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## CHAPTER 8

# Predatory Public Finance and the Evolution of the War on Drugs

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Substances that alter perceptions, feelings, behavior, or decision-making (e.g., narcotics, marijuana, alcohol, and tobacco) are widely targeted sources of government revenue (taxes), in part because demand is inelastic over a substantial range, so consumers' total expenditures rise with price increases, and moral/paternalistic arguments can be used to justify revenue-extraction policy. Revenues obviously can be generated through sales or excise taxes on (or licensing fees for) production, distribution, or consumption. This approach is used to generate revenue from tobacco policy and from alcohol policy in non-liquor monopoly US states. However, there are other ways to tax markets for such substances, including some that are not explicitly labeled as taxes. Revenues can be obtained through direct control (monopolization) of distribution in legal markets, thereby hiding the implicit tax in the price (essentially, the rents arising because the quantity supplied is limited, minus any increased production costs as labor or other resources capture part of the rents, serves as an implicit tax for government sales), as several US states do

in alcohol wholesaling, retailing, or both (Benson et al. 2003). Implicit taxes can also be generated through various kinds of regulation that involve fees, fines, or both for violations. Various direct and implicit tax policies are widely used to generate revenues. Executive agencies that collect direct or implicit taxes often do not have authority to retain the revenues they collect. However, they should still pursue collection activities aggressively, since they must compete for a portion of those and other revenues when the latter are allocated by legislatures. This ongoing competition for budgets occurs at all levels of government and often between levels of government.<sup>1</sup> Horizontal and vertical interjurisdiction competition for control of such revenue sources can be intense. Agencies, supported by their political allies (e.g., interest groups and politicians representing those groups) are also motivated to obtain direct control of the tax revenues they collect in order to enhance their budgets without going through the competitive budgetary process. Earmarked taxes are common for highways, for instance, but they can also apply to taxes on the various substances discussed here (e.g., a portion of a tax on tobacco might be earmarked for addiction treatment).

Regulations can be very strict, including full prohibition of production, sales, and consumption, as the alcohol prohibition episode in the United States illustrates. The dominant policy in the United States for narcotics and marijuana over the past century also has been prohibition. This policy may appear to undermine the suggestion that revenue-seeking is a policy determinant. However, understanding the evolution of this policy choice requires recognition of both the attractiveness of these substances as targets for revenue extraction and of the importance of competition among executive bureaucracies/agencies for the control over spending of these and other revenues. Furthermore, while most enforcement agencies dealing with narcotics and marijuana do not have the authority to retain taxes, fees, fines, or other revenues they collect, they have gained such authority for one source of revenue (they still must compete for the attention of those who have budget allocation powers in order to obtain revenues from taxes for substantial portions of their budgets). Prohibition of the production and use of these substances can be a very attractive revenue-seeking policy in the general interbureau competition for budgets, at least for some executive agencies. Since complete prohibition is essentially impossible to achieve, this policy provides a never-ending justification for agency existence (job security) and expanding budgets. Enforcement-related budgets can be pursued by propagating information, both accurate and misleading, about successful enforcement (arrests, seizures), the costs of enforcement, and more importantly, the alleged negative consequences for

individuals and society without prohibition (costs that cannot be measured when prohibition is in place). This predatory public financing is widely practiced by enforcement agencies.

Prohibition drives narcotic and marijuana markets underground, but it does not come close to eliminating these markets. In fact, the resulting illicit markets involve substantial cash flow, large profits, and significant investments in capital (and in some cases, land) used in producing, processing, transporting, and distributing the illegal products. Seizures of cash, land, and capital used in or generated by illegal markets has a long history. Legislators may control such seizures, just as they control monopoly profits, taxes, and licensing fees. If prohibition enforcers can convince legislators to allow them to keep seized assets, however, prohibition becomes even more attractive for the bureaucrats.<sup>2</sup> Congress responded to these demands more than four decades ago. The result is another kind of implicit tax. The ability of enforcement agencies to keep the proceeds from forfeiture means that this source of revenue is much like an earmarked tax, with a key difference being that there is no established tax rate. The recipient bureaucracies effectively dictate the tax rates themselves. We examine the evolution of drug policy in the United States from a predatory revenue-seeking perspective by considering both this earmarked tax (asset seizures) and the interbureaucratic competition for budgets arising from other tax revenues.

## **PUBLIC FINANCE, BUREAUCRATIC INTERESTS, AND FEDERAL DRUG PROHIBITION**

That the primary federal drug-policy enforcement agency in the United States was in the Treasury Department from passage of the Harrison Act in 1914 until 1968 suggests that revenue-seeking significantly influences drug policy. Indeed, the Harrison Act, often seen as the source of federal drug criminalization, was actually a regulatory and tax statute involving “a special tax on all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes” (Harrison Narcotics Tax Act of 1914, Ch. 1, 38 Stat. 785). In essence, this act established very modest “sin taxes” on the sale of narcotics, such as opiates. What apparently became illegal as a result of the act was possessing or selling untaxed narcotics. The bureau in the Treasury Department that was put in charge of enforcement expanded its jurisdiction, however, by interpreting the Harrison Act expansively and policing aggressively.

The Act recognized physicians' right to prescribe narcotics, but they were required to register with the Bureau of Internal Revenue in the Treasury Department, pay taxes, and keep records of dispensed drugs. Doctors largely complied with these regulations, and for several years after its passage, the Harrison Act served as a limited source of taxes and regulatory measures (Reinarman 1983, 21). At the federal level, opiate use began to be criminalized with the bureau's decision to interpret the Act as if it allowed them to pursue criminal charges against physicians who prescribed narcotics to addicts. The Federal Bureau of Narcotics instigated raids on morphine treatment clinics in 1919 (King 1957; Lindesmith 1965; Klein 1983, 32). These raids led to a series of court decisions that reinterpret the Harrison Act and became the pretext for criminalizing drug sales and use (Reinarman 1983, 21). The federal court accepted the bureau's contention that, while the Act allowed physicians to prescribe narcotics for normal medical problems, it did not allow them to do so for treatment of addicts (*Webb v. United States*, 249 U.S. 96, 99 (1919)). King (1957, 122) explains that "the Narcotics Division launched a reign of terror. Doctors were bullied and threatened, and those who were adamant [about treating addicts] went to prison." Drug addicts and doctors or pharmacists selling to them were turned into criminals, the black market for drugs quickly developed, and criminal organizations entered as suppliers. As a result, enforcement became much more costly, demanding an ever-growing bureaucracy and budget to pursue enforcement. The creation of the Narcotics Division in the Bureau of Internal Revenue in 1921 and of a standalone Bureau of Prohibition in 1927, still in Treasury, lends credence to this idea. Table 1 shows the growth of Treasury expenditures and revenues from prohibition enforcement from 1920 to 1932. These figures include both alcohol and narcotics enforcement, since alcohol prohibition under the Eighteenth amendment came into effect in 1920 and its repeal by the twenty-first amendment did not occur until 1933. Expenditures were larger and grew faster than the revenues raised over this entire period. Revenues reflected in table 1 include fines, taxes, and penalties collected from enforcing prohibition, and the expenditures are the outlays from the Treasury to cover the enforcement costs (Holcombe 1996).

As indicated by the figures in table 1, once a bureaucracy is created, incentives arise to ensure its continued existence (make bureaucrats' jobs secure) by expanding its size and scope (Benson 1995). Not surprisingly, Lindesmith (1965, 3) contends that the nation's program for handling the "drug problem" is one "which, to all intents and purposes, was established by the decisions of administrative officials of the Treasury Department." For instance, because

**Table 1.** Treasury Revenues and Expenditures from Enforcement  
(Adjusted for Inflation)

Year	Revenues (\$ millions)	Expenditures (\$ millions)
1920	1.7	3.1
1921	6.9	9.5
1922	6.6	9.9
1923	7.7	12.3
1924	9.9	11.3
1925	8.9	13.9
1926	8.5	14.5
1927	78.0	17.7
1928	93.4	17.5
1929	82.7	18.6
1930	80.9	20.4
1931	62.5	14.5
1932	59.7	16.7

Source: Woody (1934, 101) as cited in Holcombe (1996).

of pressure from the Treasury Department's Bureau of Prohibition, the Marijuana Tax Act was passed in 1937 (Becker 1963; Lindesmith 1965; Oteri and Silvergate 1967; Dickson 1968; Hill 1971; Bonnie and Whitebread 1974). With the end of alcohol prohibition, the bureau needed a new *raison d'être* for continued funding through the budgetary process in 1937, and it faced stiff competition from the FBI for the attention of the public and of Congress (King 1978), so bureaucratic survival was a probable motivation. Self-interest likely played a role, as supported by the fact that the campaign leading to this legislation "included remarkable distortions of the evidence of harm caused by marijuana, ignoring the findings of empirical inquiries" (Richards 1982, 164; for details, see Lindesmith 1965, 25–34, and Kaplan 1970, 88–136). As with its predecessor, the Harrison Act, the Marijuana Tax Act was nominally a revenue-producing act that imposed taxes on physicians who prescribed marijuana, pharmacists who dispensed it, and others who might deal in the drug. The Marijuana Tax Act made nonmedical possession and sale of the drug illegal, however, and all those in the production and distribution chain for medical purposes were required to keep detailed records and pay annual fees. These onerous record-keeping requirements, taxes, and fees effectively ended the legal use of the drug for medical purposes as well.<sup>3</sup>

An excise tax or high regulatory compliance costs (or both), such as those established by the Marijuana Tax Act, may reduce the legal level of the sin being taxed,<sup>4</sup> but it simultaneously induces new kinds of sin that are often

much more costly for society. High sin taxes and compliance costs inevitably lead to crime, as individuals attempt to avoid the taxes and compliance costs by means of black markets, smuggling, and violent forms of competition and contract enforcement that accompany such activities. This occurred with both narcotics and marijuana. However, rather than recognize the source of the crime and eliminate the sin taxes and compliance costs, full-blown criminalization of possession and sale of narcotics and marijuana evolved as bureaucrats who were given the authority to police these markets and collect the taxes propagated the belief that it was the “sin” of drug consumption that produced the crime, rather than the incentives to avoid the taxes imposed on the sin. To establish the incentives and issues that have resulted in developing additional implicit taxes through prohibition, we first discuss this criminalization process and related bureaucratic actions, including interbureau competition.

That the Harrison Act and the Marijuana Tax Act did not generate net revenues through taxes, fees, and fines for Congress to allocate does not mean that revenue-seeking was irrelevant. The Bureau of Prohibition (and other departments and agencies that would attempt to become involved in drug policy) did not have the power to actually retain revenues taken directly from narcotics markets through taxes, fees, and fines (as shown in table 1), but they manipulated policy to justify bureaucratic expansion in order to enforce prohibition. Enforcement has focused on suppression (prohibition) for almost a century, as interbureau competition for jurisdiction and budget has become increasingly intense.

It did not take many years before the Bureau of Prohibition and the Treasury Department faced competition from other federal agencies for jurisdiction over drug policy, but they generally retained substantial control for several more decades. For instance, the Federal Narcotics Control Board, consisting of the secretaries of Treasury, State, and Commerce, was created by the 1922 Narcotic Drugs Import and Export Act to develop regulations prohibiting international narcotics trade. This involvement of two additional cabinet-level departments lasted until 1930, when the new Bureau of Narcotics in Treasury consolidated the Bureau of Prohibition and the Federal Narcotics Control Board. This did not end the interbureau competition for drug-control budgets, however, as illustrated by creation of the Bureau of Drug Abuse Control in the FDA.

Ultimately, in 1968, the Bureau of Narcotics and the Bureau of Drug Abuse Control were also merged to form the Bureau of Narcotics and Dangerous Drugs, but this Bureau was placed in the Department of Justice. Thus, the Justice Department gained primary control from the Treasury. The Drug

Enforcement Administration (DEA) replaced this bureau in 1973 in another effort to consolidate and coordinate federal drug control, as several other departments obtained shares of the drug control budget over the 1968–1973 period. The DEA has grown from 2,775 employees at its inception to more than 11,000 in 2015, and this agency’s budget has grown from \$65 million (\$369 million adjusted for inflation) to \$2.98 billion over the same period ([www.dea.gov](http://www.dea.gov)).

The shift from Treasury (and other agencies) to Justice reflects the interbureau competition for budget and the efforts on the part of Congress to limit such competition. Law enforcement bureaucracies continued to compete with one another for jurisdiction, however, and other bureaucracies continue to develop and advocate policy initiatives in an effort to capture parts of the drug-control budgetary pie. As Reuter (1994, 145) stresses, “The most visible political battle in drug policy in recent years has been over the allocation of the federal drug control budget. Discussions about what priority to assign to different ways of reducing drug problems have begun and ended with how the federal government spends its money on drug control.” Reuter goes on to explain that the estimated federal drug budget in 1993, the year before publication of his article, was \$12.2 billion, but only \$1.81 billion actually went directly to drug control agencies (the DEA, the Organized Crime Drug Enforcement Task Forces, National Institute of Drug Abuse, the Office of National Drug Control Policy, and the State Department’s Bureau of International Narcotics Matters), while the remainder, more than \$10 billion, “was hidden in agency budgets,” including the Veterans Administration (drug treatment for veterans), the Immigration and Naturalization Service (border patrol interdiction, as well as drug-related investigation, detention, and deportation), the Coast Guard (interdiction), the Department of Education (drug use prevention through education and treatment through rehabilitation), and the Health Care Financing Administration (treatment) (Reuter 1994, 148–51). The Department of Education had also proposed a new “Safe and Drug-Free Schools and Community” program with a request of \$660 million in new funding from the 1995 drug control budget (Reuter 1994, 149). This proposal reflects the relatively new emphasis in the debate about the allocation of drug control funding. As Murphy (1994, 2) explains, the debate over the drug budget began shifting in the early 1990s from one focusing on “is the federal government doing enough?” as arguments were made to expand budgets, to “is the federal government doing the right thing?” as various non-law enforcement agencies stressed prevention and treatment rather than enforcement: “The distribution of resources as measured in the federal

drug budget—the supply/demand split—became the metric for the debate.”<sup>5</sup> By fiscal year (FY) 2011–2012, explicitly budgeted spending for federal illicit drug policy (more than \$25 billion) was split among twelve cabinet-level departments (Agriculture, Defense, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veteran’s Affairs), two court systems (Court Services and Offender Supervision Agency of the District of Columbia, Federal Judiciary), the Small Business Administration, and the Office of National Drug Control Policy and Administration. Drug policy activities in cabinet departments also were spread across several agencies, bureaus, administrations, offices, services, programs, centers, divisions, and institutes (Smith 2012).

The competition for budget resources plays out within agencies as well as across them. Bureaucrats must compete for support and attention from sponsors or superiors, because control of resources is necessary for bureaucrats to achieve most of their goals. Competition leads bureaucrats to develop new policies that allow them to expand the scope of their authority, power, jurisdiction, or agency; to obtain promotions; and to pursue similar purposes (Breton and Wintrobe 1982). Actual documentation of such behavior without rhetorical justifications disguising personal objectives is rare, but one is provided by a former DEA agent, Robert Stutmann.

While Stutmann was involved in various entrepreneurial policy changes over his career,<sup>6</sup> his most significant efforts occurred after he became head of the New York DEA office in 1985. This was about the time that crack cocaine first appeared in the city (Johnson 1987): the federal government had increased its efforts to interdict marijuana in 1984, and the resulting reduction in supply led sellers and users to look for an alternative relatively low-priced drug. Crack began to appear in Miami, Los Angeles, and New York sometime in 1985, as sellers adopted technology already in use in the Bahamas. Stutmann saw crack as a new opportunity to attract attention from his superiors and budget-allocation decision makers. He immediately began changing his office’s priorities to focus on crack and set the stage for a “fullblown media campaign” (Stutmann and Esposito 1992, 148) along with a “lobbying effort” to quickly make crack a “national issue” (Stutmann and Esposito 1992, 217). The first article on crack appeared in the *New York Times* on November 29, 1985. DEA headquarters did not think that crack was important enough to warrant more attention, however, so Stutmann and his assistant developed a plan that would simultaneously generate crack arrests and attract attention in Washington. They targeted the Washington Heights area of New York, in part because it was located at the end of the George Washington Bridge, a favorite route for



drug buyers from New Jersey and Westchester County, buyers who were predominantly middle-class suburbanites and their children. The plan was to seize their cars (see discussion of asset seizures below), essentially imposing an implicit tax on this specific population.

Before the campaign started, a bulletin was issued to other law enforcement officials and the press on May 26, 1986, asserting, among other things, that crack has a “very high addictive potential and that it causes medical and psychological problems” leading to random acts of violence. In June, Stutmann gave DEA administrator Jack Lawn a full-blown presentation focusing on claims that: (1) the overwhelming majority of crack users were middle-income working people and their high-school- or college-student children and (2) that crack was a significant new cause of crime, because the ghetto dwellers who also used it had to steal to buy it while sellers also protected their turf with violence. In this context, Stutmann suggests,

the timing was perfect, although University of Maryland basketball star Len Bias might not have seen it that way. On June 19, the day Lawn arrived, we got the call that Bias had died. . . . The drug death of a young athlete . . . capped the groundwork that had been carefully laid through press accounts and [Stutmann’s] public appearances. . . . From [Stutmann’s] perspective, Len Bias had not died in vain. (Stutmann and Esposito 1992, 219)

Lawn asked Stutmann to hold off on the plan’s implementation while he lobbied for a \$10 million budget enhancement to expand the DEA by creating a new twenty-four agent crack task force. His requested budget increase was denied, so Lawn told Stutmann to implement the plan. On August 14, 1986, the DEA and the New York Police Department announced initiation of an anticrack campaign and seized forty-seven cars. By that time, Stutmann’s media campaign had already put the issue before the public. He had a 199-page bound volume of New York and New Jersey news articles reporting that crack was causing a rise in cocaine deaths, along with rising murder rates and virtually all other crime rates (national media also began reporting on the issue beginning with *Newsweek* in June). Before the campaign ended, more than 1,000 cars were seized.

The crack-cocaine scare is like many other scares that came before it and that have occurred since. Innovations in the illicit drug market inevitably follow successful campaigns by law enforcement, offsetting and often completely

negating the campaign's consequences (Rasmussen and Benson 1994, 76–92). The market innovations in turn provide bureaucratic entrepreneurs with new opportunities to pursue new policies in an effort to justify expansions of their budgets and jurisdictions. The increased interdiction of marijuana in 1984–1985 actually led to crack's introduction (as well as dramatic increases in domestic production), for instance, and that offered Stutmann the entrepreneurial opportunity to create the “crack crisis.” In fact, as Zimring and Hawkins (1992, 50–51) explain, when a new drug variant is introduced, it is portrayed by drug enforcement officials as a major new policy problem because of the unique chemical, physiological, or psychological characteristics of the new drug. This argument has been applied over and over again, to opium, heroin, marijuana, LSD, cocaine, crack-cocaine, amphetamines, various prescription drugs that are used for recreational purposes, and so on. Evidence of this process is demonstrated by the recent episode involving synthetic drugs, sometimes referred to as “bath salts.” In May 2012, Rudy Eugene was shot and killed after he attacked and bit off part of the face of another man. An ABC News media report stated that police indicated that Eugene “showed behavior consistent with ingesting the synthetic cocaine substance known as bath salts” (ABC News 2012). Days after the incident, CNN (2012) linked the crime to trending “Zombie apocalypse” rumors. Less than 2 months after the attack and amid nationwide hysteria over the event, on July 10, 2012, President Obama signed a law that banned these synthetic drugs at the federal level, and subsequently on July 26, the DEA arrested ninety people in a nationwide bust of these synthetic drugs and seized 5 million packets of the drugs. In an interesting twist, when Eugene's toxicology reports came back, they indicated that he was not under the influence of bath salts or “any other exotic street drug” at the time of the incident (CBS Miami 2012).<sup>7</sup>

Each new drug or drug variant is declared to be “the greatest drug menace” that has ever been introduced. Zimring and Hawkins (1992, 51) note that this occurs because “allegations of a drug's uniqueness can be used as a rhetorical device to shield proponents of a prohibitory policy from counterarguments based on the history of earlier efforts at the state regulation of other substances or of the same substance in different forms or settings.” Drugs do vary in their chemical, physiological, and psychological properties, of course, and all drugs can and do have negative consequences on some users, but when such a drug is first introduced, it provides entrepreneurial bureaucrats with an opportunity to heighten the perceived need for a strong prohibition effort by exaggerating the negative effects of the drug before any evidence is available to counter those

exaggerations, and even to make up some effects that are ultimately refuted by scientific evidence. For the entrepreneurial bureaucrat, uniqueness “represents the end point of the analysis. . . . [It] entails a corresponding distinctiveness in the social and law enforcement problems it generates, which make irrelevant any reference to past experience with any other drug” (Zimring and Hawkins 1992, 51). Not surprisingly, many early and often repeated claims about crack have since been disproven (Rasmussen and Benson 1994, 145–46).

### **THE DEVELOPMENT AND CONSEQUENCES OF EARMARKED SIN TAXES FOR PROHIBITION-ENFORCEMENT BUREAUCRACIES**

Bureaucratic revenue-seeking can involve more than just competition for budgets allocated by legislatures. If a policy can be successfully justified that allows bureaucrats to retain sin taxes they collect by earmarking them for use by the agency, agency personnel clearly have incentives to pursue the innovation. In this context, one of the most dramatic escalations in the war on drugs in the United States presumably was initiated by President Reagan in October 1982 (Wisotsky 1991). Federal agencies responded to Reagan’s declaration, but such an offensive in the United States had to be waged by state and local “troops,” and state and local law enforcement agencies generally did not begin to increase their relative efforts against drugs in a dramatic fashion before late 1984, when a substantial reallocation of state and local criminal justice system resources to drug enforcement began. In fact, although drug arrests relative to arrests for reported crimes against persons and property (Part I offenses of murder, manslaughter, sexual assault, assault, robbery, burglary, larceny, and auto theft) remained relatively constant at one to four from 1970 to 1984, the relative effort against drugs increased by roughly 45 percent over the next 5 years. By 1989, criminal justice resources were being allocated to make only about 2.2 Part I arrests for each drug arrest.<sup>8</sup> Drug arrests as a percentage of total arrests (Part I and Part 2, which includes drug arrests) show similar trends, rising from 5.17 percent in 1981 to a temporary peak of 9.56 percent in 1989 (see table 2). The number of drug arrests and drug arrests as a percentage of total arrests has trended upward since 1981 (modest increases occurred after Reagan’s speech, and then sharper increases began after 1984 for reasons explained below), with only a few brief periods of reversal (see table 2).<sup>9</sup> Law enforcement groups are the source of demands for the legislation, creating incentives for the significant reallocation of policing resources suggested by table 2.

**Table 2.** Estimated US Drug Arrests, 1980–2013

Year	Estimated Total Drug Arrests	Estimated Drug Arrests as a Percentage of Estimated Total Arrests	Year	Estimated Total Drug Arrests	Estimated Drug Arrests as a Percentage of Estimated Total Arrests
1980	580,900	5.56	1997	1,586,900	10.36
1981	559,900	5.17	1998	1,559,100	10.73
1982	676,000	5.47	1999	1,532,200	10.67
1983	661,400	5.67	2000	1,579,600	11.30
1984	708,400	6.13	2001	1,586,900	11.56
1985	811,400	6.79	2002	1,538,800	11.20
1986	824,100	6.60	2003	1,678,200	12.30
1987	937,400	7.37	2004	1,745,700	12.52
1988	1,155,200	8.36	2005	1,846,400	13.10
1989	1,361,700	9.56	2006	1,889,800	13.14
1990	1,089,500	7.60	2007	1,841,200	12.96
1991	1,101,000	7.11	2008	1,702,500	12.16
1992	1,066,400	7.57	2009	1,663,600	12.15
1993	1,126,300	8.02	2010	1,538,800	12.49
1994	1,351,400	9.23	2011	1,531,300	12.34
1995	1,476,100	9.76	2012	1,552,400	12.74
1996	1,506,200	9.93	2013	1,501,000	13.28

Source: Table 4.45.2006 from the Sourcebook of Criminal Justice Statistics Online, <http://www.albany.edu/sourcebook/pdf/t4452010.pdf>.

### **Earmarking the Proceeds from the Implicit Tax and Resulting Police Behavior**

Government seizure of property used in criminal activity has a very long history. It was one stimulus for the King's involvement in law enforcement as early as the ninth century (Benson 1990) and was first used in the United States to combat smugglers avoiding import duties in the early nineteenth century. The justification generally is that the risk of paying the resulting implicit tax on criminal activity is a deterrent, a form of punishment, and a means of imposing at least part of the cost of crime control on criminals (see discussion below)—essentially, a sin tax. Policing agencies are now pursuing property seizures in drug prohibition efforts, and seizures have increased dramatically since 1984. Federal forfeitures (seizures) alone reached \$285 million in 1989, fluctuated between \$281 million and \$597 million from 1990 to 2005, jumped to more than \$841 million in 2006, and continued this expansion to more than \$1.78 billion in 2010.<sup>10</sup> After adjusting for inflation, this represents a more than 800 percent increase in the dollar amount of federal seizures from 1983 to 2010. Combined federal assets seized from 1989 to 2010 total well over \$12.5 billion.<sup>11</sup>

Seizures continue to be common, some of which are very large. For instance, in a 2013 episode of civil seizure based on drug-crime accusations, the FBI seized substantial monetary assets from Ross Ulbricht. Ulbricht was accused of creating and running the online anonymous Internet marketplace called the “Silk Road” under the pseudonym “Dread Pirate Roberts.” This marketplace allowed buyers and sellers to transact anonymously using Bitcoin currency. The marketplace was often used by sellers and consumers of illegal drugs. Prior to conviction, the federal government seized more than 700,000 bitcoins from Ulbricht. On May 29, 2015, these bitcoins had an estimated value of \$166,124,000 (Paul 2015b). Ulbricht was eventually convicted of seven charges relating to his oversight of the illegal drug marketplace,<sup>12</sup> sentenced to life in prison, and fined \$183,961,921<sup>13</sup> (Paul 2015a), most of which was to be paid for by the seized bitcoins.<sup>14</sup> Note, however, that this criminal conviction is not necessarily the norm when assets are seized. As explained below, under so-called civil seizures, assets can be seized without arresting or charging the assets’ owners.

Importantly (and in part encouraged and assisted by federal agencies), state and local law enforcement have also increased asset seizure activities since 1984. State asset seizure laws vary considerably, and they varied even more in 1984 than they do now. Many states did not allow state and local police to keep seized assets, for instance, and the standard of proof required for successful seizures also varied.<sup>15</sup> As a consequence, a key piece of federal legislation affecting the incentives of state and local police was a section of the Comprehensive Crime Act of 1984. It required “equitable sharing” by the Justice Department, as shares of federal drug-related property seizures are to be given to the state and local agencies participating in the investigations. In other words, state and local law enforcement agencies were given an opportunity to directly collect and retain sin taxes earmarked for their own use, in the form of asset seizures, even if their states’ laws did not allow them to do so (the federal burden of proof was also much easier to meet than many states required, as explained below).

The 1984 Comprehensive Crime Act change in the federal asset forfeiture law relating to drug investigations was a bureaucratically demanded legislative action allegedly justified as policy innovation that would provide a means to expand interbureau cooperation.<sup>16</sup> As an indication of the dominant bureaucratic interests, note that during hearings before the Subcommittee on Crime of the Committee on the Judiciary of the US House of Representatives, held June 23 and October 14, 1983, much of the testimony focused exclusively on seizure and forfeitures issues (Subcommittee on Crime of the Committee on

the Judiciary 1983). Among the organizations testifying in support of the forfeitures-sharing arrangement were the US Customs Service, various police departments and sheriffs, the US Attorney's Office from the Southern District of Florida, and the DEA. There was no representation of local government oversight authorities (mayors, city councils, or county commissions) who approve police budgets, either supporting or opposing such legislation; nor were any corrections groups or victims' organizations represented that often have a substantial impact on crime legislation (Benson 1990, 1998).<sup>17</sup> When the change was first introduced, it appears that most non-law enforcement interests did not anticipate its earmarking implications, probably due to the poor quality of information selectively released by law enforcement bureaucracies and their congressional supporters.<sup>18</sup> Drugs allegedly cause crime, so in addition to stimulating interagency cooperation, supporters of dedicating forfeitures to law enforcement contend that it is justified as a means of recouping the costs of enforcing drug-induced crime.<sup>19</sup> This practical aspect of asset seizures—treating the proceeds as something akin to a crime-fighting tax on criminals—was emphasized in a manual designed to help local jurisdictions develop forfeiture capabilities (National Criminal Justice Association 1988, 40). While suggesting that less tangible law enforcement effects (such as deterrence) should be counted as benefits, the manual emphasized that the determining factor for pursuit of forfeitures is “the *jurisdiction's* best interest” (emphasis added). This interest reflects the perspective of law enforcement agencies, a view that is likely to put somewhat more weight on benefits for bureaucrats and somewhat less weight on communitywide (and uncertain) deterrence effects. After all, as Stumpf (1988, 316) notes, we must “look past the external political and social determinants of criminal justice procedures and policies to understand the system in operation. The process is staffed by professionals and quasi-professionals who have their own agenda . . . [and] largely internal imperatives may be of even greater importance in explaining their outcomes” (also see Blumberg 1979; Benson 1990; Rasmussen and Benson 1994; Miller 2004). If forfeitures are in the “public interest” because of their deterrent impacts, and if police are exclusively motivated by a desire to serve the public interest, then policing agencies should willingly cooperate in seizure efforts no matter what government agency's budget is enhanced by these seizures. The fact is that the equitable-sharing revenues from drug-related seizures create the potential for law enforcement agencies to expand their discretionary budgets (Benson et al. 1995), thereby enhancing their own well-being, directly and indirectly rewarding supporters with various benefits and privileges (Breton and Wintrobe 1982, 137).


Although not mandated by the 1984 legislation, the Department of Justice (DOJ) offered, in 1986, to treat seizures by state or local agencies as if they involved a cooperating federal agency by “adopting” such seizures and then passing them back to the state or local agency, minus a 20 percent handling charge, thereby allowing the agency to circumvent state laws requiring that some or all of the seizure proceeds go to some specific use (e.g., education) or into general revenues.<sup>20</sup> For example, North Carolina law requires that all proceeds from the sale of confiscated assets go to the County School Fund. Law enforcement agencies in North Carolina have routinely used the 1984 federal legislation and 1986 DOJ adoption program to circumvent the restrictions, so the seized assets could be repatriated to law enforcement agencies rather than going to schools.<sup>21</sup> The same has occurred in many other states, although several states have modified their state forfeiture laws so adoptions are not required for police to retain revenues.<sup>22</sup> Adoptions can be attractive for other reasons, too. Several states do not allow seizures of real property under some circumstance that are allowed under federal law.<sup>23</sup> Perhaps more importantly, the burden of proof required to make seizures under some states’ laws is stricter than under federal law (see table 3). The burden of proof for a federal seizure—and therefore, for an adopted seizure—was “probable cause” during much of the period of increasing drug enforcement.<sup>24</sup> Both circumstantial and hearsay evidence is allowed to establish probable cause. In contrast, state laws vary from probable-cause through preponderance-of-evidence to clear-and-convincing-evidence, and even beyond-a-reasonable doubt (Edgeworth 2004, 113–18; Williams et al. 2011). Only ten states (Williams et al. 2011) allow seizures by probable cause, while the other states’ burden of proof standards are more difficult to meet, and when a state standard is stricter than the federal requirement, the police have been relatively strongly motivated to use the federal procedures. If state laws allow police to keep asset forfeitures and have other characteristics that encourage seizures, however, then police do not have to turn to federal Equitable Sharing Program.

“With local, state and federal law enforcement agencies suddenly able to keep all the proceeds under federal forfeiture standards, the value of assets confiscated surged from over \$100 million in 1983 (the year before the institution of Equitable Sharing) to \$460 million in 1990” (Drug Policy Alliance 2015, 9).<sup>25</sup> By 1990, over 90 percent of the police departments with jurisdictions containing populations of 50,000 or more and over 90 percent of the sheriffs’ departments serving populations of 250,000 or more were obtaining money or goods through drug asset forfeiture programs (Reaves 1992, 1). The DOJ has been an important conduit for many of these seizures.<sup>26</sup> DOJ only approved

the transfer of about \$2.5 million to state and local agencies in 1985, but this jumped almost tenfold in a year, as FY 1986 saw transfers of \$24.4 million. The Drug Policy Alliance (2015, 11) reports that “revenue to state and local police from the Justice Department forfeiture fund is up 467 percent in inflation adjusted dollars” for the quarter century between 1987 and 2013, from a total of \$56.5 million in FY 1987 (\$116 million in 2013 dollars) to a total of \$657 million in FY 2013. The Treasury Department also instituted its own forfeiture fund in 1993, so law enforcement agencies supervised by Treasury could facilitate the seizure-forfeiture process. O’Harrow et al. (2014) found that about 5,400 departments and drug task forces have participated in the Equitable Sharing Programs between 2008 and 2014. Figure 1 shows the equitable-sharing payments from both the DOJ and Treasury programs from 2001 to 2013.

Asset seizures have become important sources of state and local police budgets. In fact, “Hundreds of state and local departments and drug task forces appear to rely on seized cash, despite a federal ban on the money to pay salaries or otherwise support budgets. The *Washington Post* found that 298 departments and 210 task forces have seized the equivalent of 20 percent or more of their annual budgets since 2008” (Sallah et al. 2014).<sup>27</sup> In fact, almost all these

**Table 3.** Standard of Proof in State Forfeiture Laws, 2011

 More difficult to forfeit assets	Standard of Proof	States
	Prima facie/probable cause	Alabama, Alaska, Delaware, Illinois, Massachusetts, Missouri, Montana, Rhode Island, South Carolina, Wyoming
	Probable cause and preponderance of the evidence	Georgia, North Dakota, South Dakota, Washington
	Preponderance of the evidence	Arizona, Arkansas, Hawaii, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Mississippi, New Hampshire, New Jersey, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia
	Preponderance of the evidence and clear and convincing	Kentucky, New York, Oregon
	Clear and convincing	Colorado, Connecticut, Florida, Minnesota, Nevada, New Mexico, Ohio, Utah, Vermont
	Clear and convincing and beyond a reasonable doubt	California
	Beyond a reasonable doubt	Nebraska, North Carolina,** Wisconsin

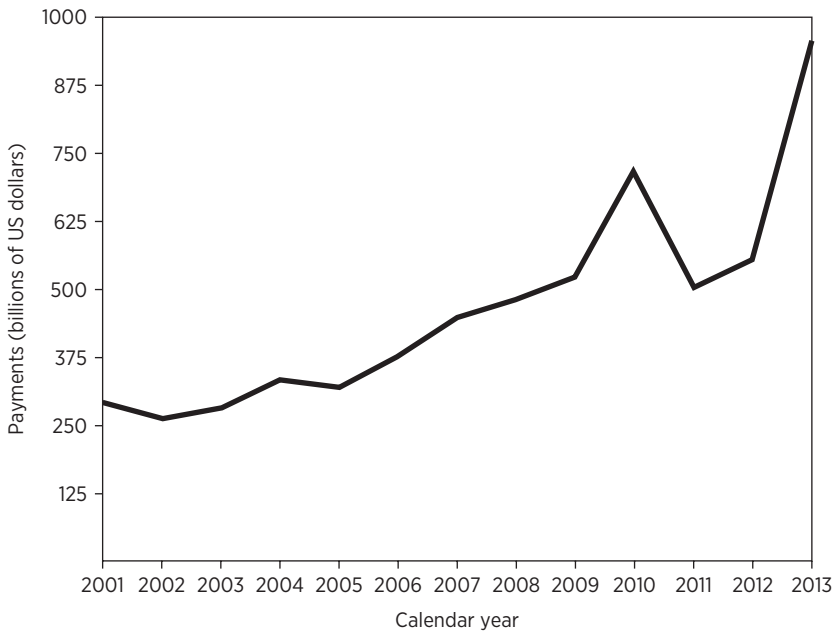
Source: Williams et al. (2011, table 2).

Notes: \* In states with two forfeiture standards, most commonly the higher one is for forfeiture of real property.

\*\* State law effectively does not allow for civil forfeiture.



**Figure 1.** Federal Equitable Sharing Payments from the Department of Justice and Treasury Department Forfeiture Programs to State and Local Law Enforcement Agencies, FY 2001-2013



Source: Drug Policy Alliance (2015, 11).

departments and task forces have produced at least 20 percent of their annual budgets through seizure at least three times over the 6 years examined in the *Post* study.

Sallah et al. (2014) cited a former DEA agent, Steven Peterson, who reported that although patrol officers used to try to make their names with large drug busts, this changed when police agency leaders realized that cash seizures could provide funding for their departments. While the intent of the seizure laws allegedly are to attack large drug organizations, they have been “used as a routine source of funding for law enforcement at every level” (O’Harrow et al. 2014). Indeed, as Gary Schons, a former California deputy attorney general observed, “Much like a drug addict becomes addicted to drugs, law enforcement agencies have become dependent on asset forfeitures. They have to have it” (Ehlers 1999, 3). Brad Cates, a former director of asset forfeiture programs at the DOJ, has been cited as saying that Equitable Sharing provides police with “a free floating slush fund” and limits elected officials’ ability to influence law

enforcement priorities through traditional budget processes (O'Harrow et al. 2014). He now advocates ending the program.

The opportunity to process seizures under federal law clearly offered several reasons for seizures associated with drug investigations to be more attractive than they are under many state seizure laws, and as a result, the federal program increased the incentives for many policing agencies to allocate more effort to drug enforcement.<sup>28</sup> In fact, according to the Heritage Foundation (2015, 4), "42 states shifted their law enforcement priorities toward the pursuit of profit." In addition, the federal authorities will only adopt relatively large seizures, so state laws govern small seizures and, importantly, a large portion of seizures are small. In California, for instance, local prosecutors conducted more than 6,000 forfeiture cases in 1992, and over 94 percent involved seizures of \$5,000 or less.<sup>29</sup> Therefore, Mast et al. (2000) hypothesized that states where police keep some portion of seizures under state law should be engaged in greater drug enforcement efforts than states where police cannot keep seizures under state law.<sup>30</sup>

Drug arrests per 100,000 population in states with significant limits on police retention of forfeitures averaged 363 during 1989, whereas states in which police kept seizure proceeds under state law averaged 606 drug arrests per 100,000 during the same year. Other factors, such as the level of drug use or property crime, may explain these interstate differences in drug enforcement, of course, so Mast et al. (2000) tested the hypothesis empirically, controlling for other factors, such as the levels of drug use and of police resources available in a community, alternative demands on those police resources represented by property and violent crime rates, and various socioeconomic characteristics of the community that might influence community demands for drug enforcement.<sup>31</sup> With respect to the impact of asset seizure laws, their results were robust across model specification and alternative samples of cities: police focus relatively more effort on drug control when they can enhance their budgets by retaining seized assets under state laws. State legislation permitting police to keep a portion of seized assets raises drug arrests as a portion of total arrests by about 20 percent and drug arrest per capita by about 18 percent. It appears that local police respond to incentives created by state-level seizure laws. This finding in turn provides indirect support for the contention that the upsurge in drug enforcement that started in 1984–1986 is a result of the incentives created by federal seizure legislation that altered incentives for state and local police. The federal legislation presumably has the largest impact in states where state law does not allow police to keep forfeitures, since they can circumvent such state laws by working through the federal equitable-sharing process.<sup>32</sup> Indeed, Williams et al. (2011) find that when state forfeiture laws allow smaller percentages of takings to be returned to police

budgets, police departments respond. The departments that get relatively small portions of seizures under state law tend to be more likely to engage in federal level Equitable Sharing, and thus substitute the more profitable federal forfeiture rules for less profitable state laws. Similar to the studies mentioned above, Williams et al. also find that standards of proof influence the choice to use the federal procedures. Specifically, in states where property owners are presumed innocent and the burden of guilt falls on the arresting agency, these agencies are more likely to pursue federal procedures.

### **Expanding the Tax Base: Civil Seizures from Innocent Victims**

Civil forfeitures can be successful from the police's perspective even if arrest and prosecution are not. Forfeiture laws are supposedly designed to protect lien holders and owners whose property is used without their knowledge or consent, but property owners must bring their claims in civil forfeiture hearings. Furthermore, civil seizures also can be made without filing criminal charges against or arresting the person from whom property is seized, let alone convicting the person of a crime.<sup>33</sup> These facts mean that there really is no way to know with any degree of confidence that criminals and not innocent victims are providing this source of law enforcement revenues.

Generally, owners whose property is alleged to have been used in a drug offense or purchased with the proceeds from drug trafficking have the burden of establishing that they merit relief from the proceeding (National Criminal Justice Association 1988, 41). Not only must the owners prove that they are innocent of the alleged crime, they must also prove lack of both knowledge of and control over any unlawful use of the property. This can be very costly, often prohibitively costly, for many citizens. For instance, in 2009, local law enforcement in Tewksbury, Massachusetts, joined forces with the DOJ to seize The Motel Caswell owned by local resident Russ Caswell and his family. This seizure occurred even though the motel owners were not involved with any criminal activity.<sup>34</sup> The seizure was based on fifteen arrests over a 14-year period (out of an estimated 200,000 guests who stayed at the hotel over the same period) who had been arrested for drug related crimes (Institute for Justice 2013). The government argued that this hotel had facilitated illegal drug transactions throughout this period (Crawford 2015).

The Tewksbury case illustrates one way in which individuals who are not involved in or accused of any drug crimes are still subject to asset seizure, and it also shows that incentives created by civil seizure laws may result in regressive taxes on private property owners. As described by Crawford (2015, 273),

The Motel Caswell was just one of the many commercial properties in Tewksbury with crimes committed on its premises. Police in Tewksbury had made drug-related arrests at both nearby Motel 6 and a Fairfield Inn, as well as in Wal-Mart and Home Depot parking lots. Mr. Caswell's attorneys pointed out that those businesses are corporate entities backed by powerful lawyers and other substantial resources that would enable them to contest a potential seizure; this is in stark contrast to the family-owned Motel Caswell.

In fact, Mr. Caswell spent all his savings (more than \$100,000) fighting the ruling before the Institute for Justice (IJ) picked up the case pro bono (Crawford 2015). In January 2013, after IJ had fought for Caswell for 16 months, the case was dismissed, and Caswell regained ownership. The federal judge presiding over the case claimed that the federal government's evidence was exaggerated (Institute for Justice 2013). If IJ did not provide these pro bono services, Caswell may not have been able to pay for continuing the legal battle, and the property (valued at more than \$1,000,000) would have provided the local law enforcement agency with a good deal of revenue. The IJ cannot go to the aid of most innocent victims of asset seizures, however, so many of these victims end up negotiating with the policing agency or district attorney and agreeing to accept something less than full reimbursement.

Reliable information on the level of civil asset forfeiture activity is not available. When Williams et al. (2011) attempted to put together data for the Institute of Justice they found that only twenty-nine states had requirements to record the use of civil asset forfeiture and that most of them do not have requirements to share that information. It took 2 years of Freedom of Information Act requests to obtain data from twenty-one of these states, two of which provided unusable data. Double counting and other problems also exist in the available data.<sup>35</sup> Some information from the data obtained is suggestive, however. For instance, local forfeitures were growing rapidly in the states from which Williams et al. (2011) were able to obtain usable data, and the majority of the funds were not obtained through Equitable Sharing.

There appear to be reasons for law enforcement to be reluctant to report on civil forfeiture activity. One of the first major asset-seizure scandals occurred in Volusia County, Florida, during a 41-month period between 1989 and 1992. The county sheriff created a drug squad that seized more than \$8 million (an average of \$5,000 per day) from motorists on Interstate 95.<sup>36</sup> These seizures

were justified by the police as part of the war on drugs. Nonetheless, most Volusia County seizures involved southbound rather than northbound travelers, suggesting that the drug squad was more interested in seizing money than in stopping the flow of drugs. No criminal charges were filed in more than 75 percent of the county's seizure cases. Responses by victims of many of these seizures also suggest that a substantial amount of money was seized from innocent victims. Three-fourths (199) of Volusia County's seizures were contested. Seizures were not returned even when the seizure was challenged, no proof of wrongdoing or criminal record could be found, and the victim presented proof that the money was legitimately earned. Instead, the sheriff's forfeiture attorney handled settlement negotiations. Victims of seizures had to hire attorneys to represent them in the negotiations. Only four people obtained all their money, and presumably, part of the returned funds was paid to lawyers. The rest settled for 50–90 percent of their money after promising not to sue the sheriff's department.<sup>37</sup>

The Volusia County scandal did not end the problematic practice. In fact, the same procedures have been followed many times since then in many more jurisdictions:

In case after case, highway interdictors appeared to follow a similar script. Police set up what amounted to rolling checkpoints on busy highways and pulled over motorists for minor violations, such as following too closely or improper signaling. They quickly issued warnings or tickets. They studied drivers for signs of nervousness, including pulsing carotid arteries, clenched jaws and perspiration. They also looked for supposed “indicators” of criminal activity, which can include such things as trash on the floor of a vehicle, abundant energy drinks or air fresheners hanging from rearview mirrors. (Sallah et al. 2014)

Increasing numbers of stories about new examples of seizures from innocent victims continued to appear in media outlets and policy studies. One that attracted considerable attention was the shocking story presented in CBS's *60 Minutes* about Donald Scott, killed during a drug raid by local, state, and federal police, who intentionally targeted him to seize his \$5 million ranch (no drugs were found). There are far more examples than could be discussed here. The steady stream of such stories has caused a political backlash. For instance, “the attention prompted Congress to reform federal seizure laws in

2000, allowing owners to be reimbursed for their legal fees after successful lawsuits” (Sallah et al. 2014).

An attempt was also made in Congress to end Equitable Sharing, but it failed in the face of the “voracious lobbying” campaign by police and prosecutors, according to former representative Barney Frank (Sallah et al. 2014). In this same context, shortly before he resigned, Attorney General Eric Holder announced a reduction in the adoption program at DOJ. Federal agencies were supposed to stop adopting assets seized by local and state law enforcement agencies unless the property includes firearms, ammunitions, explosives, child pornography, or other materials concerning public safety. These new rules were relatively limited in their effect, as seizures made through joint federal and state or local investigations were still subject to equitable sharing,<sup>38</sup> but as discussed above, they did not last.<sup>39</sup> Given the political power of law enforcement agencies, there clearly is no guarantee that reforms will last.

Political backlash against the misuse of asset seizures has also led to discussion and even change in several state laws.<sup>40</sup> For instance, 69 percent of Utah voters approved an initiative in 2000 that gave much greater protection to property owners caught up in forfeiture proceedings.<sup>41</sup> Most significantly, the law redirected forfeiture funds that had previously been given to law enforcement, by mandating that all forfeiture funds go to the state’s education fund. This was a voter approved referendum, however, not state legislation. Police and prosecutor lobbying would have, in all likelihood, prevented passage of such a sweeping change through the state legislature. Law enforcement officials adamantly opposed the forfeiture initiative during the campaign. Furthermore, since it passed, actions have been taken by law enforcement to challenge the change in allocation. The Salt Lake County sheriff and seven other law enforcement officials challenged it in federal court, but the US district court rejected the challenge (Vigh 2002). After that, the state attorney general led a 2002 legislative campaign to overturn the initiative. Legislation was introduced to redirect forfeited revenue back to law enforcement agencies, but angry voters forced the sponsor to withdraw the proposal (Institute for Justice 2003). In January 2003, the state auditor reported that the district attorneys in three counties were actually violating the law, allowing law enforcement agencies to keep at least \$237,000 in forfeitures (Stewart 2003). On June 24, 2003, the Institute for Justice, on behalf of Utahns for Property Protection and a group of Utah citizens, filed a “notice of claim” with the attorney general of Utah, demanding immediate action against the three district attorneys to see that the funds were redirected to education. After that the prosecutors returned the money. Law enforcement resistance was not over, however.

In 2013, the Utah attorney general's office presented a fifty-page bill to the Utah House of Representatives majority leader, and told him "that the bill was just minor tweaks that we would call recodifications of that law" in part to bring together scattered laws governing asset forfeitures (Sturgeon 2014). This occurred during the last week of the session, when demands on legislators were at their height. Given the majority leader's assurance that no significant changes were in the bill, as he had been informed by the attorney general's office, the bill passed unanimously without any serious examination of its content. There actually was a significant change in the seizure law, however, as "the new bill substituted the word 'may' for the existing word 'shall' throughout," including in the language of the 2000 referendum (Sturgeon 2014). Legislators were not aware of the change until the Libertas Institute released a paper pointing it out. A new bill overturning the 2013 changes to the original referendum was passed unanimously during the 2014 session.<sup>42</sup>

The evidence provided here suggests that the wide use of civil asset forfeiture in the United States over many decades has created what is somewhat akin to Gordon Tullock's (1975) "Transitional Gains Trap." Even though the "increased value" (to the police) of the use of civil asset forfeiture is obviously not capitalized in any specific resource (real or artificial) belonging to a police department the way rents usually are, it does lead to budget expansion, and presumably to benefits captured by the police or their employers. These beneficiaries have an incentive to continue the practices. Any plans to limit the power of authorities to seize assets has been met by resistance from vested interests that push back or find alternative ways to capture this revenue. A key aspect of this situation, however, is that the vested interest consists of public officials and employees.

### **Fungible Earmarked Taxes**

A frequent consequence of earmarked taxes, particularly when the activity for which the earmark applies also is funded by sources of revenues that are not earmarked (e.g., from the general fund), is that increases in earmarked taxes result in reductions in other funds. Revenues are fungible, so funds generated through earmarked taxes replace (crowd out)<sup>43</sup> other funds. Many states have earmarked revenues from state lotteries by dedicating all these revenues to education, for instance, but this frequently results in reductions in spending on education from state general funds. When this reduction occurs, the activity for which funds are earmarked (e.g., education) does not obtain the anticipated increase in revenues that earmarking presumably was to generate. Total

budgets remain roughly the same, with the earmarked funds simply replacing revenues that would come from general funds in the absence of the earmarked tax. Instead of the earmarked taxes providing extra revenues to improve the good or service being provided, they become essential just to maintain the same level and quality that was provided prior to the earmark. Proceeds from asset forfeiture are similarly fungible. They do not necessarily represent a net gain to the local police even when the monies are given directly to the law enforcement agencies, because pressure from other local bureaucrats who are competitors for scarce budgetary resources may cause administrators and politicians with whom bureaucrats bargain to view the flow of money from asset seizures as a substitute for regular appropriations. Police agencies that make substantial forfeitures may see budget allocations reduced to offset expected confiscations.

The extent to which police agencies can increase their budgets through forfeiture activity is explored in Benson et al. (1995) and Baicker and Jacobson (2007). Using data from Florida's local policing jurisdictions, Benson et al. (1995) find that confiscations have a positive and significant impact on police agencies' budgets after accounting for demand and local government budget constraint factors. The estimated elasticity of noncapital expenditures in a given year with respect to confiscations in that year is a very modest .04 for all jurisdictions and .07 for large jurisdictions.<sup>44</sup> Baicker and Jacobson (2007) obtain county-level data from parts of California, Pennsylvania, Arizona, Florida, and New York to test the same hypothesis, and they include additional control variables that were unavailable for Benson et al. (1995). Their empirical results imply that counties reduce police budgets by an average of 82 cents for each dollar seized during the previous year, so police retain about 18 cents per dollar of seizures. Given the lag in budget reductions found by Baicker and Jacobson (2007), police could actually be motivated to pursue seizures even if they expect local governments to reduce budgets by the full amount of the seizures. If police agencies seize assets one year and do not fully anticipate the reduced budget that will follow, they may pursue more seizures the next year to make up for that year's budget shortfall. As this cycle of increased seizures followed by budget reductions repeats, the local government decision makers may begin to assume that seizures will continue and permanently reallocate to other uses a portion of what would be police budgets in the absence of seizures. As a result, the police become dependent on seizures just to maintain their expenditure levels. This is consistent with Worrall's (2001) findings. His survey of a large number of city and county law enforcement executives indicates that many, including almost 40 percent



of the large agencies, claim dependence on forfeitures as budgetary supplements. This view is also consistent with Bullock and Carpenter (2010), who examine civil forfeiture from 2001 to 2007 in Texas. For the average agency in Texas, the forfeiture take was 14 percent of their annual budget, but for the top ten forfeiture agencies, it represents on average 37 percent of their budgets, with about 17 percent of these forfeiture funds used for salary and overtime. Pursuit of forfeitures becomes an imperative in such cases, and Worrall (2001, 171) concludes that “the primary implication tied to these findings is that a conflict of interest between effective crime control and creative fiscal management will persist so long as law enforcement agencies remain dependent on civil asset forfeitures.”

## CONCLUSION

The evolution of the war on drugs is an example of a particularly destructive mechanism of public finance, first through revenue raising “sin taxes” on opium and cocaine, then morphing into budget-maximizing practices of competing bureaucratic agencies that result in prohibition efforts. This process eventually spawned a new earmarked tax in the form of civil asset forfeitures with many of the revenues going to the law enforcement agencies associated in various ways with prohibited drugs. This tax can be applied at the discretion of police, so they, in effect, determine the “tax rate” imposed on each individual who is subjected to the tax. In many states and at the federal level, a civil asset forfeiture need not be accompanied by any type of arrest or formal charge, and the burden of proof is placed on the party whose assets are seized—they must show that the seized assets are not proceeds from criminal activities (or purchased with such proceeds). This provides local authorities with perverse incentives to impose this tax on an ever-expanding tax base. This tax base now includes both criminals and innocent parties who police allegedly suspect of wrongdoing (having assets worth seizing, particularly cash, is apparently a reason to suspect a person of drug dealing).

The rise in the misuse of civil asset seizure earmarked for police use has been met with growing resistance as people increasingly see it as a threat to private property, but this resistance has also been accompanied by push-back from the primary vested interests—the policing agencies. In addition to supporting political pressure against this resistance, vested interests are able to skirt state laws regarding forfeiture. In states where asset forfeiture laws constrain the imposition of such earmarked taxes by state and local police, these policing agencies tend to use federal asset seizure equitable-sharing procedures,

established in 1984 as a result of lobbying by law enforcement agencies, to seize property and avoid the more constraining state policies.

It should not come as a surprise that drug prohibition has led to predatory tax mechanisms that extract resources from those supposedly engaged in the drug trade. Substances that alter perceptions, feelings, behavior, or decision-making have been widely targeted as a source of tax revenues. Indeed, the laws that initiated federal involvement with markets in narcotics and marijuana were both tax acts (the Harrison Act of 1914 and the Marijuana Tax Act of 1937), and federal policy implementation was assigned to the Treasury Department. In Treasury, the bureaucratic apparatus engaged in collections was not able to retain the revenues collected, so the agency had to compete for budgets. Their ability to do so was substantially enhanced following the agency's initiatives that criminalized prescriptions for drug addicts. The resulting prohibition policy reduced tax revenues taken directly from narcotics (and later marijuana) markets, but it increased the budgets (portion of other tax revenues) for the policing bureaucracy in Treasury and created incentives for other agencies, federal as well as state and local, to engage in enforcement in order to capture larger budgets.

The rhetoric advanced by public officials and local police departments is inevitably self-serving and thus budget maximizing. This rhetoric has led to more power and increased revenues through predatory public finance in the interbureau competition for budgets, but it has also been used to justify earmarking of a relatively new source of tax revenues—those arising from asset seizures.

## NOTES

1. This competition generally involves the pursuit of new policy initiatives (Breton and Wintrobe 1982) that can be used to justify budget increases, much as legislators do when they justify new taxes.
2. Prohibition, monopolization, taxation, and licensing are not mutually exclusive: policy can include combinations of prohibition for some parts of a market (e.g., underage alcohol consumption), monopolization of some parts of the process (e.g., wholesale liquor in some US states), and taxation/licensing (e.g., retail liquor in several states).
3. Interestingly, while several states have passed legislation legalizing medical uses of marijuana, and more recently, the recreational use of marijuana, some of these states are imposing such stringent regulations and high taxes on these legal markets that the illegal markets are still flourishing (Elliott 2014; Ross 2014). In addition, the government itself apparently is beginning to enter the retail marijuana market. On March 7, 2015, a new store was opened in North Bonneville, Washington: The Cannabis Corner. The mayor of the town convinced the city council to form "a Public Development Authority for the sole purpose of selling pot, pipes and marijuana-infused edibles. All the business profits from The Cannabis Corner will now be kicked back to City Hall" (Springer 2015). Thus, the full range of revenue-seeking possibilities for marijuana can now be observed in the United States: market provision

with taxation, licenses, and fees; government provision and implicit taxes from the difference between revenues and costs; and prohibition accompanied by interbureau competition for revenues and asset seizures as an earmarked tax. Now an argument is being made that selling marijuana is an “essential government function” warranted under police powers, just as state liquor stores are (Leff 2016, 12): “The case that marijuana selling is an essential governmental function, however, is stronger than merely the fact that it makes money for the state. Rather, marijuana use has significant negative health and social costs, and so the state’s interest in controlling these negative effects, especially among youth, is strong. Just as it is with liquor sales, it is well within the state’s police power to seek to control a market in dangerous substances. Protecting the public from the negative effects of such markets is at the heart of what states do.”

4. Given that demand for these products is generally inelastic over a substantial range, large increases in tax rates need not result in equally large reductions in the use of these products.
5. Murphy (1994, 5) also notes the potential conflict between agencies seeking drug-control funding and agencies seeking funding for other purposes. An illustration is discussed later in the text. Another involves the Office of National Drug Control Policy (ONDCP) and the Department of Health and Human Services (HHS) during the first Bush administration. ONDCP was collecting budget requests from more than fifty agencies at the time to put together the president’s budget request. Many of these agencies engage in a large number of activities beyond their drug-control efforts. While these diversified agencies also want to capture part of the drug-control budget, they may see tradeoffs: gaining more of the drug budget could lead Congress to reduce other types of funding. ONDCP does not consider these tradeoffs, however, so “As a result, ONDCP can become an advocate for funding increases that the potential recipient opposes” (Murphy 1994, 5). In this case, ONDCP advocated increased drug treatment funding for HHS, even though HHS objected, because the Department was concerned about lost funding for what they considered to be higher priorities. Given ONDCP’s supervisory role over the drug-control process, its incentives to expand drug-control spending dominates its budget requests both for itself and for the programs in other agencies. How important this might be is unclear, however, because the drug budget approval process in Congress is highly fragmented, “falling under the jurisdiction of nine different appropriation bills. Most funding decisions are made at the subcommittee level” (Murphy 1994, 5).
6. One example occurred in 1966 when Stutmann was stationed in Washington, DC (Stutmann and Esposito 1992, 65–73). His primary focus at the time was on heroin, but he arrested an American University student for selling marijuana, resulting in a *Washington Post* front-page story. Because of the publicity, Stutmann’s superior ordered him to drop heroin investigations to focus on marijuana on college campuses. When he arrested a congressman’s daughter, the local DEA office increased its focus on marijuana even more, because “all of a sudden lawmakers were reading about their kids. Now they wanted marijuana stopped” (Stutmann and Esposito 1992, 66).
7. The toxicology reports did indicate that Eugene had marijuana in his system. Apparently, Miami CBS News did not include this in their definition of exotic street drugs.
8. This trend apparently has continued. In 2013, only 1.31 Part I arrests occurred per drug arrest. Considering such statistics over a very long time period is problematic, however, because many factors could be changing that could also cause these relative values to change rather than (or in addition to) the allocation decisions of police. There could be a decrease in Part I arrests, for instance, due to fewer Part I crimes, an increase in drug use, or both. Part I arrests were higher in 2013 (2,049,644) than in 1989 (1,432,554), however, even though reported crimes have fallen over the same years (from about 13.25 million to about 9.8 million). The drop in reported crimes could help explain the relative reduction in emphasis on property and violent crimes, of course, even though there has been more than a 43 percent increase in the number of such arrests (total drug and Part I arrests both rose, in part due to growing numbers of police, improved policing technology, and other related factors since 1989). If drug crimes were increasing, of course, that could be another causal factor. There is no way to estimate drug crime levels, but there is some information on trends

in drug use obtained from surveys and other sources. Consider, for instance, the national Youth Risk Behavior Survey (YRBS), which monitors priority health risk behaviors that contribute to the leading causes of death, disability, and social problems among youth and adults in the United States (Centers for Disease Control 2015). The national YRBS is conducted every 2 years during the spring semester and provides data representative of ninth and twelfth grade students in both public and private schools. The implications from this survey are mixed. Data on marijuana, cocaine, and steroid use reported in 1991 can be compared to 2013 data (the report includes 2014 and 2015 as well). These data suggest substantial increased use of marijuana, from 31.3 (14.7) percent reporting ever using (currently using) in 1991 to 38.6 (23.4) percent in 2013. Cocaine use apparently has fallen, however, from 5.9 percent reporting ever using in 1991 to 5.5 percent in 2013 (current use estimates are not reported in this document). However, ever having used a steroid without a doctor's permission went from 2.7 percent in 1991 to 3.2 percent in 2013. All information on other drugs indicate falling use, although generally for shorter data periods: reports of ever using heroin fell from 2.4 percent in 1999 (3.1 percent in 2001) to 2.2 percent in 2013; ever using methamphetamines changed from 9.1 percent in 1999 to 3.2 percent in 2013; the percentage reporting ever using ecstasy dropped from 11.1 in 2001 to 6.6 in 2013; use of prescription drugs without a doctor's permission fell from 20.2 percent in 2009 to 17.8 percent in 2013; 13.3 percent reported that they had used hallucinogenic drugs in 2001, but this was down to 7.1 percent in 2013; and ever injecting any illegal drug declined from a 1995 percentage of 2.1 to 1.7 in 2013. Thus, only marijuana and steroid use appear to be rising over this period, while the use of all other drugs apparently has declined, at least relative to the high school population. Interestingly, the percentage reporting use of all drugs except steroids apparently fell from 2013 to 2015, including marijuana.

9. A drop in these figures occurred from 1989 to 1993, for instance, but that was followed by a rapid increase, surpassing the temporary 1989 peak by 1995. Drug arrests as a percentage of total arrests has not fallen below 12 percent since 2003, although the percentage fell again after another temporary 2006 peak of 13.1 percent, before starting upward again in 2010–2011 and surpassing the 2006 peak in 2013.
10. Federal forfeiture actions in drug enforcement started much earlier than 1984, however. The forfeiture provision of the Comprehensive Drug Abuse Prevention and Control Act of 1970 authorizes federal agencies to seize and forfeit illicit drugs, manufacturing and storage equipment, and conveyances used to transport drugs. The Psychotropic Substances Act of 1978 followed, and then the 1980s produced several more changes, all of which expand federal law-enforcement powers to seize property.
11. The outlier of \$199 million in 2001 is due to the Civil Asset Forfeiture Act in 2000, which added some procedural requirements that delayed recording of seizures in the following year.
12. These charges included trafficking drugs on the Internet, narcotics-trafficking conspiracy, running a continuing criminal enterprise, computer-hacking conspiracy and money-laundering conspiracy (Van Voris and Hurtado 2015).
13. According to Paul (2015b), this figure is based on transaction records gathered by the FBI that show \$182,960,285 in illegal drug sales and transactions for fake identification equaling \$1,001,636. As Paul (2015b) claims: "The government contends Ulbricht is liable for all transactions on Silk Road because of the structure of the site."
14. FBI press release of accusations, which at the time of Ulbricht's arrest only included four charges, <http://www.fbi.gov/newyork/press-releases/2014/manhattan-u.s.-attorney-announces-the-indictment-of-rossulbricht-the-creator-and-owner-of-the-silk-road-website>.
15. There are various possible explanations beyond the one stressed here for the upsurge in drug enforcement that started in the 1980s, but they are not supported by actual evidence (Rasmussen and Benson 1994, 122–27; Benson and Rasmussen 1996, 1997). Many law enforcement personnel stress the introduction of crack cocaine, but as Johnson (1987) reports, crack was not introduced into the United States until October or November 1985, and then only in Miami, Los Angeles, and New York. Another possibility is that the public

was becoming increasingly concerned about drug use, so local public officials, responding to political pressures, were demanding that their police departments increase drug enforcement. However, 1985 public opinion surveys actually suggest that the public did not consider drugs to be a particularly important problem (Rasmussen and Benson 1994, 122–27). In fact, there is evidence that changes in enforcement efforts lead to changes in public opinion. Recall the discussion above about DEA agent Robert Stutmann's manipulation of the media to create the perception that a crack crisis was developing.

16. This was not the first congressional action dealing with drug-related civil asset forfeiture—see note 10. It was not the last either. For instance, in addition to the Comprehensive Crime Act of 1984, Congress passed the Comprehensive Forfeiture Act of 1984, the Anti-Drug Abuse Act of 1986, the Money Laundering Control Act of 1986, and the Anti-Drug Abuse Act of 1988; all contain sections dealing with asset seizures and expanding the power of criminal justice officials to seize assets. Additional legislation dealing with seizure policy has also continued to be produced since the 1980s. Furthermore, the forfeiture power is not limited to drug enforcement. It has grown to include a wide array of both federal and state crimes. There were more than 200 forfeiture statutes at the federal level in 1992, allowing confiscation of private property for various federal crimes (Copeland 1992).
17. As Chambliss and Seidman (1971, 73) explained, “every detailed study of the emergence of legal norms has consistently shown the immense importance of interest-group activity, not the public interest, as the critical variable.” Similarly, Rhodes (1977, 13) pointed out that “as far as crime policy and legislation are concerned, public opinion and attitudes are generally irrelevant. The same is not true, however, of specifically interested criminal justice publics.” Additional research implies similar conclusions (e.g., Stuntz 2001, Gainer 2011) but also makes it clear that one of the most important “specifically interested criminal justice publics” consists of law enforcement bureaucracies and their employees (e.g., Berk et al. 1977; Rasmussen and Benson 1994, 119–73; Benson et al. 1995; Benson and Rasmussen 1996, 1997). Bureaucrats often try to influence the demand side of the political process (Berk et al. 1977; Breton and Wintrobe 1982; Benson 1990), and in the context of this presentation, it is widely recognized that policing agencies have been and are a major source of demand for much of the relevant legislation. Recall the discussion of the Marijuana Tax Act, for instance.
18. The only group suggesting problems with the legislation in the hearing was the Criminal Justice Section of the American Bar Association. Two drug-therapy organizations (The Therapy Committees of America, and the Alcohol and Drug Problems Association) also advocated forfeiture sharing, but proposed that a share also go to therapy programs. Law enforcement lobbies prevailed, as the statute mandated that shared assets go directly to law enforcement agencies rather than into general funds, education funds, or other recipients that various state laws mandated at the time.
19. This claim has been challenged by academic research. While some drugs may lead to non-drug crime, most of the crime associated with drug markets is systemic. It arises because the market is illegal, so violence is used to enforce contracts, protect property, and compete for market shares. Market participants are also attractive targets for robbery and other crimes, because they generally have cash or drugs and they are not likely to report the crime. See for example, Rasmussen and Benson (1994), Resignato (2000), and Benson (2009).
20. Attorney General Eric Holder announced various limitations to the adoption program in January 2015, but he did not eliminate the entire adoption program or end Equitable Sharing (O'Harrow et al. 2014). Even this partial elimination did not last, however, as Holder's replacement, Attorney General Loretta Lynch, quietly reinstituted the DOJ's Equitable Sharing Program in April 2016 (Glass 2016). See additional discussion below. Under the adoption program, state and local law enforcement agencies ask the DOJ to adopt asset seizure when the conduct giving rise to the seizure violates a federal law and the property is forfeitable under one of the federal forfeiture provisions that the DOJ enforces (with some recently created limitations discussed below). This is the case with drug offenses. A civil burden of proof is also required under federal law, not the criminal burden of proof required in many states. The DEA provided an outline of seizure and forfeiture

procedures for local police applying for adoption through the agency at <http://www.cass.net/~wdogs/lfed.htm> (a much more detailed specification of the “General Adoption Policy and Procedure” is available in the *United States Attorneys’ Manual*, Chapter 9-116, found at [http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/usam/title9/116mcrm.htm#9-116.100](http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/116mcrm.htm#9-116.100)). The DEA applies certain conditions when considering the acceptance of a seizure for adoption. A valid prosecutorial purpose must exist when requesting the adoption of a seizure for forfeiture. An example of a valid prosecutorial purpose might be that the state’s forfeiture laws require a more stringent standard of proof than does federal law, and the police cannot obtain sufficient evidence to meet the state standard. In addition, the property referred for adoption cannot be appraised below specified minimum monetary values, which vary according to the nature of the property. After the property is delivered to the DOJ, the DOJ can transfer back 90 percent (initially 80 percent) to the law enforcement agency responsible for the seizure. Forfeited property can either be credited directly to the budget of the requesting law enforcement agency or “passed through” an otherwise ineligible entity, such as a district attorney’s office, to be used for a law enforcement purpose. The local agency can request return of the forfeited property or the proceeds from its sale. While states are beginning to reconsider and even constrain asset seizure, Attorney General Lynch’s actions mean that local agencies can still capture revenues through equitable sharing. This “means that while states have been making real progress on reforming asset forfeiture laws that have led to decades of abuse, the Department of Justice is securing the ability for state and local authorities to continue business-as-usual” (Glass 2016).

21. As education bureaucrats and others affected by the diversion of revenues to law enforcement recognized what was going on, they begin to advocate for a change in the federal law. They were successful, at least initially: the Anti-Drug Abuse Act (passed on November 18, 1988) changed the asset-forfeiture provisions that had been established in 1984. Section 6077 of the 1988 statute stated that the attorney general had to assure that any seized asset transferred to a state or local law enforcement agency “is not so transferred to circumvent any requirement of state law that prohibits forfeiture or limits the use or disposition of property forfeited to state or local agencies.” This provision was designated to go into effect on October 1, 1989, and the DOJ interpreted it to mandate an end to all adoptive forfeitures (Subcommittee on Crime of the Committee on the Judiciary 1990, 166). State and local law enforcement officials immediately began advocating repeal of Section 6077, however. For example, the Subcommittee on Crime heard testimony on April 24, 1989, advocating repeal of Section 6077 from such groups as the International Association of Chiefs of Police, the Florida Department of Law Enforcement, the North Carolina Department of Crime Control and Public Safety, and the US Attorney General’s Office. The police lobbies won the battle over federal legislation, as Section 6077 of the Anti-Drug Abuse Act of 1988 never went into effect. Its repeal, hidden in the 1990 Defense Appropriations bill, applied retroactively to October 1, 1989.
22. Edgeworth (2004, 175–83) provides state-law requirements for the distribution of seizure forfeitures as of 2004. Although many state laws have changed since 1984, using the federal statute “as a template . . . in drafting their own civil narcotic forfeiture statutes” (Edgeworth 2004, 28), this 2004 publication reveals that considerable incentives for many law enforcement agencies to circumvent state distributional requirements remain. North Carolina, Missouri, and Utah (see below) direct proceeds to education. Sixteen states allocate a defined portion of forfeitures to law enforcement while also allocating various portions to other purposes. Five states allocate a portion of seizure proceeds to the prosecutor, with the remainder going to the seizing agency without requiring a portion to be spent on specific activities such as education or prevention activities. Other states direct forfeitures to law enforcement but require that some portion be used for specified purposes. Twelve states direct all seizure proceeds to the agencies that make them without specifying that some be used for education or prevention programs. Some of these states actually mandate that the proceeds be deposited in the state or local general fund while requiring that they be spent on law enforcement, but others allow the agency to retain the seizures. Three states direct all proceeds into a state fund for law enforcement (South Dakota’s state fund is exclusively for drug control). Five states deposit such proceeds in state or local general (or revolving) funds, although law enforcement agencies presumably can bargain

to get all or some of these funds added to their budgets (in fact, Texas and Oklahoma make this explicit). Several states have recently begun to consider and actually impose limitations on asset seizure activity, however, including Utah, as explained below. In fact, in 2014, 2015, and early 2016, Minnesota, Nevada, Montana, New Mexico, New Hampshire, Maryland, and Nebraska passed legislation requiring criminal conviction before assets can be seized (Meyer 2016; Snead 2016), although police in New Mexico continue to make such seizures (Kaste 2016). Some of these same states, as well as others, raised the standard of proof required for seizures, shifted the burden of proof from the property owner to law enforcement, or redirected some (or all) seizures away from law enforcement. Others imposed transparency reporting requirements on police regarding seizures or took other actions related to seizures. See Institute for Justice (2016) for details. Given the power of the police lobby, of course, such legislation could easily be repealed. Kaste (2016) suggests that the “police chiefs and sheriffs, meanwhile, are still puzzling over how this new state law even happened. Law enforcement’s usually pretty good at defending civil forfeiture at state capitols. But somehow, this legislation got past them.” Even if the legislation is not repealed, Snead (2016) notes, the “impact of state-level forfeiture reforms is often blunted thanks to a federal program known as ‘equitable sharing.’” See note 20 in this context, as well as additional discussion below of other state-level political actions regarding seizures.

23. This was true for more states in 1986, but by 2004, five states still did not have any statutory authority to seize real property used or intended to be used to facilitate a crime: Alaska, Nebraska, New Mexico, North Carolina, and Vermont. All states do allow seizures of real property if that property is obtained as part of the proceeds from the illegal activity. The burden of proof required to make real property seizures may be stricter than it is for other seizures, and stricter than it is for federal seizures. Similarly, many states accept more defenses in the case of real property seizures than they do for other seizures (Edgeworth 2004, 187–98).
24. The federal standard changed in 2000 with passage of the Civil Asset Forfeiture Reform Act. Although this act “substantially enhanced the property subject to forfeiture under the federal system” (Edgeworth 2004, 25), it also changed the burden-of-proof requirement from probable cause to “preponderance of evidence” (Edgeworth 2004, 113).
25. These statistics are originally reported in Miller and Selva (1994).
26. Equitable Sharing clearly has been widely used, but it should be noted that the adoption program actually only accounts for about 10 percent of total equitable-sharing transfers from federal to state and local law enforcement (Drug Policy Alliance 2015, 9).
27. Federal agencies did a lot more to facilitate and encourage this seizure activity. Some of the increase was driven by Operation Pipeline, for instance, a nationwide DEA program launched in 1986 that promotes highway interdiction training for state and local police (Sallah et al. 2014). At least \$1 million in Justice and Homeland Security grants to police in Florida, Indiana, Oklahoma, Tennessee, and Wisconsin over the past decade was used to pay for training in seizure methods by Desert Snow, the leading firm in the industry that has developed to teach aggressive methods for highway interdiction and asset seizure. Another \$2.5 million was also spent by other federal agencies, such as the DEA, Customs and Border Protection, and Immigration and Customs Enforcement in contracts on Desert Snow training for police. Two million dollars from the DEA also paid for training by another member of the industry, the 4:20 Group. Estimates suggest that more than 50,000 police officers have been taught aggressive techniques by such firms over the past decade (in addition to federal funding, state and local police agencies have spent millions of dollars on training). Sallah et al. (2014) provide a lengthy discussion of such programs, with a focus on Desert Snow (also see O’Harrow et al. 2014). The federal government also has encouraged state and local police to share information about drivers through the private intelligence system, Black Asphalt, started by Desert Snow. Police participating in Black Asphalt or trained by Desert Snow (or both) reportedly seized more than \$427 million over 5 years.
28. Many other differences between state and federal seizure laws can influence police incentives. See Edgeworth (2004) and CCIM Institute (2008).



29. "In that regard, little has changed: the average value of a state forfeiture in California in 2013 in constant dollars was \$5,145" (Drug Policy Alliance 2015, 16).
30. Many state laws now allow seizures of property arising from investigations of non-drug crimes (federal law does too), but drug enforcement is virtually always the most lucrative source of seizures because of the huge amount of cash involved in the market, along with many transportation, storage, and production assets that are attractive targets for property seizures (e.g., cars, boats, airplanes, land used to grow marijuana). Most other crimes also do not generate as many opportunities for seizures. Drug markets are virtually ubiquitous, and seizures through drug enforcement efforts are relatively easy to make.
31. Mast et al. (2000) use two different samples of cities to test the model, recognizing that one determinant of drug enforcement may be the level of drug market activity. A fully specified model is not possible for a large sample, because there are no reliable estimates of the prevalence of drug market activity in most political jurisdictions. However, annual jurisdiction-level data on drug use for a limited sample of twenty-four cities is provided by the National Institute of Justice's Drug Use Forecasting program. To obtain the measure of drug use in each of the twenty-four cities, urine samples are collected from arrestees in jail. These data provided a good measure of drug use in the arrestee population, but not necessarily for the entire drug market in a city. It does indicate the level of drug use among that part of the population that police deal with, however, and therefore presumably the population that is likely to influence police decision makers' perception of the magnitude of the "drug problem." Use of this sample carries a high price in terms of degrees of freedom in the statistical analysis, but the ability to control for drug use makes it very attractive, particularly when supplemented by an analysis of a substantially larger sample of cities that do not have a direct measure of drug use. The results regarding state seizure laws are robust across both samples.
32. Baicker and Jacobson (2007) reach similar conclusions, finding that a 1 percent increase in the "sharing rate" (a variable that combines information on the sharing percentages going to police as established by state law and a measure of the extent to which counties reduce budgets following seizures to compensate for the increased amount of resources due to forfeitures) results in a 0.1 percent increase in total drug arrests. They find a larger impact on possession arrests than on sales arrests, and on opiate and cocaine arrests than on marijuana arrests (in fact, their marijuana arrest coefficient is not significant). However, some of these estimates may be problematic because of their use of the constructed sharing rate. This variable implies an assumption that police fully anticipate the reductions in budget by the budgeting authority, but perhaps more importantly, it rules out the dependency implications of seizures suggested by Worrall's (2001) findings. The fact that budgets are reduced with a lag may actually imply that the entire amount of the seizure is important for police, either as a net gain or to cover reductions in budget allocations.
33. Information about procedures and strategies for civil forfeiture is provided to policing agencies through continuing education seminars for local prosecutors and law enforcement officials. "Officials share tips on maximizing profits, defeating the objections of so-called 'innocent owners' who were not present when the suspected offense occurred, and keeping the proceeds in the hands of law enforcement and out of general fund budgets" (Dewan 2014).
34. *United States v. 434 Main Street, Tewksbury, Mass.*
35. This explains why virtually every study and media story about asset seizures focuses on Equitable Sharing. Data from both the DOJ and Treasury are provided in annual reports.
36. See the Pulitzer Prize-winning series of *Orlando Sentinel* articles during June 1992 by Jeff Brazil and Steve Berry that describes, in vivid detail, the asset seizure program in Volusia County, Florida.
37. A 21-year-old naval reservist suffered a \$3,989 seizure in 1990, for instance, and even though he produced Navy pay stubs to show the source of the money, he ultimately settled for the return of \$2,989, with 25 percent of that going to his lawyer. In similar cases the sheriff's department kept \$4,750 out of \$19,000 (the lawyer got another \$1,000); \$3,750



out of \$31,000 (the attorney got about 33 percent of the \$27,250 returned); \$4,000 of \$19,000 (\$1,000 to the attorney); \$6,000 out of \$36,990 (the attorney's fee was 25 percent of the rest); and \$10,000 out of \$38,923 (the attorney got one-third of the recovery). Note that the fact that 25 percent of the seizures are not challenged does not mean that they are "legitimate." The cost of making a challenge may be too high for it to be worthwhile. One Louisiana county sheriff recognized this, for instance, and focused seizure actions on out-of-state cars, realizing that these drivers were less likely to challenge than were state residents (reported on NBC's *Dateline* on January 3, 1997). Many additional "shocking examples of unjust civil forfeitures" are provided in Hyde (1995) and Ehlers (1999). The Heritage Foundation (2015, 13–16) also discusses a few recent examples, and for more, see Braiser (2015) and the six-part *Washington Post* series that includes O'Harrow and Rich (2014), O'Harrow (2014), O'Harrow et al. (2014), and Sallah et al. (2014).

38. "[E]xceptions swallow the new rules. Local and state police departments will no longer be able to "adopt" seized property when they're working completely alone and without any federal aid, but they can still get deputized by a federal agent, work through a federal task force, or cite a vague public safety exemption to tap into forfeiture powers and continue seizing people's stuff for cash" (Lopez 2015). Furthermore, as the DOJ reports in its announcement of Holder's actions, "adoptions currently constitute a very small slice of the federal asset forfeiture program. Over the last six years, adoptions accounted for roughly three percent of the value of forfeitures in the Department of Justice Asset Forfeiture Program" (Department of Justice, Office of Public Affairs 2015). (This may suggest that adoptions did not provide the stimulus for state and local involvement in Reagan's drug war, as contended above, but adoptions are much more important early in the period and they, along with Equitable Sharing, stimulate police interest in seizures and demand for changes in state laws to allow local police to keep seizures without adoption.) More importantly, as Pilon (2015) notes, "the reform does not limit the ability of state and local officials to seize assets under their state laws. Regrettably, many if not most of the abuses today take place at the state level, yet changes in federal law, which often serves as a model for state law, can affect state law as well."
39. See note 20.
40. See note 22.
41. The following paragraph draws on the Institute for Justice (2003) report, where more details can be found.
42. There are many other examples of law enforcement political actions to thwart changes in forfeiture laws that reduce their ability to seize assets and keep the assets seized. See, for instance, O'Harrow and Rich (2014).
43. See Crowley and Hoffer (chapter 6, this volume).
44. Some models of bureaucratic behavior assume that bureau decision makers' utility can be maximized through bureau size maximization or through budget maximization (e.g., Niskanen 1968, 1971). Others contend that discretion also may be a major source of satisfaction (Parker 1992), and in this context, Migué and Belanger (1974) and other theorists propose that bureaucrats seek discretion reflected by a budget with excess revenues over actual costs (discretionary budget) rather than total budget (an argument Niskanen accepted [1975]; a large literature now expands on and tests this Niskanen/Migué and Bélanger model [Benson 1995]). If this is the case then the seemingly modest gains in total budget through seizures does not necessarily mean that it is unimportant to police-agency decision makers, even if they recognize that the revenues they collect will be largely offset by reductions in their general budgets. The apparently small budgetary impact of seizures is potentially large in terms of discretionary budget expansion, since only a small fraction of noncapital expenditures are likely to be discretionary. On the other hand, bureaucrats might be budget maximizers but not recognize that the budget authorities will reduce total budgets due to seizure revenues, and, as a result, they fall into a dependency trap as explained in Worrall (2001) that is discussed below.

## REFERENCES

- ABC News. 2012. "Face-Eating Cannibal Attack May Be Latest in String of 'Bath Salts' Incidents." June 1. <http://abcnews.go.com/Blotter/face-eating-cannibal-attack-latest-bath-saltsincident/story?id=16470389>.
- Associated Press. 2015. "Holder Announces Changes to Asset Forfeiture Program." January 16. <http://www.foxnews.com/politics/2015/01/16/holder-announces-changes-to-assetforfeiture-program/>.
- Baicker, Katherine, and Mirreille Jacobson. 2007. "Finders Keepers: Forfeiture Laws, Policing Incentives, and Local Budgets." *Journal of Public Economics* 91 (11–12): 2113–34.
- Becker, Howard. 1963. *Outsiders: Studies in Sociological Deviance*. New York: Free Press.
- Benson, Bruce L. 1990. *The Enterprise of Law: Justice without the State*. San Francisco: Pacific Research Institute for Public Policy.
- . 1995. "Understanding Bureaucratic Behavior: Implications from the Public Choice Literature." *Journal of Public Finance and Public Choice* 8 (2–3): 89–117.
- . 1998. *To Serve and Protect: Privatization and Community in Criminal Justice*. New York: New York University Press.
- . 2009. "Escalating the War on Drugs: Causes and Consequences." *Stanford Law and Policy Review* 20 (2): 293–357.
- Benson, Bruce L., and David W. Rasmussen. 1996. "Predatory Public Finance and the Origins of the War on Drugs: 1984–1989." *Independent Review: A Journal of Political Economy* 1 (2): 163–89.
- . 1997. "Predatory Public Finance and the Origins of the War on Drugs: 1984–1989." In *Taxing Choice: The Predatory Politics of Fiscal Discrimination*, edited by William F. Shughart II, 197–225. New Brunswick, NJ: Transaction.
- Benson, Bruce L., David W. Rasmussen, and David L. Sollars. 1995. "Police Bureaucracies, Their Incentives, and the War on Drugs." *Public Choice* 83 (1–2): 21–45.
- Benson, Bruce L., David W. Rasmussen, and Paul R. Zimmerman. 2003. "Implicit Taxes Collected by State Liquor Monopolies." *Public Choice* 115 (5): 313–31.
- Berk, Richard, Harold Brackman, and Selma Lesser. 1977. *A Measure of Justice: An Empirical Study of Changes in the California Penal Code, 1955–1971*. New York: Academic Press.
- Blumberg, Abraham. 1979. *Criminal Justice: Issues and Ironies*, 2nd ed. New York: New Viewpoints.
- Bonnie, Richard J., and Charles Whitebread II. 1974. *The Marijuana Conviction: A History of Marijuana Prohibition in the United States*. Charlottesville: University of Virginia Press.
- Brasier, L. L. 2015. "Police Seized More than \$24 Million in Assets from Michiganders in 2013, under Asset Forfeiture Laws." *Detroit Free Press*, February 22. <http://www.freep.com/story/news/local/michigan/2015/02/22/civil-asset-forfeiture-michiganseizures-aclu-heritage-foundation-institute-justice/23737663/>.
- Breton, Albert, and Ronald Wintrobe. 1982. *The Logic of Bureaucratic Control*. Cambridge: Cambridge University Press.
- Bullock, Scott, and Dick M. Carpenter II. 2010. *Forfeiting Justice: How Texas Police & Prosecutors Cash in on Seized Property*. Arlington, VA: Institute for Justice. <http://www.ij.org/forfeiting-justice>.
- CBS Miami. 2012. "Medical Examiner: Causeway Cannibal Not High on Bath Salts." June 27. <http://miami.cbslocal.com/2012/06/27/medical-examiner-causeway-cannibal-not-high-on-bath-salts/>.
- CCIM Institute. 2008. *Civil Asset Forfeiture*. Chicago.
- Centers for Disease Control. 2015. *Trends in the Prevalence of Marijuana, Cocaine, and Other Illegal Drug Use National YRBS: 1991–2015*. Washington, DC: Division of Adolescent and Youth

- Health. [http://www.cdc.gov/healthyyouth/data/yrbs/pdf/trends/2015\\_us\\_drug\\_trend\\_yrbs.pdf](http://www.cdc.gov/healthyyouth/data/yrbs/pdf/trends/2015_us_drug_trend_yrbs.pdf).
- Chambliss, William, and Robert Seidman. 1971. *Law, Order, and Power*. Reading, MA: Addison-Wesley.
- Copeland, Cary H. 1992. *Civil Forfeiture for the Non-Lawyer*. Washington, DC: US Department of Justice, Bureau of Justice Assistance Forfeiture Project.
- CNN. 2012. “‘Zombie Apocalypse’ Trending as Bad News Spreads Quickly.” June 1. <http://news.blogs.cnn.com/2012/06/01/zombie-apocalypse-trending-as-bad-news-spreads-quickly/>.
- Crawford, Andrew. 2015. “Civil Asset Forfeiture in Massachusetts: A Flawed Incentive Structure and Its Impact on Indigent Property Owners.” *Boston College Journal of Law & Social Justice* 35: 257–84.
- Department of Justice, Office of Public Affairs. 2015. “Attorney General Prohibits Federal Agency Adoptions of Assets Seized by State and Local Law Enforcement Agencies Except Where Needed to Protect Public Safety.” January 16. <http://www.justice.gov/opa/pr/attorney-general-prohibits-federal-agency-adoptions-assets-seized-state-and-local-law>.
- Dewan, Shaila. 2014. “Police Use Department Wish List When Deciding Which Assets to Seize.” *New York Times*, November 9. <http://www.nytimes.com/2014/11/10/us/police-use-department-wishlist-when-deciding-which-assets-to-seize.html>.
- Dickson, Donald. 1968. “Bureaucracy and Morality: An Organizational Perspective on a Moral Crusade.” *Social Problems* 16 (2): 142–56.
- Drug Policy Alliance. 2015. *Above the Law: An Investigation of Civil Asset Forfeiture in California*. Los Angeles.
- Edgeworth, Dee R. 2004. *Asset Forfeiture: Practice and Procedure in State and Federal Courts*. Chicago: American Bar Association.
- Ehlers, Scott. 1999. “Asset Forfeiture.” *Drug Policy Foundation Policy Brief*. Washington, DC: Drug Policy Foundation.
- Elliot, Steve. 2014. “Washington: Legal Marijuana Stores Having Trouble Matching Black Market Prices.” *HempNews*, December. <http://hemp.org/news/node/4404#sthash.SARZIO0e.dpuf>.
- Gainer, Ronald L. 2011. “Remarks on the Introduction of Criminal Law Reform Initiatives.” *Journal of Law, Economics and Policy* 7 (4): 587–96.
- Glass, Kevin. 2016. “A Setback for Justice: Obama’s DOJ Is Doing Criminal Justice Reform No Favors by Propping Up Unfair Asset Forfeiture Laws.” *U.S. News and World Report*, April 11. <http://www.usnews.com/opinion/articles/2016-04-11/obamas-doj-sets-back-justice-with-asset-forfeiture-program>.
- Heritage Foundation. 2015. *Arresting Your Property: How Civil Asset Forfeitures Turn Police into Profiteers*. Washington, DC: Heritage Foundation.
- Hill, Stuart. 1971. *Crime, Power and Morality: The Criminal Law Process in the United States*. Scranton, PA: Chandler Publishing.
- Holcombe, R. G. 1996. “Growth of the Federal Government in the 1920s.” *Cato Journal* 16 (2): 175–99.
- Hyde, Henry. 1995. *Forfeiting Our Property Rights: Is Your Property Safe from Seizure?* Washington, DC: Cato Institute.
- Institute for Justice. 2003. *Utah Asset Forfeiture—Background*. Arlington, VA. <http://www.ij.org/utah-asset-forfeiture-background>.
- . 2013. *Massachusetts Civil Forfeiture*. Arlington, VA. <https://www.ij.org/massachusetts-civil-forfeiture>.
- . 2016. *End Civil Forfeitures*. Arlington, VA. <http://endforfeiture.com/#legislation>.

- Johnson, Elaine M. 1987. "Cocaine: The American Experience." In *The Cocaine Crisis*, edited by David F. Allen, 33–44. New York: Plenum.
- Kaplan, John. 1970. *Marijuana: The New Prohibition*. New York: World Publishing.
- Kaste, Martin. 2016. "New Mexico Ended Civil Asset Forfeiture. Why Then Is It Still Happening?" National Public Radio, June 7. <http://www.npr.org/2016/06/07/481058641/new-mexico-ended-civil-asset-forfeiture-why-then-is-it-still-happening>.
- King, R. 1957. "Narcotic Drug Laws and Enforcement Policies." *Law and Contemporary Problems* 22 (1): 113–31.
- . 1978. "Drug Abuse Problems and the Idioms of War." *Journal of Drug Issues* 8 (2): 221–31.
- Klein, Dorie. 1983. "Ill and Against the Law: The Social and Medical Control of Heroin Users." *Journal of Drug Issues* 13 (1): 31–55.
- Leff, Benjamin M. 2016. "Tax Benefits of Government-Owned Marijuana Stores." *U.C. Davis Law Review* (2): 659–88.
- Lindesmith, Alfred. 1965. *The Addict and the Law*. New York: Vintage.
- Lopez, German. 2015. "Police Seized His Life Savings without Charging Him for a Crime. Now He's Fighting Back." Arlington, VA: Institute for Justice. <http://www.vox.com/2015/6/17/8792623/civil-forfeiturecharles-clarke>.
- Mast, Brent D., Bruce L. Benson, and David W. Rasmussen. 2000. "Entrepreneurial Police and Drug Enforcement Policy." *Public Choice* 104 (3/4): 285–308.
- Meyer, Jared. 2016. "Maryland Restricts Cops Stealing from Innocent People: The State Puts the Brakes on 'Policing for Profit.'" *FEE.org*, May 23. <https://fee.org/articles/maryland-restricts-cops-stealing-from-innocent-people/>.
- Migué, J.-L., and G. Bélanger. 1974. "Towards a General Theory of Managerial Discretion." *Public Choice* 17:27–43.
- Miller, Lisa L. 2004. "Rethinking Bureaucrats in the Policy Process: Criminal Justice Agents and the National Crime Agenda." *Policy Studies Journal* 32 (4): 569–88.
- Miller, Mitchell, and Lance Selva. 1994. "Drug Enforcement's Doubled-Edged Sword: An Assessment of Asset Forfeiture Programs." *Justice Quarterly* 11: 313–35.
- Murphy, Patrick. 1994. "Keeping Score: The Frailties of the Federal Drug Budget." Rand Drug Policy Research Center Issue Paper 138, 1–5. Santa Monica, CA: Rand Drug Policy Research Center.
- National Criminal Justice Association. 1988. *Asset Seizure and Forfeiture: Developing and Maintaining a State Capability*. Washington, DC.
- Niskanen, William. 1968. "The Peculiar Economics of Bureaucracy." *American Economic Review* 58:293–305.
- . 1971. *Bureaucracy and Representative Government*. Chicago, IL: Aldine-Atherton.
- . 1975. "Bureaucrats and Politicians." *Journal of Law and Economics* 18:617–43.
- O'Harrow, Robert Jr. 2014. "Highway Seizure in Iowa Fuels Debate about Asset-Forfeiture Laws." *Washington Post*, November 10. [http://www.washingtonpost.com/investigations/highway-seizure-in-iowa-fuels-debate-about-asset-forfeiture-laws/2014/11/10/10f725fc-5ec3-11e4-8b9e-2ccdac31a031\\_story.html](http://www.washingtonpost.com/investigations/highway-seizure-in-iowa-fuels-debate-about-asset-forfeiture-laws/2014/11/10/10f725fc-5ec3-11e4-8b9e-2ccdac31a031_story.html).
- O'Harrow, Robert Jr., and Steven Rich. 2014. "D.C. Police Plan for Future Seizure Proceeds Years in Advance in City Budget Documents." *Washington Post*, November 15. <http://www.washingtonpost.com/investigations/dc-police-plan-for-future-seizure-proceeds-years-in-advance-in-city-budget-documents/2014/11/15/7025edd2-6b76-11e4-b053-65cea7903f2e-story.html>.
- O'Harrow, Robert Jr., Steven Rich, Alberto Cuadra, Ted Mellnik, and Shelly Tan. 2014. "Asset Seizures Fuel Police Spending." *Washington Post*, October 11. <http://www.washingtonpost.com/sf/investigative/2014/10/11/asset-seizures-fuel-police-spending/>.

- Oteri, Joseph, and Harvey Silvergate. 1967. "In the Marketplace of Free Ideas: A Look at the Passage of the Marihuana Tax Act." In *Marihuana: Myths and Realities*, edited by J. L. Simmons. North Hollywood, CA: Brandon House.
- Parker, Glenn R. 1992. *Institutional Change, Discretion, and the Making of the Modern Congress*. Ann Arbor: University of Michigan Press.
- Paul, Kari. 2015a. "Ross Ulbricht Sentenced to Life in Prison for Running Silk Road." *Vice*, May. <http://motherboard.vice.com/read/ross-ulbricht-sentenced-to-life-in-prison-for-running-silk-road?trk>.
- . 2015b. "The Government Tells Ross Ulbricht He Owes It \$183,961,921." *Vice*, May. <http://motherboard.vice.com/read/the-government-tells-ross-ulbricht-he-owes-them-183961921>.
- Pilon, Roger. 2015. "America's Frightening 'Policing for Profit' Nightmare." *National Interest*, January 23. <http://nationalinterest.org/feature/americas-frightening-policing-profit-nightmare-12094>.
- Rasmussen, David W., and Bruce L. Benson. 1994. *The Economic Anatomy of a Drug War: Criminal Justice in the Commons*. Lanham, MD: Rowman & Littlefield.
- Reaves, Brian A. 1992. "Drug Enforcement by Police and Sheriffs' Departments, 1990." In *Bureau of Justice Statistics: Special Report*. Washington, DC: US Department of Justice, Bureau of Justice Statistics.
- Reinarman, Craig. 1983. "Constraint, Autonomy, and State Policy: Notes toward a Theory of Controls on Consciousness Alteration." *Journal of Drug Issues* 13 (1): 9–30.
- Resignato, Andrew J. 2000. "Violent Crime: A Function of Drug Use or Drug Enforcement." *Applied Economics* 32 (6): 681–88.
- Reuter, Peter. 1994. "Setting Priorities: Budget and Program Choices for Drug Control." *University of Chicago Legal Forum* 1994: 145–73.
- Rhodes, Robert. 1977. *The Insoluble Problems of Crime*. New York: John Wiley and Sons.
- Richards, David A. J. 1982. *Sex, Drugs, Death, and the Law: An Essay on Human Rights and Overcriminalization*. Ottawa, NJ: Rowman & Littlefield.
- Ross, Phillip. 2014. "Marijuana Costs in the US: Black Market, Retail, and Medical Pot Prices Compared." *International Business Times*, June. <http://www.ibtimes.com/marijuana-costs-us-how-blackmarket-retail-medical-pot-prices-compare-1622362>.
- Sallah, Michael, Robert O'Harrow Jr., and Steven Rich. 2014. "Stop and Seize: Aggressive Police Take Hundreds of Millions of Dollars from Motorists Not Charged with Crimes." *Washington Post*, September 6. <http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/>.
- Smith, P. 2012. "What's in Obama's New Drug War Budget? (Hint: Same, Old Broken Policies)." *Drug War Chronicle*, February.
- Snead, Jason. 2016. "Nebraska Abolishes Civil Forfeiture: Police Can No Longer Arbitrarily Confiscate Innocent People's Property." *FEE*, April 27. [https://fee.org/articles/nebraska-abolishes-civil-forfeiture/?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=fee\\_daily&mkt](https://fee.org/articles/nebraska-abolishes-civil-forfeiture/?utm_source=newsletter&utm_medium=email&utm_campaign=fee_daily&mkt).
- Springer, Dan. 2015. "First Government-Owned Pot Store Opens in Washington State." *Fox News*, March 18. <http://www.foxnews.com/politics/2015/03/18/washington-state-pot-store-brings-revenue-to-local-town.html>.
- Stewart, Kirsten. 2003. "Seized Assets Are Pocketed." *Salt Lake Tribune*, January 25.
- Stumpf, Harry P. 1988. *American Judicial Politics*. San Diego: Harcourt Brace Jovanovich.
- Stuntz, William J. 2001. "The Pathological Politics of Criminal Law." *Michigan Law Review* 100 (3): 505–600.
- Sturgeon, Wina. 2014. "Civil Asset Forfeiture." *Utah Stories*, October 10. <http://www.utahstories.com/2014/10/civil-asset-forfeiture/>.

- Stuttmann, Robert M., and Richard Esposito. 1992. *Dead on Delivery: Inside the Drug War, Straight from the Streets*. New York: Warner Books.
- Subcommittee on Crime of the Committee on the Judiciary, House of Representatives. 1990. *Hearing on Federal Drug Forfeiture Activities*, 101st Congress, 1st Session, Serial no. 55. Washington, DC: US Government Printing Office.
- US Drug Enforcement Administration. 2015. *DEA Staffing and Budget*. Washington, DC. <https://www.dea.gov/about/history/staffing.shtml>.
- Van Voris, Bob, and Patricia Hurtado. 2015. "Ross Ulbricht Convicted of Running Silk Road as Dread Pirate Roberts." *Bloomberg*, February 4. <http://www.bloomberg.com/news/articles/2015-02-04/rossulbricht-convicted-of-running-silk-road-as-dread-pirate>.
- Vigh, Michael. 2002. "Judge Rules on Forfeiture Statute." *Salt Lake Tribune*, August 3, B3.
- Williams, Marian R., Jefferson E. Holcomb, Tomislav V. Kovandzic, and Scott Bullock. 2011. *Policing for Profit: The Abuse of Civil Asset Forfeiture*. Arlington, VA: Institute for Justice. <http://www.ij.org/wp-content/uploads/2015/03/assetforfeituretoemail.pdf>.
- Wisotsky, Steven. 1991. "Zero Tolerance/Zero Freedom." Paper presented at the Seventh Annual Critical Issues Symposium, Policy Sciences Program, Florida State University, Tallahassee.
- Worrall, John L. 2001. "Addicted to the Drug War: The Role of Civil Asset Forfeiture as a Budgetary Necessity in Contemporary Law Enforcement." *Journal of Criminal Justice* 29 (3): 171–87.
- Zimring, Franklin E., and Gordon Hawkins. 1992. *The Search for Rational Drug Control*. Cambridge, MA: Cambridge University Press.