

Why do we F.E.A.R. asset forfeiture?

Incredible as it sounds, asset forfeiture laws allow the government to seize property without charging anyone with a crime and then keep it without ever having to prove a case. Seized property is *presumed guilty* and may be forfeited based upon mere hearsay, or even a tip supplied by an informant who stands to gain up to 25% of the forfeited assets.

Owners are forced into the untenable situation of trying to prove a negative—that something never happened—when no proof has been offered that it did. And most owners of seized property lack the financial resources to even bring their case to court.

Rising tide of abuse has surfaced throughout the country.

Since police get to keep nearly all the forfeited property, officers often succumb to budget pressures and the temptation of bounty in the form of seized assets for their departments.

Newspaper and television stories across the nation have documented hundreds of cases of innocent citizens who were wrongfully deprived of their homes, their business and their livelihoods—even though they were never found guilty of any crime.

80% of the property forfeited in the U.S. is seized from owners who are never even charged with a crime!

Bankers, landlords, restaurant and other business owners are losing valuable property because of something their mortgagee, tenant, customer or a trespasser may have done.

Beware of contacting law enforcement if you suspect a tenant may be involved in illegal activities. Such a call may not get your tenant **arrested** but could easily result in your property being **forfeited**. Although the criminal conviction of your tenant requires proof, hearsay or even your own reported suspicions will provide enough evidence for the government to seize your property!

Lienholders fortunate enough to be able to prove their innocence are often left holding a worthless mortgage that is not covered by the proceeds of the government auction. And the government is immune to countersuit.

Beyond the drug war: over 200 federal forfeiture laws are attached to non-drug crimes.

These outrageous precedents were set due to the government's "War on Drugs", but forfeitures are rapidly expanding into other areas of the law.

For instance, under the 1989 Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), any false information on a loan application can trigger forfeiture of the property you purchased with the loan. And this forfeiture law is retroactive! Mistakes on complicated loan forms are presumed to be intentional fraud—property owners must prove the innocence of a loan application statement they may have made many years earlier. The law was intended to target the type of fraudulent loans that led to the Savings & Loan crisis, but the government now uses this lucrative weapon against homeowners.

And, the Department of Justice is now using an "innovative" interpretation of forfeiture statutes to seize the assets of physicians suspected of "federal health care offenses." This tactic can cause physicians' entire assets to be forfeited based on a single "fraudulent" billing **error** or an "unnecessary" admission of a patient to a health care facility.

Even the drafters of forfeiture laws have come to fear the Pandora's box they have unleashed:

"Florida's *Contraband Forfeiture Act* became a casualty of something I call the 'Sheriff of Nottingham Syndrome.' The Sheriff of Nottingham, as every child knows, funded his substantial treasury primarily by squeezing the poor and using pretexts to seize the estates of the politically powerless for the benefit of himself and his friends.

"Who knows? In the beginning, he may have taken his law enforcement duties seriously, but in the end, he was corrupted by his dependence on seizures and fines. ...I strongly believe there is nothing more dangerous to law enforcement in this nation."

—Elvin Martinez, *Florida House of Representatives*, *Florida Dept. of Law Enforcement* 1986 "honorary Special Agent" & 1990 "Crime Fighter of the Year."

Over \$7 billion forfeited (to federal) since 1985.

It is going to be extremely difficult to separate our money-hungry government from its lucrative meal ticket. Until the advent of F.E.A.R., law enforcement officials promoting expanded forfeiture laws comprised the overwhelming majority of lobbyists at hearings on forfeiture legislation. Meanwhile, prosecutors complained that police are no longer available to investigate crimes that do not involve forfeitures.

F.E.A.R. is providing an organized voice defending property interests in Congress and in state legislatures.

F.E.A.R. activists achieved state-level reform in California, including abolishing forfeiture of property from people not convicted of a crime. Activists in Missouri and New Jersey have also achieved reform in their states. F.E.A.R. is working towards forfeiture reform on the federal level too. Representatives John Conyers (D., MI) and Henry Hyde (R., IL) both introduced forfeiture reform bills for the first time in 1993, but neither bill made it out of committee. Rep. Hyde tried again in 1995 but the bill went nowhere. In 1997, Rep. Hyde, with Rep. Conyers as a cosponsor, introduced H.R. 1835, which F.E.A.R. again supported. However, the Judiciary Committee reported out a new bill, H.R. 1965, which would have made forfeiture law worse, not better. This new bill foundered for lack of support. In May 1999, Rep. Hyde has once again introduced a forfeiture reform bill, H.R. 1658, which passed in the House. This reform measure, if it becomes law, would be an **important first step** in federal forfeiture law reform toward which F.E.A.R. has been working.

Yet, we face the enormous task of overcoming pressure from lobbyists defending their forfeiture revenue and the prevalent ambivalence of the majority of congressmen. Far too many people have lost their cars, homes and life savings because of unjust forfeiture laws— but this police piracy continues. We need your support.

[For additional copies of this brochure or other information, please contact:

Susan Wells
1559 North LaSalle Street,
PMB #257
Chicago, IL 60610

In August of 1991, a ten-month investigation published by the **Pittsburgh Press** launched a series of news stories across the nation revealing the enormous damage done to innocent property owners through unjust forfeiture laws. The six-day series prompted local papers around the country to investigate forfeiture cases in their own counties, where hundreds of cases of innocent victims surfaced. Headlines stated:

Presumed Guilty - the Law's Victims in the War on Drugs; Drugs contaminate nearly all the money in America. Police seize money from thousands of people each year because a dog with a badge sniffs, barks or paws to show that bills are tainted with drugs. Police profit by seizing homes of innocent.

—**Pittsburgh Press**, Aug. 11-16, 1991

Are Seizures Legalized Theft? Government doesn't have to prove guilt. "Robbery with a badge" in the nation's capital.

—**U.S.A. Today**, May 18, 1992

Where The Innocent Lose- Civil forfeiture can put your furniture in jail.

—**Newsweek**, Jan. 4, 1993

The Forfeiture Racket: Widespread abuse taints anti-drug law. Is anyone immune? Sweeping law leaves poor, vulnerable with little recourse. Most claimants find they can't fight forfeiture.

—**San Jose Mercury News**, Aug. 29-30, 1993

It finally caught the attention of Congress:

"An investigation that began with a lengthy series in the **Pittsburgh Press**, has now been replicated around the country...[T]hese stories document hundreds of cases of **innocent victims caught up in a judicial nightmare** [and] point to a pattern and practice of abuse. Abuse by state and local enforcement that is fostered by a built-in financial incentive that cannot help but impact law enforcement priorities."

—U.S. Rep. John Conyers, Jr.

Yet, years later, the abuse continues.

F.E.A.R. is a non-profit organization dedicated to stopping the drift into tyranny that unfair forfeiture laws encourage. **F.E.A.R.** membership is \$35 per year and includes a subscription to our newsletter, **F.E.A.R. Chronicles**. Because our focus is on legal reform, membership dues are not tax deductible. However, donations made to **F.E.A.R. Foundation**, which are used to educate the public about forfeiture law and assist in legal defense, are fully tax deductible. For more information please contact:

F.E.A.R.

**Forfeiture Endangers American
Rights**

**P.O. Box 15421
Washington, DC 20003**

tel: (202) 546-4381

fax: (202) 546-7873

toll free 888-FEAR-001

<http://www.fear.org>

Please feel free to copy and distribute this pamphlet.

Tell your Representatives to support Rep. Hyde's "**Civil Asset Forfeiture Reform Act of 1999**", now in the legislative process (passed in the House June 28). This legislation is a *vital first step* in reforming laws that have been abused for years. It will: **require the government to prove its case** by clear and convincing evidence; **provide for appointment of counsel** for those who are unable to afford representation; **abolish cost bond requirements**, an additional financial burden which contributes to the fact that over 80% of federal forfeiture victims are unable to bring their case to court; **correct ambiguous language defining an innocent owner** that is presently contained in those few forfeiture statutes that provide any protection whatsoever for real estate owners whose property was put to illegal use by mortgagors, tenants, customers or trespassers; **extend the time property owners have to contest a forfeiture** from 10 or 20 days to 30 days; **allow owners to sue the government for negligence** resulting in damage to property held in government custody; and **provide for the return of property pending final disposition of the case** if continued possession by the government would cause substantial damage to the property owner.

F.E.A.R. is a national organization of citizens working to end the tyranny that present asset forfeiture laws allow.

Forfeiture Endangers American Rights

"Forfeiture practice is inconsistent with the stated purpose of the law. The government spent more on our case than it will take from us."

— David Hanson, forfeiture victim

"The United States Marshal arrested our home on Sept. 20, 1988. We were soon to find that arresting and taking into custody a two-story house, barn, shop, fences and 60 acres was only the beginning of the legal fiction upon which civil forfeitures are based."

—Judy Osburn, *Spectre of Forfeiture*

"'Asset forfeiture' is a polite euphemism for the government confiscation of private property."

—Brenda Grantland, *Your House is Under Arrest*

"[Civil asset forfeiture] has allowed police to view all of America as some giant national K-Mart, where prices are not just lower, but nonexistent—a sort of law enforcement 'pick-'n-don't pay.'"

—U.S. Rep. Henry Hyde, *Forfeiting Our Property Rights*, Cato Institute

[Revised 6/30/1999]

by Leon Felkins

email: leonf@magnolia.net