



Luxury Cars Seized Can Be a Civil Liberties Issue

By Mike Tuttle

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You've probably seen the ads on late night TV and in magazines. They promise that you can buy luxury cars, boats, houses, and other big ticket items for pennies on the dollar or less. The explanation is that these items used to belong to drug dealers or white collar criminals who are now behind bars. These criminals had assets that were seized by the authorities and are now being sold to help fund further police work, keeping our streets safe.

The Department of Justice says that asset forfeiture is not only useful for funding police work, but is an effective tool for dismantling criminal organizations.

The primary mission of the Program is to employ asset forfeiture powers in a manner that enhances public safety and security. This is accomplished by removing the proceeds of crime and other assets relied upon by criminals and their associates to perpetuate their criminal activity against our society. Asset forfeiture has the power to disrupt or dismantle criminal organizations that would continue to function if we only convicted and incarcerated specific individuals.

The FBI explains this a bit further, highlighting the business structures of criminal organizations.

The use of asset forfeiture in criminal investigations aims to undermine the economic infrastructure of the criminal enterprise. Criminal enterprises in many ways mirror legitimate businesses. Asset forfeiture can remove the tools, equipment, cash flow, profit, and, sometimes, the product itself, from the criminals and the criminal organization, rendering the criminal organization powerless to operate.

The idea seems sound. Criminals should not profit from their crimes. Taking away assets cripples criminal organizations better than simply removing certain players in their ranks. And the police need to be funded.

But there is more than one type of asset forfeiture. Criminal Asset Forfeiture, as described above, is well-understood and supported. But there is also Civil Asset Forfeiture. That may sound similar, but the differences are significant. For starters, there is no conviction of any crime required.

According to a study done by the Cato Institute, as much as 80% of the assets seized by the Federal government may be taken this way.

“Federal and state officials now have the power to seize your business, home, bank account, records, and personal property, all without indictment, hearing or trial,” wrote Henry J. Hyde, former member of the U.S. House of Representatives. “Everything you have can be taken away at the whim of one or two federal or state officials operating in secret... . We are all potential victims.”

An example of this kind of forfeiture is the story of Jennifer Boatright, a waitress from Houston, who was traveling with her children to visit relatives, and carrying enough cash to buy a used car when she arrived. Boatright was stopped by police for a minor traffic violation. They asked if she was carrying drugs. She told them she was not, but they searched her car anyway.

Police found an unused glass pipe, bought as a gift, in Boatright’s car. They also found her cash. At the police station, they told Boatright that she had a choice: she could face charges of money laundering and child endangerment, which meant her kids would be handed over to Child Protective Services; or she could surrender her cash to the city and leave with no charges filed.

The ACLU fights against Civil Asset Forfeiture, because, as they say, “When salaries and perks are on the line, officers have a strong incentive to increase the seizures, as evidenced by an increase in the regularity and size of such seizures in recent years. Asset forfeiture practices often go hand-in-hand with racial profiling and disproportionately impact low-income African-American or Hispanic people who the police decide look suspicious and for whom the arcane process of trying to get one’s property back is an expensive challenge.”

So maybe the Ferrari that you see in that late night ad was once owned by a drug kingpin who now wears an orange outfit and a number. But maybe your local police force pays its salaries with the folding money of innocent out of state travelers.