

**ALASKA RURAL JUSTICE ISSUES
A SELECTED BIBLIOGRAPHY**

2006

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JUSTICE CENTER
3211 Providence Drive
Anchorage, AK 99508

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Morning fog on Steese River,
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Overview

Antonia Moras

Introduction

This is an annotated bibliography of books, articles, studies, reports and other documents related to rural justice in Alaska.¹

In compiling the biography we decided to concentrate on roughly the period between the early 1990s and early 2006. We have limited ourselves to the last decade and a half because earlier years have been thoroughly covered in a previous rural justice bibliography published by the Alaska Judicial Council in 1991.² In general, our work picks up where the Judicial Council bibliography ended, at the beginning of the 1990s.

This is a selected bibliography; it is by no means comprehensive. We have included

the main books, journal articles, government agency and commission reports, research studies and other types of documents that concern the administration of justice in rural Alaska. The bibliography also contains a list of most legal cases related to Native issues in both state and federal courts. (This list, which has been included with the permission of its creator, David Case, covers the entire span of Alaska legal history, rather than the more limited period of the rest of bibliography.)

We searched specifically for materials related to policing and law enforcement; the courts; corrections and probation and parole; juvenile justice; and law and legal services. We also looked for materials related to tribal courts and other Native justice entities and

¹ A draft version of this bibliography was made available to the Rural Justice and Law Enforcement Commission in early 2005.

² Alaska Judicial Council. (1991). *Alaskan Rural Justice: A Selected Annotated Bibliography*. Anchorage, AK: Alaska Judicial Council.

particularly looked for materials written from Native perspectives. In doing this, we followed the usual bibliographic search routes and supplemented these with an extensive mailing to state and local government agencies asking for suggestions. Over the months the bibliography has been in preparation, we also conducted interviews in person and by phone that helped in locating materials.

One of the major changes in the public discussion since the publication of the Judicial Council bibliography in 1991 has been the advent of widespread use of the Internet. Many more documents and studies are now readily accessible, broadening possibilities for public discussion. The sheer numbers of publications now available necessitated setting some limits to our search.

Because many places in the world face similar issues, there is a vast literature from other states and countries that may contain insights relevant to Alaska, but in general, due to time and resource limitations, we did not attempt to mine this literature. Neither did we attempt to reference the numerous Alaska newspaper articles published on rural conditions; nor did we include pieces from the broadcast media, films or videos. We decided to include internal agency documents only when they specifically relate to rural justice issues, and, in general, did not list more generally conceived documents such as annual reports.

The discussion of rural justice issues has to include consideration of the problems presented by alcohol and substance abuse. Some of the items in the bibliography deal primarily with these topics, but again, because there is so much material available on alcoholism in medical and social services literature, we limited the selection to those materials which specifically discuss these problems in the context of Alaska justice services.

What follows is a brief synthesis of materials

in the bibliography and a commentary on the major lines of public discussion it reveals.

* * *

Of the over one hundred and twenty publications included in this bibliography, several are so comprehensive that they need to be mentioned at the outset. The first is the *Alaska Natives Commission, Final Report* (1994). This document resulted from the work of a joint federal-state commission that undertook an intensive study of the social and economic status of Alaska Natives and the effectiveness of government policies. The work is particularly important because it is a document dominated by Native voices. The commission discerned in many Native communities a dependency on outsiders that has led to a communal loss of self esteem. Behind all of the specific recommendations contained in the report, including many relating to governance and justice, is the intent to combat this attitude of dependency.

Another report that presents a comprehensive commentary on the functioning of the Alaska justice system, with profound implications for the rural justice situation, is the *Report of the Alaska Supreme Court Advisory Committee on Fairness and Access* (Alaska Court System, 1997). This document contains the findings of an extensive twenty-month study of barriers that prevent Alaska residents from receiving a just reception in the courts. The findings from the study and its recommendations relate to the entire system, not just the courts.

A third report with relevance for the entire system is the *Final Report to the Governor of the Alaska Commission on Rural Governance and Empowerment* (1999). This commission looked at the entire rural picture, not just the justice system. Like the Alaska Natives Commission, the membership of this body included many Natives and many people with

roots in rural Alaska. The report concludes that the innate capacity of the villages to solve their own problems must be the foundation for change and that, in this light, the state should formally acknowledge the tribes and clarify policy relating to the tribes.

Another document, the *Final Report of the Alaska Criminal Justice Assessment Commission* (2000), presents specific recommendations for the entire system, from a study perspective that looked deeply at issues affecting corrections. This commission, like all the others, recognized that any comprehensive understanding of the tasks of the justice system must build from a recognition of how deeply alcoholism and substance abuse lie at the root of much criminal behavior.

The most recent document referenced in the bibliography is the *Initial Report and Recommendations of the Alaska Rural Justice and Law Enforcement Commission, 2006*. The federally appointed commission was the latest of many bodies to consider rural justice issues. Its report echoes the findings and recommendations of previous commissions.

Each of these reports is discussed in further detail below, in the sections dealing with specific functions of the justice system.

* * *

This bibliography contains items articulated in different kinds of voices. Many of the materials listed are the work of groups—research groups, commissions, or agencies. As such, they more or less present their contents in the generalized tones of group findings. Others reflect academic research, often quantitative in nature. A few are by writers referring primarily to their own experiences with the justice system. Of these more personal pieces, one of the more important is that by Harold Napoleon—*Yuuyaraq: The Way of the Human Being*.

Napoleon's piece is a personal statement,

based on reflection and study. It was written over five years during his incarceration at the Fairbanks Correctional Center. In it, he ties his own history with alcoholism to the general history of Alaska Natives, particularly the Yup'ik people. Much of the piece goes over the impact of the coming of outsiders on Native culture and the enormous losses caused by disease. Napoleon believes that the widespread Native deaths from influenza in the early years of the last century led to a loss of continuity in Native life, resulting in a mass depression—with a susceptibility to alcoholism. The cultural dissolution that stemmed from this period of great death led to an unhealthy dependency on outsiders for structure in Native life.

Napoleon does not believe that this lack of self-definition and self-governance can be substantially corrected by outside money or programs. Instead, he describes a need for a spiritual approach to community healing, one that can begin with talking circles—talking circles for entire villages and for addicts in particular. He presents other specific actions that communities can take to restore themselves, and he also makes recommendations for the state government, particularly regarding the establishment of specifically Native correctional institutions and treatment programs.

Napoleon wrote his piece at the same time that the Alaska Natives Commission was beginning its work, and many of his perceptions and suggestions parallel those that the commission discussed in its report and also those of the later Alaska Supreme Court Advisory Committee on Fairness and Access and the Rural Governance Commission.

Policing, Law Enforcement and Public Safety

The difficulties entailed in providing policing and public safety services to isolated rural



communities remain much as they have been for decades. They involve limited resources and economies of scale as well as jurisdictional and cultural questions. A number of items included in this bibliography discuss rural policing from one direction or another. All of the major commissions dealing with the justice system have touched upon the issues presented by rural policing in their reports, regularly voicing the recommendation that the Village Public Safety Officer (VPSO) program be more strongly supported. All of these commission reports also

reveal the degree to which policing and public safety in rural Alaska turn on alcohol-related problems.

The VPSO program, which began in the late 1970s, constitutes an approach to rural policing that was tailored particularly to Alaska. In recognition of the scale of village life and of the plurality of public safety needs—policing, law enforcement, search and rescue—the VPSO was conceived as a generalist in public safety, one who would handle the range of problems common to the village, under the detached supervi-



Rural Public Safety Services in Alaska (Roberts, 2004), which was compiled for the Alaska Federation of Natives. This document draws together previous research and government documents. The report provides an historical

summary and much detail on the evolution of the VPSO program, including budget data. An earlier overview of the program is found in Patrick Jolley's *History of the VPSO Program* (circa 1990).

In *Turnover among Alaska Village Public Safety Officers: An Examination of the Factors Associated with Attrition* (2000), Darryl Wood of the Justice Center at the University of Alaska Anchorage presents the results from a study of VPSO position turnover. His findings undercut some commonly-held beliefs about the program's high attrition rate. Dissatisfaction with pay and inadequate housing are commonly cited as reasons officers leave their positions, but this study showed that, while such dissatisfaction was widespread, these variables were not statistically associated with turnover, nor was serving in a home village. In fact, the more an officer was attached to a Native background, the less likely he was to leave a position. Those variables suggesting a strong connection to community life—variables such as being married, being of Native background, having an extra job, and having another officer to work with—were associated with stability in VPSO positions.

In "Local Alcohol Prohibition, Police Presence and Serious Injury in Isolated Alaska Native Villages," Wood and Paul Gruenewald present the results of their examination of the inter-connections among serious injury, a local prohibition on alcohol and a local police presence in Native villages off the road system. The study found that the use of the local option law prohibiting alcohol was related to lower rates of serious injury. Further, the local presence of police in dry villages was associated with lower rates of injury from assaults.

A public safety project undertaken by the UAA Justice Center in the mid-1990s involved examining documents and interviewing residents of twenty-eight villages about policing and other community issues. The village study, *Public Safety and Policing in Alaska Native Villages: Component Three of the Public Safety Project* (Justice Center, 1995) and a related public opinion survey, *Alaska Public Safety*

Statewide Survey: Component Two of the Public Safety Project (Justice Center, 1995), remain relevant for their moderately nuanced details on the village policing context.

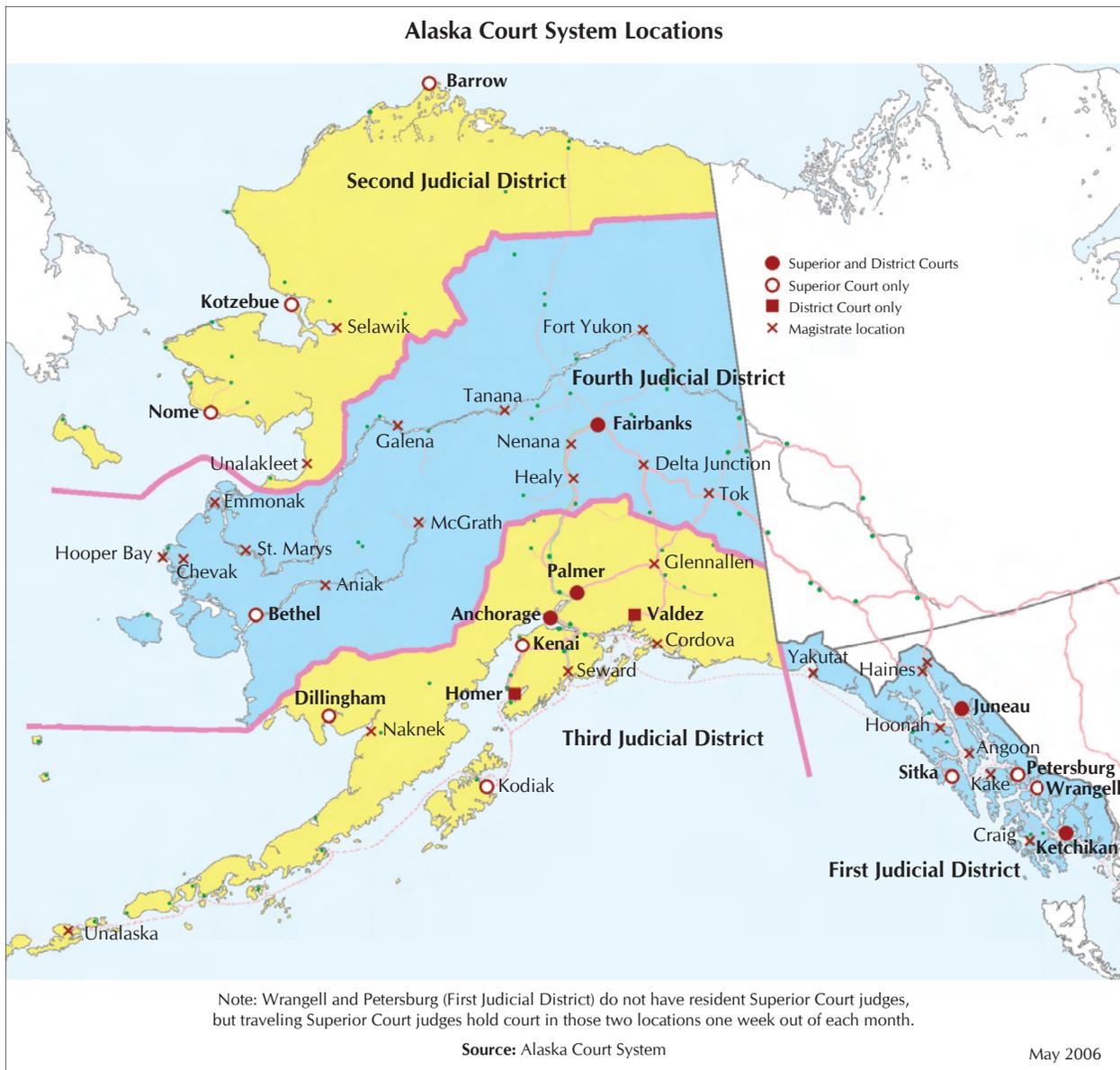
The 2006 report of the Alaska Rural Justice and Law Enforcement Commission contains the latest recommendations regarding rural policing. The commission has called for the development of a uniform, tiered system of police certification statewide that would cover VPSOs, Village Police Officers and Tribal Police Officers. The report also presents cross-deputization between police entities as one step that might better police coverage in rural areas.

Although the situation in rural Alaska differs in many ways from that on Indian reservations in the lower forty-eight states, some of the studies and reports published by the federal government present insights that are relevant to Alaska Native communities—despite the absence of reservations here. Similarly, the research and writing on policing in northern and arctic Canada, where conditions are somewhat similar to those in the Alaska bush, may have application for Alaska.

Beyond the studies listed in this bibliography there are numerous newspaper articles dealing with specifics of policing in rural Alaska. In addition, because the VPSO program has been the subject of litigation in state court fairly recently, court case files contain reports on the program and on policing in Alaska in general that were prepared by expert witnesses. These have not been included in this bibliography, but are a source of further information.

Courts

The most important document relating to the state court system and rural justice affairs has been the *Report of the Alaska Supreme Court Advisory Committee on Fairness and Access* (Alaska Court System, 1997). This



report presents the findings of a twenty-month statewide study (1996–1997) that sought to identify any racial and ethnic biases that might be impeding access to the courts for Alaska’s minority populations. Those involved with the study included judges and magistrates from throughout the state; attorneys from the private bar and public agencies; administrators from various other state agencies, including the Department of Corrections; representatives

from Native organizations; University of Alaska personnel; and community activists. Separate subcommittees looked at court consumer issues; the court as an employer; disparate confinement questions; jury composition issues; language and cultural matters; and problems of rural access. The document is a dense, detailed report with a myriad of recommendations relevant to the functioning of the court system and other agencies. While the investigators found little

sign of overt discrimination or racial or ethnic bias in the operation of the courts, there was evidence of cultural misunderstandings, lack of access, educational gaps and mistrust of the system. In particular, investigators found many inadequacies and shortcomings in the functioning of the system in rural areas. Many of the recommendations refer to rural issues.

One of the report's strengths is that it includes transcripts of the actual testimony taken in various communities across the state. The individual voices heard through the transcripts provide a grounding for the more general discussions in the body of the report. Another strength is that this is one of the few government studies that includes estimates of the costs that would be associated with particular recommendations.

In general, the report asks court officials to find ways to make court processes in rural Native communities more immediate and more sensitive to the realities of the communities. Many of these recommendations echo those found in earlier reports, such as those of the Alaska Sentencing Commission (1992); and in turn, they themselves are echoed by the findings of the Alaska Criminal Justice Assessment Commission (2000). The difference is one of perspective: with this study, the recommendations were advanced by the judicial branch, rather than an executive branch department. Most focus specifically on the operations of the courts, although they have implications for the rest of the system.

In the years since the report was released, the court system has begun several projects based directly on its recommendations. Two other documents listed in this bibliography—*Interim Report of the Fairness and Access Implementation Committee* (Alaska Court System, 2000) and *Report of Alaska Court System Fairness and Access Committee to the National Consortium on Racial and Ethnic*

Fairness in the Courts (Alaska Court System, 2004)—detail these initiatives through 2004. Among those pertinent to rural Alaska have been the directives encouraging more travel by judges and other court officials in rural areas; the effort to assign all villages to a trial court location; the work on jury composition problems; and the work to employ advanced technology.

The Alaska Judicial Council's felony study, *Alaska Felony Processes: 1999* (Carns, Cohn & Dosik, 2004), was also undertaken in response to one of the recommendations of the Fairness and Access study. This study used statistical analysis to examine data from over 2000 cases from throughout the state to determine if disparities in sentencing associated with racial or ethnic or geographic factors were occurring. While the analysis did not find that racial or ethnic disparities occurred consistently on a systemwide basis, the results did show that in certain situations, being Native or Black was statistically associated with longer sentences. In addition, the time spent in jail before sentencing was longer in certain situations for Natives and Blacks.

Another recent effort undertaken by the court system has been a statewide investigation into the issues presented by children's cases. Investigators conducted hearings and discussions in five regional forums—Anchorage, Juneau, Fairbanks, Barrow, and Bethel—to acquire pragmatic information on the handling of children's issues. A detailed listing of findings appears in *Children in Alaska's Courts—Community Conversations* (Alaska Court System, 2005). A particular strength of this report is its regional focus, which permits more concrete details to emerge.

For rural justice, one of the more important changes set in motion by the Fairness and Access study has been the amendment of court rules to permit judges to work with local dispute resolution bodies, such as tribal courts.

This development has given further formal understructure to the interaction between the state court system and the tribal.

Such interaction has grown steadily in scope since the early 1990s, as tribal organizations have increasingly sought to exercise judicial power in certain areas. A speech given by Chief Justice Dana Fabe to the Alaska Inter-Tribal Council at the end of 2002 described the evolution of the interplay between the tribal courts and the state, seeing in the history, policies and projects the slow emergence of productive working relationships.

Tribal Courts

What emerges from many perspectives in this bibliography is that tribal courts have grown in importance over the last decade and a half. There are only a few studies dealing specifically with these courts, and there is an absence of specific current information about procedures, administration and reach, but it is clear that most state agencies now work with tribal courts at least intermittently. While the unresolved jurisdictional questions continue to cloud the situation of tribal courts, many who have examined rural problems from state perspectives believe that tribal courts can fill an organizational vacuum at the village level and can assist with some of the administrative problems that arise from Alaska's geographic and cultural realities. All of the major commissions, including the recent Rural Justice and Law Enforcement Commission, have recommended that state entities work more closely with tribal entities.

The place of tribal courts in the state legal and administrative picture is unsettled and complex and, as stated, there are few studies or reports tracing tribal court development—in fact, there is no master list of tribal courts currently functioning in Alaska—but it seems

the courts are becoming more numerous and are increasingly assuming formal responsibilities within Alaska's overall justice system.

The correspondence and interviews conducted in the course of compiling this bibliography revealed that many communities are in the process of writing both ordinances and court rules. The federal government, through its various tribal grant programs, provides some assistance with writing court rules and codes. These efforts move slowly, underscoring that individual tribal courts can be very much works-in-progress. Some of the courts in the southeastern part of the state—notably in Sitka and Kake—seem to have more extensive documentation of their work.

The growth in the number of tribal courts is undoubtedly due to a number of factors, but one of the most important has been the availability of federal funding, which has flowed into the villages as a result of several federal actions, including the passage of the Indian Tribal Justice Act in 1993.

David Case and David Voluck's *Alaska Natives and American Laws* (2002) provides an overview of the legal situation of tribal courts as structured by legislation and court decisions. The book examines the evolution of jurisdictional questions through the first years of this century and discusses the interplay of federal and state positions.

For the details it provides about the actual operation of tribal courts, Case and Voluck's book, which is essentially a legal and historical study, draws heavily upon Judicial Council reports published in the early 1990s. The Council studies—*Resolving Disputes Locally: Alternatives for Rural Alaska* (Connors, Carns & Di Pietro, 1992) and *Resolving Dispute Locally: A Statewide Report and Directory* (Connors, Carns & Di Pietro, 1993)—provide the most thorough examination of tribal court functioning generally available. The first of these contains

an evaluation of the Minto and Sitka tribal courts and the PACT, a non-profit conciliation program in Barrow. (The PACT program no longer exists.) It also provides an analysis of Indian law as it applied to tribal courts in Alaska at that time. The second piece—the directory—documents the range and extent of dispute resolution activity that existed throughout the state in the early 1990s. It reveals that tribal courts and tribal councils were working on Indian Child Welfare Act cases, handling traditional adoptions, and enforcing local ordinances, especially those involving alcohol and minor criminal matters. Some courts handled only one or two types of cases, while others worked over a broader spectrum. These Judicial Council pieces and a more general overview of Council rural investigations that appeared in the *Alaska Justice Forum* in fall 1993, “A Picture of Rural Justice: Alaska Judicial Council Studies” (Carns) also give an idea of the context in which tribal courts were functioning at the time. The Council found that individuals participated in tribal court proceedings voluntarily, although community and family pressures to do so probably also existed. When court decisions were disregarded or ineffective, villagers turned to state agencies.

Another look into the way tribal courts were operating in the mid-1990s is found in the reports produced by the Justice Center at the University of Alaska Anchorage as part of its public safety study: *Public Safety and Policing in Alaska Native Villages: Component Three of the Public Safety Project* (1995) and *Alaska Public Safety Statewide Survey: Component Two of the Public Safety Project* (1995). The rural component of this study comprised a look at twenty-eight villages scattered over the state. Researchers examined documents and other information on the individual villages and interviewed local officials and other residents. Only a few of these villages actually had tribal courts, but

many were considering their establishment. Because the Justice Center study was looking at the broad justice picture in these villages, the report contains details about how tribal courts worked with other village government entities.

Some sense of how tribal courts work and of the range of issues involved in establishing a court also emerges from the handbook published by the Tanana Chiefs Conference, *Tribal Court Development: Alaska Tribes* (Jaeger), which was in its third edition in 2002. The manual covers jurisdictional issues, options for tribal court structures and procedures, court subject matter, enforcement, judicial ethics, and relationships with other courts. It provides a detailed practical orientation to the operation of tribal courts.

Other information about the operation of tribal courts can also be deduced from handbooks and training manuals compiled by state agencies, such as the *Specialized Indian Child Welfare Act Training* (Family and Youth Services Training Academy) manual compiled by the University of Alaska Anchorage in 2003 for the Office of Children’s Services. Undoubtedly, other state divisions have similar training materials that incorporate approaches to tribal courts, in addition to memoranda structuring local ways of working with these courts. A more nuanced picture of the development of tribal courts would probably emerge from such internal documents, including case files held by various agencies.

In addition to generally urging more cooperation with tribal courts, some of the major recent commission reports contain a few more particular references on the current status of the courts. The *Recommendations of the Alaska Criminal Justice Council*, released in early 2003, contains a table of justice system operations located in each community in the state. The table also notes whether a community has a tribal court or council. Also, the *Final Report to the Governor* of the Alaska Commission on Rural Governance and Empowerment briefly

describes the working of the tribal court in Sitka with regard to ICWA cases.

The welfare of children has been one of the main areas where tribal courts have been involved from their beginnings. To a great degree this is due to the provisions of the Indian Child Welfare Act (ICWA), and, unfortunately, to the degree to which Native children come to the attention of government authorities because of neglect or other trouble. In summer 2004, over sixty percent of the children under protection of the Office of Children's Services were Native. The agency is engaged on a daily basis with tribal courts in handling the needs of these children, and a large part of the picture of the workings of tribal courts lies in OCS files. In an ethnographic analysis, *The Changing Legal Environment and ICWA in Alaska: A Regional Study*, Lisa Rieger and Carolyn Brown examine how two Native groups—the Tanana Chiefs Conference and the Native Village of Eklutna—work to resolve children's cases in the context established by ICWA.

The absence of documentation regarding procedures and decisions can handicap interplay between the state courts and the tribal courts, as is noted in an *Alaska Law Review* article, "The Indian Child Welfare Act and Inupiat Customs" (Wan, 2004). The author advocates that villages make an effort to record adoption practices in order to make the culturally-determined practices more easily accessible to state judges.

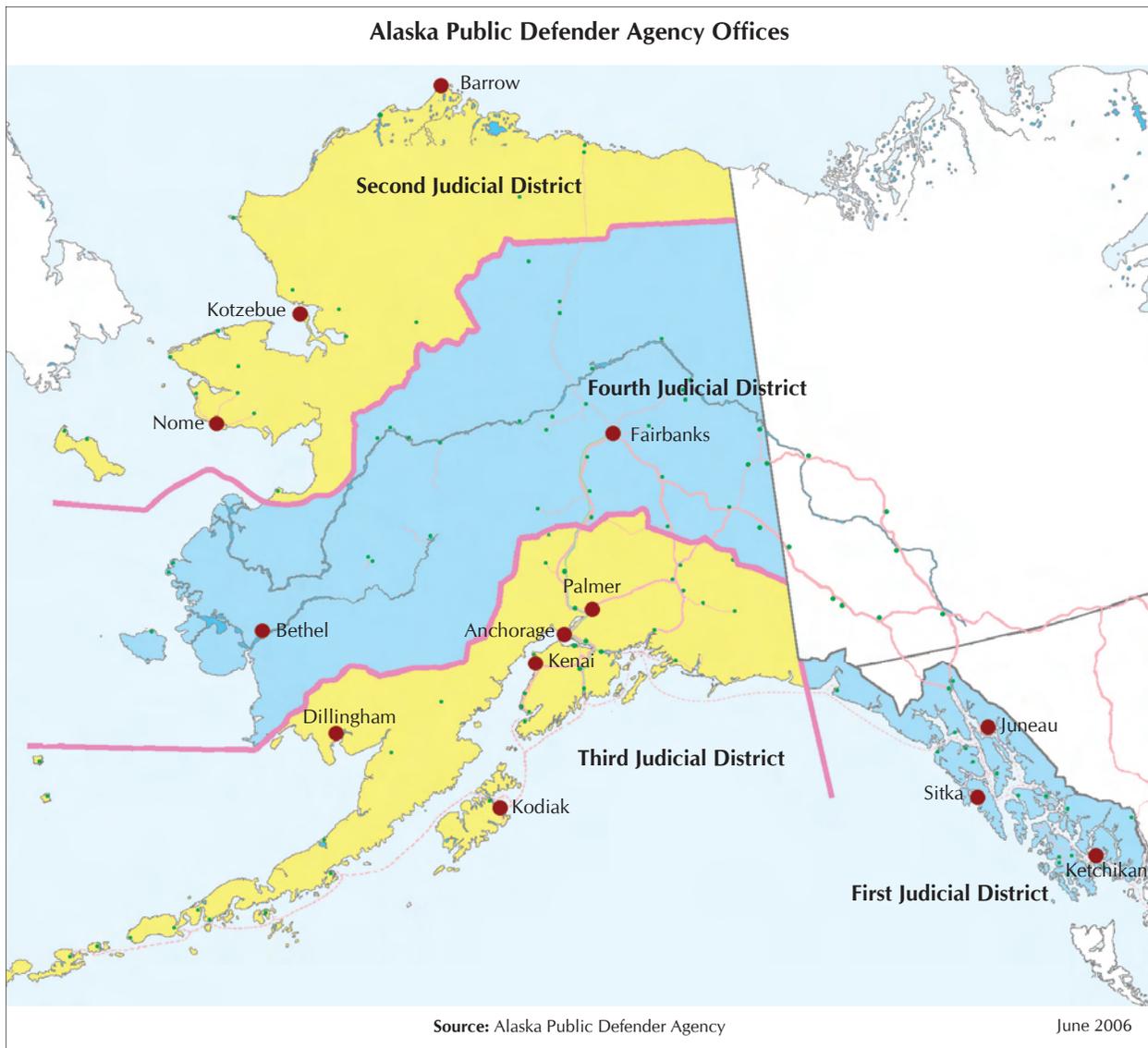
While documentation on the workings and cases of individual tribal courts is not yet easily available, it is nevertheless clear that tribal courts play an increasingly strong role in ordering village affairs. The recommendations regarding justice issues contained in the *Alaska Natives Commission Final Report* (1994) pivot on the further development of these courts.

Legal Services Issues

Only a few pieces have been published on the availability or adequacy of legal services in rural areas, and there has been almost no in-depth research in this area. Most of the published pieces describe an acute lack of resources on both the civil and criminal sides. In Alaska, attorneys are disproportionately concentrated in the Third Judicial District—Anchorage and the southcentral part of the state. According to Alaska Bar Association figures for autumn 2002, over three-quarters of attorneys practicing in the state were in the Third District, while only twenty-eight attorneys practiced throughout the Second District, which stretches from Nome to the Canadian border and predominantly contains Native communities.

Two articles published in the *Alaska Justice Forum*—"Access to Legal Services for Alaskans with Low Incomes" (Justice Center, 2002) and "Indigent Legal Services in Alaska" (Justice Center, 1996)—provide overviews of the criminal and civil legal resources available to state residents with few financial resources. The articles carry particular relevance when looking at rural justice because many residents of the bush live below the poverty line. Both *Forum* articles note how thinly stretched the resources of the Public Defender Agency are. Both the number of attorneys handling criminal defense and the administrative resources such as money available for travel—obviously a necessity in rural Alaska—are inadequate. A legislative audit of the Public Defender Agency completed in 1998 (Alaska Division of Legislative Audit) provides a more detailed look at the administrative and financial resources of the agency, also finding it inadequately staffed and underfunded.

Another *Alaska Justice Forum* article, "Criminal Defense in Rural Alaska" (King, 1998), presents the experiences of an attorney



with the Public Defender Agency who worked with clients in rural communities in southeast and northwest Alaska. The author describes in concrete detail what is involved in providing criminal defense representation in remote areas—the expensive and time-consuming travel, the inadequate resources for communication with clients, the interplay with other justice agencies. The article is particularly valuable because it essentially translates the more abstract findings of other pieces into the specifics of actual daily

legal practice.

The first two *Alaska Justice Forum* articles mentioned above also provide a look at civil legal services available to those with low incomes. A patchwork of agencies, many grant-funded, covers civil legal matters. Most of these programs focus on a particular cluster of legal issues presented by a particular clientele—such as victims of domestic violence—rather than the general legal needs of the low-income population. Together, the two *Forum*

articles show the changes in the civil legal services picture, particularly from the funding perspective, over the period since the mid-1990s. What emerges is a perception that short-term grant funding has become more and more important to funding those services.

Some of the findings and recommendations in other reports also relate to the availability of legal services in rural Alaska. The *Report of the Alaska Supreme Court Advisory Committee on Fairness and Access* (Alaska Court System, 1997) notes that the civil justice system is in danger of becoming irrelevant for low-income rural Alaskans and calls for the legislature to fund Alaska Legal Services and state agencies at a level that would assure access to the justice system for indigent Alaskans.

Findings of the criminal justice process study conducted by the Judicial Council, *Alaska Felony Processes: 1999* (Carns, Cohn & Dosik, 2004), are also relevant to the provision of legal services in rural Alaska. The study, which was undertaken in response to a recommendation made in the Supreme Court's Fairness and Access report, found that cases in which the defense was provided by a public attorney were associated with longer sentences. (The study also uncovered some statistical disparities that may be associated with Native ethnicity, although these were not pervasive or systemwide.)

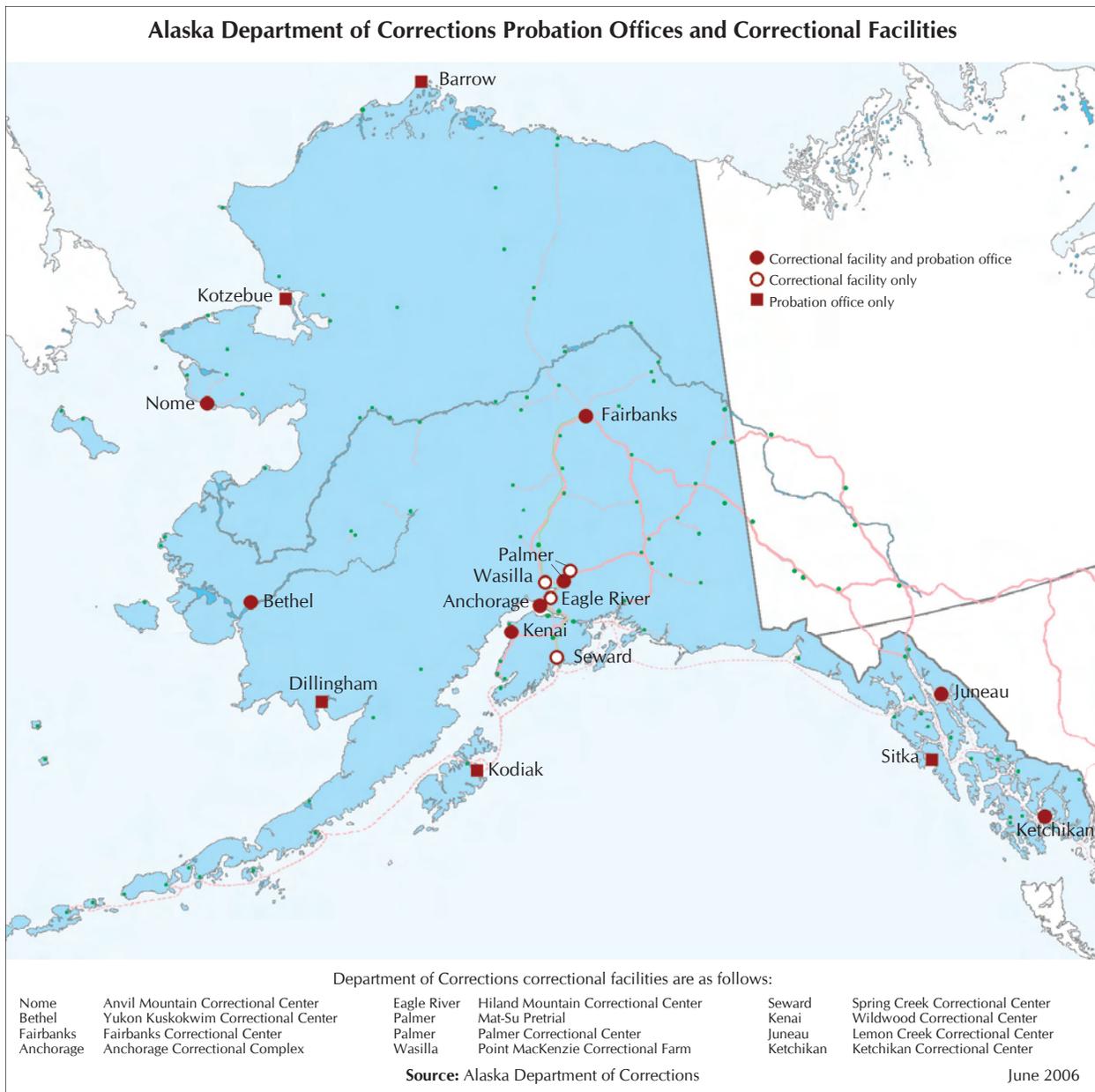
Another issue related to the adequacy of legal services is that of language and culture differences. Two articles by the linguistics scholar Phyllis Morrow that appeared in the *Alaska Justice Forum* examines the problems Yup'ik speakers can encounter in legal situations conducted in English. In "A Sociolinguistic Mismatch: Central Alaskan Yup'iks and the Legal System" (Summer 1993), Morrow discusses the cultural miscommunications she observed in courtrooms and other justice system situations. In particular, she notes that Yup'ik speakers, unfamiliar with the adversarial nature

of the western legal system and the patterns of interrogation associated with it, often responded more compliantly—to their detriment—than those familiar with the system and fluent in English. In "Legal Interpreting in Alaska" (Winter 1994), she discusses the intricacies of translation and interpretation in legal settings, particularly with regard to Native languages.

Although in some of the earlier reports in this bibliography reference is made to the possible role paralegals might make in addressing rural justice needs, this is one area in which there seems to have been no research, investigation or writing over the last decade and a half. Little is known about the numbers of people who work as paralegals in the bush, what types of work they handle or what the potential might be for paralegals in addressing some of the legal problems of rural life.

Corrections

The *1992 Annual Report to the Governor and the Alaska Legislature* of the Alaska Sentencing Commission contains a list of recommendations concerning the correctional situation in Alaska. At that time, state prisons were operating beyond capacity. The report calls for a number of changes in the state approach to corrections: fashioning punishment alternatives to incarceration, modifying probation and parole policies and procedures, and extending access to substance abuse programs. At the time the report was published, approximately a third of the incarcerated population was Alaska Native. In respect to the Native offender situation, the report advocates changes particularly relevant to rural areas: the use of culturally relevant alternative punishments, the development of halfway houses and other transitional programs, the development of arrangements for offenders to serve probation and parole periods in their home communities under local supervision and,



above all, the provision of alcohol and substance abuse treatment programs for offenders.

Every major commission since 1992 has reiterated these same recommendations, but progress, as reflected in the findings of the more recent studies, has been minimal. In particular, the availability of alcohol treatment programs for incarcerated offenders has actually decreased: programs in facilities have been drastically cut.

The sex offender inmate treatment program has also been closed. The facilities overcrowding problem has been alleviated through the use of a contractual arrangement with a private facility in Arizona, in which as many as 800 Alaska inmates—many from rural villages—serve their sentences. This has compounded the problems posed by the separation of offenders from their community support systems, since it is much

more expensive and difficult for families and friends to visit incarcerated offenders in Arizona. The percentage of incarcerated offenders who are Alaska Native remains just as high, if not higher than it was in 1992.

The report of the Alaska Natives Commission in 1994 covers the same ground as that of the Alaska Sentencing Commission with similar, but more detailed, recommendations. It calls for regional, if not local, alternative punishment programs and places even more emphasis on finding mechanisms for offenders to serve the probationary part of their sentences in their home villages. The report also requests that the executive and legislative branches of state government reconsider correctional policies and programs in light of the three constitutional goals: punishing the offender, rehabilitating the offender and protecting the public.

The reports of the Alaska Supreme Court Advisory Committee on Fairness and Access (Alaska Court System, 1997), the Alaska Criminal Justice Assessment Commission (2000), the Alaska Criminal Justice Council (2003) and the Alaska Rural Justice and Law Enforcement Commission (2006) reiterate the same main recommendations. All stress again and again the need to establish alcohol and other substance abuse treatment programs throughout the state.

Probation and Parole

Providing probation and parole services to rural Alaska—a function of the Department of Corrections—involves grappling with the same obstacles faced by law enforcement authorities: small, isolated communities scattered across vast distances where the state has had difficulty in establishing a workable system of supervision. The current situation makes it impossible for many offenders to return to their villages for the probation-parole segment of their sentences.

The situation is complicated by the fact that so many individuals on probation need treatment for alcohol problems or other specialized treatment impossible to get in the villages.

A number of studies listed in this bibliography have touched upon the issues presented by probation and parole, and there are undoubtedly other internal documents within the Department of Corrections addressing the situation. Most of the available studies and reports describe the same problems and advocate similar actions. Foremost among the recommendations made many times is for the state to engage with local authorities—tribal organizations and other entities—to make village supervision of probationers and parolees possible. This is the substance of specific suggestions and ideas advanced by the numerous bodies that have studied the rural situation over the last fifteen years—the Alaska Natives Commission (1994), the Alaska Sentencing Commission (1992), the Alaska Supreme Court Advisory Committee on Fairness and Access (1997), and the Alaska Criminal Justice Assessment Commission (2000). The other need of offenders on probation or parole—continuously described as perhaps the most urgent problem for funding—is alcohol treatment services.

One of the major recommendations of the Alaska Natives Commission in its final report released in 1994 is that the state should establish means by which probation and parole can occur in the home village of an offender, thus making it possible to involve the cultural and social structure of the community in supporting the offender. The report places this recommendation within a web of others related to the justice system that could improve rural life. Again, various commissions working both before and after the Natives Commission have made similar recommendations.

The *1992 Annual Report to the Governor and the Alaska Legislature* of the Alaska

Sentencing Commission gives heavy emphasis to the need to build more substance abuse treatment programs accessible to offenders, including those on probation and parole. In all of its recommendations, it emphasizes the need for programs affecting the Native population to be designed with sensitivity to Native cultural practices and to the miscommunications that can occur at the interface of western and Native cultures. The report also recommends that state agencies make more use of local authorities in implementing functions like probation-parole supervision.

The *Final Report to the Governor* of the Alaska Commission on Rural Governance and Empowerment (1999) describes in some detail two examples of promising programs that coordinate the state responsibility for probation and parole with a local authority, the Bristol Bay area pilot project initiated in 1999 that provided for VPSOs to assist in supervising probationers and a Yukon program that used a victim-centered approach and a range of local resources to supplement the supervision of sex offenders.

Some of the more extensive discussion of probation and parole in rural Alaska was undertaken by the Alaska Criminal Justice Assessment Commission and its successor organization, the Alaska Criminal Justice Council. *A Preliminary Report to the Criminal Justice Assessment Commission* (Riveland, et. al.), released in 1999, presents a particularly cogent discussion of the problems involved in providing probation and parole supervision in the Alaska bush, and it also provides a useful critical review of some of the more commonly suggested options—including the possible use of VPSOs to assist with supervision.

The *Final Report of the Alaska Criminal Justice Assessment Commission*, released in 2000, recommends making more treatment programs available, particularly in the bush.

It also suggests establishing community-based probation-parole supervision in partnership with other agencies, regional organizations and tribes and villages and making use of volunteers to help in the supervision of offenders in appropriate situations. The report also recommends more use of video technology for supervising offenders in isolated communities.

Recommendations of the Alaska Criminal Justice Council—a report released in 2003—describes the progress made on the recommendations contained in the earlier report. Of those specifically related to probation-parole, little progress had been made in establishing more access to treatment programs. This was due to a lack of money. A potentially promising change was made possible by state legislation authorizing VPSOs to assist in supervising offenders—drawing upon the idea behind the pilot program in the Bristol Bay area mentioned above. This report also puts more emphasis on the rural aspect of probation-parole by specifically recommending probation supervision in small communities, possibly through further expansion of models incorporating VPSOs—something that has since occurred.

The report discusses at more length the suggestion that volunteers assist in probation-parole supervision—which is at least theoretically controversial. Concrete possibilities are described, but no specific examples of actual programs are given. The report also advances a recommendation for the state, treatment providers, tribal entities and community organizations to establish after-care and re-entry programs.

The reports of the Criminal Justice Assessment Commission and the Criminal Justice Council are particularly useful because they present a review of the actual work done in response to the initial commission recommendations. This is unusual with commission reports.



Not all state-local cooperation has been dependent on formal arrangements. There seems to be a degree of informal cooperation being worked out between local entities and state agencies on a case-by-case basis. “A Picture of Rural Justice: Alaska Judicial Council Studies,” published in the *Alaska Justice Forum* in Fall 1993, notes that, in general, tribal councils and

courts were increasingly assisting the state in supervising offenders on a local basis. There is nothing to indicate that this kind of cooperation has not continued since then, but the available studies have not tracked it.

Juvenile Justice

The lack of resources in rural areas also affects the handling of juveniles. For rural Alaska, Division of Juvenile Justice offices, personnel, and facilities—thinly spread over vast distances—are often too removed from village life to permit effective work with juvenile offenders. Most observers agree that juvenile misbehavior is best addressed immediately. Some of the strongest impetus behind the development of tribal courts seems to spring from a desire to handle minor juvenile offenses right away, within the community, to prevent an escalation in criminal behavior. As with most other areas of the justice system, the major commissions that have looked at these issues have urged that local Native entities work with state agencies to devise alternatives for handling village youth that will avoid involving the formal system of referrals to the Division of Juvenile Justice.

It is commonly observed that much juvenile misbehavior involves alcohol. A report prepared for the Alaska Division of Juvenile Justice in 2000, *Underage Drinking in Alaska Needs Assessment* (Trani & Hamilton), provides a statewide, comprehensive look at the juvenile alcohol picture. The study's primary focus is the role alcohol plays in juvenile crime, but the report also presents a good overview of the workings of the entire juvenile justice system and of statutes related to juvenile offenders.

For reasons that are not clear, Alaska Native youth have been confined in juvenile facilities at rates higher than those for Caucasian youth. Research done during the 1990s by N.E. Schafer of the Justice Center at the University of Alaska Anchorage revealed some evidence that Native youth have been referred to the formal system at higher rates too. Reported in *Disproportionate Representation of Minorities in the Alaska Juvenile Justice System: Phase I Report* (Schafer,

Curtis & Atwell, 1997) and *A Comparison by Race of Juvenile Referrals in Alaska: Phase II Report* (Schafer, 1998), the research was extensive and nuanced, but not conclusive with regard to why this was occurring, although it seems that in rural communities youth were being referred for behaviors that would be handled informally in urban communities.

A grant-funded pilot program in Emmonak which provided for the elders to handle low-level juvenile offenses with local sanctions modeled one alternative to formal justice system processing of juveniles. The program is discussed in the *Alaska Justice Forum* article "Emmonak Juveniles and the Elders' Group" (Justice Center, 2001) and in the report *Evaluation of a JAIBG-funded project: Emmonak Elders' Group* (Schafer & Knox, 2001).

Other Areas Pertinent to Rural Justice and Gaps in the Research

Some research studies, but not many, have been done on village economies. None seems to have looked at the economic interplay of the justice system with village life. How do justice system positions contribute economically to rural communities? Agency budget information shows the overall cost of providing services such as the Village Public Safety Officer (VPSO) program or the magistrate program of the court system, but how the money put into justice services affects village economies has not been studied.

In addition, no in-depth analysis has yet been done of the degree to which justice (and other government) services have become dependent on short-term grant funding. To what degree is the development of programs grant-driven? To what extent do programs continue after the grant funding runs out? What is involved in making the transition between short-term funding and

a more solid funding base that can permit a program to develop? These questions apply also to the various treatment and assistance programs addressing domestic violence and alcoholism. Both local programs and initiatives within all state agencies—not just specifically justice agencies—are often tied to short-term grant funds.

Another funding question arises from looking at the entire range of studies and reports: to what degree are Native organizations currently funding justice services on a regional or local basis? What are the arrangements? Again—can successful programs be stabilized without grant-funding?

From the opposite side of the funding picture—at least one report examined for this bibliography noted that a very effective program had established itself with almost no resources. The Alaska Judicial Council description of the tribal court in Minto in the early 1990s (Connors, Carns & Di Pietro, 1992) emphasizes that the program ran with very few resources. Some of the phone interviews conducted in the course of assembling this bibliography similarly indicated that in some cases individuals and groups are moving ahead on justice-related organizational projects with very little funding. To what degree have any of these efforts taken root for any length of time?

A number of the studies and reports included here touch upon the question of the justice system as an employer. The major commission reports, particularly those of the Alaska Natives Commission (1994), the Alaska Supreme Court Advisory Committee on Fairness and Access (Alaska Court System, 1997) and the Alaska Rural Justice and Law Enforcement Commission (2006), have recommended that more effort be made to hire Alaska Natives for justice system positions. Two *Alaska Justice Forum* articles—“Native Employment in the Alaska Justice System” (Moras, 1998) and “Obstacles

to Minority Employment in Criminal Justice: Recruiting Alaska Natives” (Riley, 2000)—looked at Native employment and associated factors in more detail. No study has looked at employment in specifically economic terms.

There has also been a lack of systematic, detailed research on the flow of alcohol into the bush—from either a justice system or economic perspective. Although numerous newspaper articles have looked at legal and illegal importation and bootlegging, more focused study on the forces at play in this area and how they involve the justice system is necessary for the full picture of bush justice.

Another gap in the picture is the absence of much documented information on the situation of non-Native residents in rural Alaska. Some of the general legal and jurisdictional discussion makes reference to non-Natives, but most studies concentrate primarily on the Native situation.

When looking at the names and affiliations associated with the reports and studies listed in this bibliography, another absence is evident. Most of those who serve on justice-related commissions or study the issues have usually come from government positions, Native organizations, social service agencies or academic backgrounds. Commissions only rarely include members from business or medicine—such as bank administrators, small business owners, or physicians—or even from other types of government agencies, such as the Department of Education. (The Alaska Natives Commission membership did include individuals from more diverse backgrounds.) There are obvious reasons for this, but the discussion of the more intractable issues might benefit from broadening the types of voices included.

Changes

In the period covered by this bibliography,

there have been a number of changes in the rural justice picture—at least as it is viewable through written documents. The first, and probably the most important, is that there has been a notable rise in the number of projects administered by the Native community itself—undoubtedly because of the rise in strength of some Native institutions. This has resulted in Native voices being heard more clearly as recommendations are shaped.

Related to this, the evolution in the legal structure and certain federal and state actions have given the tribes more visibility. Most writing on rural justice now refers to tribes—something that was not as often the case in the 1980s. Most recent reports and studies recommend that the state work with local tribal entities to handle the delivery of at least some justice services.

To an extent, this does seem to be happening, sometimes on an ad hoc basis, but the unresolved jurisdictional questions continue to affect the degree to which these localized programs can develop.

The federal government’s recognition of tribes was followed in the 1990s by a flow of money for programs related to justice services. This raises the question, which has not been studied in any depth, of how many of these programs have taken root and have continued to develop after the end of the grant funding.

To most observers, the social problems faced by rural Alaska—the problems that involve the justice system—seem as exacerbated by alcohol abuse now as they were at the beginning of the 1990s. Concern with the effects of alcohol abuse throughout the state, in all communities, has been voiced as long as anyone has been writing about Alaska. Now part of this discussion centers on the creation of programs that are particularly tailored to Native culture and can incorporate the structure of rural communities. Also, there is greater articulated concern with

juveniles and alcohol, and there is more open discussion of the problems of child abuse and neglect and domestic violence—problems seen as closely connected with alcoholism.

The problem of alcohol abuse is the one thread that runs through almost every page of every document published. The entire picture of the rural justice system—the types of policing, legal services, court approaches, and correctional programs needed—is colored by the alcohol abuse issues.

Alaska Rural Justice Issues 1988-2006

This timeline marks a number of points involving rural justice issues. It is intended as a guide to the contents of this bibliography and is not comprehensive. Most of the events noted resulted in a report or other document

1988	<i>Anchorage Daily News</i> , “People in Peril” series
1992–1994	Alaska Natives Commission
1993	Indian Tribal Justice Act of 1993
1996–1997	Alaska Supreme Court Advisory Committee on Fairness and Access
1997–2000	Alaska Criminal Justice Assessment Commission
1998	U.S. Supreme Court decision in <i>Venette</i> case
1998–1999	Alaska Commission on Rural Governance and Empowerment
1999	Federal government reassumes management of fisheries on federal land

- 2001 Millennium Agreement between Federally Recognized Sovereign Tribes of Alaska and the State of Alaska
- 2001–2002 U.S. Commission on Civil Rights hearings
- 2004– Alaska Rural Justice and Law Enforcement Commission

Bibliography

Alaska Advisory Committee to the U.S. Commission on Civil Rights. (2002). *Racism's Frontier: The Untold Story of Discrimination and Division in Alaska*. U.S. Commission on Civil Rights. (<http://www.usccr.gov/pubs/sac/ak0402/ak02.pdf> or <http://www.usccr.gov/pubs/sac/ak0402/main.htm>).

Report resulting from hearings conducted in late summer and fall 2001 in Anchorage. The hearings were precipitated by an assault made with paintballs against a number of Alaska Natives earlier in 2001, which received wide publicity. The commission took both oral and written testimony and reviewed published and unpublished documents. Report contains a brief summary of race relations in Alaska, followed by chapters containing commission's findings in the areas of education, economics and employment, and the administration of justice in both its rural and urban aspects. Final chapter presents recommendations that are very broad. Much of the report

covers ground already well exposed and adds very little that is new to the discussion of the justice situation.

Alaska Commission on Rural Governance and Empowerment. (1999). *Final Report to the Governor*. Alaska Department of Community and Regional Affairs. (http://www.dced.state.ak.us/dca/RGC/RGC_Final_6_99.pdf).

Findings from the twenty-two member commission emphasize the need for local autonomy and efforts, with the major recommendations that the state formally acknowledge the tribes and clarify policy regarding tribes. Report sees as major rural issues: alcoholism as an endemic condition; need to protect subsistence (estimate of \$220 million as the replacement value of the subsistence harvest); recognition of the reality of the urban-rural divide; fear of the future. Report concludes that the innate capacity of the villages to take care of themselves is the foundation for

solving problems and examines a number of effective local programs: a fish plant in Unalakleet; the environmental clean-up effort in Galena; and the program in Bristol Bay and Dillingham to involve Village Public Safety Officers (VPSOs) in supervision of probationers and parolees. Includes an extensive bibliography.

Alaska Court System. (1997). *Report of the Alaska Supreme Court Advisory Committee on Fairness and Access*. Anchorage, AK: Alaska Court System. (<http://www.ajc.state.ak.us/reports/fairness.pdf>).

An extensive twenty-month statewide study seeking to identify concerns about racial and ethnic biases in relationship primarily to the court system, but also with regard to other justice system agencies. Separate subcommittees looked at consumer/user issues; the court as an employer; disparate confinement questions; jury composition issues; language and culture questions, and problems of rural access. The report provides one of the broadest and most detailed looks at issues of fairness in the functioning of the court system. While there was little indication of overt discrimination or racial or ethnic bias, the researchers found evidence of cultural misunderstandings, lack of access, educational gaps, and mistrust. The report includes extensive recommendations and transcripts of testimony taken from hearings around the state.

———. (2000). *Interim Report of the Fairness and Access Implementation Committee*. Anchorage, AK: Alaska Court System .

Summary of the work done by the various committees established after the completion of the Alaska Court System's Fairness and

Access study in 1997. Specific projects involving rural justice: effort being made to assign all villages to trial court locations; changes to court rules in order to encourage more cooperation with local dispute resolution efforts, including tribal courts; directives encouraging more travel by judges and other court officials in rural areas; projects particular to Yup'ik--speaking areas; efforts to develop better court phone system and to make use of other technology for rural access to the system.

———. (2004). *Report of Alaska Court System Fairness and Access Committee to the National Consortium on Racial and Ethnic Fairness in the Courts*. Anchorage, AK: Alaska Court System.

See also Carns, Cohn & Dosik (2004).

Further report on the work being done by the court system in the aftermath of the 1997 Fairness and Access study. Among other things, the system is looking into the possibility of establishing a statewide bank of interpreters, and it has amended court rules to permit and encourage judges to work with local organizations on innovative dispute resolution and sentencing projects. This report also summarizes the statewide felony sentencing study commissioned by the court and released in 2003, noting that the study did find some statistical evidence of disparities in sentencing minorities.

———. (2005). *Children in Alaska's Courts: Community Conversations*. Anchorage, AK: Alaska Court System.

Results of a statewide look by the court system into issues presented by children's cases. Funded by the State Justice Institute

under a Solutions Project Grant. Hearings in five regional forums—Anchorage, Bethel, Barrow, Fairbanks, and Juneau—to acquire pragmatic information on the handling of children’s issues. The report provides detailed listings of findings by region.

Alaska Criminal Justice Assessment Commission. (2000). *Final Report of the Alaska Criminal Justice Assessment Commission*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/cjacframe.htm>).

The commission, established in 1997, had a particular concern with prison overcrowding, and from this vantage point took a systemwide perspective. Report provides an in-depth discussion of the intertwining of alcohol issues and the criminal justice system. Strongly advocates treatment and treatment-directed actions at all stages of the criminal justice process. Particular attention devoted to the problems of the mentally ill prison population and the situation of Alaska Native inmates. Discusses restorative justice possibilities and monitoring possibilities for supervision less intensive than formal probation. Includes over thirty pages of detailed, particularized recommendations, more specifically focused than in other reports.

Alaska Criminal Justice Council. (2003). *Recommendations of the Alaska Criminal Justice Council*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/cjc2frame.htm>).

The Criminal Justice Council succeeded the Criminal Justice Assessment Commission, with this report continuing to develop an inter-agency perspective. Makes specific

policy recommendations and provides a progress report on those recommendations made by the Criminal Justice Assessment Commission in its final report. Contains usefully-constructed table of recommendations and status. Also contains an appendix detailing the distribution of criminal justice system resources statewide by community—presence of courts, troopers, Village Public Safety Officers (VPSOs), jails and lock-ups—along with number of reported offenses and arrests in each place; number of Division of Family and Youth Services (DFYS) reports; local option status; and number of probationers and parolees.

Alaska Department of Public Safety. (1990). *History/Evaluation of VPSO*. Juneau, AK : Village Public Safety Office, Alaska Department of Public Safety.

A broad detailed outline of the Village Public Safety Officer (VPSO) program as it stood in 1990. Includes background and history of the program since its conception and synthesizes the then-existing research and evaluations of the program. Covers program administration and funding, the job content of a VPSO position, training and the position of oversight troopers. Emphasizes how the VPSO position was originally conceived as a generalist position with responsibility not just for law enforcement but also fire and water safety, search and rescue and emergency medical services. Contains details and discussion absent from later reports.

Alaska Division of Legislative Audit. (1998). *A Special Report on the Department of Administration, Public Defender Agency, Case Management Time Study and Performance Review, May 15, 1998*. Audit

control number 02-4530-00. Juneau, AK: Alaska Division of Legislative Audit. (<http://www.legis.state.ak.us/legaud/web/pages/digests/2000/4530dig.htm>).

Extensive review of the Alaska Public Defender Agency found the agency had too few attorney positions and lacked technological resources that might assist in its performance.

Alaska Federation of Natives. (1998). *1998 Annual Convention, Resolution No. 98-31*. Anchorage, AK: Alaska Federation of Natives.

Alaska Federation of Natives. (1999). *AFN Implementation Study: Proposals to the United States Congress to Implement Recommendations of the Alaska Natives Commission Pursuant to P.L. 104-270*. Anchorage, AK: Alaska Federation of Natives. (<http://www.nativefederation.org/frames/implementation.html>).

Proposals to the United State Congress to implement recommend recommendations of the Alaska Natives Commission pursuant to P.L. 104-270. Very detailed and specific list of actions proposed in areas of Native self-governance; economic development; alcohol and substance abuse, domestic violence, sexual assault and related problems; Native education and subsistence.

Alaska Inter-Tribal Council. (2004). *Tribal Jurisdiction in Alaska: Child Protection, Adoption, Juvenile Justice, and Family Violence*. Anchorage: Alaska Inter-Tribal Council.

A summary, including an historical review, of the issues involved in tribal court jurisdiction

in Alaska at the end of 2004. Appendices include copies of two differing opinions on jurisdiction issued by succeeding Attorneys General in the aftermath of the decision by the Alaska Supreme Court *In the Matter of C.R.H., 29 P. 3d 849 (Alaska 2001)*, as well as a list of community courts current in 1999.

Alaska Judicial Council. (1991). *Alaskan Rural Justice: A Selected Annotated Bibliography*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/biblio.pdf>).

A catalogue of approximately 300 documents, books, articles, reports, letters, agency records, diaries, films and other types of material concerning rural justice issues. The material was located in libraries, archives and other repositories both in Alaska and elsewhere. Primarily covers the period between Alaska statehood and 1991, but also includes some materials from earlier in the twentieth century as well as the nineteenth century. The bibliography is organized into sixteen different subject areas: agency and commission reports; alcohol abuse and treatment; alternative dispute resolution; anthropological, cultural, and sociological studies; other bibliographies, bush justice conference reports; Canadian rural justice; children, families and the Indian Child Welfare Act (ICWA); grand jury reports; health, education and welfare; courts and judiciary; justice system and rural justice; law enforcement and corrections; rural governmental structure; sovereignty and the Alaska Native Claims Settlement Act (ANSCA); and subsistence, fish and game. The content and purpose for each entry is briefly summarized. Includes an author index.

———. (1999). *A Directory of Dispute Resolution in Alaska Outside Federal and State Courts*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/rjdir99frame.htm>).

An extensive compilation of information on tribal courts, youth courts, community courts, and other vehicles for dispute resolution as they were operating in Alaska in the late 1990s and a summary discussion of the working relationships between these structures and state agencies and courts. The directory contains a wealth of detail about particular programs and local arrangements for dispute resolution—funding sources, jurisdictional arrangements. It provides perhaps the most complete overview of Alaska rural justice operations from a general judicial perspective yet published

Alaska Native Health Board. (1994). *Helping Sobriety Happen: A Resource Manual*. Anchorage, AK: Alaska Native Health Board.

Collection of strategies for sobriety: individual, corporate and community approaches. A holistic approach aimed primarily at villagers with very specific details provided of then-existing programs.

Alaska Natives Commission. (1994). *Alaska Natives Commission, Final Report, Volumes I-III*. Anchorage, AK: Alaska Natives Commission. (http://www.alaskool.org/resources/anc_reports.htm).

The findings of the Commission, a joint federal-state body created by the U.S. Congress in 1990 at the urging of Alaska Native groups. The charge of the Commission was to conduct a comprehensive study of the

social and economic status of Alaska Natives and the effectiveness of governmental policies. The first volume documents the physical, social and economic histories of Alaska Natives over the last two centuries and presents the fundamental components of a plan for change as articulated by the Native Commission. Volume II details recommendations according to key areas, relating them to principles of self-reliance, self-determination and the integrity of Native cultures. Volume III contains the full results of two secondary studies also conducted by the Commission—on subsistence and tribal government—which are summarized in the previous two volumes. Geographic and demographic data and key statistical findings are included, along with selections from the testimony taken during Commission hearings. The report as a whole characterizes the dependency on outside structures that the Commission discerned in many Native communities to be a kind of communal sickness which has led to a loss of direction and self-esteem. The primary thrust of the report and its recommendations is to combat this attitude of dependency. There is a strong call for placing local issues under Alaska Native direction at a local level. The report is written in a fluid, accessible style with a minimum of social science and legal jargon.

Alaska Rural Justice and Law Enforcement Commission. (2006). *Initial Report and Recommendations of the Alaska Rural Justice and Law Enforcement Commission, 2006*. Anchorage, AK: Alaska Native Justice Center. (<http://www.law.state.ak.us/pdf/press/040606-ARJLEC-report.pdf>).

Overview of the work of the federal commission appointed in 2004 to

make recommendations regarding law enforcement, judicial services, alcohol importation and interdiction and child abuse and domestic violence in rural Alaska. The commission appointed work groups for each area, listened to testimony, reviewed previous studies, and conducted hearings throughout the state. The report contains recommendations in all areas, many of which have been made many times—including increasing funding for prevention and treatment programs. The recommendations regarding policing, juvenile justice, and children's cases provide specific suggestions for bridging on-going state-tribal jurisdictional disputes to address local problems. The commission also recommended implementation of the Millennium Agreement. The document contains, as an appendix rather than as a direct recommendation, a proposed revision to U.S. statutes that would extend Native tribal jurisdiction with regard to alcohol. One recommendation would extend the term of the commission itself to focus on monitoring and implementation of its proposals.

Alaska Sentencing Commission. (1992). *1992 Annual Report to the Governor and the Alaska Legislature*. Anchorage, AK: Alaska Sentencing Commission. (<http://www.ajc.state.ak.us/reports/sent92.pdf>).

The commission paid particular attention in this report to Alaska Natives in the criminal justice process. It took wide testimony on Native issues. The report notes the tie between alcohol abuse and Native crime, particularly in rural areas. Recommends that the Department of Corrections invest in substance abuse treatment programs for both incarcerated and non-incarcerated offenders.

Such treatment programs need to recognize Native cultural needs. The report also recommends developing and using culturally relevant alternative punishments in rural areas. It encourages continued development of alternative dispute resolution programs, noting their voluntary local evolution and the cooperation they elicit from troopers, district attorneys, judges and other state representatives. Supports Village Public Safety Officer (VPSO) program because officers mediate and prevent escalation of criminal behavior. Calls for alternative transitional arrangements equivalent to halfway houses for rural communities.

Berman, Matthew and Hull, Teresa. (Apr 1997). "Community Control of Alcohol in Alaska." *Alaska Review of Social and Economic Conditions* 31(1).

Overview of the use of the local option law in communities throughout the state through the mid-1990s.

Berman, Matthew and Leask, Linda. (Jul 1994). "Violent Death in Alaska: Who Is Most Likely to Die?" *Alaska Review of Social and Economic Conditions* 29(1). (<http://www.iser.uaa.alaska.edu/Publications/arisc29.pdf>).

An analysis of violent death based on statistics from the Alaska Bureau of Vital Statistics—accidents, suicide and homicide—by race, sex, age, marital status and place of residence. Among the results: Alaska Natives were much more likely to die violently; many villages reveal particularly high rates of violent death; and married Alaskans are less likely to die violently.

Blurton, David M. and Copus, Gary. (Winter 1993). "Administering Criminal Justice in Remote Alaska Native Villages: Problems and Possibilities." *The Northern Review* 11: 118-141.

Because declining oil revenues have forced the state to reduce government services, some rural Alaska communities may have to eliminate prosecution of all but the most serious crimes. For Alaska Native villages, tribal law enforcement and prosecution of at least selected crimes might fill the void in the delivery of justice services.

Brems, Christiane. (1996). "Substance Use, Mental Health, and Health in Alaska: Emphasis on Alaska Native Peoples." *Arctic Medical Research* 55(3): 135-147.

Summarizes the most current substance abuse, mental health and health data then available from public, academic and institutional sources. Emphasizes data relevant to Alaska Natives. Also provides geographic and ethnic data where available. In particular, provides data on suicide, mental illness, child abuse, HIV/AIDS, other infectious diseases such as tuberculosis.

Carns, Teresa W. (Fall 1993). "A Picture of Rural Justice: Alaska Judicial Council Studies." *Alaska Justice Forum* 10(3): 1, 4-5. (http://justice.uaa.alaska.edu/forum/10/3fall1993/a_rural.html).

An overview of the rural justice situation based on Alaska Judicial Council research projects between 1987 and 1993.

Carns, Teresa W.; Cohn, Larry; and Dosik, Susie Mason. (2004). *Alaska Felony Process: 1999*. Anchorage, AK: Alaska

Judicial Council. (http://www.ajc.state.ak.us/reports/alaska_felony_process1.htm).

Extensive statistical analysis of the felony sentencing process using data from over 2000 felony cases—a representative statewide sampling. The analysis focused primarily on the process as it unfolds after initial charges are filed in court. While young men, Alaska Natives and Blacks form disproportionately high percentages of the population charged with felonies, unwarranted—that is, discriminatory—incarceration disparities associated with ethnicity are not occurring consistently throughout the system. There was some evidence that predisposition incarceration time—the time spent in jail before a case is decided—may be longer under certain situations for Blacks and Natives. This is a dense, lengthy report with implications for the entire criminal justice process.

Carns, Teresa W.; Di Pietro, Susanne D.; Connors, Joan F.; Cotton, William T.; and Vandercook, Marcia. (1996). *Improving the Court Process for Alaska's Children in Need of Aid*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/cina96.pdf>).

Analysis of nearly 500 child-in-need-of-aid (CINA) cases from four courts—Anchorage, Bethel, Sitka and Fairbanks—with 60 structured interviews. Includes other data on caseloads for courts and the Alaska Division of Family Youth Services (DFYS) from the mid-1990s, along with recommendations.

Case, David S. (2003). *Alaska: Does "Indian Country" Matter?* Anchorage, AK: Alaska Federation of Natives.

A discussion of the legal status of tribes and the extent of criminal and civil jurisdiction of tribes at the end of 2003.

Case, David S. and Voluck, David A. (2002). *Alaska Natives and American Laws*, 2nd. Fairbanks, AK: University of Alaska Press.

A general description and survey of the interaction of Alaska Natives and American laws, focusing on the areas of land, human services, self-governance and subsistence. Legal evolution in these areas since the first edition of the book, which was published in 1984, has been marked. Through its examination of the laws and government structures surrounding Native life, the book provides a history as well as a legal overview of the Alaska Native community through the early twenty-first century.

Chiu, Arva Y.; Perez, Pedro E.; and Parker, Robert Nash. (Dec 1997). "Impact of Banning Alcohol on Outpatient Visits in Barrow, Alaska." *Journal of the American Medical Association* 278(21): 1775-1777. (<http://jama.ama-assn.org/cgi/content/abstract/278/21/1775> [abstract]).

Time-series analysis using clinic records in relation to community policy over a thirty-three-month period. When an alcohol ban was imposed, there was a substantial decrease in the number of alcohol-related clinic visits. When the ban was lifted, the number of visits increased; when it was reimposed, the number decreased.

Connors, Joan F.; Carns, Teresa W.; and Di Pietro, Susanne D. (1992). *Resolving Disputes Locally: Alternatives for Rural Alaska*. Anchorage, AK: Alaska Judicial

Council. (<http://www.ajc.state.ak.us/reports/rurj92.pdf>).

Report traces the discussion and developments in alternative dispute resolution from the late 1970s, referencing other studies, internal memoranda from various executive agencies over several administrations, applicable statutes, court rules and program evaluations. Provides in-depth look at three alternative dispute resolution approaches: the PACT in Barrow and the tribal courts in Minto and Sitka. The criteria for selecting these three for evaluation was that they had written records, had functioned for two years at least, and had had some interaction with state courts. Analysis found that none of these three depended heavily on outside funding or extensive resources. Each program functioned effectively in its area despite lack of resolution of sovereignty issues. In Barrow and Sitka, the structures also functioned with acceptance by non-Natives in heterogeneous communities. The report also provides a discussion of the legal, justice system and cultural contexts of this period in the early 1990s.

———. (1993). *Resolving Disputes Locally: A Statewide Report and Directory*. Anchorage, AK: Alaska Judicial Council. (<http://www.ajc.state.ak.us/reports/rjdirframe.htm>).

Comprehensive discussion of dispute resolution mechanisms throughout the state, including an historical discussion. Discerns a variety of different types of dispute resolution, with different relations to the state. Includes directory organized by region, with addresses, phone numbers and contact names. The directory is now outdated but the discussion is still pertinent. Valuable review of how various state

agencies developed working relationships with tribal structures.

Cornell, Steve; Taylor, Jonathan; Grant, Kenneth; Fischer, Victor; and Morehouse, Thomas. (1999). *Achieving Alaska Native Self-Governance: Toward Implementation of the Alaska Natives Commission Report, Final Report, AFN Version*. Anchorage, AK: Institute for Social and Economic Research, University of Alaska Anchorage. (<http://www.ankn.uaf.edu/afn.html>),

Detailed look at various governing structures and courts currently in place in Native Alaska, evaluating their strengths and providing clear discussion of legal complexities. Also analyzes models from elsewhere. The discussion takes as its starting point the desirability of strengthening self-governance.

Erlich, Richard. (Fall 1996). "Criminal Justice in the Northwest Arctic Borough." *Alaska Justice Forum* 13(3): 1, 6-8. (http://justice.uaa.alaska.edu/forum/13/3fall1996/a_nwarct.html).

A discussion of the particularities of justice system issues in the Northwest Arctic Borough based on historical evidence, research and personal observations made from the author's experience as a long-term resident and Superior Court judge.

Fabe, Dana. (2002). "Speech by Dana Fabe, Chief Justice, Alaska Supreme Court, to the Alaska Inter-Tribal Council."

Otherwise untitled speech provides succinct overview of Alaska Court System's approaches to working with tribal courts and other tribal organizations—history, policies,

projects. Sees a slow emergence of working relationships both here and in the nation as a whole.

Family and Youth Services Training Academy. (2003-2004). *Specialized Indian Child Welfare Act Training*. Anchorage, AK: School of Social Work, University of Alaska Anchorage.

Course materials used by the Alaska Office of Children's Services (formerly the Division of Family and Youth Services). Includes review of Indian Child Welfare Act (ICWA) articles from other sources, case studies for discussion; copies of opinions from major relevant cases; copy of agreement between Barrow Social Services Department and the Alaska Division of Health and Social Services.

Ford, Marilyn J. Ward. (Dec 1997). "Indian Country and Inherent Tribal Authority: Will They Survive ANCSA?" *Alaska Law Review* 14(2): 443-470.

Analyzes effect of the Alaska Native Claims Settlement Act (ANCSA) on the question of "Indian country" and inherent tribal authority in Alaska and looks at legislative history and judicial precedents. Concludes that the Ninth Circuit was correct in its ruling that ANCSA did not extinguish Indian country or inherent tribal sovereignty.

Goldsmith, Scott; Angvik, Jane; Howe, Lance; Hill, Alexandra; and Leask, Linda. (2004). *The Status of Alaska Natives Report 2004, Vols. I-III*. Anchorage, AK: Institute for Social and Economic Research, University of Alaska Anchorage. (<http://www.iser.uaa.alaska.edu/Home/ResearchAreas/statusaknatives.htm>).

A broad overview of data from the U.S. Census and other sources, looking at a wide spectrum of social welfare indicators: demographics, residency, income, employment, health, housing, education, with some summary discussion. Good basic reference compilation.

Heyman, Duane, ed. (2000). *Urban Rural Unity Study: "U. R. US"*. Anchorage, AK: Commonwealth North. (<http://www.commonwealthnorth.org/studygroup/urusfinal.pdf>).

Report advocating for better communication and interaction between urban and rural parts of state. Discusses need to protect subsistence, public safety, sovereignty and education and health issues. Identifies a number of successful programs in various areas. The report also makes the point that for some rural communities to survive, it may always be necessary for some residents to work elsewhere, sending back money.

Huskey, Lee. (1992). *The Economy of Village Alaska*. Anchorage, AK: Institute for Social and Economic Research, University of Alaska Anchorage.

Analysis of economies of rural villages, particularly in the western coastal region. Looks at fluctuations over the period from the late 1960s through the late 1980s. Divides the economies into subsistence, market and transfer sectors and examines the interplay of the different sectors. Also looks at income levels, population levels and composition, and poverty rates. Notes the rise in transfer payments over the twenty-year period and posits that the development of a money economy in the villages has been dependent on transfer payments. Discerns possible

limitations to sustained development of the market sector in villages and notes that the emergence of a cash economy can threaten subsistence.

Jaeger, Lisa. (2002). *Tribal Court Development: Alaska Tribes*, 3rd. Fairbanks, AK: Tanana Chiefs Conference. (<http://thorpe.ou.edu/AKtribalct/index.html>).

A handbook providing an overview of Alaska tribal court development, with a strong practical orientation. It contains a summary of the history of tribal courts since the mid-nineteenth century; a summary of the main jurisdictional issues; a description of some of the structures adopted in Alaska tribal courts, including appellate structures; discussions of procedures, court subject matter, judicial ethics; and management and enforcement issues. The book's overall purpose is to facilitate the functioning of tribal courts by providing a thorough and realistic examination of the context in which they can be established. The appendix contains sample tribal court ordinances.

Jolley, Patrick. (1990). *History of the VPSO Program*. Burnaby, BC: Simon Fraser University.

Provides a documented summary of the establishment and first decade of Alaska's Village Public Safety Officer (VPSO) program, including budget and personnel figures. Thorough discussion of underlying goals of the program and initial rationale for its components. Depends on interviews with people involved with program in the early 1990s and internal documents from the Alaska Department of Public Safety.

Justice Center, University of Alaska Anchorage. (1994). *North Slope Department of Public Safety Community Survey*. Report prepared for the North Slope Borough Department of Public Safety. Anchorage, AK : Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9406nsbpd/9406nsb.html>).

The results of a public opinion survey of North Slope residents conducted in 1993 regarding crime and public safety issues and attitudes. Residents from eight communities participated, but because there were only 165 responses to the survey questionnaire, the findings have to be viewed carefully.

———. (1995). *Alaska Public Safety Statewide Survey: Component Two of Alaska Public Safety Project*. Report prepared for the Alaska Department of Public Safety. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9506dps/9506dps2.html>).

Results from this survey, in which over 600 Alaska residents participated, indicated that anxiety about crime in Alaska communities was not particularly high. Moreover, many residents felt that crime levels in their communities, including rural communities, had stayed the same or were actually decreasing.

———. (1995). *Public Safety and Policing in Alaska Native Villages: Component Three of Alaska Public Safety Project*. Report prepared for the Alaska Department of Public Safety. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9506dps/9506dps3.html>).

Residents of twenty-eight rural communities, with predominately Alaska Native populations, were interviewed on-site about public safety issues. The picture that emerged was nuanced. Overall, interviewees expressed a strong level of satisfaction with the quality of life in their communities and did not reveal high levels of anxiety or fear. The disruptions caused by alcohol abuse were a strong concern; other types of crime, less so. Some frustration was expressed with the thin coverage provided by Alaska State Troopers but various communities also revealed localized approaches to dealing with public safety problems—some extra-legal. In addition to focusing on public safety issues, the study also gathered a great deal of descriptive information about the various communities: demographics, governing structures, and economies.

———. (Summer 1995). “Community Problems in Alaska: Public Perceptions.” *Alaska Justice Forum* 12(2): 1, 5-8. (http://justice.uaa.alaska.edu/forum/12/2summer1995/a_comm.html).

See also Justice Center, University of Alaska Anchorage (1995), *Alaska Public Safety Statewide Survey*.

A summary of the results of a statewide public opinion survey conducted by the Justice Center in 1994 on community and public safety problems.

———. (Fall 1995). “Public Safety and Quality of Life: Alaska Perceptions.” *Alaska Justice Forum* 12(3): 1, 6-8. (http://justice.uaa.alaska.edu/forum/12/3fall1995/a_pubsafe.html).

See also Justice Center, University of Alaska Anchorage (1995), *Alaska Public Safety Statewide Survey*.

A discussion of attitudes toward community quality of life as revealed in a Justice Center statewide survey conducted in 1994. The discussion includes results from the survey's rural sub-sample.

———. (Spring 1996). "Public Safety: Shared Responsibility." *Alaska Justice Forum* 13(1): 5-7. (http://justice.uaa.alaska.edu/forum/13/1spring1996/c_pubsafe.html).

See also Justice Center, University of Alaska Anchorage (1995), *Public Safety and Policing in Alaska Native Villages*.

Further discussion of results from the statewide public safety project conducted in 1994 by the Justice Center for the Alaska Department of Public Safety. The article focuses on the information derived from on-site interviews conducted in twenty-eight rural communities with predominately Alaska Native populations. Specific, localized arrangements for public safety are described.

———. (Summer 1996). "Indigent Legal Services in Alaska." *Alaska Justice Forum* 13(2): 1, 6-8. (http://justice.uaa.alaska.edu/forum/13/2summer1996/a_indigen.html).

An overview of the legal resources, both criminal and civil, available to Alaskans with low incomes. The article focuses primarily on the Public Defender's office and Alaska Legal Services.

———. (Summer 1996). "Sex Offender Treatment Program." *Alaska Justice Forum*

13(2): 4. (http://justice.uaa.alaska.edu/forum/13/2summer1996/d_sexoff.html).

This article describes results of a recidivism study of participants in the Sex Offender Treatment Program at Hiland Mountain Correctional Center from January 1987 to August 1995.

———. (Winter 1996). "Village Alaska: Community Characteristics and Public Safety." *Alaska Justice Forum* 12(4): 1, 6-8. (http://justice.uaa.alaska.edu/forum/12/4winter1996/a_village.html).

See also Justice Center, University of Alaska Anchorage (1995), *Public Safety and Policing in Alaska Native Villages*.

Discussion of the results from the village component of the public safety survey conducted statewide by the Justice Center in 1994. Twenty-eight communities were visited and residents interviewed about local governing structures, including public safety arrangements, the local economies, and attitudes toward crime and safety.

———. (Fall 1997). "Alaska Supreme Court Report: Fairness and Access Problems and Recommendations." *Alaska Justice Forum* 14(3): 1, 4-8. (http://justice.uaa.alaska.edu/forum/14/3fall1997/a_fairness.html).

See also Alaska Court System (1997).

A summary of the most important findings of the Alaska Supreme Court Advisory Committee on Fairness and Access, which, over a period of twenty months in 1996 and 1997, investigated the issues of rural access, language and culture, jury composition, disparate confinement, the

court as employer and consumer use of the court. Accompanying this article is a sidebar providing an extensive sampling from transcripts of public testimony given to the committee.

———. (Fall 1998). “Probation Revocation and Ethnicity.” *Alaska Justice Forum* 15(3): 3-6. (http://justice.uaa.alaska.edu/forum/15/3fall1998/c_prob.html).

A review of a limited study of felony probation revocation cases undertaken by the Alaska Judicial Council as part of the work of the Supreme Court Advisory Committee on Fairness and Access. The study, which considered only 154 cases, found that the reasons for revocation of probation status for Alaska Natives did not differ from those underlying revocation for non-Native offenders. The study did find, however, some difference by ethnicity for the original conditions of probation.

———. (1998). *Bridging Justice Communities: A Professional Workshop Curriculum for Alaska Natives*. Anchorage, AK: Justice Center, University of Alaska Anchorage.

Despite the complicated legal and justice questions which present themselves regularly in the life of the Alaska Native community, Native employment in justice system positions—in the bureaucracies and agencies which administer the state and federal justice systems—is low. The program outlined in this document presents a twelve-day to two-week educational workshop for Alaska Native participants focusing on opportunities for careers in the justice system.

———. (Winter 2000). “Victimization Among American Native Peoples.” *Alaska Justice Forum* 16(4): 2-3. (http://justice.uaa.alaska.edu/forum/16/4winter2000/b_nativevic.html).

Article based on national figures released by the Bureau of Justice Statistics, showing the degree to which Native peoples are victims of crime. The data represent one of the rare statistical looks at how crime affects Native Americans. Of particular note for Alaska, Alaska Natives form a notably higher percentage of murder victims in the state than Native Americans do in other states. From 1976 to 1996, they were twenty-eight percent of the total number of murder victims—a percentage substantially higher than that of the Native percentage in the general population.

———. (Summer 2001). “Emmonak Juveniles and the Elders’ Group.” *Alaska Justice Forum* 18(2): 1, 3-8. (http://justice.uaa.alaska.edu/forum/18/2summer2001/a_emmonak.html).

See also Schafer & Knox (1997).

Results of an initial evaluation of an Emmonak project, focusing on the background to its establishment, its goals, its implementation and its first year and a half of activity. Emmonak established the Elders’ Group Project with the Alaska Division of Juvenile Justice in an effort to keep misbehaving juveniles within the community while their offenses were addressed by elders in ways that would incorporate Yup’ik community values while avoiding formal justice system processing. The program was grant-funded. The article provides an overview of the goals and design of the program.

———. (Summer 2002). “COPS Funds in Alaska.” *Alaska Justice Forum* 18(2): 1, 6-7. (http://justice.uaa.alaska.edu/forum/19/2summer2002/a_cops.html).

A discussion of COPS—community-oriented policing services—in Alaska. Includes a list of COPS funding recipients, by community and department, for 1994-2002.

———. (Fall 2002). “Access to Legal Services for Alaskans With Low Incomes.” *Alaska Justice Forum* 19(3): 1, 4-7. (http://justice.uaa.alaska.edu/forum/19/3fall2002/a_access.html).

A look at the availability of legal services in Alaska for those with low incomes in 2002. For rural Alaskans, criminal defense representation was still primarily a function of the Public Defender and Office of Public Advocacy, since very few attorneys in rural Alaska practice criminal law. Civil legal services were being provided by a patchwork of grant-funded agencies such as Alaska Legal Services, whose funding is often tied to federal legislation—and political currents. The article also discusses the pro bono situation with regard to the work of the various agencies.

———. (Spring 2005). “Victimization of Native Americans.” *Alaska Justice Forum* 22(1): 11. (http://justice.uaa.alaska.edu/forum/22/1spring2005/d_nativevictims.html).

Article based on study by Bureau of Justice Statistics, showing that Alaska Natives and American Indians are victims of violent crimes at twice the rate of the general population.

———. (Winter 2005). “COPS Funds in Alaska.” *Alaska Justice Forum* 21(4): 2-3. (http://justice.uaa.alaska.edu/forum/21/4winter2005/c_copsfunds.html).

A discussion of the federal COPS program—community-oriented policing services—in Alaska, with a table showing allocation of funds from 1994 through 2004.

King, Rachel. (Spring 1998). “Criminal Defense in Rural Alaska.” *Alaska Justice Forum* 15(1): 1, 5-8. (http://justice.uaa.alaska.edu/forum/15/1spring1998/a_ruraldef.html).

A detailed look at criminal defense in rural courts from the perspective of the author’s experiences as a public defender from 1991 to 1994 in both southeast and northwest Alaska. The article focuses strongly on the pragmatics of criminal defense work in remote spots, the budget constraints, the problems posed by geography and weather and travel. Provides a wealth of particular details that can provide a context for more abstract studies.

Landen, Michael G.; Beller, Michael; Funk, Elizabeth; Porbst, Michael; Middaugh, John; and Moolenaar, Ronald L. (Dec 1997). “Alcohol-Related Injury Death and Alcohol Availability in Remote Alaska.” *Journal of the American Medical Association* 278(21): 1755-1758. (<http://jama.ama-assn.org/cgi/content/abstract/278/21/1755> [abstract]).

Limited study revealed that both total injury mortality and alcohol-related injury mortality were higher among Alaska Natives from wet villages than from dry. The same difference was not found with non-Natives.

Lerman, Averil. (Spring 1996). "The Trial and Hanging of Nelson Charles." *Alaska Justice Forum* 13(1): 1, 8-12. (http://justice.uaa.alaska.edu/forum/13/1spring1996/a_nelson.html).

An account based on historical research of the trial and execution for murder of a Native fisherman, Nelson Charles, in Juneau in 1939. This was one of the last executions in Alaska, which abolished the death penalty in 1957. The article looks at the circumstances surrounding the crime, the trial and the execution.

Mander, Anthony M.; Atrops, Martin E.; Barnes, Allan R.; and Munafò, Roseanne. (1996). *Sex Offender Treatment Program: Initial Recidivism Study*. Anchorage, AK: Offender Programs, Alaska Department of Corrections; and Alaska Justice Statistical Analysis Unit, Justice Center, University of Alaska Anchorage. (Available from Alaska Department of Corrections.) (<http://justice.uaa.alaska.edu/research/1990/9419sotp/9602sotp.html> [executive summary only]).

The results of a recidivism study of sex offenders who participated in the Department of Corrections treatment program at Hiland Mountain Correctional Facility from 1987 through 1995. The report provides an overview and history of sex offender treatment in Alaska as well as a literature review of other studies and findings on this area of treatment. The Alaska study, which was the first conducted of the treatment program, found that any level of treatment achieved resulted in less recidivism, with the longer the period of treatment, the lower the recidivism. The study also noted the high percentage of Alaska Natives in the program and the history of alcohol and

substance abuse presented by many sex offenders. The majority of offenders in the program were guilty of assaulting children. The study discusses the program's cost benefits as well as the implications of its findings for probation and parole.

Marenin, Otwin. (Summer 1991). "Patterns of Reported Crime in Alaska Villages." *Alaska Justice Forum* 8(2): 1, 4-6, 8.

A study of crime in five unnamed Athabaskan villages in central Alaska from 1985 through 1990. A total of 228 criminal violations were reported. Of these, at least 126 were crimes against persons. In addition to an analysis of the characteristics of the reported crimes, the article includes extracts from actual Village Public Safety Officer (VPSO)/trooper reports that provide concrete details of individual incidents and a sense of context. The article raises questions about labeling and charging offenses.

———. (1992). "Explaining Patterns of Crime in the Native Villages of Alaska." *Canadian Journal of Criminology* 34(3-4): 339-368.

One of the more in-depth looks at actual crimes in Alaska Native villages. As part of the background work for an in-depth study of two villages, the author looked at case files from five unnamed Athabaskan villages and conducted interviews with residents, troopers and representatives of Native organizations. The article presents details of crimes in the villages from 1985 through 1991 in an attempt to discern how much and what types of crime occur. In the more extensive look at the two villages, the author observed patterns of dispute resolution among villagers. The article presents more sense of the actual intricacies

of village life and the ways crime is handled than most studies in this area.

———. (1994). “Conflicting Perspectives on the Role of the Village Public Safety Officer in Native Villages in Alaska.” *American Indian Quarterly* 18(3): 297-319. (<http://www.questia.com/PM.qst?a=o&d=76962296>).

McDiarmid, G. Williamson; Goldsmith, Scott; Killorin, Mary; Sharp, Suzanne; and Hild, Carl. (1998). *Expanding Job Opportunities for Alaska Natives: Interim Report*. Anchorage, AK: Institute for Social and Economic Research, University of Alaska Anchorage. (<http://www.iser.uaa.alaska.edu/publications/client/afnjobs/afnjobs.htm>).

A look at current Native employment and employment trends and a discussion of approaches to expanding Native employment. Includes an analysis of the initial effects of welfare reform; in-depth discussions of various employment fields in both the private and public sectors; an examination of the barriers to increased Native employment in various fields; and a review of organizations that promote Native employment.

McDowell Group. (2003). *A Survey of Native Perspectives on Alaska Issues*. Anchorage, AK: McDowell Group. (<http://www.firstalaskans.org/461.cfm> or http://www.ak2020.org/pdfs/A_Survey_of_Native_Perspectives_on_Alaska_Issues.pdf).

Results of a statewide telephone survey of 500 Alaska Native households in spring 2003. Households were randomly sampled based on a proportional statewide representation of Alaska Native groups as presented in the U.S. Census. Respondents

identified subsistence most often as the most important statewide issue for Alaska Natives, followed by education, jobs and substance abuse. At the community level the same four issues dominated but in a different order, with jobs considered the most important. Significantly more Natives perceived recent improvements in their lives and anticipated future improvements than perceived that their lives had worsened or foresaw a worsening of their situations. The survey is valuable because it is one of the few statistical studies on this particular mix of issues that was constructed to give proportional representation to different Native cultural groups. It covered attitudes toward subsistence, education, economics, quality of life, mobility, gender issues, leadership, and the environment.

Mitchell, Donald Craig. (Dec 1997). “Alaska Native Village of Venetie: Statutory Construction of Judicial Usurpation? Why History Counts.” *Alaska Law Review* 14(2): 353-441.

Review of the legislative history determining sovereignty status of Alaska Natives, analyzing congressional intent behind legislation, executive branch application of this intent and judicial interpretation of intent. Concludes that a series of judicial rulings not incorporating sufficient review of congressional intent in legislation on Alaska Natives and land issues resulted in mistaken identification of “Indian country” in Alaska by the Ninth Circuit.

———. (2001). *Take My Land, Take My Life: The Story of Congress’s Historic Settlement of Alaska Native Land Claims, 1960-1971*. Fairbanks, AK: University of Alaska Press.

Detailed, in-depth history of the Alaska Native Claims Settlement Act, from the point of statehood through 1971, with some discussion of the land situation at the end of the century.

Moras, Antonia. (Summer 1998). "Native Employment in the Alaska Justice System." *Alaska Justice Forum* 15(2): 1, 5-8. (http://justice.uaa.alaska.edu/forum/15/2summer1998/a_native.html).

A look at the number of Alaska Natives and American Indians employed by Alaska justice system agencies, both state and federal. The examination revealed that the number of Alaska Natives employed in 1998 was still low and tended to be concentrated in lower level, non-policy-making positions. The article also contains information on recruitment approaches, and testing and hiring practices.

———. (2004). "The Felony Case Process in Alaska: The Judicial Council Analysis." *Alaska Justice Forum* 20(4): 3-7. (http://justice.uaa.alaska.edu/forum/f204wi04/c_felonyprocess.html).

See also Carns, Cohn & Dosik (2004).

A review of the felony study done by the Alaska Judicial Council that presents the most important findings, reviews the statistical model used, and provides some background context for the findings, especially those related to public attorneys and predisposition incarceration. The article also highlights those points at which the felony study presents major questions about the system that need further study.

Morris, Denise. (2001). *Administration of Justice Issues Faced by Alaska Natives*. Anchorage, AK: Alaska Native Justice Center.

Discussion of problems perceived in five areas: sentencing and incarceration rates; inadequate funding for legal assistance in both civil and criminal justice areas; jurisdictional ambiguities related to local responsibility; lack of police protection and funding; and underemployment of Natives in the justice system. Presents specific case descriptions; budget figures and other concrete information illustrating the impact of some of the jurisdictional and structural problems.

Morrow, Phyllis. (Summer 1993). "A Sociolinguistic Mismatch: Central Alaskan Yup'iks and the Legal System." *Alaska Justice Forum* 10(2): 1, 5-8. (http://justice.uaa.alaska.edu/forum/10/2summer1993/a_socio.html).

An examination, based on courtroom observation, of cultural and linguistic factors that result in miscommunication between English speakers and native Yup'ik speakers in legal and justice contexts.

———. (Winter 1994). "Legal Interpreting in Alaska." *Alaska Justice Forum* 10(4): 1, 3-6. (http://justice.uaa.alaska.edu/forum/10/4winter1994/a_interp.html).

A discussion of some of the issues involved in interpreting in legal and court contexts, with particular reference to the Alaska situation. Sidebars to this article present examples drawn from court and government hearing transcripts in which Native language speakers were misinterpreted or

misunderstood the communication of the court.

Napoleon, Harold. (1991). *Yuuyaraq: The Way of the Human Being*. Fairbanks, AK: Center for Cross-Cultural Studies, University of Alaska Fairbanks.

A personal statement, written from prison, of the author's reflections on the problems plaguing Alaska Native communities. Napoleon views alcoholism as both a physical and spiritual illness. Much of the piece is devoted to summarizing the impact of the coming of outsiders on Native society. In the author's view, the enormous changes that occurred as a result of the collision of cultures, particularly the mass deaths from disease which occurred early in the twentieth century, led to a loss of continuity in culture and a mass depression, which have contributed to widespread alcoholism. Napoleon believes it is imperative for communities and addicts to tell their stories in order to recover. He makes specific recommendations, including using of talking circles for recovery. He asks for the state to encourage Native self-government and advocates the establishment of specifically Native treatment programs and correctional institutions with a limited lifespan of only twenty years.

National Center on Addiction and Substance Abuse at Columbia University. (2001). *Shoveling Up: The Impact of Substance Abuse on State Budgets*. New York: National Center on Addiction and Substance Abuse at Columbia University. (<http://www.casacolumbia.org/pdshopprov/shop/item.asp?itemid=26>).

Intensive, wide look at state budgets, including Alaska's, to discern costs of alcohol and substance abuse. Methodology and gathering of information were as refined and thorough as possible. Over half the 183-page report is notes and discussion of the survey methodology. Presents state by state analysis with charts showing the percentage of each budget dollar going to treatment, prevention, etc.

Rieger, Lisa. (1994). *Notice and Intervention in ICWA CINA Cases 1992*. Anchorage, AK: Justice Center, University of Alaska Anchorage.

A preliminary investigation of the relationship between the notice requirement and intervention in a sample of Indian Child Welfare Act (ICWA) Child in Need of Aid (CINA) cases in Alaska in 1992. A randomized sample by geographic district of all active Alaska Native children cases drawn from the "Prober" computerized database of the Alaska Division of Family and Youth Services (DFYS) constituted the study population. Data collection occurred through review of social workers' case files in Juneau, Fairbanks, Bethel, and Anchorage.

———. (May 1994). "Rural Courts in Alaska: Keeping Peace—The Melding of Western and Native Values and Procedures." *Journal of Contemporary Criminal Justice* 10(2): 123-137.

A look at two manifestations of the judicial function in rural Native Alaska: the magistrate system and tribal courts. The discussion of the state magistrate system focuses specifically on three magistrates, of Eskimo ethnicity: Sadie Brower Neakok,

Nora Guinn and Lowell Anagick. The discussion of the tribal courts highlights the ways in which the courts differ from western structures. The article includes some discussion of tribal judicial structures in other parts of the U.S.

———. (1996). “Child Welfare and Alaska Natives.” In Sharon Araji, editor, *Society: An Alaskan Perspective*, revised printing, pp. 151-166. Dubuque, IA: Kendall Hunt.

This article discusses problems encountered in delivery of child welfare services to Alaska Natives. In spite of the recognition of tribal interests represented by the Indian Child Welfare Act (ICWA), Alaska courts follow the standards of the middle-class individuals who make the decisions to determine whether removal of Native children is “appropriate.” Thus, definitions and evaluations of what is an acceptable family unit, what is acceptable behavior on the part of parents seeking custody of their children, and what is the appropriate relationship between social service deliverers and their clients reflect the values and culture of the white legislators who wrote the act, non-Native expert witnesses, social workers and psychiatrists who render opinions about what is in “the best interests of the child,” and the non-Native judges who make the final decisions.

———. (Winter 2001). “Circle Peacemaking.” *Alaska Justice Forum* 17(4): 1, 6-7. (http://justice.uaa.alaska.edu/forum/17/4winter2001/a_circle.html).

See also Rieger & Kandel (1999).

A look at the circle sentencing process adopted in conjunction with the work of

the local magistrate in Kake. The article illuminates how a concept which has arisen elsewhere, such as circle sentencing, can be adapted to the particularities of a community.

Rieger, Lisa and Brown, Caroline. (2001). *The Changing Legal Environment and ICWA in Alaska: A Regional Study*. Anchorage, AK: Justice Center, University of Alaska Anchorage.

A detailed analysis of the legal and social environment created by the Indian Child Welfare Act (ICWA) in Alaska. The study contains an historical review of ICWA and the issues it presents for Alaska as well as an overview of the most relevant state and federal cases. An ethnographic analysis explores how two Native groups—the Tanana Chiefs Conference and the Native Village of Eklutna—work to resolve child welfare issues in the context established by ICWA. The study also includes recommendations to the Bureau of Indian Affairs that strongly advocate for support of local, village-level efforts, including tribal courts, in handling children’s cases.

Rieger, Lisa and Kandel, Randy. (1999). *Child Welfare and Alaska Native Tribal Governance: A Pilot Project in Kake, Alaska—Report of Findings*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9910kake/9910kake.html>).

This report details research on child welfare decision-making in Kake in the context of a proposed ordinance for the establishment of an organized tribal court in the village. The tribal court did not, in fact, come into being at that time, but the researchers were able

to follow the development of a different local decision-making approach—circle sentencing. The research revealed that welfare issues and problems were handled through a variety of informal and formal methods that reflected Tlingit cultural emphases. Ideas arising from outside, such as circle sentencing, were selectively adapted.

Rieger, Lisa; Wood, Darryl S.; and Jennings, Michael. (2002). *Alaska Native Technical Assistance and Resource Center: Final Report*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9915antar/9915antarreport.html>).

Review of a three-year project coordinated by the Justice Center at the University of Alaska Anchorage and funded by the Bureau of Justice Assistance. The project involved an attempt to establish a different model for rural villages in working with federal agencies, in which the direction and impetus behind programs would be locally generated, with the university providing a technical assistance and clearinghouse function. The initial group involved the Justice Center and four rural communities: Wainwright, Gulkana, Kotlik and Yakutat. Representatives from the communities were chosen by village leaders. Through a series of workshops, the Justice Center provided training and guidance in problem-solving techniques. This report is essentially an analysis of the administration of the grant, and, as such, gives thoughtful practical insights into the difficulties of using federal grant monies effectively on a relatively short-term basis.

Riley, John. (Winter 2000). "Obstacles to Minority Employment in Criminal Justice: Recruiting Alaska Natives." *Alaska Justice Forum* 16(4): 1, 4-7. (http://justice.uaa.alaska.edu/forum/16/4winter2000/a_obstacles.html).

Results of study looking at possible reasons behind the low rates of Alaska Native employment in Alaska justice system agencies. Certain occupations, particularly corrections officer positions, were found to rank low in desirability among Alaska Natives surveyed. Work with focus groups of Natives revealed some underlying attitudes toward work that may be associated with the low rates of employment in the justice system. These attitudes can be subsumed under three themes: the desire to help others; a desire for harmony in the workplace; and a wish for a flexible schedule. The article contains excerpts from oral discussion that further develop these themes. A sidebar with employment figures for Natives in state justice agencies accompanies the article.

———. (2002). "Minority Recruitment in Criminal Justice: Targeting Alaska Natives." *Criminal Justice* 2(3): 257-276.

The research reported here focused on the attitudes of Alaska Natives toward criminal justice careers. The work used focus groups to identify and describe specific preferences and perceptions that constitute barriers to greater recruitment of Alaska Natives.

Riveland, Chase; Modley, Phyllis; Ney, Becki; Murray, Christopher; Bynum, Tim; Robertson, Jim; Carpenter, Carole; and Lindsay, Margot. (1999). *A Preliminary Report to the Criminal Justice Assessment*

Commission. Anchorage, AK: Alaska Criminal Justice Assessment Commission.

Analysis done by outside consultants as part of the initial work of the Criminal Justice Assessment Commission. Overall review of the Alaska justice system, with a strong focus on corrections, compiled through interviews and examination of written documents. The Alaska Native situation is given particular discussion. Contains summary timeline information not seen elsewhere, tables of federal programs and funds directed toward Alaska. Also presents an evaluation of gaps in justice information systems.

Roberts, Justin. (2004). *Village Justice: A History of Rural Public Safety Services in Alaska*. Anchorage, AK: Alaska Federation of Natives.

A review of the history of law enforcement in Alaska, with special attention paid to the development of the Village Public Safety Officer (VPSO) program—its funding, oversight, turnover, training, salaries and pilot projects. Some information is also provided on the federal Community Oriented Policing Services (COPS) program in Alaska.

Roberts, Justin. (Apr 2005). “Cooperative Policing: Cross-Deputization in Alaska.” Paper prepared for the Alaska Federation of Natives, Anchorage, AK. (Available from Alaska Federation of Natives.)

Summary review of issues presented by cross-deputization of police officers, with particular focus on possibility of cross-deputizing state and tribal officers. There seems to be both state and federal legal authority to institute such arrangements, but

problems of training and certification and liability need to be resolved.

———. (Winter 2005). “Improving Public Safety in Rural Alaska: A Review of Past Studies.” *Alaska Justice Forum* 21(4): 1, 3-8. (http://justice.uaa.alaska.edu/forum/21/4winter2005/a_ruralalaska.html).

An overview of recommendations made in various studies and evaluations of the Village Public Safety Officer (VPSO) program since the early 1980s. The piece summarizes ideas made regarding several aspects of the program, including officer turnover, supervision, and training.

Roberts, Justin and Justice Center, University of Alaska Anchorage. (Winter 2005). “Studies, Reports, and Documents Relevant to the VPSO Program.” *Alaska Justice Forum* 21(4): 6-7. (http://justice.uaa.alaska.edu/forum/21/4winter2005/d_vpsobib.html).

A selected bibliography of articles and other works containing information or discussion relevant to the Alaska Village Public Safety Officer (VPSO) program.

Schafer, N. E. (Spring 1998). “Juvenile Referrals: An in-Depth Look.” *Alaska Justice Forum* 15(1): 2-5. (http://justice.uaa.alaska.edu/forum/15/1spring1998/b_juvenile.html).

See also Schafer (1998), *A Comparison by Race of Juvenile Referrals in Alaska*.

A further examination of the issue of disproportionately high referrals of minority youth, including Alaska Natives, to the juvenile justice system. The article presents an in-depth look at the case histories of

thirty-three juveniles with multiple referrals. Among the Alaska Native juveniles, many had a history of referrals beginning at very young ages and most came from family situations that were highly unstable. It was noted that juveniles from rural communities sometimes received referrals for behavior that would have been handled informally in urban settings.

———. (1998). *A Comparison by Race of Juvenile Referrals in Alaska: Phase II Report*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9501juv/9501juvb.html>).

An in-depth look at a stratified sample of juvenile files to identify factors that might be associated with the decision to refer a juvenile to the Division of Family and Youth Services (now the Division of Juvenile Justice) for formal processing in the juvenile justice system. This and the previous part of the two-phase study found that minority youth, including Alaska Natives, were more likely to be referred to the system than Caucasian youth. Native youth were also more likely to accumulate alcohol-related referrals, particularly at the village level, and it seems that Alaska Native juveniles may be receiving referrals in rural areas for behaviors that would be ignored or dealt with more informally by urban police. Another finding was that youths who had multiple referrals tended to have more unstable home lives than those with fewer referrals—no matter what the racial or ethnic identities.

Schafer, N. E. (Nov 1998). "Disproportionate Minority Processing of Females: A Comparison of Native, Black and White Females." Paper presented at the annual

meeting of the American Society of Criminology, Washington, DC. (Available from Justice Center, University of Alaska Anchorage.)

An examination of four years of statewide female juvenile referral data showed that Native girls are referred in disproportionate numbers and tend to have lengthier records. Underage drinking was one of the most frequent referral reasons. Because many of the Native females were from rural communities, the disproportionate referrals may be a factor of the smallness of the communities, in which misbehavior is more readily noticed. Examination of a subset of files for girls with multiple referrals showed that the actual behavior was often not particularly grave and that many of the girls with multiple referrals came from very unstable backgrounds.

———. (Jul 2000-Aug 2000). "Community Jails in Alaska." *American Jails* 14(3): 9-17. (<http://justice.uaa.alaska.edu/research/1990/9902jails/9902nes.html> [abstract]).

A general description of the operation of Alaska's community jails, location, size and admissions.

———. (2000). *Alaska Community Jails: Jail Profiles*. Anchorage, AK: Justice Center, University of Alaska Anchorage.

Highly detailed information derived from billing sheets from 1993-1999 on fifteen community jails (Barrow, Cordova, Craig, Dillingham, Haines, Homer, Bristol Bay Borough, Kodiak, Kotzebue, Petersburg, Seward, Sitka, Unalaska, Valdez and Wrangell). Each jail profile shows the number of admissions by month, time of day

and day of the week; the charge category for admission; the gender breakdown for admissions and bedspace utilization; and the duration of detention by specific charges. The overall analysis revealed that while there is regional variation, public order charges, including drug and alcohol-related charges and protective custody holds, were, overall, the most frequent cause for admission.

———. (2000). *Protective Custody Holds in Alaska's Community Jails*. Report prepared for the National Institute of Justice. Anchorage, AK: Community Jails Statewide Research Consortium, Justice Center, University of Alaska Anchorage.

A presentation of data from fifteen community jails regarding protective custody holds—essentially detention of public inebriates. The report describes the jails and the procedures for such holds under state statute and presents figures on protective custody holds: number per jail, number by season, number by time of day, ages of those held, duration of hold. Taken as a whole, the data provide a detailed picture of the resources needed.

Schafer, N. E. (Mar 2002). "Mayberry It's Not: The Public Inebriate in Alaska's Rural Jails." Paper presented at the annual meeting of the Academy of Criminal Justice Sciences, Anaheim, CA. (Available from Justice Center, University of Alaska Anchorage.)

Protective custody statutes that require police to take public inebriates into protective custody place a strain on the resources of small rural facilities. An examination of seven years of jail admission data for twelve rural Alaska jails (Barrow, Cordova, Craig, Haines, Homer, King Salmon, Kodiak,

Petersburg, Seward, Sitka, Valdez and Wrangle) revealed that protective custody holds consume much time as well as other resources for these small facilities. In some places the protective custody holds were as high as seventeen or eighteen percent of all jail admissions. The paper provides data on numbers of individuals held and duration of protective custody holds as well as some general cost information.

Schafer, N. E. and Curtis, Richard W. (Fall 1997). "Minorities Referred at Higher Rates: Analysis of DFYS Data." *Alaska Justice Forum* 14(3): 2-4. (http://justice.uaa.alaska.edu/forum/14/3fall1997/b_minority.html).

See also Schafer, Curtis & Atwell (1997).

A discussion of data showing that minority youth, including Alaska Natives, are referred to the juvenile justice system at disproportionately high rates. The article is primarily descriptive; it does not examine possible reasons behind the disparities.

Schafer, N. E.; Curtis, Richard W.; and Atwell, Cassie. (1997). *Disproportionate Representation of Minorities in the Alaska Juvenile Justice System: Phase I Report*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9501juv/9501juva.html>).

The first part of a two-phase study looking at referrals to the juvenile justice system. Because the referral of a juvenile marks the beginning point in the formal juvenile system process and because it is known that minority youths are confined in juvenile facilities in numbers disproportionate to their presence in the general population, it

was thought that an examination of the initial referral might show if the disparity exists from the beginning. The study revealed that minority youth, including Alaska Natives, are in fact referred to the formal system in disproportionate numbers.

Schafer, N. E. and Knox, Corey. (2001). *Evaluation of a JAIBG-Funded Project: Emmonak Elders' Group*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/2000/0009emmonak/0009emmon.html>).

Evaluative review of a restorative justice project designed to permit the Emmonak Elders' Group to hear non-felony juvenile cases and impose culturally-relevant sanctions.

Schafer, N. E. and Martin, Pamela. (2001). *Evaluation of a JAIBG-Funded Project: Voice and Location Telephone Monitoring of Juveniles*. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/2000/0010kap/0010kap.html>).

A review of a project conducted in the Matanuska Valley region that used telephone monitoring with juveniles on probation. Results with a small pilot group of juveniles were mixed.

Schafer, N. E. and Moras, Antonia. (May 1994). "Delivering Justice in Rural Alaska: The Last Frontier." *Journal of Contemporary Criminal Justice* 10(2): 109-122.

A brief overview of the delivery of justice services in rural Alaska. The article focuses

on the problems and characteristics that are unique to Alaska.

Sealock, Elaine. (1997). *Trends in Alaska Native Death Rates, 1980-1995*. Anchorage, AK: Alaska Area Native Health Service.

Segal, Bernard. (Sep 1998). "Drinking and Drinking-Related Problems Among Alaska Natives." *Alcohol Health & Research World* 22(4): 276-280. (<http://www.niaaa.nih.gov/publications/arh22-4/toc22-4.htm>).

Brief overview of what is known to western scientists about alcoholism and related problems among Alaska Natives—essentially a compilation of other references.

Segal, Bernard; Burgess, Donna; DeGross, Dennis; Frank, Patrick; Hild, Carl; and Saylor, Brian. (1999). *Alaska Natives Combating Substance Abuse and Related Violence Through Self-Healing: A Report for the People*. Anchorage, AK: Center for Alcohol and Addiction Studies and Institute for Circumpolar Health Studies, University of Alaska Anchorage. (<http://www.ichs.uaa.alaska.edu/caas/projects/afn.htm>).

Study looks at origins of the current substance abuse problem, tying it to the cultural disruptions occurring with the advent of western culture, and describes a condition of cultural distress and social disintegration. The discussion incorporates previous research in advocating for reliance on self and taking responsibility for own community. Includes summaries of various programs around the state; incorporates many points from the work of Canadian author Rupert Ross, who has worked with indigenous peoples in Canada. Provides a particular look at the problems of women

and alcohol abuse and the connection between substance abuse and violence, including sexual abuse. Also looks at Fetal Alcohol Syndrome (FAS), noting much is still unknown about this syndrome within the Alaska Native world.

State of Alaska. (2001). *Millennium Agreement Between the Federally Recognized Sovereign Tribes of Alaska and the State of Alaska*. Office of the Governor, State of Alaska. (http://www.aipc.org/images/PDF/millennium_agreement.pdf).

Agreement—defining itself as a “policy directive”—outlines a framework for establishing government-to-government relationships between the state and the tribes. Acknowledges the sovereignty of the signatory parties and their right to self-determination and self-governance. Agreement does not in itself address substantive issues or create or change legal rights, but rather provides for communication between the state and the tribes as sovereign entities.

Taylor, Ron and Jones, Loren. (1999). *Alaska Alcohol Safety Action Program: ICHS Efficacy Study Report*. Anchorage, AK: Institute for Circumpolar Health Studies, University of Alaska Anchorage. (<http://www.ichs.uaa.alaska.edu/ichs/projects/archives/asap.htm>).

Study undertaken for the Alaska Division of Alcohol and Drug Abuse to measure the effectiveness of the Alcohol Safety Action Program (ASAP) in four locations in the state: Anchorage, Juneau, Fairbanks and the Mat-Su Valley. The ASAP provides case management and monitoring in DWI and other alcohol-related misdemeanor cases in

which the defendant is required to complete alcohol education or treatment as part of the sentence. The study used alcohol offender and treatment data to describe arrest, adjudication, intake and treatment processes. A number of risks factors were found to be associated with individuals who committed a later alcohol offense after involvement with the program. The analysis revealed that completing treatment—regardless of the type of treatment—was associated with longer time without a re-offense, indicating that aggressive case management might be warranted. The study also produced an enhanced data base that can be used in future studies.

Trani, Bobetta L. and Hamilton, Steven L. (2000). *Underage Drinking in Alaska Needs Assessment*. Juneau, AK: C & S Management Associates. (<http://health.hss.state.ak.us/djj/information/underage/UnderageDrinkingFullReport.pdf>).

A lengthy examination of juvenile alcohol consumption issues, focusing on statutes and regulations; law enforcement efforts; court system responses to minor consuming; substance abuse treatment trends and resources; prevention, education and advocacy efforts; and data resources. The study looked at statewide efforts and data and conducted more in-depth inquiries, including interviews, for a sample of seventeen communities. These included a number of diversely populated villages as well as more urban areas. The report, which includes an executive summary, is very comprehensive, providing a detailed broad cross-system view of juvenile alcohol problems and their effects on communities.

Trostle, Lawrence C. (Spring 1992). "Village Public Safety Officers: A Further Look." *Alaska Justice Forum* 9(1): 5-8.

The article presents statewide data on the non-criminal work of the VPSOs from the early 1990s, offering an extensive presentation of the types of non-law-enforcement tasks undertaken by VPSOs. In the state as a whole in 1990, close to 90 percent of VPSO service calls were non-enforcement-related, although figures varied widely on a regional and village level.

Trostle, Lawrence C. and Angell, John E. (May 1994). "Policing the Arctic: The North Slope of Alaska." *Journal of Contemporary Criminal Justice* 10(2): 95-108.

A look at the North Slope Borough Department of Public Safety. The department initially sought to incorporate a broadly-based community public safety approach but has evolved into a more typically control-oriented police department in the western model.

Trostle, Lawrence C.; McShea, Darren; and Perras, Russell. (Winter 1992). "The Nonenforcement Role of the VPSO." *Alaska Justice Forum* 8(4): 1, 9-12. (http://justice.uaa.alaska.edu/forum/08/4winter1992/a_vpso.html).

An examination of the non-enforcement work of Village Public Safety Officers (VPSOs)—that is, work involving public safety and other community issues other than the handling of criminal violations. The study looked on 13 villages in the Bristol Bay area. Of the reports made by VPSOs in 1989 and 1990, 59 percent involved non-criminal situations. The article provides

extensive summary information on these cases.

U.S. Commission on Civil Rights. (2003). *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*. U.S. Commission on Civil Rights. (<http://www.usccr.gov/pubs/na0703/na0204.pdf>).

A budgetary and funding analysis of programs and needs of Indians and Alaska Natives. Focuses on programs administered by the Departments of the Interior, Justice, Housing and Urban Development, Energy, Agriculture, and Health and Human Services. Report finds extreme underfunding, crippling in its effects among almost all areas examined; notes the lack of infrastructure and finds that promoting self-determination among tribes is required. Also notes lack of accurate records of expenditures on Native American programs. Also notes that the growth in Native American populations in urban areas presents service delivery problems.

Wakeling, Stewart; Jorgensen, Miriam; Michaelson, Susan; and Begay, Manley. (2001). *Policing on American Indian Reservations*. National Institute of Justice, U.S. Department of Justice. (<http://www.ncjrs.org/pdffiles1/nij/188095.pdf>).

Overview of reservation policing. Includes a history of American Indian policing. Report does not discuss policing among Alaska Natives but some of the observations and recommendations may be applicable to Alaska. Finds that economic development in general occurs when tribes develop their own institutions, but also that policing has remained outside the growing move toward self-construction of institutions.

The concept that tribes themselves might devise policing institutions uniquely suited to particular cultures is not common.

Wan, Andrea V. W. (Jun 2004). "The Indian Child Welfare Act and Inupiat Customs: A Case Study of Conflicting Values, With Suggestions for Change." *Alaska Law Review* 21(1): 43-75.

Overview of the relation between the Indian Child Welfare Act (ICWA) and traditional Inupiat adoption and foster care practices. Illuminates points at which traditional practices may not merge easily with Western legal adoption structures set up by ICWA. Makes practical suggestions for making the interface smoother. In particular, advocates that tribes record their adoption procedures so they will be easily available to the state courts.

Wood, Darryl S. (2000). *Turnover Among Alaska Village Public Safety Officers: An Examination of the Factors Associated With Attrition*. Report prepared under Grant No. 98-IJ-CX-0035 from the National Institute of Justice. Anchorage, AK: Justice Center, University of Alaska Anchorage. (<http://justice.uaa.alaska.edu/research/1990/9901vps0/9901vps0.html>).

An extensive look at the extent of turnover in the Village Public Safety Officer (VPSO) program and the factors associated with it. Some of the variables examined did not show as strong a relationship with officer turnover as has been suggested in common public discussion. The analysis showed that while dissatisfaction with pay and housing are widespread, they do not predict turnover—which historically has been very high. Dissatisfaction with

training does seem to be associated with officer turnover, but, in fact, most officers are satisfied with their training. Being of Alaska Native heritage is also not associated with turnover. In fact, the more an officer was attached to a Native background—including serving in a home village—the less likely he was to leave a position. The measurements of stress also failed to show a clear connection with turnover, although one variable initially included to look at stress—the presence of another officer in the same community—was associated with staying in the program. This finding aligned with other findings that those variables that indicate a strong connection to life in a community—among them, variables such as being married, having an extra job, being of Native background, and having another officer to work with—are associated with stability in the program.

———. (Summer 2000). "Officer Turnover in the Village Public Safety Officer Program." *Alaska Justice Forum* 17(2): 1, 4-7. (http://justice.uaa.alaska.edu/forum/17/2summer2000/a_vps0.html).

See also Wood (2000), *Turnover among Alaska Village Public Safety Officers*.

A summary of the main results of a study of turnover in the Village Public Safety Officer (VPSO) program described above.

———. (Jan 2001). "Police Turnover in Isolated Communities: The Alaska Experience." *National Institute of Justice Journal* 246: 16-23. (<http://justice.uaa.alaska.edu/research/1990/9901vps0/9901dsw9.html>).

A generalized summary of the VPSO attrition study described above.

———. (2002). “Explanations of Employment Turnover Among Alaska Village Public Safety Officers.” *Journal of Criminal Justice* 30(3): 197-215. (<http://justice.uaa.alaska.edu/research/1990/9901vps0/9901dsw5.html>).

A presentation of the research described in the previous entries.

Wood, Darryl S. (Oct 2003). “Village Public Safety Officer Turnover and Violent Crime in Alaska Native Communities.” Paper presented at the annual meeting of the Western and Pacific Association of Criminal Justice Educators, Park City, UT. (Available from Justice Center, University of Alaska Anchorage.)

This statistical examination of violent crime in 115 villages for the period 1998 through 2002 revealed that, while sexual assault and homicide rates did not differ according to the presence or absence of a VPSO in a village, felony assault rates were higher in villages when there was no VPSO. Misdemeanor assault rates were actually lower in villages without a VPSO present. The paper discusses differing interpretations for its findings. The author also notes that the absence of a VPSO to facilitate reporting crime may be a source of bias in the trooper reports—which were the source of the study data.

Wood, Darryl S. and Gruenewald, Paul J. (Mar 2004). “Alcohol Availability, Police Presence and Violence in Isolated Alaskan Villages.” Paper presented at the annual meeting of the Academy of Criminal Justice Sciences, Las Vegas, NV. (Available from Justice Center, University of Alaska Anchorage.)

This study used data from the Alaska Trauma Registry and the Bureau of Vital Statistics on violence and accidents in 132 remote Alaska villages from 1991 through 2000 found that although villages with some form of the local option law had fewer violent crimes and injuries from accidents, they nonetheless showed rates of injury much higher than those for the state as a whole. A significant exception was that incidents of self-harm were higher in dry villages. Dry villages with a local police presence revealed lower rates than dry villages without a police presence.

———. (Mar 2006). “Local Alcohol Prohibition, Police Presence and Serious Injury in Isolated Alaska Native Villages.” *Addiction* 101: 393-403. (<http://justice.uaa.alaska.edu/research/articles/0426dsw-localalcohol.html> [abstract]).

A statistical study of 132 isolated Alaska Native villages using data from 1991 through 2000 revealed that the rate of serious injury was lower in those villages that had put in place the local option law prohibiting alcohol and that the rate of serious assault was lower in villages which both used the local option and had a police presence. The research used data from the Alaska Trauma Registry, the Alaska Bureau of Vital Statistics, police records and election records.

Wood, Darryl S. and Trostle, Lawrence C. (1997). “The Nonenforcement Role of Police in Western Alaska and the Eastern Canadian Arctic: An Analysis of Police Tasks in Remote Arctic Communities.” *Journal of Criminal Justice* 25(5): 367-379. (<http://www.sciencedirect.com/science/article/B6V75-3SX248J-2/2/6747b8aac5963500ccc3c811e26fdcee>).

A discussion of policing in Alaska Native and Canadian Inuit villages that considers the ways in which policing in the Arctic and sub-Arctic involves more than just law enforcement and the implications of this for hiring.

Zenk, Anthony E. (1992). "Year 1990 Health Indicators for Alaska and Year 2000 National Health Objectives." *Alaska Vital Signs* 2(2): 1-6.

———. (1993). "Violent Death in Alaska." *Alaska Vital Signs* 3(2): 1-9.

Alaska Native Legal Cases

Alaska Natives and American Laws provides a thorough look at the interaction of Alaska Natives and American laws across the entire range of Native concerns. This book by David Case, now in its second edition, follows legislative action, the development in case law, and evolution of government structures affecting Native life, providing a history as well as a legal overview of the Alaska Native community through the early twenty-first century.

Some discussion of case development and reference to the legal situation surrounding rural questions has also been included in several of the Judicial Council pieces included in this bibliography. In addition, numerous articles dealing with legal issues relevant to rural Alaska can be found in the *Alaska Law Review*, which is published by Duke University. Some but not all of these have been listed in the body of this bibliography.

What follows is an annotated list of federal and state cases involving Alaska Native issues.¹ It is worth noting that many of these cases have involved the testimony of expert witnesses and the submission of reports relevant to the points under examination, so the case files for the cases are a further source of material on rural justice issues.

1918

Alaska Pacific Fisheries Co. v. United States, 248 U.S. 78 (1918). Affirms Metlakatla reservation and prohibits trespass on reserved waters.

1949

Hynes v. Grimes Packing Co., 337 U.S. 86 (1949). Alaska IRA reservations are “temporary” and do not permit criminal enforcement of White Act fishing regulations.

¹ This annotated list of cases related to Alaska Native legal issues was compiled by David Case over a period of about twenty years. It is intended to be complete to 2004, but it was compiled as the author became aware of cases and is not the product of a systematic search for relevant legal opinions. It is therefore possible that a few relevant cases have been omitted. The list is presented in chronological order; an alphabetical index to cases is provided after the annotated list. Copyright 2006 by David S. Case.

1959

Tlingit and Haida Indians v. United States, 177 F. Supp. 452 (D. Alaska 1959). Affirms aboriginal title of Tlingit and Haida Indians.

1962

Metlakatla Indian Community v. Egan, 369 U.S. 45 (1962). Federal Statute creating Metlakatla reservation preempts state regulation of fishing in reservation waters.

Organized Village of Kake v. Egan, 369 U.S. 60 (1962). Permitting State regulation of off-reservation fishing. Compare, *Metlakatla v. Egan*, 369 U.S. 45 (1962).

1968

Tlingit and Haida Indians v. United States, 389 F.2d 778 (ct. cl. 1968). Awarded \$7.5 for taking of aboriginal title. Excluded any award for lost fishing rights.

1971

Alvarado v. State, 486 P.2d 891 (Alaska 1971). Requiring selection of a jury panel for a Native defendant from a fair cross-section of the community in which the crime allegedly occurred.

Atkinson v. Haldane, 569 P.2d 151 (Alaska 1971). Sovereign immunity of Metlakatla upheld. Excellent discussion of basic principles of federal Indian law (Rabinowitz, J.).

Fondahn v. Native Village of Tyonek, 450 F.2d 520 (9th Cir. 1971). Federal court has no jurisdiction to determine tribal membership.

1972

Carle v. Carle, 503 P.2d 1050 (Alaska 1972). Court may not award custody of a Native child to an urban parent instead of a village parent on the theory that doing so would facilitate child's adjustment to urban culture.

1973

Aleut Communities of St. Paul and St. George Islands v. U.S., 480 F.2d 831 (Ct. Cl. 1973). U.S. held liable for breach of fair and honorable dealings under Indian Claims Commission Act as relates to fur seal harvest on Pribilof Islands.

Aleut Tribe v. U.S., 480 F.2d 831, (Ct. Cl. 1973). Dismissing breach of treaty claim on fee title/aboriginal title distinction, but allowing fair and honorable dealings claim for non-Pribilof Aleuts: *aff'd* 702 F.2d 1015, (C.A. Fed.1983).

Edwardsen v. Morton, 369 F. Supp. 1359 (D.D.C. 1973). Extinguishment of aboriginal claims under ANCSA did not extinguish claims for trespass to aboriginal title. *Contra, U.S. ARCO, infra*.

1974

Aguchak v. Montgomery Ward Co., 520 P.2d 1352 (Alaska 1974). Rural defendants entitled to notice of right to change of venue in small claims action.

Alaska Native Assn. v. Morton, 417 F. Supp. 456 (D.D.C. 1974). Election for 13th Region required to be held.

Morton v. Mancari, 417 U.S. 535 (1974). Affirms BIA Indian employment preference under IRA. Seminal Indian Preference decision.

Morton v. Ruiz, 415 U.S. 199 (1974). BIA enjoined from cutting off welfare benefits “on or near” reservation in the absence of formal rule-making. Extended discussion of congressional treatment of all of Alaska as being “on or near” a reservation.

1975

Alaska v. Aleut Corp., 541 P.2d 730, 738 (Alaska 1975). Although Native corporations perform certain quasi-government functions in parts of Alaska, they are not governments in the sense of “political bodies elected by all the citizens of voting age within a given area with regular governmental authority over all inhabitants.” Acknowledges that unincorporated villages had civil governments which were the product of “cultural tradition” and entitled to notice as “other organized communities” under A.S. 28.05.305, relating to state land sales.

Central Council of Tlingit Haida v. Chugach, 502 F.2d 1323 (9th Cir. 1974); *cert. denied* 421 U.S. 948 (April 28, 1975). Regional boundaries: United States and Secretary of the Interior not necessary parties in dispute between trust beneficiaries where joinder would not affect right of either beneficiary.

Hootch v. Alaska State-Operated School System, 536 P.2d 793 (Alaska 1975). Discussion of Alaska Constitutional requirement to provide education. Resulted in later consent order to construct rural schools.

Koniag, Inc. v. Klepe, 405 F. Supp. 1360 (D.D.C. 1975). Village eligibility *aff’d* in part, *rev’d* in part *sub nom. Koniag v. Andrus*, 580 F.2d 601 (D.C. Cir. 1978) *cert. denied* 439 U.S. 1052. Eligibility of Kodiak villages under ANCSA improperly determined by Dept. of Interior. *Acknowledges generalized trust responsibility to Alaska Natives*, 405 F. Supp at 1373.

1976

Aleut Corp. v. Arctic Slope Regional Corp., (*Aleut II*) 417 F. Supp. 900 (D. Alaska 1976). Residents of former reserves counted for revenue sharing, *rev’d sub nom, Doyon, Ltd. v. Bristol Bay Native Corp.*, 569 F.2d 491 (9th Cir. 1978), *cert. denied*, 439 U.S. 954 (1978).

Aleut Corp. v. Arctic Slope Regional Corp. (*Aleut I*), 410 F. Supp. 1196 (D. Alaska 1976). Revenues from resources not to be excluded from ANCSA revenue sharing formula solely because they were received prior to conveyance of lands.

Aleut Corp. v. Arctic Slope Regional Corp. (*Aleut III*), 421 F. Supp 862 (D. Alaska 1976). Sand and gravel is part of the subsurface estate on lands owned solely by regional corporations, but is part of the surface estate for village corporation lands; *rev’d sub nom., Chugach Natives, Inc. et al. v. Doyon Ltd. et al.*, 588 F.2d 723 (9th Cir. 1978). Sand and gravel part of the subsurface estate for all purposes. *See also, Tyonek Native Corp. v. Cook Inlet Region, Inc.* 853 F.2d 727, *infra*.

Aquilar v. Kleppe, 424 F. Supp. 433 (D. Alaska 1976). Native suit against State over allotment is barred by 11th Amendment.

Burglin v. Morton, 527 F.2d 486 (9th Cir. 1976). Policy determination under ANCSA not reviewable.

Gregory v. State, 550 P.2d 374, 379, n.5 (Alaska 1976). Acknowledging that certain Native cultural values might contribute to an involuntary guilty plea.

Kodiak-Aleutian Chapter v. Kleppe, 425 F. Supp. 544 (D. Alaska 1976). Challenge by grazing lessees and recreational users to village eligibility; *aff'd* in part *rev'd* in part, *Stratman v. Watt*, 656 F.2d 1321 (9th Cir. 1981); See also, *Stratman v. Andrus*, 472 F. Supp. 1172 (D. Alaska 1979).

Pence v. Kleppe (Pence I), 529 F.2d 135 (9th Cir. 1976). Due process requires opportunity for hearing prior to denial of allotment.

1977

Adams v. Vance, 570 F.2d 950 (C.A.D.C. 1977). Bowhead whale decision denying TRO *per curiam* but *affirming a post ANCSA trust responsibility* to “protect the subsistence of the Eskimos,” at 953, n.3 and 957, n.14.

Alaska Public Easement Defense Fund v. Andrus, 435 F. Supp. 664 (D. Alaska 1977). ANCSA permits neither floating nor linear, recreational easements. ANCSA to be liberally construed to benefit Natives.

Alaska v. Lewis, 559 P.2d 630 (Alaska 1977). Agreement, whereby Alaska would relinquish certain lands including subsurface minerals to the U.S. in order to augment the federal holdings from which Regional Native Corporations would obtain their aboriginal entitlements, held constitutional.

Calista Corporation v. DeYoung, 562 P.2d 338 (Alaska 1977). Held: *inter alia*, that Alaska state courts had jurisdiction over the matters raised in the action and that the trial court did not, by its order, alienate Native corporation stock in an impermissible manner by separating the right to receive dividends from the ownership of the stock.

Calista Corporation v. Mann, 564 P.2d 53 (Alaska 1977). Section 7(h)(2) of ANCSA, 43 U.S.C. §§ 1606(h)(2) confers jurisdiction on Alaska State Courts insofar as the intestate disposition of stock in Native Corporations is concerned. ANCSA further directs that Alaska laws of intestacy control.

Monroe v. California Yearly Meeting of Friends Church, 564 F.2d 304 (9th Cir. 1977). 25 U.S.C. §§ 280a (formerly 48 U.S.C. §§ 356) by which non-Indian religious group obtained patent to Alaska land in 1941, did not create a trust for the benefit of Native Eskimos who were bringing suit for title. Note 3 at 306 suggests that even if Natives had a claim, ANCSA probably extinguished it.

Ollestead v. Native Village of Tyonek, 560 P.2d 31 (Alaska 1977); *cert. denied* 434 U.S. 938 (1977). Alaska State courts held to lack jurisdiction to adjudicate interests in trust property.

Portland General Electric Co. v. Kleppe, 441 F.Supp. 859, 862 (D. Wyo. 1977). Authority for ANCSA 17(d)(2) withdrawals inherent within executive if acquiesced in by Congress.

Sealaska Corp. v. Roberts, 428 F. Supp. 1254 (D. Alaska 1977). Upholding Secretary

of Interior's disenrollment authority under ANCSA.

1978

Cape Fox Corp. v. U.S., 456 F. Supp. 784 (D. Alaska 1978). No trust relationship as to ANCSA lands; rev'd on jurisdictional grounds 646 F.2d 399 (9th Cir. 1981).

Chilkat Indian Village, Johnson v. (Chilkat I), 457 F. Supp. 384 (D. Alaska 1978). Chilkat Indian Village held to be a tribe immune from suit and indispensable party to Johnson's suit to claim clan property. Ownership of clan property on "internal" tribal matter subject to tribal court jurisdiction.

Chugach Natives, Inc. v. Doyon Ltd., 588 F.2d 723 (9th Cir. 1978). Sand and gravel part of the subsurface estate on both regional and village lands for all purposes. *Accord Tyonek Native Corp. v. CIRI*, 853 F.2d 727 (9th Cir. 1988) *infra*.

Doyon Ltd. v. Bristol Bay Native Corp., 569 F.2d 491 (9th Cir. 1978); *cert. den.* 439 U.S. 954 (1978). Residents of former reserves *not* counted for 7(i) revenue sharing (rev'ing. *Aleut II*, 417 F. Supp. 900).

Eluska v. Andrus, 587 F.2d 996 (9th Cir. 1978). Exhaustion of administrative remedies in allotment denial; dicta, discussing five year use and occupancy requirement, n.5.

Eric et al. v. Secretary of U.S. Dept. of Housing and Urban Dev., 446 F. Supp. 44 (D. Alaska 1978).

Trust Responsibility under Bartlett Housing Act (Von Der Heydt). The U.S. has a general fiduciary responsibility to Alaska Natives

similar to its responsibility to other Native Americans.

Klawock v. Gustafson, 585 F.2d 428 (9th Cir. 1978). Attorney fee decision. Alaska townsite lands held to be a "common fund" for payment of attorney fees owed City of Klawock's attorneys.

Parker Drilling Co. v. Metlakatla Indian Community, 451 F. Supp. 1127 (D. Alaska 1978). Denying summary judgment for Metlakatla in lawsuit arising out of airport plane accident, where it was not clear Metlakatla operated an airport in its governmental capacity (in which case sovereign immunity was a bar to jurisdiction) or in its corporate capacity (in which case it was proper to find waiver of immunity).

Pence v. Andrus (Pence II), 586 F.2d 733 (9th Cir. 1978). Lack of standing and ripeness for allotment applicants to challenge Department's contest proceedings prior to actual hearings under contest rules.

1979

Aguilar v. U.S. (Aguilar II), 474 F. Supp. 840 (D. Alaska 1979). Use and occupancy of land gives Native allotment applicant "preference right" that defeats subsequent state selection and patent. U.S. has responsibility to recover land for Native if mistakenly conveyed to State.

Cogo v. Central Council of Tlingit & Haida Indians, 465 F. Supp. 1286 (D. Alaska 1979). Tlingit & Haida Central Council has sovereign immunity for purposes related to enrollment and distribution of judgment fund; state court without jurisdiction over trust property; federal court also

without jurisdiction upon removal; U.S. indispensable party and could not be joined because of sovereign immunity.

Frank v. State, 604 P.2d 1068 (Alaska 1979).

Permitting taking of moose out of season for a funeral potlatch as a protected right of religion under the state and federal constitutions.

Hopson v. Kreps, 462 F. Supp. 1374 (D. Alaska 1979).

Injunction against whaling regulation would embarrass U.S. foreign policy and is a political question beyond court's jurisdiction (disapproved in *U.S. v. Decker*, 600 F.2d 733 at 738 (9th Cir. 1979); rev'd. 622 F.2d 1375 (9th Cir. 1980).

Livingston v. Ewing, 601 F.2d 1110 (1979).

Upholds preferential treatment of Natives by New Mexico local government under §§703(i) of 1964 Civil Right Act; compare, *Malabed I, II, and III*, below, *contra*.

People of South Naknek v. Bristol Bay Borough,

466 F.Supp. 870 (D. Alaska 1979). Political subdivision of state has no jurisdiction to tax restricted townsite lands but does have jurisdiction to tax personal property located on such lands.

Wisnak, Inc. v. Andrus, 471 F. Supp. 1004

(D. Alaska 1979). Native Corporation's selection of lands under 43 U.S.C. §§ 1613(h) was limited to unreserved and unappropriated lands. Corporation's selection of lands previously reserved as utility and transportation corridor for the Alaska oil pipeline validly denied by the Secretary. Secretary's decision that Native Corporation get no land was inconsistent with purpose of ANCSA. Court refused Secretary's motion for summary judgment

and remanded for reconsideration of group's application.

1980

Alegnagik Natives, Ltd. et al v. Andrus (Alegnagik I), 648 F.2d 496 (9th Cir. 1980); on rehearing, 648 P.2d 505 (9th cir. 1981). Granting preliminary injunction against post Dec. 18, 1971 occupancy of unsurveyed, unpatented townsite lots and noting substantial likelihood that ANCSA withdrew unsurveyed, unpatented townsite in Alaska for Native selection.

Aleut Corp v. Arctic Slope Regional Corp. (Aleut IV) 484 F. Supp. 482 (D. Alaska 1980).

Revenues from resources: 7(i) broadly construed to effect equitable distribution of "subsurface" revenues.

Jackson v. U.S., 485 F. Supp. 1243 (D. Alaska

1980). 25 U.S.C. §§ 81 held not sufficient for federal question jurisdiction in attorney fees case.

McIntyre v. U.S., 490 F. Supp. 830 (D. Alaska

1980). APA is independent jurisdictional basis for review of legality of patent issued pursuant to ANCAB decision even though under other authority the Department of the Interior loses jurisdiction of land once patented.

North Slope Borough v. Andrus, 486 F. Supp.

332 (D.D.C. 1980), at 344. Holding respectively that the MMPA and ESA create a subsistence trust responsibility for Alaska Natives. Rev'd on other grounds and modified, 642 F.2d 589 (D.C. Cir. 1980), *but see* 642 F.2d at 611-613 and n. 151, questioning post-ANCSA trust responsibility. *See also California v. Watt*,

668 F.2d 1290 *supra* re: scope of trust responsibility.

People of Togiak v. U.S., 470 F. Supp. 423 (D.D.C. 1980). Native exemption under Marine Mammal Protection Act [16 U.S.C. 1371(b)] prevents Secretary of the Interior from delegating management authority to state if any state law limits Native rights under the exemption. Based on “trust responsibility” of U.S. to protect Native culture.

Rowe v. U.S., 464 F. Supp. 1060 (D. Alaska 1979), *aff'd and rev.* in part on other grounds, 633 F.2d 799 (1980); *cert. denied* 101 S. Ct. 2047. Rowe et al. sought judicial review of Secretary of Interior’s conveyances to Arctic Slope Regional Corp. Court of Claims has jurisdiction for damages claims of over \$10,000, but District Court has jurisdiction to review Secretary of Interior’s refusal to issue leases. District Court could not handle both claims and Plaintiffs failed to establish any right to leases sought.

State of Alaska, 45 IBLA 318 (Feb. 6, 1980). Title to allotments under the 1906 Alaska Allotment Act (as amended) is held in restricted fee, overruling *Charlie George*, 44 L.D. 113 (1915).

Thirteenth Regional Corp. et al. v. Department of the Interior, 654 F.2d 758 (D.C. Cir. 1980). Mandamus for Secretary’s failure to include non-resident Alaska Natives in “2(c) study” denied because of laches. *Note:* But for laches, would have granted mandamus on legal grounds that Secretary had clear duty to include non-resident matters. Also, does not discuss requirement for program recommendations.

U.S. v. ARCO, 435 F. Supp. 1009 (D. Alaska 1977); *aff'd* 612 F.2d 1132 (9th Cir. 1980); *cert. denied* 499 U.S. 888 (1980). ANCSA extinguishment clause construed to bar claims for trespass to aboriginal title.

U.S. v. Clarke (Bertha Mae Tabbytite), 445 U.S. 253 (1980). 25 U.S.C. 357 requires formal condemnation proceedings on Indian allotments; inverse condemnation not permitted. On remand, 529 F.2d 984 and 590 F.2d 765.

1981

California et al. v. Watt, 668 F.2d 1290, 1324-1325 (D.C. Cir. 1981). No trust responsibility to North Slope Native broader than relevant environmental statutes; citing *North Slope Borough v. Andrus*, 642 F.2d 589, 593, 611-13 (D.C. Cir. 1980).

Carlo v. Gustafson, 512 F. Supp. 833 (D. Alaska 1981). Alaska Native Townsite Act establishes trust responsibility in the administration of that Act. Compares restricted townsite lot to restricted allotments for federal jurisdictional purposes.

E.A. v. State of Alaska et al., 623 P.2d 1210 (Alaska 1981). Upholding application of the Indian Child Welfare Act to future adoptive proceedings.

Hydaburg Cooperative Association v. U.S., 667 F.2d 64 (Ct. Cls. 1981). No trust responsibility under Secs. 5 or 10 of the IRA. *Accord.* *City of Klawock v. U.S.*, 732 F.2d 168 (9th Cir. 1983).

Jimmie v. Alaska Village Electric Co-op., Inc., 624 P.2d 1258 (Alaska 1981). Acknowledging

unique circumstances related to winter life in an Alaska Native village.

Paug-Vik, Inc. v. Wards Cove Packing Co., 633 P.2d 1015 (Alaska 1981). Appropriation of water prior to ANCSA under 43 U.S.C. 661 constitutes a conveyance of an “interest in public land and water areas” to which aboriginal title was extinguished under Sec. 4(c) of ANCSA [43 USC 1603(c)].

Stratman v. Watt, 656 F.2d 1321 (9th Cir. 1981). Action to enjoin granting of land patents to an unlisted Native village. Plaintiffs, who were mere recreational users of the land, had standing to challenge but had to exhaust administrative remedies even though they lacked actual notice of the village’s application. Plaintiffs who held recorded grazing leases to the land in question were entitled to actual notice of the proposed certification and without such notice should not be barred from challenging certification by their failure to exhaust administrative remedies.

Ukpeagvik Inupiat Corporation v. Arctic Slope Regional Corporation, 517 F. Supp. 1255 (D. Alaska 1981). Regional Corporation not required under §§7(i) & (j), 43 U.S.C.A. §§1606(i) & (j) to distribute all net income to Village Corporations and at large shareholders. Regional Corporation is required to distribute received 70% share of all net revenues received from timber and subsurface estate but not, in the case of resource holding Regional Corporations, its 30% retained share.

1982

Alaska Chapter, Assoc. General Contractors of America, Inc. v. Pierce, 694 F.2d 1162

(9th Cir. 1982). Indian preference upheld for Alaskan Natives on broad interpretation of the *Mancari* “political” concept. *Unique Alaska* “non-tribal” “political” status discussed (n.10).

Alaska Miners v. Andrus, 662 F.2d 577 (9th Cir. 1982). Conveyance of legal title to ANCSA Native Corps. of unpatented mining claims upheld.

Application of Angus, 655 P.2d 208 at 212, n.9 (Or. Ct. App. 1982). ICWA held constitutional in part because Sitka Community Association is a tribe and because child was enrolled to it; *cert. den.*, 464 U.S. 830 (1983).

Heffle et al. v. Alaska, 633 P.2d 264 (Alaska 1981), *cert. denied* 455 U.S. 1000 (1982). State courts have no jurisdiction over Alaska Native allotments, therefore injunction against barricading of disputed right-of-way across allotment held improper.

Inupiat Community of the Arctic Slope v. U.S. (ICAS I), 680 F.2d 122 (Ct. Cls. 1982), *cert. den.* 459 U.S. 969 (1982). Claims for trespass to aboriginal title denied, but ICAS characterized as a “recognized tribe.” 746 F.2d 570 held that: (1) any aboriginal rights plaintiffs may have had were distinguished by Alaska Native Claims Settlement Act, and (2) plaintiffs’ general trust claims were barred by collateral estoppel.

Village of Kaktovik v. Watt, 689 F.2d 222 (D.C. Cir. 1982). Denying attorney fees to plaintiffs in *North Slope Borough v. Andrus*.

1983

Board of Equalization of Ketchikan Borough v. Alaska Native Brotherhood Camp No.

16, 666 P.2d 1015 (Alaska 1983). IRA organized tribe presumed to be a “tribe” but held subject to local property tax. See also Rabinowitz concurrence stating that IRA tribe was “not clearly recognized.”

Native Village of Eyak v. GC Contractors, 658 P.2d 756 (Alaska 1983). Sovereign immunity of Alaska Native village (assumed *arguendo*) held waived by contractual arbitration clause. *Accord, C & L Enterprises, Inc. v. Citizen Bond Potawatomi Indian Tribe of Oklahoma*, 532 U.S. 411 (2001).

Shields v. U.S., 504 F. Supp. 1216 (D. Alaska 1981), *aff'd. Shields v. U.S.*, 698 F.2d 987 (9th Cir. 1983). Requires personal Native use and occupancy on national forest lands; *cert. denied* 464 U.S. 816.

Wilson v. Watt, 703 F.2d 395 (9th Cir. 1983). Preliminary injunction of BIA’s termination of general assistance in Alaska.

1984

Aleut Corp. v. Tyonek Native Corp., 725 F.2d 527 (9th Cir. 1984). Lower court did not abuse its discretion in denying village corporation intervention to enjoin 7(i) settlement.

City of Angoon v. Marsh, 749 F.2d 1413 (9th Cir. 1984). Discussing the purpose of ANILCA and permitting Shee Atika logging within Admiralty Island Monument boundaries.

Gambell, Village of v. Clark (Gambell I) 746 F.2d 572 (9th Cir. 1984). Holding that “in Alaska” in Sec. 810 of ANILCA required subsistence impact studies for oil leasing on the Alaska outer continental shelf; *rev'd Amoco production Co. v. Village of Gambell*, 480 U.S. 531, (1987). *See also*

ICAS v. U.S., 746 F.2d 570 (9th Cir. 1984), *infra re*: extinguishment of aboriginal title “in Alaska” under ANCSA.

In the Matter of J.R.S. Village of Chalkyitsik v. M.S.F. and J.J.G., 640 P.2d 10 (Alaska 1984). Tribe held entitled to intervene as of right under ARCP 24 even though intervention in adoption not specifically required under ICWA.

Inupiat Community of the Arctic Slope v. U.S. (ICAS II), 548 F. Supp. 185 (D. Alaska 1982), *aff'd* 746 F.2d 570 (9th Cir. 1984). ICAS has no aboriginal claim beyond the 3-mile limit, because U.S. has superior sovereignty.

Preston v. Heckler, 555 F. Supp. 886, *rev'd/aff'd.* in part 734 F.2d 1359 (9th Cir. 1984). IRA Indian preference not repealed by implication and requires Secretary of Interior to adopt standards separate and independent from generally applicable civil service standards.

1985

Akootchook v. U.S. Dept. of the Interior, 747 F.2d 1316 (9th Cir. 1984), *cert. den.* 471 U.S. 1116 (1985). Defining rights of allotment applicant to applied-for lands and denying rights based on ancestral use and occupancy.

Alegnagik Natives, Ltd. v. U.S. (Alegnagik II), 635 F. Supp. 1477, (D. Alaska 1985). Holding that municipalities and individuals had “valid existing rights” to townsite lands under 11(c)(1) of ANCSA, but that FLPMA’s repeal of ANTA barred individual occupancy after October 21, 1976. Upholds Secretary’s interpretation of ANCSA and

FLPMA to preclude ANCSA selections as “reasonable” and not barred by APA.

D.A.W. v. Alaska, 699 P.2d 340, (Alaska 1985). One expert witness held sufficient in CHINA proceeding to deprive mother of custody, citing BIA, ICWA guidelines to state courts.

Gambell, Village of v. Clark (Gambell II) 774 F.2d 1414 (9th Cir. 1985). Holding that section 810 of ANILCA (16 USC 3120) requires the Interior department to give proper weight to the subsistence needs and culture” of Alaska Natives prior to OCS leasing and characterizing the plaintiff’s as “Alaskan tribal villages;” *rev’d. Amoco Production Co. v. Village of Gambell*, 480 U.S. 531 (1987).

Madison v. Alaska Dept. of Fish & Game, 696 P.2d 168 (Alaska 1985). State subsistence preference not limited to rural residents under state statutes as enacted by legislature. Resulted in amendment of state subsistence statutes. Discussed in *Bobby v. State*, *supra*.

Olympic v U.S., 615 F. Supp. 990, (D. Alaska 1985). Heir of allotment applicant may amend allotment land description under 905(c) of ANILCA. §§ 905(a) provides for legislative approval of allotments even though application finally rejected prior to passage of ANCSA. ANILCA and 1906 Allotment Acts construed for the benefit of Natives.

1986

Akutan, Tribal Village of v. Hodel (Akutan I), 792 F.2d 1376 (9th Cir. 1986). Upholding injunction on North Aleutian Basin oil lease

sale under §§810 of ANILCA on basis of decision in *Gambell II, infra*.

Alaska v. Eluska, 698 P.2d 174 (Alaska App. 1985), *rev’d & aff’d* 724 P.2d 514 (Alaska 1986). Eliminates “subsistence defense” under state law.

Chilkat Indian Village v. Johnson (Chilkat II), 643 F. Supp. 535 (D. Alaska 1986). No private cause of action under federal law for recovery of tribal property; *rev’d in part and remanded*. See also, *Chilkat Indian Village v. Johnson*, 870 F. 2d 1469, *infra*.

In the Matter of J.M., 718 P.2d 150 (1986). Kaltag Village Council meeting as a tribal court has exclusive jurisdiction over child custody proceedings under 25 USC 1911 (a) and is a tribal court as defined in 25 USC 1903(12) (ICWA). *But see, Native Village of Nenana v. State, infra.*, holding state has exclusive jurisdiction under §§1911(b); *ovrl’d by C.R.H.* 29 P.3d 849 *supra*.

Native Village of Nenana v. Alaska, 722 P.2d 219 (Alaska 1986). Interpreted to mean that PL 280 granted exclusive jurisdiction to state courts absent specific retrocession of tribal jurisdiction under 25 USC 1918 of ICWA; *ovr’d by C.R.H.* 29 P.3d 849 *supra*.

Native Village of Stevens v. Smith, 770 F.2d 1486, 12 ILR 1275 *cert. den.* 475 U.S. 1121 (1986). Holding that 25 USC 1919 (a) permits but does not require state to pay for tribal foster care under ICWA or 42 USC 671 (a)(4) or 672 (a)(2)(B), but also holding that the placement of a child in tribal custody by action of the village council was a “judicial determination” and thus met one of the requirements for foster care payment under 42 USC 672(a)(1).

1987

Alaska Fish and Wildlife Fed. & Outdoor Council et al v. Dunkle, 829 F.2d 933 (9th Cir. 1987). Held: (1) plaintiffs had standing to challenge migratory bird enforcement agreements, and (2) agreements were invalid to extent they conflicted with treaties entered into under Migratory Bird Treaty Act.

Alaska v. USA, 662 F.Supp. 455 (D. Alaska 1987). Held portion of Gulkana River navigable under Submerged Lands Act.

Amoco Production Co. v. Village of Gambell, 480 U.S. 531 (1987). Subsistence is “a” public interest under §§810 of ANILCA. Invalidates Ninth Circuit automatic injunction rule for violation of environmental statute. Also holds that “in Alaska” in both ANILCA and ANCSA does not include water beyond the 3 mile limit. Revives issue of extinguishment of aboriginal title under ANCSA. Reversing *Gambell I & II, infra*, and, by implication, *Tribal Village of Akutan v. Hodel, supra*. On remand, *People of the Village of Gambell v. Hodel (Gambell III)*, 869 F.2d 1273 (9th Cir. 1989), *infra*.

Cook Inlet Native Ass’n. v. Bowen, 810 F.2d 1471 (9th Cir. 1987). Regional corporations are “tribes” for certain purposes under the Indian Self-determination Act.

In the Matter of K.E. DOB: 11/03/82 A Minor Under the Age of Eighteen (18) Years, 744 P.2d 1173 (Alaska 1987). Held that village must be authorized by Secretary of Interior to reassume jurisdiction over child custody matter was prerequisite to transfer; ovrl’d by *C.R.H.* 29 P3d 849 *supra*.

1988

Alaska v. Native Village of Venetie (Venetie I), 856 F.2d 1384 (9th Cir. 1988). Injunction affirmed to prevent tribal court enforcement of tribal tax, pending determination of tribal status as a sovereign and the existence of Indian Country. Held (1) fact that court had not resolved claim of sovereign immunity did not preclude grant of preliminary injunction; (2) State was not required to exhaust remedies available in Native Court; and (3) injunction was properly issued.

Buettner, et. al. v. Kavilco, Inc., 860 F.2d 341 (1988); Indian Law Reporter version also. Forest Service permittee held entitled to 14(c) for occupancy on or before Dec. 18, 1971 and not limited to valid existing rights under 14(g).

Donnelly, et al. v. U.S., et al., 841 F.2d 968 (9th Cir. 1988). 14(c) rights denied to homesteaders who unlawfully occupied federally withdrawn lands in 1971 even though lands were later conveyed to Native corporation.

Hakala v. Axtam Corporation, 753 P.2d 1144 (Alaska 1988). 14(c) claimants entitled to land within curtilage of cabin and facilities used to support hunting guide business, even though applicant had more than one place of business. Applicant not entitled to conveyance of rights to larger area used for big game hunting and guiding.

Native Village of Stevens v. Alaska Management & Planning, 757 P.2d 32 (Alaska 1988). Alaska Native communities have not been accorded sovereign tribal status by congress and therefore are not entitled to use the defense of sovereign immunity. (No longer

good law after *John v Baker I*, 30 P.3d 738, *supra*).

Tetlin Native Corp. v. Alaska, 759 P.2d 528 (Alaska 1988). State does not have to appeal BLM's decision to issue village conveyance to preserve valid existing right to material sites not specifically excluded from conveyance and village corporation estopped to deny that sites were excluded from conveyance.

Tyonek Native Corp. v. Cook Inlet Region, Inc., 853 F.2d 727 (9th Cir. 1988). Gravel is subsurface estate on village/region "dual" lands.

Tyonek Native Corp. v. Secretary of Interior, 836 F.2d 1237 (9th Cir. 1988). State lands selected under the Mental Health Act are subject to Native selection under ANCSA.

1989

Akutan, Tribal Village of v. Hodel (Akutan II), 869 F.2d 1185 (9th Cir. 1989). North Aleutian Basin OCS leasing did not violate OCSLA, NEPA or FSA.

Alaska v. Ahtna, Inc., 891 F.2d 1401 (9th Cir. 1989). Held that: (1) Gulkana River was navigable at statehood and, thus, title to submerged lands passed to Alaska at statehood, absent some reservation, and (2) Congress did not reserve title to submerged Gulkana River lands at statehood.

Alegnagik Natives, Ltd. v. U.S. (Alegnagik III), 886 F.2d 237 (9th Cir. 1989). Traditional and IRA Village Councils entitled to conveyance of unsubdivided townsite lands under Alaska Native Townsite Act.

Bobby v. State of Alaska, 718 F. Supp. 764 (D. Alaska 1989). (Fed. Ct. Memo of Decision, 2/14/89). Seasons and bag limits found invalid as inconsistent with evidence and subsistence practices and preference. "Hunger knows no season."

Chilkat Indian Village v. Johnson (Chilkat III), 870 F.2d 1469 (9th Cir. 1989). Federal court jurisdiction to determine tribal jurisdiction over non-Natives and to adjudicate pendant state claims. Remanded to district court to determine if Chilkat Indian Village possesses tribal sovereignty and if exhaustion of tribal remedies is required. *See also Johnson v. Chilkat Indian Village*, 457 F. Supp. 384 (D. Alaska 1978), *supra*.

Gambell, Village of v. Hodel (Gambell III) 869 F.2d 1273, (9th Cir. 1989). ANCSA did not extinguish aboriginal title to OCS. Remanded to District Court to determine: 1) If Natives exercised aboriginal use and occupancy of OCS; 2) if so, is OCS leasing inconsistent with such use and occupancy, and 3) does OCSLA extinguish aboriginal title.

Haynes v. U.S., 891 F.2d 235 (9th Cir.1989). Secretary has discretion to reduce acreage of NPPR to less than 160 acres to satisfy conflicting needs of other federal agencies.

In the Matter of 1981, 1982, 1983, 1984 and 1985 Delinquent Property Taxes Owed the City of Nome Alaska, 780 P.2d 363 (Alaska 1989). Real property owned by an IRA tribal council cannot be foreclosed upon without consent of tribe under 25 USCS 476.

John et. al. v. State of Alaska, Case No. A85-698 Civil (D. Alaska March 2, 1989). Alaska

no longer entitled to manage fish & game on federal lands subject to ANILCA.

John v. State of Alaska, Case No. A85-698 Civil (D. Alaska June 6, 1989). Preliminary Inj. Granted; Decision on Summary Judgment Deferred.

Kenaitze Indian Tribe v. Alaska, 860 F.2d 312 (9th Cir. 1989). Held: (1) neither Secretary of Interior nor state was entitled to deference in their interpretation of term “rural”, and (2) state’s definition of “rural area” was in conflict with federal definition. State law defining “rural” held to be inconsistent with the ANILCA rural resident subsistence preference and therefore incompetent to designate the entire Kenai Peninsula as non-rural for purposes of the ANILCA preference.

McDowell v. Collingsworth, 785 P.2d 1 (Alaska 1989). State’s rural resident subsistence preference adopted to implement Title VIII of ANILCA held to be invalid under the state constitution.

Native Village of Tyonek v. Puckett, (*Puckett I*), 890 F.2d 1054 (9th Cir. 1989), cert. granted, vacated and remanded 111 S.Ct. 1097. Holds federal court had jurisdiction to adjudicate whether tribes have jurisdiction over non-members to require compliance with tribal ordinance limiting length of time non-members could remain in village. Affirmed dismissal of counter-claims against village and its officers because of sovereign immunity of village. *See also* unpublished opinion discussed at 883 F.2d 1024 (9th Cir. 1989), affirming & reversing in part and remanding.

1990

Catholic Social Services, Inc. v. C.A.A., 783 P.2d 1159 (Alaska 1989); Cert. Den. 495 U.S. 948 (1990). Notice to tribe not required under ICWA in case involving voluntary termination of parental rights. (Rabinowitz, J. dissented).

Chilkat Indian Village v. Johnson (*Chilkat IV*), unpublished mem, and order (No. J84-024 civil, U.S. D.C. Alaska, Oct. 9, 1990). Remanding to Chilkat Tribal court for exhaustion of tribal court remedies per *Iowa Mutual* and *National Farmers Union Insurance* cases.

Native Village of Noatak v. Hoffman (*Noatak I*), 896 F.2d 1157 (9th Cir. 1990), rev’d on other grounds, sub nom *Blatchford v. Native Village of Noatak* (*Noatak II*), 501 U.S. 775 (1991). Native villages are “tribes” with governing bodies “duly recognized” by the Secretary of the Interior for purposes of federal jurisdiction under 28 U.S.C. §§ 1362 for a cause arising under 42 U.S.C. §§ 1983, alleging discrimination in the curtailment of state grants to “Native villages.”

1991

Blatchford v. Native Village of Noatak (*Noatak II*), 501 U.S. 775 (1991). Eleventh Amendment bars suits by tribes against states.

Doyon Ltd. v. State of Alaska Dept. of Revenue, Child Support Enforcement, Case No. F89-047 Civ (Sept. 27, 1991). Unpublished order & judgment requiring court order to enforce CSED administrative orders to collect ANCSA stock dividends.

Kenai Peninsula Borough v. Cook Inlet Region, Inc., 807 P.2d 487 (Alaska 1991). ANCSA lands are not “developed” for local property tax purposes unless they are subdivided and “suitable for sale.” ANCSA ambiguities resolved favorably to Natives. 807 P.2d at 496.

Kenai Peninsula Borough v. Tyonek Native Corp., 807 P.2d 502 (Alaska 1991). Bankruptcy of lessee alone does not cause reattachment of ANILCA Land Bank protections if lessee’s improvements are still valuable.

Native Village of Venetie IRA Council v. Alaska (Venetie II), 944 F.2d 548 (9th Cir. 1991). ICWA construed to be consistent with concurrent tribal jurisdiction over adoptions, but remanded to District Court for factual determination whether Venetie is an historical tribe. Organization under the IRA not dispositive of tribal political authority.

1992

Colville Environmental Services v. North Slope Borough, 831 P.2d 341 (Alaska 1992). Borough brought action challenging validity of certificate to operate garbage collection utility granted by Public Utilities Commission. Reversed & Remanded.

Hydaburg Cooperative Association v. Hydaburg Fisheries, 826 P.2d 751 (Alaska 1992). Arbitration clause in commercial contract waives sovereign immunity. Also has good discussion of presumptions and burdens of proof necessary to preserve immunity under section 16 of the IRA. Good dissent by Rabinowitz.

In the Matter of F.P., W.M. and A.M., 843 P.2d 1214 (1992). Village held to have no jurisdiction over child custody unless it reassumed jurisdiction under ICWA (25 U.S.C. 1918); ovr’d by *C.R.H.*, 29 P.3d 849.

Morry, Alaska v. (Morry I), 836 P.2d 358 (Alaska 1992). Held that: (1) trophy hunting regulations did not constitute compliance with requirement of statute that Board of Game adopt subsistence hunting regulations for brown bear hunting; (2) least intrusive standard was not appropriate in determining whether subsistence regulation fulfilled goals of conservation, development and utilization of game resources; (3) under subsistence statute, all Alaskans were eligible to participate in subsistence hunting and fishing, and Board of Game lacked authority to adopt eligibility criteria for first tier subsistence users; and (4) under state subsistence law, Boards of Fisheries and Game had discretion, but were not mandated to take into consideration traditional and customary methods of subsistence takings in their formulation of subsistence regulations.

Native Village of Tyonek v. Puckett, (Puckett II), 957 F.2d 631 (9th Cir. 1992). Remand to District Court to determine tribal status and “Indian country” issues.

Nenana Fuel Co. v. Native Village of Venetie, 834 P.2d 1229 (Alaska 1992). Reversed superior court holding that tribe had not waived sovereign immunity. Supreme Court assumed tribal sovereignty, but found waiver in disputes clause of contract. Moore, J. concurred, but argued ANCSA terminated tribal sovereignty. Rabinowitz, C.J. dissented and argued tribe had proven

tribal status and neither ANCSA nor contract waived immunity.

1993

Chilkat Indian Village v. Johnson et al. (Chilkat V), 20 Ind. L. Rep. 6127 (No. 90-01, Chilkat Tr. Ct., Nov. 3, 1993). Tribal court decision affirms clan control of clan property and prohibits individual tribal members from disposing of the property.

Harrison v. Hickel, 6 F.3d 1347 (C.A. 9 (Alaska) 1993). Federal courts barred by 11th Amendment from adjudicating private allottee's trespass claims against State of Alaska. Claims against state must be brought by federal government.

Seldovia v. Seldovia Native Assn., Slip. Op. No. A89-252 Civ. (D. Alaska April 9, 1993). Held "necessary" means "useful" not "essential" under 14(c)(3) and city entitled to minimum 1,280 acres even though use cannot be specifically foreseen within 10 or more years.

Totemoff v. State of Alaska, 905 P.2d 954 (Alaska App. 1995); cert. den. 517 U.S. 1244 (1996). Upholds state jurisdiction on federal lands and waters for subsistence regulation. Supreme Court decision is inconsistent with Ninth Circuit decision in *Katie John (Alaska v. Babbitt)*, 72 F.3d 698, *supra*.

1994

Capener v. Tanadgusix Corp, 884 P.2d 1060 (Alaska 1994). Upholding 14(c) Claim when occupancy is based on the revocable permit of an original occupant if original equitable interest transferred to 14 (e) claimant.

Koniag v. Koncor, 39 F.3d 991 (9th Cir. 1994). Gravel is part of the regional corporation subsurface for which the regional corporation is entitled to reasonable compensation, but village corps. can make free use of gravel under certain circumstances.

Morry v. State of Alaska et. al. (Morry II), 872 P.2d 1209 (Alaska 1994). Held that statute requiring Board of Game to promulgate subsistence regulations did not impose mandatory ministerial duty on Board and instead vested Board with discretionary policy making authority, and thus, discretionary function exception to Tort Claims Act provided immunity to state from tort damages arising out of state's enforcement of invalid regulations.

Native Village of Noatak v. Blatchford (Noatak III), 38 F.3d 1505 (9th Cir. 1994), on remand. Held that: (1) village's claim for prospective relief was moot, as statute giving rise to allegedly discriminatory state action had been repealed; (2) Eleventh Amendment barred claim for funds which allegedly would have been paid but for improper expansion of revenue sharing program; and (3) declaratory relief was unavailable.

Quinhagak, Native Village of v. U.S., 35 F.3d 388 (9th Cir. 1994). Action under ANILCA to challenge state regs. prohibiting subsistence rainbow trout fishing & federal regulations excluding navigable waters from regulations of "public lands." Reversed district court. Balance of hardships tipped sharply in favor of Plaintiffs because of threatened loss of subsistence food source and destruction of culture and way of life.

1995

Adarand Constructors, Inc. v. Pena, Secretary of Transportation, et al., 515 U.S. 200 (1995). Contracts awarded to disadvantaged businesses raised claims of racial classification and constitutional strict scrutiny. Decision raised questions about validity of Native American preferences, but did not overrule them.

Alaska v. Babbitt (Katie John), 72 F.3d 698 (9th Cir. 1995); superseding 54 F.3d 549 (Katie John I). Navigable waters within federally reserved lands held to be an “interest” in public lands under the reserved water rights doctrine and subject to the federal subsistence preference for rural Alaska residents under Title VIII of ANILCA.

Ogle v. Salamatof Native Assoc., 906 F.Supp.1321 (D. Alaska 1995). 14(c)(1) of ANCSA held to require due process notice before ANCSA corporation makes 14(c) conveyance decision even after publishing map of boundaries.

1996

Alaska v. Native Village of Venetie (Venetie III), 101 F.3d 1286 (9th Cir 1996); rev’d. 522 U.S. 520 (1998). Held: (1) federal set aside and superintendence as prerequisites to finding of “dependent Indian community,” were to be broadly construed under multifaceted inquiry; (2) ANCSA did not extinguish Indian country in Alaska; and (3) village constituted dependent Indian community whose territory qualified as Indian country.

Broad v. Sealaska Corporation, 85 F.3d 422 (9th Cir. 1996). ANCSA settlement trusts

do not require equal distribution of benefits to ANCSA shareholders.

City of Ketchikan v. Cape Fox Corp., 65 F.3d 754 (9th Cir. 1995); Op. withdrawn, 74 F.3d 191 (9th Cir. 1996); reissued as 85 F.3d 1381 (9th Cir. 1996). Electric utility power site did not qualify as “primary place of business” because utility had main office in town, not at power site.

Ketchikan v. Cape Fox Corporation, 85 F.3d 1381 (9th Cir. 1996). Held: (1) power site did not qualify as utility’s “primary place of business”; (2) city, doing business as utility, did not qualify as “nonprofit organization”; and (3) city was not entitled to reconveyance of tract.

1997

Bay View, Inc. v. Ahtna, Inc. (Bay View I), 105 F.3d 1281 (9th Cir. 1997). Held that: (1) constitutional claim was premature given availability of compensation process under Tucker Act, and (2) even if its enactment was a taking, amendment was rationally determined to be for “public use.”

Hanson et al. v. Kake Tribal Corporation, 939 P.2d 1320 (Alaska 1997). ANCSA village corporation’s life insurance funded benefit program for original shareholders held illegal under Alaska’s corporate code, because it did not provide equal per share benefits to all shareholders.

Jones v. State of Alaska, 936 P.2d 1263 (Alaska App. 1997). Held: (1) even if parcel of land owned by defendant’s uncle on which defendant shot deer was “Indian country” under allotment clause of statute setting aside certain land as “Indian country,” state

could still enforce its fish and game laws against defendant on that parcel; (2) Alaska National Interest Lands Conservation Act (ANILCA) did not bar state from exercising its traditional authority to regulate method and means of deer hunting; and (3) Alaska Statehood Act did not preclude state from enforcing its hunting regulations against Alaska Natives.

Native Village of Tyonek v. Puckett (Puckett III), 133 F.3d 928 (9th Cir. 1997). Dismissing case as moot.

Ramah Navajo Chapter v. Lujan, 112 F.3d 1455 (10th Cir. 1997). Liberal interpretation of Indian statute (ISDEA) requiring payment of indirect costs superseded deference accorded agency interpretation. DoI may not reduce ISDEA indirect costs because other agencies do not allow them; on remand, *Ramah Navaho Chapter v. Babbitt*, 50 F. Supp. 1091 (D.N.M. 1999), approving partial \$75.8 million class action settlement and 11% atty. fees; but see; *Shoshone-Bannock Tribes v. Thompson*, 269 F.3d 948 (9th Cir. 2001); as amended 279 F.3d 160 (9th Cir. 2002), denying indirect cost if funds not appropriated.

U.S. v. Alaska (“Dinkum Sands”), 521 U.S. 1 (1997). Federal withdrawal of NPR-A and ANWR held to include submerged lands (including some offshore lands). Dinkum Sands held not to be an island. Alaska waters held to 3-mile boundary of the inland sea. Comprehensive discussion of equal footing doctrine and Submerged Lands Act.

1998

Alaska v. Native Village of Venetie Tribal Govt (Venetie IV), 522 U.S. 520 (1998). Venetie

held not to constitute “Indian country”: (1) term “dependent Indian communities,” as used in statute defining “Indian country,” refers to limited category of Indian lands that are neither reservations nor allotments, and that have been set aside by Federal Government for use of Indians as Indian land, and are under federal superintendence, and (2) land transferred to private corporations consisting of Indian shareholders, in fee simple without restrictions, and subsequently reconveyed to tribe was not “Indian country,” and tribe consequently lacked authority to impose tax on business activities conducted on land.

County of Lewis v. John D. Allen, 163 F.3d 509 (9th Cir. 1998). Circuit Judge, held that: (1) Court of Appeals had jurisdiction over declaratory judgment action; (2) tribal court lacked jurisdiction over tort action; (3) consensual relationship exception did not apply so as to establish tribal court jurisdiction; and (4) tribal self-government exception did not apply so as to establish tribal court jurisdiction. (Ninth Circuit analysis of factors likely to be relevant to tribal court jurisdiction in Alaska).

Demmert v. Kootznoowoo, Inc., 960 P.2d 606 (1998). Held that: (1) plaintiffs did not have adequate notice and reasonable opportunity to oppose trial court’s conversion of motion for judgment on pleadings to motion for summary judgment, and (2) appropriate remedy was to vacate and remand, rather than to review trial court’s ruling as either judgment on pleadings or summary judgment.

Hernandez v. Lambert, 951 P.2d 436 (1998). Held, relying on state law, that a biological father was precluded by state statute from

asserting his paternity more than one year after state “ratification” of a tribal adoption by issuance of a substitute birth certificate. The court declined to rule that the tribal adoption was entitled to full faith and credit under ICWA, but rather treated the tribal court adoption as a “customary” adoption ratified by issuance of a birth certificate under a state regulation.

Leisnoi, Inc. v. Stratman, 154 F.3d 1062 (9th Cir. 1998). Held: (1) developer of sub-surface estate was required to get village corporation’s consent only if land to be mined was within boundaries of Native village as defined by occupancy rather than historical use, and (2) since village did not occupy island, and owner thus was not required to obtain its consent.

Native Village of Eyak v. Trawler Diane Marie, Inc., 154 F.3d 1090 (9th Cir. 1998). Affirms denial of “exclusive” claims of aboriginal title beyond the 3-mile limit.

Pink v. Modoc Indian Health Project 157 F.3d 1185 (9th Cir. 1998). Held that: (1) because Congress did not expressly authorize suits against federal agencies, suit could not be brought against IHS; (2) District Court could deny employee permission to substitute United States for IHS; (3) as matter of apparent first impression, corporation was “tribe” exempt from liability under Title VII; (4) ISDEAA could not confer subject matter jurisdiction on District Court; (5) corporation did not lose its sovereign immunity by performing health services contract off reservation; (6) supervisor could not be liable under Title VII; and (7) Indian Civil Rights Act (ICRA) did not provide basis for due process claim. Compare, *Runyon v. AVCP*, 84 P.3d 437, below, contra.

Swiss v. Chignik River Ltd., 951 P.2d 433 (Alaska 1998). 14(c) Issue: Occupant may be entitled to more than one subsistence campsite

Williams v. Babbitt, 115 F.3d 657 (9th Cir. 1997); cert. den. 523 U.S. 1117 (1998). Federal Reindeer Industry Act held not to prohibit non-Natives from owning and importing reindeer in Alaska. Discussion of constitutional issues related to Native preferences.

1999

Cook Inlet Treaty Tribes v. Shalala, 166 F.3d 986 (9th Cir 1999). Congressional appropriation riders in 1997 and 1998 mooted Alaska Native Village claims that ISDA contracts require tribal approval.

John v. Baker I, 982 P2d 738 (Alaska 1999). (1) Federal recognition of a Alaska Tribes is a “political question” not subject to judicial review. (2) Alaska tribal courts have jurisdiction over child custody and other “internal” matters based on membership even outside Indian country. (3) Tribal court decisions entitled to comity in state court.

Kasayulie v. State of Alaska, Alaska Superior Court Case No. 3AN-97-3782 Civil. The court found that Alaska’s inadequate method of funding rural schools affected a substantially Native population and therefore and a discriminatory “effect” prohibited under Title VI.

Malabed v. North Slope Borough (Malabed I), 42 F. Supp.2d 927 (D. Alaska 1999). NSB’s employment preference is not precisely or narrowly tailored to meet a compelling state interest. It therefore violates the Fourteenth

Amendment's equal protection clause, and North Slope Transit may not use it to discriminate. NSB Native hiring preference invalid because NSB is *not* "on or near" an Indian "reservation" NSB native preference impermissible under state constitution and law

2000

Bay View, Inc. v. U.S. (Bay View II) 46 Fed. Cl. 494 (2000). Held that: (1) NOL proceeds not 7(i) revenue; (2) ANCSA creates no monetary trust responsibility; and (3) ANCSA not a "contract."

Yukon Kuskokwim Health Corporation v. NLRB, 234 F.3d 714 (D.C.D.C. 2000). National Labor Relations Act exemption for states and local governments does not exempt off reservation activities of Indian tribes, but NLRB must consider possible negative effect of NLRA on competing interests of operating a hospital under Indian Self Determination Act.

2001

Atkinson Trading Co., Inc. v. Shirley, 121 S. Ct. 1825 (2001). Tribe held not to have regulatory jurisdiction to tax non-member business activity on fee land within Navajo reservation.

C&L Enterprises, Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 532 U.S. 411 (2001). Arbitration clause sufficient to waive tribal sovereign immunity.

Dept. of Interior and Bureau of Indian Affairs v. Klamath Water Users Protective Ass'n, 121 S. Ct. 1060 (2001). Documents supplied by tribe to government relating to tribal water

rights subject to FOIA disclosure and not protected by generalized federal "trust" responsibility.

Idaho v. United States, 533 U.S. 262 (2001) Executive order withdrawal of reservation held sufficient (even in face of clear statement rule) to defeat state title to submerged lands of Lake Coeur d'Alene. (Analysis relevant to state submerged land claims in Alaska).

In the Matter of C.R.H 29 P.3d 849 (Alaska 2001). P.L. 280 does not prohibit exercise of "transfer" jurisdiction under section 1911(b) of ICWA. *Native Village of Nenana v. Alaska*, 722 P.2d 29 (Alaska 1986) and related cases overruled.

John v. Baker II, 30 P.3d 68 (Alaska 2001). Reaffirmed tribal court jurisdiction and satisfaction of due process. Remanded to state court to remand to tribal court for further proceedings.

Nevada v. Hicks, 121 S. Ct. 2304 (2001). Tribal adjudicative jurisdiction co-extensive with regulatory jurisdiction and tribal court does not have jurisdiction to adjudicate tribal member claim against state police officer on tribal trust land. Tribal courts are courts of "limited jurisdiction." Concurring opinion suggests that tribal membership alone is the primary factor to consider in determining tribal jurisdiction. (Dissenting analysis possibly relevant to jurisdiction of Alaska tribes)

Sierra v. Goldbelt, Inc., 25 P.3d 697 (Alaska 2001). Issuance of stock to elders under Section 7(g) of ANCSA upheld. Court evenly divided on adequacy of proxy disclosure required under 43 U.S.C.A §§ 1629b(b)(2)(A).

2002

Shoshone-Bannock Tribes v. Thompson, 269 F.3d 948 (9th Cir. 2001); as amended 279 F.3d 160 (9th Cir. 2002). Contract support cost limited to appropriations in ISDA contracts. Cannon of liberal construction of Indian laws applies only to treaties, not statutes. Note: Second conclusion is of doubtful validity.

Warbelow's Air Ventures v. Commissioner, 118 Tax Ct. 37 (2002). Employment expense tax credit under I.R.C. §§ 45A(c)(1)(B) does not apply to airport lands owned by state of Alaska even though adjacent to or surrounded by ANCSA land. In order to qualify employment must be "on" an Indian reservation (including ANCSA lands) as defined either in the Indian Financing Act or ICWA.

2003

"*Chugach Management Services*," *sub nom American Federation of Governmental Employees v. U.S.*, 330 F.3d 513 (D.C.Cir. 2003). Defense Appropriations Act Native contracting preference upheld as applied to Alaska Native Corporations, implied to be "Indian tribes" (very lucid explanation of the law.)

Evans v. Native Village of Selawik IRA Council, 65 P.3d 58 (Alaska 2003). Failure to provide father with notice prior to resolution of adoption deprived father of due process, such that tribal resolution was not entitled to comity.

Evans v. Native Village of Selawik IRA Council, Fred Davis and Doris Davis, and Lathleen Greist 65 P.3d 58 (Alaska 2003). Failure to

provide father with notice prior to resolution of adoption deprived father of due process, such that tribal adoption was not entitled to comity.

Ketchikan Gateway Borough v. Ketchikan Indian Corp., 75 P.3d 1042 (Alaska 2003). Implied federal preemption not applicable to unused space available for rent in tribal health clinic. Suggests, but does not hold, that implied preemption, does not apply outside Indian Country.

Malabed v. North Slope Borough (Malabed II), 70 P.3d 416 (Alaska 2003). On certification from the 9th circuit. Alaska Supreme Court holds preference invalid under state constitution.

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2004

Kenaitze Indian Tribe, Alaska v., 83 P.3d 1060 (Alaska 2004). Fish and Game Boards held to have broad discretion to determine boundaries of "non-subsistence" zones under state law. Compare *Kenaitze Indian Tribe v. Alaska*, 860 F.2d 312 (9th Cir. 1989), *supra*. (applying federal preference under ANILCA).

Native Village of Eyak v Daley 375 F.3d 1218 (9th Cir. 2004). Vacating and remanding district court denial of aboriginal claim to determine "existence and extent" of claims, "if any" and assuming they are not abrogated by federal paramountty doctrine or other federal law.

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