



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 251

July 12, 2001

**GOVERNMENT MANDATED RANDOM DRUG TESTING**  
**IS UNCONSTITUTIONAL**  
**UNDER ALASKA CONSTITUTION**

**Reference:**

Anchorage Police Department  
Employees Association and  
International Fire Fighters  
Local 1264

Alaska Supreme Court  
No. 5423

\_\_\_\_\_ P.2d \_\_\_\_\_

June 15, 2001

v.

Municipality of Anchorage

**FACTS:**

The Municipality of Anchorage has a policy (4024) which provides for substance-abuse testing by urinalysis for police and fire fighters. This policy requires testing in the following situations: (1) upon employment application, promotion, demotion, or transfer; (2) following a vehicle accident; (3) upon reasonable suspicion; and (4) at random. Affected employees of the Anchorage Police and Fire Departments brought suit against the Municipality to argue that the policy is unconstitutional.

The Alaska Supreme Court ruled that provisions as described in (1), (2) and (3) above are constitutional. They also ruled that random testing, (4) above, violates the Alaska Constitution.

**ISSUE:**

Does the policy's provisions for ongoing random urinalysis testing alter the "special needs" (see National Treasury Employees Union v. Von Raab, Legal Bulletin No. 129) balance between individual privacy interests and competing governmental interests?

**HELD:** Yes--it violates Article I, Section 14, of the Alaska Constitution.

**REASONING:**

1. Random testing places increased demands on employees' reasonable expectation of privacy.

2. Random testing is more intrusive--it subjects employees to a greater degree of subjective intrusion. An unannounced test's added element of "fear and surprise," and its "unsettling show of authority," make random testing qualitatively more intrusive than testing that is triggered by predictable, job-related occurrences such as promotion, demotion or transfer.

3. A requirement of random testing impacts the balance between individuals and governmental interests by reducing the immediacy of the government's need for the disclosed information.

4. The random testing provision is unreasonable and therefore violates Article I, Section 14, of the Alaska Constitution.

**NOTES:**

As indicated above, the State Supreme Court ruled that the first three provisions of the policy which includes pre-employment, promotion, demotion, transfer, following vehicle accident and based on reasonable suspicion do not violate the Alaska Constitution.

Remember that this opinion is based on government-mandated random testing and not on random tests mandated by employees in the private sector. Compare/contrast this case with Ludtke v. Nabors Drilling, Legal Bulletin No. 129.

**NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:**

Add this case to Section Q, "Miscellaneous Cases of Interest," of your Contents and Text. File Legal Bulletin No. 251 numerically under Section R of the manual.