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November 17, 2014  
By email and hand delivery

Hon. Phil Mendelson  
Chairman  
Council of the District of Columbia  
John A. Wilson Building - Suite 504  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

**Re: Bill 20-48, the Civil Asset Forfeiture Amendment Act of 2014**

Dear Chairman Mendelson:

The American Civil Liberties Union of the Nation's Capital and the Institute for Justice enthusiastically support Bill 20-48, which addresses many serious problems with the civil asset forfeiture system. We have been calling attention to some of these problems for many years (see, for example, the ACLU's testimony on Bills 7-325 and 7-361 in 1988), and we are delighted that the time has finally come when the Council may rectify them.

The Judiciary Committee's report persuasively presents the reasons why reform is needed, and we will not repeat them here.

**However, we urge the Council to amend one provision of the bill at first reading tomorrow, by deleting the phrase, "Beginning October 1, 2018," from Section 110(a)(2)(B) of the bill (page 18, line 532 of the Committee Print). Deletion of that phrase would mean that currency and the proceeds of other forfeited property received pursuant to multiple-jurisdiction or shared forfeiture programs will be deposited to the District's General Fund beginning on the effective date of this law, rather than four years from now. We think a four-year delay in implementing this important reform is unconscionable.**

The Committee Report (pages 22-25) explains how the current system creates an enormous conflict of interest for the police department by funneling the proceeds of

forfeitures into the department, thereby incentivizing questionable seizures. The Washington Post has dramatically illustrated the consequences in its ongoing "Stop and Seize" investigative series (September 6, 7, 8; October 11, 24; November 10). In the latest installment, just yesterday, the Post reported that the MPD has budgeted for about \$670,000 in expenditures from forfeiture income in each of the next four fiscal years, "even though federal guidelines say 'agencies may not commit' to such spending in advance." Robert O'Harrow Jr. and Steven Rich, *D.C. police make plans for cash from seizures before they occur*, The Washington Post, November 16, 2014, page A1.

The Committee Report frankly explains that the effective date for Section 110(a)(2)(B) of the bill has been delayed until 2018 "[b]ecause the MPD has already budgeted the revenue it receives through the federal forfeiture program for the next four years." Committee Report at 24. But the proper response to a conflict of interest is to end it, not to endorse it for four more years. If a D.C. Administrative Judge were found to be sitting on cases involving companies in which he or she owned stock, the judge would not be told to stop doing so in 2018, but immediately. If a District official were found to be accepting gifts from a contractor whose work the official supervised, the official would not be told to stop accepting gifts in 2018, but immediately.

In yesterday's Post, Chief Lanier denies that the MPD has budgeted this money: "In a statement, D.C. Police Chief Cathy L. Lanier said the department is not building its budget with the proceeds of civil seizures." It is heartening to learn that the MPD is not violating the federal guidelines. The Council should take Chief Lanier at her word, and immediately stop this conflict of interest by deleting the phrase, "Beginning October 1, 2018," from Section 110(a)(2)(B) of the bill.

The District of Columbia is not in such dire financial straits that it must sell its ethics for \$670,000 per year.

Sincerely yours,



Arthur B. Spitzer  
Legal Director  
ACLU of the Nation's Capital



Darpana M. Sheth  
Attorney\*  
Institute for Justice

cc: All Councilmembers

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\* Licensed in the State of New York