

Bribe money in stings usually comes from drug fund, lawyer says

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Because of the secrecy of federal proceedings, many questions about Operation Tennessee Waltz remain unanswered.

The federal sting operation has netted seven indictments of lawmakers and others connected to the state Capitol. Agents formed a fake company — E-Cycle Management, a computer recycler — to pay bribes for legislative action favoring the company.

David Raybin, a Nashville criminal defense attorney and author of books on criminal procedure, answered some questions for *The Tennessean*. He also is a former prosecutor. His knowledge of this case is primarily what he has read or seen in news accounts, but he answered some general questions. Raybin has defended and prosecuted government officials in public corruption cases. Below are his answers paraphrased:

Where does the bribe money come from? Does the FBI budget for that?

The money traditionally comes from drug forfeitures and seizures and is put in a fund, which undercover investigations can tap to use for bribes. The money is carefully accounted for and is under very rigid controls as to how it's used.

Will the people who took the bribes have to pay it back?

The money is often spent already by the time targets are being prosecuted. But the government can bring a separate civil action against an individual for ill-gotten gain. The money is also taxable as income.

Isn't this entrapment?

Generically, entrapment occurs where there is a person who does not have a predisposition to commit the crime and the government induces an otherwise unwilling person to do wrong. Giving someone an opportunity to commit a crime that they would have committed anyway is not entrapment.

On the other hand, where the government tactics are "overbearing or extreme," that can be entrapment.

Where you have continued pressure to commit a criminal offense, that could be entrapment.

The key is predisposition — would the person have committed this crime anyway given the opportunity?

Did federal agents target certain legislators? Is that selective enforcement?

This appears to be general sting operation. Typically, what will happen in a general sting operation is they cast a wide net and they approach multiple people because they never know who may be committing illegal activity.

Is there precedent for people who are indicted serving in office?

People who are indicted are not guilty of anything until they are convicted. Persons who are indicted have every right to serve. They do not forfeit their office. The Senate and House both have rules, however, that limit the leadership capacity of a person who is under indictment. It does not preclude people from voting or participating.

If the lawmakers stepped down, would this problem go away for them?

That would not affect their criminal case.

Why would they give this a name like "Tennessee Waltz"? That seems to make light of the situation.

For the same reason military operations have code names. Most military operations have a code name so participants understand the scope and role in their operation. It gives people participating a morale boost or direction.

When it's disclosed, it's a public relations tint that makes it identifiable.

Why the overwhelming and quick roundup of what otherwise would be people who probably aren't going to flee?

It's for shock and awe purposes. It's a lot more public and it will show other legislators that not only will they face criminal prosecution if they are charged with violating the public trust, but they will face public humiliation.