

R v Birtles [1969] 53 Cr App R 469

'Laid On' offence use of participating informant

Whilst the police are entitled to make use of information concerning an offence already 'laid on', and while, with a view to mitigating the consequences of the proposed offence, e.g. to protect the proposed victim, it may be perfectly proper for the police to encourage the informer to take part in the offence, or indeed a police officer himself to do so, the police must never use an informer to encourage another to commit an offence which he would not otherwise commit.

It would not be unlawful in order to apprehend the offender for an informant to participate in an offence which has already been ***laid on*** and will be committed in any event. This case related to the arrest and conviction of Frank BIRTLES in Yorkshire and another for Burglary and carrying an imitation firearm. They received 3 years and 2 years to run consecutively. On appeal it was held that there was a real possibility that BIRTLES had been encouraged by an Informant and a police officer to commit the offences. There was some suggestion that BIRTLES had been allowed the use of a police vehicle to 'case' the premises. As a result the sentences were reduced to run concurrently. (See SANG 1980)

Lord Parker drew the helpful distinction between police "making use of information concerning an offence which is already laid on" and so acting to mitigate its consequences, and using an informer to 'encourage an offence, or an offence of a more serious character', which would otherwise ***not*** have been committed.

*The interpretation and comments made within this document are not to be considered as legal advice.
Reference should always be made to the original case.*