

# Civil Asset Forfeiture

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# Basic Plan

- Take assets from drug dealers
- Give them to law enforcement
- Reduce crime, addiction
- Improve enforcement
- Provides incentives to police seizure
- Drugs are the bogeymen

# What SD AG Says

- Take property used for drug possession or sales
- Seize anything bought with drug money
- "SDCL 34-20B-70 provides that certain property is subject to forfeiture when it is being used for the possession or distribution of controlled substances or marijuana. A **vehicle** is subject to forfeiture if it is used to facilitate the transportation, possession or concealment of any illegal controlled substance or eight ounces or more of marijuana. Furthermore, **any asset** is subject to forfeiture if it is proceeds of the distribution of controlled substances or marijuana. The vehicles and other assets are then used by law enforcement or are sold and deposited into the drug control fund. The drug control fund is used to fund drug enforcement programs throughout the state." <https://atg.sd.gov/LawEnforcement/DrugAssetCivilForfeiture/default.aspx>

# Guilt Not Necessary

- Property charged, not people
- No criminal charges 80% of the time
- <https://www.drugpolicy.org/issues/asset-forfeiture-reform>
- SDCL 23A-49-13. Civil action--Standard of proof
- "Any forfeiture proceeding is a civil action against the property seized and the standard of proof shall be preponderance of the evidence."

# If They Think You Will

- Seizure authorized on suspicion of intent
- SD law 23A-49-8. Seizure of property without court process
- "The seizure of any property subject to forfeiture under this chapter may be made without process ...  
(4) The law enforcement officer or agent has probable cause to believe that the property has been used or intended to be used in violation of crimes"

# Big Business

- Police take more than criminals
- Government took \$4.5 billion in 2014
- See "Police civil asset forfeitures exceed all burglaries in 2014" on  
[https://www.armstrongeconomics.com/international-news/north\\_america/americas-current-economy/police-civil-asset-forfeitures-exceed-all-burglaries-in-2014/](https://www.armstrongeconomics.com/international-news/north_america/americas-current-economy/police-civil-asset-forfeitures-exceed-all-burglaries-in-2014/)

# Can't Reclaim Property

- Reference from SD Legislative Research
- "Property is not subject to forfeiture if the illegal act or omission was without the true owner's knowledge or consent. A person who wishes to assert innocence must prove he or she was not involved in and had no knowledge of the alleged crime in any way. This is **extremely difficult to prove**"
- "First, there is a very low bar of proof required for law enforcement to seize and forfeit property. Second, an owner **must prove their innocence** in order to have their property returned, even when they have not been convicted of a crime.
- See "Asset forfeiture" by SD Legislative Research Council on <https://sdlegislature.gov/docs/referencematerials/IssueMemos/IM16-04.pdf>



# Racist SC Enforcement

- Percentage of S.C. population who are black men 13% "
- "Percentage of the people facing forfeiture of property who are black men 65% "
- See "65% of cash seized by SC police comes from black men. Experts blame racism." by Greenville News on <https://www.greenvilleonline.com/story/news/taken/2019/01/27/south-carolina-racism-blamed-civil-forfeiture-black-men-taken-exclusive-investigation/2459039002/>



# Targeting Poor In PA

- Poor people disproportionately rely on cash instead of banks
- Small cash seizures are not from drug kingpins
- "The vast majority of property seized in Philadelphia was small amounts of cash, with over half of those involving amounts of \$192 or less."
- From <https://www.aclu.org/press-releases/new-aclu-report-shows-philadelphia-da-seizes-1-million-cash-annually-innocent>

# Civil Rights Disaster

- Biased enforcement against poor, minorities
- Don't even need to be charged
- Reclaiming property usually impossible
- No due process
- Double jeopardy
- Armed robbery by government

# Recommendations

- Fix drug prohibition
- Repeal civil asset forfeiture (criminal forfeiture may be OK)
- Elect honest leaders
- Reform government

Enjoy Nature, Be Nice

