

REASONABLE SUSPICION - TELEPHONE TIPS

State of Indiana v. James R. Glass, Ind. Ct. App., No. 21A01-0201-CR-43
(June 10, 2002, 10 pages).

In this interesting case the Indiana Court of Appeals discusses telephone call information provided to police dispatchers. The Appellate Court held that the Defendant's Motion to Suppress Evidence was properly granted, since the telephone call from an unnamed person did not in itself contain sufficient indica of reliability, and because the police officer did not independently confirm the reliability of the caller or the salient information that was provided.

The police department received a phone call advising of a "suspicious vehicle" driving recklessly with a description of the vehicle. The investigating officer saw the Defendant's car matching the description, but witnessed no traffic violations or inappropriate driving. Nevertheless, based upon the information provided to the dispatcher, the police officer executed a traffic stop. During the stop, the officer found the Defendant's drivers license to be expired, and found the Defendant to be shaky with bloodshot eyes. During a patdown search, the officer felt a hard rectangular shaped object that "could have been anything, including a weapon or a knife". The item was retrieved from his pocket, and turned out to be a wooden box containing marijuana.

The State charged the Defendant with possession of marijuana, possession of paraphernalia, and operating a vehicle with a controlled substance in his body. The Defendant moved to suppress all evidence, arguing that the detention and search occurred without reasonable suspicion. Following the hearing, the Trial Court granted the Motion to Suppress. This appeal by the State followed.

In order to prevail on appeal, the State had to show the Trial Court's ruling on the suppression motion was contrary to law. In reviewing the Trial Court's decision, the Appellate Court considers the evidence most favorable to the ruling together with any

adverse evidence that is uncontradicted. The Court accepts the factual findings of the Trial Court unless they are clearly erroneous.

At issue in this case is an investigatory stop. The Fourth Amendment prohibits unreasonable searches and seizures and it also safeguards brief investigatory stops that fall short of a traditional arrest. In this particular situation, the police officer may briefly detain a person for investigatory purposes without a warrant, or without probable cause, if based upon specific and articulable facts together with rational inferences from those facts, the official intrusion is reasonably warranted and the officer has a reasonable suspicion that criminal activity may be afoot.

Courts are guided to view the totality of the circumstances in determining whether the detaining officer had a particularized and objective basis for the suspected wrongdoing. The reasonable suspicion requirement is met “where the facts known to the officer at the moment of the stop, together with reasonable inferences, would cause an ordinarily prudent person to believe the criminal activity has occurred or is about to occur”. The Appellate Court reviews the Trial Court’s ultimate determination regarding reasonable suspicion on a de novo basis.

The Court of Appeals reviewed relevant caselaw discussing telephone tips to police dispatchers. The Court drew distinctions between various cases, noting that there are anonymous telephone tip cases, and other cases where the caller identified himself to the 911 operator in such a manner that they could have been held legally responsible for filing a false police report. The Court stresses that the reasonable suspicion inquiry has to be determined on a case by case basis.

Following precedent, the Court first focused on the identity of the caller. Although the record in this case was unclear as to whether the caller’s identity was known, the Court explained that “even if we impute such knowledge to the officer, the Trial Court merely found that the police knew the name”. Thus, the identity of the caller was never verified, and the callers reliability was unknown. The Court explained that

information gleaned from a telephone caller differs from that obtained in a face to face encounter. In the latter situation, the officer has an opportunity to assess credibility. Thus, the fact that even a named caller with an untested reputation called the police does not in and of itself establish reasonable suspicion.

The Court next focused on the content and reliability of the information offered by the caller. Although he told the dispatcher that a certain described vehicle was allegedly driving recklessly, he really provided no further information. Without more, the Court found too little information to justify the stop. “Reasonable suspicion requires more than conjecture”. The Court held that the State had failed to demonstrate that the investigating officer had an objective and articulable suspicion that the Defendant had committed, was committed, or was about to commit legal wrongdoing. The investigative stop thus violated the Defendant’s Fourth Amendment rights, and the Trial Court’s decision to suppress the evidence was proper.

In an interesting final note, the Court of Appeals specifically stated that “we do not intend to discourage citizens from reporting incidents involving driving irregularities”. The Court explained that cell phones are invaluable in providing information to police to initiate timely investigations. However, “the responding State action must comply with the dictates of the Fourth Amendment.”