



AMERICANS FOR PROSPERITY



July 20, 2017

Chairman Bob Goodlatte
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Chairman Chuck Grassley
Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Call to Pass Civil Forfeiture Reform Quickly and Independently

Dear Chairman Goodlatte and Chairman Grassley:

On behalf of the undersigned organizations dedicated to the protection of civil liberties and private property, we write to express our deep disappointment with the Department of Justice’s announcement that it will expand civil forfeiture. We urge you to take swift action to reform this broken system.

Americans from across the nation agree that our civil forfeiture system undermines property rights and is fundamentally unjust. Today, law enforcement can confiscate property from citizens and businesses without any criminal conviction or even criminal charges. Once their property has been seized, ordinary Americans must navigate a system that is stacked against them. For example, property owners must prove they are “not guilty,” turning the fundamental presumption of innocence on its head. Working-class Americans are disproportionately harmed by this system. As none other than Justice Clarence Thomas recognized, “forfeiture operations frequently target the poor and other groups least able to defend their interests.” “Perversely,” Justice Thomas said, “these same groups are often the most burdened by forfeiture.”

The need for forfeiture reform is recognized across the political and ideological spectrum, and throughout the nation. Both the Republican and Democratic Party platforms in 2016 called for civil forfeiture reform, and recent polls show 84% of voters oppose the practice. Indeed 59% of Americans who voted for President Trump believed that police should not be able to seize property from individuals who are never prosecuted. This groundswell of support for reform has led 24 states, in the last three years, to pass new laws rolling back civil forfeiture.

The Department of Justice’s decision to increase the use of civil forfeiture runs wholly contrary to this national consensus. Most egregiously, the Department of Justice has reversed the ban on using so-called “adoptive” seizures, where state and local law enforcement can seize property under state law and transfer it to federal prosecutors for forfeiture, in exchange for up to 80 percent of the proceeds. These adoptive seizures are an affront to our nation’s federalist system because they allow state and local law enforcement to use federal forfeiture laws to circumvent state-law limitations. This approach directly undermines the states and communities that Senators and Representatives represent and weakens our nation’s self-governance.

The supposed “safeguards” outlined by the Department of Justice offer very little substantive protection to property owners, as they amount to little more than a pledge to be more careful. For example, under this new policy, the Department of Justice will continue to seek forfeiture of homes where the owner is not implicated in illegal activity, with the only “safeguard” being that Department officials should proceed with particular caution. Moreover, the additional requirements for seizures of less than \$10,000 in cash can be circumvented with a federal prosecutor’s sign-off. Americans need real protections, not just non-binding window-dressing.

Finally, the Department of Justice’s announcement does not appear to take into account the pointed criticisms of the program leveled by its own Inspector General as recently as March of this year. In that report, the Inspector General explained that the Department “cannot effectively assess whether asset forfeiture is being appropriately used” and that the risks to civil liberties are great, corroborating concerns that our organizations have long expressed as well.

As the Chairmen of the House and Senate Judiciary Committees, you have the power to correct this overreach by the Department of Justice and protect Americans’ fundamental rights by immediately scheduling meaningful forfeiture reform legislation. We understand that, in prior Congresses, the issue of civil forfeiture has been treated as part of criminal sentencing reform, despite the tangential relationship between the two issues. It is our shared belief that civil forfeiture reform can pass both the House and Senate with overwhelming support, so we urge you to move forward on civil forfeiture *independently of comprehensive criminal justice reform*.

Thank you for your leadership. We stand ready to assist you and your staff, and are available to answer any questions you may have. For follow-up purposes, please feel free to contact Darpana Sheth of the Institute for Justice at dsheth@ij.org or 703-682-9320; or Kanya Bennett of the American Civil

Liberties Union at kbennett@aclu.org or 202-715-0808; Sakira Cook of The Leadership Conference at cook@civilrights.org or 202-466-3315; or Grant Smith at the Drug Policy Alliance at gsmith@drugpolicy.org or 202-683-2984.

Sincerely,

Institute for Justice
American Civil Liberties Union
Leadership Conference on Civil and Human Rights
Drug Policy Alliance
American Commitment
Americans for Forfeiture Reform
Americans for Prosperity
Campaign for Liberty
Coalition for Public Safety
Concerned Veterans for America
The DKT Liberty Project
Freedom Partners
FreedomWorks
Generation Opportunity
The Goldwater Institute
Justice Action Network
The Libre Initiative
NAACP
National Association of Criminal Defense Lawyers
R Street Institute

cc: Rep. John Conyers, Ranking Member, House Judiciary Committee
Sen. Dianne Feinstein, Ranking Member, Senate Judiciary Committee
Rep. Paul Ryan, Speaker of the House of Representatives
Sen. Mitch McConnell, Senate Majority Leader
Rep. Nancy Pelosi, House Minority Leader
Sen. Chuck Schumer, Senate Democratic Leader