

Courts Reject Drug-Tainted Evidence

Studies find cocaine-soiled cash so prevalent that even Janet Reno had some

The only evidence South Florida police had against Leroy Lord was the drug-tainted, rolled-up dollar bill they saw him drop. But it was enough to persuade a jury to find him guilty of possessing cocaine.

Police say traces of cocaine on the money proved Lord had placed the drug on or near the bill. But in

Department's asset seizure and forfeiture program, which relies heavily on drug-sniffing dogs and laboratory tests confirming traces of drugs on cash, cars and other valuables. In 1990, Justice seized more than \$176 million in assets—up from \$17 million in 1986.

Officials with the Drug Enforce-

trace narcotics on currency does not yield any relevant information whatsoever about the currency's history."

Studies Surprising

A number of studies support Wiseman's statement. Perhaps the most dramatic was conducted in 1985 by the *Miami Herald*. The paper asked 11 prominent local citizens to supply a \$20 bill for testing. Among those who agreed were the Catholic archbishop; the state attorney, Janet Reno; then-first son Jeb Bush; former Miss America Kylene Barker Brandon; and the Broward County sheriff, Nick Navarro.

The surprising results: Ten of the 11 bills were tainted by significant traces of cocaine. Only Navarro's money was clean.

"Originally, the drug contamination on dollar bills was limited to Florida, but now it's everywhere," said Woodford. He points to a 1989 experiment by Dr. William Hearn, a Miami toxicologist, in which he gathered 135 dollar bills from banks in 12 cities across the country. Incredibly, only four of the 135 bills showed no traces of cocaine.

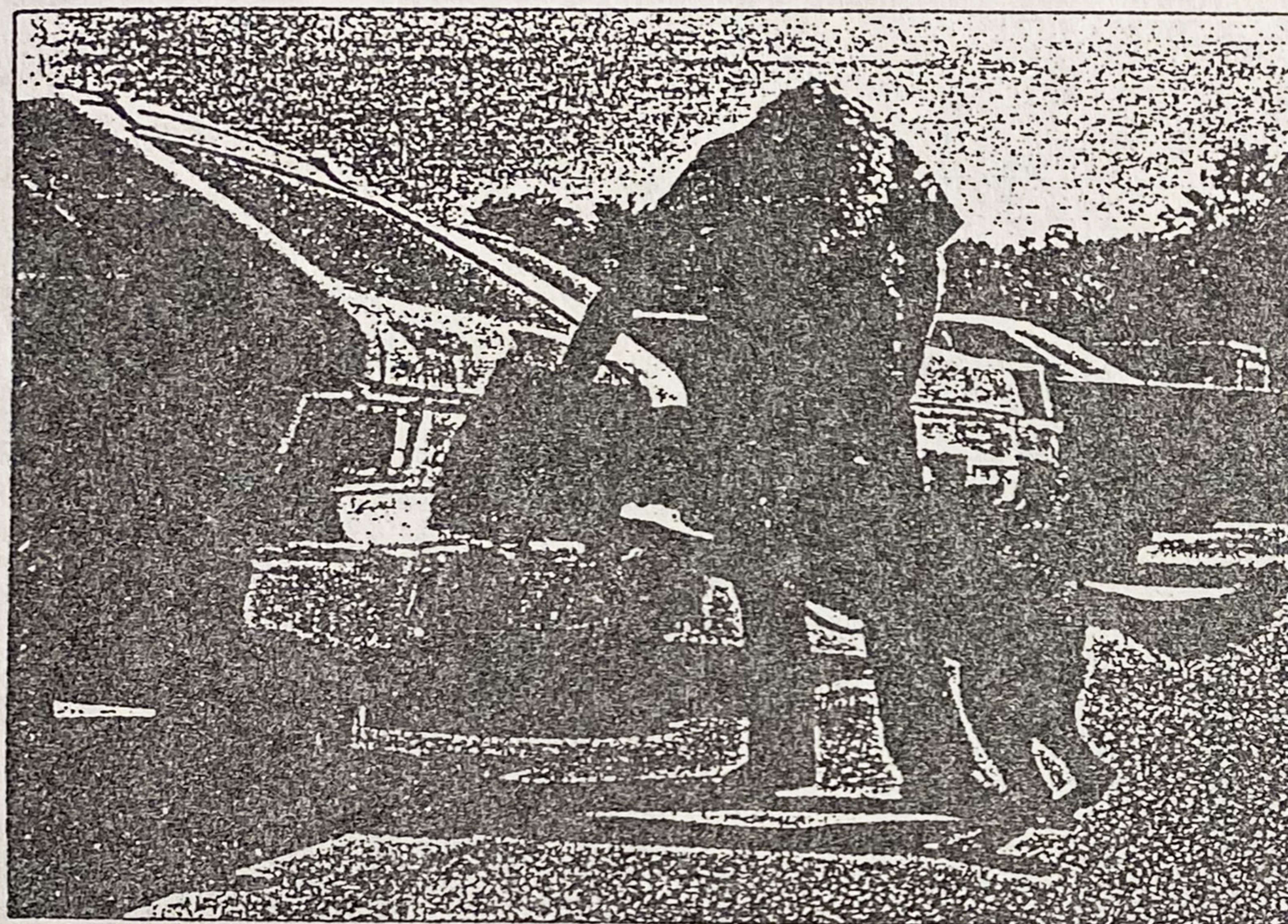
In 1987, a study by a DEA scientist found that one-third of all money at the Federal Reserve Building in Chicago was tainted with cocaine. His report, which had remained secret until this year, said traces of cocaine were found on the agency's high-speed sorting equipment and that the drug probably was being transferred to the currency.

"We recommend that trace analysis of currency for general enforcement or seizure be stopped," the report stated. But defense lawyers say the recommendation has not been followed.

"The use of drug-sniffing dogs has actually proliferated in recent years," said Albuquerque, N.M., lawyer Nancy Hollander, president of the National Association of Criminal Defense Lawyers. "These dogs are everywhere. They are at every airport, bus stop and train station."

Added Samuel: "No one is saying that these dogs are not smelling drugs. The point is, their smell is too good and they're smelling drugs on everything. If cocaine is on 70 percent of all the U.S. currency, and that is the latest estimate, then that should be the end of drug sniffs."

—Mark Curriden



Graduates of the U.S. Customs Service Detector Dog Training Center at Front Royal, Va. (left) are detecting traces of cocaine on everyday items, bringing into question their usefulness.

April, the Florida Third District Court of Appeals followed a growing trend in reversing the conviction.

"Cocaine in South Florida is so pervasive that microscopic traces of the drug can be found on much of the currency circulating in the area," the appeals court said in *Lord v. Florida*, No. 91-2147. "The mere presence of trace amounts of cocaine on a common object ... is insufficient to support a felony conviction for possession of cocaine."

Lawyers say the Florida ruling is the latest in a series of decisions in which judges have reversed convictions and returned seized property because the only evidence is trace amounts of drugs. These cases are citing evidence that the scent of cocaine is found on most currency and often will trigger the sensitive noses of dogs trained to detect drugs.

A forensic chemist who is asked to testify in more than a dozen cases annually, Dr. James Woodford of Atlanta is convinced that cocaine contamination is widespread. "The probability that every single person in the United States is carrying drug-tainted money is almost certain," he said.

That kind of evidence could have a serious impact on the Justice

ment Administration and the Justice Department say they do not rely solely on the dogs anymore, but use them in conjunction with other techniques. "The Justice Department has been aware of this potential problem much longer than most defense attorneys have," said spokesman Dean St. Dennis. "That's why we use it with other factors, [such as] suspicious behavior."

Criminal defense attorneys say they have been arguing throughout the 1980s that convictions and search warrants should not be based on trace amounts of drugs. "What's new is that judges are starting to believe us and rule in our favor," said Atlanta criminal defense attorney Don Samuel.

Another judge who ruled for the defense, U.S. District Judge Thomas Wiseman of Nashville, declared on April 21 that "the evidence of the narcotic-trained dog's alert to [tainted] currency is of extremely little probative weight." The judge ordered all charges against the defendant dropped and \$9,000 taken from him in an airport search returned. *Jones v. DEA*, No. 3:91-0520.

"It cannot be doubted that contaminated currency is widespread," Wiseman wrote. "The presence of