

## POLICE SALES OF DRUGS STIR CONTROVERSY

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It was just like any other **drug** deal, except the 50-pound bale **of** marijuana being sold belonged to the **police** .

The cash -- five stacks **of** \$5,000 each -- was given to an undercover officer who arranged delivery **of** the marijuana. As the bale was handed over to the buyer, other officers moved in and arrested her and two friends.

The incident was the first test **of** what could become a major policy shift in local law enforcement -- officers selling **drugs** to suspected dealers.

The Detroit **Police** Department said it uses the technique to snare large-scale dealers. But the city stands to make thousands **of** dollars by selling **drugs** -- which never reach **drug** users -- and by confiscating personal items, such as automobiles, taken from suspected **drug** dealers.

"If you can't get the **drugs** , at least you get the money," said Detroit **police** Cmdr. William Dwyer, head **of** Chief William Hart's staff.

DWYER SAID the technique -- called "encouragement" in legalese -- would not result in any previously confiscated narcotics reaching **drug** abusers. "I don't see any problems with it," Dwyer said.

But defense attorneys for the three women charged in the case -- JoAnne Cook, Cecelia Swistak and Virginia Forrest -- say the women are victims **of** entrapment and were involved in a crime created by **police** .

"If you want my opinion as to the government coming forward with pounds **of** contraband or marijuana and offering it for **sale** , I think it is outrageous and disgusting," said Stephen Rabaut, Forrest's attorney.

"I think they made somebody become involved in these transactions. They created" the crime, he said.

WHILE THE federal **Drug** Enforcement Administration (DEA) for several years has used confiscated **drugs** to sell to **drug** dealers before arresting them, state and local **police** agencies have only limited experience in what are called "reverse stings" or "reverse buys."

Capt. Robert Robertson, head **of** the State **Police** criminal investigation section in Livonia, said his department "has not gotten involved in it a great deal. In fact, we're in the process right now **of** trying to develop some policy on what we call a reverse buy."

State **Police** Lt. Mike Robinson, who heads the narcotics unit in Livonia, said the department is awaiting court hearings on current reverse buy cases before proceeding further.

"If we didn't think it was a legal thing to be involved in, we wouldn't do it," Robinson said. "Used properly, it is a very valuable tool.

"One **of** the problems you have at getting at traffickers is that to get to the bigger people you have to be willing to try something new and innovative. We're hanging in there and waiting to see if its going to be upheld in court."

University **of** Michigan law professor Yale Kamisar said proving entrapment is difficult for defense attorneys.

"Entrapment is a very confusing term because **of** the word 'trap'; you can be trapped without being entrapped legally," Kamisar said.

THE KEY ISSUE would be whether **police** used pressure or appeals to sympathy to convince a reluctant citizen to engage in a criminal act, Kamisar said.

"If the average hypothetical law-abiding citizen would not have yielded, then it is not entrapment. If you pressure the guy somewhat, if you appeal to sympathy or offer exorbitant funds, the court could say the normal law-abiding citizen could not resist this pressure, and that would be entrapment."

Kamisar said the **police** probably will have to show an objective standard by which the targets **of** the reverse sting were chosen. "Before you approach someone for a narcotics investigation, you ought to have some probable cause or articulable suspicion," Kamisar said.

According to Detroit **police** Sgt. Ed Zimmerman, whose crew set up the reverse buy and arrested the women Nov. 15, the department modeled its efforts on similar actions in Florida. Last year, **police** in south Florida seized almost \$3 million from suspected dealers by selling confiscated **drugs** . **Police** used the money taken in reverse stings to pay attorneys to pursue forfeiture claims against **drug** dealers and to buy new equipment.

JOHN MINOCK, attorney for JoAnne Cook, said, "The primary object **of** this type **of** case where the **police** offer marijuana for **sale** is strictly to take advantage **of** Michigan's new forfeiture law. If it were not possible for the **police** to seize the money and personal property **of** the people they entrap, it would not be worth their while to pursue these cases."

Public Act 251, approved by the Legislature in 1982, broadened the powers **of** **police** to push for forfeiture **of** private property in **drug** cases.

"It's got nothing to do with the criminal penalties, and the reason is that, for the attempted purchase **of** marijuana like this, the maximum penalty is four years in prison," Minock said.

"I can't imagine that 50 pounds **of** marijuana would have any effect at all on the marijuana trade in southeastern Michigan."

ZIMMERMAN SAID an unidentified narcotics officer had made small purchases **of** cocaine from Swistak, 28. "The officer just made mention to her that he might be getting a hold **of** some marijuana," Zimmerman said. "She told him that if he did, she could get some buyers for it."

After several phone calls between them, a deal was struck. Swistak allegedly said a purchaser would like 200 pounds. **Police** borrowed the marijuana from the **Drug** Enforcement Administration, Zimmerman said.

The exchange was to take place in a parking lot near Livernois and Fort. At the meeting, Cook allegedly told the undercover officer she had \$25,000 **of** her own money to buy 50 pounds. After weighing the marijuana with her partner, she said she could return with the balance **of** \$72,000 for three other 50-pound bales, **police** said.

But when the first 50-pound bale was loaded into Cook's car, **police** moved in. Swistak and Forrest were arrested in the parking lot, where they were sitting in Swistak's parked car. **Police** said they confiscated a small handgun and a small amount **of** cocaine from Swistak.

WHILE BEING booked at **police** headquarters, the 38-year-old Forrest mentioned that she was the widow **of** **police** Sgt. Harold Forrest, Zimmerman said.

Harold Forrest died in 1980 when he fell down a flight **of** stairs at his home. Zimmerman said the undercover officer on the case attended his funeral.

"Yeah, I knew him," Zimmerman said. "Almost everybody knew him. He worked at the 6th Precinct and was a pretty good guy. Everybody liked him."

Inspector Ray Murray, head **of** the Detroit **police** narcotics section, also remembers Harold Forrest. "I used to play golf with him," he said.

RABAUT SAID, Virginia Forrest "has never been involved in dealing **drugs** in her life . . . The evidence at the preliminary exam shows her being in a motor vehicle, that's what a **police** officer testified to . . . We're going to have to wait and see, but at this point, all they have is her presence."

All three were charged with conspiracy to possess a controlled substance with intent to deliver. At the preliminary examination earlier this month, Detroit District Judge Rufus Griffin bound over defendants Forrest and Cook on the charge but dismissed the conspiracy count against Swistak. According to defense attorneys, Griffin cited **police** entrapment as the reason for the dismissal. The judge declined to comment on his ruling.

Swistak was bound over on possession **of** cocaine and using a firearm during commission **of** a felony.

No trial dates have been set.

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