



Forging a New Legacy

Homeland Security Investigations

Tracing of Assets and Forfeitures

HSI Special Agent Training

ICE Academy

Homeland Security Investigations (HSI)

Terminal Performance Objective

Given case-related facts that indicate illicit assets and an example of a forfeiture proceeding (administrative, civil, or criminal), determine the appropriate seizure/forfeiture procedure and asset tracing method to locate illicit proceeds and assets according to HSI guidelines in the Asset Forfeiture Handbook

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Enabling Performance Objectives

- Explain methods of proving income identify sources of information to locate illicit proceeds and assets Determine the difference between evidence and intelligence gathering Describe terms, utilization of AIRG, and HSI policy/guidelines related to seizures and forfeitures

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Review of the Past

- Financial Investigations lesson introduced the fundamentals of the HSI focus CITP training taught how to use the determining net-worth method of tracing illicit income Legal lessons provided the statutory basis for seizing and forfeiting assets

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Agenda

Explanation

- Methods of proving income
- Sources of information to locate illicit proceeds and assets
- Difference between evidence and for intelligence gathering
- Terms, utilization of AIRG, HSI policy/guidelines on seizures and forfeitures

Demonstration of concepts and methods

Practice of concepts and methods

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Methods of Proving Income

(b)(5); (b)(7)(E)

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Indirectly Tracing Illicit Income

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Indirect Methods of Tracing Illicit Income

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Asset Identification Removal Groups (AIRGs)

Primary mission: support asset removal of real property in concert with major criminal investigations and prosecutions

Expertise to assist agents in:

- Identifying assets with forfeiture potential
- Establishing forfeiture provisions (civil/criminal)
- Establishing probable cause for seizure



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Information: Evidence or Intelligence

Certain information is only suitable as intelligence, not actionable information because of:

- Low or not enough equity ***and/or***
- Insufficient probable cause to seize and forfeit the assets

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Avoiding Pitfalls

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Asset Forfeiture

- Found throughout federal criminal code
Asset Forfeiture has become one of the most powerful and important tools used against all manner of criminal organizations
Used to abate nuisances and to take the instrumentalities of crime out of circulation
Takes profit out of crime and returns property to victims
Both deterrent and punishment
Sometimes prosecution and incarceration not needed to achieve the ends of justice

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Forfeiture

Divestiture of illicit assets without compensation of property – used in a manner contrary to sovereign's laws

Illegal use alone does not grant government automatic right to seize and forfeit

Requires specific authorization by statute

Requires express statutory authority before proceeding against property

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Tools/Job Aids for Forfeiture

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Forfeiture Terms and Definitions

- Equitable Sharing
- Encumbrance
- Facilitation
- Final Order of Forfeiture
- Interlocutory Sale
- Lien
- Lis Pendens
- Net Equity
- Payment in Lieu of Forfeiture
- Post- and-Walk
- Preliminary Order of Forfeiture

Forfeiture Terms and Definitions	
Equitable Sharing	Division and transfer of forfeited property, or proceeds from forfeited property, between government agencies, based on each agency's contributions to and participation in an investigation.
Encumbrance	Anything that affects or limits the title of a property, e.g., liens, mortgages, easements, leases, or restrictions.
Facilitation	Use of an asset in the commission of a crime or in furtherance of criminal or otherwise proscribed activity.
Final Order of Forfeiture	An order entered by the court in a criminal forfeiture proceeding, following the preliminary order of forfeiture and any ancillary proceedings, authorizing the Government to take ownership and dispose of a property. The final order takes into account any third-party rights, as well as the defendant's interest in the property - known in some judicial districts as an "amended order of forfeiture."
Interlocutory Sale	The court-ordered sale of an asset prior to a final order or judgment of forfeiture. A court may authorize such an action in cases where loss of market value or physical deterioration of an asset has occurred or is imminent.
Lien	A legal claim against an asset, which is used to secure a loan and must be repaid if the asset is sold.
<i>Lis Pendens</i>	Latin for "suit pending." A written notification, filed with a county recorder's office, indicating that a forfeiture action against the property is pending on behalf of the Government. The notice minimizes the potential for the transfer of ownership by alerting potential buyers or lenders that the title of the property is in question and any purchase of the property may result in the new owner being bound by the court decision.
Net Equity	The market value of an owner's unencumbered interest in an asset, i.e., the difference between the fair market value of an asset and the outstanding balance of liens against that asset.
Payment in Lieu of Forfeiture	A defendant's voluntary substitution of a monetary payment in place of the forfeiture of a particular asset.
Post- and-Walk	Process of delivering a warrant of arrest <i>in rem</i> to the owner of a real property and affixing a copy of the warrant to the property itself. Undertaken as part of a civil forfeiture action following the filing of a civil complaint for forfeiture.
Preliminary Order of Forfeiture	In criminal forfeiture proceedings, an order of the court, issued after the defendant is found guilty by a jury or enters a plea of

See Definitions in Student Guide



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Forfeiture Terms and Definitions (cont'd)

- Payment in Lieu of Forfeiture
- Post- and-Walk Preliminary Order of Forfeiture
- Pre-Seizure Analysis
- Proceeds Seizure Threshold
- Turnover Order

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See Definitions in Student Guide



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Asset Identification and Removal Group (AIRG)

- Expertise in identifying and tracking illegally acquired assets in all HSI categories
Identifies assets and investments illegally acquired
Establishes probable cause to seize and forfeit property used and/or acquired from criminal activity
Identifies, analyzes, traces, seizes, and forfeits criminal proceeds deposited into financial institutions
Dismantles known criminal organizations by targeting financial infrastructure and seeking criminal, civil, or administrative actions to accomplish

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AIRG (cont'd)

- Develops sources of information that can provide leads and intelligence on criminal groups and how they try to legitimize their wealth Collects and assesses intelligence on:

(b)(5); (b)(7)(E)

(b)(5); (b)(7)(E)

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AIRG (cont'd)

- AIRG help is requested as a COLLATERAL REQUEST to the AIRG Group via (b)(7)(E) does not run a parallel investigation

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Collaboration on Search Warrants

(b)(5); (b)(7)(E)

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During Execution of Warrant

(b)(5); (b)(7)(E)

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General Guidelines

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General Guidelines (cont'd)

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Evaluation of a Property

Determining whether to take a real property requires information from various sources

Factors to be considered:

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Pre-seizure Planning

Anticipate and make decisions about:

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Coordinate with local Seized Property Specialist

Coordinate with FP&F paralegal specialist early in investigation in which multiple seizures anticipated

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What is Being Seized

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What is Being Seized (cont'd)

(b)(5); (b)(7)(E)

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Net Equity and Seizure Thresholds

(b)(5); (b)(7)(E)

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Treasury Executive Office of Asset Forfeiture

- TEOAF administers Treasury Forfeiture Fund (TFF) TFF is the receipt account for deposit of non-tax forfeitures made by: Criminal Investigation Division, Internal Revenue Service ICE CBP U.S. Secret Service U.S. Coast Guard

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Demonstration

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)

Demonstration Scenario in Student Guide

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Student Practice

(b)(5); (b)(6); (b)(7)(C); (b)(7)(E)

Student Practice Scenario in Student Guide



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Summary

- Seizures and forfeitures aims to undermine the economic infrastructure of a criminal enterprise
Asset forfeiture can remove the tools, equipment, cash flow, profit, and, sometimes, the product itself
Three indirect methods can trace illicit income (b)(7)(E)
(b)(7)(E) can provide indications of worth
Collaborate with AIRG, AUSA, CFAs, FP&F in planning seizure
Ensure affidavit covers (b)(7)(E)





Protecting the Borders Against Illicit Trade, Travel, and Finance