

THE FORFEITURE LAW

By Attorney Michael H. Wald

Were you aware that when various United States crime enforcement officials such as the FBI or even small town police departments arrest criminals, the United States Government has the right to obtain and resell any property belonging to these criminals which was obtained illegally or obtained by using funds from illegal operations. This is known as the forfeiture law, and its origin goes back to biblical times. Today this law has changed and developed into several statutes covering different types of crime. Some of these types of crime and how the government takes control through the use of forfeiture law are described below:

1. ORGANIZED CRIME: The government has the right to seize and forfeit any property which was used for the sole purpose of illegal activities. For example: the government may take away a hotel which was used for the sole purpose of prostitution.

2. IMMIGRATION: The government has the right to forfeit some modes of transportation which were used to illegally transport aliens across state lines. Examples would be boats, cars, airplanes, etc.

3. CURRENCY AND FOREIGN TRANSACTIONS: The government has the right to forfeit certain amounts of money which were illegally imported or exported.

4. CUSTOMS: The United States Customs Service can bring actions against drug smugglers for modes of transportation which were used to illegally transport drugs across state lines. Also, the customs service has the right to confiscate baggage, etc. which is in violation of the customs laws.

Forfeiture law was recently modified by the Crime Control Act of 1984, which deals with forfeiture

of assets belonging to those who are convicted of drug smuggling activities. Prior to this drug smugglers who were convicted could serve their sentence and then return to their million dollar mansions. Now the government can confiscate this property, sell it, and use the money to purchase more advanced equipment and to hire more personnel to keep criminals off the streets. Under the new law, if a small town police department helped to catch a drug smuggler, then it is entitled to some of the proceeds from forfeited property.

Criminals are given due process under the law. They can protest the selling of their assets and if it is proven that the assets in question were not purchased with money obtained illegally, they may get to keep those assets. It is interesting to note that very few of these cases succeed. Some property cannot be seized or forfeited until after the criminal is convicted -- cars, for example would fall into this category.

The law sends a message to criminals: **CRIME DOES NOT PAY!**

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