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Police bureaucracies, their incentives, and the war on drugs

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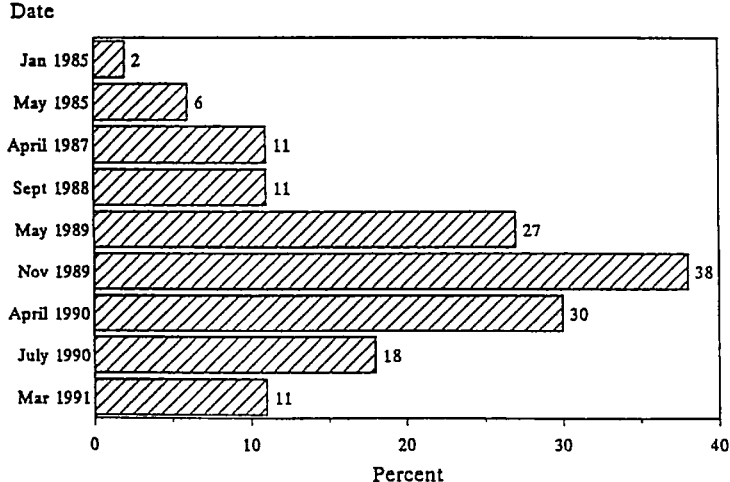
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Abstract. After 1984 local law enforcement agencies in the U.S. substantially increased arrests for drug offenses relative to arrests for property and violent crimes. This paper explores why this reallocation of police resources occurred, focusing on alternative "public interest" and bureaucratic self interest explanations. The Comprehensive Crime Act of 1984 is shown to have altered the incentives of police agencies by allowing them to keep the proceeds of assets forfeited as a result of drug enforcement activities. Empirical evidence is presented which shows that police agencies can increase their discretionary budgets through the asset forfeiture process.

1. Introduction

A "War on Drugs" was declared by President Reagan in October of 1982 (Wisotsky, 1991). Such an offensive has to be waged by local police, however, and these agencies generally did not significantly increase their relative efforts against drugs in a dramatic fashion until 1984, when a substantial reallocation of state and local criminal justice system resources towards drug enforcement began. In fact, while drug arrests relative to arrests for reported crimes against persons and property (the Index I offenses which include murder, manslaughter, sex crimes, assault, robbery, burglary, larceny, and auto theft) remained relatively constant at one to four from 1970 to 1984, the *relative* effort against drugs increased by roughly 45 percent over the next five years. By 1989, criminal justice resources were being allocated to make only about 2.2 Index I arrests for each drug arrest. Why did the relative allocation of policing resources toward drug enforcement rise so dramatically after 1984?

Perhaps local police bureaucracies joined in the drug war because they perceived it to be in the "public interest". There is considerable evidence suggesting that the opportunity costs of resources allocated to the war on drugs have been very high (Reuter, 1991; Benson and Rasmussen, 1991, 1992; Benson



Source: The Gallup Poll, various years, reprinted in US Department of Justice (1991: Table 2.1)

Figure 1. Percent of survey respondents saying drug abuse is the nation's most important problem

et al., 1992; Benson, Kim and Rasmussen, 1994; Rasmussen, Benson and Sollars, 1994; Zimring and Hawkins, 1992), however, and a good deal of evidence also indicates that many law enforcement bureaucracies created misinformation in order to exaggerate potential benefits of a drug war (Michaels, 1987: 311–324). A second potential explanation is that local elected officials, representing median voter preferences across the nation, almost simultaneously demanded that their police departments escalate the War on Drugs. There are strong indications that this explanation does not hold either. For example, consider the information in Figure 1, and note that in 1985, “public opinion” surveys suggested that drug use was not considered to be an especially significant problem. Indeed, illicit drug policy appears to be a case wherein policy changes lead public opinion.

Another explanation for the trends in the allocation of local police resources over the 1984–89 period is that powerful interest groups demanded the war. Indeed, it would be surprising if this were not the case, since as Chambliss and Seidman (1971: 73) concluded, “every detailed study of the emergence of legal norms has consistently shown the immense importance of interest-group activity, not the public interest, as the critical variable. . . .” Similarly, Rhodes (1977: 13) pointed out that “as far as crime policy and legislation are concerned, public opinion and attitudes are generally irrelevant. The same is not true, however, of specifically interested criminal justice publics . . .” More recent research implies similar conclusions, but also makes it clear that one of the

most important “specifically interested criminal justice publics” consists of law enforcement bureaucrats (e.g., Berk, Brackman and Lesser, 1977; Benson, 1990: 105–126).¹ Therefore, the historical emergence of illicit drug policy is examined in Section 2 from an interest group perspective, where the significant role that entrepreneurial bureaucrats, as characterized by Breton and Wintrobe (1982), have played in the development and evolution of this policy is emphasized.

An alternative, but complementary explanation for state and local involvement in the 1980s drug war is that state and local policing officials faced an exogenous change in bureaucratic incentives which induced an increase in drug enforcement efforts. In particular, one section of the Comprehensive Crime Act of 1984 established a system whereby any local police bureau which cooperated with federal drug enforcement authorities in a drug investigation would share in the money and/or property confiscated as part of that investigation. As a result, police in many states whose own laws or constitutions limited confiscation possibilities, began to circumvent state laws by having federal authorities “adopt” their seizures.² Then, under the 1984 federal statute, a substantial percentage of these seized properties went back to the agency which made them, even if the state’s laws mandated that confiscations go someplace other than to law enforcement. This legislation is examined in Section 3 below where it becomes clear that it was advocated by federal, state, and local law enforcement bureaucrats, and largely reflects the bureaucratic competition and cooperation that Breton and Wintrobe (1982) model.

If confiscations can be used by local police bureaucrats to significantly enhance their own well being, then this federal statute may explain a substantial portion of the changes in the allocation of local police resources after 1984. Local inter-bureau competition for resources may lead government decision-makers (bureau sponsors) to treat confiscations as a substitute for ordinary appropriations, of course. Therefore, an important component of this presentation, appearing in Section 4, focuses on a case study of the budgetary impact of local police confiscations from the drug war. The findings are consistent with the hypothesis that confiscations legislation creates significant incentives to change the allocation of police resources.

2. Police bureaucrats, interest group politics, and drug policy

There are many models of bureaucratic behavior based on self-interest assumptions. Tullock (1965) saw bureaucratic behavior driven by a desire for security. Chant and Acheson (1972) contended that bureaucratic behavior was driven by a desire for prestige. Niskanen (1968, 1971) assumed that a bureau manager could be characterized as a budget maximizer. Migué and Belanger (1974)

explained that budget maximization unduly limits the range of utility maximizing efforts, however, and proposed that the bureaucrat seeks discretion reflected by a budget with excess revenues over actual costs (an argument Niskanen accepted, 1975). Indeed, as Breton and Wintrobe (1982: 27) noted: "In addition to size, budgets, discretion, prestige, and self-preservation, it has been suggested that security, the avoidance of risk or responsibility, secrecy, complexity, career promotion, leisure, internal patronage, and a bureaucrat's personal conception of the common . . . good are objectives of bureaucrats, either one at a time or in groups." They suggested that all of these factors may enter a bureaucrat's utility function and that no general theory of bureaucratic behavior can be built by specifying a particular objective. Thus, they assumed general utility maximization and focused on the institutional setting (e.g., the intensity of inter-bureaucratic competition for budget shares and intra-bureaucratic competition for promotions, and positions in networks, the existence of barriers to mobility, the ability of superiors and sponsors to monitor performance, etc.) as the determinant of which particular objective will appear to dominate in a particular bureau. Breton and Wintrobe (1982: 108–131) characterized the bureaucratic institutional process as one dominated by entrepreneurial competition, à la the Austrian school, wherein individual bureaucrats pursue their subjective goals by selectively seeking and implementing policy innovations.³ This characterization fits the role played by law enforcement bureaucrats in the evolution of drug criminalization policy.

Actually, a number of self-interest political motivations for drug criminalization have been identified. Some studies (e.g., Musto, 1987: 13–14, 21–22; Thornton, 1991: 56–57, and 59–60; Klein, 1983: 31–55) have noted the incentives of professional organizations such as the American Pharmaceutical Association to create legal limits on the distribution of drugs (there was significant competition between pharmacists and physicians for the legal right to dispense drugs, for example), while others have focused on the strong racial impacts of illicit drug laws and the desire by some groups to control racial minorities through the enforcement of such laws (Bonnie and Whitebread, 1974; Helmer, 1975; Musto, 1973, 1987). More importantly from the perspective stressed here, however, others have emphasized that law enforcement bureaucrats have been a major source of demand for the initial criminalization of illicit drugs (Himmelstein, 1983; Becker, 1963; Bonnie and Whitebread, 1974; King, 1957; Dickson, 1968; Oteri and Silvergate, 1967; Lindesmith, 1965; Hill, 1971; Reinerman, 1983).⁴

The analogies between Breton and Wintrobe's (1982: 146–154) discussion of the development of wage and price controls and the criminalization of drugs is striking. For instance, one bureaucratic strategy to compete for resources is to "generate" demand for a bureau's own services through direct lobbying, policy manipulation, and the selective release of information to other interest

groups and the media (Breton and Wintrobe, 1982: 43, 146–154). This is done because bureaucrats must compete with other bureaucracies for the support and attention of sponsors (and individual bureaucrats must compete with other bureaucrats for benefits within a bureau), and because the control of resources is necessary before most of the subjective goals of bureaucrats can be achieved. Indeed, Lindesmith (1965: 3) contended that the nation's program for handling the "drug problem" is one "which, to all intents and purposes, was established by the decisions of administrative officials of the Treasury Department." For instance, for several years after its passage in 1914, the Harrison Act remained a rather unimportant source of taxes and regulatory measures (Reinarman, 1983: 21), until criminalization of opiate users was instigated by Federal Bureau of Narcotics' raids on morphine treatment clinics in 1919 (King, 1957; Lindesmith, 1965; Klein, 1983: 32). King (1957: 122) maintained that "the Narcotics Division launched a reign of terror. Doctors were bullied and threatened, and those who were adamant [about treating addicts] went to prison." Efforts by bureaucrats in the Narcotics Bureau led to a series of court decisions which reinterpreted the Harrison Act and became the pretext for criminalization of drug use (Reinarman, 1983: 21). Furthermore, because of pressure from people in the same bureau, the Marijuana Tax Act was passed in 1937 (Becker, 1963; Dickson, 1968; Oteri and Silvergate, 1969; Lindesmith, 1965; Hill, 1971; Bonnie and Whitebread, 1974). Some writers have stressed moral entrepreneurship by Narcotics Bureau officials (e.g., Becker, 1963), but others have focused on bureaucratic fiscal self-promotion (e.g., Dickson, 1968). The Bureau was in need of a new *raison d'être* for continued funding in 1937, after all, and it faced stiff competition from the FBI for the attention of the public and of congress (King, 1978), so bureaucratic survival was certainly a probable motivation.

Breton and Wintrobe (1982: 39) emphasized that bureaucratic release of both true and false information, or "selective distortion," can play significant roles in bureaucratic policy advocacy.⁵ This has clearly been the case in the evolution of drug policy. For example, the bureaucratic campaigns leading to the 1937 marijuana legislation "included remarkable distortions of the evidence of harm caused by marijuana, ignoring the findings of empirical inquiries" (Richards, 1982: 164; for details see Kaplan, 1970: 88–136 and Lindesmith, 1965: 25–34). Furthermore, the bill was represented as one which was largely symbolic in that it would require no additional enforcement expenditures (Galliher and Walker, 1977).

The evolution of drug policy since initial criminalization has been, at least in part, shaped by competition between law enforcement and drug treatment bureaucrats over "ownership of the problem" – that is, over shares of federal, state, and local budgets (Gusfield, 1980; Morgan, 1983) – and between law enforcement bureaucracies themselves (e.g., between the DEA and the FBI (King, 1978) at the federal level, as well as between various local, state, and

federal bureaucracies). This evolution also reflects another aspect of the bureaucratic process emphasized in Breton and Wintrobe (1982). As the perceived responsibility for some social ill (e.g., crime in this case, and inflation in Breton and Wintrobe) is shifted from outside forces to the government, and to the bureaucracy, bureaucrats seek to shift the blame elsewhere (Breton and Wintrobe, 1982: 149). Blaming crime on people crazed by drugs provides an opportunity to shift blame. A good deal of false or misleading information emanating from police bureaucrats about the relationship between drugs and crime has clearly characterized the evolution of drug policy (Lindsmith, 1965; Kaplan, 1970, 1983; Richards, 1982; Michaels, 1987). In fact, a primary source of the "information" (much of which is inaccurate and/or unsubstantiated (Michaels, 1987: 311–324)) used to justify the "War on Drugs" that is being waged today, has been the police bureaucracies. It is primarily as a result of information promulgated by police (Barnett, 1984: 53), that is now widely believed that drug crime is the root cause of much of what is wrong with society (e.g., see the Office of National Drug Control Strategy, 1990: 2). In particular, drug use is claimed to be a leading cause of non-drug crime because, it is contended, property crime is a major source of income for drug users. This claim has been raised to justify political demands for the criminal justice system to do something about the drug/crime problem, demands which largely emanate from the police lobbies (e.g., see Berk, Brackman and Lesser, 1977; Barnett, 1984), and in turn, it has led to an increasing emphasis on control of illicit drug traffic as a means of general crime prevention. State and federal legislators have been passing increasingly strict sentences for drug offenders, police have shifted resources to make more drug arrests, and judges have sentenced increasingly large numbers of drug offenders to prison. Such a reallocation of resources would appear to be justified if drugs truly are the root cause of most other crime. In fact, a crime control policy that focuses on drugs should be a positive sum game in the sense that increasing drug arrests (and imprisonment of drug users) would reduce both drug crime and non-drug crime. There is no evidence that increasing use of law enforcement resources to combat drugs has reduced other crime, however.

Indeed, in sharp contrast to the political rhetoric, it seems that *drug enforcement causes property crime*.⁶ Benson et al. (1992), Benson and Rasmussen (1991), and Sollars, Benson and Rasmussen (1994) all used county or jurisdiction level data from Florida and found that reallocating scarce police resources away from the control of property crime toward the control of drug crime significantly reduced the risks that property criminals faced. This reduction in deterrence led to a significant increase in property crime. Therefore, as resources were reallocated to control drug crime, property crime rose. The reallocation of policing resources to control drug use actually explains a substantial portion of the percentage increase in property crime in Florida between 1984 and

1989.⁷ Similarly, Rasmussen, Benson and Rasmussen (1993) found that as a consequence of increased drug enforcement efforts in some jurisdictions, markets were disrupted, causing drug market participants to move to nearby areas with less intensive enforcement efforts. This in turn led to violent confrontations, as new suppliers tried to gain market shares and existing suppliers protected their "turf": violent crime rates are significantly related to the intensity of drug enforcement efforts in nearby policing jurisdictions. Thus, increased drug enforcement efforts in one policing jurisdiction tends to cause increases in violent crime in other jurisdictions. Thus, the opportunity costs of the War on Drugs appear to be quite high (also see Zimring and Hawkins, 1992). This should not be surprising, of course, given the history of failure of drug and alcohol prohibition policies [see Thornton, 1991]. The question, "why has this reallocation occurred?" would appear to be even more pressing under the circumstances.

Breton and Wintrobe (1982: 150–151) offer two reasons for why bureaucrats advocate a policy of direct control of the source of blame (e.g., criminalization and prohibition of various drugs in 1919 and 1937, increased emphasis on drug control in the mid-1960s, and then again in the mid-1980s), even though such policies have a history of failure (e.g., alcohol prohibition, previous "drug wars" such as the one which occurred in the 1965-70 period) for this bureaucratic response. First, there is always opposition to such a policy so when it fails the opposition can be blamed for preventing the allocation of sufficient resources. And second, since the outcome of the policy depends jointly on the inputs of several different groups and bureaus, and the set of possible control methods is very large, when the subset selected fails the bureaucrats can argue that: (1) while they favored a control policy they favored a different subset of control tools (e.g., more severe punishment of drug offenders, greater spending on interdiction efforts) so they are not responsible for the failure, and/or (2) the other groups who had to contribute to make the effort successful (e.g., witnesses, judges, legislators who approve prison budgets, other law enforcement agencies) did not do their share. Indeed, a policy can fail completely while at the same time entrepreneurial bureaucrats expand their reputations and end up being substantially better off.⁸

The advent of the criminal justice system's War on Drugs in 1984 period suggests that entrepreneurial law enforcement bureaucrats at the federal, state, and local levels have once again decided that a policy of more stringent drug control is desirable (evidence in this regard is presented next). However, the reasons appear to go beyond the two proposed by Breton and Wintrobe. A bureaucratically motivated policy innovation appears to have created explicit incentives for shifting resources toward drug enforcement. This innovation allowed the police themselves to benefit through confiscations of money and property used in or purchased with profits from the drug trade.

3. Confiscations legislation and police interests

Government seizure of property used in criminal activity is actually a long standing practice. It was one stimulus for the King's involvement in law enforcement as early as the ninth and tenth centuries (Benson, 1990), for instance, and was first used in the United States to combat smugglers who avoided import duties in the early 19th century. Now it is being used to combat the supply of illicit drugs. Federal officials confiscated over \$100 million in 1983, and the Comprehensive Crime Act of 1984 broadened support for the practice as the law required the Justice Department to share the proceeds with state and local agencies participating in the investigations. Perhaps as a result of the cooperation this produced, Federal forfeitures were projected to be \$700 million for 1991 (Washington Post Weekly Edition, 1991).

The 1984 federal asset forfeiture law was a bureaucratic innovation which allowed for an expanded inter-bureaucratic network of cooperation. As Breton and Wintrobe (1982: 128) explained, cooperation through informal networks, both within and across bureaucracies, is an alternative to competition. A reduction in the intensity of competition allows bureaucrats greater discretion in the pursuit of their subjective goals.⁹ On the surface at least, this innovation apparently allowed local law enforcement agencies to generate revenues that were not limited by the inter-bureaucratic competition for resources that arises in the local budgeting process, because the statute mandated that shared assets go directly to law enforcement agencies rather into general funds, education funds, or other depositories that were mandated by many state forfeiture laws. An increase in the revenues from seizures creates the potential for bureaucratic managers' to enhance their own well being directly *and* indirectly by rewarding supporters in the managers' networks with various "perks" (Breton and Wintrobe, 1982: 137). After all, police have a considerable discretion in how they allocate the resources they control, and monitoring generally does not limit their discretion in any substantial way (Stumpf, 1988: 327-332; Williams, 1984: 77-105; Benson, 1990: 132-146, 163-168). Therefore, in as much as this new source of revenue has increased the polices' ability to control resources, it has probably increased their discretionary ability to generate perks.

Forfeiture has an obvious deterrent value in that it raises the costs associated with drug offenses. Forfeiture policies might also be justified in that they can be used to recoup public monies spent on drug enforcement. This practical aspect was emphasized in a manual designed to help jurisdictions develop a forfeiture capability (National Criminal Justice Association 1988: 40). Pointing out that less tangible law enforcement effects (such as deterrence) should be counted as benefits, the manual emphasized that the determining factor for pursuit of a forfeiture is "the *jurisdiction's* best interest" (emphasis added).

This interest, of course, is viewed from the perspective of law enforcement agencies, a view that might put somewhat more weight on benefits for bureaucrats and somewhat lesser weight on community wide (and uncertain) benefit of deterrence effects. After all, as Stumpf (1988: 316; also see Blumberg, 1979; Benson, 1990) noted, we must "look past the external political and social determinants of criminal justice procedures and policies to understand the system in operation. The process is staffed by professionals and quasi-professionals who have their own agenda . . . [and] largely internal imperatives may be of even greater importance in explaining their outcomes." Indeed, if forfeitures are in the "public interest" because of their deterrent impacts, and if police are exclusively motivated to serve the public interest, then they should willingly cooperate in forfeiture efforts no matter what government agency's budget is enhanced by these seizures. The 1984 federal confiscations legislation directed that all shared seizures go to law enforcement, however.

The 1984 federal confiscations legislation followed a period of active advocacy by federal, state, local law enforcement officials who emphasized that it would foster cooperation between their agencies and increase the overall effort devoted to and the effectiveness of drug control; that is, law enforcement bureaus maintained that they needed to be paid to cooperate, whether the cooperation was in the public interest or not. For instance, in hearings on the Comprehensive Drug Penalty Act held before the Subcommittee on Crime of the Committee on the Judiciary of the U.S. House of Representatives, held 23 June and 14 October 1983, much of the testimony focused exclusively on the confiscations and forfeitures issue (Subcommittee on Crime, 1985). Among the organizations and bureaucracies presenting testimony in support of the forfeitures sharing arrangement were the U.S. Customs Service, various police departments and sheriffs, the U.S. Attorney's Office from the Southern District of Florida, and the U.S. Drug Enforcement Administration. There was no representation of local government oversight authorities (mayors, city councils, county commissions) either supporting or objecting to such legislation. Furthermore, when the innovation was first introduced it appears that most non-law enforcement bureaucrats did not anticipate its implications, probably due to the poor "quality" of information selectively released by law enforcement bureaucracies and their congressional supporters to these rivals for resources. The only group suggesting problems with the legislation was the Criminal Justice Section of the American Bar Association. Two groups involved in drug therapy (The Therapy Committees of America, and the Alcohol and Drug Problems Association) also supported forfeitures sharing, but proposed that a share also go to drug therapy programs. The law enforcement lobbies prevailed.

Following passage of the initial law, inter-bureaucratic competition for the rights to seized assets, as defined by federal statutes, intensified. It became

clear to state and local bureaucrats who compete with the law enforcement sector for the control of resources that the federal legislation was being used to circumvent state laws and constitutions prohibiting certain forfeitures or limiting law enforcement use of seizures. For example, North Carolina's constitution requires that all proceeds from confiscated assets go to the County School Fund. Law enforcement agencies in North Carolina, and in other states where state law limited their ability to benefit from confiscations, began using the 1984 federal legislation to circumvent their states' laws by routinely arranging for federal "adoption" of forfeitures so they could be passed back to the state and local law enforcement agencies. As education bureaucrats and others affected by this diversion of benefits recognized what was going on, they began to advocate a change in the federal law. They were successful: the Anti-drug Abuse Act of 1988 (passed on 18 November 1988) changed the asset forfeitures provisions that had been established in 1984. Section 6077 of the 1988 Statute stated that the attorney general must assure that any forfeitures transferred to a state or local law enforcement agency "Is not so transferred to circumvent any requirement of State Law that prohibits forfeiture or limits use or disposition of property forfeited to state or local agencies." This provision was designated to go into effect on 1 October 1989, and the Department of Justice interpreted it to mandate an end to all adoptive forfeitures (Subcommittee on Crime, 1990: 166).

State and local law enforcement officials immediately began advocating repeal of Section 6077, of course. Thus, the Subcommittee on Crime heard testimony on 24 April 1989, advocating repeal of Section 6077 from such groups as the International Association of Chiefs of Police, the Florida Department of Law Enforcement, the North Carolina Department of Crime Control and Public Safety, and the U.S. Attorney General's Office. Perhaps the most impassioned plea for repeal was made by Joseph W. Dean of the North Carolina Department of Crime Control and Public Safety (Subcommittee on Crime, 1990: 20-28),¹⁰ who both admitted that law enforcement bureaucracies were using the federal law to circumvent the state's constitution and that without the benefits of confiscations going to those bureaus, substantial less effort would be made to control drugs:

Currently the United States Attorney General, by policy, requires that all shared property be used by the transfer for law enforcement purposes. The conflict between state and federal law [given Section 6077 of the 1988 Act] would prevent the federal government from adopting seizures by state and local agencies.

. . . This provision would have a devastating impact on joint efforts by federal, state and local law enforcement agencies not only in North Carolina but also in other affected states. . .

Education is any state's biggest business. The education lobby is the most powerful in the state and has taken a position against law enforcement being able to share in seized assets. The irony is that if local and state law enforcement agencies cannot share, the assets will in all likelihood not be seized and forfeited. Thus no one wins but the drug trafficker . . .

. . . If this financial sharing stops, we will kill the goose that laid the golden egg.

This statement clearly suggests that law enforcement agencies focus resources on enforcement of drug laws because of the financial gains for the agencies arising from forfeitures. Perhaps it was not the fact that drugs are illegal, or that the President declared war on drugs, which induced the massive post-1984 policy effort against them, but rather, perhaps the stimulus was the 1984 legislation which mandated that forfeitures generate benefits for police.

The implication that law enforcement agencies benefit from the discretion arising through forfeitures was also corroborated by other testimony, including that of the Commissioner of the Florida Department of Law Enforcement (FDLE) (Subcommittee on Crime, 1990: 13–14). In fact, a statement by the U.S. Attorney for the Eastern District of North Carolina, in support of repealing Section 6077, actually implied that law enforcement agencies were focusing on confiscations as opposed to criminal convictions (Subcommittee on Crime 1990: 26): “Drug agents would have much less incentive to follow through on the asset potentially held by drug traffickers, since there would be no reward for such efforts and would concentrate their time and resources on the criminal prosecution.” Indeed, forfeitures can be successful even if arrest and prosecution is not. Forfeiture laws are supposedly designed to protect lien holders and owners whose property is used without their knowledge or consent, but owners' rights are tenuous since most state prohibit suits claiming that the property was wrongfully taken. This prohibition, coupled with the fact that the procedure takes place in a civil forfeiture hearing, diminishes the capacity of property owners to defend themselves. Generally, owners whose property is alleged to have been used in a drug offense or purchased with the proceeds from drug trafficking have the burden of establishing that they merit relief from the forfeiture proceeding (National Criminal Justice Association, 1988: 41).

For instance, the Volusia County, Florida Sheriff's Department has a drug squad which has seized over \$8 million dollars (an average of \$5,000 per day) from motorists on Interstate 95 during a 41 month period between 1989 and 1992 (Brazil and Berry, 1992). These seizures are “justified” as part of the “war on drugs”. Actually, however, most Volusia County seizures involve southbound rather than northbound travellers, suggesting that the drug squad is more interested in seizing money than in stopping the flow of drugs. In fact, no criminal charges were filed in over 75 percent of the county's seizure cases.

But more significantly, a substantial amount of money has apparently been seized from innocent victims. And money is not returned even when the seizure is challenged, no proof of wrong-doing or criminal record can be found, and the victim presents proof that the money was legitimately earned. Three-fourths of Volusia County's 199 seizures did not include an arrest, and were contested. The sheriff employed a forfeiture attorney at \$44,000 per year (he moved to private practice in mid-1990, after which he was paid \$48,000) to handle settlement negotiations. Only four people ultimately got their money back, one went to trial but lost and has appealed, and the rest settled for 50 to 90 per cent of their money after promising not to sue the sherriff's department.¹¹ How many were drug traffickers? No one knows, since no charges were filed and no trials occurred, but it is clear that several were innocent victims. Despite the mis-use of the forfeiture laws in Volusia County and all over the country (Cauchon and Fields, 1992), however, the police lobbies won the battle over federal legislation. *Section 6077* of the Anti-drug Abuse Act of 1988 never went into effect. Its repeal was hidden in the 1990 Defense Appropriations bill, and the repeal was made retroactive to 1 October 1989.

It appears that the police bureaucrats have won the competition over the property rights to forfeitures, at least as it has been waged at the federal level. Competitors for budgets at the local level may recognize the significant discretionary gains that police enjoy as a consequence of asset seizures, however. If they do then they might be able to convince local sponsors that police budgets should be reduced accordingly. That is, returns from asset forfeiture do not necessarily represent a net gain to local police agencies even when they are given to the agencies. Pressure from other local bureaucrats who are competitors for resources may lead administrators and politicians with whom bureaucrats bargain for agency budgets to view the flow of money from seizures as a substitute for regular budget increments. After all, one alleged purpose of asset forfeitures is to make drug enforcement efforts to a degree self financing. If these gains are fungible in the budget bargaining and review process, and local commissions, councils, and/or mayors face strong pressures to take full advantage of this possibility, they could refuse to approve police budgets that are not reduced to offset expected confiscations. Therefore, the extent to which police agencies can benefit financially via forfeiture activity (i.e., the extent to which asset forfeiture statutes provide police with a source of discretionary revenue that is independent of the competitive budgeting process) is explored next.

4. Determinants of non-capital police expenditures

A bureau budget depends on demands emanating from sources other than the bureaucracy, of course, so determination of the budgetary impact of for-

itures requires a non-bureaucratic factors affecting demand for police services be controlled for. Estimating the demand for police is normally treated in the economics of crime literature as part of a simultaneous system which is based on the premise that the demand for police services is partly determined by the crime rate, which in turn is affected by the level of police resources (e.g., see literature reviews in Elliot, 1977; and Cameron, 1988). Extensive experimentation with such models suggests that the appropriate specification of police resources for a simultaneous model is the number of sworn officers; that is, officers provide the deterrence which lowers the crime rate that can influence the demand for officers.¹² In contrast, estimates using non-capital expenditures as the measure of police resources do not reveal deterrence effects.¹³ These results are not surprising.¹⁴ First of all, budgets are generally based on past crime rates rather than concurrent crime rates. More importantly, however, given that a police bureaucrat has discretion to exercise selective behavior (Breton and Wintrobe, 1982: 30–60), there is no *a priori* reason to assume that an increase in budget due to a higher Index I crime rate will necessarily be allocated to control such crime. Indeed, there are reasons to expect that it will not. After all, police perform many functions beyond simply controlling Index I crimes (in fact, only one arrest in four is for Index I offenses and much police time is spent on non-criminal matters such as traffic control), so increased resources may be spread throughout those activities. In addition, as Milakovich and Weis (1975: 10) noted, police have a “vested interest” in keeping reported crime rates relatively high: if crime rates drop too much, the perceived “need” for police (i.e., demand for police services) declines, and “like all bureaucracies, criminal justice agencies can hardly be expected to implement policies that would diminish their importance.” Thus, additional funding need not lead to a substantial decrease in reported crime rates.¹⁵ That is, crime rates and police budgets are not simultaneously determined (Benson, Kim and Rasmussen, 1994), so an OLS estimation of the determinants of real non-capital police expenditures per capita across Florida policing jurisdictions for 1989 is employed.

Even though the police budget does not necessarily affect the level of criminal activity, the demand for police protection may still be related to the perceived criminal threat; i.e., the probability of being a crime victim and the extent of the loss should one be victimized. Since victimization rates are unavailable, we use the reported property crime rate (PROPOFF) and the reported violent crime rate (VIOLOFF) as proxy measures. However, budget decisions are generally made at the beginning of a year based on existing information, so these crime rate statistics are lagged one period. Furthermore, demand may depend on perceptions about the changes in the level of crime; i.e., if crime rates are rising, demand may be relatively strong even though the level of crime is low. Therefore, the change in violent (CHGVIOL) and property

(CHGPROP) crime rates over a two year period are also included as independent variables. Real assessed property value per capita (PVALUE) is used to proxy variations in expected property loss in the event of victimization. Each of these variables are expected to have a positive sign.

Ability to pay for police protection should be positively correlated with the affluence of a jurisdiction as measured by income and wealth per capita. Real income per capita (INCOME) measures the former while variations in property value per capita (PVALUE) are assumed to capture variations in wealth among jurisdictions. If police protection is a normal good the resulting coefficients should be positive. Demand for any good or service is also influenced by the availability of substitutes. Alternatives to police protection in a given jurisdiction include increased reliance on private protection, which can range from target hardening such as using dead-bolts on doors and installing burglar alarms to the employment of private police. Data on target hardening are not available by policing jurisdictions, so the income and property value coefficients could be influenced by this consideration as well. For instance, the relationship between police budget and income may not be positive even though more protection is demanded as income rises, because people increase their purchases of private substitutes for public police. Living in an affluent neighborhood that is distant from concentrations of population with a relatively low opportunity cost of crime is another way to lower the risk of being victimized.¹⁶ This also suggests ambiguity in the relationship between income and non-capital police expenditures per capita. Police protection could be a normal good, *ceteris paribus*, but to the extent that high income neighborhoods provide an environment that is more easily policed, lower police expenditures could still characterize higher income jurisdictions.

Nearby jurisdictions offering potential taxpayers alternative bundles of public services and taxes, including police protection, may constrain the willingness to pay for local law enforcement. Neighboring jurisdictions also may provide voters and public officials with information about relative costs and performance, thus limiting uncertainty and the police bureaucracy's capacity to augment their budget as the expense of other portions of the local budget or through higher taxes. These competitive pressures are proxied by the number of police agencies within a five mile radius of the "home" jurisdiction (AGENCY), which are expected to be a constraining factor on non-capital police expenditures per capita.

Because local budgeting authorities do not enjoy a clear information source like market prices when determining how to allocate public expenditures across competing bureaus, they are forced to consider other measures of performance. Typically, this means using some statistical representation of the "quality" of work being done. For instance, the function of police in the minds of most citizens is to "fight crime," but there are no readily available measures

to evaluate their work. The number of arrests is a natural measure, as are clearance rates and response times, and these tend to be the primary measures that police focus on in their lobbying efforts in competing for budgets (Sherman, 1983: 156). Therefore, independent variables reflecting total arrests per capita as a measure of "output" are included.¹⁷ These arrest data are broken into two components: 1) drug arrests per capita (DRUGARR), and 2) all other arrests (non-drug arrests) per capita (OTHERARR). This is done in recognition of the fact that a greater police effort against drug offenders might make police more competitive in the budget seeking process. If local voters or interest groups believe that drug offenders should be targeted as a high priority by police, greater police efforts against the suppliers and users of drugs may be rewarded by higher local government spending on law enforcement. Drug arrests per capita (DRUGARR) is included to capture the intensity of drug enforcement in a jurisdiction. If strong drug enforcement is demanded, then this variable should be positively related to non-capital expenditures.¹⁸ No relationship between drug arrests and the budget would suggest that increases in drug arrests occur because police are responding to the incentives explicitly created by asset forfeiture laws to increase non-capital spending in this way.

The value of assets forfeited per capita (CONF) coefficient reflects how the potential for seizures affect police incentives. If the proceeds of confiscated assets are fungible for local public officials, and rival bureaus in the competition for resources are successful in demanding that police budgets be reduced to offset this income, then non-capital expenditures would be unaffected by forfeiture activity. That is, forfeiture revenues would simply be substituted for general revenues. A positive sign, therefore, indicates that police have been able to avoid or offset such competitive pressures and increase their budgets through confiscations. This interpretation would be further supported if the coefficient on DRUGARR is zero. However, if DRUGARR is positively related to non-capital expenditures, then it may be that the local sponsors, desiring more drug control, recognize that they get it for relatively little additional budgetary cost if police benefit from confiscations [there still are likely to be opportunity costs, however, if the incentives associated with confiscations induce police to reallocate budgeted police expenditures toward drug control and away from other police functions (Benson and Rasmussen, 1991, 1992; Benson et al., 1992; Sollars, Benson and Rasmussen, 1994)].¹⁹

The following regression is estimated using three different samples:

$$\text{NONCAP} = f(\text{VIOLOFF}, \text{PROPOFF}, \text{CHGVIOL}, \text{CHGPROP}, \text{INCOME}, \text{PVALUE}, \text{AGENCY}, \text{CONF}, \text{DRUGARR}, \text{OTHERARR}).^{20}$$

All Florida policing jurisdictions for which the data are available are included

Table 1. OLS estimates of the determinants of police non-capital expenditures

Variable*	Jurisdiction size		
	All jurisdictions	>25,000	> 50,000
Constant	-4.875 (-3.13)	-7.244 (-4.65)	-6.191 (-2.79)
VILOFF	-0.040 (-2.58)	-0.010 (-0.41)	+0.003 (-0.83)
PROPOFF	+0.496 (+7.46)	+0.457 (+6.02)	+0.606 (+5.77)
CHGVIOL	+0.0000 (+0.111)	+0.0004 (+1.71)	+0.0004 (+1.08)
CHGPROP	+0.001 (+1.02)	+0.0005 (+0.36)	+0.004 (+2.48)
INCOME	+0.143 (+0.81)	+0.524 (+2.87)	+0.275 (+1.13)
PVALUE	+0.347 (+6.68)	-0.211 (+3.28)	+0.250 (+3.45)
AGENCY	-0.079 (-1.96)	-0.074 (-1.77)	-0.111 (-2.28)
CONF	+0.048 (+2.61)	+0.071 (+3.48)	+0.070 (+3.06)
DRUGARR	-0.009 (-0.22)	+0.011 (-0.28)	+0.055 (+1.15)
OTHERARR	+0.089 (+1.44)	+0.093 (+1.40)	+0.015 (+0.18)
Adjusted R ²	0.58	0.73	0.78
F-statistic	30.01	27.61	22.33
n	207	98	58

* Independent and dependent variables are logged. T-statistics are in parentheses below the estimated coefficients. VILOFF is the lagged violent crime offense rate; PROPOFF is the lagged property offense rate; CHGVIOL is the 2 year change in the violent offense rate; CHGPROP is the 2 year change in the property offense rate; INCOME is real income per capita; PVALUE is real assessed value per capita; AGENCY is the number of nearby police agencies; CONF is real confiscations per capita; DRUGARR is drug arrests per capita; and OTHERARR is non-drug arrests per capita.

in the first regression, and the next two use samples truncated to include only those jurisdictions with populations exceeding 25,000 and 50,000, respectively. The latter two regressions are included because confiscations may have a somewhat larger impact on non-capital expenditures in relatively large jurisdictions, perhaps due to the reported advantages of scale in administration of an asset forfeiture program (National Criminal Justice Association, 1988). Alternative explanations are that the costs of monitoring may be associated with bureau size or that the managers who rise to the top of large bureaus are "better"

entrepreneurs (e.g., they may have stronger network relationships with sponsors). Thus size may correlate with uncertainty and with discretionary power as well.

The empirical results are reported in Table 1. Note that the coefficient of determination rises as the sample becomes more homogeneous. All dependent and independent variables are logged so the coefficients can be interpreted as estimates of elasticities. The signs are largely in accord with a priori expectations. A higher lagged property crime rate (PROPOFF) leads to an increase in police budgets in all three regressions, and an increasing property crime rate (CHGPROP) is also significantly related to the budget for the largest jurisdictions. The violent crime rate (VIOLOFF) does not have the same impact on police budgets, however, perhaps implying that influential interest groups are most concerned with property crime. A negative relationship for the level of violent crime is implied by the all-inclusive regression, but the elasticity is only 0.04. This coefficient is not significant in the other two regressions. Changes in violent crime rates (CHGVIOLOFF) have the expected positive sign but are not significant at customary test levels. The INCOME coefficient is positive in each regression, but it is only significant in the sample of communities greater than 25,000. Given the ambiguous effect of income per capita on police expenditures this result is not surprising. Property value per capita (PVALUE) has a highly significant and positive coefficient in each regression, however, perhaps reflecting both the need for protection and the ability to pay since it is a proxy for both potential losses from property crime and differences in the wealth per capita among communities. Also significant, with the expected negative sign, is the number of nearby jurisdictions (AGENCY), suggesting that they constrain spending by offering alternative bundles of public services and/or by providing information about the cost of police protection. The non-drug arrest (OTHERARR) variable is not significant at the five percent test level. Finally, the drug arrest variable (DRUGARR) is also not significant; thus, the hypothesis that stronger drug enforcement is demanded locally is not supported by these data.

Confiscations (CONF) have a significant positive impact on non-capital expenditures by police agencies in all three regressions. As expected, the coefficient is considerably larger in more populous jurisdictions. It appears that forfeitures offer police in Florida an attractive policy option: an activity that can be justified politically because of its potential strong deterrent effect and because it suggests that drug enforcement is, to a degree, self-financing, while it generates direct financial benefits to the police bureaucracy. Relatively small amounts of money from seized assets can mean substantial increases in discretion. The estimated elasticity of non-capital expenditures with respect to confiscations is .04 for all jurisdictions in Table 1 and .07 for the larger ones, but this seemingly modest elasticity belies the potentially large impact of asset

forfeiture on decision making, since only a small fraction of non-capital expenditures are probably available for the discretionary purchases of perks. The elasticity of discretionary spending with respect to confiscations can be approximated as the estimated elasticity divided by the proportion of all non-capital expenditures that fall into this category. Thus, if 10 percent of non-capital expenditures are available for discretionary uses, the relevant elasticity lies in the 0.4 to 0.7 range. Since the portion of budgets that is committed to specific uses is probably larger than assumed here, these figures probably represent a significant under estimate of the impact confiscated assets can have on the discretionary budget.²¹ These results, combined with the evidence of more intense drug enforcement after 1984, are consistent with the hypothesis that police have incentives to respond to the Comprehensive Crime Act of 1984 by focusing on drug enforcement. The asset forfeiture provisions of the federal statute created an exogenous change in state and local law enforcement agencies' bureaucratic incentives, inducing them to join in the federally declared war on drugs. Police agencies were tempted to use an increasing portion of their resources against drug offenders, and to devote fewer resources to other crimes.²²

5. Conclusions

The Comprehensive Crime Act of 1984 included a section that mandated a sharing of assets seized when state and/or local authorities cooperated with federal authorities. Empirical evidence presented here suggests that asset forfeitures may benefit police bureaucrats. Thus, changes in police behavior since 1984 are consistent with the proposition that these agencies responded to the incentives created by this law. The relative allocation of state and local law enforcement resources has shifted dramatically towards drug enforcement, the major source of asset confiscations. Indeed, after 1984 many state and local law enforcement bureaucracies let federal authorities "adopt" their own seizures as well, in order to circumvent state laws which limited their ability to seize assets or which mandated that seizures be allocated to purposes other than law enforcement.

The importance of the federal statute probably receded by 1990, since many state legislatures followed the federal government's lead by incorporating the forfeiture process into their standard law enforcement procedures. Now many states have a forfeiture statute for controlled substances so local police do not need to have federal authorities adopt their seizures and extract a 20 percent tax. A growing number of states have more general forfeiture provisions, allowing seizure for "contraband" offenses and felonies. Items most often subject to seizure include material used in drug production, paraphernalia, containers, motor vehicles, and money, but most states also allow confiscation of

real estate used in the "furtherance of illegal drug activity."²³ State racketeering laws that authorize the forfeiture of property obtained as a result of illegal activity are even more stringent. Nonetheless, state statutes are not all as accommodating to police as the federal statute, and inter-bureaucratic cooperation in drug enforcement also still pays off, leaving the federal law a useful vehicle by which some police bureaucracies can enhance their discretionary budget.

Notes

1. Bureaucrats often try to influence the demand side of the political process (Berk, Brackman and Lesser, 1977; Congleton, 1980; Breton and Wintrobe, 1982; Benson, 1983, 1990; Mbaku, 1991). They have incentives to "educate" the sponsor regarding interest group demands which complement their own and to "propagate" their own agenda. Furthermore, they may have a relative advantage in the lobbying process because they have ready access to the sponsor with whom they are often informally networked (Breton and Wintrobe, 1982: 41-42), and they are naturally called upon, due to their expertise. This is clearly the case with law enforcement bureaucracies (Glaser, 1978: 22). Additional discussion of the role of bureaucrats as demanders of legislative action appears in Sections 2 and 3.
2. Many states mandate that confiscated assets be turned over to a general government authority while others require that some or all seized assets be used for specific purposes, such as drug treatment or education. Various states also limit the kind of assets that can be seized. For instance, in 1984, only seven states allowed seizure of real estate used for illegal drug activities. The federal statute had no such limitation.
3. This competition is multi-dimensional. It includes general competition for resources as well as competition for positions and promotions in the formal bureaucratic structure and membership in the informal networks that bureaucrats develop to facilitate non-market exchanges of benefits, information, and support between network members. Competitive strategies employed include: "(i) alterations in the flows of information or commands as these move through or across the hierarchical levels of the organization; (ii) variations in the quality or quantity of information leaked to the media, to other bureaus in the organization, to special interest groups, and/or to opposition parties and rival suppliers; and (iii) changes in the speed of implementation of policies as these are put into effect" (Breton and Wintrobe, 1982: 37-38). These strategies and selective behavior in general are possible because of the way bureaucratic organizations and hierarchies work, including the fact that monitoring by sponsors is costly and the measurement of bureaucratic performance is generally difficult or impossible. Indeed, the use of such strategies can increase monitoring costs and make measurement of performance even more difficult.
4. In fact, as Thornton (1991: 61 and 66) and Morgan (1983: 3) stressed, all of the various self-interests mentioned above (bureaucrats, professional from the American Medical Association and American Pharmaceutical Association, groups attempting to suppress certain races or classes) interacted with still more groups (temperance groups, religious groups, etc.) to produce policies against drug use. Interest groups and bureaucratic entrepreneurs continue to dominate modern drug policy as well. These groups include "civil rights, welfare rights, bureaucratic and professional interests, health, law and order, etc." (Morgan, 1983: 3). For instance, the pharmaceutical industry had a significant impact on the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Reinarman, 1983: 19): "In this case as in most

others, the state's policy makers were buffeted by law enforcement interests and professional interests. . . .”.

5. This is suggested by the second strategy listed in Note 3 above, and arises in part because of the high cost of monitoring bureaucrats.
6. The academic literature has suggested the fallacy of the simple “drug causes Index I crime” argument for some time (see Wilson and Hernstein (1985: Ch. 14), Gottfredson and Hirschi (1990), and Chaiken and Chaiken (1990) for overviews of the literature) while law enforcement bureaucrats continue to vehemently maintain otherwise. In fact, a drug/non-drug crime causal relationship is refuted by studies of the temporal sequencing of drug abuse and crime which suggest that criminal activities generally precede drug use (Reuter, MacCoun and Murphy, 1990; Gandossy, 1980; Greenberg and Alder, 1974). The drug use/property crime link is also undermined by evidence showing that many drug users have significant sources of legal income (Reuter, MacCoun and Murphy, 1990; Gill and Michaels, 1990; Kaestner, 1991).
7. Another factor is prison crowding and early release which reduces the deterrent effect of punishment. In many states a substantial portion of the increased prison population traces directly to the War on Drugs. For example, in Florida drug offenses during the 1983–84 fiscal year (FY) accounted for 12.9 percent of total prison admissions, a figure which rose to 36.4 percent in FY 1989–90. Prior to the 1980s War on Drugs prisoners served 50 percent or more of their sentences on average. However, as drug admissions accumulated, the prison crowding problem became acute and by December 1989 the average portion of sentences served had fallen to 33 percent.
8. Note with Breton and Wintrobe (1982: 152) that “One need to assume Machiavellian behavior, deceit, or dishonesty on the part of bureaucrats, because in all likelihood the pursuit of their own interest will be, as it is for everyone else, veiled in a self-perception of dedication and altruism.”
9. The role of informal networks within and across bureaucracies is very important in the Breton-Wintrobe model (1982: 78–87, 99–106). These networks are the non-market institutions of exchange through which individual bureaucrats cooperate in order to obtain benefits. Thus, competition for positions in networks is also an important determinant of bureaucratic behavior (Breton and Wintrobe, 1982: 99), and to the extent that this expanded network is able to generate more benefits for bureaucrats, competition to enter the network should intensify. However, competition for positions within a network actually tends to increase the potential for discretionary or selective behavior in Breton and Wintrobe’s (1982: 103) model.
10. North Carolina’s State Constitution requires that all forfeited assets go to education.
11. A 21-year-old naval reservist had \$3,989 seized in 1990, for instance, and even though he produced Navy pay stubs to show the source of the money, he ultimately settled for the return of \$2,989, with 25 percent of that going to his lawyer. In similar cases the sheriff’s department kept \$4,750 out of \$19,000 (the lawyer got another \$1,000), \$3,750 out of \$31,000 (the attorney got about 25 percent of the \$27,250 returned), \$4,000 of \$19,000 (\$1,000 to the attorney), \$6,000 out of \$36,990 (the attorney’s fee was 25 percent of the rest), and \$10,000 out of \$38,923 (the attorney got one-third of the recovery).
12. The model resulting from these investigations appears in Sollars, Benson and Rasmussen (1994).
13. Available measures of the size of policing bureaus’ budgets in a jurisdiction are: 1) total spending, and 2) non-capital expenditures. Total spending suffers from the fact it includes capital outlays which are not continuing expenditures. The lumpiness of large capital outlays, which are not discounted over several years in the budget reports, means that total expenditures observed in any year will not necessarily accurately represent the ongoing commitment to law enforcement. Furthermore, capital expenditures are often pre-designated for specific purchases, so the police have much less discretion in regards to the allocation of such expenditures. Thus, non-capital expenditures are the preferred measure for the purposes of this study.

14. Correlation between the number of sworn officers per capita and non-capital expenditures per person among jurisdictions in Florida is just .13. Since police manpower is by far the largest component of non-capital expenditures, this low correlation suggests the potential for substantial variability in the discretionary component of the budget.
15. Indeed, Seidman and Couzens (1974: 457–493) suggest that police are fully aware of this relationship and that they respond to the resulting incentives, even to the degree of exaggerating the level of crime at times in order to gain increases in budgets (as well as under-reporting specific crimes to show the success of specific anti-crime programs). See Benson et al. (1994) for a more detailed discussion of such incentives.
16. Some criminologists have concluded that most property crimes are committed near the offender's residence (Gottfredson and Hirschi, 1990), implying that this short "journey to work" results in a lower property crime rate in affluent suburban communities.
17. It might be appropriate to lag arrest data just as crime rates are lagged, since budget decisions are made on the basis of past information. However, concurrent arrests might also serve as a rough control variable in that it reflects uses of police resources that are alternatives to confiscation efforts. As it turned out, however, none of the arrest coefficients are statistically significant, whether lagged or concurrent arrests are used, and the choice does not affect any of the other coefficients. Thus, the results reported below are those using concurrent arrests.

Clearance rates are simply reported crimes divided by arrests, both of which are included in the empirical model. Jurisdiction level data on response time are not available.

Note that in order to keep crime rates up *and* make growing numbers of arrests, police have strong incentives to seek criminalization of increasing numbers of activities (recall note 1 and Section 2). In addition, since police resources are a positive function of crime rates, this creates perverse incentives in the context of the war on drugs. By reallocating police resources to make drug arrests, property crime rate rise (Benson and Rasmussen, 1991; Benson et al., 1992; Sollars, Benson and Rasmussen, 1994). Thus, both arrests as a measure of output and crime rates as a measure of the "need" for more police resources rise.

Perverse incentives go even further. Lindsay (1976) suggests that bureaucrats will tend to produce measurable outputs (e.g., arrests) in accord with the wishes and expectations of their sponsor, while sacrificing non-measurable outputs (e.g., crime prevention and deterrence) in order to enhance their discretion. In this regard, Sherman (1983: 149) noted that the budget process rewards those who successfully dispose of cases after crimes are committed more than those who quietly prevent crimes, and found that: "*Instead of watching to prevent crime, motorized police patrol [is] a process of merely waiting to respond to crime.*"
18. Benson et al. (1992a), report that increasing drug arrests have a positive impact of non-capital expenditures, but confiscations data were not available for that study. A different result here suggests that the Benson et al. analysis may have been misspecified.
19. Of course, local officials may just support a war on drugs to the extent that forfeitures pay for it. Breton and Wintrobe (1982: 7) explained that a bureaucrat's selective behavior may be "efficient" (i.e., the cost of achieving the sponsor's goal may be reduced) or "inefficient" (i.e., the cost of achieving the sponsor's goal may be increased), depending on whether the goals of the sponsor and the bureaucrat are complementary or not. Thus, if both a bureau and the bureau's monitoring sponsor have the same goals, the increased emphasis on drug enforcement and confiscations may be "efficient" in the sense defined by Breton and Wintrobe. Of course, the sponsors may have the same goals as the bureaucrats because they have been selectively mis-informed by the bureaucrats and/or because they respond to demands from media and interest groups who have been misinformed (Breton and Wintrobe, 1982: 146–154).
20. Crime rate and arrest data come from the Florida Department of Law Enforcement's (FDLE) *Crime in Florida* (1987, 1989). Note that the FDLE reporting procedures changed in 1988 and as a result, many jurisdictions failed to report. Thus, 1988 data are not comparable to 1987

and 1989, necessitating a two year lag on the crime rate figures. In fact, however, results are similar when concurrent crime rates (i.e., 1989) are used, so this does not appear to be a problem. Confiscations are unpublished data obtained directly from the FDLE. The property value and non-capital police expenditures data was obtained from the Florida Comptroller, Bureau of Local Government Finance. Income data are from the *Florida Statistical Abstract* (1990). The Florida Price Level Index, created annually for counties, was used to adjust for geographic cost of living variations. The agency variable was created from information in the *Florida County Atlas and Municipal Fact Book* (1988).

21. Florida data provide an indication of the importance of confiscations as a source of discretionary spending. Confiscations by law enforcement agencies in the state accounted for about 2.2 percent of the total 1989 law enforcement budget. However, relatively fixed obligations of personnel costs account for the national average of 84 percent of state and local police expenditures (Bureau of Justice Statistics, 1990, Tables 1.4 and 1.13), and there are other unavoidable expenses. For the average Florida jurisdiction in 1989, confiscations therefore account for at least 20 percent of its discretionary resources and perhaps as much as 30 percent for agencies with active forfeiture programs. Confiscations data are available only for 1989 (see note 20) and 1988 state aggregate expenditure data are the most recent available. Since the 1989 police appropriations were higher than 1988, this 20 to 30 percent estimate is only a rough approximation.

22. Escalation of the so called "War on Drugs", when measured by drug arrests relative to Index I arrests, apparently ended in 1989. In Florida the drug arrest/Index I arrest ratio fell from .44 in 1989 to a 1990 figure of .37, a decline of 14 percent. For the U.S. this ratio fell 24 percent, from .46 to .36. This decline in drug enforcement is not inconsistent with the incentives created by asset forfeiture legislation. Entrepreneurial police bureaucrats may be simply arresting "smarter", concentrating on drug offenders with some potential yield via forfeiture. For instance, police agencies seeking confiscations are likely to reduce juvenile arrests relative to adult arrests, as youthful offenders are less likely to own property that can be seized. This implication is particularly interesting because, from a theoretical perspective, increasing juvenile participation in the drug trade can be expected during the period of rising drug enforcement. The war on drugs has included greater arrest rates for drug offenses, a greater probability of conviction given arrest, and longer sentences, but these increased costs have been primarily imposed on adults rather than juveniles who generally receive relatively lenient sentences for an identical offense. Therefore, drug traffickers have had increasing incentives to reduce their risk by both lengthening the distribution chain and using more juveniles in the process. Yet, in Florida, juvenile arrests (under age 18) for drug offenses as a fraction of all drug arrests fell from 9.21 percent in 1984 to 7.34 in 1989, a 20 percent decline. Nationally, persons under 18 accounted for 11.95 percent of all drug arrests in 1984, but only 7.47 in 1990, a 37 percent decline. This reallocation of police effort against drugs is consistent with the hypothesis that police were increasingly interested in the agency return from drug enforcement through the seizure of assets. As a high ranking U.S. anti-drug official recently noted: "Increasingly, you're seeing supervisors of cases saying, 'Well, what can we seize?' when they're trying to decide what to investigate. They're paying more attention to the revenues they can get . . . and it's skewing the cases they get involved in" (Washington Post Weekly Edition, 1991: 32).

It is also possible that the opportunities for seizures are being reduced as drug market entrepreneurs adjust to the increasing focus on confiscations. For instance, marijuana growers are increasingly using national forests and other public lands rather than private land because "this technique precludes the use by the government of the legal remedy of confiscation of the land on which the illegal activity is being perpetrated" (Department of Justice 1989: 12). Drug dealers can rent or lease houses, apartments, cars, and other assets rather than purchasing them, as well, and hide their own assets abroad. Indeed, increasingly sophisticated efforts to

- hide assets through money laundering, etc., make seizures more and more costly. In the face of this rising cost, and perhaps the growing recognition by tax-payers that the war on drugs has not achieved what it was claimed that it would, police may be reducing their drug control efforts in order to control non-drug crimes. After all, as Breton and Wintrobe (1982: 149) noted, as time passes, the perceived responsibility for the failure of a policy (e.g., crime control through the control of drug market activity) shifts from outside forces (e.g., the drug dealers, the recession, etc.) to the government, and within the government, it shifts to the bureaucracy, so pressure arises for bureaucrats to account for what is going on.
23. As noted in note 2, only seven states allowed confiscation of real estate in 1984, but statutory changes increased this number to 17 by 1988, and it reached 43 in 1991.

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