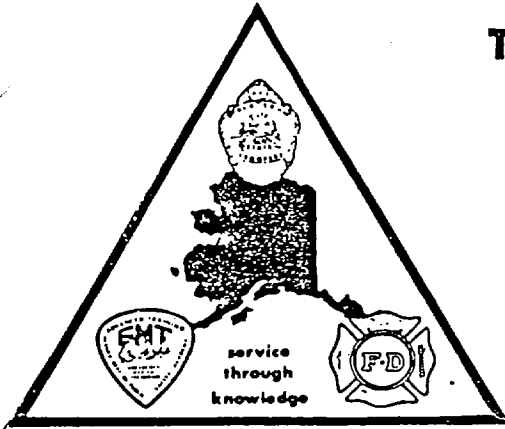


DEPARTMENT OF PUBLIC SAFETY

TRAINING ACADEMY

LEGAL BULLETIN NO. 58
June 14, 1982



SEARCH OF JUVENILE STUDENT CONDUCTED BY TEACHERS

Reference: D. R. C.
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 94
P.2d
June 11, 1982

FACTS:

Some money was stolen from the school locker room and D.R.C. was the suspect. Several students located D.R.C. and attempted to bring him to the principal's office. A scuffle took place which was broken up by several teachers. D.R.C. was taken to the principal's office where he was questioned about the missing money by the assistant principal and the school coach. The teachers testified that D.R.C. consented to a search, but D.R.C. denied this assertion. The pockets of D.R.C. were searched and he was instructed to remove his coat which was also searched. Finally, D.R.C. was told to remove his shoes and an amount of money similar to the denominations stolen was found in one of his shoes. Police were called after the money was found.

The teachers said they conducted searches in the past but never strip searches. There was a school policy of working "very, very closely with the police in cases of theft or drugs" and police were generally brought in if stolen property or drugs were found on a student.

ISSUE:

Can the money found on D.R.C. as a result of the search be used against him at the delinquency proceeding?

HELD: Yes.

REASONING:

1. While they are public employees subject to constitutional constraints, the school officials who searched D.R.C. are not "law-enforcement officers" whose conduct is governed by state and federal constitutional limitations on search and seizure.
2. The enforcement of school regulations, the safeguarding of students during school hours through confiscation of weapons and other contraband, and the maintenance of a drug-free learning environment provide substantial incentives to "search" which would be lessened by the suppression of evidence at a subsequent delinquency hearing.

3. School searches take place while school activities are in progress on school premises or premises being utilized for school activities.

4. There is nothing in the proceedings leading to the Fourth Amendment's enactment which suggests that its drafters intended it to apply to searches of members of an institution by those responsible for institutional discipline.

NOTES:

In another case, J.M.A. v. State, 542 P.2d 170, the Alaska Supreme Court upheld the evidence seized which included an eavesdropped telephone call by a foster parent. It did not matter that the foster parent was paid by the state.

In this case, the teachers were not acting as "police agents" and they did not call police until after the search was made and the evidence was seized.

Review of the following is recommended:

Legal Bulletin No. 17, Snyder v. State, regarding the warrantless search of luggage by an airline employee.

Legal Bulletin No. 24, McConnell v. State, on the warrantless search of luggage by a private citizen.