Civil asset forfeiture decreases non-violent crime but has a hidden cost

Civil asset forfeiture allows law enforcement agencies to keep the assets they seize during the investigation or prosecution of a crime, even if the individual is not formally charged or convicted. Prior to 1984, state law determined what percentage of seized assets remained with local law enforcement and the amount varied from zero in many Midwestern states to 100% in Florida. But in that year, the federal Comprehensive Crime Control Act (CCCA) was enacted into law in an effort to combat rising crime rates.

The CCCA included a provision that allowed local law enforcement to keep up to 80% of any assets seized during the investigation and prosecution of a federal crime—regardless of state law— as long as the assets were processed through the federal government and then returned to local law enforcement. The process of splitting seized criminal proceeds between the federal government and local governments is known as equitable sharing or adoption.

New research by Florida State University Professors Shawn Kantor and Carl Kitchens, along with PhD student Stephen Pawlowski, examines the effect that the CCCA’s expansion of civil asset forfeiture had on criminal activity. They find that the federal equitable sharing provision reduced non-violent crime, had no impact on violent crime, and led to an increase in traffic fatalities as police reallocated resources from monitoring traffic to policing drug crimes.

KEY FINDINGS

Equitable sharing decreased non-violent crime
The intent of civil asset forfeiture is to reduce the financial incentives of crime by allowing law enforcement to seize any illicit gains. Kantor et al. find that the implementation of equitable sharing led to a 17% decline in non-violent crime, primarily burglary and larceny, which is consistent with the intent of forfeiture.

Equitable sharing had no effect on violent crime
Unlike burglary and larceny, violent crimes are often crimes of passion and thus should be less affected by changes in the financial incentives facing law enforcement. Kantor et al. indeed find that introducing equitable sharing had no effect on the reported number of violent crimes.
Equitable sharing only partially reduced local government spending on police
Since equitable sharing allows local law enforcement agencies to augment their budgets with seized assets, it may encourage local governments to reallocate spending from police to other public goods and services. Kantor et al. find that police expenditure remained largely stable after the implementation of equitable sharing and that law enforcement agencies did not increase hiring. Thus, it appears that seized assets at least partially crowded out local public dollars.

Equitable sharing led to more traffic fatalities
In counties where local law enforcement benefited from the incentives created by equitable sharing, traffic fatalities increased by 3 to 8 deaths per year. The authors attribute this increase to the reallocation of police resources from traffic monitoring to policing drug crimes. The U.S. Department of Transportation values a life at $9.6 million when conducting cost-benefit analyses, and using this value suggests equitable sharing imposed a hidden cost of $31 to $75 million per year per county.

POLICY IMPLICATIONS
Civil asset forfeiture reduces the financial incentives of crime by allowing police to seize assets and this law enforcement tool reduces non-violent crime. But forfeiture also alters the incentives of local police departments that are permitted to keep the assets, which causes police departments to reallocate resources from monitoring traffic to policing drug crimes. This reallocation of effort generates a hidden cost of equitable sharing—increased traffic fatalities.

Beyond the costs associated with diminished civil liberties that detractors of civil asset forfeiture emphasize, this new research highlights the hidden costs of forfeiture that policymakers should take into account as they contemplate reforms to the system.

For more details about the methodology, data, and findings see the complete study, Civil Asset Forfeiture, Crime, and Police Incentives: Evidence from the Comprehensive Crime Control Act of 1984 by Shawn Kantor, Carl Kitchens, and Steven Pawlowski, NBER working paper no. 23873.