

Philosophy

“Except in rare cases, the murderer’s red hand falls on one victim only, however firm the blow; but the foul hand of the drug dealer blights life after life and, like the vampire of fable, creates others in its owner’s evil image – others who create others still, across our land and down our generations, sparing not even the unborn.” *Terrebonne v Butler*, 848 F.2d 500, 504 (CA 5, 1988).



Citizen's Academy

The Law of Forfeiture

Presented by:

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What is Asset Forfeiture?

- The divestiture without compensation of property which is illegally used or obtained.
- The government's authority to forfeit assets is authorized by statute.

Historical Antecedents of Asset Forfeiture

- Biblical Times:
 - The first reported civil forfeiture known as *in rem* (ag. the thing) is found in Exodus, Ch. 21, verse 28 - if an ox gored a person, the ox, not the owner of the ox, was held responsible and stoned. (Deodand).
- 1790 A.D.:
 - First U.S. Congress enacted civil *in rem* forfeiture statutes to forfeit ships of privateers and smugglers.
- 1871 A.D.:
 - In *Tyler v. Defrees*, 78 US 331 (1871), government had power to seize property belonging to Confederate sympathizers during Civil War.

Purpose of Asset Forfeiture

- Enhance public safety and security by removing the proceeds of crime and other assets from criminals.
- To disrupt or dismantle criminal organizations derailing their continued efforts to function.

Two Types of Asset Forfeiture

- Criminal Asset Forfeiture
- Civil Drug Asset Forfeiture

Criminal Forfeiture

Criminal Forfeiture

- Originated in England
 - Penalty for Treason = felon's death + land and chattel forfeited to king.
 - Penalty for Felony = felon's death + land escheated to lord, chattel forfeited to king.

Criminal Forfeiture

- Omnibus forfeiture
 - Re-established in Wayne County by Prosecutor Worthy.
 - E.g., Internet crimes cases.
- CCE
 - Property named on indictment or information.
 - Requires conviction of defendant by proof beyond a reasonable doubt.
 - E.g., Gambling Cases

Civil Drug Asset Forfeiture

Costs of Drug Trafficking

- In 2000, Americans spent over \$62 billion on illegal narcotics.
- From 1995 - 2004, illegal drug trafficking costs the USA approximately \$110 billion per year.

Methods of Civil Drug Asset Forfeiture

- Summary Forfeiture
- Administrative Forfeiture
- Judicial Forfeiture

Summary Forfeiture

- Forfeiture of assets without formal process.
- No right to legal ownership.
- Contraband per se
 - (i.e., controlled substances).

Administrative Forfeiture

- Interested parties must receive:
 - Actual notice of seizure, or
 - General notice by publication.
- If owner fails to timely file a claim the circuit court loses jurisdiction to review the matter. *In Re Return of Forfeited Goods*, 452 Mich 659 (1996).

AND

- The property may be declared forfeited by the seizing agency.

Judicial Forfeiture

- **Civil Asset Judicial Forfeiture** arises when:
 - Bond is posted on personal property (when necessary), and/or,
 - Real property is subject of action.
 - Does not require criminal conviction.
 - No right to jury trial.

What Is Subject to Civil Asset Forfeiture Action?

- Contraband
 - Controlled substances, illegal firearms.
- Real Property
- Vehicles
- Vessels / Boats / Aircraft
- Money
- Jewelry



3 chunks of Cocaine HCl
Photo by Erowid, © 2001 Erowid.org



What Happens to Forfeited Property?

- Law enforcement agencies may keep property for official use.
- Donate for scientific or medical use.
- Equitably share w/ participating agencies.
- Sell publicly if not required to be destroyed by law and is not harmful to the public.
- May donate grow lights and scales to schools.

Vehicle Seizure Forfeiture Programs

Vehicle Seizure Programs

- Push-Off
 - Purchasers Use of our Streets and Highways Opt For Forfeiture.
- Nuisance Abatement
 - OTE (Offer To Engage in prostitution).
 - Drag Racing.
- OWI Vehicle Forfeiture.

Vehicle Seizure Program

PUSH-OFF

- Push-Off
 - Purchasers Use of our Streets and Highways Opt For Forfeiture.
 - Push-Off program seizes the vehicles of those who purchase/attempt to purchase/or possess narcotics.
 - Focus is on the Drug Buyer.

PUSH-OFF

Which Drugs (Most Common)?

- Cocaine
- Heroin
- Marijuana
- Methamphetamine
- Prescription form w/o labels
- Steroids

Vehicle Seizure Program

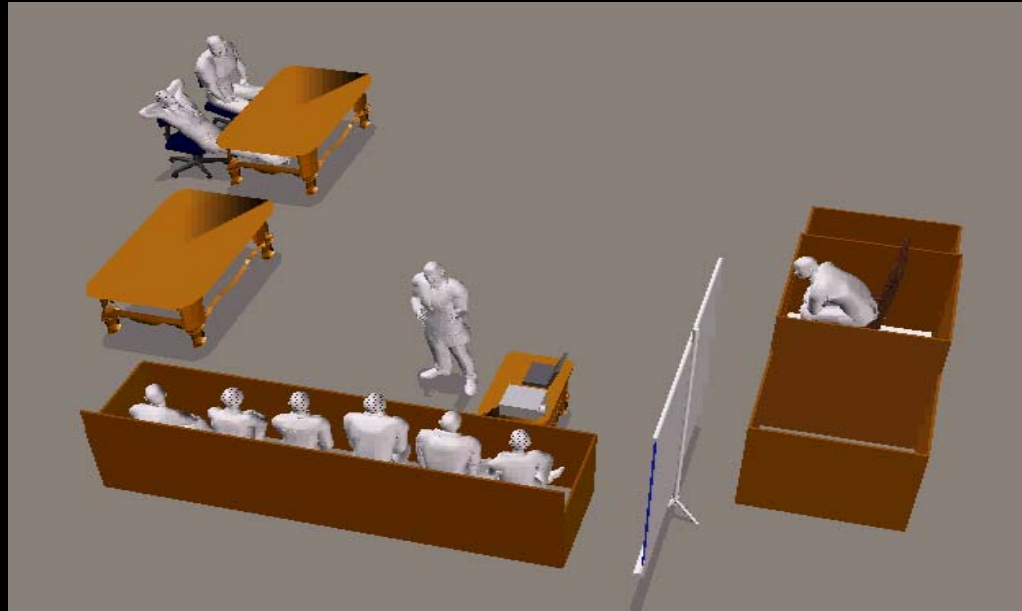
Nuisance Abatement

- The following have been declared public nuisances:
 - OTE
 - Prostitution
 - Lewdness
 - Assignation
 - Drag Racing
 - Other Nuisance Activity (e.g., blind pigs)
- No innocent owner defense.

Vehicle Seizure Program

OWI Vehicle Forfeiture

- Program created by Prosecutor Worthy in 2004 primarily under drunk driving laws.
- In 2007, reported that 18% of adults drive drunk in MI.
- In 2007, the Wayne County Prosecutor's Office successfully closed 540 OWI vehicle forfeiture cases.
 - Vehicles Redeemed = 333
 - Vehicle Titles obtained = 147
 - Vehicles Returned to Lienholder/Lessor = 20
 - Vehicles Forfeited by Court = 3
 - Vehicles Returned to Innocent Owners = 37



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2004 FALL INLINE HOCKEY CHAMPIONS
YOUTH BRONZE DIVISION
RED WINGS

