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AN OVERVIEW OF FINANCIAL REVERSALS AND MONEY LAUNDERING
AND THEIR EFFECT ON THE ABILITY OF LAW ENFORCEMENT
TO COMBAT LARGE SCALE NARCOTIC TRAFFICKING

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I. INTRODUCTION

Due to the volume of drug trafficking, there are extensive financial resources available to drug dealers. A great deal of the revenue derived is reinvested to increase sales, and eventually causes problems for law enforcement. In short, drug dealing is big business, and business is intended to make profit.

The growth of this business is well documented. Virtually all large-denomination U.S. Currency bills have passed through hands that handle drugs, ("Pricy Vice", Riverside Press-Enterprise March 3, 1986). Money laundering in Eastern Europe is growing, especially due to the efforts of the Italian Mafia, (U.S. News & World Report June, 1992). Germany is gaining notoriety as the new banking mecca for global narcotics funds, (Reichlin, "Germany's Brash New Import", Business Week, April 6, 1992).

Profit margins are astronomical for drug dealers. For example, dealers have no overhead, no taxes, no insurance or start-up costs that traditionally constrain other American businesses. Since narcotics trading is a clandestine and illegal activity attracting a work force of criminals, addicts, and panderers with no concern for safety standards, equal employment opportunity laws, hiring practices, or pension funds, there are virtually no expenses. They deal exclusively in cash, then launder the cash through legitimate sources, including banks.

The law enforcement response to their illegal activity is best done by the cooperative efforts of varied law enforcement agencies. These agencies combine their manpower resources, technical equipment and other high tech devices to infiltrate and damage the narcotics "business". These multi-agency task forces are effective but they are also expensive. As the cost of doing business increases for law enforcement, coupled with a decline in the local, state and national budgets, it becomes increasingly critical to use every dollar effectively. Further as traditional funding sources dry up, law enforcement is challenged to look for alternative support. What better place to obtain funding than from the source of the problem that makes funding necessary in the first place?

As a practical matter it makes sense for law enforcement to use cash and other assets seized from illegal activity to fund enforcement activity. Not only does this damage the narcotics industry, it also provides a resource-strapped government to turn the "fruits" around on the criminal enterprise and fund the fight against it, (Jacobson, "Novel Initiatives for Growing Crisis" U.N. Chronicle, September 1992).

However, heavy opposition to this from numerous fronts exists, the principal opposition coming from the concept of the "Double Jeopardy" law. This concept prohibits an individual from being punished for the same crime more than once. Lawyers for criminals claim that the seizure of assets, even those proven to have been obtained through the illegal enterprise, constitutes double jeopardy, when applied along with criminal prosecution. Other

arguments are presented from an "ethical" or "freedom in America" perspective while some others are based on an interpretation of the United States Constitution.

The judgement that generally, real property can only be seized following an adversarial pre-seizure hearing, (United States v. James Daniel, Good Real Property, 114, A. Ct. 492 1993) is a good example. Nonetheless, financial reversals have been a viable tool for the rigorous enforcement against the narcotics trade. Financial reversals are where a government agent, poses as a seller of narcotics, or other illegal items, in order to obtain money or other valuable items in exchange for the narcotics, stolen property or other illegal items.

The purpose of this paper is to show the size and scope of drug trafficking and why financial reversals should be used as a tool in overcoming this widespread criminal activity.

II. PRACTICAL DEFINITION

"Reversals", "financial reversals", or "flips" as they are often called are defined in the introduction, however, a practical definition is described here to explain more fully how they are implemented.

In the general scenario of a "time of transaction" narcotics reversal, the officer notes such information as the vehicle the suspect is using and who is driving the vehicle. He must establish, and be able to document, that it is the intent of the suspect to purchase the offered narcotics; he must physically

observe the offered article of exchange (usually U.S. Currency).

When a transaction is ready to be made, a case becomes much stronger when the exchange actually occurs before the arrest is made and before the suspect actually tenders money to the officer and takes possession of the illegal item(s). This is better than the suspect being arrested at the conclusion of negotiations. A reversal normally hinges on extensive negotiation between the suspect and the officer. Many times there will be a group of suspects rather than just one.

There are two primary things an investigator can do to help a forfeiture case in this instance: First, the officer can document (either by written report or preferably, video or audio tape) any statements made by the defendant(s) during the negotiations. The more precise the documentation, i.e. date, time, location or exact incriminating statements, the better. Secondly, the officer should note the specific individual responsible for the currency or property being conveyed to the officer, (Lewis, Journal of Criminal Law & Criminology, 82, 1992).

A reversal can become an almost certain successful forfeiture if the officer is able to meet the defendants in a "controlled" location. This could allow for the use of pre-implemented audio and video equipment to record the transaction and a more secure and safe environment for the officers. When agents are comfortable, it tends to make the suspects more at ease with the situation and more likely to cooperate, (U.S. Dept. of Justice, " Drug Trafficking 1992).

The "Buy-Bust" case (when agents have the money and the defendant has the narcotics) is also cited here. This is because these cases usually result in the seizure of additional money and narcotics the suspect has in his possession in addition to the money or property the officer has just conveyed to the suspect.

Such cases often end in the forfeiture of any conveyance the suspect uses in the commission of the offense. Any telephone or other electronic devices the suspect may use to transact such negotiations may also be forfeited.

III. HISTORY

In 1973, Texas adapted the Texas Revised Civil Statutes. Conditions were set which appeared to allow Law Enforcement to deal with not only vehicles used to transport drugs, but also the proceeds of drug transactions and those items of value acquired with tainted money. The Statute, however, proved to be severely limited in its effectiveness. This was because the State had set the "Beyond a Reasonable Doubt" standard, the same necessary to convict a defendant of a crime. The prosecution had to file its cause within ten days of seizure. Assets seized had to be traced and ownership established to determine if they could be seized. Time often ran out before the answers could be found. Additionally, no seizure or forfeiture could be made for a drug delivery if the delivery involved was an offer to sell.

Changes came along that helped forge a statute to be of at

least some help to law enforcement. Of greatest importance were lowering the standard of proof to the "preponderance of the evidence" necessary for civil cases and changing the time limit for filing to thirty days instead of ten. A requirement showing that a vehicle was used to transport for delivery was changed to any use or intended use. This gave rise to the possibility of a forfeiture.

These changes, however, led to vast differences in opinion. Opponents argued that the provision was virtually a legislated license to steal, placing defendants at an unfair advantage in the prosecutorial process. (Drezan, Journal Review June 1992). Although statutes are still confusing and debated among judicial parties, some statutes have nevertheless given some relief to those fighting the illicit narcotics trade, (Lehmann-Haupt, Book of the Times; New York 1993.) For forfeitures pursuant to the Controlled Substances Act (CSA), Racketeer Influenced and Corrupt Organizations (RICO), as well as money laundering statutes, there is an ancillary hearing for third parties to assert their interest in the property. Once the interests of third parties are addressed, the court issues a final forfeiture order. But to clog our federal courts system with long delays which address third parties interests is criticized. Often the third party interest is simply a smoke screen designed to show that the assets in question belong to someone other than the defendant.

Legislation is needed by local, county, and state governments that will preclude these matters from ever reaching the federal

courts. This is based on an extremely simple concept. Criminal forfeiture is an action brought as a part of the criminal prosecution. It is a state issue, rather than a federal issue. It is an in personam (meaning "against the person") action. It requires that the government indict the property used or derived from the crime along with the defendant. This would also be applicable to any conveyance used to import, transport, or store a controlled substance, (Givis, Barron's Law Dictionary, New York 1985).

In Texas, the law limits prosecutors attempting to seize assets to the county in which they have felony jurisdiction. Assets not in their jurisdiction may not be seized. This can be interpreted as "wherein the venue lies" or the county (of prosecutorial jurisdiction) in which the seizure is made. While minor in distinction, this innocuous clause effectively stops a prosecutor from filing a forfeiture petition out of his own county. This has direct bearing on today's drug trafficking climate. We know that narcotics trafficking is notorious for not following jurisdictional lines. A criminal narcotics enterprise may stretch across several counties and two or more countries. As a small example, a dealer buys or sells drugs in Galveston, Texas at 10:00 a.m. and be in Huntsville by Noon, having travelled through three different counties. He may have used or left assets related to his offense in any county.

A broad-based forfeiture statute was needed to strip the criminal element of its proceeds of crime, properties used in

committing the crimes, and properties purchased with criminally-derived money. But after sixteen years of forfeitures, glaring deficiencies became all too apparent. In the fall of 1988, several assistant district attorneys, in consultation with police and sheriff representatives, met at the invitation of the Texas District and County Attorneys Association and the staff of Governor Clements. Initially, all realized that forfeitures aimed at drug assets alone would be self-defeating. Most property crimes and many non-property crimes related back to drug purchases, manufacturing or sale. Most burglaries, robberies and auto theft were finally seen as mere methods of "financing" drug purchases. Numerous proposals were made and ultimately rejected. Vesting local law enforcement with the ability to administratively obtain through forfeiture was too similar to the federal administrative forfeiture.

Some even opposed the "probable cause" standard along with shifting the burden of proof to the defendant. Most of all, they decided the proposed standards smacked of the federal forfeiture and the RICO statute and was too invasive, not to mention potentially abusive.

After much consideration, testimony, and consultation with the Texas Criminal Defense Bar, Chapter 59 of the Texas Code of Criminal Procedure passed in the first-called special session of the 71st Legislature. It became effective October 18, 1989. Relentless drug trafficking trade continued to flourish. Federal courts experienced a 270 percent increase in drug case filings that

year, (Robine, Solicitors Journal 1993).

President Clinton, on December 9, 1994, opened the first summit meeting of the Western Hemisphere nations in nearly three decades. Clinton said that the meeting marked a watershed in both economic and political cooperation. But U.S. officials conceded that the U. S. was unable to get many other nations to agree to take stronger collective action against money laundering, drug trafficking and threats against democratic governments. Throughout the nation and local criminal justice systems the frustrating war on drugs continued. Although law enforcement agencies, including prosecutors, had assumed the most prominent role in battling the epidemic, the judiciary, also became increasingly involved in the struggle, (Leeland, New York Law Journal, Dec. 1994).

The criminal justice system failed to turn the screw on the economic aspects of drug trafficking and money laundering, (Fraudenberg, L. U.S. Dept. of State Dispatch, May 1992).

Failure was in part, due to that most sacred of cows, the United States Constitution. Suggestions by some in legal justice have defined the need to change the statutes on the use of circumstantial evidence. (Thomas M. DeBiagio, University of Richmond Law Review, April 1994).

Research indicates that drug cases in major urban centers increased approximately fifty percent in the early 1980's. Not only are the courts overwhelmed by the increase in raw numbers, but in many ways drug cases have imposed additional burdens on court systems (Weir, B. Economist Journal, July 30, 1994).

This phenomenon may stem from such related factors as "mandatory minimum" sentencing statutes for those possessing even small amounts of narcotics. This statute proved to "win the battle" but "lose the war". The gigantic cartels behind the small users/sellers are the behemoths responsible for the war, (Pelly, J. St. Louis Post Dispatch, October 1993).

Courts all over the United States are looking for answers. Justices reviewed the 9th Circuit ruling in California in 1994. (The Los Angeles Daily Journal, Oct. 3, 1994). Seizure of cash was barred despite traces of drugs detected on the bills according to that same media source, the following month. Santa Clara County began exploring development of a drug court that same year. The year before, there was an attempt by the 7th Circuit Court in Illinois to extend the reach of the forfeiture statute, (Hoffman, Chicago Daily Law Bulletin, 1993).

Lawyers and judges considered taxation as the answer. The difficulty of executing taxation penalties would be beyond the scope of the Internal Revenue Service, or any other administrative taxation body, (Tigue, New York Law Journal, June 1994). A worldwide problem exists. United States Customs officials continue to seize enormous amounts of illegal drugs and related material in port cities such as Houston and Galveston. Moreover, Mexican drug traffickers were apparently involved with the former Mexican deputy attorney general, as he fled Mexico for the United States. Conflicting reports said he and his family entered through Brownsville, Texas, while others reported he flew to Boston.

(Houston Chronicle, Feb. 11, 1995).

To comprehend the enormity of the narcotic trafficking and its relationships to financial aspects, it is necessary to expound on the size and scope, of the issue. Just as circuit courts cast around for answers in the state of California, many other states continued to wade through the quagmire seeking answers too. Finally, it was recognized that a worldwide problem existed.

This did not happen all at once when Texas Commerce Bank discovered accounts belonging to the former Mexican attorney general. Nor did it occur when strong efforts were stepped up in New York and New Jersey to make it more difficult to convict drug dealers or snatch their properties. (Drugs and Crime, Mar, 1994). A study conducted in Washington, D.C., showed 186 probationers who acknowledged a recent history of drug dealing. They were interviewed regarding legitimate and illegitimate activities. They reported median net earnings of \$721 per month from drug sales, \$2,000 per month among the 37% who reported selling drugs on a daily basis. It was easily seen that the small dealer was not the crux of the international economic aspect of drugs. Even the smallest of dealers could make a better living selling drugs than the average worker in the United States.

It is evident by all major news media sources that drug trafficking and the attendant money laundering is widespread throughout the world. We see reports from Canada, Poland, Russia, Columbia, Panama, the Caribbean, and the United States. (Gladstone, U.N.Chronicle, 1994). Federal officials uncovered one of the

biggest drug-money laundering operations ever discovered in New York City, (The New York Times, Nov. 20, 1994) Altogether, the authorities said, thirty people worked in the operation, in which more than \$100 million was shipped from New York, Miami, Houston, Los Angeles and other cities to the world headquarters of the cocaine business in Cali, Columbia.

Federal authorities said on December 16, 1994 too, that a fake bank they created on the Caribbean island of Anguilla had crippled major money-laundering schemes used by the Cali drug cartel of Colombia and organized crime groups in Italy. The bank was the first financial institution ever created and operated by federal agencies in a criminal investigation. The DEA began the two-year investigation, which ultimately involved the IRS, the FBI and other federal law enforcement agencies. (Cleary, The New York Times, Dec. 1994). Recent evidence suggests that the long-held speculation of an alliance between Italy's organized crime families and Colombia's cocaine cartels might well be real, presenting evidence that they had uncovered a giant money-laundering case to the federal courts. The American Express Bank International, a banking arm of the American Express Company, on November 21, 1994, paid \$32 million in settlement of a federal money-laundering case that involved Mexico's largest drug cartel; known as the Gulf cartel or the Juan Garcia Abrego gang. The company admitted no intentional wrongdoing but said it nevertheless acknowledged that it was legally responsible for its employees' actions. Prosecutors said it was the largest civil penalty ever assessed

against an American financial institution for money laundering.

Nations are beginning to unite in this criminal activity involving drugs and money laundering. A United Nations conference on crime began in Naples, Italy on November 21, 1994, attended by government ministers and crime fighters from 138 countries. The three-day gathering was aimed at forging a united front against the increasingly widespread menace of international, organized crime. In raids by police in Montreal, Quebec City, Vancouver and Trois-Rivieres, Canada in one week uncovered what police believe to be the biggest drug-related money-laundering racket in Canadian history. Counterfeiting in Russia is now taking place. The better forgeries come from Chechnya, Russia, where one counterfeiting gang carried out the biggest bank fraud in Russian history. Up to one-fifth of the country's dollar bills may be fake, authorities said, (Gladstone, U.N. Chronicle, 1994).

The United Nations Commission on Narcotic Drugs recommended a study of proposed "debt for drug" swaps to encourage alternative development in producer countries. The efforts of the United Nations International Drug Control Program discussed what action to take but to date there is still no action, due to the enormity of the situation and current problems existing in Russia. The Federal Bureau of Investigation's Louis J. Freeh announced on July 1, 1994, that the agency planned to open an office in Warsaw, Poland to coordinate efforts to fight the spread of organized crime from the former USSR. Law enforcement officials in the United States say Poland has become a launching pad for Russian gangsters' western

expansion. (Gibbs, Economist, June, 1994).

In summary, is there any doubt that in addressing this issue, we should not call for drastic revisions in world laws that would give entitlement to a new order of justice? Entitlement to law enforcement to "fight fire with fire" is of paramount importance to holding our own in this battle.

Money laundering of drug cartels has become a complex, high-tech business. Law enforcement officials have stepped up scrutiny of the global banking systems in an effort to short-circuit these illicit financial networks. (Bisbee, L., Business Week, May 30, 1994).

Restrictions need to be removed to permit new entitlements to work. The handcuffs must be removed from law enforcement and statutes must go beyond civil prosecution. There is certainly a need to put the hammer down on drug traffickers, money launderers, illegal banks, and organized crime under the criminal code, but to do so without accompanying civil penalties in the form of seizures will accomplish little. As long as they are not hurt in the pocketbook, they will not be significantly hurt. When existing laws do not get the job done, new laws are called for. If this sort of nefarious activity does not then warrant legislation and re-written guidelines, we will win few battles and lose the war.

IV. OBJECTIONS AND ENDORSEMENTS

The bounty from America's war on crime sits in building lots and parking lots, in marinas and airfields and bank vaults around the nation: billions of dollars worth of cars, boats, planes,

jewels, homes and other valuables are seized by state and federal agents from people accused of high-profile crimes, mostly dealing drugs and laundering money, (Vander, The Riverside Press Enterprises, 1994).

To many prosecutors, the laws which allow them to confiscate assets of suspects are both a powerful weapon against drug trafficking, illegal immigration, racketeering and white-collar crimes. It is also a way to raise money for schools, libraries, police departments and prisons. By last year the federal government had an inventory of seized property worth more than \$2 billion, up from \$33 million ten years before, according to a federal study. Billions more have already been sold at auction. By some estimates, the states have collected even more, although no precise figures exist, (Leeland, New York Law Journal, 1994).

Prompted by a tide of complaints about the seizure of cars, homes and businesses from people who have not been convicted of anything (or sometimes not even formally charged), the federal courts, Congress and the Clinton Administration are all considering ways to limit prosecutors' discretion. (Weiner, Washington Post, Jan. 1994).

Civil liberties groups and defense lawyers have long maintained that the existing rules make it too easy for the Government to take assets. Now they have been joined by another powerful lobby: banks and other loan companies, which say they have become victims of the law because often the cars, homes and boats that are seized, were the collateral for loans to the

accused. (Roberts, The New York Times, July 1994).

The High Court weighs in, and with greater frequency, federal judges and former prosecutors have been criticizing the government's seizures as excessive. In the most recent term, the Supreme Court handed the government two defeats in asset-forfeiture cases, and a ruling against the United States in a third case under review. (U.S. Supreme Court, 1993, 1994). In that case, a North Dakota man lost his car repair business and his trailer after selling two grams of cocaine to an undercover agent. The Court now faces the question of whether the Constitution requires that such seizures be proportionate to the crime. Although illegal, one must ask, how does this compare to widespread, world cartels and organized crime?

The Justice Department wanted to seize the home of a woman in Rumson, New Jersey because it was bought with drug money, without giving her a chance to prove that she was an innocent party, (James, McLean's Journal, 1994).

However, the weight of legal tradition, fairness and logic argue that the gift recipient should not be allowed to keep the profits of the donor's crime. For centuries, the law has recognized that someone who innocently receives a gift of stolen or embezzles property has a lesser right to that property than the original rightful owner, (Albanese, Crime in America, Regents, Prentice Hall, 1993).

The victim here is society, which bears the medical, social

and law enforcement burdens of coping with the drug trade. Society should have a property right to drug proceeds that is superior to that of the beneficiary of a drug dealer's largesse. There is a reason to forfeit criminal proceeds received as gifts. Like the rest of us, many criminals ply their trades in part to provide for families and friends. Crime really does pay if drug traffickers (or kidnappers or swindlers for that matter) may benefit by giving their profits to ignorant family members and friends, content in the knowledge that in doing so, the assets are protected from seizure, (Jons, The New York Times, 1993).

Forfeiture funds pay for more police protection, support drug-abuse education and finance programs to revitalize inner cities. This would not be necessary were it not for the business of drug dealing, the source of the money. Law enforcement is not high-handed in seeking to reclaim the profits of drug crime for the society that it victimizes.

In New Jersey during the last Presidential campaign, and after that in Detroit, when asked what he would do about the drug problem, Bill Clinton responded that he would go at it by focusing on drug money. The recognition that it is essential to pursue seriously the incredible profits from this illegal trade has been slow in coming. (NBC-TV News, 1992).

The signing of the North American Free Trade Agreement makes it imperative that President Clinton take a fresh look at this nation's policies to combat the laundering of drug money through bank regulations or other measures. It is equally important that

he lean on our new trade partners to be more energetic in enforcing their own anti-money laundering laws. Although not traded officially on financial markets, illegal drugs constitute one of the most profitable commodities in the world today. It is the leading cash crop in California. (USA, Today, Jan. 1994).

The main source of income for many economies including, Canada (in money-laundering), and Mexico (in drug trafficking) is drug money. All three participants of the trade pact signed the United Nations Anti-Drug Money Laundering Convention of 1988. But each country has a different way of carrying out measures to combat money laundering. Each country is jealously guarding its policies.

For years after the "war on drugs" was begun by the Nixon Administration, law enforcement officials thought it would be possible to control drug use by eradicating poppy fields and cocaine plants. They tried intercepting large shipments and halting street distribution. Obviously, at that time that administration was not aware of the size or complexity of the problem, even as it existed then. Statistics on addiction kept soaring, (Walker, Opium and Foreign Policy, New York, 1991).

Toward the end of the Reagan presidency, new laws were passed in the United States. The sad truth is they have made little difference. Both the debate and the illegal activity continues. It grows enormously as any other business would with profits of the magnitude enjoyed by drug cartels, (Cleary, The New York Times, June 1994).

V. CURRENT STATUS

Futurists predict that the developed world will become a cashless society within the first quarter of the next century. They contend that this will solve the problem of drug trafficking. Unfortunately, criminal organizations of the future will be ready, having more money to grow. Electronic, financial, and legal experts will simply establish new ways of doing business.

As clearly described under the title "Wiseguys" and with a sub-title "Smarter Criminals and Smarter Crime in the 21st Century", author Richter H. Moore, Jr. explains how organized crime has invaded the Information Society, (The Futurist, 1994).

As law enforcement at all levels cruises the information highways, the criminals will cruise not far behind and not near so openly or with nearly as many restrictions. They will continue to use their wealth and their violence targeting the waters where the biggest fish live: the banks.

Compared to the crime ring which operated at Kennedy International Airport in New York, where high-tech airplane guidance systems worth more than \$100,000 each were stolen in 1992, theft in the new century will far exceed anything heretofore seen, (Padgett, Newsweek, June, 1992).

Since illegal financial empires usually include some legitimate business, using all of the technology available to them will be easy. For example, the Colombian drug cartels are thought to have major portfolios that include substantial holdings of stock in many of the Fortune 500 companies. Japan's premier criminal organization, the Yakuza, is believed to have major stock and real

estate holdings around the world, including substantial investments in the United States, most all of the funds being derived from illegal criminal activity. Drug sales being prime among them. The Italian Mafia has long invested in legitimate business enterprises throughout the United States, U.S. Senate HR 6018, April 1994).

By the next century, criminal organizations will be able to track their drug shipments and couriers by satellite, legitimately linked via their legal companies. With satellite communication networks, think about revenues from gambling in professional sports worldwide. Gambling is only one of a myriad of ways they will support their money laundering which is supported by the sale of drugs, (Moore, The Futurist, 1994).

Organized crime, "ecocrime", and crime prevention strategies were among topics discussed at five regional preparatory meetings for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1995. They were discussed, but not solved, nor even close to solved. As technology continues to take quantum leaps, it will benefit both law enforcement and drug traffickers without regard to who is "right" or "wrong". Which will have the better resources, with which to capitalize on its' use? The answer is simple; whoever has the most money and the fewest legal restrictions, (Futurist, Nov. 1994).

To "fight fire with fire" then, laws must change to permit law enforcement the use of assets seized on a broader scale than existing law today. The idea of confiscating property involved in a crime grew out of English common law, very tried and true English

common law, and the first forfeiture law here was enacted by the First Congress in 1789, (Barron's Law Dictionary, New York, 1985).

Often that fact is met with surprise, because forfeiture laws were not widely used until the middle 1980's. The government began stepping up its prosecutions of narcotics and money-laundering violations, when they finally began to recognize the magnitude of the problem, (Drezan, Journal Review, 1992).

More than 100 federal and state laws authorize seizures, with the most prominent ones enacted in the last ten years to combat drug trafficking, racketeering and white-collar crimes. The theory behind most of the laws is the same: society, the victim of the crime, has a right to any property that is the fruit of the crime or was used to commit one.

Rather than showing that a defendant is guilty beyond reasonable doubt, the government in forfeiture cases must show only that it has probable cause to believe that the property was part of a criminal act. This lower standard is the same as the one needed for an arrest or search warrant. Once the property is taken, defendants must often prove their innocence before they can regain their homes, cars or money. But it is now in jeopardy. As criminal drug dealings expand, so will the need for organized crime participants to change legislation to serve themselves, which they can and will do under the guise of their legitimate businesses. No one is so naive as to believe that money does not buy influence, and the more influence, the more the laws will reflect the desires of those who have money.

Two years ago, The Supreme Court ruled unanimously that the Eighth Amendment of the Constitution limits the government's authority to seize the homes, businesses and other property of criminals and suspects and requires that there be some relationship between the gravity of an offense and the property that is seized. This decision was a significant setback for prosecutors. Having only once before even examined the excessive fines clause, the Court turned it into a potentially powerful brake on the government's aggressive use of its authority under drug forfeiture laws, (U.S. Supreme Court, June 28, 1993). Attorney General, Janet Reno, in one of her very first acts, ordered a review of the asset-forfeiture procedures, even though the guidelines had already been tightened only two months earlier. Drug trafficking then and asset forfeiture (financial reversals), does have the attention of the highest office in the land.

Perhaps more serious attention will turn, so to speak, from the \$25,000 in cash in the trunk of the dealer's BMW to the \$5 million that had been deposited in the Miami bank account under the phony (but no doubt legally registered) corporate name and later transferred by wire to the secret numbered account at the Credit Suisse in Zurich, or at Banque Nationale de Paris branch in Panama City. (Congressional Quarterly Weekly Report, Oct. 4, 1993).

VI. CONCLUSION

Drug trafficking, which along with the closely related money-laundering, which is illegal activity, is globalized and crosses all boundaries in a worldwide threat.

Governmental bodies, law enforcement, and legal justice systems the world over are attempting to deal with the problem, which permeates every aspect of the world's society.

Exploring ways to prosecute trans-boundary criminal offenses continue to be addressed as serious issues in United Nations international meetings. (Pettigrew, The New York Times, Nov. 1994).

Going into the 21st Century, and given our highly technical revolution at this time, law enforcement and legal justice officials truly need desperately to be able to compete with the wealth of organized criminal elements affecting the world with the illegal drug activity described here. To do that, they need funding. Funding is not available in the form of budgets given to them by their government today.

Drug trafficking will no longer be viewed as a unilateral criminal activity. It is one that is always tied to money laundering. This means it is also tied to every other known criminal activity perpetuated by gangs of organized crime, from the world's oldest "profession", prostitution, to satellite network intervention in the financial world, and every sort of other activity carried out by the "big money, big crimes" element in society, (Pettigrew, The New York Times, Nov. 1994).

We need to continue to fight drugs and drug money with drug money. To compete with the criminals on an every playing field, we need to continue to fight for the ability to "hit them in the wallet" through legislation. Legislation should allow asset seizure, even if it means going back and forth in Supreme Court and

lower court decisions over arguments using the First, Fourth, Eighth and Fourteenth Amendments in the United States Constitution, (Congressional Quarterly, 1992).

It is too early to tell where financial reversals will go within the context of the legal justice system at this juncture. The law enacted by the Texas State Legislature and sponsored by Billy Clemons, (D-Pollock), and commonly referred to as the "Al Capone Law" (for the Prohibition era gangster who, after successfully avoiding prosecution for years on a number of other crimes from murder to bootlegging, was finally convicted of tax evasion, of all things) is too new, and outside the circles in which it is utilized, (Bibba, "The Capone Story", Chicago Tribune, July 1990).

It is hoped this work will aid authorities in combatting the continued flourishing cocaine, heroin, and marijuana trade manifesting itself along the borders, as well as other points of entry by pointing to global resources and points of reference on the subject. It points up the fact that to get at the bigger fish in the drug trade, we need to infiltrate targeted crime families, or gangs, and the financial institutions that serve them, and deprive them of their assets, (Planke, Houston Chronicle, March 1995).

There is hope in continuing through our legislative and judicial systems, to permit us to use financial reversals to give the same opportunity to law enforcement as it does to the illegal cartels.

The Eighth Amendment is one of the Bill of Rights passed in 1791. Principally, it prohibited cruel and unusual punishment and excessive bails and fines. The ban against cruel and unusual punishment has been applied against a state's imposition of a penalty for the status of being addicted to the use of narcotics. To those victimized by the drug trade (which more or less include all of us) seizures are neither cruel or unusual. It falls short of addressing the prosecution that can take place, under appeals, when a state such as Florida, New Jersey, or Texas attempts to institute tough legislation that can work against the huge and murderous drug cartels.

While perhaps, some authorities, i.e. the Supreme Court or state appeals courts, may believe that dealing a gram of cocaine should not carry as weighty a penalty as one who is bringing in tons of the drug, nonetheless, our vigilance is needed in interpreting this basic right equitably. If one puts a pistol in the face of another and demands money, should the amount of money stolen be a factor in determining the severity of the crime?

Should the drug cartel gain from a basic right in the Constitution, while law enforcement is hampered at every step in wiping out such widespread criminal activity by the same Constitution? That makes no sense. Likewise, the Fourteenth Amendment, as old as the Civil War, entitling citizens to "due process" should not be an iron curtain for the criminal acts being conducted among drug lords.

The Supreme Court has expanded the concepts of equal

protection and due process to any societal function involving state action in order to prevent discrimination against individuals on the grounds of race, sex, religion, or age. Where is the logic in interpreting this amendment, which many hold nearly sacred insomuch as we value personal liberty, to the scourge of drugs that is ruining a nation?

Some feel our Constitution must be changed. Most feel it serves us well as it is written. It is the interpretation by liberal courts that money influence politicians and allow criminals to hide behind it. Criminal possession for which criminal sanctions are provided, is central to the statutory needs to prosecute and eradicate drug dealers and drug cartels. Civil procedure and basic rights serve no purpose within the scope of such proceedings, yet courts continue to mix the two. It is traditional that lawmakers bend over backwards to guard the rights of the individual, but at some point, bending over backwards breaks one's bent over back.

Legal interpretation may take place soon on allowing financial reversals to support law enforcement, for the resulting criminal activity, i.e. money laundering. This will affect the very economic life of a nation.

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