



December 4, 2015

Attorney General Mark Herring  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219

Dear Attorney General Herring:

I write to ask you to reconsider your opposition to significant reforms of the Commonwealth's civil asset forfeiture laws.

At the Virginia State Crime Commission's meeting on Dec. 3, Chief Deputy Attorney General Cynthia Hudson voted against a proposal to require a criminal conviction before law enforcement may seize and keep individuals' private property. She wholeheartedly agreed with Lynchburg Commonwealth's Attorney Mike Doucette that there is "no demonstrated need" for significant asset forfeiture reform in the Commonwealth.

The ACLU of Virginia urges you to reverse your position on this important civil liberties issue. Right now in Virginia, law enforcement can take a person's money or property without even charging that person with a crime. Virginia's un-American civil asset forfeiture laws fail to protect property owners, are ripe for abuse, and actively encourage policing for profit. Policing should be based on public safety, not supplementing law enforcement budgets. As the comprehensive report on the Ferguson criminal justice system showed, <http://www.justice.gov/opa/pr/justice-department-announces-findings-two-civil-rights-investigations-ferguson-missouri>, any emphasis on revenue generation in law enforcement has the potential to corrupt the police, prosecutors and the courts.

As a recent report by the Crime Commission showed, Virginia's asset forfeiture program has become a major revenue stream for law enforcement agencies in the Commonwealth. In 2006, the Department of Criminal Justice Services disbursed only \$110,899 in drug-related asset forfeitures to 42 Commonwealth law enforcement agencies. By 2010, DCJS was distributing \$4.9 million in asset forfeiture funds to 158 Commonwealth law enforcement agencies. As of

AMERICAN CIVIL  
LIBERTIES UNION OF  
VIRGINIA  
701 E. FRANKLIN ST.  
SUITE 1412  
RICHMOND, VA 23219  
T/804.644.8080  
WWW.ACLUVA.ORG

September, DCJS had distributed more than \$5.6 million in asset forfeiture funds so far this year.

Why the sudden growth in this program? For drug-related asset forfeitures, the Commonwealth's law enforcement agencies get to keep 90 percent of everything they seize. Virginia's civil asset forfeiture laws create a financial incentive for local law enforcement agencies to seize large sums of money and property, regardless of any evidence of wrongdoing. To supplement their bosses' budgets, law enforcement officers face a significant amount of pressure to target cash in seizures, even if no drugs are present. Policing must be based on public safety, not supplementing local law enforcement department budgets.

Police departments, sheriffs' offices, and Commonwealth's attorneys are apparently unanimous in their self-interested opposition to significant reform of Virginia's civil asset forfeiture laws. As the only law enforcement official accountable to all Virginians, you must provide leadership on this important issue.

There is a time to stand with law enforcement and there is a time to stand with the people of the Commonwealth of Virginia. When it comes to policing for profit and a fee-based criminal justice system, the ACLU of Virginia urges you to reverse course and stand with the people.

Sincerely,



Claire Guthrie Gastañaga