

FEDERAL GOVERNMENT



FORFEITURE¹
LAW GRADE

FORFEITURE LAW

As the numbers below indicate, the federal government has a very aggressive civil forfeiture program. Federal law enforcement forfeits a substantial amount of property for its own use while also teaming up with local and state governments to prosecute forfeiture actions, whereby all of the agencies share in the bounty at the end of the day.

Outrage over abuse of civil forfeiture laws led to the passage of the Civil Asset Forfeiture Reform Act (CAFRA) in 2000. Under these changes, the government now must show by a preponderance of the evidence why the property should be forfeited. The Act also created an innocent owner defense that lets individuals keep their property if they can show either that they did not know that it was being used illegally or that they took reasonable steps to stop it.

But while CAFRA heightened some procedural protections, it failed to address the largest problem in the federal civil forfeiture system: the strong pecuniary interest that federal law enforcement agencies have in the outcome of the forfeiture proceeding. For the past 25 years, federal agencies have been able to keep all of the property that they seize and forfeit. And that has led to explosive growth in the amount of forfeiture activity at the federal level.

U.S. DEPARTMENT of JUSTICE ASSETS FORFEITURE FUND²

	Net Assets in Fund	Deposits to Fund		
		Cash and Cash Equivalents	Property	Total Deposits
FY 2005	\$448,000,000	\$514,900,000	\$80,600,000	\$595,500,000
FY 2006	\$651,100,000	\$1,009,200,000	\$115,700,000	\$1,124,900,000
FY 2007	\$734,200,000	\$1,409,000,000	\$106,700,000	\$1,515,700,000
FY 2008	\$1,000,700,000	\$1,222,600,000	\$63,400,000	\$1,286,000,000
FY 2009	\$1,425,883,000	\$1,376,423,000	\$68,145,000	\$1,444,568,000
FY 2010	\$1,687,400,000	\$1,502,466,000	\$70,864,000	\$1,573,330,000
FY 2011	\$1,760,544,000	\$1,580,584,000	\$157,381,000	\$1,737,965,000
FY 2012	\$1,620,387,000	\$4,194,465,000	\$120,245,000	\$4,314,710,000
FY 2013	\$1,855,767,000	\$1,826,480,000	\$185,769,000	\$2,012,249,000
Total		\$14,636,118,000	\$968,804,000	\$15,604,922,000
Average per Year		\$1,626,235,333	\$107,644,889	\$1,733,880,222

1 Following the grading methodology for states from Marian R. Williams, Ph.D., Jefferson E. Holcomb, Ph.D., Tomislav V. Kovandzic, Ph.D., & Scott G. Bullock, Policing For Profit: The Abuse Of Civil Asset Forfeiture (Institute for Justice, 2010), available at <http://www.ij.org/policingforprofit>.

2 Data retrieved from Assets Forfeiture Fund Annual Financial Statements: <http://www.usdoj.gov/jmd/afp/01programaudit/index.htm>.

U.S. DEPARTMENT of TREASURY FORFEITURE FUND³

	Net Assets in Fund	Deposits to Fund		
		Cash and Cash Equivalents	Property	Total Deposits
FY 2004	\$194,100,000	\$228,905,000	\$42,660,000	\$271,565,000
FY 2005	\$255,300,000	\$209,139,000	\$49,497,000	\$258,636,000
FY 2006	\$236,800,000	\$167,919,000	\$46,732,000	\$214,651,000
FY 2007	\$361,400,000	\$207,956,000	\$52,611,000	\$252,192,000
FY 2008	\$426,800,000	\$412,151,000	\$44,236,000	\$464,762,000
FY 2009	\$594,513,000	\$479,494,000	\$37,242,000	\$516,736,000
FY 2010	\$986,071,000	\$914,227,000	\$45,540,000	\$959,767,000
FY 2011	\$1,452,922,000	\$763,378,000	\$53,776,000	\$817,154,000
FY 2012	\$1,555,895,000	\$344,789,000	\$52,213,000	\$397,002,000
FY 2013	\$2,486,628,000	\$1,560,460,000	\$51,901,000	\$1,612,361,000
Total		\$5,288,418,000	\$476,408,000	\$5,764,826,000
Average per Year		\$528,841,800	\$47,640,800	\$576,482,600

³ Data retrieved from Treasury Forfeiture Fund Annual Accountability Reports: <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Asset-Forfeiture/Pages/annual-reports.aspx>