



# DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 137  
November 17, 1989

## INVESTIGATORY SEIZURE BASED ON ANONYMOUS TIP

Reference: Robert Allen  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 976  
P.2d  
October 25, 1989

### FACTS:

At 1:00 a.m. on July 17, 1988, an anonymous caller reported to police that someone was selling drugs from a green 1972 Ford Suburban with Alaska license plate number BFF-812. This information was relayed by radio to officers on patrol. Approximately 1:25 a.m., a police officer saw the vehicle and pulled it over. The officer learned that the driver, Allen, had a suspended operator's license; he arrested Allen for driving while license was suspended.

Allen argued that the police had no probable cause to make the stop.

### ISSUE:

Did the informant provide sufficient detail about the alledged drug sales for police to corroborate the informant's accusation prior to making the stop?

HELD: No.

### REASONING:

1. An investigatory stop may only be conducted where there are specific and articulable facts which create a reasonable suspicion that imminent public danger exists or serious harm to persons or property has recently occurred.
2. A stop may be based upon an informant's tip, so long as there is (a) reason to believe the informant is credible, and (b) a basis for concluding that the information provided by the informant was based on personal knowledge.
3. In this case, the informant was completely anonymous; thus, there was no basis for determining whether the informant was a citizen acting from a sense of civic duty or a member of the criminal milieu acting from spite.

4. There was no imminent harm. There was nothing to suggest that police could not have observed the subject's vehicle in order to corroborate some of the informant's claim without endangering the public.

NOTES:

There was nothing in this case to suggest any immediate danger to the public, such as drunk or reckless driving.

Review of Section I pertaining to investigatory seizures and Section M pertaining to informants is suggested. The following cases in particular should be reviewed:

Coleman v. State, Legal Bulletin No. 3--investigatory stop where recent robbery occurred led to probable cause to arrest.

Uptegraft v. State, Legal Bulletin No. 44--investigatory stop of vehicle after armed robbery.

Waring & Robinson v. State, Legal Bulletin No. 76--"gut feeling" does not justify stop.

Keller v. State, Legal Bulletin No. 11--information based on reliable informant justifies issuance of warrant.

Resek v. State, Legal Bulletin No. 56--double hearsay to obtain warrant upheld where citizen informants identified.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section I, page 7, and Section M, page 12, of your Contents and to Section I, page 8, and Section M, page 6, of the Text. File Legal Bulletin No. 137 numerically under Section R of the manual.