

The Effects of Civil and Criminal Forfeitures on Drug-Related Arrests



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Abstract

The purpose of the present study is to determine if civil and criminal forfeitures have statistically-significant and negative effects on drug-related arrests. The primary focus of this paper will be on the deterrent effects of forfeitures. Using a random effects model and state-level data for the period 2000-2013, it was found that there is a negative relationship between the per capita value of seized assets and the drug-related crime rate. It is important to note, however, that the effect is very minimal; even if the per capita value of seized assets was doubled, the drug-related arrest rate would fall by only 0.05336%. Hence, given the constitutional issues surrounding civil forfeitures and the minimal effects of such forfeitures, it would be in the public interest to amend the Comprehensive Crime Control Act (CCCA) of 1984 so that equitable sharing of forfeiture proceeds among federal, state, and local agencies would no longer be permitted. Amending the CCCA in this manner would remove the incentives that state and local agencies have to engage in seizures and forfeitures. Such a revision of the CCCA would only very minimally affect the drug-related arrest rate but would, at the same time, restore some degree of due process to forfeiture proceedings.

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Introduction

In 2007, a waitress, her two young sons, and her boyfriend were travelling through Tenaha, Texas when they were stopped by local police. They were told that the reason they were stopped was because they were driving in the passing lane. The police officer searched their car and found a large amount of cash that the couple said they were going to use to buy a car. Nothing illegal was found. Nonetheless, local police detained them and drove them to the local police station. There, the county's district attorney told them that they could either be charged with felony money laundering, in which case the woman would lose custody of her children, or they could sign over all of their cash to the city of Tenaha and be on their way. They decided to give up their money. Hence, even though they were never convicted or even charged with a crime, the waitress and her boyfriend had to forfeit all of their money that day in Tenaha, Texas. This story originally appeared in the *New Yorker* magazine (August 12, 2013) and is an excellent example of civil forfeiture.

In general, there are two types of forfeitures that may be used by authorities: criminal forfeitures and civil forfeitures. Criminal forfeitures occur when authorities seize the assets of convicted persons. Civil forfeitures occur when law enforcement agencies seize the property of persons allegedly involved in criminal activities; the person involved does not need to have been convicted or even charged with a crime. For criminal forfeitures, the evidentiary standard is "beyond a reasonable doubt." For civil forfeitures, the evidentiary standard is much lower; in some states, it is only "probable cause." In addition, once a person's property has been seized in a civil forfeiture, it is very difficult to recover. In many jurisdictions, the person must prove that they did not engage in the alleged criminal activity. Finally, it is important to note that, in civil forfeitures, the defendant is not the person; the defendant is the property. Hence, this results in some odd sounding case names, such as "State of Texas v. \$6,037."

Until the late 20th century, the use of civil forfeitures was very rare and very limited. They were primarily used in situations involving piracy or border customs. In 1970, Congress enacted the Forfeiture Act, which allowed federal authorities to bring civil forfeiture actions against convicted drug dealers. The act was amended in 1984 (the Comprehensive Crime Control Act), and this new law allowed federal authorities to seize any property that was used or was intended to be used in drug trafficking. Although supposedly limited in scope, the Comprehensive Crime Control Act (CCCA) of 1984 has been used to justify the seizure of almost any property, even property not related in any way whatsoever to drug trafficking or any type of drug-related offense. In addition, the CCCA created the Asset Forfeiture Fund which is where the proceeds from forfeitures are deposited so that they may be used at a

later date by law enforcement agencies. Finally, this law also allowed for the equitable sharing of forfeiture proceeds among federal, state, and local agencies. Under this program, federal authorities “adopt” local seizures, and then the proceeds are equitably shared among federal and local agencies. These “adoptions” by federal agencies typically occur in states where laws regarding the disposition of seized assets are somewhat restrictive. In some states, local law enforcement agencies can only keep a small fraction of the seized assets. By having federal authorities “adopt” the seizures, local authorities are able to circumvent these restrictive state laws and keep more of the seized assets for themselves. Therefore, the CCCA created incentives for both federal and state agencies to be much more aggressive in their seizure of assets allegedly involved in criminal activity.

These increased incentives created by the CCCA have led local police departments to view the proceeds from forfeitures as relatively steady revenue streams, especially given the volatility of tax revenues available from local governments. Police departments have direct control over the seizure of properties, and given the relatively low evidentiary standards that are required for civil forfeitures, local police departments in many states view forfeiture revenues as an integral part of their budgets.

The impact of civil forfeitures on police behavior has been extensively examined (Kelly and Kole, 2016; Holcomb, Kovandzic, and Williams, 2011; Bishopp and Worrall, 2009; Baicker and Jacobson, 2007; Worrall, 2001; Mast, Benson, and Rasmussen, 2000). Most of these studies examined the impact of forfeitures on policing behavior, such as the impact of forfeitures on the rate of drug-related arrests or the impact of forfeiture laws on local government budgetary decisions. In Kelly and Kole (2016), Bishopp and Worrall (2009), Baicker and Jacobson (2007), and Mast, Benson, and Rasmussen (2000), the effects of forfeitures on drug-related arrests were examined. In these studies, it was assumed that the lure of money provided by forfeitures resulted in more aggressive policing, thus increasing the rate of drug-related arrests. Because of lenient civil forfeiture policies, police focused more of their efforts on forfeiture-related arrests (typically drug-related) than on other types of arrests (Kelly and Kole, 2016). If this hypothesis is true, then an increase in forfeitures should result in an increase in drug-related and forfeiture-related arrests.

Another possibility, however, is that forfeitures may have a deterrent effect on crime (Kelly and Kole, 2016). An increase in forfeitures should result in a reduction in assets available to drug dealers and other criminals. This reduction in assets

means that criminals would have less money with which to purchase adequate legal defenses and less money to reinvest in their criminal enterprises (Kelly and Kole, 2016). Thus, we may observe a decrease in drug-related arrests whenever there is an increase in forfeiture activity. No prior research has examined the deterrent effects of forfeitures. All pertinent prior studies have tested the hypothesis that an increase in forfeitures results in an increase in drug-related arrests (policing behavior), rather than a decrease in drug arrests (deterrent effect). Hence, the purpose of the present study is to test the validity of the deterrent effect and to determine if forfeitures have statistically-significant and negative effects on drug-related arrests. As noted earlier, there has been no research as of yet that has attempted to determine the statistical significance of the deterrent effect of forfeitures. A brief review of the relevant literature will be presented in the next section.

Prior Research

As noted previously, several studies have examined the effects of forfeitures on police budgeting decisions (Holcomb, Kovandzic, and Williams, 2011; Worrall, 2001). Given the focus of the present study, these types of studies will not be examined in this literature review. Instead, only those prior studies that examined the effects of forfeitures on drug-related arrests will be reviewed.

One of the earliest studies that examined this topic was Mast, Benson, and Rasmussen (2000). This study used data obtained from the National Institute of Justice's Drug Use Forecasting program. This data set covers only 24 cities in the United States and looks at drug use among arrestees. The data used in this study were for the years 1987 to 1993. The results of this study suggest that law enforcement agencies increase drug arrests when the agencies are allowed to keep the proceeds from forfeitures. Several issues with this study include the use of a very limited data set (only 24 cities) and the use of data that are over 20 years old.

In Baicker and Jacobson (2007), the authors examined several issues regarding forfeitures, including the impact of forfeitures on drug-related arrests. This study obtained data on federal seizures at the judicial district level for the period 1990-1998. Data for California, Florida, Pennsylvania, Arizona, and New York were obtained for various years in the 1990s. Arrest data were obtained from the *Uniform Crime Reports*. Data are at the county level. Results suggest that when police are allowed to keep more of the seized assets, drug-related arrests increase.

Bishopp and Worrall (2009) used data obtained from the Law Enforcement Management and Administrative Statistics (LEMAS) survey for the years 1997 and

2000. It is important to note that the LEMAS surveys only collect data from law enforcement agencies with at least 100 officers, thus omitting many smaller law enforcement agencies. Using an OLS model, results indicate that forfeiture laws have no statistically-significant effects on drug-related arrests.

Finally, Kelly and Kole (2016) used data from the LEMAS surveys for the years 2000, 2003, and 2007. Using a fixed effects model, their results suggest that increases in forfeiture activity increase drug-related arrests. However, it is important to note that the effect is very inelastic: the authors found that a 1% increase in forfeitures result in only a 0.019% increase in drug-related arrests. Hence, although forfeitures may influence policing behavior and arrest activity, the effect is minimal. Kelly and Kole (2016) conclude that the introduction of civil forfeiture for drug crimes was not one of the primary factors resulting in an increase in drug-related arrests.

The present study differs significantly from this prior research in several ways. First, the primary focus of this paper will be on the deterrent effects of forfeitures and not on the positive effects of forfeitures on drug-related arrests in the 1990s and 2000s. Second, most prior research in this area used data from the LEMAS surveys and used data that were not very recent. In addition, LEMAS data is collected only at the agency level, and LEMAS is conducted only once every 3 or 4 years. The present study will use annual, state-level data for the period 2000-2013, which is much more recent than any other study on the topic of forfeitures and crime rates.

Methods

As noted previously, the focus of this study will be on the deterrent effects of forfeitures. All prior studies have assumed that the introduction of less restrictive forfeiture laws resulted in an increase in drug-related arrests. The reasoning behind this hypothesis is that lenient asset forfeiture laws create an incentive for police to concentrate more of their efforts on drug-related crimes, primarily because they will be able to keep some or all of the proceeds from the seizures. This increased desire to aggressively pursue individuals possibly involved in drug-related crimes should result in more drug-related arrests.

An important extension of this argument, however, is that this increase in drug-related arrests may eventually increase the costs associated with engaging in drug crimes. Thus, would-be criminals may be deterred from participating in drug-related crimes, especially given that not only are police concentrating more of their

efforts on drug crimes but also because the police may seize all of the alleged criminal's property that is associated with the illicit drug trade (Kelly and Kole, 2016). Thus, would-be criminals may shift their focus to other types of crimes, or they may utilize additional safeguards to lessen the probability that they will be arrested. Hence, an increase in forfeiture activity may result in a reduction in drug-related arrests.

In order to test this theory, the following equation will be estimated in the present study:

$$Y = \alpha_0 + \alpha_1 \text{Assets Seized} + \alpha_2 \text{Control Variables} + \alpha_3 \text{State Effects} + \alpha_4 \text{Year Effects} \quad (1)$$

In equation (1), Y denotes drug-related arrests, and *Assets Seized* is the per capita amount of assets seized by the police in forfeitures. It is expected that the per capita amount of seized assets will be negatively related to drug-related arrests. The reason for this is because criminals would regard the increase in forfeiture activity as an increase in the costs of engaging in criminal activity. Hence, individuals will engage in less drug-related criminal activity, or they will take more safeguards in order to reduce the probability that they will be arrested.

A panel data model was used to estimate Equation (1). This model is superior to both cross-sectional and time series models for two reasons. First, panel data models control for potentially important but unobservable state-level and year-specific effects that may be correlated with other determinants. If a panel data model is not used when appropriate, state-level and year-specific effects may be omitted, and omitted variable bias may result. Second, panel data, which combines time-series and cross-sectional data, greatly increases the degrees of freedom; hence, one can examine state-level data even though there may be limited annual data available.

There are two ways in which a panel data model may be estimated. If one assumes that parameter estimates are independent of state-level effects, then fixed effects should be used. A fixed effects model is a classical regression model with state and year dummies. If one assumes, however, that parameter estimates vary across states, then a random effects model should be used. A random effects model allows for parameter estimate variation among states by utilizing a generalized regression model where the variance is dependent upon a state-level disturbance term. In order to determine which model is more appropriate for a given model, a Hausman Test is used. For the present study, results of the Hausman Test suggest that random effects would be the more appropriate model.

Hence, equation (1) is estimated using a random effects model that controls for both state-level and year-specific effects.

In addition, all observations are weighted using state-level population, standard errors are corrected using a clustering method (clustering is done at the state-level), and a log-linear functional form is used. The reason for weighting all observations by population is to correct for potential heteroscedasticity. Clustering standard errors is necessary in order to account for potentially nonrandom variations within certain groups. Finally, a log-linear function is used because it corrects for nonlinearities in the data. Nonlinearities are sometimes due to a dependent variable with a very large standard deviation.

Control variables that are used in the estimation of equation (1) include the following: percentage of state population that is African-American, real per capita income, percentage of population that has a bachelor's degree, unemployment rate, dummy variables denoting region of country (Northeast, South, and West), percentage of population ages 18-24, population density, per capita alcohol consumption, per capita prison population, percentage of population living in large cities, and police department employees per capita. All of these variables were used in prior studies that examined the determinants of criminal activity (Kelly and Kole, 2016; Bishopp and Worrall, 2009; Mast, Benson, and Rasmussen, 2000).

Data and Results

All data used in this study are at the state-level and are for the period 2000-2013. This is one of the largest and most recent data sets ever used to test the impact of forfeitures on drug-related arrests. Although prior studies in this area examined local police agencies or counties, the state is the more appropriate geographic level of analysis. The primary reason for this is because laws governing forfeitures are state laws. Thus, the rules by which police agencies can seize properties are the same for all agencies in a given state. Most prior research on this topic used LEMAS survey data, which is at the law enforcement agency level and which exclude police agencies with fewer than 100 officers. Hence, LEMAS data exclude a substantial number of police agencies, including the police department of Tenaha, Texas, which was discussed in the introduction of this paper. Using state-level data should result in a more inclusive and exhaustive data set.

One issue with forfeiture data, however, is that few states report the value of seized assets. Some states report only a few years of data, while other states do not report any data at all. Unfortunately, there are also issues with federal forfeiture

data. Civil forfeiture and criminal forfeiture data are combined in the federal surveys. A civil forfeiture, which is the primary focus of this paper, is an action brought against property. The property is the defendant, and no criminal charges against the owner of the property are necessary in order for a civil forfeiture to proceed. A criminal forfeiture is an action brought as part of the criminal prosecution of a defendant. It is an action against a person (the defendant in a criminal proceeding) and requires that the government indict the property used or derived from the crime. It would be ideal if the value of assets seized in a civil forfeiture were separate from the value of assets seized in a criminal forfeiture, but, unfortunately, the federal forfeiture data combine the values of assets seized for both types of forfeitures. Hence, it is not possible to examine only the value of assets seized in a civil forfeiture. In addition, there are two sources of data for seized assets: the U.S. Department of Justice (DOJ) and the U.S. Department of the Treasury (DOT). Unfortunately, Department of Justice data is calendar year while Department of Treasury data is fiscal year; hence, they cannot be aggregated.

Given the lack of reliable data on civil forfeiture seizures, only the individual state's share of DOJ seizures will be used in the present study. It is important to note that this data include only the state's share of equitable sharing of forfeiture proceeds. Although the data used in this study exclude state and local agency forfeiture proceeds that were not obtained through the DOJ equitable sharing program as well as state-level equitable sharing proceeds obtained through the DOT, the data used in the present study are the best indicator of forfeiture activity in a given state.

Data on state-level equitable sharing forfeiture proceeds were obtained from Carpenter, Knepper, Erickson, and McDonald (2015). This report presents data for those states that report state forfeiture activity and for DOJ and DOT equitable sharing forfeitures. The federal data lumps together both civil and criminal forfeitures. As noted previously, for purposes of this study, only the state's share of DOJ equitable sharing proceeds will be used as a proxy for the overall level of forfeiture activity in a given state.

State-level drug-related arrest data were obtained from various issues of *Crime in the United States*. All other data are at the state level and were obtained from various reports published by the U.S. Census Bureau. Dollar-denominated values were deflated using the Consumer Price Index-Urban, base year 1982-1984. Descriptive statistics are presented on Table 1, and bivariate correlations are presented on Tables 2-5.

Regarding some of more interesting statistics on asset forfeitures and crime rates, the average per capita value of seized assets, in real dollars, was \$0.58, and

the average rate of drug-related arrests (per 100,000 persons) was 410. The per capita value of seized assets ranged from a low of \$0 (Idaho in 2004) to a high of \$10.39 (West Virginia in 2007). The West Virginia data appears to be an outlier as the next highest per capita value of seized assets was \$1.61 (Florida in 2001). The vast majority of per capita values of seized assets were less than \$1 per person.

Table 1. Descriptive Statistics

Variable	Mean	Standard Deviation
Real per capita value of seized assets	\$0.58	\$3.61
Percentage African-American	0.102	0.0945
Real per capita income	\$17,472	\$2,694
Percentage with bachelor's degree	0.267	0.049
Unemployment rate	0.059	0.021
Percentage ages 18-24	0.099	0.0093
Population density	192	257
Per capita alcohol consumption	2.36	0.48
Per capita prison population	431	177
Percentage in large cities	0.139	0.155
Police employees per capita	308	113
Rate of drug-related arrests	410	245

N = 690

Table 2: Bivariate Correlations for Seized Assets, Percentage of African-Americans, and Per Capita Income

	Real per capita value of seized assets	Percentage African-American	Real per capita income
Real per capita value of seized assets	1	0.0618	-0.0233
Percentage African-American	0.0618	1	-0.0816
Real per capita income	-0.0233	-0.0816	1
Percentage with bachelor's degree	0.0034	-0.150	0.753

Unemployment rate	0.03282	0.198	-0.0029
Percentage ages 18-24	-0.0218	-0.0494	-0.251
Population density	-0.0146	0.193	0.601
Per capita alcohol consumption	0.01809	-0.221	0.324
Per capita prison population	0.00901	0.510	-0.163
Percentage in large cities	-0.02837	0.0113	0.0468
Police employees per capita	0.00754	0.211	0.181
Rate of drug-related arrests	0.02931	0.1611	0.134

Regarding correlations between the variables, the strongest correlations are between percentage African-American and per capita prison population (0.51), real per capita income and percentage with bachelor’s degree (0.753), real per capita income and population density (0.601), per capita prison population and police employees per capita (0.49241), and per capita prison population and rate of drug-related arrests (0.41791). These correlations suggest that there is substantial correlation between measures of economic success and between measures of criminal activity in a given state. Interestingly, there is weak correlation between the value of seized assets and drug-related arrests. Hence, it appears that civil and criminal forfeitures may have minimal impact on drug-related crime. However, a correlation analysis may be inadequate in capturing the relationship between these two variables, especially in the context of panel data and because of the significant variability in seized asset data.

Table 3: Bivariate Correlations for Percentage with Bachelor’s Degree, the Unemployment Rate, and Percentage Ages 18-24

	Percentage with bachelor’s degree	Unemployment rate	Percentage ages 18-24
Percentage with bachelor’s degree	1	-0.00815	-0.08412
Unemployment rate	-0.00815	1	-0.11997
Percentage ages 18-24	-0.08412	-0.11997	1
Population density	0.48734	0.10623	-0.2356
Per capita alcohol consumption	0.24921	-0.03833	-0.1662
Per capita prison population	-0.32289	0.12033	-0.00605
Percentage in large cities	0.00626	0.2045	-0.11333

Police employees per capita	0.03393	-0.02764	-0.04592
Rate of drug-related arrests	0.00968	0.0401	-0.15158

Table 4: Bivariate Correlations for Population Density, Per Capita Alcohol Consumption, and Per Capita Prison Population

	Population density	Per capita alcohol consumption	Per capita prison population
Population density	1	0.00511	-0.10085
Per capita alcohol consumption	0.00511	1	0.01449
Per capita prison population	-0.10085	0.01449	1
Percentage in large cities	-0.10027	-0.01916	0.17288
Police employees per capita	0.13948	0.06884	0.49241
Rate of drug-related arrests	0.07248	0.04657	0.41791

As noted previously, in order to determine if civil and criminal forfeitures deterred drug-related crimes, a random effects model that controls for both state-level and year-specific random effects was used. All observations were weighted using state-level population, standard errors were corrected using a clustering method (clustering is done at the state-level), and a log-linear functional form was used. Results are presented on Table 6. These results suggest that there is a negative relationship between the per capita value of seized assets and the drug-related crime rate. These results provide evidence of the deterrent effect of forfeitures. The greater the value of seized assets, the lower is the drug-related crime rate. It is important to note, however, that the effect is very minimal. According to these results, for every \$1 increase in the value of per capita seized assets, the drug-related arrest rate falls by 0.092%. Given that the average value of per capita seized assets for all states and for the entire period examined is \$0.58, the effect of forfeitures on drug arrests is negative, but very minimal.

Table 5: Bivariate Correlations for Percentage in Large Cities, Police Per Capita, and Drug-Related Arrest Rate

	Percentage in large cities	Police employees per capita	Rate of drug-related arrests
Percentage in large cities	1	0.13134	0.19475
Police employees per capita	0.13134	1	0.67416
Rate of drug-related arrests	0.19475	0.67416	1

Regarding the control variables, states with greater percentages of college-educated individuals, higher per capita incomes, higher unemployment rates, more 18-24 year olds, greater per capita alcohol consumption, and larger per capita prison populations have higher rates of drug-related arrests. These results are consistent with the results of prior studies in this area (Kelly and Kole, 2016; Mast, Benson, and Rasmussen, 2000). In terms of magnitude, the variables that have the greatest effects on drug-related arrests are the percentage of the population ages 18-24 and the unemployment rate. Hence, states with more unemployed young adults have higher rates of drug-related arrests.

Table 6: Random Effects Regression Results

Variable	Coefficient	Test Statistic
Real per capita value of seized assets	-0.0092	-2.81 ^{***}
Percentage African-American	-0.12	-0.17
Real per capita income	0.00011	7.97 ^{***}
Percentage with bachelor's degree	2.602	3.56 ^{***}
Unemployment rate	5.21	4.80 ^{***}
Percentage ages 18-24	10.17	6.16 ^{***}
Population density	-0.0002	-0.83
Per capita alcohol consumption	0.44	5.78 ^{***}
(Continued) Variable	Coefficient	Test Statistic
Per capita prison population	0.00097	3.82 ^{***}
Percentage in large cities	1.237	5.12 ^{***}
Police employees per capita	0.00032	1.46
Region of residence – northeast	-0.068	-0.40

Region of residence – south	0.547	3.71***
Region of residence - west	0.0746	0.57

Note: p-value ≤ 1% ***; 1% < p-value < 5% **; 5% ≤ p-value ≤ 10% *
 Dependent variable = log of rate of drug-related arrests

Conclusions

According to the Fifth Amendment of the U.S. Constitution, “No person... (shall) be deprived of life, liberty, or property without due process of law.” Unfortunately, ordinary citizens are deprived of their property every day without any form of due process. Law enforcement agencies may seize property in civil forfeitures with minimal due process and very low evidentiary standards. Ostensibly enacted in order to help wage the war on drugs, civil forfeiture has morphed into a ready source of income for local and state law enforcement agencies.

Although it would be reasonable to assume that civil forfeitures were created in order to discourage individuals from engaging in criminal activity, no prior research has attempted to ascertain if there is a negative relationship between the value of assets seized and crime rates. Most prior research has attempted to determine if forfeiture activity resulted in an increase in drug-related arrests, primarily due to the fact that most forfeitures deal with the seizure of property associated with drug-related crimes (Kelly and Kole, 2016; Bishopp and Worrall, 2009; Baicker and Jacobson, 2007; Mast, Benson, and Rasmussen, 2000). These studies assumed the police would engage in more arrests and hence more forfeitures in order to obtain needed funds for their departments.

The present study took a different approach and attempted to determine if there was a deterrent effect associated with forfeitures. In other words, did an increase in forfeiture activity result in an increase in the costs associated with being involved in drug-related activity and thus result in a decline in drug-related crime? In order to test this hypothesis, the present study estimated a model of drug-related arrests using a random effects model and state-level data for the period 2000-2013. Results of this study suggest that, although forfeiture activity had a significant and negative effect on drug-related arrests, the effect was very minimal. Even if the value of per capita seized assets were doubled, drug-related arrests would fall by only 0.05336%.

The benefits of seizing assets (reduction in drug-related arrests) must be balanced against the costs of seizing assets (lack of due process in depriving someone of their property). According to the results of this study, the benefits of

forfeitures are very minimal, while the constitutional costs in the form of the lack of due process may be quite substantial. Hence, given the constitutional issues surrounding civil forfeitures and the minimal effects on arrest rates of such forfeitures, it would be in the public interest to amend the Comprehensive Crime Control Act (CCCA) of 1984 so that the equitable sharing of forfeiture proceeds among federal, state, and local agencies would no longer be permitted. Amending the CCCA in this manner would remove the incentives that state and local agencies have to engage in seizures and forfeitures. Such a revision of the CCCA would only very minimally affect the drug-related arrest rate but would, at the same time, restore some degree of due process to forfeiture proceedings.

It is important to note, however, that all forfeiture research is subject to criticism given the lack of accurate and reliable data on forfeiture activity. There are two primary problems with forfeiture data. First, depending on the type of assets seized or particular police investigation involved, the value of seized assets can vary dramatically from year to year for a given state. For example, in Idaho, in 2002, the value of seized assets was \$0; in 2004, it was \$1,526,064; in 2008 it was only \$190,800. These dramatic swings in forfeitures make it difficult to establish any type of statistical relationship between forfeiture activity and drug-related arrests, especially given that drug crime rates are not as volatile as forfeitures.

Second, one of the primary reasons why equitable sharing is so enticing for states is because they can request federal authorities to “adopt” assets as a way to circumvent restrictive state laws regarding the disposition of seized assets. Hence, it stands to reason that police agencies in states that have fewer such restrictions may opt to not participate as frequently in the equitable sharing program as police agencies in those states that have very restrictive forfeiture laws. Thus, the DOJ data may be more indicative of the restrictiveness of state forfeiture laws rather than representative of the relationship between drug crimes and forfeiture activity.

Finally, as noted previously, most states do not report the value of seized assets and the agency-level data available through LEMAS is incomplete because smaller agencies are excluded. Although not ideal, the DOJ equitable sharing data is the best state-level data on forfeiture activity that is currently available.

For states that do report forfeiture data, it is usually incomplete and is limited in terms of years of availability. Regarding federal seizure data, seizures from both civil and criminal forfeitures are lumped together, and data for the various federal agencies engaged in forfeitures do not conform to a standard calendar. Finally, while agency-level data on forfeitures are available from the LEMAS survey, this data exclude smaller police agencies, which are usually the agencies involved in some of the more egregious abuses of civil forfeitures. Hence, in order to more

properly estimate the effects of civil forfeitures on criminal activity, the collection of data on both civil and criminal forfeitures must be improved upon and expanded at both the state and federal levels.

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