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What's Yours Is Theirs

By Editorial Board

Cities have tried all sorts of measures to raise money to shore up their budgets: Chicago sold its parking meters, Detroit considered selling its art collection. In Philadelphia the government is confiscating the private property of its residents.

Under civil forfeiture laws, police can seize and sell private property whether or not the target is convicted of a crime. In the City of Brotherly Confiscation, police and prosecutors have run a forfeiture program that took in \$64 million between 2002 and 2012, more than Brooklyn and Los Angeles combined.

For Christos and Markela Sourovelis, the civil seizure program is threatening to take their family home as punishment for a minor drug offense. In May 2014 the Sourovelis's 22-year-old son Yanni was arrested for selling \$40 of illegal drugs. He pleaded guilty and was sent to a "diversion" program for first-time offenders, but because he was living at home police seized the house and evicted the family. The Sourovelises have since been allowed to move back in pending the outcome of the forfeiture proceeding, on condition they kick out their son.

When we say "proceeding," we're being generous. For Philadelphia residents caught in the forfeiture maw, retrieving confiscated property becomes a bureaucratic nightmare. While cities that run forfeiture programs typically give property owners the chance to appear in court before a judge, Philadelphia offers only room 478 at City Hall, where prosecutors sit in lieu of judge and jury.

Unlike criminal cases in which the government must prove the accused is guilty, civil forfeiture cases require the

accused to prove his innocence. Because forfeiture operates within the civil justice (rather than criminal) system, those who cannot afford to hire an attorney are out of luck.

Prosecutors and law enforcement are also motivated by an incentive system that pays off when they seize property. Pennsylvania law lets law enforcement keep 100% of all forfeiture proceeds. Twenty percent of the Philadelphia District Attorney's office general budget comes from the forfeiture kitty, and over the past decade some \$25 million has been used to pay the DA's office salaries.

Forfeiture laws were aimed at drug kingpins, but in practice they hit average citizens who can't afford to hire lawyers, take time off work or fight city hall. While other metropolitan areas get most of their civil forfeiture assets through a smaller number of big-dollar seizures, Philadelphia hauls in the dough through thousands of small-dollar seizures. In 2010 the city filed some 8,000 forfeiture cases with an average take of \$550.

Mr. Sourovelis is fighting back with a lawsuit brought by the **Institute for Justice** in federal district court in Pennsylvania against the city as well as Mayor Michael Nutter, District Attorney Seth Williams and Police Commissioner Charles Ramsey in their official capacities. The suit seeks \$1 of nominal damages but is designed to get declaratory and injunctive relief from the forfeiture law, which the suit says violates the couple's Fourteenth Amendment right to due process. Let's hope the courts seize the day.