

Civil Asset Forfeiture and its Impact on Communities of Color in Georgia



A Report of the
Georgia Advisory Committee to the
U.S. Commission on Civil Rights

November 2022

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. They are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Acknowledgments

The Georgia Advisory Committee (Committee) would like to acknowledge the speakers who presented during the Committee's series of public meetings taking place between March and August 2021, as the Committee worked to understand broad and diverse perspectives on the civil rights impact of civil asset forfeiture practices in Georgia. The Committee is also grateful to those who contributed to this work during public comment and via written testimony.

**Georgia Advisory Committee to the
U.S. Commission on Civil Rights**

The Georgia Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding civil asset forfeiture and its impact on communities of color in Georgia. The Committee submits this report as part of its responsibility to study and report on civil-rights issues in Georgia. The contents of this report are primarily based on testimony the Committee heard during public meetings held via videoconference on March 10, May 10, August 2, and August 4, 2021. The Committee also includes related testimony submitted in writing during the relevant period of public comment.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from this testimony, as well as recommendations for addressing areas of civil-rights concerns. This report is intended to focus on civil-rights concerns regarding state and federal civil asset forfeiture and its disproportionate impact on communities of color. Specifically, the Committee sought to examine the extent to which civil asset forfeiture practices in Georgia may have a disproportionate and discriminatory impact on the basis of race, color, or national origin. While additional important topics may have surfaced throughout the Committee’s inquiry, those matters that are outside the scope of this specific civil-rights mandate are left for another discussion.

**Georgia Advisory Committee to the
U.S. Commission on Civil Rights**

Chantel Mullen, *Chair*, Atlanta

De’Andre Pickett, *Vice Chair*, Atlanta

Bryan Ramos, *Secretary*, Atlanta

Laura Emiko Soltis, *Editorial Officer*, Decatur

Jerry Gonzalez, *Immediate Past Chair*, Atlanta

Members:

Percy Brown, Tucker

Tarece Johnson, Lawrenceville

Benita Dodd Cotton, Marietta

Richard Lorenc, Atlanta

James Hunt, Macon

Jonathan Rogers, Decatur

Eric Jacobson, Atlanta

Baker Smith, Marietta

Overview

On December 8, 2020, the Georgia Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to study civil asset forfeiture and its impact on communities of color in the state. From a civil rights perspective, the Committee sought to consider the extent to which property seized in Georgia (using civil asset forfeiture and/or related federal equitable sharing agreements) is seized without due process of law. The Committee also examined the extent to which, in practice, these forfeitures result in a disparate impact on communities of color in the state.

As part of this inquiry, the Committee heard testimony via videoconferences held on March 10, May 10, August 2, and August 4, 2021.¹ The following report results from a review of testimony provided at these meetings, combined with written testimony submitted during the related timeframe. It begins with a brief background of the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony. Finally, it makes recommendations for addressing related civil rights concerns. This report focuses on an examination of civil asset forfeiture and its impact on communities of color in Georgia. The examination included testimony, data, and information from legal scholars, academics, community members, law enforcement officials, government representatives, and public interest groups involved in advocating for or against current state civil asset forfeiture laws and related federal equitable sharing agreements. While other important topics may have surfaced throughout the Committee’s inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This report and the recommendations included within it were adopted by the Committee on November 3, 2022.

Background

The Institute for Justice (“IJ”), a public-interest law firm, writes in its groundbreaking report *Policing For Profit*: “Every year, police and prosecutors across the United States take hundreds of millions of dollars in cash, cars, homes and other property—regardless of the owners’ guilt or

¹ Meeting records and transcripts are available in Appendix.

Briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, March 10, 2021, (web-based), Transcript (hereinafter cited as “Transcript I”).

Briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, May 10, 2021, (web-based), Transcript (hereinafter cited as “Transcript II”).

Briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, August 2, 2021, (web-based), Transcript (hereinafter cited as “Transcript III”).

Briefing before the Georgia Advisory Committee to the U.S. Commission on Civil Rights, August 4, 2021, (web-based), Transcript (hereinafter cited as “Transcript IV”).

innocence. This is called civil asset forfeiture.”² Civil asset forfeiture is a practice that originated in English common law and developed in British maritime law, permitting the state to seize private property without charging the property owner with a crime.³ Criminal forfeiture, in contrast, requires a criminal conviction for the state to seize private property.⁴

In the United States, the practice of civil asset forfeiture was employed widely during the Prohibition Era to stymie bootleggers; it was given new life upon the commencement of the so-called War on Drugs in the 1980s.⁵ In order to seize a person’s private property under civil asset forfeiture, law enforcement officers need only probable cause to believe that the property was either involved in or derived from the commission of a crime.⁶ Once a property is seized under civil law, the state must prove that the property was actually used in the commission of a crime; however, in nearly all states, the evidentiary standard for this determination is low – much lower than for conviction in a criminal case.⁷ Owners of “accused” property then hold the burden of proof to demonstrate that the property was not used in or derived from the commission of a crime; or that the owner was unaware of the alleged crime.⁸ If the owner fails to prove the property’s innocence, the state may retain the property directly or the proceeds generated from its sale.⁹ Critics contend that the ease of an initial seizure under civil law, which requires only probable cause, combined with the expense entailed for an innocent property owner to prove their property’s innocence, provides a lucrative incentive for law enforcement to abuse civil asset forfeiture provisions.¹⁰ From 1986-2014, revenue to the U.S. Department of Justice from civil asset forfeitures increased from \$93.7 million to \$4.5 billion annually, an increase of 4,667%.¹¹ Between 2000 and 2019, states and the federal government have reported civil asset forfeiture revenue of at least \$68.8 billion—and likely much more.¹²

² Knepper, L., McDonald, J., Sanchez, K., & Pohl, E. S. (2020). Policing for profit: The abuse of civil asset forfeiture (3rd Ed.) Arlington, VA: Institute for Justice. <https://ij.org/report/policing-for-profit-3>.

³ Carpenter, D. M., Knepper, L., Erickson, A. C., & McDonald, J. (2015). Policing for profit: The abuse of civil asset forfeiture (2nd Ed.) Arlington, VA: Institute for Justice. <https://ij.org/report/policing-for-profit-2/>.

⁴ Williams, Marian R., Holcomb, Jefferson E., Kovandzic, Tomislav V., and Bullock, Scott, Policing for Profit Executive Summary, Institute for Justice, March 2010, at: <https://ij.org/report/policing-for-profit/executive-summary/>.

⁵ Ibid, Forward.

⁶ Ibid.

⁷ Ibid, Executive Summary.

⁸ Ibid, Forward.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Carpenter, D. M., Knepper, L., Erickson, A. C., & McDonald, J. (2015). Policing for profit: The abuse of civil asset forfeiture (2nd Ed.) Arlington, VA: Institute for Justice. <https://ij.org/report/policing-for-profit-2/executive-summary/>.

¹² Knepper, et al., 2020, <https://ij.org/report/policing-for-profit-3/pfp3content/executive-summary/>.

Similarly alarming trends can be seen in Georgia. In March of 2020, The Georgia Center for Opportunity, a non-partisan think tank focused on Georgia state issues reported: “Over the three years studied—2016 through 2018—law enforcement entities reported an aggregate of \$49,073,127 in state revenue and \$31,948,225 in federal revenue from civil asset forfeitures, including \$4,452,238 in state net income from the sale of seized assets.”¹³

The Institute for Justice’s November 2020 *Policing For Profit* report compares and grades the civil asset forfeiture laws of each state across the country on three elements of state law: (1) Profit Motive; (2) Innocent Owner Burden; and (3) Standard of Proof.¹⁴ Under this structure, Georgia’s civil asset forfeiture laws and practice received an overall rating of “D-.”¹⁵

Under Georgia law, which earns a grade of D-, the government need only prove by a preponderance of the evidence that seized property is connected to a crime or that there is no other likely source for the property other than criminal activity. Property owners who file an innocent owner claim bear the burden of proving that they neither knew about nor consented to any illegal uses of their property. Worse, joint owners of vehicles are not even permitted to bring innocent owner claims in Georgia. State law provides no way for them to petition for their vehicle or to get a share of it back. And Georgia law provides a strong incentive to seize up to 100 percent of forfeiture proceeds [for] law enforcement.¹⁶

In Georgia, the Committee heard testimony that the relationship between law enforcement and the public has become damaged by the overutilization of civil asset forfeiture laws.¹⁷ Many experiencing civil asset forfeiture identify the practice as illegitimate and a means of law enforcement to commit theft.¹⁸ The public duty to report suspicions of crime or direct acts of crime further puts the public and their families at risk of property loss, perpetuating cycles of poverty and homelessness fueled by the financial motivation of law enforcement to seize property to the fullest extent permitted by law.¹⁹ Numerous stories throughout the testimonies portray this same troubling relationship, characterized by stark descriptions of abuse.²⁰

¹³ Randolph, Erik and Brockway, Buzz, *Civil Asset Forfeitures in Georgia: Procedures, Activity, Reporting, and Recommendations*, Georgia Center for Opportunity, March 2020, at: https://georgiaopportunity.org/wp-content/uploads/2020/03/20-011-GCO-Civil-Asset-Forfeit_v3.pdf.

¹⁴ Knepper, et al., 2020, <https://ij.org/report/policing-for-profit-3/pfp3content/civil-forfeiture-laws-fail-to-protect-property-owners/2020-civil-forfeiture-law-grades/>.

¹⁵ Knepper, et al., 2020, <https://ij.org/report/policing-for-profit-3/?state=GA>.

¹⁶ Carpenter II, Dick M., Knepper, Lisa, Erickson, Angela C., and McDonald, Jennifer, *Policing for Profit: Georgia*, Institute of Justice, November 2015, at: <https://ij.org/pfp-state-pages/pfp-georgia/>.

¹⁷ Guze Testimony, Transcript I, p. 19 lines 8-9.

¹⁸ Guze Testimony, Transcript I, p. 19 lines 8-9; Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; Alban Testimony, Transcript I, p. 27 line 18 –p. 28 line 6.

¹⁹ Banjo Testimony, Transcript III, p. 5 line 32 –p. 6 line 33; Bergman Testimony, Transcript IV, p. 9, lines 30-37; Griggs Testimony, Transcript III, p. 9 lines 18-21, 23-24.

²⁰ McDonald Testimony, Transcript II, p. 12 lines 4-19. Harris Testimony, Transcript III, p.19, lines 13-16 & 28-31; Cochling Testimony, Transcript II, p. 6 lines 29-32; Turner Testimony, Transcript IV, p. 18, lines 16-22; Guze Testimony, Transcript I, p. 23 lines 33-38.

In this study the Committee also sought to examine whether civil asset forfeiture may affect communities of color disproportionately. While data specific to Georgia are limited on this question, a recent report in the *Greenville News* revealed 65% of cash seized by South Carolina police comes from Black men.²¹ In an investigative piece by journalist Radley Balko of the *Washington Post*, Balko reported that forfeitures “disproportionately [affect] minorities and low-income communities,” and that despite the claim that the practice exists to counter drug trafficking, the “typical seizure is for less than \$500.”²² An article in the *International Public Management Journal* cited an analysis of the American Civil Liberties Union which found that “law enforcement views the simple act of being Black and in possession of cash and other valuables as indicative of criminal activity.”²³ Antoine Harris, a Georgia citizen, testified about the police harassment in his neighborhood and the automatic suspicion of him for crimes he did not commit.²⁴ In his testimony, Mr. Harris stated that the police identify themselves with the explicit purpose of finding incriminating evidence as a means to seize property.²⁵ The experiences of Antoine Harris reflect the greater narrative which emerged from the testimony of civil asset forfeiture in communities of color overall.²⁶

A 2009 article in the journal *Policing and Society: An International Journal of Research and Policy* reported:

The quantitative literature on arrests and charging emphasizes racial differences, and the literature on drug arrests in particular documents that African Americans have been more likely than whites to face drug-related arrest charges that will result in criminal processing and that drug arrest rates were heightened in areas populated with more African American citizens. This article adds to the

²¹ Cary, Nathaniel, and Ellis, Mike, 65% of cash seized by SC police comes from black men. Experts blame racism, *Greenville News*, January, 27, 2019, at: <https://www.greenvilleonline.com/story/news/taken/2019/01/27/south-carolina-racism-blamed-civil-forfeiture-black-men-taken-exclusive-investigation/2459039002/>.

²² Balko, Radley, Rep. Tim Walberg introduces bill to curb asset forfeiture abuse, *The Washington Post*, July 31, 2014, at: <https://www.washingtonpost.com/news/the-watch/wp/2014/07/31/rep-tim-walberg-introduces-bill-to-curb-asset-forfeiture-abuse/>.

²³ Nicholson-Crotty, S., Nicholson-Crotty, J., Li, D., and Mughan, S. 2021. “Race, representation, and assets forfeiture.” *International Public Management Journal*, 24 (1), 47-66, at: <https://www.tandfonline.com/doi/full/10.1080/10967494.2020.1728454>.

²⁴ Harris Testimony, Transcript III, p.19, lines 28-31.

²⁵ Harris Testimony, Transcript III, p.19, lines 28-31.

²⁶ Alban Testimony, Transcript I, p. 3 lines 15-22 & p. 6 lines 19-21; Griggs Testimony, Transcript III, p. 8 lines 39-41 – p. 9 lines 1-3, 13-21; p. 11 lines 36-37; p. 26 lines 7-37; Harris Testimony, Transcript III, p.19 lines 13-16 – lines 28-31; Turner Testimony, Transcript IV, p. 17, lines 17-21; McCall Dodson Testimony, Transcript I, p. 8 lines 1-29; McDonald Testimony, Transcript II, p, 11 lines 29-35; Bellamy Testimony, Transcript I, p. 16 line 38 – p. 17 line 5; Cochling Testimony, Transcript II, p. 5 lines 22-26; Banjo Testimony, Transcript III, p. 6 lines 34-38; Nelson Testimony, Transcript I, p. 12 line 23 – p. 13 line 4.

expansive literature on discretionary decision making by focusing on civil asset forfeiture, a tool whose expanded use has received only limited research attention.²⁷

The scale of civil asset forfeiture in Georgia is growing and has attracted the attention of academics, activists, politicians, journalists, and law enforcement in recent years. Georgia's legislature considered two related bills during its 2019-2020 Regular Session: House Bill 1086,²⁸ which would halt all civil asset forfeiture proceedings until the conclusion of any criminal proceedings, and; House Bill 1036, which would direct funds from seized assets to Indigent Care Trust Fund and Safety Harbor for Sexually Exploited Children Fund instead of local District Attorneys.²⁹ The Georgia legislature did not adopt either House Bill.

Neighboring states have also identified the need to tackle this issue. For example, the Tennessee Advisory Committee for the U.S. Commission on Civil Rights found in 2018 that:

Tennessee's civil forfeiture law raises important concerns about the disparate impact that forfeitures can have on low-income individuals and communities of color. The Committee also identified the very real potential for perverse financial incentives under Tennessee's civil forfeiture law, as law enforcement agencies are permitted to retain for their own use 100 percent of the cash, private property, and proceeds forfeited with minimal oversight as to how forfeited assets are used or spent.³⁰

Given the shifting landscape related to civil asset forfeiture law, the continued vulnerabilities of those with the fewest resources, and the limited protections guaranteed for those affected, the Committee studied the impact of civil asset forfeiture in Georgia, particularly in communities of color, and its potential for disparate impact on the basis of other federally protected categories. The Committee identifies in this report best practices and potential solutions to address any related civil rights concerns as they were ascertained throughout the course of the study.

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts that have rigorously studied and reported on the topic; community organizations and advocates representing a broad

²⁷ Helms, R., and Costanza, S. E. 2009. "Race, politics, and drug law enforcement: an analysis of civil asset forfeiture patterns across US counties." *Policing and Society*, 19 (1), 1-19, at: <https://www.tandfonline.com/doi/full/10.1080/10439460802457578>.

²⁸ H.B. 1086, 2020 Gen. Assemb. Reg. Sess. (Ga.2020), <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/1086>.

²⁹ H.B. 1036, 2020 Gen. Assemb., Reg. Sess. (Ga. 2020), <http://www.legis.ga.gov/Legislation/en-US/display/20192020/HB/1036>.

³⁰ Report of the Tennessee Advisory Committee to the U.S. Commission on Civil Rights, *The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices*, February 2018, at: <https://www.usccr.gov/pubs/2018/09-12-TN-Civil-Laws.pdf>.

range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

The (non-probability) judgement-sampling inherent in Committee studies requires Committee members to utilize their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue.

Committees are composed of volunteer professionals that are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, occupations, races, ages, and gender identities, as well as a variety of backgrounds, skills, and experiences. In its analysis of the selected topic, Committees must draw from their own experiences, knowledge, opinions, and views to gain an understanding of the issue and possible policy solutions. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in the oversight of nuances in the testimony.

In fulfillment of Committees' responsibility to advise the Commission of civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters, to identify findings and recommendations to report to the Commission. A draft of the Committee's report is shared with panelists and other contributors from the public to ensure that their testimony was accurately captured.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by a majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are actionable responses, often proposed policy interventions, intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take a specific action, or that the Commission forward recommendations to other federal or state agencies, policymakers, or stakeholders.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,³¹ the Georgia Advisory Committee submits the following findings to the Commission regarding civil asset forfeiture. This report seeks to highlight the most salient civil-rights themes as they emerged from the Committee's

³¹ 45 C.F.R. § 703.2.

inquiry. The complete meeting transcripts and written testimony received are included in the appendix of this report for further reference.

Finding I: Civil asset forfeiture was designed and instituted with the purpose of disrupting criminal activity that is otherwise outside the reach of the criminal justice system.

Civil asset forfeiture is a legal process that was developed with the intent of taking property from those involved with drug trafficking and other major organized criminal activity that may otherwise be outside the reach of U.S. criminal law.³² Civil asset forfeiture is considered by many in law enforcement to be a necessary tool to use against such criminal enterprises.³³ Throughout the Committee’s study, representatives from law enforcement reported that forfeiture has the power to dismantle organized criminal activity, restrict the resources of repeat offenders, and generally decrease crime rates in a jurisdiction.³⁴ Lieutenant Shannon McKesey from the South Fulton Police Department testified that forfeiture can actually serve as a more powerful deterrent to criminal activity than jail time. McKesey explained that in some criminal groups, jail time can have the unintended effect of increasing an individual’s approval and credibility within the organization.³⁵ In contrast, because forfeiture damages the economic stability of these organizations, those connected to the forfeiture lose internal status and credibility.³⁶ Former District Attorney David Cooke further testified that disrupting organized illegal activity such as gambling can also deter related crimes, such as violent robbery at illegal gambling sites, and bribery of law enforcement and public officials.³⁷ Cooke noted that illegal gambling in Georgia has a \$4 billion impact and primarily exploits high-poverty communities and communities of color; Cooke asserted that civil asset forfeiture is the most effective way to combat these activities.³⁸

³² Nelson Testimony, Transcript I, p. 12 lines 9-22; p. 14 lines 31-34; Cooke Testimony, Transcript III, p. 4 lines 12-13; Banjo Testimony, Transcript III, p. 5 lines 17-23; Bellamy Testimony, Transcript I, p. 15 lines 30-35; Guze Testimony, Transcript I, p. 19 lines 35-38.

³³ Cooke Testimony, Transcript III, p. 4 lines 28-31; McCall Dodson Testimony, Transcript I, p. 25 line 38 – p. 26 line 8; Turner Testimony, Transcript IV, p. 14, lines 1-4 & 22-42; p. 15, lines 3-4.

³⁴ McKesey Testimony, Transcript IV, p. 2, lines 42-43 – p.3 lines 1-2 & 27-39; Cooke Testimony, Transcript III, p. 4 lines 3-7 & p. 23 lines 33-34.

³⁵ McKesey Testimony, Transcript IV, p. 3, lines 27-32.

³⁶ McKesey Testimony, Transcript IV, p.2, lines 42-43 –p.3 lines 1-2.

³⁷ Cooke Testimony, Transcript III, p. 3 lines 14-31.

³⁸ Cooke Testimony, Transcript III, p. 2 lines 31-42 – p. 4 lines 3-7.

Finding II: Advocates for reform argue that civil asset forfeiture is not necessary; does not make communities safer; and in some cases may worsen community wellbeing and public safety.

Lack of Necessity

Panelist Dan Alban of the Institute for Justice asserted that civil asset forfeiture is unnecessary; he noted that “modern extradition laws allow the U.S. government to prosecute people all over the world and to seize assets related to those prosecutions, and forfeit those assets under criminal forfeiture.”³⁹ He qualified, “...there have been some instances where someone passed away while awaiting trial and [has] not actually been convicted of a crime, or where someone has become a fugitive from justice and ...has fled to a country that does not have an extradition treaty with the United States. But all serious forfeiture reform proposals that I am aware of have carve-outs that allow for civil forfeiture in those exceptional circumstances.”⁴⁰ Alban concluded by stating that “if the United States can reach someone through civil forfeiture, they can also reach that person through criminal forfeiture.”⁴¹

Community Safety

Panelist Chris Bellamy of the Vanderbilt University Law School argued that in addition to being unnecessary, civil asset forfeiture itself does not actually make communities safer.⁴² Bellamy pointed to data from New Mexico where civil forfeiture was eliminated entirely in 2015.⁴³ Since this time, there has been no corresponding impact on crime rates in New Mexico, suggesting that elimination may not put the public at risk in the way supporters often claim it will.⁴⁴

Additionally, multiple panelists suggested that civil forfeiture can result in the opposite impact, making communities *less* safe—both by damaging community/police relations and by reducing incentive for police to pursue suspected criminal activity. Speakers described situations in which individuals experienced civil asset forfeiture as the legally-sanctioned theft of their property by law enforcement officials.⁴⁵ Panelists raised concern that when law enforcement activity is experienced as illegitimate in this way, it damages the relationship between the police and the

³⁹ Alban Testimony, Transcript I p. 23 lines 2-6; 14-16.

⁴⁰ Alban Testimony, Transcript I, p. 23 lines 16-23.

⁴¹ Alban Testimony, Transcript I p. 23 lines 2-6; 14-16; Banjo Testimony, Transcript III, p. 18 lines 17-18; Griggs Testimony, Transcript III, p. 9 Lines 3-6 –p. 11 lines 16-18 –p. 12 lines 4-5.

⁴² Bellamy Testimony, Transcript I, p. 15 lines 35-36; p. 23 line 39 – p. 24 line 2.

⁴³ McDonald Testimony, Transcript II, p. 13 lines 1-4.

⁴⁴ McDonald Testimony, Transcript II, p. 13 lines 4-8; *see also*: McCall Dodson Testimony, Transcript I, p. 24 lines 3-7.

⁴⁵ Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; p. 29 lines 27-42; Alban Testimony, Transcript I, p. 27 line 18 – p. 28 line 6.

public, thereby making both police officers and the public less safe.⁴⁶ Panelist Jennifer McDonald of the Institute for Justice detailed the story of Jerry Johnson, a small business owner traveling with \$39,000 in cash to buy a truck for his company.⁴⁷ Though Mr. Johnson had committed no crime, airport security agents determined the presence of cash itself to be suspicious, so they seized Mr. Johnson's cash and sent him on his way without initiating any further investigation related to any suspected criminal activity.⁴⁸ Panelist Antoine Harris described his experience living in a community in which police regularly harass residents for petty offenses such as jaywalking or loitering; then seize all cash and belongings the person is carrying, claiming without evidence that the property is drug-related.⁴⁹ Mr. Harris recalled the need to change which shops he used in his neighborhood because police frequently and violently sought incriminating evidence on him as the means to seize his property.⁵⁰

Panelist Marissa McCall Dodson from the Southern Center for Human Rights testified that once law enforcement and prosecutors have seized assets and received the proceeds, their motivation to pursue the case and related criminal charges are diminished.⁵¹ As a prosecutor, Attorney Chris Bellamy witnessed firsthand law enforcement negotiating with a property owner saying, "let us keep this property and we won't charge you with a crime; we won't investigate this further."⁵² When law enforcement officials fail to pursue suspected criminal activity because they have already seized the related assets under civil law, any actual criminal activity remains unsolved and public safety remains compromised.

Community Wellbeing

Finally, panelists described the collective community impact of civil asset forfeiture on vulnerable neighborhoods.⁵³ For many, losing cash can often mean not being able to pay rent. Panelist McCall Dodson noted that the median civil asset forfeiture in Georgia is \$500 while the median rent is \$600.⁵⁴ In this way, civil asset forfeiture perpetuates the cycle of poverty and criminalization by taking resources and funds and entering (often innocent) individuals into the

⁴⁶ Guze Testimony, Transcript I, p. 19 lines 8-9.

⁴⁷ McDonald Testimony, Transcript II, p. 11 line 36 –p. 12 line 3.

⁴⁸ McDonald Testimony, Transcript II, p. 11 line 36 –p. 12 line 3.

⁴⁹ Harris Testimony, Transcript III, p. 19 line 11 – p. 20 line 10.

⁵⁰ Harris Testimony, Transcript III, p.19, lines 28-31.

⁵¹ McCall Dodson Testimony, Transcript I, p. 24 lines 7-14.

⁵² Bellamy Testimony, Transcript I, p. 16 lines 31-37.

⁵³ Cooke Testimony, Transcript III, p. 4 lines 24-25.

⁵⁴ McCall Dodson Testimony, Transcript I, p. 10 lines 1-9.

justice system.⁵⁵ Panelists concluded that reinvesting those forfeited proceeds back into law enforcement further perpetuates the cycle of poverty, divestment, and mass incarceration in vulnerable communities.⁵⁶ They noted that innocent property owners can be presumed guilty if the property in question is shared with another person, family, friend, or partner who is accused of a crime.⁵⁷ “If you have a loved one, a spouse, a child, or a parent who is now committing or allege to commit a crime, your mere knowledge of that can now put something that you jointly own or something that appears to be the possession of criminal actors in jeopardy. That is something that should not be occurring. This duty to report or inform on your family is really not a helpful policy.”⁵⁸

Finding III: Most cases of civil asset forfeiture in Georgia are not targeting high-level, organized criminal activity as intended but are instead impacting low-income individuals who are rarely charged with any crime.

Throughout this inquiry, the Committee heard repeated testimony that in its current application, civil asset forfeiture in Georgia is rarely used for large value forfeitures or to target international criminal organizations that are beyond the reach of U.S. criminal law.⁵⁹ While Georgia data are limited, comparable data from other states show that forfeitures often happen in very low amounts and are deployed disproportionately against poor people and people of color.⁶⁰ Reviewing public records data obtained by the ACLU and published in collaboration with the Washington Post, panelist Dan Alban of the Institute for Justice showed that in Philadelphia, between 2011 and 2013, 60% of civil asset forfeitures were less than \$250, and some were as low as \$40; “people were stopped on the street and their wallets were emptied for forfeiture.”⁶¹ Alban noted that in Georgia between 2015-2018, 58% of the forfeited property at the state level was currency (cash), half worth less than \$540.⁶²

⁵⁵ Banjo Testimony, Transcript III, p. 6 lines 3 - 33; Griggs Testimony, Transcript III, p. 9 lines 18-21, 23-24.

⁵⁶ Griggs Testimony, Transcript III, p. 9 lines 9-21; Harris Testimony, Transcript III, p.19 lines 12-21; Banjo Testimony, Transcript III, p. 25 line 32 – p. 26 line 6.

⁵⁷ Bergman Testimony, Transcript IV, p. 9, line 42; p. 10, lines 1-4.

⁵⁸ Banjo Testimony, Transcript III, p. 5 lines 32 – p. 6 line 7; *see also*: Bergman Testimony, Transcript IV, p. 9, lines 30-37.

⁵⁹ Nelson Testimony, Transcript I, p. 12 lines 9-22; p. 14 lines 31-34; Cooke Testimony, Transcript III, p. 4 lines 12-13; Banjo Testimony, Transcript III, p. 5 lines 17-23; Bellamy Testimony, Transcript I, p. 15 lines 36-37; Alban Testimony, Transcript I, p. 22 line 42- line 23 line 1; p. 23 lines 24-32.

⁶⁰ Nelson Testimony, Transcript I, p. 14 line 35; Banjo Testimony, Transcript III, p. 5 lines 17-23 - p. 7 lines 6-29; Turner Testimony, Transcript IV, p. 17, lines 17-21; Alban Testimony, Transcript I, p. 5 line 16 – p. 6 line 18; McDonald Testimony, Transcript II, p. 12 lines 20-25 & p. 26 lines 8-14; McCall Dodson Testimony, Transcript I, p. 8 lines 26-39.

⁶¹ Alban Testimony, Transcript I, p. 5 line 38 – p. 6 line 3.

⁶² Alban Testimony, Transcript I, p. 4 lines 40-41; Cochling Testimony, Transcript II, p. 3 lines 1-2.

Panelist Jennifer McDonald of the Institute for Justice raised further concern that in a majority of civil forfeiture cases, there are no arrests or criminal charges connected to the case. McDonald presented data from the U.S. Department of Treasury’s Seized Assets and Case Tracking System (SEACATS), indicating that half of all airport seizures are a result of reporting violations; meaning that a person’s only infraction was failing to declare the cash they were carrying (often simply being unaware of the reporting requirements).⁶³ The Institute for Justice’s analysis of these data suggested that violations like drug smuggling are a very small percentage of what is seized when compared to cash taken for alleged reporting violations.⁶⁴ Ms. McDonald pointed out that at the Atlanta airport, only one in ten cases involving a reporting violation led to an actual arrest.⁶⁵ She concluded, “We’re talking about a federal offense here...it’s shocking that the arrest rate is so low considering how seriously agents seem to take this offense. So, we think there is obviously something at play here that’s not necessarily something having to do with criminal activity.”⁶⁶

Finding IV: Law enforcement agencies have a strong financial incentive to engage in as much forfeiture activity as possible, and there are few accountability measures to ensure that civil asset forfeiture is not being abused.

Throughout the Committee’s inquiry, many panelists raised concern that civil asset forfeiture provides inappropriate motivations for law enforcement.⁶⁷ Panelists pointed to the combination of the low burden of proof required to seize assets,⁶⁸ and the financial incentives to engage in forfeiture, as evidence of a serious conflict of interest.⁶⁹ Federal law and Georgia law allow law enforcement agencies to keep up to 100% of the profits from forfeited assets,⁷⁰ making civil asset forfeiture a significant source of revenue for many agencies.⁷¹ Testimony from panelists

⁶³ McDonald Testimony, Transcript II, p. 10 lines 23-30.

⁶⁴ McDonald Testimony, Transcript II, p. 10 lines 23-30.

⁶⁵ McDonald Testimony, Transcript II, p. 10 lines 31-39.

⁶⁶ McDonald Testimony, Transcript II, p. 10 lines 31-39.

⁶⁷ Harris Testimony, Transcript III, p.19, lines 13-16 & 28-31; Cochling Testimony, Transcript II, p. 6 lines 29-32; Turner Testimony, Transcript IV, p. 15 line 40 – p. 16 line 4 & p. 18, lines 16-22; Guze Testimony, Transcript I, p. 23 lines 33-38.

⁶⁸ Alban Testimony, Transcript I, p. 3 lines 23-29; Griggs Testimony, Transcript III, p. 8 lines 14-15; Turner Testimony, Transcript IV, p. 15 lines 5-14 – p. 16 lines 39-42.

⁶⁹ Alban Testimony, Transcript I, p. 4 lines 20-38; Griggs Testimony, Transcript III, p. 9 lines 9-21; Turner Testimony, Transcript IV, p. 14 lines 12-16; p. 15 line 40 – p. 16 line 4; & p. 18 lines 16-22; McCall Dodson Testimony, Transcript I, p. 9 lines 15-24; Cochling Testimony, Transcript II, p. 6 lines 8-20 & 29-32; Harris Testimony, Transcript III, p.19, lines 13-16 & 28-31; Guze Testimony, Transcript I, p. 23 lines 33-38.

⁷⁰ 18 U.S. Code § 981; Ga. Code Ann. § 9-16-19; Alban Testimony, Transcript I, p. 4 lines 20-26; Griggs Testimony, Transcript III, p. 9 lines 18-21; Turner Testimony, Transcript IV, p. 14 lines 12-16 – Turner Testimony, p. 14 lines 22-42, p. 15, lines 3-4..

⁷¹ Bellamy Testimony, Transcript I, p. 15 lines 38-41.

Dan Alban and Jennifer McDonald of the Institute for Justice illustrated the financial significance of this practice. Between 2015 and 2018, Georgia law enforcement officials forfeited over \$51M and spent \$37M from forfeiture funds.⁷² Between 2000-2019, at least \$439M in state and federal asset forfeiture was received by Georgia law enforcement agencies.⁷³ An average of over \$19.4M per year of these funds was obtained through equitable sharing agreements.⁷⁴ At the national level, between 2000 and 2016, DHS agencies seized more than \$2 billion across more than 30,000 seizures at airports.⁷⁵ Ms. McDonald noted that other non-DHS agencies also seize assets at airports, so this is a small representation of actual dollars.⁷⁶ Specifically in Georgia, between 2000 and 2016, more than \$108 million was seized at the Atlanta airport, one of the busiest airports in the country.⁷⁷ The Atlanta airport was third in the country for having the most seizures during this period – behind only O’Hare (Chicago, IL) and JFK (New York, NY).⁷⁸

Panelists raised several specific concerns with this conflict:

- Dan Alban of the Institute for Justice pointed out that civil asset forfeiture allows police to have significant separate budgets that exist outside of the legislative body that approves their budget and is responsible for oversight of the agency.⁷⁹
- Former Georgia Representative Scot Turner testified that many smaller law enforcement agencies often inappropriately rely on civil asset forfeiture to supplement their budget and run their offices.⁸⁰
- Attorney Chris Bellamy testified that if police can “raise” their own money through civil asset forfeiture, it takes the pressure off other budgetary constraints facing lawmakers, thereby providing inappropriate incentive for lawmakers to forgo imposing any accountability measures or other restrictions on the practice.⁸¹

⁷² Alban Testimony, Transcript I, p. 5 lines 2-4.

⁷³ Alban Testimony, Transcript I, p. 5 lines 5-6.

⁷⁴ Alban Testimony, Transcript I, p. 5 lines 5-7.

⁷⁵ McDonald Testimony, Transcript II, p. 10 lines 5-11.

⁷⁶ McDonald Testimony, Transcript II, p. 10 lines 5-16.

⁷⁷ McDonald Testimony, Transcript II, p. 10 lines 17-22.

⁷⁸ McDonald Testimony, Transcript II, p. 10 lines 17-22.

⁷⁹ Alban Testimony, Transcript I, p. 4 lines 27-33.

⁸⁰ Turner Testimony, Transcript IV, p. 14, lines 22-42, p. 15, lines 3-4.

⁸¹ Bellamy Testimony, Transcript I, p. 15 line 42 – p. 16 line 6.

- Mr. Bellamy suggested that taxpayers and voters can be complicit in this conflict if those targeted are generally not those who live there; when police generate their own revenue through civil asset forfeiture, the community benefits from lower taxes.⁸²

Panelists described multiple bipartisan attempts to address civil forfeiture concerns in the Georgia legislature, though none have passed.⁸³ Lawmakers who have supported forfeiture reforms have faced intense political backlash from those in the law enforcement community and their associations.⁸⁴

Equitable sharing

While some states have placed restrictions on civil asset forfeiture in an attempt to remedy these concerns, panelists cautioned that any state-level reform efforts must also limit federal equitable sharing agreements.⁸⁵ Equitable sharing is a legal “loophole” allowing law enforcement agencies to circumvent state laws restricting civil forfeiture by requesting a federal agency to process the forfeiture in return for a shared portion of the seized funds from the participating federal agency.⁸⁶ Panelists noted that there are two legal mechanisms by which state and local law enforcement can engage in equitable sharing: “joint investigation” with a federal agency, or “adoption.”⁸⁷ Panelist John Guze, Director of Legal Studies at the John Locke Foundation explained that joint investigations do allow circumvention of state civil asset forfeiture laws; however, they can also serve a legitimate purpose—to share information, expertise, and resources to aid in an investigation.⁸⁸ The second mechanism for equitable sharing is adoption. Adoption allows state or local agencies to seize property and request a federal seizing agency to adopt the seizure and proceed with a federal forfeiture.⁸⁹ The property then gets processed under federal law, and 80% is returned to the local agency while 20% goes to the federal agency that

⁸² Bellamy Testimony, Transcript I, p. 16 lines 7-15.

⁸³ McCall Dodson Testimony, Transcript I, p. 10 lines 21-42; Bruce Testimony, Transcript II, p. 8 lines 21-27; Griggs Testimony, Transcript III, p. 8 lines 8-9; Scott Testimony, Transcript II, p. 13 line 25 – p. 14 line 3; p. 19 lines 9-17.

⁸⁴ Turner Testimony, Transcript IV, p. 14 line 34 – p. 15 line 2.

⁸⁵ Alban Testimony, Transcript I, p. 7 lines 3-6; Guze Testimony, Transcript I, p. 18 lines 11-19; p. 19 lines 13-32; p. 20 lines 7-11; Turner Testimony, Transcript IV, p. 15, lines 29-30, p. 18, lines 9-10.

⁸⁶ 18 U.S. Code § 981 (e); McCall Dodson Testimony, Transcript I, p. 10 lines 10-13; Guze Testimony, Transcript I, p. 18 lines 11-19; p. 19 lines 13-32; p. 20 lines 7-11; Turner Testimony, Transcript IV, p. 15, lines 26-39, p. 18, lines 9-10.

⁸⁷ Guze Testimony, Transcript I, p. 19 line 33 – p. 20 line 19; Cooke Testimony, Transcript III, p. 22 lines 1-5.

⁸⁸ Guze Testimony, Transcript I, p. 20 lines 12-19.

⁸⁹ Guze Testimony, Transcript I, p. 19 lines 33-44.

processed it.⁹⁰ Mr. Guze described this process as a “money laundering scheme”⁹¹ with the sole purpose being to circumvent state law.⁹²

Finding V: Civil asset forfeiture raises questions regarding multiple fundamental constitutional principles and basic ideas of fairness and justice for all.⁹³

Throughout this study, panelists raised concern that the current application of civil forfeiture in Georgia may infringe upon a number of constitutional protections both at the state and federal levels. Wesley Hottot of the Institute for Justice submitted written testimony invoking the very first paragraph of the Georgia constitution, which guarantees that “no person shall be deprived of life, liberty, or property without due process of law.”⁹⁴ This promise mirrors the U.S. Constitution, which also states, twice, that no person shall be “deprived of life, liberty, or property without due process of law.”⁹⁵

Despite this guarantee, several panelists asserted that asset forfeitures processed under civil rather than criminal law fall short of this promise.⁹⁶ In particular, panelists noted that in civil cases, property owners are denied any presumption of innocence; they have no right to an attorney; and they have no protection against self-incrimination.⁹⁷ The Committee also heard concern regarding Constitutional protections against unreasonable search and seizure,⁹⁸

⁹⁰ Guze Testimony, Transcript I, p. 19 lines 33-44.

⁹¹ Guze Testimony, Transcript I, p. 19 lines 33-44.

⁹² Guze Testimony, Transcript I, p. 20 lines 12-19.

⁹³ Turner Testimony, Transcript IV, p. 13, lines 23-40; Bruce Testimony, Transcript II, p. 8 lines 13-15; Banjo Testimony, Transcript III, p. 5 lines 6-7; lines 28-29; Griggs Testimony, Transcript III, p. 8 lines 39-41 – p. 9 lines 1-3.

⁹⁴ Ga. Const. art. I, sec. 1, para. 1; Hottot Written Testimony, Appendix B.

⁹⁵ U.S. Const. amend V; U.S. Const. amend XIV.

⁹⁶ Turner Testimony, Transcript IV, p. 13, lines 23-40; McDonald Testimony, Transcript II, p. 11 lines 1-7; Alban Testimony, Transcript I, p. 3 line 35 – p. 4 line 6; Bellamy Testimony, Transcript I, p. 16 lines 22-26; p. 18 lines 1-8.

⁹⁷ Each of these concerns is described in the paragraphs that follow.

⁹⁸ U.S. Const. amend IV; Alban Testimony Transcript I, p. 5 line 38 –p. 6 line 3; Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; Griggs Testimony, Transcript III, p. 9 lines 18-21; Hottot Written Testimony, Appendix B.

Constitutional principles regarding the separation of powers,⁹⁹ and Constitutional protections against excessive fines and fees.¹⁰⁰ These concerns are discussed below.

- *Presumption of innocence*

Under civil asset forfeiture, charges are filed against the property itself, not the property owner or any other person.¹⁰¹ Despite the state’s necessary claim that the property was involved in or derived from criminal activity, no criminal charges need to be filed in order for assets to be civilly forfeited.¹⁰² If a property owner challenges the state’s claim, the resulting civil proceedings require only that the state demonstrate, by a “preponderance of the evidence” (51% probability) that the property was subject to forfeiture.¹⁰³ Panelists note this evidentiary standard is much lower than would be applied in criminal court.¹⁰⁴ Once the state makes this claim, property owners have the burden to initiate court proceedings to demonstrate that their property was not, in fact, connected to criminal activity, or that they were unaware of the alleged activity.¹⁰⁵ If individuals are not able to file a claim for the return of their property, or they miss a deadline, the government keeps their assets by default.¹⁰⁶

Although criminal charges against a property owner are not required, at times, some owners do face criminal proceedings in parallel to the civil forfeiture proceedings levied against their property. Panelist Scot Turner from the Georgia House of Representatives noted that in such cases, not only is the property owner denied any presumption of innocence in civil court, but if criminal charges are dropped, or the owner is actually cleared of wrongdoing in criminal court,

⁹⁹ U.S. Const. amend IV; McDonald Testimony, Transcript II, p. 11 lines 4-7; Griggs Testimony, Transcript III, p. 8 lines 19-35.

¹⁰⁰ U.S. Const. amend VIII; Alban Testimony, Transcript I, p. 5 lines 5-7; Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; McDonald Testimony, Transcript II, p. 11 lines 19-28; Harris Testimony, Transcript III, p.19 lines 13-16; Turner Testimony, Transcript IV, p.18, lines 16-22; Alban Written Testimony, Appendix B.

¹⁰¹ Griggs Testimony, Transcript III, p. 10 lines 24-19.

¹⁰² Alban Testimony, Transcript I, p. 3 line 35 –p. 4 line 6; Cochling Testimony, Transcript II, p. 20 lines 20-34; Mckesey Testimony, Transcript IV, p. 2, lines 32-37.

¹⁰³ McDonald Testimony, Transcript II, p. 11 lines 9-14; Griggs Testimony, Transcript III, p. 9 lines 33-38; McCall Dodson Testimony, Transcript I, p. 9 lines 25-32; Mckesey Testimony, Transcript IV, p. 3, lines 20-23; Bergman Testimony, Transcript IV, p. 9, lines 13-21.

¹⁰⁴ Cochling Testimony, Transcript II, p. 20 lines 20-34; 17; Griggs Testimony, Transcript III, p. 10 lines 30-41 –p. 11 lines 1-6; Bergman Testimony, Transcript IV, p.6 lines 36-42, p. 7, lines 1-3.

¹⁰⁵ McDonald Testimony, Transcript II, p. 11 lines 9-14; Griggs Testimony, Transcript III, p. 9 lines 33-38; McCall Dodson Testimony, Transcript I, p. 9 lines 25-32; Mckesey Testimony, Transcript IV, p. 3, lines 20-23; Bergman Testimony, Transcript IV, p. 8 line 41 – p. 9 line 21; Hottot Written Testimony, Appendix B.

¹⁰⁶ McDonald Testimony, Transcript II, p. 11 lines 9-14; Griggs Testimony, Transcript III, p. 9 lines 33-38; McCall Dodson Testimony, Transcript I, p. 9 lines 25-32; Mckesey Testimony, Transcript IV, p. 3, lines 20-23; Hottot Written Testimony, Appendix B.

the owner's property can still be forfeited in civil court: "You can be found not guilty by a jury of your peers in the court of law, and the state can still take your property."¹⁰⁷

- *Right to an attorney*

Panelists also pointed out that property owners do not have the right to an attorney in civil asset forfeiture cases.¹⁰⁸ As a result, people are forced to either navigate the system themselves or to pay out of pocket for an attorney.¹⁰⁹ In many cases, the comparatively low value of the property seized makes it unreasonable to hire an attorney.¹¹⁰ The median value of forfeited currency is just \$1,276, and many seizures are only of a few hundred dollars.¹¹¹ Considering the cost of contesting a simple state forfeiture case is estimated at approximately \$3,000, it is most often impractical financially to hire an attorney.¹¹² Therefore, panelists contended, unless someone already has an attorney or knows an attorney it is unlikely they will be represented.¹¹³ Not surprisingly, therefore, available data at the federal level and in other states shows that most people are unsuccessful in getting their property back.¹¹⁴ Panelist Leah Nelson of the Alabama Appleseed Center for Law and Justice said, "[t]hey're used to taking sums of money that are everything to the people from whom they're taken, but not enough to warrant the cost of a lawyer. They allow law enforcement to profit from people's poverty, banking status, and ignorance of the law."¹¹⁵

- *Protection against self-incrimination*

Panelist and state prosecutor Gary Bergman testified that there is no protection against self-incrimination in civil proceedings; if a property owner invokes their Fifth Amendment right against self-incrimination, the court can use that against them and assume that if they had

¹⁰⁷ Turner Testimony, Transcript IV, p. 16 line 35 – p. 17 line 5; Alban Written Testimony, Appendix B.

¹⁰⁸ McDonald Testimony, Transcript II, p. 11 lines 19-28.

¹⁰⁹ McDonald Testimony, Transcript II, p. 11 lines 19-28.

¹¹⁰ Nelson Testimony, Transcript I, p. 13 lines 7-38; p. 14 lines 35-37; Alban Testimony, Transcript I, p. 6 lines 3-5; McDonald Testimony, Transcript II, p. 11 lines 19-28; McCall Dodson Testimony, Transcript I, p. 8 line 37 – p. 9 line 6; Griggs Testimony, Transcript III, p. 11 lines 32-35.

¹¹¹ Knepper, et al., 2020, <https://ij.org/report/policing-for-profit-3/pfp3content/forfeiture-is-lucrative-for-governments-nationwide/big-time-criminals-or-small-time-forfeitures/>; Nelson Testimony, Transcript I, p. 13 lines 7-10; Alban Testimony, Transcript I, p. 5 line 38 –p. 6 line 3.

¹¹² McDonald Testimony, Transcript II, p. 12 lines 20-25.

¹¹³ Alban Testimony, Transcript I, p. 6 lines 23-27; Griggs Testimony, Transcript III, p. 14 lines 25-27; Scott Testimony, Transcript II, p. 14 lines 18-26; McCall Dodson Testimony, Transcript I, p. 8 lines 26-39.

¹¹⁴ Cochling Testimony, Transcript II, p. 23 lines 4-14; McDonald Testimony, Transcript II, p. 22 lines 24-30.

¹¹⁵ Nelson Testimony, Transcript I, p. 14 line 35 -39.

answered, they would have incriminated themselves.¹¹⁶ Panelist Scot Turner testified that people who are attempting to defend their property in a civil asset forfeiture case, while also being involved in criminal proceedings, face additional challenges related to this conflict. Civil proceedings generally progress faster than criminal proceedings; therefore, property owners must often respond to the civil claim first.¹¹⁷ Turner testified that this order of operations “imperils [a defendant’s] right to remain silent in [their] criminal proceeding.”¹¹⁸ Many actions against property go unanswered and are forfeited administratively by default because people facing criminal charges will be advised by their criminal defense attorney not to do respond to their civil suit until after the criminal suit is done.¹¹⁹ Mr. Turner introduced legislation in 2019 which would have allowed criminal defendants the option to stay their civil proceedings until after their criminal case was concluded, but the legislative reform was unsuccessful.¹²⁰

- *Unreasonable search and seizure*

Both the Georgia Constitution and the United States Constitution guarantee that the right of the people “to be secure in their possessions, houses, papers and effects against unreasonable searches and seizures shall not be violated.”¹²¹ The Committee heard of multiple examples throughout its inquiry that often times the mere proximity to criminal activity,¹²² or the mere presence of cash,¹²³ was sufficient for law enforcement to search, seize, and eventually forfeit property – even if the property owner had not been charged with, let alone convicted of, any crime.¹²⁴ The Committee finds this testimony to be concerning in the context of this constitutional protection.

¹¹⁶ Bergman Testimony, Transcript IV, p. 10 lines 9-15.

¹¹⁷ Turner Testimony, Transcript IV, p. 15, lines 5-14.

¹¹⁸ Turner Testimony, Transcript IV, p. 15 lines 12-15.

¹¹⁹ Turner Testimony, Transcript IV, p. 15 lines 12-25.

¹²⁰ H.B 278, 2019 Gen. Assemb. Reg. Sess. (GA. 1999); Turner, S. 2019. “H.B. 278: Uniform Civil Forfeiture Procedure Act; require the conclusion of criminal proceedings prior to civil forfeiture proceedings.” Georgia General Assembly. Available at <https://www.legis.ga.gov/legislation/54882>; Turner Testimony, Transcript IV, p. 14 lines 16-42.

¹²¹ Ga. Const. art. I, sec.1, para. 13; U.S. Const. Amend IV.; Hottot Written Testimony, Appendix B.

¹²² Griggs Testimony, Transcript III, p. 8 lines 28-31; Hottot Written testimony, Appendix B.

¹²³ McCall Dodson Testimony, Transcript I, p. 9 lines 33-39; Alban Testimony, Transcript I, p. 3 lines 15-22; Harris Testimony, Transcript III, p.19 lines 13-16–lines 28-31; Turner Testimony, Transcript IV, p. 17, lines 17-21.

¹²⁴ Alban Testimony, Transcript I, p. 3 line 35 –p. 4 line 6; Cochling Testimony, Transcript II, p. 20 lines 20-34; Mckesey Testimony, Transcript IV, p. 2, lines 32-37; Hottot Written testimony, Appendix B.

- *Separation of powers*

A basic principle of the U.S. Constitution is the separation of powers, designed to preserve liberty by establishing a system of checks and balances to limit the power of any single branch of government.¹²⁵ Panelists pointed out that in civil forfeiture cases, law enforcement and prosecutors are responsible for both determining involvement in criminal activity and for seizing the property itself.¹²⁶ Panelists noted that the majority of civil asset forfeitures happen administratively rather than judicially, so there is no judge or courtroom involved.¹²⁷ In his statement, Mr. Hottot wrote:

In the majority of cases where less than \$8,000 is at stake, police and prosecutors make all the decisions—whether to seize property, whether to forfeit it, and how to spend it. Nothing could be more offensive to the constitutional structure of government in Georgia. In cases where it makes little or no sense for a property owner to litigate, police and prosecutors act as judge, enforcer, and privateers.¹²⁸

- *Excessive fines and fees*

Mr. Hottot concluded that the combination of concerns described above “routinely” result in the imposition of excessive fines and fees as prohibited by Article I, Section 1, Paragraph 17 of the Georgia Constitution.¹²⁹ He noted that the U.S. Supreme Court recently ruled in *Timbs v. Indiana* that the Excessive Fines Clause of the U.S. Constitution¹³⁰ applies when state and local authorities use civil forfeiture to take a person’s property.¹³¹ In their consideration of “excessive fines and fees,” panelists summarized that the courts have reviewed the extent to which the forfeiture may result in devastating financial consequences for the property owner, and considered whether or not it may always be excessive to forfeit the property of an innocent

¹²⁵ Constitution Annotated: Analysis and Interpretation of the U.S. Constitution. Intro.7.2.2 The Constitution’s Basic Principles: Separation of Powers. Available at: https://constitution.congress.gov/browse/essay/intro.7-2-2/ALDE_0000031/ <retrieved April 5, 2022>.

¹²⁶ Griggs Testimony, Transcript III, p. 8 lines 28-35; Bergman Testimony, Transcript IV, p. 7, lines 12-14.

¹²⁷ McDonald Testimony, Transcript II, p. 11 lines 4-7; Griggs Testimony, Transcript III, p. 8 lines 19-26; Bruce Testimony, Transcript II, p. 8 line 15.

¹²⁸ McDonald Testimony, Transcript II, p. 11 lines 4-7; Griggs Testimony, Transcript III, p. 8 lines 19-35. Hottot Written testimony, Appendix B.

¹²⁹ Ga. Const. art. I, sec.1, para. 17.

¹³⁰ *Timbs v. Indiana*, 139 S. Ct. 682 (2019); Alban Testimony, Transcript I, p. 5 lines 5-7; Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; McDonald Testimony, Transcript II, p. 11 lines 19-28; Harris Testimony, Transcript III, p.19 lines 13-16; Turner Testimony, Transcript IV, p.18, lines 16-22; Alban Written Testimony, Appendix B.

¹³¹ Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; Alban Testimony, Transcript I, p. 6 lines 3-27; Turner Testimony, Transcript IV, p.17, lines 12-13; Hottot Written Testimony, Appendix B.

owner.¹³² Such considerations remain an ongoing discussion within the court system at the time of this writing.

Finding VI: Civil asset forfeiture has a disparate impact on several protected classes under civil rights law.

The greater part of the testimonies heavily identified the severe and detrimental impacts of civil asset forfeiture on people of color and other federally protected classes.¹³³ Civil asset forfeiture is disproportionately deployed against poor people and people of color.¹³⁴ These disparities are fueled by disproportionately high rates of police contact particularly in Black communities.¹³⁵ Similarly, people in the immigrant community are “ripe for being taken advantage of by civil asset forfeiture laws” because they are less likely to contest charges and are more likely to plea or settle easily, for fear of disrupting their immigration status.¹³⁶ The targeting of these communities is represented in data showing the increased arrest rates for Black and Hispanic individuals during times of fiscal stress, when law enforcement can most benefit financially from forfeiture.¹³⁷ Representative Scot Turner of the Georgia House of Representatives discussed evidence of disproportionately frequent interactions of Georgia police with individuals of color.

¹³² Nelson Testimony, Transcript I, p. 13 lines 12-38; p. 14 lines 35-37; McDonald Testimony, Transcript II, p. 12 lines 20-25; Scott Testimony, Transcript II, p. 14 lines 18-26; Hottot Written Testimony, Appendix .

¹³³ Nelson Testimony, Transcript I, p. 14 line 35; Banjo Testimony, Transcript III, p. 5 lines 17-23 - p. 7 lines 6-29; Turner Testimony, Transcript IV, p. 17, lines 17-21; Alban Testimony, Transcript I, p. 5 line 16 – p. 6 line 18; McDonald Testimony, Transcript II, p. 12 lines 20-25 & p. 26 lines 8-14; McCall Dodson Testimony, Transcript I, p. 8 lines 26-39.

¹³⁴ Nelson Testimony, Transcript I, p. 14 line 35; Banjo Testimony, Transcript III, p. 5 lines 17-23 - p. 7 lines 6-29; Turner Testimony, Transcript IV, p. 17, lines 17-21; Alban Testimony, Transcript I, p. 5 line 16 – p. 6 line 18; McDonald Testimony, Transcript II, p. 12 lines 20-25 & p. 26 lines 8-14; McCall Dodson Testimony, Transcript I, p. 8 lines 26-39.

¹³⁵ Alban Testimony, Transcript I, p. 3 lines 15-22 & p. 6 lines 19-21; Griggs Testimony, Transcript III, p. 8 lines 39-41 – p. 9 lines 1-3, 13-21; p. 11 lines 36-37; p. 26 lines 7-37; Harris Testimony, Transcript III, p.19 lines 13-16 – lines 28-31; Turner Testimony, Transcript IV, p. 17, lines 17-21; McCall Dodson Testimony, Transcript I, p. 8 lines 1-29; McDonald Testimony, Transcript II, p. 11 lines 29-35; Bellamy Testimony, Transcript I, p. 16 line 38 – p. 17 line 5; Cochling Testimony, Transcript II, p. 5 lines 22-26; Banjo Testimony, Transcript III, p. 6 lines 34-38; Nelson Testimony, Transcript I, p. 12 line 23 – p. 13 line 4.

¹³⁶ Bellamy Testimony, Transcript I, p. 28 lines 18-30; Nelson Testimony, Transcript I, p. 27 lines 4-17; Alban Testimony, Transcript I, p. 27 line 18 – p. 28 line 6. &bp. 28 line 31 – p. 29 line 26.

¹³⁷ Alban Testimony, Panel I Presentations, Slide 32. See also: Makowsky et. al, “To serve and Collect: The Fiscal and Racial Determinants of Law Enforcement,” Journal of Legal Studies, 2019.

¹³⁸ One officer alone made over 1,400 stops, but issued just 8 citations, and made 47 arrests. ¹³⁹ Out of the 47 arrests, 44 were people of color. ¹⁴⁰

Panelists also raised specific concern of the impact of civil asset forfeiture on people who are unbanked – who are primarily Latinx or Black, working-age, disabled, lower-income, less educated, and younger. Twenty percent of households with less than \$30,000 annual income are unbanked. ¹⁴¹ Panelist Leah Nelson of the Alabama Appleseed Center for Law and Justice explained that unbanking or underbanking are driven by a history of lending discrimination, bad experiences, and learned distrust of financial institutions in these communities. ¹⁴² These challenges are compounded by the cost of accessing banking in some locations. ¹⁴³ High rates of unbanking and underbanking leave people disproportionately vulnerable to civil asset seizure because such individuals are more likely to have jobs that pay in cash and are disproportionately likely to have larger amounts of cash on hand at any given time. ¹⁴⁴ People of color and people in the Deep South are more likely to use cash and to be unbanked or underbanked. ¹⁴⁵ Law enforcement often views the mere presence of cash indicative of a crime, ¹⁴⁶ increasing police profit from people’s poverty, banking status, and ignorance of the law. ¹⁴⁷ Some immigrant communities may also be disproportionately vulnerable because they may have a cultural preference for keeping money in cash, as cash may be easier to manage than navigating international wire transfers. ¹⁴⁸ In the 11th Circuit, judges are instructed to evaluate the evidence that the property was involved in a crime with “a common-sense view to the realities of normal life.” ¹⁴⁹ Vague standards like these disadvantage poor people and people of color when they come before a court. ¹⁵⁰

¹³⁸ Turner Testimony, Transcript IV, p. 17 lines 17–41.

¹³⁹ Turner Testimony, Transcript IV, p. 17 lines 17–41.

¹⁴⁰ Turner Testimony, Transcript IV, p. 17 lines 17–41.

¹⁴¹ McCall Dodson Testimony, Transcript I, p. 9 line 40 – p. 10 line 3; Cochling Testimony, Transcript II, p. 6 lines 21-27.

¹⁴² Nelson Testimony, Transcript I, p. 14 lines 1-8.

¹⁴³ Nelson Testimony, Transcript I, p. 14 lines 1-8.

¹⁴⁴ McDonald Testimony, Transcript II, p. 11 line 35 – p. 12 lines 4-19.

¹⁴⁵ Nelson Testimony, Transcript I, p. 13 line 38 – p. 14 line 8; McDonald Testimony, Transcript II, p. 11 line 35; Alban Testimony, Transcript I, p. 6 lines 21-23; 28-31.

¹⁴⁶ Nelson Testimony, Transcript I, p. 14 lines 7-10; McCall Dodson Testimony, Transcript I, p. 9 lines 33-39.

¹⁴⁷ Nelson Testimony, Transcript I, p. 14 lines 37-39; Griggs Testimony, Transcript III, p. 9 lines 18-21, 23-24.

¹⁴⁸ Alban Testimony, Transcript I, p. 27 lines 36-43; McDonald Testimony, Transcript II, p. 12 lines 4-19.

¹⁴⁹ Nelson Testimony, Transcript I, p. 14 lines 11-25.

¹⁵⁰ Nelson Testimony, Transcript I, p. 14 lines 11-25.

Finding VII: Georgia’s 2015 civil forfeiture reform requirements to increase data collection and transparency have not been consistently implemented¹⁵¹ and have not addressed concerns regarding misuse of funds and the potential abuse of defendants.¹⁵²

State-level civil forfeiture data are not available in Georgia prior to 2015, because prior to this time the state did not have any reporting requirements.¹⁵³ In 2015, Georgia House Bill 233 created reporting transparency requirements and enforcement mechanisms to ensure reporting of civil asset forfeiture cases.¹⁵⁴ These reforms also brought all forfeiture statutes under one title in the Georgia Code.¹⁵⁵ Under the new requirements, reports are collected from the district attorneys and transferred to the state auditor.¹⁵⁶

Despite recent reforms, many panelists contended that data are currently reported and made public in a “format and condition” that makes them “basically unusable to answer the kinds of questions that [researchers] have,” such as the connection of forfeiture to a particular case, how many forfeitures were later followed by convictions on criminal charges, what property is returned, and where exactly the law enforcement agencies are spending the forfeited funds.¹⁵⁷ The Georgia Center for Opportunity conducted a review of all known reports filed from 2016 – 2018, and found:

- 130 reports were missing from over 100 law enforcement agencies that should have reported during that time.¹⁵⁸
- 61 agencies filed reports even though they had no assets, so should not have needed to report.¹⁵⁹

¹⁵¹ Alban Testimony, Transcript I, p. 24 lines 27-35.

¹⁵² Cochling Testimony, Transcript II, p. 15 lines 20-29.

¹⁵³ Alban Testimony, Transcript I, p. 5 lines 8-15.

¹⁵⁴ H.B. 233, 2015 Gen. Assemb., Reg. Sess. (Ga. 2015); Atwood, A. 2015. “H.B. 233: Georgia Uniform Civil Forfeiture Procedure Act; enact.” Available at <https://www.legis.ga.gov/legislation/43365>; Griggs Testimony, Transcript III, p. 10 lines 5-9; Cooke Testimony, Transcript III, p. 13 lines 10-13; Bergman Testimony, Transcript IV, p.6, lines 2-9.

¹⁵⁵ GA. CODE ANN. Tit. 9, Ch. 16; <https://law.justia.com/codes/georgia/2015/title-9/chapter-16>; Alban Testimony, Transcript I, p. 5 lines 8-15; Cochling Testimony, Transcript II, p. 3 lines 20-25; Griggs Testimony, Transcript III, p. 10 lines 5-11; Cooke Testimony, Transcript III, p. 13 lines 10-13; Bergman Testimony, Transcript IV, p. 6, lines 2-9, & p. 13, lines 3-5.

¹⁵⁶ GA. CODE ANN. Titl 9, Ch. 16, § 9-16-7; Bergman Testimony, Transcript IV, p. 22, lines 23-25.

¹⁵⁷ Cochling Testimony, Transcript II, p. 3 line 37 – p. 4 line 17; p. 5 lines 18-24; p. 17 lines 3-23; p. 23 lines 24-27; p. 24 line 16. *See also:* Turner Testimony, Transcript IV, p. 23, line 39; p. 24, lines 1-11; McDonald Testimony, Transcript II, p. 22 lines 24-30 & p. 25 lines 21-32; Bruce Testimony, Transcript II, p. 22 line 31 – p. 23 line 3.

¹⁵⁸ Cochling Testimony, Transcript II, p. 4 lines 26-31.

¹⁵⁹ Cochling Testimony, Transcript II, p. 4 lines 29-31.

- The available search engine returned multiple reports that were mislabeled or misfiled within the system itself.¹⁶⁰
- 10% of filings were not in the proper format.¹⁶¹
- 30% of reports were incomplete in some way.¹⁶²
- 22% omitted required details and attachments.¹⁶³
- 61% failed to report currency accurately.¹⁶⁴
- 40 reports were illegible.¹⁶⁵
- 53 reports had severe formatting problems.¹⁶⁶

Eric Cochling of the Georgia Center for Opportunity noted that agencies are required by statute to report on the value of the property seized but most agencies did not report that information. Rather, they only reported on what the property sold for.¹⁶⁷ Based on the Center’s findings, the Prosecuting Attorney’s Council made some “minimal” changes to how the data are collected and reported – such as rejecting incomplete or illegible reports—but the major concerns described above have not been addressed.¹⁶⁸ Compliance was not improved over the course of the 3 years studied.¹⁶⁹

Mr. Cochling concluded his testimony by suggesting that most reform recommendations would not incur new costs; building out an electronic platform for data reporting would require some upfront costs, but most could be done inexpensively with excel.¹⁷⁰ Jennifer McDonald of the Institute for Justice suggested that legislative reforms could include an allowance for forfeiture funds to be used to help pay for data collection and reporting improvements.¹⁷¹

¹⁶⁰ Cochling Testimony, Transcript II, p. 4 lines 35-38.

¹⁶¹ Cochling Testimony, Transcript II, p. 4 lines 38-39.

¹⁶² Cochling Testimony, Transcript II, p. 5 lines 4-6.

¹⁶³ Cochling Testimony, Transcript II, p. 5 lines 6-7.

¹⁶⁴ Cochling Testimony, Transcript II, p. 5 line 7.

¹⁶⁵ Cochling Testimony, Transcript II, p. 5 lines 7-10.

¹⁶⁶ Cochling Testimony, Transcript II, p. 5 lines 9-10.

¹⁶⁷ Cochling Testimony, Transcript II, p. 23 lines 27-32.

¹⁶⁸ Cochling Testimony, Transcript II, p. 23 line 35 ; p. 24 line 16.

¹⁶⁹ Cochling Testimony, Transcript II, p. 4 line 39 – p. 5 line 2; Turner Testimony, Transcript IV, p. 23, line 39; p. 24, lines 1-11.

¹⁷⁰ Cochling Testimony, Transcript II, p. 21 lines 18-27.

¹⁷¹ McDonald Testimony, Transcript II, p. 21 lines 28-31.

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.¹⁷² In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. The U.S. Commission on Civil Rights should:
 - a. Conduct a study of civil asset forfeiture nationally, with a focus on the potential for disparate impact on the basis of race, color, or other federally protected category. The Commission's study should include review of the impact of federal equitable sharing agreements on state efforts to mitigate civil rights concerns related to civil asset forfeiture.
2. The U.S. Commission on Civil Rights should recommend that the Georgia Legislature eliminate civil asset forfeiture in Georgia, as New Mexico, North Carolina, and Nebraska have all done.
3. In the alternative, the U.S. Commission on Civil Rights should recommend that the Georgia Legislature institute the following reforms to civil asset forfeiture in the state:
 - a. Amend the Georgia Code to establish a legal right to counsel for owners of property seized under civil law.
 - b. Amend the Georgia Code to require that all funds collected through civil asset forfeiture be deposited into a fund designated to support the cost of public defenders for property owners facing civil forfeiture, and to improve civil forfeiture data collection and reporting, rather than being returned to support law enforcement efforts.
 - c. Amend the Georgia Code to require a criminal conviction of the property owner before proceeding with the civil forfeiture of personal property, and to ensure that such a conviction is required to seize property even when the property owner does not contest the property's forfeiture.

¹⁷² 45 C.F.R. § 703.2.

- d. Amend the Georgia code to increase the evidentiary standard required for civil forfeiture from “preponderance of the evidence” to “clear and convincing evidence.”¹⁷³
 - e. Set a \$1,000 (or greater) minimum property value required for civil asset forfeiture, including cash.
 - f. Set a minimum required value of \$25,000 or greater for the federal adoption of civil forfeiture cases.
 - g. Direct the Prosecuting Attorneys’ Office or any agency that is designated the civil asset forfeiture data tracking and monitoring responsibility to develop a reporting system that tracks civil asset forfeiture data to include at minimum:
 - i. the value of the individual property forfeited or returned;
 - ii. Disposition of the individual property forfeited, including the what the property sold for if sold;
 - iii. the race and gender of the property owner;
 - iv. the suspected criminal activity;
 - v. county, city, and zip code of where the property was seized;
 - vi. and an identifying case number allowing data to be linked between any criminal case and the related civil forfeiture case.
 - vii. a record of what the receiving agency used the civil asset forfeiture funds for.
 - h. Establish penalty for noncompliance with data reporting requirements.
 - i. Direct the Prosecuting Attorneys’ office or responsible agency to publish an annual report by July 1 of each year on civil asset forfeiture that includes all data points identified in 2(g) above.
4. The U.S. Commission on Civil Rights should recommend that the U.S. Congress eliminate civil asset forfeiture in federal cases, including ending federal equitable sharing agreements with state or local agencies.
 5. In the alternative, The U.S. Commission on Civil Rights should recommend that the U.S. Congress institute the following reforms at the national level:

¹⁷³ Panelist Jennifer McDonald noted that some states have evidentiary standards as high as “beyond a reasonable doubt,” including in some civil cases: <https://ij.org/report/policing-for-profit-3/pfp3-appendices/>.

- a. Establish a legal right to counsel for owners of property seized under civil law.
 - b. Amend the U.S. Code to require that all funds collected through civil asset forfeiture be deposited into a fund designated to support legal costs for public defenders for property owners facing civil forfeiture, and to improve civil forfeiture data collection and reporting, rather than being returned to support law enforcement efforts.
 - c. Amend the U.S. Code to require the criminal conviction of the property owner before proceeding with civil forfeiture of personal property.
 - d. Set a \$1,000 (or greater) minimum property value required to seize property for civil asset forfeiture, including cash.
 - e. Set a minimum required value of \$25,000 or greater for the federal adoption of civil forfeiture cases.
 - f. Require any federal agency engaged in civil asset forfeiture, as well as any agency participating in federal equitable sharing to develop a reporting system that tracks civil asset forfeiture data to include at minimum:
 - i. the value of the individual property forfeited or returned;
 - ii. Disposition of the individual property forfeited, including the what the property sold for if sold;
 - iii. the race and gender of the property owner;
 - iv. the suspected criminal activity;
 - v. county, city, and zip code of where the property was seized;
 - vi. and an identifying case number allowing data to be linked between any criminal case and the related civil forfeiture case.
 - vii. a record of what the receiving agency used the civil asset forfeiture funds for.
 - g. Establish penalty for noncompliance with data reporting requirements.
 - h. Direct the responsible agency to publish an annual report by July 1 of each year on civil asset forfeiture that includes all data points identified in 5(f) above.
6. The U.S. Commission on Civil Rights should issue the following recommendation to the Georgia Prosecuting Attorneys' Council (or any subsequent agency that is designated the civil asset forfeiture data tracking and monitoring responsibility):

- a. Pursuant to its civil asset forfeiture tracking and monitoring responsibilities, the Georgia Prosecuting Attorneys' Council should collect and report, at minimum:
 - i. the value of the individual property forfeited or returned;
 - ii. Disposition of the individual property forfeited, including the what the property sold for if sold;
 - iii. the race and gender of the property owner;
 - iv. the suspected criminal activity;
 - v. county, city, and zip code of where the property was seized;
 - vi. and an identifying case number allowing data to be linked between any criminal case and the related civil forfeiture case.
 - vii. a record of what the receiving agency used the civil asset forfeiture funds for.
- b. Report regularly to the state legislature regarding any agency that fails to submit complete and timely data.

Appendix¹⁷⁴

A. Hearing materials

- i. Transcript
- ii. Agenda
- iii. Minutes
- iv. Panelist Presentations (PPT)
- v. Other records

B. Written Testimony

- i. Wesley Hottot, Institute for Justice
- ii. Dan Alban, Civil Forfeiture Coalition, Letter to Congress March 2021

¹⁷⁴ Appendix materials available at:

https://securisync.intermedia.net/us2/s/folder?public_share=409J0xbKeIQ2vuMJBvQond0011ef58&id=L0dBLzIwMjEgQ2l2aWwgRm9yZmVpdHVyZQ%3D%3D

**Georgia Advisory Committee to the
United States Commission on Civil Rights**



U. S. Commission on Civil Rights Contact

USCCR Contact Regional Programs Unit
U.S. Commission on Civil Rights
230 S. Dearborn, Suite 2120
Chicago IL, 60604
(312) 353-8311

This report is the work of the Georgia Advisory Committee to the U.S. Commission on Civil Rights. The report, which may rely on studies and data generated by third parties, is not subject to an independent review by Commission staff. Advisory Committee reports to the Commission are wholly independent and reviewed by Commission staff only for legal and procedural compliance with Commission policies and procedures. Advisory Committee reports are not subject to Commission approval, fact-checking, or policy changes. The views expressed in this report and the findings and recommendations contained herein are those of a majority of the Advisory Committee members and do not necessarily represent the views of the Commission or its individual members, nor do they represent the policies of the U.S. Government.