



INSTITUTE FOR JUSTICE

July 28, 2014

United States House of Representatives
Washington, D.C. 20515

RE: Support the Civil Asset Forfeiture Reform Act of 2014

Dear Representative:

The Institute for Justice (IJ) supports the passage of Rep. Tim Walberg's (R-MI) Civil Asset Forfeiture Reform Act of 2014, which addresses defects in current civil forfeiture law and procedures that have become serious threats to the rights of innocent property owners. IJ is a public interest, civil liberties law firm dedicated to protecting private property rights, and the nation's leading legal advocate against civil forfeiture. IJ defends innocent property owners in federal and state courts¹ and has for years documented the growing danger of civil forfeiture.²

Under federal civil forfeiture laws, law enforcement agencies can seize and keep property suspected of involvement in criminal activity. Unlike *criminal* forfeiture, however, with *civil* forfeiture the government can permanently forfeit property without charging, let alone convicting, anyone of a crime. Current civil forfeiture procedures are stacked against property owners, requiring them to prove their own innocence to get their property back. This flips the American principle of innocent proven guilty on its head, frequently resulting in innocent property owners losing their cash, cars, and houses because they can't afford to fight in court.

Law enforcement agencies have a strong financial incentive to pursue civil forfeitures. Since 1984, proceeds from forfeiture have flowed directly to the agency responsible for the seizure. Before then, proceeds went to the general revenue fund of the United States—and forfeiture revenue was modest. With the introduction of the profit incentive, the number of civil forfeitures has skyrocketed, undermining Congress's ability to oversee and control appropriations to law enforcement agencies.

In addition, a federal program known as "equitable sharing" allows federal officials to pay a bounty to local and state law enforcement agencies for participating in federal forfeitures.³ This policy enables local law enforcement to do an end-run around their own state laws in order to receive substantial funding that they could not get under state law. This has undermined state-level reforms that provide more protections for innocent property owners than federal law.

¹ See, e.g., <http://www.ij.org/massforfeiture> (involving the attempted seizure of a motel in Massachusetts); <http://www.ij.org/miforf> (involving the attempted seizure of small businesses' bank accounts); <http://www.ij.org/state-of-texas-v-one-2004-chevrolet-silverado> (involving the seizure of a truck).

² See <http://www.ij.org/policingforprofit> (report from 2010 discussing the history of federal and state civil forfeiture and evaluating states according to the quality of their civil forfeiture laws).

³ See <http://www.ij.org/inequitablejustice> (report from 2011 explaining the equitable sharing program and the way in which it encourages local and state law enforcement to evade state law reforms).

As demonstrated in IJ's groundbreaking report, *Policing for Profit: The Abuse of Civil Asset Forfeiture*, when the law makes forfeiture more profitable, law enforcement engages in more of it. The property rights of the innocent suffer as a result.

To combat these growing problems, Rep. Walberg's legislation reforms current law in several vital and common sense ways:

- It restores the principle of "innocent until proven guilty" by putting the burden on the government to prove, by clear and convincing evidence, that a property owner had knowledge that his property was used in criminal activity (or consented to it being used by a third party) before it can be forfeited.
- It requires additional reporting about forfeiture activity to Congress by the Department of Justice, so that Congress knows how much money is flowing from civil forfeitures to law enforcement agencies, restoring Congress's oversight and ability to control appropriations.
- It respects principles of federalism by requiring that equitable sharing money be paid to local and state law enforcement agencies only in a manner consistent with state laws.

The legislation proposed by Rep. Walberg would enact simple but vitally needed changes in civil forfeiture law and procedures to protect innocent property owners from being unjustly deprived of their property. The bill will not touch criminal forfeiture: law enforcement will still be able to pursue criminals' ill-gotten gains.

We urge you to support the Civil Asset Forfeiture Act of 2014.

Best,



Scott Bullock
Senior Attorney