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Missouri State Auditor

Compilation of 2010
Criminal Activity Forfeiture
Act Seizures



February 2011

Report No. 2011-08

auditor.mo.gov



Thomas A. Schweich
Missouri State Auditor

CITIZENS SUMMARY

Compilation of 2010 Criminal Activity Forfeiture Act Seizures

Disposition of Seized Property Missouri's Criminal Activity Forfeiture Act (CAFA) requires prosecuting attorneys and the Attorney General to submit an annual report to the State Auditor's office summarizing the disposition of all property, including cash, seized pursuant to state law. The CAFA also requires all law enforcement agencies participating in the federal forfeiture system to acquire an independent audit of the federal seizures and proceeds received and to provide a copy of such audit to the State Auditor's office.

These requirements are not being met. The State Auditor's office did not receive *any* of the specific independent audit reports from law enforcement agencies required by Section 513.653, RSMo, and prosecuting attorneys from the following counties failed to submit the report required by Section 513.607, RSMo: Benton, Carter, Gentry, Montgomery, Perry, Saline, Washington, Wayne, and Webster.

Without the required reports, it is impossible to accurately value the property seized within Missouri's borders and determine what percentage of that property is being turned over to federal agencies rather than going to the benefit of Missouri schools. It is estimated, however, that tens of millions of dollars were seized within the confines of Missouri's borders in 2010, but less than \$26,000 went to Missouri public schools. Another \$300,000 was returned to the owner and almost \$1 million remained pending at this writing.

Current Law

The state of Missouri and the federal government have very different procedures for the seizure and forfeiture of property associated with criminal activity.

Under current Missouri law, property seized in connection with a crime is held until the criminal process is complete. If no criminal conviction is obtained, the property must be returned to the owner. If a criminal conviction is obtained, all proceeds from the forfeited property must go to the benefit of Missouri's public school building revolving fund.

Under the federal forfeiture system, no criminal conviction is required. Property seized in connection with a crime is subject to a civil forfeiture proceeding and can be forfeited upon a much lower showing than in a criminal proceeding. Missouri's public schools do not receive any proceeds from forfeited property in the federal system. Instead, these proceeds benefit the federal government, except that a Missouri law enforcement agency assisting with the arrest may receive a small percentage of the proceeds in a practice called "equitable sharing."

There are two ways in which property seized within Missouri's borders may be transferred to a federal agency. After an arrest is made by a Missouri law



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CITIZENS SUMMARY

enforcement agency, the prosecuting attorney may determine that the underlying crime is truly a federal crime, such as a crime occurring in multiple states, and transfer the seized property and prosecutorial responsibility to a federal agency. In 2010, of the \$5.7 million seized under state law, over \$4 million was transferred to a federal agency in this manner.

Alternatively, Missouri law enforcement agencies sometime contact a federal agency to make the seizure directly. Because law enforcement agencies did not submit the statutorily-required reports, the value of such federal seizures is unknown, but it is estimated to be in the tens of millions based upon the amount of equitable sharing received by Missouri law enforcement agencies.

Importance of Reports

The required reports are necessary to ensure transparency and accountability and to allow an informed dialogue regarding possible reform. The State Auditor's office has sent a letter to those prosecuting attorneys and law enforcement agencies who failed to comply, reminding them of their statutory obligations.

Because of the nature of this compilation, no overall rating is provided.

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THOMAS A. SCHWEICH

Missouri State Auditor

Honorable Jeremiah W. (Jay) Nixon, Governor
and
Members of the General Assembly
Jefferson City, Missouri

As required by Section 513.607, RSMo, we have compiled the 2010 Criminal Activity Forfeiture Act (CAFA) seizure reports submitted to the State Auditor by prosecuting attorneys and the Attorney General. A compilation is limited to presenting information that is submitted. We have not audited the reports submitted and, accordingly, do not express an opinion or any other form of assurance on them. The primary objectives of this compilation were to:

1. Identify those officials who submitted 2010 CAFA seizure reports to the State Auditor.
2. Summarize the 2010 CAFA seizure information reported.

Section 513.607, RSMo, requires prosecuting attorneys and the Attorney General to report CAFA seizures for the previous calendar year by January 31, to both the Director of the Department of Public Safety and the State Auditor. We received 89.6 percent of the CAFA seizure reports by the required due date of January 31, 2011.

The State Auditor has not received any specific audit reports from law enforcement agencies as required by Section 513.653, RSMo. Law enforcement agencies involved in using the federal forfeiture system are required to acquire an independent audit of the federal seizures and proceeds received and provide such audit to the law enforcement agency's respective governing body and to the Director of Public Safety. A copy of such audit is also to be provided to the State Auditor's office.

A handwritten signature in black ink that reads "Thomas A. Schweich".

Thomas A. Schweich
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits: Alice M. Fast, CPA, CGFM, CIA
In-Charge Auditor: Becky Webb, CPA
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Compilation of 2010 Criminal Activity Forfeiture Act Seizures Executive Summary

The state Criminal Activity Forfeiture Act (CAFA) is defined in Sections 513.600 to 513.653, RSMo.

Compliance with Submitting CAFA Seizures Reports

The State Auditor received a total of 107 (92.2 percent) of the 116 CAFA seizure reports required by Section 513.607, RSMo, from prosecuting attorneys and the Attorney General for property seized in calendar year 2010. Of the 107 reports received, 104 of the reports were received by the January 31, 2011 deadline. The following table lists the total number of CAFA seizure reports submitted to the State Auditor for 2010, 2009, and 2008.

Reporting Status	2010		2009 ¹		2008	
By January 31	104	89.6 %	100	86.2 %	98	84.5 %
After January 31	3	2.6	6	5.2	15	12.9
Total Reported	107	92.2	106	91.4	113	97.4
Failed to Report	9	7.8	10	8.6	3	2.6
Total Reports Required	116	100.0 %	116	100.0 %	116	100.0 %

¹ Includes a CAFA seizure report submitted by a prosecuting attorney to the State Auditor after the 2009 report was issued. This report included only the disposition of a seizure prior to 2009.

Prosecutors that Failed to Report 2010 CAFA Seizures or Submitted Report Late

The following table lists the prosecuting attorneys that either submitted the 2010 CAFA seizure report after January 31, 2011, or failed to submit a 2010 CAFA seizure report. Section 513.607.10, RSMo, states intentional or knowing failure to comply with any reporting requirement shall be a class A misdemeanor punishable by a fine of up to \$1,000.

Prosecuting Attorney	Failed to Report	Submitted Late
Benton	X	
Carter	X	
Dent		X
Gentry	X	
Montgomery	X	
Perry	X	
Saline	X	
Ste. Genevieve		X
Vernon		X
Washington	X	
Wayne	X	
Webster	X	
Total	9	3



Compilation of 2010 Criminal Activity Forfeiture Act Seizures
Executive Summary

In addition, the DPS was contacted to determine CAFA Seizure reports received by the DPS. We noted 7 counties (Callaway, Clark, DeKalb, Moniteau, Scott, Sullivan and Texas) submitted the required copy of the CAFA Seizure Report to the State Auditor but did not submit a copy to the DPS.

Disposition of the
Seizures Reported

The following table lists the dollar value of the disposition of seizures reported.

Reported Disposition ²	2010		2009		2008	
Pending	\$ 971,398	17 %	\$ 2,383,413	42 %	\$ 1,377,108	20 %
Returned	291,638	5	237,730	4	179,582	3
Transferred to Federal Agency	4,255,770	75	2,761,010	49	5,183,935	75
Transferred to State	25,974	0	30,673	1	58,532	1
Disposition Not Reported	5,430	0	85,876	2	83,979	1
Other	152,129	3	120,833	2	0	0
Total	\$ 5,702,339	100 %	\$ 5,619,535	100 %	\$ 6,883,136	100 %

² The disposition of the CAFA seizures reported was compiled from the reports submitted by the prosecuting attorneys and the Attorney General.

See Appendix I for a list of the 2010 CAFA seizures disposition reported by each prosecuting attorney and the Attorney General.

Compliance with Reporting
the Required Information

Section 513.607.8, RSMo, requires prosecuting attorneys and the Attorney General to report the date, time, and place of the seizure; property seized; estimated value of the property seized; person(s) from whom the property was seized; criminal charges filed; and disposition of the seizure, forfeiture, and criminal actions. The following table lists the required information for the CAFA seizure reports received and the number of cases that reported each required item. Some reports did not include all of the required information; therefore, our compilation includes only the information reported.

Required Information	2010		2009		2008	
Date	460	99.6 %	442	99.8 %	1,136	99.6 %
Time	312	67.5	322	72.7	960	84.1
Place of Seizure	456	98.7	436	98.4	1,131	99.1
Property Seized	462	100.0	443	100.0	1,140	99.9
Estimated Value of Property Seized	435	94.2	431	97.3	1,119	98.1
Person(s) Property Seized From	462	100.0	443	100.0	140	12.3
Criminal Charges Filed	228	49.4	225	50.8	943	82.6
Disposition of Seizure	462	100.0	443	100.0	1,137	99.6
Disposition of Criminal Actions	367	79.4	380	85.8	1,000	87.6
Total Cases Reported	462	100.0 %	443	100.0 %	1,141	100.0 %



Compilation of 2010 Criminal Activity Forfeiture Act Seizures Executive Summary

The decrease in the number of seizures from 2008 to 2009 appears primarily due to the fluctuation in the number of seizures reported by St. Louis City. In 2008, St. Louis City reported 702 seizures including 583 vehicles. In 2009, St. Louis City reported 66 seizures with no vehicle seizures reported.

See Appendix II for a list of the number of 2010 CAFA seizure cases that contained the required information reported for each prosecuting attorney and the Attorney General.

Compliance with Submitting Federal Forfeiture Audit Reports

The State Auditor has not received any specific independent audit reports from law enforcement agencies required by Section 513.653, RSMo. Law enforcement agencies involved in using the federal forfeiture system are required to acquire an independent audit of the federal seizures and proceeds received and provide such audit to the law enforcement agency's respective governing body and to the DPS. A copy of such audit is also to be provided to the State Auditor's office.

Section 513.653.2, RSMo, states intentional or knowing failure to comply with the audit requirement shall be a class A misdemeanor, punishable by a fine of up to \$1,000.

Compilation of 2010 Criminal Activity Forfeiture Seizure Act

Appendix I

2010 CAFA Seizures Disposition Reported

Reporting Entity	Estimated ¹ Value of all Cases Reported	Status Reported as of December 31, 2010					
		Pending	Returned	Transferred to Federal Agency	Transferred to State	Not Reported	Other
Adair	\$ 0						
Andrew	12,000		12,000				
Atchison	9,356	9,356					
Attorney General	0						
Audrain	4,785	4,785					
Barry	1,653	1,653					
Barton	0						
Bates	1,830		1,830				
Benton	DNF						
Bollinger	0						
Boone	27,112	13,785	3,347	8,815		1,165	
Buchanan	16,168	13,733			2,435		
Butler	6,686			6,686			
Caldwell	0						
Callaway	32,889	32,889					
Camden	1,114	1,114					
Cape Girardeau	1,484		1,484				
Carroll	0						
Carter	DNF						
Cass	5,849	2,349	3,500				
Cedar	0						
Chariton	1,800		1,800				
Christian	20,982	8,077	12,905				
Clark	0						
Clay	9,345	9,345					
Clinton	0						
Cole	49,439	18,393	737	29,300	1,009		
Cooper	5,503	5,503					
Crawford	0						
Dade	496	496					
Dallas	0						
Daviess	0						
Dekalb	0						
Dent	2,500	2,500					
Douglas	0						
Dunklin	23,985	12,000		11,985			
Franklin	29,844	29,844					
Gasconade	1,000	1,000					
Gentry	DNF						
Greene	43,331	31,731	11,600				
Grundy	9,294	9,232				62	
Harrison	1,702	1,102			600		
Henry	0						

Compilation of 2010 Criminal Activity Forfeiture Seizure Act

Appendix I

2010 CAFA Seizures Disposition Reported

Reporting Entity	Estimated ¹ Value of all Cases Reported	Status Reported as of December 31, 2010					
		Pending	Returned	Transferred to Federal Agency	Transferred to State	Not Reported	Other
Hickory	0						
Holt	0						
Howard	0						
Howell	8,075	8,075					
Iron	0						
Jackson	202,612	177,769	24,843				
Jasper	52,244	42,795		9,449			
Jefferson	181,080	45,389	29,562	93,180	12,949		
Johnson	17,473	17,473					
Knox	0						
Laclede	92,655	92,130				525	
Lafayette	31,032	27,164					3,868
Lawrence	25,448	25,448					
Lewis	0						
Lincoln	36,466	12,585	23,511		370		
Linn	1,732	1,732					
Livingston	0						
Macon	0						
Madison	3,360	3,360					
Maries	3,720	3,720					
Marion	0						
McDonald	0						
Mercer	0						
Miller	4,500	4,500					
Mississippi	0						
Moniteau	0						
Monroe	0						
Montgomery	DNF						
Morgan	0						
New Madrid	9,298		4,098	5,200			
Newton	15,192	13,454				1,738	
Nodaway	0						
Oregon	2,000	2,000					
Osage	0						
Ozark	1,940					1,940	
Pemiscot	0						
Perry	DNF						
Pettis	18,101	18,101					
Phelps	2,018,360			2,018,360			
Pike	1,112				1,112		
Platte	7,417	7,417					
Polk	0						
Pulaski	0						

Compilation of 2010 Criminal Activity Forfeiture Seizure Act Appendix I 2010 CAFA Seizures Disposition Reported

Reporting Entity	Estimated ¹ Value of all Cases Reported	Status Reported as of December 31, 2010					
		Pending	Returned	Transferred to Federal Agency	Transferred to State	Not Reported	Other
Putnam	0						
Ralls	0						
Randolph	1,819	1,819					
Ray	8,110		8,110				
Reynolds	2,635	2,635					
Ripley	0						
Saline	DNF						
Schuyler	0						
Scotland	0						
Scott	11,607			9,526	2,081		
Shannon	5,580	5,580					
Shelby	0						
St. Charles	2,078,539	38,117	107,190	1,933,232			
St. Clair	0						
St. Francois	6,921	6,921					
St. Louis County	312,484	180,629	1,450	130,037	368		
St. Louis City	148,261						148,261
Ste. Genevieve	3,926	1,055	2,671		200		
Stoddard	0						
Stone	0						
Sullivan	0						
Taney	48,411	7,411	41,000				
Texas	0						
Vernon	11,217	11,217					
Warren	4,850				4,850		
Washington	DNF						
Wayne	DNF						
Webster	DNF						
Worth	0						
Wright	4,015	4,015					
	<u>\$ 5,702,339</u>	<u>971,398</u>	<u>291,638</u>	<u>4,255,770</u>	<u>25,974</u>	<u>5,430</u>	<u>152,129</u>

¹ DNF - Did not file a 2010 CAFA seizure report with the State Auditor's Office.

This appendix compiles only the information reported to the State Auditor by prosecuting attorneys and the Attorney General, we did not verify this data. In analyzing this appendix, some disparity may result due to the different methods used by the various prosecuting attorneys and the Attorney General in presenting essentially the same information. In addition, not all seizure reports included an estimated value of the property seized and not all reports included the disposition of all seizures reported.

Compilation of 2010 Criminal Activity Forfeiture Act Seizures

Appendix II

2010 CAFA Seizures Required Information Reported

Reporting Entity	Number of ¹ Cases Reported	Estimated Value of All Cases Reported	Number of Cases that Reported Required Information							Disposition	
			Date	Time	Place Seized	Property Seized	Estimated Value of Property Seized	Person(s) Property Seized From	Criminal Charges Filed	Seizure	Criminal Actions
Adair	0	\$ 0									
Andrew	2	12,000	2	2	2	2	2	2	2	2	2
Atchison	2	9,356	2	1	2	2	2	2	2	2	2
Attorney General	0	0									
Audrain	2	4,785	2	2	2	2	2	2	2	2	2
Barry	2	1,653	2	1	2	2	2	2		2	1
Barton	0	0									
Bates	1	1,830	1		1	1	1	1	1	1	1
Benton	DNF	DNF									
Bollinger	0	0									
Boone	15	27,112	15	1	13	15	15	15	11	15	10
Buchanan	7	16,168	7	7	7	7	7	7	7	7	3
Butler	1	6,686	1		1	1	1	1		1	1
Caldwell	0	0									
Callaway	1	32,889	1	1	1	1	1	1	1	1	1
Camden	1	1,114	1		1	1	1	1	1	1	
Cape Girardeau	1	1,484	1		1	1	1	1	1	1	1
Carroll	0	0									
Carter	DNF	DNF									
Cass	3	5,849	3	3	3	3	3	3	3	3	3
Cedar	0	0									
Chariton	1	1,800	1		1	1	1	1	1	1	1
Christian	4	20,982	4	2	4	4	4	4	4	4	2
Clark	0	0									
Clay	4	9,345	4	4	4	4	4	4		4	
Clinton	0	0									
Cole	16	49,439	16	16	16	16	16	16	16	16	16
Cooper	1	5,503	1	1	1	1	1	1	1	1	1
Crawford	0	0									
Dade	1	496	1	1	1	1	1	1	1	1	1
Dallas	0	0									
Daviess	0	0									
Dekalb	0	0									
Dent	1	2,500	1	1	1	1	1	1	1	1	1
Douglas	0	0									
Dunklin	3	23,985	3	3	3	3	3	3	3	3	3
Franklin	8	29,844	8	6	8	8	8	8	6	8	
Gasconade	1	1,000	1		1	1	1	1	1	1	1
Gentry	DNF	DNF									
Greene	11	43,331	11	6	10	11	3	11	4	11	11
Grundy	3	9,294	3	3	3	3	3	3	3	3	3
Harrison	2	1,702	2	1	2	2	2	2	2	2	2
Henry	0	0									

Compilation of 2010 Criminal Activity Forfeiture Act Seizures

Appendix II

2010 CAFA Seizures Required Information Reported

Reporting Entity	Number of ¹ Cases Reported	Estimated Value of All Cases Reported	Number of Cases that Reported Required Information									
					Place		Property		Person(s)		Disposition	
			Date	Time	Seized	Seized	Value of Property Seized	Property Seized From	Criminal Charges Filed	Seizure	Criminal Actions	
Hickory	0	0										
Holt	0	0										
Howard	0	0										
Howell	2	8,075	2	2	2	2	2	2	2	2	2	
Iron	0	0										
Jackson	61	202,612	61	55	61	61	61	61	7	61	61	
Jasper	9	52,244	9		9	9	9	9	9	9	9	
Jefferson	22	181,080	21	15	21	22	22	22	9	22	8	
Johnson	4	17,473	4		4	4	4	4	1	4	1	
Knox	0	0										
Laclede	3	92,655	3	3	3	3	3	3	3	3	3	
Lafayette	7	31,032	7	6	7	7	7	7	7	7	7	
Lawrence	3	25,448	3		3	3	3	3	3	3	3	
Lewis	0	0										
Lincoln	12	36,466	12		12	12	12	12	12	12	12	
Linn	2	1,732	2		2	2	2	2	2	2	2	
Livingston	0	0										
Macon	0	0										
Madison	1	3,360	1	1	1	1	1	1	1	1	1	
Maries	1	3,720	1		1	1	1	1	1	1	1	
Marion	0	0										
McDonald	0	0										
Mercer	0	0										
Miller	1	4,500	1	1	1	1	1	1	1	1	1	
Mississippi	0	0										
Moniteau	0	0										
Monroe	0	0										
Montgomery	DNF	DNF										
Morgan	0	0										
New Madrid	2	9,298	2	1	2	2	2	2	2	2	2	
Newton	4	15,192	4		4	4	3	4	4	4	4	
Nodaway	0	0										
Oregon	1	2,000	1	1	1	1	1	1	1	1	1	
Osage	0	0										
Ozark	1	1,940				1	1	1	1	1		
Pemiscot	0	0										
Perry	DNF	DNF										
Pettis	3	18,101	3		3	3	3	3	3	3	3	
Phelps	9	2,018,360	9	9	9	9	9	9	9	9		
Pike	4	1,112	4		4	4	3	4	4	4	4	
Platte	4	7,417	4	4	4	4	4	4	4	4	4	
Polk	0	0										
Pulaski	0	0										

Compilation of 2010 Criminal Activity Forfeiture Act Seizures

Appendix II

2010 CAFA Seizures Required Information Reported

Reporting Entity	Number of ¹ Cases Reported	Estimated Value of All Cases Reported	Number of Cases that Reported Required Information							Disposition	
			Date	Time	Place Seized	Property Seized	Estimated Value of Property Seized	Person(s) Property Seized From	Criminal Charges Filed	Seizure	Criminal Actions
Putnam	0	0									
Ralls	0	0									
Randolph	4	1,819	4		4	4	4	4	4	4	4
Ray	2	8,110	2		2	2	2	2	2	2	2
Reynolds	1	2,635	1		1	1	1	1	1	1	1
Ripley	0	0									
Saline	DNF	DNF									
Schuyler	0	0									
Scotland	0	0									
Scott	5	11,607	5		5	5	5	5	5	5	5
Shannon	1	5,580	1	1	1	1	1	1	1	1	1
Shelby	0	0									
St. Charles	36	2,078,539	36	36	36	36	36	36	6	36	7
St. Clair	3	0	3		3	3		3	3	3	3
St. Francois	6	6,921	6		6	6	4	6	4	6	6
St. Louis City	40	148,261	40	39	40	40	39	40		40	40
St. Louis County	80	312,484	80	74	79	80	74	80	12	80	80
Ste. Genevieve	4	3,926	4		4	4	4	4	4	4	4
Stoddard	0	0									
Stone	0	0									
Sullivan	0	0									
Taney	20	48,411	20		20	20	15	20	16	20	6
Texas	0	0									
Vernon	8	11,217	8		8	8	8	8	8	8	8
Warren	1	4,850	1	1	1	1	1	1	1	1	1
Washington	DNF	DNF									
Wayne	DNF	DNF									
Webster	DNF	DNF									
Worth	0	0									
Wright	1	4,015	1	1	1	1	1	1	1	1	1
	462	\$ 5,702,339	460	312	456	462	435	462	228	462	367

¹ DNF - Did not file a 2010 CAFA Seizure report with the State Auditor's Office.

This appendix compiles the total number of 2010 CAFA seizure cases, the total estimated value of cases reported, and the number of cases that reported the required information by each prosecuting attorney and the Attorney General, we did not verify this data. In analyzing this appendix, some disparity may result due to the different methods used by the various prosecuting attorneys and the Attorney General in presenting essentially the same information.