



Public Prosecution Service of Canada
Service des poursuites pénales du Canada

Searches – What Does the Prosecutor Look For

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The principle

- Any person who enters another person's home without permission is trespassing
- Section 8 of the *Charter* says everyone has the right to be secure against unreasonable search and seizure
- The *Criminal Code* and other laws provide a way – the search warrant - for police to legally enter a place, including a home, to look for and seize evidence of a criminal offence



How to get a search warrant

- A police officer has to make a written application for a search warrant to a justice – a Judge or a Justice of the Peace
- The officer has to describe the reasons for believing that there is evidence of a criminal offence in the place to be searched
- What reasons are sufficient?



Grounds for a Search Warrant

- The information has to be:
 - Recent
 - Reliable
 - Detailed
 - Specific
- The officer must make full, fair and frank disclosure of the facts in her application for a warrant, including any facts that might undermine her grounds for obtaining the warrant



Grounds for a Search Warrant

- In a 1989 drug case called *R. v. DeBot*, the Supreme Court of Canada examined the reasons the police had to search Mr. DeBot without a warrant. The Court said:
 - First, was the information predicting the commission of a criminal offence compelling?
 - Second, where that information was based on a “tip” originating from a source outside the police, was that source credible?
 - Finally, was the information corroborated by police investigation prior to making the decision to conduct the search?



Grounds for a Search Warrant

- Questions:
 - Who is the “trusted community member” (TCM) and does s/he want to be anonymous (i.e. a “confidential informer”)? Does the TCM have a history with the alleged drug dealer?
 - What is the identity of the person doing the dealing?
 - How does the TCM know about the drug-dealing – through personal observation or is the information second-, third- or even fourth-hand?
 - How stale or fresh is the information?
 - How specific and detailed is the information – Type of drug? Quantity? Prices? How is it being brought into the community?
 - What follow-up investigation has been done by the police to corroborate the TCM information?