

Asset forfeiture: How the government legally steals from Texans

Written by Australian Business

September 06, 2013 /**24-7PressRelease**/ -- Asset forfeiture allows law enforcement agencies to confiscate money, property or other assets allegedly obtained through illicit means such as the commission of a crime. Forfeited assets are typically used to fund crime-fighting programs. Unfortunately, forfeiture laws are often abused by the governmental agencies sworn to protect and serve the very people they are cheating.

Texas has a reputation for using draconian asset forfeiture practices. A recent article in The New Yorker highlighted a class action lawsuit taken against a small Texas town after numerous cash-for-freedom tactics were used during traffic stops by police in the area.

A number of out-of-town drivers claim they were accused of carrying contraband and falsely stripped of valuables and money. The couple leading the charge against the local police assert they were given two options: forfeit all the cash they were carrying for the purchase of a new car or turn their children over to Child Protective Services and go to jail.

Criminal forfeiture

When most people think of forfeiture, they think of [criminal forfeiture](#) -- seizure of assets after a criminal conviction. Federal and state agencies routinely confiscate items seized during criminal investigations but cannot use or cash-in the assets until after the case is complete.

Juries in criminal cases must find that the asset is subject to forfeiture and prosecutors must prove that the assets were used or derived through criminal means by the person or people they are prosecuting.

Civil forfeiture

[Civil forfeiture](#) does not require a criminal charge against the person from whom the assets are being taken. Also, the level of proof required for seizure of assets in a civil matter is lower than that for a criminal case. All a government agency must show is a relationship to a crime. For example, if a person is pulled over for speeding -- a civil matter -- and a large amount of cash is found, the money may be [seized without a warrant](#) and kept by law enforcement based merely on circumstantial evidence that it was used in a drug deal.

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Additionally, civil forfeiture actions are taken against the assets, not the individual who owns them, meaning that the owner must prove his or her valuables were not used in a crime. This is the opposite of "innocent until proven guilty." Since the item does not have a right to an attorney -- only people do -- the government may take the assets without a fight.

An attorney can help

If a federal or Texas agency is attempting to take your private property or assets -- either through a civil or criminal proceeding -- seek the advice of an experienced asset forfeiture defense lawyer. An attorney knowledgeable about governmental forfeiture actions may be able to help defend you against seizure of your cash and valuables.

Article provided by Brown, PC Visit us at www.brownassetforfeiture.com