

Table 3 Hypothetical – Civil

Joe Baggadonuts wants to work for the NH State Police as a State Trooper. He is eminently qualified. Applicants are asked to disclose any chronic health conditions and the Department of Safety requires that all applicants submit to a blood test prior to any interview. The lab tests the urine sample for all foreign substances, including medications and illegal substances, as well as a myriad of health conditions. Joe also has to be fingerprinted and provide his social security number for background and credit check. Its stated purpose is for public safety but meeting minutes from when the policy was developed show that another objective was financial. If the applicant is hired, results are held on a secure server for the duration of employment. If not, the results are not maintained.

Joe's lifelong dream is to be a State Trooper but doesn't feel that he should have to give up his privacy rights to do so. The Department of Safety will not move forward with his application unless Joe provides the required information. Does he have any recourse as a result of the privacy amendment?

Joe's second choice for employment is to be a school librarian and the town where he lives is advertising but requires certification by the NH Department of Education. The NH Department of Education has the same requirements for certification as the Department of Safety has for law enforcement positions with the stated objective of the safety of NH's public school pupils. Does the analysis change if Joe opts to apply for certification?