

Forfeiture and Rico

Name

Institution Affiliation

## Introduction

The American government enacted forfeiture laws to eliminate profits earned from illegal business enterprises; that is, Racketeer Influenced and Corrupt Organizations Act (RICO) enacted in the year 1970 (Goldsmith M & Linderman M, 1989). Enacted laws like the Federal narcotics laws comprised of civil and criminal forfeiture. According to Goldsmith, civil forfeiture deals with property's illegal enterprises while criminal forfeiture deals with defendants in a criminal prosecution for acquiring property illegally or properties of forfeiture. Therefore, forfeiture laws create issues and controversies in America.

## Discussion

Equitable Sharing program was suspended due to the financial crisis caused by reduction in Asset Forfeiture Program funding according to Hardy and Roy (2017). According to Hardy and Roy, "it allows state and local law enforcement to funnel state and local forfeiture proceeds through the federal program, and then receive up to 80% of those proceeds through the federal program." Additionally, this program constraints forfeiture from funding more developments in America like schools, roads and other structures since it argued that the program establishes a profitable spot for local police agencies who acquire mass properties of individuals without conviction.

The American Congress modified RICO Act to allow the local police agencies to enhance asset seizure without conviction instead "the criminals continued to get rich while the

police struggled to build cases against them" according to Calton C (2019). The Department of Justice urged the local police agencies of RICO Act power use to eradicate drug wars but they were reluctant of it since the policy gave them the power to loot mass properties from individuals. Basically, the RICO Act has the power to render criminal forfeitures unprofitable.

According to Calton C, the local agencies abused this policy by seizing extreme properties proportions yet the conviction imposed is less. According to Calton C, he claims that "the court is asserting that asset forfeiture constitutes a fine, and the Eighth Amendment which protects citizens from excessive fines applies to both state and local governments" (2019). Basically, it's controversial that the local government is going against the constitutional rights of convicted citizens and seizes a mass property compared to the convicted crime and heavy fine posted. Additionally, the Department of Justice has the power to return properties to victims rendered innocent except extra charges incurred in resolving the matter.

Basically, I stand for equity and fair conviction since the RICO Act was established to eradicate possession of illegal properties and money laundering. The local government is misusing the policy to discriminate the convicted and wrongfully convict legal owners and seize their assets. Civil forfeiture is a powerful approach to eradicate drugs enterprises and political corruption except it violates the Eighth Amendment law; that is, the fundamental rights of innocence conviction. Additionally, these cases inflicted on convicted can take longer time to build evidence that certifies their conviction and wrongfully acquired property returned to the legit owner.

### Conclusion

The forfeit property must be connected to crimes to avoid wrongful convictions and the federal law is responsible for the forfeiture of overall asset. RICO Act was enacted by the American Congress to eradicate criminal forfeiture by the local government instead they abused the policy which led to the emergence of American forfeitures issues. Additionally, the policy violates the Eighth Amendment law since innocent individuals are also convicted and their fundamental rights deprived. Finally, the RICO Act hold constraints of profitable illegal enterprises regardless of imposing heavy fines on the convicted which is against the constitutional law.

### Reference

Goldsmith, M & Linderman, M. (1989). Assets Forfeiture and Third Party Rights: *The Need for Further Law Reform*

Hardy, P & Roy, P. (2017, Feb 5). The 2016 Year in Review: *Forfeiture*.

Calton, C. (2019, Feb 27<sup>th</sup>). *A History of Asset Forfeiture*