

POLICY STATEMENT: CHICAGO CIVIL FORFEITURE ORDINANCE

Collaboration for Justice - November 1, 2021

INTRODUCTION

On September 14, 2021, Mayor Lori Lightfoot announced a plan to “start suing gang members to ‘take their assets’” in an attempt to curb community violence.¹ Chicago Appleseed Center for Fair Courts and the Chicago Council of Lawyers, also known as the Collaboration for Justice, view the Mayor’s “Victims’ Justice Ordinance” (O2021-4130)² as a misguided and regressive attempt to quell rising crime in the City. Together, we urge the Chicago City Council to vote against this ordinance, which, as past experience has shown, will not be effective in improving public safety and will undoubtedly result in more harm than good.

It has been long documented³ that civil asset forfeiture violates people’s civil liberties and due process rights -- and, generally, disproportionately affects Black, brown, and poor people and families. In 2014, the *Washington Post* found that police “took more property from American citizens than burglars did.”⁴ In 2017, the *Chicago Tribune* wrote:

*The problem with [the] argument [that it is an important tool for targeting major drug dealers] is that studies on forfeiture frequently show that the typical person whose property is seized is not a kingpin, but at best a low- or mid-level offender. Most of the time, the person is never convicted of any crime.*⁵

In 2018, Alabama Appleseed found that criminal charges were *not* ultimately brought against the person whose property was seized in up to 25% of cases reviewed (which resulted in forfeiture of over \$670,000 by innocent people); 64% of the cases where criminal charges were filed were brought against Black people.⁶ There is no reason to believe that the “Victims’ Justice Ordinance” would be in any way different or more effective than other civil asset forfeiture policies.

POSITION STATEMENT

The Collaboration for Justice of Chicago Appleseed Center for Fair Courts and the Chicago Council of Lawyers oppose Mayor Lightfoot’s proposed ordinance to authorize the City’s Corporation Counsel to seek civil forfeiture from “gang members” for the following reasons:

- 1. The Ordinance will result in a misapplication of resources.** If the Mayor is interested in reducing crime and violence in the City of Chicago, the City’s resources would be better and more effectively spent elsewhere. In 2020, City of Chicago’s Budget Survey showed that -- in all neighborhoods -- community services, violence prevention, homeless supports, and youth services were residents’ highest priorities; more than five times the number of people responded to the 2020 survey than the 2019 survey, and 87% of people indicated that they “believe city resources

¹ See e.g., <https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2021/September/VictimsJusticeOrdinance.pdf> and <https://chicago.suntimes.com/city-hall/2021/9/10/22667143/lightfoot-street-gangs-lawsuits-seize-gang-assets>

² The full text of the Mayor’s proposed ordinance, O2021-4130, can be found here: <https://chicago.legistar.com/LegislationDetail.aspx?ID=5136533&GUID=975E0666-F4B6-446D-BA12-F31AF5079D9F&Options=Advanced&Search=>

³ See e.g., theappeal.org/the-lab/explainers/civil-asset-forfeiture-explained/#2.a-growing-and-bipartisan-consensus-believes-that-asset-forfeiture-is-wrong

⁴ See e.g., <https://www.washingtonpost.com/news/wonk/wp/2015/11/23/cops-took-more-stuff-from-people-than-burglars-did-last-year>

⁵ See e.g., <https://www.chicagotribune.com/opinion/commentary/ct-chicago-civil-asset-forfeiture-20170614-story.html>

⁶ See e.g., https://www.appleseednetwork.org/uploads/1/2/1/4/6/124678621/criminal_justice_-_december_2018.pdf



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should be reallocated said that money should come out of police services.”⁷ Today, the neighborhoods suffering most from gun violence are also the neighborhoods that do not receive adequate investments in accessible social and mental health services. Many people who perpetuate violence or become “gang affiliated” have been victims or witnesses -- or in some other way traumatized -- by violence themselves. In a study⁸ of people recently released from prison by Harvard University, researchers found that over half the respondents “grew up with someone with drug or alcohol problems and about half the respondents were victims of violence at the hands of their parents.” Over 40% of the people in the sample had witnessed a killing in childhood. Given many Chicago neighborhoods’ lack of critical services, individuals who will or have conducted violence are largely unable to access services that could effectively address their trauma. Simply put, seizing someone or their family’s property or resources will not interrupt the cycle of trauma and will not reduce violence.

- 2. The Ordinance raises due process concerns and may criminalize individuals with no history of gang involvement.** The Ordinance raises due process concerns for various reasons. First, it is not constitutional to make “gang membership,” per se, a criminal offense. Moreover, the Ordinance is likely to impinge on the property rights of many innocent people who own seized assets. This concern is justified by City’s past attempts to target “gang members,” which have proven largely flawed. Thousands of individuals without any history of gang affiliation or criminal involvement were listed as current or former “gang members” in the infamous, and “profoundly problematic,” Chicago Police Department (CPD) gang database.⁹ It is unlikely that CPD will have the capacity to remedy this flawed system of data keeping in such a short period of time; despite this, the Ordinance still does not provide guidance on how the City will prevent incorrectly-identified people, inactive and former members, and other innocent people or vulnerable populations from improper seizures.
- 3. The Ordinance has been tried and has failed.** The State of Illinois passed a similar statute several years ago with the Illinois Streetgang Terrorism Omnibus Prevention Act. The Act motivated several collar county State’s Attorneys to go after some purported “gang” assets. However, the State’s Attorneys ran into many problems when trying to pursue those actions and their efforts were largely unsuccessful.¹⁰ Specifically, hundreds of suits against “gang members” failed to collect any significant amount of money. According to attorney John Mauck, this is because the lawsuits mostly targeted low-income people who struggled to get court-appointed lawyers in civil cases and lacked resources to forfeit.¹¹ Not only was the Act thus unsuccessful in meeting its own intended goal, but the Act also targeted low-income individuals.
- 4. The Ordinance will result in more corruption, not less.** Civil forfeiture programs in connection with the “War on Drugs” have repeatedly resulted in corruption and misplaced enforcement priorities. Such programs create too much of an incentive for police departments and officers to

⁷ See e.g., blockclubchicago.org/2020/10/02/chicagoans-want-money-reallocated-from-police-budget-city-sponsored-survey-shows/

⁸ Western, B. (2015). “Lifetimes of Violence in a Sample of Released Prisoners” for Harvard University. Accessible at https://scholar.harvard.edu/files/brucewestern/files/lifetimes_of_violence_in_a_sample_of_released_prisoners.pdf

⁹ See e.g., <https://www.injusticewatch.org/news/police-and-prosecutors/2021/chicago-gun-violence-gang-narrative/>

¹⁰ See e.g.: <https://news.wttw.com/2021/09/13/lightfoot-gets-pushback-her-plan-go-after-gangs-profits>

¹¹ See e.g., <https://chicago.suntimes.com/2021/9/15/22673051/assets-forfeiture-seizure-mayor-lori-lightfoot-chicago-gangs-editorial>



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go into business for themselves. Moreover, this corrupt practice regularly occurs in our city, with the Chicago Police Department taking \$4-9 million in civil forfeiture a year. Without any external oversight, the Chicago Police Department used this money to fund routine payments for police vehicles, computers, and cell phones and to purchase controversial surveillance equipment.¹² Notably, a vast majority of these civil forfeitures took place in the parts of Chicago and the County that are already the most heavily policed.¹³ Thus, this undemocratic practice will be exacerbated in our City, with poor, predominantly Black and brown neighborhoods on the city's South and West Sides continuing to be targets of this unjust practice.

CONCLUSION

The failings in and ineffectiveness of civil forfeiture programs are not just our opinion. In 2015, the Leadership Conference called civil asset forfeiture “legalized theft,”¹⁴ and in 2019, the Pulitzer Center stated that “civil asset forfeiture often amounts to highway robbery” and “skirts the Fourth Amendment’s guarantee that Americans are free from unreasonable searches and seizures and it provides a potentially corrupting incentive for police to circumvent the law to fund their departments.”¹⁵ The ACLU of Illinois shares our rejections of the Mayor’s proposal, stating:

*Members of City Council should quickly reject the Mayor’s proposal to use a recycled city version of a harmful state civil asset forfeiture law. Taking property from people - including innocent family members and others - is not an effective way to reduce gun violence.*¹⁶

The most comprehensive research, analysis, and conclusions regarding such programs can be found in the Institute of Justice’s February 2021 report, *Does Forfeiture Work? Evidence from the States*.¹⁷

Based on the overwhelming anecdotal and hard evidence, the Council of Lawyers and Chicago Appleseed Center for Fair Courts urge Chicago’s Mayor Lori Lightfoot and City Council to immediately halt the progress of the “Victims’ Justice Ordinance” (O2021-4130) to avoid making the mistake of adopting a policy that will do nothing to reduce crime in the city and, rather, will further harm the members of our community who are the poorest and most lacking in resources.

¹² This data was collected and analyzed by Lucy Parson Labs. The report can be found here: lucyparsonslabs.com/projects/assetforfeiture/

¹³ *Id.*

¹⁴ See e.g., <https://civilrights.org/resource/why-civil-asset-forfeiture-is-legalized-theft/>

¹⁵ See e.g., <https://pulitzercenter.org/stories/no-drugs-no-crime-and-just-pennies-school-how-police-use-civil-asset-forfeiture>

¹⁶ The ACLU of Illinois’s statements can be found at <https://www.aclu-il.org/en/press-releases/aclu-illinois-responds-mayor-lightfoots-proposal-use-civil-asset-forfeiture-against> and www.aclu-il.org/en/news/opposing-proposed-city-chicago-victims-justice-ordinance

¹⁷ The report can be found here: <https://ij.org/report/does-forfeiture-work/>



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