Congress of the United States
Washington, DC 20510

January 9, 2015

The Honorable Eric Holder
Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder:

We are members of a bicameral, bipartisan group of lawmakers who share a strong interest in civil asset forfeiture reform. We believe that in many circumstances, civil asset forfeiture is a valuable tool in combating serious wrongdoing. However, we have concerns that the government is not using the process fairly and instead is infringing on the rights of small business owners and motorists, some of whom are our constituents.

One area that we find particularly problematic involves "adoptive seizures" and "equitable sharing." Under this arrangement, state and local law enforcement agencies bring property seized under state law to a federal seizing agency for federal forfeiture and then can receive up to 80% of the proceeds of the resulting forfeiture. We are concerned that these seizures might circumvent state forfeiture law restrictions, create improper incentives on the part of state and local law enforcement, and unnecessarily burden our federal authorities.

In a recent meeting with representatives of the Department of Justice, we were told that the Department is in the midst of an internal, top-to-bottom review of its entire asset forfeiture program. As part of this review, we encourage you to consider discontinuing "adoptive seizures" and "equitable sharing."

Nothing in the statutes governing forfeiture requires that you engage in equitable sharing. For instance, 21 U.S.C. § 881(e)(1)(A) provides that "[w]henever property is civilly or criminally forfeited under this subchapter the Attorney General *may* … transfer the property … to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property" (emphasis supplied). Similarly, under 18 U.S.C. § 981(e)(2), "the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, *is*

authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine to … any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property" (emphasis supplied). Since the Reagan Administration issued "Guidelines on Seized Forfeited Property" as part of the United States Attorneys Manual in 1985, the Department of Justice has issued guidelines governing these practices. See also U.S. Department of Justice, "Guide to Equitable Sharing for State and Local Law Enforcement Agencies" (2009).

We also recommend that you implement additional procedural safeguards to make sure the property of innocent Americans is not being swept up in overzealous asset forfeiture.

Sincerely,

Chuck Grassley

John Conyers Jr.