

For Jeff
from David
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The following scenario of police entrapment at rest areas and parks was compiled following extensive conversations with Jeff Montgomery and Henry Messer of the Triangle Foundation, a lesbian and gay rights organization in Detroit. Montgomery states, "I've been to a dozen of these cases. I could run them." Messer adds, "People call Triangle in desperation because they're in jail, they've just been arrested. We find lawyers to take these cases and provide resources and direction for them."

Imagine walking into a public rest room and being approached by a young attractive man wearing tight jeans and a tank top. The man initiates conversation and after a while he invites you to sit with him in his car. When conversation in the car turns to sex your new friend gives you signals that he is ready for sex. You perform oral sex on him. After his orgasm he pulls out a badge and you're arrested.

Your cop friend takes you to an onsite mobile police station and your booked and processed with gross indecency, a felony, punishable up to five years in prison.

A court date has been set. One cop calls you a fucking queer as if you deserve to be punished and the other cop, the "good" cop, acts like he's doing you a favor with his advice. The "good" cop advises you to plead guilty to a lesser charge before the judge, called a plea under advisory. The judge won't accept the plea and he states, "I'll think about this for a year. Come back and I'll decide if I can accept this." During this year you will be on probation so if you get in trouble you'll be in worse shape. At the end of the year the judge won't accept your plea and he'll throw out the case. The "good" cop claims you will get your fingerprints back and your record will become clean. There'll be costs of \$500-\$750, 50-60 hours of community service, and probation since you did plead guilty.

"The state police deals heavily with entrapment," and "there's a fine legal line" where evidence is illegally gained through entrapment admits Captain Hogan of the Michigan State Police Post in Northville. If an officer illegally entraps a suspect "we don't punish the officer, instead we try to teach the officer where is the fine legal line," added Hogan. If an officer "says, 'hey, do you want to have sex?,' that is illegal entrapment. If an officer says, 'How are you doing?,' and the suspect commits solicitation or sexually accosts the officer than that is not illegal entrapment," stated Hogan.

However, a gay Internal Investigations Officer with the Michigan State Police who wishes to remain closeted asserts most "undercover officers for rest areas are at least bisexual," implying they entrap men for sexual gratification. Montgomery concurs and in some cases officers receive fellatio until orgasm. Explains Montgomery, "Sure! That happens. But you're not going to read about it in the police report and you're not going to hear about it in the trial and the victim's not going to bring it up at the trial because this guy wants to get the hell out of there. It's martial law."

For Will, not his real name, the undercover cop was not a passive observer but suggestively winked and nodded at Will to come over to his stall. Will states, "I came over to the stall and unzipped my zipper and then I was arrested." "I was never shown any police identification from any of the five undercover officers that came over after I was arrested," he adds. "You have a right to resist unlawful arrest, and a police officer should show police identification" stated Sargeant Richard Rule of the State Police Post in Northville. Will recalls, "I resisted going into the unmarked cars and I was beaten. While sitting in the unmarked car I complained the handcuffs were too tight and then the driver choked me and said he would kill me if I said any more."

Captain Hogan stated the "charged person has the opportunity to bring information on improper police actions before a series of hearings." Will's attorney knew he could

successfully defend Will because of the police abuse but Will refused a trial because the publicity could cost him his job and reputation. Montgomery and Messer find, men entrapped at rest areas and parks for illicit homosexual activity, fear publicity will affect their jobs (teachers, doctors, even clergy), their families, and their reputations. Even the cops count on these men being afraid to fight back against abuse, added Montgomery, and figure that "these men will just pay several hundred dollars so that nobody will ever know about this."

Hogan insured officers are honest in court otherwise, "they're perjuring and will lose their careers. A judge has to decide the credibility of witnesses," he added "in stings we send out teams of two to four" so that our side is well represented in court. One officer will entrap the suspect and the other will observe from a distance. We also go out in teams stated Hogan because a suspect is less likely to flea if there's more than one officer and if a suspect fleas he may get hurt by us.

Even if the police sexual and physical abuse was brought out in the courtroom, "in many cases it's word of defendant and word of one cop," stated Messer. "The cop could deny it. If you have it on tape that's great." Otherwise "you have no evidence. The judge always sides with the cop because he has to see the cop everyday for lots of cases," stressed Montgomery. In many cases no illegal sexual activity went on at all. Explains Montgomery "it may only be a look you give, you don't even say a word, and then the undercover cop flashes his badge. While the defendant did nothing illegal he will plead guilty to the reduced charge, perjure himself by saying to the judge he was touching himself even though he wasn't. Anything to avoid the publicity of a trial. That the cops count on."

The *People v. Emmerich* case of 1989 frighteningly shows the zeal with which undercover cops will go to charge a suspect. "In that case the defendant was charged with gross indecency after he was arrested by an undercover police officer. The defendant and the officer met at a roadside park and struck up a nonsexual conversation. Each then drove his own vehicle to a relatively secluded location four miles away. They got out of their cars and began making small talk. Each questioned the other about 'what he liked.' Then, when the defendant rubbed the officer's crotch area over his clothing, he was arrested. A decision by the Court of Appeals concluded that a crime had not been committed because the officer was a consenting adult and because the conduct did not involve an ultimate sexual act." This case was utilized by the Triangle Foundation and the Spectrum Institute in a brief on appeal of *Amici Curiae* presented to the Michigan State Supreme Court to sway a decision toward restricting the gross indecency laws.

Hogan stated police sting operations are needed because of "telephone complaints from families that have been accosted or have seen sex acts in rest areas." When the reporter asked for copies of complaints Hogan claimed fewer complaints are by letter than by telephone because of convenience. All letter complaints, Hogan added, are with the Michigan Department of Transportation (MDOT). According to Todd Niess, Resource Specialist with the MDOT, and in charge of all of Michigan's rest areas, "we've received two complaint letters in the last two years." The Triangle "called people at four descending levels of authority at the MDOT but nobody could produce these reports even though they claimed they received a lot of them," stated Montgomery. In order to receive these two complaints this reporter contacted Doug Mellon of MDOT to file a Freedom of Information Act. Mellon has not returned phone calls as of press time.

Randy McKinney, the District Maintenance Engineer for the MDOT, stated that "because 99% of this activity occurs between midnight and 5 a.m. there are relatively few complaints." McKinney could not recall how many complaint letters he received over the

last year nor which rest areas received the most complaints. On the other hand Niess gave a confusing and contradictory account of rest room activity in which one specific rest area attendant witnessed illicit daytime sexual activity, exposed penises, and flung feces. The attendant who worked from 7:30 a.m. to 4:30 p.m. at Cherry Hill rest area on I-275 northbound noted that men waited for him to finish his shift before engaging in activity. It is unclear how the attendant could have witnessed this activity if the men waited for him to leave. Men who committed sex acts were asked to leave rest areas but instead they threatened the attendant and later vandalised the rest area, Niess claimed.

When this reporter asked who the attendant was Niess gave the name of employer Simmy Aghaulor, owner of A+ Janitorial Services, Inc. that contracts out cleaning of rest areas from MDOT. When pressed further to give the name of the attendant Niess did not know the name. And then in a radical turnaround of facts Niess stated "he made a mistake" and the person who complained about this activity was not an attendant at all but was an MDOT employee, Barry Thompson. "Thompson is a Rest Area Coordinator who travels around three counties replacing toilets and fixing tiles," explained Niess.

Aghaulor stated that since April 1993 when his janitorial contract began for rest areas I-275 northbound near Canton and I-94 in Belleville only once was an attendant approached sexually, a female attendant by a male patron. Aghaulor is not aware of any attendants having witnessed exposed genitalia at rest areas. Aghaulor complained that some people stay in stalls for a very long time and his attendants have demanding time constraints. Whenever an attendant asked someone in a stall whether they need medical aid they always leave the stall within a few minutes. Aghaulor also complained that semen is often found over the sink, he asks rest area patrons to clean up.

When asked why not simply leave warning signs on bulletin boards that this rest area is carefully surveilled by the police Hogan reacted, "families can't be allowed to read signs that say the rest area is protected by police from solicitation of sex acts because it deters people from using them. It's suppose to be a welcome center. Moreover, it's not incumbent upon us to tell people not to rob a bank." This reporter noted, however, that highways have signs that they're radar enforced. Niess could not give "any good reason" why rest areas don't have these warnings.

Men illegally entrapped at rest areas call Triangle and other organizations for help. Places like the Triangle Foundation have their work cut out for them since Michigan is the only state with gross indeceny laws, is a very harsh enforcer at rest areas compared to other states, and has the toughest sodomy law in the US.