

CI's and Search Warrants

1.5 Hour Webinar

Course Outline

Blue to Gold Law Enforcement Training
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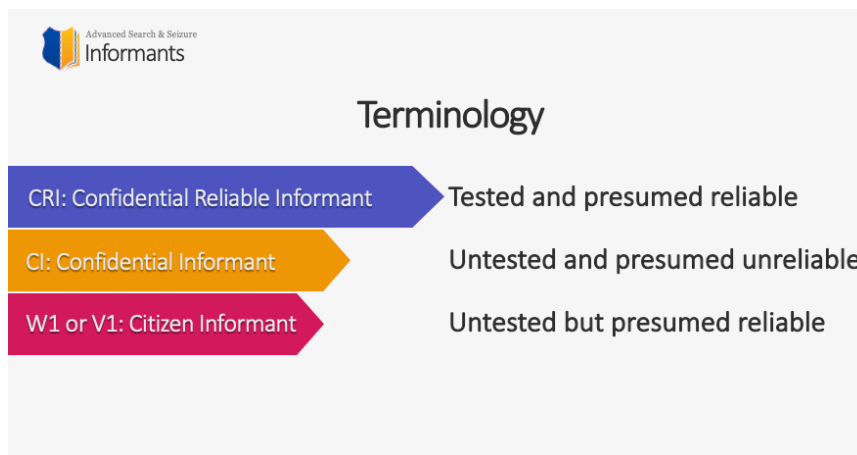
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Module One: Course Introduction – 10 minutes

- 1) Instructor introduction.
- 2) Explain the course objective.
- 3) Encourage attendees to ask questions and share feedback with other attendees.
- 4) Explain that certificates will be emailed after the class.
- 5) Go over the three disclaimers:
 - a) Laws and agency standard operating procedures may be more restrictive. Blue to Gold is teaching the federal standard unless otherwise stated. Therefore, students must know their state and local requirements in addition to the federal standard.
 - b) If students have any doubts about their actions, ask a supervisor or legal advisor.
 - c) The course is not legal advice, but legal education. Therefore, nothing we teach should be interpreted as legal advice. Check with your agency's legal advisor for legal advice.

Module Two: Confidential Informant – 35 minutes

- 1) **Legal Rule:** Courts know that informants are vital for investigations, but they must be managed properly.
- 2)



The citizen information is not involved in criminal activity. They

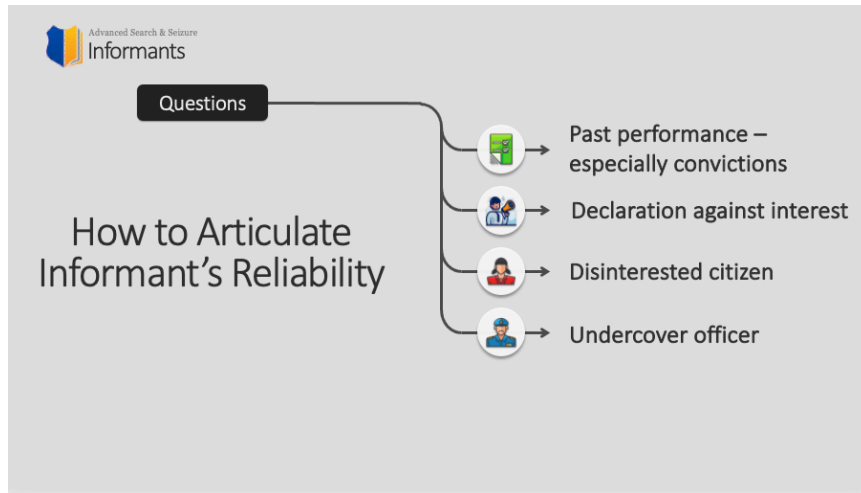
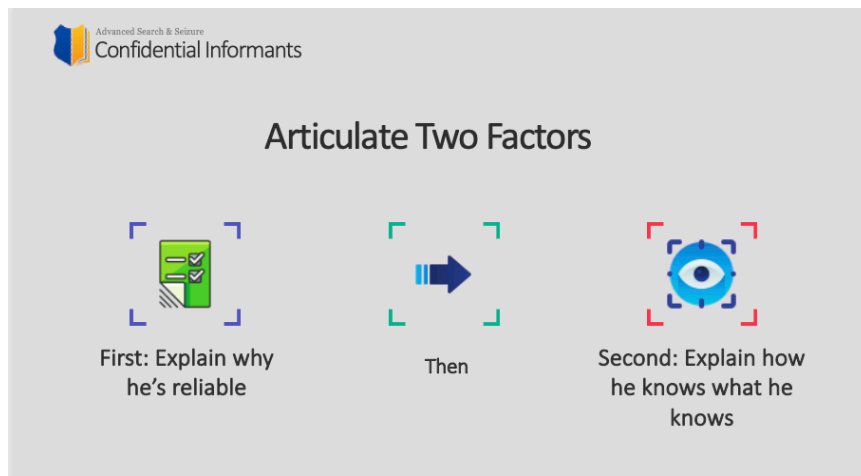
are regular citizens looking to help. Citizen informants are usually victims or witnesses. ID them as V1 or W1. They are presumed reliable.

- 3) **Legal Rule:** An informant's reliability must be explained, not simply based on conclusions.
- 4) **Case Sample:** "Affiants have received reliable information from a credible person and do believe that heroin, marijuana, barbiturates, and other narcotics and narcotic paraphernalia are being kept at the above-described premises for the purpose of sale and use contrary to the provisions of the law." (Aguilar v. Texas) **Held:** There were mere conclusions the C.I. was reliable.
- 5) **Case Sample:** An affidavit stated that the C.I. "personally observed [the defendant] having personal possession and control over a quantity of marijuana being held expressly for the purpose of unlawful distribution." (U.S. v. Weaver) **Held:** The distribution statement was conclusory.
- 6) **Case Sample:** I received information from an informant who has proven reliable in several investigations (with the information he supplied), that 'Otto' above description, is engaged in the illegal sales of cocaine and marijuana. My informant stated that Otto usually keeps the drugs in his gas station at above location. **Synopsis:** I received information from an informant who has proven reliable in several investigations (with the information he supplied), that 'Otto' above description, is engaged in the illegal sales of cocaine and marijuana. My informant stated that Otto usually keeps the drugs in his gas station at above location. He (informant) also stated that he witnessed 'Otto' dealing drugs from his gas station. I, along with Det. Ralph Scianni, conducted a surveillance of subject and his station on Thurs., 6/2/83, between the hours of 3:00 PM and 7:00 PM, and observed Otto meeting with several persons, after leaving his station and making what we believed to be drug transactions. During the surveillance, we observed one person making a transaction with Otto and checked on his vehicle and called the narcotics squad to inquire on his relationship with drugs. They told us that said person has been arrested for cocaine and other violations and they felt that Otto and the other person are involved in drug activity. From the information received from our informant and from our observations, we do feel that a search of Otto's gas

station should be conducted for illegal contraband. We checked on ownership of the station and it belongs to Otto who we have presently in headquarters on this investigation. Otto was advised of his rights and refused a search of his station but appeared to be very nervous. (State v. Novembrino)

- 7) **Pro Tips:** When writing affidavits, the goal should be to **convince a squeaky-clean preacher** why you have probable cause.

Module Three: How to Articulate an Informants Probable Cause – 35 minutes

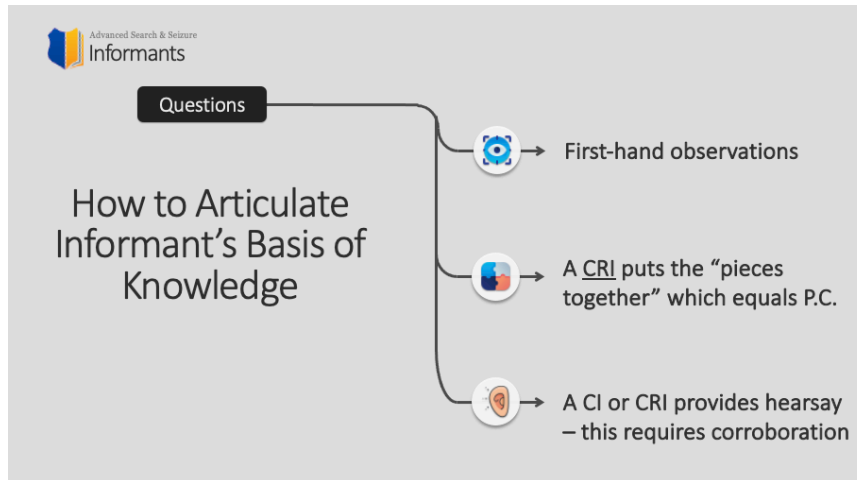


- 3) **Case Sample:** C.I. gave officer accurate information 15-16 times before. (McCray v. Illinois) **Held:** There was “no doubt” as the informant’s reliability.

- 4) **What would you do?** How do you keep track of your informant's reliability?
- 5) **Case Sample:** The officer's "testimony was inconsistent and uncertain; it demonstrated a woeful lack of proof, not only as to the alleged informer's reliability but even as to his existence."
Synopsis: Defendant was convicted in Circuit Court, Cook County, Marvin E. Aspen, J., of possession of heroin and she appealed. The Appellate Court, Leighton, J., held that where defendant made a prima facie case that officer lacked probable cause to make the arrest, the burden of going forward shifted to the state; that testimony by arresting officer that he did not have an arrest warrant and had not seen defendant violate any law established a prima facie case that there was no probable cause; and that testimony by arresting officer concerning the reliability of informer who told him that defendant would be in possession of heroin was so inconsistent and uncertain as to demonstrate a lack of proof as to the alleged informer's reliability and even his existence and did not establish probable cause for the arrest. Reversed and remanded with directions. (People v. Williams) **Held:** Not good.
- 6) **Case Sample:** The C.I. told the officer when and where a drug transaction would take place. The officer observed the transaction but made no arrest. **Synopsis:** Certain other verification of the informant's prior information may likewise be sufficient for essentially the same reasons. For example, in *Barber v. State* the officer testified that on a prior occasion the informant had told him that two named persons would meet at a specified time and place and engage in a narcotics transaction, and that he set up a surveillance and had observed the predicted narcotics transaction but did not make an arrest. The court relied heavily upon that verified transaction, and to a lesser degree upon the fact that other more general information offered on other occasions had in all instances proved to be true, in concluding that such a track record was "at least as reliable as a track record which shows that two or three arrests have been made as a result of information furnished by the informant." In a case of this kind, however, it is critical that the incriminating part of the prior tale of the informant be definitely verified. Thus, if an informant were to tell an officer that a party was to occur at a certain time and place and that drugs would be used at the party, but the officer's later surveillance merely

established that a party was occurring as predicted, this would not suffice to establish the informant's credibility. (*Barber v. State*). **Held:** Seeing the drug transaction helped prove C.I.'s reliability.

- 7) **Case Sample:** What if the C.I. told the officer there would be drugs at a party and the officer saw the party but no drugs? **Synopsis:** Certain other verification of the informant's prior information may likewise be sufficient for essentially the same reasons. For example, in *Barber v. State*⁷⁷ the officer testified that on a prior occasion the informant had told him that two named persons would meet at a specified time and place and engage in a narcotics transaction, and that he set up a surveillance and had observed the predicted narcotics transaction but did not make an arrest. The court relied heavily upon that verified transaction, and to a lesser degree upon the fact that other more general information offered on other occasions had in all instances proved to be true, in concluding that such a track record was "at least as reliable as a track record which shows that two or three arrests have been made as a result of information furnished by the informant."⁷⁸ In a case of this kind, however, it is critical that the incriminating part of the prior tale of the informant be definitely verified. Thus, if an informant were to tell an officer that a party was to occur at a certain time and place and that drugs would be used at the party, but the officer's later surveillance merely established that a party was occurring as predicted, this would not suffice to establish the informant's credibility. (*People v. Williams* 1973). **Held:** This would contribute practically nothing to reliability.
- 8) **Pro Tip:** You can use reliable tips given to any officer or agency. Two reliable tips are the minimum for a CI to become a CRI



9)

*With number two, it's essentially the same job as the officer.

- 10) **Pro Tip:** The key to corroboration is to explain why the observed conduct proves the informant has **inside information**.
- 11) **Case Sample:** A CRI told an officer that the suspect would return from Chicago on Mon or Tues, provided a physical description, described what he was wearing, that he would be holding a tan zipper bag, and habitually walked fast. All of this was corroborated. **Synopsis:** The fact that the informer was able to predict, two days in advance, the exact clothing Draper would be wearing dispelled the possibility that his tip was just based on rumor or "an offhand remark heard at a neighborhood bar." ... Probably Draper had planned in advance to wear these specific clothes so that an accomplice could identify him. A clear inference could therefore be drawn that the informant was either involved in the criminal scheme himself or that he otherwise had access to reliable, inside information. **Held:** The CRI + the corroboration equaled probable cause.

Module Four: Takeaways – 2 minutes

Major Takeaways



All conclusions
need to be
proven



Articulate
reliability



Then articulate how
they know what they
know

1)

End of class.