

F.E.A.R.'s Asset Forfeiture Defense Manual

*Volume 1: Substantive law &
administrative procedure*

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Now you can successfully defend seized property!
This user friendly, hands-on litigation manual is the only comprehensive forfeiture reference written specifically for the defense.

Published by the non-profit organization Forfeiture Endangers American Rights (FEAR) Foundation, this book is designed for attorneys handling forfeiture cases for the first time, now that the *Civil Asset Forfeiture Reform Act of 2000* (CAFRA) authorizes court appointed lawyers for some indigent forfeiture victims. Essential legal terms and concepts are clearly and concisely explained, with over 2,600 footnoted references. Profits support FEAR Foundation.

Veteran forfeiture lawyers find this easily accessible resource essential for quickly locating a case or statute on any point of federal forfeiture law or procedure. The *CAFRA Appendix*, digested by alphabetized key word, saves experienced forfeiture attorneys from mistakenly relying on obsolete rules.

This concise 500 page manual is bound in an 8½ by 11 inch format. It even includes the draconian changes in the law made by the USA PATRIOT Act — not all of the new offenses triggering forfeiture are related to terrorism.

F.E.A.R.'s ASSET FORFEITURE DEFENSE MANUAL is now available for only \$119 plus \$12 shipping. Californians add \$8.63, DC residents \$6.84, sales tax per copy.

Order online at www.fear.org or send check or money order to:

F.E.A.R.'s Forfeiture Defense Manual
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FEAR is a non-profit organization dedicated to stopping the drift into tyranny that unfair forfeiture laws encourage. FEAR membership is \$35 per year. Because our focus is on legal reform, membership dues are not tax deductible. However, donations made to FEAR Foundation will be used to educate the public about forfeiture law and to assist in legal defense, and are fully tax deductible. For information please contact:

FEAR

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Forfeiture Endangers American Rights

“[Civil asset forfeiture] has allowed police to view all of America as some giant national K-Mart, where prices are not just lower, but non-existent—a sort of law enforcement ‘pick-and-don’t-pay.’”

—*US Representative Henry Hyde,*
FORFEITING OUR PROPERTY RIGHTS

“Findings suggest asset forfeiture is a dysfunctional policy.... Forfeiture programs, while serving to generate income, prompt drug enforcement to serve functions that are inherently contradictory and often at odds with the demands of justice.”

—*J. Mitchell Miller & Lance H. Selva,*
DRUG ENFORCEMENT'S DOUBLE EDGED SWORD:
AN ASSESSMENT OF ASSET FORFEITURE PROGRAMS
*(Twelve month empirical examination of the
implementation of laws from within the forfeiture program)*

FEAR is a national non-profit organization
working to end the unconstitutional
plunder of private property.

Why do we FEAR asset forfeiture?

Incredible as it sounds, civil asset forfeiture laws at the turn of the millennium allowed the government to seize property without charging anyone with a crime, and then keep it without ever having to prove a case.

Seized property was presumed guilty and could be forfeited based upon mere hearsay—even a tip supplied by an informant who stood to gain up to 25% of the forfeited assets. Owners were forced into the untenable situation of trying to prove a negative—that something never happened, when no proof had been offered at trial.

Newspapers and television stories across the nation documented hundreds of cases of innocent citizens wrongfully deprived of their homes, businesses and livelihoods.

Eighty percent of property forfeited to the US during the previous decade was seized from owners who were never even charged with a crime!

Over \$7 billion has been forfeited to the federal government since 1985. Until the advent of FEAR law enforcement officials promoting expanded forfeiture laws comprised the overwhelming majority of lobbyists at hearings on forfeiture litigation. Meanwhile, prosecutors complained that police were less available to investigate crimes that did not involve forfeiture.

Over 200 federal forfeiture laws are attached to non-drug related crimes. Even A false statement on a loan application can trigger forfeiture. Physicians are subject to forfeiture of their entire assets based on a clerical errors in medicare billing. The government even tried to forfeit a farmer's tractor for allegedly running over an endangered rat.

FEAR achieved the first major forfeiture law reform in April, 2000. The **Civil Asset Forfeiture Reform Act of 2000 (CAFRA)** marked a major national victory. The sponsor of the act, Rep. Henry Hyde, thanked FEAR in the April 11, 2000, congressional record “for their long and dedicated work on behalf of forfeiture reform.”

For the first time since civil asset forfeiture laws were passed, under CAFRA the government:

- **must prove its case;**
- **is liable for damages to seized property;**
- **must return property to owners pending trial when possession would cause substantial hardship;**
- **may no longer require an owner to pay 10% cost bond just to contest the forfeiture in court;**
- **can no longer forfeit property from owners who prove their innocence;**
- **must appoint counsel to some indigent claimants.**

Further reforms are still needed at both federal and state levels. Though an important start, the reforms contained in CAFRA are far from complete. Most owners of seized property still lack the financial resources to even bring their cases to court. One of the final hour amendments to CAFRA won by the Dept. of Justice allows appointed counsel *only* for those indigent property owners who face related criminal charges. Owners of seized savings, vehicles or personal property who are never charged with a federal crime still must prove their own innocence in complex proceedings, where many cases are lost before even coming to trial.

Now we must:

- **Establish the right to trial by jury with assistance of counsel** in all forfeiture cases;
- **Require criminal conviction** of the owner before property may be forfeited;
- **Limit excessive forfeitures** for minor crimes;
- **Eliminate the fiscal incentives that corrupt law enforcement priorities**, by requiring all forfeiture proceeds to be deposited into state treasuries for disposition according to state law; and, in addition to other changes; and
- **Reform state laws** that were modeled after the old draconian federal laws.

FEAR provides an organized voice defending property rights in Congress and in state legislatures. Please join us at www.fear.org.