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of

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on

“The Need to Reform Asset Forfeiture”

**before the
Senate Committee on the Judiciary**

15 April 2015

—BUILDING ON A PROUD TRADITION—

Good morning, Mr. Chairman, Senator Leahy and the distinguished members of the Committee on the Judiciary. I would like to thank the Ranking Member, Senator Leahy, for inviting me to share the views of the 330,000 members of the Fraternal Order of Police on civil asset forfeiture reform.

The FOP does not disagree that there is a need for civil asset forfeiture revision. We were very active on this issue during the debate and ultimate passage of the Civil Asset Forfeiture Reform Act (CAFRA) of 2000 and we were in regular communication with the Justice Department in advance of and following the changes to the program which were announced by the Attorney General in January. This is not a new issue for us and we are pleased that the Chairman's staff reached out to us and shared his draft legislation.

Many of the provisions in the draft bill, which would create greater accountability, transparency and oversight of the asset forfeiture program, are good ones and I think, with some further collaboration and discussion, the FOP may be able to support them. One of our concerns is the reduced time frames for civil asset forfeiture proceedings—we need reassurance that they not overburden the existing system. We share a similar concern with the expansion of the

relief provisions for those who challenge the seizures. The draft legislation also proposes to change the burden of proof to a much higher standard, which the FOP would not, at this time, support.

The chief point of contention, of course, is that the draft bill proposes to end the equitable sharing program for State and local law enforcement agencies whereby these agencies could seize property used in furtherance of crime or which represented the profits of a crime and reinvest those profits in public safety and the community. Under the draft bill, Federal law enforcement agencies would be able to continue to seize property but would be prohibited from sharing any of the assets with local or State agencies—even if those State and local agencies were part of a task force or other multi-jurisdictional effort which carried out the seizure.

The funds and resources generated by the equitable sharing programs are of great value to law enforcement, to public safety and to the community, as States use these shared funds for a wide variety of purposes. Like any government program, there can be found instances of abuse and the FOP supports measures to combat such abuses and to improve the integrity of the program. However, to end a decades-long program which is worth hundreds of millions to our

nation's communities and has documented success in deterring and fighting crime based on anecdotal media reports is simply not sound public policy.

We have been assured that the aim of this reform legislation is not to penalize law enforcement or reduce their access to resources. With this in mind, the bill envisions a reinvestment of a percentage of the Asset Forfeiture Fund into the Edward Byrne Memorial Justice Assistance Grant (Byrne-JAG) programs and would also provide \$200 million to joint law enforcement operation programs to encourage State and local agencies to continue working on Federal task forces. However, even with the language covering points of order, there is no protection from Congressional appropriators who will be inclined to reduce the existing Byrne-JAG monies by the same amount as that contributed to that program by the Asset Forfeiture Fund. Thus, in our view, ending the equitable sharing program will result in yet another net reduction in Federal assistance to State and local law enforcement—assistance which has fallen dramatically since FY2010.

I would offer that ending Federal participation in the asset forfeiture program for State and local law enforcement is far too precipitous at

this time. Indeed, the changes announced earlier this year by the Justice Department represent significant reform. In the view of the FOP, it makes more sense to allow these reforms time to work and evaluate their impact before we bring an end to the entire program.

I know many of the Members of this Committee understand just how thinly stretched law enforcement has become in the past decade. We are increasingly called upon to do more and more—including calls for service outside our training parameters—with less and less. It's a cycle we no longer stay ahead of.

I would also ask that the Members of the Committee consider that the Interim Report of the President's Task Force on 21st Century Policing contains 59 individual recommendations and a large number of those call for new or additional Federal funds for State and local law enforcement for a variety of purposes. Not a single one recommended reforming civil asset forfeiture programs or for ending the equitable sharing program.

Now I understand that the report is not comprehensive and please know that the FOP certainly does not support every one of the recommendations. But I think it does speak to the question of our

nation's policing priorities for the 21st Century. With only 90 days to come up with suggestions that were the most important to law enforcement's future, ending equitable sharing and reforming the civil asset forfeiture program did not make the cut. At a time when the number of officers is declining, Federal assistance to State and local agencies is evaporating and deliberate attacks on law enforcement officers are rising, how can this issue be a law enforcement priority?

We can be sure of only one thing if the draft bill is enacted as written: there will be even fewer resources available to State and local law enforcement and fewer State and local law enforcement agencies will be able to participate in Federal task forces to combat regional and organized criminal threats, including domestic and foreign terrorist threats.

In conclusion, the FOP is ready to work with the Committee on asset forfeiture reform. There are many areas on which I expect there may be broad agreement—preventing abuse, increased transparency, improved due process and regulations on adoption cases.

I think, however, we must remember that the purpose of this program is to combat and deter crime by ensuring criminal assets are shared with State and local agencies to benefit the community. To end

equitable sharing completely and without first measuring the impact of recent reforms is simply not sound public policy and may wind up doing much more harm than good.

Thank you for having me here today and I am pleased to answer any questions you might have.