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July 19, 2017

**Attorney General Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001**

Dear Attorney General Sessions,

We write you today out of concern for your recently issued guidance on civil asset forfeiture, a practice that has a long history of abuse.¹ While we appreciate and admire your desire to "better protect victims of crime and innocent property owners," we are concerned that certain areas of your issued guidelines would have just the opposite effect.

The guidance states that "the federal government will not adopt seized property unless the state or local agency involved provides information demonstrating that the seizure was justified by probable cause." While probable cause is the same evidentiary burden used for a criminal arrest, an arrestee has a constitutional right to legal counsel, while the target of civil asset forfeiture does not. This is a crucial distinction, and represents just one avenue of possible abuse.

Furthermore, the stated guidelines circumvent existing state laws, in direct contravention of the principles of federalism. Property rights' advocates in many states, led predominantly by conservative political leaders, have made significant progress in securing stronger protection of the rights of American citizens who have been neither convicted nor charged with a crime. We are concerned that this order would override those hard-won state protections and, therefore, leave innocent people in these states more vulnerable to unjust seizures.

Despite the reforms many states have enacted to modernize their asset forfeiture laws, as of 2014, "law enforcement officers took more property from American citizens than burglars did."² We are concerned

¹ Marian R. Williams, Jefferson E. Holcomb, Tomislav V. Kovandzic and Scott Bullock, "Policing for Profit: The Abuse of Civil Asset Forfeiture," Institute for Justice, March 2010.

http://www.ij.org/images/pdf_folder/other_pubs/assetforfeituretoemail.pdf

² Christopher Ingraham, "Law enforcement took more stuff from people than burglars did last year," *The Washington Post*, Nov. 23, 2015. https://www.washingtonpost.com/news/wonk/wp/2015/11/23/cops-took-more-stuff-from-people-than-burglars-did-last-year/?utm_term=.2202c619c782

that giving federal, state and local agencies even more leeway to seize assets through forfeiture would worsen this problem.

To be sure, we praise particular efforts to provide enhanced officer training on existing forfeiture laws and support the push for a more streamlined and expedited review process for cases contested in court. However, dedicating resources toward cash seizures that can range as low as \$5,000 takes specific aim at innocent Americans – for instance, those who either carry or conduct business in cash form.

Forfeiture laws are ancient, but the dramatic uptick in their usage in recent decades initially was aimed at drug kingpins. Today, in practice, they instead tend to hit average citizens who can't afford to acquire legal representation, take time off from work or fight city hall. As the Institute for Justice's Dick Carpenter has noted:

Not only has law enforcement in Chicago snatched a staggering amount of money through forfeiture in recent years, much of what they have taken is small-dollar properties ... Despite claims by forfeiture proponents, this is hardly the stuff of vast drug networks and crime bosses.³

Prioritizing Americans' safety by targeting criminal enterprises is necessary, but more caution should be practiced so as to not jeopardize the rights of citizens the system is charged to protect.

Sincerely

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³ Radley Balko, "Chicago civil asset forfeiture hits poor people the hardest," *The Washington Post*, June 13, 2017. https://www.washingtonpost.com/news/the-watch/wp/2017/06/13/chicago-civil-asset-forfeiture-hits-poor-people-the-hardest/?utm_term=.af054e868ea7