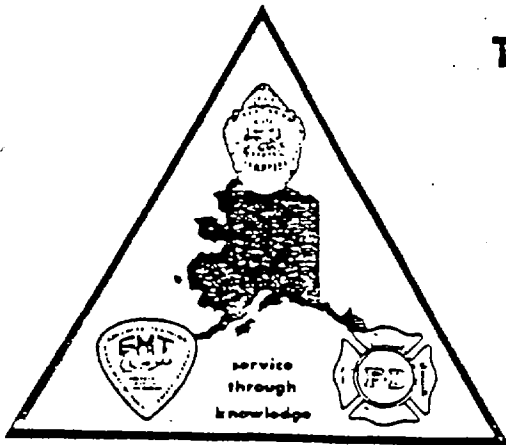


DEPARTMENT OF PUBLIC SAFETY

TRAINING ACADEMY

LEGAL BULLETIN NO. 96
September 23, 1985



SNIFF TEST BY A TRAINED NARCOTICS-DETECTION DOG

Reference: Michael POOLEY
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 505
705 P.2d / 293
September 6, 1985

FACTS:

POOLEY was observed arriving at San Francisco International Airport by a state narcotics agent. A number of events took place which aroused the agent's suspicions. The agent, therefore, located POOLEY's checked baggage and had them sniffed by a drug-detection dog. POOLEY had checked three pieces of luggage and the dog gave a "weak alert", suggesting the presence of narcotics. The bags were placed on the airplane and the narcotics officer contacted police officers assigned to Anchorage airport.

Upon arrival in Anchorage, officers watched POOLEY leave the airport and asked him to come back inside the terminal. POOLEY denied having any luggage; however, officers found the baggage claim checks in the chair where he had been sitting. POOLEY was asked to consent to a search of his luggage; he refused. The luggage was retrieved from the airline carousel and a local drug-detection dog was used to examine them. The dog "alerted" to all three bags. POOLEY was stopped in the parking lot at 6:20 p.m. He was given his Miranda rights at 6:30 p.m. and refused to consent to search of his luggage. The drug dog "alerted" to the luggage at 6:50 p.m. At 9:10 p.m., the officer made oral application for a search warrant before a magistrate. The magistrate was not told that the luggage had been subjected to a drug dog in San Francisco nor that the dog gave only a "weak alert" to one of the bags.

The officer did testify in detail as to the conversation he had with the narcotics officer from California regarding his suspicions of POOLEY. POOLEY appealed on a number of issues alleging that the evidence should have been suppressed.

This bulletin deals only with the drug-detection dog used in Anchorage and the subsequent issuance of the search warrant.

ISSUE:

Did the officer's suspicions justify the limited seizure of POOLEY's suitcases for the purpose of exposing them to the drug-detection dog?

HELD: Yes.

REASONING:

1. Exposure of luggage to a drug-detection dog is a search under the Alaska constitution, but is a minimally intrusive type of a search akin to an investigative "stop-and-frisk" under Terry, which may be used when police have a reasonable suspicion that drugs may be present in the container and that drugs are being illegally imported to the State or are being illegally possessed for distribution.

2. Even if POOLEY had already departed after his Miranda warning and refusal of consent to search, continued detention of his suitcases for a brief period to enable a sniff test by a drug dog would have been justified.

NOTES:

The initial seizure of POOLEY was also addressed and resolved in favor of the State.

You should review U.S. v. Place, Legal Bulletin No. 75, where the United States Supreme Court addressed "sniffs" conducted by trained drug dogs; our court cites this case with approval.