

State attorney's snafu jeopardizes 'Tick-Talks' cases

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The failure of the Dade State Attorney's Office to post routine \$5,000 bonds to give 21 Miami police officers countywide investigative powers has jeopardized the prosecution of 42 people arrested in the "Tick-Talks" narcotics probe.

Dade Circuit Judge Gerald Kogan has rejected a defense request to dismiss all 42 cases because of prosecutors' "gross negligence." But at the same time Kogan invited the defense attorneys to raise the issue at a hearing on the legality of the wiretaps that led to the mass arrests last June.

Kogan will decide Thursday whether a special prosecutor should be named in the case. Defense attorneys contend the state's

failure to post the bonds created a situation where the policemen who engaged in the widespread wiretap operation were unwittingly committing a second-degree misdemeanor — operating outside their jurisdiction.

Under Florida law, a police officer must first be sworn in as a special State Attorney's Office investigator to engage in an investigation outside his jurisdiction — in this case outside the city of Miami. This is routinely done. In the Tick-Talks case, which originated with a wiretap in Coral Gables, the policemen were properly sworn in.

But a secondary requirement of the law is for a \$5,000 bond to be written on each officer. This is also routine. But in this in-

stance, the secretary in the Dade State Attorney's Office who had the bond applications to process fell ill and was hospitalized. James Regan, the executive director of the Dade State Attorney's Office, testified in a hearing Monday that the applications sat on the secretary's desk at the same time the officers were completing their probe and making arrests throughout the county.

While the problem appears to be a technical matter, defense attorney William Cagney discovered that the office has no established procedure for making certain that the required bonds are posted. He called this lack of procedure "grossly negligent."

He pointed out that the law requiring

the bonds has been in effect since 1978. "The state should be held accountable," Cagney said. "The statutes were not followed. This is more egregious than neglecting procedural niceties. They have no adequate safeguards."

Assistant state attorneys Joel Rosenblatt, Ira Loewy and Rina Cohan conceded that the bonds were not in place at the critical times. Rosenblatt said that it was a "unique" event and they argued that the judge should not take the "drastic" step of throwing out all 42 cases. They suggested that the issue should be part of the over-all motion to suppress the wiretaps.

They did not concede, however, as defense attorneys Cagney and Kirk Munroe maintain, that the failure to post the bonds

constitutes second-degree misdemeanors.

In agreement, Kogan said he would "revisit the issue" at the suppression hearing. A hearing on the motion to suppress, at which defense attorneys will argue that the wiretaps that created the Tick-Talks cases were illegally prepared, is scheduled for March 29.

Any eventual trial of the 42 defendants will depend on the outcome of that hearing. Without the wiretap evidence, the state would be unable to proceed. Kogan is not expected to rule on the legality of the wiretap evidence for some time after the hearing.

The Tick-Talks cases gained their name from an electronic listening device placed in a wall clock belonging to one defendant.