

Purpose: To provide the Washington Association of Sheriffs and Police Chiefs with an overview of the Civil Asset Forfeiture audit, to hear their perspectives about the audit topic, and potential issues the audit team should consider while scoping the audit.

Source: Auditor Developed

Attendees:

SAO:

- Holland Kitchell – Performance Auditor
- Mohamed Ahmed – Performance Auditor
- Bill Wright – Senior Performance Auditor
- Tania Fleming – Principal Performance Auditor
- Carly Schmidt – Performance Auditor
- Bryson Bristol – Performance Auditor

WASPC:

- Steve Strachan – Executive Director
- Taylor Gardner – Deputy Policy Director
- James McMahan – Policy Director

What interests or concerns do you have about civil asset forfeiture?

- **Steve:** We are concerned with the perception that the CAF program is being used to generate profits for the LEAs that use the program. While there are examples nationally where CAF has been used on individuals who were not involved in crimes and didn't have high value assets, this isn't the case in WA.

Where do you think a performance audit of civil asset forfeiture could add value?

- **James:** We would be interested in seeing if there is a profit motive for civil asset forfeitures, if there is, we would like for the State Auditor's Office to make it known. But if there isn't any indication of LEAs not using CAF to generate profits, then we would like that to be published in a report.
- **James:** There is this notion that if an individual has their property seized, and there isn't a criminal conviction connected to that case, then it must be something wrong with the process. There are many reasons why this might happen, an individual can go through a plea process which avoids conviction but the person agrees to the forfeiture. Also, an individual can have their crime plead down to a lesser charge, or a non-drug related charge, which results in a forfeiture and no conviction. If a performance audit could look into this aspect that would add a lot of value.
- **James:** There is also a need for SAO to look into controlled substances forfeitures, this is when police would wait until a particular drug trafficker reaches the end of the drug trafficking cycle to arrest and seize their assets. The idea being that at the end of the cycle, the trafficker would have the most amount of cash for LEAs to seize so they can fund themselves.
- **Steve:** There have been stories of narcotics units within LEAs who had to "self-fund" in this way, but I haven't seen any myself. It would be beneficial for SAO to look at data around what is seized, the value of the property, and the real value to the LEA who seizes the property. I remember a case where we seized a luxury SUV from a local drug trafficker and we spent more on administrative and legal fees than the vehicle was worth because we wanted to keep it away from the individual.

Forfeiture Data

- **Holland:** Does your organization collect data from LEAs relating to CAF? We know LEAs report to the Treasurer's Office but do you collect any data?
- **James:** We publish the annual "Crime in Washington" report but that doesn't really include a lot of specific information. If I wanted to research data on CAF the Treasurer's Office is the first place I would look.
- **Steve:** I can ask our data team if they have any data we can send you.

We are aware of some legislative efforts on this topic in recent years, what are your thoughts on that?

- **James:** There has not been a bill proposed on CAF that we have agreed to, there have been agreements relating to CAF that we've been a part of, but when legislation was drafted around those agreements the language in the bill didn't match. There have been recent conversations with legislators around CAF reporting, but our issue with the bills proposed have been many. First, the bills seem to imply LEAs are able to differentiate expenditures of proceeds from the sale of individual assets, where this isn't the case. All proceeds of all forfeitures are kept in one account and it's difficult to keep track of transaction level data of that nature. Another issue is in addition to the 10% which is remitted to the state, the proposed legislation would charge the LEAs for the cost of administering the CAF transparency website. We don't like that we have to remit 10% of CAF proceeds, but it's unfair that the state wants to administer a website and make LEAs pay for it.