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# DPS TRAINING BULLETIN

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LEGAL BULLETIN NO. 164  
November 13, 1991

STATE STATUTE PROHIBITING  
CARRYING A CONCEALED WEAPON

Reference: Daniel DeNardo  
v.  
State of Alaska

Alaska Court of Appeals  
Opinion No. 1170  
P.2d  
October 25, 1991

FACTS:

Troopers encountered Daniel DeNardo in the State courthouse in Anchorage and arrested him for outstanding traffic warrants. DeNardo was taken to a holding area where a "patdown" search was conducted. During the search, troopers found an empty knife sheath attached to DeNardo's belt, hanging inside his left pant leg. Troopers later testified that they saw DeNardo put a knife inside the briefcase he was carrying. DeNardo denied this, stating that he had put an affidavit in the briefcase, not a knife. The Troopers opened the briefcase and found a knife eleven inches long. DeNardo was charged by State statute with carrying a concealed weapon. He was convicted. DeNardo appealed, alleging that the statute required the knife to be "on his person" in order to justify the conviction.

ISSUE:

Alaska Statute 11.61.220(a)(1) states:

"A person commits the crime of misconduct involving weapons in the third degree if [he or she]...knowingly possesses a deadly weapon, other than an ordinary pocket knife, that is concealed on the person." (emphasis added)

Does this statute include weapons concealed "about" the person?

HELD: Yes.

REASONING:

1. The phrase "on the person" is broad enough, without the additional word "about", to encompass weapons concealed either in clothing or in purses, briefcases or other hand-carried containers.
2. The policy underlying concealed weapons statutes is to prevent the surprise use of deadly force by prohibiting people from "having, readily available for use, weapons of which others are unaware." In view of this policy, it makes little sense for the legislature to prohibit people from carrying deadly weapons concealed in the pockets

of their vests or trousers but, at the same time, allow the concealment of such weapons in purses, briefcases or other satchels that people commonly carry.

NOTES:

CAUTION--This case, unlike Anchorage v. Lloyd, does not prohibit (by State statute) concealed weapons in automobiles. In its commentary to this statute, the legislature stated: "A weapon concealed in an automobile is not 'concealed on a person'".

The Court of Appeals--see Municipality of Anchorage v. David Lloyd, Legal Bulletin No. 81--upheld the carrying a concealed weapon conviction of Lloyd when a weapon was found concealed under the seat of his vehicle. The court interpreted the Municipal Ordinance statement, "about his person," to include "under the seat of a vehicle."

There is nothing to preclude the enforcement of a Municipal Ordinance, Anchorage or other cities', by a State trooper.

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