Circuit Court for Anne Arundel County
Case No. C-02-JV-21-28

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 876

September Term, 2021

IN RE: D.E.

Shaw,
Tang,
Albright,
JJ.

Opinion by Shaw, J.

Filed: June 9, 2022

This appeal stems from the denial of a motion to suppress by the Circuit Court for Anne Arundel County. Appellant was charged, as a juvenile[1], with handgun offenses resulting from the seizure of a gun found in his possession during a stop and frisk by police. Following the magistrate's recommended denial of his motion to suppress, Appellant entered a plea of not involved with an agreed statement of facts and the magistrate recommend that he be found involved in the delinquent acts.[2] Appellant noted exceptions and an on-the-record hearing was held on July 26, 2021, where a circuit court judge denied his motion to suppress and overruled the exceptions. Appellant timely appealed and presents a single question for our review:

1. Did the court err in denying Appellant's motion to suppress?

For reasons discussed below, we affirm.

BACKGROUND

During the suppression hearing held before a magistrate on April 28, 2021, the State called several witnesses to testify, including Scott Harold, Officer Edwin Glenn, and Corporal Jimmy McGriff. A 911 call from February 9, 2021 was introduced into evidence, where an anonymous tipster from the Bay Ridge Gardens Community provided information:

> 911 OPERATOR: Annapolis City, 9-1-1. What's the location you need the police?

[1] Appellant was 15 years old at the time of these events.

[2] The magistrate also recommended that Appellant be found a delinquent child and committed to the Department of Juvenile Services for non-community residential placement.

UNIDENTIFIED MALE: 15 Marcs Court, Bay Ridge.

911 OPERATOR: What's the – what's going on there?

UNIDENTIFIED MALE: Some guys are out front arguing and one of them pulled out a gun.

911 OPERATOR: Okay. How many subjects are there?

UNIDENTIFIED MALE: It's like five of them. They're all like – they're in like a Ford silver car sitting next to like a truck. A work – well, a work-type van.

911 OPERATOR: In a work-type—do you know what color the van is?

UNIDENTIFIED MALE: It is—it's white.

911 OPERATOR: White. And do you know which person had the handgun?

UNIDENTIFIED MALE: He's a guy – he has on like [a] face mask. [3]

911 OPERATOR: Is he from the Ford or is he from the truck? Or you're not sure?

UNIDENTIFIED MALE: They're like standing around the car. The car is on. One of the guys was sitting in the car and they're all like around the car.

911 OPERATOR: Okay. And do you know what they are arguing over, by any chance?

UNIDENITIED MALE: Huh?

911 OPERATOR: Do you know what they're arguing over? Or you can just hear them?

[3] The events of this case occurred nearly a year into the nationwide COVID-19 pandemic, after Governor Larry Hogan issued a statewide mask mandate.

> UNIDENTIFIED MALE: I don't know what they were arguing about. I just heard somebody yelling. And when I looked outside somebody was holding a firearm in his hand [].
>
> 911 OPERATOR: Okay. Can you describe who had the firearm out of the group?
>
> UNIDENTIFIED MALE: The guy—he has a face mask. He's the only one with a face mask.
>
> 911 OPERATOR: All the rest do not have face masks on?
>
> UNIDENITIED MALE: Yeah.
>
> 911 OPERATOR: And are they White, Black, or Hispanic males?
>
> UNIDENTIFIED MALE: They're all Black.
>
> 911 OPERATOR: All Black males. Okay, hon. We'll get somebody – and do you have any idea what they're arguing over? Do you know them at all or no? You just –
>
> UNIDENTIFIED MALE: I have no idea.
>
> 911 OPERATOR: You just drew their attention hearing them outside arguing? Okay, hon.
>
> UNIDENTIFIED MALE: Yeah.
>
> 911 OPERATOR: We'll get – and they're still staying out there now?
>
> UNIDENTIFIED MALE: Yes. They're standing out there right now.

The caller was not asked, and did not voluntarily provide his name, but his phone number was recorded and retained by the 911 system. The dispatcher relayed this information to police a few seconds later:

> 17, 13, and 14, in the parking lot of 15 Marcs Court for an armed subject. It should be a group of five number one males. All of them—the one—the subject with the handgun has a face mask. The other four do not have masks on. They're standing near a Ford silver vehicle and a work truck, light work truck. The caller is not sure what they're arguing over or why a handgun was displayed. Go ahead and make—. . . You guys don't have to code to spook the guy. Just get there quickly.

Scott Harold, a camera monitor for the Annapolis Police Department, testified that he was working on that date, when, "[t]here was a call for several subjects armed with a gun on Marcs Court." He "switched to the Marcs camera and . . . saw the subjects as [they were] . . . described by the caller. They were standing between a van and a Ford Explorer." He "saw about three or four individual[s] standing in between the van and the Explorer." According to Harold, "it was seconds" between the time that he "heard that dispatch" and the time that he "pulled up the cameras" for Marcs Court. Harold testified that he conveyed information to the officers, as they were responding, "warn[ing] them 'over the radio' that when they turned into . . . Bens [Drive], they wouldn't be able to see the subject[s] in between the van and the Explorer." Harold confirmed that the cameras were operated by a private security firm and other than his ability to "zoom in," the cameras were not operated or manipulated by the Annapolis Police Department.

Officer Edwin Glenn from the Annapolis Police Department was working patrol that night and heard the call. He testified that he had responded to calls in the area before, and that "[a] lot of . . . [his] calls in that area are for violent crimes, drugs, and weapons possessions." Officer Glenn testified that Harold gave "a description of the vehicle and the subjects" and stated "he saw a group of subjects standing by a vehicle which was

described in the call[].” He further testified that he heard the dispatcher relay, “[g]enerally, it was an armed subject in the area, who was, I think wearing all black, [and] had displayed a weapon, the caller had seen[.]” He recalled that the suspect was described as wearing “all black with a mask[] . . . .” Glenn advised the units that were responding not to enter the area until he arrived to “make sure that [they] . . . went in an organized fashion for the safety of the officer[s] and the civilians in the area.” He estimated that it took him “a minute and a half, two minutes . . . on the longer end” to arrive. Moreover, Officer Glenn testified that the other officers’ exchange with the dispatcher was recorded: “[o]ne officer, ask[ed], [d]o we have anything other than a guy with a mask?” “The dispatcher answer[ed], Five males, all black, subject with a mask on had the handgun. That’s all.”

When Officer Glenn arrived, other officers were “making contact with the subjects at the stop[.]” He “saw [a] . . . young man walking towards . . . [him], who . . . match[ed] the description that was given of the armed subject,” “[w]earing all black with a mask.” According to Officer Glenn, the subject, later identified as Appellant, “was intently looking back and walking away from the area . . . he didn’t . . . pay [Officer Glenn] any attention right away because he was looking back at the other officers.” Officer Glenn stated that he “started giving . . . [Appellant] commands, and drew his attention straight to[wards]” him. At that time, he saw that Appellant “was looking around, kind of moving his hands. He had[] his hands . . . up,” but in Officer Glenn’s opinion, he was “in between putting them down, [and] running . . . .” Officer Glenn’s commands included telling Appellant to “[g]et on the ground” and “[y]ou will be shot.”

Officer Glenn testified that based on his "training, knowledge, and experience," he concluded that "it seemed . . . [like Appellant] was looking for an escape route." He gave certain commands based on his knowledge "that subjects that are armed usually conceal [weapons] in their dip [sic] area, or waistband area, whatever you want to call it. And if [he] can get [them] . . . on the ground, then [they're] . . . less of a threat to" him. Officer Glenn further testified that he perceived Appellant as a threat to him based upon the substance of the call. Appellant complied with Officer Glenn's commands, "he was proned [sic] out on the ground, his hands were able to be seen." Officer Glenn "left . . . [Appellant] to be controlled by Officer McGriff." Officer Glenn identified Appellant as the subject "who was armed with a handgun."

On cross-examination, Officer Glenn confirmed that the area he responded to is a multi-family apartment complex. He also confirmed that at the time of the incident, there was a mask mandate in effect. Officer Glenn reviewed the CAD[4] notes of the description relayed that night and confirmed the notes did not contain a description that the "person was wearing all black[.]" He acknowledged that while Appellant was walking towards him and looking back, there were police officers and cars "[i]n front and in back of him[.]" According to Officer Glenn, from where Appellant was positioned, he could not have seen other persons being detained behind him "because they were actually being covered by the white box truck." His body-camera footage shows another person being seized by police behind Appellant.

[4] CAD is an anacronym for Computer Aided Dispatch.

Corporal Jimmy McGriff from the Annapolis Police Department testified that he was working in the Robinwood area, which "is probably about a mile and a half, two miles from Marcs [C]ourt." Corporal McGriff stated he heard dispatch announce that a call had been received regarding "15 Marcs Court around 9:00, 9:30 . . . for four or five subjects standing around an SUV. One of the subjects was armed with a gun, subject was wearing a black mask, all black as I can remember." He noted, based on his prior experience, the "area is a violent crime area[.]"

When Corporal McGriff arrived at the location, he "saw approximately three or four officers engaging with subjects near a Ford SUV." He confirmed that officers were positioned "past where [A]ppellant was, closer to the back of that little U of the parking lot[.]" He observed Officer Glenn "giving commands to a subject wearing all black, th[e] same descripted subject that was armed. He was giving commands to the subject to get on the ground." According to Corporal McGriff, he handcuffed Appellant, stood him up, and told him he was going to check him for weapons. Appellant was not under arrest at this time. "He was just being detained for matching the description of an armed subject." Explaining his basis for the frisk, Corporal McGriff testified, "[h]e matched the description of the armed subject, and he was walking away from the Ford SUV. So at that point, I came to the conclusion that I had enough to do a pat-down and detain him for further investigation." While conducting the frisk, Corporal McGriff "felt a hard object in his front waistband" and he concluded that the object was a gun. He then called for a back-up, and removed a "Ruger handgun[,]" loaded with one round, from Appellant's waistband.

On cross-examination, a recording of the dispatcher's call was played, and McGriff acknowledged that he was mistaken about the description of a person wearing black clothing. On redirect, Corporal McGriff could not confirm that Appellant was the only person on the scene wearing a mask, other than a police officer.

Appellant argued that the police officers did not have reasonable suspicion to stop and frisk him, and therefore, the evidence should be suppressed. The magistrate denied his motion, concluding that the officers had reasonable suspicion to stop and frisk Appellant stating:

> [I]n this case, the suspected criminal activity was that involving a gun. And specifically the call or the tip, didn't just indicate the presence of a gun, but indicated a gun being in the hand of a person waived [sic] during an argument in a very specific location, not just an apartment complex, not just a parking lot in an apartment complex, but a specific location between two specific vehicles within that parking lot, within the apartment complex. And there was a specific group of individuals that were described, three or four, or four to five individuals. And a very specific description of the particular individual, that person being the only person wearing a mask.
>
> The call or the anonymous tip is contemporaneous with the event. It is made by a person who I will find has eyewitness knowledge.
>
> * * *
>
> That information is immediately, almost contemporaneously with that call being dispatched corroborated by Mr. Harold. Who looks at a live feed camera, testified that he can zoom in, and testified that he saw the subject as described.
>
> * * *
>
> . . . [T]he person with the gun . . . is in a neighborhood that . . . [is] described as a high crime area[, which] is a factor to assessing whether or not there's criminal activity afoot. And I think that the specified information that was relayed and corroborated, . . . [not] the gun itself[,] [b]ut everything else.

* * *

> . . . I believe that there is both reasonable articulable suspicion to support both the stop and the frisk. I will deny the Motion to Suppress at this time.

Appellant then entered a plea of not involved with an agreed statement of facts. The magistrate recommended he be found involved in the delinquent acts of Possession of a Regulated Firearm Under 21; Wearing, Carrying, and Transporting a Handgun; and Possession of a Loaded Handgun. A disposition hearing was held on May 12, 2021, where the magistrate recommended Appellant be found a delinquent child and committed him to a non-community residential placement.

On May 20, 2021, the magistrate issued a report and recommendation that summarized her findings at the suppression hearing. Appellant noted exceptions and requested an on-the-record hearing. On July 26, 2021, following arguments of counsel, the court denied Appellant's motion and overruled the exceptions. The court stated:

> The irony is not lost on this [c]ourt that much of the crux of this matter comes down to a person wearing a mask during a time of pandemic when masks were supposed to in February to have been mandatory in most situations.
>
> * * *
>
> So we have the kind of additional indicia of reliability in support of the original tip[, and] . . . that by all [the] evidence presented the same group substantially of individuals were still there; that there was the personal knowledge of the tipster of the alleged criminal activity, he saw the gun pulled out; and that the one person wearing a mask was the person that Officer Glenn observed walking towards him. I think it is clear that the individual, that the Respondent was trying to distance himself from the van location, that is supported by the radio call they're coming around the van. I think that's not quite as critical and I agree with the Respondent nor is the high-crime

> area in and of itself as critical a factor in my determination here.
>
> * * *
>
> And I think that based on that information coupled with they're coming around the bend which bolsters location, that it was a group of people on foot and one was wearing a mask, all provide the sufficient indicia to create reasonable, articulable suspicion that allowed what is a basically *Terry* stop and frisk in this matter.

Appellant timely appealed.

STANDARD OF REVIEW

In reviewing a circuit court's denial of a motion to suppress evidence, this Court "must rely solely upon the record developed at the suppression hearing." *Grimm v. State*, 232 Md. App. 382, 396 (2017) (quoting *Briscoe v. State*, 422 Md. 384, 396 (2011)). "We view the evidence" presented at a hearing on a motion to suppress, and any "inferences that may be drawn . . . in the light most favorable to the party who prevails on the motion." *Id.* This Court accepts "the circuit court's findings of fact unless they are clearly erroneous, but . . . we undertake an independent constitutional evaluation by reviewing the relevant law and applying it to the unique facts and circumstances of this case." *Trott v. State*, 473 Md. 245, 254 (2021) (citation and internal quotations omitted). We review without deference a court's ultimate determination as to whether a Fourth Amendment seizure occurred. *Swift v. State*, 393 Md. 139, 154-55 (2006).

DISCUSSION

The Fourth Amendment to the United States Constitution guarantees "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures . . .

." U.S. Const. Amend. IV. "The exclusion of evidence obtained in violation of these provisions is an essential part of the Fourth Amendment protections." *Swift*, 393 Md. at 149. *See also Mapp v. Ohio*, 367 U.S. 643, 655-56 (1961).

"It is well established that the Fourth Amendment guarantees are not implicated in every situation where the police have contact with an individual." *Swift*, 393 Md. at 149. The Court of Appeals has identified three types of police encounters that implicate the Fourth Amendment. The first is "[t]he most intrusive encounter, an arrest[.]" *Id.* at 150. The second is an "investigatory stop or detention, known . . . as a *Terry*[5] stop," and the category at issue in this case. *Id.* This encounter "is less intrusive than a[n] . . . arrest and must be supported by reasonable suspicion that a person has committed or is about to commit a crime and permits an officer to stop and briefly detain an individual." *Id.* "A *Terry* stop is limited in duration and purpose and can only last as long as it takes a police officer to confirm or to dispel his suspicions." *Id.* The last encounter is the least intrusive, a "consensual encounter." *Id.*

Appellant argues that his Fourth Amendment rights were violated when he "was ordered at gun-point to the ground, threatened that" he would "be shot," "handcuffed," and "subjected to a pat-down and full-blown search, based on an [unreliable] anonymous 911 call that [described] someone partially matching Appellant's description, seen waving a gun." He contends the evidence seized should have been suppressed. The State counters

[5] *Terry v. Ohio*, 392 U.S. 1 (1968).

that the judge did not err because the police had reasonable suspicion to believe that Appellant was involved in criminal activity.

I. Anonymous Tip

The Supreme Court has long recognized that "there are situations in which an anonymous tip, suitably corroborated, exhibits 'sufficient indicia of reliability to provide reasonable suspicion to make . . . [an] investigatory stop.'" *Florida v. J.L.*, 529 U.S. 266, 270 (2000) (quoting *Alabama v. White*, 496 U.S. 325, 327 (1990)). In evaluating such cases, courts must examine the totality of the circumstances. *See Florida v. Harris*, 586 U.S. 237, 239 (2013). In *J.L.*, "an anonymous caller reported to . . . [p]olice that a young black male standing at a particular bus stop and wearing a plaid shirt was carrying a gun." *Id.* at 268. Two officers responded and saw three black males at the location described. "One of the three, respondent J.L., was wearing a plaid shirt." *Id.* The officers did not see a firearm, J.L. made no threatening or unusual movements and other than the tip, the officers had no reason to suspect the men were involved in criminal activity. *Id.* An officer approached J.L., told him to put his hands up on the bus stop, frisked him, and seized a gun from his pocket. *Id.* The Supreme Court held the stop was not justified because the "anonymous tip lack[s] indicia of reliability." *Id.* at 274. "Unlike a tip from a known informant whose reputation can be assessed and who can be held responsible if her allegations turn out to be fabricated," *see Adams v. Williams*, 407 U.S. 143, 146-47 (1972), "an anonymous tip alone seldom demonstrates the informant's basis of knowledge or veracity[.]" *J.L.*, 529 U.S. at 271*; see Alabama*, 496 U.S. at 329. In reaching its holding, the Court observed that there was no recording of the 911 call in the record, no predictive

information provided by the tipster, and nothing to indicate "knowledge of concealed criminal activity," only a general description of the suspect's clothing. *J.L.*, 529 U.S. at 268, 271-72.

In 2014, the Court decided *Navarette v. California*, 572 U.S. 393 (2014),[6] and again considered an "anonymous tip." There, a woman called 911 and reported that a silver Ford F-150 pick-up truck, with a specific license plate number, had run her vehicle off the road and was traveling southbound at a particular location. *Id.* at 395. An officer responded, stopped the truck, and subsequently discovered marijuana. *Id.* at 395-96. The Court "conclude[d] that the call bore adequate indicia of reliability for the officer to credit the caller's account" and the officer was justified in proceeding from the premise that the truck had caused the caller's car to be driven off the highway. *Id.* at 398-99.

The Court reasoned that the caller had "eyewitness knowledge" of the events, and that "basis of [that] knowledge lends significant support to the tip's reliability." *Id.* at 399. The Court noted there was contemporaneity between the call and the alleged wrongdoing, and that "sort of contemporaneous report has long been treated as especially reliable." *Id.* The Court also observed that a 911 call is not entirely anonymous and thus, is "[a]nother indicator of veracity." *Id.* Because a 911 call has features that allow for identifying and tracing callers, it provides some safeguards against making false reports with immunity. *Id.* at 400. Examining the totality of the circumstances, the Court held there was sufficient

[6] The caller in *Navarette* gave her name to a 911 dispatcher, but prosecutors did not introduce the call into evidence. The caller and 911 dispatcher did not testify at the suppression hearing. *Navarette*, 572 U.S. at 396 n.1. The Court treated the caller as anonymous for purposes of its analysis. *Id.* at 398.

indicia of reliability to provide the officer with reasonable suspicion. *Id.* at 404.

In 2008, this Court examined the reliability of an anonymous tip in *Mack v. State*, 237 Md. App. 488, 500 (2018). We concluded that police illegally seized the defendant based on an anonymous tip that two black men, one wearing a blue jacket and the other a gray jacket, were selling drugs. In reaching our holding, we emphasized that the prosecutor's failure to introduce the 911 call into evidence, relying instead on "a double-level hearsay statement of what the officers heard from the police dispatcher," did not give the suppression judge enough information "to make a more informed judgment regarding a 911 call's reliability." *Id.* at 502. We stated, "it would behoove the State, when relying on . . . anonymous 911 tip[s,] to produce the recording (or explain its absence) and give the suppression court the ability to listen to the conversation [and] *all* the information supplied by the caller, . . . not just what the police dispatcher relayed to the patrol officers." *Id.* (emphasis in original).

In *Ames v. State*, we held that an officer lacked reasonable suspicion, where an anonymous caller "said that a black man 'wearing dark grey sweatpants and a Chicago Bulls hat' was standing in front of" a specific building "with a gun in his waistband[.]" 231 Md. App. 662, 665 (2017). The prosecution had relied on the officer's testimony and did not present a recording of the anonymous call. *See id.* We explained "it [is] . . . important that[] [an] . . . anonymous tip contain[] a range of details relating not just to easily obtained facts and conditions existing at the time of the tip, but to future actions . . . not easily predicted." *Id.* at 670. We drew parallels to *J.L.*, in that "[t]here was . . . no . . . corroboration of predicted behavior . . . in the case now before us." *Id.* at 670-71.

Recently, the Court of Appeals addressed in *Trott v. State*, "an anonymous 911 call . . . that provided the specific location and license plate of a vehicle driven by a possible intoxicated driver[.]" 473 Md. at 250. "[W]ithin minutes of the call, the responding police officer located the vehicle in a parking lot of a liquor store and knocked on the window of the running car to investigate." *Id.* Trott was then seized.

The Court concluded the anonymous tip was reliable, stating "that, although conclusory, an allegation that a person is intoxicated is 'the kind of shorthand statement of fact that lay witnesses have always been permitted to testify to in court.'" *Id.* at 266. The Court held that, "[t]he tip was contemporaneous to the reported behavior and provided detailed and specific information," and "[t]here is no question that the dispatch described the motor vehicle with sufficient particularity such that [the police officer] . . . could be certain that the vehicle he stopped was the same one identified by the caller." *Id.* The Court reasoned, in part, that "[t]he caller's use of 911 emergency system to report intoxicated driving also bears favorably on the tip's veracity." *Id.* at 267.

Appellant argues there was no reasonable suspicion that he was armed and dangerous. He asserts the 911 caller's tip that a group of African American men were "out front arguing" and "one" guy "with a face mask" "pulled out a gun" was unreliable because the caller did not indicate that he personally observed the events and did not provide details. He argues the caller's use of the 911 system does not support the conclusion that the tip was reliable.

Appellant contends the caller's personal observations are not relevant to a reasonable suspicion analysis. He also asserts that because dispatch did not tell the officers that the

information came from a 911 call, this factor cannot be used to support a finding of reliability. He argues that even if the basis of the caller's knowledge was conveyed to Officer Glenn, the tip was still unreliable.

The State argues the 911 call provided reasonable suspicion that Appellant was armed. According to the State, the call was an eyewitness account of the incident and included a description of an armed person that matched Appellant. The information relayed by dispatch was sufficient for the officers to infer that a 911 caller was providing observed information, and even if it was not, the specific details of the call known to the dispatcher were imputed to the officers.

On review, we accept the circuit court's findings of fact unless they are clearly erroneous, and we then apply our independent constitutional analysis to the facts. In the present case, the entirety of the recording was played during the suppression hearing and the judge noted the call was contemporaneous with the event, stating "[i]t's akin to a present sense impression." The caller relayed the specific location of the incident, including the vehicles nearby, the number of individuals involved, and stated that "[s]ome guys were out front arguing and one of them pulled out a gun." The caller described the individual holding the gun, as the "only one" wearing a "face mask" and stated, "[t]hey're still standing out here." The testimony of the camera monitor, Harold, who was observing the event through a video camera, corroborated within seconds, the information provided by the caller regarding the location and that there were individuals standing around two specific vehicles. The dispatcher provided the location and a description of the individuals and cars. When the officers arrived at the location, they were immediately able to confirm

the information provided.

We hold the judge's factual findings are fully supported by the record and are not erroneous. It was reasonable for the officers to infer that the information was provided during the 911 call by an eyewitness because the dispatcher specifically referred to "[t]he caller" in providing information. We conclude that the tip was reliable and provided reasonable suspicion that Appellant was involved in criminal activity. As in *Navarette* and *Trott*, "the call bore adequate indicia of reliability for the officer to credit the caller's account." It was the contemporaneous report that provided detail. And the caller use of the 911 system to provide the information. Together, the timing of the report and the use of the 911 system enhances the tip's veracity. We are unpersuaded by Appellant's assertion that the call lacked detail. While the caller did not give a lot of information regarding physical characteristics or clothing of the individuals involved, the caller clearly provided other details about the area and his observations and stated that the person with the handgun was the only person in the group who had on a face mask. Further, unlike in *Ames* or *Mack*, the call was introduced into evidence and played for the fact finder. The court was able to "make a more informed judgment regarding its reliability." *See Mack*, 237 Md. App. at 502.

Assuming, *arguendo*, that Officer Glenn could not reasonably infer that the 911 call system was used, the information given by the dispatcher was imputed to Officer Glenn. The Court of Appeals in *Ott v. State*, noted that "probable cause may be based on information within the collective knowledge of the police." 325 Md. 206, 215 (1992). "Thus, even though an arresting officer personally may lack probable cause to justify an

arrest, the State can show that the police team collectively possessed knowledge sufficient to establish probable cause." *Carter v. State*, 18 Md. App. 150, 154 (1973). We have, previously, made no distinction between information received by a police dispatcher as opposed to that received by an officer. We agree with the State that a dispatcher's information that is given "through official channels" can be relied upon by officers when detaining a suspect. *See People v. Brown*, 353 P.3d 305, 315-16 (Cal. 2015). We further find persuasive the Texas case, cited by the State, where the court held, "[a] 911 dispatcher is ordinarily regarded as a 'cooperating officer'" for purposes of the collective knowledge doctrine. *See Derichsweiler v. State*, 348 S.W.3d 906, 914 (Tex. Crim. App. 2011).

II. *Terry* Stop and Frisk

Appellant argues that when Officer Glenn executed a *Terry* stop on him, the officer had not verified that he was involved in a criminal act. He contends he was stopped solely because he matched the description of a person "in a face mask." Appellant argues that Officer Glenn was mistaken in his understanding of the suspect's description, the mask-descriptor was not detailed, and there was a mask-mandate in effect at the time. Conversely, the State argues the report that a person had pulled out a gun during an argument provided reasonable suspicion to perform an investigatory detention and frisk for weapons.

In evaluating whether the *Terry* stop was permissible, we examine the totality of the circumstances. As discussed previously, based on the record, we hold there was reasonable suspicion that Appellant was involved in criminal activity, specifically that he possessed a handgun and had been engaged in an argument where the gun was pulled out. The 911

caller described the gunman as the only one in the group wearing "a face mask." The caller provided the location and continued to give the dispatcher contemporaneous information. The officers, upon arrival, were able to confirm the caller's information.

The reasonable suspicion standard "as a common sense, nontechnical conception that considers factual and practical aspects of daily life and how reasonable and prudent people act[.]" *Bost v. State*, 406 Md. 341, 356 (2008) (quoting *Stokes v. State*, 362 Md. 407, 415-16 (2001)). Reasonable suspicion, while it is more than a hunch, does not require the degree of certainty for a finding of probable cause. *See Holt v. State*, 435 Md. 433, 467 (2013).

Appellant contends that even if the stop was reasonable, the frisk was not because the officer failed to articulate that he believed Appellant was dangerous or that a weapon was readily available to him. We do not agree. The testimony, while not detailed, was that Officer Glenn believed that Appellant was armed and a threat, based on the 911 call. Officer Glenn testified that based on his "training, knowledge, and experience," he concluded that "it seemed . . . [like Appellant] was looking for an escape route" and he perceived Appellant as "a threat" to him based upon the substance of the call.

Appellant also argues that *Trott* supports his argument that the level of intrusion in his case went beyond a *Terry* stop. We observe that Trott was stopped as a result of a report about an impaired driver. The Court of Appeals held that "in determining the validity of the stop, it is not unreasonable to consider both the level of the intrusiveness occasioned by the stop, as well as the risk of harm resulting from a failure to detain the driver." *Trott*, 473 Md. at 268. The Court noted that "[u]nlike crimes involving possessory

offenses, such as carrying an illegal gun or possessing drugs, the crime of drunk driving poses a significant and potentially imminent public danger." *Id*. at 270.

The present case is somewhat akin to *Trott* in that there was clearly a risk of public harm, as the caller stated that individuals were arguing and one of them had pulled a gun. This was not simply a description of a possessory offense, but rather a potentially escalating situation that could have resulted in "imminent public danger." Like in *Trott*, we hold, "[b]alancing the public's interest in safety against the minimal intrusion," *see id.* at 270-71, the stop was reasonable, and the frisk was based on information that the suspect was armed and dangerous.

III. *De Facto* Arrest

Assuming, *arguendo*, there was reasonable suspicion for a *Terry* stop and frisk, Appellant argues the police violated his Fourth Amendment rights by subjecting him to a *de facto* arrest for which there was no probable cause. He contends being ordered to lie on the ground at the risk of being shot and then handcuffed were circumstances where a reasonable person would not have felt free to leave. The State argues the detention was not elevated to an arrest and under the circumstances, officer and civilian safety were at risk.

To be sure, "a *de facto* arrest occurs when the circumstances surrounding a detention are such that a reasonable person would not feel free to leave." *Reid v. State*, 428 Md. 289, 299-300 (2012). The Court of Appeals has "reiterated the principle that the use of drawn weapons or handcuffs does not *per se* convert a *Terry* stop into an arrest, so long as those tactics are reasonable measures designed to ensure officer safety." *Id.* at 298 (citing *In re*

David S., 367 Md. 523, 534 (2002)). "[F]orce . . . [is] considered reasonable . . . [during] an investigat[ory] detention: where the use of force is used to protect officer safety or to prevent a suspect's flight." *Elliott v. State*, 417 Md. 413, 429 (2010).

Here, Officer Glenn testified that when he arrived at the scene, he observed Appellant "looking for an escape route." He then gave Appellant commands to "get on the ground" because "if he can get him on the ground, then he's less of a threat to me." Considering the nature of the 911 call, and Officer Glenn's observations, it was reasonable to order Appellant to the ground and place him in handcuffs to protect officer and civilian safety. Such actions did not elevate Appellant's detention to a *de facto* arrest.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED; COSTS TO BE PAID BY THE APPELLANT.