



STEVE CLARK
ATTORNEY GENERAL

STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

March 5, 1985

Opinion No. 85-74

Honorable Wayne Matthews
Prosecuting Attorney
Jefferson County Courthouse
P. O. Box 8051
Pine Bluff, Arkansas 71611

Dear Mr. Matthews:

This is written in response to Mr. Dalrymple's request for an opinion regarding the Uniform Controlled Substances Act. In particular you questioned whether the Act permitted the establishment of a "drug buy fund" from money confiscated under the provisions of the Act.

Subsection (a)(6) of Ark. Stat. Ann. §82-2629 (Supp. 1983) permits the forfeiture of all proceeds, moneys, negotiable instruments and securities used, or intended to be used, in exchange for controlled or counterfeit substances in violation of the Act. The Act further provides in subsection (e):

When the circuit court having jurisdiction over the property seized finds upon a hearing by a preponderance of the evidence that grounds for a forfeiture exist under this Act, the Court shall enter an appropriate order. The Court may:

(1) permit the proper law enforcement agency or the Prosecuting Attorney for the Judicial District in which the property was seized to retain the property for official use;

We interpret a "drug buy fund" to be a pool of previously confiscated moneys which are held and used periodically to equip an officer or informant for the purpose of making a controlled buy of contraband. Such buys are made to establish the reliability of the informant and/or to obtain evidence against a defendant to be used in obtaining a conviction for possession or sale of controlled substances. We, therefore, deem the establishment of a "drug buy fund" to be an official use of the moneys previously seized.

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The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Joyce Rayburn Greene.

Sincerely,


STEVE CLARK
Attorney General

SC:JG:jh

cc: Stevan B. Dalrymple