

YOU DOWN WITH PC?

YEAH, YOU KNOW ME!

naughty
BY
NATURE



OBJECTIVES

DEFINE PROBABLE CAUSE

DISTINGUISH PROBABLE CAUSE FROM REASONABLE SUSPICION

IDENTIFY KEY CONCEPTS RELATED TO PC IN RELEVANT CASE
LAW

IDENTIFY WAYS IN WHICH PC MAY BE ESTABLISHED FOR ARREST
AND SEARCH

QUIZ



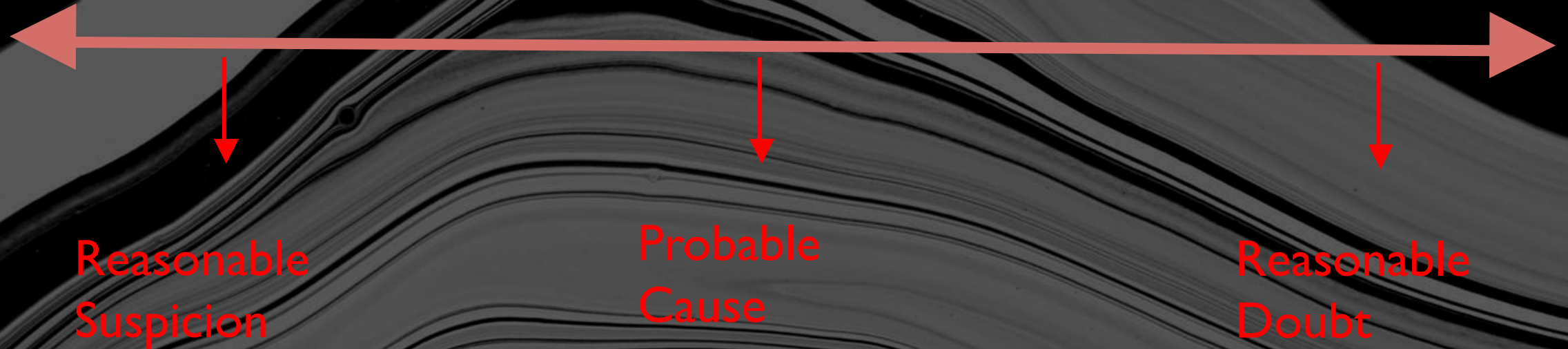
WHAT IS PROBABLE CAUSE?

IT'S SQUISHY



- Reasonable Suspicion v. Probable Cause
 - >Hunch
 - Fair Possibility
 - Possible Cause
 - Some Objective Evidence
- >Hunch
 - Fair Probability
 - Probable Cause
 - Substantial Basis (Gates,)

PC ON THE EVIDENCE SCALE



PROBABLE CAUSE DEFINED



Probable cause exists where:

the facts and circumstances within the arresting officer's knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed or *is about to be committed*.

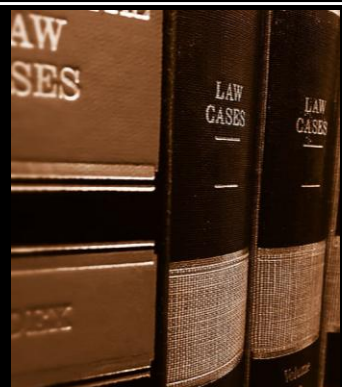
Carroll v United States (1925)

Draper v U.S. (1959)

Beck v Ohio (1964)

BRINEGAR V. UNITED STATES

SEMINAL CASE DEFINING PROBABLE CAUSE!



“In dealing with probable cause, however, as the very name implies, we deal with probabilities. These are not technical; they are the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.” *Brinegar v. United States*, 338 U.S. 160, 175 (1949).

PC DEFINITION CONTINUED



“Probable cause” is trustworthy evidence that would make a reasonable person think it *more likely than not* that the proposed arrest is justified.

Illinois v Gates (1983)



Can hearsay be
used to
establish PC?

Hearsay, when considered with other information, may be used to help establish pc for arrests and searches

ABSOLUTELY



SOURCES OF PROBABLE CAUSE (NOT AN EXHAUSTIVE LIST)

The Officer's Own Observations

Eyewitness accounts serve as a vital source of probable cause, offering firsthand evidence of events observed by individuals.

Circumstantial Evidence

Circumstantial evidence implies a link to the crime indirectly, frequently utilized to strengthen a case when direct evidence is lacking.

Physical Evidence

Physical evidence encompasses concrete items such as fingerprints, DNA, or weapons, which can directly connect a suspect to the crime scene.

Informant Information

Tips from informants may offer valuable insights, but law enforcement must carefully evaluate their reliability.





- Non-criminal informants are presumed to be reliable even if they have not been vetted.
- Courts view non-criminal informants as acting in the best interest of society
- Information must still be vetted i.e., personal knowledge and veracity

NON-CRIMINAL INFORMANTS

USING INFORMANTS FOR PROBABLE CAUSE (SEARCH WARRANTS)

Old Test:

Aguilar/Spinelli two-prong test

1. **Must show evidence that the informant is reliable**
2. **Must show facts establishing a basis for the informant's knowledge**
 1. **Spinelli said that both prongs **MUST** be met to establish the reliability of informants.**



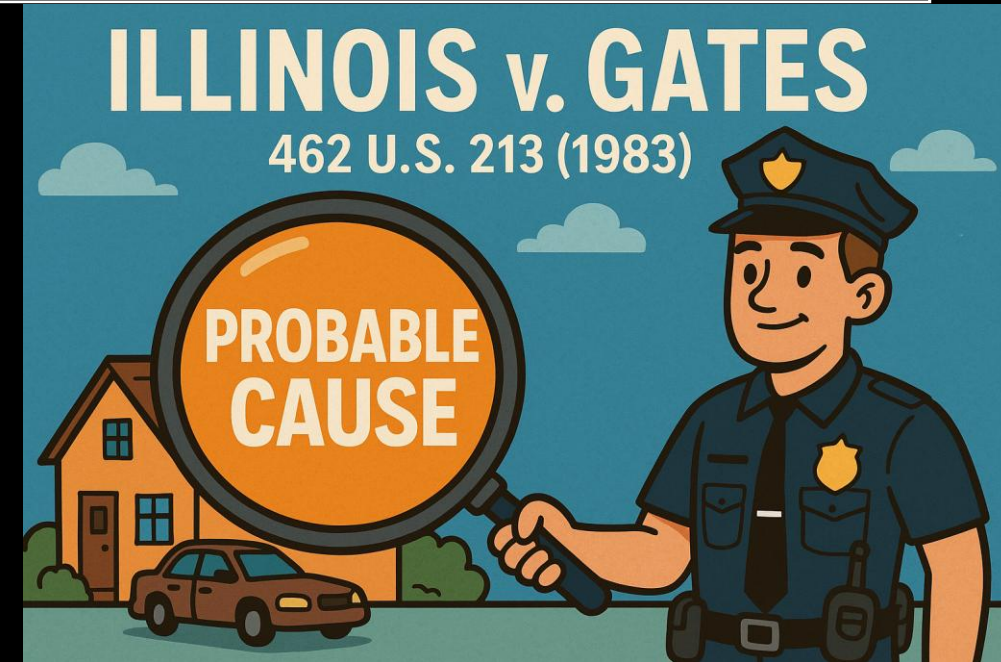
OPENING THE GATES TO ESTABLISHING PC

Illinois V Gates, 472 U.S. 213 (1983)

Gates overruled the two-prong test (especially for searches) established by Spinelli and re-established the “totality of the circumstances test.”

Totality of Circumstances Test (with respect to search warrants)

The judge is expected to make a practical, common-sense decision whether, given all the circumstances, which may include the veracity and basis of knowledge of person(s) supplying information, that there is a **fair probability** that contraband or evidence may be found at a particular location.





Informants for PC?

Anonymous information vs Known Informants

Known informant reliable?

Able to establish personal knowledge?

Statement against one's penal interest?

Non-Criminal Activity used to establish PC?

Statement regarding the subject of interest's future activity?

An informant has been generally reliable but has provided some erroneous information in the past

Can informant's information still be used, given that they have been wrong in the past?

Yes! Remember the totality of the circumstances.



Weak evidence in one area may be overcome by stronger evidence in another

MAY AN OFFICER RELY ON ANOTHER OFFICER'S INFORMATION TO ESTABLISH PC?

Establishing Probable Cause

Officers rely on information from their colleagues to establish probable cause for searches, arrests, or obtaining warrants. This is often referred to as the “collective knowledge doctrine.”

If an officer is relying on another officer's statement, the officer must establish that the maker of the statement properly established probable cause (PC).



REMEMBER, ILLINOIS V. GATES

probable cause is a fluid concept—turning on the assessment of probabilities in particular factual contexts—not readily, or even usefully, reduced to a neat set of legal rules. *Illinois v Gates*, 462 U.S. 213, 231 (1983).



PC may be based on hearsay, information relayed through official channels, and through the collective knowledge of officers familiar with the investigation. See *U.S. v. Butler*, 74 F.3d 916 (9th Cir. 1996).

PC FOR ARREST DETERMINATION, DIFFERENT STANDARD?

NOPE!



“Probable cause to arrest "exists when police have reasonably trustworthy information of facts and circumstances that are sufficient in themselves to warrant a person of reasonable caution to believe that [a crime] has been . . . committed by the person to be arrested.”” *State v. McKellips*, 118 Nev. 465, 660 (2002).

SUMMARY OF PROBABLE CAUSE

**ALRIGHT,
LET'S WRAP IT UP**

- Understanding the definition of probable cause.
- Differentiating between reasonable suspicion and probable cause.
- Recognizing key legal cases that define probable cause.
- Identifying sources of probable cause in law enforcement.
- Understanding the collective knowledge doctrine and its implications.
- Exploring the role of informants in establishing probable cause.

TOTALITY OF THE CIRCUMSTANCES

THANK YOU



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