

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Friday, January 16, 2015

Attorney General Prohibits Federal Agency Adoptions of Assets Seized by State and Local Law Enforcement Agencies Except Where Needed to Protect Public Safety

Today, Attorney General Eric Holder issued an order setting forth a new policy prohibiting federal agency forfeiture, or “adoptions,” of assets seized by state and local law enforcement agencies, with a limited public safety exception. A federally adopted forfeiture – or “adoption” for short – occurs when a state or local law enforcement agency seizes property pursuant to state law and requests that a federal agency take the seized asset and forfeit it under federal law. The U.S. Department of the Treasury, which has its own forfeiture program, is issuing a policy consistent with the Attorney General’s order and that policy will apply to all participants of the Treasury forfeiture program, administered by the Treasury Executive Office for Asset Forfeiture.

“With this new policy, effective immediately, the Justice Department is taking an important step to prohibit federal agency adoptions of state and local seizures, except for public safety reasons,” said Attorney General Holder. “This is the first step in a comprehensive review that we have launched of the federal asset forfeiture program. Asset forfeiture remains a critical law enforcement tool when used appropriately – providing unique means to go after criminal and even terrorist organizations. This new policy will ensure that these authorities can continue to be used to take the profit out of crime and return assets to victims, while safeguarding civil liberties.”

The Attorney General ordered that federal agency adoption of property seized by state or local law enforcement under state law be prohibited, except for property that directly relates to public safety concerns, including firearms, ammunition, explosives and property associated with child pornography. The prohibition on federal agency adoption includes, but is not limited to, seizures by state or local law enforcement of vehicles, valuables, cash and other monetary instruments. This order is effective immediately and applies to all Justice Department attorneys and components, and all participants in the Department of Justice Asset Forfeiture Program. The new policy will ensure that adoption is employed only to protect public safety, and does not extend to seizures where state and local jurisdictions can more appropriately act under their own laws.

Both the Justice and Treasury Departments regularly review their asset forfeiture programs to ensure that federal asset forfeiture authorities are used carefully and effectively to take the profit out of crime, combat organized crime groups, and enable victim compensation, while ensuring that laws are followed, civil liberties are protected, and our constitutional system is strengthened. Since 2000, the Justice Department has returned approximately \$4 billion in forfeited funds to victims of federal crime. Both departments will be part of the Law Enforcement Equipment Working Group, which will provide recommendations to the President regarding actions that can be taken to improve programs, like asset forfeiture, that help local law enforcement obtain equipment.

The Justice Department’s policy permitting federal agencies to adopt seizures dates from the inception of the Asset Forfeiture Program in the 1980s. The Treasury Department’s adoption policy has been part of its Asset Forfeiture Program since its inception in 1993. At the time that these policies were implemented, few states had forfeiture statutes analogous to the federal asset forfeiture laws. Consequently, when state and local law enforcement agencies seized criminal proceeds and property used to commit crimes, they often lacked the legal authority to forfeit the seized items. Turning seized assets over to federal law enforcement agencies for adoption was a way to keep

those assets from being returned to criminals. Today, however, every state has either criminal or civil forfeiture laws, making the federal adoption process less necessary. Indeed, adoptions currently constitute a very small slice of the federal asset forfeiture program. Over the last six years, adoptions accounted for roughly three percent of the value of forfeitures in the Department of Justice Asset Forfeiture Program.

The new policy applies only to adoptions, not to seizures resulting from joint operations involving both federal and state authorities, or to seizures pursuant to warrants issued by federal courts. The policy does not limit the ability of state and local agencies to pursue the forfeiture of assets pursuant to their respective state laws. Law enforcement agencies working on joint task forces are required to follow the 2015 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation or Gender Identity.

Forfeiture (civil & criminal)

Criminal Division

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Updated January 16, 2015