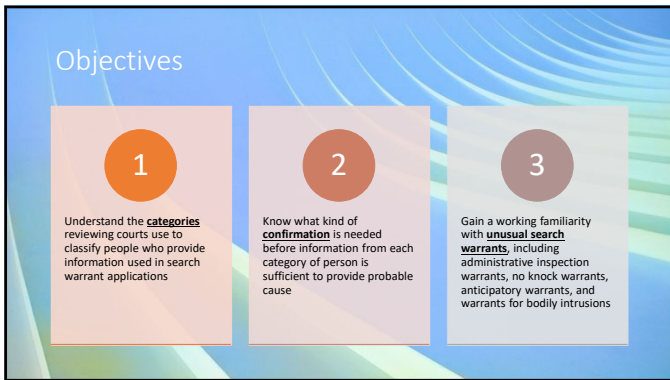




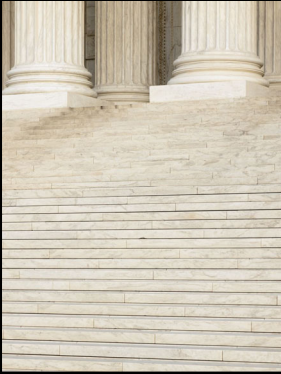
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Many Search Warrant Cases Involve Informants

- “Studies in Atlanta, Boston, San Diego, and Cleveland [found] that 92 percent of the 1,200 federal warrants issued in those cities relied on an informant.”
 - Alexandra Natapoff, Snitching: The Institutional and Communal Consequences, 73 U. Cin. L. Rev. 645 (2004)

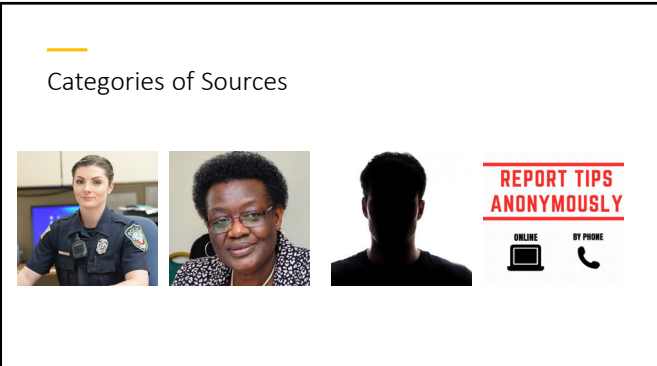
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It Is OK for Officers to Rely on Information from Others

- “The affidavit may be based on hearsay information and need not reflect the direct personal observations of the affiant.”
 - State v. Campbell, 282 N.C. 185 (1972)

5

Categories of Sources



6



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Information from Other Officers

- “[I]t is well-established that where the named informant is a police officer, his reliability will be presumed.”
 - *State v. Caldwell*, 53 N.C. App. 1 (1981)
- Even if it is reliable, it won’t always provide probable cause
 - Limited information
 - Conclusory information
 - Stale information
 - Poor basis of knowledge
- Are there circumstances under which you would not presume the reliability of information from another officer?

8

Information from Victims and Other Citizens

- “The fact that [the citizen informant] was named and identified . . . in the search warrant affidavit provided the magistrate with enough information to permit him to determine that [the citizen informant] was reliable.”
 - *State v. Eason*, 328 N.C. 409 (1991)
- Even if it is reliable, it won’t always provide probable cause
- Are there circumstances when you would not presume the reliability of information from a citizen?

9



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Information from Confidential Informants

- “[W]e cannot lose sight of the fact that these confidential informants are generally involved in illegal activities themselves and hence are not model citizens whose trustworthiness is above reproach.”
 - United States v. Wesevich, 666 F.2d 984 (5th Cir. 1982)
- “Information from a confidential informant may be sufficient to establish probable cause if it is **corroborated** by independent evidence or if the informant has a **track record** of supplying reliable information.”
 - United States v. Vinson, 414 F.3d 924 (8th Cir. 2005)

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Confidential Informants: Track Record

- May not be sufficient for the applicant to describe the informant as “reliable” or “reliable in the past”
- But great detail about past work is not required
- **What kind of information do you look for regarding an informant’s past performance?**

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Confidential Informants: Track Record

- a. The CI provided corroborated information in the past of individuals involved in the sale of illegal drugs;
- b. The CI has made "numerous controlled buys;"
- c. The CI has introduced undercover officers to "drug dealers;"
- d. The above information provided by the CI led to drafting of search warrants, seizure of illegal drugs and the "apprehension" of drug dealers; and
- e. The above information provided by the CI led to "no less than 30 successful narcotics investigations."

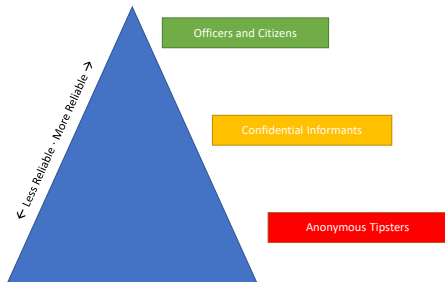
Investigators have known this informant for approximately two weeks. This informant has provided information on other persons involved in drug trafficking in the Charlotte area which we have investigated independently. Through interviews with the informant, detectives know this informant is familiar with drug pricing and how controlled substances are packaged and sold for distribution in the Charlotte area.

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Confidential Informants: Corroboration

- Corroboration of "mundane matters" such as a suspect's name and address, "does little toward establishing probable cause"
 - State v. Benters, 367 N.C. 660 (2014)
- What kind of information do you look for when determining whether an informant's report has been sufficiently corroborated?

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Information from Anonymous Tipsters

- “An anonymous tip, standing alone, is rarely sufficient, but [a] tip combined with corroboration by the police could show indicia of reliability that would be sufficient” to establish probable cause
 - State v. Benters, 367 N.C. 660 (2014)
- “The difference in evaluating an anonymous tip [as opposed to information from a CI] is that the overall reliability is more difficult to establish, and thus some corroboration of the information or greater level of detail is generally necessary.”
 - State v. Nixon, 160 N.C. App. 31 (2003)

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Anonymous Tipsters: Corroboration

- Corroboration of “mundane matters” is not sufficient
- Should more corroboration be required for an anonymous tipster than for a confidential informant?

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Classification Exercise 1

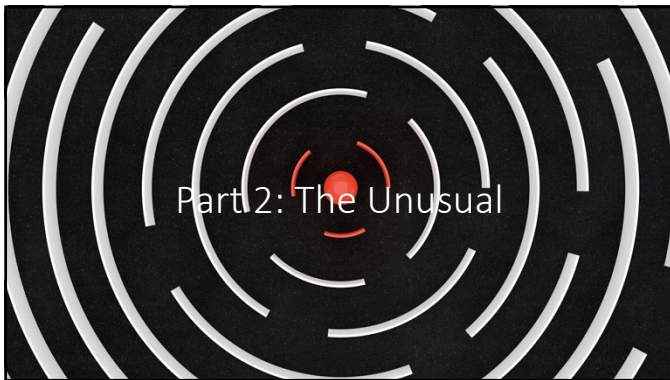
- Officer A told officer B that he just received a phone call from a reliable source. The source told officer A that a specific person would be arriving in town that afternoon on a bus from New York City, carrying drugs. The source named the person and described his appearance. Officer B applies for a search warrant based on this information. Should you treat the source as a citizen witness, a confidential informant, or an anonymous tipster?
- In State v. Hughes, 353 N.C. 200 (2000), the court ruled that the source was essentially an anonymous tipster as to officer B. Officer B did not know the identity or track record of the source.

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Classification Exercise 2

- A driver flags down a passing officer and reports that another motorist is driving erratically. The officer does not ask for the first driver's identification and does not note her license plate number. Instead, the officer hurries off to stop erratic driver. Should the first driver be viewed as a citizen witness, a confidential informant, or an anonymous tipster?
- In State v. Maready, 362 N.C. 614 (2008), the court ruled that she was a citizen witness. She did not know "whether the officers had already noted her tag number or if they would detain her for further questioning," and willingly put her "anonymity at risk."

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Part 2: The Unusual

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Administrative Inspection Warrants

- What do we do when a government official needs to enter private property to conduct an inspection but the occupant won't consent?
- Camara v. Municipal Court of City and County of San Francisco, 387 U.S. 523 (1967) says: get an administrative inspection warrant



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Administrative Inspection Warrants

- NC statute: G.S. 15-27.2
- Magistrates may issue AIWs
- Per Camara, two types of PC
 - Unlawful condition or activity
 - Part of a reasonable program of systematic inspection
- Two AOC forms
- Execution is more limited than a search warrant

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Anticipatory Warrants

- Used when police believe that there will be evidence of a crime present in the future (usually controlled delivery of drugs)
- See United States v. Grubbs, 547 U.S. 90 (2006)
- Requires PC that the “triggering condition” will take place and that once it does, evidence will be found
- Pro tip: the triggering condition must be described specifically, leaving no discretion to the officer



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No-Knock Warrants

- Normally officers must knock + announce before entry
- But not if (1) dangerous, (2) futile, or (3) would lead to the destruction of evidence. Richards v. Wisconsin, 520 U.S. 385 (1997).
- G.S. 15A-251(2): an officer need not give notice if “[t]he officer has probable cause to believe that the giving of notice would endanger the life or safety of any person.”



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No-Knock Warrants

- It isn't clear that you have authority to issue a no-knock warrant
- If you do, be sure a qualifying condition is present
- If you do, consider documenting the no-knock authority on the face of the warrant

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Warrants for Bodily Intrusions

- What if police want to pump the stomach of someone suspected of swallowing baggies of drugs?
- What if the police want to remove a bullet lodged in a suspect's leg in order to tie the suspect to a shoot-out?

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Warrants for Bodily Intrusions

- Winston v. Lee, 470 U.S. 753 (1985): just having PC is not enough
- Must weigh competing interests case by case:
 - How intrusive?
 - How risky?
 - How crucial is the evidence?
- Consider referring these applications to a judge so that they can hold an adversarial hearing
- Any significant intrusion should be performed by medically-trained personnel

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