

NEWS FOCUS Race in America



A Texas senator aims to rein in search-and-seizure practices like those used in Tenaha, where scores have been targeted but never charged with any crime. LISA SANDBERG/SAN ANTONIO EXPRESS-NEWS PHOTO

Highway robbery in Texas?

Lawsuit says motorists, disproportionately black, are forced by police to forfeit cash, cars and more—or be charged with trumped-up crimes

By Howard Witt
TRIBUNE CORRESPONDENT

TENAHA, Texas — You can drive into this dusty fleck of a town near the Texas-Louisiana border if you're African-American, but you might not be able to drive out of it—at least not with your car, your cash, your jewelry or other valuables.

That's because the police here allegedly have found a way to strip motorists, many of them black, of their property without ever charging them with a crime. Instead they offer out-of-towners a grim choice: voluntarily sign over your belongings to the town, or face felony charges of money laundering or other serious crimes.

More than 140 people reluctantly accepted that deal from June 2006 to June 2008, according to court records. Among them were a black grandmother from Akron, who surrendered \$4,000 in cash after Tenaha police pulled her over, and an interracial couple from Houston, who gave up more than \$6,000 after police threatened to seize their children and put them into foster care, the court documents show. Neither the grandmother nor the couple were charged with any crime.

Officials in Tenaha, situated along a heavily traveled state highway connecting Houston with popular gambling destinations in Louisiana, say they are engaged in a battle against drug trafficking, and they call the search-and-seizure practice a legitimate use of the state's asset-forfeiture law. That law permits local police agencies to keep drug money and other property used in the commission of a crime and add the proceeds to their budgets.

"We try to enforce the law here," said George Bowers, mayor of the town of 1,046 residents, where boarded-up businesses outnumber open ones and City Hall sports a broken window. "We're not doing this to raise money. That's all I'm going to say at this point."

But civil rights lawyers call Tenaha's practice something else: highway robbery. The attorneys have filed a federal class-action lawsuit to stop what they contend is an unconstitutional perversion of the law's intent, aimed primarily at blacks who have done nothing wrong.

Tenaha officials "have developed an illegal 'stop and seize' practice of targeting, stopping, detaining, searching and often seizing property from apparently non-white citizens and those traveling with non-white citizens," asserts the lawsuit,



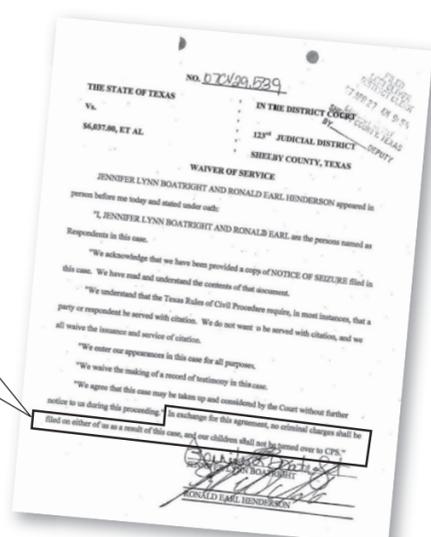
SOURCES: ESRI, Tribune reporting TRIBUNE

Crime or no crime, motorists pay

Court records show that from June 2006 to June 2008, nearly 150 motorists pulled over in Tenaha, Texas, forfeited property rather than face serious criminal charges. Below is a court document in one case:

ARREST DOCUMENT ▶ One Houston family—never charged with any crime—ended up surrendering more than \$6,000 after police threatened to turn their children over to foster care.

"In exchange for this agreement, no criminal charges shall be filed on either of us as a result of this case, and our children shall not be turned over to CPS."



Tenaha's mayor defends his town's use of asset-forfeiture laws as a means to fight drug trafficking, not to raise money. HOWARD WITT/TRIBUNE PHOTO

which was filed in U.S. District Court in the Eastern District of Texas.

The property seizures are not just happening in Tenaha. In southern parts of Texas near the Mexican border, for example, Hispanics allege that they are being singled out.

According to a prominent state legislator, police agencies across Texas are wielding the asset-forfeiture law more aggressively to supplement their shrinking operating budgets.

"If used properly, it's a good law-enforcement tool to see that crime doesn't pay," said state Sen. John Whitmire, chairman of the Senate's Criminal Justice Committee. "But in this instance, where people are being pulled over and their property is taken with no charges filed and no convictions, I think that's theft."

David Guillory, an attorney in Nacogdoches who filed the federal lawsuit, said he combed through Shelby County court records from 2006 to 2008 and discovered nearly

200 cases in which Tenaha police seized cash and property from motorists. In about 50 of the cases, suspects were charged with drug possession.

But in 147 others, Guillory said the court records showed, police seized cash, jewelry, cell phones and sometimes even automobiles from motorists but never found any contraband or charged them with any crime. Of those, Guillory said he managed to contact 40 of the motorists directly—and discovered all but one of them were black.

"The whole thing is disproportionately targeted toward minorities, particularly African-Americans," Guillory said. "None of these people have been charged with a crime, none were engaged in anything that looked criminal. The sole factor is that they had something that looked valuable."

In some cases, police used the fact that motorists were carrying large amounts of cash as evidence that they must have been involved in laundering drug money, even though Guillory said each of the drivers he contacted could account for where the money had come from and why they were carrying it—such as for a gambling trip to Shreveport, La., or to purchase a used car from a private seller.

Once the motorists were detained, the police and the local Shelby County district attorney quickly drew up legal papers waiving their rights to their cash and property or face felony charges for crimes such as money laundering—and the prospect of having to hire a lawyer and return to Shelby County multiple times to attend court sessions to contest the charges.

The process apparently is so routine in Tenaha that Guillory discov-

ered pre-signed and pre-notarized police affidavits with blank spaces left for an officer to fill in a description of the property being seized.

Jennifer Boatright, her husband and two young children—a mixed-race family—were traveling from Houston to visit relatives in east Texas in April 2007 when Tenaha police pulled them over, alleging that they were driving in a left-turn lane.

After searching the car, the officers discovered what Boatright said was a gift for her sister: a small, unused glass pipe made for smoking marijuana. Although they found no drugs or other contraband, the police seized \$6,037 that Boatright said the family was carrying to purchase a used car—and then threatened to turn their children, ages 10 and 1, over to Child Protective Services if the couple didn't agree to sign over their right to their cash.

"It was give them the money or they were taking our kids," Boatright said. "They suggested that we never bring it up again. We figured we better give them our cash and get the hell out of there."

Several months later, after Boatright and her husband contacted an attorney, Tenaha officials returned their money but offered no explanation or apology. The couple remain plaintiffs in the federal lawsuit.

Except for Tenaha's mayor, none of the defendants in the lawsuit, including Shelby County District Atty. Linda Russell and two Tenaha police officers, responded to requests from the Tribune for comment about their search-and-seizure practices. Lawyers for the defendants also declined to comment, as did several of the plaintiffs in the lawsuit.

But Whitmire says he doesn't need to await the suit's outcome to try to fix what he regards as a statewide problem. On Monday he introduced a bill in the state Legislature that would require police to go before a judge before attempting to seize property under the asset-forfeiture law—and ultimately Whitmire hopes to tighten the law further so that law-enforcement officials will be allowed to seize property only after a suspect is charged and convicted in a court.

"The law has gotten away from what was intended, which was to take the profits of a bad guy's crime spree and use it for additional crime-fighting," Whitmire said. "Now it's largely being used to pay police salaries—and it's being abused because you don't even have to be a bad guy to lose your property."

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Race in America

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