

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051  
MINORITY (202) 225-5074  
<https://oversight.house.gov>

May 2, 2022

The Honorable Merrick B. Garland  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Garland:

We write regarding the Department of Justice's (DOJ) efforts to address longstanding abuses of its Equitable Sharing Program, which allows state and local governments to partner with DOJ by transferring seized property, money, or assets to the federal government for forfeiture and "equitably share" up to 80% of the proceeds, regardless of state law. We are concerned that the Equitable Sharing Program creates a loophole allowing state and local law enforcement to seize assets from individuals without bringing criminal charges or a conviction, even in states that prohibit civil asset forfeiture. In addition, we are concerned that DOJ does not conduct adequate oversight of law enforcement agencies participating in the Equitable Sharing Program.

On December 8, 2021, the Subcommittee held a hearing to examine the need to reform federal civil asset forfeiture programs, including equitable sharing, to prevent state, local, and federal law enforcement from abusing the civil rights and civil liberties of Americans.<sup>1</sup> Expert witnesses testified that state and local law enforcement agencies use DOJ's Equitable Sharing Program to circumvent state laws aimed at curtailing civil asset forfeiture abuse.<sup>2</sup> For example,

---

<sup>1</sup> Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, *Hearing on Forfeiting Our Rights: The Urgent Need for Civil Asset Forfeiture Reform* (Dec. 8, 2021) (online at <https://oversight.house.gov/legislation/hearings/forfeiting-our-rights-the-urgent-need-for-civil-asset-forfeiture-reform>).

<sup>2</sup> Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, Testimony of Aamra Ahmad, America Civil Liberties Union, *Hearing on Forfeiting Our Rights: The Urgent Need for Civil Asset Forfeiture Reform* (Dec. 8, 2021) (online at <https://docs.house.gov/meetings/GO/GO02/20211208/114293/HHRG-117-GO02-Wstate-AhmadA-20211208.pdf>); Committee on Oversight and Reform, Subcommittee on Civil Rights and Civil Liberties, Testimony of Daniel Alban, Institute for Justice, *Hearing on Forfeiting Our Rights: The Urgent Need for Civil Asset Forfeiture Reform* (Dec. 8, 2021) (online at <https://docs.house.gov/meetings/GO/GO02/20211208/114293/HHRG-117-GO02-Wstate-AlbanD-20211208.pdf>).

although North Carolina does not allow civil asset forfeiture, the state received more than \$38 million in equitable sharing proceeds in 2018 and 2019.<sup>3</sup>

Between 2000 and 2019, DOJ paid at least \$8.8 billion from its Asset Forfeiture Fund (AFF) to state and local agencies.<sup>4</sup>

On January 16, 2015, then-Attorney General Eric Holder issued a memorandum that prohibited DOJ from adopting assets seized by state and local law enforcement unless the cash or property related directly to public safety concerns, including firearms, explosives, and child pornography.<sup>5</sup> In practice, however, these restrictions applied to only 30% of all federal adoptions, leaving the vast majority of adoptions by DOJ undisturbed.<sup>6</sup> In December 2015, DOJ temporarily suspended equitable sharing payments administered through the AFF due to reported budget cuts, but payments were reinstated in March 2016.<sup>7</sup> In 2017, the DOJ reversed course, allowing state and local law enforcement agencies to resume potentially abusive forfeiture practices and continue circumventing state laws for profit.<sup>8</sup>

Although DOJ requires that state and local law enforcement agencies use equitable sharing proceeds in accordance with Department guidance, we are concerned there is insufficient oversight of how such funds are spent.<sup>9</sup> For example, according to public reporting, the Camden County, Georgia Sheriff's Department purchased a \$90,000 Dodge Viper for its D.A.R.E. program using asset forfeiture funds; a law enforcement agency in Douglasville, Georgia, a city with a total population of 32,000, spent \$227,000 on an armored personnel carrier; and a police department in Amarillo, Texas used its funds to purchase a \$637 coffee maker.<sup>10</sup> In 2019, the

---

<sup>3</sup> Institute for Justice, *Policing for Profit, 3rd Ed., State Profiles* (Dec. 2020) (online at <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>).

<sup>4</sup> *Id.*

<sup>5</sup> Department of Justice, *Order No. XXXX, Prohibition on Certain Federal Adoptions of Seizures by State and Local Law Enforcement Agencies* (Jan. 16, 2015) (online at [www.justice.gov/file/318146/download](http://www.justice.gov/file/318146/download)).

<sup>6</sup> Institute for Justice, *Policing for Profit, 3rd Ed.* (Dec. 2020) (online at <https://ij.org/wp-content/uploads/2020/12/policing-for-profit-3-web.pdf>).

<sup>7</sup> *The Feds Have Resumed a Controversial Program That Lets Cops Take Stuff and Keep It*, Washington Post (Mar. 28, 2016) (online at [www.washingtonpost.com/news/wonk/wp/2016/03/28/the-feds-have-resumed-a-controversial-program-that-lets-cops-take-stuff-and-keep-it/](http://www.washingtonpost.com/news/wonk/wp/2016/03/28/the-feds-have-resumed-a-controversial-program-that-lets-cops-take-stuff-and-keep-it/)).

<sup>8</sup> Department of Justice, *Attorney General Sessions Issues Policy and Guidelines on Federal Adoptions of Assets Seized by State or Local Law Enforcement* (July 19, 2017) (online at [www.justice.gov/opa/pr/attorney-general-sessions-issues-policy-and-guidelines-federal-adoptions-assets-seized-state](http://www.justice.gov/opa/pr/attorney-general-sessions-issues-policy-and-guidelines-federal-adoptions-assets-seized-state)).

<sup>9</sup> See Department of Justice, *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (online at <https://oig.justice.gov/reports/equ-ext.htm>).

<sup>10</sup> *Sherriff Under Scrutiny Over Drug Money Spending*, National Public Radio (June 18, 2008) (online at [www.npr.org/templates/story/story.php?storyId=91638378](http://www.npr.org/templates/story/story.php?storyId=91638378)); *Here Are the Ridiculous Things Cops Bought with Cash "Seized" From Americans*, Business Insider (Oct. 14, 2014) (online at [www.businessinsider.com/heres-what-police-bought-with-civil-forfeiture-2014-10](http://www.businessinsider.com/heres-what-police-bought-with-civil-forfeiture-2014-10)).

DOJ Office of Inspector General audited only three of the more than 6,800 state and local law enforcement agencies that participate in DOJ's Equitable Sharing Program.<sup>11</sup>

We are also concerned by reports that state and local law enforcement agencies participating in the Equitable Sharing Program collect proceeds from asset forfeitures even when they have no discernable role in the underlying seizure. According to DOJ's Guide to Equitable Sharing, forfeiture proceeds are disbursed to agencies based on the number of hours spent participating in a forfeiture or on other factors that indicate an agency's involvement in the seizure.<sup>12</sup> In practice, however, agencies need not have any involvement in a forfeiture to profit from it. For example, in 2014, proceeds from an \$11,000 seizure conducted against a college student by two local Ohio law enforcement agencies—the Cincinnati/Northern Kentucky Airport Police and the Covington Police Department—were ultimately distributed to 13 agencies under the Equitable Sharing Program simply by virtue of being part of a joint Drug Enforcement Administration task force. Eleven of the 13 agencies involved in the joint task force sought funds from this forfeiture despite playing no active role in the seizure.<sup>13</sup> Although the money was eventually returned to the student, the matter raises questions about the enforcement of DOJ guidance and the role the agency has in determining forfeiture proceeds distribution.

In light of these concerns, we request that the Department provide a staff briefing by May 16, 2022, to address the following questions:

1. What steps is DOJ taking to ensure that state and local law enforcement agencies are not using the Equitable Sharing Program to circumvent more restrictive state asset forfeiture laws?
2. How are AFF funds requested by and distributed to federal, state, and local law enforcement agencies?
3. What is DOJ's plan to ensure adequate oversight of state and local Equitable Sharing Program expenditures?

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" and "any time" under House Rule X. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

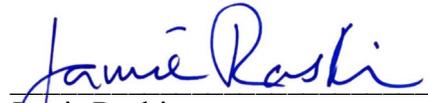
---

<sup>11</sup> See Department of Justice, Office of the Inspector General, *Equitable Sharing Audits* (online at <https://oig.justice.gov/reports/equ-ext.htm>) (accessed Jan. 4, 2022).

<sup>12</sup> Department of Justice, *Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies* (online at <https://oig.justice.gov/reports/equ-ext.htm>) (accessed Jan. 4, 2022).

<sup>13</sup> *Drug Cops Took a College Kid's Savings and Now 13 Police Departments Want a Cut*, Washington Post (June 30, 2015) (online at [www.washingtonpost.com/news/wonk/wp/2015/06/30/drug-cops-took-a-college-kids-life-savings-and-now-13-police-departments-want-a-cut/](http://www.washingtonpost.com/news/wonk/wp/2015/06/30/drug-cops-took-a-college-kids-life-savings-and-now-13-police-departments-want-a-cut/)).

Sincerely,



Jamie Raskin  
Chairman  
Subcommittee on Civil Rights and  
Civil Liberties



Nancy Mace  
Ranking Member  
Subcommittee on Civil Rights and  
Civil Liberties