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Annette Nathanson DeBois

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SEARCH AND SEIZURE—SEARCH WARRANTS—PROBABLE CAUSE—RELIABILITY OF CONFIDENTIAL AND ANONYMOUS INFORMANTS—*State v. Brown*.

INTRODUCTION

The fourth amendment is designed to protect against unreasonable search and seizure. One way of doing so is to require that the police obtain a warrant before conducting a search or arrest. The warrant must be issued by a neutral judicial officer on the basis of his independent finding of probable cause, and his determination must be based solely on information contained in a written affidavit.¹ Because that information is often supplied by a confidential informant, certain safeguards have been established to assure its credibility. The United States Supreme Court has devised a means of determining this credibility. This method is commonly referred to as the *Aguilar/Spinelli* test.² One aspect of this test concerns the reliability of the informant. *State v. Brown*,³ the subject of this note, deals with how that reliability is evaluated in New Mexico.

STATEMENT OF THE CASE

On August 16, 1979, a confidential informant advised officers of the Albuquerque Police Department that Marvin and Melvin Brown had committed a recent burglary of the Albuquerque Tennis Complex.⁴ On August 21, 1979, an anonymous Crimestoppers⁵ caller

1. *Aguilar v. Texas*, 378 U.S. 108 (1964); *Johnson v. United States*, 333 U.S. 307 (1959); *Giordenello v. United States*, 357 U.S. 480 (1958); *Nathanson v. United States*, 290 U.S. 41 (1933); *State v. Duran*, 90 N.M. 741, 568 P.2d 267 (Ct. App. 1977); *State v. Gorsuch*, 87 N.M. 135, 529 P.2d 1256 (Ct. App. 1974).

2. *Spinelli v. United States*, 393 U.S. 410 (1969); *Aguilar v. Texas*, 378 U.S. 108 (1964).

3. 96 N.M. 10, 626 P.2d 1312 (Ct. App. 1981).

4. On August 8, 1979, the informant was found in possession of a tennis racket that had been stolen in the burglary in question. The Docketing Statement indicates that the informant stated that "he would attempt to find out who was involved in the burglary." Docketing Statement, *State v. Brown*, 96 N.M. 10, 626 P.2d 1312 (Ct. App. 1981).

On August 16, the informant stated that he learned that Marvin and Melvin Brown had committed the burglary, which occurred at the Albuquerque Tennis Complex on July 26, 1978. Miscellaneous tennis equipment valued at \$6,500 was stolen.

5. The Crimestoppers program facilitates the receipt of information from anonymous citizens who later receive a monetary reward if their information leads to the arrest and conviction of a criminal. The Crimestoppers program in New Mexico was started in Albuquerque in September 1976. There are currently thirty-two local programs operating in New Mexico. There are also programs in nineteen other states throughout the country. Letter from Greg

stated that a cheerleading squad was outfitted with white socks which were supplied by the Browns and were similar to those taken in the burglary. A second Crimestoppers caller informed the police that the Browns were selling tennis equipment and had a large quantity in the rear bedroom of their home.

The Browns were convicted of possession of stolen property by the district court in Bernalillo County.⁶ The conviction was the direct result of evidence obtained in a search pursuant to a warrant which had been issued on the basis of statements by the confidential informant and the Crimestoppers informants.

The Browns appealed their conviction. The New Mexico Court of Appeals first decided the case on July 15, 1980. In its memorandum opinion, the court stated that the conviction was reversed on the basis of *State v. Jones*,⁷ another court of appeals decision issued just twelve days prior to the *Brown* decision. The ground for the *Brown* reversal was that the affidavit did not contain sufficient facts from which the issuing magistrate could properly determine that the information was reliable.

In *Jones*, a Crimestoppers informant notified the police that he had been in Jones' apartment when Jones bragged about having committed several drugstore burglaries, discussed the means of entry he had used, and displayed narcotics. The informant also described both Jones and his car. The police corroborated this information by comparing it with police records of the modus operandi⁸ for three recent burglaries. Those records had never been publicly revealed. After a warrantless arrest, which was later held to be valid, the police discovered narcotics on Jones' person. A search warrant was issued on the basis of information from the Crimestoppers informant, as well as on the discovery of the narcotics by the police. The court of appeals held that the warrant was invalid because the affidavit on which it was predicated did not establish the reliability of the informant.⁹ The police had corroborated the informant's tip by

MacAleese, Executive Director of State of New Mexico Crimestoppers Commission (June 22, 1981).

A confidential informant is one whose identity is known to the police but is not revealed to the court, the defendant, or anyone else, except in extraordinary circumstances. In contrast, the identity of an anonymous informant is not known to anyone at all.

6. This information appears in the Docketing Statement for Defendant, but not in the court's opinion.

7. 96 N.M. 18, 627 P.2d 413 (Ct. App. 1980).

8. The modus operandi is defined as "the particular method of a criminal's activity." Black's Law Dictionary 906 (5th ed. 1979).

9. The court stated three ways in which such reliability can be established: 1) the affiant can state that the informant has proven himself reliable in the past; 2) the information can be self-corroborating, for example, a statement against penal interest; 3) the information can be corroborated externally. 96 N.M. at 20, 627 P.2d at 415.

verifying the modus operandi, but the court of appeals held that the police corroboration of the modus operandi was an insufficient basis for implicating Jones.

The New Mexico Supreme Court granted certiorari on both *Jones* and *Brown* and reversed the *Jones* decision.¹⁰ The issue was whether the reliability of the informant had been established. The court determined that it had, based on the informant's knowledge of facts regarding the modus operandi of the crime, his description of Jones and his car, and corroboration by the police of the information provided by the informant. The court stated that because these pieces of information had been corroborated, "[i]t was therefore reasonable for the officers to believe that the other information supplied by the informant was true."¹¹ The court held that there was sufficient corroboration of the information supplied by the informant to establish his credibility, and therefore the search warrant was validly issued.

Brown was then remanded to the court of appeals for reconsideration in light of the supreme court's opinion in *Jones*. On remand, the court of appeals affirmed its prior decision.¹² In its reconsideration of *Brown*, the court found that the facts were not so unique as to support an inference that any of the informants were reliable. The court thus held that there was not sufficient corroboration of information from the confidential informant to support the issuance of the search warrant.

DISCUSSION AND ANALYSIS

Background

The fourth amendment states that "[t]he right of the people to be secure in their person, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . . ."¹³ The case law construing the application of the fourth amendment exemplifies a balancing of the need for effective and efficient law enforcement against the privacy rights of individual citizens.¹⁴ One way of ensuring fourth amendment protection is by requiring a warrant before a search or seizure can be effectuated.¹⁵ The amendment also states "[n]o Warrants shall issue, but upon probable cause, supported by

10. 96 N.M. 14, 627 P.2d 409 (1981).

11. 96 N.M. at 16, 627 P.2d at 411 (1981).

12. 96 N.M. 10, 626 P.2d 1312 (Ct. App. 1981). This decision will be referred to as "*Brown II*."

13. U.S. Const. amend. IV.

14. *Brinegar v. United States*, 338 U.S. 160, 176 (1949).

15. There are, however, exceptions to the warrant requirement. Those exceptions include items in plain view, items found in a search incident to arrest, and items seized when exigent circumstances exist.

Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."¹⁶ A determination of probable cause must be made by a neutral detached magistrate or other judicial officer before a warrant can be issued.¹⁷ This officer of the court is required to make an independent judgment¹⁸ based on a written affidavit containing sufficient information.¹⁹ Furthermore, a trial or appellate court should use a common sense approach when reviewing an affidavit as the basis for issuing a search warrant²⁰ and should defer to the judicial determination regarding probable cause.²¹

A warrant can be issued on the basis of hearsay as long as the supporting affidavit gives grounds for crediting that hearsay.²² The United States Supreme Court has developed a test for use in determining the sufficiency of an affidavit based on information supplied by an informant. It is now commonly called the *Aguilar/Spinelli* test and is well-established in both federal and New Mexico case law.²³

In *Aguilar v. Texas*,²⁴ the United States Supreme Court overturned the defendant's conviction and held that an affidavit can be based on hearsay only if it provides the underlying circumstances from which the informant and the affiant reached their conclusions.²⁵ The case set forth a two-pronged test for establishing the adequacy of an affidavit. The first prong of the test relates to the informant's source of information. Under this prong, a determination

16. U.S. Const. amend. IV.

17. *Spinelli v. United States*, 393 U.S. 410, 419 (1969).

18. *Giordenello v. United States*, 357 U.S. 480, 486 (1958): "[The officer] should not accept without question the complainant's mere conclusion that the person whose arrest is sought has committed a crime."

19. *Whiteley v. Warden*, 401 U.S. 560 (1971). As the court noted in *Aguilar v. Texas*, 378 U.S. 108, 111 (1964), the magistrate should not be a mere "rubber stamp" for the police.

20. *United States v. Ventresca*, 380 U.S. 102, 108 (1965); *State v. Garcia*, 90 N.M. 577, 579, 566 P.2d 426, 428 (Ct. App. 1977), *cert. denied*, 90 N.M. 636, 567 P.2d 485 (1977).

21. *Aguilar v. Texas*, 378 U.S. 108, 111 (1964).

22. *Jones v. United States*, 362 U.S. 257, 269 (1960).

23. *United States v. Harris*, 403 U.S. 573 (1971); *Spinelli v. United States*, 393 U.S. 410 (1969); *United States v. Ventresca*, 380 U.S. 102 (1965); *Aguilar v. Texas*, 378 U.S. 108 (1964); *State v. Gutierrez*, 91 N.M. 542, 577 P.2d 440 (1978); *Hudson v. State*, 89 N.M. 759, 557 P.2d 1108 (1976), *cert. denied*, 431 U.S. 924 (1977); *State v. James*, 91 N.M. 690, 579 P.2d 1257 (Ct. App. 1978), *cert. denied*, 91 N.M. 751, 580 P.2d 972 (1978); *State v. Bowers*, 87 N.M. 74, 529 P.2d 300 (Ct. App. 1974); *State v. Lewis*, 80 N.M. 274, 454, P.2d 360 (Ct. App. 1969).

24. 378 U.S. 108 (1964).

25. The affidavit in question in *Aguilar* stated that "[a]ffiants 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." 378 U.S. at 109.

The *Aguilar* affidavit merely presented a conclusion, and was therefore an insufficient basis on which the magistrate could make an independent judgment regarding probable cause.

is made as to exactly how the informant obtained that information. The second prong concerns the informant's reliability and involves a determination as to why the police thought the informant himself was reliable or credible.²⁶

In *Spinelli v. United States*,²⁷ a search warrant was issued on the basis of an affidavit which contained four major allegations designed to implicate the defendant.²⁸ The United States Supreme Court reversed the conviction on the ground of the insufficiency of the affidavit. The court applied the two-pronged *Aguilar* test, holding that the underlying circumstances must be shown so that the magistrate can make an informed independent determination of probable cause.

There are various ways in which the requirements of the *Aguilar/Spinelli* test can be met. In order to satisfy the first prong, the affidavit must show that the informant's source of information is reliable.²⁹ This enables a magistrate to determine the basis of the informant's conclusions. The requirements of the source of information prong can be met in any of several ways. The most common method of proof involves a showing in the affidavit that the informant obtained his information by personal observation.³⁰ A showing of sufficient detail can sometimes verify the information by providing evidence that the source is "more substantial than a casual rumor. . . ."³¹ The source can also be established by a statement in the affidavit that the suspect provided the information to the informant.³² Whichever method of proof is used, it is necessary to establish the informant's source, on the theory that if the source of the information is reliable, the information itself is also reliable.

The requirements of the second prong of the *Aguilar/Spinelli* test are satisfied by evidence of the informant's reliability or credibil-

26. 378 U.S. at 114.

27. 393 U.S. 410 (1969).

28. The affidavit stated that: 1) the FBI had observed the defendant's behavior for five days, and on four of those days he had behaved in a similar manner, traveling from Illinois into St. Louis and entering a particular apartment in a building; 2) the apartment had two telephones with different numbers; 3) Spinelli was known to the affiant and other FBI agents as a bookmaker and gambler; and 4) an informant had stated that Spinelli was conducting a gambling operation from the apartment. 393 U.S. at 413-14.

29. *Aguilar v. Texas*, 378 U.S. 108 (1961); *Giordenello v. United States*, 357 U.S. 480 (1958).

30. *McGray v. Illinois*, 386 U.S. 300 (1967). In that case, the informant had observed the defendant selling narcotics to various people.

31. *Spinelli v. United States*, 393 U.S. 410, 416 (1969). See also *United States v. Ventresca*, 380 U.S. 102, 109 (1965); *Hudson v. State*, 89 N.M. 759, 557 P.2d 1108 (1976), cert. denied, 431 U.S. 924 (1977).

32. See *State v. Gutierrez*, 91 N.M. 542, 577 P.2d 440 (1978).

ity.³³ A showing that reliable information has been supplied by the informant on prior occasions is relevant to a determination of the informant's reliability, but is neither conclusive nor necessary.³⁴ If used, it must be combined with other factors which support a finding of reliability. A statement against penal interest by the informant is sufficient because the informant is giving the police evidence with which he can be incriminated. It is presumed that an individual would not make such an admission lightly.³⁵ Reliability of the informant can also be proven by independent corroboration of the information in question.³⁶ In *Draper v. United States*,³⁷ nearly all of the information supplied by the informant was corroborated by the police, thus satisfying the probable cause requirement for a warrantless arrest.³⁸ Police corroboration can therefore be used to establish probable cause to support a warrant in a situation when an informant's tip would not stand on its own.

Application of the Aguilar/Spinelli Test

Under New Mexico case law³⁹ and the New Mexico Rules of Criminal Procedure,⁴⁰ the *Aguilar/Spinelli* test is the accepted standard for evaluating information provided by an informant. The standard is established, but there is still opportunity for flexibility in the application of that standard to the facts of a particular case. Both *State v. Brown (II)* and *State v. Jones* dealt specifically with the

33. *Aguilar v. Texas*, 378 U.S. 108 (1964); *State v. Gutierrez*, 91 N.M. 542, 577 P.2d 440 (1978); *State v. Archuleta*, 85 N.M. 146, 509 P.2d 1341 (Ct. App. 1973).

34. *Draper v. United States*, 358 U.S. 307 (1959).

35. *United States v. Harris*, 403 U.S. 573, 583 (1971). See also *State v. Archuleta*, 85 N.M. 146, 509 P.2d 1341 (Ct. App. 1973).

36. *Draper v. United States*, 358 U.S. 307 (1959) (police corroborated almost all of the information provided by the informant); *State v. Garcia*, 90 N.M. 577, 566 P.2d 426 (Ct. App. 1977), cert. denied, 90 N.M. 636, 567 P.2d 485 (1977) (three informants corroborated each other); *State v. Perea*, 85 N.M. 505, 513 P.2d 1287 (Ct. App. 1973) (corroboration by police surveillance); *Hudson v. State*, 89 N.M. 759, 557 P.2d 1108 (1976), cert. denied, 431 U.S. 924 (1977). Independent corroboration occurs when the information is corroborated by a second source. For instance, in *Jones*, the informant stated that Jones transported narcotics in his car, and the police later observed Jones getting into a car that matched the description by the informant. 96 N.M. at 19, 627 P.2d at 414.

37. 358 U.S. 307 (1959).

38. The concurring opinion by Justice White in *Spinelli* discusses *Draper* and the concept of corroboration, stating that an argument is often made that "because an informant is right about some things, he is more probably right about other facts, usually the critical, unverified facts." Justice White, however, disagrees with that argument. *Spinelli v. United States*, 393 U.S. 410, 427 (1969) (White, J. Concurring).

39. See note 23 *supra*.

40. N.M. R. Crim. P. 17 (f): "'Probable cause' shall be based upon substantial evidence, which may be hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished."

use of independent corroboration as a means of establishing the reliability of an informant.

The corroboration in *Jones* was in the form of police records containing secret information regarding the modus operandi of the crime. That information matched facts stated by the informant. In addition, police observation of the defendant, his car, and his apartment matched descriptions provided by the informant.

In *Jones*, the court of appeals upheld the district court's granting of the defendant's motion to suppress the evidence because it did not find a sufficient basis for the issuance of the search warrant. The court stated that the corroboration applied to the commission of the crime, but not to the particular defendant's involvement.⁴¹ The court of appeals stated that the substance of the information, rather than its method of corroboration, was insufficient to support the issuance of a search warrant directed toward Jones and his apartment. The supreme court, however, applied the accepted standard to the specific facts involved and determined that police corroboration of the informant's knowledge of the unique facts of the crime was a sufficient basis for substantiating his reliability.⁴² Because the facts were unique, and were corroborated by police investigation, the supreme court found it reasonable for the officers to believe that all of the information supplied by the informant was true. It appears, after *Jones*, that in New Mexico the reliability of an anonymous Crimestoppers informant can be established by corroboration resulting from independent police investigation. It is unclear when, if at all, other types of corroboration will be sufficient.

In *State v. Brown (II)* the court of appeals acknowledged the *Jones* determination that unique information can provide a basis for establishing the reliability of an informant.⁴³ The court applied this standard of uniqueness to the particular facts in *Brown (II)* and decided that the requisite showing of uniqueness had not been made. The court assumed that unique information is simply one way of demonstrating reliability. The court implied that other indications would also be acceptable by stating that it did not find "the comparable uniqueness of facts or other indicia of reliability of the informants."⁴⁴ The *Brown (II)* court found that none of those other indications of reliability were present.

The court determined that the information provided by each of

41. *State v. Jones*, 96 N.M. 18, 627 P.2d 413 (Ct. App. 1980).

42. *State v. Jones*, 96 N.M. 14, 627 P.2d 409 (1981).

43. 96 N.M. at 11, 626 P.2d at 1313.

44. 96 N.M. at 12, 626 P.2d at 1314 (emphasis added). The court did not indicate what those "other indicia of reliability" would be.

the three informants was defective because none of the information was sufficient, in and of itself, to establish the reliability of the informant from whom it was obtained.⁴⁵ The court cited *Spinelli* for the proposition that individual items of defective information cannot be combined to establish probable cause.⁴⁶

The supreme court in *Jones* and the court of appeals in *Brown (II)* expressly applied the same test when evaluating the reliability of an informant. The different facts involved in the two cases apparently underlie the different conclusions reached by the courts. It is likely that policy considerations also influenced the decisions reached in each of these cases. For example, in *Jones* the corroboration was provided by police records and investigation. These corroborating sources seem to possess an inherent reliability and are thus more readily accepted by a reviewing court. In addition, the corroborating information was the result of extensive police investigation and surveillance. As a matter of policy, these efforts should be rewarded so that similar efforts by the police will be encouraged. On the other hand, the corroboration in *Brown (II)* was provided by two anonymous informants. That information did not possess inherent reliability. The police had no knowledge of the informants' identities, backgrounds, or trustworthiness. The court of appeals thus required a higher level of proof and ultimately determined that this level had not been reached. It is apparent that the New Mexico Court of Appeals interpreted the New Mexico Supreme Court's position in *Jones* as permitting various methods of corroboration of informants' tips. The supreme court should clarify that issue in the future.

Reliability of Crimestoppers Informants

As the Crimestoppers program continues to expand, more warrants will be issued on the basis of tips from those informants.⁴⁷ The courts must therefore deal with the issue of whether the same standard should be applied when evaluating information from confidential and anonymous informants. Arguably, the same standard should be used because the magistrate does not know the identity of the informant in either situation, and the basis of his determination of probable cause should be limited to the facts set out in the affidavit. Proof of reliability is easier to obtain regarding a confiden-

45. 96 N.M. at 12, 13, 626 P.2d at 1314, 1315.

46. 96 N.M. at 13, 626 P.2d at 1315.

47. *State v. Trujillo*, 95 N.M. 535, 624 P.2d 44 (1981). In that case the Crimestoppers informant was deemed confidential, rather than anonymous.

tial informant, however, because the police know him and can often establish that he has given prior reliable information. There is no way of establishing that an anonymous informant has given prior reliable information. Thus, the reliability of an anonymous informant must be established by independent corroboration of the information he provides.

It is arguable that an anonymous report from a citizen is inherently more reliable than a report from a paid informant. However, other factors may also come into play. For instance, the monetary reward offered for Crimestoppers tips resulting in successful prosecutions may increase the likelihood that false information will be provided.⁴⁸ An anonymous Crimestoppers informant has nothing to lose, yet much to gain, by lying or by fabricating information. If the police discover that the information is false, the informant would be protected by his anonymity, even though he would not be paid. If, however, the information proved to be helpful, the informant could receive a sizeable reward. A confidential informant, on the other hand, stands to lose a great deal if he lies. He could lose his reputation with the police, thereby precluding further "deals." The confidential informant would also lose his remuneration, whether in the form of monetary rewards or agreements by the police not to prosecute him.

On a national level, case law dealing with tips from Crimestoppers informants is scarce because the program is relatively new. The oldest program in the United States, located in Albuquerque, New Mexico, has only been in operation for five years.⁴⁹ The District of Columbia Court of Appeals, however, considered the issue of anonymous tips in two recent decisions. In *United States v. White*,⁵⁰ the court upheld a stop and subsequent arrest for a narcotics violation. The stop resulted from a tip by an anonymous informant who was totally unknown to the police. The court pointed out that an anonymous tip can provide the basis for probable cause if the information is sufficiently corroborated. The question then becomes how much corroboration is necessary.⁵¹ The *White* court indicated that applicable factors to consider include how much the police need citizen informants in order to carry out their duties, and how detailed the information is. In *White*, the informant gave very specific information

48. See *State v. Lovato*, 91 N.M. 712, 580 P.2d 138 (Ct. App. 1978), cert. denied, 91 N.M. 751, 580 P.2d 972 (1978). *Lovato* involved information to the Crimestoppers program by a source who was not anonymous.

49. See note 5 *supra*.

50. 648 F.2d 29 (D.C. Cir. 1981).

51. *Id.* at 41.

about a suspect, his car, and his modus operandi. The police verified almost all of the information. In addition, the court stated that "the peculiar nature of narcotics crimes means that arrests are almost totally dependent on tips and undercover work."⁵² Thus there was a showing of probable cause to justify the defendant's arrest.

In *Henighan v. United States*,⁵³ the District of Columbia Court of Appeals again dealt with this issue of the corroboration of an anonymous tip. An anonymous caller had described with specificity a woman allegedly carrying a purse containing a gun and narcotics. The woman was in a large crowd of people in a nightclub. The court held that there was probable cause to justify her stop, search, and subsequent arrest. The police had corroborated all of the innocent details involved within moments of the police dispatcher's receipt of the call. Also, the nature of the reported criminal activity was very serious. Hesitation by the police could have resulted in bodily harm to innocent bystanders.⁵⁴ Thus the court's decision in *Henighan* exemplifies how the facts and circumstances of each case are of paramount importance in making the determination of an informant's reliability.

Before *Brown (II)*, *State v. Cervantes*⁵⁵ was the only New Mexico case which involved corroboration of a confidential informant's tip by an anonymous Crimestoppers informant. The reliability of the confidential informant in *Cervantes*, however, was established by prior reliable information. The court did not rely on the information given by the Crimestoppers caller.⁵⁶ In *State v. Brown (II)*, the court circumvented the issue of the standard required for corroboration of a confidential informant's tip through a tip given by an anonymous Crimestoppers informant. The court of appeals in *Brown* analyzed each informant's information separately and held that because each was defective, probable cause was not established. The court therefore appeared to require corroboration of the information provided by each individual informant.

The *Brown* court could have used the defective information from the anonymous informants to corroborate the information provided by the confidential informant. The Crimestoppers tips that the Browns supplied socks, similar to those taken in the burglary, to a cheerleading squad, and that the Browns were selling large quantities of tennis equipment, could have corroborated the confidential infor-

52. *Id.* at 43.

53. 29 Crim. L. Rep. (BNA) 2324 (D.C. Cir. 1981).

54. *Id.*

55. 92 N.M. 643, 593 P.2d 478 (Ct. App. 1979).

56. 92 N.M. at 647, 593 P.2d at 482.

mant's statement that the Browns committed the burglary of the tennis complex. The court deliberately avoided this approach, however, and thus failed to resolve this issue in New Mexico. By its avoidance, the court may have imposed a limitation on the effectiveness of the Crimestoppers program. The program necessarily depends on the ability of the police to use the information provided by anonymous callers. If Crimestoppers information cannot be used to support a finding of probable cause which results in the issuance of a warrant, then the usefulness of the program will be severely impaired.

CONCLUSION

The standard for evaluating the reliability of a confidential informant is well-established in New Mexico. The courts, however, retain flexibility regarding the manner in which the standard is applied to individual fact situations. The court can consider the particular facts involved in each case to determine whether the standard has been met. *State v. Brown* points out that corroboration of unique information is only one of several ways in which reliability can be established. Cases involving anonymous Crimestoppers tips present different problems. It would be helpful if, in the future, the courts will deal more specifically with the issue of corroboration of Crimestoppers tips.

ANNETTE NATHANSON DEBOIS