

August 1, 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: Time for Action on Civil Asset Forfeiture

Dear Chairman Goodlatte and Chairman Grassley:

We write to ask you to pass legislation reforming federal civil asset forfeiture. As it is currently practiced, civil asset forfeiture is an affront to private property rights as well as fundamental rights to due process. As such, current law encourages violations of property rights and the principles of federalism and it is Congress's sole responsibility to secure them both. No matter the administrative rules in place, true reform of civil asset forfeiture requires a change in statute. Conservatives believe that property rights are among the most fundamental of our God-given rights as recognized by our nation for centuries. Likewise, federalism is a principle that our founding fathers and conservatives of today greatly value.

Civil forfeiture is a process that allows property to be seized and forfeited without ever charging, much less convicting, its owner of a crime. Often, these seizures are justified by mere suspicion with little, if any, actual evidence tying property or currency to an illicit act. At this point, property owners must navigate a tortuous, skewed legal landscape that requires them to prove, in essence, their own innocence.

Seizures for purposes of evidence gathering are another matter entirely and permissible. We also recognize that *criminal* asset forfeiture is fundamentally different from *civil* asset forfeiture insofar as someone has been convicted of a crime and the property at issue is connected to that crime. Certainly, those who have accumulated wealth or property via criminal activity have no rights to either of those. In certain circumstances, civil forfeiture may be entirely appropriate, for example when foreign entities or others are not present to stand trial due to them absconding from justice or other reasons. The principal objective of law enforcement officials, however, should be arresting, charging, and convicting suspected criminals. Over-reliance on civil forfeiture can result in the confiscation of property without due process of law, which is in stark contrast to our founding principles of life, liberty, and property.

Well documented abuse and misuse of civil forfeiture has prompted states with both Republican and Democratic leadership to act to limit civil asset forfeiture and secure the rights of their citizens. In the past three years alone, 24 states and the District of Columbia have passed civil asset forfeiture reforms. Yet in practice, the federal government enables law enforcement in those states to circumvent state law by permitting adoptive forfeitures, allowing the federal government to stand in for legal purposes while the local or state law enforcement agency that seized the property claims the lion's share of the forfeiture proceeds. Though some protections have been included in the new Department of Justice policy and are encouraging, in this case prosecutorial and administrative discretion is no substitute for the protection afforded by the rule of law.

We are concerned that civil asset forfeiture distracts our nation’s law enforcement officers from their primary responsibilities: maintaining public safety and holding people accountable for violating the law. Over-reliance on civil asset forfeiture to augment operating and capital budgets also places our nation’s police officers in a conflict of interest that undermines the public’s confidence in the criminal justice system. The Inspector General of the Department recognized in his report that “the Department cannot effectively assess whether asset forfeiture is being appropriately used and it risks creating the impression that its law enforcement officers prioritize generating forfeiture revenue over dismantling criminal organizations.”

In his statement on a denial of *certiorari* of a case involving civil forfeiture, Justice Clarence Thomas wrote, “This system—where police can seize property with limited judicial oversight and retain it for their own use— has led to egregious and well-chronicled abuses... These forfeiture operations frequently target the poor and other groups least able to defend their interests in forfeiture proceedings. Perversely, these same groups are often the most burdened by forfeiture.”

As the Chairmen of the House and Senate Judiciary Committees, you have proven your desire to pursue improvements to the justice system. We call upon you to protect the liberties and principles that we know you hold dear.

Thank you for your continued leadership. We stand ready to assist you in determining the best solutions for this issue. If you would like to follow up with any of our organizations, we ask that you contact: Pat Nolan, American Conservative Union Foundation (pnolan@conservative.org); Jorge Marin; Americans for Tax Reform (jmarin@atr.org); Ronald Lampard, American Legislative Exchange Council (rlampard@alec.org); Patrick Purtill, Faith and Freedom Coalition (patrick@ffcoalition.com); Jason Pye, FreedomWorks (jpye@freedomworks.org); Jason Snead, The Heritage Foundation (jason.snead@heritage.org); and Joe Luppino-Esposito, Right on Crime (jle@texaspolicy.com).

Sincerely,

American Conservative Union Foundation
Americans for Tax Reform
American Legislative Exchange Council
Faith and Freedom Coalition
FreedomWorks
The Heritage Foundation
Right on Crime

CC: Rep. Paul Ryan, Speaker of the House of Representatives
Sen. Mitch McConnell, Senate Majority Leader