



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 141
 April 24, 1990

INVESTIGATORY STOP OF A VEHICLE
WITHOUT IMMINENT PUBLIC DANGER

Reference: William Gibson
 v.
 State of Alaska

Alaska Court of Appeals
 Opinion No. 1028
P.2d
 April 6, 1990

FACTS:

An employee of a hotel called police to report that he observed an individual vandalize the telephone in the hotel lobby and then flee the building. The employee described the suspect to the police dispatcher, who broadcast the description. Within a short time, police observed Gibson, who matched the description, driving his vehicle in close proximity to the scene of the event. After stopping Gibson, police arrested him for driving while intoxicated. Gibson argued that police did not have the right to make this investigatory stop.

ISSUE:

Does the crime of vandalizing a pay telephone constitute imminent public danger or serious harm to property so as to justify an investigatory stop?

HELD: Yes.

REASONING:

1. A minimally intrusive stop, based on one person's information indicating a crime is actually in progress or just completed, may be justified even when the crime itself is not a felony or when it involves harm which might not seem particularly serious in any other context.
2. Police had soled information that a crime had just been completed. The offense occurred moments before the dispatch and police arrived promptly at the scene of the crime.
3. The police officer had the right and the duty to make a prompt investigation, which required him as a matter of practical necessity to stop Gibson.

NOTES:

The following cases should be reviewed:

Coleman v. State, Legal Bulletin No. 3--court upheld investigatory stop after reported robbery.

Uptegraft v. State, Legal Bulletin No. 44--the court upheld investigatory stop after armed robbery.

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

Dunbar v. State, Legal Bulletin No. 134--court upheld investigatory stop and search of glove compartment after reported armed robbery.

Allen v. State, Legal Bulletin No. 137--investigatory stop of vehicle based on anonymous tip was not sufficient to justify investigatory stop.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

Add this case to Section I, page 7, of your Contents and to Section I, page 8, of Text. File Legal Bulletin No. 141 numerically under Section R of the manual.