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CASCADE AIDS PROJECT

## Forfeiture laws

*Ignorance of the new forfeiture laws may cost your your  
automobile or your home*

BY BRADLEY J. WOODWORTH

Disclaimer Note: *No two legal situations  
are exactly the same. This column discusses  
general legal principles only. For specific  
advice, consult your lawyer.*

The City of Portland recently adopted  
new ordinances that permit it to seize  
and retain vehicles that are involved in  
prostitution, or are driven by repeat drunk  
drivers or repeat suspended drivers. These  
new ordinances have received considerable  
play in the local press. However, there are  
some wrinkles to these ordinances that you  
may not be aware of. In this case, ignorance  
could cost you your motor vehicle.

### Counsel

There are also older laws which permit  
government entities to seize and retain  
property used in distributing illegal drugs, and  
property purchased with proceeds of illegal  
drug sales. If either of these laws are applied  
to you, you could stand to lose valuable  
property. This column discusses some aspects  
of these "forfeiture" laws that you should be  
aware of.

#### New forfeiture laws

Under new City of Portland ordinances, a  
vehicle that is used in street prostitution, or a  
vehicle driven by a repeat drunk driver or  
repeat suspended driver may be seized by the  
city and sold to the highest bidder with no  
compensation to the owner of the forfeited  
property.

There have been several highly publicized  
"sweeps" and undercover operations to  
publicize these new laws. Even if you have  
never been convicted of drunk driving, or  
never had your license suspended, or have  
never picked up a prostitute, you could still  
lose your car.

One of the recent Portland car seizures  
involved a man who picked up an undercover  
police decoy on 82nd Avenue. Not only was  
he arrested for prostitution, but the vehicle he  
was driving was impounded by the city and  
might not be returned to the owner.

Also, if you are the owner of a vehicle and  
someone else uses it in one of the prohibited  
ways, you could still lose your car. For  
example, the city is presently attempting to  
sell off a vehicle driven by the friend of the  
vehicle owner. The "friend" lent his car to the  
defendant, knowing that the defendant had a  
suspended license. Other possible scenarios

that could cost your car include lending your  
car to someone you know to be a repeat drunk  
driver, especially if they are intoxicated at the  
time you let them use the car. You are taking  
a big risk any time you lend your car to a  
person who you do not know to be a valid  
licensed driver, and not under the influence of  
intoxicants. If you are out with one of your  
friends or roommates who decide to go home  
early and you give your intoxicated friend the  
keys to your car, you could end up losing it.

Should you ever be stopped by a police  
officer for driving while suspended, driving  
under the influence, or a prostitution offense,  
you should immediately invoke your right to  
remain silent, and not make *any statements* to  
the police officer about what you are engaged  
in. It happens too often that persons volunteer  
information that helps to make the case  
against them.

#### Old forfeiture laws

For sometime, state and county authorities  
have been able to seize and retain property  
used in the distribution of illegal drugs, and  
property obtained with proceeds of illegal  
drug sales. In a typical scenario, a drug dealer  
will use his car to peddle his wares. If he is  
caught in the process, the vehicle is subject to  
forfeiture.

Another typical scenario is indoor  
cultivation of marijuana. If the offender is  
caught, the county may elect to seize the  
house in which the growing took place. Thus,  
if you have a roommate or friend residing in a  
house with you, and they have an illegal drug  
operation there, you stand to lose your interest  
in the house as well.

A less common, but still possible scenario  
could involve taking delivery of controlled  
substances in a parked vehicle. For example,  
if you decide to buy a small amount of illegal  
drugs from someone, and you go "out to your  
car" to effect the transaction, and are caught  
in the act, the vehicle may be subject to  
seizure and forfeiture.

These older forfeiture laws have been  
tested in court, and generally found to be  
constitutional. The new City of Portland  
forfeiture ordinances have not yet been tested  
in court, and may turn out to be  
unconstitutional in some regards. Nonetheless,  
you probably do not wish to be the one to  
incur the substantial expense and trouble of  
challenging a forfeiture law. Until these laws  
are challenged and tested, you should be  
aware of them at all times, and take  
appropriate cautions to protect your property. ▼

*The author is an attorney in private  
practice and maintains his office in the Crown  
Plaza Building in downtown Portland.*

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