

Nashville Scene

Sexual Dangers

The police department's use of confidential informants may be putting prostitutes in harm's way

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Trying to explain the police department's persistent investigations of organized prostitution, Metro Police Chief Ronal Serpas likes to say, in that affable Louisiana drawl of his, that prostitution isn't a victimless crime. It's the prostitute who's the ultimate victim, exploited and sometimes even battered by her john. But the department's controversial use of confidential informants, some of whom have sex with the prostitutes in the course of investigations, may itself be endangering these women.

Over the last two weeks, the *Nashville Scene* has detailed how the Metro Police Department's Vice Division has dispatched paid confidential informants to infiltrate poorly disguised fronts for prostitution. To build open-and-shut cases against the women and their places of employment, the CIs often engage in graphic sex acts with the prostitutes, a practice that both the local district attorney and police officials in other major cities say is ill-advised. The Metro Police Department, however, defends the practice as necessary. "These confidential informants are going into businesses that are conducting, we believe, overt illegal activity," police spokesman Don Aaron recently told the *Scene*. "Through the use of these informants, these businesses have not been able to tell that they are the targets of law enforcement until enforcement has been taken."

Police admit that these CIs are not particularly upstanding citizens. Nearly all of them have police records and at least some of them are convicted criminals. They are not routinely tested for sexually transmitted diseases, police officials concede. And yet these are the agents that Metro police are using to bust the women they say they want to protect.

Nashville defense attorney Jerry Gonzalez has dealt with confidential informants as a lawyer and in his prior career as a federal agent. To hear him tell it, they shouldn't be around vulnerable women. "In my experience, there are many reasons why people become CIs," he says. "But primarily they are people who have drug addictions, have criminal records or they have something in their situations that allow the police to encourage or coerce them to become confidential informants."

In some cases, the confidential informants, equipped with hidden recording devices, will infiltrate sleazy adult establishments, flirt with suspected prostitutes and wait to have conversations about exchanging sex for money. The CIs will then concoct excuses to leave, with all the incriminating evidence caught on tape. But in more than a hundred cases, informants have received oral and manual sex from suspected prostitutes—all while under police supervision. Many times, the CIs will return to the same place and do it all over again. If you're an ex-con, this beats working at Wal-Mart any day.

In one particularly egregious case dating back to September 2003, confidential informants visited the same establishment four times, participating in various illegal sex acts for money. Then, on the fifth visit, one CI had oral sex and intercourse with a twenty-something woman who called herself "Black Sis." In fact, police already had a tape of a confidential informant having sex with this same woman, raising the obvious question: why send in a CI again to have intercourse with her?

The practice raises all sorts of ugly issues. What if a CI infects a prostitute with HIV? Or vice versa? There's no way to measure the threat because the Metro Police Department doesn't require their paid informants to be tested for STDs. "The confidential informants are aware of the potential risks to themselves; they are strongly encouraged to use protection," Aaron says, seemingly dismissive of the risks that these CIs pose to the women.

Also, what if a CI impregnates a prostitute? Or has sex with a woman who is underage? What if a CI—and remember these are men with police records—abuses a prostitute? If police are using ex-cons as informants, are they encouraging them to violate their probation by having illicit sex? The police have few answers to these questions, though there is one they answer explicitly. Vice officers would not use a convicted rapist as an informant.

Outside police experts have been stunned to learn that Metro police allow this practice. Charles Key, a former operations commander with the Baltimore Police Department, reviewed an audio transcript of a confidential informant engaging in a series of sex acts with a suspected prostitute. He says he believes Metro's practice is simply "out of control." He adds, "I just don't see that it's necessary to go through a sex act, I don't care what they say. It would be like sending a confidential informant into a drug ring, and then they go and shoot up."

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