



April 19, 2018

TO: The New Jersey Legislature

SUBJECT: Support Stronger Reporting Requirements
on Civil Asset Forfeiture



On behalf of our respective organizations, and property owners across the state of New Jersey, we write to you in support of **S.1963 and A.3442**, which would shine a light on the abusive practice of civil forfeiture in the Garden State by codifying vital reporting requirements into law.



Under civil forfeiture, law enforcement agencies can seize and then take title to cash, cars, and other valuables without charging anyone with—let alone convicting them of—a crime. Compounding these problems, New Jersey law does not require any forfeiture reporting. Instead, the Office of the Attorney General governs the reporting process through rule-making and requires only the most basic details to be reported. And even those basic details are difficult to track down—the AG’s office does not compile aggregate reports, so interested parties must file lengthy and expensive Open Public Records Act requests to obtain the information. For example, the Institute for Justice recently requested from the AG’s office two years of counties’ and municipalities’ forfeiture reports, which cost IJ over \$5,000 and took over 18 months to obtain.



S.1963 and A.3442 would take a vital first step towards reform by statutorily requiring key details about forfeiture to be tracked—including the type and value of property seized and whether someone was charged with a crime when property was forfeited—and will require that information to be compiled on a publicly available website. Such a reform will better enable the legislature and the public to hold law enforcement accountable.



Not only are New Jersey’s forfeiture practices often hidden from public accountability, but the state’s civil forfeiture laws also offer few protections to innocent property owners and encourage law enforcement to police for profit. In order to be subject to forfeiture, property must only be connected to a crime by a preponderance of the evidence—meaning more evidence in favor than not—which is one of the lowest standards of evidence available. If innocent property owners have had their property used in the commission of a crime without their knowledge or consent, the state requires them to prove their own innocence in order to regain ownership of what is rightfully theirs. Making matters worse, law enforcement gets to keep up to 100 percent of forfeiture proceeds, providing a strong and perverse incentive to seize property that goes far beyond the original intent of the policy. Finally, even when state legislatures impose restrictions on civil asset forfeiture, law enforcement may skirt state law by forfeiting property federally—and still receive a share of the proceeds—through a process known as “federal equitable sharing.”



Ultimately, this practice must end. We call on the Legislature to eliminate civil forfeiture and replace it with criminal forfeiture so that no one in New Jersey can be deprived of their property without due process of law. Further, we should require that all proceeds from forfeiture be deposited in the state’s general fund rather than pocketed by law enforcement,

to eliminate the perverse incentive to seize. Finally, state and local law enforcement should be prevented from using federal equitable sharing to skirt any future forfeiture restrictions that the New Jersey Legislature adopts.

By itself, improved transparency cannot fix the fundamental problems with civil forfeiture—namely, the property rights abuses it permits and the temptation it creates to police for profit. Transparency is no substitute for comprehensive forfeiture reform, but it is still vitally important for bringing forfeiture activity and spending into the light of day.

S.1963 and A.3442 are a crucial first step on the road to ending civil forfeiture altogether. We urge the swift passage of these bills and look forward to working together towards additional forfeiture reform in the future.

Sincerely,

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