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**To: San Francisco Human Rights Commission**

**25 Van Ness Ave #800, San Francisco, CA, 94102**

**CC: ACLU of San Diego & Imperial Counties**

**Subject: Affidavit of fact/findings and memorandum of Law concerning SB443:  
Elimination of Civil Asset Forfeiture**

**Introduction and Brief: (8/15/2016)**

Greetings team, my name is Randy Stroud-Sagara, an analyst and policy advocate acting on behalf of the human rights organization "Nalini-Global", speaking for the residents in California and Tennessee. I am saddened to hear that the ACLU backed bill SB-443 did not pass into legal effect. Alas, I do not believe that this should be our final effort in getting this piece of legislation reheard on the house floor. Thus, I will provide my analysis of the situation to your offices for future research purposes.

As you may already know, it is well documented that the United States boasts the world's largest prison population, more than Russia and China combined. In the USA, of those incarcerated, more than half (55%) of prisoners are serving time for a banal drug offense (primarily marijuana), and 13% for a violent offense, whereas nearly three-fourths (72.1%) of the total prison population are non-violent offenders with no history of violence. *\*see sentencingproject.org for the latest statistics*

In my native city of Nashville, Tn, on any given day, first floor dockets of the JJ Birch Building Justice Center, hears hundreds of criminal misdemeanor cases involving defendants facing jail time for drivers license related charges and other minor infractions. In the bulk of these cases, we

see the poor, recently divorced, immigrants or people of color who are merely victims of being unable to afford the fines for simple traffic violations such as "driving without a seatbelt", whereas the unpaid fine results in a suspension of the license, carrying criminal charges with it, and higher fines, which ultimately and arbitrarily inflates the local jail population with non-violent patrons who are then unnecessarily "hardened" and abused by a seemingly "for-profit" justice system.

In these cases of jailable and non-jailable infractions, it is not uncommon to hear from defendants, even when such cases are dismissed, to never again see their seized possessions or to only receive a portion back. In fact, years ago, I personally had a close friend who was pulled over for a traffic violation after completing a construction assignment, whereas law enforcement officers ended up confiscating an envelop containing approximately \$900 (his payment from the completed job) after an officer proclaimed that it appeared "suspicious". The money was never seen or heard from again without any bill of particulars or receipt of exchange.

Law enforcement agencies across the nation argue that civil asset forfeiture is one of their greatest tools in punishing those who distribute illegal substances or who engage in other forms of "illegal" commerce. However, my memorandum will seek to challenge such hypocritical claims.

If incidents such as these are becoming common place in small to mid-sized cities like Nashville,Tn, then one can only imagine the amount of unlawful profiteering that has occurred in larger cities like Los Angeles, SanFrancisco, and San Jose.

Below, I will outline in my memorandum stating the criminality and unconstitutionality of such forfeiture practices exercised by LEO's, not only on behalf of the residents of California, but for all of those living within the federal lines drawn by the United States of America and their claimed jurisdictions. Pursuant to 28 U.S. Code SS1331, any ACLU office located within the United States may address this issue congruent with a ripe case involving unconstitutional seizures, in the proper federal venues with the hopes of creating a precedent in the United States Supreme court, if proper legislation cannot be ratified to reiterate what has already been shown to us via natural law and the bill of rights.

Much obliged,

**Randell Stroud,**

*Policy Advocate*

## **MEMORANDUM AND AFFIDAVIT OF FACT & FINDING:**

### **I. - CLAIM OF PROPERTY- Robbery or Seizure?**

California LEO's claim that civil asset forfeiture deters narcotics distribution because drug dealers rely upon physical currency in their transactions, citing their justification from **CA Code (Health & Safety Code- Sec: 11469-11495)**. However, we must ask a fundamental question, does the act of carrying large sums of cash or any sum of cash constitute as a criminal act? The answer is unknowable, since we have no way of knowing what the cash will be used for when it is found on any given person. With as little as \$10, illegal substances can be purchased. Should we then assume that any person possessing cash is automatically using that cash for criminal activities?

#### **A: 4th amendment, right to personal property:**

1. Whereas there is no named victim (injured party) or reported conversion/damage of property, then it is reasonable to assume that a person who claims a possession, whether it be physical cash or another material object, whereas there is no objections to his ownership of such properties, must remain unmolested by anyone under the doctrine of "**Natural Law**"- (see **Blacks Law dictionary, all editions**)
2. The 4th amendment states; "...right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall be issued, but **upon probable cause** supported by oath or affirmation..."
3. The possession of physical currency, rather it be small or great, does not automatically give probable cause for an officer to seize property without following the procedures of the "**plain-view-doctrine**" of criminal behavior or without having probable cause/reasonable suspicion of a congruent reported crime matching items found on a suspect during a "terry stop".

#### **B. Theft, Racketeering, and Conspiracy against rights:**

1. It is unlawful for any human to convert the property of another, against his will, for the benefit of himself or the organization that he works for pursuant to **Title 18, Chapter 18, part 1, sec.654**- Officers and government officials who seize property, whether such property be of lawful or unlawful capacities, and benefit from such seizure, automatically creates an underlying bias and unlawful modus operandi.

2. It is unlawful for any individual or organization to monopolize a sector of business with the use of violence, intimidation, or duress. When one person, human or corporate, is legally allowed to profit from such behavior while another is not, then this creates an unfair and immoral precedent, especially when the accuser indirectly benefits from the actions of the accused. **See Title 18, part 1, chapter 96, Sec.1962, (a)(b)(c)(d)- Racketeering and prohibited acts.**

3. Knowingly benefiting from the criminal behavior of others while maintaining an allure of innocence is a conspiracy within itself. For a group of two or more humans, within the United States to conspire to injure, convert property, to deprive supposed constitutional rights, or to benefit from the criminal behavior of another human or group of humans is unlawful pursuant to **Title 18, part 1, chapter 13, sec.241- Conspiracy against Rights.**

### **III. Arguments for Public Safety**

#### **1. Deterrence of Drug dealing.**

A. The chief argument from law enforcement being that Civil Asset Forfeiture deters drug dealers from operating since they primarily rely on physical cash to complete their transactions.

#### **2. Conflicts of Interest:**

A. LEO's claim that such seizures deter drug dealers, yet, without such drug dealers who have their large sums of cash being seized by law enforcement, policing departments would arguably lose a significant source of income, although law enforcement groups claim that doing away with Civil asset forfeiture would hurt their ability to partner up with federal agencies. (*See LA TIMES story- "Bill that would rein in asset seizures by police advances in the assembly- July 14th 2015)*

Why are officers who are sworn to uphold the constitution and bill of rights arguing for and not against benefiting from criminal behavior, whether it be indirect or direct in nature?

B. According to the "**Institute of Justice**", the state of California received a "D" grade, in its grading for civil asset forfeiture protocols as compared to other states. According to the report published last year, law enforcement departments keep 65% of all assets seized during such operations. In this same report, it was discovered under the Freedom of Information Act, that from the years between 2002-2008, the state of California seized on average \$24,748,038.29 per year from Civil Asset Forfeiture.

### **III. Remedy and Recourse**

It is only logical that a bill or a bill similar to SB-443 should be unanimously passed. Laws regulating items recovered from criminal acts whereas a victim or potential injured party are not present, are in serious need of reform.

**Example:** (A large sum of money, illegally obtained, was seized which was to be used to pay for a drug deal, could be appropriated to a third party that is neutral to the government such as a private scholarship fund, returned to the taxpayers in the form of a rebate check or tax-cut, or to destroy the items all together whereas no party benefits so long as justice is served upon those who used the items to commit harmful involuntary acts against other human beings.\*\*In congruent with legalization policies to be discussed at another time for the purpose of reducing arbitrarily inflated prison populations.)

Under no such circumstances, should property be seized, temporarily and especially permanently, when there is no probable cause, conviction, or evidence of an injured party or malicious conduct. In the event that Civil Asset Forfeiture is warranted, the state should never become a beneficiary to the criminal act itself, as it is their number one duty to preserve the rights of humans, not to profit from alleged illegal or obvious unlawful actions whereas there is no logical "*Mens Rea*" (*mental criminal intent*) demonstrated by the suspect/defendant. To do so otherwise would be a violation of natural law, a doctrine that LEO's are bound to protect.

Regardless of any potential remedy that is to be discussed, there is a clear bias and underlying conspiracy when it comes to Civil Asset Forfeiture. The public has expressed strong negative statements against such practices on a national level, even going so far as to nickname these practices "Policing for Profit". A simple Google search of this term will populate hundreds of websites and articles surrounding the subject material at hand.

The people have spoken clearly. It is time to end the practice of Civil Asset Forfeiture and it is time for the House and Senate to rehear SB-443.

Respectfully Submitted,

RD-Stroud

Nalini-Global,

Civil Liberties Policy Advocate/Legal Analyst

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