



## DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 252  
September 25, 2001

ISSUANCE OF SEARCH WARRANT TO  
SEIZE EVIDENCE OF "VIOLATION" OR "INFRACTION"  
IS PERMISSIBLE

<b>Reference:</b> State of Alaska	Alaska Court of Appeals
v.	Opinion No. 1764
Matthew Ryan Euteneier	_____ P.2d _____
	September 14, 2001

**FACTS:**

Juneau police responded to a complaint of a loud party call and discovered minors consuming alcohol. Police were denied entry into the house, so they obtained a search warrant that authorized them to look for evidence of minors consuming, or in possession of, alcoholic beverages. Upon execution of the warrant, police contacted Euteneier. He appeared to be intoxicated. Euteneier submitted to a breath test, which indicated his alcohol content was .119 percent. He was charged, under Title 4, with consuming alcohol as a minor.

The offense of "minor consuming," AS 04.16.050(b), has been designated as a "violation" with a penalty of "a fine not less than \$100.00."

Based on the fact that the offense is a violation, Euteneier argued that the court should not have issued a search warrant for evidence of "a violation." The District Court agreed and suppressed the warrant; the State appealed.

**ISSUE:**

Does the language in AS 12.35.020(4), Grounds for Issuance of a Search Warrant, prohibit a court from issuing a search

warrant to look for evidence of a "violation" as opposed to evidence of a "crime" that carries a potential jail sentence?

**HELD:** No--search warrants can be issued for evidence of "violations" and "infractions."

**REASONING:**

1. The "violations" defined in Title 4 (Alcoholic Beverages), like the "infractions" defined in Title 28 (Traffic Offenses) and the "violations" defined in Title 16 (Fish & Wildlife), are "a class of quasi-criminal offenses which, while they are not serious, are to be disposed of within the criminal justice system.

2. These violations can be enforced by traditional criminal procedures, including the use of search warrants.

**NOTES:**

In a case involving a similar issue, the United States Supreme Court--see Atwater v. City of Lago Vista, Legal Bulletin No. 247--ruled that a person is subject to arrest for the minor criminal offense of failure to wear a seat belt.

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