



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Avenue, NW • Suite 1150 • Washington, DC 20425 www.usccr.gov

August 8, 2019

Lt. Governor Rand McNally
Speaker, State Senate
425 5th Avenue North
Nashville, TN 37243

Senator Jack Johnson
Republican Leader
425 5th Avenue North
Nashville, TN 37243

Senator Jeff Yarbro
Democratic Leader
425 5th Avenue North
Nashville, TN 37243

Dear Lieutenant Governor McNally and Senators Johnson and Yarbro:

The U.S. Commission on Civil Rights is pleased to transmit to your offices our Tennessee Advisory Committee's [report](#), *The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices*.

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Tennessee Committee's focused attention to hate crimes and bias-motivated incidents. The Commission requests that your office review the findings and recommendations on pp. 57-58 in the report. They are also attached to this letter in a stand-alone "Findings and Recommendations" document. In response to these recommendations, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

We have similarly asked Governor Lee and House of Representatives leadership to review the findings and recommendation.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you on what actions you will take in response.

Sincerely,

A handwritten signature in blue ink, appearing to read "C. Lhamon".

Catherine E. Lhamon
Chair

cc: Diane Di Ianni, Esq., Chair, Tennessee Advisory Committee

Encl.

--Tennessee Advisory Committee [Report](#) (via email only)
--Findings and Recommendation

August 8, 2019

Representative Bill Dunn
President Pro Tempore
House of Representatives
425 5th Avenue North
Suite 612 Cordell Hull Building
Nashville, TN 37243

Representative Karen Camper
Minority Leader
House of Representatives
425 5th Avenue North
Suite 664 Cordell Hull Building
Nashville, TN 37243

Dear Representatives Dunn and Camper:

The U.S. Commission on Civil Rights is pleased to transmit to your offices our Tennessee Advisory Committee's [report](#), *The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices*.

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Tennessee Committee's focused attention to civil asset forfeiture laws and practices. The Commission requests that your office review the findings and recommendations on pp. 57-58 in the report. They are also attached to this letter in a stand-alone "Findings and Recommendations" document. In response to the principal recommendation, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

We have similarly asked State Senate leadership and Governor Lee to review the findings and recommendation.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you on what actions you will take in response.

Sincerely,



Catherine E. Lhamon
Chair

cc: Diane Di Ianni, Chair, Tennessee Advisory Committee
Encl.

--Tennessee Advisory Committee [Report](#) (via email only)
--Findings and Recommendation

August 8, 2019

The Honorable Bill Lee
Governor, State of Tennessee
State Capitol, 1st Floor
600 Dr. Martin L. King, Jr. Blvd.
Nashville, TN 37243

Dear Governor Lee:

The U.S. Commission on Civil Rights is pleased to transmit to your offices our Tennessee Advisory Committee's [report](#), *The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices*.

The Commission maintains 51 Advisory Committees - one for each state and the District of Columbia. The role of the Committees is to study civil rights issues in their communities and report findings and recommendations to the Commission. The Commission appreciates the Tennessee Committee's focused attention to civil asset forfeiture laws and practices. The Commission requests that your office review the findings and recommendation on pp. 57-58 in the report. They are also attached to this letter in a stand-alone "Findings and Recommendations" document. In response to the principal recommendation, we advise that you take the steps necessary to protect civil rights in your jurisdiction.

We have similarly asked State Senate and House leadership to review the findings and recommendation.

The Commission appreciates your consideration, in the hope of ensuring civil rights protections. We look forward to hearing from you on what actions you will take in response.

Sincerely,



Catherine E. Lhamon
Chair

cc: Diane Di Ianni, Chair, Tennessee Advisory Committee

Encl.

--Tennessee Advisory Committee [Report](#) (via email only)

--Findings and Recommendation

Report of the Tennessee Advisory Committee to the U.S. Commission on Civil Rights

The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices

Findings

The findings below are not listed by preference of suggested action.

1. Tennessee's civil asset forfeiture law is among the least protective of property owners in the United States.

2. Tennessee is one of only three states that require a property owner to pay a cost bond in order to initiate the administrative process necessary to have wrongfully seized property returned.

3. In practice, a primary purpose of Tennessee's civil forfeiture law is to augment local law enforcement budgets without the need to seek funding from a legislative body through the standard public budgetary process.

4. Tennessee law permits law enforcement to keep 100 percent of cash, private property, and proceeds forfeited with minimal oversight as to how forfeited assets are used or spent. This framework provides for perverse financial incentives and encourages abuse.

5. In 2016 and 2017, Tennessee law was amended to require the collection and reporting of certain data regarding civil asset forfeiture in the State. While these changes promoted additional transparency, the data being collected and reported is unduly limited and devoid of sufficient demographic and geographic information. As a result, current reporting requirements are inadequate to inform Tennessee's citizens as to how, when, where, and from whom private property is being seized and forfeited by law enforcement. Current reporting requirements also fail to provide adequate transparency regarding how forfeiture proceeds are used and accounted for by law enforcement and other public officials.

6. There is abundant evidence that Tennessee's civil asset forfeiture law does not adequately protect the rights of innocent property owners. The law's reduced standard of proof, cash bond requirement, failure to provide a right to counsel even when basic needs are at risk, failure to provide a neutral and independent arbiter to preside over forfeiture proceedings, failure to provide meaningful judicial review, and failure to compensate innocent owners for successfully challenging wrongful property seizures all individually and collectively contribute to inadequate procedural protections.

7. There is an unacceptable risk that civil asset forfeiture, as practiced in Tennessee, is disparately impacting poor and low-income individuals, immigrants, people of color and those without the means or ability to engage an attorney or contest the taking of their property.

8. In 2016 alone, law enforcement agencies in Tennessee seized over \$17 million in cash, in addition to seizing thousands of vehicles and other items. Tennessee's civil forfeiture law permits law enforcement officials to use forfeited funds without adequate legislative or public oversight. Occasionally, Tennessee law enforcement has used such funds for impermissible, non-law enforcement purposes in violation of federal law.

9. There is evidence that the practice of civil asset forfeiture erodes respect for authority and engenders mistrust of law enforcement.

10. Without additional legislative oversight and public accountability regarding the use of civil forfeiture in Tennessee, and unless enhanced procedural safeguards protecting the rights of innocent property owners are adopted, respect for property rights and the rule of law will continue to be undermined.

Recommendation

Forfeiture laws that are designed to safeguard the public while ensuring the fair and equitable administration of justice further important public policy interests. Such laws can protect communities from crime while simultaneously promoting cooperative and respectful relationships between law enforcement agencies and state residents. Accordingly, the Committee recommends that the Tennessee General Assembly and the Governor consider the experiences of other states that have eliminated or substantially reformed their civil asset forfeiture laws to protect innocent property owners, improve transparency, eliminate perverse monetary incentives, and remove unnecessary burdens that prevent citizens from reclaiming wrongfully seized property.