



April 15, 2015

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The Honorable Chuck Grassley  
Chairman  
Senate Judiciary Committee  
Washington, DC 20510

The Honorable Patrick Leahy  
Ranking Member  
Senate Judiciary Committee  
Washington, DC 201510

**SUPPORT EFFECTIVE & COMPREHENSIVE FEDERAL CIVIL ASSET  
FORFEITURE REFORM**

Dear Chairman Grassley and Ranking Member Leahy:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations, we write to express our support for your efforts to address civil asset forfeiture through comprehensive reform. The Leadership Conference believes current federal asset forfeiture laws violate the civil and human rights of Americans and are antithetical to principles of due process and procedural fairness.

Federal civil asset forfeiture laws are particularly harmful to lower income communities and communities of color; create a perverse financial incentive for federal, state and local law enforcement to pursue profit over the fair administration of justice; encourage violations of due process and property rights; and facilitate the circumvention of state laws that prohibit abuse of civil asset forfeiture. We urge you to support comprehensive reform that will effectively address defects in current law and procedures that have become serious threats to an individual's civil rights.

The current federal civil asset forfeiture program undermines civil rights and violates due process rights by providing law enforcement with the power to take property from someone who has not been convicted of a crime. Innocent citizens can be deprived of their property without due process of law, often without an arrest or a hearing. Property owners bear the burden and the costs of demonstrating a property's "innocence" and are not entitled to a lawyer.

Civil asset forfeiture, which is used by federal, state, and local law enforcement throughout the country, has recently come under significant scrutiny because of the billions of dollars it generates annually for law enforcement at all levels. Since 2008, state and local police have made more than 55,000 seizures of cash and property worth \$3 billion with the help of the federal government.<sup>1</sup>

Civil asset forfeiture has long been used to carry out the ineffective and abusive War on Drugs and was once envisioned as a useful tool to target high level drug king-pins. However, abuse of civil asset forfeiture by federal, state, and local law enforcement has had the opposite effect. Just as the War on Drugs disproportionately impacts low income people and

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communities of color, so has civil asset forfeiture. For decades, Blacks and Latinos have had their property seized based on mere suspicion of drug activity as a consequence of racial profiling. In the 1990s, in one Florida county, 90 percent of the drivers from whom cash was confiscated without arrest were Black or Latino.<sup>ii</sup>

In response to such suspicionless seizures, the Civil Asset Forfeiture Reform Act of 2000 was introduced in Congress. During that time, a study by the ACLU found that in “traffic stops, airport searches, and drug arrests ... minorities are hardest hit.”<sup>iii</sup> This continues to be the case more than a decade later. A recent series of articles by *The Washington Post* chronicling the issue of civil asset forfeiture and particular abuses found that “of the 400 court cases examined by *The Post* where people who challenged seizures and received some money back, the majority were black, Hispanic or another minority.”<sup>iv</sup> Very few people have the resources to challenge the government, especially when the burden of proof favors the government over the rights of property owners, as is the case in civil asset forfeiture proceedings.

We urge reform of four aspects of the civil asset forfeiture program:

- First, the profit incentives driving civil asset forfeiture at all levels must be eliminated by ending federal and state/local partnerships known as “equitable sharing” that have been used to circumvent state civil forfeiture reforms.
- Second, reform must also tackle these perverse profit incentives by restoring federal oversight and control. Forfeiture proceeds should be directed to the U.S. Treasury’s General Fund or toward programs that do not perpetuate improper forfeiture-related incentives.
- Third, the burden of proof in asset forfeiture proceedings should be increased from a “preponderance of the evidence” to “clear and convincing evidence” before the government can take someone’s property believed to be connected to a crime. The right to counsel should apply in all civil asset forfeiture proceedings, and the right to a pre-trial hearing should be guaranteed.
- Finally, innocent business owners subjected to forfeiture should be protected. Federal law must be revised to end the use of civil forfeiture in structuring cases where funds cannot be tied to illegal activity and are not derived from an illegal source. The IRS and other federal agencies should be required to prove that cash and other property is connected to illegal activity or derived from an illegal source that is separate and apart from a federal structuring offense.

Today’s hearing is an important first step toward addressing the concerns we have raised. As you consider this issue, we urge you to advance federal forfeiture policies that will protect lower income communities and communities of color, enhance due process rights, strengthen property rights across the country, and curb misaligned policy and economic incentives surrounding the use of federal civil asset forfeiture. We encourage you to pursue bipartisan legislative reforms. Thank you for your commitment to this issue and for your consideration. If you have any questions or concerns, please feel free to contact Sakira Cook, Counsel, at 202-263-2894 or [cook@civilrights.org](mailto:cook@civilrights.org).

Sincerely,



Wade Henderson  
President & CEO



Nancy Zirkin  
Executive Vice President

<sup>i</sup> Robert O’Harrow, Jr., Sari Horwitz, and Steven Rich, Holder limits seized-asset sharing process that splits billions with local, state police, WASH. POST (Jan. 16, 2015), <http://www.washingtonpost.com/investigations/holder-ends->



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[seized-asset-sharing-process-that-split-billions-with-local-state-police/2015/01/16/0e7ca058-99d4-11e4-bcfb-059ec7a93ddc\\_story.html](http://seized-asset-sharing-process-that-split-billions-with-local-state-police/2015/01/16/0e7ca058-99d4-11e4-bcfb-059ec7a93ddc_story.html).

<sup>ii</sup> Jeff Brazil and Steve Berry, Tainted cash or easy money?, ORLANDO SENTINEL (June 14, 1992), [http://articles.orlandosentinel.com/1992-06-14/news/9206131060\\_1\\_seizures-kea-drug-squad](http://articles.orlandosentinel.com/1992-06-14/news/9206131060_1_seizures-kea-drug-squad).

<sup>iii</sup> Letter from the ACLU and NAACP to the U.S. House of Representatives on the Civil Asset Forfeiture Reform Act of 1999 (June 10, 1999), available at <https://www.aclu.org/racial-justice/letter-house-civil-asset-forfeiture-act-1999>.

<sup>iv</sup> <http://www.washingtonpost.com/sf/investigative/2014/09/06/stop-and-seize/>