

The Ethics of Asset Forfeiture Programs



2011 COPS Conference

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Sergeant James A. Cox III

Fairfax County Police Department

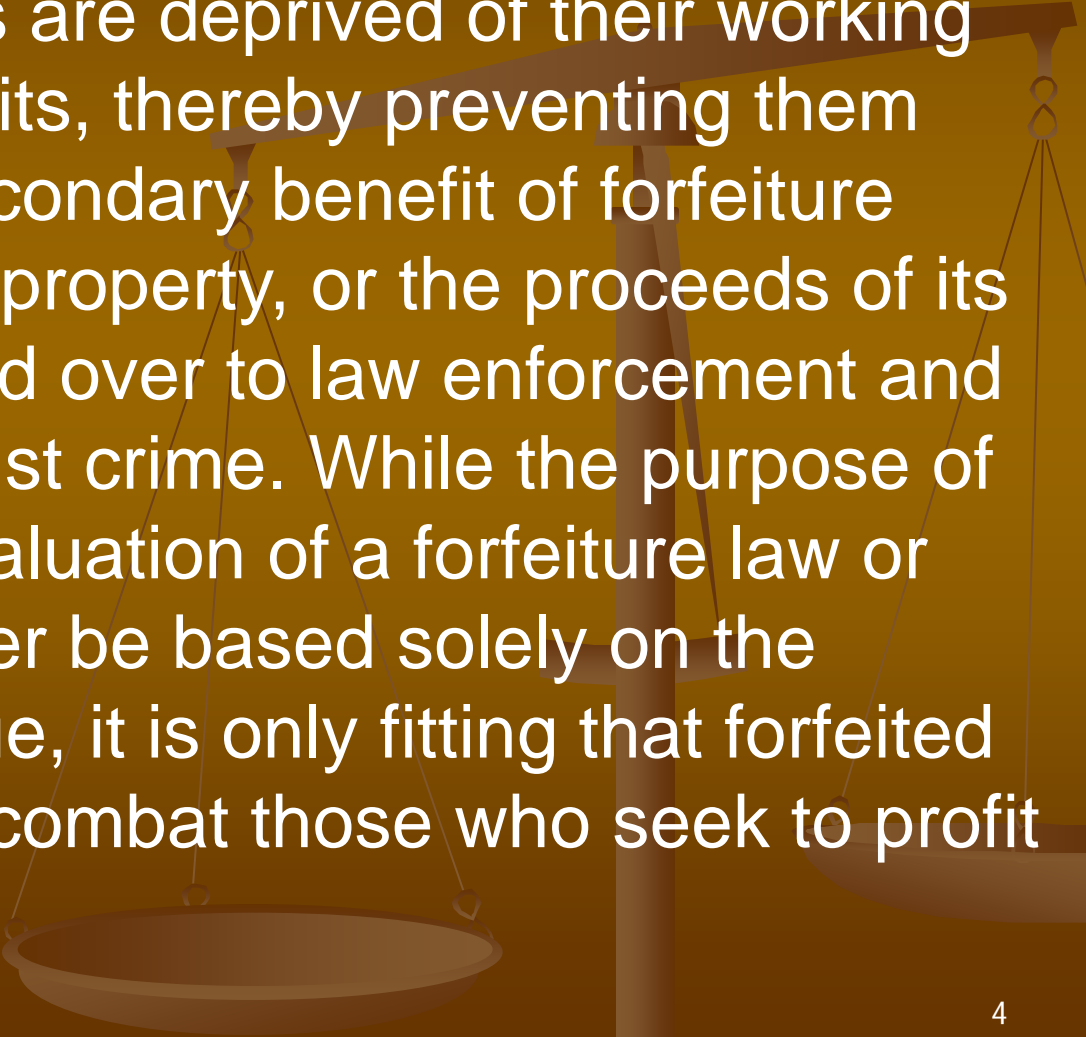
Fairfax, Virginia.

History of Asset Forfeiture

Forfeiture has been used, literally since ancient times, to take property wrongfully used or acquired. References to forfeiture in the Old Testament, Greek and Roman law indicate that its purpose was to exact a penalty against property which had been used or acquired in connection with some type of prohibited conduct. In modern times, forfeiture is used to protect the public from harmful products and the property of criminal enterprise.

The first statute authorizing civil forfeiture was enacted by Congress in 1789 as a sanction for the use of ships in customs violations. In 1978, Congress expanded the law to permit forfeiture of all money used in, or acquired from, the illegal drug trade and authorized the forfeiture of real property in 1984.

Federal civil and criminal forfeiture statutes now reach substantially the same offenses and type of property. All fifty states and the District of Columbia now have some type of civil and/or criminal forfeiture statute in effect.



As a result, criminals are deprived of their working capital and their profits, thereby preventing them from operating. A secondary benefit of forfeiture laws is that forfeited property, or the proceeds of its sale, has been turned over to law enforcement and is used to fight against crime. While the purpose of forfeiture and the evaluation of a forfeiture law or program should never be based solely on the generation of revenue, it is only fitting that forfeited property be used to combat those who seek to profit from crime.

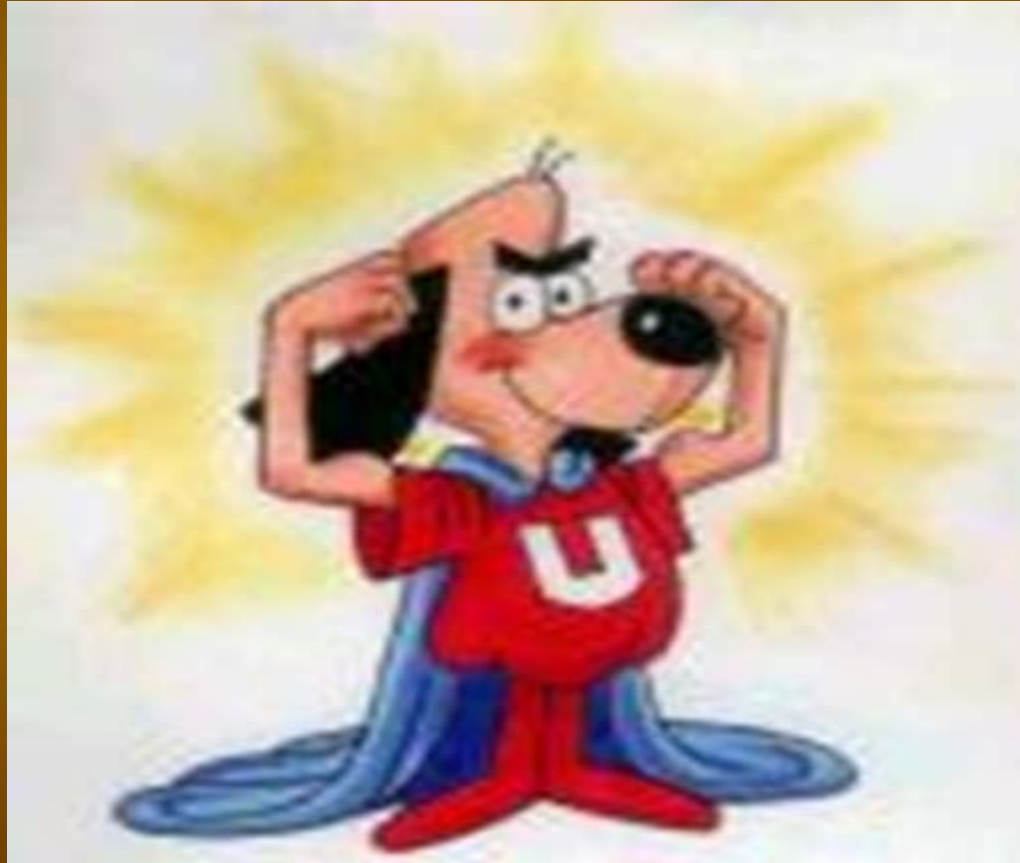
Why use Asset Forfeiture

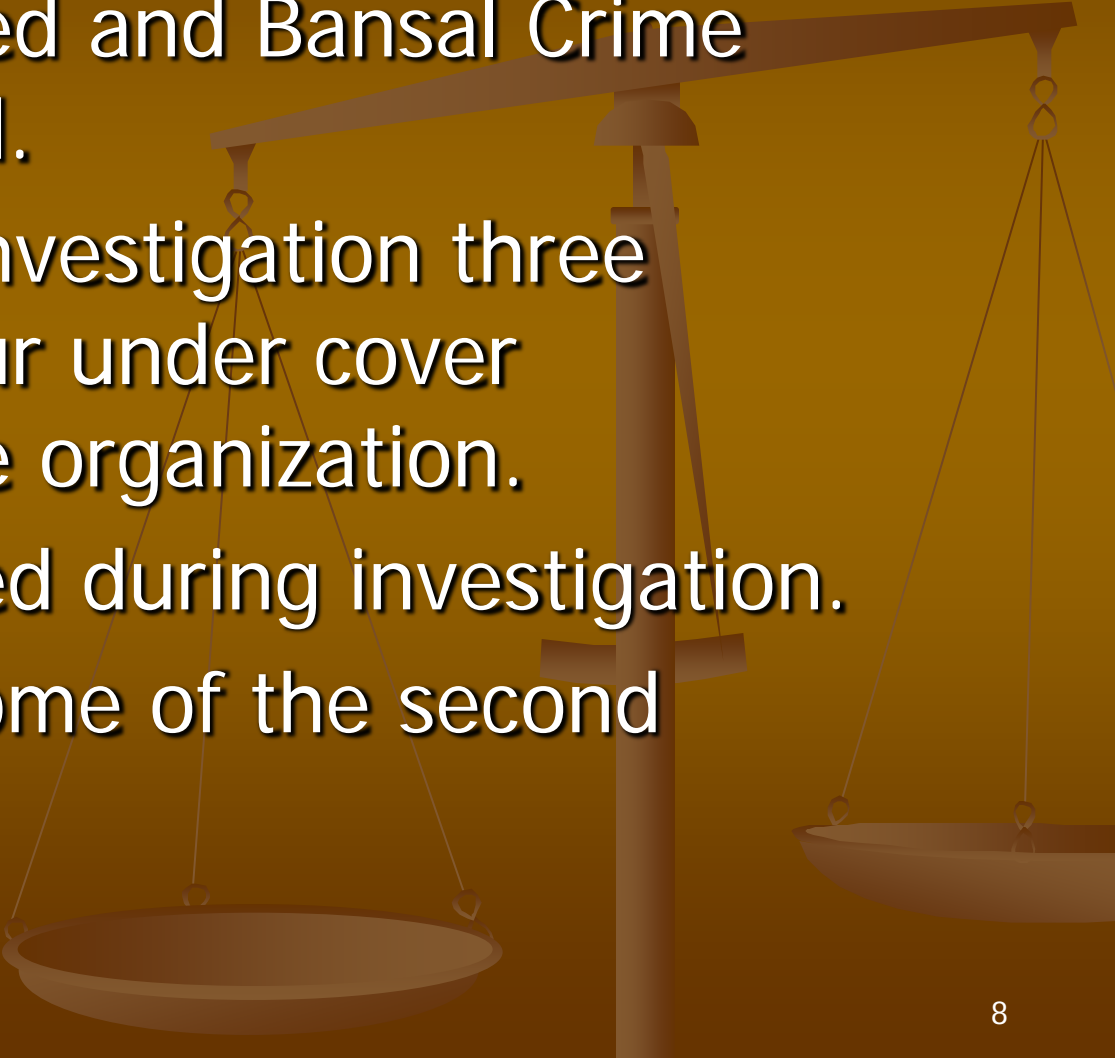
- 1988 Fairfax County Police investigate a father and two sons (The Bansal's) operating an illegal gambling enterprise.
- All three arrested and charged with felony.
- All three plea to felony and serve little to no time in jail.
- Small amount of United States currency seized.

Sounds Like A Typical Criminal Case

- In 1988 we knew very little about asset forfeiture.
- It was this case that led us down a path where we are today.
- The Bansal's enter work release and continue their illegal gambling enterprise.
- Detective's learn a valuable lesson on seizing illegal proceeds.

2004 It's Our Turn Operation Underdog



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- Informant cultivated and Bansal Crime Family is infiltrated.
 - During 2 ½ year investigation three informants and four under cover detectives infiltrate organization.
 - Assets are identified during investigation.
 - This was the outcome of the second investigation.

Police Arrest Members of an Organized Crime Organization

Detectives from the Fairfax County Organized Crime and Narcotics Division have concluded an extensive investigation into the Bansal organized crime family and organization. Dubbed Operation Underdog, the investigation began over two years ago when detectives discovered the organization's ties to illegal sports gambling. Police later uncovered links to loan sharking, illegal Internet gambling, fraud, money laundering, narcotic distribution and extortion.

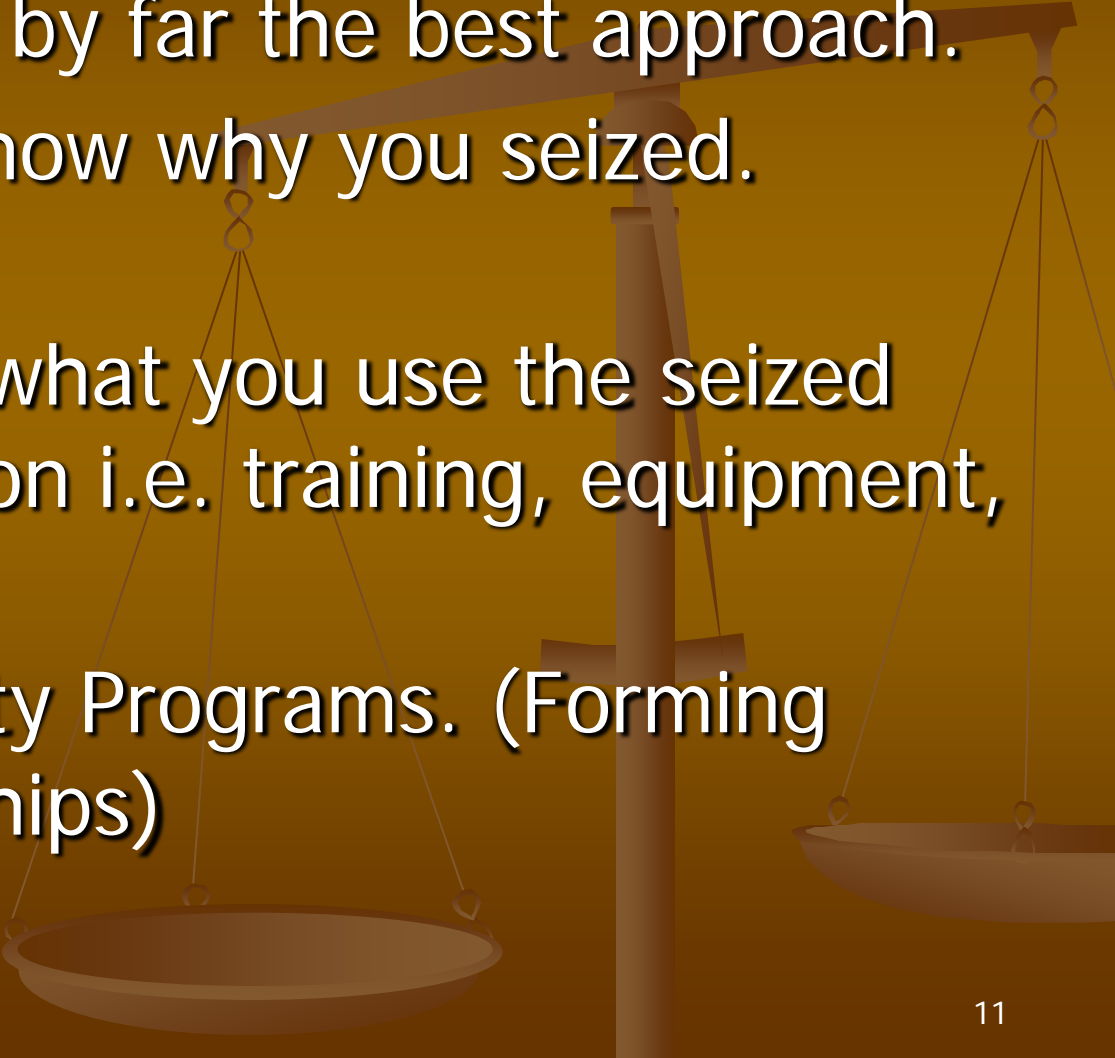
Detectives have served over 25 search warrants on homes, businesses and financial institutions as part of the largest operation of this type in the police department's history. The search warrants, served in Fairfax County, Arlington County, Prince William County, Stafford County, Frederick County MD, and Dare County NC, have enabled police to seize almost two million dollars in cash and jewelry estimated at about one million dollars.

On Wednesday, February 8 at about 11 a.m., the Fairfax County Police Department was assisted by the Arlington County Police Department, Prince William County Police Department, Stafford County Sheriff's Office and Kill Devil Hills Police Department in North Carolina. Simultaneously, these five jurisdictions served eight search warrants and arrested eight people simultaneously.

A balance scale is depicted against a solid brown background. The scale's beam is tilted upwards towards the right. The left pan, which is lower, contains the word 'Applause' in a light yellow, serif font. The right pan is higher and appears to be empty. The scale is supported by a central vertical pillar.

Applause

You have won, Now What?

- Transparency is by far the best approach.
 - Let the public know why you seized.
(Press Release)
 - Let them know what you use the seized funds/property on i.e. training, equipment, etc.
 - Think Community Programs. (Forming Strong Partnerships)
 - DARE Program.
- 



BMW E36 Blog

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WOW, Asset Forfeiture Looks Great and Easy, Is It.

- No, No, and No.
- Remember once you seize it you are TOTALLY RESPONSIBLE for it.
- You must safe guard it as it travels through the Court process.
- Asset Forfeiture can be great for Law Enforcement and it can be your Agency's worst nightmare.

Who Knew

(You Should)

No one suspected wrongdoing when Daniel B. Garrett III retired in May 1999 after a 28-year police career. He was about to be transferred out of the Fairfax narcotics unit for unrelated reasons. When Garrett's successor took over the asset forfeiture job, Fairfax County Police Chief J. Thomas Manger said, discrepancies were noticed. Manger then asked the FBI to take over the case, to avoid any perception of bias in the investigation.

Federal prosecutors negotiated with Garrett and his Attorney, Alan H. Yamamoto, which resulted in Garrett's entering a plea to one count of theft from a program receiving federal funds. Under federal guidelines, Garrett was sentenced of 18 to 24 months in federal prison, and he must make restitution of the full \$330,000.

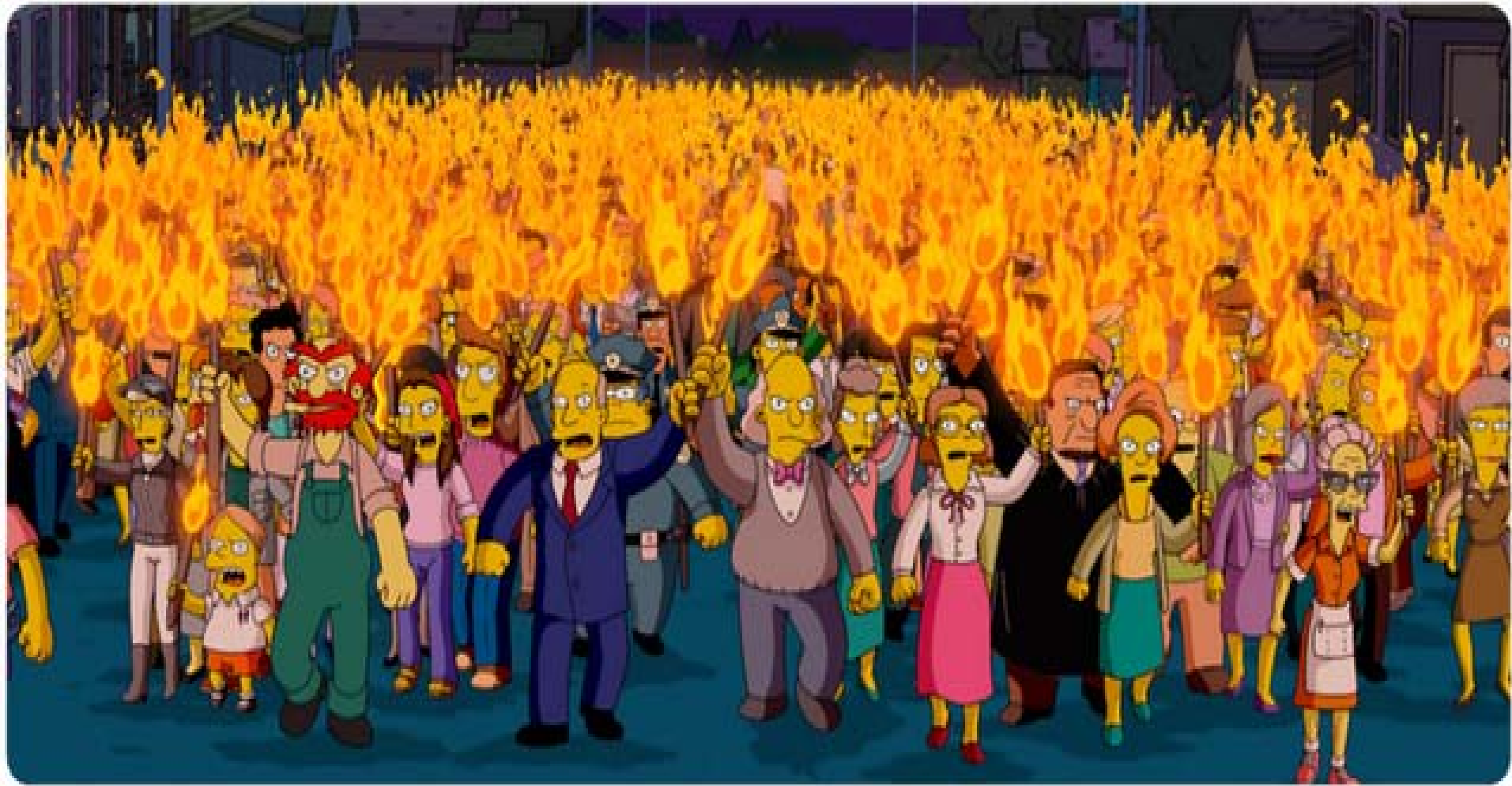
Here We Go Again

Two civilian employees of the Fairfax County Police Department have been charged with stealing from the police property room, with one employee accused of taking more than \$12,000 cash, police said yesterday.

An investigation into missing cash began in October 2004, police said, after money that was to be returned to a crime victim could not be found. Police spokeswoman Mary Ann Jennings said detectives launched an audit of the cash being held in the police property section stored in a vault in a building behind police headquarters in Fairfax City.

The investigators concluded that Kionna **Garrett**, 22, of the 3200 block of Napper Road in the Hybla Valley area, was responsible for the cash theft.

How Did The Community React



What We Did To Fix It

- Created Asset Forfeiture database.
- Met with Department of Justice.
- Met with Virginia Department of Criminal Justice Services.
- Met with other departments.
- Checks and balances.
- Requested Audit.

The Tool Box

- Asset Forfeiture is a great tool in your tool box to aid and assist criminal investigations.
- It **should not** be the driving force for your criminal investigations.
- An Agency with strong Ethics, Values, Guide Lines, and Written Procedures will always come out on top.

RESOURCES

- AFMLSPUBLICATIONSAUSDOJ.GOV
- (Resource Directory)
- (Quick Release)
- (Asset Forfeiture News)
- USMARSHALS.GOV
- State Forfeiture Program
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