



Do cops carry forfeiture laws to extremes?

By Janice Brunson
staff writer

Paul and Dana Marra of Troy have been married a year, but for one week earlier this spring Paul did not sport a wedding band.

It had been seized by police for alleged cocaine violations. James Buttrick was for a time minus a pair of false teeth studded with gold inlays, also seized by police for the same reason.

Demetris Holloway, a Southfield businessman, has been out \$92,871 since early November 1986 — money confiscated under state forfeiture laws. Holloway has yet to be charged with a crime.

The seizures are classic examples of state forfeiture laws run amok, according to a trio of attorneys specializing in clients whose property has, they say, been illegally seized.

"It's legalized breaking and entering by the police," said defense attorney Steven Fishman of Southfield, who appeals forfeiture cases free of charge "as a matter of principle."

The law, enacted in 1983, requires "probable cause" to seize property and money thought to be the result of drug profits: a home, car, plane or other conveyance used "to manufacture, distribute, dispense, possess or acquire a controlled substance," and money "found in close proximity" of forfeited property.

IN ADDITION to the wedding band, "anything of value" was confiscated from the Troy couple, including a telephone answering machine allegedly used in drug deals, a video tape collection and the contents of Dana Marra's purse, according to defense attorney James Thomas of Bloomfield Hills.

Facing charges of cocaine possession with intent to distribute, the couple came to the attention of Troy police via a neighbor who watched the couple's activities through binoculars and reported heavy traffic into their home. Police searched the couple's trash and found bindles, small paper triangles commonly used for one-ounce quantities of cocaine.

"At most, it would indicate personal use," Thomas said, adding "it is unknown if it was even their garbage."

Although the couple faces criminal charges, forfeiture can proceed

whether or not they are convicted. Forfeiture can also proceed if no criminal charges are filed, as in the case of Holloway.

To contest forfeiture, defendants must post a \$250 bond within 20 days of a notice of seizure. Many, however, are reluctant to do so because they are then liable to pre-trial disclosure, including an accounting of all financial dealings. The information may be incriminating and is certain to be used by prosecutors in criminal trials.

Others, according to Fishman and Thomas, are unaware forfeiture can be challenged and some defendants do not possess money enough to mount a legal defense.

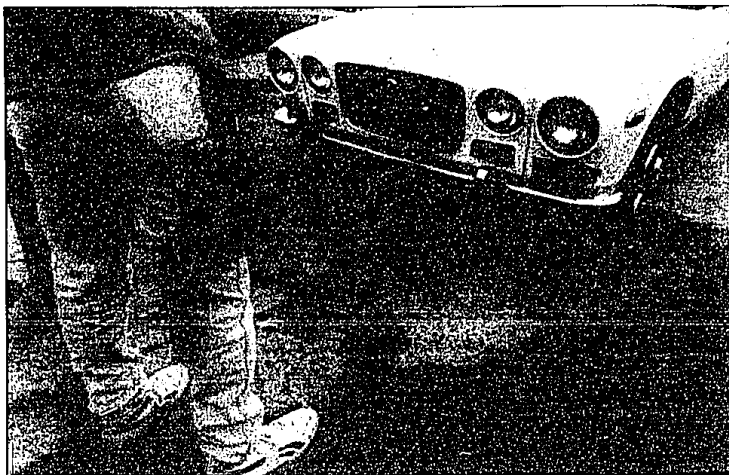
WORSE, THOMAS SAID, "There is no vehicle in place to sue for the good-faith actions of police." Forfeiture carries little legal risk to law enforcement agencies, while offering the promise of financial gain.

Last year, the Oakland County Narcotics Enforcement Team seized nearly \$5 million in cash and property. However, less than \$134,000 was actually forfeited in court. The funds were distributed among participating NET agencies, including the Oakland County Commission and area police departments.

State law, aimed at taking profits out of drug dealing by seizing properties gained from drug rackets, "is being manipulated out of all sense of proportion," said defense attorney Jim Burdick of Bloomfield Hills.

By design, the law is punitive and intended to target big drug traffickers. But adaptations have "pushed it way past limits of propriety. The police can't take someone's microwave."

The war on drugs, according to Burdick, is a war on the constitution.

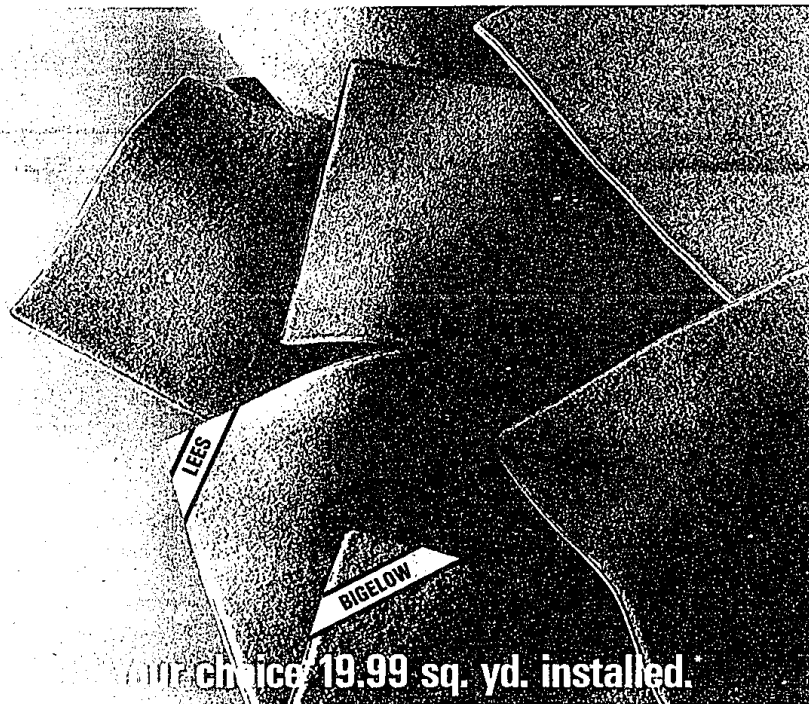


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A towing service had to be called to start up this Jaguar so police could confiscate it during a recent raid of a suspected Oakland County drug dealer.

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...Drug czar sees effective deterrent

By Janice Brunson
staff writer

State forfeiture laws are an effective deterrent in the battle against drugs, and state prosecutors are encouraged to seize money and property in an effort to discourage illicit use, according to Donald Reisig, director of the Michigan Drug Agencies.

"Casual users and abusers contribute to the overall problem. The way to stem use is by hitting them in the pocketbook. User accountability. Demand reduction. That's what we're after," Reisig said.

"These are people who objectively should not be put in prison. They also are not going to be bothered by a small fine. But take their contraband, or the fruits of it, and they're going to feel it," Reisig added.

Recently publicized cases, such as the Bloomfield Hills podiatrist whose home was forfeited or the West Bloomfield businessman whose home has been seized, account for a "healthy" fear of the law, Reisig said. "I want users and abusers so paranoid they go for treatment."

Currently in Oakland County, some \$1 million in cash, 30 automobiles, several houses and a bar are to Oakland County assistant prosecutor Gerald Poisson, who said forfeiture is initiated by the prosecutor only when sums in excess of \$100,000 or real estate are involved.

IN 1989, OVER \$16 million in money and goods was seized by 18 Michigan State Police drug teams, including Oakland County's Narcotics Enforcement Team. Of the total amount, \$9.1 million was actually forfeited.

The figure, however, is incomplete, according to Reisig. It does not include seizures by local police departments. Michigan, like most other states, has no statewide report-



Donald Reisig

ing system. Legislation requiring such a system is currently pending.

In addition, figures are highly inflated, Reisig said, little more than "eyeball appraisals" by police. Nor do they accurately reflect mortgages or money that is still owed on such items as real estate and automobiles.

Forfeiture is a civil infraction. Unlike criminal charges that require proof "beyond reasonable doubt," forfeiture requires only "preponderance of evidence." Defendants need not be charged or convicted of criminal counts.

Because forfeiture is action against property, there are no jury trials. All cases are heard by a judge. Last year, the state Supreme Court ruled real estate may be forfeited.

Reisig expects the battle against drugs to last at least a decade. "There is no quick fix. It took us 25 years to get into this predicament. It's going to take time to extract ourselves."