

Police Focus on Arresting Prostitutes' Customers

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The undercover police officer, clad in tight mini-skirt, fish-net stockings and high heels, strolled to the passenger window of a white Lincoln Town Car and talked briefly with the driver. They agreed on a price for sex as police officers nearby listened to their recorded conversation. Before the man could flinch, a dozen officers swarmed over him like a bees to a hive. Several others converged on the scene in screeching cars from every direction. Shaking visibly, the man, Magry Zakhary of Bensonhurst, Brooklyn, was handcuffed and whisked to a waiting van.

"I am a married guy," Mr. Zakhary said as police officers searched his car. "Please don't make me look bad. I am not a bad guy."

That scene was repeated at least a dozen times in the Murray Hill section of Manhattan one recent Friday night as 20 men, including a 15-year-old boy, were arrested in the five-hour operation by police officers from Manhattan's 17th Precinct.

Called Operation Losing Proposition, it is part of the Police Department's latest effort to deter prostitution by arresting the "johns," or male customers, instead of the streetwalkers, many of whom just return to the same corners hours after their arrest.

Although the department's Public Morals Division has been making these sweeps for about four years, individual precincts began to carry out their own sting operations about a month ago. The police commissioner, William J. Bratton, feels that precincts can better handle the problem at the local level.

Bolstered by state forfeiture laws, commonly used in drug arrests, the police are confiscating cars that customers use to pick up prostitutes. They cannot, however, seize rental cars, taxis or a car registered under the name of another person.

Police officials say the prostitution arrests are another tactic in Mayor Rudolph W. Giuliani's crackdown on quality-of-life crimes in the city. The aim to humiliate the customers so that they do not solicit prostitutes again.

"Nobody goes to the chair on this," said John Miller, Deputy Commissioner for Public Information. Suspects convicted of soliciting a prostitute -- a fourth-degree misdemeanor that is often not challenged in court -- face a \$45 fine, a day of community service and a three-hour class on the dangers of soliciting prostitutes. "The shame factor is a huge deterrent," he said.

Some, however, question whether prostitution is indeed a serious problem that the police should be diverting resources to fight. In the five years before the crackdown, the number of arrests for prostitution had been on the decline, with 8,768 arrests in 1993, down from 11,361 in 1989.

Civil libertarians argue that arresting customers by using suggestively dressed undercover officers to entice the men -- and then seizing their cars for such a minor offense -- infringes on the rights of those arrested.

"We have serious problems with the operation," said Norman Siegel, executive director of the New York Civil Liberties Union. "We think it's a violation of the rights of the individual. The police use of these entrapment techniques to enforce laws against essentially private activity is reprehensible."

The courts, however, have held that merely presenting an opportunity to commit a crime does not constitute entrapment, said Rosemary F. DeBellis, a lawyer with the Police Department Legal Bureau.

"Entrapment is a common defense used by persons charged with many different crimes," said Ms. DeBellis, who was monitoring the recent operation in Murray Hill. "No valid defense of entrapment exist in any of the arrests made on that evening."

"It really does not matter who brings it up," said Ms. DeBellis. "In a bartering situation, they can agree on a sex act for a price."

Attempts to deter prostitution have been tried with limited success throughout the country, from Connecticut to California. In most cases, they only shifted the problem from one neighborhood to another.

The idea of going after customers is not new for New York City. In 1979, Mayor Edward I. Koch ordered that the names of people arrested for soliciting prostitutes be read on WNYC, the city-owned radio station. But that show aired only once because it was roundly criticized for infringing on the rights of people not yet convicted in court.

Dr. Nancy Jacobs, executive director of the Criminal Justice Research Center at John Jay College of Criminal Justice, said that cracking down on customers could be an effective way to fight prostitution.

"The idea of controlling demand is a good one," Dr. Jacobs said. "It comes from the way the police are trying to deal with the substance abuse prevention issues. If there is no demand, the suppliers have to go somewhere else."

Dr. Jacobs also said that prostitution usually fosters other crimes, like robbery and drug trafficking, and the presence of prostitutes on the street creates a sense of disorder and vulnerability in the community.

Operation Losing Proposition is being conducted in 29 precincts where police officials have identified prostitution as a problem.

So far, it is difficult to measure the operation's success, since the police do not keep separate data on the number of arrests under this operation. Instead, arrests from the operation are lumped together with others.

On the recent Friday when Mr. Zakhary was arrested, four undercover police officers wearing fur coats and suggestive clothing stood conspicuously on the southeast corner of Lexington Avenue and 30th Street, flagging down cars and waving at passers-by.

Cars circled like sharks around a two-block area. Less than 15 minutes after the police had set up the operation, a car stopped and the driver engaged in a conversation with one of the undercover officers. That driver was arrested. About 20 minutes later, another man was arrested while a dozen pedestrians looked on.

"It's like you put a piece of cheese out and the rodents come out," said Officer Roger Torres, a member of the squad carrying out the operation. "It's a nice night, everybody is out tonight."

Most of the men arrested that night, who ranged from executives to blue-collar workers, appeared too stunned -- or embarrassed -- to speak. Their arrests, after all, could ruin their reputation, or their marriage, if word seeped out.

"You never know who you're going to run into," said Capt. Bruce Smolka, Commanding Officer of the 17th Precinct, who added that during a recent operation in the Bronx, police officers discovered explosives in the trunk of a suspect's car. "But for the most part people are too surprised to do anything."

Correction: Nov. 23, 1994

Because of an editing error, an article on Sunday about moves by the New York Police Department to combat prostitution by arresting clients referred incorrectly to a 1979 radio broadcast by Mayor Edward I. Koch. The men whose names Mr. Koch read on the air had indeed been convicted, not merely arrested, on charges of patronizing prostitutes.

