

Circumventing Iowa’s Forfeiture Reforms: Equitable Sharing and Perverse Incentives

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ABSTRACT: Civil forfeiture in the United States faces criticism for how it operates. Many states have responded to this criticism by reforming their civil forfeiture regime. Reforms have included requiring a criminal conviction before engaging in forfeiture, requiring property to exceed a certain value threshold to be eligible for forfeiture, or removing the financial incentive for law enforcement to engage in civil forfeiture. While state reform efforts have generated optimism, there are still obstacles to overcome. This Essay argues that the protections for property owners against forfeiture extended through Iowa’s 2017 Forfeiture Reform Act are in jeopardy because the state has not severed civil forfeiture’s incentive structure that motivates law enforcement to avoid state restrictions through the federal equitable sharing program. This Essay further discusses the history of civil forfeiture in the United States and the creation of the federal equitable sharing program. In doing so, it discusses the problems created by the irrational incentive structure implicit in the forfeiture regime and the ability of law enforcement to avoid civil forfeiture reforms through the federal equitable sharing program. Finally, this Essay surveys state reforms that have addressed these issues in civil forfeiture and uses their examples to provide recommendations for implementation in pursuit of effective forfeiture reform in Iowa.

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INTRODUCTION

Over the past couple decades, public opinion on the legal forfeiture system in the United States has become increasingly negative. Polling has uncovered an extensive dissent toward the use of civil forfeiture among the American populace.¹ Unlike many policy preferences in the United States,²

1. See Emily Ekins, *84 % of Americans Oppose Civil Asset Forfeiture*, CATO INST. (Dec. 13, 2016, 1:33 PM), <https://www.cato.org/blog/84-americans-oppose-civil-asset-forfeiture> [<https://perma.cc/R6YR-FMHB>]; see also Nick Sibilla, *Poll: Most Americans Want Congress to Abolish Civil Forfeiture*, FORBES (Nov. 16, 2020, 10:34 AM), <https://www.forbes.com/sites/nicksibilla/2020/11/12/poll-most-americans-want-to-defund-civil-forfeiture> (on file with the *Iowa Law Review*) (finding that sixty-seven percent of those polled were more likely to support a candidate for office who would abolish civil forfeiture).

2. See KIM PARKER, JULIANA HOROWITZ, RUTH IGIELNIK, BAXTER OLIPHANT & ANNA BROWN, *AMERICA'S COMPLEX RELATIONSHIP WITH GUNS: AN IN-DEPTH LOOK AT THE ATTITUDES AND EXPERIENCES OF U.S. ADULTS* 67 (2017) (finding that seventy-five percent of Democrats polled support stricter firearm legislation while only twenty-four percent of Republicans reported the same); Alec Tyson, Cary Funk & Brian Kennedy, *What the Data Says About Americans' Views of Climate Change*, PEW RSCH. CTR. (Aug. 9, 2023), <https://www.pewresearch.org/short-reads/2023/08/09/what-the-data-says-about-americans-views-of-climate-change> [<https://perma.cc/7YP3-EFPS>]. For a more humorous example, see also Tom Jensen, *Americans Pick Ronald McDonald over Burger King for President*, PUB. POL'Y POLLING (Feb. 26, 2013), <https://www.publicpolicypolling.com/p>

this disfavor toward civil forfeiture transcends party affiliation.³ As of 2014, thirty-seven states and the District of Columbia have adopted some kind of civil forfeiture reform legislation;⁴ and four states have abolished the use of civil forfeiture entirely.⁵ Nonetheless, critics of civil forfeiture should not yet celebrate. There exists a shrouded issue within the civil forfeiture framework in the United States that risks making all these enacted reforms meaningless.

Through the federal equitable sharing program, state and local law enforcement agencies are empowered to evade state reforms that restrict the use of civil forfeiture. Because law enforcement agencies benefit financially from forfeiture under the equitable sharing program, there is not only the ability to get around state forfeiture reforms, but an incentive to do so. Further, even when states reform their laws to remove the financial incentive for law enforcement to engage in civil forfeiture, or restrict civil forfeiture's use generally, law enforcement is not constrained by these restrictions. The federal equitable sharing program gives law enforcement a loophole through which they may obfuscate the will of their constituents and partake in the kind of conduct the voters acted to stop.

While removing civil forfeiture altogether is ultimately a good policy, other literature on that topic has already made the case for it clearly.⁶ Instead, this Essay focuses on highlighting needed changes in the civil forfeiture system in Iowa as it exists today. This Essay argues that the positive changes to Iowa's civil forfeiture regime, enacted through its 2017 Forfeiture Reform Act, are at risk of avoidance by state and local law enforcement seeking to engage in revenue maximization. For the reforms to be effective, Iowa must remove the financial incentive for law enforcement to engage in forfeitures and must additionally restrict state and local law enforcement's participation in the federal equitable sharing program. Two additional reforms are necessary to effectuate this vision: (1) direct the proceeds received from forfeiture in Iowa away from law enforcement treasuries; and (2) disallow state and local law

olls/americans-pick-ronald-mcdonald-over-burger-king-for-president [https://perma.cc/2N5T-88YL] (finding that Chick-fil-A was listed as the favorite fast food chicken restaurant by forty-eight percent of Republicans, whereas the same choice was picked by Democrats at only eighteen percent).

3. See Ekins, *supra* note 1 (finding that eighty-six percent of Democrats, eighty-seven percent of independents, and seventy-six percent of Republicans polled opposed civil forfeiture).

4. *Civil Forfeiture Reforms on the State Level*, INST. FOR JUST., <https://ij.org/legislative-advocacy/civil-forfeiture-legislative-highlights> [https://perma.cc/3BZK-LTDS].

5. Roger Pilon & Trevor Burrus, *Civil Forfeiture Reform*, in CATO HANDBOOK FOR POLICYMAKERS 163, 166 (9th ed. 2022).

6. See, e.g., John Yoder & Brad Cates, *Government Self-Interest Corrupted a Crime-Fighting Tool into an Evil*, WASH. POST (Sept. 18, 2014), https://www.washingtonpost.com/opinions/abolish-the-civil-asset-forfeiture-program-we-helped-create/2014/09/18/72fo89ac-3d02-11e4-b0ea-8141703bbf6f_story.html (on file with the *Iowa Law Review*) (providing the testimony of two former directors of the Justice Department's Asset Forfeiture Office regarding their view that civil forfeiture perverts traditional ideals of justice and a free citizenry).

enforcement from participating in the federal equitable sharing program that is far less restrictive than Iowa's current forfeiture law.

I. BACKGROUND

To better understand the issue of civil forfeiture under state and federal law, as well as the threat posed to reforms by the federal equitable sharing program, this Part will provide an overview of civil forfeiture in the United States. Section I.A will discuss the concept of forfeiture and will highlight the key aspects of civil forfeiture under federal law. Section I.B will then trace the historical development of the federal equitable sharing program and outline its perceived utility among law enforcement. Section I.C will discuss the recently enacted protections for property owners under Iowa law. Later discussion will evaluate these reforms for their effectiveness considering the effects of equitable sharing.

A. WHAT IS CIVIL FORFEITURE?

Forfeiture is the “divestiture of property without compensation.”⁷ Forfeiture in the United States generally takes one of three forms: (1) administrative forfeiture, (2) criminal forfeiture, or (3) civil forfeiture.⁸ While administrative and criminal forfeitures are important portions of the United States’ forfeiture regime, an in-depth discussion of each is not warranted for this analysis.⁹ This Section will provide an overview of federal civil forfeiture and briefly compare it with its criminal counterpart. Although the topic of this Essay is focused primarily on civil forfeiture, this modest comparison with criminal forfeiture will highlight many of the controversial components of civil forfeiture. After this discussion, this Section will close by describing the interplay between state and federal forfeiture regimes.

Civil forfeiture is a process undertaken to seize property suspected to have been used in connection with criminal conduct, where the process is instituted against the property rather than the individual suspected of criminal acts.¹⁰ As the action is *in rem*, there is no need for the government to file a claim or

7. *Forfeiture*, BLACK’S LAW DICTIONARY (12th ed. 2024).

8. See STEFAN D. CASSELLA, ASSET FORFEITURE LAW IN THE UNITED STATES 9 (2d ed. 2013); *Types of Federal Forfeiture*, U.S. DEP’T OF JUST. (Oct. 11, 2023), <https://www.justice.gov/afp/types-federal-forfeiture> [https://perma.cc/V457-HQ9W].

9. See DEE R. EDGEWORTH, ASSET FORFEITURE: PRACTICE AND PROCEDURE IN STATE AND FEDERAL COURTS 2 (3d ed. 2014). Administrative forfeiture is a nonjudicial form of forfeiture because, in the ordinary course of events, a judge’s input is not needed. Administrative forfeiture allows a law enforcement agency to seize property in the course of an investigation, send notice that the property is being forfeited, and if uncontested, allows the agency to conclude the matter. See CASSELLA, *supra* note 8, at 10–11. These forfeitures make up the majority of forfeitures because a majority of forfeitures go uncontested. See *id.* at 10.

10. See CASSELLA, *supra* note 8, at 15; Barry L. Johnson, *Purging the Cruel and Unusual: The Autonomous Excessive Fines Clause and Desert-Based Constitutional Limits on Forfeiture After United States v. Bajakajian*, 2000 U. ILL. L. REV. 461, 466 (2000).

charge against the owner of the property.¹¹ Instead, the government files a civil action against the property itself.¹² After doing so, the government must prove by a preponderance of the evidence that the property was derived from or was used to commit a crime.¹³ If the government succeeds in their civil forfeiture action, it takes control of the property, and the owner is divested of their interest in it.

There are a number of reasons prosecutors and law enforcement see civil forfeiture as a preferable course of action when compared to its criminal counterpart. The first, and likely most important, is that a successful action for civil forfeiture, in its basic form,¹⁴ does not require a criminal conviction to proceed unlike its criminal counterpart.¹⁵ The lack of a conviction requirement is used by the government to take action against those individuals it suspects are committing criminal acts, but for which it lacks the requisite evidence to prove beyond a reasonable doubt.¹⁶ The second advantage to the use of civil forfeiture is the comparatively lower burden of proof when contrasted with criminal forfeiture.¹⁷ In an action for civil forfeiture, the government need only to prove that an item is forfeitable by a preponderance of the evidence.¹⁸ This is the standard used to prove both that the crime was committed, and that the property in question was derived from the crime or used to commit the crime.¹⁹ Conversely, under criminal forfeiture, the government must prove that the crime was committed, and that the charged defendant specifically committed the crime beyond a reasonable doubt, only using the preponderance standard to show the nexus between the property and the offense giving rise to forfeiture.²⁰ Third, compared to criminal forfeiture, civil forfeiture gives the government access to more property.²¹ Although the items that can be forfeited under civil and criminal forfeiture are similar, criminal forfeiture's scope is limited because it can only be applied to property related to the particular crime for which the defendant is found

11. See CASSELLA, *supra* note 8, at 15–16.

12. See Johnson, *supra* note 10, at 466.

13. CASSELLA, *supra* note 8, at 14.

14. It should be noted, however, that states are imparting conviction requirements on civil forfeiture actions through reform efforts. See, e.g., J. Justin Wilson, *Iowa Governor Signs New Conviction Requirement for Civil Forfeiture*, INST. FOR JUST. (May 9, 2017), <https://ij.org/press-release/iowa-governor-signs-vital-flawed-conviction-requirement-civil-forfeiture> (on file with the *Iowa Law Review*).

15. CASSELLA, *supra* note 8, at 18.

16. See Rachel L. Stuteville, Comment, *Reverse Robin Hood: The Tale of How Texas Law Enforcement Has Used Civil Asset Forfeiture to Take from Property Owners and Pad the Pockets of Local Government—The Righteous Hunt for Reform Is On*, 46 TEX. TECH L. REV. 1169, 1182 (2013).

17. CASSELLA, *supra* note 8, at 18.

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* at 19; see also Stuteville, *supra* note 16, at 1183–84.

guilty. Civil forfeiture is not subject to the same restrictions and can be applied to any property that the government can prove was connected to the commission of a crime by a preponderance of the evidence. Lastly, civil forfeiture allows the government to forfeit property from any person who claims interest in a property.²² Criminal forfeiture, as a comparison, is much more limited. Through criminal forfeiture, the government may only acquire an interest in the charged defendant's property.²³ For prosecutors, these less restrictive aspects of civil forfeiture often make them preferable to criminal forfeiture,²⁴ because it allows "easier" access to property²⁵ and lets them reach more property than they could under criminal forfeiture.²⁶

Civil forfeiture and criminal forfeiture are similar in some respects in that they both involve the separation of one from their property. As explained above, however, the process by which each method of forfeiture is carried out and when they would be successful vary greatly. In general, civil forfeiture is the least stringent of the two in terms of protection for the property owner. For civil forfeiture to succeed, there is a lower standard of proof, more relaxed restrictions regarding what property is subject to forfeiture, and no requirement of a conviction to proceed.

The different areas of jurisdiction that the federal and state governments have over their respective forfeiture provisions further complicate this system. Federal legislation permits federal law enforcement to engage in forfeitures pursuant to federal forfeiture laws. At the same time, the authority of state legislatures to oversee and regulate the use of forfeiture by state and local law enforcement—typically grounded in their police powers—remains intact and unaffected by federal law.²⁷ As a result, states ideally retain the ability to place limits on the use of forfeiture within their borders.²⁸ While state laws governing civil forfeiture often resemble their federal counterparts,²⁹ each state has

22. CASSELLA, *supra* note 8, at 19.

23. *United States v. Harris*, 246 F.3d 566, 575–76 (6th Cir. 2001) (“[O]nce the property is forfeited, the government steps into the shoes of the defendant acquiring only the rights of the defendant at the time of the criminal acts, and nothing more.”).

24. Monica P. Navarro, *Salvaging Civil Forfeiture Under the Drug Abuse and Control Act*, 41 WAYNE L. REV. 1609, 1629 (1995) (“Given the substantial advantages that are enjoyed by the government in civil forfeiture proceedings, it is not surprising that the civil avenue of forfeiture is often preferred over its criminal counterpart.”).

25. *Id.* at 1629 (noting that the standard of proof in criminal forfeiture cases is higher than that of civil forfeiture cases).

26. *Id.* (noting that criminal forfeiture only allows the forfeiture of property which can be found to be in connection with the criminal act by a reasonable doubt).

27. Eric Moores, Note, *Reforming the Civil Asset Forfeiture Reform Act*, 51 ARIZ. L. REV. 777, 794 (2009) (explaining that the Civil Asset Forfeiture Reform Act did not restrict the states’ general police powers to control their own state and local law enforcement).

28. See MONEY LAUNDERING & ASSET RECOVERY SECTION, U.S. DEP’T OF JUST., ASSET FORFEITURE POLICY MANUAL 3-1 n.5 (2025) (“Department policy does not affect the ability of state and local agencies to pursue forfeiture of assets pursuant to their respective state laws.”).

29. See JIMMY GURULÉ & SANDRA GUERRA, *THE LAW OF ASSET FORFEITURE* 359 (1998) (noting that “most state codes include provisions that contain language similar to that found in federal

enacted its own statutory framework, which may—and often does—offer greater protections for property owners.³⁰ Consequently, the procedures followed and the level of protection afforded to individuals facing forfeiture can vary significantly depending on whether the action is brought under state or federal law.

B. FEDERAL EQUITABLE SHARING

Civil forfeiture's history in the United States is a complex and long tale. Dating back to English common law, civil forfeiture and its operation have morphed over centuries of use into what we are begrudgingly familiar with today. A full discussion of the development of civil forfeiture from its common law beginnings is not necessary for this analysis, as it is adequately recounted in other literature.³¹ Instead, this Essay will focus on the beginning of the modern era of civil forfeiture and more specifically the creation of the equitable sharing program.

1. The Creation of and Failure to Reform the Federal Equitable Sharing Program

In 1970, Congress enacted the Comprehensive Drug Abuse Prevention and Control Act ("CDDAPCA"), marking the beginning of the United States' War on Drugs as well as the modern era of civil forfeiture.³² Believing that forfeiture was an important tool in financially crippling the drug trade,³³ Congress authorized the use of forfeitures to support the enforcement of the newly enacted controlled substance legislation.³⁴ While originally limited in scope at the time of the CDDAPCA's passage, the property subject to forfeiture

law"). This is likely a result of the fact that forfeiture laws in the United States were largely expanded out of an effort to reduce drug crimes. *See id.* at 19 ("The thrust of the modern asset forfeiture program is aimed at drug offenders."). As such, many states, at least initially, adopted state civil forfeiture provisions directly out of uniform model laws drafted to resemble federal laws. *See id.* at 359 (finding that in 1993, "over forty states" had drug forfeiture laws based on the Uniform Controlled Substances Act approved by the National Conference of Commissioners of Uniform State Laws in 1970).

30. *See, e.g.*, IOWA CODE § 809A (2025).

31. *See generally* Kevin Arlyck, *The Founders' Forfeiture*, 119 COLUM. L. REV. 1449 (2019); David W. Banta, Note, *Where, Oh Where Has My Property Gone?: The Case for Revising Iowa's Recently Reformed Asset Forfeiture Law*, 107 IOWA L. REV. 787 (2022); Stuteville, *supra* note 16; Susan R. Klein, *Civil In Rem Forfeiture and Double Jeopardy*, 82 IOWA L. REV. 183 (1996).

32. Adam Creppelle, *Probable Cause to Plunder: Civil Asset Forfeiture and the Problems It Creates*, 7 WAKE FOREST J.L. & POL'Y 315, 324 (2017); Annemarie Bridy, *Carpe Omnia: Civil Forfeiture in the War on Drugs and the War on Piracy*, 46 ARIZ. ST. L.J. 683, 686 (2014).

33. Eric L. Jensen & Jurg Gerber, *The Civil Forfeiture of Assets and the War on Drugs: Expanding Criminal Sanctions While Reducing Due Process Protections*, 42 CRIME & DELINQ. 421, 422 (1996).

34. *See* Eric Blumenson & Eva Nilsen, *Policing for Profit: The Drug War's Hidden Economic Agenda*, 65 U. CHI. L. REV. 35, 44 (1998).

grew over the years following its enactment.³⁵ However, even with Congress expanding the scenarios in which forfeiture would be legally authorized, the CDDAPCA's forfeiture procedures largely failed to deliver Congress's intended results.³⁶ Forfeitures had gone largely unused by law enforcement under the CDDAPCA,³⁷ and the United States Government Accountability Office highlighted two reasons for this.³⁸ First, forfeiture was a lengthy and complicated process for the prosecutors who undertook it.³⁹ Second and relatedly, law enforcement and prosecutors lacked any incentive to engage in the already complex process.⁴⁰

To rectify these and other failures of the CDDAPCA, Congress enacted the Comprehensive Crime Control Act of 1984 ("CCCA").⁴¹ Through the CCCA, Congress sought to encourage and incentivize greater use of civil forfeiture by expanding its scope and creating the equitable sharing program. The federal equitable sharing program allows state and local law enforcement to acquire a share in the proceeds gained from a federal forfeiture action.⁴² State and local law enforcement may acquire this interest in two ways. First, they may participate in a "joint investigative forfeiture" in which they concurrently and cooperatively conduct an investigation with the federal government.⁴³ These joint forfeitures are common in cases in which federal and state law enforcement create joint task forces to combat drug and gang activities.⁴⁴ In such an arrangement, the amount the state or local law enforcement agency is eligible to receive from a federal forfeiture depends on their level of contribution to the effort.⁴⁵ Second, state and local law enforcement may receive an "equitable share" through an "adoptive

35. See Robert E. Blacher, Comment, *Clearing the Smoke from the Battlefield: Understanding Congressional Intent Regarding the Innocent Owner Provision of 21 U.S.C. 881(a)(7)*, 85 J. CRIM. L. & CRIMINOLOGY 502, 506–08 (1994).

36. Mark A. Jankowski, *Tempering the Relation-Back Doctrine: A More Reasonable Approach to Civil Forfeiture in Drug Cases*, 76 VA. L. REV. 165, 170 (1990).

37. COMPTROLLER GEN. OF THE U.S., ASSET FORFEITURE—A SELDOM USED TOOL IN COMBATTING DRUG TRAFFICKING 23 (1981).

38. *Id.*

39. *Id.*

40. *Id.*; see also Peter A. Winn, *Seizures of Private Property in the War Against Drugs: What Process Is Due?*, 41 SW. L.J. 1111, 1127 (1988) (finding that forfeitures prior to the Comprehensive Crime Control Act of 1984 were not economical for law enforcement to pursue).

41. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, tit. 2, 98 Stat 1837 (1984).

42. Katherine Baicker & Mireille Jacobson, *Finders Keepers: Forfeiture Laws, Policing Incentives, and Local Budgets*, 91 J. PUB. ECON. 2113, 2116 (2007); Creppelle, *supra* note 32, at 325.

43. U.S. DEP'T OF JUST. & U.S. DEP'T OF TREASURY, GUIDE TO EQUITABLE SHARING FOR STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT AGENCIES 6–7, 12 (2024) [hereinafter GUIDE TO EQUITABLE SHARING]; MARIAN R. WILLIAMS, JEFFERSON E. HOLCOMB, TOMISLAV V. KOVANDZIC & SCOTT BULLOCK, POLICING FOR PROFIT: THE ABUSE OF CIVIL ASSET FORFEITURE 25 (1st ed. 2010).

44. WILLIAMS ET AL., *supra* note 43, at 25.

45. *Id.*; GUIDE TO EQUITABLE SHARING, *supra* note 43, at 12.

forfeiture.”⁴⁶ In an adoptive forfeiture, the state or local law enforcement may seize property under state law and request that it is taken into federal custody and forfeited under federal law.⁴⁷ In either case, state and local law enforcement are eligible to receive up to eighty percent of the proceeds of the forfeiture.⁴⁸

After the expansion of civil forfeiture and the creation of the equitable sharing program in 1984, perceptions of the United States’ forfeiture regime soured.⁴⁹ This political dissatisfaction led Congress to enact the most comprehensive civil asset forfeiture reform ever enacted to this date at the federal level.⁵⁰ Through the Civil Asset Forfeiture Reform Act of 2000 (“CAFRA”), Congress undertook to reform some of the most heavily debated aspects of civil forfeiture. The CAFRA shifted the burden of proof in forfeiture cases from property owners to the government,⁵¹ and raised the burden to prove that targeted property was involved in the commission of a crime from a probable cause standard to a preponderance of the evidence standard.⁵² Notably however, the CAFRA did not enact any reform to the equitable sharing program.

Since the United States’ founding, forfeiture has been present. Over time, the scope of property subject to forfeiture and the conduct justifying forfeiture has grown. While forfeiture’s use has ebbed at times, the CDDAPCA set the United States down a road in which forfeitures are common and pursued often. This reality remains true today. While Congress’s attempt to reform civil forfeiture under the CAFRA positively addressed some aspects of the forfeiture regime, much of the forfeiture reform effort has been left up to the states to pursue. Congress’s failure to reform equitable sharing through the CAFRA has frustrated state reforms to civil forfeiture, as discussed in Section III.B.

2. Why Do State and Local Law Enforcement Participate in the Equitable Sharing Program?

Aside from the obvious financial benefit gained by participating agencies, there are several reasons why agencies might choose to utilize the federal equitable sharing program rather than forfeit property at the state level. First, when state or local law enforcement seize property to be forfeited by the

46. WILLIAMS ET AL., *supra* note 43, at 25.

47. Curt Bohling, Alice W. Dery & Carly Diroll-Black, *The Intersection of State and Federal Law in Asset Forfeiture Cases: Concurrent Jurisdiction, Turnover Orders, and Emerging State Law Trends*, 67 DEP’T JUST. J. FED. L. & PRAC. 127, 127–28 (2019).

48. WILLIAMS ET AL., *supra* note 43, at 46.

49. Stephanie Holmes Didwania, *Asset Forfeiture and Inequality*, 77 STAN. L. REV. 159, 186 (2025).

50. Stefan D. Cassella, *The Civil Asset Forfeiture Reform Act of 2000: Expanded Government Forfeiture Authority and Strict Deadlines Imposed on All Parties*, 27 J. LEGIS. 97, 97 (2001).

51. Crepelle, *supra* note 32, at 326.

52. Stephen J. Moss, Comment, *Clear and Convincing Civility: Applying the Civil Commitment Standard of Proof to Civil Asset Forfeiture*, 68 AM. U. L. REV. 2257, 2272 (2019).

federal government, the property will be subject to the federal government's standard for determining whether property is subject to forfeiture, preponderance of the evidence, even when the state would require a stricter standard.⁵³ The equitable sharing program effectively allows state and local law enforcement to choose the system in which forfeiture is most likely to succeed, especially when state law would frustrate the forfeiture process.⁵⁴ Second, in states that have forbidden state and local law enforcement agencies from receiving the proceeds of state forfeitures, a common reform instituted at the state level, those agencies can forfeit the property through the equitable sharing program, therefore bypassing the state restriction and receiving the proceeds from the federal government.⁵⁵ These two motives delineate the overarching theme. The equitable sharing program provides state and local law enforcement freedom from certain state restrictions and provides them with the ability to choose the system they perceive as most likely to render a successful forfeiture action.

C. FORFEITURE REFORM IN IOWA

It is not necessary to conduct a full survey of Iowa's civil forfeiture provisions to analyze the equitable sharing program's ability to compromise the state's reform efforts.⁵⁶ Instead, this Section will focus on the newly added protections against civil forfeiture adopted through Iowa's 2017 Forfeiture Reform Act to assess the equitable sharing program's ability to circumvent them, as well as the provisions of Iowa's forfeiture laws that incentivize the use of the program.

In response to heavy criticism of civil forfeiture in Iowa, the state legislature passed the Forfeiture Reform Act in 2017.⁵⁷ The reforms sought to provide additional protection to property owners targeted by forfeiture actions. First, the Forfeiture Reform Act requires a criminal conviction to forfeit property valued at less than \$5,000.⁵⁸ Prior to the 2017 reform, no criminal conviction was ever necessary to facilitate a civil forfeiture action, so this change represented a significant shift in Iowa forfeiture law. To establish that property subject to forfeiture meets or exceeds the minimum forfeiture amount, the state must prove the fact "by clear and convincing evidence."⁵⁹ In addition, the Act raised the general standard of proof for the state to show that an item is subject to forfeiture, from a preponderance of the evidence

53. WILLIAMS ET AL., *supra* note 43, at 25.

54. *Id.*

55. *Id.*

56. For specific discussion of Iowa's forfeiture law, see Banta, *supra* note 31, at 796–802.

57. James Q. Lynch, *Civil Asset Forfeiture Limits Signed into Law*, GAZETTE (May 9, 2017, 6:55 PM), <https://www.thegazette.com/government-politics/civil-asset-forfeiture-limits-signed-into-law> (on file with the *Iowa Law Review*).

58. IOWA CODE § 809A.12A (2025). This \$5,000 requirement is known as the "[m]inimum civil forfeiture amount" under Iowa law. *Id.* § 809A.1.

59. *Id.* § 809A.12A(2).

standard, to a “clear and convincing evidence” standard.⁶⁰ After these changes, Iowa’s forfeiture laws are now far more restrictive than its federal counterparts and offer greater protections to property owners.⁶¹ One area in which Iowa forfeiture law and federal forfeiture law are alike though is in their similar grant of forfeiture revenues to law enforcement agencies who engage in forfeitures. This fact, as discussed below, is potentially fatal to Iowa’s 2017 reforms.

While Iowa’s Forfeiture Reform Act has not perfectly abated all forfeiture related concerns,⁶² the state’s reforms signaled a desire to lessen the abuse of forfeiture within the state. By raising its burden of proof and adopting further protections for property owners, Iowa made clear its intention to lessen the applicability of forfeiture in edge cases in which the state could not clearly show that forfeiture was proper. As discussed in the following sections, the failure to restrict law enforcement’s financial motive to engage in forfeiture incentivizes the use of the federal equitable sharing program to circumvent Iowa’s added protections in an attempt to chase forfeiture proceeds. As a result, the whole of Iowa’s restrictive forfeiture regime is compromised.

II. IOWA’S REFORMS ARE NOT SUFFICIENT TO PROTECT THE RIGHTS OF IOWANS

*“Money in its proper place is a worthwhile and necessary instrument for a well rounded life; but when it is projected to the status of a god it becomes a power that corrupts and an instrument of exploitation.” — Martin Luther King Jr.*⁶³

Iowa’s 2017 Forfeiture Reform Act was a step in the right direction in forfeiture policy. The more stringent requirements to engage in civil forfeiture would, in theory, provide added protection to citizens of Iowa from civil forfeiture abuse. This Part will focus on two pernicious features of civil forfeiture that the 2017 reforms failed to address. First, Section II.A will discuss the financial incentive for law enforcement to misuse civil forfeiture. It will then discuss how this financial incentive motivates law enforcement to evade state reforms by utilizing the federal equitable sharing program in order to collect more forfeiture revenues. Second, Section II.B will discuss how Iowa legislature’s failure to limit the use of the federal equitable sharing program by state and local law enforcement compromises the entirety of the state reform effort. This Part will show the opportunity given to law enforcement to chase the proceeds of forfeitures, and how the equitable sharing program

60. *Id.* §§ 809A.13(7), .14(7)(d), .12(7)–(8).

61. *See* Lynch, *supra* note 57.

62. Wilson, *supra* note 14.

63. Martin Luther King, Jr., *False Gods We Worship*, MARTIN LUTHER KING, JR. RSCH. & EDUC. INST. (July 19, 1953), <https://kinginstitute.stanford.edu/king-papers/documents/false-gods-we-worship> [<https://perma.cc/53A8-2TPC>].

seizes on that incentive and encourages law enforcement to circumvent state restrictions on forfeiture to obtain those proceeds.

A. *THE KICKBACK OF FORFEITURE FUNDS RESHAPES LAW ENFORCEMENT PRIORITIES AND INCENTIVIZES THE USE OF FEDERAL EQUITABLE SHARING TO AVOID STATE REFORMS*

The Canons of Police Ethics published in 1957 describes the primary responsibility of law enforcement as “the protection of the people of the United States through the upholding of their laws; chief among [them] is the Constitution of the United States and its amendments.”⁶⁴ Civil forfeiture as it exists today in Iowa risks tempting law enforcement away from this honorable mission toward another objective: the raising of revenue.⁶⁵ When revenue raising becomes the priority, law enforcement are incentivized to utilize methods of enforcement that maximize that objective. Where state laws may frustrate that objective, the federal equitable sharing program is the method to which law enforcement may turn.

Many state laws allow the proceeds of successful forfeitures to be directed to the seizing law enforcement agency.⁶⁶ Law enforcement in Iowa is eligible to receive up to ninety percent of the proceeds from a successful forfeiture under state law.⁶⁷ These provisions can be extremely lucrative for agencies that are able to reap their benefits. Nationwide research estimates that \$23 billion have been raised by forfeitures under state law since 2000.⁶⁸ In Iowa, law enforcement received \$100 million in additional revenue from forfeitures over a nineteen-year period beginning in 2000.⁶⁹ As best stated by law professors Eric Blumenson and Eva Nilsen in their influential article on civil forfeiture, “[i]t takes no special sophistication to recognize that [the potential proceeds to be gained from forfeitures] constitute[] a compelling invitation to police departments to stray from legitimate law enforcement goals in order to maximize funding for their operations.”⁷⁰ In fact, these incentives have influenced the way law enforcement conducts their work in a number of ways.

First, because of the financial incentive created by forfeitures, law enforcement agencies have changed who their operations target. Though it is commonly thought that law enforcement agencies strive to arrest drug dealers over drug buyers, the practice of “reverse stings” calls this belief into question

64. INT’L ASS’N OF CHIEFS OF POLICE, INC., CANONS OF POLICE ETHICS art. 1 (1957).

65. See *Policing and Profit*, 128 HARV. L. REV. 1723, 1735 (2015) (“Civil forfeiture changes police behavior too: the allure of cash diverts police attention from nonfinancial crimes toward more lucrative drug cases.”).

66. See, e.g., ALA. CODE § 20-2-93(s)(2) (LexisNexis 2024); IDAHO CODE § 37-2744(e) (2022); NEB. REV. STAT. § 28-1439.02 (2016); OKLA. STAT. tit. 63, § 2-503(F)(2) (2011); TENN. CODE ANN. § 40-33-110 (2018).

67. See IOWA CODE § 809A.17 (2025).

68. LISA KNEPPER, JENNIFER McDONALD, KATHY SANCHEZ & ELYSE SMITH POHL, *POLICING FOR PROFIT: THE ABUSE OF CIVIL ASSET FORFEITURE* 15 (3rd ed. 2020).

69. *Id.* at 90.

70. Blumenson & Nilsen, *supra* note 34, at 56.

and illustrates how the receipt of civil forfeiture funds perverts the goals of law enforcement. In a reverse sting, law enforcement officers pose as drug dealers and attempt to sell illicit substances to unknowing buyers.⁷¹ Reverse stings were once rare but became common once law enforcement agencies were permitted to benefit from forfeitures.⁷² The reason for the increase in reverse stings is simple. A reverse sting allows law enforcement officers to acquire the cash carried by the drug buyer, rather than acquire the illicit substances carried by the drug seller. If police seize illicit substances, they must be destroyed.⁷³ If law enforcement seizes cash, however, they can receive a large portion of that seized currency for agency use through the civil forfeiture process.⁷⁴ Law enforcement use reverse stings to maximize the proceeds that the seizing agency receives from a particular enforcement action.

Second, civil forfeiture's influence on law enforcement has also affected a change in where law enforcement operations take place. Nationwide research has found that law enforcement disproportionately targets vehicles heading away from major population centers for drug interdiction stops, rather than those entering cities.⁷⁵ In Texas for example, Webb County law enforcement made eighty percent of their seizures during 2019 on vehicles heading south toward Mexico, and only twenty percent were made on vehicles traveling inward toward San Antonio and the greater United States.⁷⁶ This phenomenon is not unique to Texas, but rather is a documented occurrence throughout the United States.⁷⁷ The reason for this disparity is similar to that for reverse stings.⁷⁸ In tracking the movement of illicit substances, drugs tend to travel into major population centers, are sold within those population centers, and the cash acquired through the sales then travels out.⁷⁹ By

71. *Id.* at 67.

72. *Id.*

73. *Id.* at 68.

74. IOWA CODE § 809A.17(5)(c) (2025).

75. See Jolie McCullough, Acacia Coronado & Chris Essig, *Texas Police Can Seize Money and Property with Little Transparency. So We Got the Data Ourselves.*, TEX. TRIB. (June 7, 2019), <https://apps.texastribune.org/features/2019/texas-civil-asset-forfeiture-counties-harris-webb-reeves-smith> [<https://perma.cc/QV7X-PLYN>]; Katie McCarthy, *Civil Asset Forfeiture*, NAT'L POLICE ACCOUNTABILITY PROJECT, <https://www.nlg-npap.org/wp-content/uploads/2020/09/Civil-Asset-Forfeiture-Sheet-for-Website.pdf> [<https://perma.cc/KG6T-2YCW>].

76. See McCullough, *supra* note 75.

77. Crepelle, *supra* note 32, at 339; see also Daniel Bier, *Confiscating 'Criminals' Property Is a Cop Racket*, NEWSWEEK (Mar. 26, 2016, 2:16 AM), <https://www.newsweek.com/confiscating-criminals-property-cop-racket-323041> [<https://perma.cc/AUZ2-LLWS>] ("Because of forfeiture, cops are more likely to pull over drug suspects on their way out of cities than on their way in . . .").

78. See *supra* notes 71–74 and accompanying text (describing the reason that law enforcement engages in reverse stings).

79. See Erik Luna, *The Perils of Civil Asset Forfeiture*, 43 HARV. J.L. & PUB. POL'Y 23, 28–29 (2020) (noting that drug traffickers travel northbound toward cities while carrying illicit drugs

positioning themselves to conduct drug interdiction stops on the side of the highway traveling out of cities, law enforcement increase their opportunity to stop vehicles carrying the cash acquired from drug sales, for which the law enforcement agency will benefit from upon forfeiture.⁸⁰

These instances of change in law enforcement activity display a willingness among law enforcement agencies to revise their practices to seize upon forfeiture as a revenue generating mechanism. Based upon these examples, it does not seem unfair to suggest that the revenue generated by agencies through forfeiture is an important aspect of law enforcement's consideration in how their internal policies are created. In fact, the idea that forfeiture serves as a method of revenue generation for departments is not something that law enforcement agencies try to hide. The revenue generated by forfeiture is a primary reason why law enforcement agencies have vigorously defended forfeiture for decades.⁸¹ Law enforcement organizations often claim that civil asset forfeiture and the funds it reaps for police departments aid their mission by "depriv[ing] criminals of . . . the proceeds and tools of crime" and allows law enforcement to spend forfeiture funds to purchase equipment and training to further public safety.⁸²

There are a number of problems with this justification. First, by claiming that forfeiture deprives "criminals" of the proceeds of crime, law enforcement organizations making this claim assume criminality of individuals who have not been found guilty by a jury of their peers. As discussed previously,⁸³ taking property through civil forfeiture does not require criminal prosecution or a finding of guilt. As such, the individuals targeted by forfeiture are no more legally "criminal" than any random individual pulled off the street. Second, empirical research has failed to find any statistically significant support for the claim that increased forfeiture revenues yield greater police effectiveness.⁸⁴ Even if linkages could be found between increased forfeitures and the reduction of crime, civil forfeiture would remain in opposition to normative ideals of law enforcement in the United States. While allowing law enforcement to conduct unrestrained searches on individuals indiscriminately would likely result in increased seizures of illicit substances, the Fourth

while those heading south away from cities will be in possession of the cash proceeds resulting from the sale of the drugs).

80. See *id.* at 29; Richard Minitier, *Ill-Gotten Gains*, REASON (1993), <https://reason.com/1993/08/01/ill-gotten-gains> [https://perma.cc/5B4R-NM4Y].

81. See William Freivogel & Mimi Wright, *How a Quiet Police Lobbying Campaign Killed Civil Asset Forfeiture Reform in Missouri*, PULITZER CTR. (Dec. 30, 2019), <https://pulitzercenter.org/stories/how-quiet-police-lobbying-campaign-killed-civil-asset-forfeiture-reform-missouri> [https://perma.cc/CX86-UJJ4].

82. See *Critical Issues: Asset Forfeiture*, INT'L ASS'N CHIEFS POLICE, <https://www.theiacp.org/resources/critical-issues-asset-forfeiture> [https://perma.cc/CE5Z-SVXB].

83. See *supra* notes 14–15 and accompanying text.

84. BRIAN D. KELLY, DOES FORFEITURE WORK? EVIDENCE FROM THE STATES 22 (2021) ("This study finds no material support for the propositions that forfeiture, either state and local alone or combined with federal equitable sharing, leads to greater policing effectiveness or reduces illicit drug use.").

Amendment serves as a reflection that the end does not justify the means.⁸⁵ The fact that a policy choice would reduce crime does not necessarily balance out the effect of that policy on the individuals being policed or the police themselves. In this case, civil forfeiture's effect on policing as carried out through its incentive structure cannot be balanced out by current research finding no increase in law enforcement effectiveness nor a reduction in crime because of civil forfeiture.

These internal policy decisions discussed above show that the revenue brought in through forfeitures has historically incentivized law enforcement to adopt approaches better suited to maximize them. In recognizing this, it is unsurprising that multiple studies have found that law enforcement agencies make greater use of the federal equitable sharing program as their state forfeiture laws become more restrictive.⁸⁶ Put simply, as states adopt laws that make forfeitures harder to achieve under state laws or lessen the amount received by law enforcement upon the success of a forfeiture, the more likely state and local law enforcement are to turn forfeitures over to the federal government rather than engage in forfeiture at the state level.⁸⁷ As it turns out, this is a major problem for states that wish to reduce the effect of forfeitures on its citizens.

It is important to note that law enforcement is not a monolith. Some law enforcement agencies may be able to resist the incentivization to engage in revenue maximization through forfeiture. Organizations such as the Law Enforcement Action Partnership ("LEAP") show this. LEAP is a nonprofit organization focused on criminal justice and drug policy reform, and its members include current police officers, corrections officials, and other law enforcement officials.⁸⁸ LEAP has routinely spoken out against civil forfeiture, citing the negative effect it has on the trust of communities toward law

85. *Katz v. United States*, 389 U.S. 347, 356–57 (1967) (“[T]his Court has never sustained a search upon the sole ground that officers reasonably expected to find evidence of a particular crime and voluntarily confined their activities to the least intrusive means consistent with that end. Searches conducted without warrants have been held unlawful ‘notwithstanding facts unquestionably showing probable cause . . .’”).

86. See Jefferson E. Holcomb, Marian R. Williams, William D. Hicks, Tomislav V. Kovandzic & Michele Bisaccia Meitl, *Civil Asset Forfeiture Laws and Equitable Sharing Activity by the Police*, 17 *CRIMINOLOGY & PUB. POL’Y* 101, 114–15 (2018) (“This finding confirms the hypothesized relationship: Agencies in states with laws that offer fewer financial incentives and more severe legal burdens in terms of their asset forfeiture practices are significantly more likely to engage in equitable sharing with the federal government.”); John L. Worrall & Tomislav V. Kovandzic, *Is Policing for Profit? Answers from Asset Forfeiture*, 7 *CRIMINOLOGY & PUB. POL’Y* 219, 234 (2008) (“[P]olice agencies circumvent their restrictive state laws and pursue adoptive forfeitures so they can receive more forfeiture revenue.”).

87. Holcomb et al., *supra* note 86, at 114–15; Worrall & Kovandzic, *supra* note 86, at 234.

88. See *Mission & Vision*, LAW ENF’T ACTION P’SHP, <https://lawenforcementactionpartnership.org/about-us/mission-and-vision> [<https://perma.cc/65SN-HSSG>].

enforcement.⁸⁹ The fact that some law enforcement individuals and organizations will resist abusing the forfeiture system as it currently stands should not stifle further reforms however. The mere threat of the incentive to stray from the public safety mission created by civil forfeiture is reason enough to warrant prophylactic measures to counter it.

B. THE USE OF THE EQUITABLE SHARING PROGRAM THREATENS ANY ATTEMPT AT MEANINGFUL REFORM

The persistence of the federal equitable sharing program poses a significant threat to state level reforms of civil forfeiture. While law enforcement might benefit from the flexibility created by federal equitable sharing programs,⁹⁰ the program effectively undermines the authority of state legislatures to regulate forfeiture practices within their jurisdictions. This is especially true when law enforcement is incentivized to pursue forfeitures through equitable sharing as discussed in the previous Section.⁹¹

The case of Missouri's effort to restrict law enforcement's receipt of forfeiture funds calls into question whether states have really retained the authority to direct state law enforcement in regard to forfeitures, and it illustrates the equitable sharing program's ability to restrict the effectiveness of state reforms to civil forfeiture. In 1990, the Supreme Court of Missouri ruled that law enforcement retention of forfeiture proceeds violated Article IX, Section 7 of the state constitution.⁹² Missouri's Constitution manifests a commitment by the state to designate forfeiture funds annually to the use of schools within the state.⁹³ Notwithstanding this constitutional command, state and local police sought to reap the benefits of the forfeitures themselves, and the federal equitable sharing program was the tool they used to circumvent the restriction on their receipt of funds.⁹⁴ Missouri law enforcement would

89. See *Police-Community Relations*, L. ENF'T ACTION P'SHIP, <https://lawenforcementactionpartnership.org/our-issues/police-community-relations> [<https://perma.cc/9ZGP-ZHGQ>] (describing civil forfeiture as a policy that "pit[s] the police against the community, increasing the use of force and decreasing public safety").

90. Jefferson E. Holcomb, Tomislav V. Kovandzic & Marian R. Williams, *Civil Asset Forfeiture, Equitable Sharing, and Policing for Profit in the United States*, 39 J. CRIM. JUST. 273, 275 (2011) ("In essence, in some states, it is easier for the federal government to prevail in forfeiture actions [through the equitable sharing program].").

91. See *supra* Section II.A; Todd Barnett, *Legal Fiction and Forfeiture: An Historical Analysis of the Civil Asset Forfeiture Reform Act*, 40 DUQ. L. REV. 77, 101 (2001) ("[Equitable sharing] both violates state's rights and creates a dangerous and illegal precedent.").

92. See *Reorganized Sch. Dist. No. 7 Lafayette Cnty. v. Douthit*, 799 S.W.2d 591, 594 (Mo. 1990) (en banc); Eric D. Blumenson & Eva Nilsen, *The Next Stage of Forfeiture Reform*, 14 FED. SENT'G REP. 76, 81 n.65 (2001).

93. MO. CONST. art. IX, § 7 ("[T]he clear proceeds of all penalties, forfeitures and fines collected hereafter for any breach of the penal laws of the state . . . shall be distributed annually to the schools of the several counties according to law.").

94. See Marian R. Williams, *Civil Asset Forfeiture: Where Does the Money Go?*, 27 CRIM. JUST. REV. 321, 326 (2002); William Joy, *KMBC 9 Investigates: Missouri Schools Losing Out on Millions from Asset Forfeiture*, KMBC NEWS (May 16, 2018, 1:56 PM), <https://www.kmbc.com/article/kmbc-9-investigates-missouri-schools-losing-out-on-millions-from-asset-forfeiture/20689906> [<https://perma.cc/9ZGP-ZHGQ>].

lead the investigations in cases that might justify a forfeiture and “hold” property that was found, but allow the federal DEA to carry out the actual seizure of the property.⁹⁵ As the property had actually been “seize[d]” by federal authorities rather than state officials, the funds were not required by law to be directed toward Missouri’s schools.⁹⁶ Instead, Missouri law enforcement could receive the eighty percent of the proceeds of the forfeiture guaranteed by the equitable sharing program.⁹⁷ From 1993 to 2001, Missouri earned \$41 million from forfeitures, with only \$12 million of those forfeiture proceeds being directed toward Missouri schools.⁹⁸ Recognizing that law enforcement was avoiding the spirit of the constitutional mandate, lawmakers responded by passing legislation redefining “seizure as the moment a Missouri police department takes control of the property.”⁹⁹ The new legislation was touted as having closed a “[l]oophole [t]hat [l]et [p]olice [d]ivert [e]ducation [f]unds,”¹⁰⁰ but because the law did not directly restrict Missouri law enforcement’s use of equitable sharing, law enforcement continued to use the program to circumvent Missouri’s Constitution by simply asking the federal government to adopt seized property.¹⁰¹ Years after the legislation was passed, Missouri law enforcement continues to utilize the equitable sharing program to get around Missouri’s Constitution.¹⁰² In the years between 2015 and 2018, only \$340,000 out of the \$19 million seized by law enforcement made it to Missouri’s schools.¹⁰³

Missouri’s struggle to constrain its law enforcement exemplifies the frustration of legislative objectives made possible by the equitable sharing program. By offering law enforcement a route to engage in forfeiture free from the restrictions of state laws, state legislatures retain little ability to proscribe how forfeitures are to be carried out in the state. If state or local law

ma.cc/AWU9-DNSU]; J. Justin Wilson, *Loophole Lets Missouri Cops Keep Millions in Forfeiture Funds (and Away from Schools)*, INST. FOR JUST. (Mar. 27, 2017), <https://ij.org/loophole-lets-missouri-cops-keep-millions-forfeiture-funds> [<https://perma.cc/5G3C-FgGP>].

95. See Williams, *supra* note 94, at 326. While engaging in a criminal investigation in cooperation with the federal government, Missouri police claimed that property they gained during the investigation had not been “seized” under Missouri law but rather was being held until a federal agency was available to formally “seize” it. See ACLU of Missouri, *MO’s Asset Forfeiture Reform Bill Closes \$32 Million Loophole That Let Police Divert Education Funds*, ACLU (May 17, 2001, 12:00 AM), <https://www.aclu.org/press-releases/mos-asset-forfeiture-reform-bill-closes-32-million-loophole-let-police-divert> [<https://perma.cc/9J4M-WN82>].

96. See Williams, *supra* note 94, at 326.

97. See *supra* Section I.B.1; Williams, *supra* note 94, at 326.

98. Williams, *supra* note 94, at 326.

99. See ACLU of Missouri, *supra* note 95.

100. See *id.*

101. See Chelsea Voronoff, *Uncle Sam Is Helping Missouri Cops Steal from the State’s Public Education Fund*, ACLU (May 21, 2018), <https://www.aclu.org/news/criminal-law-reform/uncle-sam-helping-missouri-cops-steal-states> [<https://perma.cc/3GSA-LYJY>].

102. See *id.*

103. See *id.*

enforcement agencies see a newly enacted forfeiture reform as a risk to the proceeds they had previously been guaranteed under state law, they will, and historically have,¹⁰⁴ turn to the federal government to ensure success. This is an issue for states like Iowa, who have recently adopted more restrictive forfeiture laws. Due to the availability of the equitable sharing program, and Iowa's failure to restrict law enforcement from using it, there is a likelihood that cases of forfeiture in Iowa that would have benefitted from the protections added by the legislature in 2017 will be turned over to the federal government, thus being subject to the comparatively lax federal forfeiture standards.

While initially celebrated by civil rights advocates when passed,¹⁰⁵ Iowa's requirement that the state obtain a criminal prosecution before seeking forfeiture of property valued less than \$5,000 appears as merely a suggestion in light of the equitable sharing program. If law enforcement wishes to seek forfeiture in such a case but lacks sufficient evidence of criminal wrongdoing to convince a jury of the property owner's guilt, they need only to turn the property over to the federal government. In such a case, state law enforcement would not only bypass the requirement of a criminal conviction as instituted by the legislature but also secure for themselves eighty percent of the forfeited property's value. If law enforcement sought to engage the equitable sharing program in every case involving property valued less than \$5,000, the state restriction would have zero effect.¹⁰⁶ The same is true for Iowa's heightened standard of proof to engage in forfeiture as enacted through its 2017 reforms.¹⁰⁷ Where law enforcement could not prove that forfeiture was proper "by clear and convincing evidence," they need only to turn the property over to the federal government. In doing so, law enforcement would lower their burden of proof to the much less stringent "preponderance of the evidence" standard under federal law.¹⁰⁸ The equitable sharing program secures law enforcement a much easier path to forfeiture, and as a result a much easier path to their eighty percent cut of the value. As law enforcement benefits financially from a successful forfeiture, the choice to forgo a forfeiture opportunity because it would be unsuccessful under state law is a choice to forgo the opportunity to obtain the proceeds from it. Thus, as explained previously,¹⁰⁹ law enforcement is encouraged to engage in forfeiture in the manner most likely to maximize their financial benefit. To do so, in Iowa, law

104. See *supra* notes 86–87 and accompanying text.

105. See Jason Clayworth, *Iowa's 'Shameful' Forfeiture Law Improved but Still Broken*, *Advocates Warn*, DES MOINES REG. (May 16, 2017, 4:35 PM), <https://www.desmoinesregister.com/story/news/investigations/2017/05/16/iowas-shameful-forfeiture-law-improved-but-still-brokenadvocate-s-warn/323178001> [<https://perma.cc/PM9K-SGF5>].

106. This is not to say that equitable sharing is pursued in every case but illustrates that the reform absent a limitation on equitable sharing effectively does not limit law enforcement at all. Where law enforcement wishes to forfeit property, state law has zero effect on their ability to do so.

107. IOWA CODE § 809A.12(7)–(8) (2025).

108. WILLIAMS ET AL., *supra* note 43, at 25.

109. See *supra* Section II.A.

enforcement is incentivized to engage with the equitable sharing program in every case that would not be likely to succeed under state law. With no constraints on their use of the equitable sharing program, Iowa law can do little to protect Iowa's citizens' property to the level that its legislature thought was reasonable in enacting its 2017 reforms.

III. FURTHER REFORMS ARE NEEDED

The previous Part outlined the negative effects of both the civil forfeiture system's incentive for law enforcement to engage in civil forfeiture, and law enforcement's use of the federal equitable sharing program to circumvent state reforms.¹¹⁰ While Iowa's laws do not currently act to constrain these realities, thus subjecting Iowa's citizens to the varied consequences of the failure to do so, all is not lost. Further legislation provides the opportunity to rectify these oversights. If the Iowa legislature intended for its 2017 Forfeiture Reform Act to constrain forfeiture for the protection of the citizens of Iowa, it must adopt more comprehensive measures. The next two Sections will provide suggestions for reform to close these gaps and allow the state's citizens to benefit from the protections extended by the state legislature in 2017. Section III.A will explore how other states have directed the funds acquired through forfeiture away from law enforcement to end the parlous incentive to engage in civil forfeiture and equitable sharing. That Section will then use those examples to suggest a reform to be considered in Iowa. Section III.B will then survey other states' provisions adopted to close the equitable sharing loophole and use their example to craft a similar provision for Iowa.

A. IOWA MUST REDIRECT THE PROCEEDS OF FORFEITURE AWAY FROM LAW ENFORCEMENT, AND GOOD MODELS FOR THIS EXIST IN OTHER STATES

Section II.A highlighted the ways in which the direction of forfeiture funds to law enforcement encourages forfeiture maximizing behavior and thus encourages the use of equitable sharing. If it is accepted as a premise that law enforcement should tailor their methods of policing to protect public safety, states like Iowa must take measures to remove the incentive to maximize revenue from forfeiture. Several states have already severed this harmful incentive structure.

In 2015, New Mexico adopted comprehensive forfeiture reform,¹¹¹ and these reforms directly addressed the perverse incentive created by the offer of forfeiture proceeds to law enforcement.¹¹² Before the state adopted its 2015 forfeiture reforms, New Mexico allowed law enforcement to keep one hundred

110. See *supra* Part II.

111. N.M. STAT. ANN. §§ 31-27-1 to 11 (2024); Carimah Townes, *How to End Civil Forfeiture*, SLATE (Jul. 27, 2017, 4:55 PM), <https://slate.com/news-and-politics/2017/07/how-nebraska-and-new-mexico-banned-civil-forfeiture.html> [<https://perma.cc/EX5K-JAJ8>].

112. N.M. STAT. ANN. § 31-27-7.

percent of the proceeds from forfeiture.¹¹³ After its 2015 reforms, the state now directs all forfeiture proceeds—including those gained from the equitable sharing program—to the state’s general fund.¹¹⁴ This general fund is used by the state to pay its ongoing expenses and operating costs.¹¹⁵ Instead of earmarking forfeiture funds for the use of law enforcement alone, New Mexico adopted changes that allowed the state to use forfeiture proceeds to upkeep its ongoing programs and operating expenses. By insulating these funds away from law enforcement, the state successfully removed the incentive for law enforcement to maximize forfeiture revenues, thus also cutting off law enforcement’s reliance on the equitable sharing program.¹¹⁶ Even after removing the incentive to engage in forfeiture, the state ensured that law enforcement would maintain its capability to conduct forfeitures by using forfeiture funds to “reimburse” law enforcement for “reasonable expenses” they incurred in undertaking forfeitures.¹¹⁷ This approach strikes a good balance, allowing law enforcement the necessary resources for the pursuit of forfeitures to protect public safety, but not allowing forfeiture revenues to benefit law enforcement to such a degree that they are incentivized to make policy changes to chase after those funds.

Missouri addresses the use of forfeiture funds in a novel but admirable manner. Instead of directing the proceeds of forfeitures to the state’s general fund like New Mexico,¹¹⁸ Missouri directs these funds to support the education of the children within the state.¹¹⁹ Missouri’s Constitution guarantees that “the clear proceeds of all penalties, forfeitures, and fines . . . shall be distributed annually to the schools of the several counties according to law.”¹²⁰ The state further affirmed this constitutional provision through statute.¹²¹ While the effectiveness of this provision has been severely undercut by the federal equitable sharing program,¹²² the main goal of shifting the incentive for law enforcement to engage in civil forfeiture would be accomplished when paired with effective constraints on equitable sharing.

113. See WILLIAMS ET AL., *supra* note 43, at 78 (noting that “law enforcement may . . . receive 100 percent of the proceeds from any forfeiture” before the adoption of New Mexico’s 2015 forfeiture reform effort).

114. N.M. STAT. ANN. § 31-27-7.

115. N.M. Legis. Fin. Comm., *Finance Facts: General Fund Reserves*, N.M. LEGIS. (Oct. 2024), https://www.nmlegis.gov/Entity/LFC/Documents/Finance_Facts/finance%20facts%20GF%20reserves.pdf [<https://perma.cc/BZG5-KKLW>].

116. See KNEPPER ET AL., *supra* note 68, at 122 (“No profit incentive: All forfeiture proceeds, beyond some retained to cover related expenses, go to the general fund.”).

117. N.M. STAT. ANN. § 31-27-7(B)(1-3).

118. See *supra* notes 114-17 and accompanying text.

119. See KNEPPER ET AL., *supra* note 68, at 110.

120. MO. CONST. art. IX, § 7.

121. MO. ANN. STAT. § 513.623 (West 2002) (“The clear proceeds of any sale or disposition . . . shall be distributed pursuant to Section 7 of Article IX of the Constitution of the State of Missouri.”).

122. See *supra* Section II.B.

Iowa should adopt measures like that of New Mexico or Missouri. While it is not true that every cohort of law enforcement will be entrapped by the subversive incentive civil forfeiture currently creates, it is best for both public safety and the public's trust in law enforcement to remove any chance of its effects being felt.¹²³ Entrusting the proceeds of forfeiture to the state's general fund or a more specific use, outside that of law enforcement, will remove the incentive for law enforcement to engage in forfeiture and allow the proceeds of forfeitures to support other state functions. This reform would improve Iowa's forfeiture system, but it must be adopted concomitantly with limits on equitable sharing to avoid circumvention of the restriction through the federal system, the likes of which are evidenced by Missouri's case.

B. IOWA MUST CLOSE THE EQUITABLE SHARING LOOPHOLE TO ENSURE THAT THE REFORMS DEMANDED BY ITS CITIZENS ARE FULLY IMPLEMENTED AND EFFECTUATED

As explained in Section II.B, the federal equitable sharing program provides law enforcement a loophole through which they are empowered and incentivized to circumvent state restrictions on civil forfeitures use. The most obvious reform to curtail this effect would be the abolishment of the equitable sharing program federally.¹²⁴ This reform is unlikely to be enacted however, as the federal government is intent on keeping the program as it exists today.¹²⁵ Therefore, the burden of reform is on the states to combat the program's grant of forfeiture power discordant with state law. If Iowa seeks to enact meaningful reforms to civil forfeitures use as it did in 2017, it must limit state and local law enforcement's participation in the federal equitable sharing program. A failure to do so leaves open the opportunity for law enforcement to subject Iowa citizens to civil forfeitures unrestrained by the safeguards afforded under state law. The next two Sections will outline reforms pursued in states outside of Iowa and will use those reforms to suggest the course that Iowa should chart in enacting its own legislation to disclose the equitable sharing loophole.

123. Mike Hughes, *Policing for Cash Erodes the Public Trust, Insider Says*, FORT WORTH STAR-TELEGRAM (June 13, 2016, 12:56 PM), <https://www.star-telegram.com/opinion/opn-columns-blogs/other-voices/article82606227.html> [<https://perma.cc/W54Z-ASG9>] (“[I]f police want public trust, the public must have reason to trust the police. . . . Civil forfeiture erodes public trust with law enforcement.”).

124. KNEPPER ET AL., *supra* note 68 at 50 (“All property owners are entitled to the same due process rights under the U.S. Constitution, and until the equitable sharing program is eliminated, those rights remain at risk.”).

125. Matt Ford, *The Bipartisan Opposition to Session's New Civil-Forfeiture Rules*, ATLANTIC (July 19, 2017, 4:25 PM), <https://www.theatlantic.com/politics/archive/2017/07/sessions-forfeiture-justice-department-civil/534168> [<https://perma.cc/4Q7L-7RDD>] (describing Attorney General Jeff Session's roll-back of an Obama administration policy that ended the use of adoptive forfeiture through the equitable sharing program).

1. What Reforms Have Other States Enacted to Close the Equitable Sharing Loophole?

States that have enacted reforms to close the equitable sharing loophole have pursued varied measures to do so, with some states adopting hybridized reforms.¹²⁶ Several states have enacted legislation that prevents state and local law enforcement from transferring the property to a federal agency unless it exceeds a certain monetary value.¹²⁷ In Nebraska for example, law enforcement is prohibited from transferring property “by any means” to federal authorities for the purposes of forfeiture under federal law unless the seized property “exceeds twenty-five thousand dollars in currency or value.”¹²⁸ Nebraska’s reform limits both adoptive and joint-investigative forfeitures unless “the money or property is physically seized by a federal agent who is employed by the federal government.”¹²⁹ This provision allows law enforcement to continue participating in joint investigative forfeitures, but ensures that property seized by a state official participating in a joint forfeiture will be afforded the same protections as property seized by any other state official.¹³⁰

Some states have removed the profit incentive created by equitable sharing with the hope that a lack of incentive to engage in equitable sharing would reduce law enforcement’s use of the program to circumvent state civil forfeiture reforms.¹³¹ In Colorado for example, “a seizing agency or participant in any joint task force” is restricted from receiving the monetary kickback offered by the equitable sharing program unless the value of the property at issue exceeds \$100,000.¹³² Wisconsin has enacted a similar restriction, but instead of conditioning law enforcement’s receipt of compensation on the value of the seized property, the state conditions the receipt of these funds on the conviction of the property owner for the alleged crime.¹³³ These reforms differ with those like Nebraska’s in that they permit law enforcement to transfer property over to federal authorities, with the reform only restricting

126. See *infra* notes 127–52 and accompanying text.

127. See ARIZ. REV. STAT. ANN. § 13-4306(J) (2024); NEB. REV. STAT. ANN. § 28-1603 (2021); OHIO REV. CODE ANN. § 2981.14 (West 2020).

128. NEB. REV. STAT. ANN. § 28-1603.

129. *Id.* § 28-1603(2).

130. See KNEPPER ET AL., *supra* note 68, at 49; Nick Sibilla, *Nebraska Just Abolished Civil Forfeiture, Now Requires a Criminal Conviction to Take Property*, FORBES (Apr. 21, 2016, 12:08 AM), <https://www.forbes.com/sites/instituteforjustice/2016/04/20/nebraska-just-abolished-civil-forfeiture-now-requires-a-criminal-conviction-to-take-property> (on file with the *Iowa Law Review*).

131. KNEPPER ET AL., *supra* note 68, at 50 (“Drastically reducing the profitability of equitable sharing is likely to reduce agencies’ participation in the program.”).

132. COLO. REV. STAT. ANN. § 16-13-504.5 (West Supp. 2023).

133. WIS. STAT. ANN. § 973.075(1r) (West Supp. 2024) (“If there is a federal or state criminal conviction for the crime that was the basis for the seizure, the agency may accept all proceeds. If there is no federal or state criminal conviction, the agency may not accept any proceeds.”).

whether they will be permitted to accept compensation.¹³⁴ Nebraska's reforms and other states that have adopted similar provisions disallow the transfer of the property itself unless its value exceeds a certain threshold.¹³⁵ While severing the incentive driven by equitable sharing is a positive step for states like Colorado and Wisconsin, it fails to address the problem that equitable sharing presents directly. Equitable sharing put citizens of a state at risk of having their property forfeited by state police in a manner contrary to state law.¹³⁶

Pennsylvania and the District of Columbia enacted a more targeted reform.¹³⁷ These reforms were adopted to address adoptive forfeitures alone and did not result in restrictions on joint investigative forfeitures at all.¹³⁸ Both reforms indicated that neither jurisdiction would allow their state and local law enforcement to request the federal adoption of property seized by local law enforcement.¹³⁹ Though a restriction on adoptive forfeiture may reduce the use of equitable sharing to some degree, this restriction alone is not likely to catch all uses of the program to evade state forfeiture restrictions as adoptive forfeitures make up only a small portion of the equitable sharing program's uses.¹⁴⁰

New Mexico provides the best model from which to craft Iowa's equitable sharing restriction. Out of fifty states and the District of Columbia, New Mexico was the only state to receive an A rating from the Institute for Justice for its civil forfeiture laws and their ability to protect the property of the state's citizens.¹⁴¹ When ranking states by frequency of use of the equitable sharing

134. KNEPPER ET AL., *supra* note 68, at 50 (explaining that Colorado's method of addressing the loophole created by equitable sharing does not forbid "participation outright", but rather attacks the incentive to participate).

135. *Id.* at 49 (explaining that Nebraska and other states with similar reforms forbid the actual transfer of property to federal authorities unless their value exceeds the listed threshold).

136. *Id.* at 6 ("Equitable sharing allows state and local law enforcement agencies to partner with federal agencies to seize and forfeit property under the federal government's permissive laws . . . regardless of state law.").

137. See 42 PA. CONS. STAT. AND CONS. STAT. ANN. § 5807.1 (West 2019); D.C. CODE ANN. § 41-311 (West 2014).

138. See 42 PA. CONS. STAT. AND CONS. STAT. ANN. § 5807.1; D.C. CODE ANN. § 41-311.

139. 42 PA. CONS. STAT. AND CONS. STAT. ANN. § 5807.1 ("State law enforcement authorities shall not refer seized property to a Federal agency seeking the adoption by the Federal agency of the seized property."); D.C. CODE ANN. § 41-311 ("Beginning October 1, 2018, the District shall not refer seized property to a federal agency seeking the adoption by the federal agency of the seized property.").

140. KNEPPER ET AL., *supra* note 68, at 50 ("[B]ecause adoptions make up a relatively small portion of equitable sharing forfeitures, these reforms are unlikely to have much effect on equitable sharing activity . . ."); *id.* at 46 (finding that federal adoptions were involved in only thirty percent of equitable sharing program cases).

141. *Id.* at 42. The Institute for Justice's state ratings of civil forfeiture laws are calculated based on the ease through which law enforcement are able to pursue civil forfeitures under state law and how state laws reward law enforcement for engaging in forfeitures. *Id.*

program from least to most, New Mexico ranks fourth.¹⁴² These results can be attributed to the success of New Mexico's previously discussed 2015 forfeiture reform effort.¹⁴³ Included within these reforms were provisions to defend against law enforcement avoidance of reform through the equitable sharing program.¹⁴⁴ First, New Mexico prohibited state and local law enforcement from directly or indirectly transferring property worth less than \$50,000 to the federal government for forfeiture purposes.¹⁴⁵ This comparatively high bar to engage in equitable sharing ensures that a large portion of the forfeitures in the state will not exceed the limit¹⁴⁶ and as a result, will be extended the protections of state law. Second, as mentioned in the previous Section, New Mexico required all proceeds received from the equitable sharing program be deposited into the state general fund, rather than be used for law enforcement.¹⁴⁷ As this provision conflicts with the equitable sharing program's requirement that forfeiture proceeds be used exclusively for law enforcement purposes,¹⁴⁸ it effectively opts the state out of receiving any proceeds from the program.¹⁴⁹ The inability to receive funds from the program removed much of law enforcement's incentive to use it. Lastly, New Mexico prohibited the transfer of property to the federal government "if the transfer

142. *Id.* at 48. This ranking speaks to New Mexico's success in restricting equitable sharing when the populations of the state's ranked higher than it are considered. South Dakota, which is ranked number one, has under half the population of New Mexico. *See State Population Totals and Components of Change: 2020-2024*, U.S. CENSUS BUREAU (Dec. 2024), <https://www.census.gov/data/tables/time-series/demo/popest/2020s-state-total.html> [<https://perma.cc/5S66-B3Wg>]. North Dakota, which is ranked second, has about a third the population of New Mexico. *Id.* Wyoming, which is ranked third, has just over a fourth the population of New Mexico. *Id.*

143. Townes, *supra* note 111 (noting New Mexico's reforms included changes to state law requiring a conviction prior to forfeiture and the direction of forfeiture funds to the state's general fund instead of to the seizing agency).

144. *See* DICK M. CARPENTER II, LISA KNEPPER, ANGELA C. ERICKSON & JENNIFER McDONALD, *POLICING FOR PROFIT: THE ABUSE OF CIVIL ASSET FORFEITURE* 109 (2d ed. 2015).

145. N.M. STAT. ANN. § 31-27-11(a)(1) (2024) ("A law enforcement agency shall not . . . transfer seized property to a federal law enforcement authority . . . unless: (1) the value of the seized property exceeds fifty thousand dollars (\$50,000), excluding the potential value of the sale of contraband.").

146. The specific number of forfeitures that is barred from equitable sharing by the fifty-thousand-dollar limit is unclear, as New Mexico does not report the necessary data to calculate such a number. *See* KNEPPER ET AL., *supra* note 68, at 123. However, because most equitable sharing cases concern value far below the fifty-thousand-dollar mark, it can likely be assumed that a large majority of forfeitures in New Mexico would be barred by this limit. *See* Radley Balko, *Study: Civil Asset Forfeiture Doesn't Discourage Drug Use or Help Police Solve Crimes*, WASH. POST (June 11, 2019), <https://www.washingtonpost.com/opinions/2019/06/11/study-civil-asset-forfeiture-doesnt-discourage-drug-use-or-help-police-solve-crimes> (on file with the *Iowa Law Review*) (explaining that removing the most valuable one percent of equitable sharing cases, the average value of seized property in equitable sharing cases falls below \$2,000).

147. N.M. STAT. ANN. § 31-27-7(C) ("Proceeds from the sale of forfeited property received by the state from another jurisdiction shall be deposited in the general fund.").

148. GUIDE TO EQUITABLE SHARING, *supra* note 43, at 16.

149. *Id.* (explaining that no equitable sharing proceeds will be shared if the state governing body mandates the expenditure of those funds for non-law enforcement purposes).

would circumvent the protections of [New Mexico's Forfeiture Act] that would otherwise be available to a putative interest holder in the property."¹⁵⁰ These changes now represent one of the best frameworks for protecting citizen's property in effect in the United States.¹⁵¹ Contrary to the speculation of those opposed to such reform,¹⁵² the adoption of these added protections had no effect on New Mexico's crime rate.¹⁵³ Due to the success of New Mexico's reforms, it is a prime candidate from which other states, Iowa included, should learn.

2. Suggestions for Iowa's Reforms to Close the Equitable Sharing Loophole

Lawmakers in Iowa, already aware of the threat that equitable sharing presents, tried to shrink the equitable sharing loophole in the early stages of its 2017 forfeiture reform effort.¹⁵⁴ In this effort, lawmakers sought to institute a value threshold requirement similar to that of Nebraska and New Mexico's reforms.¹⁵⁵ As introduced, the bill would have prohibited the direct or indirect transfer of property seized by state or local law enforcement to federal authorities unless the value of the property exceeded \$100,000, or the property was being transferred pursuant to a federal criminal forfeiture case.¹⁵⁶ This value threshold for equitable sharing would have exceeded even New Mexico's restrictive limit.¹⁵⁷ This provision was ultimately not included in the bill when it was signed by the governor. The state legislature attempted to enact similar reforms again in 2024.¹⁵⁸ Under these reforms, Iowa would have forbidden the use of federal adoption, directed proceeds of federal adoptions to the state's general fund, and prohibited forfeitures through joint task forces for property not exceeding \$25,000.¹⁵⁹ Despite passing the Iowa House unanimously, the provisions failed to be pushed forward in the Senate Judiciary Committee.¹⁶⁰

150. N.M. STAT. ANN. § 31-27-11 (B).

151. KNEPPER ET AL., *supra* note 68, at 42.

152. Letter from Jim Skinner, Treasurer and Chair, Gov't Affs. Comm., Nat'l Sheriffs' Ass'n to Rep. Dan Crenshaw (July 17, 2023) (on file with the *Iowa Law Review*).

153. Jennifer McDonald, Harrison Weeks & Dick M. Carpenter, II, *Does Civil Forfeiture Fight Crime? Evidence from New Mexico*, CRIM. JUST. REV. 10 (Nov. 2024), <https://journals-sagepub-com.proxy.lib.uiowa.edu/doi/epub/10.1177/07340168241285569> (on file with the *Iowa Law Review*).

154. See S. File 446, 87th Gen. Assemb., Reg. Sess. (Iowa 2017).

155. *Id.*

156. *Id.*

157. N.M. STAT. ANN. § 31-27-11 (a) (1) (2024).

158. H. File 2560, 90th Gen. Assemb., Reg. Sess. (Iowa 2024).

159. *Id.*

160. Erin Murphy, *Which Bills Did Iowa Lawmakers Pass in 2024? Which Failed to Pass?*, GAZETTE (Apr. 22, 2024, 12:20 PM), <https://www.thegazette.com/state-government/which-bills-did-iowa-lawmakers-pass-in-2024-which-failed-to-pass> [<https://perma.cc/QK2V-gRVB>].

Notwithstanding the Iowa legislature's failure to adopt such measures 2017 and 2024, lawmakers must capitalize on the renewed interest in civil forfeiture by enacting provisions to limit the use of equitable sharing. It is imperative to the interests of Iowa's citizens that they be protected by the measures instituted into Iowa law in 2017. To ensure this protection, equitable sharing must be limited. Iowa should model its legislation after the example set by New Mexico. This endeavor requires three separate provisions. First, Iowa should adopt a bar on the use of equitable sharing for property under a certain value. Ideally the value chosen should be as high as is possible, as a higher value threshold necessarily will catch more property. The previously proposed one-hundred-thousand-dollar limit would effectively accomplish this goal by placing most forfeitures far out of the equitable sharing program's reach.¹⁶¹ Second, Iowa should direct any proceeds from the equitable sharing program to the state's general fund. By doing so, the incentive to seek forfeitures through the equitable sharing program is severed. Lastly, Iowa should adopt a provision like New Mexico's that bars the pursuit of forfeitures through the equitable sharing program that would have the effect of circumventing Iowa's 2017 forfeiture reform legislation. This provision would act as a catchall that guarantees that Iowa's conviction requirements and stricter burdens of proof are not avoided for mere convenience through the federal system. By adopting these reforms, the state legislature can reclaim its authority to constrain law enforcement to state law. In doing so, the policies through which law enforcement in the state is carried out will reflect the collective will of the citizens of Iowa as expressed through their duly elected representatives.

CONCLUSION

Like many states, Iowa suffers from problems with the civil asset forfeiture regime. Through its 2017 reforms, Iowa signaled both willingness and desire to address those problems. Without addressing the damaging incentives created by forfeiture and the ability to circumvent state restrictions through equitable sharing, Iowa's reform efforts remain in peril. Iowa must take additional steps to ensure that its 2017 forfeiture reforms are made effective and binding. Without such reforms, the burden on Iowa's citizens remains the same today as it did before the reforms were enacted.

First, the Iowa legislature must direct the proceeds of forfeiture funds into the state's general fund or another earmarked fund that does not benefit the seizing agency. Second, the Iowa legislature must end the ability of law enforcement to circumvent its restrictions through the equitable sharing program. All ability to create meaningful change in this area depends on the legislature's limit of this program. By limiting participation in the program by barring transfers of property under an enumerated value, directing the proceeds gained from the program away from law enforcement, and making

161. KNEPPER ET AL., *supra* note 68, at 91 (noting that the median cash forfeiture in Iowa has a value of just \$900).

clear that the program may not be used to circumvent state law, the legislature can ensure the protection of state law to Iowa's citizens. These reforms will finally act to uphold the legislature's 2017 legislation and ensure that civil forfeiture operates as constrained by the state legislature.