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Audit in Kansas proves civil asset forfeiture laws need reform

OVERLAND PARK, KS --- A recently released state audit reveals significant shortcomings in Kansas' civil asset property seizure and forfeiture process, highlighting the urgent need for reforms long advocated by the ACLU of Kansas.

Kansas laws already place an excessive burden on property owners while also providing a strong profit incentive for law enforcement agencies. Civil forfeiture laws in Kansas violate basic due process rights and pose serious risks to property.

But the performance report from the Legislative Division of Post Audit confirms the ACLU of Kansas' fears and concerns about forfeiture in Kansas. The audit found that the agencies examined lacked important controls for tracking forfeiture proceeds, there was inadequate oversight of forfeiture funds, and a failure to meet basic reporting requirements.

State law requires law enforcement agencies to compile an annual report on forfeiture proceeds. Kansas fails to ensure compliance with this very basic requirement, and agencies are apparently unaware of the requirement.

The Kansas audit released last month says, "None of the law enforcement agencies we reviewed had complete and written policies and procedures for seized and forfeited property."

The audit also found some troubling issues with the lack of controls for liquidating forfeited property. For example, some police did not deposit all forfeiture funds directly into its forfeiture fund as required by state law.

"The audit reveals what we have long known – the civil asset forfeitures process in Kansas is broken," said Micah Kubic, executive director of the ACLU of Kansas. "It isn't just a matter of sloppy implementation, though. Kansas laws on civil asset forfeiture are among the worst in the

nation. They permit massive government overreach, letting government permanently take the property of private citizens based only on their vague suspicions.”

Kansas law allows law enforcement agencies to permanently seize citizens’ property based solely on a suspicion that it was involved in criminal activity. Many states, including Missouri, Nebraska, and New Mexico, require that an individual be convicted of a crime before their property can be forfeited in a civil forfeiture case.

The ACLU of Kansas is a partner in the Kansans for Smart Justice coalition, which has called for the Legislature to pass civil asset forfeiture reform. Specifically, the ACLU and the broad-based coalition have called for a criminal conviction to be required before the government can permanently strip a citizen of his or her property.

In addition, reform is needed around reporting requirements for government agencies that engage in civil asset forfeiture proceedings.

Missouri, Nebraska, New Mexico, and the federal government require centralized reporting on forfeited property. Kansas has no such reporting requirements, so no state agency knows and can tell members of the public how many tens of millions of dollars are involved. Missouri, Iowa, and the federal government have laws that penalize agencies for noncompliance with forfeiture reporting requirements. Again, Kansas has no such oversight. Police reports about seizures are closed to the public, which means there is no public transparency.

DeAnn Smith, director of communications and outreach for the ACLU of Kansas said, “Kansas lawmakers must take these findings seriously. Kansas needs centralized reporting, and there must be penalties for agencies who fail to comply with reporting requirements. Kansas must pass reasonable legislation that protects the rights of all residents.”

“We call on the next Legislature to take these audit findings seriously,” Kubic said. “If Kansas believes in upholding the property rights of citizens and limited government overreach, the civil asset forfeiture laws need immediate reform. The state can better protect the rights of citizens, and improve police-community relations without compromising public safety, all in one fell swoop.”

The audit’s highlights can be found here: <http://www.kslpa.org/assets/files/reports/h-16-009.pdf> The entire audit can be found here: <http://www.kslpa.org/assets/files/reports/r-16-009.pdf>

More information about civil asset forfeiture reforms called for by Kansans for Smart Justice can be found at www.smartjusticekansas.org