

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

MARK OWEN ANDERSON,

Defendant-Appellee.

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FOR PUBLICATION

February 25, 2026

1:24 PM

No. 375876

Tuscola Circuit Court

LC No. 24-016610-FH

Before: CAMERON, P.J., and M. J. KELLY and YOUNG, JJ.

YOUNG, J.

While working at an event at the Tuscola County Fairgrounds, Shawna Brinkman called 911 to report that two men were about to depart the fairgrounds on motorcycles and were intoxicated. A Michigan State trooper was dispatched and stopped defendant, Mark Owen Anderson, based only on Brinkman’s tip, without observing any traffic violation. Anderson was, as Brinkman surmised, driving while intoxicated. Anderson was charged with operating a vehicle while intoxicated, third offense, MCL 257.625(7)(a)(ii). He successfully moved in the circuit court to suppress evidence seized as a result of the traffic stop. Although the circuit court erred when it used Brinkman’s preliminary examination testimony to assess the reliability of her tip, we affirm.

**I. BACKGROUND**

Anderson and another man were attending a dirt bike rally at Tuscola County Fairgrounds. Shawna Brinkman was working the entry gate at the venue and noticed the two men drinking beers. Afterward, as the men left on their motorcycles, Brinkman called 911. She told the operator that the men were on black Harley Davidson motorcycles, that they “[were] getting ready to leave [and] that [they were] intoxicated.” She went on, “I’ve watched them drink at least six beers and they’ve been asked multiple times to not drink on [the] fairgrounds.” Brinkman also provided physical descriptions of both men, the license plates of their motorcycles and direction of travel and reiterated that the men “[were] drunk.”

Trooper Chloe Farnham was near the rally and received a call from dispatch that relayed the information from Brinkman's call.<sup>1</sup> Farnham identified the two men by the physical description and the license plate numbers Brinkman provided. She followed the motorcycles for five minutes and while neither motorcyclist committed a traffic violation, Farnham stopped Anderson.<sup>2</sup> Field sobriety tests indicated Anderson was intoxicated.

After being bound over on a charge of operating a vehicle while intoxicated third-offense, Anderson moved the circuit court to suppress the evidence from the traffic stop and dismiss the charge on the grounds that the traffic stop was unconstitutional. Anderson argued that the caller was unreliable, and that Farnham lacked reasonable suspicion to stop him. The circuit court agreed, finding that Brinkman's preliminary examination testimony completely undermined the content of her 911 call, and granted Anderson's motion. This appeal followed.

## II. ANALYSIS

The prosecution argues that Brinkman's 911 call established both that she was reliable as well as reasonable suspicion for Farnham to stop Anderson. We agree with the prosecution only as to reliability.

### A. RELIABILITY OF THE TIP

"A traffic stop does not violate the Fourth Amendment when a police officer has an articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law." *People v Moorman*, 331 Mich App 481, 485; 952 NW2d 597 (2020). A tip provided to police may establish a reasonable suspicion of criminal activity if it carries with it "sufficient indicia of reliability." *People v Faucett*, 442 Mich 153, 169; 499 NW2d 764 (1993). Contrary to some of the statements by the lower court, this does not require a "history of reliability" or status as a professional informant. Here, the circumstances indicate that Brinkman was reliable,

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<sup>1</sup> At the preliminary examination hearing in this case, Farnham confirmed that the call she received from dispatch included substantially the same information as Brinkman provided to the operator. While we did receive a recording of the 911 phone call, we did not receive a recording of the call from dispatch to Farnham. Because neither party argues about whether the information *from the dispatcher* amounts to reasonable suspicion and because Farnham's testimony confirms the content was substantially the same, our analysis focuses on the 911 call. We note, however, that other cases engage with the content of the dispatch call, rather than the 911 tip. See e.g. *Navarette v California*, 572 US 393, 395; 134 S Ct 1683; 188 L Ed 2d 680 (2014) (directly quoting a 911 tip as relayed by the dispatcher); see also *State v Stanage*, 893 NW2d 522; 2017 SD 12 (2017) (reversing the denial of a motion to suppress where a fast food employee provided a tip to police of suspected drunk driving because an individual in the drive-through had bloodshot eyes and slurred speech but only the conclusion of drunk driving was relayed by dispatch, not the supporting personal observations of the employee).

<sup>2</sup> The other motorcyclist continued driving and Farnham did not pursue him.

and the circuit court clearly erred in finding otherwise. *People v Jenkins*, 472 Mich 26, 31; 691 NW2d 759 (2005).

To begin, we agree with the circuit court’s observation that Brinkman’s testimony at the preliminary examination contradicted her statements made in the 911 call, but we disagree that those contradictions make Brinkman legally unreliable for the purposes of this Fourth Amendment analysis. “A valid investigatory stop must be justified *at its inception*.” *People v Champion*, 452 Mich 92, 98; 549 NW2d 849, 853 (1996) (emphasis added). Thus, when assessing the reliability of a tip, the focus is exclusively on the information provided to dispatch and ultimately relayed to the trooper.

When Brinkman made the initial report in this case, she called 911 and gave her name and phone number. This is at least partially indicative of reliability. *Navarette*, 572 US at 400-401. Brinkman told the operator that she watched Anderson and his companion drink “at least six beers,” that the two men were asked “multiple times” not to drink on the fairground, that they were about to leave on motorcycles, and that they may have had beers in their cooler on the motorcycles. Because Brinkman claimed eyewitness knowledge of an alleged crime, and because she called 911 close in time to her observations, her tip is entitled to further weight. *Id.* at 399. Brinkman additionally provided physical descriptions of the two men and their motorcycles and told the operator the direction the men were heading. When Farnham spotted the two men, they and their motorcycles matched the information she received from dispatch. The men were also traveling in the direction stated in Brinkman’s call and the corroborated information indicates Brinkman’s reliability as a tipster. *Id.* at 398 (“the officers’ corroboration of certain details made the anonymous tip sufficiently reliable . . .”). Thus, at the time the call was placed, Brinkman was reliable.

## B. REASONABLE SUSPICION

After finding that Brinkman was reliable, the circuit court must next determine whether the information Brinkman provided established reasonable suspicion for Farnham to stop Anderson. Reasonable suspicion requires less of a showing than probable cause, but “it still entails something more than an inchoate or unparticularized suspicion or ‘hunch,’ because an officer must have had a particularized and objective basis for the suspicion of criminal activity.” *People v Pagano*, 507 Mich 26, 32; 967 NW2d 500 (2021) (quotation marks and citation omitted).

Reasonable suspicion need not be supplied by the officer’s own observations; it can be supplied by another person’s observations. *Navarette*, 572 US at 397. “In determining whether the information from the citizen-informant carried enough indicia of reliability to provide the officers with a reasonable suspicion,” courts are to consider the totality of the circumstances, including “(1) the reliability of the particular informant, (2) the nature of the particular information given to the police, and (3) the reasonability of the suspicion in light of the above factors.” *People v Tooks*, 403 Mich 568, 575; 271 NW2d 503 (1978). Contrary to the trial court’s conclusion, there is no legal requirement that an officer corroborate the information in the tip. However, when an officer does corroborate some information, it affects the reliability analysis, as indicated above. And it follows that, “an informant who is proved to tell the truth about some things is more likely to tell the truth about other things, including the claim that the object of the tip is engaged in

criminal activity.” *Navarette*, 572 US at 398 (cleaned up). However, even a reliable tipster must supply more than “a conclusory allegation of drunk or reckless driving.” *Navarette* at 401-402.

At oral argument appellate defense counsel conceded that the content of the 911 call provided reasonable suspicion to make a traffic stop. Their brief in this Court, however, argued something different: that Brinkman’s 911 call “is little more than a conclusory allegation of drunk driving.” It is with the latter argument that we agree.

In her 911 call, Brinkman relayed the following information:

There’s two gentlemen on Harleys getting ready to leave that are intoxicated. I watched them drink at least six beers and they’ve been asked multiple times not to drink on the fairgrounds.

Brinkman then provided the presumed direction of travel and concluded with “they are drunk.”

Brinkman’s call does include conclusory allegations of drunk driving. Brinkman states the two men “are intoxicated” and “are drunk.” But, critically distinct from *Pagano*, Brinkman’s call also contains additional specific observations by Brinkman: that the two men were repeatedly asked to stop drinking at the fairground and that she saw the two men consume six beers. This factual scenario does not have an exact analogue in our jurisprudence so we begin with what that information is not.

The observations relayed in Brinkman’s 911 call are not “certain driving behaviors [that are] sound indicia of drunk driving.” *Navarette*, 572 US at 402-403 (cleaned up) (noting the “paradigmatic manifestations of drunk driving” include “weaving all over the roadway,” “cross[ing] over the center line on a highway and almost caus[ing] several head-on collisions,” “driving all over the road,” “weaving back and forth,” and “driving in the median.”); see also *People v Dacus*, 559 P3d 198, 205; 2024 CO 51 (Colo, 2024) (holding that a caller provided the police with reasonable suspicion to stop a vehicle where the caller provided contemporaneous observations of the individual “driving erratically and crossing lanes of traffic.”).

The observations relayed in Brinkman’s 911 call are not physical indicators of drunkenness (i.e. observations of bloodshot, watery eyes and slurred speech after an admission that alcohol was consumed). See *People v Anderson*, \_\_\_ Mich App \_\_\_, \_\_\_; \_\_\_ NW3d \_\_\_ (2025) (Docket No. 369614), slip op at 4-5; see also *State v Scholl*, 684 NW2d 82, 2004 SD 85 (2004) (finding an officer had reasonable suspicion to make a traffic stop based only on a tip where the tip provided a personal observation that the driver had left a bar “stumbling pretty badly and ha[d] problems getting into [his] Toyota Tacoma pickup.”). As recognized by the trial court, drinking alcohol and then driving a vehicle is not a crime in and of itself; thus, observing two men consume beer, without more, is not an observation of criminal behavior or behavior by which one can infer criminality. Brinkman also said, “they’ve been asked multiple times not to drink on fairgrounds,” but that does not support “a commonsense judgment” that the individuals were drinking to the point of intoxication. *Anderson*, \_\_\_ Mich App at \_\_\_; slip op at 3 (citing *Pagano*, 507 Mich at 32).

Critically absent from Brinkman’s tip is any information that suggests Anderson was engaging in crime, beyond Brinkman’s own conclusions. Moreover, after five minutes of following Anderson and observing his operation of his motorcycle, the trooper observed nothing

to corroborate Brinkman's otherwise conclusory statements. The dissent notes other states that have held a layperson's conclusory statement on another's intoxication can rise to the level of reasonable suspicion. The United States Supreme Court has not, and Michigan has not, and we decline to do so today agreeing that "[d]runken driving is a serious matter, but so is the loss of our freedom to come and go as we please without police interference." *Navarette*, 572 US at 414 (SCALIA, J., dissenting).

Because Brinkman's tip failed to communicate sufficient information suggesting Anderson was operating a vehicle while intoxicated, the trooper had no reasonable suspicion that a crime was afoot.

Accordingly, we affirm the trial court's order granting Anderson's motion to suppress.<sup>3</sup>

/s/ Adrienne N. Young  
/s/ Michael J. Kelly

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<sup>3</sup> See *Lane v KinderCare Learning Ctrs, Inc*, 231 Mich App 689, 697; 588 NW2d 715 (1998) (this Court may affirm a trial court's decision if the trial court reached the correct outcome, albeit for a different reason).

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CAMERON, P.J. (*concurring in part and dissenting in part*)

In this case involving a charge of operating a vehicle while intoxicated, third offense, the trial court suppressed evidence obtained from defendant’s traffic stop, including his blood alcohol test results of 0.12, because it determined the police officer lacked reasonable suspicion of drunk driving. I believe that the trial court erred for two reasons. First, I agree with the majority that the trial court erroneously concluded the information the 911 caller provided in her call was “unreliable” and was inadequate to justify the traffic stop because the call possessed sufficient indicia of reliability. Second, the trial court misconstrued Fourth Amendment precedent as requiring law enforcement to independently verify a citizen’s report of a crime before making an investigative stop. But I write separately because I disagree with the majority’s opinion that the Fourth Amendment requires drunk driving suspects to exhibit physical signs of intoxication before law enforcement can make an investigatory stop for drunk driving. I therefore concur, in part, and dissent, in part.

**I. RELIABILITY**

The first question is whether the 911 caller’s report was sufficiently reliable for police to credit her allegations. As the majority points out, the trial court applied the wrong law to irrelevant evidence to ultimately find the 911 caller’s report unreliable. For the reasons explained by the majority, the 911 call to police provided ample indicia of its reliability.

Before addressing my disagreement regarding reasonable suspicion, I note that the majority and I have slightly different views regarding the purpose of our Fourth-Amendment reliability analysis. The majority opines that, when a citizen’s drunk-driving report possesses

sufficient indicia of reliability, the citizen is to be considered a reliable person. But we are not trying to discern the reliability of a particular person. Rather, the first step in the analysis is to determine whether the 911 call provided sufficient indicia of reliability to credit the *substance* of the report. See *Navarette v California*, 572 US 393, 397-398; 134 S Ct 1683; 188 L Ed 2d 680 (2014). If the 911 caller’s report lacked sufficient indicia of reliability, it “would either warrant no police response or require further investigation before a forcible stop of a suspect would be authorized.” *Adams v William*, 407 US 143, 147; 92 S Ct 1921; 32 L Ed 2d 612 (1972). Here, we have determined that the 911 caller’s report conveyed sufficient indicia of its reliability, which means that the officer was entitled to credit her account—not her as a person—and treat her factual allegations as true. See, e.g., *Navarette*, 572 US at 398-399 (concluding the call reporting being run off the road “bore adequate indicia of reliability for the officer to credit the caller’s account[]” and that “[t]he officer was therefore justified in proceeding from the premise that the truck had, in fact, caused the caller’s car to be dangerously diverted from the highway.”).

## II. REASONABLE SUSPICION

This leads to the second step of our Fourth-Amendment analysis: whether the reliable information provided by the 911 caller was sufficient to justify the stop. “Even a reliable tip will justify an investigative stop only if it creates reasonable suspicion that criminal activity may be afoot.” *Id.* at 401 (quotation marks and citation omitted). Thus, the officer was justified to stop defendant if the 911 call created reasonable suspicion that defendant was drunk driving. The officer was entitled to credit as true the following information from the call:

1. That she had personally observed defendant and his friend “drink at least six beers” and noted that they were “getting ready to leave” on their motorcycles;
2. That she had personal contact with the men about their drinking, having asked them “multiple times not to drink at the fairgrounds and they disregarded what [she] said[;]”
3. That she had trash containing defendant’s and his friend’s empty beer cans, and opined they “probably still [had] beer in their coolers on their bikes, too[;]” and
4. That, based on these observations, she concluded they were “intoxicated,” and later reiterated “they are drunk.”

Despite this overwhelming evidence from an established reliable report, the majority nonetheless concludes that 911 call falls short of justifying an investigatory stop because it did not report any physical manifestations of drunkenness or drunk driving.<sup>1</sup> The majority insists that reasonable suspicion requires more evidence than what the 911 caller provided, because “drinking alcohol and then driving a vehicle is not a crime in and of itself[.]” Instead, the 911 caller had to report something more; either bad driving or physical evidence of drunkenness before the driver gets behind the wheel. See, e.g., *Navarette*, 572 US at 395 (ran caller off the road); *People v Anderson*, \_\_\_ Mich App \_\_\_; \_\_\_ NW3d \_\_\_ (2025) (Docket No. 369614); slip op at 2 (bloodshot

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<sup>1</sup> This is despite the fact that appellate defense counsel conceded at oral argument before this Court that the 911 caller’s report provided reasonable suspicion to effectuate the stop in this case.

eyes and slurred speech); *People v Dacus*, 559 P3d 198 (Colo, 2024) (erratic driving and crossing traffic lines); *State v Scholl*, 2004 SD 85; 684 NW2d 82 (SD, 2004) (“stumbling pretty badly”). Because the 911 call did not describe bad driving or stereotypical drunken behavior, the majority characterizes the report as providing nothing more than an unsubstantiated, conclusory allegation of drunk driving. I believe the majority’s reasoning fails to consider the totality of the circumstances, raises the bar for reasonable suspicion, and misconstrues constitutional law as requiring outward signs of drunkenness before police are permitted to make a stop for drunk driving. I begin by noting that the majority, by focusing solely on cases in which drunken behavior or bad driving *was* observed, fails to recognize that its holding is out of step with other caselaw across the county upholding stops in the absence of these observations.

For example, in *Missoula v Moore*, 360 Mont 22, 29; 2011 MT 61; 251 P3d 679 (2011), the Montana Supreme Court held that an officer had particularized suspicion to effectuate a traffic stop on the basis of two 911 calls—one from the defendant’s friend, and another from her husband. The defendant’s friend called 911 after the defendant left her home, having arrived smelling of alcohol, “leading [the friend] to believe [the defendant] was intoxicated.” *Id.* at 23. The friend, in the 911 call, reported that “she just had a friend of hers jump in a vehicle, very upset and she’s had a lot to drink.” *Id.* (brackets omitted). The friend provided “her full name, address, and telephone number[,]” and also informed dispatch that the defendant was “driving a red Blazer and was heading toward Reserve Street[.]” *Id.* The defendant’s husband, who was following the defendant in his own car, also called 911. *Id.* He “provided a description of her vehicle and the direction she was heading[,]” and “informed dispatch that [the defendant] had told him she had consumed one beer earlier, but he did not know if ‘it’s one beer or six beers or thirty-seven beers.’ ” *Id.* The defendant’s husband even noted that she “was not driving badly,” but he was still concerned about others getting hurt. *Id.* As the Montana Supreme Court noted, these two informants “provided information based on their personal observations[]” of the defendant that was sufficient to warrant a stop. *Id.* at 28-29.

The Minnesota Court of Appeals upheld a stop on the basis of even less information provided by an identified informant. In *Payle v Comm’r of Pub Safety*, 439 NW2d 747, 748 (Minn App, 1989), a Burger King employee reported “a drunk driver” and described the color and make of the respondent’s car. A subsequent report “indicated that the [car] was leaving the drive-through window.” *Id.* A police officer stopped the individual on the basis of these reports, and the respondent’s license was revoked. *Id.* Particularly relevant to this case, the trial court in *Payle* had “ruled that the officer did not have articulable grounds to stop [the] respondent because he had no information as to the basis for the informant’s conclusion [the] respondent was intoxicated, and he observed no illegal driving conduct.” *Id.* The Minnesota Court of Appeals held the trial court’s ruling was incorrect, because the informant was an employee who personally observed the respondent, which provided the officer with “reason to believe the informant based his conclusion on personal observations.” *Id.* at 748-749. The Court concluded that “[a] layperson is qualified to give an opinion as to whether a person is under the influence, based upon [the] observations of that person.” *Id.* at 749.

*Moore* and *Payle* are not outliers. Other jurisdictions have similarly held that a report from a known informant of a defendant drinking and driving based on their personal observations is sufficient to warrant a stop. See, e.g., *State v Powers*, 275 Wis 2d 456, 460; 2004 WI App 143; 685 NW2d 869 (2004) (drug store clerk reported to 911 that “an intoxicated man had come in to

make purchases at the store buying beer, a little outfit, and something else[.]” and provided a description of the defendant’s truck); *Wilson v Idaho Transp Dep’t*, 136 Idaho 270, 273-274; 32 P3d 164 (App, 2001) (homeowner called 911, identified herself and the car the defendant was driving, and reported that the defendant “had been drinking and shortly thereafter drove off in his truck” and “had been threatening people and had refused to leave when asked”); *State v Riefenstahl*, 172 Vt 597, 597; 779 A2d 675 (2001) (gas station clerk provided their name and specifics of the defendant’s vehicle on 911 call while reporting that the defendant “was possibly intoxicated and driving.”); *State v Bolanos*, 58 Conn App 365, 366-367; 753 A2d 943 (2000) (nightclub employee reported “that an intoxicated person had left the establishment” and identified the make, model, and color, as well as the direction, of the defendant’s car; officer’s stop was valid even though he “noted no irregular operation[.]” after following the defendant for a mile); *Peterson v Tipton*, 833 P2d 830, 831-832 (Colo App, 1992) (gas station clerk reported “an intoxicated white male was getting into a white Corsica and was leaving the station right then.”).

Turning to Michigan precedent, this case is very different from the anonymous caller’s conclusory allegation of intoxication held to be inadequate to establish reasonable suspicion in *People v Pagano*, 507 Mich 26; 967 NW2d 500 (2021). In *Pagano*, an anonymous caller opined that the defendant was intoxicated based on the defendant’s behavior of acting obnoxious and yelling at her children in a parking lot. *Id.* at 29-30. Our Supreme Court held that this tip “did not give rise to a reasonable and articulable suspicion that [the] defendant was engaged in a traffic violation, much less criminal activity[.]” because there were “no other details in the record that would otherwise corroborate the tipster’s mere assertion that defendant was drunk.” *Id.* at 33-34. The defects in *Pagano* are simply not present here. The 911 caller here was not anonymous; she was an identified individual who had observed defendant and his friend consume “at least six beers,” had personal contact with them, and, based on these personal observations and interactions, opined that defendant and his friend were drunk when they drove away. Unlike the anonymous caller in *Pagano*, the 911 caller in this case conveyed timely, reliable, firsthand support for her opinion that defendant was drunk.

The absence of Michigan case law has led the majority to create a new, bright-line rule that requires physical signs of intoxication before police are permitted to conduct an investigative stop. In doing so, the majority draws an unnecessarily sharp line between types of evidence that runs contrary to the case-by-case, totality-of-the-circumstances review specifically delineated by *Terry v Ohio*, 392 US 1, 18-20; 88 S Ct 1868; 20 L Ed 2d 889 (1968), almost 60 years ago.

I also note that the majority’s reliance on the fact that “drinking alcohol and then driving a vehicle is not a crime in and of itself; thus, observing two men consume beer [and driving away], without more, is not an observation of criminal behavior or behavior by which one can infer criminality[.]” is also misplaced. It is certainly possible that the 911 caller in this case could have misidentified defendant’s drinking and driving as drunk driving. But the fact that there was a *possibility* that defendant was not drunk driving as is recognized by law—that is, with a blood alcohol content below 0.08—does not outweigh the 911 caller’s eyewitness report that he was, on the basis of her personal observations and interactions, driving drunk. Indeed, *Navarette* itself

recognized this distinction, noting that “reasonable suspicion need not rule out the possibility of innocent conduct.” *Id.* at 403 (quotation marks and citation omitted).<sup>2</sup>

Finally, the majority concludes by noting that the arresting officer followed defendant for five minutes without observing bad driving. While a jury may give this fact weight, it is legally irrelevant for our analysis. Defendant was charged with operating a vehicle while intoxicated, third offense, MCL 257.625(7)(a)(ii), under two theories; that defendant was (1) operating a motor vehicle while under the influence of alcohol; and/or (2) had an unlawful blood alcohol level (UBAL) of 0.08 grams or more. Until today, visual impairment for an UBAL charge was irrelevant. Second, as explained in *Navarette*, “the absence of additional suspicious conduct, after the vehicle was first spotted by an officer,” does not necessarily “dispel the reasonable suspicion of drunk driving.” *Navarette*, 572 US at 403. This makes sense, considering that it is “hardly surprising that the appearance of a marked police car would inspire more careful driving for a time.” *Id.* Ironically, *Navarette* also noted that “[e]xtended observation of an allegedly drunk driver might eventually dispel a reasonable suspicion of intoxication, but the 5-minute period in this case hardly sufficed in that regard.” *Id.* at 404-405 (emphasis added). As in *Navarette*, the five-minute observation period in this case was hardly enough time to dispel the reasonable suspicion of defendant’s intoxication in light of the reliable report of drunk driving.

Accordingly, I would reverse.

/s/ Thomas C. Cameron

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<sup>2</sup> By way of analogy, law enforcement could have conducted an investigative stop-and-frisk of a person at the fairgrounds in this case if police had received a reliable report of an individual carrying a concealed weapon, even though it *could be possible* that the person had a license to carry a firearm, or maybe was not carrying a firearm at all. See, e.g., *People v Tooks*, 403 Mich 568, 579-580; 271 NW2d 503 (1978) (a reliable tip that the defendant had a handgun in public provided police with reasonable suspicion to conduct a stop and frisk). As our Supreme Court explained in *Tooks*, “[t]he Fourth Amendment does not require a policeman who lacks the precise level of information necessary for probable cause to arrest to simply shrug his shoulders and allow a crime to occur or a criminal to escape.” *Id.* at 580-581. Indeed, *Tooks* recognized that an investigative stop-and-frisk in such a situation would be “exactly the type of ‘good police work’ which is not only acceptable but necessary for the safety of the public.” *Id.* at 581.