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Picture yourself driving down the road tomorrow, heading somewhere to buy an item you found on Craigslist, perhaps a nice mountain bike for 3,000 dollars. At that price, it's probably one of those bikes with a little electric motor on it --

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(Laughter)

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maybe some streamers from the handlebars.

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(Laughter)

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The seller has declared this a cash-only deal, so you have, in the console of your car, 3,000 dollars. Suddenly, you are pulled over. During the stop, the officer asks, "Do you have any drugs, weapons or large amounts of cash in your car?" You truthfully answer, "Yes," not to the drugs or to the weapons, but to the cash. In the blink of an eye, you are ordered out of your car. The officer searches it and finds your cash. On the spot, he seizes it, and he says he suspects it's part of a drug crime. A few days later, the local district attorney files paperwork to keep your money -- permanently. And all of this happens without you ever being charged or convicted of any crime.

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Now, you might be saying, "Ah, this would never happen in the United States."

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(Laughter)

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Incidents like this occur every day in our country. It's one of the most significant threats to your property rights most people have never even heard of. It's called "civil forfeiture." Most of you are generally aware of criminal forfeiture, although the term itself might be a little unfamiliar, so let's begin with forfeiture. When we forfeit something, we give up that thing, or we're forced to give it up. In criminal forfeiture, someone is charged and convicted of a crime, and therefore, they have to give up property related to that crime. For example, suppose you use your car to transport and deal drugs. You're caught and convicted; now you have to give up or forfeit your car as part of the sentencing. That's criminal forfeiture.

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But in civil forfeiture, no person is charged with a crime -- the property is charged and convicted of a crime.

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(Laughter)

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You heard that correctly: the government actually convicts an inanimate object with a crime. It's as if that thing itself committed the crime. That's why civil forfeiture cases have these really peculiar names, like, "The United States of America v. One 1990 Ford Thunderbird."

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(Laughter)

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Or "The State of Oklahoma v. 53,234 Dollars in Cash."

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(Laughter)

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Or my personal favorite: "The United States of America v. One Solid Gold Object in the Form of a Rooster."

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(Laughter)

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Now, you're thinking: How does something like this happen? That's exactly what I said when I first learned about civil forfeiture while on a road trip with my wife. No, we did not get pulled over.

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(Laughter)

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I was reading about the history of civil forfeiture as part of my work as a research director at the law firm, and I came across one of the cases I just mentioned, "The United States of America v. One 1990 Ford Thunderbird." In that case, Carol Thomas loaned her car to her son. While in the car, her son committed a minor drug crime. Carol didn't commit any crime, so law enforcement couldn't convict her and take the car, but they could -- and did -- use civil forfeiture to "convict the car" and take it. Carol was completely innocent, but she lost her car nonetheless. In other words, she was punished for a crime she did not commit. When I read this, I was gobsmacked. How could this occur? How is this even legal?

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It turns out, it began in our country with maritime law. Early in our republic, the government sought to fight piracy -- yes, actual pirates. The problem was the government often couldn't catch the pirates, so instead it used civil forfeiture to convict the pirates' property and take it, and therefore deny the pirates their illegal profits. Of course, the government could've simply taken and kept the booty without necessarily using civil forfeiture, but doing so would have violated our most basic due process and property rights.

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Now, the government rarely used civil forfeiture until the 1980s and the war on drugs. We expanded civil forfeiture law to cover drug crimes and then later, other types of crime. Canada and the European Union adopted similar provisions so that now all kinds of people are ensnared in the forfeiture web, people like Russ Caswell.

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Russ Caswell owned a small budget motel in Tewksbury, Massachusetts. His father built the motel in 1955, and Russ took it over in the 1980s. During the years that Russ owned the motel, from time to time, people would rent rooms, and they would commit drug crimes. Russ didn't condone the activities -- in fact, whenever he found out about it, he would immediately call police. Russ was entirely innocent of any crime, but that did not stop the US Department of Justice from seizing his motel simply because other people committed crimes there.

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But Russ's case was not alone. Between 1997 and 2016, the US Department of Justice took more than 635,000 properties. This means each year, tens of thousands of people lose their properties in cases in which they're never charged or convicted of any crime. And we're not necessarily talking about major drug kingpins or headline-grabbing financial fraudsters whose cases involve hundreds of thousands if not millions of dollars. Many of these seizures and forfeitures involve just everyday people like Russ Caswell or you or me.

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But it gets worse. Are you wondering: Where does all this cash and property end up? In most places, law enforcement keeps it. And they use it to buy equipment or pay for building repairs or even pay salaries and overtime. This is a clear conflict of interest. It creates a perverse profit incentive that can distort law enforcement. And this is a problem that's not lost on those in law enforcement, either. Former chief of police in Rochester, Minnesota, Roger Peterson, described the choice that police officers often face. As he described it: suppose I'm a police officer, and I see a drug deal. Now I face a choice: Do I go after the buyer and remove from the street illegal drugs, or do I go after the seller and get cash for my agency to use? So it's easy to see why a police officer might go for the cash.

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It was just such a circumstance that compelled police officers in Philadelphia to seize an entire house. In 2014, Chris and Markela Sourovelis' son sold 40 dollars worth of drugs down the street

from their house. Forty dollars. The police watched the deal go down. They could've arrested the buyer and confiscated the drugs, but they didn't. They could've arrested the Sourovelises' son right there on the street and grabbed 40 dollars. But they didn't. They waited to arrest him at home, because then they could seize their entire house. The house was worth 350,000 dollars. That is what I mean by a perverse profit incentive.

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But the Sourovelises' case was no outlier. Philadelphia, the "City of Brotherly Love," the "Athens of America," the "Cradle of Liberty," birthplace to the Constitution, home to the Liberty Bell and Independence Hall, the "City that Loves you Back" --

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(Laughter)

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that Philadelphia was running a forfeiture machine. Between 2002 and 2016, Philadelphia took more than 77 million dollars through forfeiture, including 1,200 homes. Cars, jewelry, electronics -- all of it they sold, the proceeds they kept. And they would have kept right on doing it, had it not been for a class-action lawsuit -- our team's class-action lawsuit --

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(Applause and cheers)

09:39

Thank you.

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We forced them to change their forfeiture practices and to compensate victims.

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(Applause and cheers)

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When our team first began researching forfeiture in 2007, we had no idea how much forfeiture revenue there was. In fact, no one knew. It wasn't until our groundbreaking study, "Policing for Profit," that we found federal law enforcement agencies have taken in almost 40 billion dollars -- billion with a B -- since 2001, more than 80 percent of that through civil forfeiture.

Unfortunately, we have no idea how much state and local agencies have taken in, because in many states, they don't have to report it.

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So until we reform forfeiture, we'll never know how much forfeiture activity actually occurs in the United States. And we desperately need reform. Legislatures should abolish civil forfeiture and replace it with criminal forfeiture. And all forfeiture proceeds should go to a neutral fund such as a general fund. When forfeiture proceeds stop hitting law enforcement budgets directly, that is when we will end policing for profit.

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(Applause)

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Now, as you can imagine, law enforcement officials don't love these recommendations.

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(Laughter)

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They stand to lose a lot of money, and they believe civil forfeiture is an effective crime-fighting tool. The trouble is, it's not. In June 2019, we released a study that found forfeiture does not improve crime-fighting. And the report also found that law enforcement agencies pursue more forfeiture money during economic downturns. So when city and county budgets are tight, law enforcement will use forfeiture to find the money. So it's no wonder, then, that law enforcement officials predict a criminal apocalypse –

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(Laughter)

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if these reforms are adopted.

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But some states have already implemented them, and we're pushing for reform all across the country, because until we reform forfeiture, this is something that could happen to any of us. It can happen in the United States, it can happen in the United Kingdom, it can happen in countries throughout the European Union and beyond. People like you and me and the Sourovelises and Russ Caswell, just doing the everyday stuff of life, can be caught in a scheme we never thought possible. It is time we end policing for profit once and for all.

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Thank you.

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(Applause and cheers)