

Written Statement of

Senator Rand Paul

before the

**United States Senate
Committee on the Judiciary**

concerning

The Need to Reform Asset Forfeiture

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Room 226

Thank you Chairman Grassley, Ranking Member Leahy, and members of the Committee for inviting me to testify today on reforming civil forfeiture.

This Committee has an opportunity to end an injustice, an injustice that disproportionately affects minorities and the poor, by reforming civil asset forfeiture laws. According to the Washington Post's review of seizures done under federal forfeiture laws, the majority of those who had their property taken were black, Hispanic, or another minority.

These laws were originally intended to disrupt criminal networks. But they have increasingly been used against innocent citizens to strip them of their property without a lawyer to defend their rights, without a day in court to hear the charges against them, and without the due process of law.

Civil forfeiture turns justice on its head – our current laws presume you are guilty until you can prove your innocence.

Last year in Philadelphia, Christos Sourvelis watched his son get arrested by the police for selling \$40 worth of drugs outside of his home. One month later, the police were back at the Sourvelis' home, not for his son, but for his house. The Philadelphia District Attorney dropped the case months later, only after their actions had been the subject of intense media and legal scrutiny.

But not all the victims are so lucky. There have been over 60,000 cash seizures made on highways since 2001 without search warrants or indictments, totaling more than 2.5 billion. These seizures were done through the equitable sharing program. This program provides a perverse incentive that encourages

government to confiscate property because government officials get to keep up to 80 percent of the proceeds.

Mandrel Stuart is just one of the people who had his money seized as a result of this program.

Mandrel Stuart owned a barbecue restaurant called Smoking Roosters in Staunton, Virginia. When he was stopped for a minor traffic offense in 2012, the police seized seventeen thousand dollars in cash he was going to use for supplies and equipment for his restaurant. They found no evidence of wrongdoing and never charged him with a crime – but they still took his money. The prosecutor told him half his money would be returned if he accepted a settlement. Mr. Stuart refused and eventually got his money back, but the year it took was too long for his business to survive.

Loretta Lynch became infamous for her herculean confiscation of private property. She seized over \$900 million dollars in forfeited funds during her time as a United States Attorney and skirted reforms intended to protect the innocent by not filing the paperwork that would have allowed those reforms to kick in. Lynch confiscated nearly half a million dollars from the Hirsch brothers, who owned a family-owned business in New York, and held the money for nearly two years. The Hirsch brothers were never charged with a crime, much less convicted. Yet it took years to get their money back. When questioned about civil forfeiture, Lynch seemed to be unconcerned with the need for reform.

No one could listen to stories like these and believe that the current procedural protections are satisfactory.

Last year I introduced the Fifth Amendment Integrity Restoration Act, the FAIR Act, with Senators Lee and King and Representatives Walberg, Garrett, Ellison and Cardenas to ensure that situations like these will never happen again.

Our bill will end equitable sharing and ensure that state laws are being respected and not circumvented.

It will raise the burden of proof in civil forfeiture cases.

It will ensure that the government will provide you representation if they want to take your property.

It will place the burden of proof where it belongs - on the government, not the accused.

It would require a conviction before property is forfeited.

Most importantly, it will end the profit incentive by requiring all forfeiture assets to be deposited in the treasury instead of a fund to be used by the agencies that seize property.

The FAIR Act is bipartisan and bicameral, with support from the Institute for Justice, the ACLU and the National Association of Criminal Defense Lawyers. As the Committee moves forward with reforms, I would be honored to have some of our ideas included. I think Americans from all walks of life are ready for criminal justice reform. I hope this is the year we get it done.