

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

The forfeiture of criminally-derived assets is one of the most powerful law enforcement tools available. Forfeiture serves a key role in returning monies to victims as well as punishing criminals and deterring society from engaging in criminal acts to achieve financial gain. This session will provide you with a base of knowledge on the process of seizing and forfeiting assets, including the fundamentals, identification of assets, tracing proceeds, and pre-seizure planning.

You will learn how to:

- Define the legal aspects of forfeiture.
- Develop theories of forfeiture.
- Trace criminal proceeds to assets.
- Recognize pre-seizure considerations.
- Use available avenues to disburse monies to victims.

JASON WOJDYLO, CFE
Chief Inspector
Asset Forfeiture Division, U.S. Marshals Service
Houston, TX

Jason Wojdylo is the chief inspector of law enforcement operations within the Asset Forfeiture Division of the U.S. Marshals Service. He is a subject-matter expert and principal advisor on the law enforcement aspects of the government's use of the asset forfeiture sanction. He supervises a program of more than 60 Deputy U.S. Marshals throughout the country who are trained financial investigators. Chief Inspector Wojdylo is also the U.S. Marshals Service representative on the President's Financial Fraud Enforcement Task Force, chaired by the Attorney General, where he is a member of the Victims' Rights Committee.

"Association of Certified Fraud Examiners," "Certified Fraud Examiner," "CFE," "ACFE," and the ACFE Logo are trademarks owned by the Association of Certified Fraud Examiners, Inc. The contents of this paper may not be transmitted, re-published, modified, reproduced, distributed, copied, or sold without the prior consent of the author.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

Introduction

Asset forfeiture is the taking of property by the government, without compensation, because it was obtained or used in a manner contrary to the law. Using forfeiture, the government can take property that is: (1) derived from a crime, (2) involved in a crime, or (3) used to make a crime easier to commit or harder to detect. When the government forfeits property, it uses either an administrative or judicial process to take possession and title to the property.

Asset forfeiture is a key tool of law enforcement in the United States and abroad. Attorneys and agents are encouraged to use asset forfeiture to strengthen cases, weaken criminal enterprises, and return illegal proceeds to the victims of crime. This material has been reproduced in a modified version as original product of the Asset Forfeiture and Money Laundering Section of the U.S. Department of Justice to provide an overview of asset forfeiture, how it works, and why it is an effective law enforcement tool.

Purposes of Forfeiture

The principal objective of forfeiture must always be law enforcement. There are many purposes that support the law enforcement objective and demonstrate why asset forfeiture is an effective tool to fight crime and protect the community. The following are some of those purposes.

Punish the Criminal

By using asset forfeiture as a tool in a criminal case, the government can not only put a criminal in prison, but also take away the proceeds for which the criminal committed his crimes so that he cannot enjoy them once he is released.

Example: As part of criminal action against a defendant for money laundering, the government seeks forfeiture

NOTES

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

of defendant's luxury home in Malibu, California, and 2013 Mercedes Benz E Class, which were involved in the money laundering offense.

Deter Illegal Activity

If a criminal does not get to keep the money or assets from his crimes, the next criminal may think twice before committing a crime.

Example: Dr. A approached Dr. B about participating in a medical device kickback scheme whereby Dr. B would receive \$100,000 a month for using Company X's devices. Dr. A said he had been participating in the scheme for two years and was able to buy a luxury home, a yacht, and two sports cars. That morning, Dr. B read a newspaper article about a local doctor who was convicted of participating in a similar medical device kickback scheme. The government forfeited the doctor's house, cars, medical license, and over \$2 million in cash. Dr. B knows he will lose everything if he participates in the scheme and declines Dr. A's offer.

Remove the Tools of the Trade

The government takes property that is used by criminals to commit their crimes so that the property cannot be used again. The government can forfeit such property as an airplane used by a narcotics operation, land used to grow marijuana, and money from the bank account of a known terrorist.

Example: The government seeks forfeiture of 200 semi-automatic weapons found in the basement of a notorious gang leader.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

Disrupt the Organization

One of the most important criminal tools is money. Money is the glue that holds organized crime enterprises together and keeps the schemes going. The larger the organization, the more money it needs. Taking the money away from the criminal enterprise disrupts and dismantles the organization's operations.

Example: The government forfeits the funds in the bank account of a narcotics distributor. Because the government forfeited the money in the account, the distributor was unable to pay air transportation for his couriers.

Protect the Community

The government uses forfeiture to eliminate hazards to public health, safety, and welfare, such as shutting down a crack house or meth lab near a neighborhood school.

Example: The government forfeits a dilapidated home that housed a meth lab and served as a storage place for drug paraphernalia. After forfeiture, the government razed the building and turned the property into a community garden.

Return Assets to Victims

One of the goals of asset forfeiture is to compensate victims of underlying crimes. The money and property seized from criminals and forfeited by the government provides the funds to pay victims money owed to them as a result of criminal activity. The two principle methods for providing victims compensation are:

- Remission: Attorney General authorizes the use of forfeited assets to provide monetary payments to victims of the crimes underlying the forfeiture

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

- Restoration: Attorney General authorizes the use of forfeited funds to satisfy a court-ordered restitution.

Example: Following defendant George Loseman's conviction for fraud, people who were victims of his Ponzi scheme are compensated for their monetary losses from the funds forfeited from Loseman's bank accounts.

Identifying Property Subject to Forfeiture

Almost any property or asset of value can be subject to forfeiture. The government can forfeit all types of real property, personal property, and intangible property. In addition to the property itself, the government may be able to forfeit the rights, privileges, interests, claims, and securities of the property. The following chart shows the different categories of property and some examples of each.

Table 1: Categories of Forfeitable Property

Category	Examples
Real Property	House, farm, office park, store, parcel of open space, minerals, natural gas deposit
Tangible Personal Property	Cash, jewelry, art, boat, airplane, car, guns, antiques
Intangible Personal Property	Professional license, liquor license, website domain name, stocks, lottery winnings, appreciation of asset (i.e., value of painting increases), lien interests, virtual currency (i.e., Bitcoin)

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

Authority for Asset Forfeiture

All of the federal government's authority for forfeiture comes from specific statutes. There is no common law authority for forfeiture and no general forfeiture statute that covers all property and all crimes. Instead, federal forfeiture is authorized through a piecemeal collection of statutes that were enacted over time for different purposes.

The government must have statutory authority to seize and forfeit any piece of property. Some statutes only permit the government to take the proceeds of the crime (which includes anything of value obtained as a result of the crime and property traceable to those assets), while other statutes allow the government to take property used to make the crime easier to commit or harder to detect (which is known as facilitation), and still other statutes allow for the government to take any property involved in the crime. It is important to check each statute to determine what property is subject to forfeiture.

In order to understand the current statutory scheme, it is important to know a little bit about the history of asset forfeiture law in the United States.

Legislative History of Asset Forfeiture in the United States

Congressional Act of 1789

One of the first acts of Congress in 1789 was to enact a forfeiture statute subjecting vessels and cargos to civil forfeiture for violation of the customs laws. Congress codified the traditional maritime law principle that a ship involved in crime was subject to forfeiture even if the owner was not criminally charged or convicted. The vessel was civilly forfeited as an instrumentality of the offense so that it could not be reused in criminal activity. This explains why asset forfeiture law has its roots in

NOTES

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

admiralty law, as the procedural rules for forfeiture are included as part of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

Prohibition

The government began to expand its forfeiture authority during the late 1800s and early 1900s to target violators of laws regarding the taxation of alcohol, and then later the manufacture and sale of alcohol. During the Prohibition Era, the government used forfeiture to seize alcohol, firearms, and vehicles involved in illegally producing and transporting liquor.

Expansion of Forfeiture

Since the 1970s, the use of federal criminal and civil forfeiture has increased dramatically. Forfeiture has been broadened to a much wider range of criminal activity in an effort to deter criminal activity. Congress enacted the Racketeer Influenced and Corrupt Organizations (RICO) Act of 1970 (18 U.S.C. § 1961 et seq.) to combat major racketeers. Congress also enacted the Controlled Substances Act of 1970 (21 U.S.C. § 801 et seq.) to target drug trafficking operations. Congress then expanded drug forfeiture authority through two acts. The Psychotropic Substances Act of 1978 (Pub. L. 95-633) allowed for forfeiture of the proceeds of a drug offense. The Comprehensive Crime Control Act of 1984 (Pub. L. 98-473) authorized forfeiture of property used to facilitate the drug offense.

Addition of Money Laundering & Financial Crimes

In 1986 and 1988, Congress enacted two anti-money laundering statutes that expanded the government's forfeiture authority to include all property involved in money laundering. See Anti-Drug Abuse Act of 1986

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

(Pub. L. 99-570) and Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). In 1989, Congress passed the Financial Institution Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Pub. L. 101-73), which expanded the government's forfeiture authority to cover bank fraud and other crimes affecting financial institutions.

Expansion of Crime and Procedures

During the 1990s, civil and criminal forfeiture laws were revised and expanded to cover a wider variety of crimes. See Crime Control Act of 1990 (Pub. L. 101-647) and the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322). Congress gave the government the option of either seeking forfeiture from the property owner as part of a criminal prosecution or pursuing the property directly in a civil case.

CAFRA

In 2000, Congress passed one of the most significant pieces of forfeiture legislation. The Civil Asset Forfeiture Reform Act (CAFRA) of 2000 (Pub. L. 106-185) made broad changes to the federal statutory framework for forfeiture. CAFRA expanded the government's forfeiture authority to include over 250 crimes and allowed the government to seek criminal forfeiture as part of the prosecution for any offense for which civil forfeiture was authorized. See 28 U.S.C. § 2461(c). CAFRA also imposed strict timing deadlines, increased the government's burden of proof from probable cause to preponderance of the evidence, and codified the innocent owner defense. See 18 U.S.C. § 983.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

USA PATRIOT Act

Finally, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 to combat the growing threat of global and domestic terrorism. The USA PATRIOT Act contains a number of provisions that may be used by federal law enforcement authorities to seize and forfeit the assets of terrorist organizations, assets derived from terrorist acts, and assets intended to be used to commit terrorist acts in the future. Essentially, the USA PATRIOT Act made forfeitable all assets of individuals and organizations involved in domestic and international terrorism. The Act also expanded the use of asset forfeiture internationally.

The Federal Forfeiture Statutes

Today there are numerous forfeiture statutes that cover everything from the forfeiture of vessels involved in illegal Eastern Pacific tuna fishing (16 U.S.C. § 972(f)) to the forfeiture of illegal egg products (21 U.S.C. § 1049).

Controlled Substance Offenses

These two statutes allow for forfeiture of the proceeds of the crimes as well as any property used to commit the drug offense:

- 21 U.S.C. § 853 authorizes criminal forfeiture.
- 21 U.S.C. § 881 authorizes civil forfeiture.

Money Laundering, Mail and Wire Fraud, and Other Financial Crime

These two statutes authorize forfeiture for money laundering, mail and wire fraud, and many other crimes:

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

- 18 U.S.C. § 981 authorizes civil forfeiture.
- 18 U.S.C. § 982 authorizes criminal forfeiture.

The type of crime will determine what is subject to forfeiture. In money laundering cases, the statutes allow the forfeiture of all property involved in the money laundering offense. In mail and wire fraud cases, the statutes only allow for the forfeiture of the proceeds of the crime.

Structuring and Other Currency Violations

These two statutes authorize civil and criminal forfeiture for cases involving structuring (illegally breaking up transactions to avoid reporting requirements) and other currency violations, such as bulk cash smuggling. They allow the forfeiture of all property involved in and any property traceable to the structuring activity.

- 31 U.S.C. § 5317(c) authorizes criminal and civil forfeiture for structuring and currency violations.
- 31 U.S.C. § 5332 authorizes criminal and civil forfeiture for bulk cash smuggling.

Crimes Listed as Specified Unlawful Activity

A Specified Unlawful Activity (SUA) is a specific set of crimes defined in 18 U.S.C. § 1956(c)(7). These crimes include a variety of state and federal crimes, including fraud, obscenity, kidnapping, homicide, and drug offenses. The following two forfeiture statutes allow the forfeiture of the proceeds of any SUA.

- 18 U.S.C. § 981(a)(1)(C) authorizes civil forfeiture.
- 28 U.S.C. § 2461(c) authorizes criminal forfeiture of anything that could be forfeited through civil forfeiture.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

Racketeering and Organized Crime

Racketeering is generally defined as “[a] system of organized crime traditionally involving the extortion of money from businesses by intimidation, violence, or other illegal methods.” *Black’s Law Dictionary* (9th ed. 2009). The RICO statute, 18 U.S.C. § 1963, allows the forfeiture of any property acquired or maintained through the racketeering activity as defined in the statute.

Terrorism

The terrorism statutes provide the most expansive authority for forfeiture that the government possesses. These two statutes allow the government to forfeit all assets, foreign or domestic, of any individual, entity, or organization engaged in planning or perpetrating any act of domestic or international terrorism against the United States, its citizens and residents, or their property.

- 18 U.S.C. § 981(a)(1)(G), (H) authorizes civil forfeiture.
- 28 U.S.C. § 2461(c) authorizes criminal forfeiture.

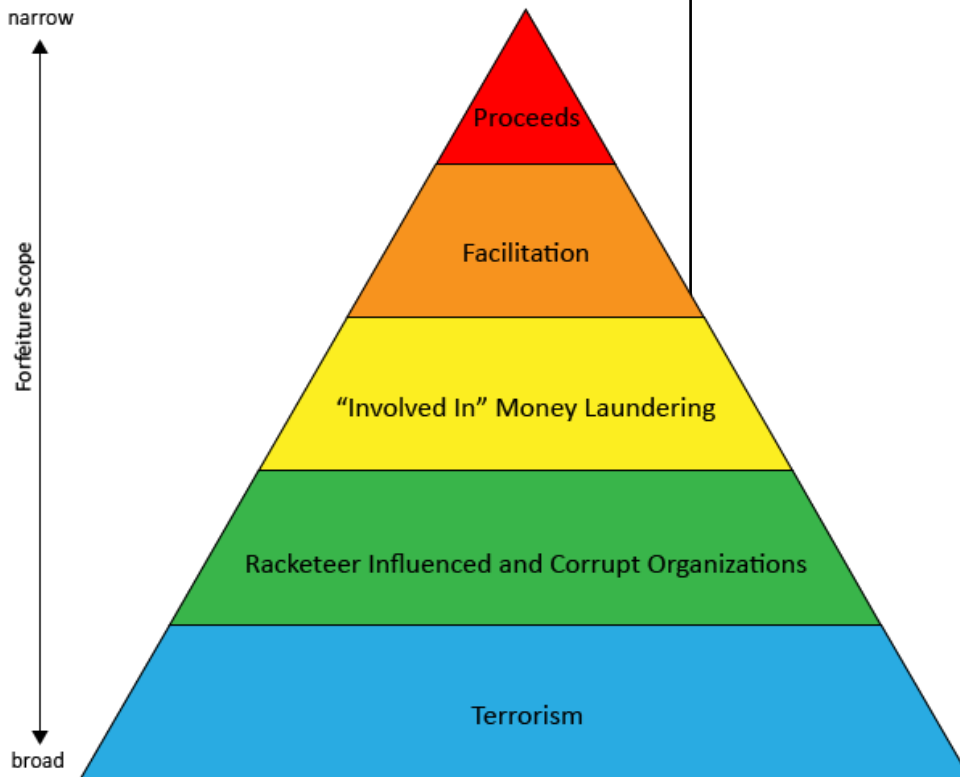
Substantive Theories of Asset Forfeiture

Each statute provides specific substantive bases for forfeiture of property. The property must meet the standard set forth in the statute, or it cannot be forfeited under that particular statute.

This section will discuss the following substantive theories that provide a basis for forfeiture under the federal statutes.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

Chart 1: Forfeiture Pyramid



NOTES

Note that more than one theory can be pursued at the same time in a forfeiture investigation or case

Proceeds

Proceeds are defined as any property, real or personal, or any interest in property that is traceable, directly or indirectly, to the illegal activity for which the applicable statute provides forfeiture authority. It also includes property traceable to the original proceeds, such as interest on money, dividends on stocks and bonds, or appreciation of real property.

The government has broad authority to forfeit proceeds of crimes. For instance, 18 U.S.C. § 981(a)(1)(C) allows the government to forfeit the proceeds of over 250

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

different state and federal crimes. With few exceptions, the government is entitled to forfeit the gross proceeds of the crime, not just the net proceeds (18 U.S.C. § 981(a)(2)(A)). Gross proceeds are defined as money received from illegal activity. See *id.* Net proceeds are defined as money received from the illegal activity minus the costs of performing the activity. See *United States v. Simmons*, 154 F.3d 765, 770 (8th Cir. 1998).

Example: Dr. A is a physician involved in a Medicare fraud scheme. He used the money he illegally received from Medicare to purchase Frank's Diner. The government can forfeit Frank's Diner because it was purchased with the proceeds of a crime.

Facilitation

Facilitation is the use or intended use of property in an unlawful activity that makes the crime easier to commit or harder to detect. See *United States v. Schifferli*, 895 F.2d 987, 990 (4th Cir. 1990). To prove property is subject to forfeiture for facilitation, the government must prove, by a preponderance of the evidence, a "substantial connection" between the property that facilitated the crime and the illegal activity. See 18 U.S.C. § 983(c)(3). To establish a substantial connection, the government must show that there is more than an "incidental or fortuitous connection" between the property and the offense. *Schifferli*, 895 F.2d at 990. Defendants and claimants often challenge forfeitures of facilitating property as excessive fines under the Eighth Amendment. See *United States v. Bajakajian*, 524 U.S. 321 (1998).

Example: Dr. A holds weekly breakfast meetings with other doctors involved in the Medicare fraud scheme at Frank's Diner, where the doctors discuss changes to their

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

scheme, division of criminal proceeds, and how to stay a step ahead of law enforcement. The government can forfeit Frank's Diner because it was used to facilitate the Medicare fraud scheme.

Property "Involved in" Money Laundering

Money laundering statutes have been interpreted by courts broadly to allow forfeiture of all property "involved in" a money laundering scheme. Property that is "involved in" a money laundering scheme may include, depending on the facts, the money being laundered, the money or other property that is commingled with it or obtained in exchange for it when the money laundering transaction takes place, and any other property that facilitates the money laundering offense. This includes both "dirty" and "clean" money. Thus, if an asset is purchased with both dirty and clean money, the entire asset may be subject to forfeiture.

Specifically, 18 U.S.C. §§ 981(a)(1)(A) and 982(a)(1) allow for the forfeiture of all property involved in money laundering offenses under 18 U.S.C. §§ 1956 and 1957. The property subject to forfeiture can be divided into four categories:

- The proceeds that are being laundered as part of the SUA offense
- Property (other than the proceeds) that is also part of the subject matter of the money laundering offense (i.e., the clean money) (Note: if the money laundering offense was a purchase, sale, or exchange, this means the property that is the subject of the financial transaction conducted in violation of 18 U.S.C. §§ 1956 or 1957)
- Property used to facilitate the money laundering offense

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

- Property (other than the proceeds) involved in, or used to commit, the SUA offense

Just like facilitating property, the government must show a substantial connection between the property “involved in” money laundering and the money laundering offense (unless it is the proceeds of a crime). See 18 U.S.C. § 983(c)(3).

The government can also forfeit property involved in avoiding certain currency reporting requirements under the Bank Secrecy Act (BSA). Under 31 U.S.C. § 5317(c), the government can seek civil or criminal forfeiture of “any property, real or personal, involved in a transaction or attempted transaction in violation” of certain currency reporting statutes. The government can also seek forfeiture of all property involved in a bulk cash smuggling offense pursuant to 31 U.S.C. § 5332.

Example: Dr. A deposits the profits of the Medicare fraud scheme in the business account of Frank’s Diner, along with the legitimate money generated from the diner’s business. The profits from the Medicare fraud scheme are substantially greater than the legitimate money generated by Frank’s. Making false ledger entries, Dr. A pays the other doctors in the scheme their portions of the profits by making it appear that they are vendors supplying food and supplies to the diner. The government can forfeit Frank’s Diner, including the building, business accounts, and all property within the diner, because the diner was involved in money laundering. This is true even though not all of the property (such as the money generated from legitimate sales) was used for criminal purposes.

NOTES

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

RICO

One of the most powerful federal forfeiture statutes is the one that applies to racketeering. Under RICO, any property acquired or maintained through racketeering activity and any interest that the defendant has in the racketeering enterprise itself can be forfeited. See 18 U.S.C. § 1963(a). Note that RICO can only be used as part of a RICO criminal prosecution.

Example: In addition to Frank's Diner, Dr. A is the sole owner of five other diners in the city, which he uses to launder the proceeds of the Medicare fraud scheme. The government can forfeit Frank's Diner and the other five diners because Dr. A, the sole owner, was using the diners as a racketeering enterprise. This is true even though not all of the property (such as the money generated from legitimate sales) was used from criminal purposes.

Terrorism

The forfeiture statute for terrorism offenses gives law enforcement broad authority to forfeit all property of terrorists and terrorist organizations. Specifically, 18 U.S.C. § 981(a)(1)(G) permits the forfeiture of all assets, foreign or domestic:

- “Of an individual, entity, or organization engaged in planning or carrying out the crime of terrorism against the United States, its citizens or residents, or property or persons having influence over them” (18 U.S.C. § 981(a)(1)(G)(i))
- “Acquired or maintained for the purpose of supporting, planning, conducting, or concealing an act of terrorism against the United States, its citizens or residents, or property” (18 U.S.C. § 981(a)(1)(G)(ii))

NOTES

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

- “Derived from, involved in, or used or intended to be used in an act of terrorism against the United States, its citizens or residents, or property” (18 U.S.C. § 981(a)(1)(G)(iii))
- “Of an individual, entity, or organization engaged in planning or carrying out the crime of terrorism against a foreign government” (18 U.S.C. § 981(a)(1)(G)(iv))

This statute is designed to incapacitate the terrorist completely by leaving him with no assets whatsoever to perpetrate further acts of violence against governments, their citizens, or their property.

Example: In addition to the Medicare fraud scheme, Dr. A is a member of an anarchist group plotting to overthrow the government. The group is using Frank’s Diner to plan a terrorist attack at next year’s Super Bowl. The government may forfeit Frank’s Diner because it is the property of a person planning a terrorist attack and was maintained for the purpose of supporting a terrorist attack.

Asset Forfeiture Programs

The Department of Justice and the Department of the Treasury operate two separate but related federal asset forfeiture programs. This section will explain the purposes, participants, and functions of each program.

Department of Justice Asset Forfeiture Program

The Department of Justice Asset Forfeiture Program (*Program*) encompasses the seizure and forfeiture of assets that represent the proceeds of, or were used to facilitate, federal crimes. The primary mission of the program is to employ asset forfeiture powers in a manner that enhances public safety and security. The

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

program includes activity by DOJ components and several components outside DOJ.

DOJ Components

- Asset Forfeiture and Money Laundering Section (AFMLS) of the Criminal Division has the responsibility of coordination, direction, and general oversight of the Program. AFMLS handles civil and criminal litigation, provides legal support to the U.S. Attorneys' Offices, establishes policy and procedure, coordinates multi-district asset seizures, administers equitable sharing of assets, acts on petitions for remission, coordinates international forfeiture and sharing, and develops training seminars for all levels of government.
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) enforces the federal laws and regulations relating to alcohol, tobacco, firearms, explosives, and arson by working directly and in cooperation with other federal, state, and local law enforcement agencies. ATF has the authority to seize and forfeit firearms, ammunition, explosives, alcohol, tobacco, currency, conveyances, and certain real property involved in violation of law.
- Drug Enforcement Administration (DEA) implements major investigative strategies against drug networks and cartels. Enforcement operations have resulted in significant seizure and forfeiture activity. A significant portion of DEA cases are adopted from state and local law enforcement agencies.
- Federal Bureau of Investigation (FBI) investigates a broad range of criminal violations, integrating the use of asset forfeiture into its overall strategy to eliminate targeted criminal enterprises. The FBI has successfully used asset forfeiture in white collar

NOTES

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

crime, organized crime, drug, violent crime, and terrorism investigations.

- United States Marshals Service (USMS) serves as the primary custodian of seized property for the Program. USMS manages and disposes of the majority of the property seized for forfeiture.
- United States Attorneys' Offices (USAOs) are responsible for the prosecution of both criminal and civil actions against property used or acquired during illegal activity.
- Asset Forfeiture Management Staff (AFMS) is responsible for management of the Assets Forfeiture Fund, the Consolidated Asset Tracking System, and program-wide contracts; oversees internal Program controls and property management; interprets the Assets Forfeiture Fund statute; approves unusual Fund uses; and serves as legislative liaison on matters affecting the financial integrity of the Program.

Components Outside DOJ

- United States Postal Inspection Service (USPIS) seizes assets under their authority to discourage profit-motivated crimes such as mail fraud, money laundering, and drug trafficking using the mail.
- Food and Drug Administration (FDA) Office of Criminal Investigations seizes assets involved in health care fraud schemes, counterfeit pharmaceuticals, illegal distribution of adulterated foods, and product tampering.
- United States Department of Agriculture, Office of the Inspector General (USDA OIG) promotes effectiveness and integrity in the delivery of USDA agricultural programs. Forfeiture is integrated as an important law enforcement tool in combating criminal activity affecting these programs.

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

NOTES

- Department of State, Bureau of Diplomatic Security investigates passport and visa fraud and integrates asset forfeiture into its strategy to target the profits made by vendors who provide fraudulent documentation or others who utilize fraudulent visas and/or passports to further their criminal enterprises.
- Defense Criminal Investigative Service (DCIS), the criminal investigative arm of the Inspector General of the Department of Defense, conducts investigations and forfeitures in support of crucial National Defense priorities that include homeland security/terrorism, product substitution, contract fraud, public corruption, computer crimes, and illegal technology transfers.

Assets Forfeiture Fund

The Comprehensive Crime Control Act of 1984 established the Department of Justice Assets Forfeiture Fund (AFF) to receive the proceeds of forfeiture and pay the costs associated with such forfeitures, including the costs of managing and disposing of property; satisfying valid liens, mortgages, and other innocent owner claims; and accomplishing the legal forfeiture of the property. See 28 U.S.C. 524(c). The Attorney General is authorized to use the AFF to pay any necessary expenses associated with forfeiture operations such as property seizure, detention, management, forfeiture, and disposal. The AFF may also be used to finance certain general investigative expenses

Tracking Assets

One of the many tasks for AFMS involves the development, maintenance, and oversight of the Program's property management information system, Consolidated Asset Tracking System (CATS). CATS is designed to track assets seized by federal law

FORFEITURE: STRIPPING CRIMINALS OF ILL-GOTTEN GAINS

enforcement agencies throughout the forfeiture life-cycle.

Treasury Department Asset Forfeiture Program

The Treasury Forfeiture Fund (TFF) was established in 1992 as the successor to what was then the Customs Forfeiture Fund. See 31 U.S.C. § 9703. The Treasury Executive Office for Asset Forfeiture (TEOAF) administers the TFF, which is the recipient account for non-tax forfeitures made pursuant to laws enforced or administered by its participating Treasury and Department of Homeland Security agencies. The TFF participating agencies are:

- Internal Revenue Service Criminal Investigations Division (IRS-CI), U.S. Department of the Treasury
- Homeland Security Investigations (HSI), Department of Homeland Security
- U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security
- U.S. Customs and Border Protection (CBP), Department of Homeland Security
- U.S. Secret Service (USSS), Department of Homeland Security
- U.S. Coast Guard, Department of Homeland Security

The enabling legislation for TFF defines the purposes for which Treasury forfeiture revenue may be used. See Title 31 U.S.C. § 9703.

NOTES