lack a full accounting of the total amount of property forfeited or transferred to the federal government each year.

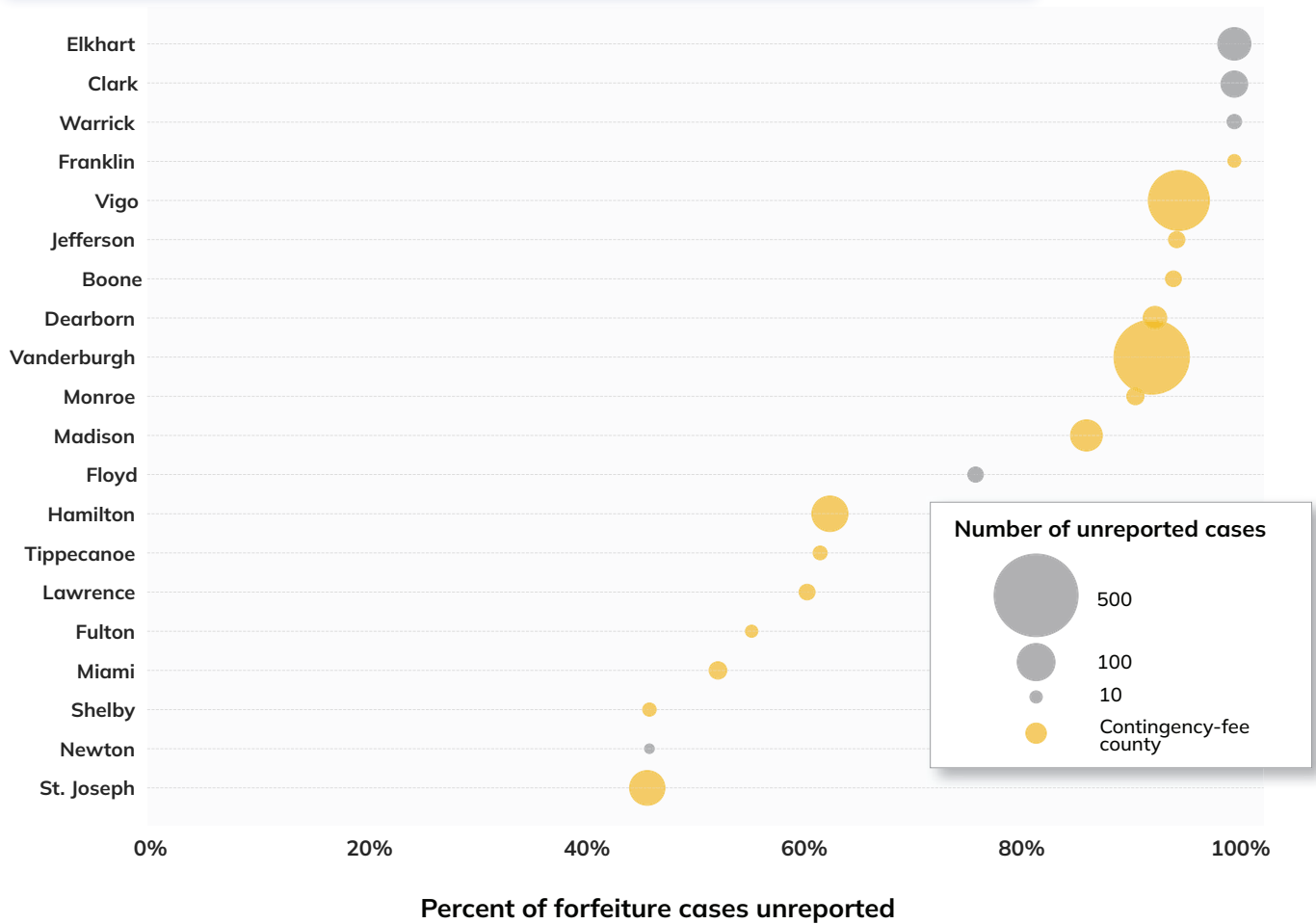
Over a six-year period, at least 1,967 forfeiture cases—or nearly 30% of all known forfeiture

cases—went unreported in Indiana.<sup>35</sup> These unreported cases involved 144 vehicles and more than \$6.2 million in currency forfeited under state law, as well as more than \$3.8 million in seized currency transferred to the federal government for forfeiture. In other words, over six years, prosecutors failed to report more than \$10 million worth of seizures and forfeitures. (See Figure 3.)

**Figure 3: From 2016 to 2021, Indiana agencies failed to report ...**



**Figure 4: 20 worst counties for reporting forfeiture cases, 2016–2021\***



\*Among counties with at least 10 known forfeiture cases

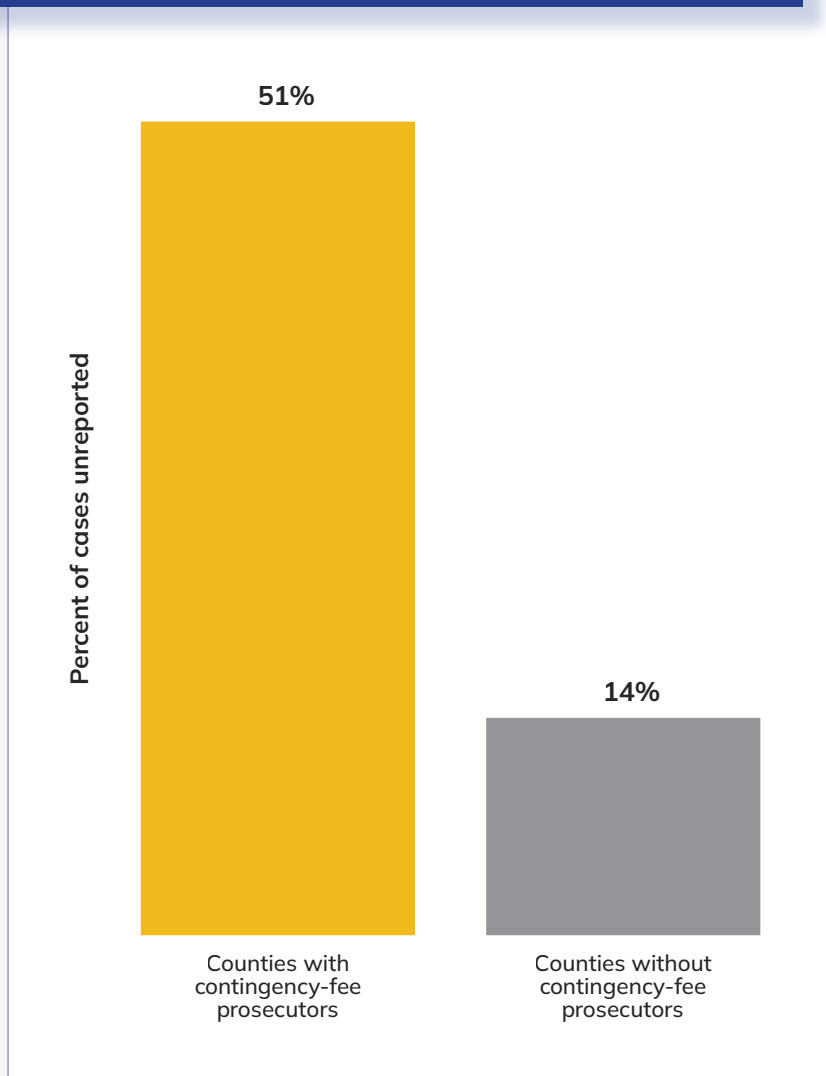
To put the scale of nonreporting in perspective, IPAC’s annual aggregate reports to the legislature report \$23.4 million in proceeds from forfeitures under state law from fiscal years 2016 through 2021, roughly the same period for which I identified unreported forfeiture cases.<sup>36</sup> That total includes both forfeited currency and proceeds from the auction of forfeited property, which means the \$6.2 million in unreported state-law currency forfeitures I identified is equal to more than a quarter of the value of *all* reported state-law forfeitures.

The nonreporting problem is widespread but varied in terms of its severity. (See Figure 4.) Of the state’s 92 counties, 77 had at least one unreported forfeiture case. However, the problem is much worse in some counties than in others. Among counties with at least 10 known forfeiture cases, four—Elkhart, Clark, Warrick, and Franklin—failed to report any cases. Six others reported fewer than 10% of their forfeiture cases, and another seven reported fewer than 50%.

Counties that contract out forfeiture cases to private attorneys working on contingency are particularly lax with reporting. As shown in Figure 5, they failed to report more than half their forfeiture cases, while counties that do not contract out forfeiture cases failed to report 14%. Of the 1,967 unreported cases we found, 72% came from contingency-fee counties.

Two of the lax contingency-fee counties, Vanderburgh and Vigo, were also among the most active in pursuing forfeitures.<sup>37</sup> Together, they accounted for more than a tenth of forfeiture cases overall—and more than a third of unreported forfeiture cases. This is particularly troubling given that Indiana’s contingency-fee forfeiture scheme already carries inherent problems for accountability.

**Figure 5: Percent of known forfeiture cases unreported in counties with contingency-fee prosecutors versus in counties without, 2016–2021**



## KEY FINDING #2:

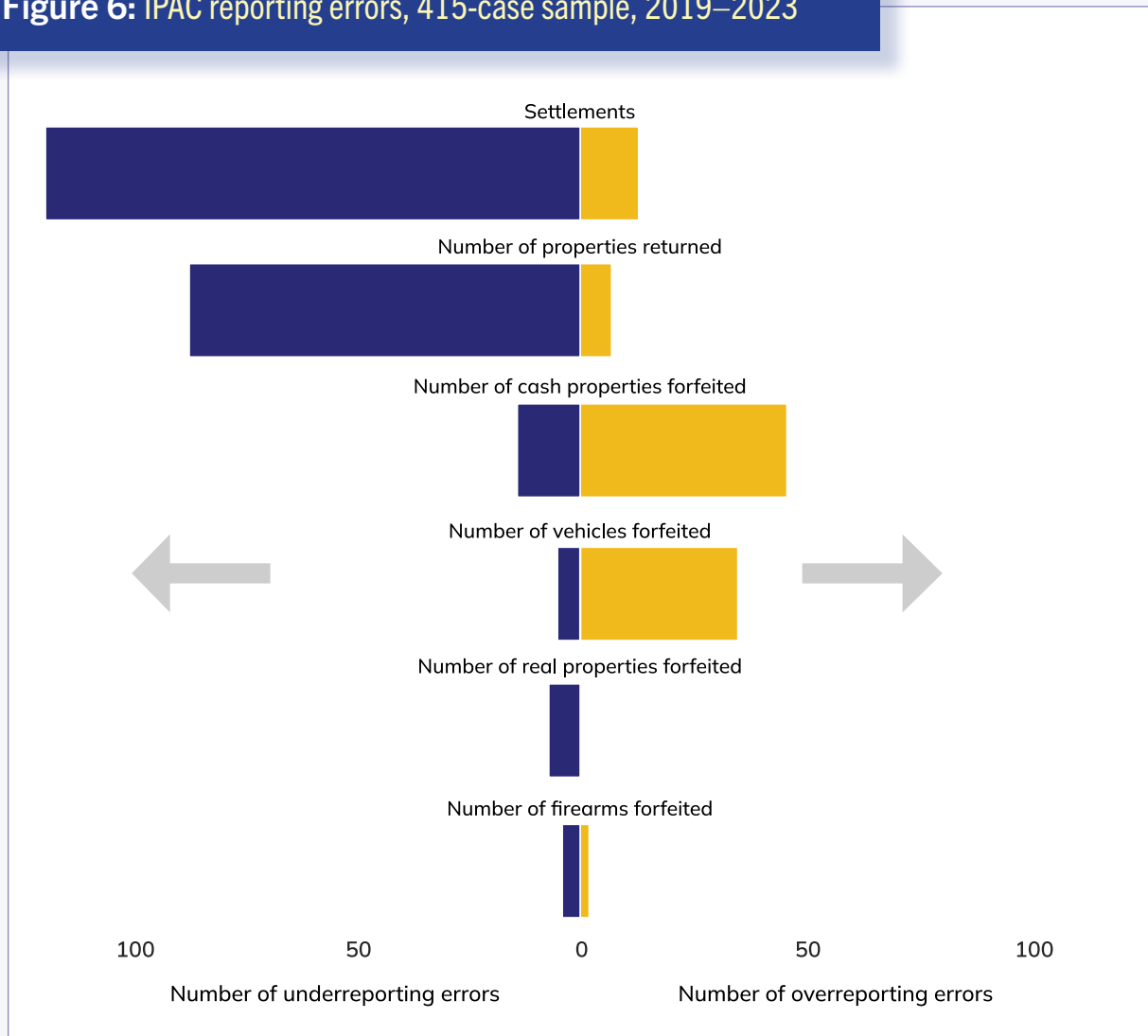
When forfeiture cases are reported, they are often riddled with errors.

The forfeiture cases that are reported to IPAC contain frequent errors in all directions that undercut transparency and trust in the reporting process while clouding how the state's forfeiture system plays out for law enforcement and property owners. The prevalence of errors suggests that even if all prosecutors reported 100% of their forfeiture cases, decision-makers and the public would still lack trustworthy, actionable information.

In IPAC's data, 43% of reported cases from my random sample of 415 contained at least one error when compared to court documents on the

following six items: number of cash properties forfeited; number of vehicles forfeited; number of firearms forfeited; number of real properties forfeited; number of properties returned to claimants; and whether the case involved a settlement.<sup>38</sup> The most commonly incorrect items were whether the case involved a settlement (incorrect 32% of the time), the number of properties returned to claimants (23%), and the number of cash properties forfeited (15%). Figure 6 shows the directionality of errors.

Figure 6: IPAC reporting errors, 415-case sample, 2019–2023



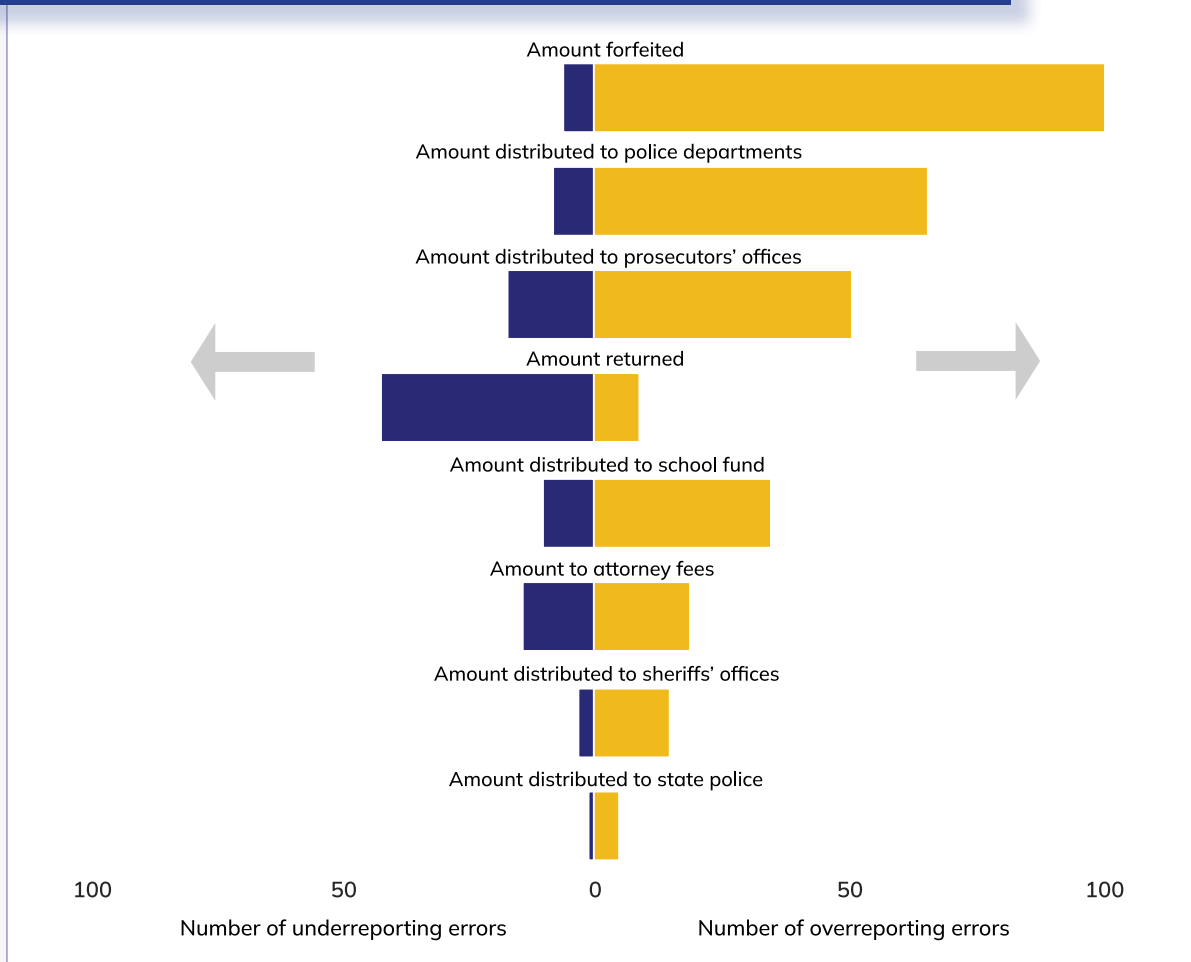
Unfortunately, the values of non-cash properties are not consistently present in the court documents.<sup>39</sup> To examine the accuracy of dollar amounts in reported forfeiture cases—things like the value of the forfeited property, amounts returned to property owners, and amounts distributed to different types of agencies—I therefore limited this part of my analysis to the 340 cases in my random sample that involved only cash.

Looking more closely at those 340 cash-only cases revealed that 64% contained an error on at least one of the six items above or at least one of the following eight items: total amount forfeited; total amount returned to claimants; proceeds distributed to the Common School Fund; proceeds that went to pay attorney fees; proceeds distributed to prosecutors’ offices; proceeds distributed to the Indiana State Police; proceeds distributed to sheriffs’ offices; and proceeds distributed to police departments.<sup>40</sup> The dollar-amount items that were incorrect most frequently were the total amount forfeited (incorrect 32% of the time), the amount

of proceeds distributed to police departments (22%), and the amount of proceeds distributed to prosecutors’ offices (20%).

The dollar-amount errors in individual cash-only cases vary, and overreporting is more common than underreporting. (See Figure 7.) It is difficult to identify patterns or determine why values were entered incorrectly. The overall impression created is one of widespread carelessness. Even the few discernible patterns suggest nothing more than simple sloppiness. For instance, 161 of the dollar-amount errors involved reported values that were exactly two, three, four, five, six, or even 10 times the actual amount, suggesting prosecutors or other recordkeepers entered the same amount multiple times in one or more fields, perhaps at various points during the reporting process. Other times, prosecutors recorded zeros instead of positive values—an error that occurred 101 times for dollar-amount entries, including 42 times for the total amount of cash returned to claimants.

**Figure 7: IPAC reporting errors, 340-case cash-only sample, 2019–2023**



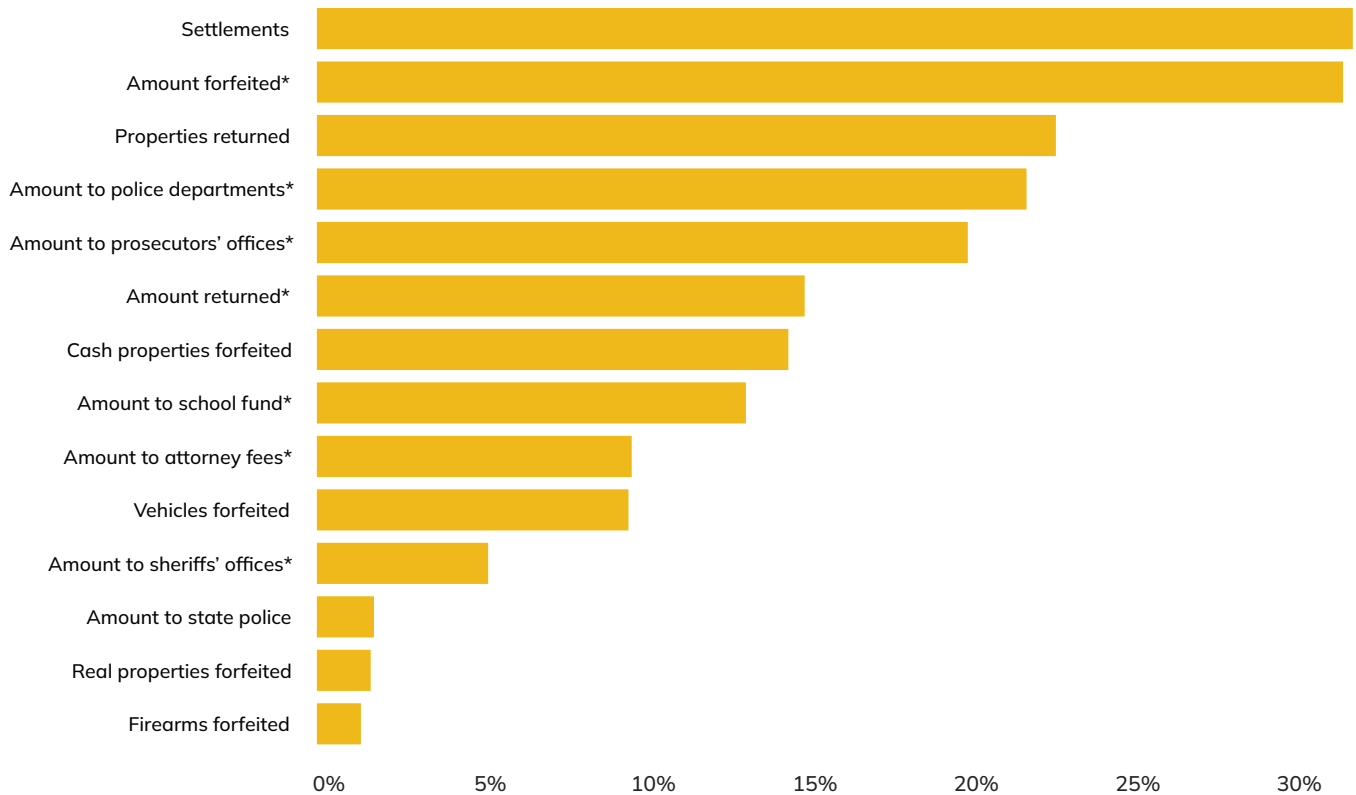
Regardless of the reasons for them, the many individual errors compound into wildly inaccurate total amounts for dollar amounts forfeited, distributed to agencies, and returned to claimants. Total forfeiture proceeds from the 340 cash-only cases examined were overreported by 55%. Proceeds that went to pay attorney fees, including fees for private prosecutors working on contingency, were overreported by 430%.<sup>41</sup> Meanwhile, the amount of money returned to claimants was *underreported* by 53%. This last finding, combined with the underreporting of whether a settlement occurred and whether property was returned to claimants, means that prosecutors' forfeiture reports create the impression that forfeiture cases end less favorably for property owners than they actually do.

The frequency of errors varied by field, as Figure 8 shows, but all told, about two-thirds of the 415 cases in my random sample contained an

error on at least one of the 14 items examined. This is a conservative estimate of the total error rate, as it assumes all the dollar amounts prosecutors entered for the 75 cases that included non-cash properties are correct.

We can only speculate as to why the IPAC data are so frequently mistaken. The electronic reporting system prosecutors' offices use, known as the Indiana Prosecutor Case Management System, may not be designed to ensure records are internally consistent, leading to errors like multiple entries of the same value for a given case. Individuals entering data into the system may not fully understand how data are supposed to be reported, or they may simply make mistakes while entering data. And once data are entered, IPAC officials may make mistakes compiling the data and organizing it into spreadsheets and reports to share with lawmakers and the public.

**Figure 8: Frequency of errors in the IPAC data for sampled cases, 2019–2023**



\*The error rate for this field was measured from a smaller sample of 340 cash-only cases as the value of non-cash properties was not consistently included in the court documents.

# INDIANA'S POOR FORFEITURE REPORTING MASKS WEAK FORFEITURE CASES

Although the causes of Indiana's poor forfeiture reporting practices are unclear, the consequences are striking. The widespread inaccuracies call into question the entire reporting enterprise, reducing trust in numbers meant to help lawmakers better understand a complicated and often criticized state forfeiture system. Furthermore, the inaccuracies create a false impression of how the forfeiture system works in Indiana. Someone taking Indiana's forfeiture reporting at face value may come away with the impression that seizures are nearly always justified—that forfeiture cases are slam dunks for law enforcement and hopeless causes for property owners. A closer look at my random sample of 415 reported cases from fiscal years 2019 through 2023 suggests otherwise.

First, property owners contested forfeitures far more often than the state's reporting indicates. In my random sample, I counted 140 instances of property owners contesting forfeiture of their property, a contested rate of 34%. Yet in its annual aggregate reports to the legislature covering more than 4,000 closed forfeiture cases over the same period, IPAC reported that only six cases were contested, a contested rate of 0.2%.

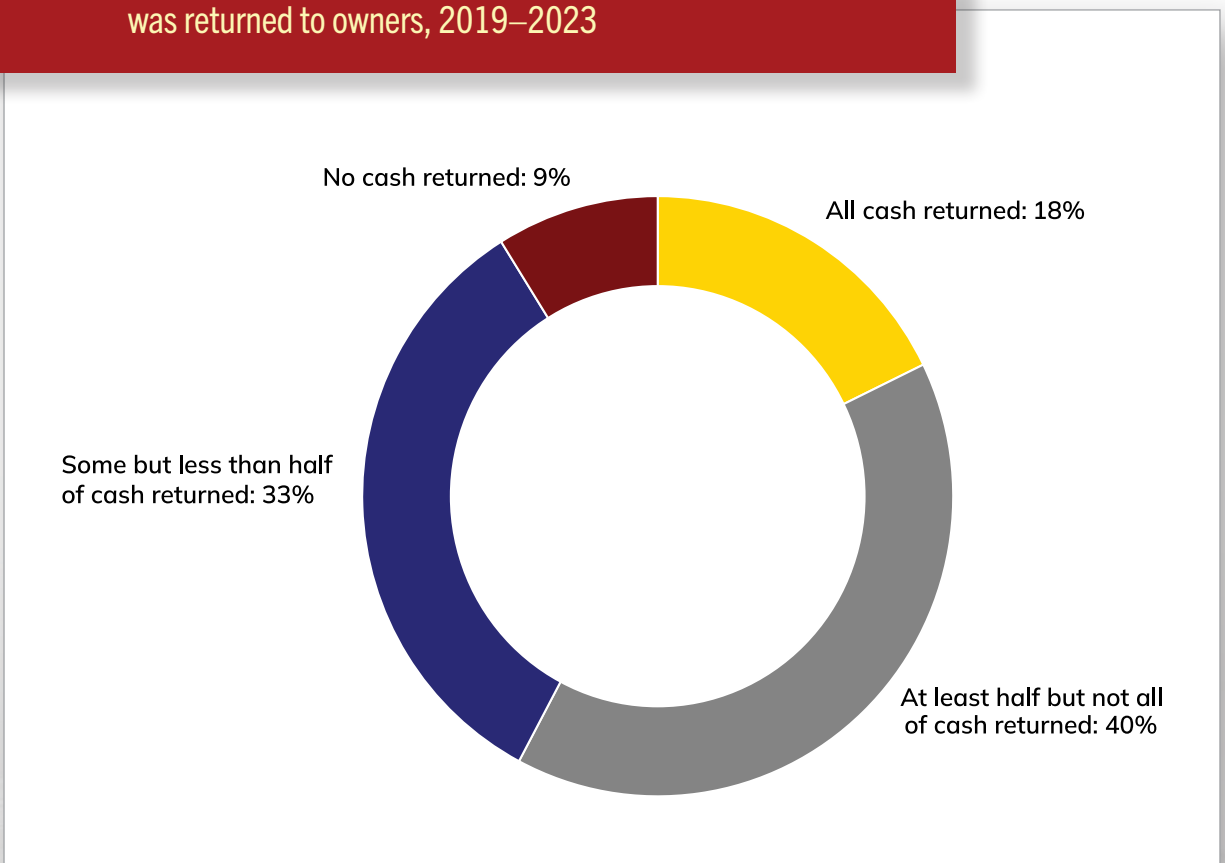
The inaccuracies create a false impression of how the forfeiture system works in Indiana.

Second, when property owners contested forfeiture of their property, the most common outcome was that prosecutors settled the case—and this happened far more often than the state's reporting indicates. Indeed, 86% of the 140 contested forfeiture cases in my random sample ended in a settlement. That translates to about 29% of the 415 cases overall. Yet prosecutors' reports indicate that fewer than 4% of those same 415 cases ended in a settlement.<sup>42</sup>

Third, and relatedly, when prosecutors settled a case, they most often returned some or even all of the seized property to claimants. Among the 121 settlements in my random sample, 92% returned at least some of the seized property. Looking at the 90 settlements in cash-only cases, prosecutors gave back at least some of the seized cash 91%

of the time and at least half 58% of the time. As shown in Figure 9, this includes some cases where owners received *all* their cash back. The fact that prosecutors so often return some or all property when forfeitures are challenged calls into question whether forfeiture is being used to disrupt crime or simply to increase agencies' revenues.

**Figure 9:** In most cash-only settlements, at least half of seized cash was returned to owners, 2019–2023

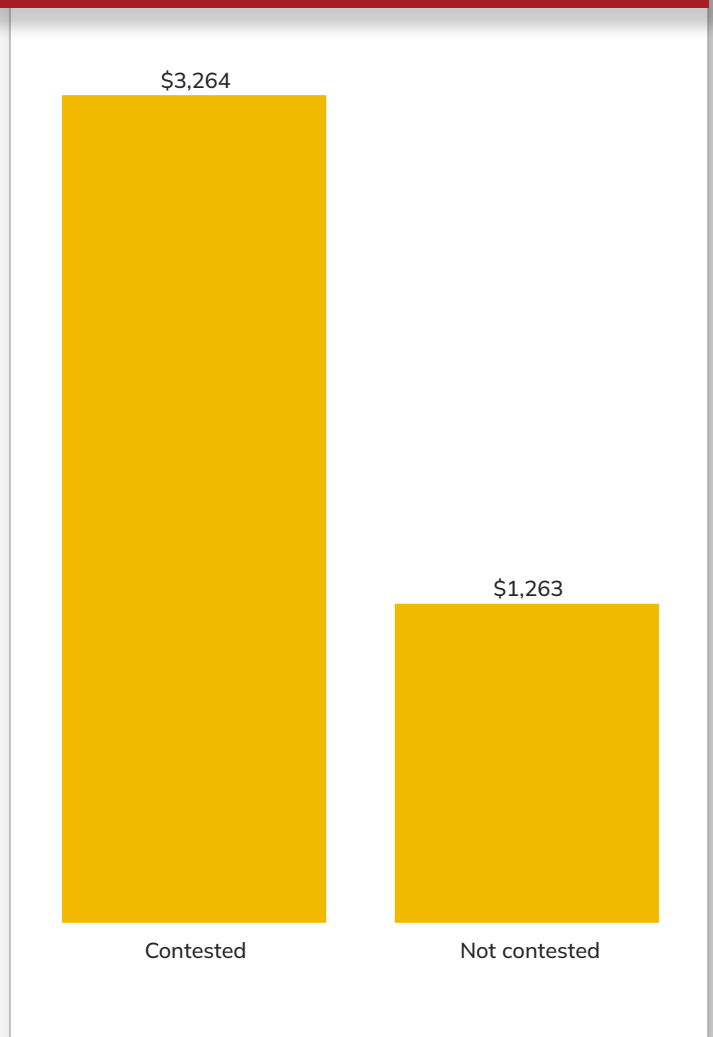


While a return of property is a better outcome than the alternative of forfeiture, the substantially higher-than-reported frequency of these settlements raises another question: Are prosecutors returning property to people they believe are actually guilty of a crime, or are they relenting after putting innocent people through a stressful and unjust process? The perverse monetary incentives of civil forfeiture combined with its much lower standard of proof unfortunately may push the odds in favor of the latter.

My analysis also reveals that Indiana property owners were more likely to fight forfeiture when more money was at stake.<sup>43</sup> In fact, the median cash seizure in contested cases was \$3,264, about 2.5 times more than the \$1,263 median cash seizure in uncontested cases. (See Figure 10.) This suggests owners may be making an economically rational decision to walk away when the amount at stake is likely less than what they would have to pay in legal fees to fight for their property.

Even the Indiana Attorney General's Office has acknowledged this possibility. In *Abbott v. State*, a case involving about \$9,000 in cash, the Attorney General's Office wrote: "Based on the relatively-small amount of money at issue and the low probability of success ... it is unlikely that even a litigant of significant means would hire counsel to defend" against the forfeiture.<sup>44</sup> But while the decision to walk away may be correct from a simple cost-benefit perspective, it raises an important question of justice: How many lower-value

**Figure 10:** The median value of seized currency was higher in contested cases, 340-case cash-only sample, 2019–2023



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properties would ultimately not be forfeited if litigation costs did not preclude a challenge?

The impracticality of contesting the forfeiture of less valuable properties may explain why so many cases end in default judgments for the state: In my random sample of 415 cases, 66% were not contested. All but 17 of these cases resulted in default judgments awarding all the seized property to the government.<sup>45</sup> Fourteen were voluntary dismissals by the state, while in the remaining three cases, a judge ruled there had

been no probable cause for the initial seizure, a finding that by law requires the property's return. Incidentally, one of those three cases involved cash seized at the Indianapolis FedEx hub. Of that seizure, the judge wrote: "Not a single event in the [probable cause] affidavit is a crime as detailed." (See Figure 11.) Forfeiture defenders frequently argue owners fail to fight for their property because they are guilty, but a plausible and perhaps likely alternative, especially where lower-value properties are at issue, is that many

**Figure 11: Court order denying probable cause for a seizure from the Indianapolis FedEx hub**

49D02-2103-MI-009432

STATE OF INDIANA	)	IN THE MARION SUPERIOR COURT
	SS:	CAUSE NO. 49
COUNTY OF MARION	)	
	)	
STATE OF INDIANA	)	
Plaintiff	)	
	)	
VS	)	
	)	
\$28,920.00 in U.S. Currency	)	
[REDACTED]	)	
As Their Interest May Appear	)	
	)	
Defendant(s).	)	

**FILED**  
March 23, 2021  
CLERK OF THE COURT  
MARION COUNTY  
BS

**DENIED**  
March 22, 2021

Here again, as this Court has written and noted many times, the law enforcement officers, animals staff, etc are performing their tasks, most likely as instructed; however, there is no link to criminal activity sufficient to warrant probable cause to seize. Not a single event in the PC affidavit is a crime as detailed. The best analogy, again as this court has written, is that of car looking suspiciously like a whiskey runner's car - late night, obeying all traffic laws, car looks like a whiskey runner's car and officer pulls driver over anyway. Officer smells whiskey, but finds none in the car and driver has none in his system. Driver does have \$10,000 and a desirable car; so, State seeks to forfeit it. This court simply cannot sign off on such activity. Cash is ordered repackaged and sent on as found.  
-Judge Oakes

**ORDER**

The Court, having examined State's Motion for Probable Cause Finding for Forfeiture Purposes in the above-captioned matter, and being duly advised in the premises, finds that the motion should be GRANTED.

The Court finds probable cause to believe that the \$28,920.00 in U.S. currency is subject to seizure under I.C. 34-24-1.

DATE: \_\_\_\_\_ SIGNED: \_\_\_\_\_

Judge

Distribution:

[REDACTED] Marion County Prosecutor's Office

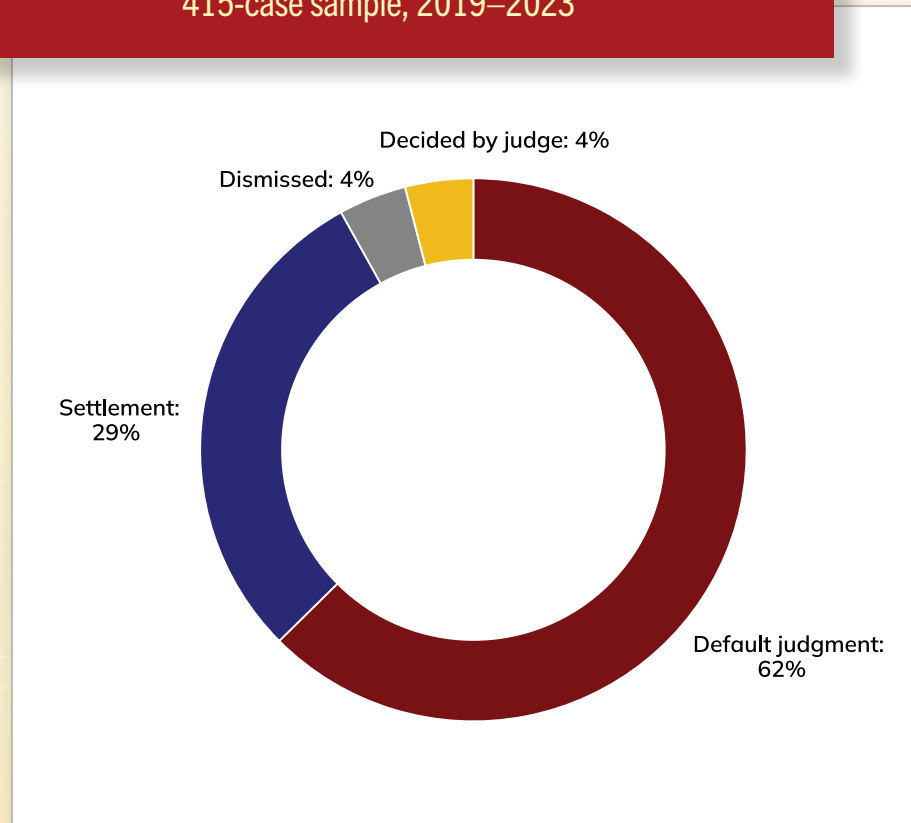
INISP0000 Indiana State Police Headquarters  
Case no. 211SPC003325

owners decide it is not worth the legal fight.

All told, more than 90% of the cases in my random sample ended in either a default judgment or a settlement.<sup>46</sup> Another 4% ended in voluntary dismissals—that is, the state dropped the cases and returned property to its owners. Just 4%—a mere 18 cases—were ultimately decided by a judge.<sup>47</sup> (See Figure 12.) This is hardly the picture of forfeiture targeting the guilty that Indiana’s forfeiture reporting paints. As worrisome, the vast majority of forfeitures happen with limited judicial oversight. Together with my various other findings, these results raise the question of just how many forfeitures are carried out with little evidence of property’s connection to any crime.

In 2015, when the General Assembly was considering instituting forfeiture reporting requirements, IPAC’s executive director welcomed the reform, but he also noted that “the question is how do we do that and be accurate within our current system. I don’t have the answer to that question yet.”<sup>48</sup> A decade later, the substantial amount of nonreporting and inaccurate reporting I found in my analysis makes it clear that Indiana is still looking for answers when it comes to accurate forfeiture case data. Meanwhile, prosecutors continue to present an incomplete—and incorrect—picture of forfeiture to Indiana lawmakers, courts, and the public.

**Figure 12: Few forfeiture cases were decided by a judge, 415-case sample, 2019–2023**



Forfeiture defenders frequently argue owners fail to fight for their property because they are guilty, but a plausible and perhaps likely alternative, especially where lower-value properties are at issue, is that many owners decide it is not worth the legal fight.



# RECOMMENDATIONS AND CONCLUSION

Indiana's substantial forfeiture reporting problems presented in this report, along with past and present abuses, call for sustained action in courthouses and the statehouse to push back against the state's unjust forfeiture system.

Most obviously, Indiana lawmakers should **insist on full transparency and accountability for all forfeiture activity**. As is abundantly clear from my results, the state needs to improve its reporting system. At a minimum, it should impose meaningful penalties for failing to report as required and adopt systems for improving accuracy.<sup>49</sup>

And as long as agencies are allowed to keep and spend forfeiture proceeds, the state should require them to report on that spending and undergo regular independent audits of forfeiture accounts. A 2022 news investigation showed the need to ensure forfeiture funds are subject to public scrutiny. The investigation revealed that the former prosecutor for Vanderburgh County had deposited \$25,000 in forfeiture revenue into the account of a (now-defunct) nonprofit he ran. Between 2016 and 2021, someone at the nonprofit used the account as a slush fund, withdrawing more than \$14,000 in cash and spending thousands more "at fast food restaurants, women's clothing stores, hair

salons and beauty retailers, convenience stores, pharmacies and supermarkets and in out-of-town shopping sprees."<sup>50</sup>

Given both the risks to property and due process rights, and the need to ensure accountability for public funds, better reporting is crucial for helping lawmakers understand both how forfeiture works and how it can be reformed. Still, better reporting is not an end in itself, and my deep dive into 415 reported cases vividly illustrates how innocents in Indiana are

likely being victimized by a system that makes it difficult to fight for the return of unjustly seized property—or even to reach a courtroom to make their case.

The surest reform would be to **end civil forfeiture**, as New Mexico and Maine have done, and rely instead on criminal forfeiture.<sup>51</sup>

Owners would get the full measure of due process protections available in criminal proceedings. And the state could still separate convicted criminals from the fruits or instrumentalities of their crimes. But first, it would have to prove a crime occurred and the property's owner committed it.

In addition, Indiana should **require that forfeiture revenues be deposited into a neutral fund**.<sup>52</sup> Indiana's Constitution intended for forfeiture revenues to be deposited

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into the Common School Fund to benefit public schools throughout the state. Restoring the original intent of the state constitution with a law requiring that proceeds flow to the Common School Fund would go a long way toward reducing forfeiture's perverse incentives. An Institute for Justice case currently before the 7th U.S. Circuit Court of Appeals could also bring an end to the perverse incentives baked into Indiana's unique contingency-fee arrangements.<sup>53</sup> But if courts fail to do so, the legislature should step in to prohibit the practice.

Indiana should also **expand protections for innocent third-party owners**

by ensuring the government always bears the burden of showing an innocent-owner claimant should be deprived of their property, regardless of the type of property.

To truly respect people's property rights and due process protections, Indiana should strengthen forfeiture reporting *and* enact a comprehensive package of reforms that includes ending civil forfeiture and eliminating the financial incentive. It has been 10 years since New Mexico enacted this exact package of reforms without the subsequent increase in crime predicted by civil forfeiture's defenders, showing that states can bolster the pursuit of justice over revenue without sacrifices to public safety.<sup>54</sup> Hoosiers who expect the government to honor their constitutional rights deserve nothing less.

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Jack and Jeana Horner  
Greenfield, Indiana

# APPENDIX: DATA AND METHODS

This appendix contains additional details on the data used for this study and my analyses, including the quality control process, how I identified contingency-fee counties, and tables with more detailed reporting and error rates.

## DATA SOURCES

**Civil case database:** Because civil forfeiture cases are *civil* cases, I requested and obtained a database from the Indiana Office of Court Services of all nonconfidential civil cases in every Indiana county from January 1, 2016, to December 31, 2021. The IOCS provided the data in the form of dozens of text files containing millions of rows of data representing every recorded action across each of the cases, as well as summary information for each case. The summary information includes details like the case number, case title (e.g., “State of Indiana v. \$300”), the date the case was opened, and so forth. I identified forfeiture cases by searching text entries in certain fields—such as the case title or defendant field—for characters or parts of words often found in forfeiture cases. My search terms included a dollar sign, the term “VIN” for an automobile’s vehicle identification number, and variations on parts of the word forfeiture, such as “forf” and “foref,” the latter included in case forfeiture was misspelled in the data. I then checked the cases to confirm they were indeed forfeiture cases. False positives tended to be land disputes between private parties, cases involving real estate foreclosures, and non-forfeiture cases involving the state Bureau of Motor Vehicles.

**Case-level reported forfeiture data:** Each year, the Institute for Justice obtains an Excel workbook from the Indiana Prosecuting Attorneys Council containing information compiled from all forfeiture cases reported to IPAC for the prior fiscal year. The data include case numbers, number of items forfeited, amount of property forfeited, amounts

returned to property owners, whether a case was settled, and dollar-amount distributions to the Common School Fund, attorney fees, prosecutors, the Indiana State Police, sheriffs’ offices, police departments, and other law enforcement agencies. I used the IPAC data for two main purposes. First, I cross-referenced cases in the IPAC data with cases in the civil case database described above to identify unreported forfeiture cases in the latter. Second, I compared the reported information within the IPAC case data to the information observed in court records to assess the accuracy of the IPAC case data.

**Aggregate forfeiture reports:** Each year, IPAC uses the case-level reported forfeiture data described above to produce an aggregate forfeiture report for the legislature. These reports contain state-level summary information for most of the information compiled in the case-level data. I used these reports to examine how certain aggregate statistics reported within them—such as the frequency of settlements in forfeiture cases—compared with the same statistics calculated from the random sample of forfeiture cases in the IPAC data over the same period.

**Court documents and case information:** The Indiana Supreme Court’s Office of Judicial Administration operates an online search engine called MyCase that allows users to examine individual case information and download court documents for nonconfidential civil and criminal cases in the state. My team used MyCase to download forfeiture case documents that we then coded to compare with the case-level information contained in the IPAC datasets.

## IDENTIFYING AND CHECKING REPORTING ERRORS

Because of the large number of unreported cases to code and the large number of randomly selected reported cases to review for errors, I benefited from the help of a research assistant who coded information about unreported and reported cases. For both types of coding work, the assistant worked in several phases to allow for trainings and multiple rounds of reviews and quality control checks. This process transpired as follows.

First, for the coding of unreported case information—which included the amount of any currency forfeitures, the number of vehicles forfeited, and whether seized property was transferred to the federal government—I conducted a thorough training to ensure that the assistant and I both understood where to find the information we needed to code and how to record the information in the codebook. While these were relatively simple tasks, I wanted to minimize uncertainty, come to a mutual understanding on terminology, and reduce the likelihood of making errors during the coding process.

Following the training, the assistant coded information for an initial set of 100 cases, after which a colleague with extensive experience working with forfeiture data and I reviewed all coding decisions to identify any errors and the reasons they were errors and to ensure any errors were corrected. We identified only one error—a case mistakenly coded as involving a federal transfer. All other coding decisions were correct. I shared the information on the incorrect coding decision with the assistant and provided guidance on how to correctly identify federal transfers for the remaining cases. For the rest of the unreported

case coding, I directed the assistant to flag any coding decisions she was unsure about and to keep detailed notes on particularly difficult to understand cases so that I could review them for accuracy. In addition, my colleague coded 566 of the 592 unreported forfeitures in Marion and Vanderburgh counties.

Upon completion of coding for the 1,998 total unreported cases, my colleague and I first reviewed all cases flagged by the research assistant while I reviewed any cases my colleague marked for review among the Marion and Vanderburgh county cases he coded. Coming out of this review, I deleted 12 cases as duplicative or otherwise having key fields coded correctly in a merged case elsewhere in the dataset. For instance, I identified case 22D01-1811-MI-001605 as a forfeiture case in the IOCS data. However, an entry toward the end of the case history on MyCase noted that the case was closed and said to “see case 22D01-1811-PL-1736,” which also existed within the dataset as an unreported forfeiture case. After confirming these were duplicates, I deleted case 22D01-1811-MI-001605 from the unreported forfeiture case dataset.

In addition, I deleted 19 cases that had been flagged as potentially not being forfeiture cases. Upon closer inspection, they, indeed, turned out not to be forfeiture cases. These included cases dealing with private foreclosures, cases dealing with reinstatement of driving privileges, cases we could not find on MyCase, and cases the state had opened in error. Such cases initially appeared in the dataset because certain fields contained strings or substrings used to identify likely forfeiture cases in the IOCS data.

This left a total of 1,967 unreported forfeiture cases that were opened between calendar years 2016 and 2021 and closed by October 31, 2022.

In addition, the assistant flagged 150 unreported forfeiture cases as not having enough information in MyCase to allow coding of some or all of the fields in the dataset. For instance, some cases did not have downloadable orders but instead had only brief text entries allowing observation of some characteristics (such as the fact that the case was indeed a forfeiture case) but not others (such as the value of the forfeited property). These cases remain in the dataset as unreported forfeiture cases, but any additional information on those cases that could not be coded obviously does not appear in the reported results. This is a key reason the amount of unreported cash and vehicles forfeited are conservative, lower-bound numbers.

Following the reviews of all cases flagged by the assistant, I conducted three additional quality control checks:

**Check 1: A non-random check of the highest and lowest coded forfeiture values.**

To ensure the largest forfeiture values and the smallest non-zero forfeiture values were entered correctly, I checked the coding for the 23 unreported cases with the highest amounts (values of at least \$30,000; the highest-value forfeiture coded was \$525,000) and the 18 unreported cases with the lowest forfeiture amounts (\$100 or less). Among these 41 cases, I corrected four high-value cases and one low-value case.

**Check 2: A random spot-check of coded cases in Marion and Vanderburgh counties.**

Among the 566 unreported forfeiture cases in Marion and Vanderburgh counties coded by my colleague, I randomly spot-checked 45 that had not been previously reviewed or corrected. I did not observe any errors pertaining to reported fields.

**Check 3: A random spot-check of the remaining coded cases.** Finally, among the remaining 1,199 unreported forfeiture cases, I randomly spot-checked 150 that I had not previously reviewed or corrected as part of my process for checking cases that were flagged for review or on my own initiative after reading notes left by the assistant in the coding notes field. Using this 150-case sample, I calculated the following accuracy rates:

- Amount of cash forfeited:  $145/150 = 96.7\%$
- Number of vehicles forfeited:  $147/150 = 98\%$
- Whether a federal transfer occurred:  $150/150 = 100\%$

I corrected all errors identified before proceeding with my analysis.

## ENSURING QUALITY IN CODING THE ACCURACY OF REPORTED CASES

As with the process for the coding of unreported forfeiture cases, I began with a training on where to find the applicable coding items within the court documents and how to record the information. Similarly, I checked all applicable fields among each of the first 100 cases coded by the assistant to ensure she was making correct decisions and to create an opportunity for additional guidance. My colleague and I also checked 47 cases that the assistant flagged for review out of the remaining 315 cases. These cases tended to be complicated forfeiture cases with many assets or unusual circumstances. This means 147 out of 415 cases were already checked and corrected, if necessary, prior to the random spot check of 50 of the remaining 268 cases.

Using this 50-case sample, I calculated an accuracy rate for the coding decisions of 100% for 10 of the 14 fields examined. The fields with an error were:

- Whether a settlement occurred:  $47/50 = 94\%$
- Number of properties returned:  $48/50 = 96\%$
- Amount of cash forfeited:  $48/50 = 96\%$
- Amount of cash returned to claimants:  $49/50 = 98\%$

Here again, I corrected all errors before proceeding with my analysis.

## IDENTIFYING CONTINGENCY-FEE COUNTIES

Because Indiana's contingency-fee forfeiture scheme creates an additional conflict of interest in counties that take advantage of it, I explored whether reporting problems were particularly bad in those counties. Since no definitive source identifying such counties exists, I had to create such a list. To do that, I compared the plaintiff attorneys appearing in forfeiture cases in the IOCS civil case database to the attorneys serving in a given county prosecutor's office. The list of attorneys serving in county prosecutors' offices came from two sources: (1) the IPAC "Find Your Prosecutor" website<sup>55</sup> and (2) a public employee compensation database containing the full names of employees, which I searched for employees where "prosecut" appeared in their department or job title/duties fields between 2016 and 2021.<sup>56</sup> If any of the plaintiff attorneys for a given county did not appear on the list of attorneys serving in that same county prosecutor's office, I deemed the county to be a contingency-fee county.

I then checked the contingency-fee designations in two ways. First, I examined final forfeiture orders for each contingency-fee county, confirming that status if the attorney for the state was indeed a private attorney or there was a distribution of proceeds in the form of attorney fees to a private attorney. All counties that were initially classified as contingency-fee counties were confirmed using this approach. Second, to see if any additional contingency-fee counties could be found, I examined reported forfeiture cases in the IPAC data that came from counties classified as non-contingency-fee counties but that included distribution amounts for attorney fees, as such fees should only appear if a private attorney was involved in the case. All instances of attorney fees in such cases were found to be incorrect except for those in two additional counties—Johnson and Washington counties. As such, they are classified in this study as contingency-fee counties.

## REPORTING AND ERROR RATES IN GREATER DETAIL

**Table A1: Reporting rates and amounts of unreported currency forfeitures for the 20 counties with the lowest reporting rates\***

County	Contingency fee?	Unreported forfeiture cases	All known forfeiture cases (reported and unreported)	Percent of forfeiture cases reported	Dollar amount of unreported currency forfeited
Elkhart		76	76	0.0%	\$246,440
Clark		49	49	0.0%	\$96,128
Warrick		14	14	0.0%	\$13,734
Franklin	Yes	11	11	0.0%	\$18,392
Vigo	Yes	263	277	5.1%	\$737,742
Jefferson	Yes	18	19	5.3%	\$7,975
Boone	Yes	17	18	5.6%	\$28,250
Dearborn	Yes	38	41	7.3%	\$366,637
Vanderburgh	Yes	403	436	7.6%	\$908,700
Monroe	Yes	20	22	9.1%	\$204,087
Madison	Yes	70	81	13.6%	\$369,110
Floyd		16	21	23.8%	\$32,305
Hamilton	Yes	91	145	37.2%	\$472,391
Tippecanoe		13	21	38.1%	\$147,759
Lawrence	Yes	17	28	39.3%	\$21,544
Fulton	Yes	10	18	44.4%	\$26,393
Miami	Yes	21	40	47.5%	\$685,776
Shelby	Yes	12	26	53.8%	\$65,578
Newton		6	13	53.8%	\$500
St. Joseph	Yes	87	189	54.0%	\$172,894
<b>State total (all counties)</b>		<b>1,967</b>	<b>6,731</b>	<b>70.8%</b>	<b>\$6,252,565</b>
<b>Total contingency-fee counties</b>		<b>1,418</b>	<b>2,763</b>	<b>48.7%</b>	<b>\$4,936,105</b>
<b>Total non-contingency-fee counties</b>		<b>549</b>	<b>3,968</b>	<b>86.2%</b>	<b>\$1,316,460</b>

\*Among counties with at least 10 known forfeiture cases

**Table A2: Errors, types of errors, and rates of errors observed in the random sample of reported forfeiture cases**

	Number and percent of entries with an error		Number and percent of errors that were overcounts (or false positives)		Number and percent of errors that were undercounts (or false negatives)	
	Number	Percent	Number	Percent	Number	Percent
<b>Full sample (n=415 cases)</b>						
Vehicles forfeited	40	9.6%	35	87.5%	5	12.5%
Firearms forfeited	6	1.4%	2	33.3%	4	66.7%
Real property forfeited	7	1.7%	0	0%	7	100%
Cash property forfeited	60	14.5%	46	76.7%	14	23.3%
Property returned to claimants	94	22.7%	7	7.4%	87	92.6%
Settlement	132	31.8%	13	9.8%	119	90.2%
<b>Cases with at least one error</b>	<b>177</b>	<b>42.7%</b>				
<b>Cash-only sample (n=340 cases)</b>						
Amount forfeited	107	31.5%	101	94.4%	6	5.6%
Amount returned to claimants	51	15.0%	9	17.6%	42	82.4%
Amount distributed to Common School Fund	45	13.2%	35	77.8%	10	22.2%
Amount distributed to attorney fees	33	9.7%	19	57.6%	14	42.4%
Amount distributed to prosecutors' offices	68	20.0%	51	75.0%	17	25.0%
Amount distributed to Indiana State Police	6	1.8%	5	83.3%	1	16.7%
Amount distributed to sheriffs' offices	18	5.3%	15	83.3%	3	16.7%
Amount distributed to police departments	74	21.8%	66	89.2%	8	10.8%
<b>Cash-only cases with at least one error</b>	<b>218</b>	<b>64.1%</b>				

# ENDNOTES

- <sup>1</sup> Complaint for Declaratory & Injunctive Relief, *Horner v. Curry*, No. 49D06-1602-PL-004804 (Ind. Super Ct. Feb. 10, 2016), <https://ij.org/wp-content/uploads/2016/02/Horner-v.-Curry-COMPLAINT.pdf> [hereinafter Horner Complaint]; Institute for Justice. (2016b, February 10). *Indiana forfeiture*. <https://ij.org/case/indiana-civil-forfeiture/>; Institute for Justice. (2016a, February 9). *Jeana and Jack Horner*. <https://ij.org/client/jeana-and-jack-horner/>. See also Grove, D. (2021, February 11). 'I had done nothing illegal' – civil forfeiture critics call for reforms. *WTHR.com*. <https://www.wthr.com/article/news/investigations/13-investigates/civil-forfeiture-fight-lawsuit-reform-police-evidence-indiana-greenfield-indianapolis-abuse-laws-definition/531-2ce8f98a-c3f1-4e9c-af99-693fca9da466>
- <sup>2</sup> David B. Smith, Prosecution and Defense of Forfeiture Cases ¶ 1.01, at 1-13 (2018); *Greater Ga. Amusements, LLC v. State*, 728 S.E.2d 744 (Ga. App. 2012).
- <sup>3</sup> Indiana General Assembly. (2015, February 11). *Senate Judiciary Committee Hearing*. [https://iga.in.gov/session/2015/video/committee\\_judiciary\\_4200](https://iga.in.gov/session/2015/video/committee_judiciary_4200), 2:32:40.
- <sup>4</sup> S.B. 388, 119th Gen. Assemb., 1st Reg. Sess. (Ind. 2015); Ind. Code §§ 33-39-8-5(8), 34-24-1-4.5.
- <sup>5</sup> Indiana General Assembly, 2015, 2:33:24.
- <sup>6</sup> Indiana General Assembly. (2018, January 24). *Senate Judiciary Committee Hearing*. [https://iga.in.gov/session/2018/video/committee\\_judiciary\\_4200](https://iga.in.gov/session/2018/video/committee_judiciary_4200), 1:51:12.
- <sup>7</sup> S.B. 99, 120th Gen. Assemb., 2d Reg Sess. (Ind. 2018); Ind. Code § 34-24-1-4.5.
- <sup>8</sup> For an analysis of ways in which Indiana's forfeiture laws can be improved, see Erickson, A. C., McDonald, J., & Menjou, M. (2025). *Forfeiture transparency & accountability: State-by-state and federal report cards*. Institute for Justice. <https://ij.org/report/forfeiture-transparency-accountability/>
- <sup>9</sup> IPAC's annual aggregate reports to the General Assembly are available online at <https://iga.in.gov/publications/agency/reports/ipac>
- <sup>10</sup> Under equitable sharing, state and local law enforcement agencies can partner with the federal government on forfeiture and get up to 80% of the proceeds. U.S. Department of Justice & U.S. Department of the Treasury. (2024). *Guide to equitable sharing for state, local, and tribal law enforcement agencies*. <https://www.justice.gov/sites/default/files/criminal-afmls/legacy/2015/01/16/01-16-15-wire.pdf>. The annual IPAC reports for fiscal years 2016 through 2018 noted about \$7.4 million in "forfeited cash and auction proceeds" from federal forfeitures. The reports for fiscal years 2019 through 2022 noted about \$7.5 million in either "cash" or "money forfeited" from federal forfeitures. No information on the value of federal forfeitures was reported for fiscal year 2023. The reports are not clear or consistent on whether the values reported are the amounts transferred to the federal government or forfeited by the federal government. However, because equitable sharing returns up to 80% of the forfeited proceeds of property transferred to the federal government, the \$14.9 million represents the minimum amount of the value of property seized within Indiana and transferred to federal agencies. For a discussion of equitable sharing, see Knepper, L., McDonald, J., Sanchez, K., & Pohl, E. S. (2020). *Policing for profit: The abuse of civil asset forfeiture* (3rd ed.). Institute for Justice. <https://ij.org/report/policing-for-profit-3/>
- <sup>11</sup> *State v. Timbs*, 134 N.E.3d 12, 21 (Ind. 2019).
- <sup>12</sup> *Horner v. Curry*, 125 N.E.3d 584, 612 (Ind. 2019) (Slaughter, J., concurring in the judgment); *Sargent v. State*, 27 N.E.3d 729, 735 (Ind. 2015) (Massa, J., dissenting).
- <sup>13</sup> Ind. Code § 34-24-1-4(a).
- <sup>14</sup> Ind. Code §§ 34-24-1-1(a)(10), (b), (c), (e), 34-24-1-4(a).
- <sup>15</sup> See, e.g., *Meister v. State*, 864 N.E.2d 1137, 1148 (Ind. Ct. App. 2007) (holding that mother "had reason to know" that her son was using her truck to transport drugs because he "had a reputation in the community for being involved with illegal drugs," he had been arrested for drug crimes in the past, and he lived with her), *vacated*, 129 S. Ct. 2155 (2009). See also *Meister v. State*, 912 N.E.2d 412, 418 (Ind. Ct. App. 2009) (reaffirming the analysis following U.S. Supreme Court decision on other grounds).
- <sup>16</sup> Ind. Code §§ 34-24-1-6, 34-24-1-4(c)-(d); *Horner v. Curry*, 125 N.E.3d 584, 597-607 (Ind. 2019); Knepper et al., 2020.
- <sup>17</sup> Knepper et al., 2020.
- <sup>18</sup> Ind. Code § 34-24-1-8.
- <sup>19</sup> See, e.g., Rulli, L. S. (2021). Prosecuting civil asset forfeiture on contingency fees: Looking for profit in all the wrong places. *Alabama Law Review*, 72(3), 531-580. [https://scholarship.law.upenn.edu/faculty\\_scholarship/2297/](https://scholarship.law.upenn.edu/faculty_scholarship/2297/)

- <sup>20</sup> For examples of criticism of Indiana’s contingency-fee forfeiture scheme, see David B. Smith, *Prosecution and Defense of Forfeiture Cases* ¶ 1.01, at 1-13 (2018); Editorial Board. (2024, May 2). Indiana’s private-for-profit asset forfeiture scheme undermines justice. *Los Angeles Times*. <https://www.latimes.com/opinion/story/2024-05-02/editorial-indiana-asset-forfeiture-prosecution-for-profit>. For information on IJ’s lawsuit, see Complaint, *Sparger-Withers v. Taylor*, 628 F. Supp. 3d 821 (S.D. Ind. 2022) (No. 1:21-cv-02824-JRS-MG), <https://ij.org/wp-content/uploads/2021/11/IN-Forfeiture-Class-Action-Complaint.pdf>; Institute for Justice. (2021). *Indiana civil forfeiture class action*. <https://ij.org/case/indiana-civil-forfeiture-class-action/>
- <sup>21</sup> Miller, T. (2018). *Second-largest FedEx Express hub turns 30*. <https://www.fedex.com/en-us/about/policy/aviation/fedex-express-indianapolis-hub.html>
- <sup>22</sup> For a discussion of the problems with dog alerts, see Slaughter, M. (2016). Supreme Court’s treatment of drug detection dogs doesn’t pass the sniff test. *New Criminal Law Review*, 19(2), 279–311. <https://doi.org/10.1525/nclr.2016.19.2.279>
- <sup>23</sup> Answer, Affirmative Defenses, and Counterclaims, *State v. \$42,825.00*, Case No. 49D04-2405-MI-020041 (Ind. Super. Ct. Aug. 6, 2024), <https://ij.org/wp-content/uploads/2024/08/Answer-Defenses-Counterclaims.pdf>; Institute for Justice. (2024). *Indiana parcel forfeiture*. <https://ij.org/case/indiana-parcel-forfeiture/>
- <sup>24</sup> Ind. Code § 34-24-1-3(d); Ind. R. Trial Proc. 6(G).
- <sup>25</sup> Answer, Affirmative Defenses, and Counterclaims, *State v. \$42,825.00*, Case No. 49D04-2405-MI-020041 (Ind. Super. Ct. Aug. 6, 2024), <https://ij.org/wp-content/uploads/2024/08/Answer-Defenses-Counterclaims.pdf>
- <sup>26</sup> Liptak, A. (2018, June 25). He sold drugs for \$225. Indiana took his \$42,000 Land Rover. *The New York Times*. <https://www.nytimes.com/2018/06/25/us/politics/supreme-court-civil-asset-forfeiture.html>; Magdaleno, J. (2021, June 10). Indiana Supreme Court rules for man who spend years battling state for his Land Rover. *IndyStar*. <https://www.indystar.com/story/news/local/marion-county/2021/06/10/land-rover-indiana-supreme-court-tyson-timbs-vehicle-seizure/7640854002/>; Appellee Response Brief at 10, *State v. Timbs*, 169 N.E.3d 361 (Ind. 2021) (No. 27D01-1308-MI-92), <https://ij.org/wp-content/uploads/2018/01/Brief-Appellee-2.pdf>; *Timbs v. Indiana*, 586 U.S. 146 (2019); *State v. Timbs*, No. 27D01-1308-MI-92 (Ind. Super. Ct. Apr. 27, 2020), <https://ij.org/wp-content/uploads/2018/01/Findings-of-Fact-Conclusions-an.pdf>; *State v. Timbs*, 169 N.E.3d 361 (Ind. 2021); Institute for Justice. (2018). *Timbs v. Indiana*. <https://ij.org/case/timbs-v-indiana/>
- <sup>27</sup> Ind. Const. art 8, § 2.
- <sup>28</sup> Ind. Acts 1984, Pub. L. No. 173, §§ 4 & 8; Ind. Code § 34-6-2-73 (current version at Ind. Code § 34-6-2.1-110 (eff. July 1, 2025)) (defining “law enforcement costs”); Horner Complaint, *supra* note 1.
- <sup>29</sup> S.B. 99, 120th Gen. Assemb., 2d Reg Sess. (Ind. 2018). According to the majority opinion, Article 8, Section 2’s language is best read as “permit[ting] the legislature to determine how and when forfeiture proceeds accrue to the Common School Fund.” *Horner v. Curry*, 125 N.E. 3d 584, 598 (Ind. 2019).
- <sup>30</sup> The civil case data arrived about nine months after I applied for it and included over 1,800 text files totaling 23.7 gigabytes. I used the statistical package Stata to organize, manage, and analyze the data. Because the acquired data spanned January 1, 2016, to just after October 31, 2022, I used the last day in October of 2022 as a cutoff for closed forfeiture cases. Information on how to apply for Indiana court case data can be found at <https://www.in.gov/courts/iocs/statistics/bulk-data/>
- <sup>31</sup> IPAC’s annual forfeiture case reporting spreadsheets can be requested by emailing [ipacinfo@ipac.in.gov](mailto:ipacinfo@ipac.in.gov)
- <sup>32</sup> Any forfeiture cases in the IOCS database that closed by October 31, 2022, should have appeared in reports to IPAC by June 30, 2023, hence the decision to consider as absent any such cases that did not appear in such reports. If a case was reported several years after it closed—even if it closed in 2016 and was reported in 2023—I considered it as reported.
- <sup>33</sup> MyCase is accessible at <https://public.courts.in.gov/mycase/#/vw/Search>
- <sup>34</sup> I used a \$1 error tolerance because errors over one dollar happen for reasons other than simple rounding to the nearest dollar or truncating the value beyond the decimal point. Further, a larger error tolerance results in a negligible difference: Among the 340 cash-only forfeiture cases, changing the error tolerance threshold from \$1 to \$10 for the total amount of cash forfeited would only result in two fewer errors, a difference of less than 2%. The average and median absolute errors for the amount of cash forfeited were \$7,224 and \$1,000, which means most errors were not small.
- <sup>35</sup> This is likely an undercount, as not all forfeiture cases appear in the IOCS database or can be readily identified in it.
- <sup>36</sup> The aggregate IPAC reports include summary data for each fiscal year, while I examined 2016–2021 data on a calendar-year basis, a slightly different period of time. In those reports, I considered the “total not returned to owner” to be the amount of currency and auctioned property that was forfeited to the state.
- <sup>37</sup> Vanderburgh County pursued the second most forfeiture cases in the state after Marion County (2,932 forfeiture cases), while Vigo County came in fourth after Howard County (384 forfeiture cases). However, Marion and Howard counties had better reporting rates: 94% and 75%, respectively.
- <sup>38</sup> The number of cash properties forfeited appears in the “Other” field of IPAC’s spreadsheets, along with separate fields for the numbers of forfeited vehicles, firearms, and real properties and the number of properties returned.
- <sup>39</sup> For example, while cash property appears in court documents as exact amounts of currency, properties like vehicles typically do not, as they must first be sold—an act that might occur months or years later.

- <sup>40</sup> Proceeds that are distributed to attorney fees capture the contingency fees earned by private attorneys when they successfully forfeit property on behalf of the prosecutors who contracted with them to bring forfeiture cases.
- <sup>41</sup> In one particularly large error, Marion County—which was not a contingency-fee county during the study period—reported that \$221,955 in forfeiture proceeds went to attorney fees in a case that did not even result in a forfeiture. Instead, the case involved a seizure of exactly half the reported amount, which was ultimately transferred to a third-party owner.
- <sup>42</sup> The state’s reporting on settlements is even worse than suggested by the top-line difference: Fewer than 2% of the 121 settlements in my random sample were correctly reported by prosecutors, while 87% percent of the 15 cases where prosecutors *did* report a settlement did not actually involve a settlement.
- <sup>43</sup> The Institute for Justice made a similar finding for Arizona. In that state, the median value of contested cash forfeitures was \$1,590—about \$500 more than the \$1,087 median observed in uncontested cash forfeitures. West, M. P. (2025). *Forfeiture in Arizona before reform: Why concerns about abuse were justified*. Institute for Justice. <https://ij.org/report/forfeiture-in-arizona-before-reform-why-concerns-about-abuse-were-justified/>
- <sup>44</sup> State’s Pet. For Reh’g 8, *Abbott v. State*, No. 19A-PL-1635 (Ind. Ct. App. Mar. 15, 2021).
- <sup>45</sup> Of all 415 cases in the random sample, 62% ended with a default order of forfeiture.
- <sup>46</sup> Of the 369 cases where at least some property was forfeited, 74% ended in a default judgment.
- <sup>47</sup> This includes nine trials, six summary judgments, and three findings of no probable cause for the seizure. Because property owners did not respond prior to the three findings of no probable cause, only 15 *contested* cases were ultimately contested in front of a judge.
- <sup>48</sup> Indiana General Assembly, 2015, 2:43:40.
- <sup>49</sup> The Institute for Justice has a model reporting bill: <https://ij.org/legislation/seizure-and-forfeiture-reporting-act/>. Lawmakers should also consider requiring that forfeiture case information be reported to an independent agency, as opposed to IPAC, as the Indiana Public Defender Council recommended during legislative hearings on the state’s 2018 reporting reform. IPAC is composed of and supports prosecutors who have a financial interest in civil forfeiture, so such a reform could improve the integrity of reporting. See Indiana General Assembly, 2018, 2:10:52.
- <sup>50</sup> Langhorne, T. B. (2022, March 21). Vanderburgh County Prosecutor Nick Hermann gave \$25k in public money to nonprofit he runs. *Evansville Courier & Press*. <https://www.courierpress.com/story/news/politics/2022/03/21/vanderburgh-county-prosecutor-nick-hermann-evansville-gave-money-nonprofit-my-goals/9342529002/>; Langhorne, T. B. (2023, March 14). Here’s how Vanderburgh prosecutors zeroed in on My Goals nonprofit spending. *Evansville Courier & Press*. <https://www.courierpress.com/story/news/local/2023/03/14/heres-how-vanderburgh-prosecutors-zeroed-in-on-my-goals-nonprofit-spending/69980322007/>. The former finance director recently pleaded guilty to wire fraud for stealing over \$60,000 from the county prosecutor’s office and the nonprofit through unauthorized debit card purchases from the nonprofit’s account. Langhorne, T. B. (2025, April 11). Former Vanderburgh County prosecutor’s finance director pleads guilty to wire fraud. *Evansville Courier & Press*. <https://www.courierpress.com/story/news/local/2025/04/11/former-prosecutors-office-finance-director-pleads-guilty-to-wire-fraud-regene-newman/83042317007/>
- <sup>51</sup> H.B. 560, 2015 Leg. (N.M. 2015); L.D. 1521, 130th Leg., 1st Special Sess. (Me. 2021).
- <sup>52</sup> IJ has model legislation to end civil forfeiture and the financial incentive: <https://ij.org/legislation/criminal-forfeiture-process-act/>
- <sup>53</sup> Brief of Appellant, *Sparger-Withers v. Taylor*, No. 24-1367 (7th Cir. Apr. 22, 2024), <https://ij.org/wp-content/uploads/2021/11/IN-Contingency-7th-Circuit-Opening-Brief.pdf>
- <sup>54</sup> In addition, because New Mexico directed all forfeiture proceeds to a neutral fund, it effectively barred state and local agencies from using federal equitable sharing to circumvent state limits on forfeiture. For research showing crime rates in New Mexico did not worsen following the reform, see McDonald, J., Weeks, H., & Carpenter, D. M. (2024). Does civil forfeiture fight crime? Evidence from New Mexico. *Criminal Justice Review*, 1–21. <https://doi.org/10.1177/07340168241285569>. For research on forfeiture and crime, see Kelly, B. D., & de Lavagea, T. (2024). The enduring lives of false legislative facts: Asset forfeiture. *Buffalo Law Review*, 72(4), 1381–1445. <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol72/iss4/5>; Kelly, B. D. (2021). *Does forfeiture work? Evidence from the states*. Institute for Justice. [www.ij.org/report/does-forfeiture-work](http://www.ij.org/report/does-forfeiture-work); and Kelly, B. D. (2019). *Fighting crime or raising revenue? Testing opposing views of forfeiture*. Institute for Justice. <https://ij.org/report/fighting-crime-or-raising-revenue>
- <sup>55</sup> Find Your Prosecutor is accessible at <https://www.in.gov/ipac/find-your-prosecutor/>
- <sup>56</sup> The public employee compensation database is accessible at [https://gateway.ifionline.org/report\\_builder/Default3a.aspx?rpttype=employComp&rpt=EmployComp&rptName=Employee%20Compensation](https://gateway.ifionline.org/report_builder/Default3a.aspx?rpttype=employComp&rpt=EmployComp&rptName=Employee%20Compensation)

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David Warren is a senior research analyst on the Institute for Justice's strategic research team, where he develops and conducts research in areas central to IJ's mission. In previous roles at the Brookings Institution and Indiana University, David published research in a wide variety of areas, including energy economics, city and regional policy, and federalism. From 2015 to 2021, David taught Urban Problems and Solutions at Indiana University, where he introduced undergraduates to the nuts and bolts of local government, including concepts and research related to zoning, policing, education, and other issues that relate to IJ's work.

David earned a bachelor's degree from the University of Wisconsin-Green Bay, a master's from The Ohio State University, and a Ph.D. in public affairs from Indiana University.

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## ABOUT IJ

Founded in 1991, the Institute for Justice is a nonprofit, public interest law firm. Our goal is to end widespread abuses of government power and secure the constitutional rights that allow all Americans to pursue their dreams.



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