



## 9 Investigates: OHP's Use Of The Federal Asset Forfeiture Program

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October 21, 2015

OKLAHOMA CITY - Law enforcement agencies in Oklahoma City and across the state are spending tens, even hundreds, of thousands of dollars that they get each year from a federal asset forfeiture program called the Equitable Sharing Program.

No agency, however, gets more than the Oklahoma Highway Patrol. Often a couple million dollars a year, which they use to supplement their budget.

There's no question about the legality of the program; the question is whether OHP is following the rules of the program.

The highway patrol has a special division that is devoted to busting drug traffickers.

"That's a canine division," said OHP spokesman Cpt. Paul Timmons. "That's what they do, criminal interdiction."

It's not uncommon for that interdiction to be done in cooperation with federal law enforcement, in which case any seized assets fall under the Department of Justice's Equitable Sharing Program. In these instances, the local agency, OHP in this case, is able to keep up to 80 percent of the seized assets.

"This program means a lot to this agency," Timmons said.

How much does it mean?

Between 2010 and 2012, the Oklahoma Highway Patrol took in \$8 million in funds through the Equitable Sharing Program and spent \$7.8 million of that.

For OHP and any other participating law enforcement agency, these funds are over and above what they get through the normal appropriation process, and they can spend the money on new equipment, vehicles, a wide range of things.

"Anything that benefits law enforcement or this agency in carrying out the mission of public safety," Timmons stated.

The Equitable Sharing Program does set limits on how seized assets can be used, and [a 2013 U.S. Department of Justice audit](#) found that OHP was not following those rules.

The audit focused on OHP's use of Equitable Sharing Program assets from 2010 through 2012. Although the agency spent a total of \$7.8 million during that time, the audit examined only a portion, 43 expenses totaling almost \$3.4 million. Investigators concluded that \$1.9 million of the \$3.4 million (56 percent) was used for either 'unallowable' or 'unsupported' expenses.

According to the report, OHP spent \$996,000 to help construct a facility that it would share with the Oklahoma Turnpike Authority. More important, OTA would be the owner of the new building and OHP would be leasing its space. Equitable Sharing Program rules prohibit using funds for capital improvements on leased property.

Among the other unallowed uses the report cited: OHP paid \$382,000 in salaries to three civilian employees, which is not permitted; OHP also paid \$143,000 to contractors performing tasks unrelated to the DOJ Equitable Sharing Program, which is also not permitted.

"Yes, a substantial amount of that money was misspent," said Adam Bates, a policy analyst with the Cato Institute's Project on Criminal Justice.

Bates and other critics of civil asset forfeiture were in Oklahoma in August for a legislative interim study on the topic. Bates doesn't feel that law enforcement agencies like OHP are acting with bad intent, but feel strongly that there's too little oversight.

"When you have this system that allows law enforcement to supplement its own budget with millions of dollars that doesn't go through the legislature, you run into this problem," Bates said.

Timmons said there was no 'problem,' just a misunderstanding. Timmons said that misused funds have been returned, complaints have been resolved, and the audit is now closed.

But News 9 wanted to know how taxpayers can be sure that OHP has continued to follow the rules; after all, the agency has spent \$3 million in equitable sharing proceeds since the audit.

"Well, one thing I would say is to do an open records request," Timmons said.

News 9 did, and here are some of the equitable sharing expenditures OHP made over the two-year period, 2013-2014: \$942,000 for a new helicopter, \$774,000 for building improvements, \$677,000 for new vehicles, and \$514,000 to cover overtime.

All appear to be permissible uses, although OHP provided no details of the purchases and expenditures. That's why some feel there needs to be more transparency with the use of forfeited assets.

"It should not take an audit to uncover misuses of these funds," said John Malcolm, Director of the Heritage Foundation's Edwin Meese III Center for Legal and Judicial Studies. "That's one of the problems when you have a huge profit incentive for law enforcement agencies,"

But OHP said the incentive for them is not profit, it's public safety.

"And we try to do everything by the book," Timmons emphasized.

But Timmons said the rules are just not as black and white as they may seem.