

Put the Snitch in the Ditch

*Practical Roadmap to Effective Cross-Examination
of "Snitches"*

*Presented to North Carolina Public Defender
Spring Conference – Wrightsville Beach
May 18, 2005*

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Overview & Disclaimer

- Why is Topic Important?
- Definition – What is a “Snitch?”
- Various Forms of Snitch “Lying”
- Why Prepare?
- General Outline for All Cross-Examinations
- Cross-Examinations Unique to Snitches
- Disclaimer – Only One Lawyer’s View

Why is Topic Important?

- Frequent Use of & Reliance on Snitches
 - Most Prevalent in Drug Cases
 - Purely “Historical” Conspiracies
 - Disturbing Trends on Quality Control of Investigations
 - Agent’s Views as “Gospel”
 - “Group Think”
 - Lack of Reliable Corroboration
 - Cast a Wider Net Now – Sort Out Later with plea/cooperation

Why Are Snitch-Based Investigations Unreliable?

- Extreme Pressures on Snitches Due to Increased Jail Time
- Lack of Reliable Corroboration
- Relative Ease of Gaining Valuable Info. on Gov't Targets
 - Media / relatives / other inmates / government agents / court opinions
- Snitches know (or quickly learn) @ the "game"
 - More information = less jail time.
 - But . . . Focus on Quantity of Info. reduces Quality

Why is Topic Important?

- High Stakes for Client
- Potential for Traps, Surprises & Fumbles
 - Perry Mason Moments
 - Embarrassment of Gov't = Higher Quality Investigations

What is a "Snitch?"

- Definition:
 - A "snitch" (or "rat") is a person who gets caught in the criminal justice system and who avoids trouble or reduces jail time by "snitching" or lying about the criminal activities of other people.

What is a "Snitch?"

Key Distinctions:

"Snitch"

Lying

vs. "Cooperating Co-D"

Telling Truth

Assess Level of Objective Corroboration

What Tools Could Be Used in Investigations?

- Surveillance
 - Audio
 - Video
- Undercover “Buy-Bust”
- Search Warrant

What Reliable Corroboration Should Exist with "Real" Drug Dealers?

- Actual Drugs Found (large amounts)
- Guns
- Large Amounts of Cash Seized
- Ledgers / Records of Sales
- Telephone Calls to Co-Defendants
- Audio/Video = showing clear drug dealing
- Past Convictions (drug dealing @ other felonies)
- Unemployment & High \$\$ Lifestyle/Possessions

Various Forms of Snitch “Lying”

- Complete Fabrication
- Exaggeration
 - # of Deals
 - Amount of Drugs
 - Types of Drugs
- Adding Criminal Details to Non-Criminal Facts
 - Example: “I know the Defendant. He lives in the Wilmore neighborhood of Charlotte. He drives a red Mustang. He hangs out with Bo, Peedog, and Killer. We used to go to the Pizza Hut on Central Avenue **and he sold me 2Kg. of cocaine** (emphasis on lie)

Why Prepare?

- Don't Underestimate Snitches
 - High Incentives/Potential Rewards
 - Higher Intelligence than expected
 - Better People Skills - Persuasive
 - Lots of Time to Study & Rehearse
- Need Sufficient Lead Time to Gather "Enough" Ammunition

Ammunition for Cross-X Skirmish

- Discovery
- Private company records
 - Telephone records
 - Hospitals
 - Employment records
- Transcripts of Past Court Appearances
- Courthouse Files
- Letters to Others
- Records from Jail
 - Discipline reports
 - Grievance reports
 - Visitation records
 - Med/Psych reports

General Outline for All Cross-Examinations

- Target Areas
 - General Knowledge or Capacity
 - Specific Knowledge of a Particular Event
 - Personal Integrity of Character
- Tips
 - Make it Effective
 - Test Credibility/“Believability” of Witness
 - Use 2 Types of Cross-X
 - Constructive/Helpful Stuff
 - Destructive/Confrontational

General Outline for All Cross-Examinations

Typical Checklist

- Bias
- Prior Bad Acts
- Mental Defect
- Contradiction
- Prior Convictions
- Bad Reputation
- No 1st-Hand Knowledge
- Prior Inconsistent Statements

Remember the "Classics"

(Professors Younger & McElhaney)

- Be Brief
- Ask Leading Q's
- Ask Very Short Q's
- Use Simple Words
- Use Headlines
- Avoid Intro's & tag endings
- Ask for FACTS, not opinions
- Get one Fact out at a time
- Don't Just Tell Jury – show them
- Only ask Q you know answer to
- Control the Witness
- Don't Let Witness Repeat Direct X Testimony
- Listen to W's Answers & Cross-X with W's Own Words
- Save Argument for Summation

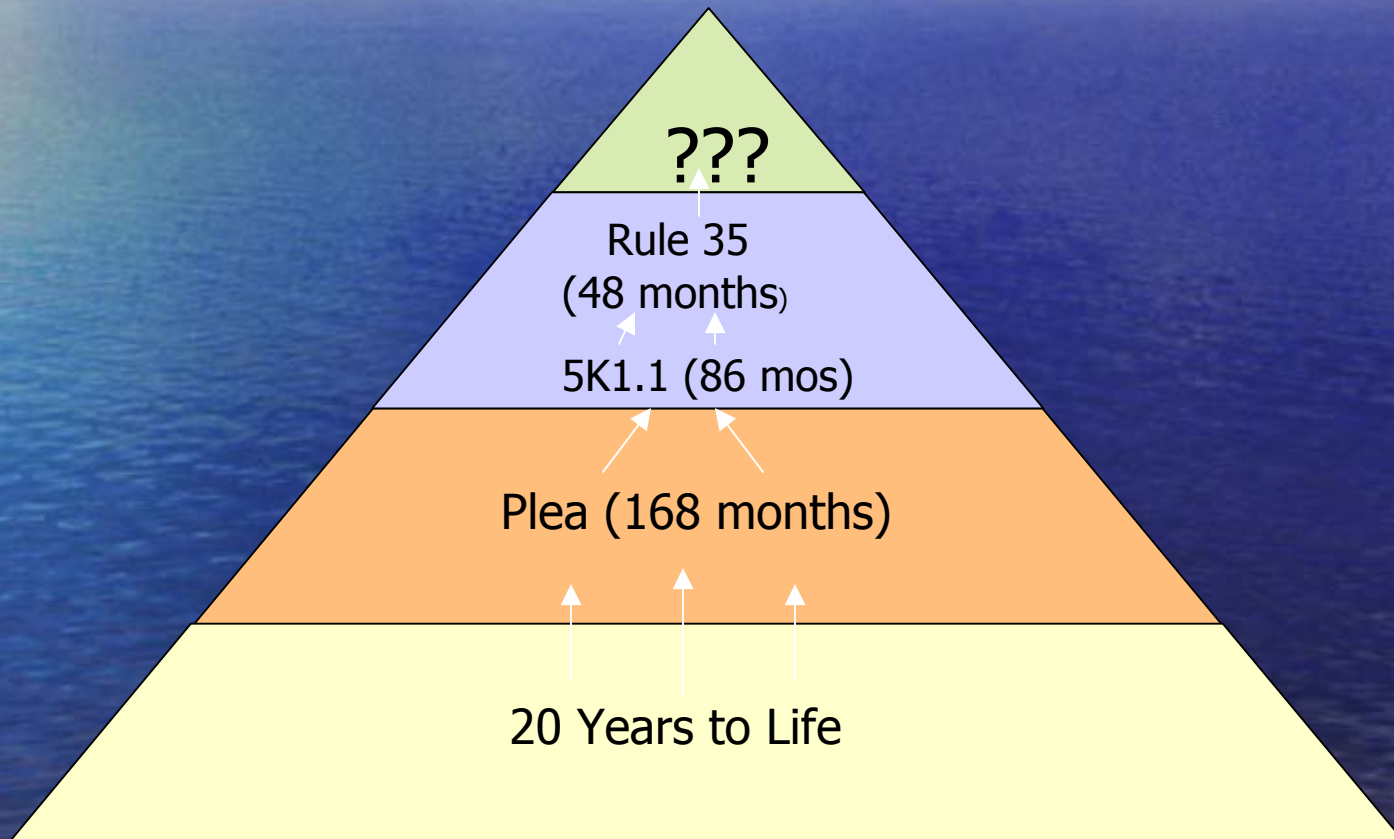
Cross-Examinations Unique to Snitches

- Criminal Record
 - Repeated Drug Convictions
 - Guns & Violence
 - Actual Drug Dealing
 - Caught with Lots of \$\$
 - Unexplained Wealth/Drug Dealer Lifestyle
- Currently Facing High Penalties
 - Achieves dual objectives

Cross-Examinations Unique to Snitches (cont'd)

- Sweetness of Deal
 - Plea Agreement
 - 5K1.1
 - Rule 35
 - Dropped Charges
- Past Benefits from Prior Cooperation
 - Number of Times Testified
 - Use the “Snitch Pyramid Chart”

Snitch Pyramid



Cross-Examinations Unique to Snitches (cont'd)

- Delays & Motive in Reporting @ D.
 - Alleged Events took place in 98, only told Agents in 2002.
 - Only came forward after arrest or loss at trial
- Discrepancies between Interview Summary & Trial Testimony
- Number and Dates of Past Interviews where Client was Never Mentioned
- Suggestive Interview Techniques by Agents (“Pointings” to D)

Cross-Examinations Unique to Snitches (cont'd)

- Willingness to do Whatever it Takes to Help Himself
- Past Mental Illnesses
- Economic Attacks/Unexplained Wealth
 - If D. had sold X amounts (as per snitch exaggerated testimony), D would have received \$\$\$/month ---
 - Contrast with D's modest lifestyle
 - Forms Basis for Later argument --- Where is the money?

Cross-Examinations Unique to Snitches (cont'd)

- Contrast Client's Involvement with "Real Drug Dealers" (If possible)
- List Out Typical Drug Dealer Traits & Contrast With Your Client (If possible)
 - Not caught with drugs
 - No guns
 - No unexplained wealth
 - No aliases
 - No or Ltd. Criminal history
 - No unemployment, etc.

Cross-Examinations Unique to Snitches (cont'd)

- Extensive Past Drug Use (inability to recall)
- No True Knowledge of Defendant
 - All 2nd Hand
- Past Violations of Bond/Probation
- True Motivation – As Reflected in “Gems” from Letters to Prosecutor
 - “You promised me . . .”
 - “I told you what you wanted me to say . . .”
 - “Please give me my 5K (sentence reduction)”

Unique Advocacy Tips For Cross-X of Snitches

- Generally Limit Attacks to 2 Areas per Snitch
 - Review all Stuff on each Snitch
 - Create a Larger List of Issues for All Witnesses (**See Snitch Chart **)
 - Find 1-2 Areas Where Each Snitch is Most VULNERABLE & Bore Down Deep
 - Make Memorable for Jury

Snitch Chart

- Gov't Witness/Snitch
- Dates of Alleged Dealings
- Date Snitch 1st Mentioned D. to Gov't
- Date of Testimony against D
- Date of Indictment of Plea Agreement
- Sentence Deal
- Pre-Trial Status of Snitch Sentence
- Typical Drug Dealer Traits?
 - Past Crim History
 - Violence?
 - Guns
 - Caught red-handed
 - Multiple prior testimonies

Snitch Vulnerability Chart

Snitch	Date First Named D	Date Testified against D	Date of Indictmnt or Plea	Sentence Deal	Pre-Trial Status of Snitch Sentence	Typical Drug Dealer Trait
Joey Crack						
Bobby Bong-Hit						

Unique Advocacy Tips For Cross-X of Snitches

- Advantages to “Limited Attack” Approach
 - Keeps Snitches Off-Balance
 - Keeps Prosecutors Guessing
 - Keeps Jury Awake with New Approach
 - Gives a Great Mosaic for Closing Argument
 - Highlight the wider range of vulnerabilities
 - Jury will recall each & assume that every snitch was weak on all areas
 - Focus on QUALITY of Cross-X – Not merely Quantity
 - Achieve Results, not just Activities.

Conclusion

